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Senate

The Senate met at 9:30 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.

Oh Lord God Almighty, guide those to whom You have committed the Government of this Nation. Give special gifts of wisdom and understanding to the leaders and members of our executive, legislative, and judicial branches of Government, empowering them to uphold what is right and to follow what is true.

Lord, strengthen them to obey Your holy will and to fulfill Your divine intentions. Imbue them with integrity of purpose and unfailing devotion to Your plans. May they promote the welfare of all our citizens, redressing social wrongs and relieving the oppressed. Help them to work together with one heart to secure equality of opportunity and due reward for all.

We pray in Your merciful 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 legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, March 7, 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, I am sure it is difficult for people who live outside the Washington, DC, area to understand why we are not going to be able to have a couple votes this morning. I have not had a chance to speak with the Republican leader. I apologize. There is nothing to apologize for, I just have not had the opportunity to do that, or to talk to the two managers of the bill. But in Washington, it is different than a lot of places. We have several bridges that feed into this area coming from Virginia. A lot of the staff and Senators live in Virginia when they are here attending sessions of Congress.

To make a long story short, we have essential staff who are not here right now. We have Senators—at least one Senator stuck on a train because of the bad weather. As I say, it might be difficult for people who see a lot of snow all the time to understand why an inch or two or three of snow causes all these problems, but it does. It has been that way and will continue to be that way.

Because of that, I am going to ask consent that the votes scheduled to occur at 10 a.m. occur later this afternoon. We will try to do it at about 1 o'clock. One reason we cannot back the votes up is because we have a joint session of Congress with King Abdullah, the King of Jordan, who has been such a good ally—he and his father—of our country, and a lot of us are looking forward to hearing that speech he is going to deliver.

ORDER OF PROCEDURE

Mr. President, I ask unanimous consent that the votes scheduled to occur at 10 a.m. occur later this afternoon. I will work with the Republican leader to make sure it is a time that is convenient.

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

Mr. REID. Mr. President, I would say the two votes we had lined up we have been wanting to do for a while, the one offered by the manager of the bill, Senator COLLINS, and the one offered by Senator MCCASKILL. We will try to do those votes first and then move on to other matters.

Staffs are also working to see if we can come up with an agreement on the nongermane amendments. We have a number of nongermane amendments on both sides. We are going to try to set up votes on those. One of the things we have to make sure is covered in any consent agreement is, if we do vote on these nongermane amendments, it does not change what would be germane postcloture because, in fact, if we did not do that, there would be a lot of things that would be germane postcloture that should not be attached to this bill. But we have very able staff who can work on this along with the managers of the bill.

I again apologize to everyone, but those are the facts of life in the bitter winter of an inch of snow in Washington.

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

RESERVATION OF LEADER TIME

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

IMPROVING AMERICA'S SECURITY ACT OF 2007

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of S. 4, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 4) to make the United States more secure by implementing unfinished recommendations of the 9/11 Commission to fight the war on terror more effectively, to improve homeland security, and for other purposes.

Pending:

Reid amendment No. 275, in the nature of a substitute.

Sununu amendment No. 291 (to amendment No. 275), to ensure that the emergency communications and interoperability communications grant program does not exclude Internet Protocol-based interoperable solutions.

Salazar/Lieberman modified amendment No. 290 (to amendment No. 275), to require a quadrennial homeland security review.

Lieberman amendment No. 315 (to amendment No. 275), to provide appeal rights and employee engagement mechanisms for passenger and property screeners.

McCaskill amendment No. 316 (to amendment No. 315), to provide appeal rights and employee engagement mechanisms for passenger and property screeners.

Dorgan/Conrad amendment No. 313 (to amendment No. 275), to require a report to Congress on the hunt for Osama bin Laden, Ayman al-Zawahiri, and the leadership of al-Qaida.

Landrieu amendment No. 321 (to amendment No. 275), to require the Secretary of Homeland Security to include levees in the list of critical infrastructure sectors.

Landrieu amendment No. 296 (to amendment No. 275), to permit the cancellation of certain loans under the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

Landrieu amendment No. 295 (to amendment No. 275), to provide adequate funding for local governments harmed by Hurricane Katrina of 2005 or Hurricane Rita of 2005.

Allard amendment No. 272 (to amendment No. 275), to prevent the fraudulent use of Social Security account numbers by allowing the sharing of Social Security data among agencies of the United States for identity theft prevention and immigration enforcement purposes.

McConnell (for Sessions) amendment No. 305 (to amendment No. 275), to clarify the voluntary inherent authority of States to assist in the enforcement of the immigration laws of the United States and to require the Secretary of Homeland Security to provide information related to aliens found to have violated certain immigration laws to the National Crime Information Center.

McConnell (for Cornyn) amendment No. 310 (to amendment No. 275), to strengthen the Federal Government's ability to detain dangerous criminal aliens, including murderers, rapists, and child molesters, until they can be removed from the United States.

McConnell (for Cornyn) amendment No. 311 (to amendment No. 275), to provide for immigration injunction reform.

McConnell (for Cornyn) amendment No. 312 (to amendment No. 275), to prohibit the recruitment of persons to participate in terrorism.

McConnell (for Kyl) modified amendment No. 317 (to amendment No. 275), to prohibit the rewarding of suicide bombings and allow adequate punishments for terrorist murders, kidnappings, and sexual assaults.

McConnell (for Kyl) amendment No. 318 (to amendment No. 275), to protect classified information.

McConnell (for Kyl) amendment No. 319 (to amendment No. 275), to provide for relief from (a)(3)(B) immigration bars from the Hmong and other groups who do not pose a threat to the United States, to designate the Taliban as a terrorist organization for immigration purposes.

McConnell (for Kyl) amendment No. 320 (to amendment No. 275), to improve the Classified Information Procedures Act.

McConnell (for Grassley) amendment No. 300 (to amendment No. 275), to clarify the revocation of an alien's visa or other documentation is not subject to judicial review.

McConnell (for Grassley) amendment No. 309 (to amendment No. 275), to improve the prohibitions on money laundering.

Thune amendment No. 308 (to amendment No. 275), to expand and improve the Proliferation Security Initiative while protecting the national security interests of the United States.

Cardin amendment No. 326 (to amendment No. 275), to provide for a study of modification of area of jurisdiction of Office of National Capital Region Coordination.

Cardin amendment No. 327 (to amendment No. 275), to reform mutual aid agreements for the National Capital Region.

Cardin modified amendment No. 328 (to amendment No. 275), to require Amtrak contracts and leases involving the State of Maryland to be governed by the laws of the District of Columbia.

Schumer/Clinton amendment No. 336 (to amendment No. 275), to prohibit the use of the peer review process in determining the allocation of funds among metropolitan areas applying for grants under the Urban Area Security Initiative.

Schumer/Clinton amendment No. 337 (to amendment No. 275), to provide for the use of funds in any grant under the Homeland Security Grant Program for personnel costs.

Collins amendment No. 342 (to amendment No. 275), to provide certain employment rights and an employee engagement mechanism for passenger and property screeners.

Coburn amendment No. 325 (to amendment No. 275), to ensure the fiscal integrity of grants awarded by the Department of Homeland Security.

Sessions amendment No. 347 (to amendment No. 275), to express the sense of the Congress regarding the funding of Senate-approved construction of fencing and vehicle barriers along the southwest border of the United States.

Coburn amendment No. 345 (to amendment No. 275), to authorize funding for the Emergency Communications and Interoperability Grants program, to require the Secretary to examine the possibility of allowing commercial entities to develop public safety communications networks.

Coburn amendment No. 301 (to amendment No. 275), to prohibit grant recipients under grant programs administered by the Department from expending funds until the Secretary has reported to Congress that risk assessments of all programs and activities have been performed and completed, improper payments have been estimated, and corrective action plans have been developed and reported as required under the Improper Payments Act of 2002 (31 U.S.C. 3321 note).

Coburn amendment No. 294 (to amendment No. 275), to provide that the provisions of the Act shall cease to have any force or effect on and after December 31, 2012, to ensure congressional review and oversight of the Act.

Lieberman (for Menendez) amendment No. 354 (to amendment No. 275), to improve the security of cargo containers destined for the United States.

Specter amendment No. 286 (to amendment No. 275), to restore habeas corpus for those detained by the United States.

Kyl modified amendment No. 357 (to amendment No. 275), to amend the data-mining technology reporting requirement to avoid revealing existing patents, trade secrets, and confidential business processes, and to adopt a narrower definition of data mining in order to exclude routine computer searches.

Ensign amendment No. 363 (to amendment No. 275), to establish a Law Enforcement Assistance Force in the Department of Homeland Security to facilitate the contributions of retired law enforcement officers during major disasters.

The ACTING PRESIDENT pro tempore. Under the previous order, the time until 10 a.m. shall be equally divided and controlled by the Senator from Missouri, Mrs. MCCASKILL, and the Senator from Maine, Ms. COLLINS, or their designees.

The majority leader is recognized.

AMENDMENT NO. 316, AS MODIFIED, TO AMENDMENT NO. 275; AND AMENDMENT NO. 315 WITHDRAWN

Mr. REID. Mr. President, I now ask unanimous consent that the McCaskill amendment No. 316 be modified to be a first-degree amendment and that the Lieberman amendment No. 315 be withdrawn.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. REID. Mr. President, I withhold for 1 second.

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

Mr. REID. Mr. President, I renew my unanimous consent request.

The ACTING PRESIDENT pro tempore. Is there objection?

The Chair hears none, and it is so ordered.

The amendment (No. 316), as modified, is as follows:

On page 219, after line 7, insert the following:

SEC. ___. APPEAL RIGHTS AND EMPLOYEE ENGAGEMENT MECHANISM FOR PASSENGER AND PROPERTY SCREENERS.

(a) APPEAL RIGHTS FOR SCREENERS.—

(1) IN GENERAL.—Section 111(d) of the Aviation and Transportation Security Act (49 U.S.C. 44935 note) is amended—

(A) by striking ''Notwithstanding'' and inserting the following:

''(1) IN GENERAL.—Except as provided in paragraphs (2) and (3) notwithstanding''; and

(B) by adding at the end the following:

''(2) RIGHT TO APPEAL ADVERSE ACTION.—The provisions of chapters 75 and 77 of title 5, United States Code, shall apply to an individual employed or appointed to carry out the screening functions of the Administrator under section 44901 of title 49, United States Code.

''(3) EMPLOYEE ENGAGEMENT MECHANISM FOR ADDRESSING WORKPLACE ISSUES.—The Under Secretary of Transportation shall provide a collaborative, integrated, employee engagement mechanism, subject to chapter 71 of title 5, United States Code, at every airport to address workplace issues, except that collective bargaining over working conditions

shall not extend to pay. Employees shall not have the right to engage in a strike and the Under Secretary may take whatever actions may be necessary to carry out the agency mission during emergencies, newly imminent threats, or intelligence indicating a newly imminent emergency risk. No properly classified information shall be divulged in any non-authorized forum.''.

(2) CONFORMING AMENDMENTS.—Section 111(d)(1) of the Aviation and Transportation Security Act, as amended by paragraph (1)(A), is amended—

(A) by striking ''Under Secretary of Transportation for Security'' and inserting ''Administrator of the Transportation Security Administration''; and

(B) by striking ''Under Secretary'' each place such appears and inserting ''Administrator''.

(b) WHISTLEBLOWER PROTECTIONS.—Section 883 of the Homeland Security Act of 2002 (6 U.S.C. 463) is amended, in the matter preceding paragraph (1), by inserting '', or section 111(d) of the Aviation and Transportation Security Act,'' after ''this Act''.

(c) REPORT TO CONGRESS.—

(1) REPORT REQUIRED.—Not later than 6 months after the date of enactment of this Act, the Comptroller General of the United States shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives a report on—

(A) the pay system that applies with respect to TSA employees as of the date of enactment of this Act; and

(B) any changes to such system which would be made under any regulations which have been prescribed under chapter 97 of title 5, United States Code.

(2) MATTERS FOR INCLUSION.—The report required under paragraph (1) shall include—

(A) a brief description of each pay system described in paragraphs (1)(A) and (1)(B), respectively;

(B) a comparison of the relative advantages and disadvantages of each of those pay systems; and

(C) such other matters as the Comptroller General determines appropriate.

(d) This Section shall take effect one day after date of enactment.

The ACTING PRESIDENT pro tempore. The Senator from Maine.

AMENDMENT NO. 342

Ms. COLLINS. Mr. President, later today, the Senate will vote on the amendment I have offered with a number of my colleagues—Senator STEVENS, Senator WARNER, Senator COLEMAN, Senator SUNUNU, and Senator VOINOVICH—that would provide certain employment rights for the Transportation Security Administration's employees.

Throughout our committee's work on homeland security, it has become clear the ability to respond quickly and effectively to changing conditions, to emerging threats, to new intelligence, to impending crises is essential. From the intelligence community to our first responders, the key to an effective response is flexibility—putting assets and, more importantly, personnel where they are needed when they are needed with a minimum of bureaucracy.

My questions about giving TSA employees the right to collectively bargain center around whether this right would hamper flexibility at a critical time. I have long been a supporter of Federal employees throughout my time in the Senate. I have worked in the public sector virtually my entire life, and I know how hard individuals at all levels of Government work to provide services to protect us and to serve us.

It is my hope we can forge a compromise that preserves the flexibility—we have learned in classified briefings from Kip Hawley, the head of TSA—that is needed while at the same time recognizing that TSA employees deserve more employment rights. These employees are working hard every day to protect us. We should protect them.

The TSA is charged with a great responsibility. In order to accomplish its critical national security mission, the Aviation Transportation Security Act provided the TSA Administrator with workforce flexibilities. These flexibilities allow the TSA Administrator to shift resources and to implement new procedures daily, in some cases hourly, in response to emergencies, canceled flights, and changing circumstances. This authority enables TSA to make the best and fullest use of its highly trained and dedicated workforce.

This is not just theoretical. We have already seen the benefits of this authority and this flexibility. In both the aftermath of Hurricane Katrina and the thwarted airline bombing plot in Great Britain last year, TSA moved quickly to change the nature of its employees' work—and even the location of that work—in response.

Last December, when blizzards hit the Denver area and many local TSOs were unable to get to the airport, TSA acted quickly, flying in volunteer TSOs from Las Vegas to cover the shifts, and covering the Las Vegas shifts with officers who were transferred temporarily from Salt Lake City. Without this ability to deploy needed personnel where they were needed, on a moment's notice, the Denver airport would have been critically understaffed while hundreds, perhaps thousands, of travelers were stranded. This flexibility is essential.

An even better example was the work that was done in the aftermath of the thwarted airline bombing plot last summer, where TSA, overnight, had to retrain its employees, had to deploy them differently, and was able to do so because of the flexibility that is in the current law.

The legislation before the Senate is designed to implement the unfulfilled recommendations of the 9/11 Commission. Many of the recommendations were enacted in 2004 as part of the Intelligence Reform and Terrorism Prevention Act Senator LIEBERMAN and I authored and worked so hard on. But the language concerning TSA employees' bargaining rights is an issue that was not addressed in this report. You can read this report, as I have, from cover to cover—I think it is 567 pages—and you will not find a discussion of collective bargaining rights for TSA employees. So this is not a recommendation that was included in the 9/11 Commission's report.

Before we so drastically change the TSA personnel system, we must ensure we do not interfere with TSA's ability to carry out its mission. I want to make clear that we should, however, make some changes in the system now. We have had enough experience with TSA over the past few years that there are a number of things that are obvious.

First, we should bring TSA employees under the Whistleblower Protections Act which safeguards the rights of whistleblowers throughout the Federal Government. There is no reason to deny TSA employees that protection. My amendment would provide for that coverage.

Second, we should make very clear that TSA members do have the right to join a union. That is a different issue from collective bargaining. Indeed, many TSA employees have chosen to join the union because then they have the right to representation by the union if there is a disciplinary action. So we should make that clear.

Third, we should give TSA employees the right to an independent appeal of disciplinary actions, of adverse employment actions such as demotions or firings, and have that appeal heard by an independent agency, the Merit Systems Protection Board. It is this board that sits in judgment of appeals filed by other Federal employees, and I see no reason why the TSA employees should not have those same rights.

Fourth, the amendment includes a provision codifying the pay-for-performance system that TSA has used very successfully to retain and recruit good employees.

Finally, the amendment we are offering provides for TSA, in a year's time, to come back to us with a report on whether other changes are needed in the personnel system. We have also tasked GAO with performing that duty. Now, that is important because we are still learning about TSA. As I said, I think we can make these significant changes now, but we need more time and study and consideration before going further, and that is why I have recommended that we have this report back.

The Homeland Security and Governmental Affairs Committee's subcommittee which has jurisdiction over civil service issues just this week held its first hearing to look at this issue. So there is a lot of work that still needs to be done, but I think we can proceed now to provide these important protections.

As we strive to protect our Nation and our people without diminishing civil liberties, we must do all we can to build a strong homeland security structure that upholds the rights of homeland security personnel. I believe we can provide TSA employees with important protections enjoyed by other Federal employees, such as the right to appeal adverse employment actions to

the Merit Systems Protection Board and the statutory right to whistleblower protections, without disrupting TSA's established and proven personnel system. That personnel system was described in great detail to us in a classified briefing session as well as an open hearing as being necessary to accomplish the goals of the agency. So my amendment would give these rights to TSA employees.

I have been working to try to achieve a middle ground between those who believe there should be no employment rights for TSA employees and those who believe we should allow them to engage in full collective bargaining. That is what my amendment attempts to do, is to chart that middle ground, to provide significant additional protections and rights to TSA employees without burdening a system that is working effectively.

I urge my colleagues to support the amendment when we vote on it later today.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Missouri is recognized.

AMENDMENT NO. 316, AS MODIFIED

Mrs. MCCASKILL. Mr. President, I have a great deal of respect for the Senator from Maine, and I am not just saying that, but I must rise to urge support of my amendment on this bill. Along with Senator LIEBERMAN, I offered an amendment to the 9/11 bill that would provide these basic rights to our airport screening officers. This amendment was in response to the incredibly high turnover rate they have at TSA and the realization that these officers are being treated differently than just about everybody else we see in uniform in the United States of America.

After 9/11, there was an incredible demand around the country for hats and shirts that said ''New York Fire Department'' and ''NYPD'' because all of America realized the heroes these men were. When everyone else is running away from danger, the firefighters run into danger. When everyone's instinct is to flee in fear, they face that fear and they go into the breach. Our police officers do it all the time. In fact, this morning, the first people I saw when I came to the Capitol were Capitol police officers greeting me, checking my car, and standing guard around the Capitol to make sure we are protected from someone who would want to do our country harm.

The irony of this debate is that all of those people I just talked about have these basic worker protections. Those men who gave their lives on 9/11 trying to save lives all were operating under collective bargaining. The Capitol Police, who protect us every day, operate under these same rules that my amendment is going to guarantee to the airport screening officers.

Why in the world, if the sky is going to fall, if we give these workers these basic protections, why hasn't it fallen? Border Patrol, Customs agents, Coast Guard, FEMA, the Department of Defense civil employees—they were all ordered to do things after 9/11, and they, of course, did them. No one thought twice about falling back on some kind of worker protection. Frankly, I think it is moderately insulting to the men and women who are serving as screeners to act as if they would not be directed and go in a time of emergency.

That is what my amendment does. It says that the head of TSA, the director of Homeland Security, the Secretary of Homeland Security, has the ability, at any time when there is a threat or an emergency, to direct these officers to do whatever is necessary to protect our country and the people who live here. It goes even further. It says they can't even bargain for higher pay, and it provides some of the same protections provided in the amendment of the Senator from Maine.

I can't figure out why the idea that they would have worker protections through a collective bargaining agreement is so scary when you realize that most of the men and women around our country who are fighting fires and performing work are operating under those agreements, and obviously most of the Federal employees who do similar work in the Federal Government.

There are so many things that have been claimed about this which simply aren't true. One of my favorites is that it is going to cost $160 million. Now, I can't quite figure out—and I know that somehow, something that costs a little ends up costing a lot sometimes in the Federal Government. First they said it was going to be $350 million. I think that figure made even them blush, so then they brought the figure down to $160 million. Maybe it is going to take 7 to 12 people across the country. I can't imagine where they would get a number like that to throw around. I have heard they will be required to negotiate every security protocol. That is simply not true. Federal employees have no right to bargain over an agency's internal security practices.

There has been a lot of fiction that has been spread around the Capitol over the last few days about this amendment and what it will provide. It is going to provide something very simple: It is going to treat these officers who are screening men and women every day at our airports the same way the rest of the employees in FEMA are treated, the rest of the employees in Homeland Security are treated, our Capitol Police, our Coast Guard, our Border Patrol, and the men and women who went into the burning buildings on 9/11, to lose their lives in order to try to save lives.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. Who yields time?

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

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

The legislative clerk proceeded to call the roll.

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

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

Mr. KYL. Mr. President, I want to talk about a couple of the amendments that we have to the so-called 9/11 bill that is pending—an amendment which I hope can be adopted, one of which I talked about yesterday, which deals with the support for terrorists.

Believe it or not, we don't have adequate criminal penalties for people who support rewarding terrorists for their actions or their families or those who support them. So one of the things we want to do is to ensure that we have a statute that can be enforced that says, if you are aiding the family or associates of a terrorist with the intent to encourage terrorist acts, that will be a crime prosecutable in the United States.

I talked yesterday about an example that illustrates the need for this statute. In August of 2001, a Palestinian suicide bomber attacked the Sbarro pizza parlor in Jerusalem, and 15 people were killed. One of them was an American citizen, Shoshana Greenbaum, who was a schoolteacher, and she was pregnant. She was killed. Right after the bombing took place, the family of the suicide bomber was told to go to a particular Arab bank, and the bomber's family began receiving money from that bank. Eventually, a $6,000 lump sum payment was made.

According to press accounts, this is not uncommon. In fact, it is frequently the way suicide bombers have been funded through this particular Arab bank. Others are funded in other ways. There are plenty of news accounts of Saudi charities, the Palestinian Authority, and even Saddam Hussein was known to have rewarded suicide bombers for their acts. There is a BBC report that Saddam Hussein paid a total of $35 million to terrorist families during their time. Obviously, we would like to discourage that.

It is at least possible that if we can criminalize this activity that has a relationship to Americans, we would be able to make a difference, at least in some instances, in terms of whether a person would actually decide to commit a suicide bombing, based upon the fact that that person's family was going to be recompensed.

This amendment would make it a Federal crime, with extraterritorial jurisdiction in cases linked to U.S. interests, to pay the families of suicide bombers and terrorists with the intent to facilitate a terrorist act.

I hope this amendment can be adopted and that it will survive a conference committee. I see no reason that we could not have bipartisan support for it. The other thing that this amendment does is deal with the real workhorse of our law enforcement with respect to going after terrorists, the so-

called material support statutes. It increases the maximum penalties for various material support statutes. I emphasize it increases the maximum, not the minimum, because there are certain situations in which sometimes you want to charge the minimum or plead down to the minimum. We don't want to affect that; we want to increase the maximum in certain instances.

The material support statutes have been the Justice Department's workhorse in the war against terror, counting for a majority of the prosecutions that the Department has brought. It has been very effective, also, in starving terrorist groups of resources, which is one of the critical ways to disrupt the cells, we believe.

The amendment increases the penalty in the following ways: Giving material support for a designated terrorist organization would be a maximum of 25 years, up from 15. Material support in the commission of a particular terrorist act is increased from a maximum number of 15 to a maximum of 40 years. That can obviously be a very severe act against U.S. interests. The maximum penalty for receiving military-type training from a foreign terrorist organization would be increased from 10 to 15 years. The amendment also adds attempts and conspiracies to the substantive offense of receiving military-type training and denies Federal benefits to persons convicted of terrorist offenses.

All of these are designed to add to the ability of our prosecutors to go after people who are actually the ones who are enabling the terrorists to perform their heinous acts.

Finally, the amendment expands existing proscriptions on the murder or assault of U.S. nationals overseas for terrorist purposes, so that the law punishes attempts and conspiracies to commit murder equally to the substantive offense. The amendment adds a new offense of kidnapping a U.S. national for terrorist purposes, regardless of whether a ransom is demanded. There are some limits in existing law that were put in the act before the new techniques and methodologies of terrorists in today's world began to be implemented; for example, requiring a ransom. We know today that some of these terrorist kidnappings are not for the purpose of getting ransom, they are for the purpose of terrorizing. If that is the case, then this statute would be usable by our law enforcement authorities.

Finally, the amendment adds sexual assault to the types of injury that are punishable under the existing offense of assaults that result in serious bodily injury.

Once again, I hope this will be considered an appropriate addition to the 9/11 legislation to make it easier for us to deny the funding to terrorist organizations and to deny funding to people who would be engaged in suicide attacks.

The other amendment is an amendment to a provision of the bill that was added by Senator FEINGOLD relating to data mining, which requires every Federal agency to submit reports to Congress on any search of a database that its employees perform in order, and I am quoting now, ''to discover or locate a predictive pattern or anomaly indicative of terrorist or criminal activity.'' Among other things, the report is required to include a thorough description of the data-mining technology that is being used or will be used.

Obviously, that probably is going to be getting into very classified information, and there are two things we want to ensure are changed in this provision. For one thing, the language in the bill does not include language that is included in other sections. It does not prevent disclosure of existing patents, trade secrets, proprietary business processes or intelligence sources and methods.

I suspect that is an oversight. We need to include that because, in the past, when Congress has required the Executive to make reports on sensitive technologies to Congress, it has been careful to prevent the exposure of this type of information about patents and trade secrets, and so on. I hope we can include that in the legislation, and my staff has been talking to Senator FEINGOLD's staff to see if they would be willing to do so.

The other aspect is trying to protect the information that is classified. Originally, there was a concern that we were too broad with our proscription in trying to prevent classified information from being released to the public. So what we did was to modify the amendment to simply require that in the case of disclosure by Members of Congress or staff, this would be impermissible for classified information. If we are going to ask for reports of classified information, clearly, we should be willing to enforce the proscription on the release of that information. I am hoping we would be willing to do that as well.

That is the second amendment. I hope my colleagues will be willing to support both amendments. I think they will add to the benefits of this legislation. With respect to at least one of these amendments, it is germane postcloture, but I am hoping we can get them both resolved before cloture is invoked on the bill.

Mr. President, I yield the floor.

Mr. VOINOVICH. Mr. President, I rise today to voice my support for amendment 342. I am proud to join my good friend, the Senator from Maine, the ranking member of the Committee on Homeland Security and Governmental Affairs, in cosponsoring this amendment.

For the past several days, this body has been debating various amendments regarding the workforce authorities for the Transportation Security Administration. I would ask my colleagues to stop for a moment and consider the situation before us. The establishment of the Department of Homeland Security is one of the largest undertakings this Government has initiated since the creation of the Department of Defense in 1947. It includes a merger of 22 agencies and approximately 180,000 employees. This merger is so complicated that the Government Accountability Office has identified the implementation and transformation of the Department as one of the 27 areas designated as high risk, subject to waste, fraud, abuse, and mismanagement.

Many of my colleagues will recall the debate the Senate engaged in during the creation of the TSA. The Senate debated basic questions such as whether the screening function should be federalized. There was a lot of debate that it ought not to be federalized; that we should let the private sector do it. In the end, screeners were federalized, and TSA was charged with hiring approximately 55,000 screeners, or transportation security officers, in 1 year.

I cannot think of a greater Government undertaking than creating an agency overnight to secure the safety and security of our airports and the traveling public in order to guarantee we never have another 9/11. I am absolutely convinced that if Congress did not provide TSA with the workforce flexibilities it did, TSA would never have met its statutory mandate to stand up in 1 year. Think about that. We got that done in 1 year.

My colleagues know I have not been the biggest fan of the Department of Homeland Security. I am still upset that the only high-risk area identified by GAO that does not have a strategic plan in place is DHS. That is why I am so pleased the underlying bill contains an amendment I offered in committee to establish a chief management officer for the Department. This 5-year term appointment is crucial to leading the transformation of the Department so it does not hobble along from one administration to another, struggling to complete its merger and its mission.

I hope my colleagues have had the opportunity to meet with Assistant Secretary Kip Hawley, the TSA Administrator, who I think is one of the finest public administrators whom I have met so far in this administration. Mr. Hawley was confirmed in this position in July of 2005. This is the second position at TSA he has held. In October 2001, Mr. Hawley was the senior adviser for the project team that worked to stand up the Agency. While TSA is by no means perfect, it is one of the more successful operating components of DHS. I wish others were as good.

There is no question our enemies want to do harm to us through our airline and transportation systems. This threat is unrelenting, and TSA must be flexible, nimble, and innovative in order to respond to the 24-hour, 7-day-a-week threat we have. The threat is out there constantly. It is not akin to something that happens every so often. It is there 24 hours a day.

Granted, as in all organizations, human capital at TSA is not perfect,

but I have not seen any evidence that we need to throw the baby out with the bathwater; in other words, get rid of the system in place now and go to something else. There is no evidence to support this dismantling of TSA's personnel system and beginning anew, as the Senator from Connecticut has suggested.

To my knowledge, the Senate has had one hearing on the TSA workforce, and that hearing was held this Monday in the Committee on Homeland Security and Governmental Affairs, of which I am the ranking member. This hearing was conducted after the committee adopted the amendment by the Senator from Connecticut. One can only conclude that the amendment was offered in response to labor's unhappiness. Labor was unhappy several years ago that the title V provisions were waived for TSA. In other words, we gave them a separate personnel system because we wanted to see it get up and go and have the flexibility to get the job done.

On the other hand, based on the information presented at the hearing on Monday, I believe some reforms to TSA's personnel authority are necessary at this time. This is this compromise. That is why I am happy to join with my colleagues, including the Senator from Maine, the senior Senator from Alaska, and the senior Senator from Virginia, in offering this amendment.

While TSA has moved and continues to move in the right direction in providing safeguards for its employees, there is more we in Congress can do. After hearing testimony during Monday's hearing, I think it appropriate for the TSOs to be included in some basic workforce protections.

While the Office of Special Counsel did not have statutory authority to investigate whistleblower claims at TSA, TSA and the Office of Special Counsel worked together to develop and implement a memorandum of understanding allowing the OSC to investigate retaliation claims. In other words, they got involved through a memorandum. This was signed in 2002, and since that time OSC has received 124 whistleblower complaints.

While I applaud TSA for taking this step and signing the MOU, I believe it is important for Congress to extend through statute the full authority of OSC and the Federal courts to investigate and hear cases of whistleblower retaliation. Let's change the law. Let's give them that right.

After Monday's hearing, I also believe it is important to extend to TSO the ability to file a complaint with the Merit Systems Protection Board for an adverse action. This would include removal, suspension for more than 14 days, demotion, reduction in pay, or furlough. While I applaud TSA for developing and implementing a robust internal process, including an Ombudsman Office, Disciplinary Review Board, and Peer Review Board—they put all that in place—I believe the value of independent review of the MSPB that could follow the internal process is important to build further confidence in TSA's system and reassure those being hired and on the job. So you are going to have that available to you under the Collins amendment.

In the unfortunate circumstances when claims are filed with OSC, or should the Collins amendment be adopted, with MSP, TSOs also have the right to union representation during these proceedings. A lot of people are not aware of this fact, that we have members of 13 unions of the 42,000 TSOs. Some people got the idea that because we gave them the flexibility, they couldn't join a union. The fact is, they have joined. Many of them have joined a union, and the unions can represent them in the various appeals they may have in terms of personnel matters. However, something I learned during Monday's hearing is that the provision in the underlying bill would have a much broader implication on the workforce than reforming the personnel system. Using the authority in the Aviation Transportation and Security Act, TSA has been able to develop and implement the most extensive pay-for-performance system in the Federal Government. Did you hear that? Pay for performance in the Federal Government. That is a big deal. That is something which some of us have been working on—I have—for the last 8 years.

TSA has not developed this system in a vacuum. It received input from approximately 4,000 TSOs through 25 focus groups, and after the initial design, performance, accountability, and standards system—they call it PAF; that is their pay for performance—it was reviewed subsequently by focus groups and online surveys for additional feedback from the workforce.

Perhaps more than any Member of this Senate, I have devoted extensive time, as chairman and ranking member of the subcommittee on the oversight of Government and the Federal workforce, to understand and develop ways to recruit, retain, and reward people who work in the Federal Government. I have partnered successfully with my colleagues to enact legislation to provide agencies with even greater flexibility to meet their workforce needs.

We know that in order to be successful, we must have the right people with the right skills, with the right knowledge at the right place and at the right time. I do not believe it is appropriate for Congress to roll back any reform or flexibility without due consideration. Again, I remind my colleagues, the only hearing on this issue was held this week.

As I mentioned, I am a strong supporter of pay for performance. Here in TSA, the Federal Government has the largest group of employees under this system. The Government-wide Senior Executive Service covers only 6,000 employees, and the Department of Defense has made decisions for only 11,000 employees—in other words, 11,000 people in the Defense Department under pay for performance, 6,000 in the Senior Executive Service, and we have almost 55,000 in the TSA who are in pay for performance. Time and time again, Federal unions argue against pay for performance. This is a big deal. My colleagues ought to understand what this is about.

Monday, the president of the National Federation of Government Employees reasserted his union's opposition to pay for performance. He doesn't want pay for performance. If you ask the American people, they will tell you they would like to see pay for performance. At a hearing of the Subcommittee on Oversight of Government Management and the Federal Workforce that I chaired last year, unions testified against legislation I introduced that would have required at least a three-tiered rating system and prevented an employee whose job performance was unsatisfactory from receiving an annual pay increase.

I am concerned that changing the personnel system and potentially making it subject to collective bargaining would set back the progress TSA has made. My colleagues must remember that TSA has existed for just over 4 years and its performance and standards system is just a year old. GAO noted that it takes about 4 or 5 years to properly assess a performance management system. We are not yet in a position to judge how the TSA system is working.

The TSA's authority has allowed it to develop and implement innovative approaches through its strategic human capital management. TSA would lose that authority if the underlying provision of S. 4 were to be enacted into law. For example—this is really something unique—TSA has initiated a pilot program to provide health care benefits to part-time screeners. They know they need full time and part time. But most of the time, part-time people do not get health insurance. They are doing that right now. So if you look at some of the really neat things they are doing over there, it just does not make sense for us to pull the plug.

TSA recognizes the negative impact every screener who leaves TSA has on its ability to secure our transportation system. They know it costs $12,000 to hire and train a new screener. TSA knows it is in their best interests to retain every member of its dedicated workforce. They care about their employees. They want to motivate them; they want to reward them; they want to retain them, they want to reward them.

Another key provision of the Collins amendment is the reports providing assessment of employee matters by GAO and TSA within a year. A year from now, let's look at what is going on over there.

Congress must use this opportunity to fulfill its oversight objective and understand the strengths and shortfalls of the TSA system to make improvements. It is not appropriate for Congress to summarily dismiss all the work TSA has invested in its workforce just because a large Government employees union doesn't like it.

The main consideration we should have as Members of the Senate is the security of the people in the United States of America. Yes, we want to protect the rights of the people who work in the Federal Government. But if we have a system that is really working and making some real improvement and making sure we are not going to have another 9/11 from an airborne attack, we ought to let them continue to do the job they are doing and should not just snap our fingers and say: These people are unhappy about what is going on there. They think we ought to get rid of that system. I don't think we should do that. I think every Member of this Senate should think about it. This is real serious business.

I know people on the other side of the aisle are under a lot of pressure. So am I. I know the president of both of the major unions here, and I have worked with them and tried in all these changes we have made in the human capital laws of the United States of America to take their concerns into consideration. But on this one, I am really begging my friends on the other side of the aisle to really look at where we are today and what this is all about and not throw the baby out with the bath water.

I yield the floor.

The PRESIDING OFFICER (Mr. WHITEHOUSE). The Senator from Pennsylvania.

Mr. LIEBERMAN. Mr. President, if I may first ask unanimous consent that the Senate stand in recess at 10:40 subject to the call; and that at 1:30 p.m. today, there be 15 minutes of debate equally divided and controlled prior to a vote in relation to the McCaskill amendment No. 316, as modified, followed by a vote in relation to the Collins amendment No. 342; that there be 2 minutes of debate equally divided between the votes and that no amendments be in order to either amendment prior to the vote; that at 1:45 p.m., without further intervening action or debate, the Senate proceed to vote in the order specified.

The PRESIDING OFFICER. There is objection?

Mr. SPECTER. Mr. President, reserving the right to object, I would like to clarify the status of amendment No. 286, which I laid down yesterday, the habeas corpus amendment. I just discussed with the Senator from Connecticut a unanimous consent request that I would make to get recognition when we resume after King Abdullah's speech. Might I inquire of the Senator from Connecticut what the sequence would be as to a continuation of the debate on the habeas corpus amendment?

Mr. LIEBERMAN. Mr. President, if I may through the Chair, there are a number of Senators who said they wanted to come and discuss amendments after the Senate reconvenes. How much time did the Senator from Pennsylvania desire to discuss the habeas amendment?

Mr. SPECTER. It is hard to say because there are a number of Senators who want to debate the issue. I am advised that there is not a willingness to give a time agreement, so it is not possible to really answer that question.

Mr. LIEBERMAN. Understood. Maybe I misled the Senator unintentionally. I am not looking for a time agreement on debate on the amendment; I would just like to know how long he would like to speak when we reconvene so we set it down for a time limit because I know there are other Senators from both parties who want to come over.

Mr. SPECTER. I would like 1 hour.

Mr. LIEBERMAN. I would accept that amendment to my request, with the understanding that not interfere with the fact that by 1:30, we will go back to the Collins and McCaskill amendments. I don't think it would.

Mr. SPECTER. Mr. President, if I might be recognized at noon when we return after the Abdullah speech?

Mr. LIEBERMAN. I have no objection.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I just want to be clear that the Senator from Pennsylvania will not be changing the agreement the Senator from Connecticut just announced that will allow the 15 minutes of debate prior to the 1:45 votes.

Mr. LIEBERMAN. Not at all. Mr. President, I again ask unanimous consent on the unanimous consent agreement that I proposed with regard to the votes on the Collins and McCaskill amendments, and then we will come directly to Senator SPECTER.

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

Mr. SPECTER. I ask unanimous consent that I be recognized when the Senate reconvenes at 12:00 to speak for 1 hour.

Mr. LIEBERMAN. Mr. President, I just would say, or whenever. If we come back before 12, you will be recognized to speak for an hour.

Mr. SPECTER. That is fine.

Mr. LIEBERMAN. Or after 12, if that is the case. We have no objection.

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

RECESS

The PRESIDING OFFICER. The Senate will stand in recess subject to the call of the Chair.

Thereupon, the Senate, at 10:43 a.m., recessed until 12:04 p.m. and reassembled when called to order by the Presiding Officer (Ms. KLOBUCHAR).

JOINT SESSION OF THE TWO HOUSES—ADDRESS BY THE KING OF JORDAN

The PRESIDING OFFICER. The Senate will proceed to the Hall of the House of Representatives to hear the address by the King of Jordan.

Thereupon, the Senate, preceded by the Deputy Sergeant at Arms, Drew Willison, and the Secretary of the Senate, Nancy Erickson, proceeded to the Hall of the House of Representatives to hear the address by His Majesty King Abdullah II Ibn Al Hussein, King of the Hashemite Kingdom of Jordan.

(The address delivered by the King of Jordan to the joint session of the two Houses of Congress is printed in the proceedings of the House of Representatives in today's RECORD.)

The PRESIDING OFFICER. Under the previous order, the Senator from Pennsylvania is recognized for up to 1 hour.

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

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

IMPROVING AMERICA'S SECURITY ACT—Continued

AMENDMENT NO. 286

Mr. SPECTER. Madam President, I have sought recognition to debate amendment No. 286, which would reverse the provision in the Military Tribunal Act which has limited the jurisdiction of the Federal courts in habeas corpus proceedings.

The essential question at issue is whether the combatant status review tribunals are adequate and effective to test the legality of a person's detention.

What we are dealing with here is an examination of the issue as to whether the procedures are fundamentally fair. Congress should repeal the provisions of the Military Commissions Act which limit Federal court jurisdiction on habeas corpus.

The decision by the court of appeals, I submit, will be overturned by the Supreme Court of the United States because of Circuit Court's ruling that the Rasul case dealt only with the statutory provisions on habeas corpus. The Circuit Court ignored the binding language of Rasul, which said that the habeas corpus rights were grounded in common law in effect in 1789 and were, in fact, part of the Constitution. Where habeas corpus is a right in the Constitution, and it is such a right because the Constitution expressly states that habeas corpus shall not be suspended except in cases of invasion or rebellion—and no one contends that there is either invasion or rebellion at issue—

Congress cannot legislate a derogation of that constitutional right. Any act of Congress is obviously trumped by a constitutional provision. Where you have habeas corpus in effect in 1789 and the constitutional provision prohibiting its suspension, the legislation passed in the Military Commission Act I think ultimately will be determined by the Supreme Court to be unconstitutional, pretty clearly on the face of the opinion of the Court articulated by Justice Stevens.

The Congress ought to reverse the provision of the Military Commission Act which strikes or limits Federal court jurisdiction on habeas corpus because the provisions—the way the detainees are being dealt with, simply stated, is not fundamentally fair. It does not comport with due process of law, and due process is a right even without specific enumeration in the Constitution.

The order establishing the Combat Status Review Tribunal provides as follows:

For purposes of this order, the term ''enemy combatant'' shall mean an individual who was a part of or supported Taliban or al-Qaida forces or associated forces that are engaged in hostilities against the United States or its coalition partners. This includes any person who has committed a belligerent act or who has directly supported hostilities in aid of enemy forces.

The fact is that people are detained as enemy combatants without any showing of those basic requirements.

The next section of the order establishing the Combatant Status Review Tribunal provides:

All detainees shall be notified—

Skipping some language—

of the right to seek a writ of habeas corpus in the courts of the United States.

I have not seen any reference to this provision in any of the adjudications, and I found this on the very extensive research which my staff and I have undertaken to prepare for this debate. But there you have it. The order itself setting up the Combat Status Review Tribunal says that the detainees have the right to seek a writ of habeas corpus. The Secretary of Defense has the authority to establish the rules, and he has established the rule which gives the detainee the right to seek a writ of habeas corpus. That ought to end the argument right there.

Let's proceed further to see, in fact, what happens when these matters are taken before the Combat Status Review Tribunal. We have the opinion of U.S. District Judge Green in a case captioned, ''In Re: Guantanamo Detainee Cases,'' in which Judge Green writes as follows:

The inherent lack of fairness of the CSRT's consideration of classified information not disclosed to the detainee is perhaps most vividly illustrated in the following unclassified colloquy which was taken from a case not presently before this judge which exemplifies the practical and severe disadvantages faced by all Guantanamo prisoners. [I read] a list of allegations forming the basis for the detention of Mustafa Ait Idir, a petitioner in Boumediene v. Bush case—

And that parenthetically is the case decided by the Court of Appeals for the third circuit.

This is what Judge Green goes on to point out in her opinion in the Federal Reporter:

While living in Bosnia, the detainee associated with a known al-Qaida operative.

In response, the following exchange occurred:

Detainee: Give me his name.

Tribunal President: I do not know.

Detainee: How can I respond to this?

Skipping some irrelevant language, the detainee goes 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 can tell me the name, then I can respond and defend myself against this accusation.

Tribunal President: We are asking you the questions and we need you to respond to what is in the unclassified summary.

Skipping some irrelevant materials, the detainee then goes on to say:

But I was hoping you had evidence that you could 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. Sorry about that.

Then, parenthetically, Judge Green's opinion notes that ''Everyone in the tribunal laughs.''

Tribunal President: Well, we had to laugh, but that is OK.

A little later in the opinion—

The detainee says: What should be done is you should give me evidence regarding these accusations, because I am not able to give you any evidence. I can just tell you no, and that is it.

Then Judge Green goes on to say:

The laughter reflected in the transcript is understandable. And this exchange might have been truly humorous had the consequences of the detainee's enemy combatant status not been so terribly serious, and the detainee's criticism of the process had not been so piercingly accurate.

Well, this case illustrates the fact that the provisions in Guantanamo on the detainee status review tribunal is a laughing stock. It hardly comports with what the Secretary of Defense said was required: that there has to be evidence that the individual supported Taliban or al-Qaida forces or committed a belligerent act.

The Judiciary Committee held a hearing and one of our witnesses was a distinguished attorney, Thomas Sullivan, who made available a series of cases before the Combat Status Review Tribunal. This is one illustrative case involving a man named ''Abdul-Hadi al Siba.'' I take this from the extract of what the witness provided:

The Combat Status Review Tribunal stated that al Siba was charged with being captured in crossing the border into Pakistan with having volunteered for a charity that was funded by al-Qaida. That is all that is in the summary.

Again, this hardly comports with the standard by the Department of Defense itself that there is supposed to be evidence which would show the detainee was engaged in hostilities against the United States or committed belligerent acts.

The provisions of the Department of Defense establishing the Combat Status Review Tribunals is fundamentally unfair under the most basic principle of Anglo-Saxon American jurisprudence. The rules are:

Preponderance of evidence shall be the standard used in reaching the determination, but there shall be a rebuttable presumption in favor of the government's evidence.

That is the most extraordinary standard which I have ever seen, and it is bedrock Americana that people are presumed innocent. But instead, when a detainee faces a Combat Status Review Tribunal, the presumption is that he is guilty. That hardly comports with a standard of fundamental fairness or due process.

The rules promulgated by the Department of Defense call for a preponderance of evidence, so even if there is a presumption of guilt, the standards do require some evidence. But that was not present in the case cited by Judge Green, not present in the cases cited by Thomas Sullivan at our Judiciary Committee hearing.

Madam President, I ask unanimous consent that the summary of other cases provided by Mr. SULLIVAN be included in the RECORD at the conclusion of my presentation.

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

(See Exhibit 1.)

Mr. SPECTER. The standards which have been established, which would, under some circumstances, permit a substitute procedure for habeas corpus were articulated by the Supreme Court of the United States in the case of Swain v. Pressley. In that case, the Supreme Court said there could be a collateral remedy which is neither inadequate nor ineffective to test the legality of a person's contention.

But the collateral remedy which was present in Swain v. Pressley is a far cry from the provisions of the Combat Status Review Tribunal.

What the Supreme Court was dealing with in the Swain case was habeas corpus before a State court as opposed to habeas corpus before a Federal court. In Swain, the Supreme Court said that the ''relief available in the Superior Court is neither ineffective nor inadequate simply because the judges of that court do not have life tenure.''

So here we have a State court functioning under the rules of habeas corpus and the Supreme Court says that is an equivalent of Federal court habeas corpus because State court judges can make that determination and the only difference is that the State court judges do not have wide tenure.

In Swain, the Supreme Court went on to say:

It is a settled view that elected judges of our State courts are fully competent to decide Federal constitutional issues.

So there you have the constitutional issue decided. But the only difference is that it is a State court. Well, that has absolutely no resemblance to the combat status review tribune. It hardly qualifies as an adequate substitute.

I want to proceed now to the issues that were articulated by the Supreme Court of the United States in Rasul, where I believe it is very clear cut that there is the ignoring of the language of the Supreme Court, and a constitutional right and a right that was in effect in common law in 1789 will certainly be utilized by the Supreme Court in dealing with the circuit court opinion, which is directly inconsistent with the language of Justice Stevens. This is what Justice Stevens said in the Rasul case, speaking for the Court:

Application of the habeas corpus statute to persons detained at the base [referring to the Guantanamo base] is consistent with the historical reach of the writ of habeas corpus. At common law courts exercise habeas corpus over the claims of aliens detained within the sovereign territory of the realm, as well as the claims of persons detained in the so-called ''exempt jurisdictions'' where ordinary writs did not run, and all other dominions under the sovereign's control. As Lord Mansfield wrote in 1759, even if a territory was ''no part of the realm'', there was ''no doubt'' as to the Court's power to issue writs of habeas corpus if a territory was under the subjection of the crown.

The Supreme Court had already held in the trilogy of cases in 2004 that the United States Government controlled Guantanamo Bay, so it was within the jurisdiction of the United States.

Justice Stevens goes on to point out that:

Later cases confirmed the reach of the writ depended not on formal notions of territorial sovereignty, but rather on the practical question of ''the extent and nature of the jurisdiction or dominion exercised in fact by the crown.''

There again is the reference to the undeniable fact that the United States controls Guantanamo and it is under United States dominion. The court of appeals concluded that the language about the existence of the writ when the Constitution was adopted and the constitutional right of habeas corpus was not resolved by Rasul, because the specific holding in Rasul was on the statutory provisions of section 2241.

The Stevens opinion says:

We therefore hold that section 2241 confers on the district court jurisdiction to hear petitioner's habeas corpus challenges to the legality of their detention at Guantanamo naval base.

Now, the circuit court said that, well, is a holding based upon the statute, but its limitation does not apply to a constitutional right or the reach of the writ in effect in common law in 1789. How can it be that the Supreme Court would say Guantanamo Bay is under United States jurisdiction for the statutory right but outside of the jurisdiction for the constitutional right? It stands the English language on its head.

There have been a number of situations where—especially in the fifth circuit—on death penalty cases the circuit has, in effect, ignored what the Supreme Court has had to say. It has been a highly critical Supreme Court which has then come to review those decisions. I suggest that that would be the response when the Supreme Court comes to review the circuit court opinion which ignores the plain language of the Supreme Court of the United States.

In dissent, Justice Scalia recognized the fact that the case of Johnson v. Eisentrager had been overruled. The court of appeals relies upon Johnson v. Eisentrager to hold that there is no jurisdiction over Guantanamo Bay. But this is what Justice Scalia, in dissent, had to say about the overruling of Johnson v. Eisentrager. He called it ''overturning of settled law.''

But the court of appeals did not view it as such. So when this case comes before the Supreme Court, I think it is patently obvious that the language of the Court will require reversal of the circuit court decision.

I have been asked if I will yield for a unanimous consent request by Senator LIEBERMAN, and I will do so.

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that when the time allocated to the Senator from Pennsylvania expires at 1, the Senator from Minnesota be recognized for 10 minutes and, after that, the Senator from Delaware be recognized for whatever amount of time he needs until 1:30, when Senators COLLINS and MCCASKILL have 15 minutes equally divided.

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

Without objection, it is so ordered.

Mr. SPECTER. Mr. President, the failure of the Court of Appeals for the District of Columbia to recognize the settled principles was the subject of an analysis by the distinguished constitutional scholar Adam Liptak in the New York Times yesterday. It is worth notice. The analysis said that:

what the Supreme Court says goes. Usually. But in a defiant decision 2 weeks ago, a Federal Court of Appeals in Washington conceded that it was ignoring parts of the 2004 Supreme Court decision on the rights of a man held at Guantanamo Bay, Cuba. That can make the Supreme Court testy and it may help the detainees.

The analysis goes on to paraphrase the powerful dissent of Judge Judith Rogers, who said her colleagues were thumbing their noses at the Supreme Court. Liptak notes that:

[Rogers stated that her colleagues] ''were ignoring the Supreme Court's well-considered and binding dictum'' concerning the historical roots and geographical scope of the prisoner's basic rights and she cited the case from her own court that said that such statements ''generally must be treated as authoritative.''

The analysis goes on to say that:

almost 3 years ago, the Supreme Court ruled in Rasul that the detainees possessed an ancient and fundamental right, the right to challenge the justice of their confinement in court by filing petitions for writs of habeas corpus.

In a crucial aside, in Rasul, Justice John Paul Stevens, writing for the majority, said this right was not just a result of a law passed by Congress but was grounded in the Constitution. ''Application of the habeas statute to persons detained in the base,'' he wrote, ''is consistent with the historical reach of habeas corpus.''

Well, that lays it out in a pretty conclusive way that when the Court rules on a statute but says that the same right is embodied in the Constitution, Congress cannot pass a law which trumps the constitutional provision, as articulated by the Supreme Court of the United States.

The Liptak analysis goes on to note this:

If that is a right, a new law pushed by the Bush administration's Military Commissions Act could not have cut off detainees' rights to habeas corpus. In a footnote, the appeals court basically acknowledges that. But it ruled that the Supreme Court's historical analysis was wrong and that Justice Stevens' dictum could be ignored.

In the analysis commenting on the Johnson v. Eisentrager case, Liptak noted as follows:

All of the points which were relied upon by the circuit court, as Justice Stevens wrote in Rasul, counted in favor of the Guantanamo detainees. ''They were not nationals of countries at war with the United States''—

Which was the case in Eisentrager—

They have not been engaged in plotted acts of aggression against the United States. They have never been afforded access to any tribunal, much less charged with and convicted of wrongdoing, and for more than 2 years they have been in prison in territory over which the United States exercises exclusive jurisdiction and control.

Well, this is a fairly brief analysis in the time which I have. But the essence of it boils down to this: The Supreme Court—Justice Stevens speaking for a majority—has ruled that the Federal habeas corpus statute covers Guantanamo, that the rights were violated, and that the statute carries out the constitutional law and the scope of the writ in 1789, when the Constitution was adopted. And the Court of Appeals for the Third Circuit, in order to uphold the act, says the holding by Justice Stevens was only to a statute—and it is true Congress can change the statute—but ignores the plain language of Justice Stevens speaking for a majority of the Court that it is a constitutional right.

That cannot be changed by an act of Congress, and the Supreme Court will tell the court of appeals that when they get the case. Aside from the issue of constitutionality, which will be decided by the Court, as to the procedures that are in effect in these combat status review tribunals, they do not measure up to the requirements of fundamental fairness. They do not honor what the Department of Defense laid down as the basic rule that detainees are entitled to ''the right to seek a writ of habeas corpus in the courts of the United States.''

That ought to be the end of it because the Secretary of Defense was given the responsibility to decide what

the rules were, and he said one of the rules is that these detainees can go to court. That is what an act of Congress has taken away, and that is what ought to be reversed.

Then if we take a look at what has to happen in these proceedings before the Combat Status Review Tribunal, the term ''enemy combatant,'' which would qualify for detention, means an individual who was part of or supporting the Taliban or al-Qaida forces or has committed a belligerent act or has directly supported hostilities in aid of enemy forces.

The individual in the court of appeals case cited by Judge Green, which I read at length, was only supposed to have talked to somebody from al-Qaida, and they couldn't even produce the identity of the individual, which hardly measures up to the Department of Defense's standard. It is just absolutely ludicrous. Then for the Department of Defense provisions to say that there is a presumption of guilt just turns American justice on its head. Even with a presumption of guilt, the requirements are that there be evidence, and there is none in the case cited by Judge Green and by Mr. Sullivan.

This is just the beginning of the argument. We will have other Senators come to oppose.

Let me advise my colleagues that there will be a portion of the debate conducted in Room S–407, which is the room where we can discuss classified information, because Senator LEAHY and I have been reviewing the rendition in the Arar case, and we have found that there was a determination that Arar had a status—which I cannot discuss in this Chamber but can discuss only in S–407—which would warrant sending him to Syria. Arar was a Canadian citizen who came to the United States and was detained for questioning at an airport in New York City when he wanted simply to transit and go to Canada. He was questioned by the FBI.

It has been well noted that the FBI does not agree with the other interrogation practices which have been undertaken by the Government.

After that questioning, which was reportedly extensive, Arar was then sent to Syria. He came back and has filed suit alleging that he was tortured and subjected to brutal treatment.

The Canadian officials have considered the issue at length and have published a three-volume set. It is a good visual for people to see, if anybody is watching on C–SPAN2.

This is volume 1 of the report relating to Maher Arar, this is volume 2 on the report relating to Maher Arar, and this is the analysis and recommendation. After undertaking this kind of an analysis, the Canadian Government apologized to Arar and paid him about $10 million, but the U.S. Government continues to say that it was justified in sending Arar to Syria, where he was beaten.

These matters relating to rendition, I submit, are directly relevant to our consideration of whether the Federal courts need to be involved in determining the legality of Guantanamo detainees because this Government, in the war on terrorism—and there is no doubt about the importance of our war on terrorism and the necessity for effective law enforcement. I led the Judiciary Committee to the reauthorization of the PATRIOT Act, which gives law enforcement extensive authority. But there are laws against torture. There are international covenants against torture. The submission of rendition is something that is going to have to come under some judicial supervision.

I am considering now legislation which would require Federal authorities to go to court to establish probable cause and a basis for rendition before any American citizen or before anyone ought to be sent to a foreign country.

We have the allegations of the plaintiff in a case decided last week by the Fourth Circuit who was sent to Egypt and alleged that he was tortured there. The Fourth Circuit has held that the case cannot be pursued because of a state secrets doctrine. That is a matter which is going to be reviewed on oversight by the Judiciary Committee.

We have 25 CIA agents under indictment now in Italy, and we have 13 CIA agents now under indictment in Germany. The international response is that the United States is undertaking a rendition in a way which is unsatisfactory to basic standards of decency and fairness.

The Judiciary Committee has held hearings on Guantanamo. I visited Guantanamo. Not to have those detainees have the right of habeas corpus and Federal court review is totally at variance with the very basic tenets of Anglo-Saxon and American jurisprudence.

I cannot say anything more about Arar, but it can be discussed in S–407, which is the room we go to when we have matters to discuss which are classified. I believe it is a very compelling case that there needs to be judicial intervention or needs to be a lot more oversight than there has been on these matters.

I might say, it is like pulling teeth to get the Department of Justice to make any information available. It takes a long time to have access to the classified material, and then the material is insufficient to come to a conclusion. In the Arar case, we have a request pending and don't know what the result will be. But we do know Canada made an exhaustive analysis of Arar and what he had done, and I think I can say this: The materials in the classified documents relate to information substantially obtained from Canadian authorities, and Canada has made the inquiry and has apologized and paid some $10 million.

I yield the floor.

EXHIBIT 1

SUMMARIES OF CSRT EXAMPLES CITED BY TOM SULLIVAN AT SEPTEMBER 25, 2006 SJC HEARING

ABDUL-HADI AL SIBA'A

Al Siba'a is 34 year old Saudi Arabian who was taken into custody in Pakistan in December 2001. He had no weapon or ammunition when he was captured. The Combatant Status Review Tribunal stated that Al Siba'a was charged with being captured in crossing the border into Pakistan and with having volunteered for a charity that was funded by Al-Qaida.

Al Siba'i repeatedly contended that he is a police officer in the Riyadh police department who was on a leave of absence in August 2001 to assist in building schools and a mosque in Afghanistan. He has presented his passport and his airline ticket. He has offered to have the Riyadh Police Department verify his employment and the nature of his leave of absence. Those requests were refused by the tribunal ''because an employer has no knowledge of what their employees do when they are on leave.''

After five years of detention, the government released Al Sibai'i from Guantanamo Bay, and he returned to his home in Saudi Arabia.

UNNAMED DETAINEE

One detainee, who is not named in the declassified documents from the CSRT, is a Muslim man from Germany. This detainee is charged with having a close association with an individual who later engaged in a suicide bombing.

The detainee had no memory of any association with a person who was a suicide bomber. In order to understand the nature of the charges against him, the detainee asked what evidence the tribunal had to show that he was involved with a suicide bomber.

The tribunal responded that they could not answer that question and that ''anything remaining concerning [the suicide bomber who the detainee was allegedly associated with] is in the classified session.'' While the detainee continued to be cooperative and answer the questions posed to him by the CSRT, the Tribunal never provided him with an explanation of the questions that it asked regarding his associations with other individuals and organizations.

''MUSTAFA''

Arrested in Sarajevo, Bosnia, but originally of Algerian descent. Accused of being a member of the Islamic Armed Group, which was plotting to bomb the American Embassy in Sarajevo. Asked about his relationship to Abu Zubayda, whom he denied knowing.

Mustafa was arrested and searched by ''international police from the United Nations.'' Was told that if the Bosnians no longer wanted him in their country, he would be welcome to return to Algeria.

Asked his interrogator at GTMO, ''why, and if there were any accusations or evidence against me. The interrogator said to me that they would find something, meaning I could not be released from Cuba without them finding some accusation against me. I could not have been held in Cuba in prison for three years, then all of a sudden be found innocent and released.''

ABDUR SAYED RAHMAN

Born in Pishin, Pakistan. Charged with being a member of the Taliban, which he denied.

Although there were two exhibits read into evidence against him, he was unable to view the evidence. Additionally, the detainee denied having been at the place of his capture in Pakistan at the alleged time of his capture. The government could not verify with him the time of his capture.

Mr. SPECTER. In the absence of any other Senator seeking recognition, 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. SPECTER. 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. SPECTER. Mr. President, I have a couple supplemental comments I would like to make.

The requirement established by the Department of Defense that a detainee shall be notified ''of their right to seek a writ of habeas corpus in the courts of the United States'' was given to all the detainees. So they have had it and relied upon it. I suggest that while not legally the same, that any change in that policy is really in the nature of ex post facto, which is changing a rule and establishing criminal liability after the fact, which is prohibited by the Constitution. It isn't quite that, but it has the same flavor, and it is the nature, also, of a bill of attainder, which is legislation that establishes guilt as opposed to a judicial proceeding. What we have had here, in effect, is legislation which has changed what the Department of Defense said the rights of the individuals would be.

I wish to cite, in addition, a quotation from Justice O'Connor in the Hamdi v. Rumsfeld case, talking about combat status review boards, in which she said:

Any process in which the executive's factual assertions go wholly unchallenged or simply presumed correct without any opportunity for the alleged combatant to demonstrate otherwise falls constitutionally short.

Justice O'Connor restates in shorthand the traditional presumption of innocence which is turned on its head by the DOD regulations and says as a matter of Supreme Court ruling that without any opportunity to defend, those presumed conclusions can't stand.

We saw the case of Judge Green, we saw the case cited by the witness before the Judiciary Committee, all of which shows the basic unfairness of what is going on in Guantanamo. The only way to correct it is through the traditional habeas corpus rights in Federal court.

I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

VETERANS HEALTH CARE

Ms. KLOBUCHAR. Mr. President, I rise today to pay tribute to our brave soldiers fighting overseas and in particular the nearly 3,000 Minnesota National Guard members who recently had their stays extended in Iraq. I wish to speak about our duty to these soldiers for their sacrifices on behalf of our Nation. It is an issue that must transcend partisanship.

Whether one supports the President's escalation or opposes it, as I do, there is one point on which we can agree: We must support the soldiers on the battlefield, and when they return home, we must give them the support they need.

In the past 4 years, American military service personnel and their families have endured challenges and stressful conditions that are unprecedented in recent history, including unrelenting operational demands and recurring deployments in combat zones.

Mr. President, 1.5 million American service men and women have served in Iraq and Afghanistan. These wars are creating new generations of veterans who need their country to stand with them. Many of the soldiers fighting in Iraq and Afghanistan are doing it not only to serve their country but also to provide for their families.

One of these soldiers was Army SGT William ''B.J.'' Beardsley, who lived in Minnesota. Sergeant Beardsley joined the Army just after high school and completed one term of service. But when his wife Stacy encountered medical ailments, Sergeant Beardsley decided to reenlist, in part so that his health insurance would cover the medical treatment his wife required.

His personal sacrifice to family and country allowed his wife to successfully undergo surgery. Tragically, the day Stacy left the hospital, Sergeant Beardsley was killed by a roadside bomb in Iraq.

I have always believed that when we ask our young men and women to fight and die for this Nation, we make a promise that we will give them all the resources they need to do their job and when they return home, we will take care of them and their families. Sergeant Beardsley will not be coming home, but for too many of his fellow soldiers in Iraq and Afghanistan who do return, our promise to take care of them has repeatedly been broken.

As a nation, we have an obligation to wrap our arms around the people who serve us and who have sacrificed for us. Today, our veterans need us more than ever. While the President pushes ahead with his surge of additional troops into Iraq's civil war, at home we are already experiencing a vastly larger surge of returning soldiers, many of them citizen soldiers from the National Guard and Reserves.

More than 3,000 have returned having made the ultimate sacrifice, leaving behind grieving families and communities. Tens of thousands have come home physically wounded. Tens of thousands more return suffering from post-traumatic stress, depression, and substance abuse as a result of their service. These are men and women who have served our country on the front lines, but on returning home too many have found themselves shunted to the end of the line, left waiting to get the health care they need, left waiting to receive the benefits they have earned and, as the shocking revelations from Walter Reed show us, some have been left waiting in the most squalid of conditions. We are now learning this is not an isolated incident.

In Minnesota, one of those left waiting was Jonathan Schulze. Jonathan, from Stewart, MN, was a 25-year-old marine who had fought in Iraq and earned two Purple Hearts. He told his parents that 16 men in his unit had died in 2 days of battle. When he returned home in 2005, the war did not leave him. He suffered flashbacks and panic attacks. He started drinking heavily to stave off nightmares. According to VA Secretary Jim Nicholson, Jonathan was seen by the VA 46 times in Minneapolis and St. Cloud, MN, but this was not enough. In January, this young war veteran hanged himself.

We now learn that the VA Medical Center in St. Cloud has 15 acute inpatient psychiatric beds, while a decade ago there were 198 beds. That means the number of acute psychiatric beds available for veterans there has declined by more than 90 percent in the past decade. It is as if nobody even realized that we have been at war for the past 4 years and that tens of thousands of Minnesotans have returned from combat, with many more to come.

Our veterans didn't stand in long waiting lines when they were called up or volunteered to serve our Nation. So why are we asking them to stand in line now for medical care?

As a former prosecutor, there is a saying that ''justice delayed is justice denied.'' I would add that, for our veterans, ''health care delayed is health care denied,'' and that, too, is an injustice. We need to do better, much better, and we can.

In fact, we know what needs to be done. First, we need to stop short-changing our veterans during the budget process. Just as this administration sent our soldiers into battle without a plan for victory, it also failed to develop a plan to address their needs once they got home. The administration shockingly underestimated the number of veterans who would require medical care.

In its fiscal year 2005 budget request, the Department of Defense estimated

that they would have to provide care for 23,500 veterans from Iraq and Afghanistan. In reality, more than four times that number required assistance. Last year, the Pentagon underestimated the number of veterans seeking care by 87,000.

The Department of Veterans Affairs operates the largest medical system in the Nation. It has a reputation for high-quality care, with many talented, dedicated doctors, nurses, and other staff. The VA's resources, however, are now severely strained. The waiting list and delays get longer. The shortages are especially severe in mental health care. Last year, the VA underestimated the number of new post-traumatic cases by five times.

For the past several years, this administration has submitted a budget request for the VA that significantly underfunded the needs of America's 25 million veterans. This is from the same administration that each year asks Congress to authorize tens of billions of dollars for projects in Iraq. I was pleased that the continuing resolution, passed a few weeks ago, increased funding for the VA by $3.5 billion over fiscal year 2006 levels. However, this should only be the beginning of a renewed commitment to our service men and women, both on the front lines and on the home front.

When the President's budget comes to the Senate floor later this month, I will join my like-minded colleagues in pressing for a substantial increase in VA funding.

Second, we need to start treating our National Guard and Reserves like the soldiers they are. Up to 40 percent of the troops fighting in Iraq have been National Guard members and reservists. Minnesotans know all too well the burden being placed on our Guard forces. The National Guard was not built to serve as an Active-Duty force for prolonged periods of time. Yet that is exactly what we are requiring them to do. Guard funding and benefits have not gone up correspondingly to match its increased duties.

Meanwhile, the Pentagon is stripping Guard units of their equipment in order to make up for shortages in supply. States rely on the presence of a strong and well-equipped Guard in order to respond to domestic emergencies. Department of Defense policies have weakened the Guard to the point that a recent commission found that 88 percent of Guard units in the United States cannot meet preparedness levels.

It is time we recognize the elevated position and importance of the National Guard to our national security. As a member of the National Guard Caucus, I support the National Guard Empowerment Act, which will promote the commander of the National Guard to a four-star general and make him a member of the Joint Chiefs of Staff. It will also grant the Guard more responsibility over coordinating Federal and local agencies during emergencies.

We must also upgrade Guard members from their perceived status as second class veterans in other areas, including health care, pension plans, education, and reintegration programs. We need to do a better job of integrating our returning veterans back into our communities when they return. This is particularly hard for National Guard members when they do not have a base to go home to and have to go to literally thousands of communities and small towns across this country.

In Minnesota, we are proud to have created the Beyond the Yellow Ribbon Program, which provides counseling and support to National Guard members and their families. Across my State right now, the National Guard is sponsoring a unique series of Family Reintegration Academies. Several weeks ago, I had the honor of attending one of these academies in Alexandria, MN. This pilot reintegration program has helped ease the transition for soldiers and their families, and it has gotten fabulous reviews from the participating families.

What works in Minnesota can work in every State across the Nation. As we enter this appropriations process, I will be working with my colleagues to insist that the Federal budget include funding for reintegration programs for Guard members and reservists.

Third, we need to improve health care for all of our soldiers. The problems found at Walter Reed are all too common at veterans hospitals and centers nationwide. I have joined my colleagues in legislation that will begin to solve the personnel and building shortages at Walter Reed Hospital and similar centers across the Nation. I also will join the Democratic leadership in the Senate in their HEROES plan to provide more oversight to veterans affairs and develop legislation to address these problems.

One of the most glaring needs in veterans health care today is funding for research and treatment of polytraumatic injuries. As Bob Woodruff of ABC News showed us so vividly last week, with his own example and that of many other wounded soldiers, brain trauma has become a signature injury of this war in Iraq.

Minnesota is home to one of the VA's systems four polytrauma rehabilitation centers. The others are in Palo Alto, Richmond, and Tampa. These centers were created in recognition of the large number of service members sustaining multiple severe injuries as a result of explosions and blasts. These centers provide a full array of inpatient and outpatient services, with specialized programs for traumatic brain injuries, spinal cord injury, blind rehabilitation, and post-traumatic stress disorder.

I have visited the VA polytrauma brain center in Minneapolis. We need more of these centers and more research into the permanent effects of brain trauma caused by explosions on the battlefield. Our current VA infrastructure is not equipped to deal with these injuries and to care for brain-injured vets once they leave these specialized centers and return home. This must be a priority.

Another issue that is only beginning to receive sufficient attention is the proliferation of mental health disorders among veterans. According to a Veterans' Health Administration report, roughly one-third of Iraq and Afghanistan veterans who sought care through the VA were diagnosed with potential symptoms of post-traumatic stress, drug abuse, or other mental disorders.

The Joshua Omvig Suicide Prevention Act, introduced by my colleagues from Iowa, will help ensure 24-hour access to mental health care for veterans deemed at risk for suicide. It will create VA programs to help veterans cope with post-traumatic stress disorder and other mental illnesses that too often lead them to take their own lives. Nearly 1,000 veterans who receive care from the VA commit suicide each year. It is too late for Jonathan Schulze, but it is not too late for the many other suffering soldiers who are at risk for suicide.

In the coming weeks and months, I hope to engage my colleagues to cooperate on new legislation that will increase the funding and commitment to veterans mental health services. In past years, veterans, such as my father, could count on the fact that their Government would stand by them. After World War II, our Government did just that, adopting the GI bill to provide health, housing, and educational benefits that gave returning veterans the help they needed to heal, to raise families, and to prosper.

At a time when we are spending billions on the reconstruction of Iraq, funding for health care for veterans is far below what is needed. Those are the wrong priorities for our country. We cannot abandon the brave soldiers who fought for us once they return.

In his Second Inaugural, President Lincoln reminded the American people that in war we must strive to ''bind up the Nation's wounds, to care for him who shall have borne the battle and for his widow and his orphan.'' Today, Americans are again called to bind up our Nation's wounds and to care for those who have borne the battle, as well as their families who have shouldered their own sacrifice.

Let us live up to this solemn obligation to bring our troops home safely and to honor our returning soldiers and their families by giving them the care and the benefits they have earned.

Mr. President, I yield the floor.

AMENDMENTS NOS. 383 AND 384, EN BLOC, TO AMENDMENT NO. 275

Mr. BIDEN. Mr. President, I send to the desk two amendments. I am only going to speak to one, but I would like to send both to the desk so I have them offered. One is an amendment relating to funding of the homeland security effort, and the other is one relating to

the ability for cities and States to reroute hazardous waste around their major metropolitan areas.

The PRESIDING OFFICER. Without objection, the clerk will report.

The legislative clerk read as follows:

The Senator from Delaware [Mr. BIDEN] proposes amendments numbered 383 and 384, en bloc, to Amendment No. 275.

Mr. BIDEN. Mr. President, I ask unanimous consent that the reading of the amendments be dispensed with.

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

The amendments (Nos. 383 and 384) are as follows:

AMENDMENT NO. 383

(Purpose: To require the Secretary of Homeland Security to develop regulations regarding the transportation of high hazard materials, and for other purposes)

On page 361, after line 20, add the following:

Subtitle D—Transport of High Hazard Materials

SEC. 1391. REGULATIONS FOR TRANSPORT OF HIGH HAZARD MATERIALS.

(a) DEFINITION OF HIGH THREAT CORRIDOR.—In this section, the term ''high threat corridor'' means a geographic area that has been designated by the Secretary as particularly vulnerable to damage from the release of high hazard materials, including—

(1) areas important to national security;

(2) areas that terrorists may be particularly likely to attack; or

(3) any other area designated by the Secretary.

(b) PURPOSES OF REGULATIONS.—The regulations issued under this section shall establish a national, risk-based policy for high hazard materials being transported or stored. To the extent the Secretary determines appropriate, the regulations issued under this section shall be consistent with other Federal, State, and local regulations and international agreements relating to shipping or storing high hazard materials.

(c) ISSUANCE OF REGULATIONS.—Not later than 90 days after the date of enactment of this Act, the Secretary shall issue interim regulations and, after notice and opportunity for public comment final resolutions, concerning the shipment and storage of high hazard materials.

(d) REQUIREMENTS.—The regulations issued under this section shall—

(1) except as provided in subsection (e), provide that any rail shipment containing high hazard materials be rerouted around any high threat corridor;

(2) establish standards for the Secretary to grant exceptions to the rerouting requirement under paragraph (1).

(e) TRANSPORTATION AND STORAGE OF HIGH HAZARD MATERIALS THROUGH HIGH THREAT CORRIDOR.—

(1) IN GENERAL.—The standards for the Secretary to grant exceptions under subsection (d)(4) shall require a finding by the Secretary that—

(A) the shipment originates or the point of destination is in the high threat corridor;

(B) there is no practicable alternative route;

(C) there is an unanticipated, temporary emergency that threatens the lives of persons or property in the high threat corridor;

(D) there would be no harm to persons or property beyond the owners or operator of the railroad in the event of a successful terrorist attack on the shipment; or

(E) rerouting would increase the likelihood of a terrorist attack on the shipment.

(2) PRACTICAL ALTERNATE ROUTES.—Ownership of the tracks or facilities shall not be considered by the Secretary in determining whether there is a practical alternate route under paragraph (1).

(3) GRANT OF EXCEPTION.—If the Secretary grants an exception under subsection (d)(4)—

(B) the Secretary shall notify Federal, State, and local law enforcement and first responder agencies (including, if applicable, transit, railroad, or port authority agencies) within the high threat corridor.

AMENDMENT NO. 384

(Purpose: To establish a Homeland Security and Neighborhood Safety Trust Fund and refocus Federal priorities toward securing the Homeland, and for other purposes)

At the end, add the following:

SEC. 1505. HOMELAND SECURITY TRUST FUND.

(a) DEFINITIONS.—In this section:

(1) TRUST FUND.—The term ''Trust Fund'' means the Homeland Security and Neighborhood Safety Trust Fund established under subsection (b).

(2) COMMISSION.—The term ''Commission'' means the National Commission on Terrorist Attacks upon the United States, established under title VI of the Intelligence Authorization Act for Fiscal Year 2003 (Public Law 107–306; 6 U.S.C. 101 note).

(b) HOMELAND SECURITY AND NEIGHBORHOOD SAFETY TRUST FUND.—

(1) ESTABLISHMENT OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the ''Homeland Security and Neighborhood Safety Trust Fund'', consisting of such amounts as may be appropriated or credited to the Trust Fund.

(2) RULES REGARDING TRANSFERS TO AND MANAGEMENT OF TRUST FUND.—For purposes of this section, rules similar to the rules of sections 9601 and 9602 of the Internal Revenue Code of 1986 shall apply.

(3) DISTRIBUTION OF AMOUNTS IN TRUST FUND.—Amounts in the Trust Fund shall be available, as provided by appropriation Acts, for making expenditures for fiscal years 2008 through 2012 to meet those obligations of the United States incurred which are authorized under subsection (d) for such fiscal years.

(4) SENSE OF THE SENATE.—It is the sense of the Senate that the Committee on Finance of the Senate should report to the Senate not later than 30 days after the date of the enactment of this Act legislation which—

(A) increases revenues to the Treasury in the amount of $53,300,000,000 during taxable years 2008 through 2012 by reducing scheduled and existing income tax reductions enacted since taxable year 2001 with respect to the taxable incomes of taxpayers in excess of $1,000,000, and

(B) appropriates an amount equal to such revenues to the Homeland Security and Neighborhood Safety Trust Fund.

(c) PREVENTING TERROR ATTACKS ON THE HOMELAND.—

(1) AUTHORIZATION OF APPROPRIATIONS FOR SUPPORTING LAW ENFORCEMENT.—There are authorized to be appropriated from the Trust Fund—

(A) $1,150,000,000 for each of the fiscal years 2008 through 2012 for the Office of Community Oriented Policing Services for grants to State, local, and tribal law enforcement to hire officers, purchase technology, conduct training, and to develop local counterterrorism units;

(B) $900,000,000 for each of the fiscal years 2008 through 2012 for the Justice Assistance Grant; and

(C) $500,000,000 for each of the fiscal years 2008 through 2012 for the Law Enforcement Terrorism Prevention Grant Program.

(2) AUTHORIZATION OF APPROPRIATIONS FOR RESPONDING TO TERRORIST ATTACKS AND NATURAL DISASTERS.—There are authorized to be appropriated from the Trust Fund—

(A) $500,000,000 for each of fiscal years 2008 through 2012 for the Federal Emergency Management Agency for Fire Act Grants; and

(B) $500,000,000 for each of fiscal years 2008 through 2012 for the Federal Emergency Management Agency for SAFER Grants.

(d) AUTHORIZATION OF APPROPRIATIONS FOR ADDITIONAL ACTIVITIES FOR HOMELAND SECURITY.—There are authorized to be appropriated from the Trust Fund such sums as necessary for—

(1) the implementation of all the recommendations of the Commission, including the provisions of this section;

(2) fully funding the grant programs authorized under this bill, including the State Homeland Security Grant Program, the Urban Area Security Initiative, the Emergency Management Performance Grant Program, the Emergency Communications and Interoperability Grant Programs, rail and transit security grants and any other grant program administered by the Department;

(3) improving airline passenger screening and cargo scanning;

(4) improving information sharing and communications interoperability;

(5) supporting State and local government law enforcement and first responders, including enhancing communications interoperability and information sharing;

(6) enhancing the inspection and promoting 100 percent scanning of cargo containers destined for ports in the United States and to ensure screening of domestic air cargo;

(7) protecting critical infrastructure and other high threat targets such as passenger rail, freight rail, and transit systems, chemical and nuclear plants;

(8) enhancing the preparedness of the public health sector to prevent and respond to acts of biological and nuclear terrorism;

(9) the development of scanning technologies to detect dangerous substances at United States ports of entry; and

(10) other high risk targets of interest, including nonprofit organizations and in the private sector.

Mr. BIDEN. Mr. President, with regard to the first amendment, No. 383, which I am not going to take time to speak to today, is an amendment that allows cities and States to reroute hazardous material around their cities. In a nutshell, and I know no one knows this better than the Chair, and I mean that sincerely, these are 90-ton chlorine gas tank cars that go rolling through Newark on their way down through the corridor into my State and across my State.

I once asked, not too long ago, the Naval Research Institute to give me an analysis of what would happen if one of those were to blow up in a metropolitan area. They said that 100,000 people would die—100,000 people would die. Yet this administration has opposed and we have not committed to allowing cities to reroute this hazardous material around their major metropolitan areas.

That is one amendment which I will come back to at another time.

At this moment I want to now speak to an amendment that is much broader, Amendment No. 384.

We often say that September 11 changed everything. Well, it changed everything except it didn't change our behavior. It changed everything except

when we look at the budget of this administration in the last 6 years, or 4 years since then, and if we look at our tax policy since then, we look at what hasn't changed.

My dad used to have an expression, Mr. President. You probably heard me say it before: Show me your budget, I will tell you what you value.

Tax cut after tax cut, overwhelmingly tilted to those who were at the highest end of the tax bracket, is what this outfit has valued. The truth is, we seem not to value protecting our cities, our homeland. The truth is, as the Presiding Officer knows better than anyone, living on the east coast in a State such as mine, only much larger, you know what the costs of the 9/11 Commission recommendations are. You know how few dollars we have spent implementing the recommendations. Literally from your home county, you could see the buildings collapse, the World Trade Center towers collapse. Thousands of people from your State were significantly affected, many were killed.

We all ripped out our hair about how this was so terrible; we were going to not let this happen again. We went out there and took a real good look at what needed to be done when the 9/11 Commission came along. Precious little was done. Yet during the same period of time we made sure to help people earning more than a million dollars a year. I am not picking on them. I am happy. I hope my grandkids make over a million dollars a year. I hope everybody in America can. I have no problem with anybody making hundreds of millions of dollars.

One of the things we forget on the Senate floor is that those folks are just as patriotic as poor folks. Those folks are just as patriotic as middle-class folks. They didn't ask for these massive tax cuts. They are prepared to give some of them back in order to make the country more safe, but we don't ask anything of them. So what happens? Just for this year, for households making more than $1 million a year, to put this in perspective, they are going to get a tax cut of $45 million. If you look at it from 2008 to 2017, that aggregate tax cut, if you are at an income where you make more than a million dollars a year, is going to be $739 billion. Households with incomes of that magnitude obviously take a big chunk of what are the fiscal priorities of this Nation.

We just had a long discussion here about the grant programs and how we allocate funding to the various States. We debated that. But it is like rearranging the deck chairs on the Titanic unless there is actual money dedicated to provide for these needs. What we have not done is we have not ensured a funding source. We have not provided the money needed to implement the 9/11 Commission recommendations.

I say to my colleagues that we have money to fund these programs. When I raised this last year and I talked about how much money was needed, as my friend from New Jersey has, they said: Oh, we can't afford it.

Give me have a break. We can't afford it? We can afford over $700 billion in tax cuts for people making over $1 million a year, and we can't afford it? I will point out that it comes to about a $50 billion price tag over 5 years to implement all the 9/11 Commission Report. Can't afford it?

Let me point out that the Congressional Budget Office recently released a study indicating H.R. 1, the House counterpart to this bill, will cost $21 billion, but the Senate bill we have here only costs $17 billion. There are a few comprehensive estimates of what all the 9/11 recommendations would cost, but I did what you did, I say to the Presiding Officer, and what others did—I went to a bunch of very smart people. I have been involved in this, as you have, from day one. We went in and costed it out, what it would cost for the main recommendations of the 9/11 Commission. The truth is, we are easily able to fund it. It is a lot more than that; it is $50 billion over 5 years, roughly.

In addition we are not prepared in terms of homeland security relating to local cops, sheriffs—local police. If there is going to be somebody who is trying to put sarin gas into a complex in your State or mine, it is not going to be some brave special forces soldier in fatigues wearing night-vision goggles who is going to figure this thing out; it is going to be a local cop riding behind the arena and seeing someone getting out of a dumpster. If we are going to break up these rings, it is going to be intelligence, but also it will be a local cop walking a beat in Newark, NJ, or Wilmington, DE—or Newark, DE. ''By the way, those three apartments that have been vacant for the last 7 years, there are lights on in the window.''

What have we done? We slashed spending for local law enforcement. We slashed it $2.1 billion a year since this President has become President.

Show me your budget, I will tell you what you value. It is a little bit like taking care of veterans. Show me your budget, I will tell you what you value.

In addition, the study by the U.S. Conference of Mayors found that 75 percent of the cities in America do not have interoperable communications—75 percent. This is a disgrace. What do we need? We had Hurricane Katrina, we had 9/11—what else do we need to demonstrate that it is useful to have a local cop be able to speak to the National Guard that is called in, to be able to have somebody in the command center who can talk to everybody? Yet 75 percent of the cities do not have interoperable communications capability—one of the strongest recommendations made by the 9/11 Commission.

As I said, while there is not a comprehensive assessment, I have spent a lot of time talking to experts and found that roughly for an additional $10.3 billion a year, we can implement all of the 9/11 recommendations—all of them, including provisions in this title—and do other commonsense things we know will make us more safe, such as reinvesting in local police.

The bottom line is this: If we simply commit to taking back a small fraction of the cuts for those making over $1 million a year, we can pay for all the security upgrades we need. Here is how it would work. My amendment simply puts the Senate on record calling for the Finance Committee to report legislation to provide $53 billion in funding for homeland security to be placed in the homeland security trust fund. It is called a Homeland Security and Neighborhood Safety Trust Fund. From this trust fund, we require that spending be dedicated toward initiatives and grant programs authorized in this legislation, including the Urban Area Security Initiative, the State Homeland Security Grant Program, emergency management performance grants, and rail and transit security grants. It would reinstate the COPS Program, the FIRE Act grants, SAFER grants, and the Justice Assistance grants, which provide essential support to State and local police, allowing them to coordinate with the Federal Government. It would be funding enhancements in interoperable communications, improve port security, including working toward 100 percent scanning of cargo containers, and upgrade and better prepare the Nation's public health sector to respond to acts of bioterrorism and nuclear terrorism.

I ask all my colleagues in earshot of my voice, go to the largest cities in your States and go to the emergency rooms in your hospitals. Ask how many times they have to close down their hospitals. They send out to all the ambulance drivers in the entire region that would be serviced by them a statement saying: We can't take any more today. What in God's name are we doing to prepare these hospitals and infrastructure for a terrorist attack?

We also have to upgrade and develop new scanning technology to detect dangerous substances. That is what this money would be allowed to be used for.

When I introduced this legislation last year and got a vote, I explained how I would allocate the $10.3 billion. I put $1 billion in here for interoperability, I put in $1 billion to promote 100 percent cargo container scanning, $500 million to bolster the public health infrastructure, and $100 million to improve government-wide information sharing. In order to leave what should be left—I took out these specific allocations in order to give to my colleagues on the Appropriations Committee and the Homeland Security Committee more discretion on how to spend the additional money in the outyears. I withheld the specifics. It is just an order to the relevant committees to come up with how to spend that money.

Any way you slice it, this will leave the most fortunate among us still very fortunate but will take, from over $736 billion, $52 billion. No one in this Chamber can tell me that there is anyone out there who is going to say that is not fair. No one can tell me that will have a scintilla of a negative impact on the economy. No one can argue, I respectfully suggest—and I invite them to do it—that, in fact, these things are not needed, what I am talking about here. These were all talked about by various Senators.

The numbers are clear. Those who need the least help are getting the most from the current tax cuts, and those fortunate Americans are twice blessed. They are blessed by our efforts in this bill, and they are blessed by the fact that they are doing very well through their own hard work.

I have said before, of the many opportunities squandered since 9/11, the most tragic opportunity squandered by this administration is the failure to call our country together, to give all of us a part to play in response to the new threats we face, not just middle-class folks who are sending their husbands, wives, sons, and daughters to Iraq and Afghanistan to try to protect us.

But despite the rhetoric that calls upon the proud recollections of our national purpose in conflicts such as World War II and the Cold War, on this floor there has been an incredible vacuum of leadership. Those Presidents asked something of the American people. What has been asked except forfeit commitments to health care, education, and energy security? And where does that burden fall? It falls on working women and men.

Let me just say as my time begins to expire that I know those who are very well off. I know they are willing to do this. I had an opportunity to speak to a group of 50 people advertised to me as among the most wealthy people in the nation. It was a group of investors. I spoke before them, and I said to them that this is what I wanted to do. I said: Does anybody in here disagree with that? It was advertised to me that a significant portion of these people were actually billionaires. When I raised that question, there was silence in the room, and finally one guy honestly put his hand up.

He said: I am not too sure I am. I am not too sure you won't go out and waste the money.

I said: Will you support it if I come forward and do what I did in the crime bill I wrote years ago, I drafted years ago—set up a trust fund, and the money we take from this tax cut to get this $50 billion-plus will be put into a trust fund, and it can only be used for homeland security and neighborhood safety? Would you support it then?

I got an ovation, literally an ovation, mostly a standing ovation, I say to you, Mr. President, from these extremely wealthy people. The wealthy are ready to commit just as the middle class and poor are.

Mr. President, I end where I began. As my dad used to say, don't tell me what you value, show me your budget. Don't anyone on this floor presume to tell me, in the years I have spent here, that this country cannot afford to spend, over the next 5 years, $10.2 billion a year to make this Nation safer. Please don't anyone suggest that it is not possible to pay for this when, in fact, you have a tax policy that is so out of whack that even the people who are benefiting the most from it are willing to contribute to our national security. If we ask the sons and daughters, husbands and wives, mothers and fathers in each of our towns and cities to send their children, their husbands and wives to protect us abroad, we sure in the devil can ask the people making over $1 million a year—a total tax break of over $736 billion over the next several years—to contribute $10.2 billion a year out of that tax cut. I am confident they are ready. They just need to be asked.

I hope, when the appropriate time comes, my colleagues will favorably consider my amendment.

I yield the floor.

AMENDMENTS NOS. 316 AND 342

The PRESIDING OFFICER. Under the previous order, there will be 15 minutes of debate equally divided on amendments Nos. 316 and 342 offered by Senators MCCASKILL and COLLINS.

Who yields time?

The Senator from Missouri.

Mrs. MCCASKILL. Mr. President, if the Chair would inform me when I have used 3 minutes because I want to yield my remaining time.

There have been so many things said about this amendment that are not true. I want to make sure my colleagues understand how many things are being said that are not true.

There is one truth everyone needs to embrace. That is, we are only trying to give to the screening officers at airports the same worker protections that we give so many of our men and women in uniform who are helping with our national security and safety. As I drove up this morning to the Capitol, I was greeted by Capitol police officers. Does anyone doubt those Capitol police officers would do whatever is necessary to try to protect us? Of course not. But yet those same arguments are being used to try to discourage people from supporting this amendment, that somehow if these workers are part of some collective bargaining agreement, they will no longer be there at a moment's notice to do whatever they are asked to secure our safety and security.

As I said previously, how many Americans bought the NYPD shirts and hats and the New York fire department shirts and hats after 9/11? Those firefighters in New York who went into that burning building losing their lives in the process, running into danger rather than away from it, all were working under a collective bargaining agreement. Does anyone doubt that they hesitated responding to an emergency because they have basic worker protections? The notion is very un-American and, frankly, it is mildly insulting to the men and women serving as officers in our airports today.

The Border Patrol, same protections; Customs officials, same protections; most of the employees in Homeland Security, the civilian employees of the Department of Defense, FEMA employees, all of whom have to respond to emergencies, all have these same basic worker protections.

My amendment says they cannot collectively bargain for higher pay. My amendment spells out clearly that the Secretary of Homeland Security and the Director of TSA have complete authority to mandate what these workers do in times of an emergency. At the same time it is going to allow us to professionalize this workforce. This part of the Federal Government suffers from incredible turnover, as high as 50 percent. That is a turnover rate that would be unacceptable in the private sector. It is inefficient. It is expensive. We are not getting the kind of experienced screeners who know what to look for and when to look for it based on their experience, not because of some job training program.

This amendment will provide those basic protections. It will professionalize the workforce. In the long run, it will make us all safer.

I urge colleagues to support the McCaskill amendment. I yield the remainder of my time to Senator KENNEDY.

Mr. KENNEDY. Mr. President, how much time remains for both sides?

The PRESIDING OFFICER. Senator MCCASKILL has 4 minutes remaining, and Senator COLLINS has 7½ minutes remaining.

Mr. KENNEDY. Mr. President, I ask the Chair to remind me when there is 1 minute remaining.

First, I commend the good Senator for offering this amendment. It is important to understand what it does not do. It does not provide a right to strike, a right to bargain over pay. It does not prevent TSA from responding to emergencies, and it does not prevent TSA from responding to new threats. This amendment does none of that, even though it has been distorted and misrepresented.

As the good Senator has pointed out, what are the existing attrition rates today? Look at the different security agencies, Immigration and Customs correctional officers, Secret Service and Border Patrol, and Transportation Security. This is the national security threat, the idea that the TSA has this kind of turnover. That is the nature of the threat, having to get new people after new people after new people, because workers don't have a right to speak and don't have the right to bring their grievances.

What is the result? Even in this agency we find out in terms of lost time and the injury rate, this agency leads the pack. What does it show? It shows it is

poorly administered and the workers are not being treated fairly or are not treated with respect.

The McCaskill amendment is simple in what it does. The Border Patrol agents have these kinds of protections. FEMA has these protections. Immigration and Customs have these protections. Unless we have the McCaskill amendment, we will not have the range of these protections for Transportation Security Administration workers. The others have it but not TSA.

What does the other side have against working men and women? How insulting, that these men and women will not put the security of the United States first. At the time of 9/11, under the Defense Department, they moved hundreds and thousands of civilians all around the country. They were all under collective bargaining agreements. Not one grievance was filed, not a single one. These men and women understood their duty. They understood the threat. They were patriotic Americans. What is it about the other side that questions that these are men and women of dignity who will do their job when this Nation is threatened? What is it about? It certainly wasn't there at 9/11 when their brothers and sisters who work for the Department of Defense agency were moved all around. They were prepared to do everything they were asked to do.

The PRESIDING OFFICER. The Senator has 1 minute remaining.

Mr. KENNEDY. Finally, as the good Senator has pointed out, as the smoke was coming out of the buildings in New York, when we saw the collapse of the first buildings and men and women under collective bargaining agreements were asked to go into those fiery infernos, no one was talking about collective bargaining agreements. They were talking about doing their duty to the United States. Let us permit these workers to do their duty. Let's give them these protections. Let's give them the kind of respect and dignity the McCaskill amendment gives them.

I reserve whatever time remains.

The PRESIDING OFFICER. Who yields time?

The Senator from Maine.

Ms. COLLINS. Mr. President, it is very clear to me that we can take significant steps today to give TSA employees more protections, and that is what the amendment I and several others have proposed would do. It would bring TSA employees under the Whistleblowers Protection Act, and it would allow them to appeal any adverse employment action such as a firing or demotion to an independent agency, the Merit Systems Protection Board. These are rights I believe TSA employees should have. They are rights that are similar to those enjoyed by other Federal employees. But what we are trying to do is strike a balance between giving the employees all of the standard collective bargaining rights and the security needs of the TSA.

The TSA security needs are not hypothetical. TSA has shared with us, in a highly classified briefing, details of when they have had to change the employee work conditions or assignments or duties. This isn't just a hypothetical need. It is one we saw last summer be put in place in the wake of a bombing plot that, fortunately, was thwarted. These are needs that came into play in the response to Hurricane Katrina. What I have suggested in my amendment is that we take major steps to afford more employee rights and protections to the TSA personnel, but we do so in a way that maintains the flexibility TSA has told us, both in classified session and in public hearings, they need to help safeguard our country.

The amendment I have proposed also includes other protections for the employees. It makes very clear that they can join a union. There are several TSOs who have joined a union in order for representation, if there is an adverse employment action.

Another provision of the bill recognizes this is not the final word on the issue but asks for TSA and the GAO to take a look at the personnel system for TSA and report back to us in a year's time about whether there should be other changes made to improve the system.

The amendment also provides for a pay-for-performance system which has been successfully implemented at TSA. We want to codify that.

I don't think this is an all-or-nothing debate. We can take some significant steps today. Secretary Chertoff has sent a letter on behalf of the administration that comments on the alternative proposal put forth by my friend from Missouri, Senator MCCASKILL. I do have a lot of admiration for my friend and colleague, but I think my other colleagues should be aware that the Department says that ''this amendment regrettably does not provide a workable solution. Indeed, in some respects it would make it even more difficult for the . . . (TSA) to manage its workforce than would section 803 [in the underlying bill.]''

I want to make sure my colleagues are aware that the Department of Homeland Security believes the underlying bill, the language authored by the Senator from Connecticut, is preferable to the language offered by the Senator from Missouri.

I ask unanimous consent that the entire letter from Secretary Chertoff be printed in the RECORD.

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

DEPARTMENT OF HOMELAND SECURITY,
Washington, DC, March 6, 2007.

Hon. SUSAN M. COLLINS,
Committee on Homeland Security and Governmental Affairs, U.S. Senate, Washington, DC.

DEAR SENATOR COLLINS: On behalf of the Administration, I would like to comment on the amendment proposed by Senator McCaskill (SA 316 to SA 315). We appreciate Senator McCaskill's effort to resolve the problems created by section 803 of S. 4, but this amendment regrettably does not provide a workable solution. Indeed, in some respects it would make it even more difficult for the Transportation Security Administration (TSA) to manage its workforce than would section 803—particularly managing its Transportation Security Officers (TSO), who serve on the front lines to secure our nation's civil aviation system.

Most notably, SA 316 could actually expand the opportunities to bargain collectively beyond what is contemplated by section 803 of the underlying bill. The amendment casts doubt on whether bargaining over employee compensation and benefits is prohibited, as it is under current law and section 803. The amendment also does not differentiate between mandatory and permissive subjects of bargaining, or set terms for bargaining over procedures and appropriate arrangements related to changes in conditions of employment. Given the scope of section 111(d) of the Aviation and Transportation Security Act (P.L. 107–7), these issues will likely become the subject of litigation. Therefore, the amendment could require TSA management to bargain to impasse over matters that no other federal agency engaged in security is required to address. Furthermore, the very definition of ''pay'' could become the subject of time-consuming litigation.

The amendment also promises to impede the quick and fair resolution of grievances and other workplace disputes for the thousands of TSOs. Although the Administrator of TSA purportedly would not be required to bargain over responses to emergencies or imminent threats, it is inevitable that protracted litigation will ensue over the meaning of these terms. Moreover, the very definition of ''emergencies, newly imminent threats, or intelligence indicating a newly imminent emergency risk'' could be subject to collective bargaining and subsequent litigation. The resolution of these issues might rest with an arbitrator with no direct knowledge of intelligence, risk and threat assessment, and transportation security. This would place the performance of TSA's security mission in the hands of someone who neither has the expertise needed to make these decisions nor is accountable for them.

The amendment also fails to alleviate the adverse impact that collective bargaining would have on TSA's day-to-day security operations. TSA is responsible for providing and managing complex, on-site security systems at more than 450 commercial airports, which collectively screen approximately two million passengers a day for thousands of commercial flights. Collective bargaining would limit TSA's management flexibility, which is an indispensable element of this system. TSA must be able to react nimbly, not only to the ever-evolving security threats that confront our Nation, but also to changing air carrier schedules, weather disruptions, and special events that draw large numbers of passengers to particular airports. TSA also needs flexibility to screen not only passengers and their checked baggage, but also air cargo, airport employees, and contractors working at airports. Simply put, collective bargaining remains incompatible with the successful performance of TSA's vital security mission.

In addition, the amendment would prevent TSA from effectively disciplining employees who break the law. The amendment would trigger Title 5's procedural requirements for taking adverse actions against employees, including the 30-day notice provision set forth in Chapter 75. This would eliminate all accelerated adverse action proceedings, even those based on clear and convincing evidence of theft, drug possession or usage, and workplace violence. TSA currently responds to

such conduct by ensuring that the employees who commit these violations are removed from the payroll in as few as three days. The amendment also would call into question TSA's ability to remove poor performers. Curtailing any of these procedures would severely compromise TSA's ability to guarantee a safe workplace and assure the traveling public of the uniformly high caliber of its TSO workforce. Ironically, it would also create a situation in which non-TSO employees could be removed from the payroll much more rapidly than TSO employees who directly affect security and customer service and interact daily with the American public on a large scale.

Nor do the amendment's proposed restrictions on TSO activities provide much comfort. The amendment states explicitly that TSOs could not bargain over pay, but that is no different from current law or section 803 of S. 4. Moreover, the amendment specifically prohibits the right of screeners to strike, but federal law already proscribes such actions by each and every member of the federal workforce. These provisions offer no more protection to the traveling public than is found in existing law.

Ultimately, the amendment is unnecessary in light of the significant innovative programs that TSA has implemented to provide for a high performing workforce. These steps include: (1) a comprehensive Model Workplace program; (2) an Office of Occupational Safety, Health, and Environment; (3) a Nurse Care Management program to eliminate or reduce workplace injuries; (4) National Advisory Councils that provide the TSO workforce with direct access to the Administrator and senior management on all issues concerning security and workforce conditions; (5) procedures for Alternative Dispute Resolution; (6) whistleblower protection through a formal agreement with the Office of Special Counsel; (7) a Disputes Resolution Board to provide additional review of workplace grievances; and (8) an extensive on-line training program to provide not only refresher training for TSOs and other TSA employees, but also the bases for career advancement. The recognition of these programs in a modified amendment would provide an appropriate framework to resolve the ongoing issues with section 803 and SA 316. I look forward to working with the Members on this most critical matter.

In the final analysis, the changes that SA 316 would make to section 803 of S. 4 do not resolve the concerns expressed in the Statement of Administration Policy dated February 28, 2007. As such, if section 803 is enacted in its current format, or as amended by SA 316, the President's senior advisors would continue to recommend that he veto the bill.

An identical letter was sent to Chairman Lieberman.

Sincerely,

MICHAEL CHERTOFF,
Secretary.

Ms. COLLINS. I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. COBURN. Mr. President, there is no question that unions have these rights for TSO agents. This is a commonsense approach. What is not common sense is to put in jeopardy every traveling American for the sake of paying back a raw political debt. That is what this debate is about. Do we jeopardize safety, do we jeopardize the flexibility, do we jeopardize the fine work that has come from an incentivized system that has very low turnover now compared to the rest of the industry, that has a bonus system for great performance, a performance-based system, to give them what they need and not jeopardize the traveling American public? The McCaskill amendment actually hurts our flexibility and our security.

As a matter of fact, we had a hearing after this bill was on the floor, wherein Mr. Hawley and Mr. Gage came before us and talked about union representation of the TSO officers. Very revealing statements were said, especially by Mr. Gage. When we raised concerns about flexibility during emergencies and complicated issues that required absolute flexibility to move people around at all times, it was the testimony of Mr. Hawley who said they have to plan, that they are in an emergency all the time, which means they have to have the flexibility all the time. Mr. Gage's response to that was: These are sometimes bogus emergency situations.

Well, the reason we have had such an effective airline screening program is because we call everything an emergency and plan for it as an emergency, so we never have an emergency.

This amendment will gut the flexibility of the TSA in doing the very thing we have asked them to do; that is, protect us and have an institution that is viable, responsive, and nimble to protect us, without having to have a shop steward ask them what we can do and when we can do it.

Now, the McCaskill amendment says we will let you do that in an emergency, but the fact is, we are in an emergency mode all the time. So whatever contract we might have signed is not going to have any bearing anyway. So the contrast for the American public on this vote—and we know this is going to be a party-line vote. Even those Members who want to vote the other way have been told not to vote the other way. We know this is a party-line vote about paying back, so Mr. Gage and his associates can have 40,000 people a month pay $30 a month to put $12 million to $17 million in the coffers of the employees union. That is what this is about.

This is not about security for this country and flexibility with the TSA. I urge a vote against the McCaskill amendment and a vote for the Collins amendment.

I yield the floor.

The PRESIDING OFFICER. All time on this amendment has expired.

The Senator from Missouri.

Mrs. MCCASKILL. Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to amendment No. 316, as modified.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from South Dakota (Mr. JOHNSON) is necessarily absent.

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

The result was announced—yeas 51, nays 48, as follows:

[Rollcall Vote No. 64 Leg.]

YEAS—51

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

NAYS—48

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

NOT VOTING—1

Johnson

The amendment (No. 316), as modified, was agreed to.

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

Mr. NELSON of Nebraska. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 342

The PRESIDING OFFICER. Under the previous order, there will now be 2 minutes of debate equally divided on amendment No. 342.

Who yields time? The Senator from Maine is recognized.

Ms. COLLINS. Mr. President, this is an attempt to find middle ground on a very difficult issue. The amendment that I and my colleagues offer the Senate would provide TSA employees with the right to appeal to the Merit Systems Protection Board any adverse action taken against them. Those rights would be identical to the rights that other Federal employees have. It would give them the protections of the Whistleblowers Protection Act. It recognizes that TSA employees have the right to join a union, and it calls for us to revisit this issue in a year by having a report from TSA and the GAO.

I think this helps give more rights and employment protections to TSA employees without impeding the necessary flexibility that TSA needs to have for our security.

I urge support of the amendment.

The ACTING PRESIDENT pro tempore. The Senate will be in order. The Senator from Connecticut is recognized.

Mr. LIEBERMAN. Mr. President, this is one of those rare occasions when the

Senator from Maine and I disagree. I appreciate the fact that Senator COLLINS is trying to find a middle ground in this contentious debate. She gives the Transportation Screening Officers at TSA some employee rights but not the right to collectively bargain, which most employees in the Department of Homeland Security, and throughout our Government has. Presumably, the contention is that the right to collective bargaining would interfere with the security responsibility of the agencies, but TSA in the underlying bill and under Senator MCCASKILL's amendment would have absolute authority to take whatever actions are needed to carry out its mission in an emergency without bargaining with any units, without even considering any collective bargaining agreement.

The fact is that Federal security forces generally have the right to collectively bargain: Border Patrol agents, immigration officers, Customs, Federal Protective Services, and the U.S. Capitol Police. Those collective bargaining rights do not interfere with their protection of our security, nor would those rights for TSOs at TSA.

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

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The question is on agreeing to amendment No. 342. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from South Dakota (Mr. JOHNSON) is necessarily absent.

The ACTING PRESIDENT pro tempore. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 47, nays 52, as follows:

[Rollcall Vote No. 65 Leg.]

YEAS—47

Alexander	Dole	McCain
Allard	Domenici	McConnell
Bennett	Ensign	Murkowski
Bond	Enzi	Roberts
Brownback	Graham	Sessions
Burr	Grassley	Shelby
Chambliss	Gregg	Smith
Coburn	Hagel	Snowe
Cochran	Hatch	Stevens
Coleman	Hutchison	Sununu
Collins	Inhofe	Thomas
Corker	Isakson	Thune
Cornyn	Kyl	Vitter
Craig	Lott	Voinovich
Crapo	Lugar	Warner
DeMint	Martinez	

NAYS—52

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

NOT VOTING—1

Johnson

The amendment (No. 342) was rejected.

Mr. LIEBERMAN. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

CHANGE OF VOTE

Mr. CORNYN. Mr. President, on rollcall vote 65, I voted ''nay,'' but it was my intention to vote ''yea.'' Therefore, I ask unanimous consent that I be permitted to change my vote, since it will not affect the outcome.

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

Mr. CORNYN. I thank the Chair.

(The foregoing tally has been changed to reflect the above order.)

The ACTING PRESIDENT pro tempore. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I rise to offer a unanimous consent request for the order of the speakers to follow. It would be, Senator BUNNING of Kentucky be recognized for 5 minutes to call up an amendment and then set it aside; that Senator SCHUMER of New York then be recognized for up to 5 minutes to call up three amendments and set them aside; that Senator KERRY of Massachusetts be recognized for up to 10 minutes to offer a tribute to former Senator Tom Eagleton; that Senator GRAHAM of South Carolina be recognized for up to 15 minutes to speak on an amendment; that Senator WYDEN and Senator BOND be recognized for up to 10 minutes to call up an amendment; that Senator KYL be recognized for up to 5 minutes; and, finally, that Senator LANDRIEU be recognized for up to 10 minutes to do a tribute.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. LIEBERMAN. Excuse me. Is Senator KYL for 5 minutes or 15 minutes? I said 5 minutes only because it is on my piece of paper as 5, but it is 15 minutes we want to give to Senator KYL.

The ACTING PRESIDENT pro tempore. The Senator from Maine.

Ms. COLLINS. Mr. President, I do object at this time because we have not seen this agreement. It has not been discussed with the manager or the staff on this side. I do object, and I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. Objection is heard. Without objection, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

Ms. COLLINS. Mr. President, I object.

The ACTING PRESIDENT pro tempore. Objection is heard. The clerk will continue with the call of 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 ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Ms. COLLINS. Mr. President, I am just going to make a brief statement before the Senator from Connecticut propounds the unanimous consent request. Now that I have seen the unanimous consent request, I am not going to object to it, but I do want to comment briefly on the two votes that we have just taken on the issue of the TSA employees.

I think those votes were extremely unfortunate because everyone in this Chamber knows that the President is going to veto this important bill if the provisions remain in the bill as the Senate just voted.

If that happens, it means the TSA employees will not receive the additional protections and rights that I advocated for in the amendment that I presented to the Senate. They will be back to a situation where they cannot appeal adverse employment actions to an independent agency, the Merit Systems Protection Board. They will be back in the situation where they cannot be protected by the Whistleblower Protection Act.

It is unfortunate that the votes we have just taken will actually set back the cause of providing employee protections that the TSA screeners should have.

I want to make sure that my colleagues are aware of what the practical implications and what the results will be of the votes just taken because there are clearly sufficient votes in this Chamber to sustain the President's veto, and I think it is very unfortunate that we are not going to be able to proceed to give these employees rights they deserve, rights they should have, and rights that would not impair our security.

I thank the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I express my regrets to Senator COLLINS that she had not seen this list. I thought she had. We don't like to do it that way. It is a bipartisan list, as it turns out. I am going to propound a unanimous consent request again and do it in summary fashion without mentioning the topics again.

I ask unanimous consent that the order of speakers be as follows: Senator BUNNING for 5 minutes; Senator SCHUMER for 5 minutes; Senator KERRY for 10 minutes; Senator GRAHAM for 15 minutes; Senator WYDEN and Senator BOND to share 10 minutes; Senator KYL for 15 minutes; and Senator LANDRIEU for 10 minutes. In each case, it is up to that amount. I know the Senate would be grateful if the Senators choose not to use the full amount of time.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. ALLARD. Mr. President, I would like to have permission to alternate between Republicans and Democrats. If I could be lined up to speak after—who was the first Democrat after Senator BUNNING? Senator SCHUMER. If I may be allowed to speak next, I would appreciate it. I was lined up to speak at 2 o'clock originally, but we had the vote at 2 o'clock and, obviously, that has been slid out now. If the Senator from Connecticut can move me in there, I would appreciate it. We have always alternated between Republicans and Democrats.

Mr. LIEBERMAN. We have Republicans and Democrats running together. It is a totally nonpartisan list.

Mr. ALLARD. All right. I was set up to speak at 2 o'clock, and then we had the vote at 2 o'clock.

Mr. LIEBERMAN. There was no order for the Senator from Colorado to speak. How much time would the Senator like?

Mr. ALLARD. Mr. President, 10 minutes. Senator CORNYN and I want to engage in a colloquy, and then I have a few comments. We just need 10 minutes.

Mr. LIEBERMANN. Mr. President, I amend the request for the Senator from Colorado, Mr. ALLARD, to have 10 minutes after Senator SCHUMER's 10 minutes.

Mr. ALLARD. I thank the Senator.

The ACTING PRESIDENT pro tempore. Is there objection to the request, as modified? Without objection, it is so ordered.

Under the unanimous consent agreement, the Senator from Kentucky is recognized.

AMENDMENT NO. 334 TO AMENDMENT NO. 275

Mr. BUNNING. Mr. President, I call up amendment No. 334 and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. Is there objection to setting aside the pending amendment? Without objection, it is so ordered. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Kentucky [Mr. BUNNING] proposes an amendment numbered 334 to amendment No. 275.

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

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

The amendment is as follows:

(Purpose: To amend title 49, United States Code, to modify the authorities relating to Federal flight deck officers)

At the appropriate place, insert the following:

SEC. _____. FEDERAL FLIGHT DECK OFFICERS.

(a) IN GENERAL.—Section 44921(a) of title 49, United States Code, is amended to read as follows:

''(a) ESTABLISHMENT.—The Secretary of Homeland Security shall establish the Federal flight deck officer program to deputize eligible pilots as Federal law enforcement officers to defend against acts of criminal violence or air piracy. Such an officer shall be known as a 'Federal flight deck officer'.''.

(b) AUTHORITY TO CARRY FIREARMS.—Section 44921(f) of title 49, United States Code, is amended to read as follows:

''(f) AUTHORITY TO CARRY FIREARMS.—

''(1) IN GENERAL.—The Secretary shall authorize a Federal flight deck officer to carry a firearm on the officer's person. Notwithstanding subsection (c)(1), the officer may purchase a firearm and carry that firearm in accordance with this section if the firearm is of a type that may be used under the program.

''(2) PREEMPTION.—Notwithstanding any other provision of Federal, State, or local law, a Federal flight deck officer may carry a firearm in any State and from one State to another State.

''(3) CARRYING FIREARMS OUTSIDE UNITED STATES.—

''(A) IN GENERAL.—When operating to, from, or within the jurisdiction of a foreign government where an agreement allowing a Federal flight deck officer to carry or possess a firearm is not in effect, a Federal flight deck officer shall be designated as a Federal air marshal for the purposes of complying with international weapons carriage regulations and existing agreements with foreign governments. Nothing in this paragraph shall be construed to allow Federal flight deck officers to receive any other benefit of being so designated.

''(B) REQUIREMENT TO NEGOTIATE AGREEMENTS.—The Secretary of State shall negotiate agreements with foreign governments as necessary to allow Federal flight deck officers to carry and possess firearms within the jurisdictions of such foreign governments for protection of international flights against hijackings or other terrorist acts. Any such agreements shall provide Federal flight deck officers the same rights and privileges accorded Federal air marshals by such foreign governments.

''(4) DESCRIPTION OF AUTHORITY AND PROCEDURES.—The authority of a Federal flight deck officer to carry a firearm shall be identical to such authority granted to any other Federal law enforcement officer under Federal law. The operating procedures applicable to a Federal flight deck officer relating to carrying such firearm shall be no more restrictive than the restrictions for carrying a firearm that are generally imposed on any other Federal law enforcement officer who has statutory authority to carry a firearm.

''(5) LOCKED DEVICES.—

''(A) NO REQUIREMENT TO USE.—A Federal flight deck officer may not be required to carry or transport a firearm in a locked bag, box, or container.

''(B) REQUIREMENT TO PROVIDE.—Upon request of a Federal flight deck officer, the Secretary shall provide a secure locking device or other appropriate container for storage of a firearm by the Federal flight deck officer.''.

(c) DUE PROCESS.—Section 44921 of title 49, United States Code, is amended by adding at the end the follow new subsection:

''(l) DUE PROCESS.—Not later than 90 days after the date of enactment of the Improving America's Security Act of 2007, the Secretary shall establish procedures for the appeal of adverse decisions or actions. Such procedures shall provide timely notice of the action or decision, including specific reasons for the action or decision.''.

(d) IDENTIFICATION AND SCREENING.—Section 44921 of title 49, United States Code, as amended by subsection (c), is further amended by adding at the end the following new subsections:

''(m) CREDENTIALS.—The Secretary shall issue to each Federal flight deck officer standard Federal law enforcement credentials, including a distinctive metal badge, that are similar to the credentials issued to other Federal law enforcement officers.

''(n) SECURITY INSPECTIONS.—A Federal flight deck officer may not be subject to greater routine security inspection or screening protocols at or in the vicinity of an airport than the protocols that apply to other Federal law enforcement officers.''.

(e) REPORTS TO CONGRESS.—Section 44921 of title 49, United States Code, as amended by subsections (c) and (d), is further amended by adding at the end the following new subsection:

''(o) REPORTS TO CONGRESS.—

''(1) REPORTS ON PROGRAM.—Not less often than once every 6 months, the Secretary, in consultation with the Secretary of State, shall report to Congress on the progress that the Secretary of State has made in implementing international agreements to permit Federal flight deck officers to carry firearms on board an aircraft operating within the jurisdiction of a foreign country.

''(2) REPORT ON TRAINING.—Not later than 90 days after the date of enactment of the Improving America's Security Act of 2007, the Secretary shall report to Congress on the issues raised with respect to training in Department of Homeland Security Office of Inspector General report OIG-07-14 that includes proposals to address the issues raised in such report.''.

(f) CONFORMING AND OTHER AMENDMENTS.—Section 44921 of title 49, United States Code, as amended by sections (c), (d), and (e), is further amended—

(1) by striking ''Under Secretary'' each place it appears and inserting ''Secretary''; and

(2) by striking subparagraph (G) of subsection (b)(3).

Mr. BUNNING. Mr. President, this amendment makes changes in the implementation of the Federal Flight Deck Officer Program, commonly referred to as the Armed Pilot Program, to require the Department of Homeland Security to implement the package and program as Congress originally intended.

Four years after Congress created this program, the Department of Homeland Security continues to drag its heels on providing flight deck officers, commonly known as FFDOs, or armed pilots, with the necessary tools to prevent another September 11-type attack.

My amendment will ensure that all armed pilots can truly act as a real defense against hijacking on commercial flights.

This amendment would end the ridiculous practice of forcing armed pilots to carry their guns in lockboxes and would allow them to carry the guns on their body where the gun is easily reachable and more discrete to carry.

No other Federal law enforcement officer is forced to carry a firearm in a lockbox, and Federal law enforcement officials agree that carriage on the body of an officer is the best way for law enforcement officials to carry a firearm to ensure that the threat can be stopped in the safest way possible.

In addition to putting more armed pilots in the skies, this amendment would also put armed pilots on international flights.

The current law for the Armed Pilot Program allows pilots on these flights, but so far the State Department has been slow on entering into negotiations

with other countries to allow this to occur.

My amendment requires the State Department to negotiate agreements with other governments to get armed pilots on international flights. Over the last few years, many international flights have been canceled because of terrorist threats.

This amendment will also allow armed pilots to protect the flights of U.S. airlines and free up air marshals so they can be put on targeted foreign flights that we know terrorists are targeting.

This amendment also provides for the issuance of a metal badge for armed pilots so they can easily be identified in a crisis situation.

It is important to make sure that these pilots have a means to identify themselves so that air marshals and other passengers know who they are and that they are lawfully carrying a firearm.

It also requires TSA to give armed pilots the same screening protocols other Federal law enforcement officers have so that the terrorists cannot easily identify them at security checkpoints.

Under current TSA requirements, all armed pilots must be screened publicly in plain view of everyone at the security checkpoint, as opposed to Federal law enforcement officers who are screened behind closed doors.

Finally, this amendment would give pilots basic due process. It requires the Department of Homeland Security to establish procedures to give notice and appeal rights when making any decision against the pilots. Currently, the pilots have no recourse.

I believe these changes that update the law governing the Federal Flight Deck Officer Program are vital and are needed to ensure that this voluntary program runs as it was intended to run and would encourage more pilots to enter into it.

I have spoken many times in the past on the merits of this program and the need for it. It has saddened me that I must once again be forced to ask TSA to start implementing this program as it was originally intended. Once again, we must be forcing TSA's hand to get enough pilots armed to actually create a strong defense against terrorists in the air. We currently have the opportunity to speed this program up and force TSA to do what Congress intended by adopting my amendment.

I urge my colleagues to join me in passing this amendment.

I thank the Chair.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from New York is recognized for up to 5 minutes.

AMENDMENTS NOS. 367, AS MODIFIED, AND 366 EN BLOC, TO AMENDMENT NO. 275

Mr. SCHUMER. Mr. President, I wish to congratulate the managers of the bill. We have made good progress on this bill, something that has taken far too long to accomplish since the Commission's report.

Next, I would like to offer two amendments to this bill, which I filed in an attempt to strengthen certain provisions. The committee versions of the bill make significant strides in several areas of security, including improving truck security, and I offer a modified version of No. 367 and the original, No. 366. Two amendments.

The ACTING PRESIDENT pro tempore. Without objection, the clerk will report the amendments.

The legislative clerk read as follows:

The Senator from New York [Mr. SCHUMER] proposes amendment number 367, as modified, and amendment number 366, en bloc, to amendment No. 275.

Mr. SCHUMER. Mr. President, I ask unanimous consent that the reading of the amendments be dispensed with.

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

The amendments (Nos. 367, as modified, and 366) are as follows:

AMENDMENT NO. 367, AS MODIFIED

On page 303, strike line 12 and all that follows through page 305, line 18, and insert the following:

of Transportation, shall develop a program to facilitate the tracking of motor carrier shipments of high hazard materials, as defined in this title, and to equip vehicles used in such shipments with technology that provides—

(A) frequent or continuous communications;

(B) vehicle position location and tracking capabilities; and

(C) a feature that allows a driver of such vehicles to broadcast an emergency message.

(2) CONSIDERATIONS.—In developing the program required by paragraph (1), the Secretary shall—

(A) consult with the Secretary of Transportation to coordinate the program with any ongoing or planned efforts for motor carrier or high hazardous materials tracking at the Department of Transportation;

(B) take into consideration the recommendations and findings of the report on the Hazardous Material Safety and Security Operation Field Test released by the Federal Motor Carrier Safety Administration on November 11, 2004; and

(C) evaluate—

(i) any new information related to the cost and benefits of deploying and utilizing tracking technology for motor carriers transporting high hazard materials not included in the Hazardous Material Safety and Security Operation Field Test Report released by the Federal Motor Carrier Safety Administration on November 11, 2004;

(ii) the ability of tracking technology to resist tampering and disabling;

(iii) the capability of tracking technology to collect, display, and store information regarding the movement of shipments of high hazard materials by commercial motor vehicles;

(iv) the appropriate range of contact intervals between the tracking technology and a commercial motor vehicle transporting high hazard materials;

(v) technology that allows the installation by a motor carrier of concealed electronic devices on commercial motor vehicles that can be activated by law enforcement authorities to disable the vehicle and alert emergency response resources to locate and recover high hazard materials in the event of loss or theft of such materials; and

(vi) whether installation of the technology described in clause (v) should be incorporated into the program required by paragraph (1).

(b) REGULATIONS.—Not later than 1 year after the date of the enactment of this Act, the Secretary, through the Transportation Security Administration, shall promulgate regulations to carry out the provisions of subsection (a).

(c) FUNDING.—There are authorized to be appropriated to the Secretary to carry out this section, $7,000,000 for each of fiscal years 2008, 2009, and 2010, of which—

(1) $3,000,000 per year may be used for equipment; and

(2) $1,000,000 per year may be used for operations.

AMENDMENT NO. 366

(Purpose: To restrict the authority of the Nuclear Regulatory Commission to issue a license authoring the export to a recipient country of highly enriched uranium for medical isotope production)

At the appropriate place, insert the following:

SEC. ___. MEDICAL ISOTOPE PRODUCTION.

Section 134 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2160d(b)) is amended—

(1) in paragraph (1), by striking subparagraph (D);

(2) by striking paragraph (2);

(3) in paragraph (3), by striking ''paragraph (2)'' and inserting ''this section'';

(4) in paragraph (4)—

(A) in subparagraph (A)(iv), by striking ''cost differential in medical isotope production in the reactors and target processing facilities if the products'' and inserting ''cost differential of radiopharmaceuticals to patients if the radiopharmaceuticals''; and

(B) by striking subparagraph (B) and inserting the following:

''(B) FEASIBILITY.—For the purpose of this subsection, the use of low enriched uranium to produce medical isotopes shall be determined to be feasible if it could be accomplished without a large percentage increase in the cost of radiopharmaceuticals to patients.'';

(5) in paragraph (5), by striking ''(4)(B)(iii)'' and inserting ''(4)(B)'';

(6) in paragraph (6), by striking ''(4)(B)(iii)'' and inserting ''(4)(B)''; and

(7) in paragraph (7), by striking ''subsection'' and inserting ''section for highly enriched uranium for medical isotope production''.

Mr. SCHUMER. Mr. President, I offer the first amendment, No. 367, to make the provision in the underlying committee bill even stronger with a new program to address trucks carrying high-hazard materials. Every day there are trucks that carry high-HAZMAT materials. If a truck is hijacked by a terrorist, it could spell disaster. We need to take action to prevent this from happening, and that is why my amendment will create a system not only to track these high-hazard trucks but to take action to stop a truck in its tracks by shutting down its engine if it strays off course.

This has worked in other countries. My amendment will require the Department of Transportation and TSA to work together to create a system to track these trucks, as well as respond accordingly if there is a problem. Every one of these trucks must submit a predetermined route to the TSA. If a truck strays from its plan, and we will know this by tracking its movements,

which GSA allows, TSA is automatically alerted and the system quickly responds.

As I said, we know a system such as this can work. It has been implemented in other countries. Hazardous material in trucks is one of the issues we have not dealt with sufficiently since 9/11. I look forward to the committee's receptiveness to this amendment and to working with the chair and ranking member to see if we can adopt this amendment. This is an important step.

The second amendment I offer, No. 366, along with my colleague, Senator KYL, will restore export restrictions on highly enriched uranium to reduce risks of terrorists obtaining this material to make nuclear weapons. Highly enriched uranium, HEU, can be used to make actual nuclear weapons, such as that dropped on Hiroshima, not just dirty bombs.

Until 2005, U.S. law restricted exports of bomb-grade uranium. However, this antiterrorism policy was undercut by an ill-considered amendment to the Energy Policy Act that eliminated these restrictions. By increasing the amount of HEU in circulation around the world, the Energy bill created an unacceptable risk by heightening the possibility that weapons-grade uranium could be lost or stolen and fall into the hands of terrorists with known nuclear ambitions. What made this language so astonishing is that it created much more risk without absolutely any reward by claiming to fix a problem that didn't exist.

The reality of this situation is that terrorists don't care if the weapons-grade uranium they try to get their hands on was meant for medical or military use. We know all they care about is how they can use it to attack our Nation and our way of life. If we have learned anything since September 11, it is we must take every step to ensure terrorists can never lay their hands on the materials they would need to launch an attack of mass destruction against the United States.

I urge my colleagues to support both these amendments. I hope we can work with the committee to get them accepted.

Mr. President, with that, in deference to my colleagues, I yield the remainder of my time.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Colorado is recognized for up to 10 minutes.

AMENDMENT NO. 272

Mr. ALLARD. Mr. President, I rise today to speak in support of my amendment No. 272 to the Improving America's Security Act, and I believe it will do that, improve America's security.

We have a rampant problem of identity theft in this country. Identity theft not only affects innocent victims, it poses a security threat to our country. As the 9/11 Commission put it: ''Fraud in identification documents is no longer just a problem of theft.''

We have long been aware that failure to protect the integrity of the SSN has enormous financial consequences for the Government, the people, and the business community. We now know that shortcomings in the SSN issuance process can have far graver consequences than previously imagined. The difficult lessons of September 11, 2001 have taught us that SSA can no longer afford to operate from a ''business as usual'' perspective. Whatever the cost, whatever the sacrifice, we must protect the number that has become our national identifier; the number that is the key to social, legal, and financial assimilation in this country.

We recognize SSA alone cannot resolve the monumental issues surrounding homeland security. Efforts to make our Nation safer will involve new or expanded initiatives by almost every segment of our population, including State and local governments, private industry, nongovernmental organizations, and citizens. However, we also recognize that, in endeavoring to protect our homeland, no Government system or policy should be ignored. As such, SSA, as a Federal agency and public servant, must resolve to review its systems and processes for opportunities to prevent the possibility that anyone might commit or camouflage criminal activities against the United States. We believe SSN integrity is a link in our homeland security goal that must be strengthened.

The 9/11 Commission went on to note: '' . . . all but one of the 9/11 hijackers acquired some form of U.S. identification document, some by fraud.''

I have here an inspector general's report, inspector general for the Social Security Administration, and he is talking about the integrity of the Social Security number. He says an important link in homeland security is the Social Security number. To specifically quote him, he says:

> The difficult lessons of September 11, 2001, has taught us that the Social Security Administration can no longer afford to operate from a business-as-usual perspective. Whatever the cost, whatever the sacrifice, we must protect the number that has become our national identifier, the number that is the key to social, legal, and financial assimilation in this country.

He went on to say in his report:

> We believe the Social Security number integrity is a link in our homeland security goal that must be strengthened.

For every case of identity theft, there is a thief. We have to ask ourselves: Why would someone want to steal somebody else's identity? After all, every person has an identity of their own. Why would somebody be so dissatisfied with their own identity that they deem it necessary to steal from another? The answer to that question is simple: They have something to hide. For many, the fact they are trying to hide is that they are in this country illegally. Whether someone is here illegally in pursuit of work or to carry out the work of an international terrorist organization remains anyone's guess.

What we do know, however, is that there are clear signs of when an identity has been stolen. One obvious sign is when multiple people are using the same Social Security number. By law, every Social Security number has only one true owner. It follows, if 10 people are using the same Social Security number, 9 of them are thieves: 9 of them have something to hide.

One common use of Social Security numbers is for reporting earnings. And where are earnings reported? Earnings are reported to the Social Security Administration. That means that when multiple people are reporting to the Social Security Administration using the same Social Security number, the Social Security Administration has information in its possession relating to the crime of identity theft.

What does the Social Security Administration do? Absolutely nothing. It is prohibited from sharing their information with others in our own Federal Government, such as the Secretary of Homeland Security.

I believe it is an example of what the 9/11 Commission described as, and I quote from the Commission:

> The pervasive problem of managing and sharing information across a large and unwieldy government that had been built in a different era to confront different dangers.

In January of this year, a bipartisan group of Senators and I met with Secretary Chertoff on this very issue. Secretary Chertoff explained that, under current law, Government agencies are prevented from sharing information with one another that, if shared, could expose cases of identity theft.

My amendment tears down the wall that prevents the sharing of existing information among Government agencies and permits the Commissioner of Social Security to share information with the Secretary of Homeland Security where such information is likely to assist in discovering identity theft, Social Security number misuse or violations of immigration law.

Specifically, it requires the Commissioner to inform the Secretary of Homeland Security upon discovery of a Social Security account number being used with multiple names or where an individual has more than one person reporting earnings for him or her during a single tax year.

It seems logical that we would already be doing this, but we are not. In the meantime, we are effectively enabling thieves to continue to perpetrate the crime of identity theft.

In addition to the national security implications, for every case of identity theft there is an innocent victim.

Innocent victims like Connecticut resident John Harrison who had his active duty military ID and Social Security number stolen. The thief ran up an over $260,000 debt and opened 61 credit or bank accounts in the victim's name. Meanwhile the victim lost his job and the military decreased his retirement

pay because Phillips had run up a debt owed to the U.S. Government.

Connecticut resident John Harrison is not alone, In fact, for the seventh year in a row, with nearly 250,000 complaints, identity theft is the No. 1 complaint received by the FTC from Connecticut residents. Likewise, for the State of Maine, 2006 marked the seventh year in a row that identity theft complaints topped the Federal Trade Commission's Annual ''List of Top Consumer Complaints.''

Even my home State of Colorado is no stranger to identity theft. With 4,535 victims in 2005, we are ranked 5th in identity theft—behind only Arizona, Nevada, California, and Texas.

For instance, an 84-year-old Grand Junction woman was deemed ineligible for Federal housing assistance because her Social Security number was being used at a variety of jobs in Denver, making her income too high to qualify.

Unfortunately, for the victims of identity theft, by the time the identity theft is discovered, the damage has already been done. Yet when the Social Security Administration has reason to believe that a Social Security number is being used fraudulently, they are prevented from sharing it with the Department of Homeland Security. Withholding this information effectively enables thieves to continue to perpetrate the crime of identity theft against innocent victims.

By simply sharing information related to the fraudulent use of Social Security numbers among Government agencies, cases of identity theft could be discovered much sooner. Victims of identity theft deserve to have this existing information acted on, and my amendment allows this.

Senator CORNYN, who is on the floor with me, was at the meeting where Secretary Chertoff explained the problems with the Social Security numbers and DHS not being notified so that they could take law enforcement actions against such acts as a terrorist threat.

I wonder if Senator CORNYN would give me his impression.

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

Mr. ALLARD. I will be glad to yield.

Mr. CORNYN. Would the Senator from Colorado tell us what portion of the population is sort of disproportionately affected by this identity theft, particularly when it involves Social Security numbers?

Mr. ALLARD. A large portion of the population that is affected by the Social Security theft identification is the older population, those individuals on Social Security. The impact it is going to have on them is immediate in some cases because they are qualifying for a certain amount of Social Security based on the income that may be coming. If somebody else is using their Social Security number, that exceeds, perhaps, what allowances they may have to qualify for the Social Security benefits. If an individual has a job, then the effect is felt much later on.

The retired individuals of this country are most dramatically affected in this regard.

Mr. CORNYN. Mr. President, I ask the Senator from Colorado whether he is aware that the Federal Trade Commission has identified the top 10 States where identity theft is the biggest problem and that they have ranked Arizona as No. 1; and Nevada, the State represented by the majority leader; California; and Texas, No.4; and then Colorado at No. 5.

Is the Senator aware that the Federal Trade Commission has ranked those States as the top five States where identity theft is the biggest problem.

Mr. ALLARD. I thank the Senator from Texas for his question, and, yes, I am very much aware of that. Those States are disproportionately affected because of the overpopulation they have within their boundaries.

Mr. CORNYN. Is the Senator from Colorado aware there are those who will purchase bogus documents on the black market—basically for purposes of evading and breaking our immigration laws so they can purport to be someone whom they are not—and whether this, in his opinion, represents a security risk to the United States.

Mr. ALLARD. That is one of the problems we are facing today and one of the problems that Secretary Chertoff of Homeland Security pointed out. It is vital that we be able to identify duplicate uses of Social Security numbers because a number of the terrorists that were here on 9/11, attacking this country, were here under fraudulent IDs. It is an important aspect of law enforcement, and particularly homeland security, to be able to carry on their responsibilities.

Mr. CORNYN. Finally, Mr. President, I would like to ask the Senator whether this isn't exactly the kind of stovepipe or wall that the 9/11 Commission talked about when it comes to information sharing between law enforcement and intelligence agencies. Isn't this exactly the same kind of information sharing they found so important to protecting the security of our Nation?

Mr. ALLARD. Well, it is the very thing the 9/11 Commission was pointing out that is a problem with protecting the citizens of this country, the stovepiping of information among the various agencies and where there is no passing of information back and forth.

This is a classic example where one agency, in this case the Social Security Administration, has a number, and they know it is being used more than once throughout the country, yet nobody gets notified; it stays within the Social Security Administration. Even those law enforcement agencies within Homeland Security cannot get that information to act on it.

Secretary Chertoff said an important part of being able to carry out our function to ensure the security of this country is to get that information. Yet right now, the law explicitly prohibits the Social Security Administration from sharing that information with Homeland Security.

I think it is a problem that needs to be corrected, and the sooner we can correct that, the better.

Mr. CORNYN. I thank the Senator, and I support his amendment.

Mr. ALLARD. Mr. President, let me summarize my comments by saying I think it is important, in ensuring the security of this country, that we pass this amendment. Without the sharing of that information between the various agencies, it is going to be possible for anybody who comes into this country illegally, terrorists especially, to stay within this country and operate in a way where they are not discovered. We want to have law enforcement become aware of the presence of somebody here illegally, particularly if they are a terrorist. If their intention is to either destroy a building or to lay a bomb out somewhere, they are a real threat to this country.

I urge my colleagues to join me in supporting this amendment.

The PRESIDING OFFICER (Mr. SANDERS). The Senator from Massachusetts is recognized for 10 minutes.

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

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, I ask unanimous consent to set aside the earlier unanimous consent request so I can offer the Wyden-Bond amendment at this time.

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

AMENDMENT NO. 348 TO AMENDMENT NO. 275

Mr. WYDEN. Mr. President, I offer this amendment with the distinguished vice chairman of the Senate Select Committee on Intelligence. I thank him for the many hours he and his staff have put in, working with me on this amendment.

The purpose of the legislation before the Senate today is straightforward: to apply what has been learned from one of the greatest tragedies in American life in order to better protect the American people in the days ahead. One of the tragic lessons of 9/11 is what we do not know can hurt us, and hurt us badly.

Because of the outstanding work of the 9/11 Commission, extensive information about what went wrong has been made public. The national security community has learned from a number of its mistakes, and today is taking concrete steps to make sure what happened on September 11, 2001, does not happen again. There has been a variety of reports that have been issued, critical to our understanding of what happened that tragic day. The bipartisan 2002 Joint Congressional Inquiry, on which I was privileged to serve, is one example, as well as the Department of Justice's report on FBI accountability.

There is one essential report that has remained classified. Nearly 2 years ago,

the CIA inspector general submitted a report detailing CIA accountability in the runup to the 9/11 attacks. I am sure that some may and will consider a number of the inspector general's findings unsettling, perhaps embarrassing, but the report is of high quality and it is comprehensive. The CIA inspector general has provided this country with an important perspective on one of the defining moments in American history, and I believe the public has a right to know what went wrong at the CIA, so we can make sure those mistakes are not repeated.

I have spent more than a year working on a bipartisan basis with our friend from Missouri, the previous chairman of the Senate Intelligence Committee, Senator ROBERTS, to make an unclassified version of this report available to the public. I have repeatedly asked the intelligence community to redact any sensitive national security information in the report's executive summary so that it could be declassified. I have been joined in these efforts, in addition to the assistance Senator BOND has provided, by the current chairman, Senator ROCKEFELLER. I have already mentioned the help of Chairman ROBERTS for some substantial length of time.

Multiple CIA Directors, as well as the former Director of National Intelligence, regrettably have not been willing to cooperate. Why the leaders of the CIA have been so reluctant to cooperate is not clear to me. Neither former Director Goss nor Director Hayden nor Ambassador Negroponte have ever provided a valid reason for keeping the report, the entire report, classified. In fact, there is no good reason why the CIA cannot declassify this report. The executive summary is concise, and it contains little information about CIA sources and methods. It could be redacted and released quickly. That information is in the interests of the American people.

The amendment, the bipartisan amendment we offer today, would require the Director of the CIA to declassify the executive summary of the inspector general's report on 9/11, removing only that information which must be redacted to protect this country's national security. The amendment requires the Director do this within 30 days. I think anyone who has read the report would agree that this is more than enough time.

I am pleased that the bipartisan leadership of the Senate Intelligence Committee, Senator ROCKEFELLER and Senator BOND, join me as cosponsors of the legislation.

The American people have a right to know what is in this report. Some of the findings may be unpleasant, others may be a source of pride, but at the end of the day the American people have a right to know about how the Central Intelligence Agency performed at a critical moment in this country's history. We need that information made public so as to ensure that there is true accountability. September 11, 2001, is part of this country's history. To hide the truth from the American people is unacceptable.

I urge the adoption of this amendment.

I see my friend from Missouri and thank him again for his patience during the many hours our staffs have been working on a bipartisan basis.

Mr. President, I ask unanimous consent to call up the amendment at this time.

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

The clerk will report.

The bill clerk read as follows:

The Senator from Oregon Mr. [WYDEN], for himself, Mr. BOND, and Mr. ROCKEFELLER, proposes an amendment numbered 348 to amendment No. 275.

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

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

The amendment is as follows:

(Purpose: To require that a redacted version of the Executive Summary of the Office of Inspector General Report on Central Intelligence Agency Accountability Regarding Findings and Conclusions of the Joint Inquiry into Intelligence Community Activities Before and After the Terrorist Attacks of September 11, 2001 is made available to the public)

At the appropriate place, insert the following:

SEC. _____. AVAILABILITY OF THE EXECUTIVE SUMMARY OF THE REPORT ON CENTRAL INTELLIGENCE AGENCY ACCOUNTABILITY REGARDING THE TERRORIST ATTACKS OF SEPTEMBER 11, 2001.

(a) PUBLIC AVAILABILITY.—Not later than 30 days after the date of the enactment of this Act, the Director of the Central Intelligence Agency shall prepare and make available to the public a version of the Executive Summary of the report entitled the ''Office of Inspector General Report on Central Intelligence Agency Accountability Regarding Findings and Conclusions of the Joint Inquiry into Intelligence Community Activities Before and After the Terrorist Attacks of September 11, 2001'' issued in June 2005 that is declassified to the maximum extent possible, consistent with national security.

(b) REPORT TO CONGRESS.—The Director of the Central Intelligence Agency shall submit to Congress a classified annex to the redacted Executive Summary made available under subsection (a) that explains the reason that any redacted material in the Executive Summary was withheld from the public.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I thank my good friend from Oregon for his persistence in pursuing something we both agree should and must be disclosed and made public, to the extent it can consistent with national security. Accountability for one's actions is something most of us are taught from childhood. It is rooted not only in religious teachings but also in the tenets of government at the Federal, State, and local levels.

For those of us in public service, whether we be in an elected capacity or appointed position or some form of service directly related to the security of our Nation, we should know we must expect to be held accountable for our actions. When we serve the people and if we expect the rewards of doing good deeds, just as surely we should face the negative consequences of actions which do not turn out well.

In addition, the public, to the maximum extent possible consistent with national security, should have made available to it the findings and the conclusions of the Government's own agencies with regard to accountability.

As my colleague from Oregon has stated, in June of 2005 the Office of Inspector General of the Central Intelligence Agency published a report concerning the conduct of intelligence activities prior to September 11, 2001, and afterward. To this date, that report remains classified. The amendment Senator WYDEN and I propose requires the CIA to make as much of that report public as is possible, consistent with protecting the sensitive sources and methods relating to our national security.

The Senator from Oregon has referred to the 9/11 Commission, the joint congressional inquiry. Our Senate Select Committee on Intelligence spent 2 very intense years, 2003 and 2004, doing an extensive investigation of what the intelligence was, how it was formulated, what the problems were, and we found that there were tremendous holes in it. So much of what would be found in the inspector general's report has already been stated. But I think to make the record clear and complete, so that we may ensure that all of the agencies working on national intelligence have the ability to learn from the mistakes—and we in our role as the oversight committee will use the information in this report and on this floor, if need be—to point out how we can make our intelligence better.

In an age where the war on terrorism has been brought to us by radical Islamic groups who continue to threaten us, good intelligence is the only defense we have adequate to the threat we face. It is important that we get it right.

Now, it is not pleasant to air some of these mistakes. We all make mistakes, but we better learn from them or we are destined to commit them again.

I thank my colleague from Oregon.

Mr. President, I ask unanimous consent to temporarily set aside this amendment so that I may offer a Rockefeller-Bond amendment.

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

AMENDMENT NO. 389 TO AMENDMENT NO. 275

Mr. BOND. I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Missouri [Mr. BOND], for himself and Mr. ROCKEFELLER, proposes an amendment numbered 389 to amendment No. 275.

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

The amendment is as follows:

(Purpose: To provide the sense of the Senate that the Committee on Homeland Security and Governmental Affairs and the Select Committee on Intelligence of the Senate should submit a report on the recommendations of the 9/11 Commission with respect to intelligence reform and congressional intelligence oversight reform)

At the appropriate place, insert the following:

SEC. ___. SENSE OF THE SENATE REGARDING A REPORT ON THE 9/11 COMMISSION RECOMMENDATIONS WITH RESPECT TO INTELLIGENCE REFORM AND CONGRESSIONAL INTELLIGENCE OVERSIGHT REFORM.

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

(1) The National Commission on Terrorist Attacks Upon the United States (referred to in this section as the ''9/11 Commission'') conducted a lengthy review of the facts and circumstances relating to the terrorist attacks of September 11, 2001, including those relating to the intelligence community, law enforcement agencies, and the role of congressional oversight and resource allocation.

(2) In its final report, the 9/11 Commission found that—

(A) congressional oversight of the intelligence activities of the United States is dysfunctional;

(B) under the rules of the Senate and the House of Representatives in effect at the time the report was completed, the committees of Congress charged with oversight of the intelligence activities lacked the power, influence, and sustained capability to meet the daunting challenges faced by the intelligence community of the United States;

(C) as long as such oversight is governed by such rules of the Senate and the House of Representatives, the people of the United States will not get the security they want and need;

(D) a strong, stable, and capable congressional committee structure is needed to give the intelligence community of the United States appropriate oversight, support, and leadership; and

(E) the reforms recommended by the 9/11 Commission in its final report will not succeed if congressional oversight of the intelligence community in the United States is not changed.

(3) The 9/11 Commission recommended structural changes to Congress to improve the oversight of intelligence activities.

(4) Congress has enacted some of the recommendations made by the 9/11 Commission and is considering implementing additional recommendations of the 9/11 Commission.

(5) The Senate adopted Senate Resolution 445 in the 108th Congress to address some of the oversight recommendations of the 9/11 Commission by abolishing term limits for the members of the Select Committee on Intelligence, clarifying jurisdiction for intelligence-related nominations, and streamlining procedures for the referral of intelligence-related legislation, but other aspects of the 9/11 Commission recommendations regarding oversight have not been implemented.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the Committee on Homeland Security and Governmental Affairs and the Select Committee on Intelligence of the Senate each, or jointly, should—

(1) undertake a review of the recommendations made in the final report of the 9/11 Commission with respect to intelligence reform and congressional intelligence oversight reform;

(2) review and consider any other suggestions, options, or recommendations for improving intelligence oversight; and

(3) not later than December 21, 2007, submit to the Senate a report that includes the recommendations of the Committee, if any, for carrying out such reforms.

Mr. BOND. Mr. President, I thank the Chair, and I ask that the postponed recognition of the distinguished Senator from South Carolina now be instituted. I express my gratitude to him for allowing us to go forward with the intervening amendment.

The PRESIDING OFFICER. The Senator from South Carolina.

AMENDMENT NO. 286

Mr. GRAHAM. Mr. President, I would like to thank Senator LIEBERMAN for working me into the line here. What I am rising to talk about is a very important issue for how we conduct this war, for how the law works in a time of war, for the values Americans would like to embrace when we are under siege as a nation, and try to give my explanation to what Senator SPECTER's amendment would do and why I oppose it so vehemently.

To give a little background and history of this issue, at least from my perspective—and I would ask every Senator to look at this very closely because this is a very important concept we are talking about—the Guantanamo military installation to house enemy combatants, people determined by our military to be enemy prisoners of war out of uniform, meeting the Geneva Convention's definition of an enemy combatant—the administration chose Guantanamo as the jailing site. There were prisoners there who brought actions in our Federal court, arguing that their confinement needed to be reviewed by Federal courts. The administration took the position that Guantanamo was outside the United States. They lost. I think the administration should have lost. To me, Guantanamo, because of the lease and the relationship the U.S. military has to that installation, is clearly part of the infrastructure of the United States.

The reason they made the argument is it is a long-held concept in law that habeas rights do not apply to people overseas, that our constitutional provisions granting to American citizens the right to bring a habeas petition when they are confined does not apply extraterritorially. The administration lost on the argument that Guantanamo was outside the United States, and the Federal court said: Okay, it is within the United States.

What habeas rights would attach to someone at Guantanamo Bay? Here is where Senator SPECTER and I dramatically differ. Senator SPECTER reads the Rasul case to say that someone confined at Guantanamo who is a noncitizen enemy combatant has a constitutional right under our Constitution to petition Federal courts, to have a district court judge review their confinement. I think that is completely wrong.

The D.C. Court of Appeals recently held in a 2–1 decision that people detained at Guantanamo Bay do not have constitutional rights under our Constitution to petition for habeas.

Rasul was about 2241, section 2241 of the U.S. Code, a congressional enactment that creates statutory habeas rights. That statute has been amended in many different forms—restricting habeas, granting habeas, allowing States appellate procedures postconviction relief to be substitutes for habeas.

The Supreme Court said: Since Congress has not spoken as to whether detainees at Guantanamo will be covered by 2241, we are going to allow a case to go forward under that statute until Congress tells us otherwise.

It was Justice O'Connor who was suggesting to the Congress we need to speak. The administration at the time of the Rasul case had no infrastructure in place to give due process to someone who is accused of being an enemy combatant. Justice O'Connor, in another case—I don't remember the name now—said: What you need to look at is Army Regulation 190–1, which is a procedure to guide military members how to determine who an enemy prisoner may be from a civilian who is an innocent person involved in war. So what the military did, after the second Supreme Court case, was come up with a Combat Status Review Tribunal. Now the Combat Status Review Tribunal is the due process right given to suspected enemy combatants.

To me, 9/11 was an act of war. It was also a crime, but it was an act of war. I believe the people housed at Guantanamo Bay are warriors, not common criminals. They will be afforded the due process rights of wartime law of armed conflict, not domestic criminal law.

What is the law of armed conflict when it comes to status? Article V of the Geneva Convention says that if there is a question of status, the country which houses the person, is in charge of the person, will conduct a competent tribunal. A ''competent tribunal'' all over the world is a military proceeding where the military of that country will determine if the person in front of them is a civilian, uniformed person, or enemy combatant.

The Combat Status Review Tribunal is well beyond the due process requirement of the Geneva Conventions. What happens at the Combat Status Review Tribunal, first of all, is that the enemy suspect prisoner will go before a panel of three military officers trained in who presents a military threat—an intelligence officer, a combat officer, and a legal officer. I think tomorrow or Friday, the 14 high-value detainees who have been in CIA custody will go through this process.

The question for this Congress is, Do we want the military to make the initial decision on who an enemy prisoner is based on what a military threat is to our country and the expertise the military has in determining if this person

is an enemy prisoner, enemy combatant, or do we want to give that to a district court judge who has absolutely no training?

Enemy prisoners during World War II were not allowed to file habeas petitions and come into our Federal courts and sue the military during a time of war to be released. Chief Justice Jackson said: Wait a minute. This is not our job. We are not trained for this. If we allow enemy prisoners detained by our military during a time of war to have access to our Federal courts, Federal judges are taking over a job the military is trained for and we are not trained for.

Here is what Justice Jackson said in the Eisentrager case:

> We are cited to no instance where a court, in this or any other country where the writ is known, has issued it on behalf of an alien enemy who, at no relevant time and in no stage of his captivity, has been within its territorial jurisdiction.

Nothing in the text of this Constitution extends such a right nor does anything in our statute.

So the Eisentrager case in 1950 clearly said habeas does not apply to enemy prisoners. I cannot find the language—it talks about why it is a bad idea—but it is forthcoming. So as early as 1950, the courts rejected enemy prisoner petitions in the Federal court.

Now, the question for Congress is, after 9/11—5 years later—do we as a Congress want to confer onto people classified by our military to be enemy combatants a Federal court right never known in the law of armed conflict at any other time in our history? Do we want to be the first Congress in the history of the United States to take away from our military the ability to determine who a military threat is and make literally a Federal court trial out of that decision?

There had been 160 habeas petitions filed before we acted last year. Let me tell you, they have sued our own military for everything imaginable: the quality of the food, DVD access, not enough exercise, judge-supervised interrogation. Some of the people who have brought these cases are accused of killing Americans in the most brutal way.

One of the lawyers, Mr. Michael Ratner, who filed habeas petitions on behalf of enemy combatants held at Guantanamo Bay, publicly stated:

> The litigation [for the United States]. . . . It's huge. We have over one hundred lawyers now from big and small firms working to represent these detainees. Every time an attorney goes down there, it makes it that much harder [for the U.S. military] to do what they're doing. You can't run an interrogation . . . with attorneys. What are they going to do now that we're getting court orders to get more lawyers down there?

It is clear that it does—according to one of the lawyers representing detainees—make it very difficult for the military to do their job when it comes to intelligence gathering. I will have an unclassified summary to put into the RECORD at the end of my time that talks about the information gained at Guantanamo Bay.

But here is what Justice Jackson said would be the real big mistake for the Federal courts if you start granting habeas petitions and give enemy prisoners a right to sue our own people about their status in a time of war:

> The writ, since it is held to be a matter of right, would be equally available to enemies during active hostilities as in the present twilight between war and peace. Such trials would hamper the war effort and bring aid and comfort to the enemy. They would diminish the prestige of our commanders, not only with enemies but with wavering neutrals. It would be difficult to devise more effective fettering of a field commander than to allow the very enemies he is ordered to reduce to submission to call him to account in his own civil courts and divert his efforts and attention from the military offensive abroad to the legal defensive at home. Nor is it unlikely that the result of such enemy litigiousness would be a conflict between judicial and military opinion highly comforting to enemies of the United States.

Was he prophetic? These 160 cases have created a nightmare for the military at Guantanamo Bay. Medical malpractice suits have been filed, $100 million money-damage lawsuits have been filed. It has been a legal nightmare.

So what I am trying to persuade the Congress to do is not grant in statute a right never given to any other enemy prisoner during any other war, because it is dangerous to do so.

What did we do to accommodate the unique needs of this war, a war potentially without end? For the first time in the history of our country, we are allowing Federal courts to review whether a person has been properly classified as an enemy prisoner. Once the military decides Shaikh Mohammed's status Friday, the mastermind allegedly of 9/11, can you imagine 5 years after 9/11 the Congress would open up any Federal courtroom that a lawyer could shop to find—whatever judge the lawyer could find in the country—and allow Shaikh Mohammed to sue our own military about his status, creating a nightmare zoo courtroom trial, bringing people from all over the world to determine his status, where the judge would have a say, not the military? That would be a mistake of monumental proportions.

What will happen is Shaikh Mohammed, in a classified setting, will have evidence presented by the Government to show he is an enemy combatant. He will have a chance to rebut that. When his case has been decided, he will have an automatic right of appeal to the DC Circuit Court of Appeals, where the DC Circuit Court of Appeals will look at the military decision in question and find out whether two things occurred. Were the due process rights given Shaikh Mohammed and other enemy combatant suspects consistent with our own Constitution? Secondly, was the evidence introduced sufficient to support the finding he is an enemy combatant?

That is the proper role for a judge. That is what judges are trained to do. It would be a monumental mistake to allow a habeas petition to be filed, where literally you could go to any court in the land and have a full-blown trial, calling people off the battlefield to make the case that this person was an enemy prisoner and give that decisionmaking ability to a judge not trained in who is a military threat to our country and take it away from the military.

That is why I am so passionate about this issue. I do believe in due process at a time of war. I have been a military lawyer for well over 20 years. I believe our country should adhere to the Geneva Conventions, that we should be a standard-bearer for what is right. But we should not cripple our military's ability to defend us in a way that makes absolutely no sense.

We should not put Federal judges on the frontlines in deciding who is a threat to this country, when the military is trained to do that. Let the judges look over the military's shoulder and in a proper way, consistent with their training.

Now, what is going to happen? The case is going to go to the Supreme Court soon. If I am wrong, I will take the floor and say so. Senator SPECTER has a belief there is a constitutional right to habeas. I do not believe that. But if the Court holds so, then I would be wrong. I would argue that the DC Circuit Court of Appeals is an adequate substitute for habeas, but that will be up to the Court.

All I am asking is to allow the work product of last year that has gone before the DC Circuit Court of Appeals that has been upheld to go through the system. I will gladly sit down with Senators SPECTER and LEVIN to see if we can work on better due process rights for people accused of being an enemy combatant. I think we can do that as a Congress without turning that decision over to Federal judges. It is a very dangerous thing we are proposing to do, to take away from the military to determine who a threat is and to give it to a Federal judge.

Finally, I would like to say: I know this is a war without end. Two hundred-and-something people have been released from Guantanamo Bay because they get an annual review board to look at their status anew. We do not want to keep people who have been misidentified who are not a threat. But we do not have the choice of ''try them or let them go.'' This is a war, and we can keep warriors off the battlefield as long as they are a threat. When it comes time to determine who should bear that risk, who should bear the risk of letting someone go at Guantanamo Bay—the innocent civilian populations of the world who have been a victim of people out of uniform wreaking havoc or the people who started this whole mess to begin with—if you are going to proportion risk, I think it should fall on the people who created the problem to begin with.

Twelve people have been released from Guantanamo Bay under the annual review process of the 200-and-something. Twelve have gone back to the battle. Three have been killed. So you make mistakes both ways. I don't want to hold one person down there who should not be held, but I don't want to let anybody go who is a threat to our country because we are at war.

Due process rights attach to people in war, but we cannot criminalize what has been an act of war beginning on September 11, 2001. The people down there will have their day in court. They will have a chance to have a say about who they are and what the facts are. But I do believe there are people down at Guantanamo Bay who are warriors. If they ever got out, they would try to kill us again.

Mr. LIEBERMAN. Mr. President, will my friend from South Carolina yield for a question?

Mr. GRAHAM. Yes, sir.

Mr. LIEBERMAN. I appreciate the Senator's remarks. I know the Senator from South Carolina has a background in military law, so he speaks with some authority on these questions.

What interests me in this discussion is the rights of citizens as opposed to noncitizens. I wanted to ask my friend, first, am I right that you are not arguing against the principle that an American citizen, even one alleged to be an enemy combatant, does have habeas corpus rights?

Mr. GRAHAM. The Senator is absolutely right; any American citizen. The Padilla case is the best example you could give. Padilla was charged as an enemy combatant, a U.S. citizen. It is true American citizens in the past have been held indefinitely as enemy combatants. But I do believe they should have access to our courts as a member of citizenship. And they would have a constitutional right to seek relief from a Federal judge to determine whether the military or law enforcement officers make that decision. We are talking about people in the same status as the Germans and the Japanese. There was a reason the thousands of enemy prisoners housed in the United States never had access to our Federal courts. It is what Justice Jackson was saying. The Federal judiciary would make a mockery of the military's ability to run the war if you turned every military decision into a Federal court trial as to who an enemy prisoner is. Justice Jackson, in the most eloquent fashion, told us what could come if you conferred these rights on enemy prisoners.

Here is what is odd. If I am a lawful combatant, if I am captured tomorrow as a member of the uniformed services of the United States, I do not have any rights under the Geneva Conventions to go to the host country's judiciary. We are creating, for unlawful combatants, enemy combatants, a right greater than someone who is captured as a lawful combatant.

Under the Geneva Conventions, there is no right to go to a court in any land to ask to be released. But in America, if you are an unlawful combatant, we are giving you your day in Federal court, after the military acts, which I think is an accommodation for the fact that this war is different. It is not lost upon this Senator this war is different. There will be no signing on the ''Missouri.'' I do not know when this war is going to end. I do not want an enemy combatant decision to be a de facto life sentence without robust due process. But I do believe, if the choice is between letting them go or having them die in jail, if they are still a threat, let them die in jail.

I do believe every enemy prisoner is not a war criminal, and the choice for the country is not ''let them go or try them.'' Because that is a false choice in the law of armed conflict. It would not serve us well to say that every American captured in the next war is a war criminal because they are performing their duties. You only confer war criminal status on someone who goes outside the law of armed conflict. So we are making some decisions for the ages.

I am all for due process. I am all for scrutiny and transparency because I want my country to win the war not changing whom we are. But I do not want us to fundamentally change the relationship between the military and military threats. Our judges have a role to play. The Congress has a role to play. The military has a role to play. Keep everybody in their lanes, and this will work.

Mr. LIEBERMAN. I thank my friend.

So I take his answer to say also—correct me if I am wrong—that the existing statute, including the MCA—which is the subject of the lawsuits we have been describing that are pending—the existing statute does not alter the right of American citizens who are alleged to be enemy combatants to use habeas corpus rights?

Mr. GRAHAM. The Senator is correct in two fashions. It says no military commission can try an American citizen. A military commission at Guantanamo Bay cannot, as a matter of law, try an American citizen, even if they are an enemy combatant. Someone from America could join al-Qaida, but they are going to be tried in our Federal courts if they are caught.

What we are trying to do is have a military commission consistent with the Uniformed Code of Military Justice to try people. The difference between now and Nuremberg, I say to the Senator, is the war is still ongoing. The reason we are not going to release all the information as to why Shaikh Mohammed is an enemy combatant is because that is very sensitive information. We will give a summary to the public. And the courts will get to review that decision in full in a classified setting. But I cannot stress to you enough we are at war.

The last time we had a Federal trial where somebody tried to blow up the World Trade Center in the early 1990s, some of the information in that courtroom setting that had to be released wound up in a cave in Afghanistan. I will talk about that later. We are trying to balance the need to be safe and the obligations we have under the law of armed conflict. I think we have struck a good balance. If I am wrong, the Supreme Court will tell me. Please, just to my fellow Senators, let this case go to the Supreme Court, see what they say, and we can fix it if we need to. That is all I am asking.

Mr. LIEBERMAN. Again, I thank my friend. So in furthering what this discussion is about, it is whether non-American citizens seized in the war on terrorism and alleged to be enemy combatants should have habeas corpus rights under our Constitution?

Mr. GRAHAM. I am the biggest advocate that an American citizen such as Mr. Padilla should be tried in Federal court. The man who was caught working with the Taliban in Afghanistan was in Federal court. Moussaoui was in Federal court because we didn't have the Military Commissions Act. An American citizen will be tried in Federal court with all the rights of an American citizen available to them.

Mr. LIEBERMAN. Let me ask this final question. This is the part of this discussion that I struggle with, which is what is the appropriate status in the context in which we are talking about permanent lawful residents of the United States.

In other words, if I understand what the Military Commissions Act—again, correct me if I am wrong—says, is that a permanent, lawful resident of the United States who is apprehended as part of the war on terrorism and alleged to be an enemy combatant does not have a right of habeas, or a right to have a case heard in Federal court. That concerns me. This is what I want to ask my friend from South Carolina who has had experience with this to clarify, as to whether that may be—if I can use the term a ''denial'' of equal protection—to say a permanent, lawful resident of the United States cannot have the same rights in these cases that a citizen of the United States has.

Mr. GRAHAM. Well, that is a very good question, and I think that is something we actually need to sit down and look at, that situation where you are not a citizen, but you are here on a legal status. I would be, quite frankly, very comfortable to clarify that, if anyone ever finds themselves in that category, to say, no, you are going to have all the rights of an American citizen.

What I am trying to do is make sure that we don't change 200 years of history. The people who assassinated President Lincoln, within 30 days they were caught, tried, and executed in a military commission format. We have had American civilians tried in military commissions in times of war, but they were reviewed by our Federal courts. Some of the German saboteurs who landed during World War II, I

think one or two of them actually were American citizens who left to go back to Germany to aid the enemy. They got tried by military commissions, and the Supreme Court reviewed their case.

What I am saying is that an enemy prisoner, a noncitizen, since time began in our country and in every other country, has been treated under the law of armed conflict, not domestic statutes. That is a distinction of great significance, and we don't need—the due process rights these enemy combatants, noncitizens, have are greater than the Geneva Conventions require, and every enemy combatant had their day in Federal court but in a way consistent with what judges are trained to do.

I don't believe it is in our national interests during ongoing hostilities to take away from the military the ability to classify who they believe to be a threat, what status that person has acquired based on their activities. I do believe the courts can look at every case and see: Was due process afforded? Did the evidence support the finding? That, to me, is the magic combination, and habeas destroys that combination.

Mr. LIEBERMAN. I thank the Senator from South Carolina. This, to me, has been a very helpful exchange. I would like to continue the discussion on the distinct question of what the habeas rights of permanent lawful residents of the United States should be.

Mr. GRAHAM. It is a great area to discuss. I thank the Senator. I yield the floor.

Mr. LIEBERMAN. I thank the Chair, and I yield the floor.

Mr. SPECTER. Mr. President, I ask my colleague from South Carolina if he would be willing to respond to a few questions.

Mr. GRAHAM. I would be honored to respond to my friend from Pennsylvania.

Mr. SPECTER. I will begin with the subject matter brought up by the Senator from Connecticut about the status of aliens. I would note that in the Rasul case, the Supreme Court, Justice Stevens speaking for a majority, answered this categorically:

> Aliens held at the base, like American citizens, are entitled to invoke the Federal courts' section 2241 authority—

Which is the habeas corpus statute.

So the court has dealt with that conclusively in Rasul much the same way that Justice O'Connor did speaking for plurality in an earlier case.

Addressing the question to the Senator from South Carolina, earlier today I noted the order establishing Combat Status Review Tribunals, and it provided that:

> All detainees shall be notified—

Leaving out some irrelevant material—

> of the right to seek a writ of habeas corpus in the courts of the United States.

Is the Senator familiar with that provision?

Mr. GRAHAM. No, sir, I am not.

Mr. SPECTER. Well, I hadn't been until a few days ago. But this is the Deputy Secretary of Defense, Paul Wolfowitz, in a memorandum dated July 7, 2004, to the Secretary of the Navy.

The Senator from South Carolina made the argument that the judges were not appropriate to make determinations of reviewing the orders or the conclusions of the Combat Status Review Tribunal. How would the Senator from South Carolina account for the acquiescence by the—

Mr. GRAHAM. I have been told that the order the Senator is talking about was implemented in the Rasul decision, and it would be a correct statement of Mr. Wolfowitz to make.

> Rasul said that habeas rights attached to Guantanamo Bay detainees until Congress says otherwise, and that is the difference we have. I read Rasul to say, since Congress hasn't spoken under 2241, Guantanamo Bay is within U.S. jurisdiction and the statute would apply to anybody held at Guantanamo Bay. It is not an overseas location. Until Congress speaks, under 2241 you will have the right.

Congress has spoken. We spoke last year. We took 2241 and changed it. We excluded noncitizens and any prisoners from the habeas rights under 2241 and, quite honestly, that issue has gone to the D.C. Circuit Court of Appeals, and we won last week.

Mr. SPECTER. Well, the question about the Department of Defense agreeing to allow habeas corpus rights was not taken up by the Circuit Court for the District of Columbia and the Detainee Treatment Act. Congress gave the Department of Defense the right to establish the rules, and that is one of the rules. Wait a minute. The question hasn't come yet.

Mr. GRAHAM. OK.

Mr. SPECTER. Is it fair to change the rules in the middle of the process after the Department of Defense has stated that they think it is appropriate for a Federal court—they specifically talk about courts of the United States—to make a determination under habeas corpus to see if the definition which they set for enemy combatants has been followed. They have specified that there has to be evidence. To the definition of what or who is an enemy combatant:

> An individual who was part of or supporting the Taliban or al-Qaida forces, or associated forces that are engaged in hostilities against the United States or its coalition partners. This includes any person who has committed a belligerent act or has directly supported hostilities in aid of enemy armed forces.

Now, the Department of Defense who promulgated this order concluded that it was within the purview of the Federal courts, and that is really a judicial function to determine whether the definition for enemy combatant has been achieved, isn't it?

Mr. GRAHAM. If I may respond, I think it is not remotely fair to say that the Department of Defense has conceded that habeas corpus rights should be given to detainees at Guantanamo Bay. Once Rasul was decided and the Government lost, that it was outside the jurisdiction of the United States, the Rasul case said: Until Congress acts, you will have a habeas right. The administration has come to me and other Members of this body since that decision and has been begging us to address 2241. The Supreme Court, in three separate decisions, has said Congress needs to get involved. The administration's theory was, there is no room for Congress in the courts.

Here is where the Senator and I have been partners. I have always believed the executive branch has to collaborate with the Congress, and they have been hard-headed about this and they wound up losing in court. They lost on whether it was outside the United States. Once the court ruled 2241 applied, the DOD had no other choice but to tell people: This is a statutory right. They were telling people at Guantanamo Bay: This is your statutory right. They were coming to me and other Senators saying: Please change 2241 because it is hampering the war effort.

That is exactly where we find ourselves. We took the input of the administration, we voted last year, we stripped habeas from 2241 where district court judges could make military decisions, and we are replaced in the appeals process where Federal courts do look at what the military does after they have decided. I think not only did the D.C. Circuit Court of Appeals uphold that as a proper thing to do but the Supreme Court will also.

So my belief is that it was our decision as Congress as to whether to give these enemy prisoners habeas rights, unlike any other war. We decided with Rasul we didn't want to do that. I think it is the best decision we have ever made. If you had asked this Congress on September 30, 2001: Would you want to create a Federal court action for any al-Qaida member caught to go into Federal court and bring lawsuits against our own troops alleging not enough exercise, bad DVD access, you name it, we would have said no. That would have been crazy. Why would we want to give this group of people who are trying to kill us all rights that we didn't give the Japanese and the Nazis who were trying to kill us all?

So now we find ourselves in Congress filling in the gap that the court found. The Congress has spoken. We told the courts, D.C. Circuit Court of Appeals: No habeas rights under 2241. We substituted another procedure that I think makes sense, and the court found out that we did it in a constitutional manner, and I think we are going to win at the Supreme Court.

But having said that, if there are other ways to improve due process where the Congress can make this CSRT process better, count me in. But I am not going to sit on the sidelines and watch the Federal courts do something they are not trained to do before Congress blesses it. If the Senator is

right that the Supreme Court says apart from 2241 an enemy prisoner, noncitizen, has a constitutional right to habeas, then I would be wrong. I would argue that our procedures under the D.C. Circuit Court of Appeals method of going to challenge the military is an adequate substitute. But I am firmly convinced that our courts are going to say there is no constitutional right for these prisoners, like there was none for Japanese and German prisoners, and that Congress has made a good decision to take the Federal courts and put them behind the military, not in front of the military.

Mr. SPECTER. Well, if I may respond, when the Supreme Court said Congress should act, they were saying that Congress should legislate on how a military commission should be tried. But moving to your argument about the issue of constitutional right, how could it be that if the Constitution says that the right of habeas corpus can be suspended only in the event of invasion or insurrection? How can it be argued that there is no constitutional right?

That is the argument that the Attorney General made in the Judiciary Committee hearing. Where the Constitution explicitly says the constitutional right of habeas corpus can be suspended only in invasion or insurrection, and no one says that either of those factors is present here, isn't that a flat-out statement that there is a constitutional right?

Mr. GRAHAM. All I can tell my colleague is that issue went up to the D.C. Circuit Court of Appeals 2 weeks ago and they said just as clearly as you can say it that there is no constitutional right for a noncitizen enemy prisoner classified as such by our military during hostilities to come into our Federal courts. Just like Justice Jackson said in 1950, that would be a disaster. I just can't believe any Federal court is going to say that Sheikh Mohammed, the mastermind of 9/11, who is an al-Qaida member, gets more rights than the Nazis. I just don't believe they are going to do that. If I am wrong, I will come to the floor of the Senate and say I am wrong. But I think I am right. The D.C. Circuit Court of Appeals agrees with me, and I believe we are going to win at the Supreme Court, if we can let these judges look at something without changing it every 30 days.

Let's give this a shot and see what happens. We will know soon. I apologize, but I have to go.

Mr. SPECTER. Wait just a minute. Make your answers a little more responsive and brief, and I won't keep you too long. I will keep you just a few more minutes.

The Court of Appeals for the District of Columbia said that the Supreme Court, speaking explicitly through Justice Stevens, only dealt with a holding on the statute.

They classified it as dictum when they said there was a constitutional right. Let me move on quickly to a couple of other points.

As to the adequacy of proceedings in the combat status review tribunals, you have the case involving In re: Guantanamo, which I cited this morning, where Judge Green dealt with the precise case in the District of Columbia Circuit Court, the Boumediene case, which had a procedure where the detainee was charged with talking to somebody who was from al-Qaida, and he asked who it was and they could not identify the person. There was laughter in the courtroom, and Judge Green said it is understandable that there was laughter in the courtroom because nothing had been established.

I ask a very simple, direct question, and maybe you can even answer it yes or no. Was that a fair proceeding?

Mr. GRAHAM. I can tell you that the Court will soon tell us. If I can give you what I think is the right answer, the combat status review tribunal, as to whether they provided adequate due process is on appeal now to the Supreme Court. The Supreme Court will soon tell us not just about war crimes legislation but about the CSRT provisions and whether they are constitutional.

I argue we are going to win on that one because 190–1 of the Army manual was the model that set up the combat status review tribunal. What right does a person have under the Geneva Conventions, in a time of war, when it comes to the question of status? Article 5 says competent tribunals—and all over the world that competent tribunal is not a Federal judge or the equivalent in another country, it is a military tribunal. If the Court rules the combat status review tribunal doesn't afford due process, I will sit down with you and others to make it comply to the Court's decision. I have no desire to take somebody from any part of the world and put them at Guantanamo Bay if they should not be there. That doesn't make America better or stronger. I do believe, contrary to the laughter in the courtroom, that the people best able to determine whether an enemy prisoner is a threat to our country or, in fact, an enemy prisoner is not some circuit judge or district court judge anywhere in America who was never trained in this, but military officers who are trained in making those decisions. They are the ones I trust. They have done it in every other war; they should do it in this war. I am willing to have their work product looked at by the Federal courts, and that is going on right now. We will soon know the answer to that question. Are CSRTs constitutional? If not, we will fix them.

I hate to leave. I have enjoyed this debate.

Mr. SPECTER. I have one more thing. I take your last extended statement to be a ''no,'' am I right?

Mr. GRAHAM. I believe they will be constitutional. If you think there has been a miscarriage of justice in any case, that will go to court. If you think something happened in the CSRT that is laughable, then the Federal court is going to get to look at every case. I can assure you and every other American that every decision made by the military on Guantanamo Bay will work its way to the Federal court, and our judges will look at the record and the process, and they will tell us in individual cases and as a group whether this works. Give them a chance to do it.

With that, I have to leave.

Mr. SPECTER. One last question. I still take that to be a ''no.'' It was not a complex question. Do you think it is fair where the Department of Defense sets the rules, contrary to your assertion, that they think Federal judges can decide whether the evidence establishes the standard for an enemy combatant, do you think it is as fair under American justice to have a presumption of guilt?

Mr. GRAHAM. No. This is an administrative hearing. The enemy combatant status determination is not a criminal decision. It is, in an armed conflict, an administrative decision where the procedure is set up. I will get you the regulation and we will introduce it, but it is article 5 on steroids. It has presumptions, rebuttable presumptions, and you have an annual review board on what should be determined to be a enemy combatant. You have a new hearing every year on whether new evidence came in, whether you are still a threat to the country, and whether you have intelligence value. Two hundred people have been released at Guantanamo Bay because they have gone through the process and the military determined they are no longer a threat. Twelve of the two hundred have gone back to killing Americans.

There is no perfect system. We are trying to be fair. God knows we want to be fair, but I tell you what, in close calls between letting someone go who the military thinks is a member of al-Qaida and killing other Americans and innocent people, I am going to make sure they stay in jail and let the judges determine if we have done it fairly. I will not sit on the sidelines and open the gates to people who have been caught in the process of aiding the enemy or becoming the enemy just because we are trying to create new rules for this war that we have never had in any other war because some people don't like Bush. Bush made a lot of mistakes, but this war is going to go on long after Bush is gone.

If you let these people out of jail, at least 12 of them are going to come back and kill you.

With that, I must leave. We will continue the debate.

Mr. SPECTER. Let me say, in conclusion, that bombast and oratory and repetition cannot undercut a few very basic facts. One is that the Department of Defense established a rule to give Guantanamo detainees the right of habeas corpus. They set out a standard as

to what would constitute being an enemy combatant. These are rules, when they call for evidence, that judges are equipped to decide. When there is a rebuttable presumption of guilt, undercutting the basic principle of America, the presumption of innocence, that is basically unfair.

When you talk about the decision by the Court of Appeals for the District of Columbia, where they limited the Supreme Court opinion to a narrow holding on the statute, although the court then went on to say there was a constitutional right, that will not pass muster when it comes back to the Supreme Court. It is fallacious to the utmost to argue that there is no constitutional right to habeas corpus, when the Constitution explicitly says the right of habeas corpus may be suspended only in time of invasion or rebellion. It simply cannot be contended rationally that there is no constitutional right to habeas corpus.

I am as concerned as the Senator from South Carolina about protecting America. I led the fight to reauthorize the PATRIOT Act. But the question is, is there some reason to hold the detainees? In the case that went to the District of Columbia Circuit Court of Appeals, you had the District Court looking at the information—it wasn't evidence—which was that the detainee had a conversation with an al-Qaida member, but they could not identify him. The proceeding was a laughingstock. That is the detainee in the District of Columbia Circuit Court case which is going to the Supreme Court.

I don't think this Congress ought to wait or punt to the Supreme Court. We passed a statute which takes away Federal court jurisdiction to make the simple determination: Is there a reason to hold them? We ought not to let that stand.

I ask unanimous consent that a letter dated today, received by Senator LEAHY and myself, be printed in the RECORD. It sets forth eloquently the reasons why habeas corpus for detainees should be reinstated by the Congress. It is signed by RADM Don Guter, who was the Navy's Judge Advocate General; RADM John Hutson, the Navy's Judge Advocate General at an earlier period; BG David Brahms, who was the Marine Corps senior legal adviser from 1983 until 1988; and BG James Cullen, who was the chief judge of the U.S. Army Court of Criminal Appeals.

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

March 7, 2007

Hon. PATRICK LEAHY, Chairman,
Hon. ARLEN SPECTER, Ranking Member,
Senate Committee on the Judiciary, United States Senate Washington, DC.

DEAR CHAIRMAN LEAHY AND SENATOR SPECTER: We strongly support your legislation to restore habeas corpus for detainees in US custody. We hope that it quickly becomes law.

Known as the ''Great Writ,'' habeas corpus is the legal proceeding that allows individuals a chance to contest the legality of their detention. It has a long pedigree in Anglo Saxon jurisprudence, dating back to 13th Century England when it established the principle that even Kings are bound by the rule of law. Our Founding Fathers enshrined the writ in the Constitution, describing it as one of the essential components of a free nation.

In discarding habeas corpus, we are jettisoning one of the core principles of our nation precisely when we should be showcasing to the world our respect for the rule of law and basic rights. These are the characteristics that make our nation great. These are the values our men and women in uniform are fighting to preserve.

Abiding by these principles is critical to defeating terrorist enemies. The U.S. Army's Counterinsurgency Manual, which outlines our strategy against non-traditional foes like al Qaeda, makes clear that victory depends on building the support of local populations where our enemies operate through the legitimate exercise of our power. The Manual states: ''Respect for preexisting and impersonal legal rules can provide the key to gaining widespread and enduring societal support. . . . Illegitimate actions,'' including ''unlawful detention, torture, and punishment without trial . . . are self-defeating, even against insurgents who conceal themselves amid non-combatants and flout the law.'' Our enemies have used our detention of prisoners without trial or access to courts to undermine the legitimacy of our actions and to build support for their despicable cause.

It is certainly true that prisoners of war have never been given access to courts to challenge their detention. But the United States does have a history of providing access to courts to those who have not been granted POW status and are instead being held as unlawful combatants, as are the detainees in this conflict. See., e.g., Ex Parte Quirin, 317 U.S. 1 (1942) (rejecting the claim that the Court could not review the habeas claim of enemy aliens held for law of war violations).

POWs are combatants held according to internationally prescribed rules, and are released at the end of the war in which they fought. In a traditional war, it is generally easy to determine who is a combatant and governed by these special rules. But the war we are fighting today is different. Detainees held at Guantanamo Bay were captured in 14 countries around the world, including places as far away from any traditional battlefield as Thailand, Gambia, and Russia. Some were sold to the United States by bounty hunters. Our enemies blend into the civilian population, making the practice of identifying them more difficult. For all these reasons, the possibility of making mistakes is much higher than in a traditional conflict. In such a situation, it is incumbent on our nation to ensure that there is an independent review of the decision to detain.

The denial of habeas corpus also threatens to harm our national interests by placing American civilians at risk. Imagine if an enemy of the United States arrested an American citizen—a nurse or interpreter or employee of a military contractor—because they once provided assistance to our armed forces, and held that American without charge or opportunity to challenge their detention in court. We would be outraged, and rightly so. Yet, this is the precedent we are setting by holding without charge those deemed to have aided the enemy and denying them access to a court that could review the basis of their detention.

A judicial check on the decision to detain is in the best tradition of the United States—a tradition that ensures accountability, accuracy, and credibility. Restoring habeas corpus will help ensure that we are detaining the right people and showcase to the world our respect for the rule of law and the values that distinguish America from our enemies.

We hope that Congress will act quickly to pass this legislation.

Sincerely,

REAR ADMIRAL DON GUTER, USN (RET.)
REAR ADMIRAL JOHN D. HUTSON, USN (RET.)
BRIGADIER GENERAL DAVID M. BRAHMS, USMC (RET.)
BRIGADIER GENERAL JAMES P. CULLEN, USA (RET.).

Mr. SPECTER. I yield the floor.

The PRESIDING OFFICER (Mrs. MCCASKILL). The Senator from New Hampshire.

Mr. SUNUNU. Madam President, I rise to speak for a few minutes on the topic that was being covered by Senators SPECTER, GRAHAM, LIEBERMAN, and others, and that is the right of detainees—in particular, detainees at Guantanamo Bay—to petition the court system through what we refer to as habeas corpus and question the specific details that have led to their confinement, to their definition or status as an enemy combatant.

This is an important issue. Naturally people get excited when they are debating this issue. Senator GRAHAM is no exception. But one thing that he mentioned I think must be addressed, and that is this is about letting people out of jail, letting people go free who might attack the United States at a later date. I feel very strongly that this isn't about letting people out of jail, and it isn't even necessarily about letting people object to the conditions of their confinement, because I believe Congress can and should address the habeas issue without necessarily allowing any frivolous petition regarding conditions to go forward. But it is about the rights of these individuals to question the determination that they are an enemy combatant.

The U.S. military or other forces operating on behalf of our coalitions overseas have captured and detained individuals and determined that they are enemy combatants and, therefore, they can be detained indefinitely on the basis of that determination.

The situations that arose in previous conflicts were also brought up. What about similar situations in the Second World War, the First World War, or other engagements of the U.S. military in our past? I rise today, most importantly, to emphasize that there is a significant difference between this war and those conflicts. There are differences in some very important ways that make this right or this ability to petition against your definition as an enemy combatant very important.

First, this is not a war where we have troops lined up or engaged on a battlefield in uniform. These are very different combatants, very different enemies we face, by that definition, not always easily recognized and sometimes incredibly difficult to recognize

those who are planning to kill U.S. citizens or our allies around the world. They are not on a specific battlefield and certainly not in uniform.

Second, these enemy combatants—and there are many thousands of enemy combatants the United States faces around the world—could be almost anywhere in the world. It makes this very different than past conflicts. They could be here in the United States, they could be in Pakistan, they could be in Somalia, they could be in Kenya, they could be in Germany, they could be in Spain, or they could be in the United Kingdom. As a result, we could have an individual in any one of these countries captured, detained, and placed into our incarceration in Guantanamo Bay or another facility and designate them as an enemy combatant.

That is highly unusual when compared to past conflicts or past battles and, I think, as a result could naturally cause significant problems in relations with other military organizations that are supporting our efforts, other countries' diplomatic affairs, all of which are important to our success in this effort.

So because these are individuals who could be captured and detained from anywhere around the world, we have to take extra consideration to make sure they are dealt with in a straightforward way that respects principles of due process.

Third, a third important distinction in this conflict is because of the nature of the conflict, these individuals could be held indefinitely without any clear prospect of being released through the processes that would often bring a conclusion to hostilities, negotiation, a cease-fire, or surrender.

We all recognize this conflict is very different in that regard. When constituents back home in New Hampshire ask me, When is this struggle against terrorism going to end? You certainly can't give a definitive answer in terms of time, but you also are very hard pressed to give a definitive answer in terms of specific objectives—when we capture this individual, when we destroy this organization, when we bring stability to this part of the world that is traditionally encouraged or fermented jihadists. So we have for these individuals—many of whom are evil individuals who have plotted and planned against the United States and our allies around the world—indeterminate, unlimited detention at the hands of the United States.

Given those differences that set this conflict apart from past military conflicts in our history, I think it is in keeping with our standards of due process to ensure that when someone finds themselves indefinitely held by the United States in this conflict, they can at a minimum petition, object to their status or the determination of their status as an enemy combatant, and at least argue on appeal the facts of the case, make an argument as to why they should not be classified as an enemy combatant.

Senator SPECTER and others made the argument when we were considering the Detainee Treatment Act that this ought to be done in the D.C. Circuit Court of Appeals. I think the exact time, place, and manner of this appeal can and should be determined by an act of Congress. But I think what is most important is that we not simply say because commanders on the battlefield decided—when I use the word ''battlefield,'' I mean in this modern sense—commanders somewhere in the field, somewhere around the world, after you were arrested or detained or captured, decided you were an enemy combatant, that we are going to let that determination stand without appeal, without objection, without petition.

At the very least, again, it is consistent with the principles of due process that are so important to this country that we give that detainee at least one opportunity to object in a court to the specifics that led to him being determined an enemy combatant.

This is an important issue, but I think it is not just important because it affects our security, which we all want to protect to the greatest extent possible, but because it speaks to our own citizens and it speaks to people around the world as to what kind of a society we are and what principles we hold to be dearest.

This is an issue that deserves thorough debate in the Senate. I look forward to hearing more from both sides and working with Senator SPECTER to try to move forward a process that addresses these concerns, that doesn't necessarily have to grant all rights and all privileges accorded to every U.S. citizen to those who are determined to be enemy combatants, but at least gives them the fundamental right to challenge that determination which could and, in many cases, should lead to their indefinite incarceration at Guantanamo Bay.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Madam President, while the Senator from New Hampshire is still on the floor, I thank him and commend him for his statement directly to the issues. He has articulated them very well. It is a different circumstance and what we are looking at is the issue of indefinite detention and some process where there has to be some reason given for the detention. It doesn't haven't to comply with the technical Rules of Evidence, although the Department of Defense regulation calls for evidence, and evidence is a work of art comprehending competency of items to establish a fact. But without moving into the full range of evidence for some reason to hold them—and I agree with the Senator from New Hampshire that we are not looking for a remedy to test living conditions or to test food or test a wide variety of items that may be comprehended in other habeas corpus situations, but just detention—that is all—just detention.

I am agreeable to modifying the amendment to specifying just detention. The Senator from New Hampshire raises a valid point that there may be other Senators—he estimates as many as 10—who are inclined to support an amendment which directed itself only at detention.

There is the right of modification. I am going to talk to more of my colleagues to see if that would produce a significantly different result.

I thank the Senator from New Hampshire.

I yield the floor, and in the absence of any Senator seeking recognition suggest the absence of a quorum.

The PRESIDING OFFICER. Will the Senator withhold his request?

Mr. SPECTER. Yes.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Madam President, I come to the floor this afternoon to rise in support of the Specter-Leahy amendment, No. 286, which I hope we will have an opportunity to consider very shortly.

This amendment, which Senator SPECTER has addressed on the floor during the course of the day, is long overdue.

Last fall, Congress enacted a deeply flawed law called the Military Commissions Act. The law gives any President the power to imprison people indefinitely without charging them with any crime. It takes away fundamental due process as protected by the Constitutionally-protected right of habeas corpus. It allows our Government to continue to hold hundreds of prisoners for years without ever charging them with any wrongdoing.

I was one of 34 Senators who voted against the creation of this Military Commissions Act. I hope this year that Congress will begin to undo the damage to fundamental American values that was done by this legislation.

The amendment offered by the Senator from Pennsylvania and the Senator from Vermont, the Specter-Leahy amendment, is an excellent place to start. This amendment would repeal the provision of the Military Commissions Act that eliminated habeas corpus for detainees.

Habeas corpus is the legal name for a procedure that allows a prisoner to challenge their detention in court. It is a basic protection against unlawful imprisonment. It is one of the bedrock principles that separates America from many other countries around the world.

Over 700 lawyers from the Chicago area sent me a letter last year strongly opposing the elimination of habeas corpus for detainees. Here is how they explained the importance of this basic fundamental right, and I quote:

The right of habeas corpus was enshrined in the Constitution by our Founding Fathers as the means by which anyone who is detained by the Executive may challenge the

lawfulness of his detention. It is a vital part of our system of checks and balances and an important safeguard against mistakes which can be made even by the best intentioned government officials.

Why is this administration so interested in protecting itself from the judicial review of our courts? Because the courts have repeatedly ruled that the administration's policies have violated the law and our constitution.

After the September 11 terrorist attacks, the administration unilaterally created a new detention policy for America. They claimed the right to seize anyone, including an American citizen in the United States, and to hold them until the end of the war on terrorism, whenever that might be.

They claimed that even an American citizen who is detained has no rights. That means no right to challenge their detention, no right to see the evidence against them, no right to even know why they are being held. In fact, an administration lawyer claimed in court that detainees would have no right to challenge their detention even if they were being tortured or summarily executed.

Using their new detention policy, the administration has detained thousands of individuals in secret detention centers around the world. Only time will lead to the complete disclosure of what they have done. The most well-known, Guantanamo Bay, is only one of those centers. Many have been captured in Afghanistan and Iraq, and people who never raised arms against us have been taken prisoner far from the battlefield, in places such as Bosnia and Thailand.

Who are the detainees in Guantanamo Bay? Well, back in 2002 then Defense Secretary Rumsfeld described them, and I use his words, ''the hardest of the hard core.'' He went on to call them, ''among the most dangerous, best trained, vicious killers on the face of the earth.'' Those are the words of Secretary Rumsfeld.

Well, I went to Guantanamo last July. There were some 400 detainees being held. There have been many others who have gone through that camp. Hundreds of people have been detained at Guantanamo, many for years, without ever being charged, and then were released.

Imagine, if you will, that you were scooped up by some government official, transported a thousand miles away to this rock in the middle of the Caribbean, this high-temperature, high-pressure location, and then held literally for years without ever being charged with any wrongdoing.

Every American would agree with what I am about to say. Every dangerous person should be arrested and detained to protect America from terrorism. When we have good cause to believe that a person threatens our country, I believe it is our right, when it comes to our basic security, to detain that person and to hold that person as long as they are a threat to our country. In this case, however, hundreds of individuals were taken from their homes, their businesses, their families, their countries, and transported to Guantanamo, and held without charges, sometimes for years, before they were released.

According to media reports, military sources indicate that many of the detainees had no connection to al-Qaida or the Taliban and were sent to Guantanamo over the objections of intelligence personnel who ultimately recommended they be released. It was a mistake. They never should have been held. They should not have been detained. Years were taken off their lives, while the image of Guantanamo has been created across the world.

One military officer said:

> We are basically condemning these guys to long-term imprisonment. If they weren't terrorists before, they certainly could be now.

That quote comes from one of our military officials.

Based on a review of the Defense Department's own documents, Seton Hall University Law School reported that only 5 percent, 1 out of 20, of the detainees at Guantanamo were captured by U.S. forces, while 86 percent were taken into custody by Pakistani or Northern Alliance forces at a time when the United States was paying huge amounts of money for the capture of any suspected Arab terrorist.

The Defense Department's own documents revealed that the large majority of detainees never participated in any combat against the United States on a battlefield, and only 8 percent, that is fewer than 1 out of 10, of those being detained were even classified as al-Qaida fighters.

In 2004, in the landmark decision of Rasul v. Bush, the Supreme Court rejected this administration's indefinite detention policy. The Court held that detainees at Guantanamo have the right to habeas corpus to challenge their detentions in Federal court. The Court held that the detainees' claims that they were detained for over 2 years without any charge against them and without any access to counsel, and I quote the Court, ''unquestionably described custody in violation of the Constitution, or laws or treaties of the United States.''

That is why the amendment being offered by the Senator from Pennsylvania and the Senator from Vermont is so critically important. What we have enshrined in the Military Commissions Act is a violation of the fundamental values of our country.

As I have said before, and will repeat, anyone who is a danger to this country should be stopped, detained, arrested, and imprisoned, if necessary, before they harm anyone in our country. Those who are detained should be detained for cause. There should be a reason. There should be a charge against them. They should have the most fundamental access to justice, which we preach around the world; that they can defend themselves, know what they are being charged with, see the evidence being used against them, and have the right to counsel so that they can express their innocence in the most effective way.

How did the administration react to the Supreme Court decision in 2004? Instead of changing its policies to comply with the Constitution, the law, they came to the Republican-controlled Congress at that time and demanded that habeas corpus for detainees be eliminated.

This isn't about the rights of suspected terrorists. It is about who we are as Americans. Eliminating habeas corpus is not true to our values. Sadly, it creates an image of America that causes problems even for our troops in the field.

Recently, I went on a trip to South America with Senator HARRY REID, our majority leader in the Senate, and we talked to leaders in countries in South America. I can recall one leader saying that he wanted the United States to remove a base from his country. He said: We don't want to have another Guantanamo here in our sovereign country.

Guantanamo has become an image which needs to change. Even the President has called for the closing of Guantanamo. Yet what the Congress has done is to not only keep Guantanamo in business but to keep it in business with rules that are inconsistent with our Constitution and our fundamental values.

Tom Sullivan is a friend of mine and a prominent attorney in Chicago. He was a former U.S. attorney, a lead prosecutor for our Government in that area. He served in the Army during the Korean war.

For nothing, on a pro bono basis, Tom Sullivan has taken on cases of several Guantanamo detainees. He has practiced law for more than 50 years. He believes, even as a former professional prosecutor, that habeas corpus is a fundamental bedrock of America's legal system because it represents the only recourse available when the Government has made a mistake, detained a person and charged them with something of which they are not guilty.

ADM John Hutson, another man I have come to know and respect, was a Navy Judge Advocate for 28 years. Last year, he testified in the Senate Judiciary Committee hearing on the Military Commissions Act. Here is what Admiral Hutson, former Navy Judge Advocate, had to say about eliminating habeas corpus, and I quote:

> It is inconsistent with our own history and tradition to take this action. If we diminish or tarnish our values, those values that the Founders fought for and memorialized in the Constitution and have been carefully preserved in the blood and honor of succeeding generations, then we will have lost a major battle in the war on terror.

Admiral Hutson concluded:

> We don't need to do this. America is too strong. Our system of justice is too sacred to tinker with in this way.

He also testified that eliminating habeas corpus really puts our own soldiers at risk. Remember, John Hutson

has given his life to our country's military, and here is what he said:

If we fail to provide a reasonable judicial avenue to consider detention, other countries will feel justified in doing exactly the same thing. It is our troops who are in harm's way and deserve judicial protections. In future wars, we will want to ensure that our troops or those of our allies are treated in a manner similar to how we treat our enemies. We are now setting the standard for that treatment.

I have heard arguments on the Senate floor: Oh, it is going to glut the courts of America if the 400 detainees at Guantanamo have some rights, if they have an opportunity to question the charges that have been brought against them, if they can use habeas corpus. I do not believe that is true and even if it was it is a small price to pay, a small price for America to pay to respect the most fundamental right that we believe to be part of our system of justice.

Will there be abuses? Well, I am sure there will be. There have been in virtually all the laws we have enacted. But we will be able to say at the end of the day that even in the midst of a war on terror, even as we feared what might happen tomorrow in the wake of 9/11, that America never lost its way in terms of its fundamental values and principles.

The Military Commissions Act, which passed this Senate, unfortunately is a step in the wrong direction. I fully support the Specter-Leahy amendment. We should honor American values and protect our brave men and women in uniform by restoring the right of habeas corpus, and I urge my colleagues to support this amendment.

Madam President, I ask unanimous consent that my name be added as a cosponsor to that amendment.

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

Mr. DURBIN. I thank the Chair, and I yield the floor.

Mr. SPECTER. Madam President, while the Senator from Illinois is still on the Senate floor, I want to thank him for those eloquent remarks going right to the core of the issue, the importance of protecting America from terrorists and at the same time a balance in protecting Americans' constitutional rights.

When he refers to Tom Sullivan, the very distinguished Chicago attorney, I might note that Mr. Sullivan testified at a Judiciary Committee hearing and brought forth a number of examples, which I put into the RECORD earlier today, where it is recited in some detail people who were detained at Guantanamo for very long periods of time. One specifically commented about crossed the border, was supposed to have been associated with someone from al-Qaida, no reason for keeping him was given, no evidence to that effect, but was kept for 5 years and then released.

Let me express a concern I have, which I discussed earlier with the Senator from Illinois, and that is I am concerned that this amendment will not receive a vote. Last year, the Senate voted on a 51-to-48 vote, to include language in the Military Commissions Act that limited Federal court habeas jurisdiction. I have suggested that there be a cloture petition filed on this bill, if we are going to vote on cloture later this week on the underlying bill, and that would be a case where we might vote on cloture on this amendment. I would structure it in that fashion only as a way to get a vote so that people will have to take a position, and I simply wanted to make reference to that.

Madam President, I yield the floor.

AMENDMENT NO. 312

Mr. MCCONNELL. Madam President, I offered an amendment on behalf of Senator CORNYN on Friday, and I now ask for the regular order with respect to amendment No. 312.

The PRESIDING OFFICER. The amendment is now pending.

AMENDMENT NO. 312, AS MODIFIED

Mr. MCCONNELL. I send a modification to the desk.

The PRESIDING OFFICER. The amendment is so modified.

The amendment, as modified, is as follows:

On page 389, after line 13, add the following:

SEC. 15___. TERRORISM OFFENSES; VISA REVOCATIONS; DETENTION OF ALIENS.

(a) RECRUITMENT OF PERSONS TO PARTICIPATE IN TERRORISM.—

(1) IN GENERAL.—Chapter 113B of title 18, United States Code, is amended by inserting after section 2332b the following:

''§ 2332c. Recruitment of persons to participate in terrorism.

''(a) OFFENSES.—

''(1) IN GENERAL.—It shall be unlawful to employ, solicit, induce, command, or cause another person to commit an act of domestic terrorism or international terrorism or a Federal crime of terrorism, with the intent that the person commit such act or crime of terrorism

''(2) ATTEMPT AND CONSPIRACY.—It shall be unlawful to attempt or conspire to commit an offense under paragraph (1).

''(b) PENALTIES.—Any person who violates subsection (a)—

''(1) in the case of an attempt or conspiracy, shall be fined under this title, imprisoned not more than 10 years, or both;

''(2) if death of an individual results, shall be fined under this title, punished by death or imprisoned for any term of years or for life, or both;

''(3) if serious bodily injury to any individual results, shall be fined under this title, imprisoned not less than 10 years nor more than 25 years, or both; and

''(4) in any other case, shall be fined under this title, imprisoned not more than 10 years, or both.

''(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed or applied so as to abridge the exercise of rights guaranteed under the first amendment to the Constitution of the United States.

''(d) LACK OF CONSUMMATED TERRORIST ACT NOT A DEFENSE.—It is not a defense under this section that the act of domestic terrorism or international terrorism or Federal crime of terrorism that is the object of the employment, solicitation, inducement, commanding, or causing has not been done.

''(e) DEFINITIONS.—In this section—

''(1) the term 'Federal crime of terrorism' has the meaning given that term in section 2332b of this title; and

''(2) the term 'serious bodily injury' has the meaning given that term in section 1365 of this title.''.

(2) TECHNICAL AND CONFORMING AMENDMENTS.—The table of sections at the beginning of chapter 113B of title 18, United States Code, is amended by inserting after section 2332b the following:

''2332c. Recruitment of persons to participate in terrorism.''.

(b) JUDICIAL REVIEW OF VISA REVOCATION.—

(1) IN GENERAL.—Section 221(i) of the Immigration and Nationality Act (8 U.S.C. 1201(i)) is amended by striking ''There shall be no means of judicial review'' and all that follows and inserting the following: ''Notwithstanding any other provision of law, including section 2241 of title 28, United States Code, or any other habeas corpus provision, and sections 1361 and 1651 of such title, a revocation under this subsection may not be reviewed by any court, and no court shall have jurisdiction to hear any claim arising from, or any challenge to, such a revocation.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date of enactment of this Act and shall apply to visas issued before, on, or after such date.

(c) DETENTION OF ALIENS.—

(1) DETENTION OF DEPORTABLE ALIENS TO PROTECT PUBLIC SAFETY.—

(A) IN GENERAL.—Section 241(a) of the Immigration and Nationality Act (8 U.S.C. 1231(a)) is amended—

(i) by striking ''Attorney General'' each place it appears, except for the first reference in paragraph (4)(B)(i), and inserting ''Secretary of Homeland Security'';

(ii) in paragraph (1)—

(I) by amending clause (ii) of subparagraph (B) to read as follows:

''(ii) If a court, the Board of Immigration Appeals, or an immigration judge orders a stay of the removal of the alien, the date the stay of removal is no longer in effect.'';

(II) by adding at the end of subparagraph (B), the following flush text:

''If, at that time, the alien is not in the custody of the Secretary of Homeland Security (under the authority of this Act), the Secretary shall take the alien into custody for removal, and the removal period shall not begin until the alien is taken into such custody. If the Secretary transfers custody of the alien during the removal period pursuant to law to another Federal agency or a State or local government agency in connection with the official duties of such agency, the removal period shall be tolled, and shall begin anew on the date of the alien's return to the custody of the Secretary subject to clause (ii).''; and

(III) by amending subparagraph (C) to read as follows:

''(C) SUSPENSION OF PERIOD.—The removal period shall be extended beyond a period of 90 days and the alien may remain in detention during such extended period if the alien fails or refuses to make all reasonable efforts to comply with the removal order, or to fully cooperate with the Secretary's efforts to establish the alien's identity and carry out the removal order, including making timely application in good faith for travel or other documents necessary to the alien's departure, or conspires or acts to prevent the alien's removal subject to an order of removal.'';

(iii) in paragraph (2), by adding at the end the following new sentence: ''If a court, the Board of Immigration Appeals, or an immigration judge orders a stay of removal of an alien who is subject to an administratively final order of removal, the Secretary of Homeland Security in the exercise of discretion may detain the alien during the pendency of such stay of removal.'';

(iv) in paragraph (3), by amending subparagraph (D) to read as follows:

''(D) to obey reasonable restrictions on the alien's conduct or activities, or to perform affirmative acts, that the Secretary of Homeland Security prescribes for the alien, in order to prevent the alien from absconding, for the protection of the community, or for other purposes related to the enforcement of the immigration laws.'';

(v) in paragraph (6), by striking ''removal period and, if released,'' and inserting ''removal period, in the discretion of the Secretary of Homeland Security, without any limitations other than those specified in this section, until the alien is removed. If an alien is released, the alien''; and

(vi) by redesignating paragraph (7) as paragraph (10) and inserting after paragraph (6) the following new paragraphs:

''(7) PAROLE.—If an alien detained pursuant to paragraph (6) is an applicant for admission, the Secretary of Homeland Security, in the Secretary's discretion, may parole the alien under section 212(d)(5) and may provide, notwithstanding section 212(d)(5), that the alien shall not be returned to custody unless either the alien violates the conditions of his parole or his removal becomes reasonably foreseeable, provided that in no circumstance shall such alien be considered admitted.

''(8) ADDITIONAL RULES FOR DETENTION OR RELEASE OF CERTAIN ALIENS WHO HAVE MADE AN ENTRY.—The following procedures apply only with respect to an alien who has effected an entry into the United States. These procedures do not apply to any other alien detained pursuant to paragraph (6).

''(A) ESTABLISHMENT OF A DETENTION REVIEW PROCESS FOR ALIENS WHO FULLY COOPERATE WITH REMOVAL.—For an alien who has made all reasonable efforts to comply with a removal order and to cooperate fully with the Secretary of Homeland Security's efforts to establish the alien's identity and carry out the removal order, including making timely application in good faith for travel or other documents necessary to the alien's departure, and has not conspired or acted to prevent removal, the Secretary of Homeland Security shall establish an administrative review process to determine whether the alien should be detained or released on conditions. The Secretary shall make a determination whether to release an alien after the removal period in accordance with paragraph (1)(B). The determination shall include consideration of any evidence submitted by the alien, and may include consideration of any other evidence, including any information or assistance provided by the Department of State or other Federal agency and any other information available to the Secretary pertaining to the ability to remove the alien.

''(B) AUTHORITY TO DETAIN BEYOND THE REMOVAL PERIOD.—

''(i) IN GENERAL.—The Secretary of Homeland Security, in the exercise of discretion, without any limitations other than those specified in this section, may continue to detain an alien for 90 days beyond the removal period (including any extension of the removal period as provided in subsection (a)(1)(C)).

''(ii) LENGTH OF DETENTION.—The Secretary, in the exercise of discretion, without any limitations other than those specified in this section, may continue to detain an alien beyond the 90 days, as authorized in clause (i)—

''(I) until the alien is removed, if the Secretary determines that there is a significant likelihood that the alien—

''(aa) will be removed in the reasonably foreseeable future; or

''(bb) would be removed in the reasonably foreseeable future, or would have been removed, but for the alien's failure or refusal to make all reasonable efforts to comply with the removal order, or to cooperate fully with the Secretary's efforts to establish the alien's identity and carry out the removal order, including making timely application in good faith for travel or other documents necessary to the alien's departure, or conspiracies or acts to prevent removal;

''(II) until the alien is removed, if the Secretary certifies in writing—

''(aa) in consultation with the Secretary of Health and Human Services, that the alien has a highly contagious disease that poses a threat to public safety;

''(bb) after receipt of a written recommendation from the Secretary of State, that release of the alien is likely to have serious adverse foreign policy consequences for the United States;

''(cc) based on information available to the Secretary of Homeland Security (including classified, sensitive, or national security information, and without regard to the grounds upon which the alien was ordered removed), that there is reason to believe that the release of the alien would threaten the national security of the United States; or

''(dd) that the release of the alien will threaten the safety of the community or any person, conditions of release cannot reasonably be expected to ensure the safety of the community or any person, and either—

''(AA) the alien has been convicted of one or more aggravated felonies as defined in section 101(a)(43)(A), one or more crimes identified by the Secretary of Homeland Security by regulation, or one or more attempts or conspiracies to commit any such aggravated felonies or such identified crimes, provided that the aggregate term of imprisonment for such attempts or conspiracies is at least 5 years; or

''(BB) the alien has committed one or more crimes of violence (as defined in section 16 of title 18, United States Code, but not including a purely political offense) and, because of a mental condition or personality disorder and behavior associated with that condition or disorder, the alien is likely to engage in acts of violence in the future; or

''(ee) that the release of the alien will threaten the safety of the community or any person, conditions of release cannot reasonably be expected to ensure the safety of the community or any person, and the alien has been convicted of at least one aggravated felony as defined in section 101(a)(43); and

''(III) pending a determination under subclause (II), so long as the Secretary has initiated the administrative review process not later than 30 days after the expiration of the removal period (including any extension of the removal period as provided in subsection (a)(1)(C)).

''(C) RENEWAL AND DELEGATION OF CERTIFICATION.—

''(i) RENEWAL.—The Secretary of Homeland Security may renew a certification under subparagraph (B)(ii)(II) every 6 months without limitation, after providing an opportunity for the alien to request reconsideration of the certification and to submit documents or other evidence in support of that request. If the Secretary does not renew a certification, the Secretary may not continue to detain the alien under subparagraph (B)(ii)(II).

''(ii) DELEGATION.—Notwithstanding section 103 of this Act, the Secretary of Homeland Security may not delegate the authority to make or renew a certification described in item (bb), (cc), or (ee) of subparagraph (B)(ii)(II) to an official below the level of the Assistant Secretary for Immigration and Customs Enforcement.

''(iii) HEARING.—The Secretary of Homeland Security may request that the Attorney General or his designee provide for a hearing to make the determination described in clause (dd)(BB) of subparagraph (B)(ii)(II).

''(D) RELEASE ON CONDITIONS.—If it is determined that an alien should be released from detention, the Secretary of Homeland Security, in the exercise of discretion, may impose conditions on release as provided in paragraph (3).

''(E) REDETENTION.—The Secretary of Homeland Security, in the exercise of discretion, without any limitations other than those specified in this section, may again detain any alien subject to a final removal order who is released from custody if the alien fails to comply with the conditions of release or to continue to satisfy the conditions described in subparagraph (A), or if, upon reconsideration, the Secretary determines that the alien can be detained under subparagraph (B). Paragraphs (6) through (8) shall apply to any alien returned to custody pursuant to this subparagraph, as if the removal period terminated on the day of the redetention.

''(F) CERTAIN ALIENS WHO EFFECTED ENTRY.—If an alien has effected an entry but has neither been lawfully admitted nor physically present in the United States continuously for the 2-year period immediately prior to the commencement of removal proceedings under this Act or deportation proceedings against the alien, the Secretary of Homeland Security in the exercise of discretion may decide not to apply paragraph (8) and detain the alien without any limitations except those which the Secretary shall adopt by regulation.

''(9) JUDICIAL REVIEW.—Without regard to the place of confinement, judicial review of any action or decision pursuant to paragraph (6), (7), or (8) shall be available exclusively in habeas corpus proceedings instituted in the United States District Court for the District of Columbia, and only if the alien has exhausted all administrative remedies (statutory and regulatory) available to the alien as of right.''.

(B) DETENTION OF ALIENS DURING REMOVAL PROCEEDINGS.—

(i) IN GENERAL.—Section 235 of the Immigration and Nationality Act (8 U.S.C. 1225) is amended by adding at the end the following new subsections:

''(e) LENGTH OF DETENTION.—

''(1) IN GENERAL.—With regard to the length of detention, an alien may be detained under this section, without limitation, until the alien is subject to an administratively final order of removal.

''(2) EFFECT ON DETENTION UNDER SECTION 241.—The length of detention under this section shall not affect the validity of any detention under section 241 of this Act.

''(f) JUDICIAL REVIEW.—Without regard to the place of confinement, judicial review of any action or decision made pursuant to subsection (e) shall be available exclusively in a habeas corpus proceeding instituted in the United States District Court for the District of Columbia and only if the alien has exhausted all administrative remedies (statutory and nonstatutory) available to the alien as of right.''.

(ii) CONFORMING AMENDMENTS.—Section 236 of the Immigration and Nationality Act (8 U.S.C. 1226) is amended—

(I) by inserting at the end of subsection (e) the following: ''Without regard to the place of confinement, judicial review of any action or decision made pursuant to section 235(f) shall be available exclusively in a habeas corpus proceeding instituted in the United States District Court for the District of Columbia, and only if the alien has exhausted all administrative remedies (statutory and

nonstatutory) available to the alien as of right.''; and

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

''(f) LENGTH OF DETENTION.—

''(1) IN GENERAL.—With regard to the length of detention, an alien may be detained under this section, without limitation, until the alien is subject to an administratively final order of removal.

''(2) EFFECT ON DETENTION UNDER SECTION 241.—The length of detention under this section shall not affect the validity of any detention under section 241 of this Act.''.

(C) SEVERABILITY.—If any of the provisions of this paragraph or any amendment by this paragraph, or the application of any such provision to any person or circumstance, is held to be invalid for any reason, the remainder of this paragraph and of amendments made by this paragraph, and the application of the provisions and of the amendments made by this paragraph to any other person or circumstance shall not be affected by such holding.

(D) EFFECTIVE DATES.—

(i) AMENDMENTS MADE BY SUBPARAGRAPH (A).—The amendments made by subparagraph (A) shall take effect on the date of enactment of this Act, and section 241 of the Immigration and Nationality Act, as amended, shall apply to—

(I) all aliens subject to a final administrative removal, deportation, or exclusion order that was issued before, on, or after the date of enactment of this Act; and

(II) acts and conditions occurring or existing before, on, or after the date of enactment of this Act.

(ii) AMENDMENTS MADE BY SUBPARAGRAPH (B).—The amendments made by subparagraph (B) shall take effect on the date of enactment of this Act, and sections 235 and 236 of the Immigration and Nationality Act, as amended, shall apply to any alien in detention under provisions of such sections on or after the date of enactment of this Act.

(2) CRIMINAL DETENTION OF ALIENS TO PROTECT PUBLIC SAFETY.—

(A) IN GENERAL.—Section 3142(e) of title 18, United States Code, is amended to read as follows:

''(e) DETENTION.—If, after a hearing pursuant to the provisions of subsection (f), the judicial officer finds that no condition or combination of conditions will reasonably assure the appearance of the person as required and the safety of any other person and the community, such judicial officer shall order the detention of the person before trial.

''(1) PRESUMPTION ARISING FROM OFFENSES DESCRIBED IN SUBSECTION (F)(1).—In a case described in subsection (f)(1) of this section, a rebuttable presumption arises that no condition or combination of conditions will reasonably assure the safety of any other person and the community if such judicial officer finds that—

''(A) the person has been convicted of a Federal offense that is described in subsection (f)(1), or of a State or local offense that would have been an offense described in subsection (f)(1) if a circumstance giving rise to Federal jurisdiction had existed;

''(B) the offense described in subparagraph (A) was committed while the person was on release pending trial for a Federal, State, or local offense; and

''(C) a period of not more than 5 years has elapsed since the date of conviction or the release of the person from imprisonment, for the offense described in subparagraph (A), whichever is later.

''(2) PRESUMPTION ARISING FROM OTHER OFFENSES INVOLVING ILLEGAL SUBSTANCES, FIREARMS, VIOLENCE, OR MINORS.—Subject to rebuttal by the person, it shall be presumed that no condition or combination of conditions will reasonably assure the appearance of the person as required and the safety of the community if the judicial officer finds that there is probable cause to believe that the person committed an offense for which a maximum term of imprisonment of 10 years or more is prescribed in the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or chapter 705 of title 46, an offense under section 924(c), 956(a), or 2332b of this title, or an offense listed in section 2332b(g)(5)(B) of this title for which a maximum term of imprisonment of 10 years or more is prescribed, or an offense involving a minor victim under section 1201, 1591, 2241, 2242, 2244(a)(1), 2245, 2251, 2251A, 2252(a)(1), 2252(a)(2), 2252(a)(3), 2252A(a)(1), 2252A(a)(2), 2252A(a)(3), 2252A(a)(4), 2260, 2421, 2422, 2423, or 2425 of this title.

''(3) PRESUMPTION ARISING FROM OFFENSES RELATING TO IMMIGRATION LAW.—Subject to rebuttal by the person, it shall be presumed that no condition or combination of conditions will reasonably assure the appearance of the person as required if the judicial officer finds that there is probable cause to believe that the person is an alien and that the person—

''(A) has no lawful immigration status in the United States;

''(B) is the subject of a final order of removal; or

''(C) has committed a felony offense under section 842(i)(5), 911, 922(g)(5), 1015, 1028, 1028A, 1425, or 1426 of this title, or any section of chapters 75 and 77 of this title, or section 243, 274, 275, 276, 277, or 278 of the Immigration and Nationality Act (8 U.S.C. 1253, 1324, 1325, 1326, 1327, and 1328).''.

(B) IMMIGRATION STATUS AS FACTOR IN DETERMINING CONDITIONS OF RELEASE.—Section 3142(g)(3) of title 18, United States Code, is amended—

(i) in subparagraph (A), by striking ''and'' at the end; and

(ii) by adding at the end the following new subparagraph:

''(C) the person's immigration status; and''.

(d) PREVENTION AND DETERRENCE OF TERRORIST SUICIDE BOMBINGS AND TERRORIST MURDERS, KIDNAPPING, AND SEXUAL ASSAULTS.—

(1) OFFENSE OF REWARDING OR FACILITATING INTERNATIONAL TERRORIST ACTS.—

(A) IN GENERAL.—Chapter 113B of title 18, United States Code, is amended by adding at the end the following:

''§ 2339E. Providing material support to international terrorism

''(a) DEFINITIONS.—In this section:

''(1) The term 'facility of interstate or foreign commerce' has the same meaning as in section 1958(b)(2).

''(2) The term 'international terrorism' has the same meaning as in section 2331.

''(3) The term 'material support or resources' has the same meaning as in section 2339A(b).

''(4) The term 'perpetrator of an act' includes any person who—

''(A) commits the act;

''(B) aids, abets, counsels, commands, induces, or procures its commission; or

''(C) attempts, plots, or conspires to commit the act.

''(5) The term 'serious bodily injury' has the same meaning as in section 1365.

''(b) PROHIBITION.—Whoever, in a circumstance described in subsection (c), provides, or attempts or conspires to provide, material support or resources to the perpetrator of an act of international terrorism, or to a family member or other person associated with such perpetrator, with the intent to facilitate, reward, or encourage that act or other acts of international terrorism, shall be fined under this title, imprisoned not more than 25 years, or both, and, if death results, shall be imprisoned for any term of years or for life.

''(c) JURISDICTIONAL BASES.—A circumstance referred to in subsection (b) is that—

''(1) the offense occurs in or affects interstate or foreign commerce;

''(2) the offense involves the use of the mails or a facility of interstate or foreign commerce;

''(3) an offender intends to facilitate, reward, or encourage an act of international terrorism that affects interstate or foreign commerce or would have affected interstate or foreign commerce had it been consummated;

''(4) an offender intends to facilitate, reward, or encourage an act of international terrorism that violates the criminal laws of the United States;

''(5) an offender intends to facilitate, reward, or encourage an act of international terrorism that is designed to influence the policy or affect the conduct of the United States Government;

''(6) an offender intends to facilitate, reward, or encourage an act of international terrorism that occurs in part within the United States and is designed to influence the policy or affect the conduct of a foreign government;

''(7) an offender intends to facilitate, reward, or encourage an act of international terrorism that causes or is designed to cause death or serious bodily injury to a national of the United States while that national is outside the United States, or substantial damage to the property of a legal entity organized under the laws of the United States (including any of its States, districts, commonwealths, territories, or possessions) while that property is outside of the United States;

''(8) the offense occurs in whole or in part within the United States, and an offender intends to facilitate, reward or encourage an act of international terrorism that is designed to influence the policy or affect the conduct of a foreign government; or

''(9) the offense occurs in whole or in part outside of the United States, and an offender is a national of the United States, a stateless person whose habitual residence is in the United States, or a legal entity organized under the laws of the United States (including any of its States, districts, commonwealths, territories, or possessions).''.

(B) TECHNICAL AND CONFORMING AMENDMENTS.—

(i) TABLE OF SECTIONS.—The table of sections at the beginning of chapter 113B of title 18, United States Code, is amended by adding at the end the following:

''2339D. Receiving military-type training from a foreign terrorist organization.

''2339E. Providing material support to international terrorism.''.

(ii) OTHER AMENDMENT.—Section 2332b(g)(5)(B)(i) of title 18, United States Code, is amended by inserting ''2339E (relating to providing material support to international terrorism),'' before ''or 2340A (relating to torture)''.

(2) INCREASED PENALTIES FOR PROVIDING MATERIAL SUPPORT TO TERRORISTS.—

(A) PROVIDING MATERIAL SUPPORT TO DESIGNATED FOREIGN TERRORIST ORGANIZATIONS.—Section 2339B(a) of title 18, United States Code, is amended by striking ''15 years'' and inserting ''25 years''.

(B) PROVIDING MATERIAL SUPPORT OR RESOURCES IN AID OF A TERRORIST CRIME.—Section 2339A(a) of title 18, United States Code,

is amended by striking ''15 years'' and inserting ''40 years''.

(C) RECEIVING MILITARY-TYPE TRAINING FROM A FOREIGN TERRORIST ORGANIZATION.—Section 2339D(a) of title 18, United States Code, is amended by striking ''ten years'' and inserting ''15 years''.

(D) ADDITION OF ATTEMPTS AND CONSPIRACIES TO AN OFFENSE RELATING TO MILITARY TRAINING.—Section 2339D(a) of title 18, United States Code, is amended by inserting '', or attempts or conspires to receive,'' after ''receives''.

(3) DENIAL OF FEDERAL BENEFITS TO CONVICTED TERRORISTS.—

(A) IN GENERAL.—Chapter 113B of title 18, United States Code, as amended by this subsection, is amended by adding at the end the following:

''§ 2339F. Denial of Federal benefits to terrorists

''(a) IN GENERAL.—Any individual who is convicted of a Federal crime of terrorism (as defined in section 2332b(g)) shall, as provided by the court on motion of the Government, be ineligible for any or all Federal benefits for any term of years or for life.

''(b) FEDERAL BENEFIT DEFINED.—In this section, 'Federal benefit' has the meaning given that term in section 421(d) of the Controlled Substances Act (21 U.S.C. 862(d)).''.

(B) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 113B of title 18, United States Code, as amended by this subsection, is amended by adding at the end the following:

''2339F. Denial of Federal benefits to terrorists.''.

(4) ADDITION OF ATTEMPTS OR CONSPIRACIES TO OFFENSE OF TERRORIST MURDER.—Section 2332(a) of title 18, United States Code, is amended—

(A) by inserting '', or attempts or conspires to kill,'' after ''Whoever kills''; and

(B) in paragraph (2), by striking ''ten years'' and inserting ''30 years''.

(5) ADDITION OF OFFENSE OF TERRORIST KIDNAPPING.—Section 2332(b) of title 18, United States Code, is amended to read as follows:

''(b) KIDNAPPING.—Whoever outside the United States unlawfully seizes, confines, inveigles, decoys, kidnaps, abducts, or carries away, or attempts or conspires to seize, confine, inveigle, decoy, kidnap, abduct or carry away, a national of the United States, shall be fined under this title, imprisoned for any term of years or for life, or both.''.

(6) ADDITION OF SEXUAL ASSAULT TO DEFINITION OF OFFENSE OF TERRORIST ASSAULT.—Section 2332(c) of title 18, United States Code, is amended—

(A) in paragraph (1), by inserting ''(as defined in section 1365, including any conduct that, if the conduct occurred in the special maritime and territorial jurisdiction of the United States, would violate section 2241 or 2242)'' after ''injury'';

(B) in paragraph (2), by inserting ''(as defined in section 1365, including any conduct that, if the conduct occurred in the special maritime and territorial jurisdiction of the United States, would violate section 2241 or 2242)'' after ''injury''; and

(C) in the matter following paragraph (2), by striking ''ten years'' and inserting ''40 years''.

(e) IMPROVEMENTS TO THE TERRORIST HOAX STATUTE.—

(1) HOAX STATUTE.—Section 1038 of title 18, United States Code, is amended—

(A) in subsection (a)—

(i) in paragraph (1), after ''title 49,'' by inserting ''or any other offense listed under section 2332b(g)(5)(B) of this title,''; and

(ii) in paragraph (2)—

(I) in subparagraph (A), by striking ''5 years'' and inserting ''10 years''; and

(II) in subparagraph (B), by striking ''20 years'' and inserting ''25 years''; and

(B) by amending subsection (b) to read as follows:

''(b) CIVIL ACTION.—

''(1) IN GENERAL.—Whoever engages in any conduct with intent to convey false or misleading information under circumstances where such information may reasonably be believed and where such information indicates that an activity has taken, is taking, or will take place that would constitute an offense listed under subsection (a)(1) is liable in a civil action to any party incurring expenses incident to any emergency or investigative response to that conduct, for those expenses.

''(2) EFFECT OF CONDUCT.—

''(A) IN GENERAL.—A person described in subparagraph (B) is liable in a civil action to any party described in subparagraph (B)(ii) for any expenses that are incurred by that party—

''(i) incident to any emergency or investigative response to any conduct described in subparagraph (B)(i); and

''(ii) after the person that engaged in that conduct should have informed that party of the actual nature of the activity.

''(B) APPLICABILITY.—A person described in this subparagraph is any person that—

''(i) engages in any conduct that has the effect of conveying false or misleading information under circumstances where such information may reasonably be believed and where such information indicates that an activity has taken, is taking, or will take place that would constitute an offense listed under subsection (a)(1);

''(ii) receives notice that another party believes that the information indicates that such an activity has taken, is taking, or will take place; and

''(iii) after receiving such notice, fails to promptly and reasonably inform any party described in subparagraph (B) of the actual nature of the activity.''.

(2) THREATENING COMMUNICATIONS.—

(A) MAILED WITHIN THE UNITED STATES.—Section 876 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

''(e) For purposes of this section, the term 'addressed to any other person' includes an individual (other than the sender), a corporation or other legal person, and a government or agency or component thereof.''.

(B) MAILED TO A FOREIGN COUNTRY.—Section 877 of title 18, United States Code, is amended by adding at the end thereof the following new paragraph:

''For purposes of this section, the term 'addressed to any person' includes an individual, a corporation or other legal person, and a government or agency or component thereof.''.

CLOTURE MOTION

Mr. MCCONNELL. Madam President, this modification is a series of revisions relating to terrorism, and in a moment I will describe those provisions. The majority leader has indicated that he will file a cloture motion tonight in order to bring the bill to a close because we have been unable to get an agreement to vote on several of these terrorist-related amendments. I am prepared to file a cloture motion on this amendment and, therefore, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The 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, do hereby move to bring to a close debate on pending amendment No. 312, as modified, to amendment No. 275 to Calendar No. 57, S. 4, a bill to make the United States more secure by implementing unfinished recommendations of the 9/11 Commission to fight the war on terror more effectively, to improve homeland security, and for other purposes.

John Cornyn, Jon Kyl, Mike Crapo, John Ensign, Saxby Chambliss, Judd Gregg, Richard Burr, Jim Bunning, Sam Brownback, Mitch McConnell, Craig Thomas, Tom Coburn, Wayne Allard, Jim DeMint, John Thune, Pat Roberts, Lindsey Graham.

Mr. MCCONNELL. Madam President, just by way of explanation, this modified amendment aims to improve our national security in five areas. For the first time, it will make it a crime to recruit people to commit terrorist acts on American soil. For the first time, it would allow for the immediate deportation of suspected terrorists whose visas have been revoked for terrorism-related activities. For the first time, it would prevent the release of dangerous illegal immigrants whose home countries actually don't want them back. For the first time, it would make it a crime to reward the families of suicide bombers, and it would increase the penalty for those who torment the families of our service men and women by calling their families and falsely claiming that their loved ones have been killed in the field of battle. It contains five provisions that would make our homeland more secure by penalizing recruiters, deporting terrorist suspects, keeping dangerous criminals behind bars, and protecting the families of our troops.

Voting on this amendment will not slow down the bill. We are not interested in doing that. We will gladly agree to vitiate cloture in exchange for a unanimous consent vote on this amendment or, if cloture is invoked, we will agree to yield back the 30 hours of postcloture time in order to move ahead.

The war against terrorism requires that we adapt our methods to emerging threats, and that is precisely what these new and vital provisions would allow us to do.

Let me conclude by saying we believe these amendments are definitely related to the bill. We had hoped to be able to get an agreement to have this amendment considered. So far, that has not occurred, but we want to reiterate we have no desire to slow down the passage of the bill. That is why I felt compelled to file cloture at this time.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Madam President, I am very sympathetic to the concerns of the Republican leader about trying to move forward with some votes. I do wish he had discussed his approach with the managers of this bill since he

has taken us completely by surprise on the Senate floor, but I think he has raised an important issue, that our Members deserve to have votes on the important issues that are before us. If we are going to complete action on this bill by the end of the week, we need to start voting. We need to start disposing of these amendments, whether they are adopted or rejected or withdrawn. So I am sympathetic to the frustration of the Republican leader over this matter. We do need to move forward and have votes.

I do wish he had discussed his intentions with the managers of the bill.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. Madam President, I appreciate the comments of the Senator from Maine, the distinguished ranking member of the Homeland Security and Governmental Affairs Committee. In response, I would point out that these amendments, which are now consolidated in this modification, actually have been pending now for some time but we have been unsuccessful in persuading the majority to give us an opportunity for an up-or-down vote on them.

The bill we are debating is entitled ''A Bill to Make the United States More Secure By Implementing Unfinished Recommendations of the 9/11 Commission to Fight the War on Terror More Effectively, to Improve Homeland Security, and for other purposes.'' I can't think of any amendment that would be more appropriate to accomplishing the stated goal of this particular legislation than the one I have pending now.

The distinguished Republican leader has summarized, I think very well, what is contained in this modification. But just so none of my colleagues are confused, these are not new matters. This modification simply represents a consolidation of several amendments that are pending on the floor and have been pending for some time, but which have been refused an opportunity to have a full and fair debate followed by an up-or-down vote by the majority.

We all know it has been more than 5 years since September 11. And, there remains some unfinished business that needs to be addressed by this legislation, and my amendment will do just that.

One of the things left to do is to target terrorist recruiting. The FBI and other agencies have made it clear that al-Qaida and other terrorist organizations are intent on attacking our country again and are busy recruiting those who wish to join them. We know al-Qaida is a patient enemy, waiting years to attack—sometimes embedding into society and appearing to be a part of the regular population until, but at a time of their choosing, rising out of their sleeper cells to attack innocent civilians to accomplish their goals.

According to congressional testimony, terrorists and terrorist sympathizers are actively in the process of recruiting terrorists within the United States. So we are not just talking about a wholly foreign enemy that would attack us from abroad; we are talking about people being recruited to carry out terrorist attacks here in the United States. Of course their goal is to find individuals who do not fit the traditional terrorist model, who can operate freely in our country, and who are willing to engage in these heinous acts. Recruiting these type of individuals, those who blend easily into our society, provides al-Qaida an operational advantage.

This is not an academic discussion. Let me just use one example to demonstrate this reality. Intelligence materials related to Khalid Shaikh Mohammed, the so-called mastermind of the 9/11 plot, show that he was running terrorist cells within the United States. These documents show that al-Qaida's goal was to recruit U.S. citizens and other westerners so they could move freely within our country, so they would be unlikely to be identified and stopped at our border's edge or in our airports or land-based ports before they carry out their attacks. These terrorist recruiters have targeted mosques, prisons, and universities throughout the United States where they could identify and recruit people who might be sympathetic to their jihadist message and then persuade these individuals to join their organization.

Unbelievably, we currently have no statute in place that is designed to punish those who recruit people to commit terrorist acts. This amendment includes a provision that would remedy this serious gap in our law. It simply provides that it is against the law to recruit or, in the words of the amendment, ''to employ, solicit, induce, command or cause'' any person to commit an act of domestic terrorism, international terrorism, or a Federal crime of terrorism, and any person convicted of this would face serious punishment.

This amendment also provides that anyone committing this crime should be punished for up to 10 years in the Federal penitentiary. If a death results in connection with this crime, he or she can be punished by death or a term of years or for life; if serious bodily injury to any individual results, then a punishment of no less than 10 years or more than 25 years is available to the judge.

This is a commonsense measure, designed to fill a serious gap in our Criminal Code that, frankly, should not continue to exist more than 5 years after September 11. This fits exactly with the stated purpose of this legislation, and I hope our colleagues will vote in favor of this amendment.

Two other provisions in this amendment that again represent amendments that have been previously filed and are pending but which I have now included in this consolidated amendment. One includes a remedy to a problem created by a Supreme Court decision in 2001, the Zadvydas case, which held that dangerous criminal aliens must be released after an expiration of 6 months if there is no likelihood that their home country would take them back in the near future, even if their home country will not take them. This means that they have to be released into the general population of the United States, free to re-commit serious crimes.

In other words, what the Supreme Court said is that Congress had not specifically authorized the Department of Homeland Security to hold dangerous criminal aliens whose home country will not take them back for longer than 6 months pending their deportation or repatriation to their home country. This amendment remedies that decision. In fact, the Supreme Court invited the Congress to revisit this decision, since it is purely a statutory holding.

Specifically, this amendment would allow DHS to protect the American people from dangerous criminal aliens until their removal proceedings are completed. It allows the Department of Homeland Security to detain criminal aliens after a final order of removal and beyond the 90-day removal period if removal is likely to occur in the foreseeable future or for national security and public safety grounds. It preserves the right of the alien to seek review of continued detention through habeas proceedings after exhaustion of administrative remedies. And to be clear, my amendment does preserve the right of the affected alien to seek administrative and judicial review of these decisions. But, the amendment makes clear that it is intended to fill an important gap by authorizing DHS to protect the American people from the willy-nilly release of dangerous criminal aliens after 6 months. This situation has occurred and will continue to occur and it is important for Congress to step up and to fix this problem created by the interpretation of this statute in 2001 by the U.S. Supreme Court.

The last element of this consolidated amendment that I want to mention has to do with material support for suicide bombers and other terrorists. We hear too often the difficulty in identifying and stopping suicide bombers before they can carry out their deadly attacks. One incentive to those who decide to carry out these attacks is financial rewards promised to the families of suicide bombers who are assured that their families will be paid and cared for after they commit their heinous acts. This provision would ban the payment of financial rewards or other material support to the families of suicide bombers such as Assad, a known terrorist who has enticed people to engage in these attacks, with a promise to pay their families up to $25,000, if my memory serves me correctly, as a reward. This provision would ban the

payment of these types of financial rewards and dry up a real incentive used to induce or facilitate carrying out of a terrorist attack and send to prison those who do so.

I would add that this amendment also increases the punishments for those convicted of providing material support. The Department of Justice has told us that the material support statute is one of the most important anti-terror tools in their tool box, and it is only right and appropriate that we use this opportunity to strengthen the 9/11 bill with this important improvement to such an effective statute.

In conclusion, this amendment provides real anti-terror and anti-crime tools to the 9/11 bill and will ensure, as the preface of this bill states, that it will finish the unfinished business of the 9/11 Commission and of the Nation, making us more secure, 5 years-plus since the dastardly attacks of 9/11.

I yield the floor.

CHANGE OF VOTE

Mr. COBURN. Mr. President, on rollcall vote 62, I voted ''yea'', it was my intention to vote ''nay''. I ask unanimous consent that I be permitted to change my vote since it will not affect the outcome.

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

AMENDMENT NO. 345

Mr. INOUYE. Mr. President, I rise in opposition to amendment No. 345, which was submitted by Senator COBURN of Oklahoma. This amendment diverts funds that Congress has designated to be obligated before October 1 of this year through the Department of Commerce Interoperability Grant Program into a yet-to-be created Homeland Security grant program.

This amendment is offered at the same time the President is proposing to decrease funding for State and local preparedness grants and firefighter assistance grants from the enacted fiscal year 2007 levels by $1.2 billion.

To make matters worse, the amendment delays the obligation of $1 billion in interoperability grants by up to 3 years. In the President's 2008 budget proposal, the administration reduces State and local programs by $840 million and assistance to firefighter grants by $362 million.

The transfer of the $1 billion the Federal Communications Commission will raise as part of the digital television spectrum auction to the Department of Homeland Security will mask the technical decrease in the budget request. In the end, it means less money for the first responders, which I believe is bad for national security.

It is important to remember that as part of the Deficit Reduction Act of 2005, Congress created the $1 billion fund in the Department of Commerce to support State and local first responders in their efforts to talk with one another in times of emergency. The interoperability subtitle in this act expands upon prior action taken in the Deficit Reduction Act of 2005 and provides additional guidance to the Commerce Department.

The provision which I introduced with Senators STEVENS, KERRY, SMITH, and SNOWE was reported out of the committee with unanimous support of the Members. The Commerce Department grant program is intended to jump-start the efforts of the administration to address a key 9/11 Commission concern—interoperability.

The Department of Homeland Security has been and continues to be too slow to act, and the Coburn amendment would only exacerbate the problem. If the Coburn amendment were to pass, it would first decrease grants to first responders this fiscal year by $700 million; eliminate the $100 million fund for strategic reserves of communications equipment, designed to be rapidly deployed in the event of a major disaster; and, third, eliminate the all-hazards approach that considers the likelihood of natural disasters as well as terrorist attacks that the Commerce Department would use making interoperability grants. Contrary to the Senator's assertion, the Commerce Department Interoperability Grant Program is complementary to and not duplicative of the DHS grant program.

First, the Department of Commerce will award all $1 billion in grants by September 30 of this year, while the DHS program as currently constructed is not authorized until fiscal year 2008, and is still subject to appropriations.

This money is needed now and should be in addition to the regular appropriation process, not awarded over the next 3 years as a substitute for appropriations funding. Second, the program allows the Administrator of the National Telecommunications and Information Administration to direct up to $100 million of these funds for the creation of State and Federal strategic technology reserves of communications equipment that can be readily deployed in the event that terrestrial networks fail in times of disaster.

Should this occur—it did occur in Katrina—there is no comparable program created in the DHS grant program. The strategic reserve program is a necessary initiative that has not been prioritized by the DHS to date.

Recently, an independent panel created by Federal Communications Commission Chairman Kevin Martin to review the impact of Hurricane Katrina on communications networks noted the impact that limited pre-positioning of communications equipment had in slowing the recovery process. As a result, the program will help to ensure that our focus on interoperability also considers the importance of communications redundancy and resiliency as well.

Third, in addition to minimum funding allocations, the Department of Commerce Interoperability Grant Program would further require that prioritization of those funds be based upon an all-hazards approach that recognizes the critical need for effective emergency communication and response to natural disasters such as tsunamis, earthquakes, hurricanes, and tornados, in addition to terrorist attacks.

While the DHS program being created would consider natural disasters as one of the many factors in awarding of grants, the Department of Commerce Interoperability Grant Program's all-hazards approach places a high priority on funding States based on the threats they face from natural catastrophes as well as terrorist attacks.

We have heard two contradicting arguments to support the elimination of the Department of Commerce grant program. The author claims both that the DHS is doing all of the administrative work for the Department of Commerce grant program, and that there is a risk of double-dipping because the DHS will not know who is receiving the Department of Commerce grants. Both claims cannot be right and, in fact, neither is true. The NTIA and the DHS have been working together for months to craft an agreement under which the two agencies will disburse the $1 billion raised from the DTV spectrum auction.

On February 16, 2007, the DHS and the NTIA entered into a memorandum of understanding covering the administration of the grant program. While the DHS will play a large role in administering the grants, the NTIA will work with the DHS to establish the grant procedures, which will ensure that an all-hazards approach is followed and that a strategic reserve equipment program is developed.

The interoperability subtitle further ensures that the grants funded are consistent with the Federal grant guidance established by the SAFECOM Program within the DHS. As a result, the DHS will be fully aware of who is getting grants and for what purposes. At the same time, the NTIA will maintain a leadership role in guiding the interoperability grant program. The NTIA has a long history of addressing interoperable communications issues, and it is vital that the administration help guide the DHS's work.

Since its creation, the NTIA has served as the principal telecommunications policy adviser to the Secretary of Commerce and the President and manages the Federal Government's use of the radio spectrum. According to Assistant Secretary Kneuer, the Administrator of the NTIA, the ''intersection of telecommunications policy and spectrum management has been the key focus of the NTIA, including public safety communications and interoperability issues.''

In this capacity, the NTIA has historically played an important role in assisting public safety personnel and improving communications interoperability and recognizing that effective solutions involve attention to issues of spectrum and government coordination as well as funding. Its work more than

a decade ago in creating the Public Safety Wireless Advisory Committee, formed by the FCC and the NTIA pursuant to Congress's direction, framed this issue in this way:

> At the most basic level, radio-based voice communications allow dispatchers to direct mobile units to the scene of a crime and allow firefighters to coordinate and to warn each other of impending danger at fires. Radio systems are also vital for providing logistics and command support during major emergencies and disasters such as earthquakes, riots, or plane crashes. . . .
>
> In an era where technology can bring news, current events, and entertainment such as the Olympics to the farthest reaches of the world, many police officers, firefighters, and emergency medical service personnel working in the same city cannot communicate with each other. Congested and fragmented spectral resources, inadequate funding for technology upgrades, and a wide variety of governmental and institutional obstacles result in a critical situation which, if not addressed expeditiously, will ultimately compromise the ability of Public Safety officials to protect life and property.

The Coburn amendment would disrupt the MOU, upset the work the NTIA and the DHS have undertaken, and delay the awarding of interoperability grants.

Finally, the NTIA's administration of the grant program will not only help to integrate the disparate elements that must be part of effective interoperability solutions but will also ensure greater program transparency and oversight. Given the myriad of different grant programs administered by the Department of Homeland Security, it is critical that these funds—specifically allocated by Congress to speed up our efforts to improve communications interoperability for first responders—not get lost in the shuffle of other disaster and nondisaster grants. As a result, the provisions not only devote the NTIA's attention to the success of this program but also require the inspector general of the Department of Commerce to annually review the administration of this program.

In sum, the Department of Commerce interoperability grant program improves the Nation's security. Senator COBURN's amendment would delay the awarding of needed interoperability grants and disrupts months of work by the NTIA and the DHS. Therefore, I urge my colleagues to vote against the Coburn amendment.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, since 2001, we have heard a growing cry from public safety officials that police, firefighters, and emergency medical response personnel throughout the country need help to achieve interoperability in today's communications world.

Sadly, this problem actually predated September 11. More than a decade ago, the FCC and the National Telecommunications and Information Administration formed the Public Safety Wireless Advisory Committee to examine the communications needs of first responders and public safety officials. That report called for more spectrum, technological solutions, and more funding, and was filed 5 years to the day before the tragedy of 9/11. It called for those improvements to save lives on a daily basis. These solutions are not geared just for the huge disasters but are also geared for the everyday tragedies that can be avoided with better communications and better interoperability.

Thanks to the work of the last Congress, public safety stands ready to finally receive the help that the FCC and NTIA called for more than 10 years ago.

Last year, the Congress set a hard date for broadcasters to turn over 24 megahertz of spectrum to public safety for communications and interoperability. Right now, the FCC is examining proposals to maximize the broadband potential of that spectrum, which will bring great new services and capabilities to policemen, firefighters, and other emergency personnel. In addition, Congress created a $1 billion interoperability grant program with the funds that will be received from the auctioning off of the rest of the spectrum recovered from broadcasters. That program originated out of our Senate Commerce Committee. The Department of Commerce and Department of Homeland Security have signed a memorandum of understanding to work together in this regard.

Additionally, at the very end of the Congress last year, we accelerated the granting of the awards as part of what was called the Call Home Act. Therefore, by law, the interoperability grants which are available must be awarded by September 30, 2007. Public safety has been waiting for a very long time for these funds, and they finally have a date-certain when the interoperability grants will be awarded.

Having worked with the FCC and the NTIA over the last decade, our Senate Commerce Committee has watched as the public safety communications market has evolved, and we have heard about a number of technological solutions that may address both near-term and long-term interoperability needs. Internet protocol systems can be used as bridges between otherwise incompatible communications systems now. Strategic technological reserves can be created to quickly replace infrastructure that is destroyed in large-scale disasters. Hurricanes Katrina and Rita demonstrated the need for portable wireless systems that are readily deployed when a disaster destroys the existing communications infrastructure. Standards development and dedicated interoperability channels facilitate planning and incident management between agencies.

All of these solutions can be achieved now and are provided for by the provisions of the Commerce Committee's interoperability provisions. Unfortunately, the amendment of my friend, the Senator from Oklahoma, would delay all of these solutions. That would be unfortunate for public safety and very harmful to the public.

The Homeland Security Committee has created its own interoperability program that is separate from the Commerce $1 billion program. However, that program is a separate one. It is focused on the long term, after additional planning is done, and would still be several years away from even awarding grants, let alone implementing them.

It is time we finally deliver on our promises to the police, firefighters, and emergency medical personnel. Those around the country really believe us, and we believe we can deliver the technological reserves and interoperability communications that will help first responders now by moving forward with the $1 billion public safety grant program, administered by NTIA. We really should not wait any longer. We cannot plan indefinitely. It has been over 10 years, as I have said. These solutions take time to implement. We should move forward on these programs now. With the Commerce program, public safety will be able to move forward with real solutions and begin addressing the problems that have plagued our Nation's first responders for too long.

We are able to come across some really interesting innovations, too. Through the NTIA's program, it is possible to use communications concepts and bring about interoperability without a large expenditure for new equipment. This first $1 billion will stretch real far if it is used on the plans of the NTIA. If it is delayed—unfortunately, I think that is what the amendment of the Senator from Oklahoma would do. It will really put us in the position where we cannot implement what has been done now.

These people—first responders—have been planning now for 3 years to get this money, and it is going to be paid out this year under the program we have already enacted into law.

I urge my friend from Oklahoma: Don't delay that $1 billion. I understand there may be some concerns about the $3 billion in this bill. Even that, though, is money that will be planned—it will be several years before it will be made available. The money we have, the $1 billion that is already provided by law, is available as soon as it comes in. I think it will go a long way to meeting the immediate needs of first responders.

So I hope the Senator will not really persevere with his amendment. I understand his concerns, and we share the concerns of the use of money. I do believe, if you study the technology now, it is possible to put together—we have one program where the National Guard has a mobile unit that is equipped with interoperability concepts that came about through software. Using the software on that vehicle, they can bring about interoperability with any system anyone uses in the first-responder era today.

If we move forward on those things we can do now, immediately, with interoperability—brought about through the use of technology—it will save us a lot of money in the long run. I believe this $1 billion will demonstrate we can do this, make this interoperability capability available to our first responders at a lot less money than other people believe. I think this $1 billion is needed, and it will go a long way.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. COBURN. Mr. President, first of all, let me compliment the chairman and ranking member for their foresight in making sure we have the capability to have interoperability, with the wisdom of taking spectrum and putting it specifically for that.

I want to answer several of the questions that have been raised because they are somewhat peculiar to me.

But before I do that, Mr. President, I ask unanimous consent that Senator KYL be added as a cosponsor to this amendment.

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

Mr. COBURN. Mr. President, I say to the Senator, I would also like to note that one of the members of your committee, who was instrumental in bringing this interoperability grant program to the floor, is also a cosponsor of my amendment, realizing we do not need both programs and that they need to be combined.

Now, what does DHS tell us about the present grant program? Here is what they tell us. And I say to the American public, you ask yourself if you want your Government to run this way. What they say is: We can meet the September 30 deadline, and we may be able to tell you who is going to get grants, but we are not going to be able to tell you, anywhere close, how much money they are going to get. So they can tell them who will get the grants because that is what the law says, but they will never have the capability, for several months thereafter, to know how much money they are going to get. So nobody is going to buy anything until the actual grants are going to be awarded.

Let's clear up the difference between the Departments of Commerce and Homeland Security. No. 1, Homeland Security has the authority for interoperable communications. I do not care where this grant program is, quite frankly. I do not care if it is at Homeland Security or at Commerce. I do not care. But what I do know is, out of that $1 billion, the only thing the Department of Commerce is going to keep is $12 million with which to use to announce the grants. That is what they have told us. So $988 million out of that—the rest of that money—is going to go for grants, administered by, controlled by, run by Homeland Security.

So if the problem with my amendment is that the money isn't going to get out there to do it, Homeland Security has already said the money isn't going to get out there to do it. Commerce has already said the money isn't going to get out there to do it. We know who will get money, but the money won't get out there regardless of what they have said, because they just came to an understanding of the agreement 3 weeks ago on administering this money.

I think it is very wise what the chairman and ranking member have done in terms of allocating resources. As a matter of fact, I applaud them for that. I think it is wise to dedicate resources to certain things when we sell spectrum. I would tell my colleagues most Americans would say: You are going to give grant money, but you don't know how much you are going to give and you are not going to give it on the basis of competition in allocation of those resources because you have a date to meet that doesn't fit with fiscal responsibility. It doesn't fit with the best outcome or the ability to follow up to see what happened with the money. So we do have a date in the law by which they have to do it. But how are they going to do it, because the date in there is wrong. They are liable to give the wrong people too much money and the right people not enough, because we are telling them what they have to do.

The second thing—let me put up a chart. These programs are identical, even though you claim they are not. Let me show my colleagues how they are identical. Under the PSIC grant programs, they are State and regional planning; under the DHS program, they are State and regional planning. Under the system design and engineering, PSIC; same thing under DHS. System procurement and installation; same thing under DHS. Technical assistance, the same. Implementing a strategic technology reserve is the only difference, but guess where it is made up. ''Other appropriate uses as determined by the administrator of FEMA.'' Do you think they are not going to put in that reserve there? They certainly are. They are going to do it.

So there is no difference in the grant programs whatsoever, other than the deadline, which isn't going to be followed anyway. Like I say, I don't care if this is at Homeland Security or Commerce, I would as soon it be at Commerce in terms of the spectrum.

But the fact is the American people shouldn't have to pay for the administration of two separate programs running parallel with two separate sets of requirements to Congress. We ought to get them together. We ought to figure out how we do it so we have one grant, and if, in fact, we need $4.3 billion. The problem is, we don't know how much money we need. We are throwing money at it.

The second question I would ask is if this program belongs at Commerce, why Commerce agreed to give 99.9 percent of it to FEMA and to the Department of Homeland Security. They don't think it belongs there.

The other point I would make in rebuttal to the Senator from Hawaii is this amendment doesn't decrease funding at all. This takes $3.3 billion and an amount greater than $1 billion and combines it so the same amount of money is there, except it is going to make the money be spent better. It is going to allow us the time to do it.

I agree we need to get money out to our primary responders. This isn't about trying to hold that up. I am not trying to do that. But the Department of Homeland Security has already said the money isn't going to go out by your day. There isn't one application right now at the Department of Homeland Security for this money. We all know how Washington works. They haven't even written the requirements for the grant applications yet, which will take another 90 to 120 days. So we have a laudable goal that is not going to be accomplished, and if it is going to be accomplished, it will be accomplished in a very inefficient and wasteful way, which the American people don't deserve.

I think this is a very good chance for us to talk about what is wrong with us in the Congress. We are working at cross purposes. We have one committee working here and one committee working here, rather than solving those problems for the best interests of our country. I want Hawaii to have everything it needs in terms of tsunami prevention, in terms of interoperability. I know there are special requirements in the State of Alaska because line of sight can't be used and much of our emergency frequencies require some of that. I believe we can take care of those problems and combine these grant programs in a way that the American taxpayer gets value, in a way where we can measure the accountability of what we do, in a way in which we can have transparency for the dollars we get in reauctioning the spectrum, and plus the other $3.4 billion that is going to come out in terms of appropriated funds for these other grant programs. The American people want that. They deserve that.

To me, this isn't about a turf battle of control. To me, this amendment is about common sense for the American public to combine two programs into one so we spend less money, and we don't duplicate things and we don't duplicate efforts.

I understand and appreciate very much the long service of Senator INOUYE and Senator STEVENS and their commitment to making sure these things are coming through. I am not trying to be a fly in the ointment to mess up what are very good-intended results, but I am a realist. The very things my colleagues have asked to happen in the Budget Act that was passed are not going to happen. Homeland Security has said that. So if those things aren't going to happen, and if the fears of what isn't going to happen can be allayed, can we not figure out a way to put these programs together where the American people get the best value, and also as a part of my amendment which says: Can we look to the private sector to not just give us interoperability in Hawaii among National Guard and first responders, but how about between California and Arizona, or Texas and Oklahoma, or Maryland and New York, if they need Maryland first responders there, which has not been addressed in any of the legislation that has been put forward. There is great technology out there. There are great companies out there that could do that.

Again, without desiring to interfere or upset, I believe the application of some pretty commonsense principles ought to be applied to these two grant programs. I am willing to discuss with the chairman and the ranking member how to do this a different way. I am raising it on the floor because I think the taxpayer is not getting good value, and I think we ought to talk about that.

The National Taxpayer Union endorses this amendment. The Citizens Against Government Waste endorses this amendment. Your very own committee member, who was one of the first people to say we should have auctioned spectrum for first responders, is a cosponsor of this amendment. So I am willing to defer to what the ranking member and the chairman of this committee want to do, but I think we ought to stick it out here until we can work a way for the American people to get better value, better clarity, better transparency, and better accountability for these funds.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, I think the Senate should be sure of what the Coburn amendment does. In the first place, it repeals the section of the Call Home Act that was enacted in the last Congress that makes this $1 billion available to NTIA immediately upon receipt. Secondly, it says the payments that are made under that $1 billion allocation must be made under the terms of section 1809 of the Homeland Security Act of 2002. Then it has this section, subsection (c) on page 2 of the amendment, which limits the awards under that section to $300,000 in 2007, $350,000 in 2008, and $350,000 in 2009. Existing law makes that $1 billion available as of September 30 of this year.

So the Senator is not only changing the manner in which the money can be used as opposed to what we enacted in the last Congress, but he is putting limitations on the grants that can be made out of the $1 billion so that only $300 million is available this year—$300 million for the whole Nation to meet the immediate needs for interoperability.

We had before our committee the so-called siren call proposal to take over the whole of the spectrum and turn it over to a trust and let that trust sell some of this so they could make even more money available in the first year. We have spoken about that, and it is a no-brainer to do that. That would create a trust that is equivalent to compete with the FCC on the sale of the first spectrum and it would reduce the money that is coming in on the first sale, so we could get enough money to pay the $1 billion. But the $1 billion has been promised to these first responders as of September 30 under the memorandum of agreement between Homeland Security and the NTIA. It can be administered and it will be administered. It will be used for a whole series of things. But again, I emphasize, it can be used for software, for systems to make current systems interoperable without buying a whole bunch of new equipment, wherever it is made, whether it is made in Oklahoma or California. It is not going to be made in Hawaii or Alaska, I can tell you that.

But as a practical matter, what we are interested in is making every entity in the country that is involved with interoperability problems to be able to make an application for these grants immediately after September 30. The Senator from Oklahoma would limit that in this fiscal year to $300,000. By the way, none of it is even going to be available until September 30. So it is one of those things that is sort of difficult to understand. We can't have much available in fiscal year 2007. We can have money available this year, in the calendar year 2007, under the existing law.

I urge the Senate not to repeal existing law, to make this money available. It is in a memorandum of understanding between these two agencies. We are not trying to usurp the functions of Homeland Security. We are trying to meet the needs of communications. That is our job. We have done our job. The existing law will make $1 billion available as of September 30. I do not think it should be repealed.

The PRESIDING OFFICER. The Senator from Hawaii is recognized.

Mr. INOUYE. Mr. President, listening very carefully to the statement of the Senator from Oklahoma, one might get the impression that this measure was submitted by the Senators from Alaska and Hawaii to benefit our two States. Hawaii and Alaska are not even mentioned in this amendment. What we want is a National Interoperability Grant Program. It may be of interest that the State of Hawaii is almost completely interoperable, but we want all other States to have that benefit. So this is not one of these earmarked measures, I can assure my colleagues.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. COBURN. First, let me sincerely apologize to the Senator from Hawaii if he took my words to mean that. I did not mean that. I referred to his words in terms of tsunami. I have no inference whatsoever that this has any parochial interest of either the Senator from Hawaii or the Senator from Alaska. But it is interesting that the debate doesn't ever come back to the fact of whether we have two programs; it is all about the money. The fact is the money will not get out there. Homeland Security has already said that.

Now, the reason the $350 million—not thousand—was chosen is because at the same time this happened, you are going to have another $1 billion come through in—the fiscal year is going to be over this year on September 30 of 2007. The worst problem that happens in our Federal Government today is the indiscriminate, rushed issuing of grants, of throwing money at something, rather than a measured response of grants.

These aren't competitive grants, I would remind the people who are listening to this debate. There is no competition for this money. You don't have to compete by saying you have a greater need than somebody else or you have a greater risk than somebody else. This is money that is going to go out, period. It is not based on competition for the greatest need or the greatest risk.

The last thing we need to be doing is having a grant program that is rushed so we are not making sure the money is well spent. In the last 2 years we have discovered $200 billion of waste, fraud, abuse, or duplication in the discretionary budget of the Federal Government—$200 billion. We would have enough money to pay for the war, pay for expanding the military in this country, and cutting our deficit in half if we would do our job in terms of eliminating duplication, fraud, abuse, and waste.

What this amendment is about is let's don't waste any of this $1 billion these two gentlemen have so wisely put for one great purpose.

So that is my intention today, I assure the Senators from Alaska and Hawaii. We all know how homeland security works. We have seen all too well some of the failings and lack of efficiency and lack of responsiveness in that agency. To now assume the other side of that, that that is going to happen overnight because we have mandated by law—if it does, it will be a very poor choice of the use of this money.

I thank the Senator from Hawaii and the Senator from Alaska for their debate on this issue. My goal was to have a debate about whether we should have two programs and whether we should waste money. It is not about the debate of whether we need to have 911 interoperability and the functionality that needs to be there in all the States. But we should look at the whole as well as the individual. I compliment them on finding a funding stream that doesn't add to our children's debt. Unfortunately, we have not done that in this bill with the other grants, which I think is a mistake.

My hope is we will be able to have a vote on this amendment before we go to cloture—or even after cloture—because it is germane, and we can defend the germaneness of this amendment.

With that, I yield the floor.

Mr. STEVENS. Mr. President, I intend to make a motion to table. I have discussed it with the leader. I think he would like to have that vote take place at 6:15. Would the majority floor staff confirm that.

Mr. INOUYE. I think that would be appropriate.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Ms. LANDRIEU. I ask unanimous consent that the order for the quorum call be rescinded.

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

Ms. LANDRIEU. While the Senator from Alaska is checking on the other amendment, I ask unanimous consent to speak on another amendment.

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

The Senator from Louisiana is recognized.

AMENDMENT NO. 295

Ms. LANDRIEU. Mr. President, I understand the Senator from Alaska is working out a vote on the amendment that was just discussed. I wished to come to the floor to talk about the Landrieu amendment that is pending on this bill and to also say I have been joined in this amendment by Senators STEVENS, LIEBERMAN, KENNEDY, OBAMA, MARTINEZ, and VITTER, and others may join as we push forward on this amendment to the underlying bill.

This amendment has to do with a waiver provision, to waive the 10-percent match that is normally required when a disaster strikes a community—and for good reason. We have required in the past for the local governments, based on their capacity to pay for part of the recovery, to put up anywhere from 25 percent to 10 percent. But on occasion, we have waived the 10-percent or the 25-percent requirement when it becomes apparent that the disaster is so overwhelming, the ability for these communities to repay is virtually impossible. That has been done over 38 times in the past. Most recently, it was done with Hurricane Andrew. That was a terrible storm. It doesn't look like it on this graph, but Hurricane Andrew, believe me, for the people in Homestead, FL, was the end of the world. Literally, their town was crushed.

Prior to Katrina and Rita, that storm was the costliest storm, causing $40 billion in damage to parts of Florida. Unfortunately for Florida, they have been hard hit ever since. But for discussion purposes, this is $139 per capita—a terrible storm but not a lot of money per capita. The World Trade Tower attack was a terrible tragedy in our Nation, which is why this bill is being discussed; the damage was $390 per capita. Mr. President, look and see what the Katrina and Rita double whammy and subsequent breaking of the levees cost per capita in Louisiana—$6,700. It is literally off the chart.

This has been part of the problem in Washington—not you, Mr. President, because you came down and Senator LIEBERMAN came down and the Senator from Alaska came down and walked the neighborhoods, so you understand it. But this is literally off the chart—what is happening in terms of the amount of disaster recovery going on in Louisiana and Mississippi, along the gulf coast.

The Landrieu amendment seeks to waive the 10-percent match so that the billion dollars would then be available to go to infrastructure projects. But almost as important as the extra money that could be applied to the disaster recovery itself, 95 percent of the red tape would be eliminated because, under the current program, there are three or four different reviews, different regulations between HUD and FEMA. All of the administrative efforts we have made to date have been for naught because nothing has been waived. So the solution is this amendment.

I am going to ask this body to vote on this amendment, on this waiver. The amazing thing about this is that because the President has the option to do this now, there is no cost to this amendment; it scores at a zero. I know it is counterintuitive, but the score on this amendment is zero. There can be no point of order raised against it. It doesn't technically cost anything. Because of that and the obvious merits of the waiver, which were done in this case and done 38 other times, we are asking for it to be done for Hurricanes Katrina and Rita, for Mississippi and Louisiana, and also for Hurricane Wilma, which is caught up in this general disaster as well.

I thank those who have cosponsored this amendment with me. I thank Senator STEVENS for being able to let me speak as he decides on votes for the pending amendment. I am going to ask the leadership to schedule a vote because it is most certainly justified and could be done administratively but has not been. Congress has a responsibility to act, to do what is right, fair and helpful and to eliminate the red tape in our communities, in my case, from St. Bernard Parish to Cameron Parish, from Biloxi and Pascagoula, all the way over to places in south Texas that are still hurting and deserve to have this waiver so they can spend money not on red tape but on roads, bridges, houses, and schools that need to be rebuilt so America's energy coast can get back to work.

Katrina and Rita were the first and third costliest disasters in American history, but Louisiana and other states impacted by these storms have not received a similar waiver.

Unfortunately for State and local governments in Louisiana, 10 percent translates into more than $1 billion dollars that must be sent back to Washington.

Louisiana has over 23,000 Project Worksheets pending, and Mississippi has over 10,000.

Some people have suggested that the States provide this matching funding on behalf of the local governments.

Let me explain why that will not work.

All of the State's money for assistance to local governments exists in the form of Community Development Block Grants.

FEMA's Public Assistance Program and HUD's CDBG Program have separate accounting requirements and separate environmental assessment requirements.

For the State to apply funding from this source for every single project would require approximately $20,000 per project. That translates into nearly half-a-billion dollars wasted on administrative paperwork.

The State has asked for a single set of standards, but FEMA would not agree to this.

The State has asked permission to provide a single payment to cover the 10 percent match, after adding its share of all the pending projects, but FEMA would not allow this either.

This Global Match would save thousands of man-hours and hundreds of millions of dollars.

Louisiana has not been able to cut through the red tape though, and has been told it must waste this money on duplicative bureaucratic procedures.

This money could be reinvested into housing, infrastructure, and economic development, in order to bring families, communities, and businesses back to life in the Gulf region.

Gulf coast States lost their tax base after properties were destroyed all over the region. The hurricanes claimed over 275,000 homes and 20,000 businesses.

Progress is being made but many challenges remain.

In communities where the damage was most severe, the struggle continues to rebuild economic infrastructure and restore vitality. Local governments have had to lay off thousands of employees, and pay those who remain with money they receive from Federal loans.

I would like to briefly talk about the situation in several of these communities.

Cameron Parish in Southwest Louisiana is home to 9,681 people.

It was the site of landfall for Hurricane Rita on September 24, 2005, and the eye of the storm passed directly over it.

Winds exceeding 110 miles per hour pounded the parish for more than 24 hours, and storm surges 15 to 20 feet high submerged it completely.

The Cameron Parish School Board has reported that 100 percent of its facilities need repairs, and 62 percent were totally destroyed.

Only two public buildings, the Parish courthouse and the District Attorney's office were left standing. Both are in need of extensive repairs.

Other buildings destroyed include: 5 fire stations, 4 community recreation centers, 4 public libraries, 3 parish maintenance barns, 2 parish multi-purpose buildings, ''Courthouse Circle,'' Cameron Parish Police Jury Annex Building, Cameron Parish Sheriff's Department Investigative Office, The Cameron Parish Health Unit, Cameron Parish School Board Office, Cameron Parish Mosquito Control Barn, and the Waterworks district 10 office.

Katrina produced a category 5 surge and winds in excess of 125 miles per hour when it made landfall in St. Bernard Parish.

As the storm surge traveled across Lake Borgne and up the Mississippi River Gulf Outlet, MRGO, it overtopped the levee along the northern edge of the urbanized area of St. Bernard Parish, and broke through the levee on the Industrial Canal in New Orleans' Lower 9th Ward.

Water from both levee breaks flooded most of the parish inside to depths of up to 14 feet. Flood waters remained for approximately 3 weeks.

Most structures outside the hurricane levee protection systems have been entirely destroyed and removed by the storm surge, estimated to be between 20 and 30 feet.

A flood-related breach of a nearby refinery's oil tank released about 1 million gallons of crude oil, further damaging approximately 1,800 homes and polluting area canals.

Fishing communities in the eastern areas of the parish were destroyed.

Less than a month after Katrina, an 8-foot storm surge from Hurricane Rita breached recently repaired levees, and again caused widespread flooding in the parish.

In all, 127 St. Bernard citizens died, about 68,000 people were displaced, and 100 percent of the parish housing stock, over 25,000 units, was either destroyed or damaged so severely that it became uninhabitable.

All parish businesses and government buildings, and most utility systems, were also destroyed. Damaged levees, decimated wetlands, and the still-open MRGO have left the parish vulnerable to future storms.

Prior to Katrina, there were approximately 25,123 occupied housing units in St. Bernard Parish, consisting mostly of single family homes and apartments.

After the storms, the entire housing stock of the parish was submerged under storm water, for nearly 3 weeks in many areas. Many homes in the parish are damaged beyond repair and may need to be demolished.

By the time the waters receded, more than 80 percent of the housing stock had been damaged.

It makes very little sense to require communities to put up this match in their current financial condition. Doing so will only serve to delay rebuilding across the region.

If we fail to act, we abandon Federal precedent, and we allow FEMA to continue wasting hundreds of millions of taxpayer dollars on duplication and waste.

I remind my colleagues that these hurricanes caused the greatest natural disaster in the history of this country. I ask only that we offer the same treatment to victims along the Gulf coast that we have offered victims on 32 other occasion.

Unfortunately for the State and local governments in Louisiana, 10 percent translates into more than $1 billion that must be sent back to Washington. Louisiana has over 23,000 project worksheets pending, and Mississippi has over 10,000. Some people have suggested that the States provide this matching funding on behalf of the local governments. There are several reasons why that will not work.

All of the State's money for assistance to local governments exists in the form of Community Development Block Grants.

FEMA's Public Assistance Program and HUD's CDBG Program have separate accounting requirements, separate non-discrimination requirements, and separate environmental assessment requirements.

For the State to apply funding from CDBG for every single project, would require approximately $20,000 per project. That translates into nearly half-a-billion dollars wasted on administrative paperwork.

The State has asked for a single set of standards, but FEMA would not agree to this. The State has asked permission to provide a single payment to cover 10 percent match, after adding its share of all the pending projects, but FEMA would not allow this either. This Global Match would have saved thousands of man-hours and hundreds of millions of dollars, Louisiana has not been able to cut through the red tape though, and has been told it must waste this money on duplicative bureaucratic procedures.

This money could be reinvested into housing, infrastructure, and economic development, in order to bring families, communities, and businesses back to life in the Gulf region. It makes very little sense to require communities to put up this match in their current financial condition. Doing so will only serve to delay rebuilding across the region. These hurricanes caused the greatest natural disaster in the history of this country.

This amendment offers the same treatment to victims along the Gulf coast, that we have offered disaster victims on 32 other occasions. If we fail to act, we will have abandoned federal precedent in the midst of our county's worst disaster, and we will allow FEMA to continue wasting hundreds of millions of taxpayer dollars on unnecessary duplication and waste.

I ask unanimous consent that a letter to the President be printed in the RECORD.

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

U.S. SENATE,
Washington, DC, February 9, 2007.

The PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: As you are aware, FEMA regulations call for a ten percent match for every dollar made available through FEMA's public assistance program in connection with the effort to recover from Hurricanes Katrina and Rita. We understand that requiring states to match federal expenditure helps to encourage states to spend program funds more wisely. However, given the magnitude of this disaster and the extremely difficult circumstances that Louisiana and many Gulf Coast communities now face, we believe that the most appropriate step for the Federal government is to waive the match requirement in this case.

While the people of Louisiana are grateful to the nation for the help that they have received, the State still confronts a massive shortfall between the dollars that have come in from all sources and the real costs of recovery, a shortfall that the state estimates to be $40 billion. The $1 billion in matching funds that Louisiana could be required to send to the Federal government could be better spent on rental assistance, mental health, school infrastructure and a variety of other needs that have fallen through the cracks of the Stafford Act.

Although FEMA regulations encourage the President to require a 10 percent match for the PA program, the Stafford Act clearly gives the President the discretion to waive this matching requirement. To be certain, this is not a request without precedent or beyond the scope of the Federal government's earlier decisions. Since 1985, FEMA has granted waivers on the state match for public assistance in 32 different disasters. Yet having been battered by the first and third worst hurricanes in United States history, Louisiana must still meet the match requirement.

Per capita cost is the usual determinant regarding the need for a match. Louisiana's cost per capita was approximately $6,700. This is contrasted with two earlier cases where the state match was waived. In New York, after September 11th, the cost per capita was $390.00. In Florida, after Hurricane Andrew, the cost per capita was $139.00. These numbers, taken alone, illustrate the unprecedented level of damage that Louisiana has suffered and the massive scale of the challenge before us. However, taken with the realities that are evident when you visit the Gulf Coast and speak to state and local officials, it is clear that your decision to waive this requirement is not only prudent, but vital to the recovery effort.

In short, basic equity and previous precedent argues that Louisiana's state match be waived. We appreciate your attention to this matter, and look forward to your assistance.

With sincere regards,

Sincerely,

HARRY REID,
U.S. Senator.
MARY L. LANDRIEU,
U.S. Senator.
JOSEPH I. LIEBERMAN,
U.S. Senator.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, I make a motion to table the Coburn amendment No. 345 and ask unanimous consent that the vote commence at 6:15 this evening.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

AMENDMENT NO. 299 TO AMENDMENT NO. 275

Mr. STEVENS. Mr. President, I ask unanimous consent that the pending amendment be set aside so I may call up amendment No. 299.

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

The clerk will report.

The legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for himself, and Mrs. CLINTON, and Mr. INOUYE proposes an amendment numbered 299 to amendment No. 275.

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

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

The amendment is as follows:

(Purpose: To authorize NTIA to borrow against anticipated receipts of the Digital Television Transition and Public Safety Fund to initiate migration to a national IP-enabled emergency network capable of receiving and responding to all citizen activated emergency communications)

At the end of the amendment, insert the following:

TITLE XIV—911 MODERNIZATION

SEC. 1401. SHORT TITLE.

This title may be cited as the ''911 Modernization Act''.

SEC. 1402. FUNDING FOR PROGRAM.

Section 3011 of Public Law 109–171 (47 U.S.C. 309 note) is amended—

(1) by striking ''The'' and inserting:

''(a) IN GENERAL.—The''; and

(2) by adding at the end the following:

''(b) CREDIT.—The Assistant Secretary may borrow from the Treasury, upon enactment of this provision, such sums as necessary, but not to exceed $43,500,000 to implement this section. The Assistant Secretary shall reimburse the Treasury, without interest, as funds are deposited into the Digital Television Transition and Public Safety Fund.''.

SEC. 1403. NTIA COORDINATION OF E–911 IMPLEMENTATION.

Section 158(b)(4) of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 942(b)(4)) is amended by adding at the end thereof the following: ''Within 180 days after the date of enactment of the 911 Modernization Act, the Assistant Secretary and the Administrator shall jointly issue regulations updating the criteria to provide priority for public safety answering points not capable, as of the date of enactment of that Act, of receiving 911 calls.''.

Mr. STEVENS. This amendment has been cosponsored by Senators CLINTON, INOUYE, SMITH, SNOWE, and HUTCHISON.

Mr. President, 911 calls provide the first line of defense in the safety of our citizens and is critical to public safety personnel.

Technological advances now allow 911 calls to provide more information, such as the caller's location and telephone number. In too many parts of the country, the public safety community doesn't have the technology needed to receive location or other information. They need funding help to upgrade their equipment so this is possible.

Congress previously allocated $43.5 million as part of the Deficit Reduction Act of 2005 for E–911 grants, so the 911 system can be upgraded. However, as it currently stands, the grants cannot be awarded until after the digital television proceedings are completed.

Our amendment would add the 911 Modernization Act, S. 93, to this bill, which passed unanimously out of the Commerce Committee several weeks ago.

This would allow the National Telecommunications and Information Administration to borrow $43.5 million from the Treasury to fund the Enhance 911 Act Grant Program in advance of the spectrum auction. Because these funds are only advanced, the CBO has informed us that this amendment does not score.

The National Emergency Number Association that focuses on 911 recently announced that more than 20 percent of the country doesn't have enhanced 911 capability. That 20 percent is in rural America and covers 50 percent of the counties of our country.

There is a matching fund requirement in the underlying law to ensure that this money is spent wisely by public safety entities that are committed to improve the 911 calling capability of the citizens. This means that local governments must match under the law, and this enables us to know there is local support for the activities that would be financed by this money.

The amendment has the support of the Association of Public Safety Communications Officers International and the National Emergency Numbering Association. I will submit a letter from these two premier 911 public safety organizations for the RECORD. With this borrowing authority, the NTIA could get the money out to the public safety community now. The funds will be replaced, and enhanced 911 calls can begin saving lives in more of rural America. This is absolutely essential. Again, 50 percent of our counties do not have the ability to move forward unless this money is made available. Borrowing the money now, so it will be repaid out of the spectrum auction, is the best way to proceed.

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

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

FEBRUARY 5, 2007.

Hon. DANIEL INOUYE,
Chairman, Committee on Commerce, Science, and Transportation, U.S. Senate, Washington, DC.

Hon. TED STEVENS,
Vice-Chairman, Committee on Commerce, Science, and Transportation, U.S. Senate, Washington, DC.

DEAR CHAIRMAN INOUYE AND VICE-CHAIRMAN STEVENS: As you know, the 9–1–1 system is the connection to the public for daily emergencies and also plays a vital role in more significant homeland security events, from reporting on a potential outbreak to hazardous materials spills. In fact, as the connection to the general public, 9–1–1 centers are likely to be the first to know of a developing homeland security event. Thus, it is imperative that our 9–1–1 system be adequately funded to ensure that all Americans have access to a 9–1–1 system that is fully prepared to respond to requests for help in every situation.

Congress took steps to address the funding needs of 9–1–1 by passing the ENHANCE 911 Act of 2004. Unfortunately, no appropriations were provided for grants in the 109th Congress. However, thanks to your leadership, the Deficit Reduction Act of 2005 (P.L. 109–171) did include a provision that requires $43.5 million in spectrum auction proceeds to be allocated for grants to Public Safety Answering Points (PSAPs) authorized by the ENHANCE 911 Act. Currently, those grant funds will not be available until sometime in late 2008 or 2009 after auction revenues are deposited into the Treasury.

Obtaining funding for this grant program as soon as possible is critical to allow underfunded PSAPs to obtain the resources they need to upgrade their wireless E9–1–1 capabilities and for necessary staffing and training needs. Currently, nearly half of the counties in the United States do not contain a PSAP with the ability to precisely locate wireless 9–1–1 calls. Therefore, we were pleased with the introduction of the 911 Modernization Act (S. 93) by Vice-Chairman Stevens which would provide NTIA with advanced borrowing authority for the $43.5 million provided in the Deficit Reduction Act and make those funds immediately available for grants. We strongly support ensuring that immediate funding is provided for 9–1–1 and hope your offices will work together to make this legislation, and 9–1–1 funding in general, a priority.

In addition to the 911 Modernization Act, it is also imperative that Congress provide sufficient funding to NHTSA and NTIA in the FY 2008 budget for ENHANCE 911 Act grants and for the administration of the 9–1–1 Implementation and Coordination Office (ICO). Providing this funding will ensure that the potential of the ENHANCE 911 Act to greatly improve 9–1–1 service is fully realized. Thank you for your continued leadership on 9–1–1 and emergency communications issues and we look forward to continue working with you and your staff on these and other important issues.

Sincerely,

JASON BARBOUR,
President, NENA.
WANDA MCCARLEY,
President, APCO International.

Mr. STEVENS. 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.

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

The PRESIDING OFFICER (Ms. CANTWELL). Without objection, it is so ordered.

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

Ms. LANDRIEU. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 295, AS MODIFIED

Ms. LANDRIEU. Madam President, I send to the desk a modification to my amendment.

Ms. COLLINS. Madam President, I have no objection to the modification.

The PRESIDING OFFICER. Without objection, the amendment is so modified.

The amendment, as modified, is as follows:

At the end of title XV, add the following:

SEC. _____. FEDERAL SHARE FOR ASSISTANCE RELATING TO HURRICANE KATRINA OF 2005 OR HURRICANE RITA OF 2005.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Federal share of

any assistance provided under section 406 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5172) because of Hurricane Katrina of 2005 or Hurricane Rita of 2005 or Hurricane Wilma of 2005 shall be 100 percent.

(b) EFFECTIVE DATE.—This section shall apply to any assistance provided under section 406 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5172) on or after August 28, 2005.

Ms. COLLINS. 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.

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

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

Ms. COLLINS. Madam President, what is the pending business?

The PRESIDING OFFICER. Under the previous order, a vote now occurs on the motion to table the Coburn amendment, No. 345.

Ms. COLLINS. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Delaware (Mr. BIDEN) and the Senator from South Dakota (Mr. JOHNSON) are necessarily absent.

Mr. LOTT. The following Senators are necessarily absent: the Senator from Idaho (Mr. CRAPO) and the Senator from Arizona (Mr. KYL).

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

The result was announced—yeas 71, nays 25, as follows:

[Rollcall Vote No. 66 Leg.]

YEAS—71

Akaka	Gregg	Obama
Baucus	Hagel	Pryor
Bayh	Harkin	Reed
Bennett	Hatch	Reid
Bingaman	Hutchison	Roberts
Bond	Inouye	Rockefeller
Boxer	Kennedy	Salazar
Brown	Kerry	Sanders
Bunning	Klobuchar	Schumer
Byrd	Kohl	Shelby
Cantwell	Landrieu	Smith
Cardin	Lautenberg	Snowe
Carper	Leahy	Specter
Casey	Levin	Stabenow
Clinton	Lieberman	Stevens
Cochran	Lincoln	Sununu
Conrad	Lott	Tester
Craig	McCaskill	Vitter
Dodd	Menendez	Voinovich
Domenici	Mikulski	Warner
Dorgan	Murkowski	Webb
Durbin	Murray	Whitehouse
Feingold	Nelson (FL)	Wyden
Feinstein	Nelson (NE)	

NAYS—25

Alexander	Coleman	Ensign
Allard	Collins	Enzi
Brownback	Corker	Graham
Burr	Cornyn	Grassley
Chambliss	DeMint	Inhofe
Coburn	Dole	Isakson
Lugar	McConnell	Thune
Martinez	Sessions	
McCain	Thomas	

NOT VOTING—4

Biden	Johnson
Crapo	Kyl

The motion was agreed to.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Iowa is recognized. Mr. GRASSLEY. Madam President, I rise to offer amendment No. 386.

Mr. LIEBERMAN. Madam President, I object. If I may explain with respect to the Senator from Iowa?

The PRESIDING OFFICER. The Senate will be in order.

The Senator from Connecticut is recognized.

Mr. LIEBERMAN. Madam President, the Senator from Iowa has, in the normal course of Senate proceedings, asked unanimous consent to set aside the pending amendment to offer an amendment of his own. I am objecting to that. I want to explain why.

We now have 50 amendments pending. We have a group of amendments Senators Collins and I have agreed on and are willing to offer by consent, but at least two Senators are objecting to us doing that until there is an agreement to vote on amendments that they want a vote on.

We have a very important bill that has a sense of urgency to it, the 9/11 legislation. Therefore, as the manager of the bill on this side—and, incidentally, I will add that cloture was filed, surprisingly, on four of the amendments. We have come to a point where the bill as reported out of our committee on a nonpartisan vote is ready to go. But these 50 amendments are stopping it from getting to a conference with the House.

Until we have an agreement across party lines as to how we are going to proceed, I am going to, respectfully, with no prejudice to my friend from Iowa, object to setting aside the pending amendment, which is the Stevens amendment, No. 299. That would be for anyone else who would want to offer an amendment at this time, until there is an agreement on how we are going to proceed to get this urgent bill passed, hopefully, by the end of the week.

The PRESIDING OFFICER. Objection is heard.

The Senator from Iowa.

AMENDMENT NO. 386

Mr. GRASSLEY. Madam President, I would like to offer another amendment to S. 4 that seeks to strengthen our Nation's homeland security by closing a loophole in our securities laws. My amendment would amend section 203(b)(3) of the Investment Advisers Act of 1940 and would narrow an exemption from registration for certain investment advisers. There is a homeland security element to this fix because it can sometimes be important to know who is managing large sums of money for wealthy foreign investors. For example, it was recently reported that a Boston-based private equity firm, Overland Capital Group, Inc, is under investigation by the IRS and DOJ counterterrorism division. Such firms, which manage hundreds of millions of dollars for wealthy investors in total secrecy, ought to have to at least register with the SEC.

Currently, section 203(b)(3) of the Investment Advisers Act provides a statutory exemption from registration for any investment adviser who had fewer than 15 clients in the preceding 12-month period and who does not hold himself out to the public as an investment adviser. This amendment would narrow this exemption, which is currently used by large, private pooled investment vehicles, commonly referred to as hedge funds. These hedge funds use this section of the securities laws to avoid registering with the Securities and Exchange Commission—SEC.

Much has been reported during the last few years regarding hedge funds and the market power they yield because of the large amounts of capital they invest. In fact, some estimates are that these pooled investment vehicles are trading nearly 30 percent of the daily trades in U.S. financial markets. The power this amount of volume has is not some passing fad, but instead represents a new element in our financial markets. Congress needs to ensure that we know who is running these large vehicles to ensure the security of those markets.

The failure of Amaranth and the increasing interest in hedge funds as investment vehicles for public pension money means that this is not just a high stakes game for the super rich. It affects regular investors. Indeed, it affects the markets as a whole. My recent oversight of the SEC has convinced me that the Commission and the Self-Regulatory Organizations—SROs—need much more information about the activities of hedge funds in order to protect the markets from institutional insider trading and other potential abuses. This is one small and simple step toward greater transparency—to require that hedge funds register and tell the regulators who they are. This is not a burden, but rather a simple, common sense requirement for organizations that wield hundreds of billions of dollars in market power every day. The SEC has already attempted to do this by regulation.

Congress needs to act because of a decision made last year by a Federal appeals court, the D.C. Circuit Court of Appeals. In 2006, the D.C. Circuit Court of Appeals overturned a SEC administrative rule that required registration of hedge funds. This decision effectively ended all registration of hedge funds with the SEC.

My amendment would narrow the statutory exemption from registration and bring much needed transparency to hedge funds. The amendment would authorize the SEC to require investment

advisers to register unless the adviser: No. 1, had $50 million or less in assets under management, No. 2, had fewer than 15 clients, No. 3, did not hold himself out to the public as an investment adviser, and No. 4, managed the assets of fewer than 15 investors, regardless of whether the investors participate directly or through a pooled investment vehicle, such as a hedge fund.

This amendment is a first step in ensuring that the SEC has the needed statutory authority to do what it attempted to do for the last 2 years. I urge my colleagues to support this amendment as we work to protect investors large and small.

I am not surprised by the objection today. For the record, I want everyone to know that this morning when I said I intended to offer this amendment, my phones started ringing off the hook. Lots of powerful people don't want to see an amendment like this, but Americans want their Government to know who is running these funds.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. INHOFE. Mr. President, today, I wish to speak to my amendment No. 381 that seeks to improve the U.S.'s national security through increasing our ability to fuel our country from domestic resources.

Americans are familiar with the violence, terrorism, and instability in the Middle East. But forms of that instability are spreading around the world, including to our own backyard.

This chart by the Energy Information Agency summarizes some of the energy security hot spots around the world. Since September 2005 when this chart was made, U.S. security interests have gotten even worse in some regions. On February 26, Venezuelan President Hugo Chavez nationalized U.S. oil interests—the motivation for the Soviet-style move was to improve Venezuelan strategic interests.

Adding insult to injury, while signing an agreement allowing Chinese companies to explore in Venezuela, Mr. Chavez stated that, ''We have been producing and exporting oil for more than 100 years but they have been years of dependence on the United States. Now we are free and we make our resources available to the great country of China.''

China has recognized that energy is a true security interest and has inked deals with Russia and OPEC, along with Castro's Cuba.

The fact is that our national security is linked with our energy security. Yet even if we were to stop importing oil from the Middle East tomorrow our national security interests would still be at risk.

And we are not alone.

European Union countries as a whole import 50 percent of their energy needs, a figure expected to rise to 70 percent by 2030. A significant and increasing volume of those imports come from Russia.

In December 2005, Russia decided to turn off the gas to Ukraine, affecting imports into Italy, Austria, Germany, Poland, and Slovakia. A similar dispute between Russia and Belarus affected Germany's oil imports.

According to the Congressional Research Service, global energy demand is expected to rise by nearly 60 percent over the next 20 years.

In order to meet motorists' demands today and tomorrow and the global struggle for energy security, I am introducing the Domestic Fuels Security Act.

The Domestic Fuels Security Act lays out a coordinated plan to increase the production of critical clean transportation fuels for today and tomorrow in four significant ways.

First, the amendment provides a coordinated process whereby the Federal Government—at the option of a Governor and in consultation with local governments—would be required to assist the State in the permitting process for domestic fuels facilities. These would include coal-to-liquids plants, modern refineries, and biorefineries. And this voluntary, coordinated, from-the-grassroots-up process would do so without waiving any environmental law.

Second, the amendment would look to the future and conduct a full environmental review of fuel derived from coal.

The U.S. has 27 percent of the world's coal supply—the largest in the world—nearly 250 billion tons of recoverable reserves. It is critical that we learn to use what we have and do so in an environmentally responsible way.

Third, the amendment seeks to spur a viable coal-to-liquids industry in a comprehensive way. In order for a new fuels industry—to develop three components are required—upfront costs to design and build, a site to do it, and a market to sell the product.

The amendment provides loan guarantees and loans for the startup costs. It provides incentives to some of the most economically distressed communities—Indian tribes and those affected by BRAC—to consider locating a facility in their backyard through Economic Development Administration grants. Last, the amendment requires the Department of Defense to study the national security benefits of having a domestic coal-to-liquids, CTL, fuels industry to comprehensively assess a new market.

I have to give credit to my colleagues, Senators BUNNING, OBAMA, LUGAR, PRYOR, MURKOWSKI, BOND, THOMAS, CRAIG, MARTINEZ, ENZI, and LANDRIEU, who together had introduced a bill with similar language. I am hopeful that they will join me in moving this amendment.

We can all agree that increasing domestic energy security is a vital objective. Yet it also provides good jobs.

According to the Illinois Department of Commerce and Economic Opportunity, a CTL plant, with an output of 10,000 barrels per day, can support 200 direct jobs onsite, at least 150 jobs at the supporting coal mine, and 2,800 indirect jobs throughout the region. During construction, another 1,500 temporary jobs will be created.

Fourth, cellulosic biomass ethanol—renewable fuel from energy crops like switchgrass—is a popular concept but faces financial barriers. Recently, the Federal Government has released some initial money to help develop the industry, but more could be done.

In order to entice private sector investment, it is important for the collective fuels industry and motorists to know what our renewable resource base is, as well as traditional fuels. This amendment requires the Securities and Exchange Commission to convene a task force to assess how we should modernize our reserves—both traditional and renewable for cellulosic biomass ethanol feedstocks.

Energy security, job security, American security—please join me in passing the Domestic Fuels Security Act.

Mr. President, I ask unanimous consent to have printed in the RECORD the chart to which I referred.

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

OIL AND NATURAL GAS HOTSPOTS FACTSHEET

Country/Region	Petroleum Prod'n (2004) ('000 bbl/d)	Petroleum Prod'n (2010) ('000 bbl/d)	U.S. Imports (Jan–Mar '05)('000 bbl/d) [1]	Strategic Importance/Threats
Iran	4,100	4,000	0	Even though no direct imports to US, still exports 2.5 million bbl/d to world markets.
Iraq	2,025	3,700	516	April 2003–May 2005—236 attacks on Iraqi Infrastructure.
Libya	1,600	2,000	32	Newly restored diplomatic relations, Western IOCs not awarded contracts in 2nd EPSA round.
Nigeria	2,500	2,600	1,071	High rate of violent crime, large income disparity, tribal/ethnic conflict and protests have repeatedly suspended oil exports.
Russia	9,300	11,100	419	2nd only to S.A. in oil production, Yukos affair has bred uncertain investment climate.
Saudi Arabia	10,400	13,200	1,614	Long Term stability of Al-Saud family, Western oil workers subject to attacks.
Sudan	344	530*	0	Darfur crisis & N–S conflict threatens government stability, security of oil transport.

OIL AND NATURAL GAS HOTSPOTS FACTSHEET—Continued

Country/Region	Petroleum Prod'n (2004) ('000 bbl/d)	Petroleum Prod'n (2010) ('000 bbl/d)	U.S. Imports (Jan–Mar '05)('000 bbl/d) [1]	Strategic Importance/Threats
Venezuela	2,900	3,700	1,579	Large exporter to U.S., President Chavez frequently threatens to divert those exports, nationalize resource base.
Algeria	1,900	2,000	414	Armed militants have confronted gov't forces.
Bolivia	40	45*	0	Large reserves of NG (24 (Tcf)), exports may be delayed due to controversial new laws unfriendly to foreigners.
Caspian Sea	1,800	2,400–5,900	0	BTC opened, many ethnic conflicts, high expectations or future oil production, no maritime border Agt.
Caucasus Region 2	negligible	negligible	0	Strategic transit area for NG and oil pipelines.
Colombia	551	450*	110	Destabilizing force in S. America, oil exports subject to attack by protesters, armed militants.
Ecuador	535	850*	315	Unstable politically, protests threaten oil export.
Indonesia	900	1,500	0	No longer a net exporter, separatist movements, Peacekeeping forces in place, Violence threat to Strait of Malacca.

9/11 HEALTH ISSUES

Mrs. CLINTON. Mr. President, more than 5 years after the 9/11 attacks, the number of victims continues to rise because of the lasting health impacts experienced by far too many of those who selflessly responded to this disaster in 2001. On that day, and in the following months, thousands worked and lived by the Ground Zero site, amidst the dust, smog, and toxic mix of debris. And now we are seeing those workers, responders, and residents become sick from what they were exposed to on 9/11 and the following months. I believe we have a moral obligation to take care of those suffering from 9/11-related illnesses.

The work of Senator HARKIN, Senator BYRD, Senator SPECTER, and all of their colleagues on the Senate Appropriations Committee has been invaluable in securing funding to address many of the health issues that have appeared following 9/11. In December 2001, we learned that hundreds of firefighters were on medical leave because of injuries related to 9/11 issues, and the Appropriations Committee responded by allocating $12 million for medical monitoring activities so that we could track and study the health impacts associated with the rescue and response efforts at the World Trade Center. Thousands of individuals signed up for this program, and in Congress, we worked to meet the demand by appropriating an additional $90 million to monitor other workers and volunteers who were at Ground Zero and Fresh Kills.

Through this work, we learned that many of those who were exposed are now experiencing significant health problems from this exposure—people who were in the prime of their life before 9/11 now suffering from asthma, sinusitis, reactive airway disease, and mental health issues. So in December 2005, I worked with Senator HARKIN and other appropriators, as well as my colleagues in the New York Congressional Delegation, to secure an additional $75 million in funding that would for the first time provide Federal funding for treatment to help those who were disabled by these attacks get the care that they needed.

Sadly, we are once again running out of funding to take care of the heroes who never questioned their responsibility on 9/11 and are now paying a terrible price. While the President has proposed providing additional funding for treatment in the fiscal year 2008 budget, we must act sooner to provide sufficient funds to ensure treatments through the rest of the current fiscal year.

That is why I introduced an amendment to the 9/11 bill we are considering today to divert $3.6 million in funding—originally part of that $20 billion secured for New York in the wake of 9/11 that the administration proposed to cut in its fiscal year 2008 budget. At a time when treatment needs are so urgent, I believe that we need to ensure that dollars that were intended for 9/11 needs can be used to address the mounting health crisis that we are facing as a direct result of these attacks. I believe it is important to raise awareness of the fact that these programs—programs that are helping tens of thousands of first responders in New York and around the Nation—are in danger of having to turn patients away.

I am extremely grateful for what we have been able to accomplish with the support of Senator HARKIN and other appropriators. They have shown that they consider it our national responsibility to care for those who did our country proud in the hours, days, weeks, and months following that horrific attack. I am also proud that I will be working with my colleagues on the Senate Health, Education, Labor and Pensions Committee, including Senators KENNEDY, ENZI, and HARKIN, to develop a lasting solution to address these health care needs. But while we are working on those solutions, we must ensure that these programs continue to operate.

Mr. HARKIN. I thank my good friend and colleague, Senator CLINTON, for her kind remarks. The terrorist attacks of 9/11 took place nearly 1,000 miles from Iowa. But the attacks on the World Trade Center and the Pentagon were really an attack on the heart of America. Iowans answered the call of service and came to the aid of those affected by these attacks. The Musco Lighting Company from Muscatine donated lighting equipment to assist the World Trade Center recovery efforts. Quad-Cities fire departments collected more than $75,000 for the Uniformed Fighter Association's 9/11 Disaster Relief Fund.

And just as Iowans and other Americans responded to the calls for help, I am proud that the Appropriations Committee has worked step by step with the New York delegation to address the many desperate needs that arose from 9/11. I was proud to work with Senator CLINTON, Senator BYRD, and my colleagues on the Appropriations Committee to secure $20 billion immediately after 9/11 to help both short and longer term recovery efforts at Ground Zero, the Pentagon, and Shanksville, PA. The funding for tracking health outcomes is a particular concern to myself and Senator SPECTER. This funding has been used to monitor not only the brave responders and recovery workers who live in New York, but also all who responded from around the country, including more than 35 from Iowa.

I thank you for your leadership on this issue and I look forward to working with you on the upcoming emergency supplemental appropriations bill to maintain the current monitoring and treatment program for 9/11 responders and recovery workers.

Mrs. CLINTON. I thank the Senator. On behalf of the thousands of firefighters, police officers, rescue workers, residents, students, and others who are suffering from 9/11-related illnesses, I look forward to working with you on the upcoming emergency supplemental appropriations legislation to ensure that those who are sick can receive the care they need. With this commitment, I will withdraw my amendment to this legislation.

MORNING BUSINESS

Mr. LIEBERMAN. Mr. President, I wish we could pass the bill tonight, but until disputes about the pending amendments are resolved—and I hope we can do that quickly overnight and tomorrow morning—there is nothing more we can do on the bill.

With the agreement of my ranking member, I ask unanimous consent that the Senate now be in a period of morning business for Senators to speak for up to 10 minutes each.

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

TRIBUTE TO THE LATE SENATOR TOM EAGLETON

Mr. KERRY. Mr. President, Missouri's own Harry Truman once said:

> A politician is a man who understands government. A statesman is a politician who has been dead for 10 years.

Somehow, another son of Missouri, Senator Tom Eagleton, managed to be both a keen master of government and a statesman in his own lifetime, as well as a dear friend of many in this Chamber. On this past Sunday, Tom passed away at age 77.

Tom Eagleton was a man who radiated wit, warmth, and a brand of intellectual and moral seriousness that

commanded respect, even as he won the affection of all those around him. A Senator and a statesman, a humanitarian and a humorist, Tom left his indelible mark on the issues that mattered most to him. His proudest accomplishment in a superb career in public life, and in the Senate particularly, was an amendment to cut off funds for America's disastrous bombing of Cambodia. He was also a principal author of the Senate's War Powers Resolution, which sought to dramatically limit the President's ability to commit forces abroad without the consent of Congress.

Ever true to his principles, Tom voted against the version that was reported by the conference committee, which he believed the executive would ultimately exploit as a 60-day blank check to use armed force. Over President Nixon's veto, and without Senator Eagleton's vote, the bill was passed. As usual, Tom Eagleton's concerns proved only too prescient.

Senator Eagleton was a fierce and passionate critic of the Vietnam war, and he worked tirelessly to end that conflict. In 1971 he made a statement before the Senate Foreign Relations Committee, one that I remember. It came about 3 weeks or so after I had been privileged to testify to that committee. He made an argument that resonates as clearly today as it did at the time he made it. He spoke of the need to set a firm date for withdrawal.

In an essay he wrote entitled ''Whose Power Is War Power,'' he quoted Justice Story:

> In a Republic, it should be difficult to make war and easy to make peace.

And yet, he said:

> In Vietnam, war came easy and peace comes hard.

His words ring equally true of the war in Iraq, a war he fervently opposed from the outset.

For a brief period of time, for the 2 years our careers overlapped in the Senate, I had the privilege of working closely with Tom. He was as decent and as humble as he was passionate. I remember, when I first came to the Senate in 1985, Tom and I were unlikely seatmates, the two most recent additions to the Foreign Relations Committee. He wrote a letter, spontaneously, to Senator Pell, then the committee chair. If there was an opportunity for him to serve as a ranking minority Democrat on a subcommittee, he said: ''I would prefer to forego [it] in favor of Senator Kerry.''

It was a magnanimous gesture that impressed me enormously, and also made a difference to my early involvement in the Foreign Relations Committee. In a place where seniority counts—then a lot more than even today, where prerogatives matter—and sometimes far too much, it was unusual to defer to a freshman Senator as he did. But that was Tom Eagleton.

Tom's collegiality didn't stop at the aisle. One of his great friends in the Senate was his junior Senator, his colleague from Missouri, Republican Senator John Danforth. He championed Jack's nomination to become U.N. Ambassador and the two cooperated on countless issues, most recently as ex-Senators, cochairing Missouri's stem cell initiative to protect all forms of stem cell research allowed under Federal law. They were friends for 40 years, and colleagues in the Senate for 10. They showed a spirit of bipartisan cooperation too often missing from today's politics.

On so many issues, Tom Eagleton was a trailblazer and a visionary. He helped to write the Clear Air Act of 1970 and the Clean Water Act of 1972, foundations of today's environmental protection regime.

He was among the few in the Senate to oppose the Reagan tax cuts as he said: ''Once again, once again,'' shouting in his famous baritone, ''largesse to the rich.''

As he left Washington 20 years ago, he sounded an early warning that there was too much money in American politics, and he was a staunch critic of the Iraq war, from its initial walkup to the present.

Tom Eagleton blazed other trails as well. In 1956 he became the youngest circuit attorney in the history of St. Louis, a record that still stands. And in 1960, when he ran for Missouri attorney general on the same ticket as another Catholic, John F. Kennedy, he held his ground when anti-Catholic bigots scrawled graffiti over his campaign posters. Tom Eagleton, in all of his career, never lost a Missouri election in his entire life.

Tom's pre-Senate career took him from the Navy to the district attorney's office to the lieutenant governorship. I might add, parenthetically, it happens to be the exact same course I followed. He was the youngest Lieutenant Governor in Missouri's history. I empathized personally with his quip that Missouri's No. 2 spot was good for standing at the window and ''watching the Missouri River flow by.''

Tom Eagleton was a quick wit, but he was also a man fully committed to living by his conscience, whether it led him to take conservative positions on social issues or even to censure a colleague from his own side of the aisle after ethical lapses. As the Senate debated ousting a Democratic Senator who had been convicted of bribery and conspiracy, Senator Eagleton was firm. He said, ''We should not perpetrate our own disgrace by asking him to remain.'' He loved justice, and it is fitting that the Federal courthouse in downtown St. Louis now bears his name.

In 1968, his commitment to reform led him to challenge a sitting Democratic Senator whose record, many believed, was tarnished by corruption. After the race, his defeated opponent said bitterly:

> The man who builds a house on public service builds it of straw and on sand.

But Tom Eagleton proved that wrong. He retired in 1987 with the love and admiration of millions in his home State of Missouri and across the country. When he announced in 1984 that he would not seek reelection to a fourth term, his statement was full of the same personal humility that had led him to hand over his seniority to a freshman Senator. He declared that ''public offices should not be held in perpetuity'' and added that he had enjoyed ''a full and complete career.''

As his colleague Dale Bumpers of Arkansas said:

> Tom's goal was never to be carried out of the Senate in a pine box. He chose his career in politics because he considered it the best place from which to promote justice, nobility, freedom and dignity.

When Tom announced he would not seek reelection, the Kansas City Star summed up the legacy he was leaving behind:

> Senator Thomas F. Eagleton is the kind of politician the system is supposed to produce but so rarely does. He has elevated the job of politics because he does not accept the conventional denigration of politics. He believes it is a noble profession, and in the hands of such as himself, it is exactly that.

In the two decades since he left the Senate, Tom never let go of his indefatigable sense of justice, his unique sense of humor, his taste for politics, or his love of Missouri. Once, after a ''Meet the Press'' appearance a few years ago that I was on, Tom sent me a handwritten note afterward. He said that while he thought I ''demolished'' my Republican counterpart, I really ''should have knocked his toupee off his head.'' That was Tom Eagleton, always seeing the humorous or absurd, and he sent a lot of Senators personal notes such as that over the years that made us laugh. He was the point man for the effort that wooed the Rams football team from Los Angeles to St. Louis, and even Tom was stunned by the affection that football fans showed him on the streets of St. Louis—particularly after the Rams' Super Bowl victory in 2000.

After a plane crash killed Governor Mel Carnahan, the Missouri Democratic nominee for the Senate in October 2000, it was Senator Eagleton who took the lead in knocking down spurious claims that it would be illegal to keep Carnahan's name on the November ballot.

In addition to his three books, Tom wrote over 50 op-eds for his hometown newspaper after leaving the Senate at age 57. He truly believed in the word ''citizenship.''

In the last of those op-eds, published November 3, 2005, Senator Eagleton was candid in his analysis of the current disaster in Iraq. He wrote:

> Hubris is always the sword upon which the mighty have fallen.

And:

> From here on, any President will have to level with the American people before going to war.

Tom Eagleton loved the Senate. He loved this institution. He was an expert in its rules and procedures and he believed in the constitutional power to

make decisions of war and peace. In addition to his most famous book, ''War and Presidential Power: A Chronicle of Congressional Surrender,'' he also coauthored a textbook for high school students called ''Our Constitution and What It Means.'' Most of all, you could see the pleasure he took from simply being here.

Above all, Tom Eagleton loved his family, his home State of Missouri, and the St. Louis Cardinals. At one point he even considered applying to become the Commissioner of Major League Baseball, but he couldn't give up his Senate seat as long as Missouri had a Republican Governor to appoint his successor.

This January, Tom celebrated his 50-year anniversary with his wonderful wife Barbara. Together they raised two children, Terence and Christy, and three grandchildren. Tom Eagleton was the quintessential family man. He never stopped giving. He gave his life to serving his State and his country, and when he died he left instructions that his body was to be given to Washington University for medical research.

Senator Tom Eagleton lived a full and remarkable life, and all of his colleagues and all the country will miss him dearly. He died with no regrets. ''My ambition,'' he said, ''since my senior year in high school was to be a Senator.''

Not everybody achieves their ambition. Tom Eagleton actually did a lot more than that. He achieved his own ambitions and earned the love and enduring respect of millions. Along the way, he inspired so many of us, not least of all the no-longer-freshman Senator from Massachusetts who, 23 years later, rises sadly and proudly to pay tribute to the man who once gave up his seniority but never gave up his principles.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

2007 NCAA RIFLE CHAMPIONSHIPS

Mr. STEVENS. Mr. President, I am pleased to report the 2007 National Collegiate Men's and Women's Rifle Championships will be held in Fairbanks, AK on March 9 and 10. Forty-eight student-athletes will participate in this exciting competition.

Although rifle is relatively new as an NCAA sport, 44 colleges and universities now sponsor rifle teams. Nationwide, hundreds of student-athletes compete in this sport. These young men and women are tremendously skilled—to score a bull's-eye in the smallbore competition, for instance, shooters must strike a target the size of the period at the end of this sentence. Remarkably, they are able to consistently hit this mark from a distance of 50 feet.

Like more traditional sports, rifle has a positive impact on its participants. Marsha Beasley, the former head coach of West Virginia University's team, once observed: ''Rifle provides a wonderful opportunity to learn many life skills such as self-discipline, concentration, the ability to relax under pressure, goal-setting, sportsmanship and teamwork.'' Just as important, rifle teaches participants how to handle guns in a safe, responsible manner. It is also one of the few sports where men and women compete against each other as equals.

Rifle competition has a great history in our State, and Alaskans are honored the NCAA has chosen Fairbanks as this year's host. The timing of this event is particularly fitting—2007 marks the 70th anniversary of the University of Alaska Fairbanks' first rifle team.

Over the years, UAF has found great success in this sport. The university is the NCAA's reigning rifle champion and has claimed the national title in 7 of the past 8 years. Since 1988, 39 Nanooks have been selected as All-Americans in rifle. Seven of these competitors have won individual rifle championships.

Rifle's popularity is also apparent throughout our state. Today, Fairbanks is one of several Alaska cities with a robust rifle community, and many high schools in our state now sponsor rifle teams as well.

Mr. President, while I will be rooting for the home team, the University of Alaska Fairbanks, I wish each participant the best in this competition. The names of each team and individual selected for the 2007 National Collegiate Men's and Women's Rifle Championships are as follows:

Team Qualifiers: Jacksonville State University, Murray State University, Texas Christian University, United States Military Academy, United States Naval Academy, University of Alaska Fairbanks, University of Kentucky, University of Nebraska.

Individual Qualifiers (Smallbore Three-Position): Matthew Hamilton—United States Military Academy, Lee Lemenager—University of Nevada, Reno, Layne Lewis—University of Alaska Fairbanks, Jennifer Lorenzen—University of Mississippi, Meghann Morrill—University of Nevada, Reno.

Individual Qualifiers (Air Rifle): Erica Burnham—Tennessee Technological University, Wesley Hess—United States Military Academy, Ashley Jackson—University of Kentucky, Keegan Singleton—University of Memphis, Leah Wilcox—University of Texas at EI Paso, Shannon Wilson—University of Mississippi.

HONORING HERMAN JOSEPH GESSER III

Ms. LANDRIEU. Mr. President, I rise to pay tribute to a staff member who is, unfortunately, leaving to go back to Louisiana. I want to spend a few minutes talking about his wonderful service.

Herman Joseph Gesser came to work in Washington for 1 year. He is an attorney and a very able architect and thought he would come and work here for the Louisiana delegation to contribute to our State and to learn the ways of Washington in public service. Ten years later, he is still here. We are sad to see him return to Louisiana, but family responsibilities and duties call him home.

He has been projects director and general counsel of my office now for 9 years. He has served with diligence and dedication, honesty, integrity, and creativity. He is truly one of the most sought after and popular members of the Senate staff. He has worked on transportation projects. He has been an expert on Corps of Engineers projects, someone whom both Republican and Democratic staffers trust to give them just the facts, give it to them straight, and give it to them quickly.

I laugh and say everybody in Louisiana needs a Bubba on their staff. I sure have had a very special Bubba on my staff for all these many years, as he is called and referred to kindly and in a very friendly way.

Bubba has served the people of his home parish, New Iberia Parish, with distinction. He has done some extraordinary work, as I said, in the area of transportation. He is going to be missed.

He really is a true example of selfless service. He could be, Mr. President—as you know, many of our staff could make a great deal more money, particularly in his case with the double degrees he has as a lawyer and an architect. But yet for 10 years, he has chosen to serve and stay through the challenges of Katrina and Rita where his talents and abilities were called on literally daily and was one of the go-to people I counted on to give me facts, to give them to me quickly so I could advocate more effectively on behalf of the 4.5 million people in Louisiana and the millions of people who live in the gulf coast area.

I wanted to publicly recognize Herman Joseph Gesser, a citizen of Louisiana and a great servant to the people of our State in such a time of need.

I know his father is very proud of him. I know his mother, who just passed away last year, still continues to give him blessings from Heaven, and that his extended family and many friends are very grateful to him for the support he has given to us all these many years.

His homecoming in south Louisiana will be greeted with fanfare by his hometown, but it will be a great loss to the Landrieu staff in Washington, DC.

RECOGNIZING FIRST ROBOTICS

Mr. REID. Mr. President, it is my privilege to recognize the outstanding achievements of today's youth in science and engineering. On March 27, I am pleased to join with the city of Las Vegas in welcoming the FIRST Robotics, FRC, Regional Competition to Nevada.

FIRST was founded in 1989 through the vision of inventor Dean Kamen to inspire interest and participation in science and technology. As a result of his leadership, FIRST has grown into one of the leading robotics competitions in the entire country. This

project has even grown to include a partnership with the UNLV Howard R. Hughes College of Engineering.

I am pleased to welcome 12 local teams as well as 50 teams from across the country and the world to Las Vegas and to UNLV. I hope they will be able to enjoy everything Las Vegas has to offer. It is also important to recognize the contributions of the parents, teachers, mentors, volunteers, and sponsors for this event. Without their support, I am certain this event would not be possible.

With the backing of the entire Las Vegas community, I am certain that the FIRST Robotics, FRC, Regional Competition will be an outstanding success. Mr. President, I wish all the participants success in the competition and in the future.

VOTE EXPLANATION

Mr. BROWNBACK. Mr. President, I regret that I was unable to vote the evening of March 5 on the confirmation of the nomination of Carl J. Artman, of Colorado, to be Assistant Secretary of the Interior.

I wish to address this confirmation so that the people of the great State of Kansas, who elected me to serve them as U.S. Senator, may know my position.

Regarding vote No. 59, on the confirmation of the nomination of Carl J. Artman, of Colorado, to be Assistant Secretary of the Interior, I would have supported the confirmation of Mr. Artman. My vote would not have altered the outcome of this confirmation.

IN HONOR OF VACLAV HAVEL

Mr. BROWNBACK. Mr. President, today I wish to join my colleagues from the Helsinki Commission in commemorating the founding of the Charter 77 movement 30 years ago, and praising Vaclav Havel, one of Charter 77's first spokesmen and the first post-Communist President of Czechoslovakia.

Many aspects of Vaclav Havel's biography are well known. His advanced formal education was limited by the Communist regime because of his family's pre-World War II cultural and economic status. By the 1960s, he was working in theater and writing plays. But by 1969, the Communist regime had deemed him ''subversive,'' and his passport was confiscated.

In 1977, he took the daring step of joining two others—Jan Patocka and Jiri Hajek—in becoming the first spokesmen for the newly established ''Charter 77'' movement. This group sought to compel the Czechoslovak Government to abide by the international human rights commitments it had freely undertaken, including the Helsinki Final Act.

In the 1970s and 1980s, Vaclav Havel was repeatedly imprisoned because of his human rights work. His longest period of imprisonment was 4½ years, 1979–1983, for subversion. After this, Havel was given the opportunity to emigrate but, courageously, he chose to stay in Czechoslovakia. By February 1989, Havel had come to symbolize a growing human rights and democratic movement in Czechoslovakia and, that year, the Helsinki Commission nominated him for the Nobel Peace Prize.

Remarkably, in November 1989, the repressive machinery of the Communist regime—a regime that for five decades had persecuted and even murdered its own citizens—collapsed in what has come to be known as the ''Velvet Revolution.''

To understand just how repressive the former regime was—and therefore how stunning its seemingly sudden demise was—it may be instructive to recall the first measures of the post-Communist leadership, introduced in the heady days of late 1989 and early 1990. First and foremost, all known political prisoners were released. Marxism-Leninism was removed as a required course from all school curricula. Borders were opened for thousands of people who had previously been prohibited from traveling freely. Control over the People's Militia was transferred from the party to the Government. The Federal Assembly passed a resolution condemning the 1968 Soviet-led invasion of Czechoslovakia. Approximately 40 Ambassadors representing the Czechoslovak Communist regime were recalled. Newly appointed Foreign Minister Jiri Dienstbier announced that the ''temporary'' 1968 agreement allowing Soviet troops to remain in Czechoslovakia was invalid because it was agreed to under duress and that Soviet troops would withdraw from the country. The Politburo announced it would end the nomenklatura system of reserving certain jobs for party functionaries. The secret police was abolished. Alexander Dubcek, leader of the 1968 Prague Spring, was elected Chairman of the Federal Assembly on December 28 and, a day later, Vaclav Havel was voted to replace Gustav Husak. In February 1990, Vaclav Havel addressed a joint session of Congress.

Charter 77 paved the way for all of these things, and more: for Czechoslovakia's first free and fair elections since 1946, for the normalization of trade relations between our two countries, and for the Czech Republic's accession to NATO. Not surprisingly, the work of Charter 77 continues to inspire, as is evidenced by the adoption of the name ''Charter 97'' by human rights activists in Belarus, who are still working to bring to their own country a measure of democracy and respect for human rights that Czechs have now enjoyed for some years.

I am therefore pleased to recognize the 30th anniversary of the Charter 77 movement and to join others in honoring Vaclav Havel who remains, to this day, the conscience of the global community.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS RULES OF PROCEDURE

Mr. DODD. Mr. President, in accordance with rule XXVI.2. of the Standing Rules of the Senate, I ask unanimous consent to have printed in the RECORD the rules of the Committee on Banking, Housing, and Urban Affairs, as unanimously adopted by the committee on January 31, 2007.

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

RULES OF PROCEDURE FOR THE COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

[Adopted in executive session, January 31, 2007]

RULE 1. REGULAR MEETING DATE FOR COMMITTEE

The regular meeting day for the Committee to transact its business shall be the last Tuesday in each month that the Senate is in Session; except that if the Committee has met at any time during the month prior to the last Tuesday of the month, the regular meeting of the Committee may be canceled at the discretion of the Chairman.

RULE 2. COMMITTEE

[a] Investigations. No investigation shall be initiated by the Committee unless the Senate, or the full Committee, or the Chairman and Ranking Member have specifically authorized such investigation.

[b] Hearings. No hearing of the Committee shall be scheduled outside the District of Columbia except by agreement between the Chairman of the Committee and the Ranking Member of the Committee or by a majority vote of the Committee.

[c] Confidential testimony. No confidential testimony taken or confidential material presented at an executive session of the Committee or any report of the proceedings of such executive session shall be made public either in whole or in part or by way of summary, unless specifically authorized by the Chairman of the Committee and the Ranking Member of the Committee or by a majority vote of the Committee.

[d] Interrogation of witnesses. Committee interrogation of a witness shall be conducted only by members of the Committee or such professional staff as is authorized by the Chairman or the Ranking Member of the Committee.

[e] Prior notice of markup sessions. No session of the Committee or a Subcommittee for marking up any measure shall be held unless [1] each member of the Committee or the Subcommittee, as the case may be, has been notified in writing of the date, time, and place of such session and has been furnished a copy of the measure to be considered at least 3 business days prior to the commencement of such session, or [2] the Chairman of the Committee or Subcommittee determines that exigent circumstances exist requiring that the session be held sooner.

[f] Prior notice of first degree amendments. It shall not be in order for the Committee or a Subcommittee to consider any amendment in the first degree proposed to any measure under consideration by the Committee or Subcommittee unless fifty written copies of such amendment have been delivered to the office of the Committee at least 2 business days prior to the meeting. It shall be in order, without prior notice, for a Senator to offer a motion to strike a single section of any measure under consideration. Such a motion to strike a section of the

measure under consideration by the Committee or Subcommittee shall not be amendable. This section may be waived by a majority of the members of the Committee or Subcommittee voting, or by agreement of the Chairman and Ranking Member. This subsection shall apply only when the conditions of subsection [e][1] have been met.

[g] Cordon rule. Whenever a bill or joint resolution repealing or amending any statute or part thereof shall be before the Committee or Subcommittee, from initial consideration in hearings through final consideration, the Clerk shall place before each member of the Committee or Subcommittee a print of the statute or the part or section thereof to be amended or repealed showing by stricken-through type, the part or parts to be omitted, and in italics, the matter proposed to be added. In addition, whenever a member of the Committee or Subcommittee offers an amendment to a bill or joint resolution under consideration, those amendments shall be presented to the Committee or Subcommittee in a like form, showing by typographical devices the effect of the proposed amendment on existing law. The requirements of this subsection may be waived when, in the opinion of the Committee or Subcommittee Chairman, it is necessary to expedite the business of the Committee or Subcommittee.

RULE 3. SUBCOMMITTEES

[a] Authorization for. A Subcommittee of the Committee may be authorized only by the action of a majority of the Committee.

[b] Membership. No member may be a member of more than three Subcommittees and no member may chair more than one Subcommittee. No member will receive assignment to a second Subcommittee until, in order of seniority, all members of the Committee have chosen assignments to one Subcommittee, and no member shall receive assignment to a third Subcommittee until, in order of seniority, all members have chosen assignments to two Subcommittees.

[c] Investigations. No investigation shall be initiated by a Subcommittee unless the Senate or the full Committee has specifically authorized such investigation.

[d] Hearings. No hearing of a Subcommittee shall be scheduled outside the District of Columbia without prior consultation with the Chairman and then only by agreement between the Chairman of the Subcommittee and the Ranking Member of the Subcommittee or by a majority vote of the Subcommittee.

[e] Confidential testimony. No confidential testimony taken or confidential material presented at an executive session of the Subcommittee or any report of the proceedings of such executive session shall be made public, either in whole or in part or by way of summary, unless specifically authorized by the Chairman of the Subcommittee and the Ranking Member of the Subcommittee, or by a majority vote of the Subcommittee.

[f] Interrogation of witnesses. Subcommittee interrogation of a witness shall be conducted only by members of the Subcommittee or such professional staff as is authorized by the Chairman or the Ranking Member of the Subcommittee.

[g] Special meetings. If at least three members of a Subcommittee desire that a special meeting of the Subcommittee be called by the Chairman of the Subcommittee, those members may file in the offices of the Committee their written request to the Chairman of the Subcommittee for that special meeting. Immediately upon the filing of the request, the Clerk of the Committee shall notify the Chairman of the Subcommittee of the filing of the request. If, within 3 calendar days after the filing of the request, the Chairman of the Subcommittee does not call the requested special meeting, to be held within 7 calendar days after the filing of the request, a majority of the members of the Subcommittee may file in the offices of the Committee their written notice that a special meeting of the Subcommittee will be held, specifying the date and hour of that special meeting. The Subcommittee shall meet on that date and hour. Immediately upon the filing of the notice, the Clerk of the Committee shall notify all members of the Subcommittee that such special meeting will be held and inform them of its date and hour. If the Chairman of the Subcommittee is not present at any regular or special meeting of the Subcommittee, the Ranking Member of the majority party on the Subcommittee who is present shall preside at that meeting.

[h] Voting. No measure or matter shall be recommended from a Subcommittee to the Committee unless a majority of the Subcommittee are actually present. The vote of the Subcommittee to recommend a measure or matter to the Committee shall require the concurrence of a majority of the members of the Subcommittee voting. On Subcommittee matters other than a vote to recommend a measure or matter to the Committee no record vote shall be taken unless a majority of the Subcommittee is actually present. Any absent member of a Subcommittee may affirmatively request that his or her vote to recommend a measure or matter to the Committee or his vote on any such other matters on which a record vote is taken, be cast by proxy. The proxy shall be in writing and shall be sufficiently clear to identify the subject matter and to inform the Subcommittee as to how the member wishes his or her vote to be recorded thereon. By written notice to the Chairman of the Subcommittee any time before the record vote on the measure or matter concerned is taken, the member may withdraw a proxy previously given. All proxies shall be kept in the files of the Committee.

RULE 4. WITNESSES

[a] Filing of statements. Any witness appearing before the Committee or Subcommittee [including any witness representing a Government agency] must file with the Committee or Subcommittee [24 hours preceding his or her appearance] 75 copies of his or her statement to the Committee or Subcommittee, and the statement must include a brief summary of the testimony. In the event that the witness fails to file a written statement and brief summary in accordance with this rule, the Chairman of the Committee or Subcommittee has the discretion to deny the witness the privilege of testifying before the Committee or Subcommittee until the witness has properly complied with the rule.

[b] Length of statements. Written statements properly filed with the Committee or Subcommittee may be as lengthy as the witness desires and may contain such documents or other addenda as the witness feels is necessary to present properly his or her views to the Committee or Subcommittee. The brief summary included in the statement must be no more than 3 pages long. It shall be left to the discretion of the Chairman of the Committee or Subcommittee as to what portion of the documents presented to the Committee or Subcommittee shall be published in the printed transcript of the hearings.

[c] Ten-minute duration. Oral statements of witnesses shall be based upon their filed statements but shall be limited to 10 minutes duration. This period may be limited or extended at the discretion of the Chairman presiding at the hearings.

[d] Subpoena of witnesses. Witnesses may be subpoenaed by the Chairman of the Committee or a Subcommittee with the agreement of the Ranking Member of the Committee or Subcommittee or by a majority vote of the Committee or Subcommittee.

[e] Counsel permitted. Any witness subpoenaed by the Committee or Subcommittee to a public or executive hearing may be accompanied by counsel of his or her own choosing who shall be permitted, while the witness is testifying, to advise him or her of his or her legal rights.

[f] Expenses of witnesses. No witness shall be reimbursed for his or her appearance at a public or executive hearing before the Committee or Subcommittee unless such reimbursement is agreed to by the Chairman and Ranking Member of the Committee.

[g] Limits of questions. Questioning of a witness by members shall be limited to 5 minutes duration when 5 or more members are present and 10 minutes duration when less than 5 members are present, except that if a member is unable to finish his or her questioning in this period, he or she may be permitted further questions of the witness after all members have been given an opportunity to question the witness.

Additional opportunity to question a witness shall be limited to a duration of 5 minutes until all members have been given the opportunity of questioning the witness for a second time. This 5-minute period per member will be continued until all members have exhausted their questions of the witness.

RULE 5. VOTING

[a] Vote to report a measure or matter. No measure or matter shall be reported from the Committee unless a majority of the Committee is actually present. The vote of the Committee to report a measure or matter shall require the concurrence of a majority of the members of the Committee who are present.

Any absent member may affirmatively request that his or her vote to report a matter be cast by proxy. The proxy shall be sufficiently clear to identify the subject matter, and to inform the Committee as to how the member wishes his vote to be recorded thereon. By written notice to the Chairman any time before the record vote on the measure or matter concerned is taken, any member may withdraw a proxy previously given. All proxies shall be kept in the files of the Committee, along with the record of the rollcall vote of the members present and voting, as an official record of the vote on the measure or matter.

[b] Vote on matters other than to report a measure or matter. On Committee matters other than a vote to report a measure or matter, no record vote shall be taken unless a majority of the Committee are actually present. On any such other matter, a member of the Committee may request that his or her vote may be cast by proxy. The proxy shall be in writing and shall be sufficiently clear to identify the subject matter, and to inform the Committee as to how the member wishes his or her vote to be recorded thereon. By written notice to the Chairman any time before the vote on such other matter is taken, the member may withdraw a proxy previously given. All proxies relating to such other matters shall be kept in the files of the Committee.

RULE 6. QUORUM

No executive session of the Committee or a Subcommittee shall be called to order unless a majority of the Committee or Subcommittee, as the case may be, are actually present. Unless the Committee otherwise provides or is required by the Rules of the Senate, one member shall constitute a quorum for the receipt of evidence, the

swearing in of witnesses, and the taking of testimony.

RULE 7. STAFF PRESENT ON DAIS

Only members and the Clerk of the Committee shall be permitted on the dais during public or executive hearings, except that a member may have one staff person accompany him or her during such public or executive hearing on the dais. If a member desires a second staff person to accompany him or her on the dais he or she must make a request to the Chairman for that purpose.

RULE 8. COINAGE LEGISLATION

At least 67 Senators must cosponsor any gold medal or commemorative coin bill or resolution before consideration by the Committee.

EXTRACTS FROM THE STANDING RULES OF THE SENATE

Rule XXV, Standing Committees

1. The following standing committees shall be appointed at the commencement of each Congress, and shall continue and have the power to act until their successors are appointed, with leave to report by bill or otherwise on matters within their respective jurisdictions:

[d][1] Committee on Banking, Housing, and Urban Affairs, to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating to the following subjects:

1. Banks, banking, and financial institutions.
2. Control of prices of commodities, rents, and services.
3. Deposit insurance.
4. Economic stabilization and defense production.
5. Export and foreign trade promotion.
6. Export controls.
7. Federal monetary policy, including Federal Reserve System.
8. Financial aid to commerce and industry.
9. Issuance and redemption of notes.
10. Money and credit, including currency and coinage.
11. Nursing home construction.
12. Public and private housing [including veterans' housing].
13. Renegotiation of Government contracts.
14. Urban development and urban mass transit.

[2] Such committee shall also study and review, on a comprehensive basis, matters relating to international economic policy as it affects United States monetary affairs, credit, and financial institutions; economic growth, urban affairs, and credit, and report thereon from time to time.

COMMITTEE PROCEDURES FOR PRESIDENTIAL NOMINEES

Procedures formally adopted by the U.S. Senate Committee on Banking, Housing, and Urban Affairs, February 4, 1981, establish a uniform questionnaire for all Presidential nominees whose confirmation hearings come before this Committee.

In addition, the procedures establish that:

[1] A confirmation hearing shall normally be held at least 5 days after receipt of the completed questionnaire by the Committee unless waived by a majority vote of the Committee.

[2] The Committee shall vote on the confirmation not less than 24 hours after the Committee has received transcripts of the hearing unless waived by unanimous consent.

[3] All nominees routinely shall testify under oath at their confirmation hearings.

This questionnaire shall be made a part of the public record except for financial information, which shall be kept confidential.

Nominees are requested to answer all questions, and to add additional pages where necessary.

ADDITIONAL STATEMENTS

HONORING JAMES LONNIE JERDEN

● Mr. ISAKSON. Mr. President, today I honor a wonderful Georgian, James Lonnie ''J.L.'' Jerden of Atlanta, as he prepares to celebrate his 70th birthday.

Now, J.L. is no ordinary Georgian. His beautiful daughter Susan is married to my son John, and we share four amazing grandchildren. I am proud to consider him part of my extended family.

J.L. was born on March 19, 1937, in Memphis, TN, where he was one of eight children. In high school, he was salutatorian of his senior class and the statewide president of Beta Club as well as an accomplished athlete on the football and baseball fields. Somehow, he also managed to find time to play bass in a warm-up band for Elvis. He attended Rhodes College where he played football.

Following graduation, J.L. worked for Aetna before joining and becoming a partner in Pritchard and Jerden, one of the largest commercial insurance brokerage houses in Atlanta. J.L. also found time to serve as a Southeastern Conference football official for 7 years in the 1970s and chair the Atlanta Golf Classic. He also was the national president of the Chartered Property Casualty Underwriters Society.

Today, J.L. enjoys spending time with his lovely wife Jane, their three children, and their four grandchildren. He is an active member at Northside Drive Baptist Church, where he serves as a deacon and has chaired a variety of committees throughout the years. He is also a strong supporter of the Atlanta Food Bank and Children's Healthcare of Atlanta.

It gives me a great deal of pleasure and it is a privilege to recognize on the floor of the U.S. Senate the contributions of my dear friend J.L. Jerden as he prepares to celebrate this milestone. He is an inspiration to us all.●

TRIBUTE TO COLONEL LENORE SUSAN ENZEL

● Mr. INOUYE. Mr. President, I would like to recognize a great American and true military heroine who has honorably served our country for 30 years in the U.S. Army Nurse Corps: COL Lenore S. Enzel. COL Lenore Enzel was born in Brooklyn and raised in Queens, NY. She received her diploma in nursing from Roosevelt Hospital School of Nursing, her baccalaureate degree in nursing from Hunter College-Bellevue Hospital, and her master's degree from the University of Hawaii. Upon retiring from the U.S. Army after faithfully serving for 30 years, Colonel Enzel and her husband, LTC Richard Berry, will reside in New York.

Colonel Enzel began her military career as a staff nurse at Tripler Army Medical Center, HI. She quickly rose through the ranks and served throughout the country, including in New Jersey, Colorado, Texas, Arizona, Georgia, as well as two other tours at Tripler Army Medical Center.

In each assignment, Colonel Enzel excelled and was rewarded with greater responsibilities. After serving as ambulatory section chief at Fort Hood, TX, she transitioned to Recruiting Command, serving as the 2nd Recruiting Brigade chief nurse and later as the 2nd Army Medical Detachment commander. Colonel Enzel successfully assimilated into the highly complex recruiting environment and became the No. 1 subject matter expert for Army medical recruiting.

With her path to executive leadership clearly set, Colonel Enzel served as deputy commander at Fort Huachuca, AZ. Colonel Enzel spearheaded the reengineering process as the hospital downsized to a freestanding clinic. Colonel Enzel returned to Hawaii, serving as deputy director and later director, clinical services, TRICARE Pacific Lead Agency, Tripler Army Medical Center. She managed complex health care issues in a joint arena for 380,000 beneficiaries in 70 countries spread across 13 time zones and 100 million square miles. Colonel Enzel's last assignment was in Texas, as deputy commander for patient services/nursing, William Beaumont Army Medical Center, Ft. Bliss, TX. She managed care provided to 132,000 beneficiaries at this 150-bed teaching hospital. The increased productivity of the hospital has in large part been due to her drive and leadership.

Colonel Enzel is a meritorious leader, administrator, clinician, educator, and mentor. Throughout her career she has served with valor and profoundly impacted the entire Army Medical Department. Her performance reflects exceptionally on herself, the U.S. Army, the Department of Defense, and the United States of America. I extend my deepest appreciation to COL Lenore Suzan Enzel on behalf of a grateful nation for her more than 30 years of dedicated military service.●

TRIBUTE TO PUTNAM COUNTY, GEORGIA

● Mr. ISAKSON. Mr. President, today I honor the 200th Anniversary of Putnam County, GA.

Putnam County was created by an act of the Georgia Assembly on December 10, 1807. It was laid out from Baldwin County and lies in the heart of Georgia's Piedmont region. It was named for one of the most noted patriots of the Revolutionary War, GEN Israel Putnam of Massachusetts.

The city of Eatonton was founded as the seat of Putnam County in 1808 and was incorporated the following year.

Known as the ''Dairy Capital of Georgia,'' Putnam County is also home to

Rock Eagle 4–H Center. The Rock Eagle Mound is 102 feet long and 120 feet wide. It is believed to have been built by Native Americans over 2,000 years ago and was listed on the National Register of Historic Places in 1978. Putnam County is also the birthplace of several famous Georgians, including journalist and author Joel Chandler Harris, author Alice Walker, and Chick-fil-a founder and CEO S. Truett Cathy.

It gives me a great deal of pleasure and it is a privilege to recognize on the floor of the U.S. Senate the contributions of Putnam County to the State of Georgia. I congratulate this great county on its 200th anniversary.●

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 which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE

At 2:31 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 399. An act to designate the United States Courthouse to be constructed in Jackson, Mississippi, as the ''R. Jess Brown United States Courthouse''.

H.R. 544. An act to designate the United States courthouse at South Federal Place in Santa Fe, New Mexico, as the ''Santiago E. Campos United States Courthouse''.

H.R. 584. An act to designate the Federal building located at 400 Maryland Avenue Southwest in the District of Columbia as the ''Lyndon Baines Johnson Department of Education Building''.

H.R. 987. An act to endorse further enlargement of the North Atlantic Treaty Organization (NATO) and to facilitate the timely admission of new members to NATO, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolution, without amendment:

S. Con. Res. 15. Concurrent resolution authorizing the Rotunda of the Capitol to be used on March 29, 2007, for a ceremony to award the Congressional Gold Medal to the Tuskegee Airmen.

The message further announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate: Q02

H. Con. Res. 62. Concurrent resolution supporting the goals and ideals of a National Children and Families Day, in order to encourage adults in the United States to support and listen to children and to help children throughout the Nation achieve their hopes and dreams, and for other purposes.

MEASURES REFERRED

The following bill was read the first and the second times by unanimous consent, and referred as indicated:

H.R. 399. An act to designate the United States Courthouse to be constructed in Jackson, Mississippi, as the ''R. Jess Brown United States Courthouse''; to the Committee on the Judiciary.

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 62. Concurrent resolution supporting the goals and ideals of a National Children and Families Day, in order to encourage adults in the United States to support and listen to children and to help children throughout the Nation achieve their hopes and dreams, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–878. A communication from the Administrator, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the Administration's Capital Investment Plan for fiscal years 2008–2012; to the Committee on Commerce, Science, and Transportation.

EC–879. A communication from the Secretary of Transportation, transmitting, pursuant to law, the Department's 2007 annual report relative to the regulatory status of each safety recommendation on the National Transportation Safety Board's Most Wanted List; to the Committee on Commerce, Science, and Transportation.

EC–880. A communication from the Chief of Regulations and Administrative Law, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Safety Zones (including 6 regulations beginning with CGD09–06–174)'' (RIN1625–AA00) received on March 1, 2007; to the Committee on Commerce, Science, and Transportation.

EC–881. A communication from the Chief of Regulations and Administrative Law, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Security Zone; Waters Surrounding M/V TONG CHENG, HI'' (RIN1625–AA87) received on March 1, 2007; to the Committee on Commerce, Science, and Transportation.

EC–882. A communication from the Chief of Regulations and Administrative Law, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Operation Regulations; Biscayne Bay, Atlantic Intracoastal Waterway, Miami River, and Miami Beach Channel, Miami-Dade County, FL (CGD07–07–010)'' (RIN1625–AA09) received on March 1, 2007; to the Committee on Commerce, Science, and Transportation.

EC–883. A communication from the Chief of Regulations and Administrative Law, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Regulated Navigation Area; Savannah River, Savannah, GA (CGD07–05–138)'' (RIN1625–AA11) received on March 1, 2007; to the Committee on Commerce, Science, and Transportation.

EC–884. A communication from the Chief of Regulations and Administrative Law, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Operations (including 6 regulations beginning with CGD07–05–097)'' (RIN1625–AA01) received on March 1, 2007; to the Committee on Commerce, Science, and Transportation.

EC–885. A communication from the Chief of Regulations and Administrative Law, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Mariner Licensing and Documentation Program Restructuring and Centralization; Correction'' (RIN1625–ZA09) received on March 1, 2007; to the Committee on Commerce, Science, and Transportation.

EC–886. A communication from the Chief of Regulations and Administrative Law, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Operation Regulations; Amendments'' (RIN1625–AA36) received on March 1, 2007; to the Committee on Commerce, Science, and Transportation.

EC–887. A communication from the Chief of Regulations and Administrative Law, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Technical Amendments; Marine Safety Center Address Change'' (RIN1625–ZA12) received on March 1, 2007; to the Committee on Commerce, Science, and Transportation.

EC–888. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Rates for Pilotage on the Great Lakes'' (RIN1625–AB05) received on March 1, 2007; to the Committee on Commerce, Science, and Transportation.

EC–889. A communication from the Acting Chief Financial Officer, Department of Energy, transmitting, pursuant to law, a report relative to the Department's carryover balances for fiscal year ended September 30, 2006; to the Committee on Energy and Natural Resources.

EC–890. A communication from the Secretary of Energy, transmitting, the report of proposed legislation relative to the repeal of subtitle J of Title IX of the Energy Policy Act of 2005; to the Committee on Energy and Natural Resources.

EC–891. A communication from the Assistant Secretary of the Army (Civil Works), transmitting, pursuant to law, a report relative to the review of the Gulf Intracoastal Waterway between Palacios Point and Port O'Connor, Texas, by the Army Corps of Engineers; to the Committee on Environment and Public Works.

EC–892. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''National Priorities List'' (FRL No. 8283–7) received on March 2, 2007; to the Committee on Environment and Public Works.

EC–893. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Virginia; Amendments to VOC and NOx Emission Control

Areas and VOC Control Regulations'' (FRL No. 8282–9) received on March 2, 2007; to the Committee on Environment and Public Works.

EC–894. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Nonattainment New Source Review'' ((RIN2060–AM59)(FRL No. 8283–9)) received on March 2, 2007; to the Committee on Environment and Public Works.

EC–895. A communication from the Chief of the Branch of Bird Conservation, Migratory Bird Program, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Migratory Bird Permits; Take of Migratory Birds by the Armed Forces'' (RIN1018–AI92) received on March 1, 2007; to the Committee on Environment and Public Works.

EC–896. A communication from the Chief of the Federal Duck Stamp Office, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Revision of Migratory Bird Hunting and Conservation Stamp Contest Regulations'' (RIN1018–AU94) received on March 1, 2007; to the Committee on Environment and Public Works.

EC–897. A communication from the Assistant Secretary for Import Administration, Foreign-Trade Zones Board, Department of Commerce, transmitting, pursuant to law, a report relative to the activities of the Board during fiscal year 2005; to the Committee on Finance.

EC–898. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Moore v. Commissioner, T.C. Memo 2006–171'' (AOD: 2007–02) received on March 1, 2007; to the Committee on Finance.

EC–899. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Corporate Reorganizations; Additional Guidance on Distribution Under Sections 368(a)(1)(D) and 354(b)(B)'' ((RIN1545–BG29)(TD 9313)) received on March 1, 2007; to the Committee on Finance.

EC–900. A communication from the U.S. Trade Representative, Executive Office of the President, transmitting, pursuant to law, the 2007 Trade Policy Agenda and 2006 Annual Report on the Trade Agreements Program; to the Committee on Finance.

EC–901. A communication from the U.S. Global AIDS Coordinator, Department of State, transmitting, pursuant to law, a report relative to the President's Emergency Plan for AIDS Relief; to the Committee on Foreign Relations.

EC–902. A communication from the Director, National Science Foundation, transmitting, pursuant to law, a report entitled ''Women, Minorities, and Persons With Disabilities in Science and Engineering: 2007''; to the Committee on Health, Education, Labor, and Pensions.

EC–903. A communication from the Director, Office of Personnel Management, transmitting proposed legislation to make improvements to the Civil Service Retirement System and the Federal Employees' Retirement System; to the Committee on Homeland Security and Governmental Affairs.

EC–904. A communication from the Chairman, Labor Member, and Management Member of the Railroad Retirement Board, transmitting, pursuant to law, the Board's annual report for calendar year 2006; to the Committee on Homeland Security and Governmental Affairs.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. MARTINEZ:

S. 787. A bill to impose a 2-year moratorium on implementation of a proposed rule relating to the Federal-State financial partnerships under Medicaid and the State Children's Health Insurance Program; to the Committee on Finance.

By Mr. SUNUNU (for himself, Mr. CARPER, Mrs. DOLE, Mr. CHAMBLISS, and Mr. SMITH):

S. 788. A bill to authorize the Moving to Work Charter program to enable public housing agencies to improve the effectiveness of Federal housing assistance, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. GRASSLEY (for himself, Mr. LIEBERMAN, Ms. COLLINS, and Mr. COLEMAN):

S. 789. A bill to prevent abuse of Government credit cards; to the Committee on Homeland Security and Governmental Affairs.

By Mr. LUGAR (for himself, Mr. KENNEDY, and Mr. CHAMBLISS):

S. 790. A bill to amend the Richard B. Russell National School Lunch Act to permit the simplified summer food programs to be carried out in all States and by all service institutions; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. LEVIN (for himself, Mr. VOINOVICH, Ms. STABENOW, Mr. SCHUMER, Mr. COLEMAN, Mrs. CLINTON, and Mr. OBAMA):

S. 791. A bill to establish a collaborative program to protect the Great Lakes, and for other purposes; to the Committee on Environment and Public Works.

By Mr. SMITH (for himself and Mr. BINGAMAN):

S. 792. A bill to amend the Internal Revenue Code of 1986 and the Employee Retirement Income Security Act of 1974 to modify the definition of governmental plan with respect to Indian tribal governments; to the Committee on Health, Education, Labor, and Pensions.

By Mr. HATCH (for himself and Mr. KENNEDY):

S. 793. A bill to provide for the expansion and improvement of traumatic brain injury programs; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. LINCOLN (for herself, Mr. LUGAR, Mr. BINGAMAN, and Ms. SNOWE):

S. 794. A bill to amend titles XIX and XXI of the Social Security Act to provide States with the option to expand or add coverage of pregnant women under the Medicaid and State children's health insurance programs, and for other purposes; to the Committee on Finance.

By Mr. OBAMA (for himself, Mr. MENENDEZ, Mr. SALAZAR, and Mr. BINGAMAN):

S. 795. A bill to assist aliens who have been lawfully admitted in becoming citizens of the United States, and for other purposes; to the Committee on the Judiciary.

By Mr. BUNNING (for himself, Ms. STABENOW, Mr. BAYH, Ms. SNOWE, and Mr. LEVIN):

S. 796. A bill to amend title VII of the Tariff Act of 1930 to provide that exchange-rate misalignment by any foreign nation is a countervailable export subsidy, to amend the Exchange Rates and International Economic Policy Coordination Act of 1988 to clarify the definition of manipulation with respect to currency, and for other purposes; to the Committee on Finance.

By Mr. CARDIN (for himself, Ms. MIKULSKI, Mr. WARNER, and Mr. WEBB):

S. 797. A bill to amend the National Trails System Act to designate the Star-Spangled Banner Trail in the States of Maryland and Virginia and the District of Columbia as a National Historic Trail; to the Committee on Energy and Natural Resources.

By Mr. CARDIN (for himself, Ms. MIKULSKI, Mr. WARNER, Mr. WEBB, Mr. LEVIN, and Mrs. CLINTON):

S. 798. A bill to establish the Star-Spangled Banner and War of 1812 Bicentennial Commission, and for other purposes; to the Committee on the Judiciary.

By Mr. HARKIN (for himself, Mr. SPECTER, Mr. KENNEDY, Mr. INOUYE, Mr. SALAZAR, Mr. BIDEN, Mr. LIEBERMAN, Mrs. CLINTON, Mr. SCHUMER, and Mr. DODD):

S. 799. A bill to amend title XIX of the Social Security Act to provide individuals with disabilities and older Americans with equal access to community-based attendant services and supports, and for other purposes; to the Committee on Finance.

By Mr. SCHUMER:

S. 800. A bill to establish the Niagara Falls National Heritage Area in the State of New York, and for other purposes; to the Committee on Energy and Natural Resources.

By Mrs. BOXER (for herself and Mrs. FEINSTEIN):

S. 801. A bill to designate a United States courthouse located in Fresno, California, as the ''Robert E. Coyle United States Courthouse''; to the Committee on Environment and Public Works.

By Mr. CRAPO:

S. 802. A bill to provide for the implementation of the Owyhee Initiative Agreement, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. ROCKEFELLER (for himself, Mr. CORNYN, Mr. KOHL, Ms. SNOWE, and Mr. COLEMAN):

S. 803. A bill to repeal a provision enacted to end Federal matching of State spending of child support incentive payments; to the Committee on Finance.

By Mrs. CLINTON (for herself, Mrs. BOXER, Ms. MIKULSKI, Mr. KERRY, Mr. LEAHY, and Mr. LAUTENBERG):

S. 804. A bill to amend the Help America Vote Act of 2002 to improve the administration of elections for Federal office, and for other purposes; to the Committee on Rules and Administration.

By Mr. DURBIN (for himself, Mr. COLEMAN, Mr. FEINGOLD, Mr. DODD, Mr. KERRY, and Mr. BINGAMAN):

S. 805. A bill to amend the Foreign Assistance Act of 1961 to assist countries in sub-Saharan Africa in the effort to achieve internationally recognized goals in the treatment and prevention of HIV/AIDS and other major diseases and the reduction of maternal and child mortality by improving human health care capacity and improving retention of medical health professionals in sub-Saharan Africa, and for other purposes; to the Committee on Foreign Relations.

By Mr. PRYOR:

S. 806. A bill to give consumers tools to protect themselves from ID theft by allowing them to prevent unauthorized access to their credit reports, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DODD (for himself, Mr. KERRY, and Mr. BIDEN):

S. Res. 99. A resolution expressing the sense of the Senate that United States military assistance to Pakistan should be guided by demonstrable progress by the Government of Pakistan in achieving certain objectives related to counterterrorism and democratic reforms; to the Committee on Foreign Relations.

By Mrs. FEINSTEIN (for herself, Mr. CRAIG, Mrs. BOXER, Mr. COCHRAN, Ms. MURKOWSKI, Mr. DURBIN, Mr. BUNNING, Mr. BAYH, Mr. MCCONNELL, Mr. SALAZAR, Mrs. LINCOLN, Mrs. CLINTON, Mr. DODD, Mr. CRAPO, and Mr. FEINGOLD):

S. Res. 100. A resolution designating the week beginning March 12, 2007, as ''National Safe Place Week''; considered and agreed to.

ADDITIONAL COSPONSORS

S. 65

At the request of Mr. INHOFE, the names of the Senator from Texas (Mr. CORNYN) and the Senator from Wyoming (Mr. THOMAS) were added as cosponsors of S. 65, a bill to modify the age-60 standard for certain pilots and for other purposes.

S. 185

At the request of Mr. LEAHY, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 185, a bill to restore habeas corpus for those detained by the United States.

S. 231

At the request of Mrs. FEINSTEIN, the names of the Senator from Massachusetts (Mr. KENNEDY), the Senator from Maryland (Mr. CARDIN), the Senator from Vermont (Mr. LEAHY), the Senator from Washington (Ms. CANTWELL) and the Senator from Iowa (Mr. HARKIN) were added as cosponsors of S. 231, a bill to authorize the Edward Byrne Memorial Justice Assistance Grant Program at fiscal year 2006 levels through 2012.

S. 261

At the request of Ms. CANTWELL, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of S. 261, a bill to amend title 18, United States Code, to strengthen prohibitions against animal fighting, and for other purposes.

S. 305

At the request of Mr. GRASSLEY, the name of the Senator from Missouri (Mrs. MCCASKILL) was added as a cosponsor of S. 305, a bill to amend the Packers and Stockyards Act, 1921, to make it unlawful for a packer to own, feed, or control livestock intended for slaughter.

S. 312

At the request of Mr. GRAHAM, the name of the Senator from Tennessee (Mr. CORKER) was added as a cosponsor of S. 312, a bill to authorize the Marion Park Project and Committee of the Palmetto Conservation Foundation to establish a commemorative work on Federal land in the District of Columbia and its environs to honor Brigadier General Francis Marion.

S. 329

At the request of Mr. CRAPO, the names of the Senator from Washington (Mrs. MURRAY) and the Senator from Idaho (Mr. CRAIG) were added as cosponsors of S. 329, a bill to amend title XVIII of the Social Security Act to provide coverage for cardiac rehabilitation and pulmonary rehabilitation services.

S. 359

At the request of Mr. KENNEDY, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 359, a bill to amend the Higher Education Act of 1965 to provide additional support to students.

S. 368

At the request of Mr. BIDEN, the names of the Senator from Massachusetts (Mr. KENNEDY) and the Senator from Maryland (Mr. CARDIN) were added as cosponsors of S. 368, a bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to enhance the COPS ON THE BEAT grant program, and for other purposes.

S. 377

At the request of Mr. LUGAR, the names of the Senator from Nebraska (Mr. HAGEL), the Senator from Ohio (Mr. VOINOVICH) and the Senator from Alaska (Ms. MURKOWSKI) were added as cosponsors of S. 377, a bill to establish a United States-Poland parliamentary youth exchange program, and for other purposes.

S. 398

At the request of Mr. DORGAN, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 398, a bill to amend the Indian Child Protection and Family Violence Prevention Act to identify and remove barriers to reducing child abuse, to provide for examinations of certain children, and for other purposes.

S. 404

At the request of Mr. THOMAS, the names of the Senator from Wisconsin (Mr. FEINGOLD) and the Senator from South Dakota (Mr. JOHNSON) were added as cosponsors of S. 404, a bill to amend the Agricultural Marketing Act of 1946 to require the implementation of country of origin labeling requirements by September 30, 2007.

S. 430

At the request of Mr. BOND, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 430, a bill to amend title 10, United States Code, to enhance the national defense through empowerment of the Chief of the National Guard Bureau and the enhancement of the functions of the National Guard Bureau, and for other purposes.

S. 432

At the request of Mrs. LINCOLN, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 432, a bill to amend title XVIII of the Social Security Act to provide coverage for kidney disease education services under the Medicare program, and for other purposes.

S. 438

At the request of Mr. ROCKEFELLER, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 438, a bill to amend the Federal Food, Drug, and Cosmetic Act to prohibit the marketing of authorized generic drugs.

S. 474

At the request of Mrs. HUTCHISON, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 474, a bill to award a congressional gold medal to Michael Ellis DeBakey, M. D.

S. 479

At the request of Mr. HARKIN, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of S. 479, a bill to reduce the incidence of suicide among veterans.

S. 494

At the request of Mr. LUGAR, the names of the Senator from Nebraska (Mr. HAGEL) and the Senator from Delaware (Mr. BIDEN) were added as cosponsors of S. 494, a bill to endorse further enlargement of the North Atlantic Treaty Organization (NATO) and to facilitate the timely admission of new members to NATO, and for other purposes.

S. 513

At the request of Mr. LEAHY, the names of the Senator from Nebraska (Mr. HAGEL) and the Senator from West Virginia (Mr. BYRD) were added as cosponsors of S. 513, a bill to amend title 10, United States Code, to revive previous authority on the use of the Armed Forces and the militia to address interference with State or Federal law, and for other purposes.

S. 558

At the request of Mr. DOMENICI, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of S. 558, a bill to provide parity between health insurance coverage of mental health benefits and benefits for medical and surgical services.

S. 579

At the request of Mr. REID, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of S. 579, a bill to amend the Public Health Service Act to authorize the Director of the National Institute of Environmental Health Sciences to make grants for the development and operation of research centers regarding environmental factors that may be related to the etiology of breast cancer.

S. 593

At the request of Mr. BURR, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 593, a bill to amend the Public Health Service Act to establish a grant program to provide supportive services in permanent supportive housing for chronically homeless individuals, and for other purposes.

S. 624

At the request of Ms. MIKULSKI, the names of the Senator from New Jersey

(Mr. MENENDEZ) and the Senator from New York (Mr. SCHUMER) were added as cosponsors of S. 624, a bill to amend the Public Health Service Act to provide waivers relating to grants for preventive health measures with respect to breast and cervical cancers.

S. 625

At the request of Mr. KENNEDY, the name of the Senator from Maryland (Mr. CARDIN) was added as a cosponsor of S. 625, a bill to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products.

At the request of Mr. CORNYN, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of S. 625, supra.

S. 651

At the request of Mr. HARKIN, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of S. 651, a bill to help promote the national recommendation of physical activity to kids, families, and communities across the United States.

S. 655

At the request of Mr. GRASSLEY, the names of the Senator from Texas (Mr. CORNYN) and the Senator from Maine (Ms. COLLINS) were added as cosponsors of S. 655, a bill to amend the Congressional Charter of The American National Red Cross to modernize its governance structure, to enhance the ability of the board of governors of The American National Red Cross to support the critical mission of The American Red Cross in the 21st century, and for other purposes.

S. 658

At the request of Mr. THOMAS, the name of the Senator from South Dakota (Mr. THUNE) was added as a cosponsor of S. 658, a bill to amend the Endangered Species Act of 1973 to improve the process for listing, recovery planning, and delisting, and for other purposes.

S. 667

At the request of Mrs. CLINTON, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 667, a bill to expand programs of early childhood home visitation that increase school readiness, child abuse and neglect prevention, and early identification of developmental and health delays, including potential mental health concerns, and for other purposes.

S. 675

At the request of Mr. HARKIN, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 675, a bill to provide competitive grants for training court reporters and closed captioners to meet requirements for realtime writers under the Telecommunications Act of 1996, and for other purposes.

S. 709

At the request of Mr. KOHL, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 709, a bill to promote labor force participation of older Americans, with the goals of increasing retirement security, reducing the projected shortage of experienced workers, maintaining future economic growth, and improving the Nation's fiscal outlook.

S. 713

At the request of Mr. OBAMA, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 713, a bill to ensure dignity in care for members of the Armed Forces recovering from injuries.

S. 761

At the request of Mr. REID, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 761, a bill to invest in innovation and education to improve the competitiveness of the United States in the global economy.

S. 764

At the request of Mrs. CLINTON, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 764, a bill to amend title XIX and XXI of the Social Security Act to permit States the option of coverage of legal immigrants under the Medicaid Program and the State children's health insurance program (SCHIP).

S. 766

At the request of Mrs. CLINTON, the names of the Senator from New Jersey (Mr. LAUTENBERG) and the Senator from Delaware (Mr. BIDEN) were added as cosponsors of S. 766, a bill to amend the Fair Labor Standards Act of 1938 to provide more effective remedies of victims of discrimination in the payment of wages on the basis of sex, and for other purposes.

S. 771

At the request of Mr. HARKIN, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 771, a bill to amend the Child Nutrition Act of 1966 to improve the nutrition and health of schoolchildren by updating the definition of ''food of minimal nutritional value'' to conform to current nutrition science and to protect the Federal investment in the national school lunch and breakfast programs.

S. 773

At the request of Mr. WARNER, the name of the Senator from Virginia (Mr. WEBB) was added as a cosponsor of S. 773, a bill to amend the Internal Revenue Code of 1986 to allow Federal civilian and military retirees to pay health insurance premiums on a pretax basis and to allow a deduction for TRICARE supplemental premiums.

S. 779

At the request of Mr. CRAIG, the names of the Senator from Alaska (Mr. STEVENS) and the Senator from Alaska (Ms. MURKOWSKI) were added as cosponsors of S. 779, a bill to reauthorize the Secure Rural Schools and Community Self-Determination Act of 2000.

AMENDMENT NO. 286

At the request of Mr. DURBIN, his name was added as a cosponsor of amendment No. 286 proposed to S. 4, a bill to make the United States more secure by implementing unfinished recommendations of the 9/11 Commission to fight the war on terror more effectively, to improve homeland security, and for other purposes.

At the request of Mr. SPECTER, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of amendment No. 286 proposed to S. 4, supra.

AMENDMENT NO. 293

At the request of Mr. GRASSLEY, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of amendment No. 293 intended to be proposed to S. 4, a bill to make the United States more secure by implementing unfinished recommendations of the 9/11 Commission to fight the war on terror more effectively, to improve homeland security, and for other purposes.

AMENDMENT NO. 295

At the request of Ms. LANDRIEU, the names of the Senator from Florida (Mr. NELSON) and the Senator from Florida (Mr. MARTINEZ) were added as cosponsors of amendment No. 295 proposed to S. 4, a bill to make the United States more secure by implementing unfinished recommendations of the 9/11 Commission to fight the war on terror more effectively, to improve homeland security, and for other purposes.

AMENDMENT NO. 345

At the request of Mr. COBURN, the name of the Senator from Arizona (Mr. KYL) was added as a cosponsor of amendment No. 345 proposed to S. 4, a bill to make the United States more secure by implementing unfinished recommendations of the 9/11 Commission to fight the war on terror more effectively, to improve homeland security, and for other purposes.

AMENDMENT NO. 359

At the request of Mr. LAUTENBERG, the name of the Senator from Oklahoma (Mr. COBURN) was added as a cosponsor of amendment No. 359 intended to be proposed to S. 4, a bill to make the United States more secure by implementing unfinished recommendations of the 9/11 Commission to fight the war on terror more effectively, to improve homeland security, and for other purposes.

AMENDMENT NO. 366

At the request of Mr. SCHUMER, the name of the Senator from Arizona (Mr. KYL) was added as a cosponsor of amendment No. 366 proposed to S. 4, a bill to make the United States more secure by implementing unfinished recommendations of the 9/11 Commission to fight the war on terror more effectively, to improve homeland security, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GRASSLEY (for himself, Mr. LIEBERMAN, Ms. COLLINS, and Mr. COLEMAN):

S. 789. A bill to prevent abuse of Government credit cards; to the Committee on Homeland Security and Governmental Affairs.

Mr. GRASSLEY. Mr. President, it's time we put a stop to wasteful, abusive, and fraudulent use of government credit cards. In fact, it's overdue. For several years, I have been working with the Government Accountability Office (GAO) to investigate misuse of government credit cards and the lack of internal controls in agencies that breeds such activity. We have found shockingly flagrant abuses like $2,443 in taxpayers' money going to pay for a down payment on a sapphire ring at a place called E-Z Pawn and $1,935 in taxpayers' money used to purchase two LA-Z-Boy reclining rocking chairs with full lumbar support and vibrator-massage features, all using government purchase cards. Government travel cards, which are only to be used for legitimate travel-related expenditures, have been used to pay for everything from women's lingerie from Frederick's of Hollywood to tickets to the Phantom of the Opera to a seven night Alaskan cruise for two. In each report it has issued, the GAO has made recommendations about what kind of controls need to be implemented to prevent such abuses from occurring in the future. Our oversight work has helped shine a light on this problem and has led to some improvements. Some agencies have moved to fix the specific shortcomings highlighted by the GAO, and the Office of Management and Budget has issued a circular to agencies that seeks to bring about an improved control environment. However, I believe a more comprehensive approach is needed. There is considerable commonality between the control breakdowns the GAO found in the agencies it investigated. The same controls were often missing or inadequate, and therefore the same recommendations are repeated in report after report. The OMB circular does not address many of these recommendations and it makes no sense for the GAO to visit every agency and bureau in the Federal Government to point out where they fall short. We know what is needed to prevent waste, fraud, and abuse of government credit cards and we must ensure that these internal controls are implemented consistently across the federal bureaucracy. That is why I am reintroducing the Government Credit Card Abuse Prevention Act, along with Senators LIEBERMAN, COLLINS, and COLEMAN. I should also mention that Representative JOE WILSON will be reintroducing companion legislation in the House of Representatives and I appreciate his help and assistance as we've worked together on this legislation.

Based primarily on the recommendations of the GAO in numerous reports, as well the work of agency inspectors general and my own oversight work, my bill seeks to curtail waste, fraud, and abuse of government purchase cards, government travel cards, and centrally billed accounts. By way of background, government purchase cards are essentially credit cards held by an agency that authorized individuals use to purchase items necessary for the work of the agency. Since the agency pays the bills directly, the American taxpayer is on the hook when improper purchases slip through the cracks. That means hard working American citizens are paying for someone else's Christmas shopping, or at the very least items with little or no legitimate public interest. Just like the parents' credit card in the hands of an undisciplined teenager, government purchase cards in the hands of poorly trained bureaucrats with inadequate oversight can lead to rash and ill-considered impulse buys. Take for instance an incident uncovered by the GAO when an individual at the Air Force Academy found a dead deer alongside the road and decided to use a government purchase card to pay for mounting the mule deer head to hang on the wall at the office.

Centrally billed accounts are another credit product that federal agencies use, primarily for purchasing transportation services. Like purchase cards, the bill is sent to the government so it's the taxpayer who pays when the bureaucrats let things slip through the cracks. For instance, we've had repeated cases where government employees had airplane tickets purchased on their behalf directly from a centrally billed account, and then they sought and received reimbursement as though they had paid for the ticket. In other words, the ticket was paid for twice with the employee pocketing the cost the second time, and no one would be the wiser if it weren't for the GAO. The GAO has also found millions of dollars worth of fully refundable, unused airline tickets that no one bothered to cash in. I was pleased to work with Senator COLEMAN, then the Chairman of the Permanent Subcommittee on Investigations, to bring these issues with centrally billed accounts to light, as well as Senator COLLINS, who was at the time the Chairman of the Government Affairs Committee. In addition to being co-requesters of the GAO reports, they held hearings in their respective committees and were kind enough to invite me to testify about our work.

Government travel cards, on the other hand, are not paid directly with taxpayers' money like purchase cards and centrally billed accounts, but they are only supposed to be used to pay for legitimate expense while on official government travel. Failure by employees to repay these cards results in the loss of millions of dollars in rebates to the Federal Government. Also, when credit card companies are forced to charge off bad debt, they raise interest rates and fees on everyone else. Nevertheless, government travel cards with high credit limits have been handed out like candy at a parade to individuals with abysmal credit ratings who ordinarily would never be issued that kind of credit. It's no surprise then when we learn that certain government employees have abused their government travel cards to buy jewelry, take in a New York Yankees game, or to fuel an internet gambling habit. Such abusive charges often occur when the cardholder is not even on travel at all. In fact, government travel cards have been used to provide cash advances in employees' hometowns. There are even examples of charges at so called ''gentleman's clubs'' like Cheetah's Lounge and Déjà Vu Showgirls, and even at legalized brothels. Suffice it to say that the GAO was able to determine that these charges were not for food or other approved travel expenses. It also comes as no surprise when the GAO found that employees issued government travel cards despite bad credit often bounce checks when their bill comes due, sometimes repeatedly and fraudulently. Common sense then leads us to the same conclusion that the GAO came to through empirical analysis, namely that a significant relationship exists between potential travel card fraud, abuse, and delinquencies and individuals with substantial credit history problems. That is why my legislation requires agencies to perform credit checks for travel card holders and issue only restricted cards for those with poor or no credit to reduce the potential for misuse.

My bill would also require a series of common sense internal controls, which the GAO has found to be lacking in many cases, to be implemented in every federal agency. These include: maintaining a record of each cardholder, including single transaction limits and total credit limits so agencies can effectively manage their cardholders; implementing periodic reviews to determine if cardholders have a need for a card; properly recording rebates to the government based on prompt payment; providing training for cardholders and managers; utilizing available technologies to prevent or catch fraudulent purchases; establishing specific policies about the number of cards to be issued, the credit limits for certain categories of cardholders, and categories of employees eligible to be issued cards; invalidating cards when employees leave the agency or transfer; establishing an approving official other than the purchase card holder so employees cannot approve their own purchases; reconciling purchase card charges on the bill with receipts and supporting documentation; submitting disputed purchase card charges to the bank according to the proper procedure; making purchase card payments promptly to avoid interest penalties; retaining records of purchase card transactions in accordance with standard government record keeping polices; utilizing mandatory split disbursements when reimbursing employees for travel card purchases to ensure that travel card bills get paid; comparing items submitted on travel vouchers

with items already paid for with centrally billed accounts to avoid reimbursing employees for items already paid for by the agency; and submitting refund requests for unused airline tickets so the taxpayers don't pay for tickets that were not used.

My bill would also provide that each agency Inspector General periodically conduct risk assessments of agency purchase card and travel card programs and perform periodic audits to identify potentially fraudulent, improper, and abusive use of cards. We have had great success working with Inspectors General using techniques like data mining to reveal instances of improper use of government charge cards. Having this information on an ongoing basis will help maintain and strengthen a rigorous system of internal controls to prevent future instances of waste, fraud, and abuse with government charge cards.

In addition, my bill requires penalties so that employees who abuse government charge cards will not get away scot free. In fact, in cases of serious misuse or fraud, the bill provides that employees must be dismissed and suspected cases of fraud will also be referred to the appropriate U.S. Attorney for prosecution under federal anti-fraud laws. It is essential that we send a clear message that misuse and fraudulent use of government credit cards will not be tolerated. The lack of consistency in the past in applying punishments to those caught abusing government charge cards has sent the wrong message and led to an environment where misuse of government charge cards is more likely. My bill will change that.

The American people expect us to be good stewards of their money and their cynicism about government only builds when they read about bureaucrats saying, ''Just put it on plastic'' willy nilly with their hard earned dollars. Unfortunately, such incidents persist. In the wake of Hurricane Katrina, Congress hastily passed a supplemental spending bill containing an ill-advised provision to dramatically raise the micro-purchase threshold for purchase cards. I worked with Senators COLLINS and LIEBERMAN, the leaders of the Homeland Security and Governmental Affairs Committee, to reverse what amounted to an invitation to misuse government purchase cards. Then, because of our concerns and the concerns of other members of Congress about the potential for fraud and abuse of purchase cards in the response to the hurricanes in the Gulf Coast region, the GAO conducted an investigation of purchase cards at the Department of Homeland Security. Just last September, the GAO issued its report finding instances of abusive or questionable government charge card transactions, including the purchase of a beer brewing kit, a 63-inch plasma television with a price tag of $8,000 that was found unused in its original box 6 months later, and tens of thousands of dollars for training at golf and tennis resorts. Clearly the abuse of government credit cards remains a problem and Congress needs to act. My bill will establish the discipline needed in government agencies to keep those credit cards in the wallet unless needed. I am particularly glad to be joined in introducing this bill by Chairman LIEBERMAN and Ranking Member COLLINS as well as Senator COLEMAN. Their leadership on this issue will continue to be invaluable. I urge the rest of my colleagues to join us in this effort and put a stop to the bureaucratic shopping spree.

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. 789

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 ''Government Credit Card Abuse Prevention Act of 2007''.

SEC. 2. MANAGEMENT OF PURCHASE CARDS.

(a) REQUIRED SAFEGUARDS AND INTERNAL CONTROLS.—The head of each executive agency that issues and uses purchase cards and convenience checks shall establish and maintain safeguards and internal controls to ensure the following:

(1) There is a record in each executive agency of each holder of a purchase card issued by the agency for official use, annotated with the limitations on single transaction and total credit amounts that are applicable to the use of each such card by that purchase cardholder.

(2) Each purchase card holder is assigned an approving official other than the card holder with the authority to approve or disapprove expenditures.

(3) The holder of a purchase card and each official with authority to authorize expenditures charged to the purchase card are responsible for—

(A) reconciling the charges appearing on each statement of account for that purchase card with receipts and other supporting documentation; and

(B) forwarding such reconciliation to the designated official who certifies the bill for payment in a timely manner.

(4) Any disputed purchase card charge, and any discrepancy between a receipt and other supporting documentation and the purchase card statement of account, is resolved in the manner prescribed in the applicable Governmentwide purchase card contract entered into by the Administrator of General Services.

(5) Payments on purchase card accounts are made promptly within prescribed deadlines to avoid interest penalties.

(6) Rebates and refunds based on prompt payment on purchase card accounts are monitored for accuracy and properly recorded as a receipt to the agency that pays the monthly bill.

(7) Records of each purchase card transaction (including records on associated contracts, reports, accounts, and invoices) are retained in accordance with standard Government policies on the disposition of records.

(8) Periodic reviews are performed to determine whether each purchase cardholder has a need for the purchase card.

(9) Appropriate training is provided to each purchase cardholder and each official with responsibility for overseeing the use of purchase cards issued by an executive agency.

(10) The executive agency has specific policies regarding the number of purchase cards issued by various organizations and categories of organizations, the credit limits authorized for various categories of cardholders, and categories of employees eligible to be issued purchase cards, and that those policies are designed to minimize the financial risk to the Federal Government of the issuance of the purchase cards and to ensure the integrity of purchase cardholders.

(11) The executive agency utilizes technologies to prevent or identify fraudulent purchases, including controlling merchant codes and utilizing statistical machine learning and pattern recognition technologies that review the risk of every transaction.

(12) The executive agency invalidates the purchase card of each employee who—

(A) ceases to be employed by the agency immediately upon termination of the employment of the employee; or

(B) transfers to another unit of the agency immediately upon the transfer of the employee.

(13) The executive agency takes steps to recover the cost of any improper or fraudulent purchase made by an employee, including, as necessary, through salary offsets.

(b) MANAGEMENT OF PURCHASE CARDS.—The head of each executive agency shall prescribe regulations implementing the safeguards and internal controls in subsection (a). The regulations shall be consistent with regulations that apply Governmentwide regarding the use of purchase cards by Government personnel for official purposes.

(c) PENALTIES FOR VIOLATIONS.—The regulations prescribed under subsection (b) shall provide for appropriate adverse personnel actions or other punishment to be imposed in cases in which employees of an executive agency violate such regulations or are negligent or engage in misuse, abuse, or fraud with respect to a purchase card, including imposition of the following penalties:

(1) In the case of an employee who is suspected by the executive agency to have engaged in fraud, referral of the case to the United States Attorney with jurisdiction over the matter.

(2) In the case of an employee who is found guilty of fraud or found by the executive agency to have egregiously abused a purchase card, dismissal of the employee.

(d) RISK ASSESSMENTS AND AUDITS.—The Inspector General of each executive agency shall—

(1) periodically conduct risk assessments of the agency purchase card program and associated internal controls and analyze identified weaknesses and the frequency of improper activity in order to develop a plan for using such risk assessments to determine the scope, frequency, and number of periodic audits of purchase cardholders;

(2) perform periodic audits of purchase cardholders designed to identify—

(A) potentially fraudulent, improper, and abusive uses of purchase cards;

(B) any patterns of improper cardholder transactions, such as purchases of prohibited items; and

(C) categories of purchases that should be made by means other than purchase cards in order to better aggregate purchases and obtain lower prices;

(3) report to the head of the executive agency concerned on the results of such audits; and

(4) report to the Director of the Office of Management and Budget and the Comptroller General on the implementation of recommendations made to the head of the

executive agency to address findings during audits of purchase cardholders.

(e) DEFINITION OF EXECUTIVE AGENCY.—In this section, the term ''executive agency'' has the meaning given such term in section 4(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(1)).

(f) RELATIONSHIP TO DEPARTMENT OF DEFENSE PURCHASE CARD REGULATIONS.—

(1) IN GENERAL.—Except as provided by the amendments made by paragraph (2), the requirements under this section shall not apply to the Department of Defense.

(2) EXCEPTION.—Section 2784(b) of title 10, United States Code, is amended—

(A) in paragraph (8), by striking ''periodic audits'' and all that follows through the period at the end and inserting ''risk assessments of the agency purchase card program and associated internal controls and analyze identified weaknesses and the frequency of improper activity in order to develop a plan for using such risk assessments to determine the scope, frequency, and number of periodic audits of purchase cardholders.''; and

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

''(11) That the Department of Defense utilizes technologies to prevent or identify fraudulent purchases, including controlling merchant codes and utilizing statistical machine learning and pattern recognition ognition technologies that review the risk of every transaction.

''(12) That the Secretary of Defense—

''(A) invalidates the purchase card of each employee who ceases to be employed by the Department of Defense immediately upon termination of the employment of the employee; and

''(B) invalidates the purchase card of each employee who transfers to another agency or subunit within the Department of Defense immediately upon such transfer.''.

SEC. 3. MANAGEMENT OF TRAVEL CARDS.

Section 2 of the Travel and Transportation Reform Act of 1998 (Public Law 105–264; 5 U.S.C. 5701 note) is amended by adding at the end the following new subsection:

''(h) MANAGEMENT OF TRAVEL CHARGE CARDS.—

''(1) REQUIRED SAFEGUARDS AND INTERNAL CONTROLS.—The head of each executive agency that has employees that use travel charge cards shall establish and maintain safeguards and internal controls over travel charge cards to ensure the following:

''(A) There is a record in each executive agency of each holder of a travel charge card issued by the agency for official use, annotated with the limitations on amounts that are applicable to the use of each such card by that travel charge cardholder.

''(B) Rebates and refunds based on prompt payment on travel charge card accounts are properly recorded as a receipt of the agency that employs the cardholder.

''(C) Periodic reviews are performed to determine whether each travel charge cardholder has a need for the travel charge card.

''(D) Appropriate training is provided to each travel charge cardholder and each official with responsibility for overseeing the use of travel charge cards issued by an executive agency.

''(E) Each executive agency has specific policies regarding the number of travel charge cards issued by various organizations and categories of organizations, the credit limits authorized for various categories of cardholders, and categories of employees eligible to be issued travel charge cards, and that those policies are designed to minimize the financial risk to the Federal Government of the issuance of the travel charge cards and to ensure the integrity of travel charge cardholders.

''(F) The head of each executive agency negotiates with the holder of the applicable travel card contract, or a third party provider of credit evaluations if such provider offers more favorable terms, to evaluate the creditworthiness of an individual before issuing the individual a travel charge card, and that no individual be issued a travel charge card if the individual is found not creditworthy as a result of the evaluation (except that this paragraph shall not preclude issuance of a restricted use travel charge card when the individual lacks a credit history or the issuance of a pre-paid card when the individual has a credit score below the minimum credit score established by the agency). Each executive agency shall establish a minimum credit score for determining the creditworthiness of an individual based on rigorous statistical analysis of the population of cardholders and historical behaviors. Notwithstanding any other provision of law, such evaluation shall include an assessment of an individual's consumer report from a consumer reporting agency as those terms are defined in section 603 of the Fair Credit Reporting Act. The obtaining of a consumer report under this subsection is deemed to be a circumstance or purpose authorized or listed under section 604 of the Fair Credit Reporting Act.

''(G) Each executive agency utilizes technologies to prevent or identify fraudulent purchases, including controlling merchant codes and utilizing statistical machine learning and pattern recognition technologies that review the risk of every transaction.

''(H) Each executive agency ensures that the travel charge card of each employee who ceases to be employed by the agency is invalidated immediately upon termination of the employment of the employee.

''(I) Each executive agency utilizes mandatory split disbursements for travel card purchases.

''(2) REGULATIONS.—The Administrator of General Services shall prescribe regulations governing the implementation of the safeguards and internal controls in paragraph (1) by executive agencies.

''(3) PENALTIES FOR VIOLATIONS.—The regulations prescribed under paragraph (2) shall provide for appropriate adverse personnel actions or other punishment to be imposed in cases in which employees of an executive agency violate such regulations or are negligent or engage in misuse, abuse, or fraud with respect to a travel charge card, including removal in appropriate cases.

''(4) ASSESSMENTS.—The Inspector General of each executive agency shall—

''(A) periodically conduct risk assessments of the agency travel card program and associated internal controls and analyze identified weaknesses and the frequency of improper activity in order to develop a plan for using such risk assessments to determine the scope, frequency, and number of periodic audits of purchase cardholders;

''(B) perform periodic audits of travel cardholders designed to identify potentially fraudulent, improper, and abusive uses of travel cards;

''(C) report to the head of the executive agency concerned on the results of such audits; and

''(D) report to the Director of the Office of Management and Budget and the Comptroller General on the implementation of recommendations made to the head of the executive agency to address findings during audits of travel cardholders.

''(5) DEFINITIONS.—In this subsection:

''(A) The term 'executive agency' means an agency as that term is defined in section 5701 of title 5, United States Code, except that it is in the executive branch.

''(B) The term 'travel charge card' means the Federal contractor-issued travel charge card that is individually billed to each cardholder.''.

SEC. 4. MANAGEMENT OF CENTRALLY BILLED ACCOUNTS.

The head of an executive agency that has employees who use a centrally billed account shall establish and maintain safeguards and internal controls to ensure the following:

(1) Items submitted on an employee's travel voucher are compared with items paid for using a centrally billed account to ensure that an employee is not reimbursed for an item already paid for through a centrally billed account.

(2) The executive agency submits requests for refunds for unauthorized purchases to the holder of the applicable contract for a centrally billed account.

(3) The executive agency submits requests for refunds for fully or partially unused tickets to the holder of the applicable contract for a centrally billed account.

SEC. 5. REGULATIONS.

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act—

(1) the head of each executive agency shall promulgate regulations to implement the requirements of sections 2 and 4; and

(2) the Administrator of General Services shall promulgate regulations required pursuant to the amendments made by section 3.

(b) BEST PRACTICES.—Regulations promulgated under this section shall reflect best practices for conducting purchase card and travel card programs.

By Mr. LEVIN (for himself, Mr. VOINOVICH, Ms. STABENOW, Mr. SCHUMER, Mr. COLEMAN, Mrs. CLINTON, and Mr. OBAMA):

S. 791. A bill to establish a collaborative program to protect the Great Lakes, and for other purposes; to the Committee on Environment and Public Works.

Mr. LEVIN. Mr. President, I am pleased to introduce the ''Great Lakes Collaboration Implementation Act'' with Senator GEORGE VOINOVICH and our co-sponsors. I also want to thank Representatives VERN EHLERS and RAHM EMANUEL for introducing similar Great Lakes restoration legislation in the House today.

The Great Lakes are vital not only to Michigan, but to the Nation. Roughly one-tenth of the U.S. population lives in the Great Lakes basin and depends daily on the lakes. The Great Lakes provide drinking water to 40 million people. They provide the largest recreational resource for their 8 neighboring States. They form the largest body of freshwater in the world, containing roughly 18 percent of the world's total; only the polar ice caps contain more freshwater. They are critical for our economy by helping move natural resources to the factory and to move products to market.

While the environmental protections that were put in place in the early 1970s have helped the Great Lakes make strides toward recovery, a 2003 GAO report made clear that there is much work still to do. That report stated: ''Despite early success in improving conditions in the Great Lakes Basin, significant environmental challenges remain, including increased

threats from invasive species and cleanup of areas contaminated with toxic substances that pose human health threats.'' More recently, many scientists reported that the Great Lakes are exhibiting signs of stress due to a combination of sources, including toxic contaminants, invasive species, nutrient loading, shoreline and upland land use changes, and hydrologic modifications. A 2005 report from a group of Great Lakes scientific experts states that ''historical sources of stress have combined with new ones to reach a tipping point, the point at which ecosystem-level changes occur rapidly and unexpectedly, confounding the traditional relationships between sources of stress and the expected ecosystem response.''

The zebra mussel, an aquatic invasive species, caused $3 billion in economic damage to the Great Lakes from 1993 to 2003. In 2000, seven people died after pathogens entered the Walkerton, Ontario drinking water supply from the lakes. In May of 2004, more than ten billion gallons of raw sewage and storm water were dumped into the Great Lakes. In that same year, over 1,850 beaches in the Great Lakes were closed. Each summer, Lake Erie develops a 6,300 square mile dead zone. There is no appreciable natural reproduction of lake trout in the lower four lakes. More than half of the Great Lakes region's original wetlands have been lost, along with 60% of the forests. Wildlife habitat has been destroyed, thus diminishing opportunities necessary for fishing, hunting and other forms of outdoor recreation.

The Great Lakes problems have been well-known for several years, and, in 2005, 1,500 people through the Great Lakes region worked together to compile recommendations for restoring the lakes. These recommendations were released in December 2005, and, today, I am introducing this legislation to implement many of those recommendations.

This bill would reduce the threat of new invasive species by enacting comprehensive invasive species legislation and put ballast technology on board ships; it specifically targets Asian carp by authorizing the improvement, operation and maintenance of the dispersal barrier. The bill would improve fish and wildlife habitat by providing additional resources to States and cities for water infrastructure. It would provide additional funding for contaminated sediment cleanup and would give the EPA additional tools under the Great Lakes Legacy Act to move projects along faster. The bill would create a new grant program to phase out mercury in products and to identify emerging contaminants. The bill would authorize the restoration and remediation of our waterfronts. It would authorize additional research through existing Federal programs as well as our non-federal research institutions. And it would authorize coordination of Federal programs.

The Great Lakes are a unique American treasure. We must recognize that we are only their temporary stewards. If Congress does not act to keep pace with the needs of the lakes, and the tens of millions of Americans dependent upon them and affected by their condition, the current problems will continue to build, and we may start to undo some of the good work that has already been done. We must be good stewards by ensuring that the Federal government meets its ongoing obligation to protect and restore the Great Lakes. This legislation will help us meet that great responsibility to future generations.

By Mr. HATCH (for himself and Mr. KENNEDY):

S. 793. A bill to provide for the expansion and improvement of traumatic brain injury programs; to the Committee on Health, Education, Labor, and Pensions.

Mr. HATCH. Mr. President, I rise today to introduce legislation to reauthorize the Traumatic Brain Injury Act. It is my pleasure to be joined in this effort by the Chairman of the Senate Health, Education, Labor and Pension Committee, Senator TED KENNEDY, with whom I worked on the original legislation over 10 years ago.

Sustaining a traumatic brain injury—or TBI—can be both catastrophic and devastating. The financial and emotional costs to the individual, family, and community are enormous. Traumatic brain injuries contribute to a substantial number of deaths and cases of permanent disability annually.

Individuals with TBI and their families are often faced with challenges, such as improper diagnosis, inability to access support or rehabilitation services, institutional segregation, unemployment, and being forced to navigate complicated and cumbersome service and support systems.

Of the 1.4 million who sustain a TBI each year in the United States: 50,000 die; 235,000 are hospitalized; and 1.1 million are treated and released from an emergency department. Brain injuries are the most frequent reasons for visits to physicians and emergency rooms.

These statistics are more revealing when one considers that every 16 seconds someone in the U.S. sustains a head injury; and every 12 minutes, one of these people will die and another will become permanently disabled. Of those who survive, each year, an estimated 80,000 to 90,000 people experience the onset of long-term disability associated with a TBI. An additional 2,000 will exist in a persistent vegetative state.

Even more startling is the fact that brain injury kills more Americans under the age of 34 than all other causes combined and has claimed more lives since the turn of the century than all United States wars combined.

Recent publicity about brain injuries Americans have sustained in Iraq points out that TBI is an everyday threat to our servicemen and servicewomen—68 percent of war veterans are returning home with sustained brain injuries. According to the Defense and Veterans Brain Injury Center, which serves active duty military, their dependents and veterans with TBI, traumatic brain injury is one of the leading causes of death and disability on today's battlefield. While not specifically addressed by this bill, the Federal TBI program helps to provide resources that supplement the networks which serve our returning soldiers.

The distress of TBI is not limited to diagnosis. A survivor of a severe brain injury typically faces 5 to 10 years of intensive services and estimated lifetime costs can exceed $4 million. Direct medical costs and indirect costs such as lost productivity of TBI totaled an estimated $60 billion in the United States in 2000.

To recognize the large number of individuals and families struggling to access appropriate and community-based services, Senator KENNEDY and I wrote the TBI Act of 1996, PL 104–166.

The TBI Act of 1996 launched an effort to conduct expanded studies and to establish innovative programs for TBI. It gave the Health Resources and Services Administration (HRSA) authority to establish a grant program for States to assist it in addressing the needs of individuals with TBI and their families. It also delegated responsibilities in the areas of research, prevention, and surveillance to the National Institutes of Health (NIH) and the Centers for Disease Control and Prevention (CDC), respectively.

Title XIII of the Children's Health Act of 2000, PL 106–310, reauthorized the programs of the TBI Act of 1996. This reauthorization also added a provision on protection and advocacy, P&A, services for individuals with TBI and their families by authorizing HRSA to make grants to State P&A Systems.

The Traumatic Brain Injury Act is the only Federal legislation that specifically addresses issues faced by 5.3 million American children and adults who live with a long-term disability as a result of traumatic brain injury. Reauthorization of the Traumatic Brain Injury Act will provide for the continuation of research, not only for the treatment of TBI, but also for prevention and awareness programs which will help decrease the occurrence of traumatic brain injury and improve the long-term outcome.

This legislation authorizes the Health Resources and Services Administration, HRSA, to make grants for projects of national significance that improve individual and family access to service systems; assist States in developing service capacity; improve monitoring and evaluation of rehabilitation services and supports; and address emerging needs of servicemen and women, veterans, and individuals and families who have experienced

brain injury through service delivery demonstration projects.

This bill also authorizes HRSA to include the American Indian Consortium as an eligible recipient of competitive grants awarded to States, Territories, and the District of Columbia to develop comprehensive system of services and supports nationwide.

Furthermore, this bill instructs HRSA and the Administration on Developmental Disabilities to coordinate data collection regarding protection and advocacy services.

Also funded by the TBI program, the CDC supports multiple projects and programs, including those that monitor TBI, link people with TBI to information about services, and prevent TBI-related disabilities. These projects comprise initiatives such as generating national estimates for TBI deaths, hospitalizations, and emergency department visits; planning the future of TBI registries and data systems; and educating health care professionals about TBI. In addition, the CDC funds TBI research in various academic institutions to investigate TBI in children and adolescents.

This year, Congress has an opportunity to strengthen the TBI Act by authorizing the Centers for Disease Control and Prevention, CDC, to determine the incidence and prevalence of traumatic brain injury in the general population of the United States, including all age groups and persons in institutional settings such as nursing homes, correctional facilities, psychiatric hospitals, child care facilities, and residential institutes for people with developmental disabilities.

Brain injury is a complex issue and there is still much unknown. With Federal funds provided within the TBI program, researchers at the NIH are studying many issues related to the special cognitive and communication problems experienced by individuals who have traumatic brain injuries. Scientists are designing new evaluation tools to assess the special problems that children who have suffered traumatic brain injuries encounter. Because the brain of a child is vastly different from the brain of an adult, scientists are also examining the effects of various treatment methods that have been developed specifically for children. In addition, research is examining the effects of some medications on the recovery of speech, language, and cognitive abilities following traumatic brain injury. Reauthorization of the TBI program will enable this important research to continue and expand.

As I have mentioned, there is still a lot of unknown surrounding the issue of TBI; however, one aspect is definite, and that is that people are never the same after TBI. Not only are their lives forever changed, but they must face these changes in a compromised state. The TBI program offers balanced and coordinated public policy in brain injury prevention, research, education, and community-based services and supports for individuals living with traumatic brain injury and their families.

Reauthorization of the Traumatic Brain Injury Act will further provide mechanisms for the research, prevention, and treatment of TBI and the improvement of the quality of life for those Americans and their families who may sustain such a devastating disability. I ask my colleagues' support in promptly reauthorizing the Traumatic Brain Injury Act.

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. 793

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 ''Reauthorization of the Traumatic Brain Injury Act''.

SEC. 2. CONFORMING AMENDMENTS RELATING TO RESTRUCTURING.

Part J of title III of the Public Health Service Act (42 U.S.C. 280b et seq.) is amended—

(1) by redesignating the section 393B (42 U.S.C. 280b–1c) relating to the use of allotments for rape prevention education, as section 393A and moving such section so that it follows section 393;

(2) by redesignating existing section 393A (42 U.S.C. 280b–1b) relating to prevention of traumatic brain injury, as section 393B; and

(3) by redesignating the section 393B (42 U.S.C. 280b–1d) relating to traumatic brain injury registries, as section 393C.

SEC. 3. TRAUMATIC BRAIN INJURY PROGRAMS OF THE CENTERS FOR DISEASE CONTROL AND PREVENTION.

(a) PREVENTION OF TRAUMATIC BRAIN INJURY.—Clause (ii) of section 393B(b)(3)(A) of the Public Health Service Act, as so redesignated, (42 U.S.C. 280b–1b) is amended by striking ''from hospitals and trauma centers'' and inserting ''from hospitals and emergency departments''.

(b) NATIONAL PROGRAM FOR TRAUMATIC BRAIN INJURY SURVEILLANCE AND REGISTRIES.—Section 393C of the Public Health Service Act, as so redesignated, (42 U.S.C. 280b et seq.) is amended—

(1) in the section heading, by inserting ''**SURVEILLANCE AND**'' after ''**NATIONAL PROGRAM FOR TRAUMATIC BRAIN INJURY**'';

(2) by striking ''(a) **IN GENERAL**.—''; and

(3) in the matter preceding paragraph (1), by striking ''may make grants'' and all that follows through ''to collect data concerning—'' and inserting ''may make grants to States or their designees to develop or operate the State's traumatic brain injury surveillance system or registry to determine the incidence and prevalence of traumatic brain injury and related disability, to ensure the uniformity of reporting under such system or registry, to link individuals with traumatic brain injury to services and supports, and to link such individuals with academic institutions to conduct applied research that will support the development of such surveillance systems and registries as may be necessary. A surveillance system or registry under this section shall provide for the collection of data concerning—''.

SEC. 4. STUDY ON TRAUMATIC BRAIN INJURY.

Part J of title III of the Public Health Service Act (42 U.S.C. 280b et seq.) is amended by inserting after section 393C the following:

''SEC. 393C–1. STUDY ON TRAUMATIC BRAIN INJURY.

''(a) STUDY.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention with respect to paragraph (1) and the Director of the National Institutes of Health with respect to paragraphs (2) and (3), shall conduct a study with respect to traumatic brain injury for the purpose of carrying out the following:

''(1) In collaboration with appropriate State and local health-related agencies—

''(A) determining the incidence of traumatic brain injury and prevalence of traumatic brain injury related disability and the clinical aspects of the disability in all age groups and racial and ethnic minority groups in the general population of the United States, including institutional settings, such as nursing homes, correctional facilities, psychiatric hospitals, child care facilities, and residential institutes for people with developmental disabilities; and

''(B) reporting national trends in traumatic brain injury.

''(2) Identifying common therapeutic interventions which are used for the rehabilitation of individuals with such injuries, and, subject to the availability of information, including an analysis of—

''(A) the effectiveness of each such intervention in improving the functioning, including return to work or school and community participation, of individuals with brain injuries;

''(B) the comparative effectiveness of interventions employed in the course of rehabilitation of individuals with brain injuries to achieve the same or similar clinical outcome; and

''(C) the adequacy of existing measures of outcomes and knowledge of factors influencing differential outcomes.

''(3) Identifying interventions and therapies that can prevent or remediate the development of secondary neurologic conditions related to traumatic brain injury.

''(4) Developing practice guidelines for the rehabilitation of traumatic brain injury at such time as appropriate scientific research becomes available.

''(b) DATES CERTAIN FOR REPORTS.—Not later than 3 years after the date of the enactment of the Reauthorization of the Traumatic Brain Injury Act, the Secretary shall submit to the Congress a report describing findings made as a result of carrying out subsection (a).

''(c) DEFINITION.—For purposes of this section, the term 'traumatic brain injury' means an acquired injury to the brain. Such term does not include brain dysfunction caused by congenital or degenerative disorders, nor birth trauma, but may include brain injuries caused by anoxia due to trauma. The Secretary may revise the definition of such term as the Secretary determines necessary.''.

SEC. 5. TRAUMATIC BRAIN INJURY PROGRAMS OF THE NATIONAL INSTITUTES OF HEALTH.

Section 1261 of the Public Health Service Act (42 U.S.C. 300d–61) is amended—

(1) in subparagraph (D) of subsection (d)(4), by striking ''head brain injury'' and inserting ''brain injury''; and

(2) in subsection (i), by inserting '', and such sums as may be necessary for each of fiscal years 2008 through 2011'' before the period at the end.

SEC. 6. TRAUMATIC BRAIN INJURY PROGRAMS OF THE HEALTH RESOURCES AND SERVICES ADMINISTRATION.

(a) STATE GRANTS FOR DEMONSTRATION PROJECTS REGARDING TRAUMATIC BRAIN INJURY.—Section 1252 of the Public Health Service Act (42 U.S.C. 300d–52) is amended—

(1) in subsection (a)—

(A) by striking ''may make grants to States'' and inserting ''may make grants to States and American Indian consortia''; and

(B) by striking ''health and other services'' and inserting ''rehabilitation and other services'';

(2) in subsection (b)—

(A) in paragraphs (1), (3)(A)(i), (3)(A)(iii), and (3)(A)(iv), by striking the term ''State'' each place such term appears and inserting the term ''State or American Indian consortium''; and

(B) in paragraph (2), by striking ''recommendations to the State'' and inserting ''recommendations to the State or American Indian consortium'';

(3) in subsection (c), by striking the term ''State'' each place such term appears and inserting ''State or American Indian consortium'';

(4) in subsection (e), by striking ''A State that received'' and all that follows through the period and inserting ''A State or American Indian consortium that received a grant under this section prior to the date of the enactment of the Reauthorization of the Traumatic Brain Injury Act may complete the activities funded by the grant.'';

(5) in subsection (f)—

(A) in the subsection heading, by inserting ''AND AMERICAN INDIAN CONSORTIUM'' after ''STATE'';

(B) in paragraph (1) in the matter preceding subparagraph (A), paragraph (1)(E), paragraph (2)(A), paragraph (2)(B), paragraph (3) in the matter preceding subparagraph (A), paragraph (3)(E), and paragraph (3)(F), by striking the term ''State'' each place such term appears and inserting ''State or American Indian consortium'';

(C) in clause (ii) of paragraph (1)(A), by striking ''children and other individuals'' and inserting ''children, youth, and adults''; and

(D) in subsection (h)—

(i) by striking ''Not later than 2 years after the date of the enactment of this section, the Secretary'' and inserting ''Not less than biannually, the Secretary''; and

(ii) by inserting ''section 1253, and section 1254,'' after ''programs established under this section,'';

(6) by amending subsection (i) to read as follows:

''(i) DEFINITIONS.—For purposes of this section:

''(1) The terms 'American Indian consortium' and 'State' have the meanings given to those terms in section 1253.

''(2) The term 'traumatic brain injury' means an acquired injury to the brain. Such term does not include brain dysfunction caused by congenital or degenerative disorders, nor birth trauma, but may include brain injuries caused by anoxia due to near drowning. The Secretary may revise the definition of such term as the Secretary determines necessary, after consultation with States and other appropriate public or nonprofit private entities.''; and

(7) in subsection (j), by inserting '', and such sums as may be necessary for each of the fiscal years 2008 through 2011'' before the period.

(b) STATE GRANTS FOR PROTECTION AND ADVOCACY SERVICES.—Section 1253 of the Public Health Service Act (42 U.S.C. 300d–53) is amended—

(1) in subsections (d) and (e), by striking the term ''subsection (i)'' each place such term appears and inserting ''subsection (l)'';

(2) in subsection (g), by inserting ''each fiscal year not later than October 1,'' before ''the Administrator shall pay'';

(3) by redesignating subsections (i) and (j) as subsections (l) and (m), respectively;

(4) by inserting after subsection (h) the following:

''(i) DATA COLLECTION.—The Administrator of the Health Resources and Services Administration and the Commissioner of the Administration on Developmental Disabilities shall enter into an agreement to coordinate the collection of data by the Administrator and the Commissioner regarding protection and advocacy services.

''(j) TRAINING AND TECHNICAL ASSISTANCE.—

''(1) GRANTS.—For any fiscal year for which the amount appropriated to carry out this section is $6,000,000 or greater, the Administrator shall use 2 percent of such amount to make a grant to an eligible national association for providing for training and technical assistance to protection and advocacy systems.

''(2) DEFINITION.—In this subsection, the term 'eligible national association' means a national association with demonstrated experience in providing training and technical assistance to protection and advocacy systems.

''(k) SYSTEM AUTHORITY.—In providing services under this section, a protection and advocacy system shall have the same authorities, including access to records, as such system would have for purposes of providing services under subtitle C of the Developmental Disabilities Assistance and Bill of Rights Act of 2000.''; and

(5) in subsection (l) (as redesignated by this subsection) by striking ''2005'' and inserting ''2011''.

Mr. KENNEDY. Mr. President, it's a privilege to join with Senator HATCH in introducing legislation to reauthorize the Traumatic Brain Injury Act. The reauthorization will expand assistance to the millions of adults and children in the nation who are facing serious problems because of brain injuries. Its provisions also have a major role in meeting the critical needs facing many of our wounded soldiers returning home from the wars in Iraq and Afghanistan.

The numbers tell the story. As of this month, almost 25,000 service members have been wounded in Iraq, and approximately two-thirds of the injuries include brain injuries. Here at home, an extremely high number of children from birth to age 14 experience traumatic brain injuries—approximately 475,000 a year—and some of the most frequent injuries are among children under the age of five.

Soldiers and children—I cannot think of two more deserving groups of people in our nation.

Reauthorization of the Act is essential to continue the availability of federal funds for traumatic brain injury programs. The bill reauthorizes grants that assist States, Territories, and the District of Columbia in establishing and expanding coordinated systems of community-based services and supports for children and adults with such injuries. It also extends the ability to apply for these grants to American Indian Consortia.

When Congress approved the Traumatic Brain Injury Act as part of the Children's Health Act of 2000, we had the foresight to establish a specific provision called the Protection and Advocacy for Individuals with Traumatic Brain Injury Program. This program has proved to be essential because individuals with traumatic brain injuries have an array of needs, including assistance in returning to work, finding a place to live, obtaining supports and services such as attendant care and assistive technology, and obtaining appropriate mental health, substance abuse, and rehabilitation services.

Often these individuals—especially our returning veterans—must remain in extremely expensive institutions far longer than necessary, because the community-based supports and services they need are not available. Such services can lead both to reduced government expenditures and to increased productivity, independence and community integration, but the advocates must possess special skills, and their work is often time-intensive.

In addition, our legislation provides funds for CDC programs that provide extremely important data gathering and information on injury prevention. In a time when both the Administration and Congress are searching for programs that provide the right kind of ''bang for the federal buck,'' an Institute of Medicine report last March showed that the TBI programs work. The programs in the Act were funded for a total of only $12 million dollars last year, and yet their benefit is obvious. Clearly these programs should be reauthorized and the funding should be increased. Although the reauthorization is for ''such sums as may be necessary,'' we must do all we can to expand the appropriations in the years ahead in order to meet the urgent need for this assistance.

The IOM report called the current TBI programs an ''overall success,'' stating that ''there is considerable value in providing . . . funding,'' and ''it is worrisome that the modestly budgeted HRSA TBI Program continues to be vulnerable to budget cuts.'' As the study suggests, this program must be continued and allowed to grow, so that each state has the resources necessary to maintain vital services and advocacy for the estimated 5.3 million people currently living with disabilities resulting from brain injury. When our wounded soldiers return to their communities, the services and supports they need must be available.

The nation owes these deserving people—especially our service members and our children—the services and advocacy available under these critical programs. I urge my colleagues to act quickly on this important reauthorization and enact this bipartisan bill as soon as possible.

By Mr. OBAMA (for himself, Mr. MENENDEZ, Mr. SALAZAR, and Mr. BINGAMAN):

S. 795. A bill to assist aliens who have been lawfully admitted in becoming citizens of the United States, and for other purposes; to the Committee on the Judiciary.

Mr. OBAMA. Mr. President, I am proud to introduce the Citizenship Promotion Act (CPA) of 2007 with my good

friend Congressman LUIS GUTIERREZ. In the Senate, we are joined by Senator SALAZAR, Senator MENENDEZ, and Senator BINGAMAN. The CPA will encourage the U.S. Citizenship and Immigration Services (USCIS) to charge fees for services to legal immigrants that are fair and reasonable, and it would remove other potential bureaucratic barriers to the pursuit of citizenship.

Immigration policy remains one of the most contentious and divisive issues in our politics. And it is contentious and divisive because our policies are full of mixed messages. We must state clearly what our immigration policy should achieve—a legal, orderly, and secure immigration system that values immigrants, recognizes our right to control who enters our country, and promotes the legal pursuit of citizenship.

Most recently, the unanimous declarations of our support for legal immigrants has run head on into a USCIS proposal to dramatically increase immigration application fees beyond the reach of many working class legal immigrants. For a family of four that is working hard and legally pursuing the American dream, the new fees could put citizenship out of reach for many immigrants. For a family of four, the new fees would raise the cost of the application for citizenship by 80 percent to more than $2,400 dollars. And the fees for all other services will rise as well.

The Administration argues that people will pay any fee to become Americans. For many people, that is true. But for others, the new fee will send the message that they need only apply if they can afford it. It sends the message that we measure character based on income.

Our government has never provided services based on what people are willing to pay. That is why we are introducing the Citizenship Promotion Act to ensure that immigration application fees are both reasonable and fair and that the citizenship process itself respects the individuality of each applicant.

For immigrants who choose to come to America and pursue citizenship, there are numerous barriers. First, family, friends, and community are left behind. The new communities they enter come with the challenge of a new language, different social norms, and sometimes discrimination. And yet, every year, thousands of immigrants fully embrace the values and ideals that make us all Americans and unite us in our common pursuit of a better, more democratic society.

The dues we charge legal immigrants for joining the American family, from application fees to naturalization tests to background checks are all necessary, but should not eliminate people on the basis of income, age, or ethnicity. Excessive fees, testing that asks trivial questions or is administered without consideration for the applicant's circumstances, and background checks that take years to complete tell us more about ourselves than they do about those wishing to enter.

We believe that there are ways to help cushion the blow to immigrants from increased costs without hurting the agency. The CPA would make it clear to the USCIS that application fees do not need to fund all direct and indirect costs. We would maintain fees at their current levels and require that before raising fees any further, the agency report to Congress on its direct and indirect costs and how much in appropriations it would need to establish reasonable and fair fees.

In addition to ensuring that fees are fair, we want to make sure that other aspects of pursuing citizenship are fair as well. Our bill requires that citizenship tests be administered with consideration for the applicant, that the agency work with the FBI to move background checks through the process more quickly, and that any new application procedure make it possible for people without Internet access to continue submitting their applications on paper. The bill also creates a new grant program to give community based organizations the resources necessary to prepare and equip immigrants to become citizens.

Let's stop sending mixed messages. Let's work together and set immigration fees at a level that are fair and consistent with our commitment to being an open, democratic, and egalitarian society.

By Mr. CARDIN (for himself, Ms. MIKULSKI, Mr. WARNER, and Mr. WEBB):

S. 797. A bill to amend the National Trails System Act to designate the Star-Spangled Banner Trail in the States of Maryland and Virginia and the District of Columbia as a National Historic Trail; to the Committee on Energy and Natural Resources.

By Mr. CARDIN (for himself, Ms. MIKULSKI, Mr. WARNER, Mr. WEBB, Mr. LEVIN, and Mrs. CLINTON):

S. 798. A bill to establish the Star-Spangled Banner and War of 1812 Bicentennial Commission, and for other purposes; to the Committee on the Judiciary.

Mr. CARDIN. Mr. President, in just five years, our Nation will observe the bicentennial of a defining moment in our Nation's history—the war of 1812. Sometimes referred to as America's ''Second War of Independence,'' the War of 1812 played a critical role in shaping our national heritage and identity. To ensure that this anniversary will be commemorated properly and in a timely manner, I am today re-introducing legislation to establish the Star Spangled Banner National Historic Trail and the Star-Spangled Banner and War of 1812 Bicentennial Commission. Joining me in co-sponsoring one or more of these measures are my colleagues Senators MIKULSKI, WARNER, WEBB, LEVIN, and CLINTON. I spoke during the 109th Congress about the significance of the War of 1812, its impact on our Nation's history and culture and the rationale for these two measures. I want to highlight some of those principal points today.

The United States declared war on Britain in June 1812, after enduring years of naval blockades, trade restrictions with the European continent, and seizure of American ships and sailors in the ongoing war between Britain and France. With only a small army and practically no navy, our young Nation was ill-prepared to face Britain—then the world's preeminent naval power. By the summer of 1814 defeat seemed certain, with the British combined land and sea invasion of the Chesapeake region and the burning of the Capitol, the White House and much of the federal city. But in their attack on Baltimore, the British met stiff resistance. American patriots successfully defended Fort McHenry and the British invasion was repelled. It was during this battle that Francis Scott Key witnessed our flag flying intact, despite the continuous bombardment, and wrote the words which were to become our National Anthem. Today, many historians see the War of 1812 as the definitive end of the American Revolution—a war which preserved and strengthened our democracy, brought America to the international stage, and helped forge our national identity through the symbols of the National Anthem and the Star Spangled Banner.

To commemorate the historic events associated with the War of 1812, eight years ago I joined with my predecessor, Senator Paul Sarbanes, in sponsoring legislation directing the National Park Service to conduct a study of the feasibility and desirability of designating the routes used by the British and Americans during the Chesapeake Campaign of the War of 1812 as a National Historic Trail. That study was completed in March 2004 and recommended that the proposed Star Spangled Banner National Historic Trail ''. . . be established by the Congress as a national historic trail with commemorative recreation and driving routes and water trails.'' The study found that the proposed series of land and water trails fully meet the eligibility criteria for designation as a National Historic Trail—they retain historic integrity, are nationally significant, and have significant potential for public recreational use and historic interpretation. The study recommended that the trail be managed through a partnership between the National Park Service, a trail organization and state and local authorities and concluded that the costs of implementing the proposed trail would be minimal. The study also recommended that the Congress''. . . establish a War of 1812 Bicentennial Commission to coordinate the 200th anniversary of the War of 1812.''

The two pieces of legislation I am reintroducing today would implement

these two recommendations of the National Park Service. The first measure would authorize the establishment of the Star Spangled Banner National Historic Trail, an approximately 290-mile series of land and water trails tracing the story of the only combined naval and land attack on the United States and the events leading up to the writing of the Star Spangled Banner. Sites along the National Historic Trail would mark some of the most important events of the War of 1812 including battles between the British Navy and the American Chesapeake Flotilla in St. Leonard's Creek in Calvert County; the British landing at Benedict; the Battle of Bladensburg; the burning of the Nation's Capitol, White House and Washington Navy Yard; the British naval feints up the Potomac River to Alexandria and on the upper Chesapeake Bay; the Battle of North Point; and the successful American defense of Fort McHenry on September 14, 1814, which inspired the poem that became our National Anthem. The second measure would authorize the establishment of a ''Star Spangled Banner and War of 1812 Bicentennial Commission'' to plan, coordinate and facilitate programs and other efforts to commemorate the historic events associated with the War of 1812. Made up, in part, by citizens from the thirty states involved in the War, the Commission is tasked with planning, encouraging, developing, executing and coordinating programs to ensure a suitable national observance of the War of 1812. Both these measures were approved by the full Senate during the 109th Congress, but unfortunately were not acted upon by the House Committees of jurisdiction.

With the bicentennial of the War of 1812 quickly approaching, it is vital that the Congress move swiftly to approve these measures and enable the proper commemoration of this important period in our nation's history. The legislation will help provide Americans and visitors alike with a better understanding and appreciation of our heritage.

I ask unanimous consent that the text of the two measures I am introducing be printed in the RECORD.

There being no objection, the texts of the bills were ordered to be printed in the RECORD, as follows:

S. 797

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 ''Star-Spangled Banner National Historic Trail Act''.

SEC. 2. AUTHORIZATION AND ADMINISTRATION OF TRAIL.

Section 5(a) of the National Trails System Act (16 U.S.C. 1244(a)) is amended by adding at the end the following:

''(26) STAR-SPANGLED BANNER NATIONAL HISTORIC TRAIL.—

''(A) IN GENERAL.—The Star-Spangled Banner National Historic Trail, a trail consisting of water and overland routes totaling approximately 290 miles extending from southern Maryland through the District of Columbia and Virginia, and north to Baltimore, Maryland, commemorating the Chesapeake Campaign of the War of 1812 (including the British invasion of Washington, District of Columbia, and its associated feints and the Battle of Baltimore in summer 1814), as generally depicted on the maps contained in the report entitled 'Star-Spangled Banner National Historic Trail Feasibility Study and Environmental Impact Statement', and dated March 2004.

''(B) MAP.—A map generally depicting the trail shall be maintained on file and available for public inspection in the appropriate offices of the National Park Service.

''(C) ADMINISTRATION.—Subject to subparagraph (E)(ii), the trail shall be administered by the Secretary of the Interior.

''(D) LAND ACQUISITION.—No land or interest in land outside the exterior boundaries of any federally administered area may be acquired by the United States for the trail except with the consent of the owner of the land or interest in land.

''(E) PUBLIC PARTICIPATION.—The Secretary of the Interior shall—

''(i) encourage communities, owners of land along the trail, and volunteer trail groups to participate in the planning, development, and maintenance of the trail; and

''(ii) consult with other affected landowners and Federal, State, and local agencies in the administration of the trail.

''(F) INTERPRETATION AND ASSISTANCE.—Subject to the availability of appropriations, the Secretary of the Interior may provide to State and local governments and nonprofit organizations interpretive programs and services and, through Fort McHenry National Monument and Shrine, technical assistance, for use in carrying out preservation and development of, and education relating to the War of 1812 along, the trail.''.

S. 798

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 ''Star-Spangled Banner and War of 1812 Bicentennial Commission Act''.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) the War of 1812 served as a crucial test for the United States Constitution and the newly established democratic Government;

(2) vast regions of the new multi-party democracy, including the Chesapeake Bay, the Gulf of Mexico and the Niagara Frontier, were affected by the War of 1812 including the States of Alabama, Connecticut, Delaware, Florida, Georgia, Iowa, Illinois, Indiana, Kentucky, Louisiana, Massachusetts, Maryland, Maine, Michigan, Missouri, Mississippi, New Jersey, North Carolina, New Hampshire, New York, Ohio, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Virginia, Vermont, Wisconsin, West Virginia, and the District of Columbia;

(3) the British occupation of American territory along the Great Lakes and in other regions, the burning of Washington, D.C., the American victories at Fort McHenry, New Orleans, and Plattsburgh, among other battles, had far reaching effects on American society;

(4) at the Battle of Baltimore, Francis Scott Key wrote the poem that celebrated the flag and later was titled ''the Star-Spangled Banner'';

(5) the poem led to the establishment of the flag as an American icon and became the words of the national anthem of the United States in 1932; and

(6) it is in the national interest to provide for appropriate commemorative activities to maximize public understanding of the meaning of the War of 1812 in the history of the United States.

(b) PURPOSES.—The purposes of this Act are to—

(1) establish the Star-Spangled Banner and War of 1812 Commemoration Commission;

(2) ensure a suitable national observance of the War of 1812 by complementing, cooperating with, and providing assistance to the programs and activities of the various States involved in the commemoration;

(3) encourage War of 1812 observances that provide an excellent visitor experience and beneficial interaction between visitors and the natural and cultural resources of the various War of 1812 sites;

(4) facilitate international involvement in the War of 1812 observances;

(5) support and facilitate marketing efforts for a commemorative coin, stamp, and related activities for the War of 1812 observances; and

(6) promote the protection of War of 1812 resources and assist in the appropriate development of heritage tourism and economic benefits to the United States.

SEC. 3. DEFINITIONS.

In this Act:

(1) COMMEMORATION.—The term ''commemoration'' means the commemoration of the War of 1812.

(2) COMMISSION.—The term ''Commission'' means the Star-Spangled Banner and War of 1812 Bicentennial Commission established in section 4(a).

(3) QUALIFIED CITIZEN.—The term ''qualified citizen'' means a citizen of the United States with an interest in, support for, and expertise appropriate to the commemoration.

(4) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(5) STATES.—The term ''States''—

(A) means the States of Alabama, Kentucky, Indiana, Louisiana, Maryland, Virginia, New York, Maine, Michigan, and Ohio; and

(B) includes agencies and entities of each State.

SEC. 4. STAR-SPANGLED BANNER AND WAR OF 1812 COMMEMORATION COMMISSION.

(a) IN GENERAL.—There is established a commission to be known as the ''Star-Spangled Banner and War of 1812 Bicentennial Commission''.

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Commission shall be composed of 21 members, of whom—

(A) 3 members shall be qualified citizens appointed by the Secretary after consideration of nominations submitted by the Governors of Maryland, Louisiana, and Virginia;

(B) 7 members shall be qualified citizens appointed by the Secretary after consideration of nominations submitted by the Governors of Alabama, Kentucky, Indiana, New York, Maine, Michigan and Ohio;

(C) 3 members shall be qualified citizens appointed by the Secretary after consideration of nominations submitted by the Mayors of the District of Columbia, the City of Baltimore, and the City of New Orleans;

(D) 2 members shall be employees of the National Park Service, of whom—

(i) 1 shall be the Director of the National Park Service (or a designee); and

(ii) 1 shall be an employee of the National Park Service having experience relevant to the commemoration;

(E) 4 members shall be qualified citizens appointed by the Secretary with consideration of recommendations—

(i) 1 of which are submitted by the majority leader of the Senate;

(ii) 1 of which are submitted by the minority leader of the Senate;

(iii) 1 of which are submitted by the majority leader of the House of Representatives;

(iv) 1 of which are submitted by the minority leader of the House of Representatives; and

(F) 2 members shall be appointed by the Secretary from among individuals with expertise in the history of the War of 1812.

(2) DATE OF APPOINTMENTS.—The appointment of a member of the Commission shall be made not later than 120 days after the date of enactment of this Act.

(c) TERM; VACANCIES.—

(1) TERM.—A member shall be appointed for the life of the Commission.

(2) VACANCIES.—A vacancy on the Commission—

(A) shall not affect the powers of the Commission; and

(B) shall be filled in the same manner as the original appointment was made.

(d) VOTING.—

(1) IN GENERAL.—The Commission shall act only on an affirmative vote of a majority of the members of the Commission.

(2) QUORUM.—A majority of the members of the Commission shall constitute a quorum.

(e) CHAIRPERSON AND VICE CHAIRPERSON.—

(1) SELECTION.—The Commission shall select a chairperson and a vice chairperson from among the members of the Commission.

(2) ABSENCE OF CHAIRPERSON.—The vice chairperson shall act as chairperson in the absence of the chairperson.

(f) INITIAL MEETING.—Not later than 60 days after the date on which all members of the Commission have been appointed and funds have been provided, the Commission shall hold the initial meeting of the Commission.

(g) MEETINGS.—Not less than twice a year, the Commission shall meet at the call of the chairperson or a majority of the members of the Commission.

(h) REMOVAL.—Any member who fails to attend 3 successive meetings of the Commission or who otherwise fails to participate substantively in the work of the Commission may be removed by the Secretary and the vacancy shall be filled in the same manner as the original appointment was made. Members serve at the discretion of the Secretary.

SEC. 5. DUTIES.

(a) IN GENERAL.—The Commission shall—

(1) plan, encourage, develop, execute, and coordinate programs, observances, and activities commemorating the historic events that preceded and are associated with the War of 1812;

(2) facilitate the commemoration throughout the United States and internationally;

(3) coordinate the activities of the Commission with State commemoration commissions, the National Park Service, the Department of Defense, and other appropriate Federal agencies;

(4) encourage civic, patriotic, historical, educational, religious, economic, tourism, and other organizations throughout the United States to organize and participate in the commemoration to expand the understanding and appreciation of the significance of the War of 1812;

(5) provide technical assistance to States, localities, units of the National Park System, and nonprofit organizations to further the commemoration and commemorative events;

(6) coordinate and facilitate scholarly research on, publication about, and interpretation of the people and events associated with the War of 1812;

(7) design, develop, and provide for the maintenance of an exhibit that will travel throughout the United States during the commemoration period to interpret events of the War of 1812 for the educational benefit of the citizens of the United States;

(8) ensure that War of 1812 commemorations provide a lasting legacy and long-term public benefit leading to protection of the natural and cultural resources associated with the War of 1812; and

(9) examine and review essential facilities and infrastructure at War of 1812 sites and identify possible improvements that could be made to enhance and maximize visitor experience at the sites.

(b) STRATEGIC PLAN; ANNUAL PERFORMANCE PLANS.—The Commission shall prepare a strategic plan and annual performance plans for any activity carried out by the Commission under this Act.

(c) REPORTS.—

(1) ANNUAL REPORT.—The Commission shall submit to Congress an annual report that contains a list of each gift, bequest, or devise to the Commission with a value of more than $250, together with the identity of the donor of each gift, bequest, or devise.

(2) FINAL REPORT.—Not later than September 30, 2015, the Commission shall submit to the Secretary and Congress a final report that includes—

(A) a summary of the activities of the Commission;

(B) a final accounting of any funds received or expended by the Commission; and

(C) the final disposition of any historically significant items acquired by the Commission and other properties not previously reported.

SEC. 6. POWERS.

(a) IN GENERAL.—The Commission may—

(1) solicit, accept, use, and dispose of gifts or donations of money, services, and real and personal property related to the commemoration in accordance with Department of the Interior and National Park Service written standards for accepting gifts from outside sources;

(2) appoint such advisory committees as the Commission determines to be necessary to carry out this Act;

(3) authorize any member or employee of the Commission to take any action the Commission is authorized to take under this Act;

(4) use the United States mails in the same manner and under the same conditions as other agencies of the Federal Government; and

(5) make grants to communities, nonprofit, commemorative commissions or organizations, and research and scholarly organizations to develop programs and products to assist in researching, publishing, marketing, and distributing information relating to the commemoration.

(b) LEGAL AGREEMENTS.—

(1) IN GENERAL.—In carrying out this Act, the Commission may—

(A) procure supplies, services, and property; and

(B) make or enter into contracts, leases, or other legal agreements.

(2) LENGTH.—Any contract, lease, or other legal agreement made or entered into by the Commission shall not extend beyond the date of termination of the Commission.

(c) INFORMATION FROM FEDERAL AGENCIES.—

(1) IN GENERAL.—The Commission may secure directly from a Federal agency such information as the Commission considers necessary to carry out this Act.

(2) PROVISION OF INFORMATION.—On request of the Chairperson of the Commission, the head of the agency shall provide the information to the Commission in accordance with applicable laws.

(d) FACA APPLICATION.—The Federal Advisory Committee Act (5 U.S.C. App.)—

(1) shall not apply to the Commission; and

(2) shall apply to advisory committees established under subsection (a)(2).

(e) NO EFFECT ON AUTHORITY.—Nothing in this Act supersedes the authority of the States or the National Park Service concerning the commemoration.

SEC. 7. PERSONNEL MATTERS.

(a) MEMBERS OF THE COMMISSION.—

(1) IN GENERAL.—Except as provided in subsection (c)(1)(A), a member of the Commission shall serve without compensation.

(2) TRAVEL EXPENSES.—A member of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of the duties of the Commission.

(3) STATUS.—A member of the Commission, who is not otherwise a Federal employee, shall be considered a Federal employee only for purposes of the provisions of law related to ethics, conflicts of interest, corruption, and any other criminal or civil statute or regulation governing the conduct of Federal employees.

(b) EXECUTIVE DIRECTOR AND OTHER STAFF.—

(1) IN GENERAL.—The Chairperson of the Commission may, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service and termination of employees (including regulations), appoint and terminate an executive director, subject to confirmation by the Commission, and appoint and terminate such other additional personnel as are necessary to enable the Commission to perform the duties of the Commission.

(2) STATUS.—The Executive Director and other staff appointed under this subsection shall be considered Federal employees under section 2105 of title 5, United States Code, notwithstanding the requirements of such section.

(3) CONFIRMATION OF EXECUTIVE DIRECTOR.—The employment of an executive director shall be subject to confirmation by the Commission.

(4) COMPENSATION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Chairperson of the Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates.

(B) MAXIMUM RATE OF PAY.—The rate of basic pay for the executive director and other personnel shall not exceed the rate payable for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(c) GOVERNMENT EMPLOYEES.—

(1) FEDERAL EMPLOYEES.—

(A) SERVICE ON COMMISSION.—A member of the Commission who is an officer or employee of the Federal Government shall serve without compensation in addition to the compensation received for the services of the member as an officer or employee of the Federal Government.

(B) DETAIL.—At the request of the Commission, the head of any Federal agency may detail, on a reimbursable or nonreimbursable basis, any of the personnel of the agency to the Commission to assist the Commission in carrying out the duties of the Commission under this Act.

(C) CIVIL SERVICE STATUS.—Notwithstanding any other provisions in this section, Federal employees who serve on the Commission, are detailed to the Commission, or otherwise provide services under the Act,

shall continue to be Federal employees for the purpose of any law specific to Federal employees, without interruption or loss of civil service status or privilege.

(2) STATE EMPLOYEES.—The Commission may—

(A) accept the services of personnel detailed from States (including subdivisions of States) under subchapter VI of chapter 33 of title 5, United States Code; and

(B) reimburse States for services of detailed personnel.

(d) MEMBERS OF ADVISORY COMMITTEES.—Members of advisory committees appointed under section 6(a)(2)—

(1) shall not be considered employees of the Federal Government by reason of service on the committees for the purpose of any law specific to Federal employees, except for the purposes of chapter 11 of title 18, United States Code, relating to conflicts of interest; and

(2) may be paid travel expenses, including per diem in lieu of subsistence, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of the duties of the committee.

(e) VOLUNTEER AND UNCOMPENSATED SERVICES.—Notwithstanding section 1342 of title 31, United States Code, the Commission may accept and use such voluntary and uncompensated services as the Commission determines necessary.

(f) SUPPORT SERVICES.—The Director of the National Park Service shall provide to the Commission, on a reimbursable basis, such administrative support services as the Commission may request.

(g) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson of the Commission may employ experts and consultants on a temporary or intermittent basis in accordance with section 3109(b) of title 5, United States Code, at rates for individuals that do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of that title. Such personnel shall be considered Federal employees under section 2105 of title 5, United States Code, notwithstanding the requirements of such section.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to carry out this Act such sums as are necessary for each of fiscal years 2008 through 2015.

(b) AVAILABILITY OF FUNDS.—Amounts appropriated under this section for any fiscal year shall remain available until December 31, 2015.

SEC. 9. TERMINATION OF COMMISSION.

(a) IN GENERAL.—The Commission shall terminate on December 31, 2015.

(b) TRANSFER OF MATERIALS.—Not later than the date of termination, the Commission shall transfer any documents, materials, books, manuscripts, miscellaneous printed matter, memorabilia, relics, exhibits, and any materials donated to the Commission that relate to the War of 1812, to Fort McHenry National Monument and Historic Shrine.

(c) DISPOSITION OF FUNDS.—Any funds held by the Commission on the date of termination shall be deposited in the general fund of the Treasury.

By Mr. HARKIN (for himself, Mr. SPECTER, Mr. KENNEDY, Mr. INOUYE, Mr. SALAZAR, Mr. BIDEN, Mr. LIEBERMAN, Mrs. CLINTON, Mr. SCHUMER, and Mr. DODD):

S. 799. A bill to amend title XIX of the Social Security Act to provide individuals with disabilities and older Americans with equal access to community-based attendant services and supports, and for other purposes, to the Committee on Finance.

Mr. HARKIN. Mr. President, today, Senator SPECTER and I, and others introduce the Community Choice Act. This legislation is needed to truly bring people with disabilities into the mainstream of society and provide equal opportunity for employment and community activities.

In order to work or live in their own homes, Americans with disabilities and older Americans need access to community-based services and supports. Unfortunately, under current Medicaid policy, the deck is stacked in favor of living in an institutional setting. Federal law requires that States cover nursing home care in their Medicaid programs, but there is no similar requirement for attendant services. The purpose of our bill is to level the playing field, and to give eligible individuals equal access to the community-based services and supports that they need.

Although some States have already recognized the benefits of home and community-based services, they are unevenly distributed and only reach a small percentage of eligible individuals. Some States are now providing the personal care optional benefit through their Medicaid program, but others do not.

Those left behind are often needlessly institutionalized because they cannot access community alternatives. The civil right of a person with a disability to be integrated into their own community should not depend on their address. In Olmstead v. L.C., the Supreme Court recognized that needless institutionalization is a form of discrimination under the Americans with Disabilities Act. We in Congress have a responsibility to help States meet their obligations under Olmstead.

The Community Choice Act is designed to do just that, and to make the promise of the ADA a reality. It will help rebalance the current Medicaid long term care system, which spends a disproportionate amount on institutional services. Today, almost two-thirds of Medicaid long term care dollars are spent on institutional services, with only one-third going to community-based care.

This current imbalance means that individuals do not have equal access to community-based care throughout this country. An individual should not have to move to another State in order to avoid needless segregation. Nor should they have to move away from family and friends because their own choice is an institution.

Federal Medicaid policy should reflect the goals of the ADA that Americans with disabilities should have equal opportunity, and the right to fully participate in their communities. No one should have to sacrifice their ability to participate because they need help getting out of the house in the morning or assistance with personal care or some other basic service.

We have made some progress to date, as CMS has started to award Money Follows the Person demonstration grants. But that is only a start. Together, that initiative and the Community Choice Act could substantially reform long term services in this country. With appropriate community-based services and supports, we can transform the lives of people with disabilities. They can live with family and friends, not strangers. They can be the neighbor down the street, not the person warehoused down the hall. This is not asking too much. This is the bare minimum that we should demand for every human being.

Community based services and supports allow people with disabilities to lead independent lives, have jobs, and participate in the community. Some will become taxpayers, some will get an education, and some will participate in recreational and civic activities. But all will experience a chance to make their own choices and to govern their own lives.

The Community Choice Act will open the door to full participation by people with disabilities in our workplaces, our economy, and our American Dream and I urge all my colleagues to support us on this issue. I want to thank Senator SPECTER for his leadership on this issue and his commitment to improving access to home and community-based services for people with disabilities. I would also like to thank Senators KENNEDY, INOUYE, SALAZAR, BIDEN, LIEBERMAN, CLINTON, SCHUMER, and DODD for joining me in this important initiative.

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. 799

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 ''Community Choice Act of 2007''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

SEC. 2. FINDINGS AND PURPOSES.

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

(1) Long-term services and supports provided under the Medicaid program established under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) must meet the ability and life choices of individuals with disabilities and older Americans, including the choice to live in one's own home or with one's own family and to become a productive member of the community.

(2) Research on the provision of long-term services and supports under the Medicaid program (conducted by and on behalf of the Department of Health and Human Services) has revealed a significant funding and programmatic bias toward institutional care. Only about 37 percent of long-term care funds expended under the Medicaid program, and only about 12.5 percent of all funds expended under that program, pay for services and supports in home and community-based settings.

(3) In the case of Medicaid beneficiaries who need long-term care, the only long-term care service currently guaranteed by Federal law in every State are services related to nursing home care. Only 30 States have adopted the benefit option of providing personal care services under the Medicaid program. Although every State has chosen to provide certain services under home and community-based waivers, these services are unevenly available within and across States, and reach a small percentage of eligible individuals. In fiscal year 2003, only 7 States spent 50 percent or more of their Medicaid long-term care funds under the Medicaid program on home and community-based care. Individuals with the most significant disabilities are usually afforded the least amount of choice, despite advances in medical and assistive technologies and related areas.

(4) Despite the more limited funding for community services, the majority of individuals who use Medicaid long-term services and supports are in the community, indicating that community services is a more cost effective alternative to institutional care.

(5) The goals of the Nation properly include providing families of children with disabilities, working-age adults with disabilities, and older Americans with—

(A) a meaningful choice of receiving long-term services and supports in the most integrated setting appropriate to the individual's needs;

(B) the greatest possible control over the services received and, therefore, their own lives and futures; and

(C) quality services that maximize independence in the home and community, including in the workplace.

(b) PURPOSES.—The purposes of this Act are the following:

(1) To reform the Medicaid program established under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) to provide services in the most integrated setting appropriate to the individual's needs, and to provide equal access to community-based attendant services and supports in order to assist individuals in achieving equal opportunity, full participation, independent living, and economic self-sufficiency.

(2) To provide financial assistance to States as they reform their long-term care systems to provide comprehensive statewide long-term services and supports, including community-based attendant services and supports that provide consumer choice and direction, in the most integrated setting appropriate.

(3) To assist States in meeting the growing demand for community-based attendant services and supports, as the Nation's population ages and individuals with disabilities live longer.

(4) To assist States in addressing the decision of the Supreme Court in *Olmstead v. L.C.*, (527 U.S. 581 (1999)) and implementing the integration mandate of the Americans with Disabilities Act.

TITLE I—ESTABLISHMENT OF MEDICAID PLAN BENEFIT

SEC. 101. COVERAGE OF COMMUNITY-BASED ATTENDANT SERVICES AND SUPPORTS UNDER THE MEDICAID PROGRAM.

(a) MANDATORY COVERAGE.—Section 1902(a)(10)(D) of the Social Security Act (42 U.S.C. 1396a(a)(10)(D)) is amended—

(1) by inserting ''(i)'' after ''(D)'';

(2) by adding ''and'' after the semicolon; and

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

''(ii) subject to section 1939, for the inclusion of community-based attendant services and supports for any individual who—

''(I) is eligible for medical assistance under the State plan;

''(II) with respect to whom there has been a determination that the individual requires the level of care provided in a nursing facility, institution for mental diseases, or an intermediate care facility for the mentally retarded (whether or not coverage of such institution or intermediate care facility is provided under the State plan); and

''(III) chooses to receive such services and supports;''.

(b) COMMUNITY-BASED ATTENDANT SERVICES AND SUPPORTS.—

(1) IN GENERAL.—Title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) is amended—

(A) by redesignating section 1939 as section 1940; and

(B) by inserting after section 1938 the following:

''COMMUNITY-BASED ATTENDANT SERVICES AND SUPPORTS

''SEC. 1939. (a) REQUIRED COVERAGE.—

''(1) IN GENERAL.—Not later than October 1, 2012, a State shall provide through a plan amendment for the inclusion of community-based attendant services and supports (as defined in subsection (g)(1)) for individuals described in section 1902(a)(10)(D)(ii) in accordance with this section.

''(2) ENHANCED FMAP AND ADDITIONAL FEDERAL FINANCIAL SUPPORT FOR EARLIER COVERAGE.—Notwithstanding section 1905(b), during the period that begins on October 1, 2007, and ends on September 30, 2012, in the case of a State with an approved plan amendment under this section during that period that also satisfies the requirements of subsection (c) the Federal medical assistance percentage shall be equal to the enhanced FMAP described in section 2105(b) with respect to medical assistance in the form of community-based attendant services and supports provided to individuals described in section 1902(a)(10)(D)(ii) in accordance with this section on or after the date of the approval of such plan amendment.

''(b) DEVELOPMENT AND IMPLEMENTATION OF BENEFIT.—In order for a State plan amendment to be approved under this section, a State shall provide the Secretary with the following assurances:

''(1) ASSURANCE OF DEVELOPMENT AND IMPLEMENTATION COLLABORATION.—

''(A) IN GENERAL.—That State plan amendment—

''(i) has been developed in collaboration with, and with the approval of, a Development and Implementation Council established by the State that satisfies the requirements of subparagraph (B); and

''(ii) will be implemented in collaboration with such Council and on the basis of public input solicited by the State and the Council.

''(B) DEVELOPMENT AND IMPLEMENTATION COUNCIL REQUIREMENTS.—For purposes of subparagraph (A), the requirements of this subparagraph are that—

''(i) the majority of the members of the Development and Implementation Council are individuals with disabilities, elderly individuals, and their representatives; and

''(ii) in carrying out its responsibilities, the Council actively collaborates with—

''(I) individuals with disabilities;

''(II) elderly individuals;

''(III) representatives of such individuals; and

''(IV) providers of, and advocates for, services and supports for such individuals.

''(2) ASSURANCE OF PROVISION ON A STATEWIDE BASIS AND IN MOST INTEGRATED SETTING.—That consumer controlled community-based attendant services and supports will be provided under the State plan to individuals described in section 1902(a)(10)(D)(ii) on a statewide basis and in a manner that provides such services and supports in the most integrated setting appropriate to the individual's needs.

''(3) ASSURANCE OF NONDISCRIMINATION.—That the State will provide community-based attendant services and supports to an individual described in section 1902(a)(10)(D)(ii) without regard to the individual's age, type or nature of disability, severity of disability, or the form of community-based attendant services and supports that the individual requires in order to lead an independent life.

''(4) ASSURANCE OF MAINTENANCE OF EFFORT.—That the level of State expenditures for medical assistance that is provided under section 1905(a), section 1915, section 1115, or otherwise to individuals with disabilities or elderly individuals for a fiscal year shall not be less than the level of such expenditures for the fiscal year preceding the first full fiscal year in which the State plan amendment to provide community-based attendant services and supports in accordance with this section is implemented.

''(c) REQUIREMENTS FOR ENHANCED FMAP FOR EARLY COVERAGE.—In addition to satisfying the other requirements for an approved plan amendment under this section, in order for a State to be eligible under subsection (a)(2) during the period described in that subsection for the enhanced FMAP for early coverage under subsection (a)(2), the State shall satisfy the following requirements:

''(1) SPECIFICATIONS.—With respect to a fiscal year, the State shall provide the Secretary with the following specifications regarding the provision of community-based attendant services and supports under the plan for that fiscal year:

''(A)(i) The number of individuals who are estimated to receive community-based attendant services and supports under the plan during the fiscal year.

''(ii) The number of individuals that received such services and supports during the preceding fiscal year.

''(B) The maximum number of individuals who will receive such services and supports under the plan during that fiscal year.

''(C) The procedures the State will implement to ensure that the models for delivery of such services and supports are consumer controlled (as defined in subsection (g)(2)(B)).

''(D) The procedures the State will implement to inform all potentially eligible individuals and relevant other individuals of the availability of such services and supports

under this title, and of other items and services that may be provided to the individual under this title or title XVIII and other Federal or State long-term service and support programs.

''(E) The procedures the State will implement to ensure that such services and supports are provided in accordance with the requirements of subsection (b)(1).

''(F) The procedures the State will implement to actively involve in a systematic, comprehensive, and ongoing basis, the Development and Implementation Council established in accordance with subsection (b)(1)(A)(ii), individuals with disabilities, elderly individuals, and representatives of such individuals in the design, delivery, administration, implementation, and evaluation of the provision of such services and supports under this title.

''(2) PARTICIPATION IN EVALUATIONS.—The State shall provide the Secretary with such substantive input into, and participation in, the design and conduct of data collection, analyses, and other qualitative or quantitative evaluations of the provision of community-based attendant services and supports under this section as the Secretary deems necessary in order to determine the effectiveness of the provision of such services and supports in allowing the individuals receiving such services and supports to lead an independent life to the maximum extent possible.

''(d) QUALITY ASSURANCE.—

''(1) STATE RESPONSIBILITIES.—In order for a State plan amendment to be approved under this section, a State shall establish and maintain a comprehensive, continuous quality assurance system with respect to community-based attendant services and supports that provides for the following:

''(A) The State shall establish requirements, as appropriate, for agency-based and other delivery models that include—

''(i) minimum qualifications and training requirements for agency-based and other models;

''(ii) financial operating standards; and

''(iii) an appeals procedure for eligibility denials and a procedure for resolving disagreements over the terms of an individualized plan.

''(B) The State shall modify the quality assurance system, as appropriate, to maximize consumer independence and consumer control in both agency-provided and other delivery models.

''(C) The State shall provide a system that allows for the external monitoring of the quality of services and supports by entities consisting of consumers and their representatives, disability organizations, providers, families of disabled or elderly individuals, members of the community, and others.

''(D) The State shall provide for ongoing monitoring of the health and well-being of each individual who receives community-based attendant services and supports.

''(E) The State shall require that quality assurance mechanisms pertaining to the individual be included in the individual's written plan.

''(F) The State shall establish a process for the mandatory reporting, investigation, and resolution of allegations of neglect, abuse, or exploitation in connection with the provision of such services and supports.

''(G) The State shall obtain meaningful consumer input, including consumer surveys, that measure the extent to which an individual receives the services and supports described in the individual's plan and the individual's satisfaction with such services and supports.

''(H) The State shall make available to the public the findings of the quality assurance system.

''(I) The State shall establish an ongoing public process for the development, implementation, and review of the State's quality assurance system.

''(J) The State shall develop and implement a program of sanctions for providers of community-based services and supports that violate the terms or conditions for the provision of such services and supports.

''(2) FEDERAL RESPONSIBILITIES.—

''(A) PERIODIC EVALUATIONS.—The Secretary shall conduct a periodic sample review of outcomes for individuals who receive community-based attendant services and supports under this title.

''(B) INVESTIGATIONS.—The Secretary may conduct targeted reviews and investigations upon receipt of an allegation of neglect, abuse, or exploitation of an individual receiving community-based attendant services and supports under this section.

''(C) DEVELOPMENT OF PROVIDER SANCTION GUIDELINES.—The Secretary shall develop guidelines for States to use in developing the sanctions required under paragraph (1)(J).

''(e) REPORTS.—The Secretary shall submit to Congress periodic reports on the provision of community-based attendant services and supports under this section, particularly with respect to the impact of the provision of such services and supports on—

''(1) individuals eligible for medical assistance under this title;

''(2) States; and

''(3) the Federal Government.

''(f) NO EFFECT ON ABILITY TO PROVIDE COVERAGE.—

''(1) IN GENERAL.—Nothing in this section shall be construed as affecting the ability of a State to provide coverage under the State plan for community-based attendant services and supports (or similar coverage) under section 1905(a), section 1915, section 1115, or otherwise.

''(2) ELIGIBILITY FOR ENHANCED MATCH.—In the case of a State that provides coverage for such services and supports under a waiver, the State shall not be eligible under subsection (a)(2) for the enhanced FMAP for the early provision of such coverage unless the State submits a plan amendment to the Secretary that meets the requirements of this section and demonstrates that the State is able to fully comply with and implement the requirements of this section.

''(g) DEFINITIONS.—In this title:

''(1) COMMUNITY-BASED ATTENDANT SERVICES AND SUPPORTS.—

''(A) IN GENERAL.—The term 'community-based attendant services and supports' means attendant services and supports furnished to an individual, as needed, to assist in accomplishing activities of daily living, instrumental activities of daily living, and health-related tasks through hands-on assistance, supervision, or cueing—

''(i) under a plan of services and supports that is based on an assessment of functional need and that is agreed to in writing by the individual or, as appropriate, the individual's representative;

''(ii) in a home or community setting, which shall include but not be limited to a school, workplace, or recreation or religious facility, but does not include a nursing facility, institution for mental diseases, or an intermediate care facility for the mentally retarded;

''(iii) under an agency-provider model or other model (as defined in paragraph (2)(C));

''(iv) the furnishing of which—

''(I) is selected, managed, and dismissed by the individual, or, as appropriate, with assistance from the individual's representative; and

''(II) provided by an individual who is qualified to provide such services, including family members (as defined by the Secretary).

''(B) INCLUDED SERVICES AND SUPPORTS.—Such term includes—

''(i) tasks necessary to assist an individual in accomplishing activities of daily living, instrumental activities of daily living, and health-related tasks;

''(ii) the acquisition, maintenance, and enhancement of skills necessary for the individual to accomplish activities of daily living, instrumental activities of daily living, and health-related tasks;

''(iii) backup systems or mechanisms (such as the use of beepers) to ensure continuity of services and supports; and

''(iv) voluntary training on how to select, manage, and dismiss attendants.

''(C) EXCLUDED SERVICES AND SUPPORTS.—Subject to subparagraph (D), such term does not include—

''(i) the provision of room and board for the individual;

''(ii) special education and related services provided under the Individuals with Disabilities Education Act and vocational rehabilitation services provided under the Rehabilitation Act of 1973;

''(iii) assistive technology devices and assistive technology services;

''(iv) durable medical equipment; or

''(v) home modifications.

''(D) FLEXIBILITY IN TRANSITION TO COMMUNITY-BASED HOME SETTING.—Such term may include expenditures for transitional costs, such as rent and utility deposits, first month's rent and utilities, bedding, basic kitchen supplies, and other necessities required for an individual to make the transition from a nursing facility, institution for mental diseases, or intermediate care facility for the mentally retarded to a community-based home setting where the individual resides.

''(2) ADDITIONAL DEFINITIONS.—

''(A) ACTIVITIES OF DAILY LIVING.—The term 'activities of daily living' includes eating, toileting, grooming, dressing, bathing, and transferring.

''(B) CONSUMER CONTROLLED.—The term 'consumer controlled' means a method of selecting and providing services and supports that allow the individual, or where appropriate, the individual's representative, maximum control of the community-based attendant services and supports, regardless of who acts as the employer of record.

''(C) DELIVERY MODELS.—

''(i) AGENCY-PROVIDER MODEL.—The term 'agency-provider model' means, with respect to the provision of community-based attendant services and supports for an individual, subject to clause (iii), a method of providing consumer controlled services and supports under which entities contract for the provision of such services and supports.

''(ii) OTHER MODELS.—The term 'other models' means, subject to clause (iii), methods, other than an agency-provider model, for the provision of consumer controlled services and supports. Such models may include the provision of vouchers, direct cash payments, or use of a fiscal agent to assist in obtaining services.

''(iii) COMPLIANCE WITH CERTAIN LAWS.—A State shall ensure that, regardless of whether the State uses an agency-provider model or other models to provide services and supports under a State plan amendment under this section, such services and supports are provided in accordance with the requirements of the Fair Labor Standards Act of 1938 and applicable Federal and State laws regarding—

''(I) withholding and payment of Federal and State income and payroll taxes;

''(II) the provision of unemployment and workers compensation insurance;

''(III) maintenance of general liability insurance; and

''(IV) occupational health and safety.

''(D) HEALTH-RELATED TASKS.—The term 'health-related tasks' means specific tasks that can be delegated or assigned by licensed health-care professionals under State law to be performed by an attendant.

''(E) INSTRUMENTAL ACTIVITIES OF DAILY LIVING.—The term 'instrumental activities of daily living' includes, but is not limited to, meal planning and preparation, managing finances, shopping for food, clothing, and other essential items, performing essential household chores, communicating by phone and other media, and traveling around and participating in the community.

''(F) INDIVIDUALS REPRESENTATIVE.—The term 'individual's representative' means a parent, a family member, a guardian, an advocate, or other authorized representative of an individual.''.

(c) CONFORMING AMENDMENTS.—

(1) MANDATORY BENEFIT.—Section 1902(a)(10)(A) of the Social Security Act (42 U.S.C. 1396a(a)(10)(A)) is amended, in the matter preceding clause (i), by striking ''(17) and (21)'' and inserting ''(17), (21), and (28)''.

(2) DEFINITION OF MEDICAL ASSISTANCE.—Section 1905(a) of the Social Security Act (42 U.S.C. 1396d) is amended—

(A) by striking ''and'' at the end of paragraph (27);

(B) by redesignating paragraph (28) as paragraph (29); and

(C) by inserting after paragraph (27) the following:

''(28) community-based attendant services and supports (to the extent allowed and as defined in section 1939); and''.

(3) IMD/ICFMR REQUIREMENTS.—Section 1902(a)(10)(C)(iv) of the Social Security Act (42 U.S.C. 1396a(a)(10)(C)(iv)) is amended by inserting ''and (28)'' after ''(24)''.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section (other than the amendment made by subsection (c)(1)) take effect on October 1, 2007, and apply to medical assistance provided for community-based attendant services and supports described in section 1939 of the Social Security Act furnished on or after that date.

(2) MANDATORY BENEFIT.—The amendment made by subsection (c)(1) takes effect on October 1, 2012.

SEC. 102. ENHANCED FMAP FOR ONGOING ACTIVITIES OF EARLY COVERAGE STATES THAT ENHANCE AND PROMOTE THE USE OF COMMUNITY-BASED ATTENDANT SERVICES AND SUPPORTS.

(a) IN GENERAL.—Section 1939 of the Social Security Act, as added by section 101(b), is amended—

(1) by redesignating subsections (d) through (g) as subsections (f) through (i), respectively;

(2) in subsection (a)(1), by striking ''subsection (g)(1)'' and inserting ''subsection (i)(1)'';

(3) in subsection (a)(2), by inserting '', and with respect to expenditures described in subsection (d), the Secretary shall pay the State the amount described in subsection (d)(1)'' before the period;

(4) in subsection (c)(1)(C), by striking ''subsection (g)(2)(B)'' and inserting ''subsection (i)(2)(B)''; and

(5) by inserting after subsection (c), the following:

''(d) INCREASED FEDERAL FINANCIAL PARTICIPATION FOR EARLY COVERAGE STATES THAT MEET CERTAIN BENCHMARKS.—

''(1) IN GENERAL.—Subject to paragraph (2), for purposes of subsection (a)(2), the amount and expenditures described in this subsection are an amount equal to the Federal medical assistance percentage, increased by 10 percentage points, of the expenditures incurred by the State for the provision or conduct of the services or activities described in paragraph (3).

''(2) EXPENDITURE CRITERIA.—A State shall—

''(A) develop criteria for determining the expenditures described in paragraph (1) in collaboration with the individuals and representatives described in subsection (b)(1); and

''(B) submit such criteria for approval by the Secretary.

''(3) SERVICES, SUPPORTS AND ACTIVITIES DESCRIBED.—For purposes of paragraph (1), the services, supports and activities described in this subparagraph are the following:

''(A) 1-stop intake, referral, and institutional diversion services.

''(B) Identifying and remedying gaps and inequities in the State's current provision of long-term services and supports, particularly those services and supports that are provided based on such factors as age, severity of disability, type of disability, ethnicity, income, institutional bias, or other similar factors.

''(C) Establishment of consumer participation and consumer governance mechanisms, such as cooperatives and regional service authorities, that are managed and controlled by individuals with significant disabilities who use community-based services and supports or their representatives.

''(D) Activities designed to enhance the skills, earnings, benefits, supply, career, and future prospects of workers who provide community-based attendant services and supports.

''(E) Continuous, comprehensive quality improvement activities that are designed to ensure and enhance the health and well-being of individuals who rely on community-based attendant services and supports, particularly activities involving or initiated by consumers of such services and supports or their representatives.

''(F) Family support services to augment the efforts of families and friends to enable individuals with disabilities of all ages to live in their own homes and communities.

''(G) Health promotion and wellness services and activities.

''(H) Provider recruitment and enhancement activities, particularly such activities that encourage the development and maintenance of consumer controlled cooperatives or other small businesses or micro-enterprises that provide community-based attendant services and supports or related services.

''(I) Activities designed to ensure service and systems coordination.

''(J) Any other services or activities that the Secretary deems appropriate.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) take effect on October 1, 2007.

SEC. 103. INCREASED FEDERAL FINANCIAL PARTICIPATION FOR CERTAIN EXPENDITURES.

(a) IN GENERAL.—Section 1939 of the Social Security Act, as added by section 101(b) and amended by section 102, is amended by inserting after subsection (d) the following:

''(e) INCREASED FEDERAL FINANCIAL PARTICIPATION FOR CERTAIN EXPENDITURES.—

''(1) ELIGIBILITY FOR PAYMENT.—

''(A) IN GENERAL.—In the case of a State that the Secretary determines satisfies the requirements of subparagraph (B), the Secretary shall pay the State the amounts described in paragraph (2) in addition to any other payments provided for under section 1903 or this section for the provision of community-based attendant services and supports.

''(B) REQUIREMENTS.—The requirements of this subparagraph are the following:

''(i) The State has an approved plan amendment under this section.

''(ii) The State has incurred expenditures described in paragraph (2).

''(iii) The State develops and submits to the Secretary criteria to identify and select such expenditures in accordance with the requirements of paragraph (3).

''(iv) The Secretary determines that payment of the applicable percentage of such expenditures (as determined under paragraph (2)(B)) would enable the State to provide a meaningful choice of receiving community-based services and supports to individuals with disabilities and elderly individuals who would otherwise only have the option of receiving institutional care.

''(2) AMOUNTS AND EXPENDITURES DESCRIBED.—

''(A) EXPENDITURES IN EXCESS OF 150 PERCENT OF BASELINE AMOUNT.—The amounts and expenditures described in this paragraph are an amount equal to the applicable percentage, as determined by the Secretary in accordance with subparagraph (B), of the expenditures incurred by the State for the provision of community-based attendant services and supports to an individual that exceed 150 percent of the average cost of providing nursing facility services to an individual who resides in the State and is eligible for such services under this title, as determined in accordance with criteria established by the Secretary.

''(B) APPLICABLE PERCENTAGE.—The Secretary shall establish a payment scale for the expenditures described in subparagraph (A) so that the Federal financial participation for such expenditures gradually increases from 70 percent to 90 percent as such expenditures increase.

''(3) SPECIFICATION OF ORDER OF SELECTION FOR EXPENDITURES.—In order to receive the amounts described in paragraph (2), a State shall—

''(A) develop, in collaboration with the individuals and representatives described in subsection (b)(1) and pursuant to guidelines established by the Secretary, criteria to identify and select the expenditures submitted under that paragraph; and

''(B) submit such criteria to the Secretary.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) takes effect on October 1, 2007.

TITLE II—PROMOTION OF SYSTEMS CHANGE AND CAPACITY BUILDING

SEC. 201. GRANTS TO PROMOTE SYSTEMS CHANGE AND CAPACITY BUILDING.

(a) AUTHORITY TO AWARD GRANTS.—

(1) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the ''Secretary'') shall award grants to eligible States to carry out the activities described in subsection (b).

(2) APPLICATION.—In order to be eligible for a grant under this section, a State shall submit to the Secretary an application in such form and manner, and that contains such information, as the Secretary may require.

(b) PERMISSIBLE ACTIVITIES.—A State that receives a grant under this section may use funds provided under the grant for any of the following activities, focusing on areas of need identified by the State and the Consumer Task Force established under subsection (c):

(1) The development and implementation of the provision of community-based attendant services and supports under section 1939 of the Social Security Act (as added by section 101(b) and amended by sections 102 and 103) through active collaboration with—

(A) individuals with disabilities;

(B) elderly individuals;
(C) representatives of such individuals; and
(D) providers of, and advocates for, services and supports for such individuals.
(2) Substantially involving individuals with significant disabilities and representatives of such individuals in jointly developing, implementing, and continually improving a mutually acceptable comprehensive, effectively working statewide plan for preventing and alleviating unnecessary institutionalization of such individuals.
(3) Engaging in system change and other activities deemed necessary to achieve any or all of the goals of such statewide plan.
(4) Identifying and remedying disparities and gaps in services to classes of individuals with disabilities and elderly individuals who are currently experiencing or who face substantial risk of unnecessary institutionalization.
(5) Building and expanding system capacity to offer quality consumer controlled community-based services and supports to individuals with disabilities and elderly individuals, including by—
(A) seeding the development and effective use of community-based attendant services and supports cooperatives, Independent Living Centers, small businesses, micro-enterprises, micro-boards, and similar joint ventures owned and controlled by individuals with disabilities or representatives of such individuals and community-based attendant services and supports workers;
(B) enhancing the choice and control individuals with disabilities and elderly individuals exercise, including through their representatives, with respect to the personal assistance and supports they rely upon to lead independent, self-directed lives;
(C) enhancing the skills, earnings, benefits, supply, career, and future prospects of workers who provide community-based attendant services and supports;
(D) engaging in a variety of needs assessment and data gathering;
(E) developing strategies for modifying policies, practices, and procedures that result in unnecessary institutional bias or the over-medicalization of long-term services and supports;
(F) engaging in interagency coordination and single point of entry activities;
(G) providing training and technical assistance with respect to the provision of community-based attendant services and supports;
(H) engaging in—
(i) public awareness campaigns;
(ii) facility-to-community transitional activities; and
(iii) demonstrations of new approaches; and
(I) engaging in other systems change activities necessary for developing, implementing, or evaluating a comprehensive statewide system of community-based attendant services and supports.
(6) Ensuring that the activities funded by the grant are coordinated with other efforts to increase personal attendant services and supports, including—
(A) programs funded under or amended by the Ticket to Work and Work Incentives Improvement Act of 1999 (Public Law 106–170; 113 Stat. 1860);
(B) grants funded under the Families of Children With Disabilities Support Act of 2000 (42 U.S.C. 15091 et seq.); and
(C) other initiatives designed to enhance the delivery of community-based services and supports to individuals with disabilities and elderly individuals.
(7) Engaging in transition partnership activities with nursing facilities and intermediate care facilities for the mentally retarded that utilize and build upon items and services provided to individuals with disabilities or elderly individuals under the Medicaid program under title XIX of the Social Security Act, or by Federal, State, or local housing agencies, Independent Living Centers, and other organizations controlled by consumers or their representatives.
(c) CONSUMER TASK FORCE.—
(1) ESTABLISHMENT AND DUTIES.—To be eligible to receive a grant under this section, each State shall establish a Consumer Task Force (referred to in this subsection as the ''Task Force'') to assist the State in the development, implementation, and evaluation of real choice systems change initiatives.
(2) APPOINTMENT.—Members of the Task Force shall be appointed by the Chief Executive Officer of the State in accordance with the requirements of paragraph (3), after the solicitation of recommendations from representatives of organizations representing a broad range of individuals with disabilities, elderly individuals, representatives of such individuals, and organizations interested in individuals with disabilities and elderly individuals.
(3) COMPOSITION.—
(A) IN GENERAL.—The Task Force shall represent a broad range of individuals with disabilities from diverse backgrounds and shall include representatives from Developmental Disabilities Councils, Mental Health Councils, State Independent Living Centers and Councils, Commissions on Aging, organizations that provide services to individuals with disabilities and consumers of long-term services and supports.
(B) INDIVIDUALS WITH DISABILITIES.—A majority of the members of the Task Force shall be individuals with disabilities or representatives of such individuals.
(C) LIMITATION.—The Task Force shall not include employees of any State agency providing services to individuals with disabilities other than employees of entities described in the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15001 et seq.).
(d) ANNUAL REPORT.—
(1) STATES.—A State that receives a grant under this section shall submit an annual report to the Secretary on the use of funds provided under the grant in such form and manner as the Secretary may require.
(2) SECRETARY.—The Secretary shall submit to Congress an annual report on the grants made under this section.
(e) AUTHORIZATION OF APPROPRIATIONS.—
(1) IN GENERAL.—There is authorized to be appropriated to carry out this section, $50,000,000 for each of fiscal years 2008 through 2010.
(2) AVAILABILITY.—Amounts appropriated to carry out this section shall remain available without fiscal year limitation.

SEC. 202. DEMONSTRATION PROJECT TO ENHANCE COORDINATION OF CARE UNDER THE MEDICARE AND MEDICAID PROGRAMS FOR DUAL ELIGIBLE INDIVIDUALS.

(a) DEFINITIONS.—In this section:
(1) DUALLY ELIGIBLE INDIVIDUAL.—The term ''dually eligible individual'' means an individual who is enrolled in the Medicare and Medicaid programs established under Titles XVIII and XIX, respectively, of the Social Security Act (42 U.S.C. 1395 et seq., 1396 et seq.).
(2) PROJECT.—The term ''project'' means the demonstration project authorized to be conducted under this section.
(3) SECRETARY.—The term ''Secretary'' means the Secretary of Health and Human Services.
(b) AUTHORITY TO CONDUCT PROJECT.—The Secretary shall conduct a project under this section for the purpose of evaluating service coordination and cost-sharing approaches with respect to the provision of community-based services and supports to dually eligible individuals.
(c) REQUIREMENTS.—
(1) NUMBER OF PARTICIPANTS.—Not more than 5 States may participate in the project.
(2) APPLICATION.—A State that desires to participate in the project shall submit an application to the Secretary, at such time and in such form and manner as the Secretary shall specify.
(3) DURATION.—The project shall be conducted for at least 5, but not more than 10 years.
(d) EVALUATION AND REPORT.—
(1) EVALUATION.—Not later than 1 year prior to the termination date of the project, the Secretary, in consultation with States participating in the project, representatives of dually eligible individuals, and others, shall evaluate the impact and effectiveness of the project.
(2) REPORT.—The Secretary shall submit a report to Congress that contains the findings of the evaluation conducted under paragraph (1) along with recommendations regarding whether the project should be extended or expanded, and any other legislative or administrative actions that the Secretary considers appropriate as a result of the project.
(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

By Mrs. BOXER (for herself and Mrs. FEINSTEIN):

S. 801. A bill to designate a United States courthouse located in Fresno, California, as the ''Robert E. Coyle United States Courthouse''; to the Committee on Environment and Public Works.

Mrs. BOXER. Mr. President, I am pleased to re-introduce legislation to name the Federal courthouse building at Tulare and ''O'' Streets in downtown Fresno, CA the ''Robert E. Coyle United States Courthouse.''

It is fitting that the Federal courthouse in Fresno be named for retired U.S. District Judge Robert E. Coyle, who is greatly respected and admired for his work as a judge and for his foresight and persistence that contributed so much to the Fresno Courthouse project. Judge Coyle has been a leader in the effort to build the courthouse in Fresno for more than a decade. Indeed, he personally supervised this project. He was often seen with his hard hat in hand, walking from his chambers to the new building to meet project staff.

Judge Coyle, working with the Clerk of the United States District Court for the Eastern District, conceived and founded a program called ''Managing a Capitol Construction Program'' to help others understand the process of having a courthouse built. This Eastern District program was so well received by national court administrators that it is now a nationwide program run by Judge Coyle.

In addition to meeting the needs of the court for additional space, the courthouse project has become a key element in the downtown revitalization of Fresno. Judge Coyle's efforts, and those in the community with whom he has worked, produced a major milestone when the building was occupied in January of 2006.

Judge Coyle has had a distinguished career as an attorney and on the bench. Appointed to California's Eastern District bench by President Ronald Reagan in 1982, Judge Coyle has served as a judge for the Eastern District for 20 years, including 6 years as senior judge. Judge Coyle earned his law degree from the University of California, Hastings College of the Law in 1956. He then worked for Fresno County as a Deputy District Attorney before going into private practice in 1958 with McCormick, Barstow, Sheppard, Coyle & Wayte, where he remained until his appointment by President Reagan.

Judge Coyle is very active in the community and has served in many judicial leadership positions, including: chair of the Space and Security Committee; chair of the Conference of the Chief District Judges of the Ninth Circuit; president of the Ninth Circuit District Judges Association; Member of the Board of Governors of the State Bar of California; and president of the Fresno County Bar.

My hope is that, in addition to serving the people of the Eastern District as a courthouse, this building will stand as a reminder to the community and people of California of the dedicated work of Judge Robert E. Coyle.

By Mr. CRAPO:

S. 802. A bill to provide for the implementation of the Owyhee Initiative Agreement, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. CRAPO. Mr. President, I am pleased to introduce the Owyhee Initiative Implementation Act of 2007, a bill which is the result of a five-year collaborative effort between all levels of government, multiple users of public lands, and conservationists to resolve decades of heated land-use conflict in the Owyhee Canyonlands in the southwestern part of my home State of Idaho.

This is comprehensive land management legislation that enjoys far-reaching support among a remarkably diverse group of interests that live work and play in this special country.

Owyhee County contains some of the most unique and beautiful canyonlands in the world and offers large areas in which all of us can enjoy the grandeur and experience of untouched western trails, rivers, and open sky. It is truly magical country, and its natural beauty and traditional uses should be preserved for future generations. Owyhee County is traditional ranching country. Seventy-three percent of its land base is owned by the United States, and it is located within an hour's drive of one of the fastest growing areas in the nation, Boise, ID.

This combination of attributes, including location, is having an explosive effect on property values, community expansion and development and ever-increasing demands on public land. Given this confluence of circumstances and events, Owyhee County has been at the core of decades of conflict with heated political and regulatory battles. The diverse land uses co-exist in an area of intense beauty and unique character. The conflict over land management is both inevitable and understandable—how do we manage for this diversity and do so in a way that protects and restores the quality of that fragile environment?

In this context, the Owyhee County Commissioners and several others said ''enough is enough'' and decided to focus efforts on solving these problems rather than wasting resources on an endless fight. In 2001, The Owyhee County Commissioners, Hal Tolmie, Dick Reynolds, and Chris Salove, met with me and asked for my help. They asked whether I would support them if they could put together, at one table, the interested parties involved in the future of the County to try and reach some solutions. I told them that if they could get together a broad base of interests who would agree to collaborate in a process committed to problem-solving, I would dedicate myself to working with them and if they were successful, I would introduce resulting legislation. They agreed. Together, we set out on a six-year journey on a road that is as challenging as any in the Owyhee Canyonlands. Sharp turns, steep inclines and declines, big sharp rocks, deep ruts, sand burrs, dust and a constant headwind is exactly what those of us who have worked so hard on this have faced every day.

This is very difficult work and in speaking of difficult work, I want to acknowledge the effort of my friend and colleague from Idaho, Representative MIKE SIMPSON, and the challenge he has taken on as he advocates his Central Idaho Economic Development Act. I support his work and his legislation.

The Commissioners appointed a Chairman, an extraordinary gentleman, Fred Grant. They formed the Work Group which included The Wilderness Society, Idaho Conservation League, The Nature Conservancy, Idaho Outfitters and Guides, the United States Air Force, the Sierra Club, the county Soil Conservation Districts, Owyhee Cattleman's Association, the Owyhee Borderlands Trust, People for the Owyhees, and the Shoshone Paiute Tribes to join in their efforts. All accepted, and work on this bill began. As this collaborative process gained momentum, the County Commissioners expanded the Work Group to include the South Idaho Desert Racing Association, Idaho Rivers United and the Owyhee County Farm Bureau. Very recently, the Commissioners have further expanded the effort to include the Foundation for North American Wild Sheep and the Idaho Backcountry Horsemen.

The Commissioners also requested that the Idaho State Department of Lands and the Bureau of Land Management to serve and those agencies have provided important support.

This unique group of people chose to work without a professional facilitator, preferring instead to deal with differences face-to-face and together create new ideas. For me, one of the most gratifying and emotional outcomes has been to see this group transform itself from polarized camps into an extraordinary force that has become known for its intense effort, comity, trust and willingness to work toward a solution.

They operated on a true consensus basis, only making decisions when there was no voiced objection to a proposal. They involved everyone who wanted to participate in the process and spent hundreds of hours discussing their findings, modifying preliminary proposals and ultimately reaching consensus solutions. They have driven thousands of miles inspecting roads and trails, listening to and soliciting ideas from people from all walks of life who have in common deep roots and deep interest in the Owyhee Canyonlands. They sought to ensure that they had a thorough understanding of the issues and could take proper advantage of the insights and experience of all these people.

While this whole process and its outcomes are indeed remarkable, one of the more notable developments is the Memorandum of Agreement between the Shoshone Paiute Tribes and the County that establishes government-to-government cooperation in several areas of mutual interest. I want to particularly note the efforts and support of Mr. Terry Gibson, Chairman of the Shoshone Paiute Tribes, a great leader and a personal friend.

All of these individuals and organizations have asked that I seek Senate approval of their collaborative effort, built from the ground up to chart their path forward.

The Owyhee Initiative transforms conflict and uncertainty into conflict resolution and assurance of future activity. Ranchers can plan for subsequent generations. Off-road vehicle users have access assured. Wilderness is established. The Shoshone-Paiute Tribe knows its cultural resources will be protected. The Air Force will continue to train its pilots. Local, State and Federal government agencies will have structure to assist their joint management of the region. And this will all happen within the context of the preservation of environmental and ecological health. This is indeed a revolutionary land management structure—and one that looks ahead to the future.

Principle features of the legislation include: development, funding and implementation of a landscape-scale program to review, recommend and coordinate landscape conservation and research projects; scientific review process to assist the Bureau of Land Management; designation of Wilderness and Wild and Scenic Rivers; release of Wilderness Study Areas; protections of tribal cultural and historical resources against intentional and

unintentional abuse and desecration; development and implementation by the BLM of travel plans for public lands; and a board of directors with oversight over the administration and implementation of the Owyhee Initiative.

This can't be called ranching bill, or a wilderness bill, or an Air Force bill, or a Tribal bill. It is a comprehensive land management bill. Each interest got enough to enthusiastically support the final product, advocate for its enactment, and, most importantly, support the objectives of those with whom they had previous conflict.

Opposition will come from a few principal sources: those who simply don't want to have wilderness designated; those who don't want livestock anywhere on public land; and, those who do not want to see collaboration succeed. While I respect that opposition, I prefer to move forward in an effort that manages conflict and land, rather than exploit disagreements.

The status quo is unacceptable. The Owyhee Canyonlands and its inhabitants, including its people, deserve to have a process of conflict management and a path to sustainability. The need for this path forward is particularly acute given that this area is an hour's drive from one of the Nation's most rapidly-growing communities. The Owyhee Initiative protects water rights, releases wilderness study areas and protects traditional uses.

I commend the commitment and leadership of all involved. We have established a longterm, comprehensive management approach. It's been an honor for me to work with so many fine people and I will do everything in my power to turn this into law.

The Owyhee Initiative sets a standard for managing and resolving difficult land management issues in our country. After all, what better place to forge an historical change in our approach to public land management, than in this magnificent land that symbolizes livelihood, heritage, diversity, opportunity and renewal?

And with that, I would like to recognize and thank the people who have been the real driving force behind this process: Fred Grant, Chairman of the Owyhee Initiative Work Group, his assistant Staci Grant, and Dr. Ted Hoffman, Sheriff Gary Aman, the Owyhee County Commissioners: Hal Tolmie, Chris Salova, & Dick Reynolds and Chairman Terry Gibson of the Shoshone Paiute Tribes. I am grateful to Governor Jim Risch of the Great State of Idaho for all of his support. Thanks to: Colonel Rock of the United States Air Force at Mountain Home Air Force Base, Craig Gherke and John McCarthy of The Wilderness Society, Rick Johnson & John Robison of the Idaho Conservation League, Inez Jaca representing Owyhee County, Dr. Chad Gibson representing the Owyhee Cattleman's Association, Brenda Richards representing private property owners in Owyhee County, Cindy & Frank Bachman representing the Soil Conservation Districts in Owyhee County, Marcia Argust with the Campaign for America's Wilderness, Grant Simmons of the Idaho Outfitters and Guides Association, Bill Sedivy with Idaho Rivers United, Tim Lowry of the Owyhee County Farm Bureau, Bill Walsh representing Southern Idaho Desert Racing Association, Lou Lunte and Will Whelan of the Nature Conservancy for all of their hard work and dedication. I'd also like to thank the Idaho Back Country Horseman, the Foundation for North American Wild Sheep, Roger Singer of the Sierra Club, the South Board of Control and the Owyhee Project managers, and all the other water rights holders who support me today. This process truly benefited from the diversity of these groups and their willingness to cooperate to reach a common goal of protecting the land on which they live, work, and play.

The Owyhee Canyonlands and its inhabitants are truly a treasure of Idaho and the United States; I hope you will join me in ensuring their future.

I ask unanimous consent that the text of the bill be printed in the RECORD.

S. 802

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 ''Owyhee Initiative Implementation Act of 2007''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

SEC. 2. FINDINGS; PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) the Owyhee-Bruneau Canyonlands Region is one of the most spectacular high deserts in the United States, unique in geology and rich in history;

(2) the Shoshone Paiute Indian tribes have put forth claims to aboriginal rights in the Region;

(3) since the 1860s, ranching has been an important part of the heritage, culture, and economy of the Region;

(4) the Region has tremendous opportunities for outdoor recreation;

(5) there has been longstanding conflict over management of the public land in the Region;

(6) in 2001, the Owyhee County Board of Commissioners and the Tribes brought together a diverse group of interests, with the intent that the Tribes and the County, through government-to-government coordination, could mutually launch a process for achieving resolution of land use conflicts, protection of the landscape resource, protection of cultural resources, and economic stability; and

(7) as a result of the process described in paragraph (6), the Owyhee Initiative Agreement, an agreement between a coalition of representatives of landowners, ranchers, environmental organizations, County government, and recreation groups appointed in the County by the Board of County Commissioners, was formed to develop a natural resources project that promotes ecological and economic health within the County.

(b) PURPOSE.—The purpose of this Act is to provide for the implementation of the Owyhee Initiative Agreement to—

(1) preserve the natural processes that create and maintain a functioning, unfragmented landscape that supports and sustains a flourishing community of human, plant, and animal life;

(2) provide for economic stability by preserving livestock grazing as an economically viable use; and

(3) provide for the protection of cultural resources.

SEC. 3. DEFINITIONS.

In this Act:

(1) BOARD.—The term ''Board'' means the Board of Directors of the Owyhee Initiative Project.

(2) BUREAU.—The term ''Bureau'' means the Bureau of Land Management.

(3) COUNTY.—The term ''County'' means Owyhee County, Idaho.

(4) ORDINARY HIGH WATER MARK.—The term ''ordinary high water mark'' shall have such meaning as is given the term by the legislature of the State.

(5) OWYHEE FRONT.—The term ''Owyhee Front'' means that area of the County from Jump Creek on the west to Mud Flat Road on the east and draining north from the crest of the Silver City Range to the Snake River.

(6) OWYHEE INITIATIVE AGREEMENT.—The term ''Owyhee Initiative Agreement'' means the agreement that provides for the implementation of a project for the promotion of ecological and economic health within the County entered into by a coalition of representatives of landowners, ranchers, environmental organizations, County government, and recreation groups appointed in the County by the Board of County Commissioners, entitled ''Owyhee Initiative Agreement'', as amended on May 10, 2006.

(7) PLAN.—The term ''Plan'' means the Shoshone Paiute Tribal Cultural Resource Protection Plan approved by the Tribes.

(8) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(9) STATE.—The term ''State'' means the State of Idaho.

(10) TRIBES.—The term ''Tribes'' means the Shoshone-Paiute Tribes of the Duck Valley Indian Reservation.

SEC. 4. GENERAL PROVISIONS.

(a) NO PRECEDENCE.—Nothing in this Act establishes a precedent with regard to any future legislation.

(b) NATIVE AMERICAN RECOGNITION AND USES.—Nothing in this Act diminishes or otherwise affects—

(1) the trust responsibility of the United States to Indian tribes and Indian individuals;

(2) the government-to-government relationship between the United States and federally recognized Indian tribes;

(3) the rights of any Indian tribe, including rights of access to Federal land for tribal activities, including spiritual, cultural, and traditional food-gathering activities; or

(4) the sovereignty of any Indian tribe.

TITLE I—OWYHEE INITIATIVE AGREEMENT

SEC. 101. IMPLEMENTATION.

(a) IN GENERAL.—The Secretary shall coordinate with the Board and the County in implementing this Act in accordance with applicable laws and regulations.

(b) EFFECT ON PUBLIC PARTICIPATION.—Nothing in this Act diminishes or otherwise affects any applicable law or regulation relating to public participation.

SEC. 102. SCIENCE REVIEW PROGRAM.

(a) IN GENERAL.—The Secretary shall coordinate with the Board in the conduct of the science review process as described in the Owyhee Initiative Agreement.

(b) MANAGEMENT ACTIONS.—Notwithstanding the review process under this section, the Secretary shall proceed with management actions in a timely manner in accordance with applicable laws (including regulations).

SEC. 103. CONSERVATION AND RESEARCH CENTER PROGRAM.

The Secretary shall coordinate with the Board with respect to the conservation and research center program, as described in the Owyhee Initiative Agreement.

SEC. 104. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to the Secretary to carry out this title $20,000,000.

TITLE II—WILDERNESS AND WILD AND SCENIC RIVERS

SEC. 201. WILDERNESS DESIGNATION.

(a) IN GENERAL.—In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131 et seq.), the following land in the State is designated as wilderness and as components of the National Wilderness Preservation System:

(1) BIG JACKS CREEK WILDERNESS.—Certain land comprising approximately 51,624 acres, as generally depicted on the map entitled ''Big Jacks Creek Wilderness'' and dated September 1, 2006, which shall be known as the ''Big Jacks Creek Wilderness''.

(2) BRUNEAU-JARBIDGE RIVERS WILDERNESS.—Certain land comprising approximately 91,328 acres, as generally depicted on the map entitled ''Bruneau-Jarbidge Rivers Wilderness'' and dated September 1, 2006, which shall be known as the ''Bruneau-Jarbidge Rivers Wilderness''.

(3) LITTLE JACKS CREEK WILDERNESS.—Certain land comprising approximately 49,647 acres, as generally depicted on the map entitled ''Little Jacks Creek Wilderness'' and dated September 1, 2006, which shall be known as the ''Little Jacks Creek Wilderness''.

(4) NORTH FORK OWYHEE WILDERNESS.—Certain land comprising approximately 43,113 acres, as generally depicted on the map entitled ''North Fork Owyhee Wilderness'' and dated September 1, 2006, which shall be known as the ''North Fork Owyhee Wilderness''.

(5) OWYHEE RIVER WILDERNESS.—Certain land comprising approximately 269,016 acres, as generally depicted on the map entitled ''Owyhee River Wilderness'' and dated September 1, 2006, which shall be known as the ''Owyhee River Wilderness''.

(6) POLE CREEK WILDERNESS.—Certain land comprising approximately 12,468 acres, as generally depicted on the map entitled ''Pole Creek Wilderness'' and dated September 1, 2006, which shall be known as the ''Pole Creek Wilderness''.

(b) RELEASE OF WILDERNESS STUDY AREAS.—

(1) FINDING.—Congress finds that, for the purposes of section 603 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782), the public land in the County administered by the Bureau in the following areas has been adequately studied for wilderness designation:

(A) The Sheep Creek East Wilderness Study Area.

(B) The Sheep Creek West Wilderness Study Area.

(C) The Squaw Creek Canyon Wilderness Study Area.

(D) The West Fork Red Canyon Wilderness Study Area.

(E) The Upper Deep Creek Wilderness Study Area.

(F) The Big Willow Springs Wilderness Study Area.

(G) The Middle Fork Owyhee River Wilderness Study Area.

(H) Any portion of the wilderness study areas—

(i) not designated as wilderness by subsection (a); and

(ii) designated for release on the map dated September 1, 2006.

(2) RELEASE.—Any public land described in paragraph (1) that is not designated as wilderness by this subsection—

(A) is no longer subject to section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782(c)); and

(B) shall be managed in accordance with land management plans adopted under section 202 of that Act (43 U.S.C. 1712).

(c) MAPS AND LEGAL DESCRIPTIONS.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives a map and legal description for each area designated as wilderness by this Act.

(2) EFFECT.—Each map and legal description submitted under paragraph (1) shall have the same force and effect as if included in this Act, except that the Secretary may correct any minor errors in such a map or legal description.

(3) AVAILABILITY OF MAPS.—The maps submitted under paragraph (1) shall be available for public inspection in—

(A) the offices of the Idaho State Director of the Bureau; and

(B) the offices of the Boise and Twin Falls Districts of the Bureau.

SEC. 202. DESIGNATION OF WILD AND SCENIC RIVERS.

(a) STATEMENT OF INTENT.—The intent of wild, scenic, and recreational river designations under this subsection is to resolve the wild, scenic, and recreational river status of the segments within the County, as depicted on the maps submitted under section 201(c).

(b) DESIGNATION.—Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended—

(1) by redesignating paragraph (167) (relating to the Musconetcong River, New Jersey) as paragraph (169);

(2) by designating the undesignated paragraph relating to the White Salmon River, Washington, as paragraph (167);

(3) by designating the undesignated paragraph relating to the Black Butte River, California, as paragraph (168); and

(4) by adding at the end the following:

''(170) BATTLE CREEK, IDAHO.—The 23.4 miles of Battle Creek in the State of Idaho from the confluence of the Owyhee River to the upstream boundary of the Owyhee River Wilderness, to be administered by the Secretary of the Interior as a wild river.

''(171) BIG JACKS CREEK, IDAHO.—The 35.0 miles of Big Jacks Creek in the State of Idaho from the downstream border of the Big Jacks Creek Wilderness in sec. 8, T. 8 S., R. 4 E., to the point at which it enters the NW¼ of sec. 26, T. 10 S., R. 2 E., Boise Meridian, Idaho, to be administered by the Secretary of the Interior as a wild river.

''(172) BRUNEAU RIVER, IDAHO.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the 39.3-mile segment of the Bruneau River from the downstream boundary of the Bruneau-Jarbidge Wilderness to the upstream confluence with the west fork of the Bruneau River and the Jarbidge River, to be administered by the Secretary of the Interior as a wild river.

''(B) EXCEPTION.—Notwithstanding subparagraph (A), the .6-mile segment of the Bruneau River at the Indian Hot Springs public road access shall be administered by the Secretary of the Interior as a recreational river.

''(173) WEST FORK OF THE BRUNEAU RIVER, IDAHO.—The 6.2 miles of the West Fork of the Bruneau River in the State of Idaho from the confluence with the Jarbidge River to the upstream Bruneau-Jarbidge Rivers Wilderness border, to be administered by the Secretary of the Interior as a wild river.

''(174) CAMAS CREEK, IDAHO.—The 3.0 miles of Camas Creek in the State of Idaho from the confluence with Pole Creek to the east boundary of sec. 26, T. 10 S., R. 2 W., Boise Meridian, Idaho, to be administered by the Secretary of the Interior as a scenic river.

''(175) COTTONWOOD CREEK, IDAHO.—The 2.6 miles of Cottonwood Creek in the State of Idaho from the confluence with Big Jacks Creek to the upstream boundary of the Big Jacks Creek Wilderness, to be administered by the Secretary of the Interior as a wild river.

''(176) DEEP CREEK, IDAHO.—The following segments of Deep Creek in the State of Idaho, to be administered by the Secretary of the Interior:

''(A) The 13.1-mile segment of Deep Creek from the confluence with the Owyhee River to the upstream boundary of the Owyhee River Wilderness in sec. 30, T. 12 S., R. 2 W., Boise Meridian, Idaho, as a wild river.

''(B) The 26.4-mile segment of Deep Creek from the boundary of Owyhee River Wilderness in sec. 30, T. 12 S., R. 2 W., Boise Meridian, Idaho, to the upstream crossing of Mud Flat Road, as a scenic river.

''(177) DICKSHOOTER CREEK, IDAHO.—The 11.0 miles of Dickshooter Creek in the State of Idaho from the confluence with Deep Creek to the upstream boundary of the Owyhee River Wilderness, to be administered by the Secretary of the Interior as a wild river.

''(178) DUNCAN CREEK, IDAHO.—The following segments of Duncan Creek in the State of Idaho, to be administered by the Secretary of the Interior:

''(A) The 5.2-mile segment of Duncan Creek from the eastern boundary of sec. 18, T. 10 S., R. 4 E., Boise Meridian, Idaho, upstream to the NW¼ of sec. 1, T. 11 S., R. 3 E., Boise Meridian, Idaho, as a scenic river.

''(B) The 0.9-mile segment of Duncan Creek from the confluence with Big Jacks Creek upstream to the beginning of the Duncan Creek Scenic River segment, as a wild river.

''(179) JARBIDGE RIVER, IDAHO.—The 28.8 miles of the Jarbidge River in the State of Idaho from the confluence with the West Fork Bruneau River to the upstream boundary of the Bruneau-Jarbidge Rivers Wilderness, to be administered by the Secretary of the Interior as a wild river.

''(180) LITTLE JACKS CREEK, IDAHO.—The 13.2 miles of Little Jacks Creek in the State of

Idaho from the downstream boundary of the Little Jacks Creek Wilderness, upstream to the NW¼ of sec. 27, T. 9 S., R. 2 E., Boise Meridian, Idaho, to be administered by the Secretary of the Interior as a wild river.

''(181) LITTLE OWYHEE, IDAHO.—The 11.0 miles of the Little Owyhee in the State of Idaho from the confluence with the South Fork of the Owyhee River to the upstream boundary of the Owyhee River Wilderness, to be administered by the Secretary of the Interior as a wild river.

''(182) NORTH FORK OF THE OWYHEE RIVER, IDAHO.—The following segments of the North Fork of the Owyhee River in the State of Idaho, to be administered by the Secretary of the Interior:

''(A) The 5.7-mile segment of the North Fork of the Owyhee River from the Idaho-Oregon State border to the Wild River segment of the North Fork of the Owyhee River, as a recreational river.

''(B) The 15.1-mile segment of the North Fork of the Owyhee River from the western/downstream boundary of the North Fork Owyhee River Wilderness to the northern/upstream boundary of the North Fork Owyhee River Wilderness, as a wild river.

''(183) OX PRONG, IDAHO.—The 1.3 miles of the Ox Prong in the State of Idaho from the confluence with Little Jacks Creek to the upstream boundary of the Little Jacks Creek Wilderness, to be administered by the Secretary of the Interior as a wild river.

''(184) OWYHEE RIVER, IDAHO.—The 67.3 miles of the Owyhee River in the State of Idaho from the Idaho-Oregon State border to the upstream boundary of the Owyhee River Wilderness, to be administered by the Secretary of the Interior as a wild river, subject to the conditions that—

''(A) motorized access shall be permitted at Crutchers Crossing; and

''(B) any crossing shall remain unconstructed.

''(185) POLE CREEK, IDAHO.—The 14.3 miles of Pole Creek in the State of Idaho from the confluence with Deep Creek upstream to the south boundary of sec. 16, T. 10 S., R. 2 W., Boise Meridian, Idaho, to be administered by the Secretary of the Interior as a scenic river.

''(186) RED CANYON, IDAHO.—The 4.6 miles of Red Canyon in the State of Idaho from the confluence of the Owyhee River to the upstream boundary of the Owyhee River Wilderness, to be administered by the Secretary of the Interior as a wild river.

''(187) SHEEP CREEK, IDAHO.—The 25.6 miles of Sheep Creek in the State of Idaho from the confluence with the Bruneau River to the upstream boundary of the Bruneau-Jarbidge Rivers Wilderness, to be administered by the Secretary of the Interior as a wild river.

''(188) SOUTH FORK OF THE OWYHEE RIVER, IDAHO.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the 31.4-mile segment of the South Fork of the Owyhee River from the confluence with the Owyhee River to the upstream boundary of the Owyhee River Wilderness at the Idaho-Nevada State border shall be administered by the Secretary of the Interior as a wild river.

''(B) EXCEPTION.—Notwithstanding subparagraph (A), the 1.2-mile segment of the South Fork of the Owyhee River across the private lands in secs. 25 and 36, T. 14 S., R. 5 W., Boise Meridian, Idaho, shall be administered by the Secretary of the Interior as a recreational river.

''(189) WICKAHONEY, IDAHO.—The 1.5 miles of Wickahoney Creek in the State of Idaho from the confluence of Big Jacks Creek to the upstream boundary of the Big Jacks Creek Wilderness, to be administered by the Secretary of the Interior as a wild river.''.

(c) EXTENT OF BOUNDARIES.—Notwithstanding section 3(b) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(b)), the boundaries of the wild and scenic river corridor for a river designated as a wild and scenic river by any of paragraphs (170) through (189) of section 3(a) of that Act (16 U.S.C. 1274(a)) (as added by subsection (b)) shall be the ordinary high water mark.

(d) MAPS AND LEGAL DESCRIPTIONS.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives the map and legal description of each segment of a river designated as a wild and scenic river under this section or an amendment made by this section.

(2) EFFECT.—Each map and legal description submitted under paragraph (1) shall have the same force and effect as if included in this Act, except that the Secretary may correct any minor errors in the maps and legal descriptions.

(3) AVAILABILITY OF MAPS.—The maps submitted under paragraph (1) shall be available for public inspection in—

(A) the offices of the Idaho State Director of the Bureau; and

(B) the offices of the Boise and Twin Falls districts of the Bureau.

(e) WATER RIGHTS.—Water Rights relating to a segment of a river designated as a wild and scenic river under any of paragraphs (170) through (189) of section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) (as added by subsection (b)) shall be reserved in accordance with—

(1) the provisions of that Act (16 U.S.C. 1271 et seq.);

(2) the laws and regulations of the State; and

(3) the Owyhee Initiative Agreement.

SEC. 203. ADMINISTRATION OF WILDERNESS AND WILD AND SCENIC RIVERS.

(a) MANAGEMENT.—Subject to valid existing rights, each area designated as wilderness by section 201 shall be administered by the Secretary in accordance with the Wilderness Act (16 U.S.C. 1131 et seq.), except that—

(1) any reference in that Act to the effective date shall be considered to be a reference to the date of enactment of this Act; and

(2) any reference in that Act to the Secretary of Agriculture shall be considered to be a reference to the Secretary of the Interior with respect to land administered by the Secretary of the Interior.

(b) INVENTORY.—In accordance with the Owyhee Initiative Agreement, not later than 1 year after the date on which a wilderness is designated under section 201, the Bureau shall conduct an inventory of wilderness grazing management facilities and activities in the wilderness.

(c) LIVESTOCK.—In the wilderness areas designated by section 201 that are administered by the Bureau, the grazing of livestock in areas in which grazing is established as of the date of enactment of this Act shall be allowed to continue, subject to such reasonable regulations, policies, and practices as the Secretary considers necessary, consistent with section 4(d)(4) of the Wilderness Act (16 U.S.C. 1133(d)(4)) and the guidelines described in Appendix A of House Report 101–405.

(d) RECREATIONAL SADDLE AND PACK STOCK.—Nothing in this Act precludes horseback riding or the use of recreational saddle or pack stock in any wilderness designated by section 201.

(e) OUTFITTING AND GUIDING ACTIVITIES.—

(1) In general.—Consistent with section 4(d)(6) of the Wilderness Act (16 U.S.C. 1133(d)(6)) and subject to any regulations that the Secretary determines to be necessary, the Secretary shall permit the continuation of outfitting and guiding activities in any wilderness designated by section 201.

(2) Effect of designation.—Designation of an area as wilderness areas under section 201 shall not require the Secretary to limit the conduct of outfitting activities or the use of the system of reserved camps and allocated river launches designated for use by members of the public that use outfitter services that are in existence before the date of enactment of this Act.

(f) ACCESS TO NON-FEDERAL LAND.—Nothing in this Act denies an owner of non-Federal land the right to access the land.

(g) ROADS ADJACENT TO WILDERNESS.—With respect to any road adjacent to a wilderness designated by section 201 (as depicted on the applicable map), the boundary of the wilderness shall be—

(1) 100 feet from the center line for a primary road;

(2) 50 feet from the center line for a primitive wilderness boundary road; and

(3) 30 feet on either side of the center line for an interior wilderness division or cherrystem road.

(h) WILDLIFE MANAGEMENT.—

(1) IN GENERAL.—In accordance with section 4(d)(7) of the Wilderness Act (16 U.S.C. 1133(d)(7)), nothing in this title affects or diminishes the jurisdiction of the State with respect to fish and wildlife management, including the regulation of hunting, fishing, and trapping in any wilderness designated by section 201.

(2) MANAGEMENT ACTIVITIES.—

(A) IN GENERAL.—In furtherance of the purposes and principles of the Wilderness Act (16 U.S.C. 1131 et seq.), management activities to maintain or restore fish and wildlife populations and the habitats necessary to support such populations may be carried out in any wilderness designated by section 201, if the management activities are—

(i) consistent with relevant wilderness management plans; and

(ii) conducted in accordance with appropriate policies, such as the policies established in Appendix B of House Report 101–405.

(B) INCLUSIONS.—Management activities under subparagraph (A) may include the occasional and temporary use of motorized vehicles, if the use, as determined by the Secretary, would promote healthy, viable, and more naturally distributed wildlife populations that would enhance wilderness values while causing the minimum impact necessary to accomplish the promotion of such outcomes.

(3) EXISTING ACTIVITIES.—Consistent with section 4(d)(1) of the Wilderness Act (16 U.S.C. 1133(d)(1)) and in accordance with appropriate policies, such as those established in Appendix B of House Report 101–405, the State may continue to use aircraft (including helicopters) in the wilderness areas designated by section 201 to survey, capture, transplant, monitor, and provide water for wildlife populations, including bighorn sheep and feral stock, horses, and burros.

(i) WILDFIRE MANAGEMENT.—Consistent with section 4 of the Wilderness Act (16 U.S.C. 1133), nothing in this title precludes a Federal, State, or local agency from conducting wildfire management operations (including operations using aircraft or mechanized equipment) to manage wildfires in any wilderness designated by section 201.

(j) INCORPORATION OF ACQUIRED LAND AND INTERESTS.—Any land or interest within the perimeter of, or adjacent to, an area designated as a wilderness by section 201 or any land or interest described in section 204 that is acquired by the United States after the date of enactment of this Act shall be added

to and administered as part of the wilderness within which the acquired land or interest is located.

(k) ADJACENT MANAGEMENT.—

(1) IN GENERAL.—The designation of a wilderness by section 201 shall not create any protective perimeters or buffer zones around the wilderness.

(2) NONWILDERNESS ACTIVITIES.—The fact that nonwilderness activities or uses can be seen or heard from areas within a wilderness or wild and scenic river designated under this section shall not preclude the conduct of those activities or uses outside the boundary of the wilderness or wild and scenic river.

(l) MILITARY OVERFLIGHTS.—Nothing in this section restricts or precludes—

(1) low-level overflights and operations of military aircraft, helicopters, missiles, or unmanned aerial vehicles over the areas designated as a wilderness by section 201, including military overflights that can be seen or heard within the wilderness or wild and scenic river areas;

(2) flight testing and evaluation;

(3) the designation or creation of new units of special use airspace, the expansion of units of special use airspace in existence on the date of enactment of this Act, or the use or establishment of military flight training routes over the wilderness or wild and scenic river areas; or

(4) emergency access and response.

(m) WATER RIGHTS.—In accordance with section 4(d)(6) of the Wilderness Act (16 U.S.C. 1133(d)(6)), nothing in this Act provides an express or implied claim or denial of the Federal Government with respect to any exemption from water laws of the State.

SEC. 204. LAND EXCHANGES AND ACQUISITIONS AND GRAZING PREFERENCES.

(a) EXCHANGES AND ACQUISITIONS.—

(1) FINDINGS.—Congress finds that—

(A) the consolidation of land ownership would facilitate sound and efficient management for public and private land and serve important public objectives, including—

(i) the enhancement of public access, aesthetics, and recreational opportunities within and adjacent to designated wilderness and wild and scenic river areas; and

(ii) the protection and enhancement of wildlife habitat, including sensitive species;

(B) time is of the essence in completing appropriate land exchanges because further delays may force landowners to construct roads in, develop, or sell private land inholdings, and diminish the public values for which the private land is to be acquired; and

(C) it is in the public interest to complete the land exchanges at the earliest practicable date so that the land acquired by the United States can be preserved for protection of wilderness character, wildlife habitat, and permanent public use and enjoyment.

(2) AUTHORIZATION.—The Secretary may acquire, by purchase or other exchange, any land or interest offered by an owner under paragraph (3), subject to the conditions described in paragraph (4).

(3) OFFERS TO CONVEY.—

(A) IN GENERAL.—An owner of land or an interest identified under the document entitled ''Land Exchanges and Acquisitions'' and dated September 1, 2006, may offer to convey the land or interest to the Secretary by purchase or exchange if the owner has submitted to the Secretary, on or before the date of enactment of this Act—

(i) a written notice of the intent to exchange or sell the land or interest;

(ii) an identification of each parcel of land and each interest to be exchanged or sold;

(iii) a description of the value of each parcel of land and each interest as described in that document; and

(iv) in the case of an exchange, a description of the Federal land sought for the exchange.

(B) CONVEYANCE BY SALE.—

(i) IN GENERAL.—Subject to the availability of funds, the Secretary shall acquire any land or interests offered for purchase under subparagraph (A) as soon as practicable after the date of enactment of this Act.

(ii) ELECTION TO RECEIVE CASH.—If an owner makes an election under subparagraph (C)(iii)(II), the Secretary shall acquire by sale the land or interest of the owner as soon as practicable after the date on which the Secretary receives a notice of the election of the owner.

(C) CONVEYANCE BY DIRECT EXCHANGE.—

(i) IN GENERAL.—On the election of an owner that has submitted an appropriate notice under subparagraph (A)(i), the Secretary may acquire land or property interests identified as eligible for exchange in the document entitled ''Land Exchanges and Acquisitions'' and dated September 1, 2006, in exchange for Federal land that is—

(I) of equal value to the land or property interests, as determined by appraisals of the applicable Federal land, with or without development rights;

(II) located in the County; and

(III) described in the document referred to in subparagraph (A).

(ii) ACTION BY SECRETARY.—Not later than 60 days after the date on which the appraisals of applicable land are completed, the Secretary shall offer to enter into an exchange under this subparagraph with each appropriate owner of land or a property interest offered for exchange under subparagraph (A).

(iii) DECISIONS BY OWNERS.—Not later than 60 days after the date on which the appraisals of applicable land are completed, an owner of land or a property interest subject to an exchange under this subparagraph may elect—

(I) to waive any applicable development right relating to the Federal land to be exchanged, subject to the adjustment of the exchange to achieve like values;

(II) to receive cash in lieu of Federal land for all or any portion of the land or property interest to be exchanged; or

(III) to withdraw from participation in any exchange program.

(iv) APPLICABILITY OF OTHER LAW.—Except as otherwise provided in this section, each exchange of Federal land under this section shall be subject to laws (including regulations) applicable to the conveyance and acquisition of land under the jurisdiction of the Bureau of Land Management.

(D) FACILITATED LAND EXCHANGES.—

(i) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, the Secretary shall offer to enter into a facilitated land exchange in accordance with subparagraph (A) and conducted through a land exchange facilitator to be designated by the Board.

(ii) EXCHANGE OFFER.—

(I) IN GENERAL.—Not later than 60 days after the date on which the appraisals of applicable land are completed, the land exchange facilitator shall submit to the Secretary an offer to exchange private land for Federal land in the County.

(II) REQUIREMENT.—An offer to exchange under subclause (I) shall demonstrate that the appraised value of the private land is equal or approximately equal to the appraised value, with or without development rights, of the Federal land offered for exchange.

(4) CONDITIONS.—

(A) TITLE.—Title to any private land conveyed under this subsection shall—

(i) be acceptable to the Secretary; and

(ii) conform with title approval standards applicable to Federal land acquisitions.

(B) VALID EXISTING RIGHTS.—Conveyances under this subsection shall be subject to valid existing rights of record.

(5) EFFECT OF SUBSECTION.—Nothing in this subsection—

(A) creates any compensable property right or title with respect to grazing preferences; or

(B) affects any public access route on Federal land exchanged under this subsection.

(b) GRAZING PREFERENCES.—

(1) IN GENERAL.—A holder of a valid grazing preference with respect to all or a portion of any Federal land designated by this Act as a wilderness may voluntarily offer to the Secretary for sale or donation all or any portion of the grazing preference.

(2) NOTICE.—To offer a grazing preference for sale or donation under paragraph (1), the holder of the grazing preference shall submit to the Secretary a written notice of the intent of the holder, including—

(A) a description of the Federal land to which the grazing preference applies; and

(B) the date on which the holder will relinquish use of the grazing preference, which shall be not later than 1 year after the date on which the notice is submitted.

(3) CONSIDERATION.—The Secretary shall provide to a holder that offers a grazing preference for sale under paragraph (1) consideration in accordance with the schedule of payments described in the document described in subsection (a)(3)(A).

(4) CANCELLATION AND RETIREMENT OF LIVESTOCK GRAZING.—Beginning on the date identified under paragraph (2)(B)—

(A) the applicable grazing preference shall be canceled; and

(B) the associated livestock grazing shall be permanently retired.

(5) FENCING.—The Secretary shall install and maintain any fencing and other structures required to prevent grazing use of any Federal land on which a grazing preference has been voluntarily sold or donated under this subsection.

SEC. 205. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Bureau such sums as are necessary to carry out this title.

TITLE III—TRANSPORTATION AND RECREATION MANAGEMENT

SEC. 301. TRANSPORTATION PLANS.

(a) IN GENERAL.—The Bureau shall develop and implement transportation plans for land managed by the Bureau outside of wilderness areas in the County.

(b) CONSULTATION AND COORDINATION.—The transportation plans and cooperative agreements shall be developed in consultation and coordination with appropriate Federal Government entities, tribal government entities, and State and local government entities consistent with—

(1) the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.);

(2) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

(3) any other applicable laws.

(c) INCLUSIONS.—The Bureau shall ensure that all areas of the County managed by the Bureau, including areas that are remote and rarely used for motorized recreation, are included and in transportation plans developed under subsection (a) to—

(1) provide for management of anticipated growth in recreational use of the land; and

(2) develop a system to provide a wide range of recreational opportunities and experiences for all users.

(d) LIMITATION.—Transportation plans under subsection (a) shall not affect the status of any road adjacent to any wilderness (as depicted on the applicable map).

(e) SYSTEM OF ROUTES.—

(1) IN GENERAL.—Each transportation plan under subsection (a) shall—

(A) establish a system of designated roads and trails;

(B) include a multiple use recreational trail system, that provides a wide range of recreational opportunities and experiences for all users while protecting natural and cultural resources;

(C) limit the use of motorized and mechanized vehicles to designated roads and trails;

(D) address use of snow vehicles on roads, trails, and areas designated for such use;

(E) be based on resource and route inventories;

(F) include designation of routes and route systems that are open or closed; and

(G) include provisions relating to, with respect to the applicable land—

(i) trail construction and reconstruction;

(ii) road and trail closure;

(iii) seasonal closures or restrictions;

(iv) restoration of disturbed areas;

(v) monitoring;

(vi) maintenance;

(vii) maps;

(viii) signs;

(ix) education; and

(x) enforcement.

(2) TEMPORARY LIMITATION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), until the date on which the Bureau completes transportation planning, all recreational motorized and mechanized off-highway vehicle use shall be limited to roads and trails in existence on the day before the date of enactment of this Act.

(B) EXCEPTIONS.—

(i) IN GENERAL.—Subparagraph (A) shall not apply to areas specifically identified as open, closed, or limited under the Owyhee resource management plan.

(ii) HEMMINGWAY BUTTE AREA.—Notwithstanding subparagraph (A), the Bureau may take into consideration maintaining the Hemmingway Butte area as open to cross-country travel.

(f) SCHEDULE.—

(1) OWYHEE FRONT.—Not later than 1 year after the date of enactment of this Act, the Bureau shall complete a transportation plan for the Owyhee Front.

(2) OTHER FEDERAL LANDS IN THE COUNTY.—Not later than 3 years after the date of enactment of this Act, the Bureau shall complete a transportation plan for Federal land in the County outside the Owyhee Front.

SEC. 302. AUTHORITY.

Transportation and travel management under this title shall not affect the authority of the Bureau to manage or regulate off-highway vehicle use under title 43, Code of Federal Regulations (as in effect on September 25, 2005).

SEC. 303. COOPERATIVE AGREEMENTS.

(a) IN GENERAL.—As soon as practicable, after the date of enactment of this Act, the Bureau shall offer to enter into cooperative agreements with the County—

(1) to establish a cooperative search and rescue program; and

(2) to implement and enforce the transportation plans described in this section.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Bureau such sums as are necessary—

(1) to carry out search and rescue operations in the County; and

(2) to develop, implement, and enforce off-highway motor vehicle transportation plans under this section.

SEC. 304. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Bureau such sums as are necessary to accelerate completion and implementation by the Bureau of the transportation plan for the Owyhee Front and subsequent transportation plans for the remainder of the County.

TITLE IV—CULTURAL RESOURCES

SEC. 401. FINDINGS.

Congress finds that—

(1) the County is rich in history and culture going back thousands of years;

(2) the cultural and historical resources important to the people and ancestors of the Tribes must be protected against abuse and desecration, whether intentional or unintentional;

(3) there are opportunities—

(A) to increase knowledge of cultural resources;

(B) to monitor influences from outside forces; and

(C) to improve the inspection and supervision of major cultural sites;

(4) inventory and monitoring programs that identify and document cultural sites and the condition of those sites over time would—

(A) assist in ensuring the preservation of the sites; and

(B) help to focus resources—

(i) to ensure compliance with prohibitions against destruction and or removal of cultural items; and

(ii) to prevent inadvertent negative impacts;

(5) the Owyhee Initiative Agreement will—

(A) support a broad range of measures to protect cultural sites and resources important to the continuation of the traditions and beliefs of the Tribes; and

(B) provide for the implementation of the Plan; and

(6) the implementation of the Plan should—

(A) be consistent with the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.); and

(B) recognize that—

(i) the right of Indians to self-government results from the inherent sovereignty of Indian tribes; and

(ii) the United States—

(I) has a special and unique legal and political relationship with federally recognized Indian tribes; and

(II) is obligated to develop a government-to-government relationship with Indian tribes under the Constitution, treaties, Federal law, and the course of dealings with Indian tribes.

SEC. 402. IMPLEMENTATION.

The Tribes shall implement the Plan.

SEC. 403. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Tribes to carry out this title—

(1) $900,000 for fiscal year 2008; and

(2) $900,000 for each of fiscal years 2009 through 2012.

By Mr. ROCKEFELLER (for himself, Mr. CORNYN, Mr. KOHL, Ms. SNOWE, and Mr. COLEMAN):

S. 803. A bill to repeal a provision enacted to end Federal matching of State spending of child support incentive payments; to the Committee on Finance.

Mr. ROCKFELLER. Mr. President, today I am proud to join with bipartisan colleagues, Senators CORNYN, KOHL, SNOWE, and COLEMAN, to try to increase investments in the successful Child Support Enforcement program.

Our Federal child support enforcement is an extraordirary program. In 2005, the program collected $23 billion to serve 16 million children and families, with a Federal investment of only approximately $4 billion. For every dollar invested in this Program, there is a return of $4.58. This program is a real bargain.

Child support enforcement is a program that deserves more investment because it works, and because it provides long term support for children. The historic welfare reform of 1996 changed Federal assistance to families with children to a temporary program that only provides 60 months of support. Currently 3.4 million children are cotered by welfare reform. Child support serves more children, and helps to ensure that their parents provide support until the age of 18. This program is essential for families, and it promotes our fundamental value of parental responsibility.

As part of the Deficit Reduction Act of 2006, new limits were imposed on Federal incentive funds to prohibit the match. While this provision saved almost $3 billion, the Congressional Budget Office (CBO) estimated that children and families would loose $8.3 billion. That is a bad deal.

Our bill is designed to fix this problem and continue to invest in a program that has been proven to work so well for our children and families. In my personal view, it is better to encourage families to rely on child support from their parents first.

In the past, my State of West Virginia has used its incentive payments and matching funding to support computers and staff investments. According to our West Virginia Bureau, prior to incentive funding, the agency had 18 percent to 20 percent staff turnover. But with incentive funding, staff turnover has been reduced to 10 percent and West Virginia collections are up to $180 million. This is very good for my State.

I believe this bipartisan bill will be a good deal for child support enforcement, our children and families, and our States.

I ask unanimous consent that, three letters of support and the text of the bill be printed in the RECORD. I truly appreciate the support of National Conference of State Legislatures, The National Child Support Enforcement Association, and the joint support of advocacy groups of Center for Law and Social Policy, the National Women's Law Center and the Coalition on Human Needs.

There being no objection, the letters and bill were ordered to be printed in the RECORD, as follows:

NATIONAL CONFERENCE
OF STATE LEGISLATURES,
Washington, DC, March 6, 2007.

U.S. SENATE,
Washington, DC.

DEAR SENATORS ROCKEFELLER, CORNYN, KOHL, SNOWE, AND COLEMAN: NCSL strongly supports your legislation repealing the provision in the Deficit Reduction Act of 2005 that prohibits states from using child support incentive funds to match federal funds for the program. When this action was taken, the Congressional Budget Office identified the cut as an intergovernmental mandate that exceeds the threshold of the Unfunded Mandate Reform Act.

States have used incentive funds to draw down federal funds used for integral parts of the child support enforcement program. The funds have allowed states to establish and enforce child support obligations, obtain health care coverage for children, and link low-income fathers to job programs. The cut ignored the fact that funds for child support enforcement are used effectively and responsibly. In fact, the child support enforcement program received a Program Assessment Rating Tool (PART) rating of ''effective,'' and continues to be one of the highest rated block or formula grants of all federal programs.

Consistent child support helps save children from being raised in poverty. Reductions in child support administrative funds inevitably lead to lower child support collections, leaving families less able to achieve self-sufficiency.

State legislators applaud your efforts to undo this ill-considered action of the previous Congress. We urge the 110th Congress to adopt your bill. Please have your staff contact Sheri Steisel or Lee Posey for further information or assistance.

Sincerely,

SANDY ROSENBERG,
Delegate, Maryland, Chairman, NCSL Human Services and Welfare Committee.
LETICIA VAN DE PUTTE,
Senator, Texas, President, NCSL.
DONNA STONE,
Representative, Delaware, President Elect, NCSL.

NATIONAL CHILD SUPPORT ENFORCEMENT ASSOCIATION,
March 6, 2007.

Hon. JAY ROCKEFELLER,
Hon. JOHN CORNYN,
Hon. HERB KOHL,
Hon. OLYMPIA SNOWE,
Hon. NORM COLEMAN.

DEAR SENATORS: I am sending this letter on behalf of the National Child Support Enforcement Association (NCSEA) in strong support of your bill to restore the authority for states to use performance incentives as match for federal funds for the child support enforcement program.

NCSEA is a nonprofit, membership organization representing the child support community—a workforce of over 60,000. NCSEA's mission is to promote the well-being of children through professional development of its membership, advocacy and public awareness. NCSEA's membership includes line/managerial/executive child support staff; state and local agencies; judges; court masters; hearing officers; government and private attorneys; social workers; advocates; corporations that partner with government to provide child support services and private collection firms.

The child support enforcement program operates in all states as provided by Title IV–D of the federal Social Security Act. The program enjoys healthy partnerships with the federal Office of Child Support Enforcement, and a large and varied group of stakeholders. Courts and law enforcement officials carry out many of the day to day functions; employers collect almost 80% of child support through income withholding, hospitals assist with paternity acknowledgment, and other state and local agencies provide enforcement services and related services to assist obligors in finding and maintaining employment. We share a common mission that is reflected in the program's National Strategic Plan:

To enhance the well-being of children by assuring that assistance in obtaining support, including financial and medical, is available to children through locating parents, establishing paternity, establishing support obligations, and monitoring and enforcing those obligations.

One of the unique features of the child support enforcement program is that unlike government public assistance programs, it has a major interstate component, and requires close collaboration among the states to provide services on behalf of children whose parents live in different states. In today's mobile society, strong interstate collaboration and comparable levels of service across state lines are essential. Collectively, the program provides services on behalf of over 17 million children—representing nearly one quarter of the nation's children. If one or more states do not have the resources to operate effective programs, there are repercussions across the entire network of states in the child support system. The bottom line is that some of the children who depend upon the program will fall through the cracks.

We are proud of the accomplishments of the program, but are continually striving to do more. The program is cost effective, goal oriented, and accountable for results. It has received recognition from the highest levels of government at the federal, state, and local levels. One of these was an OMS Program Assessment Rating Tool (PART) score of 90 percent, representing the highest rating among all social services and block grant/formula programs.

The Deficit Reduction Act of 2005 (P.L. 109–171), passed by a closely divided Congressional vote, made major cuts to child support funding, including eliminating the purposeful federal match on incentive payments, reducing the match rate for paternity testing, and imposing a collection fee on parents. States were required to implement the collection of the fee in October 2007 unless legislation was required. The first two provisions are effective on October 1, 2008, unless reversed by Congress.

States and child support organizations have been working hard to address these drastic funding reductions, and with all honesty, the plans that are being made are not good for the families served by this nationally recognized program. Our members report that vital services may be eliminated or substantially reduced as budgets and staffing are cut. Important to the effectiveness of the program is the ability to take action quickly to establish paternity and an obligation to support. States report that early intervention results in more regular support payments and more involvement of the father in the life of the child. Just as importantly, close monitoring and on-ongoing enforcement are vital to the regular receipt of child support payments. This close monitoring and interaction with the obligor ensures that those parents who need assistance in finding and maintaining employment are helped.

As states lose resources, they will be less able to timely perform ''core'' functions such as paternity establishment, order establishment, enforcement and distribution of payments. The progress the program has made toward improved performance will be jeopardized. In addition, states will have to make tough choices, perhaps sacrificing customer service, outreach to incarcerated parents, and fatherhood programs in favor of funding only the ''essential'' service areas.

The Congressional Budget Office (CBO) estimated that child support collections would be reduced by $8.4 billion as a result of the federal cuts contained in the Deficit Reduction Act. (The actual number may be higher based on new scoring from the CBO.) CBO assumed that states would make up half of the funding gap resulting from federal cuts to the program. While states are working to secure adequate funding for the program, as of today no state has had a budget increase approved by its state legislature. Twenty-three (23) states have not yet made a request for additional funding. Many state budgets are so tight that a request for additional funding is not feasible. It is also important to keep in mind that even if additional state funding is approved during the current budget cycle, it does not guarantee adequate funding in the future.

As the Congress works to address needs of America's families both in the federal budget and in other funding authorization bills, we urge you to consider the needs for strong and fair child support enforcement. Children who don't receive regular financial support from both parents are disadvantaged in a number of ways. Children need the resources provided by child support payments from parents to compete in our complex society. Parents need access to a child support system that determines equitable child support awards, monitors and enforces obligations, and transfers payments from the obligor to custodial parent quickly. State and local child support agencies have a successful history of performing these important tasks, doubling their child support collection rates since Congress enacted the 1996 welfare reform legislation. Taxpayers are well served by a strong child support program that increases family self-sufficiency and decreases dependence on public assistance.

Your interest in the child support program and commitment to the families served by the state and local programs is once again evidenced with your sponsorship of this critical funding bill. The child support program has long enjoyed strong bi-partisan support and we are most pleased to see that support clearly shown in your sponsorship.

Please consider NCSEA as a resource to you and to your colleagues and staff as you proceed with this legislation. We stand ready to provide you details on what we do, how our members use federal funds, the impact of funding reductions, our efforts to improve the quality of our services to families, and any other information you need to make an informed decision.

Thank you for your advocacy on behalf of children and families served by this important program.

Sincerely yours,

MARY ANN WELLBANK,
President.

NATIONAL WOMEN'S LAW CENTER,
CENTER FOR LAW AND SOCIAL POLICY,
COALITION ON HUMAN NEEDS,
March 7, 2007.

Hon. JAY ROCKEFELLER,
Hon. JOHN CORNYN,
Hon. HERB KOHL,
Hon. OLYMPIA SNOWE,
Hon. NORM COLEMAN.

DEAR SENATORS: The National Women's Law Center, Center for Law and Social Policy, and Coalition on Human Needs, organizations that have worked for years to strengthen child support enforcement, strongly support your bill to restore funding for child support enforcement to ensure that children continue to receive the support they deserve from both their parents.

The federal-state child support enforcement program provides services to over 17 million children. In FY 2005, it collected $23 billion in child support from noncustodial parents at a total cost of $5 billion to the federal and state governments: $4.58 in collections for every $1 invested, making it highly cost-effective. All families in need of child support enforcement services are eligible, but most of the families that rely on the

program are low- and moderate-income families. Families that formerly received public assistance make up nearly half (46 percent) of the caseload; current recipients represent 16 percent of the caseload.

Child support helps families escape poverty, provide for their children's needs, and avoid a return to welfare. But the cuts to child support enforcement funding included in last year's Deficit Reduction Act will significantly reduce child support collections for families and impede paternity establishment, as states and counties reduce staff, forgo computer upgrades, and abandon promising initiatives. Last year, the Congressional Budget Office estimated that $8.4 billion in child support will go uncollected over the next 10 years.

Your bill would protect child support enforcement services by restoring the federal match for incentive funds that states reinvest in the child support program. This match is a key part of the results-based incentive payment system, overhauled by the Child Support Performance Incentive Act (CSPIA) of 1998, that has given states the incentives—and the resources—to dramatically improve their child support programs. Over the past 10 years, child support collection rates have doubled, and the program has been strengthened on a nationwide basis, thanks to the implementation of child support reforms enacted by Congress as part of the 1996 welfare reform law.

On a bipartisan basis, Congress has enacted significant reforms to child support enforcement that are making a real difference in children's lives. Your bill would prevent this progress from unraveling.

We thank you for your leadership on behalf of children and families.

Sincerely,

JOAN ENTMACHER,
Vice President, Family Economic Security, National Women's Law Center.
VICKI TURETSKY,
Senior Staff Attorney, Center for Law and Social Policy.
DEBBIE WEINSTEIN,
Executive Director, Coalition on Human Needs.

S. 803

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 ''Child Support Protection Act of 2007''.

SEC. 2. REPEAL OF PROVISION ENACTED TO END FEDERAL MATCHING OF STATE SPENDING OF CHILD SUPPORT INCENTIVE PAYMENTS.

Section 7309 of the Deficit Reduction Act of 2005 (Public Law 109–171, 120 Stat. 147) is repealed.

Mr. CORNYN. Mr. President, I am proud to cosponsor the Child Support Protection Act of 2007 so State child support enforcement agencies may continue the extraordinary progress and cost-effectiveness they have developed in child support collections in recent years.

This legislation is necessary to avoid a reversal in the dramatic improvements in the child support program's performance over the past decade. Without it, many families may be forced back into the welfare caseload.

Child support enforcement reduces reliance on Medicaid, Temporary Assistance for Needy Families (TANF), and other social service programs. Effective enforcement enables former welfare families, and working families with modest incomes, to receive this important source of supplemental income and gain the self-sufficiency to avoid having to draw on government resources through public assistance programs. In fact, over 1 million Americans were lifted out of poverty through the child support program in 2002.

In 2004, collections nationwide totaled $21.9 billion, while total program costs were $5.3 billion. For every $1 spent in child support enforcement, $4.38 is collected for children who need it. Because of this rate of return, the President's budget continually rates the program as ''one of the highest rated block/formula grants of all reviewed programs government-wide. This high rating is due to its strong mission, effective management, and demonstration of measurable progress toward meeting annual and long term performance measures.''

In particular, the Texas child support program has made significant strides over the past seven years in collections, performance, and efficiency, all of which will be seriously undermined without this vital legislation.

I speak with authority on this matter. During my tenure as Attorney General of Texas, the Child Support Division made dramatic increases in collections from deadbeat parents, and the office continues to bring in record collections each year. Texas now ranks second in the Nation in total collections—with collections in Fiscal Year 2006 surpassing $2 billion—a figure that has doubled since Fiscal Year 2000.

This outstanding performance has earned the program the second highest Federal performance incentive award for the past 3 years. Because the Texas program has achieved that level of performance, the prohibition on using incentive payments to draw down matching Federal funds for program expenditures will have a much greater impact on Texas than on the 48 other States ranked below it. The loss of the match on incentive payments effectively punishes Texas's success. Unless we pass this legislation, the Child Support Division in the Office of the Texas Attorney General will face a dramatic reduction in federal financial participation and may be forced to close many offices throughout the State.

I ask unanimous consent to print in the RECORD the following letter from the National Child Support Enforcement Association supporting this legislation.

I look forward to this bill's consideration in the future.

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

NATIONAL CHILD SUPPORT ENFORCEMENT ASSOCIATION,
Washington, DC, March 6, 2007.

Hon. JAY ROCKEFELLER,
Hon. JOHN CORNYN,
Hon. HERB KOHL,
Hon. OLYMPIA SNOWE,
Hon. NORM COLEMAN.

DEAR SENATORS: I am sending this letter on behalf of the National Child Support Enforcement Association (NCSEA) in strong support of your bill to restore the authority for states to use performance incentives as match for federal funds for the child support enforcement program.

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As the Congress works to address needs of America's families both in the federal budget and in other funding authorization bills, we urge you to consider the needs for strong and fair child support enforcement. Children who don't receive regular financial support from both parents are disadvantaged in a number of ways. Children need the resources provided by child support payments from parents to compete in our complex society. Parents need access to a child support system that determines equitable child support awards, monitors and enforces obligations, and transfers payments from the obligor to custodial parent quickly. State and local child support agencies have a successful history of performing these important tasks, doubling their child support collection rates since Congress enacted the 1996 welfare reform legislation. Taxpayers are well served by a strong child support program that increases family self-sufficiency and decreases dependence on public assistance.

Your interest in the child support program and commitment to the families served by the state and local programs is once again evidenced with your sponsorship of this critical funding bill. The child support program has long enjoyed strong bi-partisan support and we are most pleased to see that support clearly shown in your sponsorship.

Please consider NCSEA as a resource to you and to your colleagues and staff as you proceed with this legislation. We stand ready to provide you details on what we do, how our members use federal funds, the impact of funding reductions, our efforts to improve the quality of our services to families, and any other information you need to make an informed decision.

Thank you for your advocacy on behalf of children and families served by this important program.

Sincerely yours,

MARY ANN WELLBANK,
President.

Mr. KOHL. In Congress, we rarely have the opportunity to consider a simple, straightforward issue. It is uncommon when we can debate an issue with significant bipartisan support; one that the Senate has a strong record on. And it seems exceptional when we are able to show our support for a Federal program that really works.

But the legislation my colleagues and I are introducing today gives us that rare opportunity. Our legislation restores cuts to the child support enforcement program. The program helps States collect support that is owed to hardworking, single parent families. It is one of the most effective Federal programs, collecting more than $4 in child support for every dollar spent. And the Senate already has a strong record in support of the child support enforcement program, with 76 Senators voting for a resolution that rejected cuts to the program.

Which is why I was so disappointed when conferees included in the Deficit Reduction Act a provision to prevent, States from receiving Federal matching funds on incentive payments. While the scope of this provision may have seemed narrow to the conferees, the impact has been felt throughout the country. And my State of Wisconsin has felt it more than most—as a high-performing State, Wisconsin stands to lose more Federal funding than a State with a poorer enforcement record. Congress should not send the message to States that they will be penalized for success—but that's exactly what the child support funding cuts did.

I fought against the Deficit Reduction Act, because I knew these cuts would hurt Wisconsin families. The impact has been clear. The cuts are so damaging—and the program so important—that one Wisconsin community has decided to hold a raffle, to raise funds for their child support enforcement program. I have heard from child support directors who will be forced by budget cuts to fire staff. And I have heard from scared constituents who are owed child support that they worry they will never see.

That is why I am proud to join Senators ROCKEFELLER, CORNYN, SNOWE and COLEMAN in introducing this legislation. By repealing the DRA cuts, we help our States, our counties—and most importantly—we help those constituents relying on child support payments.

I urge my colleagues to take this rare opportunity—to do what's simple, to support the Senate's record, and to vote in favor of a program with proven success at helping our nation's children.

I thank my colleagues.

By Mr. DURBIN (for himself, Mr. COLEMAN, Mr. FEINGOLD, Mr. DODD, Mr. KERRY, and Mr. BINGAMAN):

S. 805. A bill to amend the Foreign Assistance Act of 1961 to assist countries in sub-Saharan Africa in the effort to achieve internationally recognized goals in the treatment and prevention of HIV/AIDS and other major diseases and the reduction of maternal and child mortality by improving human health care capacity and improving retention of medical health professionals in sub-Saharan Africa, and for other purposes; to the Committee on Foreign Relations.

Mr. DURBIN. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 805

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 ''African Health Capacity Investment Act of 2007''.

SEC. 2. DEFINITIONS.

In this Act, the term ''HIV/AIDS'' has the meaning given such term in section 104A(g) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151b–2(g)).

SEC. 3. FINDINGS.

Congress makes the following findings:

(1) The World Health Report, 2003, Shaping the Future, states, ''The most critical issue facing health care systems is the shortage of people who make them work.''.

(2) The World Health Report, 2006, Working Together for Health, states, ''The unmistakable imperative is to strengthen the workforce so that health systems can tackle crippling diseases and achieve national and global health goals. A strong human infrastructure is fundamental to closing today's gap between health promise and health reality and anticipating the health challenges of the 21st century.''.

(3) The shortage of health personnel, including doctors, nurses, pharmacists, counselors, laboratory staff, paraprofessionals, and trained lay workers is one of the leading obstacles to fighting HIV/AIDS in sub-Saharan Africa.

(4) The HIV/AIDS pandemic aggravates the shortage of health workers through loss of life and illness among medical staff, unsafe working conditions for medical personnel, and increased workloads for diminished staff, while the shortage of health personnel undermines efforts to prevent and provide care and treatment for those with HIV/AIDS.

(5) Workforce constraints and inefficient management are limiting factors in the treatment of tuberculosis, which infects over ⅓ of the global population.

(6) Over 1,200,000 people die of malaria each year. More than 75 percent of these deaths

occur among African children under the age of 5 years old and the vast majority of these deaths are preventable. The Malaria Initiative of President George W. Bush seeks to reduce dramatically the disease burden of malaria through both prevention and treatment. Paraprofessionals and community healthworkers can be instrumental in reducing mortality and economic losses associated with malaria and other health problems.

(7) For a woman in sub-Saharan Africa, the lifetime risk of maternal death is 1 out of 16. In highly developed countries, that risk is 1 out of 2,800. Increasing access to skilled birth attendants and access to emergency obstetrical care is essential to reducing maternal and newborn mortality in sub-Saharan Africa.

(8) The Second Annual Report to Congress on the progress of the President's Emergency Plan for AIDS Relief identifies the strengthening of essential health care systems through health care networks and infrastructure development as critical to the sustainability of funded assistance by the United States Government and states that ''outside resources for HIV/AIDS and other development efforts must be focused on transformational initiatives that are owned by host nations''. This report further states, ''Alongside efforts to support community capacity-building, enhancing the capacity of health care and other systems is also crucial for sustainability. Among the obstacles to these efforts in many nations are inadequate human resources and capacity, limited institutional capacity, and systemic weaknesses in areas such as: quality assurance; financial management and accounting; health networks and infrastructure; and commodity distribution and control.''.

(9) Vertical disease control programs represent vital components of United States foreign assistance policy, but human resources for health planning and management often demands a more systematic approach.

(10) Implementation of capacity-building initiatives to promote more effective human resources management and development may require an extended horizon to produce measurable results, but such efforts are critical to fulfillment of many internationally recognized objectives in global health.

(11) The November 2005 report of the Working Group on Global Health Partnerships for the High Level Forum on the Health Millennium Development Goals entitled ''Best Practice Principles for Global Health Partnership Activities at Country Level'', raises the concern that the collective impact of various global health programs now risks ''undermining the sustainability of national development plans, distorting national priorities, diverting scarce human resources and/or establishing uncoordinated service delivery structures'' in developing countries. This risk underscores the need to coordinate international donor efforts for these vital programs with one another and with recipient countries.

(12) The emigration of significant numbers of trained health care professionals from sub-Saharan African countries to the United States and other wealthier countries exacerbates often severe shortages of health care workers, undermines economic development efforts, and undercuts national and international efforts to improve access to essential health services in the region.

(13) Addressing this problem, commonly referred to as ''brain drain'', will require increased investments in the health sector by sub-Saharan African governments and by international partners seeking to promote economic development and improve health care and mortality outcomes in the region.

(14) Virtually every country in the world, including the United States, is experiencing a shortage of health workers. The Joint Learning Initiative on Human Resources for Health and Development estimates that the global shortage exceeds 4,000,000 workers. Shortages in sub-Saharan Africa, however, are far more acute than in any other region of the world. The World Health Report, 2006, states that ''[t]he exodus of skilled professionals in the midst of so much unmet health need places Africa at the epicentre of the global health workforce crisis.''.

(15) Ambassador Randall Tobias, now the Director of United States Foreign Assistance and Administrator of the United States Agency for International Development, has stated that there are more Ethiopian trained doctors practicing in Chicago than in Ethiopia.

(16) According to the United Nations Development Programme, Human Development Report 2003, approximately 3 out of 4 countries in sub-Saharan Africa have fewer than 20 physicians per 100,000 people, the minimum ratio recommended by the World Health Organization, and 13 countries have 5 or fewer physicians per 100,000 people.

(17) Nurses play particularly important roles in sub-Saharan African health care systems, but approximately ¼ of sub-Saharan African countries have fewer than 50 nurses per 100,000 people or less than ½ the staffing levels recommended by the World Health Organization.

(18) Paraprofessionals and community health workers can be trained more quickly than nurses or doctors and are critically needed in sub-Saharan Africa to meet immediate health care needs.

(19) Imbalances in the distribution of countries' health workforces represents a global problem, but the impact is particularly acute in sub-Saharan Africa.

(20) In Malawi, for example, more than 95 percent of clinical officers are in urban health facilities, and about 25 percent of nurses and 50 percent of physicians are in the 4 central hospitals of Malawi. Yet the population of Malawi is estimated to be 87 percent rural.

(21) In parts of sub-Saharan Africa, such as Kenya, thousands of qualified health professionals are employed outside the health care field or are unemployed despite job openings in the health sector in rural areas because poor working and living conditions, including poor educational opportunities for children, transportation, and salaries, make such openings unattractive to candidates.

(22) The 2002 National Security Strategy of the United States stated, ''The scale of the public health crisis in poor countries is enormous. In countries afflicted by epidemics and pandemics like HIV/AIDS, malaria, and tuberculosis, growth and development will be threatened until these scourges can be contained. Resources from the developed world are necessary but will be effective only with honest governance, which supports prevention programs and provides effective local infrastructure.''.

(23) Public health deficiencies in sub-Saharan Africa and other parts of the developing world reduce global capacities to detect and respond to potential crises, such as an avian flu pandemic.

(24) On September 28, 2005, Secretary of State Condoleezza Rice declared that ''HIV/AIDS is not only a human tragedy of enormous magnitude; it is also a threat to the stability of entire countries and to the entire regions of the world.''.

(25) Foreign assistance by the United States that expands local capacities, provides commodities or training, or builds on and enhances community-based and national programs and leadership can increase the impact, efficiency, and sustainability of funded efforts by the United States.

(26) African health care professionals immigrate to the United States for the same set of reasons that have led millions of people to come to this country, including the desire for freedom, for economic opportunity, and for a better life for themselves and their children, and the rights and motivations of these individuals must be respected.

(27) Helping countries in sub-Saharan Africa increase salaries and benefits of health care professionals, improve working conditions, including the adoption of universal precautions against workplace infection, improve management of health care systems and institutions, increase the capacity of health training institutions, and expand education opportunities will alleviate some of the pressures driving the migration of health care personnel from sub-Saharan Africa.

(28) While the scope of the problem of dire shortfalls of personnel and inadequacies of infrastructure in the sub-Saharan African health systems is immense, effective and targeted interventions to improve working conditions, management, and productivity would yield significant dividends in improved health care.

(29) Failure to address the shortage of health care professionals and paraprofessionals, and the factors pushing individuals to leave sub-Saharan Africa will undermine the objectives of United States development policy and will subvert opportunities to achieve internationally recognized goals for the treatment and prevention of HIV/AIDS and other diseases, in the reduction of child and maternal mortality, and for economic growth and development in sub-Saharan Africa.

SEC. 4. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) the United States should help sub-Saharan African countries that have not already done so to develop national human resource plans within the context of comprehensive country health plans involving a wide range of stakeholders;

(2) comprehensive, rather than piecemeal approaches to advance multiple sustainable interventions will better enable countries to plan for the number of health care workers they need, determine whether they need to reorganize their health workforce, integrate workforce planning into an overall strategy to improve health system performance and impact, better budget for health care spending, and improve the delivery of health services in rural and other underserved areas;

(3) in order to promote systemic, sustainable change, the United States should seek, where possible, to strengthen existing national systems in sub-Saharan African countries to improve national capacities in areas including fiscal management, training, recruiting and retention of health workers, distribution of resources, attention to rural areas, and education;

(4) because foreign-funded efforts to fight HIV/AIDS and other diseases may also draw health personnel away from the public sector in sub-Saharan African countries, the policies and programs of the United States should, where practicable, seek to work with national and community-based health structures and seek to promote the general welfare and enhance infrastructures beyond the scope of a single disease or condition;

(5) paraprofessionals and community-level health workers can play a key role in prevention, care, and treatment services, and in the more equitable and effective distribution of health resources, and should be integrated into national health systems;

(6) given the current personnel shortages in sub-Saharan Africa, paraprofessionals and community health workers represent a critical potential workforce in efforts to reduce

the burdens of malaria, tuberculosis, HIV/AIDS, and other deadly and debilitating diseases;

(7) it is critically important that the governments of sub-Saharan African countries increase their own investments in education and health care;

(8) international financial institutions have an important role to play in the achievement of internationally agreed upon health goals, and in helping countries strike the appropriate balance in encouraging effective public investments in the health and education sectors, particularly as foreign assistance in these areas scales up, and promoting macroeconomic stability;

(9) public-private partnerships are needed to promote creative contracts, investments in sub-Saharan African educational systems, codes of conduct related to recruiting, and other mechanisms to alleviate the adverse impacts on sub-Saharan African countries caused by the migration of health professionals;

(10) colleges and universities of the United States, as well as other members of the private sector, can play a significant role in promoting training in medicine and public health in sub-Saharan Africa by establishing or supporting in-country programs in sub-Saharan Africa through twinning programs with educational institutions in sub-Saharan Africa or through other in-country mechanisms;

(11) given the substantial numbers of African immigrants to the United States working in the health sector, the United States should enact and implement measures to permit qualified aliens and their family members that are legally present in the United States to work temporarily as health care professionals in developing countries or in other emergency situations, as in S. 2611, of the 109th Congress, as passed by the Senate on May 25, 2006;

(12) the President, acting through the United States Permanent Representative to the United Nations, should exercise the voice and vote of the United States—

(A) to ameliorate the adverse impact on less developed countries of the migration of health personnel;

(B) to promote voluntary codes of conduct for recruiters of health personnel; and

(C) to promote respect for voluntary agreements in which individuals, in exchange for individual educational assistance, have agreed either to work in the health field in their home countries for a given period of time or to repay such assistance;

(13) the United States, like countries in other parts of the world, is experiencing a shortage of medical personnel in many occupational specialties, and the shortage is particularly acute in rural and other underserved areas of the country; and

(14) the United States should expand training opportunities for health personnel, expand incentive programs such as student loan forgiveness for people of the United States willing to work in underserved areas, and take other steps to increase the number of health personnel in the United States.

SEC. 5. ASSISTANCE TO INCREASE HUMAN CAPACITY IN THE HEALTH SECTOR IN SUB-SAHARAN AFRICA.

Chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) is amended—

(1) by redesignating the section 135 that was added by section 5 of the Senator Paul Simon Water for the Poor Act of 2005 (Public Law 109–121; 22 U.S.C. 2152h note) as section 136; and

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

''SEC. 137. ASSISTANCE TO INCREASE HUMAN CAPACITY IN THE HEALTH SECTOR IN SUB-SAHARAN AFRICA.

''(a) ASSISTANCE.—

''(1) AUTHORITY.—The President is authorized to provide assistance, including providing assistance through international or nongovernmental organizations, for programs in sub-Saharan Africa to improve human health care capacity.

''(2) TYPES OF ASSISTANCE.—Such programs should include assistance—

''(A) to provide financial and technical assistance to sub-Saharan African countries in developing and implementing new or strengthened comprehensive national health workforce plans;

''(B) to build and improve national and local capacities and sustainable health systems management in sub-Saharan African countries, including financial, strategic, and technical assistance for—

''(i) fiscal and health personnel management;

''(ii) health worker recruitment systems;

''(iii) the creation or improvement of computerized health workforce databases and other human resource information systems;

''(iv) implementation of measures to reduce corruption in the health sector; and

''(v) monitoring, evaluation, and quality assurance in the health field, including the utilization of national and district-level mapping of health care systems to determine capacity to deliver health services;

''(C) to train and retain sufficient numbers of health workers, including paraprofessionals and community health workers, to provide essential health services in sub-Saharan African countries, including financing, strategic technical assistance for—

''(i) health worker safety and health care, including HIV/AIDS prevention and off-site testing and treatment programs for health workers;

''(ii) increased capacity for training health professionals and paraprofessionals in such subjects as human resources planning and management, health program management, and quality improvement;

''(iii) expanded access to secondary level math and science education;

''(iv) expanded capacity for nursing and medical schools in sub-Saharan Africa, with particular attention to incentives or mechanisms to encourage graduates to work in the health sector in their country of residence;

''(v) incentives and policies to increase retention, including salary incentives;

''(vi) modern quality improvement processes and practices;

''(vii) continuing education, distance education, and career development opportunities for health workers;

''(viii) mechanisms to promote productivity within existing and expanding health workforces; and

''(ix) achievement of minimum infrastructure requirements for health facilities, such as access to clean water;

''(D) to support sub-Saharan African countries with financing, technical support, and personnel, including paraprofessionals and community-based caregivers, to better meet the health needs of rural and other underserved populations by providing incentives to serve in these areas, and to more equitably distribute health professionals and paraprofessionals;

''(E) to support efforts to improve public health capacities in sub-Saharan Africa through education, leadership development, and other mechanisms;

''(F) to provide technical assistance, equipment, training, and supplies to assist in the improvement of health infrastructure in sub-Saharan Africa;

''(G) to promote efforts to improve systematically human resource management and development as a critical health and development issue in coordination with specific disease control programs for sub-Saharan Africa; and

''(H) to establish a global clearinghouse or similar mechanism for knowledge sharing regarding human resources for health, in consultation, if helpful, with the Global Health Workforce Alliance.

''(3) MONITORING AND EVALUATION.—

''(A) IN GENERAL.—The President shall establish a monitoring and evaluation system to measure the effectiveness of assistance by the United States to improve human health care capacity in sub-Saharan Africa in order to maximize the sustainable development impact of assistance authorized under this section and pursuant to the strategy required under subsection (b).

''(B) REQUIREMENTS.—The monitoring and evaluation system shall—

''(i) establish performance goals for assistance provided under this section;

''(ii) establish performance indicators to be used in measuring or assessing the achievement of performance goals;

''(iii) provide a basis for recommendations for adjustments to the assistance to enhance the impact of the assistance; and

''(iv) to the extent feasible, utilize and support national monitoring and evaluation systems, with the objective of improved data collection without the imposition of unnecessary new burdens.

''(b) STRATEGY OF THE UNITED STATES.—

''(1) REQUIREMENT FOR STRATEGY.—Not later than 180 days after the date of the enactment of this Act, the President shall develop and transmit to the appropriate congressional committees a strategy for coordinating, implementing, and monitoring assistance programs for human health care capacity in sub-Saharan Africa.

''(2) CONTENT.—The strategy required by paragraph (1) shall include—

''(A) a description of a coordinated strategy, including coordination among agencies and departments of the Federal Government with other bilateral and multilateral donors, to provide the assistance authorized in subsection (a);

''(B) a description of a coordinated strategy to consult with sub-Saharan African countries and the African Union on how best to advance the goals of this Act; and

''(C) an analysis of how international financial institutions can most effectively assist countries in their efforts to expand and better direct public spending in the health and education sectors in tandem with the anticipated scale up of international assistance to combat HIV/AIDS and other health challenges, while simultaneously helping these countries maintain prudent fiscal balance.

''(3) FOCUS OF ANALYSIS.—The analysis described in paragraph (2)(C) should focus on 2 or 3 selected countries in sub-Saharan Africa, including, if practical, 1 focus country as designated under the President's Emergency Plan for AIDS Relief (authorized by the United States Leadership Against Global HIV/AIDS, Tuberculosis, and Malaria Act of 2003 (Public Law 108–25)) and 1 country without such a designation.

''(4) CONSULTATION.—The President is encouraged to develop the strategy required under paragraph (1) in consultation with the Secretary of State, the Administrator for the United States Agency for International Development, including employees of its field missions, the Global HIV/AIDS Coordinator, the Chief Executive Officer of the Millennium Challenge Corporation, the Secretary of the Treasury, the Director of the Bureau of Citizenship and Immigration Services, the Director of the Centers for Disease

Control and Prevention, and other relevant agencies to ensure coordination within the Federal Government.

''(5) COORDINATION.—

''(A) DEVELOPMENT OF STRATEGY.—To ensure coordination with national strategies and objectives and other international efforts, the President should develop the strategy described in paragraph (1) by consulting appropriate officials of the United States Government and by coordinating with the following:

''(i) Other donors.

''(ii) Implementers.

''(iii) International agencies.

''(iv) Nongovernmental organizations working to increase human health capacity in sub-Saharan Africa.

''(v) The World Bank.

''(vi) The International Monetary Fund.

''(vii) The Global Fund to Fight AIDS, Tuberculosis, and Malaria.

''(viii) The World Health Organization.

''(ix) The International Labour Organization.

''(x) The United Nations Development Programme.

''(xi) The United Nations Programme on HIV/AIDS.

''(xii) The European Union.

''(xiii) The African Union.

''(B) ASSESSMENT AND COMPILATION.—The President should make the assessments and compilations required by subsection (a)(3)(B)(v), in coordination with the entities listed in subparagraph (A).

''(c) REPORT.—

''(1) IN GENERAL.—Not later than 1 year after the date on which the President submits the strategy required in subsection (b), the President shall submit to the appropriate congressional committees a report on the implementation of this section.

''(2) ASSESSMENT OF MECHANISMS FOR KNOWLEDGE SHARING.—The report described in paragraph (1) shall be accompanied by a document assessing best practices and other mechanisms for knowledge sharing about human resources for health and capacity building efforts to be shared with governments of developing countries and others seeking to promote improvements in human resources for health and capacity building.

''(3) FOLLOW-UP REPORT.—Not later than 3 years after the date on which the President submits the strategy required in subsection (b), the president shall submit to the appropriate congressional committees a further report on the implementation of this section.

''(d) DEFINITIONS.—In this section:

''(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term 'appropriate congressional committees' means the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on International Relations and the Committee on Appropriations of the House of Representatives.

''(2) BRAIN DRAIN.—The term 'brain drain' means the emigration of a significant proportion of a country's professionals working in the health field to wealthier countries, with a resulting loss of personnel and often a loss in investment in education and training for the countries experiencing the emigration.

''(3) HEALTH PROFESSIONAL.—The term 'health professional' means a person whose occupation or training helps to identify, prevent, or treat illness or disability.

''(4) HIV/AIDS.—The term 'HIV/AIDS' has the meaning given such term in section 104A(g) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151b–2(g)).

''(5) PARAPROFESSIONAL.—The term 'paraprofessional' means an individual who is trained and employed as a health agent for the provision of basic assistance in the identification, prevention, or treatment of illness or disability.

''(6) COMMUNITY HEALTH WORKERS.—The term 'community health worker' means a community based caregiver who has received instruction and is employed to provide basic health services in specific catchment areas, most often the areas where they themselves live.

''(e) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—There are authorized to be appropriated to the President to carry out the provisions of this section—

''(A) $150,000,000 for fiscal year 2008;

''(B) $200,000,000 for fiscal year 2009; and

''(C) $250,000,000 for fiscal year 2010.

''(2) AVAILABILITY OF FUNDS.—Amounts made available under paragraph (1) are authorized to remain available until expended and are in addition to amounts otherwise made available for the purpose of carrying out this section.''.

SUBMITTED RESOLUTIONS—TUESDAY, MARCH 6, 2007

SENATE RESOLUTION 95—DESIGNATING MARCH 25, 2007, AS ''GREEK INDEPENDENCE DAY: A NATIONAL DAY OF CELEBRATION OF GREEK AND AMERICAN DEMOCRACY''

Mr. SPECTER (for himself, Mr. ALLARD, Mr. BAYH, Mr. BENNETT, Mr. BIDEN, Mr. BINGAMAN, Mrs. BOXER, Mr. BROWN, Mr. CARPER, Mr. CASEY, Mr. CHAMBLISS, Mrs. CLINTON, Mr. COCHRAN, Mr. CRAIG, Mr. DODD, Mrs. DOLE, Mr. DOMENICI, Mr. DORGAN, Mr. DURBIN, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. GRASSLEY, Mr. GREGG, Mr. HAGEL, Mr. INOUYE, Mr. ISAKSON, Mr. JOHNSON, Mr. KENNEDY, Mr. KERRY, Mr. KOHL, Ms. LANDRIEU, Mr. LAUTENBERG, Mr. LEVIN, Mr. LIEBERMAN, Mr. LOTT, Mr. MENENDEZ, Ms. MIKULSKI, Ms. MURKOWSKI, Mr. NELSON of Florida, Mr. OBAMA, Mr. REED, Mr. REID, Mr. ROCKEFELLER, Mr. SCHUMER, Mr. SMITH, Ms. SNOWE, Ms. STABENOW, Mr. STEVENS, Mr. SUNUNU, Mr. THOMAS, Mr. VOINOVICH, Mr. WARNER, Mr. WHITEHOUSE, and Mr. WYDEN) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 95

Whereas the ancient Greeks developed the concept of democracy, in which the supreme power to govern was vested in the people;

Whereas the Founding Fathers of the United States drew heavily on the political experience and philosophy of ancient Greece in forming a representative democracy;

Whereas Greek Commander in Chief Petros Mavromichalis, a founder of the modern Greek state, said to the citizens of the United States in 1821 that ''it is in your land that liberty has fixed her abode and . . . in imitating you, we shall imitate our ancestors and be thought worthy of them if we succeed in resembling you'';

Whereas, during World War II, Greece played a major role in the struggle to protect freedom and democracy by bravely fighting the historic Battle of Crete, giving the Axis powers their first major setback in the land war and setting off a chain of events that significantly affected the outcome of World War II;

Whereas Greece paid a high price for defending the common values of Greece and the United States in the deaths of hundreds of thousands of Greek civilians during World War II;

Whereas, throughout the 20th century, Greece was 1 of only 3 countries in the world, outside the former British Empire, that allied with the United States in every major international conflict;

Whereas President George W. Bush, in recognizing Greek Independence Day in 2002, said, ''Greece and America have been firm allies in the great struggles for liberty. . . . Americans will always remember Greek heroism and Greek sacrifice for the sake of freedom. . . . [and a]s the 21st century dawns, Greece and America once again stand united; this time in the fight against terrorism. . . . The United States deeply appreciates the role Greece is playing in the war against terror. . . . America and Greece are strong allies, and we're strategic partners.'';

Whereas President Bush stated that Greece's successful ''law enforcement operations against a terrorist organization [November 17] responsible for three decades of terrorist attacks underscore the important contributions Greece is making to the global war on terrorism'';

Whereas Greece is a strategic partner and ally of the United States in bringing political stability and economic development to the volatile Balkan region and has invested over $15,000,000,000 in the region;

Whereas Greece was extraordinarily responsive to requests by the United States during the war in Iraq, immediately granting the United States unlimited access to Greece's airspace and the base in Souda Bay, and many United States ships that delivered troops, cargo, and supplies to Iraq were refueled in Greece;

Whereas, in August 2004, the Olympic games came home to Athens, Greece, the land in which the games began 2,500 years ago and the city in which the games were revived in 1896;

Whereas Greece received world-wide praise for its extraordinary handling during the 2004 Olympics of more than 14,000 athletes from 202 countries and more than 2,000,000 spectators and journalists, a feat Greece handled efficiently, securely, and with famous Greek hospitality;

Whereas the unprecedented security effort in Greece for the first Olympics after the attacks on the United States on September 11, 2001 included a record-setting expenditure of more than $1,390,000,000 and the assignment of more than 70,000 security personnel, as well as the utilization of an 8-country Olympic Security Advisory Group that included the United States;

Whereas Greece, located in a region in which Christianity mixes with Islam and Judaism, maintains excellent relations with Muslim countries and Israel;

Whereas the Government of Greece has had extraordinary success in recent years in furthering cross-cultural understanding and reducing tensions between Greece and Turkey;

Whereas Greece and the United States are at the forefront of the effort to advance freedom, democracy, peace, stability, and human rights;

Whereas those and other ideals have forged a close bond between the governments and the peoples of Greece and the United States;

Whereas March 25, 2007 marks the 186th anniversary of the beginning of the revolution that freed the people of Greece from the Ottoman Empire; and

Whereas it is proper and desirable for the people of the United States to celebrate this anniversary with the people of Greece and to reaffirm the democratic principles from which both Greece and the United States were born: Now, therefore, be it

Resolved, That the Senate—

(1) designates March 25, 2007 as ''Greek Independence Day: A National Day of Celebration of Greek and American Democracy''; and

(2) encourages the people of the United States to observe the day with appropriate ceremonies and activities.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 99—EXPRESSING THE SENSE OF THE SENATE THAT UNITED STATES MILITARY ASSISTANCE TO PAKISTAN SHOULD BE GUIDED BY DEMONSTRABLE PROGRESS BY THE GOVERNMENT OF PAKISTAN IN ACHIEVING CERTAIN OBJECTIVES RELATED TO COUNTERTERRORISM AND DEMOCRATIC REFORMS

Mr. DODD (for himself, Mr. KERRY, and Mr. BIDEN) submitted the following resolution; whcih was referred to the Committee on Foreign Relations:

S. RES. 99

Whereas a democratic, stable, and prosperous Pakistan that is a full and reliable partner in the struggle against Al Qaeda and the Taliban and a responsible steward of its nuclear weapons and technology is vital to the national security of the United States and to combating international terrorism;

Whereas, since September 11, 2001, Pakistan has been an important partner in removing the Taliban regime in Afghanistan and combating Al Qaeda and international terrorism, engaging in operations that have led to the deaths of hundreds of Pakistani security personnel and enduring acts of terrorism and sectarian violence that have killed many innocent civilians; and

Whereas senior United States military and intelligence officials have stated that the Taliban and Al Qaeda have established critical sanctuaries in Pakistan from where Al Qaeda is rebuilding its global terrorist network and Taliban forces are crossing into Afghanistan and attacking Afghan, United States, and International Security Assistance Force (ISAF) personnel: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) it is the policy of the United States—

(A) to maintain and deepen its long-term strategic partnership with Pakistan;

(B) to work with the Government of Pakistan to combat international terrorism and to end the use of Pakistani territory as a safe haven for Al Qaeda, the Taliban, and associated terrorist organizations, including through the integration and development of the Federally Administered Tribal Areas (FATA);

(C) to work with the Government of Pakistan to dismantle existing proliferation networks and prevent nuclear proliferation;

(D) to work to facilitate the peaceful resolution of all bilateral disputes between Pakistan and its neighboring countries;

(E) to encourage the transition in Pakistan to a fully democratic system of governance; and

(F) to implement a robust aid strategy that supports programs in Pakistan related to education, governance, rule of law, women's rights, medical access, and infrastructure development; and

(2) the determination of appropriate levels of United States military assistance to Pakistan should be guided by demonstrable progress by the Government of Pakistan in—

(A) preventing Al Qaeda and associated terrorist organizations from operating in the territory of Pakistan, including by eliminating terrorist training camps or facilities, arresting members of Al Qaeda and associated terrorist organizations, and countering recruitment efforts;

(B) preventing the Taliban from using the territory of Pakistan as a sanctuary from which to launch attacks within Afghanistan, including by arresting Taliban leaders, stopping cross-border incursions, and countering recruitment efforts; and

(C) implementing democratic reforms, including by allowing free, fair and inclusive elections at all levels of government in accordance with internationally recognized democratic norms.

SENATE RESOLUTION 100—DESIGNATING THE WEEK BEGINNING MARCH 12, 2007, AS ''NATIONAL SAFE PLACE WEEK''

Mrs. FEINSTEIN (for herself, Mr. CRAIG, Mrs. BOXER, Mr. COCHRAN, Ms. MURKOWSKI, Mr. DURBIN, Mr. BUNNING, Mr. BAYH, Mr. MCCONNELL, Mr. SALAZAR, Mrs. LINCOLN, Mrs. CLINTON, Mr. DODD, Mr. CRAPO, and Mr. FEINGOLD) submitted the following resolution; which was considered and agreed to:

S. RES. 100

Whereas the youths of the United States will be the future bearers of the bright torch of democracy;

Whereas youths need a safe haven from various negative influences, such as child abuse, substance abuse, and crime, and youths need to have resources readily available to assist them when faced with circumstances that compromise their safety;

Whereas the United States needs increased numbers of community volunteers acting as positive influences on the youths of the Nation;

Whereas the Safe Place program is committed to protecting the youths of the United States, the Nation's most valuable asset, by offering short term safe places at neighborhood locations where trained volunteers are available to counsel and advise young people seeking assistance and guidance;

Whereas the Safe Place program combines the efforts of the private sector and nonprofit organizations to reach young people in the early stages of crisis;

Whereas the Safe Place program provides a direct way to assist programs in meeting performance standards relative to outreach and community relations, as set forth in the Runaway and Homeless Youth Act (42 U.S.C. 5701 et seq.);

Whereas the Safe Place placard displayed at businesses within communities stands as a beacon of safety and refuge to at-risk youths;

Whereas more than 700 communities in 40 States make the Safe Place program available at nearly 16,000 locations;

Whereas more than 200,000 youths have gone to Safe Place locations to get help when faced with crisis situations and have received counseling by phone as a result of Safe Place information the youths received at school;

Whereas, through the efforts of Safe Place coordinators across the United States, each year more than 500,000 students learn in a classroom presentation that the Safe Place program is a resource they can turn to if they encounter an abusive or neglectful situation, and 1,000,000 Safe Place information cards are distributed; and

Whereas increased awareness of the Safe Place program will encourage more communities to establish Safe Place locations for the youths of the United States: Now, therefore, be it

Resolved, That the Senate—

(1) designates the week of March 12 through March 18, 2007, as ''National Safe Place Week''; and

(2) calls upon the people of the United States and interested groups to—

(A) promote awareness of, and volunteer involvement in, the Safe Place program; and

(B) observe the week with appropriate ceremonies and activities.

AMENDMENTS SUBMITTED AND PROPOSED

SA 373. Mr. COBURN submitted an amendment intended to be proposed to amendment SA 343 submitted by Ms. CANTWELL (for herself, Mr. DODD, and Mr. FEINGOLD) and intended to be proposed to the bill S. 4, to make the United States more secure by implementing unfinished recommendations of the 9/11 Commission to fight the war on terror more effectively, to improve homeland security, and for other purposes; which was ordered to lie on the table.

SA 374. Mr. COBURN submitted an amendment intended to be proposed to amendment SA 343 submitted by Ms. CANTWELL (for herself, Mr. DODD, and Mr. FEINGOLD) and intended to be proposed to the bill S. 4, supra; which was ordered to lie on the table.

SA 375. Ms. LANDRIEU submitted an amendment intended to be proposed to amendment SA 275 proposed by Mr. REID (for himself, Mr. LIEBERMAN, and Ms. COLLINS) to the bill S. 4, supra; which was ordered to lie on the table.

SA 376. Ms. LANDRIEU submitted an amendment intended to be proposed to amendment SA 275 proposed by Mr. REID (for himself, Mr. LIEBERMAN, and Ms. COLLINS) to the bill S. 4, supra; which was ordered to lie on the table.

SA 377. Mrs. FEINSTEIN (for herself and Mr. SESSIONS) submitted an amendment intended to be proposed by her to the bill S. 4, supra; which was ordered to lie on the table.

SA 378. Mr. KERRY (for himself, Mr. DODD, Mr. BIDEN, and Mr. LEAHY) submitted an amendment intended to be proposed to amendment SA 275 proposed by Mr. REID (for himself, Mr. LIEBERMAN, and Ms. COLLINS) to the bill S. 4, supra; which was ordered to lie on the table.

SA 379. Mr. GRASSLEY submitted an amendment intended to be proposed to amendment SA 272 proposed by Mr. ALLARD to the amendment SA 275 proposed by Mr. REID (for himself, Mr. LIEBERMAN, and Ms. COLLINS) to the bill S. 4, supra; which was ordered to lie on the table.

SA 380. Mr. GRASSLEY submitted an amendment intended to be proposed to amendment SA 275 proposed by Mr. REID (for himself, Mr. LIEBERMAN, and Ms. COLLINS) to the bill S. 4, supra; which was ordered to lie on the table.

SA 381. Mr. INHOFE (for himself, Mr. BUNNING, and Mr. VOINOVICH) submitted an amendment intended to be proposed to amendment SA 275 proposed by Mr. REID (for himself, Mr. LIEBERMAN, and Ms. COLLINS) to the bill S. 4, supra; which was ordered to lie on the table.

SA 382. Mr. SESSIONS (for himself, Ms. LANDRIEU, Mr. GRASSLEY, and Mr. VITTER) submitted an amendment intended to be proposed to amendment SA 275 proposed by Mr. REID (for himself, Mr. LIEBERMAN, and Ms. COLLINS) to the bill S. 4, supra; which was ordered to lie on the table.

SA 383. Mr. BIDEN proposed an amendment to amendment SA 275 proposed by Mr.

REID (for himself, Mr. LIEBERMAN, and Ms. COLLINS) to the bill S. 4, supra.

SA 384. Mr. BIDEN proposed an amendment to amendment SA 275 proposed by Mr. REID (for himself, Mr. LIEBERMAN, and Ms. COLLINS) to the bill S. 4, supra.

SA 385. Mr. BOND (for himself and Mr. ROCKEFELLER) submitted an amendment intended to be proposed by him to the bill S. 4, supra; which was ordered to lie on the table.

SA 386. Mr. GRASSLEY submitted an amendment intended to be proposed to amendment SA 275 proposed by Mr. REID (for himself, Mr. LIEBERMAN, and Ms. COLLINS) to the bill S. 4, supra; which was ordered to lie on the table.

SA 387. Mr. PRYOR submitted an amendment intended to be proposed to amendment SA 275 proposed by Mr. REID (for himself, Mr. LIEBERMAN, and Ms. COLLINS) to the bill S. 4, supra; which was ordered to lie on the table.

SA 388. Mr. PRYOR submitted an amendment intended to be proposed to amendment SA 275 proposed by Mr. REID (for himself, Mr. LIEBERMAN, and Ms. COLLINS) to the bill S. 4, supra; which was ordered to lie on the table.

SA 389. Mr. BOND (for himself, Mr. ROCKEFELLER, Mr. WARNER, and Mr. BURR) proposed an amendment to amendment SA 275 proposed by Mr. REID (for himself, Mr. LIEBERMAN, and Ms. COLLINS) to the bill S. 4, supra.

SA 390. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 4, supra; which was ordered to lie on the table.

SA 391. Mr. LIEBERMAN (for himself and Ms. COLLINS) submitted an amendment intended to be proposed to amendment SA 275 proposed by Mr. REID (for himself, Mr. LIEBERMAN, and Ms. COLLINS) to the bill S. 4, supra; which was ordered to lie on the table.

SA 392. Mr. AKAKA submitted an amendment intended to be proposed to amendment SA 275 proposed by Mr. REID (for himself, Mr. LIEBERMAN, and Ms. COLLINS) to the bill S. 4, supra; which was ordered to lie on the table.

SA 393. Ms. CANTWELL (for herself, Mr. DODD, Mr. FEINGOLD, Mr. BROWNBACK, Mr. LUGAR, and Mr. KERRY) submitted an amendment intended to be proposed by her to the bill S. 4, supra; which was ordered to lie on the table.

SA 394. Mr. CARDIN submitted an amendment intended to be proposed to amendment SA 275 proposed by Mr. REID (for himself, Mr. LIEBERMAN, and Ms. COLLINS) to the bill S. 4, supra; which was ordered to lie on the table.

SA 395. Mr. COLEMAN submitted an amendment intended to be proposed by him to the bill S. 4, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 373. Mr. COBURN submitted an amendment intended to be proposed to amendment SA 343 submitted by Ms. CANTWELL (for herself, Mr. DODD, and Mr. FEINGOLD) and intended to be proposed to the bill S. 4, to make the United States more secure by implementing unfinished recommendations of the 9/11 Commission to fight the war on terror more effectively, to improve homeland security, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 2 of the amendment, strike line 12 and all that follows through page 3, line 11, and insert the following:

(b) DECLARATION OF POLICY.—It is the policy of the United States to promote the reduction of global poverty, the elimination of extreme global poverty, and the achievement of the Millennium Challenge Account goals of political and economic reforms by developing nations in three areas: ruling justly, investing in people, and fostering economic freedom.

(c) COMPREHENSIVE STRATEGY.—

(1) STRATEGY REQUIRED.—The President, acting through the Secretary of State and in consultation with the heads of other appropriate departments and agencies of the Government of the United States, international organizations, international financial institutions, the governments of developing and developed countries, United States and international nongovernmental organizations, civil society organizations, and other appropriate entities, shall develop and implement a comprehensive strategy to further the United States foreign policy objective of promoting the reduction of global poverty, and the achievement of the Millennium Challenge Account goals of political and economic reforms by developing nations in three areas: ruling justly, investing in people, and fostering economic freedom.

SA 374. Mr. COBURN submitted an amendment intended to be proposed to amendment SA 343 submitted by Ms. CANTWELL (for herself, Mr. DODD, and Mr. FEINGOLD) and intended to be proposed to the bill S. 4, to make the United States more secure by implementing unfinished recommendations of the 9/11 Commission to fight the war on terror more effectively, to improve homeland security, and for other purposes; which was ordered to lie on the table; as follows:

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(c) COMPREHENSIVE STRATEGY.—

(1) STRATEGY REQUIRED.—The President, acting through the Secretary of State and in consultation with the heads of other appropriate departments and agencies of the Government of the United States, international organizations, international financial institutions, the governments of developing and developed countries, United States and international nongovernmental organizations, civil society organizations, and other appropriate entities, shall develop and implement a comprehensive strategy to further the United States foreign policy objective of promoting the reduction of global poverty, the elimination of extreme global poverty, and the achievement of the Millennium Challenge Account goals of political and economic reforms by developing nations in three areas: ruling justly, investing in people, and fostering economic freedom.

SA 375. Ms. LANDRIEU submitted an amendment intended to be proposed to amendment SA 275 proposed by Mr. REID (for himself, Mr. LIEBERMAN, and Ms. COLLINS) to the bill S. 4, to make the United States more secure by implementing unfinished recommendations of the 9/11 Commission to fight the war on terror more effectively, to improve homeland security, and for other purposes; which was ordered to lie on the table; as follows:

On page 361, after line 20, insert the following:

SEC. 1385. COORDINATION OF EVACUATION AND SHELTERING PLANS.

(a) REGIONAL EVACUATION PLANS.—

(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary, using the findings contained in the report analyzing catastrophic hurricane evacuation plans, which was submitted to Congress pursuant to section 10204(d) of SAFETEA–LU (Public Law 109–59), in cooperation with the Secretary of Transportation and the Secretary of Defense, and in coordination with the plans established pursuant to subsection (b), shall establish, and submit to Congress, regional evacuation plans that—

(A) are nationally coordinated;

(B) incorporate all modes of transportation, including interstate rail, commercial rail, commercial air, military air, and commercial bus; and

(C) clearly define the roles and responsibilities that each Federal, State, or local government agency should undertake to prepare for major evacuations.

(2) PROVISION OF EVACUATION AND SHELTERING SERVICES.—The Director of the Federal Emergency Management Agency, in coordination with States, units of local government, nonprofit organization, and other private entities, shall be prepared to provide regionally-coordinated evacuation and sheltering services for individuals affected by large-scale disasters.

(b) REGIONAL SHELTERING PLANS.—Not later than 90 days after the date of the enactment of this Act, the Secretary, using the findings described in subsection (a), in cooperation with the Secretary of Transportation and the Secretary of Health and Human Services, and in coordination with the plans established pursuant to subsection (a), shall—

(1) establish, and submit to Congress, regional sheltering plans that—

(A) are nationally coordinated; and

(B) identify regional and national shelters capable of housing evacuees and victims of a catastrophic natural disaster or terrorist attack in any part of the country; and

(2) develop a national sheltering database that can be shared with States and units of local government during a catastrophic event.

(c) RULEMAKING.—Not later than 90 days after the evacuation and sheltering plans are submitted under this section, the Secretary, the Secretary of Transportation, the Secretary of Defense, and the Secretary of Health and Human Services, shall—

(1) issue regulations to implement the plans established pursuant to subsections (a) and (b); and

(2) recommend legislation to facilitate the implementation of such plans.

(d) COST-BENEFIT ANALYSIS.—

(1) IN GENERAL.—The Secretary, in consultation with the Secretary of Transportation, shall conduct an analysis comparing the costs and benefits of evacuating the people of New Orleans during a natural disaster or terrorist attack compared to the costs and benefits of sheltering such people.

(2) CONSIDERATIONS.—In conducting the analysis under paragraph (1), the Secretaries shall consider—

(A) the 20,000 to 30,000 people in New Orleans with special needs; and

(B) the absence of shelters in Orleans Parish.

(3) TECHNICAL ASSISTANCE.—The Secretary and the Secretary of Transportation shall provide technical assistance to State and units of local government that are establishing evacuation and sheltering plans, which identify and utilize regional shelters,

manpower, logistics, physical facilities, and modes of transportation to be used to evacuate and shelter large groups of people.

SA 376. Ms. LANDRIEU submitted an amendment intended to be proposed to amendment SA 275 proposed by Mr. REID (for himself, Mr. LIEBERMAN, and Ms. COLLINS) to the bill S. 4, to make the United States more secure by implementing unfinished recommendations of the 9/11 Commission to fight the war on terror more effectively, to improve homeland security, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title XV, add the following:

SEC. _____. ASSISTANCE FOR CERTAIN PUBLIC FACILITIES DAMAGED AS A RESULT OF HURRICANE KATRINA OR HURRICANE RITA.

The Administrator of the Federal Emergency Management Agency shall make a contribution of funds under section 406 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5172) to a State or local government for the replacement of a public facility, if—

(1) that facility was damaged as a result of Hurricane Katrina or Hurricane Rita;

(2) based on a cost estimate provided by the Federal Emergency Management Agency to that State or local government, the extent of the damage would require the replacement of that facility, instead of the repair, restoration, or reconstruction of that facility;

(3) that State or local government acquired real property for the purpose of the replacement of that facility based on reasonable reliance on the cost estimate described under paragraph (2); and

(4) such funds would otherwise be available to that State or local government for that facility in accordance with that Act.

SA 377. Mrs. FEINSTEIN (for herself and Mr. SESSIONS) submitted an amendment intended to be proposed by her to the bill S. 4, to make the United States more secure by implementing unfinished recommendations of the 9/11 Commission to fight the war on terror more effectively, to improve homeland security, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE ____—VISA AND PASSPORT SECURITY

SEC. ____01. SHORT TITLE.

This title may be cited as the ''Passport and Visa Security Act of 2007''.

Subtitle A—Reform of Passport Fraud Offenses

SEC. ____11. TRAFFICKING IN PASSPORTS.

Section 1541 of title 18, United States Code, is amended to read as follows:

''§ 1541. Trafficking in passports

''(a) MULTIPLE PASSPORTS.—Any person who, during any period of 3 years or less, knowingly—

''(1) and without lawful authority produces, issues, or transfers 10 or more passports;

''(2) forges, counterfeits, alters, or falsely makes 10 or more passports;

''(3) secures, possesses, uses, receives, buys, sells, or distributes 10 or more passports, knowing the passports to be forged, counterfeited, altered, falsely made, stolen, procured by fraud, or produced or issued without lawful authority; or

''(4) completes, mails, prepares, presents, signs, or submits 10 or more applications for a United States passport, knowing the applications to contain any false statement or representation,

shall be fined under this title, imprisoned not more than 20 years, or both.

''(b) PASSPORT MATERIALS.—Any person who knowingly and without lawful authority produces, buys, sells, possesses, or uses any official material (or counterfeit of any official material) used to make a passport, including any distinctive paper, seal, hologram, image, text, symbol, stamp, engraving, or plate, shall be fined under this title, imprisoned not more than 20 years, or both.''.

SEC. ____12. FALSE STATEMENT IN AN APPLICATION FOR A PASSPORT.

Section 1542 of title 18, United States Code, is amended to read as follows:

''§ 1542. False statement in an application for a passport

''(a) IN GENERAL.—Whoever knowingly makes any false statement or representation in an application for a United States passport, or mails, prepares, presents, or signs an application for a United States passport knowing the application to contain any false statement or representation, shall be fined under this title, imprisoned not more than 15 years, or both.

''(b) VENUE.—

''(1) IN GENERAL.—An offense under subsection (a) may be prosecuted in any district—

''(A) in which the false statement or representation was made or the application for a United States passport was prepared or signed; or

''(B) in which or to which the application was mailed or presented.

''(2) ACTS OCCURRING OUTSIDE THE UNITED STATES.—An offense under subsection (a) involving an application for a United States passport prepared and adjudicated outside the United States may be prosecuted in the district in which the resultant passport was or would have been produced.

''(c) SAVINGS CLAUSE.—Nothing in this section may be construed to limit the venue otherwise available under sections 3237 and 3238 of this title.''.

SEC. ____13. FORGERY AND UNLAWFUL PRODUCTION OF A PASSPORT.

Section 1543 of title 18, United States Code, is amended to read as follows:

''§ 1543. Forgery and unlawful production of a passport

''(a) FORGERY.—Any person who knowingly—

''(1) forges, counterfeits, alters, or falsely makes any passport; or

''(2) transfers any passport knowing it to be forged, counterfeited, altered, falsely made, stolen, or to have been produced or issued without lawful authority,

shall be fined under this title, imprisoned not more than 15 years, or both.

''(b) UNLAWFUL PRODUCTION.—Any person who knowingly and without lawful authority—

''(1) produces, issues, authorizes, or verifies a passport in violation of the laws, regulations, or rules governing the issuance of the passport;

''(2) produces, issues, authorizes, or verifies a United States passport for or to any person knowing or in reckless disregard of the fact that such person is not entitled to receive a passport; or

''(3) transfers or furnishes a passport to any person for use by any person other than the person for whom the passport was issued or designed,

shall be fined under this title, imprisoned not more than 15 years, or both.''.

SEC. ____14. MISUSE OF A PASSPORT.

Section 1544 of title 18, United States Code, is amended to read as follows:

''§ 1544. Misuse of a passport

''Any person who knowingly—

''(1) uses any passport issued or designed for the use of another;

''(2) uses any passport in violation of the conditions or restrictions therein contained, or in violation of the laws, regulations, or rules governing the issuance and use of the passport;

''(3) secures, possesses, uses, receives, buys, sells, or distributes any passport knowing it to be forged, counterfeited, altered, falsely made, procured by fraud, or produced or issued without lawful authority; or

''(4) violates the terms and conditions of any safe conduct duly obtained and issued under the authority of the United States,

shall be fined under this title, imprisoned not more than 15 years, or both.''.

SEC. ____15. ATTEMPTS AND CONSPIRACIES.

Section 1545 of title 18, United States Code, is amended to read as follows:

''§ 1545. Attempts and conspiracies

''Any person who attempts or conspires to violate any section of this chapter shall be punished in the same manner as a person who completed a violation of that section.''.

SEC. ____16. IMMIGRATION AND VISA FRAUD.

Section 1546 of title 18, United States Code, is amended to read as follows:

''§ 1546. Immigration and visa fraud

''(a) IN GENERAL.—Any person who knowingly—

''(1) uses any immigration document issued or designed for the use of another;

''(2) forges, counterfeits, alters, or falsely makes any immigration document;

''(3) completes, mails, prepares, presents, signs, or submits any immigration document knowing it to contain any materially false statement or representation;

''(4) secures, possesses, uses, transfers, receives, buys, sells, or distributes any immigration document knowing it to be forged, counterfeited, altered, falsely made, stolen, procured by fraud, or produced or issued without lawful authority;

''(5) adopts or uses a false or fictitious name to evade or to attempt to evade the immigration laws; or

''(6) transfers or furnishes, without lawful authority, an immigration document to another person for use by a person other than the person for whom the document was issued or designed,

shall be fined under this title, imprisoned not more than 15 years, or both.

''(b) TRAFFICKING.—Any person who, during any period of 3 years or less, knowingly—

''(1) and without lawful authority produces, issues, or transfers 10 or more immigration documents;

''(2) forges, counterfeits, alters, or falsely makes 10 or more immigration documents;

''(3) secures, possesses, uses, buys, sells, or distributes 10 or more immigration documents, knowing the immigration documents to be forged, counterfeited, altered, stolen, falsely made, procured by fraud, or produced or issued without lawful authority; or

''(4) completes, mails, prepares, presents, signs, or submits 10 or more immigration documents knowing the documents to contain any materially false statement or representation,

shall be fined under this title, imprisoned not more than 20 years, or both.

''(c) IMMIGRATION DOCUMENT MATERIALS.—Any person who knowingly and without lawful authority produces, buys, sells, possesses, or uses any official material (or counterfeit of any official material) used to make immigration documents, including any distinctive

paper, seal, hologram, image, text, symbol, stamp, engraving, or plate, shall be fined under this title, imprisoned not more than 20 years, or both.

''(d) EMPLOYMENT DOCUMENTS.—Whoever uses—

''(1) an identification document, knowing (or having reason to know) that the document was not issued lawfully for the use of the possessor;

''(2) an identification document knowing (or having reason to know) that the document is false; or

''(3) a false attestation,

for the purpose of satisfying a requirement of section 274A(b) of the Immigration and Nationality Act (8 U.S.C. 1324a(b)), shall be fined under this title, imprisoned not more than 5 years, or both.''.

SEC. ___17. ALTERNATIVE IMPRISONMENT MAXIMUM FOR CERTAIN OFFENSES.

Section 1547 of title 18, United States Code, is amended—

(1) in the matter preceding paragraph (1), by striking ''(other than an offense under section 1545)'';

(2) in paragraph (1), by striking ''15'' and inserting ''20''; and

(3) in paragraph (2), by striking ''20'' and inserting ''25''.

SEC. ___18. ATTEMPTS, CONSPIRACIES, JURISDICTION, AND DEFINITIONS.

Chapter 75 of title 18, United States Code, is amended by adding after section 1547 the following new sections:

''§ 1548. Additional jurisdiction

''(a) IN GENERAL.—Any person who commits an offense under this chapter within the special maritime and territorial jurisdiction of the United States shall be punished as provided under this chapter.

''(b) EXTRATERRITORIAL JURISDICTION.—Any person who commits an offense under this chapter outside the United States shall be punished as provided under this chapter if—

''(1) the offense involves a United States passport or immigration document (or any document purporting to be such a document) or any matter, right, or benefit arising under or authorized by Federal immigration laws;

''(2) the offense is in or affects foreign commerce;

''(3) the offense affects, jeopardizes, or poses a significant risk to the lawful administration of Federal immigration laws, or the national security of the United States;

''(4) the offense is committed to facilitate an act of international terrorism (as defined in section 2331) or a drug trafficking crime (as defined in section 929(a)(2)) that affects or would affect the national security of the United States;

''(5) the offender is a national of the United States or an alien lawfully admitted for permanent residence (as those terms are defined in section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a))); or

''(6) the offender is a stateless person whose habitual residence is in the United States.

''§ 1549. Authorized law enforcement activities

''Nothing in this chapter shall prohibit any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency of the United States, a State, or a political subdivision of a State, or an intelligence agency of the United States, or any activity authorized under title V of the Organized Crime Control Act of 1970 (Public Law 91–452; 84 Stat. 933).

''§ 1550. Definitions

''As used in this chapter:

''(1) The term 'application for a United States passport' includes any document, photograph, or other piece of evidence submitted in support of an application for a United States passport.

''(2) The term 'false statement or representation' includes a personation or an omission.

''(3) The term 'immigration document'—

''(A) means any application, petition, affidavit, declaration, attestation, form, visa, identification card, alien registration document, employment authorization document, border crossing card, certificate, permit, order, license, stamp, authorization, grant of authority, or other official document, arising under or authorized by the immigration laws of the United States; and

''(B) includes any document, photograph, or other piece of evidence attached to or submitted in support of an immigration document described in subparagraph (A).

''(4) The term 'immigration laws' includes—

''(A) the laws described in section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(17));

''(B) the laws relating to the issuance and use of passports; and

''(C) the regulations prescribed under the authority of any law described in subparagraph (A) or (B).

''(5) A person does not exercise 'lawful authority' if the person abuses or improperly exercises lawful authority the person otherwise holds.

''(6) The term 'passport' means—

''(A) a travel document attesting to the identity and nationality of the bearer that is issued under the authority of the Secretary of State, a foreign government, or an international organization; or

''(B) any instrument purporting to be a document described in subparagraph (A).

''(7) The term 'produce' means to make, prepare, assemble, issue, print, authenticate, or alter.

''(8) The term 'to present' means to offer or submit for official processing, examination, or adjudication. Any such presentation continues until the official processing, examination, or adjudication is complete.

''(9) The 'use' of a passport or an immigration document referred to in section 1541(a), 1543(b), 1544, 1546(a), and 1546(b) of this chapter includes—

''(A) any officially authorized use;

''(B) use to travel;

''(C) use to demonstrate identity, residence, nationality, citizenship, or immigration status;

''(D) use to seek or maintain employment; or

''(E) use in any matter within the jurisdiction of the Federal government or of a State government.''.

SEC. ___19. CLERICAL AMENDMENT.

The table of sections for chapter 75 of title 18, United States Code, is amended to read as follows:

Subtitle B—Other Reforms

SEC. ___21. DIRECTIVE TO THE UNITED STATES SENTENCING COMMISSION.

(a) IN GENERAL.—Pursuant to the authority under section 994 of title 28, United States Code, the United States Sentencing Commission shall promulgate or amend the sentencing guidelines, policy statements, and official commentaries related to passport fraud offenses, including the offenses described in chapter 75 of title 18, United States Code, as amended by section 2, to reflect the serious nature of such offenses.

(b) REPORT.—Not later than one year after the date of the enactment of this Act, the United States Sentencing Commission shall submit to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives a report on the implementation of this section.

SEC. ___22. RELEASE AND DETENTION PRIOR TO DISPOSITION.

(a) DETENTION.—Section 3142(e) of title 18, United States Code, is amended to read as follows:

''(e) DETENTION.—(1) If, after a hearing pursuant to the provisions of subsection (f) of this section, the judicial officer finds that no condition or combination of conditions will reasonably assure the appearance of the person as required and the safety of any other person and the community, such judicial officer shall order the detention of the person before trial.

''(2) In a case described in subsection (f)(1) of this section, a rebuttable presumption arises that no condition or combination of conditions will reasonably assure the safety of any other person and the community if such judicial officer finds that—

''(A) the person has been convicted of a Federal offense that is described in subsection (f)(1) of this section, or of a State or local offense that would have been an offense described in subsection (f)(1) of this section if a circumstance giving rise to Federal jurisdiction had existed;

''(B) the offense described in subparagraph (A) of this paragraph was committed while the person was on release pending trial for a Federal, State, or local offense; and

''(C) a period of not more than five years has elapsed since the date of conviction, or the release of the person from imprisonment, for the offense described in subparagraph (A) of this paragraph, whichever is later.

''(3) Subject to rebuttal by the person, it shall be presumed that no condition or combination of conditions will reasonably assure the appearance of the person as required and the safety of the community if the judicial officer finds that there is probable cause to believe that the person committed an offense for which a maximum term of imprisonment of ten years or more is prescribed in the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or chapter 705 of title 46, an offense under section 924(c), 956(a), or 2332b of this title, or an offense listed in section 2332b(g)(5)(B) of this title for which a maximum term of imprisonment of 10 years or more is prescribed, or an offense involving a minor victim under section 1201, 1591, 2241, 2242, 2244(a)(1), 2245, 2251, 2251A, 2252(a)(1), 2252(a)(2), 2252(a)(3), 2252A(a)(1), 2252A(a)(2), 2252A(a)(3), 2252A(a)(4), 2260, 2421, 2422, 2423, or 2425 of this title.

''(4) Subject to rebuttal by the person, it shall be presumed that no condition or combination of conditions will reasonably assure the appearance of the person as required if the judicial officer finds that there is probable cause to believe that the person—

''(A) is an alien; and

''(B)(i) has no lawful immigration status in the United States;

''(ii) is the subject of a final order of removal; or

''(iii) has committed a felony offense under chapter 75 of this title.''.

(b) FACTORS TO BE CONSIDERED.—Section 3142(g)(3) of title 18, United States Code, is amended—

(1) in subparagraph (A), by striking ''and'' at the end; and

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

''(C) the person's immigration status; and''.

SEC. ___23. PROTECTION FOR LEGITIMATE REFUGEES AND ASYLUM SEEKERS.

(a) PROTECTION FOR LEGITIMATE REFUGEES AND ASYLUM SEEKERS.—The Attorney General, in consultation with the Secretary of Homeland Security, shall develop binding prosecution guidelines for Federal prosecutors to ensure that any prosecution of an alien seeking entry into the United States by fraud is consistent with the United States treaty obligations under Article 31(1) of the Convention Relating to the Status of Refugees, done at Geneva July 28, 1951 (as made applicable by the Protocol Relating to the Status of Refugees, done at New York January 31, 1967 (19 UST 6223)).

(b) NO PRIVATE RIGHT OF ACTION.—The guidelines required by subsection (a), and any internal office procedures adopted pursuant thereto, are intended solely for the guidance of attorneys for the United States. This section, such guidelines, and the process for determining such guidelines are not intended to, do not, and may not be relied upon to create any right or benefit, substantive or procedural, enforceable at law by any party in any administrative, civil, or criminal matter

SEC. ___24. DIPLOMATIC SECURITY SERVICE.

Section 37(a)(1) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2709(a)(1)) is amended to read as follows:

''(1) conduct investigations concerning—

''(A) illegal passport or visa issuance or use;

''(B) identity theft or document fraud affecting or relating to the programs, functions, and authorities of the Department of State;

''(C) violations of chapter 77 of title 18, United States Code; and

''(D) Federal offenses committed within the special maritime and territorial jurisdiction defined in paragraph (9) of section 7 of title 18, United States Code;''.

SEC. ___25. UNIFORM STATUTE OF LIMITATIONS FOR CERTAIN IMMIGRATION, PASSPORT, AND NATURALIZATION OFFENSES.

(a) IN GENERAL.—Section 3291 of title 18, United States Code, is amended to read as follows:

''§ 3291. Immigration, passport, and naturalization offenses

''No person shall be prosecuted, tried, or punished for a violation of any section of chapters 69 (relating to nationality and citizenship offenses) or 75 (relating to passport and visa offenses) of this title, or for an attempt or conspiracy to violate any such section, unless the indictment is returned or the information is filed within ten years after the commission of the offense.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 213 of title 18, United States Code, is amended by striking the item relating to section 3291 and inserting the following:

''3291. Immigration, passport, and naturalization offenses''.

SA 378. Mr. KERRY (for himself, Mr. DODD, Mr. BIDEN, and Mr. LEAHY) submitted an amendment intended to be proposed to amendment SA 275 proposed by Mr. REID (for himself, Mr. LIEBERMAN, and Ms. COLLINS) to the bill S. 4, to make the United States more secure by implementing unfinished recommendations of the 9/11 Commission to fight the war on terror more effectively, to improve homeland security, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title XV, add the following new section:

SEC. 1505. SENSE OF CONGRESS ON MILITARY ASSISTANCE TO PAKISTAN.

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

(1) A democratic, stable, and prosperous Pakistan that is a full and reliable partner in the struggle against Al Qaeda and the Taliban and a responsible steward of its nuclear weapons and technology is vital to the national security of the United States and to combating international terrorism.

(2) Since September 11, 2001, Pakistan has been an important partner in removing the Taliban regime in Afghanistan and combating Al Qaeda and international terrorism, engaging in operations that have led to the deaths of hundreds of Pakistani security personnel and enduring acts of terrorism and sectarian violence that have killed many innocent civilians.

(3) Senior United States military and intelligence officials have stated that the Taliban and Al Qaeda have established critical sanctuaries in Pakistan from where Al Qaeda is rebuilding its global terrorist network and Taliban forces are crossing into Afghanistan and attacking Afghan, US, and International Security Assistance Force (ISAF) personnel.

(b) STATEMENT OF POLICY.—It is the policy of the United States—

(1) to maintain and deepen its long-term strategic partnership with Pakistan;

(2) to work with the Government of Pakistan to combat international terrorism and to end the use of Pakistani territory as a safe haven for Al Qaeda, the Taliban, and associated terrorist organizations, including through the integration and development of the Federally Administered Tribal Areas (FATA);

(3) to work with the Government of Pakistan to dismantle existing proliferation networks and prevent nuclear proliferation;

(4) to work to facilitate the peaceful resolution of all bilateral disputes between Pakistan and its neighboring countries;

(5) to encourage the transition in Pakistan to a fully democratic system of governance; and

(6) to implement a robust aid strategy that supports programs in Pakistan related to education, governance, rule of law, women's rights, medical access, and infrastructure development.

(c) SENSE OF CONGRESS.—It is the sense of Congress that the determination of appropriate levels of United States military assistance to Pakistan should be guided by demonstrable progress by the Government of Pakistan in—

(1) preventing Al Qaeda and associated terrorist organizations from operating in the territory of Pakistan, including by eliminating terrorist training camps or facilities, arresting members of Al Qaeda and associated terrorist organizations, and countering recruitment efforts;

(2) preventing the Taliban from using the territory of Pakistan as a sanctuary from which to launch attacks within Afghanistan, including by arresting Taliban leaders, stopping cross-border incursions, and countering recruitment efforts; and

(3) implementing democratic reforms, including by allowing free, fair, and inclusive elections at all levels of government in accordance with internationally recognized democratic norms.

SA 379. Mr. GRASSLEY submitted an amendment intended to be proposed to amendment SA 272 proposed by Mr. ALLARD to the amendment SA 275 proposed by Mr. REID (for himself, Mr. LIEBERMAN, and Ms. COLLINS) to the bill S. 4, to make the United States more secure by implementing unfinished recommendations of the 9/11 Commission to fight the war on terror more effectively, to improve homeland security, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. _____. DISCLOSURE OF CERTAIN TAXPAYER INFORMATION TO ASSIST IN IMMIGRATION ENFORCEMENT.

(a) DISCLOSURE OF CERTAIN TAXPAYER IDENTITY INFORMATION.—

(1) IN GENERAL.—Section 6103(l) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

''(21) DISCLOSURE OF CERTAIN TAXPAYER IDENTITY INFORMATION BY SOCIAL SECURITY ADMINISTRATION TO DEPARTMENT OF HOMELAND SECURITY.—

''(A) IN GENERAL.—From taxpayer identity information which has been disclosed or otherwise made available to the Social Security Administration and upon written request by the Secretary of Homeland Security (in this paragraph referred to as the 'Secretary'), the Commissioner of Social Security shall disclose directly to officers, employees, and contractors of the Department of Homeland Security—

''(i) the taxpayer identity of each person who has filed an information return required by reason of section 6051 after calendar year 2005 and before the date specified in subparagraph (D) which contains—

''(I) 1 (or any greater number the Secretary shall request) name and taxpayer identifying number of any employee (within the meaning of such section) that did not match the records maintained by the Commissioner of Social Security, or

''(II) 2 (or any greater number the Secretary shall request) names of employees (within the meaning of such section) with the same taxpayer identifying number,

and the taxpayer identity of each such employee, and

''(ii) the taxpayer identity of each person who has filed an information return required by reason of section 6051 after calendar year 2005 and before the date specified in subparagraph (D) which contains the taxpayer identifying number (assigned under section 6109) of an employee (within the meaning of section 6051)—

''(I) who is under the age of 14 (or any lesser age the Secretary shall request), according to the records maintained by the Commissioner of Social Security,

''(II) whose date of death, according to the records so maintained, occurred in a calendar year preceding the calendar year for which the information return was filed,

''(III) whose taxpayer identifying number is contained in more than one (or any greater number the Secretary shall request) information return filed in such calendar year, or

''(IV) who is not authorized to work in the United States, according to the records maintained by the Commissioner of Social Security,

and the taxpayer identity of each such employee.

''(B) RESTRICTION ON DISCLOSURE.—The Commissioner of Social Security shall disclose taxpayer identity information under subparagraph (A) only for purposes of, and to

the extent necessary to assist the Secretary in—

''(i) carrying out, including through civil administrative and civil judicial proceedings, of sections 212, 217, 235, 237, 238, 274A, 274B, and 274C of the Immigration and Nationality Act, and

''(ii) the civil operation of the Alien Terrorist Removal Court.

''(C) REIMBURSEMENT.—The Commissioner of Social Security shall prescribe a reasonable fee schedule for furnishing taxpayer identity information under this paragraph and collect such fees in advance from the Secretary.

''(D) TERMINATION.—This paragraph shall not apply to any request made after the date which is 3 years after the date of the enactment of this paragraph.''.

(2) COMPLIANCE BY DHS CONTRACTORS WITH CONFIDENTIALITY SAFEGUARDS.—

(A) IN GENERAL.—Section 6103(p) of such Code is amended by adding at the end the following new paragraph:

''(9) DISCLOSURE TO DHS CONTRACTORS.—Notwithstanding any other provision of this section, no return or return information shall be disclosed to any contractor of the Department of Homeland Security unless such Department, to the satisfaction of the Secretary—

''(A) has requirements in effect which require each such contractor which would have access to returns or return information to provide safeguards (within the meaning of paragraph (4)) to protect the confidentiality of such returns or return information,

''(B) agrees to conduct an on-site review every 3 years (mid-point review in the case of contracts or agreements of less than 3 years in duration) of each contractor to determine compliance with such requirements,

''(C) submits the findings of the most recent review conducted under subparagraph (B) to the Secretary as part of the report required by paragraph (4)(E), and

''(D) certifies to the Secretary for the most recent annual period that such contractor is in compliance with all such requirements.

The certification required by subparagraph (D) shall include the name and address of each contractor, a description of the contract or agreement with such contractor, and the duration of such contract or agreement.''.

(3) CONFORMING AMENDMENTS.—

(A) Section 6103(a)(3) of such Code is amended by striking ''or (20)'' and inserting ''(20), or (21)''.

(B) Section 6103(p)(3)(A) of such Code is amended by adding at the end the following new sentence: ''The Commissioner of Social Security shall provide to the Secretary such information as the Secretary may require in carrying out this paragraph with respect to return information inspected or disclosed under the authority of subsection (l)(21).''.

(C) Section 6103(p)(4) of such Code is amended—

(i) by striking ''or (17)'' both places it appears and inserting ''(17), or (21)''; and

(ii) by striking ''or (20)'' each place it appears and inserting ''(20), or (21)''.

(D) Section 6103(p)(8)(B) of such Code is amended by inserting ''or paragraph (9)'' after ''subparagraph (A)''.

(E) Section 7213(a)(2) of such Code is amended by striking ''or (20)'' and inserting ''(20), or (21)''.

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the Secretary of Homeland Security such sums as are necessary to carry out the amendments made by this section.

(2) LIMITATION ON VERIFICATION RESPONSIBILITIES OF COMMISSIONER OF SOCIAL SECURITY.—The Commissioner of Social Security is authorized to perform activities with respect to carrying out the Commissioner's responsibilities in the amendments made by subsection (a), but only to the extent the Secretary of Homeland Security has provided, in advance, funds to cover the Commissioner's full costs in carrying out such responsibilities. In no case shall funds from the Federal Old-Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund be used to carry out such responsibilities.

(c) REPEAL OF REPORTING REQUIREMENTS.—

(1) REPORT ON EARNINGS OF ALIENS NOT AUTHORIZED TO WORK.—Subsection (c) of section 290 of the Immigration and Nationality Act (8 U.S.C. 1360) is repealed.

(2) REPORT ON FRAUDULENT USE OF SOCIAL SECURITY ACCOUNT NUMBERS.—Subsection (b) of section 414 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104-208; 8 U.S.C. 1360 note) is repealed.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsection (a) shall apply to disclosures made after the date of the enactment of this Act.

(2) CERTIFICATIONS.—The first certification under section 6103(p)(9)(D) of the Internal Revenue Code of 1986, as added by subsection (a)(2), shall be made with respect to calendar year 2007.

(3) REPEALS.—The repeals made by subsection (c) shall take effect on the date of the enactment of this Act.

SA 380. Mr. GRASSLEY submitted an amendment intended to be proposed to amendment SA 275 proposed by Mr. REID (for himself, Mr. LIEBERMAN, and Ms. COLLINS) to the bill S. 4, to make the United States more secure by implementing unfinished recommendations of the 9/11 Commission to fight the war on terror more effectively, to improve homeland security, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title XV add the following:

SEC. _____. DISCLOSURE OF CERTAIN TAXPAYER INFORMATION TO ASSIST IN IMMIGRATION ENFORCEMENT.

(a) DISCLOSURE OF CERTAIN TAXPAYER IDENTITY INFORMATION.—

(1) IN GENERAL.—Section 6103(l) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

''(21) DISCLOSURE OF CERTAIN TAXPAYER IDENTITY INFORMATION BY SOCIAL SECURITY ADMINISTRATION TO DEPARTMENT OF HOMELAND SECURITY.—

''(A) IN GENERAL.—From taxpayer identity information which has been disclosed or otherwise made available to the Social Security Administration and upon written request by the Secretary of Homeland Security (in this paragraph referred to as the 'Secretary'), the Commissioner of Social Security shall disclose directly to officers, employees, and contractors of the Department of Homeland Security—

''(i) the taxpayer identity of each person who has filed an information return required by reason of section 6051 after calendar year 2005 and before the date specified in subparagraph (D) which contains—

''(I) 1 (or any greater number the Secretary shall request) name and taxpayer identifying number of any employee (within the meaning of such section) that did not match the records maintained by the Commissioner of Social Security, or

''(II) 2 (or any greater number the Secretary shall request) names of employees (within the meaning of such section) with the same taxpayer identifying number,

and the taxpayer identity of each such employee, and

''(ii) the taxpayer identity of each person who has filed an information return required by reason of section 6051 after calendar year 2005 and before the date specified in subparagraph (D) which contains the taxpayer identifying number (assigned under section 6109) of an employee (within the meaning of section 6051)—

''(I) who is under the age of 14 (or any lesser age the Secretary shall request), according to the records maintained by the Commissioner of Social Security,

''(II) whose date of death, according to the records so maintained, occurred in a calendar year preceding the calendar year for which the information return was filed,

''(III) whose taxpayer identifying number is contained in more than one (or any greater number the Secretary shall request) information return filed in such calendar year, or

''(IV) who is not authorized to work in the United States, according to the records maintained by the Commissioner of Social Security,

and the taxpayer identity of each such employee.

''(B) RESTRICTION ON DISCLOSURE.—The Commissioner of Social Security shall disclose taxpayer identity information under subparagraph (A) only for purposes of, and to the extent necessary to assist the Secretary in—

''(i) carrying out, including through civil administrative and civil judicial proceedings, of sections 212, 217, 235, 237, 238, 274A, 274B, and 274C of the Immigration and Nationality Act, and

''(ii) the civil operation of the Alien Terrorist Removal Court.

''(C) REIMBURSEMENT.—The Commissioner of Social Security shall prescribe a reasonable fee schedule for furnishing taxpayer identity information under this paragraph and collect such fees in advance from the Secretary.

''(D) TERMINATION.—This paragraph shall not apply to any request made after the date which is 3 years after the date of the enactment of this paragraph.''.

(2) COMPLIANCE BY DHS CONTRACTORS WITH CONFIDENTIALITY SAFEGUARDS.—

(A) IN GENERAL.—Section 6103(p) of such Code is amended by adding at the end the following new paragraph:

''(9) DISCLOSURE TO DHS CONTRACTORS.—Notwithstanding any other provision of this section, no return or return information shall be disclosed to any contractor of the Department of Homeland Security unless such Department, to the satisfaction of the Secretary—

''(A) has requirements in effect which require each such contractor which would have access to returns or return information to provide safeguards (within the meaning of paragraph (4)) to protect the confidentiality of such returns or return information,

''(B) agrees to conduct an on-site review every 3 years (mid-point review in the case of contracts or agreements of less than 3 years in duration) of each contractor to determine compliance with such requirements,

''(C) submits the findings of the most recent review conducted under subparagraph (B) to the Secretary as part of the report required by paragraph (4)(E), and

''(D) certifies to the Secretary for the most recent annual period that such contractor is in compliance with all such requirements.

The certification required by subparagraph (D) shall include the name and address of each contractor, a description of the contract or agreement with such contractor, and the duration of such contract or agreement.''.

(3) CONFORMING AMENDMENTS.—

(A) Section 6103(a)(3) of such Code is amended by striking ''or (20)'' and inserting ''(20), or (21)''.

(B) Section 6103(p)(3)(A) of such Code is amended by adding at the end the following new sentence: ''The Commissioner of Social Security shall provide to the Secretary such information as the Secretary may require in carrying out this paragraph with respect to return information inspected or disclosed under the authority of subsection (l)(21).''.

(C) Section 6103(p)(4) of such Code is amended—

(i) by striking ''or (17)'' both places it appears and inserting ''(17), or (21)''; and

(ii) by striking ''or (20)'' each place it appears and inserting ''(20), or (21)''.

(D) Section 6103(p)(8)(B) of such Code is amended by inserting ''or paragraph (9)'' after ''subparagraph (A)''.

(E) Section 7213(a)(2) of such Code is amended by striking ''or (20)'' and inserting ''(20), or (21)''.

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the Secretary of Homeland Security such sums as are necessary to carry out the amendments made by this section.

(2) LIMITATION ON VERIFICATION RESPONSIBILITIES OF COMMISSIONER OF SOCIAL SECURITY.—The Commissioner of Social Security is authorized to perform activities with respect to carrying out the Commissioner's responsibilities in the amendments made by subsection (a), but only to the extent the Secretary of Homeland Security has provided, in advance, funds to cover the Commissioner's full costs in carrying out such responsibilities. In no case shall funds from the Federal Old-Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund be used to carry out such responsibilities.

(c) REPEAL OF REPORTING REQUIREMENTS.—

(1) REPORT ON EARNINGS OF ALIENS NOT AUTHORIZED TO WORK.—Subsection (c) of section 290 of the Immigration and Nationality Act (8 U.S.C. 1360) is repealed.

(2) REPORT ON FRAUDULENT USE OF SOCIAL SECURITY ACCOUNT NUMBERS.—Subsection (b) of section 414 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104-208; 8 U.S.C. 1360 note) is repealed.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsection (a) shall apply to disclosures made after the date of the enactment of this Act.

(2) CERTIFICATIONS.—The first certification under section 6103(p)(9)(D) of the Internal Revenue Code of 1986, as added by subsection (a)(2), shall be made with respect to calendar year 2007.

(3) REPEALS.—The repeals made by subsection (c) shall take effect on the date of the enactment of this Act.

SA 381. Mr. INHOFE (for himself, Mr. BUNNING, and Mr. VOINOVICH) submitted an amendment intended to be proposed to amendment SA 275 proposed by Mr. REID (for himself, Mr. LIEBERMAN, and Ms. COLLINS) to the bill S. 4, to make the United States more secure by implementing unfinished recommendations of the 9/11 Commission to fight the war on terror more effectively, to improve homeland security, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE ____—DOMESTIC FUELS SECURITY

SEC. ___01. SHORT TITLE.

This title may be cited as the ''Domestic Fuels Security Act of 2007''.

SEC. ___2. DEFINITIONS.

In this title:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Environmental Protection Agency.

(2) COAL-TO-LIQUID.—The term ''coal-to-liquid'' means—

(A) with respect to a process or technology, the use of a feedstock, the majority of which is derived from the coal resources of the United States, using the class of reactions known as Fischer-Tropsch, to produce synthetic fuel suitable for transportation; and

(B) with respect to a facility, the portion of a facility related to producing the inputs for the Fischer-Tropsch process, or the finished fuel from the Fischer-Tropsch process, using a feedstock that is primarily domestic coal at the Fischer-Tropsch facility.

(3) DOMESTIC FUELS FACILITY.—

(A) IN GENERAL.—The term ''domestic fuels facility'' means—

(i) a coal liquification or coal-to-liquid facility at which coal is processed into synthetic crude oil or any other transportation fuel;

(ii) a facility that produces a renewable fuel (as defined in section 211(o)(1) of the Clean Air Act (42 U.S.C. 7545(o)(1))); and

(iii) a facility at which crude oil is refined into transportation fuel or other petroleum products.

(B) INCLUSION.—The term ''domestic fuels facility'' includes a domestic fuels facility expansion.

(4) DOMESTIC FUELS FACILITY EXPANSION.—The term ''domestic fuels facility expansion'' means a physical change in a domestic fuels facility that results in an increase in the capacity of the domestic fuels facility.

(5) DOMESTIC FUELS FACILITY PERMITTING AGREEMENT.—The term ''domestic fuels facility permitting agreement'' means an agreement entered into between the Administrator and a State or Indian tribe under subsection (b).

(6) DOMESTIC FUELS PRODUCER.—The term ''domestic fuels producer'' means an individual or entity that—

(A) owns or operates a domestic fuels facility; or

(B) seeks to become an owner or operator of a domestic fuels facility.

(7) INDIAN LAND.—The term ''Indian land'' has the meaning given the term ''Indian lands'' in section 3 of the Native American Business Development, Trade Promotion, and Tourism Act of 2000 (25 U.S.C. 4302).

(8) INDIAN TRIBE.—The term ''Indian tribe'' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(9) PERMIT.—The term ''permit'' means any permit, license, approval, variance, or other form of authorization that a refiner is required to obtain—

(A) under any Federal law; or

(B) from a State or Indian tribal government agency delegated with authority by the Federal Government, or authorized under Federal law to issue permits.

(10) SECRETARY.—The term ''Secretary'' means the Secretary of Energy.

(11) STATE.—The term ''State'' means—

(A) a State;

(B) the District of Columbia;

(C) the Commonwealth of Puerto Rico; and

(D) any other territory or possession of the United States.

Subtitle A—Collaborative Permitting Process for Domestic Fuels Facilities

SEC. ___11. COLLABORATIVE PERMITTING PROCESS FOR DOMESTIC FUELS FACILITIES.

(a) IN GENERAL.—At the request of the Governor of a State or the governing body of an Indian tribe, the Administrator shall enter into a domestic fuels facility permitting agreement with the State or Indian tribe under which the process for obtaining all permits necessary for the construction and operation of a domestic fuels facility shall be improved using a systematic interdisciplinary multimedia approach as provided in this section.

(b) AUTHORITY OF ADMINISTRATOR.—Under a domestic fuels facility permitting agreement—

(1) the Administrator shall have authority, as applicable and necessary, to—

(A) accept from a refiner a consolidated application for all permits that the domestic fuels producer is required to obtain to construct and operate a domestic fuels facility;

(B) establish a schedule under which each Federal, State, or Indian tribal government agency that is required to make any determination to authorize the issuance of a permit shall—

(i) concurrently consider, to the maximum extent practicable, each determination to be made; and

(ii) complete each step in the permitting process; and

(C) issue a consolidated permit that combines all permits that the domestic fuels producer is required to obtain; and

(2) the Administrator shall provide to State and Indian tribal government agencies—

(A) financial assistance in such amounts as the agencies reasonably require to hire such additional personnel as are necessary to enable the government agencies to comply with the applicable schedule established under paragraph (1)(B); and

(B) technical, legal, and other assistance in complying with the domestic fuels facility permitting agreement.

(c) AGREEMENT BY THE STATE.—Under a domestic fuels facility permitting agreement, a State or governing body of an Indian tribe shall agree that—

(1) the Administrator shall have each of the authorities described in subsection (b); and

(2) each State or Indian tribal government agency shall—

(A) make such structural and operational changes in the agencies as are necessary to enable the agencies to carry out consolidated project-wide permit reviews concurrently and in coordination with the Environmental Protection Agency and other Federal agencies; and

(B) comply, to the maximum extent practicable, with the applicable schedule established under subsection (b)(1)(B).

(d) INTERDISCIPLINARY APPROACH.—

(1) IN GENERAL.—The Administrator and a State or governing body of an Indian tribe shall incorporate an interdisciplinary approach, to the maximum extent practicable, in the development, review, and approval of domestic fuels facility permits subject to this section.

(2) OPTIONS.—Among other options, the interdisciplinary approach may include use of—

(A) environmental management practices; and

(B) third party contractors.

(e) DEADLINES.—

(1) NEW DOMESTIC FUELS FACILITIES.—In the case of a consolidated permit for the construction of a new domestic fuels facility,

the Administrator and the State or governing body of an Indian tribe shall approve or disapprove the consolidated permit not later than—

(A) 360 days after the date of the receipt of the administratively complete application for the consolidated permit; or

(B) on agreement of the applicant, the Administrator, and the State or governing body of the Indian tribe, 90 days after the expiration of the deadline established under subparagraph (A).

(2) EXPANSION OF EXISTING DOMESTIC FUELS FACILITIES.—In the case of a consolidated permit for the expansion of an existing domestic fuels facility, the Administrator and the State or governing body of an Indian tribe shall approve or disapprove the consolidated permit not later than—

(A) 120 days after the date of the receipt of the administratively complete application for the consolidated permit; or

(B) on agreement of the applicant, the Administrator, and the State or governing body of the Indian tribe, 30 days after the expiration of the deadline established under subparagraph (A).

(f) FEDERAL AGENCIES.—Each Federal agency that is required to make any determination to authorize the issuance of a permit shall comply with the applicable schedule established under subsection (b)(1)(B).

(g) JUDICIAL REVIEW.—Any civil action for review of any determination of any Federal, State, or Indian tribal government agency in a permitting process conducted under a domestic fuels facility permitting agreement brought by any individual or entity shall be brought exclusively in the United States district court for the district in which the domestic fuels facility is located or proposed to be located.

(h) EFFICIENT PERMIT REVIEW.—In order to reduce the duplication of procedures, the Administrator shall use State permitting and monitoring procedures to satisfy substantially equivalent Federal requirements under this section.

(i) SEVERABILITY.—If 1 or more permits that are required for the construction or operation of a domestic fuels facility are not approved on or before any deadline established under subsection (e), the Administrator may issue a consolidated permit that combines all other permits that the domestic fuels producer is required to obtain other than any permits that are not approved.

(j) SAVINGS.—Nothing in this section affects the operation or implementation of otherwise applicable law regarding permits necessary for the construction and operation of a domestic fuels facility.

(k) CONSULTATION WITH LOCAL GOVERNMENTS.—Congress encourages the Administrator, States, and tribal governments to consult, to the maximum extent practicable, with local governments in carrying out this section.

(l) EFFECT ON LOCAL AUTHORITY.—Nothing in this section affects—

(1) the authority of a local government with respect to the issuance of permits; or

(2) any requirement or ordinance of a local government (such as zoning regulations).

Subtitle B—Environmental Analysis of Fischer-Tropsch Fuels

SEC. ___21. EVALUATION OF FISCHER-TROPSCH DIESEL AND JET FUEL AS AN EMISSION CONTROL STRATEGY.

(a) IN GENERAL.—In cooperation with the Secretary of Energy, the Secretary of Defense, the Administrator of the Federal Aviation Administration, Secretary of Health and Human Services, and Fischer-Tropsch industry representatives, the Administrator shall—

(1) conduct a research and demonstration program to evaluate the air quality benefits of ultra-clean Fischer-Tropsch transportation fuel, including diesel and jet fuel;

(2) evaluate the use of ultra-clean Fischer-Tropsch transportation fuel as a mechanism for reducing engine exhaust emissions; and

(3) submit recommendations to Congress on the most effective use and associated benefits of these ultra-clean fuels for reducing public exposure to exhaust emissions.

(b) GUIDANCE AND TECHNICAL SUPPORT.—The Administrator shall, to the extent necessary, issue any guidance or technical support documents that would facilitate the effective use and associated benefit of Fischer-Tropsch fuel and blends.

(c) REQUIREMENTS.—The program described in subsection (a) shall consider—

(1) the use of neat (100 percent) Fischer-Tropsch fuel and blends with conventional crude oil-derived fuel for heavy-duty and light-duty diesel engines and the aviation sector; and

(2) the production costs associated with domestic production of those ultra clean fuel and prices for consumers.

(d) REPORTS.—The Administrator shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Energy and Commerce of the House of Representatives—

(1) not later than October 1, 2007, an interim report on actions taken to carry out this section; and

(2) not later than December 1, 2008, a final report on actions taken to carry out this section.

Subtitle C—Domestic Coal-to-Liquid Fuel

SEC. ___31. COAL-TO-LIQUID FUEL LOAN GUARANTEE PROGRAM.

(a) ELIGIBLE PROJECTS.—Section 1703(b) of the Energy Policy Act of 2005 (42 U.S.C. 16513(b)) is amended by adding at the end the following:

''(11) Large-scale coal-to-liquid facilities that use a feedstock, the majority of which is the coal resources of the United States, to produce not less than 10,000 barrels a day of liquid transportation fuel.''.

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 1704 of the Energy Policy Act of 2005 (42 U.S.C. 16514) is amended by adding at the end the following:

''(c) COAL-TO-LIQUID PROJECTS.—

''(1) IN GENERAL.—There are authorized to be appropriated such sums as are necessary to provide the cost of guarantees for projects involving large-scale coal-to-liquid facilities under section 1703(b)(11).

''(2) ALTERNATIVE FUNDING.—If no appropriations are made available under paragraph (1), an eligible applicant may elect to provide payment to the Secretary, to be delivered if and at the time the application is approved, in the amount of the estimated cost of the loan guarantee to the Federal Government, as determined by the Secretary.

''(3) LIMITATIONS.—

''(A) IN GENERAL.—No loan guarantees shall be provided under this title for projects described in paragraph (1) after (as determined by the Secretary)—

''(i) the tenth such loan guarantee is issued under this title; or

''(ii) production capacity covered by such loan guarantees reaches 100,000 barrels per day of coal-to-liquid fuel.

''(B) INDIVIDUAL PROJECTS.—

''(i) IN GENERAL.—A loan guarantee may be provided under this title for any large-scale coal-to-liquid facility described in paragraph (1) that produces not more than 20,000 barrels of coal-to-liquid fuel per day.

''(ii) NON-FEDERAL FUNDING REQUIREMENT.—To be eligible for a loan guarantee under this title, a large-scale coal-to-liquid facility described in paragraph (1) that produces more than 20,000 barrels per day of coal-to-liquid fuel shall be eligible to receive a loan guarantee for the proportion of the cost of the facility that represents 20,000 barrels of coal-to-liquid fuel per day of production.

''(4) REQUIREMENTS.—

''(A) GUIDELINES.—Not later than 180 days after the date of enactment of this subsection, the Secretary shall publish guidelines for the coal-to-liquids loan guarantee application process.

''(B) APPLICATIONS.—Not later than 1 year after the date of enactment of this subsection, the Secretary shall begin to accept applications for coal-to-liquid loan guarantees under this subsection.

''(C) DEADLINE.—Not later than 1 year after the date of acceptance of an application under subparagraph (B), the Secretary shall evaluate the application and make final determinations under this subsection.

''(5) REPORTS TO CONGRESS.—The Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives a report describing the status of the program under this subsection not later than each of—

''(A) 180 days after the date of enactment of this subsection;

''(B) 1 year after the date of enactment of this subsection; and

''(C) the dates on which the Secretary approves the first and fifth applications for coal-to-liquid loan guarantees under this subsection.''.

SEC. ___32. COAL-TO-LIQUID FACILITIES LOAN PROGRAM.

(a) DEFINITION OF ELIGIBLE RECIPIENT.—In this section, the term ''eligible recipient'' means an individual, organization, or other entity that owns, operates, or plans to construct a coal-to-liquid facility that will produce at least 10,000 barrels per day of coal-to-liquid fuel.

(b) ESTABLISHMENT.—The Secretary shall establish a program under which the Secretary shall provide loans, in a total amount not to exceed $20,000,000, for use by eligible recipients to pay the Federal share of the cost of obtaining any services necessary for the planning, permitting, and construction of a coal-to-liquid facility.

(c) APPLICATION.—To be eligible to receive a loan under subsection (b), the eligible recipient shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

(d) NON-FEDERAL MATCHING REQUIREMENT.—To be eligible to receive a loan under this section, an eligible recipient shall use non-Federal funds to provide a dollar-for-dollar match of the amount of the loan.

(e) REPAYMENT OF LOAN.—

(1) IN GENERAL.—To be eligible to receive a loan under this section, an eligible recipient shall agree to repay the original amount of the loan to the Secretary not later than 5 years after the date of the receipt of the loan.

(2) SOURCE OF FUNDS.—Repayment of a loan under paragraph (1) may be made from any financing or assistance received for the construction of a coal-to-liquid facility described in subsection (a), including a loan guarantee provided under section 1703(b)(11) of the Energy Policy Act of 2005 (42 U.S.C. 16513(b)(11)).

(f) REQUIREMENTS.—

(1) GUIDELINES.—Not later than 180 days after the date of enactment of this Act, the Secretary shall publish guidelines for the coal-to-liquids loan application process.

(2) APPLICATIONS.—Not later than 1 year after the date of enactment of this Act, the Secretary shall begin to accept applications for coal-to-liquid loans under this section.

(g) REPORTS TO CONGRESS.—Not later than each of 180 days and 1 year after the date of enactment of this Act, the Secretary shall submit to the Committee on Energy and Natural Resources and the Committee on Environment and Public Works of the Senate and the Committee on Energy and Commerce of the House of Representatives a report describing the status of the program under this section.

(h) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $200,000,000, to remain available until expended.

SEC. ___33. COAL-TO-LIQUID LONG-TERM FUEL PROCUREMENT AND DEPARTMENT OF DEFENSE DEVELOPMENT.

(a) STUDY.—

(1) IN GENERAL.—The Secretary of Defense, in consultation with the Secretary, the Administrator, and private sector stakeholders, shall conduct a comprehensive feasibility study, including the national security benefits, of developing a domestic coal-to-liquids industry.

(2) FACTORS FOR CONSIDERATION.—In conducting the study under paragraph (1), the Secretary of Defense shall take into consideration—

(A) the existing authority of the Secretary of Defense to procure coal-to-liquid fuels; and

(B) the estimated future authority of the Secretary of Defense to enter into long-term contracts with private entities or other entities to purchase coal-to-liquid fuel or to develop or operate coal-to-liquids facilities on or near military installations, based on—

(i) the availability of land and testing opportunities, and proximity to raw materials;

(ii) a contract term of not more than 25 years;

(iii) the authority to purchase coal-to-liquid fuels at fixed prices above, at, or below comparable market prices of fuel during the term of the contract; and

(iv)(I) the corresponding budgetary impact of the long-term contracts; and

(II) alternative methods for accounting for the contracts.

(b) REPORT.—Not later than 90 days after the date of enactment of this Act, the Secretary of Defense, in consultation with the Secretary, the Administrator, and private sector stakeholders, shall submit to Congress a report describing the results of the study conducted under subsection (a).

SEC. ___34. ECONOMIC DEVELOPMENT ASSISTANCE TO SUPPORT PROJECTS TO SUPPORT COAL-TO-LIQUIDS FACILITIES ON BRAC PROPERTY AND INDIAN LAND.

(a) PRIORITY.—Notwithstanding section 206 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3146), in awarding funds made available to carry out section 209(c)(1) of that Act (42 U.S.C. 3149(c)(1)) pursuant to section 702 of that Act (42 U.S.C. 3232), the Secretary and the Economic Development Administration shall give priority to projects to support coal-to-liquid facilities.

(b) FEDERAL SHARE.—Except as provided in subsection (c)(3)(B) and notwithstanding the Public Works and Economic Development Act of 1965 (42 U.S.C. 3121 et seq.), the Federal share of a project to support a coal-to-liquid facility shall be—

(1) 80 percent of the project cost; or

(2) for a project carried out on Indian land, 100 percent of the project cost.

(c) ADDITIONAL AWARD.—

(1) IN GENERAL.—The Secretary shall make an additional award in connection with a grant made to a recipient (including any Indian tribe for use on Indian land) for a project to support a coal-to-liquid facility.

(2) AMOUNT.—The amount of an additional award shall be 10 percent of the amount of the grant for the project.

(3) USE.—An additional award under this subsection shall be used—

(A) to carry out any eligible purpose under the Public Works and Economic Development Act of 1965 (42 U.S.C. 3121 et seq.);

(B) notwithstanding section 204 of that Act (42 U.S.C. 3144), to pay up to 100 percent of the cost of an eligible project or activity under that Act; or

(C) to meet the non-Federal share requirements of that Act or any other Act.

(4) NON-FEDERAL SOURCE.—For the purpose of paragraph (3)(C), an additional award shall be treated as funds from a non-Federal source.

(5) FUNDING.—The Secretary shall use to carry out this subsection any amounts made available—

(A) for economic development assistance programs; or

(B) under section 702 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3232).

Subtitle D—Alternative Hydrocarbon and Renewable Reserves Disclosures Classification System

SEC. ___41. ALTERNATIVE HYDROCARBON AND RENEWABLE RESERVES DISCLOSURES CLASSIFICATION SYSTEM.

(a) IN GENERAL.—The Securities and Exchange Commission shall appoint a task force composed of government and private sector representatives to analyze, and submit to Congress a report (including recommendations) on, modernization of the hydrocarbon reserves disclosures classification system of the Commission to reflect advances in reserves recovery from nontraditional sources (such as deep water, oil shale, tar sands, and renewable reserves for cellulosic biofuels feedstocks).

(b) DEADLINE FOR REPORT.—The Commission shall submit the report required under subsection (a) not later than 180 days after the date of enactment of this Act.

Subtitle E—Authorization of Appropriations

SEC. ___51. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this title and the amendments made by this title.

SA 382. Mr. SESSIONS (for himself, Ms. LANDRIEU, Mr. GRASSLEY, and Mr. VITTER) submitted an amendment intended to be proposed to amendment SA 275 proposed by Mr. REID (for himself, Mr. LIEBERMAN, and Ms. COLLINS) to the bill S. 4, to make the United States more secure by implementing unfinished recommendations of the 9/11 Commission to fight the war on terror more effectively, to improve homeland security, and for other purposes; which was ordered to lie on the table; as follows:

On page 389, after line 13, add the following:

SEC. 15___. EMERGENCY AND MAJOR DISASTER FRAUD PENALTIES.

(a) FRAUD IN CONNECTION WITH MAJOR DISASTER OR EMERGENCY BENEFITS.—

(1) IN GENERAL.—Chapter 47 of title 18, United States Code, is amended by adding at the end the following:

"§ 1040. Fraud in connection with major disaster or emergency benefits

''(a) Whoever, in a circumstance described in subsection (b) of this section, knowingly—

''(1) falsifies, conceals, or covers up by any trick, scheme, or device any material fact; or

''(2) makes any materially false, fictitious, or fraudulent statement or representation, or makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or representation,

in any matter involving any benefit authorized, transported, transmitted, transferred, disbursed, or paid in connection with a major disaster declaration under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170) or an emergency declaration under section 501 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5191), or in connection with any procurement of property or services related to any emergency or major disaster declaration as a prime contractor with the United States or as a subcontractor or supplier on a contract in which there is a prime contract with the United States, shall be fined under this title, imprisoned not more than 30 years, or both.

''(b) A circumstance described in this subsection is any instance where—

''(1) the authorization, transportation, transmission, transfer, disbursement, or payment of the benefit is in or affects interstate or foreign commerce;

''(2) the benefit is transported in the mail at any point in the authorization, transportation, transmission, transfer, disbursement, or payment of that benefit; or

''(3) the benefit is a record, voucher, payment, money, or thing of value of the United States, or of any department or agency thereof.

''(c) In this section, the term 'benefit' means any record, voucher, payment, money or thing of value, good, service, right, or privilege provided by the United States, a State or local government, or other entity.''.

(2) CLERICAL AMENDMENT.—The table of sections for chapter 47 of title 18, United States Code, is amended by adding at the end the following new item:

''1040. Fraud in connection with major disaster or emergency benefits.''.

(b) INCREASED CRIMINAL PENALTIES FOR ENGAGING IN WIRE, RADIO, AND TELEVISION FRAUD DURING AND RELATION TO A PRESIDENTIALLY DECLARED MAJOR DISASTER OR EMERGENCY.—Section 1343 of title 18, United States Code, is amended by inserting: ''occurs in relation to, or involving any benefit authorized, transported, transmitted, transferred, disbursed, or paid in connection with, a presidentially declared major disaster or emergency (as those terms are defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122)), or'' after ''If the violation''.

(c) INCREASED CRIMINAL PENALTIES FOR ENGAGING IN MAIL FRAUD DURING AND RELATION TO A PRESIDENTIALLY DECLARED MAJOR DISASTER OR EMERGENCY.—Section 1341 of title 18, United States Code, is amended by inserting: ''occurs in relation to, or involving any benefit authorized, transported, transmitted, transferred, disbursed, or paid in connection with, a presidentially declared major disaster or emergency (as those terms are defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122)), or'' after ''If the violation''.

(d) DIRECTIVE TO SENTENCING COMMISSION.—

(1) IN GENERAL.—Pursuant to its authority under section 994(p) of title 28, United States Code, and in accordance with this subsection, the United States Sentencing Commission forthwith shall—

(A) promulgate sentencing guidelines or amend existing sentencing guidelines to provide for increased penalties for persons convicted of fraud or theft offenses in connection with a major disaster declaration under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42

U.S.C. 5170) or an emergency declaration under section 501 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5191); and

(B) submit to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives an explanation of actions taken by the Commission pursuant to subparagraph (A) and any additional policy recommendations the Commission may have for combating offenses described in that subparagraph.

(2) REQUIREMENTS.—In carrying out this subsection, the Sentencing Commission shall—

(A) ensure that the sentencing guidelines and policy statements reflect the serious nature of the offenses described in paragraph (1) and the need for aggressive and appropriate law enforcement action to prevent such offenses;

(B) assure reasonable consistency with other relevant directives and with other guidelines;

(C) account for any aggravating or mitigating circumstances that might justify exceptions, including circumstances for which the sentencing guidelines currently provide sentencing enhancements;

(D) make any necessary conforming changes to the sentencing guidelines; and

(E) assure that the guidelines adequately meet the purposes of sentencing as set forth in section 3553(a)(2) of title 18, United States Code.

(3) EMERGENCY AUTHORITY AND DEADLINE FOR COMMISSION ACTION.—The Commission shall promulgate the guidelines or amendments provided for under this subsection as soon as practicable, and in any event not later than the 30 days after the date of enactment of this Act, in accordance with the procedures set forth in section 21(a) of the Sentencing Reform Act of 1987, as though the authority under that Act had not expired.

SA 383. Mr. BIDEN proposed an amendment to amendment SA 275 proposed by Mr. REID (for himself, Mr. LIEBERMAN, and Ms. COLLINS) to the bill S. 4, to make the United States more secure by implementing unfinished recommendationsof the 9/11 Commission to fight the war on terror more effectively, to improve homeland security, and for other purposes; as follows:

On page 361, after line 20, add the following:

Subtitle D—Transport of High Hazard Materials

SEC. 1391. REGULATIONS FOR TRANSPORT OF HIGH HAZARD MATERIALS.

(a) DEFINITION OF HIGH THREAT CORRIDOR.—In this section, the term ''high threat corridor'' means a geographic area that has been designated by the Secretary as particularly vulnerable to damage from the release of high hazard materials, including—

(1) areas important to national security;

(2) areas that terrorists may be particularly likely to attack; or

(3) any other area designated by the Secretary.

(b) PURPOSES OF REGULATIONS.—The regulations issued under this section shall establish a national, risk-based policy for high hazard materials being transported or stored. To the extent the Secretary determines appropriate, the regulations issued under this section shall be consistent with other Federal, State, and local regulations and international agreements relating to shipping or storing high hazard materials.

(c) ISSUANCE OF REGULATIONS.—Not later than 90 days after the date of enactment of this Act, the Secretary shall issue interim regulations and, after notice and opportunity for public comment final resolutions, concerning the shipment and storage of high hazard materials.

(d) REQUIREMENTS.—The regulations issued under this section shall—

(1) except as provided in subsection (e), provide that any rail shipment containing high hazard materials be rerouted around any high threat corridor;

(2) establish standards for the Secretary to grant exceptions to the rerouting requirement under paragraph (1).

(e) TRANSPORTATION AND STORAGE OF HIGH HAZARD MATERIALS THROUGH HIGH THREAT CORRIDOR.—

(1) IN GENERAL.—The standards for the Secretary to grant exceptions under subsection (d)(4) shall require a finding by the Secretary that—

(A) the shipment originates or the point of destination is in the high threat corridor;

(B) there is no practicable alternative route;

(C) there is an unanticipated, temporary emergency that threatens the lives of persons or property in the high threat corridor;

(D) there would be no harm to persons or property beyond the owners or operator of the railroad in the event of a successful terrorist attack on the shipment; or

(E) rerouting would increase the likelihood of a terrorist attack on the shipment.

(2) PRACTICAL ALTERNATE ROUTES.—Ownership of the tracks or facilities shall not be considered by the Secretary in determining whether there is a practical alternate route under paragraph (1).

(3) GRANT OF EXCEPTION.—If the Secretary grants an exception under subsection (d)(4)—(A)

(B) the Secretary shall notify Federal, State, and local law enforcement and first responder agencies (including, if applicable, transit, railroad, or port authority agencies) within the high threat corridor.

SA 384. Mr. BIDEN proposed an amendment to amendment SA 275 proposed by Mr. REID (for himself, Mr. LIEBERMAN, and Ms. COLLINS) to the bill S. 4, to make the United States more secure by implementing unfinished recommendations of the 9/11 Commission to fight the war on terror more effectively, to improve homeland security, and for other purposes; as follows:

At the end, add the following:

SEC. 1505. HOMELAND SECURITY TRUST FUND.

(a) DEFINITIONS.—In this section:

(1) TRUST FUND.—The term ''Trust Fund'' means the Homeland Security and Neighborhood Safety Trust Fund established under subsection (b).

(2) COMMISSION.—The term ''Commission'' means the National Commission on Terrorist Attacks upon the United States, established under title VI of the Intelligence Authorization Act for Fiscal Year 2003 (Public Law 107–306; 6 U.S.C. 101 note).

(b) HOMELAND SECURITY AND NEIGHBORHOOD SAFETY TRUST FUND.—

(1) ESTABLISHMENT OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the ''Homeland Security and Neighborhood Safety Trust Fund'', consisting of such amounts as may be appropriated or credited to the Trust Fund.

(2) RULES REGARDING TRANSFERS TO AND MANAGEMENT OF TRUST FUND.—For purposes of this section, rules similar to the rules of sections 9601 and 9602 of the Internal Revenue Code of 1986 shall apply.

(3) DISTRIBUTION OF AMOUNTS IN TRUST FUND.—Amounts in the Trust Fund shall be available, as provided by appropriation Acts, for making expenditures for fiscal years 2008 through 2012 to meet those obligations of the United States incurred which are authorized under subsection (d) for such fiscal years.

(4) SENSE OF THE SENATE.—It is the sense of the Senate that the Committee on Finance of the Senate should report to the Senate not later than 30 days after the date of the enactment of this Act legislation which—

(A) increases revenues to the Treasury in the amount of $53,300,000,000 during taxable years 2008 through 2012 by reducing scheduled and existing income tax reductions enacted since taxable year 2001 with respect to the taxable incomes of taxpayers in excess of $1,000,000, and

(B) appropriates an amount equal to such revenues to the Homeland Security and Neighborhood Safety Trust Fund.

(c) PREVENTING TERROR ATTACKS ON THE HOMELAND.—

(1) AUTHORIZATION OF APPROPRIATIONS FOR SUPPORTING LAW ENFORCEMENT.—There are authorized to be appropriated from the Trust Fund—

(A) $1,150,000,000 for each of the fiscal years 2008 through 2012 for the Office of Community Oriented Policing Services for grants to State, local, and tribal law enforcement to hire officers, purchase technology, conduct training, and to develop local counterterrorism units;

(B) $900,000,000 for each of the fiscal years 2008 through 2012 for the Justice Assistance Grant; and

(C) $500,000,000 for each of the fiscal years 2008 through 2012 for the Law Enforcement Terrorism Prevention Grant Program.

(2) AUTHORIZATION OF APPROPRIATIONS FOR RESPONDING TO TERRORIST ATTACKS AND NATURAL DISASTERS.—There are authorized to be appropriated from the Trust Fund—

(A) $500,000,000 for each of fiscal years 2008 through 2012 for the Federal Emergency Management Agency for Fire Act Grants; and

(B) $500,000,000 for each of fiscal years 2008 through 2012 for the Federal Emergency Management Agency for SAFER Grants.

(d) AUTHORIZATION OF APPROPRIATIONS FOR ADDITIONAL ACTIVITIES FOR HOMELAND SECURITY.—There are authorized to be appropriated from the Trust Fund such sums as necessary for—

(1) the implementation of all the recommendations of the Commission, including the provisions of this section;

(2) fully funding the grant programs authorized under this bill, including the State Homeland Security Grant Program, the Urban Area Security Initiative, the Emergency Management Performance Grant Program, the Emergency Communications and Interoperability Grant Programs, rail and transit security grants and any other grant program administered by the Department;

(3) improving airline passenger screening and cargo scanning;

(4) improving information sharing and communications interoperability;

(5) supporting State and local government law enforcement and first responders, including enhancing communications interoperability and information sharing;

(6) enhancing the inspection and promoting 100 percent scanning of cargo containers destined for ports in the United States and to ensure screening of domestic air cargo;

(7) protecting critical infrastructure and other high threat targets such as passenger rail, freight rail, and transit systems, chemical and nuclear plants;

(8) enhancing the preparedness of the public health sector to prevent and respond to acts of biological and nuclear terrorism;

(9) the development of scanning technologies to detect dangerous substances at United States ports of entry; and

(10) other high risk targets of interest, including nonprofit organizations and in the private sector.

SA 385. Mr. BOND (for himself and Mr. ROCKEFELLER) submitted an amendment intended to be proposed by him to the bill S. 4, to make the United States more secure by implementing unfinished recommendations of the 9/11 Commission to fight the war on terror more effectively, to improve homeland security, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE __—INTELLIGENCE AUTHORIZATION ACT

SEC. ___. SHORT TITLE.

This title may be may be cited as the ''Intelligence Authorization Act for Fiscal Year 2007''.

Subtitle A—Intelligence Activities

SEC. _____. AUTHORIZATION OF APPROPRIATIONS.

Funds are hereby authorized to be appropriated for fiscal year 2007 for the conduct of the intelligence and intelligence-related activities of the following elements of the United States Government:

(1) The Office of the Director of National Intelligence.

(2) The Central Intelligence Agency.

(3) The Department of Defense.

(4) The Defense Intelligence Agency.

(5) The National Security Agency.

(6) The Department of the Army, the Department of the Navy, and the Department of the Air Force.

(7) The Department of State.

(8) The Department of the Treasury.

(9) The Department of Energy.

(10) The Department of Justice.

(11) The Federal Bureau of Investigation.

(12) The National Reconnaissance Office.

(13) The National Geospatial-Intelligence Agency.

(14) The Coast Guard.

(15) The Department of Homeland Security.

(16) The Drug Enforcement Administration.

SEC. _____. CLASSIFIED SCHEDULE OF AUTHORIZATIONS.

(a) SPECIFICATIONS OF AMOUNTS AND PERSONNEL CEILINGS.—The amounts authorized to be appropriated under section _____, and the authorized personnel ceilings as of September 30, 2007, for the conduct of the intelligence and intelligence-related activities of the elements listed in such section, are those specified in the classified Schedule of Authorizations prepared to accompany the conference report on the bill S. 372 of the One Hundred Tenth Congress and in the Classified Annex to such report as incorporated in this Act under section _____.

(b) AVAILABILITY OF CLASSIFIED SCHEDULE OF AUTHORIZATIONS.—The Schedule of Authorizations shall be made available to the Committees on Appropriations of the Senate and House of Representatives and to the President. The President shall provide for suitable distribution of the Schedule, or of appropriate portions of the Schedule, within the executive branch.

SEC. _____. INCORPORATION OF CLASSIFIED ANNEX.

(a) STATUS OF CLASSIFIED ANNEX.—The Classified Annex prepared by the Select Committee on Intelligence of the Senate to accompany its report on the bill S. 372 of the One Hundred Tenth Congress and transmitted to the President is hereby incorporated into this Act.

(b) CONSTRUCTION WITH OTHER PROVISIONS OF DIVISION.—Unless otherwise specifically stated, the amounts specified in the Classified Annex are not in addition to amounts authorized to be appropriated by other provisions of this Act.

(c) LIMITATION ON USE OF FUNDS.—Funds appropriated pursuant to an authorization contained in this Act that are made available for a program, project, or activity referred to in the Classified Annex may only be expended for such program, project, or activity in accordance with such terms, conditions, limitations, restrictions, and requirements as are set out for that program, project, or activity in the Classified Annex.

(d) DISTRIBUTION OF CLASSIFIED ANNEX.—The President shall provide for appropriate distribution of the Classified Annex, or of appropriate portions of the annex, within the executive branch of the Government.

SEC. _____. PERSONNEL CEILING ADJUSTMENTS.

(a) AUTHORITY FOR ADJUSTMENTS.—With the approval of the Director of the Office of Management and Budget, the Director of National Intelligence may authorize employment of civilian personnel in excess of the number authorized for fiscal year 2007 under section _____ when the Director of National Intelligence determines that such action is necessary to the performance of important intelligence functions, except that the number of personnel employed in excess of the number authorized under such section may not, for any element of the intelligence community, exceed 2 percent of the number of civilian personnel authorized under such section for such element.

(b) NOTICE TO INTELLIGENCE COMMITTEES.—The Director of National Intelligence shall promptly notify the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives whenever the Director exercises the authority granted by this section.

SEC. _____. INTELLIGENCE COMMUNITY MANAGEMENT ACCOUNT.

(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for the Intelligence Community Management Account of the Director of National Intelligence for fiscal year 2007 the sum of $648,952,000. Within such amount, funds identified in the classified Schedule of Authorizations referred to in section _____(a) for advanced research and development shall remain available until September 30, 2008.

(b) AUTHORIZED PERSONNEL LEVELS.—The elements within the Intelligence Community Management Account of the Director of National Intelligence are authorized 1,575 full-time personnel as of September 30, 2007. Personnel serving in such elements may be permanent employees of the Intelligence Community Management Account or personnel detailed from other elements of the United States Government.

(c) CLASSIFIED AUTHORIZATIONS.—

(1) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts authorized to be appropriated for the Intelligence Community Management Account by subsection (a), there are also authorized to be appropriated for the Intelligence Community Management Account for fiscal year 2007 such additional amounts as are specified in the classified Schedule of Authorizations referred to in section _____(a). Such additional amounts for research and development shall remain available until September 30, 2008.

(2) AUTHORIZATION OF PERSONNEL.—In addition to the personnel authorized by subsection (b) for elements of the Intelligence Community Management Account as of September 30, 2007, there are also authorized such additional personnel for such elements as of that date as are specified in the classified Schedule of Authorizations.

(d) REIMBURSEMENT.—Except as provided in section 113 of the National Security Act of 1947 (50 U.S.C. 404h), during fiscal year 2007 any officer or employee of the United States or a member of the Armed Forces who is detailed to the staff of the Intelligence Community Management Account from another element of the United States Government shall be detailed on a reimbursable basis, except that any such officer, employee, or member may be detailed on a nonreimbursable basis for a period of less than one year for the performance of temporary functions as required by the Director of National Intelligence.

SEC. _____. INCORPORATION OF REPORTING REQUIREMENTS.

(a) IN GENERAL.—Each requirement to submit a report to the congressional intelligence committees that is included in the joint explanatory statement to accompany the conference report on the bill _____ of the One Hundred Tenth Congress, or in the classified annex to this Act, is hereby incorporated into this Act, and is hereby made a requirement in law.

(b) CONGRESSIONAL INTELLIGENCE COMMITTEES DEFINED.—In this section, the term ''congressional intelligence committees'' means—

(1) the Select Committee on Intelligence of the Senate; and

(2) the Permanent Select Committee on Intelligence of the House of Representatives.

SEC. _____. AVAILABILITY TO PUBLIC OF CERTAIN INTELLIGENCE FUNDING INFORMATION.

(a) AMOUNTS REQUESTED EACH FISCAL YEAR.—The President shall disclose to the public for each fiscal year after fiscal year 2007 the aggregate amount of appropriations requested in the budget of the President for such fiscal year for the National Intelligence Program.

(b) AMOUNTS AUTHORIZED AND APPROPRIATED EACH FISCAL YEAR.—Congress shall disclose to the public for each fiscal year after fiscal year 2006 the aggregate amount of funds authorized to be appropriated, and the aggregate amount of funds appropriated, by Congress for such fiscal year for the National Intelligence Program.

SEC. _____. RESPONSE OF INTELLIGENCE COMMUNITY TO REQUESTS FROM CONGRESS FOR INTELLIGENCE DOCUMENTS AND INFORMATION.

(a) IN GENERAL.—Title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.) is amended by adding at the end the following new section:

''RESPONSE OF INTELLIGENCE COMMUNITY TO REQUESTS FROM CONGRESS FOR INTELLIGENCE DOCUMENTS AND INFORMATION

''SEC. 508. (a) REQUESTS OF COMMITTEES.—The Director of National Intelligence, the Director of the National Counterterrorism Center, the Director of a national intelligence center, or the head of any other department, agency, or element of the Federal Government, or other organization within the Executive branch, that is an element of the intelligence community shall, not later than 15 days after receiving a request for any intelligence assessment, report, estimate, legal opinion, or other intelligence information from the Select Committee on Intelligence of the Senate, the Permanent Select Committee on Intelligence of the House of Representatives, or any other committee of Congress with jurisdiction over the subject matter to which information in such assessment, report, estimate, legal opinion, or

other information relates, make available to such committee such assessment, report, estimate, legal opinion, or other information, as the case may be.

''(b) REQUESTS OF CERTAIN MEMBERS.—(1) The Director of National Intelligence, the Director of the National Counterterrorism Center, the Director of a national intelligence center, or the head of any other department, agency, or element of the Federal Government, or other organization within the Executive branch, that is an element of the intelligence community shall respond, in the time specified in subsection (a), to a request described in that subsection from the Chairman or Vice Chairman of the Select Committee on Intelligence of the Senate or the Chairman or Ranking Member of the Permanent Select Committee on Intelligence of the House of Representatives.

''(2) Upon making a request covered by paragraph (1)—

''(A) the Chairman or Vice Chairman, as the case may be, of the Select Committee on Intelligence of the Senate shall notify the other of the Chairman or Vice Chairman of such request; and

''(B) the Chairman or Ranking Member, as the case may be, of the Permanent Select Committee on Intelligence of the House of Representatives shall notify the other of the Chairman or Ranking Member of such request.

''(c) ASSERTION OF PRIVILEGE.—In response to a request covered by subsection (a) or (b), the Director of National Intelligence, the Director of the National Counterterrorism Center, the Director of a national intelligence center, or the head of any other department, agency, or element of the Federal Government, or other organization within the Executive branch, that is an element of the intelligence community shall provide the document or information covered by such request unless the President certifies that such document or information is not being provided because the President is asserting a privilege pursuant to the Constitution of the United States.''.

(b) CLERICAL AMENDMENT.—The table of contents in the first section of that Act is amended by inserting after the item relating to section 507 the following new item:

''Sec. 508. Response of intelligence community to requests from Congress for intelligence documents and information.''.

Subtitle B—Central Intelligence Agency Retirement and Disability System

SEC. _____. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated for the Central Intelligence Agency Retirement and Disability Fund for fiscal year 2007 the sum of $256,400,000.

Subtitle C—Intelligence and General Intelligence Community Matters

SEC. _____. INCREASE IN EMPLOYEE COMPENSATION AND BENEFITS AUTHORIZED BY LAW.

Appropriations authorized by sections _____ through _____ of this Act for salary, pay, retirement, and other benefits for Federal employees may be increased by such additional or supplemental amounts as may be necessary for increases in such compensation or benefits authorized by law.

SEC. _____. RESTRICTION ON CONDUCT OF INTELLIGENCE ACTIVITIES.

The authorization of appropriations by sections _____ through _____ of this Act shall not be deemed to constitute authority for the conduct of any intelligence activity which is not otherwise authorized by the Constitution or the laws of the United States.

SEC. _____. CLARIFICATION OF DEFINITION OF INTELLIGENCE COMMUNITY UNDER THE NATIONAL SECURITY ACT OF 1947.

Subparagraph (L) of section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)) is amended by striking ''other'' the second place it appears.

SEC. _____. IMPROVEMENT OF NOTIFICATION OF CONGRESS REGARDING INTELLIGENCE ACTIVITIES OF THE UNITED STATES GOVERNMENT.

(a) CLARIFICATION OF DEFINITION OF CONGRESSIONAL INTELLIGENCE COMMITTEES TO INCLUDE ALL MEMBERS OF COMMITTEES.—Section 3(7) of the National Security Act of 1947 (50 U.S.C. 401a(7)) is amended—

(1) in subparagraph (A), by inserting '', and includes each member of the Select Committee'' before the semicolon; and

(2) in subparagraph (B), by inserting '', and includes each member of the Permanent Select Committee'' before the period.

(b) NOTICE ON INFORMATION NOT DISCLOSED.—

(1) IN GENERAL.—Section 502 of such Act (50 U.S.C. 413a) is amended—

(A) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(B) by inserting after subsection (a) the following new subsection (b):

''(b) NOTICE ON INFORMATION NOT DISCLOSED.—(1) If the Director of National Intelligence or the head of a department, agency, or other entity of the United States Government does not provide information required by subsection (a) in full or to all the members of the congressional intelligence committees and requests that such information not be provided in full or to all members of the congressional intelligence committees, the Director shall, in a timely fashion, provide written notification to all the members of such committees of the determination not to provide such information in full or to all members of such committees. Such notice shall be submitted in a classified form and include a statement of the reasons for such determination and a description that provides the main features of the intelligence activities covered by such determination.

''(2) Nothing in this subsection shall be construed as authorizing less than full and current disclosure to all the members of the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives of any information necessary to keep all the members of such committees fully and currently informed on all intelligence activities covered by this section.''.

(2) CONFORMING AMENDMENT.—Subsection (d) of such section, as redesignated by paragraph (1)(A) of this subsection, is amended by striking ''subsection (b)'' and inserting ''subsections (b) and (c)''.

(c) REPORTS AND NOTICE ON COVERT ACTIONS.—

(1) FORM AND CONTENT OF CERTAIN REPORTS.—Subsection (b) of section 503 of such Act (50 U.S.C. 413b) is amended—

(A) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(B) by inserting ''(1)'' after ''(b)''; and

(C) by adding at the end the following new paragraph:

''(2) Any report relating to a covert action that is submitted to the congressional intelligence committees for the purposes of paragraph (1) shall be in writing, and shall contain the following:

''(A) A concise statement of any facts pertinent to such report.

''(B) An explanation of the significance of the covert action covered by such report.''.

(2) NOTICE ON INFORMATION NOT DISCLOSED.—Subsection (c) of such section is amended by adding at the end the following new paragraph:

''(5) If the Director of National Intelligence or the head of a department, agency, or other entity of the United States Government does not provide information required by subsection (b)(2) in full or to all the members of the congressional intelligence committees, and requests that such information not be provided in full or to all members of the congressional intelligence committees, for the reason specified in paragraph (2), the Director shall, in a timely fashion, provide written notification to all the members of such committees of the determination not to provide such information in full or to all members of such committees. Such notice shall be submitted in a classified form and include a statement of the reasons for such determination and a description that provides the main features of the covert action covered by such determination.''.''.

(3) MODIFICATION OF NATURE OF CHANGE OF COVERT ACTION TRIGGERING NOTICE REQUIREMENTS.—Subsection (d) of such section is amended by striking ''significant'' the first place it appears.

SEC. _____. DELEGATION OF AUTHORITY FOR TRAVEL ON COMMON CARRIERS FOR INTELLIGENCE COLLECTION PERSONNEL.

(a) DELEGATION OF AUTHORITY.—Section 116(b) of the National Security Act of 1947 (50 U.S.C. 404k(b)) is amended—

(1) by inserting ''(1)'' before ''The Director'';

(2) in paragraph (1), by striking ''may only delegate'' and all that follows and inserting ''may delegate the authority in subsection (a) to the head of any other element of the intelligence community.''; and

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

''(2) The head of an element of the intelligence community to whom the authority in subsection (a) is delegated pursuant to paragraph (1) may further delegate such authority to such senior officials of such element as are specified in guidelines prescribed by the Director of National Intelligence for purposes of this paragraph.''.

(b) SUBMITTAL OF GUIDELINES TO CONGRESS.—Not later than six months after the date of the enactment of this Act, the Director of National Intelligence shall prescribe and submit to the congressional intelligence committees the guidelines referred to in paragraph (2) of section 116(b) of the National Security Act of 1947, as added by subsection (a).

(c) CONGRESSIONAL INTELLIGENCE COMMITTEES DEFINED.—In this section, the term ''congressional intelligence committees'' means—

(1) the Select Committee on Intelligence of the Senate; and

(2) the Permanent Select Committee on Intelligence of the House of Representatives.

SEC. _____. MODIFICATION OF AVAILABILITY OF FUNDS FOR DIFFERENT INTELLIGENCE ACTIVITIES.

Subparagraph (B) of section 504(a)(3) of the National Security Act of 1947 (50 U.S.C. 414(a)(3)) is amended to read as follows:

''(B) the use of such funds for such activity supports an emergent need, improves program effectiveness, or increases efficiency; and''.

SEC. _____. ADDITIONAL LIMITATION ON AVAILABILITY OF FUNDS FOR INTELLIGENCE AND INTELLIGENCE-RELATED ACTIVITIES.

Section 504 of the National Security Act of 1947 (50 U.S.C. 414) is amended—

(1) in subsection (a), by inserting ''the congressional intelligence committees have been fully and currently informed of such activity and if'' after ''only if'';

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

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

''(b) In any case in which notice to the congressional intelligence committees on an intelligence or intelligence-related activity is covered by section 502(b), or in which notice to the congressional intelligence committees on a covert action is covered by section 503(c)(5), the congressional intelligence committees shall be treated as being fully and currently informed on such activity or covert action, as the case may be, for purposes of subsection (a) if the requirements of such section 502(b) or 503(c)(5), as applicable, have been met.''.

SEC. _____. INCREASE IN PENALTIES FOR DISCLOSURE OF UNDERCOVER INTELLIGENCE OFFICERS AND AGENTS.

(a) DISCLOSURE OF AGENT AFTER ACCESS TO INFORMATION IDENTIFYING AGENT.—Subsection (a) of section 601 of the National Security Act of 1947 (50 U.S.C. 421) is amended by striking ''ten years'' and inserting ''15 years''.

(b) DISCLOSURE OF AGENT AFTER ACCESS TO CLASSIFIED INFORMATION.—Subsection (b) of such section is amended by striking ''five years'' and inserting ''ten years''.

SEC. _____. RETENTION AND USE OF AMOUNTS PAID AS DEBTS TO ELEMENTS OF THE INTELLIGENCE COMMUNITY.

(a) IN GENERAL.—Title XI of the National Security Act of 1947 (50 U.S.C. 442 et seq.) is amended by adding at the end the following new section:

''RETENTION AND USE OF AMOUNTS PAID AS DEBTS TO ELEMENTS OF THE INTELLIGENCE COMMUNITY

''SEC. 1103. (a) AUTHORITY TO RETAIN AMOUNTS PAID.—Notwithstanding section 3302 of title 31, United States Code, or any other provision of law, the head of an element of the intelligence community may retain amounts paid or reimbursed to the United States, including amounts paid by an employee of the Federal Government from personal funds, for repayment of a debt owed to the element of the intelligence community.

''(b) CREDITING OF AMOUNTS RETAINED.—(1) Amounts retained under subsection (a) shall be credited to the current appropriation or account from which such funds were derived or whose expenditure formed the basis for the underlying activity from which the debt concerned arose.

''(2) Amounts credited to an appropriation or account under paragraph (1) shall be merged with amounts in such appropriation or account, and shall be available in accordance with subsection (c).

''(c) AVAILABILITY OF AMOUNTS.—Amounts credited to an appropriation or account under subsection (b) with respect to a debt owed to an element of the intelligence community shall be available to the head of such element, for such time as is applicable to amounts in such appropriation or account, or such longer time as may be provided by law, for purposes as follows:

''(1) In the case of a debt arising from lost or damaged property of such element, the repair of such property or the replacement of such property with alternative property that will perform the same or similar functions as such property.

''(2) The funding of any other activities authorized to be funded by such appropriation or account.

''(d) DEBT OWED TO AN ELEMENT OF THE INTELLIGENCE COMMUNITY DEFINED.—In this section, the term 'debt owed to an element of the intelligence community' means any of the following:

''(1) A debt owed to an element of the intelligence community by an employee or former employee of such element for the negligent or willful loss of or damage to property of such element that was procured by such element using appropriated funds.

''(2) A debt owed to an element of the intelligence community by an employee or former employee of such element as repayment for default on the terms and conditions associated with a scholarship, fellowship, or other educational assistance provided to such individual by such element, whether in exchange for future services or otherwise, using appropriated funds.

''(3) Any other debt or repayment owed to an element of the intelligence community by a private person or entity by reason of the negligent or willful action of such person or entity, as determined by a court of competent jurisdiction or in a lawful administrative proceeding.''.

(b) CLERICAL AMENDMENT.—The table of contents in the first section of that Act is amended by adding at the end the following new item:

''Sec. 1103. Retention and use of amounts paid as debts to elements of the intelligence community.''.

SEC. _____. EXTENSION TO INTELLIGENCE COMMUNITY OF AUTHORITY TO DELETE INFORMATION ABOUT RECEIPT AND DISPOSITION OF FOREIGN GIFTS AND DECORATIONS.

Paragraph (4) of section 7342(f) of title 5, United States Code, is amended to read as follows:

''(4)(A) In transmitting such listings for an element of the intelligence community, the head of such element may delete the information described in subparagraphs (A) and (C) of paragraphs (2) and (3) if the head of such element certifies in writing to the Secretary of State that the publication of such information could adversely affect United States intelligence sources or methods.

''(B) Any information not provided to the Secretary of State pursuant to the authority in subparagraph (A) shall be transmitted to the Director of National Intelligence.

''(C) In this paragraph, the term 'element of the intelligence community' means an element of the intelligence community listed in or designated under section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).''.

SEC. _____. AVAILABILITY OF FUNDS FOR TRAVEL AND TRANSPORTATION OF PERSONAL EFFECTS, HOUSEHOLD GOODS, AND AUTOMOBILES.

(a) FUNDS OF OFFICE OF DIRECTOR OF NATIONAL INTELLIGENCE.—Funds appropriated to the Office of the Director of National Intelligence and available for travel and transportation expenses shall be available for such expenses when any part of the travel or transportation concerned begins in a fiscal year pursuant to travel orders issued in such fiscal year, notwithstanding that such travel or transportation is or may not be completed during such fiscal year.

(b) FUNDS OF CENTRAL INTELLIGENCE AGENCY.—Funds appropriated to the Central Intelligence Agency and available for travel and transportation expenses shall be available for such expenses when any part of the travel or transportation concerned begins in a fiscal year pursuant to travel orders issued in such fiscal year, notwithstanding that such travel or transportation is or may not be completed during such fiscal year.

(c) TRAVEL AND TRANSPORTATION EXPENSES DEFINED.—In this section, the term ''travel and transportation expenses'' means the following:

(1) Expenses in connection with travel of personnel, including travel of dependents.

(2) Expenses in connection with transportation of personal effects, household goods, or automobiles of personnel.

SEC. _____. DIRECTOR OF NATIONAL INTELLIGENCE REPORT ON COMPLIANCE WITH THE DETAINEE TREATMENT ACT OF 2005.

(a) REPORT REQUIRED.—Not later than May 1, 2007, the Director of National Intelligence shall submit to the congressional intelligence committees a comprehensive report on all measures taken by the Office of the Director of National Intelligence and by each element, if any, of the intelligence community with relevant responsibilities to comply with the provisions of the Detainee Treatment Act of 2005 (title X of division A of Public Law 109–148).

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

(1) A description of the detention or interrogation methods, if any, that have been determined to comply with section 1003 of the Detainee Treatment Act of 2005 (119 Stat. 2739; 42 U.S.C. 2000dd), and, with respect to each such method—

(A) an identification of the official making such determination; and

(B) a statement of the basis for such determination.

(2) A description of the detention or interrogation methods, if any, whose use has been discontinued pursuant to the Detainee Treatment Act of 2005, and, with respect to each such method—

(A) an identification of the official making the determination to discontinue such method; and

(B) a statement of the basis for such determination.

(3) A description of any actions that have been taken to implement section 1004 of the Detainee Treatment Act of 2005 (119 Stat. 2740; 42 U.S.C. 2000dd–1), and, with respect to each such action—

(A) an identification of the official taking such action; and

(B) a statement of the basis for such action.

(4) Any other matters that the Director considers necessary to fully and currently inform the congressional intelligence committees about the implementation of the Detainee Treatment Act of 2005.

(5) An appendix containing—

(A) all guidelines for the application of the Detainee Treatment Act of 2005 to the detention or interrogation activities, if any, of any element of the intelligence community; and

(B) all legal opinions of any office or official of the Department of Justice about the meaning or application of Detainee Treatment Act of 2005 with respect to the detention or interrogation activities, if any, of any element of the intelligence community.

(c) FORM.—The report required by subsection (a) shall be submitted in classified form.

(d) DEFINITIONS.—In this section:

(1) The term ''congressional intelligence committees'' means—

(A) the Select Committee on Intelligence of the Senate; and

(B) the Permanent Select Committee of the House of Representatives.

(2) The term ''intelligence community'' means the elements of the intelligence community specified in or designated under section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

SEC. _____. REPORT ON ANY CLANDESTINE DETENTION FACILITIES FOR INDIVIDUALS CAPTURED IN THE GLOBAL WAR ON TERRORISM.

(a) IN GENERAL.—The President shall ensure that the United States Government continues to comply with the authorization, reporting, and notification requirements of title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.).

(b) DIRECTOR OF NATIONAL INTELLIGENCE REPORT.—

(1) REPORT REQUIRED.—Not later than 60 days after the date of the enactment of this Act, the Director of National Intelligence shall provide to the members of the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives a report on any clandestine prison or detention facility currently or formerly operated by the United States Government for individuals captured in the global war on terrorism.

(2) ELEMENTS.—The report required by paragraph (1) shall include the following:

(A) The date each prison or facility became operational and, if applicable, the date on which each prison or facility ceased its operations.

(B) The total number of prisoners or detainees held at each prison or facility during its operation.

(C) The current number of prisoners or detainees held at each operational prison or facility.

(D) The total and average annual costs of each prison or facility during its operation.

(E) A description of the interrogation procedures used or formerly used on detainees at each prison or facility, including whether a determination has been made that such procedures are or were in compliance with the United States obligations under the Geneva Conventions and the Convention Against Torture.

Subtitle D—Matters Relating to Elements of the Intelligence Community

PART I—OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE

SEC. _____. ADDITIONAL AUTHORITIES OF THE DIRECTOR OF NATIONAL INTELLIGENCE ON INTELLIGENCE INFORMATION SHARING.

Section 102A(g)(1) of the National Security Act of 1947 (50 U.S.C. 403–1(g)(1)) is amended—

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

(2) in subparagraph (F), by striking the period and inserting a semicolon; and

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

''(G) in carrying out this subsection, have the authority—

''(i) to direct the development, deployment, and utilization of systems of common concern for elements of the intelligence community, or that support the activities of such elements, related to the collection, processing, analysis, exploitation, and dissemination of intelligence information; and

''(ii) without regard to any provision of law relating to the transfer, reprogramming, obligation, or expenditure of funds, other than the provisions of this Act and the National Security Intelligence Reform Act of 2004 (title I of Public Law 108–458), to expend funds for purposes associated with the development, deployment, and utilization of such systems, which funds may be received and utilized by any department, agency, or other element of the United States Government for such purposes; and

''(H) for purposes of addressing critical gaps in intelligence information sharing or access capabilities, have the authority to transfer funds appropriated for a program within the National Intelligence Program to a program funded by appropriations not within the National Intelligence Program, consistent with paragraphs (3) through (7) of subsection (d).''.

SEC. _____. MODIFICATION OF LIMITATION ON DELEGATION BY THE DIRECTOR OF NATIONAL INTELLIGENCE OF THE PROTECTION OF INTELLIGENCE SOURCES AND METHODS.

Section 102A(i)(3) of the National Security Act of 1947 (50 U.S.C. 403–1(i)(3)) is amended by inserting before the period the following: '', any Deputy Director of National Intelligence, or the Chief Information Officer of the Intelligence Community''.

SEC. _____. AUTHORITY OF THE DIRECTOR OF NATIONAL INTELLIGENCE TO MANAGE ACCESS TO HUMAN INTELLIGENCE INFORMATION.

Section 102A(b) of the National Security Act of 1947 (50 U.S.C. 403–1(b)) is amended—

(1) by inserting ''(1)'' before ''Unless''; and

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

''(2) The Director of National Intelligence shall—

''(A) have access to all national intelligence, including intelligence reports, operational data, and other associated information, concerning the human intelligence operations of any element of the intelligence community authorized to undertake such collection;

''(B) consistent with the protection of intelligence sources and methods and applicable requirements in Executive Order 12333 (or any successor order) regarding the retention and dissemination of information concerning United States persons, ensure maximum access to the intelligence information contained in the information referred to in subparagraph (A) throughout the intelligence community; and

''(C) consistent with subparagraph (B), provide within the Office of the Director of National Intelligence a mechanism for intelligence community analysts and other officers with appropriate clearances and an official need-to-know to gain access to information referred to in subparagraph (A) or (B) when relevant to their official responsibilities.''.

SEC. _____. ADDITIONAL ADMINISTRATIVE AUTHORITY OF THE DIRECTOR OF NATIONAL INTELLIGENCE.

Section 102A of the National Security Act of 1947 (50 U.S.C. 403–1) is amended by adding at the end the following new subsection:

''(s) ADDITIONAL ADMINISTRATIVE AUTHORITIES.—(1) Notwithstanding section 1532 of title 31, United States Code, or any other provision of law prohibiting the interagency financing of activities described in clause (i) or (ii) of subparagraph (A), in the performance of the responsibilities, authorities, and duties of the Director of National Intelligence or the Office of the Director of National Intelligence—

''(A) the Director may authorize the use of interagency financing for—

''(i) national intelligence centers established by the Director under section 119B; and

''(ii) boards, commissions, councils, committees, and similar groups established by the Director; and

''(B) upon the authorization of the Director, any department, agency, or element of the United States Government, including any element of the intelligence community, may fund or participate in the funding of such activities.

''(2) No provision of law enacted after the date of the enactment of this subsection shall be deemed to limit or supersede the authority in paragraph (1) unless such provision makes specific reference to the authority in that paragraph.''.

SEC. _____. CLARIFICATION OF LIMITATION ON CO-LOCATION OF THE OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE.

Section 103(e) of the National Security Act of 1947 (50 U.S.C. 403–3(e)) is amended—

(1) by striking ''**WITH**'' and inserting ''**OF HEADQUARTERS WITH HEADQUARTERS OF**'';

(2) by inserting ''the headquarters of'' before ''the Office''; and

(3) by striking ''any other element'' and inserting ''the headquarters of any other element''.

SEC. _____. ADDITIONAL DUTIES OF THE DIRECTOR OF SCIENCE AND TECHNOLOGY OF THE OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE.

(a) COORDINATION AND PRIORITIZATION OF RESEARCH CONDUCTED BY ELEMENTS OF INTELLIGENCE COMMUNITY.—Subsection (d) of section 103E of the National Security Act of 1947 (50 U.S.C. 403–3e) is amended—

(1) in paragraph (3)(A), by inserting ''and prioritize'' after ''coordinate''; and

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

''(4) In carrying out paragraph (3)(A), the Committee shall identify basic, advanced, and applied research programs to be carried out by elements of the intelligence community.''.

(b) DEVELOPMENT OF TECHNOLOGY GOALS.—That section is further amended—

(1) in subsection (c)—

(A) in paragraph (4), by striking ''and'' at the end;

(B) by redesignating paragraph (5) as paragraph (8); and

(C) by inserting after paragraph (4) the following new paragraphs:

''(5) assist the Director in establishing goals for the elements of the intelligence community to meet the technology needs of the intelligence community;

''(6) under the direction of the Director, establish engineering standards and specifications applicable to each acquisition of a major system (as that term is defined in section 506A(e)(3)) by the intelligence community;

''(7) ensure that each acquisition program of the intelligence community for a major system (as so defined) complies with the standards and specifications established under paragraph (6); and''; and

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

''(e) GOALS FOR TECHNOLOGY NEEDS OF INTELLIGENCE COMMUNITY.—In carrying out subsection (c)(5), the Director of Science and Technology shall—

''(1) systematically identify and assess the most significant intelligence challenges that require technical solutions;

''(2) examine options to enhance the responsiveness of research and design programs of the elements of the intelligence community to meet the requirements of the intelligence community for timely support; and

''(3) assist the Director of National Intelligence in establishing research and development priorities and projects for the intelligence community that—

''(A) are consistent with current or future national intelligence requirements;

''(B) address deficiencies or gaps in the collection, processing, analysis, or dissemination of national intelligence;

''(C) take into account funding constraints in program development and acquisition; and

''(D) address system requirements from collection to final dissemination (also known as 'end-to-end architecture').''.

(c) REPORT.—(1) Not later than June 30, 2007, the Director of National Intelligence shall submit to Congress a report containing a strategy for the development and use of technology in the intelligence community through 2021.

(2) The report shall include—

(A) an assessment of the highest priority intelligence gaps across the intelligence

community that may be resolved by the use of technology;

(B) goals for advanced research and development and a strategy to achieve such goals;

(C) an explanation of how each advanced research and development project funded under the National Intelligence Program addresses an identified intelligence gap;

(D) a list of all current and projected research and development projects by research type (basic, advanced, or applied) with estimated funding levels, estimated initiation dates, and estimated completion dates; and

(E) a plan to incorporate technology from research and development projects into National Intelligence Program acquisition programs.

(3) The report may be submitted in classified form.

SEC. _____. APPOINTMENT AND TITLE OF CHIEF INFORMATION OFFICER OF THE INTELLIGENCE COMMUNITY.

(a) APPOINTMENT.—

(1) IN GENERAL.—Subsection (a) of section 103G of the National Security Act of 1947 (50 U.S.C. 403–3g) is amended by striking ''the President, by and with the advice and consent of the Senate'' and inserting ''the Director of National Intelligence''.

(2) APPLICABILITY.—The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act, and shall apply with respect to any appointment of an individual as Chief Information Officer of the Intelligence Community that is made on or after that date.

(b) TITLE.—Such section is further amended—

(1) in subsection (a), by inserting ''of the Intelligence Community'' after ''Chief Information Officer'';

(2) in subsection (b), by inserting ''of the Intelligence Community'' after ''Chief Information Officer'';

(3) in subsection (c), by inserting ''of the Intelligence Community'' after ''Chief Information Officer''; and

(4) in subsection (d), by inserting ''of the Intelligence Community'' after ''Chief Information Officer'' the first place it appears.

SEC. _____. INSPECTOR GENERAL OF THE INTELLIGENCE COMMUNITY.

(a) ESTABLISHMENT.—(1) Title I of the National Security Act of 1947 (50 U.S.C. 402 et seq.) is amended by inserting after section 103G the following new section:

''INSPECTOR GENERAL OF THE INTELLIGENCE COMMUNITY

''SEC. 103H. (a) OFFICE OF INSPECTOR GENERAL OF INTELLIGENCE COMMUNITY.—There is within the Office of the Director of National Intelligence an Office of the Inspector General of the Intelligence Community.

''(b) PURPOSE.—The purpose of the Office of the Inspector General of the Intelligence Community is to—

''(1) create an objective and effective office, appropriately accountable to Congress, to initiate and conduct independently investigations, inspections, and audits relating to—

''(A) the programs and operations of the intelligence community;

''(B) the elements of the intelligence community within the National Intelligence Program; and

''(C) the relationships between the elements of the intelligence community within the National Intelligence Program and the other elements of the intelligence community;

''(2) recommend policies designed—

''(A) to promote economy, efficiency, and effectiveness in the administration and implementation of such programs and operations, and in such relationships; and

''(B) to prevent and detect fraud and abuse in such programs, operations, and relationships;

''(3) provide a means for keeping the Director of National Intelligence fully and currently informed about—

''(A) problems and deficiencies relating to the administration and implementation of such programs and operations, and to such relationships; and

''(B) the necessity for, and the progress of, corrective actions; and

''(4) in the manner prescribed by this section, ensure that the congressional intelligence committees are kept similarly informed of—

''(A) significant problems and deficiencies relating to the administration and implementation of such programs and operations, and to such relationships; and

''(B) the necessity for, and the progress of, corrective actions.

''(c) INSPECTOR GENERAL OF INTELLIGENCE COMMUNITY.—(1) There is an Inspector General of the Intelligence Community, who shall be the head of the Office of the Inspector General of the Intelligence Community, who shall be appointed by the President, by and with the advice and consent of the Senate.

''(2) The nomination of an individual for appointment as Inspector General shall be made—

''(A) without regard to political affiliation;

''(B) solely on the basis of integrity, compliance with the security standards of the intelligence community, and prior experience in the field of intelligence or national security; and

''(C) on the basis of demonstrated ability in accounting, financial analysis, law, management analysis, public administration, or auditing.

''(3) The Inspector General shall report directly to and be under the general supervision of the Director of National Intelligence.

''(4) The Inspector General may be removed from office only by the President. The President shall immediately communicate in writing to the congressional intelligence committees the reasons for the removal of any individual from the position of Inspector General.

''(d) DUTIES AND RESPONSIBILITIES.—Subject to subsections (g) and (h), it shall be the duty and responsibility of the Inspector General of the Intelligence Community—

''(1) to provide policy direction for, and to plan, conduct, supervise, and coordinate independently, the investigations, inspections, and audits relating to the programs and operations of the intelligence community, the elements of the intelligence community within the National Intelligence Program, and the relationships between the elements of the intelligence community within the National Intelligence Program and the other elements of the intelligence community to ensure they are conducted efficiently and in accordance with applicable law and regulations;

''(2) to keep the Director of National Intelligence fully and currently informed concerning violations of law and regulations, violations of civil liberties and privacy, and fraud and other serious problems, abuses, and deficiencies that may occur in such programs and operations, and in such relationships, and to report the progress made in implementing corrective action;

''(3) to take due regard for the protection of intelligence sources and methods in the preparation of all reports issued by the Inspector General, and, to the extent consistent with the purpose and objective of such reports, take such measures as may be appropriate to minimize the disclosure of intelligence sources and methods described in such reports; and

''(4) in the execution of the duties and responsibilities under this section, to comply with generally accepted government auditing standards.

''(e) LIMITATIONS ON ACTIVITIES.—(1) The Director of National Intelligence may prohibit the Inspector General of the Intelligence Community from initiating, carrying out, or completing any investigation, inspection, or audit if the Director determines that such prohibition is necessary to protect vital national security interests of the United States.

''(2) If the Director exercises the authority under paragraph (1), the Director shall submit an appropriately classified statement of the reasons for the exercise of such authority within 7 days to the congressional intelligence committees.

''(3) The Director shall advise the Inspector General at the time a report under paragraph (2) is submitted, and, to the extent consistent with the protection of intelligence sources and methods, provide the Inspector General with a copy of such report.

''(4) The Inspector General may submit to the congressional intelligence committees any comments on a report of which the Inspector General has notice under paragraph (3) that the Inspector General considers appropriate.

''(f) AUTHORITIES.—(1) The Inspector General of the Intelligence Community shall have direct and prompt access to the Director of National Intelligence when necessary for any purpose pertaining to the performance of the duties of the Inspector General.

''(2)(A) The Inspector General shall have access to any employee, or any employee of a contractor, of any element of the intelligence community whose testimony is needed for the performance of the duties of the Inspector General.

''(B) The Inspector General shall have direct access to all records, reports, audits, reviews, documents, papers, recommendations, or other material which relate to the programs and operations with respect to which the Inspector General has responsibilities under this section.

''(C) The level of classification or compartmentation of information shall not, in and of itself, provide a sufficient rationale for denying the Inspector General access to any materials under subparagraph (B).

''(D) Failure on the part of any employee, or any employee of a contractor, of any element of the intelligence community to cooperate with the Inspector General shall be grounds for appropriate administrative actions by the Director or, on the recommendation of the Director, other appropriate officials of the intelligence community, including loss of employment or the termination of an existing contractual relationship.

''(3) The Inspector General is authorized to receive and investigate complaints or information from any person concerning the existence of an activity constituting a violation of laws, rules, or regulations, or mismanagement, gross waste of funds, abuse of authority, or a substantial and specific danger to the public health and safety. Once such complaint or information has been received from an employee of the Federal Government—

''(A) the Inspector General shall not disclose the identity of the employee without the consent of the employee, unless the Inspector General determines that such disclosure is unavoidable during the course of the investigation or the disclosure is made to an official of the Department of Justice responsible for determining whether a prosecution should be undertaken; and

''(B) no action constituting a reprisal, or threat of reprisal, for making such complaint may be taken by any employee in a position to take such actions, unless the complaint was made or the information was disclosed with the knowledge that it was false or with willful disregard for its truth or falsity.

''(4) The Inspector General shall have authority to administer to or take from any person an oath, affirmation, or affidavit, whenever necessary in the performance of the duties of the Inspector General, which oath, affirmation, or affidavit when administered or taken by or before an employee of the Office of the Inspector General of the Intelligence Community designated by the Inspector General shall have the same force and effect as if administered or taken by or before an officer having a seal.

''(5)(A) Except as provided in subparagraph (B), the Inspector General is authorized to require by subpoena the production of all information, documents, reports, answers, records, accounts, papers, and other data and documentary evidence necessary in the performance of the duties and responsibilities of the Inspector General.

''(B) In the case of departments, agencies, and other elements of the United States Government, the Inspector General shall obtain information, documents, reports, answers, records, accounts, papers, and other data and evidence for the purpose specified in subparagraph (A) using procedures other than by subpoenas.

''(C) The Inspector General may not issue a subpoena for or on behalf of any other element of the intelligence community, including the Office of the Director of National Intelligence.

''(D) In the case of contumacy or refusal to obey a subpoena issued under this paragraph, the subpoena shall be enforceable by order of any appropriate district court of the United States.

''(g) COORDINATION AMONG INSPECTORS GENERAL OF INTELLIGENCE COMMUNITY.—(1) In the event of a matter within the jurisdiction of the Inspector General of the Intelligence Community that may be subject to an investigation, inspection, or audit by both the Inspector General of the Intelligence Community and an Inspector General, whether statutory or administrative, with oversight responsibility for an element or elements of the intelligence community, the Inspector General of the Intelligence Community and such other Inspector or Inspectors General shall expeditiously resolve which Inspector General shall conduct such investigation, inspection, or audit.

''(2) The Inspector General conducting an investigation, inspection, or audit covered by paragraph (1) shall submit the results of such investigation, inspection, or audit to any other Inspector General, including the Inspector General of the Intelligence Community, with jurisdiction to conduct such investigation, inspection, or audit who did not conduct such investigation, inspection, or audit.

''(3)(A) If an investigation, inspection, or audit covered by paragraph (1) is conducted by an Inspector General other than the Inspector General of the Intelligence Community, the Inspector General of the Intelligence Community may, upon completion of such investigation, inspection, or audit by such other Inspector General, conduct under this section a separate investigation, inspection, or audit of the matter concerned if the Inspector General of the Intelligence Community determines that such initial investigation, inspection, or audit was deficient in some manner or that further investigation, inspection, or audit is required.

''(B) This paragraph shall not apply to the Inspector General of the Department of Defense or to any other Inspector General within the Department of Defense.

''(h) STAFF AND OTHER SUPPORT.—(1) The Inspector General of the Intelligence Community shall be provided with appropriate and adequate office space at central and field office locations, together with such equipment, office supplies, maintenance services, and communications facilities and services as may be necessary for the operation of such offices.

''(2)(A) Subject to applicable law and the policies of the Director of National Intelligence, the Inspector General shall select, appoint, and employ such officers and employees as may be necessary to carry out the functions of the Inspector General. The Inspector General shall ensure that any officer or employee so selected, appointed, or employed has security clearances appropriate for the assigned duties of such officer or employee.

''(B) In making selections under subparagraph (A), the Inspector General shall ensure that such officers and employees have the requisite training and experience to enable the Inspector General to carry out the duties of the Inspector General effectively.

''(C) In meeting the requirements of this paragraph, the Inspector General shall create within the Office of the Inspector General of the Intelligence Community a career cadre of sufficient size to provide appropriate continuity and objectivity needed for the effective performance of the duties of the Inspector General.

''(3)(A) Subject to the concurrence of the Director, the Inspector General may request such information or assistance as may be necessary for carrying out the duties and responsibilities of the Inspector General from any department, agency, or other element of the United States Government.

''(B) Upon request of the Inspector General for information or assistance under subparagraph (A), the head of the department, agency, or element concerned shall, insofar as is practicable and not in contravention of any existing statutory restriction or regulation of the department, agency, or element, furnish to the Inspector General, or to an authorized designee, such information or assistance.

''(C) The Inspector General of the Intelligence Community may, upon reasonable notice to the head of any element of the intelligence community, conduct, as authorized by this section, an investigation, inspection, or audit of such element and may enter into any place occupied by such element for purposes of the performance of the duties of the Inspector General.

''(i) REPORTS.—(1)(A) The Inspector General of the Intelligence Community shall, not later than January 31 and July 31 of each year, prepare and submit to the Director of National Intelligence a classified, and, as appropriate, unclassified semiannual report summarizing the activities of the Office of the Inspector General of the Intelligence Community during the immediately preceding 6-month periods ending December 31 (of the preceding year) and June 30, respectively.

''(B) Each report under this paragraph shall include, at a minimum, the following:

''(i) A list of the title or subject of each investigation, inspection, or audit conducted during the period covered by such report, including a summary of the progress of each particular investigation, inspection, or audit since the preceding report of the Inspector General under this paragraph.

''(ii) A description of significant problems, abuses, and deficiencies relating to the administration and implementation of programs and operations of the intelligence community, and in the relationships between elements of the intelligence community, identified by the Inspector General during the period covered by such report.

''(iii) A description of the recommendations for corrective or disciplinary action made by the Inspector General during the period covered by such report with respect to significant problems, abuses, or deficiencies identified in clause (ii).

''(iv) A statement whether or not corrective or disciplinary action has been completed on each significant recommendation described in previous semiannual reports, and, in a case where corrective action has been completed, a description of such corrective action.

''(v) A certification whether or not the Inspector General has had full and direct access to all information relevant to the performance of the functions of the Inspector General.

''(vi) A description of the exercise of the subpoena authority under subsection (f)(5) by the Inspector General during the period covered by such report.

''(vii) Such recommendations as the Inspector General considers appropriate for legislation to promote economy, efficiency, and effectiveness in the administration and implementation of programs and operations undertaken by the intelligence community, and in the relationships between elements of the intelligence community, and to detect and eliminate fraud and abuse in such programs and operations and in such relationships.

''(C) Not later than the 30 days after the date of receipt of a report under subparagraph (A), the Director shall transmit the report to the congressional intelligence committees together with any comments the Director considers appropriate.

''(2)(A) The Inspector General shall report immediately to the Director whenever the Inspector General becomes aware of particularly serious or flagrant problems, abuses, or deficiencies relating to the administration and implementation of programs or operations of the intelligence community or in the relationships between elements of the intelligence community.

''(B) The Director shall transmit to the congressional intelligence committees each report under subparagraph (A) within seven calendar days of receipt of such report, together with such comments as the Director considers appropriate.

''(3) In the event that—

''(A) the Inspector General is unable to resolve any differences with the Director affecting the execution of the duties or responsibilities of the Inspector General;

''(B) an investigation, inspection, or audit carried out by the Inspector General focuses on any current or former intelligence community official who—

''(i) holds or held a position in an element of the intelligence community that is subject to appointment by the President, whether or not by and with the advice and consent of the Senate, including such a position held on an acting basis;

''(ii) holds or held a position in an element of the intelligence community, including a position held on an acting basis, that is appointed by the Director of National Intelligence; or

''(iii) holds or held a position as head of an element of the intelligence community or a position covered by subsection (b) or (c) of section 106;

''(C) a matter requires a report by the Inspector General to the Department of Justice on possible criminal conduct by a current or former official described in subparagraph (B);

''(D) the Inspector General receives notice from the Department of Justice declining or

approving prosecution of possible criminal conduct of any current or former official described in subparagraph (B); or

''(E) the Inspector General, after exhausting all possible alternatives, is unable to obtain significant documentary information in the course of an investigation, inspection, or audit,

the Inspector General shall immediately notify and submit a report on such matter to the congressional intelligence committees.

''(4) Pursuant to title V, the Director shall submit to the congressional intelligence committees any report or findings and recommendations of an investigation, inspection, or audit conducted by the office which has been requested by the Chairman or Vice Chairman or Ranking Minority Member of either committee.

''(5)(A) An employee of an element of the intelligence community, an employee assigned or detailed to an element of the intelligence community, or an employee of a contractor to the intelligence community who intends to report to Congress a complaint or information with respect to an urgent concern may report such complaint or information to the Inspector General.

''(B) Not later than the end of the 14-calendar day period beginning on the date of receipt from an employee of a complaint or information under subparagraph (A), the Inspector General shall determine whether the complaint or information appears credible. Upon making such a determination, the Inspector General shall transmit to the Director a notice of that determination, together with the complaint or information.

''(C) Upon receipt of a transmittal from the Inspector General under subparagraph (B), the Director shall, within seven calendar days of such receipt, forward such transmittal to the congressional intelligence committees, together with any comments the Director considers appropriate.

''(D)(i) If the Inspector General does not find credible under subparagraph (B) a complaint or information submitted under subparagraph (A), or does not transmit the complaint or information to the Director in accurate form under subparagraph (B), the employee (subject to clause (ii)) may submit the complaint or information to Congress by contacting either or both of the congressional intelligence committees directly.

''(ii) An employee may contact the intelligence committees directly as described in clause (i) only if the employee—

''(I) before making such a contact, furnishes to the Director, through the Inspector General, a statement of the employee's complaint or information and notice of the employee's intent to contact the congressional intelligence committees directly; and

''(II) obtains and follows from the Director, through the Inspector General, direction on how to contact the intelligence committees in accordance with appropriate security practices.

''(iii) A member or employee of one of the congressional intelligence committees who receives a complaint or information under clause (i) does so in that member or employee's official capacity as a member or employee of such committee.

''(E) The Inspector General shall notify an employee who reports a complaint or information to the Inspector General under this paragraph of each action taken under this paragraph with respect to the complaint or information. Such notice shall be provided not later than 3 days after any such action is taken.

''(F) An action taken by the Director or the Inspector General under this paragraph shall not be subject to judicial review.

''(G) In this paragraph, the term 'urgent concern' means any of the following:

''(i) A serious or flagrant problem, abuse, violation of law or Executive order, or deficiency relating to the funding, administration, or operation of an intelligence activity involving classified information, but does not include differences of opinions concerning public policy matters.

''(ii) A false statement to Congress, or a willful withholding from Congress, on an issue of material fact relating to the funding, administration, or operation of an intelligence activity.

''(iii) An action, including a personnel action described in section 2302(a)(2)(A) of title 5, United States Code, constituting reprisal or threat of reprisal prohibited under subsection (f)(3)(B) of this section in response to an employee's reporting an urgent concern in accordance with this paragraph.

''(H) In support of this paragraph, Congress makes the findings set forth in paragraphs (1) through (6) of section 701(b) of the Intelligence Community Whistleblower Protection Act of 1998 (title VII of Public Law 105–272; 5 U.S.C. App. 8H note).

''(6) In accordance with section 535 of title 28, United States Code, the Inspector General shall report to the Attorney General any information, allegation, or complaint received by the Inspector General relating to violations of Federal criminal law that involves a program or operation of an element of the intelligence community, or in the relationships between the elements of the intelligence community, consistent with such guidelines as may be issued by the Attorney General pursuant to subsection (b)(2) of such section. A copy of each such report shall be furnished to the Director.

''(j) SEPARATE BUDGET ACCOUNT.—The Director of National Intelligence shall, in accordance with procedures to be issued by the Director in consultation with the congressional intelligence committees, include in the National Intelligence Program budget a separate account for the Office of Inspector General of the Intelligence Community.

''(k) CONSTRUCTION OF DUTIES REGARDING ELEMENTS OF INTELLIGENCE COMMUNITY.—Except as resolved pursuant to subsection (g), the performance by the Inspector General of the Intelligence Community of any duty, responsibility, or function regarding an element of the intelligence community shall not be construed to modify or effect the duties and responsibilities of any other Inspector General, whether statutory or administrative, having duties and responsibilities relating to such element.''.

(2) The table of contents in the first section of the National Security Act of 1947 is amended by inserting after the item relating to section 103G the following new item:

''Sec. 103H. Inspector General of the Intelligence Community.''.

(b) REPEAL OF SUPERSEDED AUTHORITY TO ESTABLISH POSITION.—Section 8K of the Inspector General Act of 1978 (5 U.S.C. App.) is repealed.

(c) EXECUTIVE SCHEDULE LEVEL IV.—Section 5314 of title 5, United States Code, is amended by adding at the end the following new item:

''Inspector General of the Intelligence Community.''.

SEC. _____. LEADERSHIP AND LOCATION OF CERTAIN OFFICES AND OFFICIALS.

(a) NATIONAL COUNTER PROLIFERATION CENTER.—Section 119A(a) of the National Security Act of 1947 (50 U.S.C. 404o–1(a)) is amended—

(1) by striking ''(a) ESTABLISHMENT.—Not later than 18 months after the date of the enactment of the National Security Intelligence Reform Act of 2004, the'' and inserting the following:

''(a) IN GENERAL.—

''(1) ESTABLISHMENT.—The''; and

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

''(2) DIRECTOR.—The head of the National Counter Proliferation Center shall be the Director of the National Counter Proliferation Center, who shall be appointed by the Director of National Intelligence.

''(3) LOCATION.—The National Counter Proliferation Center shall be located within the Office of the Director of National Intelligence.''.

(b) OFFICERS.—Section 103(c) of that Act (50 U.S.C. 403–3(c)) is amended—

(1) by redesignating paragraph (9) as paragraph (13); and

(2) by inserting after paragraph (8) the following new paragraphs:

''(9) The Chief Information Officer of the Intelligence Community.

''(10) The Inspector General of the Intelligence Community.

''(11) The Director of the National Counterterrorism Center.

''(12) The Director of the National Counter Proliferation Center.''.

SEC. _____. NATIONAL SPACE INTELLIGENCE CENTER.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—Title I of the National Security Act of 1947 (50 U.S.C. 401 et seq.) is amended by adding after section 119B the following new section:

''NATIONAL SPACE INTELLIGENCE CENTER

''SEC. 119C. (a) ESTABLISHMENT.—There is established within the Office of the Director of National Intelligence a National Space Intelligence Center.

''(b) DIRECTOR OF NATIONAL SPACE INTELLIGENCE CENTER.—The National Intelligence Officer for Science and Technology, or a successor position designated by the Director of National Intelligence, shall act as the Director of the National Space Intelligence Center.

''(c) MISSIONS.—The National Space Intelligence Center shall have the following missions:

''(1) To coordinate and provide policy direction for the management of space-related intelligence assets.

''(2) To prioritize collection activities consistent with the National Intelligence Collection Priorities framework, or a successor framework or other document designated by the Director of National Intelligence.

''(3) To provide policy direction for programs designed to ensure a sufficient cadre of government and nongovernment personnel in fields relating to space intelligence, including programs to support education, recruitment, hiring, training, and retention of qualified personnel.

''(4) To evaluate independent analytic assessments of threats to classified United States space intelligence systems throughout all phases of the development, acquisition, and operation of such systems.

''(d) ACCESS TO INFORMATION.—The Director of National Intelligence shall ensure that the National Space Intelligence Center has access to all national intelligence information (as appropriate), and such other information (as appropriate and practical), necessary for the Center to carry out the missions of the Center under subsection (c).

''(e) SEPARATE BUDGET ACCOUNT.—The Director of National Intelligence shall include in the National Intelligence Program budget a separate line item for the National Space Intelligence Center.''.

(2) CLERICAL AMENDMENT.—The table of contents for that Act is amended by inserting after the item relating to section 119B the following new item:

''Sec. 119C. National Space Intelligence Center.''.

(b) REPORT ON ORGANIZATION OF CENTER.—(1) REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Director of the National Space Intelligence Center shall submit to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives a report on the organizational structure of the National Space Intelligence Center established by section 119C of the National Security Act of 1947 (as added by subsection (a)).

(2) ELEMENTS.—The report required by paragraph (1) shall include the following:

(A) The proposed organizational structure of the National Space Intelligence Center.

(B) An identification of key participants in the Center.

(C) A strategic plan for the Center during the five-year period beginning on the date of the report.

SEC. _____. OPERATIONAL FILES IN THE OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE.

(a) IN GENERAL.—Title VII of the National Security Act of 1947 (50 U.S.C. 431 et seq.) is amended by inserting before section 701 the following new section:

''OPERATIONAL FILES IN THE OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE

''SEC. 700. (a) EXEMPTION OF CERTAIN FILES FROM SEARCH, REVIEW, PUBLICATION, OR DISCLOSURE.—(1) Information and records described in paragraph (2) shall be exempt from the provisions of section 552 of title 5, United States Code, that require search, review, publication, or disclosure in connection therewith when—

''(A) such information or records are not disseminated outside the Office of the Director of National Intelligence; or

''(B) such information or records are incorporated into new information or records created by personnel of the Office in a manner that identifies such new information or records as incorporating such information or records and such new information or records are not disseminated outside the Office.

''(2) Information and records described in this paragraph are the following:

''(A) Information disseminated or otherwise provided to an element of the Office of the Director of National Intelligence from the operational files of an element of the intelligence community that have been exempted from search, review, publication, or disclosure in accordance with this title or any other provision of law.

''(B) Any information or records created by the Office that incorporate information described in subparagraph (A).

''(3) An operational file of an element of the intelligence community from which information described in paragraph (2)(A) is disseminated or provided to the Office of the Director of National Intelligence as described in that paragraph shall remain exempt from search, review, publication, or disclosure under section 552 of title 5, United States Code, to the extent the operational files from which such information was derived remain exempt from search, review, publication, or disclosure under section 552 of such title.

''(b) SEARCH AND REVIEW OF CERTAIN FILES.—Information disseminated or otherwise provided to the Office of the Director of National Intelligence by another element of the intelligence community that is not exempt from search, review, publication, or disclosure under subsection (a), and that is authorized to be disseminated outside the Office, shall be subject to search and review under section 552 of title 5, United States Code, but may remain exempt from publication and disclosure under such section by the element disseminating or providing such information to the Office to the extent authorized by such section.

''(c) SEARCH AND REVIEW FOR CERTAIN PURPOSES.—Notwithstanding subsection (a), exempted operational files shall continue to be subject to search and review for information concerning any of the following:

''(1) United States citizens or aliens lawfully admitted for permanent residence who have requested information on themselves pursuant to the provisions of section 552 or 552a of title 5, United States Code.

''(2) Any special activity the existence of which is not exempt from disclosure under the provisions of section 552 of title 5, United States Code.

''(3) The specific subject matter of an investigation by any of the following for any impropriety, or violation of law, Executive order, or Presidential directive, in the conduct of an intelligence activity:

''(A) The Select Committee on Intelligence of the Senate.

''(B) The Permanent Select Committee on Intelligence of the House of Representatives.

''(C) The Intelligence Oversight Board.

''(D) The Department of Justice.

''(E) The Office of the Director of National Intelligence.

''(F) The Office of the Inspector General of the Intelligence Community.''.

(b) CLERICAL AMENDMENT.—The table of contents in the first section of that Act is amended by inserting before the item relating to section 701 the following new item:

''Sec. 700. Operational files in the Office of the Director of National Intelligence.''.

SEC. _____. ELIGIBILITY FOR INCENTIVE AWARDS OF PERSONNEL ASSIGNED TO THE OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE.

(a) IN GENERAL.—Subsection (a) of section 402 of the Intelligence Authorization Act for Fiscal Year 1984 (50 U.S.C. 403e–1) is amended to read as follows:

''(a) AUTHORITY FOR PAYMENT OF AWARDS.—(1) The Director of National Intelligence may exercise the authority granted in section 4503 of title 5, United States Code, with respect to Federal employees and members of the Armed Forces detailed or assigned to the Office of the Director of National Intelligence in the same manner as such authority may be exercised with respect to personnel of the Office.

''(2) The Director of the Central Intelligence Agency may exercise the authority granted in section 4503 of title 5, United States Code, with respect to Federal employees and members of the Armed Forces detailed or assigned to the Central Intelligence Agency in the same manner as such authority may be exercised with respect to personnel of the Agency.''.

(b) REPEAL OF OBSOLETE AUTHORITY.—That section is further amended—

(1) by striking subsection (c); and

(2) by redesignating subsection (d) as subsection (c).

(c) EXPEDITIOUS PAYMENT.—That section is further amended by adding at the end the following new subsection (d):

''(d) EXPEDITIOUS PAYMENT.—Payment of an award under this authority in this section shall be made as expeditiously as is practicable after the making of the award.''.

(d) CONFORMING AMENDMENTS.—That section is further amended—

(1) in subsection (b), by striking ''to the Central Intelligence Agency or to the Intelligence Community Staff'' and inserting ''to the Office of the Director of National Intelligence or to the Central Intelligence Agency''; and

(2) in subsection (c), as redesignated by subsection (b)(2) of this section, by striking ''Director of Central Intelligence'' and inserting ''Director of National Intelligence or Director of the Central Intelligence Agency''.

(e) TECHNICAL AND STYLISTIC AMENDMENTS.—That section is further amended—

(1) in subsection (b)—

(A) by inserting ''PERSONNEL ELIGIBLE FOR AWARDS.—'' after ''(b)'';

(B) by striking ''subsection (a) of this section'' and inserting ''subsection (a)''; and

(C) by striking ''a date five years before the date of enactment of this section'' and inserting ''December 9, 1978''; and

(2) in subsection (c), as so redesignated, by inserting ''PAYMENT AND ACCEPTANCE OF AWARDS.—'' after ''(c)''.

SEC. _____. REPEAL OF CERTAIN AUTHORITIES RELATING TO THE OFFICE OF THE NATIONAL COUNTERINTELLIGENCE EXECUTIVE.

(a) REPEAL OF CERTAIN AUTHORITIES.—Section 904 of the Counterintelligence Enhancement Act of 2002 (title IX of Public Law 107–306; 50 U.S.C. 402c) is amended—

(1) by striking subsections (d), (g), (h), (i), and (j); and

(2) by redesignating subsections (e), (f), (k), (l), and (m) as subsections (d), (e), (f), (g), and (h), respectively.

(b) CONFORMING AMENDMENTS.—That section is further amended—

(1) in subsection (d), as redesignated by subsection (a)(2) of this section, by striking ''subsection (f)'' each place it appears in paragraphs (1) and (2) and inserting ''subsection (e)''; and

(2) in subsection (e), as so redesignated—

(A) in paragraph (1), by striking ''subsection (e)(1)'' and inserting ''subsection (d)(1)''; and

(B) in paragraph (2), by striking ''subsection (e)(2)'' and inserting ''subsection (d)(2)''.

SEC. _____. INAPPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT TO ADVISORY COMMITTEES OF THE OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE.

Section 4(b) of the Federal Advisory Committee Act (5 U.S.C. App.) is amended—

(1) in paragraph (1), by striking ''or'';

(2) in paragraph (2), by striking the period and inserting ''; or''; and

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

''(3) the Office of the Director of National Intelligence.''.

SEC. _____. MEMBERSHIP OF THE DIRECTOR OF NATIONAL INTELLIGENCE ON THE TRANSPORTATION SECURITY OVERSIGHT BOARD.

Subparagraph (F) of section 115(b)(1) of title 49, United States Code, is amended to read as follows:

''(F) The Director of National Intelligence, or the Director's designee.''.

SEC. _____. APPLICABILITY OF THE PRIVACY ACT TO THE DIRECTOR OF NATIONAL INTELLIGENCE AND THE OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE.

(a) AUTHORITY TO EXEMPT.—The Director of National Intelligence may prescribe regulations to exempt any system of records within the Office of the Director of National Intelligence from the applicability of the provisions of subsections (c)(3), (c)(4), and (d) of section 552a of title 5, United States Code.

(b) PROMULGATION REQUIREMENTS.—In prescribing any regulations under subsection (a), the Director shall comply with the requirements (including general notice requirements) of subsections (b), (c), and (e) of section 553 of title 5, United States Code.

PART II—CENTRAL INTELLIGENCE AGENCY

SEC. _____. DIRECTOR AND DEPUTY DIRECTOR OF THE CENTRAL INTELLIGENCE AGENCY.

(a) APPOINTMENT OF DIRECTOR OF CENTRAL INTELLIGENCE AGENCY.—Subsection (a) of section 104A of the National Security Act of 1947 (50 U.S.C. 403–4a) is amended by inserting ''from civilian life'' after ''who shall be appointed''.

(b) ESTABLISHMENT OF POSITION OF DEPUTY DIRECTOR OF CENTRAL INTELLIGENCE AGENCY.—Such section is further amended—

(1) by redesignating subsections (b), (c), (d), (e), (f), and (g) as subsections (c), (d), (e), (f), (g), and (h), respectively; and

(2) by inserting after subsection (a) the following new subsection (b):

''(b) DEPUTY DIRECTOR OF CENTRAL INTELLIGENCE AGENCY.—(1) There is a Deputy Director of the Central Intelligence Agency who shall be appointed from civilian life by the President, by and with the advice and consent of the Senate.

''(2) The Deputy Director of the Central Intelligence Agency shall assist the Director of the Central Intelligence Agency in carrying out the duties and responsibilities of the Director.

''(3) The Deputy Director of the Central Intelligence Agency shall act for, and exercise the powers of, the Director of the Central Intelligence Agency during the absence or disability of the Director of the Central Intelligence Agency or during a vacancy in the position of Director of the Central Intelligence Agency.''.

(c) CONFORMING AMENDMENT.—Paragraph (2) of subsection (d) of such section, as redesignated by subsection (b)(1) of this section, is further amended by striking ''subsection (d)'' and inserting ''subsection (e)''.

(d) EXECUTIVE SCHEDULE LEVEL III.—Section 5314 of title 5, United States Code, is amended by adding at the end the following new item:

''Deputy Director of the Central Intelligence Agency.''.

(e) ROLE OF DNI IN APPOINTMENT.—Section 106(a)(2) of the National Security Act of 1947 (50 U.S.C. 403–6) is amended by adding at the end the following new subparagraph:

''(C) The Deputy Director of the Central Intelligence Agency.''.

(f) MILITARY STATUS OF INDIVIDUAL SERVING AS DIRECTOR OF CENTRAL INTELLIGENCE AGENCY OR ADMINISTRATIVELY PERFORMING DUTIES OF DEPUTY DIRECTOR OF CENTRAL INTELLIGENCE AGENCY.—(1) A commissioned officer of the Armed Forces who is serving as the Director of the Central Intelligence Agency or is engaged in administrative performance of the duties of Deputy Director of the Central Intelligence Agency as of the date of the enactment of this Act shall not, while continuing in such service, or in the administrative performance of such duties, after that date—

(A) be subject to supervision or control by the Secretary of Defense or by any officer or employee of the Department of Defense; or

(B) exercise, by reason of the officer's status as a commissioned officer, any supervision or control with respect to any of the military or civilian personnel of the Department of Defense except as otherwise authorized by law.

(2) Except as provided in subparagraph (A) or (B) of paragraph (1), the service, or the administrative performance of duties, described in that paragraph by an officer described in that paragraph shall not affect the status, position, rank, or grade of such officer in the Armed Forces, or any emolument, perquisite, right, privilege, or benefit incident to or arising out of such status, position, rank, or grade.

(3) A commissioned officer described in paragraph (1), while serving, or continuing in the administrative performance of duties, as described in that paragraph and while remaining on active duty, shall continue to receive military pay and allowances. Funds from which such pay and allowances are paid shall be reimbursed from funds available to the Director of the Central Intelligence Agency.

(g) EFFECTIVE DATE AND APPLICABILITY.—

(1) DIRECTOR OF CENTRAL INTELLIGENCE AGENCY.—The amendment made by subsection (a) shall—

(A) take effect on the date of the enactment of this Act; and

(B) apply upon the occurrence of any act creating a vacancy in the position of Director of the Central Intelligence Agency after such date, except that if the vacancy occurs by resignation from such position of the individual serving in such position on such date, that individual may continue serving in such position after such resignation until the individual appointed to succeed such resigning individual as Director of the Central Intelligence Agency, by and with the advice and consent of the Senate, assumes the duties of such position.

(2) DEPUTY DIRECTOR OF CENTRAL INTELLIGENCE AGENCY.—The amendments made by subsections (b) through (e) shall take effect on the date of the enactment of this Act and shall apply upon the earlier of—

(A) the date of the nomination by the President of an individual to serve as Deputy Director of the Central Intelligence Agency, except that the individual administratively performing the duties of the Deputy Director of the Central Intelligence Agency as of the date of the enactment of this Act may continue to perform such duties after such date of nomination and until the individual appointed to the position of Deputy Director of the Central Intelligence Agency, by and with the advice and consent of the Senate, assumes the duties of such position; or

(B) the date of the cessation of the performance of the duties of Deputy Director of the Central Intelligence Agency by the individual administratively performing such duties as of the date of the enactment of this Act.

SEC. _____. ENHANCED PROTECTION OF CENTRAL INTELLIGENCE AGENCY INTELLIGENCE SOURCES AND METHODS FROM UNAUTHORIZED DISCLOSURE.

(a) RESPONSIBILITY OF DIRECTOR OF CENTRAL INTELLIGENCE AGENCY UNDER NATIONAL SECURITY ACT OF 1947.—Subsection (e) of section 104A of the National Security Act of 1947 (50 U.S.C. 403–4a), as redesignated by section 421(b)(1) of this Act, is further amended—

(1) in paragraph (3), by striking ''and'' at the end;

(2) by redesignating paragraph (4) as paragraph (5); and

(3) by inserting after paragraph (3) the following new paragraph (4):

''(4) protect intelligence sources and methods of the Central Intelligence Agency from unauthorized disclosure, consistent with any direction issued by the President or the Director of National Intelligence; and''.

(b) PROTECTION UNDER CENTRAL INTELLIGENCE AGENCY ACT OF 1949.—Section 6 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403g) is amended by striking ''section 102A(i)'' and all that follows through ''unauthorized disclosure'' and inserting ''sections 102A(i) and 104A(e)(4) of the National Security Act of 1947 (50 U.S.C. 403–1(i), 403–4a(e)(4))''.

(c) CONSTRUCTION WITH EXEMPTION FROM REQUIREMENT FOR DISCLOSURE OF INFORMATION TO PUBLIC.—Section 104A(e)(4) of the National Security Act of 1947, as amended by subsection (a), and section 6 of the Central Intelligence Agency Act of 1949, as amended by subsection (b), shall be treated as statutes that specifically exempt from disclosure the matters specified in such sections for purposes of section 552(b)(3) of title 5, United States Code.

(d) TECHNICAL AMENDMENTS TO CENTRAL INTELLIGENCE AGENCY RETIREMENT ACT.—Section 201(c) of the Central Intelligence Agency Retirement Act (50 U.S.C. 2011(c)) is amended—

(1) in the subsection caption, by striking ''OF DCI'';

(2) by striking ''section 102A(i)'' and inserting ''sections 102A(i) and 104A(e)(4)'';

(3) by striking ''of National Intelligence''; and

(4) by inserting ''of the Central Intelligence Agency'' after ''methods''.

SEC. _____. ADDITIONAL EXCEPTION TO FOREIGN LANGUAGE PROFICIENCY REQUIREMENT FOR CERTAIN SENIOR LEVEL POSITIONS IN THE CENTRAL INTELLIGENCE AGENCY.

(a) ADDITIONAL EXCEPTION.—Subsection (h) of section 104A of the National Security Act of 1947 (50 U.S.C. 403–4a), as redesignated by section 421(b)(1) of this Act, is further amended—

(1) in paragraph (1)—

(A) by striking ''paragraph (2)'' and inserting ''paragraphs (2) and (3)''; and

(B) by striking ''Directorate of Operations'' and inserting ''National Clandestine Service'';

(2) in paragraph (2), by striking ''position or category of positions'' each place it appears and inserting ''individual, individuals, position, or category of positions''; and

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

''(3) Paragraph (1) shall not apply to any individual in the Directorate of Intelligence or the National Clandestine Service of the Central Intelligence Agency who is serving in a Senior Intelligence Service position as of December 23, 2005, regardless of whether such individual is a member of the Senior Intelligence Service.''.

(b) REPORT ON WAIVERS.—Section 611(c) of the Intelligence Authorization Act for Fiscal Year 2005 (Public Law 108–487; 118 Stat. 3955) is amended—

(1) by striking the first sentence and inserting the following new sentence: ''The Director of the Central Intelligence Agency shall submit to Congress a report that identifies individuals who, or positions within the Senior Intelligence Service in the Directorate of Intelligence or the National Clandestine Service of the Central Intelligence Agency that, are determined by the Director to require a waiver under subsection (h) of section 104A of the National Security Act of 1947, as added by subsection (a) and redesignated by section 421(b)(1) of the Intelligence Authorization Act for Fiscal Year 2007.''; and

(2) in the second sentence—

(A) by striking ''section 104A(g)(2), as so added'' and inserting ''subsection (h)(2) of section 104A, as so added and redesignated''; and

(B) by striking ''position or category of positions'' and inserting ''individual, individuals, position, or category of positions''.

SEC. _____. ADDITIONAL FUNCTIONS AND AUTHORITIES FOR PROTECTIVE PERSONNEL OF THE CENTRAL INTELLIGENCE AGENCY.

Section 5(a)(4) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403f(a)(4)) is amended—

(1) by inserting ''(A)'' after ''(4)'';

(2) in subparagraph (A), as so designated—

(A) by striking ''and the protection'' and inserting ''the protection''; and

(B) by striking the semicolon and inserting '', and the protection of the Director of National Intelligence and such personnel of the Office of the Director of National Intelligence as the Director of National Intelligence may designate; and''; and

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

''(B) Authorize personnel engaged in the performance of protective functions authorized pursuant to subparagraph (A), when engaged in the performance of such functions, to make arrests without warrant for any offense against the United States committed in the presence of such personnel, or for any felony cognizable under the laws of the United States, if such personnel have reasonable grounds to believe that the person to be arrested has committed or is committing such felony, except that any authority pursuant to this subparagraph may be exercised only in accordance with guidelines approved by the Director and the Attorney General and such personnel may not exercise any authority for the service of civil process or for the investigation of criminal offenses;''.

SEC. _____. DIRECTOR OF NATIONAL INTELLIGENCE REPORT ON RETIREMENT BENEFITS FOR FORMER EMPLOYEES OF AIR AMERICA.

(a) IN GENERAL.—Not later than 120 days after the date of the enactment of this Act, the Director of National Intelligence shall submit to Congress a report on the advisability of providing Federal retirement benefits to United States citizens for the service of such individuals before 1977 as employees of Air America or an associated company while such company was owned or controlled by the United States Government and operated or managed by the Central Intelligence Agency.

(b) REPORT ELEMENTS.—(1) The report required by subsection (a) shall include the following:

(A) The history of Air America and associated companies before 1977, including a description of—

(i) the relationship between such companies and the Central Intelligence Agency and other elements of the United States Government;

(ii) the workforce of such companies;

(iii) the missions performed by such companies and their employees for the United States; and

(iv) the casualties suffered by employees of such companies in the course of their employment with such companies.

(B) A description of the retirement benefits contracted for or promised to the employees of such companies before 1977, the contributions made by such employees for such benefits, the retirement benefits actually paid such employees, the entitlement of such employees to the payment of future retirement benefits, and the likelihood that former employees of such companies will receive any future retirement benefits.

(C) An assessment of the difference between—

(i) the retirement benefits that former employees of such companies have received or will receive by virtue of their employment with such companies; and

(ii) the retirement benefits that such employees would have received and in the future receive if such employees had been, or would now be, treated as employees of the United States whose services while in the employ of such companies had been or would now be credited as Federal service for the purpose of Federal retirement benefits.

(D) The recommendations of the Director regarding the advisability of legislative action to treat employment at such companies as Federal service for the purpose of Federal retirement benefits in light of the relationship between such companies and the United States Government and the services and sacrifices of such employees to and for the United States, and if legislative action is considered advisable, a proposal for such action and an assessment of its costs.

(2) The Director of National Intelligence shall include in the report any views of the Director of the Central Intelligence Agency on the matters covered by the report that the Director of the Central Intelligence Agency considers appropriate.

(c) ASSISTANCE OF COMPTROLLER GENERAL.—The Comptroller General of the United States shall, upon the request of the Director of National Intelligence and in a manner consistent with the protection of classified information, assist the Director in the preparation of the report required by subsection (a).

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

(e) DEFINITIONS.—In this section:

(1) The term ''Air America'' means Air America, Incorporated.

(2) The term ''associated company'' means any company associated with or subsidiary to Air America, including Air Asia Company Limited and the Pacific Division of Southern Air Transport, Incorporated.

PART III—DEFENSE INTELLIGENCE COMPONENTS

SEC. _____. ENHANCEMENTS OF NATIONAL SECURITY AGENCY TRAINING PROGRAM.

(a) TERMINATION OF EMPLOYEES.—Subsection (d)(1)(C) of section 16 of the National Security Agency Act of 1959 (50 U.S.C. 402 note) is amended by striking ''terminated either by'' and all that follows and inserting ''terminated—

''(i) by the Agency due to misconduct by the employee;

''(ii) by the employee voluntarily; or

''(iii) by the Agency for the failure of the employee to maintain such level of academic standing in the educational course of training as the Director of the National Security Agency shall have specified in the agreement of the employee under this subsection; and''.

(b) AUTHORITY TO WITHHOLD DISCLOSURE OF AFFILIATION WITH NSA.—Subsection (e) of such section is amended by striking ''(1) When an employee'' and all that follows through ''(2) Agency efforts'' and inserting ''Agency efforts''.

SEC. _____. CODIFICATION OF AUTHORITIES OF NATIONAL SECURITY AGENCY PROTECTIVE PERSONNEL.

The National Security Agency Act of 1959 (50 U.S.C. 402 note) is amended by adding at the end the following new section:

''SEC. 21. (a) The Director is authorized to designate personnel of the Agency to perform protective functions for the Director and for any personnel of the Agency designated by the Director.

''(b)(1) In the performance of protective functions under this section, personnel of the Agency designated to perform protective functions pursuant to subsection (a) are authorized, when engaged in the performance of such functions, to make arrests without a warrant for—

''(A) any offense against the United States committed in the presence of such personnel; or

''(B) any felony cognizable under the laws of the United States if such personnel have reasonable grounds to believe that the person to be arrested has committed or is committing such felony.

''(2) The authority in paragraph (1) may be exercised only in accordance with guidelines approved by the Director and the Attorney General.

''(3) Personnel of the Agency designated to perform protective functions pursuant to subsection (a) shall not exercise any authority for the service of civil process or the investigation of criminal offenses.

''(c) Nothing in this section shall be construed to impair or otherwise affect any authority under any other provision of law relating to the performance of protective functions.''.

SEC. _____. INSPECTOR GENERAL MATTERS.

(a) COVERAGE UNDER INSPECTOR GENERAL ACT OF 1978.—Subsection (a)(2) of section 8G of the Inspector General Act of 1978 (5 U.S.C. App. 8G) is amended—

(1) by inserting ''the Defense Intelligence Agency,'' after ''the Corporation for Public Broadcasting,'';

(2) by inserting ''the National Geospatial-Intelligence Agency,'' after ''the National Endowment for the Arts,''; and

(3) by inserting ''the National Reconnaissance Office, the National Security Agency,'' after ''the National Labor Relations Board,''.

(b) CERTAIN DESIGNATIONS UNDER INSPECTOR GENERAL ACT OF 1978.—Subsection (a) of section 8H of the Inspector General Act of 1978 (5 U.S.C. App. 8H) is amended by adding at the end the following new paragraph:

''(3) The Inspectors General of the Defense Intelligence Agency, the National Geospatial-Intelligence Agency, the National Reconnaissance Office, and the National Security Agency shall be designees of the Inspector General of the Department of Defense for purposes of this section.''.

(c) POWER OF HEADS OF ELEMENTS OVER INVESTIGATIONS.—Subsection (d) of section 8G of that Act—

(1) by inserting ''(1)'' after ''(d)'';

(2) in the second sentence of paragraph (1), as designated by paragraph (1) of this subsection, by striking ''The head'' and inserting ''Except as provided in paragraph (2), the head''; and

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

''(2)(A) The Director of National Intelligence or the Secretary of Defense may prohibit the Inspector General of an element of the intelligence community specified in subparagraph (D) from initiating, carrying out, or completing any audit or investigation if the Director or the Secretary, as the case may be, determines that the prohibition is necessary to protect vital national security interests of the United States.

''(B) If the Director or the Secretary exercises the authority under subparagraph (A), the Director or the Secretary, as the case may be, shall submit to the committees of Congress specified in subparagraph (E) an appropriately classified statement of the reasons for the exercise of the authority not later than seven days after the exercise of the authority.

''(C) At the same time the Director or the Secretary submits under subparagraph (B) a statement on the exercise of the authority in subparagraph (A) to the committees of Congress specified in subparagraph (E), the Director or the Secretary, as the case may be, shall notify the Inspector General of such element of the submittal of such statement and, to the extent consistent with the protection of intelligence sources and methods, provide the Inspector General with a copy of such statement. The Inspector General may submit to such committees of Congress any comments on a notice or statement received by the Inspector General under this subparagraph that the Inspector General considers appropriate.

''(D) The elements of the intelligence community specified in this subparagraph are as follows:

''(i) The Defense Intelligence Agency.

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

''(iii) The National Reconnaissance Office.

''(iv) The National Security Agency.

''(E) The committees of Congress specified in this subparagraph are—

''(i) the Committee on Armed Services and the Select Committee on Intelligence of the Senate; and

''(ii) the Committee on Armed Services and the Permanent Select Committee on Intelligence of the House of Representatives.''.

SEC. _____. CONFIRMATION OF APPOINTMENT OF HEADS OF CERTAIN COMPONENTS OF THE INTELLIGENCE COMMUNITY.

(a) DIRECTOR OF NATIONAL SECURITY AGENCY.—The National Security Agency Act of 1959 (50 U.S.C. 402 note) is amended by inserting after the first section the following new section:

''SEC. 2. (a) There is a Director of the National Security Agency.

''(b) The Director of the National Security Agency shall be appointed by the President, by and with the advice and consent of the Senate.

''(c) The Director of the National Security Agency shall be the head of the National Security Agency and shall discharge such functions and duties as are provided by this Act or otherwise by law.''.

(b) DIRECTOR OF NATIONAL GEOSPATIAL-INTELLIGENCE AGENCY.—Section 441(b) of title 10, United States Code, is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(2) by inserting after paragraph (1) the following new paragraph (2):

''(2) The Director of the National Geospatial Intelligence Agency shall be appointed by the President, by and with the advice and consent of the Senate.''.

(c) DIRECTOR OF NATIONAL RECONNAISSANCE OFFICE.—The Director of the National Reconnaissance Office shall be appointed by the President, by and with the advice and consent of the Senate.

(d) POSITIONS OF IMPORTANCE AND RESPONSIBILITY.—

(1) DESIGNATION OF POSITIONS.—The President may designate any of the positions referred to in paragraph (2) as positions of importance and responsibility under section 601 of title 10, United States Code.

(2) COVERED POSITIONS.—The positions referred to in this paragraph are as follows:

(A) The Director of the National Security Agency.

(B) The Director of the National Geospatial-Intelligence Agency.

(C) The Director of the National Reconnaissance Office.

(e) EFFECTIVE DATE AND APPLICABILITY.—(1) The amendments made by subsections (a) and (b), and subsection (c), shall take effect on the date of the enactment of this Act and shall apply upon the earlier of—

(A) the date of the nomination by the President of an individual to serve in the position concerned, except that the individual serving in such position as of the date of the enactment of this Act may continue to perform such duties after such date of nomination and until the individual appointed to such position, by and with the advice and consent of the Senate, assumes the duties of such position; or

(B) the date of the cessation of the performance of the duties of such position by the individual performing such duties as of the date of the enactment of this Act.

(2) Subsection (d) shall take effect on the date of the enactment of this Act.

SEC. _____. CLARIFICATION OF NATIONAL SECURITY MISSIONS OF NATIONAL GEOSPATIAL-INTELLIGENCE AGENCY FOR ANALYSIS AND DISSEMINATION OF CERTAIN INTELLIGENCE INFORMATION.

Section 442(a) of title 10, United States Code, is amended—

(1) by redesignating paragraph (2) as paragraph (3);

(2) by inserting after paragraph (1) the following new paragraph (2):

''(2)(A) As directed by the Director of National Intelligence, the National Geospatial-Intelligence Agency shall also analyze, disseminate, and incorporate into the National System for Geospatial-Intelligence, likenesses, videos, or presentations produced by ground-based platforms, including handheld or clandestine photography taken by or on behalf of human intelligence collection organizations or available as open-source information.

''(B) The authority provided by this paragraph does not include the authority to manage or direct the tasking of, set requirements and priorities for, set technical requirements related to, or modify any classification or dissemination limitations related to the collection of, handheld or clandestine photography taken by or on behalf of human intelligence collection organizations.''; and

(3) in paragraph (3), as so redesignated, by striking ''paragraph (1)'' and inserting ''paragraphs (1) and (2)''.

SEC. _____. SECURITY CLEARANCES IN THE NATIONAL GEOSPATIAL-INTELLIGENCE AGENCY.

The Secretary of Defense shall, during the period beginning on the date of the enactment of this Act and ending on December 31, 2007, delegate to the Director of the National Geospatial-Intelligence Agency personnel security authority with respect to the National Geospatial-Intelligence Agency (including authority relating to the use of contractor personnel in investigations and adjudications for security clearances) that is identical to the personnel security authority of the Director of the National Security Agency with respect to the National Security Agency.

PART IV—OTHER ELEMENTS

SEC. _____. FOREIGN LANGUAGE INCENTIVE FOR CERTAIN NON-SPECIAL AGENT EMPLOYEES OF THE FEDERAL BUREAU OF INVESTIGATION.

(a) AUTHORITY TO PAY INCENTIVE.—The Director of the Federal Bureau of Investigation may pay a cash award authorized by section 4523 of title 5, United States Code, in accordance with the provisions of such section, to any employee of the Federal Bureau of Investigation described in subsection (b) as if such employee were a law enforcement officer as specified in such section.

(b) COVERED EMPLOYEES.—An employee of the Federal Bureau of Investigation described in this subsection is any employee of the Federal Bureau of Investigation—

(1) who uses foreign language skills in support of the analyses, investigations, or operations of the Bureau to protect against international terrorism or clandestine intelligence activities (or maintains foreign language skills for purposes of such support); and

(2) whom the Director of the Federal Bureau of Investigation, subject to the joint guidance of the Attorney General and the Director of National Intelligence, may designate for purposes of this section.

SEC. _____. AUTHORITY TO SECURE SERVICES BY CONTRACT FOR THE BUREAU OF INTELLIGENCE AND RESEARCH OF THE DEPARTMENT OF STATE.

Title I of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651a et seq.) is amended by inserting after section 23 the following new section:

''SERVICES BY CONTRACT FOR BUREAU OF INTELLIGENCE AND RESEARCH

''SEC. 23A. (a) AUTHORITY TO ENTER INTO CONTRACTS.—The Secretary may enter into contracts with individuals or organizations for the provision of services in support of the mission of the Bureau of Intelligence and Research of the Department of State if the Secretary determines that—

''(1) the services to be procured are urgent or unique; and

''(2) it would not be practicable for the Department to obtain such services by other means.

''(b) TREATMENT AS EMPLOYEES OF THE UNITED STATES GOVERNMENT.—(1) Individuals employed under a contract pursuant to the authority in subsection (a) shall not, by virtue of the performance of services under such contract, be considered employees of the United States Government for purposes of any law administered by the Office of Personnel Management.

''(2) The Secretary may provide for the applicability to individuals described in paragraph (1) of any law administered by the Secretary concerning the employment of such individuals.

''(c) CONTRACT TO BE APPROPRIATE MEANS OF SECURING SERVICES.—The chief contracting officer of the Department of State shall ensure that each contract entered into by the Secretary under this section is the appropriate means of securing the services to be provided under such contract.''.

SEC. _____. CLARIFICATION OF INCLUSION OF COAST GUARD AND DRUG ENFORCEMENT ADMINISTRATION AS ELEMENTS OF THE INTELLIGENCE COMMUNITY.

Section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)) is amended—

(1) in subparagraph (H)—

(A) by inserting ''the Coast Guard,'' after ''the Marine Corps,''; and

(B) by inserting ''the Drug Enforcement Administration,'' after ''the Federal Bureau of Investigation,''; and

(2) in subparagraph (K), by striking '', including the Office of Intelligence of the Coast Guard''.

SEC. _____. CLARIFYING AMENDMENTS RELATING TO SECTION 105 OF THE INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 2004.

Section 105(b) of the Intelligence Authorization Act for Fiscal Year 2004 (Public Law 108–177; 117 Stat. 2603; 31 U.S.C. 311 note) is amended—

(1) by striking ''Director of Central Intelligence'' and inserting ''Director of National Intelligence''; and

(2) by inserting ''or in section 313 of such title,'' after ''subsection (a)),''.

Subtitle E—Other Matters

SEC. _____. TECHNICAL AMENDMENTS TO THE NATIONAL SECURITY ACT OF 1947.

The National Security Act of 1947 (50 U.S.C. 401 et seq.) is amended as follows:

(1) In section 102A (50 U.S.C. 403–1)—

(A) in subsection (c)(7)(A), by striking ''section'' and inserting ''subsection'';

(B) in subsection (d)—

(i) in paragraph (3), by striking ''subparagraph (A)'' in the matter preceding subparagraph (A) and inserting ''paragraph (1)(A)'';

(ii) in paragraph (5)(A), by striking ''or personnel'' in the matter preceding clause (i); and

(iii) in paragraph (5)(B), by striking ''or agency involved'' in the second sentence and inserting ''involved or the Director of the Central Intelligence Agency (in the case of the Central Intelligence Agency)'';

(C) in subsection (l)(2)(B), by striking ''section'' and inserting ''paragraph''; and

(D) in subsection (n), by inserting ''AND OTHER'' after ''ACQUISITION''.

(2) In section 119(c)(2)(B) (50 U.S.C. 404o(c)(2)(B)), by striking ''subsection (h)'' and inserting ''subsection (i)''.

(3) In section 705(e)(2)(D)(i) (50 U.S.C. 432c(e)(2)(D)(i)), by striking ''responsible'' and inserting ''responsive''.

SEC. _____. TECHNICAL CLARIFICATION OF CERTAIN REFERENCES TO JOINT MILITARY INTELLIGENCE PROGRAM AND TACTICAL INTELLIGENCE AND RELATED ACTIVITIES.

Section 102A of the National Security Act of 1947 (50 U.S.C. 403–1) is amended—

(1) in subsection (c)(3)(A), by striking ''annual budgets for the Joint Military Intelligence Program and for Tactical Intelligence and Related Activities'' and inserting ''annual budget for the Military Intelligence Program or any successor program or programs''; and

(2) in subsection (d)(1)(B), by striking ''Joint Military Intelligence Program'' and inserting ''Military Intelligence Program or any successor program or programs''.

SEC. _____. TECHNICAL AMENDMENTS TO THE INTELLIGENCE REFORM AND TERRORISM PREVENTION ACT OF 2004.

(a) AMENDMENTS TO NATIONAL SECURITY INTELLIGENCE REFORM ACT OF 2004.—The National Security Intelligence Reform Act of 2004 (title I of Public Law 108–458) is further amended as follows:

(1) In section 1016(e)(10)(B) (6 U.S.C. 458(e)(10)(B)), by striking ''Attorney General'' the second place it appears and inserting ''Department of Justice''.

(2) In section 1061 (5 U.S.C. 601 note)—

(A) in subsection (d)(4)(A), by striking ''National Intelligence Director'' and inserting ''Director of National Intelligence''; and

(B) in subsection (h), by striking ''National Intelligence Director'' and inserting ''Director of National Intelligence''.

(3) In section 1071(e), by striking ''(1)''.

(4) In section 1072(b), by inserting ''AGENCY'' after ''INTELLIGENCE''.

(b) OTHER AMENDMENTS TO INTELLIGENCE REFORM AND TERRORISM PREVENTION ACT OF 2004.—The Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458) is amended as follows:

(1) In section 2001 (28 U.S.C. 532 note)—

(A) in subsection (c)(1), by inserting ''of'' before ''an institutional culture'';

(B) in subsection (e)(2), by striking ''the National Intelligence Director in a manner consistent with section 112(e)'' and inserting ''the Director of National Intelligence in a manner consistent with applicable law''; and

(C) in subsection (f), by striking ''shall,'' in the matter preceding paragraph (1) and inserting ''shall''.

(2) In section 2006 (28 U.S.C. 509 note)—

(A) in paragraph (2), by striking ''the Federal'' and inserting ''Federal''; and

(B) in paragraph (3), by striking ''the specific'' and inserting ''specific''.

SEC. _____. TECHNICAL AMENDMENTS TO TITLE 10, UNITED STATES CODE, ARISING FROM ENACTMENT OF THE INTELLIGENCE REFORM AND TERRORISM PREVENTION ACT OF 2004.

(a) REFERENCES TO HEAD OF INTELLIGENCE COMMUNITY.—Title 10, United States Code, is amended by striking ''Director of Central Intelligence'' each place it appears in a provision as follows and inserting ''Director of National Intelligence'':

(1) Section 193(d)(2).
(2) Section 193(e).
(3) Section 201(a).
(4) Section 201(b)(1).
(5) Section 201(c)(1).
(6) Section 425(a).
(7) Section 431(b)(1).
(8) Section 441(c).
(9) Section 441(d).
(10) Section 443(d).
(11) Section 2273(b)(1).
(12) Section 2723(a).

(b) CLERICAL AMENDMENTS.—Such title is further amended by striking ''DIRECTOR OF CENTRAL INTELLIGENCE'' each place it appears in a provision as follows and inserting ''DIRECTOR OF NATIONAL INTELLIGENCE'':

(1) Section 441(c).
(2) Section 443(d).

(c) REFERENCE TO HEAD OF CENTRAL INTELLIGENCE AGENCY.—Section 444 of such title is amended by striking ''Director of Central Intelligence'' each place it appears and inserting ''Director of the Central Intelligence Agency''.

SEC. _____. TECHNICAL AMENDMENT TO THE CENTRAL INTELLIGENCE AGENCY ACT OF 1949.

Section 5(a)(1) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403f(a)(1)) is amended by striking ''authorized under paragraphs (2) and (3) of section 102(a), subsections (c)(7) and (d) of section 103, subsections (a) and (g) of section 104, and section 303 of the National Security Act of 1947 (50 U.S.C. 403(a)(2), (3), 403–3(c)(7), (d), 403–4(a), (g), and 405)'' and inserting ''authorized under subsections (d), (e), (f), and (g) of section 104A of the National Security Act of 1947 (50 U.S.C. 403–4a).''.

SEC. _____. TECHNICAL AMENDMENTS RELATING TO THE MULTIYEAR NATIONAL INTELLIGENCE PROGRAM.

(a) IN GENERAL.—Subsection (a) of section 1403 of the National Defense Authorization Act for Fiscal Year 1991 (50 U.S.C. 404b) is amended—

(1) in the subsection caption, by striking ''FOREIGN''; and

(2) by striking ''foreign'' each place it appears.

(b) RESPONSIBILITY OF DNI.—That section is further amended—

(1) in subsections (a) and (c), by striking ''Director of Central Intelligence'' and inserting ''Director of National Intelligence''; and

(2) in subsection (b), by inserting ''of National Intelligence'' after ''Director''.

(c) CONFORMING AMENDMENT.—The heading of that section is amended to read as follows:

''SEC. 1403. MULTIYEAR NATIONAL INTELLIGENCE PROGRAM.''.

SEC. _____. TECHNICAL AMENDMENTS TO THE EXECUTIVE SCHEDULE.

(a) EXECUTIVE SCHEDULE LEVEL II.—Section 5313 of title 5, United States Code, is amended by striking the item relating to the Director of Central Intelligence and inserting the following new item:

''Director of the Central Intelligence Agency.''.

(b) EXECUTIVE SCHEDULE LEVEL III.—Section 5314 of title 5, United States Code, is amended by striking the item relating to the Deputy Directors of Central Intelligence.

(c) EXECUTIVE SCHEDULE LEVEL IV.—Section 5315 of title 5, United States Code, is amended by striking the item relating to the General Counsel of the Office of the National Intelligence Director and inserting the following new item:

''General Counsel of the Office of the Director of National Intelligence.''.

SEC. _____. TECHNICAL AMENDMENTS RELATING TO REDESIGNATION OF THE NATIONAL IMAGERY AND MAPPING AGENCY AS THE NATIONAL GEOSPATIAL-INTELLIGENCE AGENCY.

(a) TITLE 5, UNITED STATES CODE.—(1) Title 5, United States Code, is amended by striking ''National Imagery and Mapping Agency'' each place it appears in a provision as follows and inserting ''National Geospatial-Intelligence Agency'':

(A) Section 2302(a)(2)(C)(ii).
(B) Section 3132(a)(1)(B).
(C) Section 4301(1) (in clause (ii)).
(D) Section 4701(a)(1)(B).
(E) Section 5102(a)(1) (in clause (x)).
(F) Section 5342(a)(1) (in clause (K)).
(G) Section 6339(a)(1)(E).
(H) Section 7323(b)(2)(B)(i)((XIII).

(2) Section 6339(a)(2)(E) of such title is amended by striking ''National Imagery and Mapping Agency, the Director of the National Imagery and Mapping Agency'' and inserting ''National Geospatial-Intelligence Agency, the Director of the National Geospatial-Intelligence Agency''.

(b) TITLE 44, UNITED STATES CODE.—(1)(A) Section 1336 of title 44, United States Code, is amended by striking ''National Imagery and Mapping Agency'' both places it appears and inserting ''National Geospatial-Intelligence Agency''.

(B) The heading of such section is amended to read as follows:

''§ 1336. National Geospatial-Intelligence Agency: special publications''.

(2) The table of sections at the beginning of chapter 13 of such title is amended by striking the item relating to section 1336 and inserting the following new item:

''1336. National Geospatial-Intelligence Agency: special publications.''.

(c) HOMELAND SECURITY ACT OF 2002.—Section 201(f)(2)(E) of the Homeland Security Act of 2002 (6 U.S.C. 121(f)(2)(E)) is amended by striking ''National Imagery and Mapping Agency'' and inserting ''National Geospatial-Intelligence Agency''.

(d) INSPECTOR GENERAL ACT OF 1978.—Section 8H of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by striking ''National Imagery and Mapping Agency'' each place it appears and inserting ''National Geospatial-Intelligence Agency''.

(e) ETHICS IN GOVERNMENT ACT OF 1978.—Section 105(a)(1) of the Ethics in Government Act of 1978 (5 U.S.C. App.) is amended by striking ''National Imagery and Mapping Agency'' and inserting ''National Geospatial-Intelligence Agency''.

(f) OTHER ACTS.—(1) Section 7(b)(2)(A)(i) of the Employee Polygraph Protection Act of 1988 (29 U.S.C. 2006(b)(2)(A)(i)) is amended by striking ''National Imagery and Mapping Agency'' and inserting ''National Geospatial-Intelligence Agency''.

(2) Section 207(a)(2)(B) of the Legislative Branch Appropriations Act, 1993 (44 U.S.C. 501 note) is amended by striking ''National Imagery and Mapping Agency'' and inserting ''National Geospatial-Intelligence Agency''.

SA 386. Mr. GRASSLEY submitted an amendment intended to be proposed to amendment SA 275 proposed by Mr. REID (for himself, Mr. LIEBERMAN, and Ms. COLLINS) to the bill S. 4, to make the United States more secure by implementing unfinished recommendations of the 9/11 Commission to fight the war on terror more effectively, to improve homeland security, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. LIMITATION ON EXEMPTION FROM INVESTMENT ADVISER REGISTRATION REQUIREMENTS.

Section 203(b)(3) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-3(b)(3)) is amended to read as follows:

''(3) any investment adviser who, during the course of the preceding 12-month period—

''(A) had assets under management of not more than $50,000,000;

''(B) had fewer than 15 clients, except that for purposes of determining such number, no shareholder, partner, or beneficial owner of a business development company, shall be deemed to be a client of the investment adviser, unless such person is a client of the investment adviser separate and apart from their status as a shareholder, partner, or beneficial owner;

''(C) did not manage the assets of more than 15 investors, whether individually, in a pooled investment vehicle described in paragraph (1) or (7) of section 3(c) of the Investment Company Act of 1940 (15 U.S.C. 80a-3(c)), or otherwise; and

''(D) was neither held out generally to the public as an investment adviser nor acted as an investment adviser to any investment company registered under title I, or a company which has elected to be a business development company pursuant to section 54 of title I, and has not withdrawn its election;''.

SA 387. Mr. PRYOR submitted an amendment intended to be proposed to amendment SA 275 proposed by Mr. REID (for himself, Mr. LIEBERMAN, and Ms. COLLINS) to the bill S. 4, to make the United States more secure by implementing unfinished recommendations of the 9/11 Commission to fight the war on terror more effectively, to improve homeland security, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title XV, add the following:

SEC. _____. EQUIPMENT TECHNICAL ASSISTANCE TRAINING.

Not later than September 30 of each fiscal year, the Secretary shall submit a report with a certification of whether the Department has conducted training during that fiscal year for not less than 7,500 individuals who are first responders in accordance with section 430(c)(1) of the Homeland Security Act of 2002 (6 U.S.C. 238(c)(1)) through the Domestic Preparedness Equipment Technical Assistance Program to—

(1) the Committee on Homeland Security and Governmental Affairs of the Senate;

(2) the Committee on Appropriations of the Senate;

(3) the Committee on Homeland Security of the House of Representatives; and

(4) the Committee on Appropriations of the House of Representatives.

SA 388. Mr. PRYOR submitted an amendment intended to be proposed to amendment SA 275 proposed by Mr. REID (for himself, Mr. LIEBERMAN, and Ms. COLLINS) to the bill S. 4, to make the United States more secure by implementing unfinished recommendations of the 9/11 Commission to fight the war on terror more effectively, to improve homeland security, and for other purposes; which was ordered to lie on the table; as follows:

At the approriate place, insert the following:

SEC. _____.

In accordance with 6 USC Section 238(c)(1) and Section 1000(a)(1) of P.L. 106-113, the Secretary shall certify no later than September 30 annually to the Senate Homeland Security and Governmental Affairs Committee, the House Homeland Security Committee, Senate Appropriations Subcommittee on Homeland Security, and the House Appropriations Subcommittee on Homeland Security that it has conducted no less than 7,500 trainings annually through the Domestic Preparedness Equipment Technical Assistance Program.

SA 389. Mr. BOND (for himself, Mr. ROCKEFELLER, Mr. WARNER, and Mr. BURR) proposed an amendment to amendment SA 275 proposed by Mr. REID (for himself, Mr. LIEBERMAN, and Ms. COLLINS) to the bill S. 4, to make the United States more secure by implementing unfinished recommendations of the 9/11 Commission to fight the war on terror more effectively, to improve homeland security, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. ___. SENSE OF THE SENATE REGARDING A REPORT ON THE 9/11 COMMISSION RECOMMENDATIONS WITH RESPECT TO INTELLIGENCE REFORM AND CONGRESSIONAL INTELLIGENCE OVERSIGHT REFORM.

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

(1) The National Commission on Terrorist Attacks Upon the United States (referred to in this section as the ''9/11 Commission'') conducted a lengthy review of the facts and circumstances relating to the terrorist attacks of September 11, 2001, including those relating to the intelligence community, law enforcement agencies, and the role of congressional oversight and resource allocation.

(2) In its final report, the 9/11 Commission found that—

(A) congressional oversight of the intelligence activities of the United States is dysfunctional;

(B) under the rules of the Senate and the House of Representatives in effect at the time the report was completed, the committees of Congress charged with oversight of the intelligence activities lacked the power, influence, and sustained capability to meet the daunting challenges faced by the intelligence community of the United States;

(C) as long as such oversight is governed by such rules of the Senate and the House of Representatives, the people of the United States will not get the security they want and need;

(D) a strong, stable, and capable congressional committee structure is needed to give the intelligence community of the United States appropriate oversight, support, and leadership; and

(E) the reforms recommended by the 9/11 Commission in its final report will not succeed if congressional oversight of the intelligence community in the United States is not changed.

(3) The 9/11 Commission recommended structural changes to Congress to improve the oversight of intelligence activities.

(4) Congress has enacted some of the recommendations made by the 9/11 Commission and is considering implementing additional recommendations of the 9/11 Commission.

(5) The Senate adopted Senate Resolution 445 in the 108th Congress to address some of the oversight recommendations of the 9/11 Commission by abolishing term limits for the members of the Select Committee on Intelligence, clarifying jurisdiction for intelligence-related nominations, and streamlining procedures for the referral of intelligence-related legislation, but other aspects of the 9/11 Commission recommendations regarding oversight have not been implemented.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the Committee on Homeland Security and Governmental Affairs and the Select Committee on Intelligence of the Senate each, or jointly, should—

(1) undertake a review of the recommendations made in the final report of the 9/11 Commission with respect to intelligence reform and congressional intelligence oversight reform;

(2) review and consider any other suggestions, options, or recommendations for improving intelligence oversight; and

(3) not later than December 21, 2007, submit to the Senate a report that includes the recommendations of the Committee, if any, for carrying out such reforms.

SA 390. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 4, to make the United States more secure by implementing unfinished recommendations of the 9/11 Commission to fight the war on terror more effectively, to improve homeland security, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. RESTORATION OF IMPORT AND ENTRY AGRICULTURAL INSPECTION FUNCTIONS TO THE DEPARTMENT OF AGRICULTURE.

(a) REPEAL OF TRANSFER OF FUNCTIONS.—Section 421 of the Homeland Security Act of 2002 (6 U.S.C. 231) is repealed.

(b) CONFORMING AMENDMENT TO FUNCTION OF SECRETARY OF HOMELAND SECURITY.—Section 402 of the Homeland Security Act of 2002 (6 U.S.C. 202) is amended—

(1) by striking paragraph (7); and

(2) by redesignating paragraph (8) as paragraph (7).

(c) TRANSFER AGREEMENT.—

(1) IN GENERAL.—Not later than the effective date described in subsection (e), the Secretary of Agriculture and the Secretary of Homeland Security shall enter into an agreement to effectuate the return of functions required by the amendments made by this section.

(2) USE OF CERTAIN EMPLOYEES.—The agreement may include authority for the Secretary of Agriculture to use employees of the Department of Homeland Security to carry out authorities delegated to the Animal and Plant Health Inspection Service regarding the protection of domestic livestock and plants.

(d) RESTORATION OF DEPARTMENT OF AGRICULTURE EMPLOYEES.—Not later than the effective date described in subsection (e), all full-time equivalent positions of the Department of Agriculture transferred to the Department of Homeland Security under section 421(g) of the Homeland Security Act of 2002 (6 U.S.C. 231(g)) (as in effect on the day before the effective date described in subsection (e)) shall be restored to the Department of Agriculture.

(e) EFFECTIVE DATE.—The amendments made by this section take effect on the date that is 180 days after the date of enactment of this Act.

SA 391. Mr. LIEBERMAN (for himself and Ms. COLLINS) submitted an amendment intended to be proposed to amendment SA 275 proposed by Mr. REID (for himself, Mr. LIEBERMAN, and Ms. COLLINS) to the bill S. 4, to make the United States more secure by implementing unfinished recommendations of the 9/11 Commission to fight the war on terror more effectively, to improve homeland security, and for other purposes; which was ordered to lie on the table; as follows:

On page 37, line 5, strike ''within the scope'' and all that follows through ''(6 U.S.C. 485)'' on line 8 and insert ''and intelligence''.

On page 37, lines 9 and 10, strike ''local emergency response providers'' and insert ''local government agencies (including emergency response providers)''.

On page 37, line 25, strike ''and''.

On page 38, line 3, strike the period and insert ''; and''.

On page 38, between lines 3 and 4, insert the following:

''(9) incorporate emergency response providers, and, as appropriate, the private sector, into all relevant phases of the intelligence and fusion process through full time representatives or liaison officers.

On page 63, line 13, before the semicolon, insert the following: ''the inclusion of which will enhance regional efforts to prevent, prepare for, protect against, respond to, and recover from acts of terrorism''.

On page 66, strike lines 3 through 8 and insert the following:

''(2) STATE DISTRIBUTION OF FUNDS.—

''(A) IN GENERAL.—Each State shall provide the eligible metropolitan area not less than 80 percent of the grant funds. Any funds retained by a State shall be expended on items or services approved by the Administrator that benefit the eligible metropolitan area.

''(B) FUNDS RETAINED.—A State shall provide each relevant eligible metropolitan area with an accounting of the items or services on which any funds retained by the State under subparagraph (A) were expended.

On page 82, line 4, strike ''or other'' and insert ''and other''.

On page 83, line 15, before the semicolon, insert the following: '', including through review of budget requests for those programs''.

On page 90, between lines 4 and 5, insert the following:

''(3) EXISTING PLANNING COMMITTEES.—Nothing in this subsection may be construed to require that any State or metropolitan area create a planning committee if that State or metropolitan area has established and uses a multijurisdictional planning committee or commission that meets the requirements of this subsection.

SA 392. Mr. AKAKA submitted an amendment intended to be proposed to amendment SA 275 proposed by Mr. REID (for himself, Mr. LIEBERMAN, and Ms. COLLINS) to the bill S. 4, to make the United States more secure by implementing unfinished recommendations of the 9/11 Commission to fight the war on terror more effectively, to improve homeland security, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title XV, add the following:

SEC. _____. INTEGRATION OF DETECTION EQUIPMENT AND TECHNOLOGIES.

(a) IN GENERAL.—The Secretary shall have responsibility for ensuring that chemical, biological, radiological, and nuclear detection equipment and technologies are integrated as appropriate with other border security systems and detection technologies.

(b) REPORT.—Not later than 6 months after the date of enactment of this Act, the Secretary shall submit a report to Congress that contains a plan to develop a departmental technology assessment process to determine and certify the technology readiness levels of chemical, biological, radiological, and nuclear detection technologies before the full deployment of such technologies within the United States.

SA 393. Ms. CANTWELL (for herself, Mr. DODD, Mr. FEINGOLD, Mr. BROWNBACK, Mr. LUGAR, and Mr. KERRY) submitted an amendment intended to be proposed by her to the bill S. 4, to make the United States more secure by implementing unfinished recommendations of the 9/11 Commission to fight the war on terror more effectively, to improve homeland security, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. COMPREHENSIVE STRATEGY TO REDUCE GLOBAL POVERTY AND ELIMINATE EXTREME GLOBAL POVERTY.

(a) FINDING.—Congress finds that the 9/11 Commission found that a ''comprehensive U.S. strategy to counter terrorism should include economic policies that encourage development, more open societies, and opportunities for people to improve the lives of their families and to enhance prospects for their children's future''.

(b) DECLARATION OF POLICY.—It is the policy of the United States to promote the reduction of global poverty and the elimination of extreme global poverty and to achieve the Millennium Challenge Account goals of political and economic reforms by developing nations in three areas: ruling justly, investing in people, and fostering economic freedom.

(c) COMPREHENSIVE STRATEGY.—

(1) STRATEGY.—The President, acting through the Secretary of State and, as appropriate, in consultation with the heads of other departments and agencies of the Government of the United States, including the Millennium Challenge Corporation, international organizations, international financial institutions, the governments of developing and developed countries, United States and international nongovernmental organizations, civil society organizations, and other appropriate entities, should develop and implement a comprehensive strategy to further the United States foreign policy objective of promoting the reduction of global poverty, the elimination of extreme global poverty, and the achievement of the Millennium Challenge Account goals of political and economic reforms by developing nations in three areas: ruling justly, investing in people, and fostering economic freedom.

(2) CONTENT.—The strategy under paragraph (1) shall include specific and measurable goals, efforts to be undertaken, benchmarks, and timetables to achieve the objectives described in such paragraph.

(3) GUIDELINES.—The strategy under paragraph (1) should adhere to the following guidelines:

(A) Continued investment in existing United States initiatives related to international poverty reduction, such as the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 (22 U.S.C. 7601 et seq.), the Millennium Challenge Act of 2003 (22 U.S.C. 7701 et seq.), the Heavily Indebted Poor Countries Initiative, and trade preference programs for developing countries.

(B) Increasing overall United States development assistance levels while at the same time improving the effectiveness of such assistance in accordance with Millennium Challenge Account principles.

(C) Enhancing and expanding debt relief in accordance with Millennium Challenge Account principles.

(D) Leveraging United States trade policy where possible to enhance economic development prospects for developing countries.

(E) Coordinating efforts and working in cooperation with developed and developing countries, international organizations, and international financial institutions.

(F) Mobilizing and leveraging the participation of businesses, United States and international nongovernmental organizations, civil society, and public-private partnerships.

(G) Coordinating the goal of poverty reduction with other development goals, such as combating the spread of preventable diseases such as HIV/AIDS, tuberculosis, and malaria, increasing access to potable water and basic sanitation, and reducing hunger and malnutrition.

(H) Integrating principles of sustainable development into policies and programs.

(d) REPORTS.—

(1) INITIAL REPORT.—Not later than one year after the date of the enactment of this Act, the President, acting through the Secretary of State, shall transmit to the appropriate congressional committees a report that describes the strategy under subsection (c).

(2) SUBSEQUENT REPORTS.—Not less than once every year after the submission of the initial report under paragraph (1) until and including 2015, the President shall transmit to the appropriate congressional committees a report on the status of the implementation of the strategy, progress made in achieving the global poverty reduction objectives described in subsection (c)(1), and any changes to the strategy since the date of the submission of the last report.

(e) DEFINITIONS.—In this section:

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

(A) the Committee on Foreign Relations, the Committee on Finance, and the Committee on Appropriations of the Senate; and

(B) the Committee on Foreign Affairs, the Committee on Ways and Means, and the Committee on Appropriations of the House of Representatives.

(2) EXTREME GLOBAL POVERTY.—The term ''extreme global poverty'' refers to the conditions in which individuals live on less than $1 per day, adjusted for purchasing power parity in 1993 United States dollars, according to World Bank statistics.

(3) GLOBAL POVERTY.—The term ''global poverty'' refers to the conditions in which individuals live on less than $2 per day, adjusted for purchasing power parity in 1993 United States dollars, according to World Bank statistics.

SA 394. Mr. CARDIN submitted an amendment intended to be proposed to amendment SA 275 proposed by Mr. REID (for himself, Mr. LIEBERMAN, and Ms. COLLINS) to the bill S. 4, to make the United States more secure by implementing unfinished recommendations of the 9/11 Commission to fight the war on terror more effectively, to improve homeland security, and for other purposes; which was ordered to lie on the table; as follows:

On page 299, between lines 2 and 3, insert the following:

SEC. 1337. APPLICABILITY OF DISTRICT OF COLUMBIA LAW TO CERTAIN AMTRAK CONTRACTS.

Section 24301 of title 49, United States Code, is amended by adding at the end the following:

''(o) APPLICABILITY OF DISTRICT OF COLUMBIA LAW.—Any lease or contract entered into between the National Railroad Passenger Corporation and the State of Maryland, or any department or agency of the State of Maryland, after the date of the enactment of this subsection shall be governed by the laws of the District of Columbia.''.

SA 395. Mr. COLEMAN submitted an amendment intended to be proposed by him to the bill S. 4, to make the United States more secure by implementing unfinished recommendations of the 9/11 Commission to fight the war on terror more effectively, to improve homeland security, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____ INTERNATIONAL STUDENTS.

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

(1) Openness to international students, scholars, scientists, and exchange visitors serves vital and longstanding national foreign policy, educational, and economic interests.

(2) The real and perceived erosion of such openness undermines the national security interests of the United States.

(3) The report of the National Commission on Terrorist Attacks Upon the United States recommended: ''The United States should rebuild the scholarship, exchange, and library programs that reach out to young people and offer them knowledge and hope.''.

(4) The Government Accountability Office convened a forum in September 2006 to discuss concerns whether the United States will be able to ''attract an appropriate share of talented international students to its universities and to its workforce,'' in which participants ''identified real and perceived barriers created by U.S. immigration policy.''.

(5) Increased marketing by countries such as Great Britain and Australia give rise to concerns that the United States has lost market share with regard to international students. The European Union has set forth a comprehensive strategy to be the most competitive and dynamic knowledge-based economy in the world by 2010, and part of this strategy is aimed at enhancing economic competitiveness by making the European Union the most favorable destination for students, scholars, and researchers from other regions of the world.

(6) International students studying in the United States and their families contribute more than $13,000,000,000 to the United States economy each year, making higher education a major service sector export.

(b) DRIVER'S LICENSES FOR INTERNATIONAL STUDENTS AND EXCHANGE VISITORS.—Section 202(c)(2)(C) of the REAL ID Act of 2005 is amended by adding at the end the following:

''(v) PROVISIONS FOR NONIMMIGRANTS MONITORED UNDER SEVIS.—With respect to nonimmigrants subject to the monitoring system required under section 641 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1372)—

''(I) notwithstanding clause (ii), a temporary driver's license or temporary identification card issued under this subparagraph shall be valid for the shorter of—

''(aa) the period during which the applicant is authorized to remain in the United States; or

''(bb) the standard issuance period for driver's licenses issued by the State; and

''(II) valid status under the program developed under such section shall constitute valid documentary evidence of status for purposes of clause (iv).''.

(c) LANGUAGE TRAINING PROGRAMS.—

(1) ACCREDITATION REQUIREMENT.—Section 101(a)(15)(F)(i) (8 U.S.C. 1101(a)(15)(F)(i) is amended by striking ''a language'' and inserting ''an accredited language''.

(2) RULEMAKING.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall issue regulations that—

(A) except as provided in subparagraphs (C) and (D), require that an accredited language training program described in section 101(a)(15)(F)(i) of the Immigration and Nationality Act, as amended by paragraph (1), be accredited by an accrediting agency recognized by the Secretary of Education;

(B) require that if such an accredited language training program provides intensive language training, the head of such program provide the Secretary of Education with documentation regarding the specific subject matter for which the program is accredited;

(C) permit an alien admitted as a nonimmigrant under such section 101(a)(15)(F)(i) to participate in a language training program, during the 2-year period beginning on the date of the enactment of this Act, if such program is not accredited under subparagraph (A); and

(D) permit a language training program established after the date of the enactment of this Act, which is not accredited under subparagraph (A), to qualify as an accredited language training program under such section 101(a)(15)(F)(i) during the 2-year period beginning on the date on which such program is established.

(d) COUNTERING VISA FRAUD.—The Secretary of State shall—

(1) require United States consular offices, particularly consular offices in countries from which large numbers of international students and exchange visitors depart for study in the United States, to submit to the Secretary plans for countering visa fraud that respond to the particular fraud-related problems in such countries; and

(2) not later than 180 days after the date of the enactment of this Act, submit a report on the measures taken to counter visa fraud under the plans submitted under paragraph (1) to—

(A) the Committee on Homeland Security and Governmental Affairs of the Senate;

(B) the Committee on Foreign Relations of the Senate;

(C) the Committee on Homeland Security of the House of Representatives; and

(D) the Committee on Foreign Affairs of the House of Representatives.

(e) SHORT-TERM STUDY ON TOURIST VISA.—Section 101(a)(15)(B) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(B) is amended by inserting ''for a period longer than 90 days'' after ''study''.

(f) RESTORATION OF LIMITED INTERVIEW WAIVER AUTHORITY FOR RETURNING INTERNATIONAL STUDENTS AND FREQUENT VISITORS.—Section 222(h) of the Immigration and Nationality Act (8 U.S.C. 1202(h) is amended—

(1) in paragraph (1)—

(A) in subparagraph (B)(iv), by striking ''or'' at the end;

(B) in subparagraph (C)(ii), by striking ''and'' at the end and inserting ''or''; and

(C) by adding at the end the following:

''(D) by the Secretary of State if the Secretary has provided for expedited visa review because the alien is—

''(i) a frequent visitor to the United States, who—

''(I) has a history of visa approvals;

''(II) has provided biometric data; and

''(III) has agreed to provide the consulate with such information as the Secretary may require; or

''(ii) admitted under subparagraph (F) or (J) of section 101(a)(15), who—

''(I) is pursuing a program of study in the United States;

''(II) has not violated their immigration status;

''(III) has left the United States temporarily; and

''(IV) requires a new visa to return to the same program; and''; and

(2) in paragraph (2)(A), by inserting at the end ''except for an alien described in paragraph (1)(D)(ii)''.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Ms. KLOBUCHAR. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be authorized to conduct a hearing during the session of the Senate on Wednesday, March 7, 2007 at 9:30 a.m. in 328A, Senate Russell Office Building. The purpose of this committee hearing will be to discuss investing in our Nation's future through agricultural research.

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Ms. KLOBUCHAR. 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 Wednesday, March 7, 2007, at 9:30 a.m., in room 253 of the Russell Senate Office Building. The purpose of the hearing is to evaluate policy implications of pharmaceutical importation from Canada.

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Ms. KLOBUCHAR. 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 Wednesday, March 7, 2007, at 2:30 p.m., in room 253 of the Russell Senate Office Building. The purpose of the hearing is to review national imperatives for Earth science research.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Ms. KLOBUCHAR. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to hold a hearing during the session of the Senate on Thursday, March 7, 2007, at 9:30 a.m. in room SD–366 of the Dirksen Senate Office Building. The purpose of the hearing is to investigate market constraints on large investments in advanced energy technologies and investigate ways to stimulate additional private-sector investment in the deployment of these technologies.

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

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Ms. KLOBUCHAR. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet for a hearing on Wednesday, March 7, 2007, at 3 p.m. in SD–406. The purpose of the hearing is to conduct oversight on the President's FY 2008 EPA budget.

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

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Ms. KLOBUCHAR. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to hold a hearing during the session of the Senate on Wednesday, March 7, 2007 at 9:30 a.m. in SD–430.

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

COMMITTEE ON THE JUDICIARY

Ms. KLOBUCHAR. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on ''The McCarran-Ferguson Act and Antitrust Immunity: Good for Consumers?'' on Wednesday, March 7, 2007 at 9:30 a.m. in Dirksen Senate Office Building Room 226.

Witness list

Panel I: The Honorable Trent Lott, U.S. Senator, R–MS; the Honorable Mary L. Landrieu, U.S. Senator, D–LA.

Panel II: Michael Homan, Homeowner, New Orleans, LA; J. Robert Hunter, Insurance Director, Consumer Federation of America, Washington, DC; Marc Racicot, President, American Insurance Association, Washington, DC; Susan E. Voss, Iowa Insurance Commissioner, National Association of Insurance Commissioners, Des Moines, IA.

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

COMMITTEE ON THE JUDICIARY

Ms. KLOBUCHAR. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on ''Oversight of the Enforcement of the Antitrust Laws'' on Wednesday, March 7, 2007 at 2 p.m. in Dirksen Senate Office Building Room 226.

Witness list

The Honorable Thomas O. Barnett, Assistant Attorney General for the Antitrust Division, U.S. Department of Justice, Washington, DC; the Honorable Deborah Platt Majoras, Chairman Federal Trade Commission, Washington, DC.

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

COMMITTEE ON VETERANS' AFFAIRS

Ms. KLOBUCHAR. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet during the session of the Senate on Wednesday, March 7, 2007 at 9:30 a.m. in room 418 of the Dirksen Senate Office Building to conduct a hearing on the VA Claims Adjudication Process.

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

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Ms. KLOBUCHAR. Mr. President, I ask unanimous consent that the Permanent Subcommittee on Investigations be authorized to meet on Wednesday, March 7, 2007, at 10 a.m., for a hearing entitled ''Credit Card Practices: Fees, Interest Rates, and Grace Periods.''

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

CONCLUSION OF MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that morning business be closed.

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

CLOTURE MOTIONS—S. 4

Mr. REID. Mr. President, I send to the desk a cloture motion.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close the debate on the Reid substitute amendment No. 275 to S. 4, the 9/11 Commission legislation.

Joe Lieberman, Charles Schumer, Robert Menendez, Patty Murray, Dianne Feinstein, B.A. Mikulski, Christopher Dodd, Joe Biden, Debbie Stabenow, Harry Reid, Pat Leahy, Dick Durbin, Jeff Bingaman, H.R. Clinton, Bill Nelson, Tom Carper, Jack Reed.

Mr. REID. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close the debate on Calendar No. 57, S. 4, the 9/11 Commission legislation.

Joe Lieberman, Charles Schumer, Robert Menendez, Patty Murray, Dianne Feinstein, B.A. Mikulski, Christopher Dodd, Joe Biden, Debbie Stabenow, Harry Reid, Pat Leahy, Dick Durbin, Jeff Bingaman, H.R. Clinton, Bill Nelson, Tom Carper, Jack Reed.

MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that there be a period for morning business, with Senators permitted to speak therein for up to 10 minutes each.

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

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider Executive Calendar Nos. 39 and 40; that the nominations be confirmed, the motions to reconsider be laid on the table; that any statements thereon be printed in the RECORD; that the President be immediately notified of the Senate's action, and the Senate return to legislative session.

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

The nominations, considered and confirmed are as follows:

DEPARTMENT OF STATE

Stanley Davis Phillips, of North Carolina, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Estonia.

William B. Wood, of New York, a career member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Islamic Republic of Afghanistan.

Mr. REID. Mr. President, we just approved the new Ambassador to Afghanistan. I do recall yesterday we approved the new Ambassador to Iraq. That is pretty good work of the Senate. These are two very important diplomats. They have their work cut out for them. I congratulate both of them.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

NATIONAL SAFE PLACE WEEK

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to S. Res. 100.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 100) designating the week beginning March 12, 2007, as ''National Safe Place Week.''

There being no objection, the Senate proceeded to consider the resolution.

Mrs. FEINSTEIN. Mr. President, I rise today with Senator CRAIG and 14 of my colleagues in support of a resolution designating the week of March 12 through 17, 2007, as National Safe Place Week.

This resolution recognizes the participating businesses, community organizations, youth service agencies, and volunteers that are part of the YMCA National Safe Place Program and work for the safety and well being of at-risk youth.

Youth today face a growing amount of pressure in their daily lives at school, at home, and in the community. For some youth, problems include abuse or neglect at home, drug or alcohol addictions of family members and friends, trouble at school or dangerous situations on a date.

Young people who face these serious situations should not feel left alone and should have a place to go to in their community.

Over the past 24 years, the National Safe Place Program has provided immediate help to more than 200,000 youth in crisis at nearly 16,000 Safe Place locations and with counseling by phone.

This important program is currently operated by 140 agencies serving 700 communities in 40 States—bringing together the private and public sector to reach out and help at-risk youth who might be neglected, abused, threatened or in unsafe situations.

In my home State of California, there are nine designated Safe Place programs with 1,738 Safe Place sites located in over 65 communities which have served more than 5,000 youth.

National Safe Place sites include fast food restaurants, convenience stores, fire stations, schools, libraries, office buildings or even a city bus and are marked by large, yellow Safe Place signs displayed prominently in front windows.

In Fresno, CA, for example, city buses are all designated as Safe Places.

Any youth can walk into a Safe Place site and receive immediate help from a trained volunteer, and further help from a Safe Place staff person who can provide counseling, residential assistance or professional referrals, as needed.

The National Safe Place Week recognizes the commitment, resources, and energy of thousands of businesses, community organizations and volunteers who make this effective, growing network of support for youth possible. In addition, it seeks to increase awareness of the crises that youth face today.

I am encouraged by the National Safe Place Program's positive impact on communities throughout the Nation, and I hope that more communities will choose to participate in this innovative program.

The National Safe Place Program brings us closer to making our country safe for youth, and I urge my colleagues to support this resolution.

Mr. REID. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to this bill be printed in the RECORD.

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

The resolution (S. Res. 100) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 100

Whereas the youths of the United States will be the future bearers of the bright torch of democracy;

Whereas youths need a safe haven from various negative influences, such as child abuse, substance abuse, and crime, and youths need to have resources readily available to assist them when faced with circumstances that compromise their safety;

Whereas the United States needs increased numbers of community volunteers acting as positive influences on the youths of the Nation;

Whereas the Safe Place program is committed to protecting the youths of the United States, the Nation's most valuable asset, by offering short term safe places at neighborhood locations where trained volunteers are available to counsel and advise young people seeking assistance and guidance;

Whereas the Safe Place program combines the efforts of the private sector and nonprofit organizations to reach young people in the early stages of crisis;

Whereas the Safe Place program provides a direct way to assist programs in meeting performance standards relative to outreach and community relations, as set forth in the Runaway and Homeless Youth Act (42 U.S.C. 5701 et seq.);

Whereas the Safe Place placard displayed at businesses within communities stands as a beacon of safety and refuge to at-risk youths;

Whereas more than 700 communities in 40 States make the Safe Place program available at nearly 16,000 locations;

Whereas more than 200,000 youths have gone to Safe Place locations to get help when faced with crisis situations and have received counseling by phone as a result of Safe Place information the youths received at school;

Whereas, through the efforts of Safe Place coordinators across the United States, each year more than 500,000 students learn in a classroom presentation that the Safe Place program is a resource they can turn to if they encounter an abusive or neglectful situation, and 1,000,000 Safe Place information cards are distributed; and

Whereas increased awareness of the Safe Place program will encourage more communities to establish Safe Place locations for the youths of the United States: Now, therefore, be it

Resolved, That the Senate—

(1) designates the week of March 12 through March 18, 2007, as ''National Safe Place Week''; and

(2) calls upon the people of the United States and interested groups to—

(A) promote awareness of, and volunteer involvement in, the Safe Place program; and

(B) observe the week with appropriate ceremonies and activities.

ORDERS FOR THURSDAY, MARCH 8, 2007

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stands adjourned until 9:30 a.m., Thursday, March 8; that on Thursday, following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and that there then 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 the first 30 minutes under the control of the Republican leader or his designee and the final 30 minutes under the control of the majority leader or his designee; and that following morning business, the Senate resume consideration of S. 4.

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

CALL OF THE ROLL

Mr. REID. Mr. President, I ask unanimous consent that the live quorums required with respect to the two cloture motions I filed be waived.

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

PROGRAM

Mr. REID. Mr. President, tomorrow we will be in a situation where we can continue to work on, of course, S. 4. I indicated to the distinguished Republican leader yesterday that I am not certain but I think I can get consent as to the cloture motion which was filed by the Republicans earlier today, that we would be happy to vote on that tomorrow sometime. We would also be willing to vote on the two I just filed. If that does not happen, of course, we will be in a situation where we will have a cloture vote on Friday.

As I told everyone here early this week, the first cloture motion which we will vote on will be the one the Republicans filed. If cloture is not invoked, we will immediately move to the cloture motions I filed. There will be 30 hours in relation to that cloture motion if cloture is invoked and, of course, that time won't run out until sometime Saturday.

So it is really up to the minority as to what they want to do. We are willing to move it up 1 day or do it on Friday, whatever is their interest. Remember, 30 hours would not run out until sometime Saturday night. If we voted at, say, 10 a.m. Friday morning, 30 hours would run out sometime Saturday afternoon, 4 p.m. or thereabouts. If that, in fact, were the case and cloture were invoked and there are some germane amendments postcloture, we could dispose of those on Friday.

Anyway, we are in a situation where it appears that unless the minority decides to allow us to have those votes on Thursday, we would be in session Friday for a good part of the day and maybe going into Saturday unless we work something out.

Mr. MCCONNELL. Mr. President, if the majority leader will yield for an observation, I think we have made pretty good progress on getting amendments disposed of. Hopefully, we can do more of that tomorrow. I think both sides have been operating in good faith, and we will consider tomorrow what other possibilities there might be.

I think I can speak for the majority on this side in saying that we certainly look forward to wrapping up this bill in the near future. There are a few other amendments we would like to have considered, and those discussions are ongoing between my staff and the majority leader's staff.

Mr. REID. Mr. President, I would say this: The Republican leader is absolutely right, and we have tried real hard on some nongermane amendments to get some votes. It is not all their fault. We have, on our side, a Senator or two who simply will not let us agree to votes on nongermane amendments because they say and have said for the last 2 days: You gave a vote on theirs; why don't I get a vote on mine. So we have agreed to.

As I explained to some Senators assembled here in the well earlier today, when we moved to this bill, I said it would be open for amendment, and it has been, and there is no way we can get out of germane amendments. We can invoke cloture, but they are still available.

On the nongermane amendments, you run into problems like we have run into in these last couple of days. There are some really big issues people are objecting to and not allowing these other amendments to be heard unless they get theirs. We have this habeas corpus issue, and there has been all kinds of talk on that. That is okay, from my perspective, but we have spent a lot of time on that issue before. We have over on this side something dealing with Katrina about which Senator LANDRIEU feels very strongly. We have a Senator over here who is interested in the PATRIOT Act and changing that. It goes back and forth, with both sides having all kinds of things they want, but it is an open process.

Now, the one thing that maybe we can do in the future to make things a little more orderly is have an open amendment process. But when an amendment is called, we have to dispose of that. What we have tried to do here is have people come and give their statements about amendments they want to offer, and we have allowed them to offer them. What happens is you get too many amendments stacked up, and it gives individual Senators, frankly, too much power because they hold everybody else hostage.

So I think what we are going to do in the future—and I will discuss this in more detail with the distinguished Republican leader—is have open amendments but not allow these amendments to be stacked up. By doing it the way we have done it here, trying to be more open, it takes away a lot of the authority of the two managers because the authority on these bills floats to individual Senators because they have all these amendments and they want to offer them, which I have no problem with, but they won't allow other people to have votes on their amendments unless they get amendments.

This legislative process is the art of compromise and trying to work things out. Quite frankly, during the last couple of days, we have had Senators on both sides who have been very uncompromising, and it has made it very difficult for the managers and I would think Senator MCCONNELL and myself.

Having said that, I appreciate all the problems we have here. Remember, for 220 years, this has been the U.S. Senate. It is a wonderful institution. Sometimes, however, it can be very consternating to work things through, but we will get it done.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. REID. Mr. President, if there is no other business and if the Republican leader has no further business, I ask unanimous consent that the Senate stand adjourned under the previous order.

There being no objection, the Senate, at 7:43 p.m., adjourned until Thursday, March 8, 2007, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate March 7, 2007:

FEDERAL ENERGY REGULATORY COMMISSION

JOSEPH TIMOTHY KELLIHER, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE FEDERAL ENERGY REGULATORY COMMISSION FOR THE TERM EXPIRING JUNE 30, 2012. (REAPPOINTMENT)

DEPARTMENT OF EDUCATION

KERRI LAYNE BRIGGS, OF VIRGINIA, TO BE ASSISTANT SECRETARY FOR ELEMENTARY AND SECONDARY EDUCATION, DEPARTMENT OF EDUCATION, VICE HENRY LOUIS JOHNSON, RESIGNED.

INSTITUTE OF MUSEUM AND LIBRARY SERVICES

DOUGLAS G. MYERS, OF CALIFORNIA, TO BE A MEMBER OF THE NATIONAL MUSEUM AND LIBRARY SERVICES BOARD FOR A TERM EXPIRING DECEMBER 6, 2011, VICE PETER HERO, TERM EXPIRED.

JEFFREY PATCHEN, OF INDIANA, TO BE A MEMBER OF THE NATIONAL MUSEUM AND LIBRARY SERVICES BOARD FOR A TERM EXPIRING DECEMBER 6, 2011, VICE JOHN E. BUCHANAN, JR., TERM EXPIRED.

LOTSEE PATTERSON, OF OKLAHOMA, TO BE A MEMBER OF THE NATIONAL MUSEUM AND LIBRARY SERVICES BOARD FOR A TERM EXPIRING DECEMBER 6, 2011, VICE DONALD LESLIE, TERM EXPIRED.

FOREIGN SERVICE

THE FOLLOWING-NAMED PERSONS OF THE AGENCIES INDICATED FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF THE CLASSES STATED.

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS TWO, CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

DEPARTMENT OF STATE

PATRICIA A. MILLER, OF MARYLAND

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS THREE, CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

AGENCY FOR INTERNATIONAL DEVELOPMENT

MICHELLE M. FONTAINE, OF MARYLAND
RICHARD BRAD MOORE, OF TEXAS
RAGIP SARITABAK, OF CONNECTICUT
KENDRA L. SCHOENHOLZ, OF ILLINOIS

DEPARTMENT OF STATE

ARIC RICHARD SCHWAN, OF COLORADO

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS FOUR, CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

DEPARTMENT OF STATE

TANYA A. ALLEN, OF MARYLAND
TYLER TRAVIS ALLEN, OF CALIFORNIA
LORI J. ANTOLINEZ, OF FLORIDA
GUY SHAWN BAXTER, OF WASHINGTON
ALISON B. BLOSSER, OF OHIO
TRACY R. BROWN, OF UTAH
CHRISTOPHER L. CAMPBELL, OF VIRGINIA
FARAH N. CHERY-MEDOR, OF MARYLAND
THOMAS S. CHOJNACKI, OF COLORADO
CAROLYN N. COOLEY, OF GEORGIA
DANIEL NELS DALEY, OF THE DISTRICT OF COLUMBIA
PAMNELLA SONOMA DEVOLDER, OF WASHINGTON
MARK S. DIEKER, OF OHIO
JOHN DUNHAM, OF FLORIDA
ANA A. ESCROGIMA, OF NEW YORK
HARRISON S. FORD III, OF VIRGINIA
DANIEL C. GAUSH, OF TEXAS
RACHEL D. GRAAF, OF IOWA
ELISA BETH GREENE, OF NEVADA
SCOTT CHARLES HIGGINS, OF FLORIDA
JEFFREY GERARD HILSGEN, OF FLORIDA
KATHRYN HOFFMAN, OF THE DISTRICT OF COLUMBIA
DAVID JOHN JEA, OF FLORIDA
NICKOLAS GEORGE KATSAKIS, OF VIRGINIA
VIRGINIA ELAINE KENT, OF TEXAS
MICHAEL D. LAMPEL, OF ILLINOIS
ANDREW NICHOLAS LENTZ, OF OREGON
MIRIAM LACHO, OF FLORIDA
DEBRA LO, OF CALIFORNIA
CHARLES A. LOBDELL III, OF FLORIDA
KEITH A. LOMMEL, OF ARIZONA
MITCHELL G. MABREY, OF MISSOURI
MARISSA MEAD MARTIN, OF FLORIDA
MATTHEW C. MEADOWS, OF WASHINGTON
ERIC REDPATH MEHLER, OF WASHINGTON
BRADLEY STEVEN NORTON, OF TEXAS
JEFFREY T. OGREN, OF ARIZONA
EVAN WILLIAM OWEN, OF CALIFORNIA
KARI ANN PAETZOLD, OF IOWA
ROBERTO QUIROZ II, OF FLORIDA
ROBERT A. RAINES, OF VIRGINIA
LAWRENCE M. RANDOLPH, OF THE DISTRICT OF COLUMBIA
MARGOT JOSEPHINE RATCLIFFE, OF WASHINGTON
BRIAN ROBERT REYNOLDS, OF UTAH
MIGUEL CORREA RODRIGUES, OF MARYLAND
DAVID SEMINARA, OF ILLINOIS
ELIZABETH A. SEWALL, OF TENNESSEE
SREELAKSHIMI SITA SONTY, OF ILLINOIS
JOHN DANIEL SPYKERMAN, OF THE DISTRICT OF COLUMBIA
VIRGINIA LOUISE STAAB, OF CALIFORNIA
DANIEL MORENO STOIAN, OF CALIFORNIA
RUTH NIKOLA URRY, OF OREGON
DANIEL WALD, OF CONNECTICUT
ERIN E. WEBSTER-MAIN, OF WASHINGTON
STEPHEN JAMES WILGER, OF OHIO
PETRA JOY ZABRISKIE, OF CALIFORNIA

THE FOLLOWING-NAMED MEMBERS OF THE FOREIGN SERVICE TO BE CONSULAR OFFICERS AND/OR SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA, AS INDICATED:

CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

DEPARTMENT OF COMMERCE

CHRISTINA BISHOP, OF TEXAS
MARIANNE M. DRAIN, OF WASHINGTON
CATHERINE FEIG, OF VIRGINIA
JONATHAN HOLLAND, OF GEORGIA
CAROLINE E. KATZIN, OF NEVADA
DOMINIC KEATING, OF VIRGINIA
DORIAN S. MAZURKEVICH, OF PENNSYLVANIA
HEIDI M. PICHLER, OF THE DISTRICT OF COLUMBIA

DEPARTMENT OF STATE

EMILIA R. ADAMS, OF TENNESSEE
STEVEN ANDERSON, OF OKLAHOMA
DAVID E. ARNOLD, OF FLORIDA
TONYA R. ASHWORTH, OF VIRGINIA
CARLA L. BACHECHI, OF NEW MEXICO
RYAN BALLOW, OF ALASKA
QUENTIN R. BARBER, OF INDIANA
JOHN S. BARGER, OF VIRGINIA
JENNIFER K. BARLOW, OF VIRGINIA
JOELLE-ELIZABETH BEATRICE BASTIEN, OF MARYLAND
CANDACE LATRESE BATES, OF ALABAMA
DAVID M. BECHARD, OF VIRGINIA
ASHLEY LORRAINE BRADY, OF TEXAS
KYLA L. BROOKE, OF CALIFORNIA
CHRISTOPHER E. BROOMFIELD, OF THE DISTRICT OF COLUMBIA
MATTHEW K. BUNT, OF WASHINGTON
OSBORNE DAVIS BURKS III, OF TENNESSEE
DANAE G. BUSA, OF VIRGINIA
EMILY ELIZABETH CALDWELL, OF SOUTH CAROLINA
SHARON MARIE CALLAHAN, OF VIRGINIA
JULIE L. CARABELL, OF MARYLAND
GEORGE E. CARTER, OF VIRGINIA
G. WARREN CHANE JR, OF MASSACHUSETTS
KELLY ANN COHUN, OF VERMONT
ELLEN ANNE COLLERAN, OF MASSACHUSETTS
LISA BARANOWSKI CONESA, OF WISCONSIN
LINDA M. CRIBLEZ, OF FLORIDA
CYNDEE J. CROOK, OF WASHINGTON
DAVID CROOKER, OF VIRGINIA
BONNIE TARA DALEY, OF CALIFORNIA
KELLY DANIEL, OF TEXAS
LYN DEBEVOISE, OF CALIFORNIA
MICHAEL DECLUE, OF VIRGINIA
PATRICK J. DIRKER, OF THE DISTRICT OF COLUMBIA
LESLIE WILLIAMS DOUMBIA, OF ALABAMA
KIMBERLY A. DURAND, OF MASSACHUSETTS
ROBERT WINFIELD ELLIS, OF THE DISTRICT OF COLUMBIA
RAMON ESCOBAR, OF WISCONSIN
PERLA GABRIELA FERNANDEZ, OF KANSAS
ELLIOT CHARLES FERTIK, OF MASSACHUSETTS
BROOKE FORD, OF VIRGINIA
DANIELLE N. FOSTER, OF VIRGINIA
MICHAEL R. FRASER, OF NEW YORK
MATTHEW J. GARRETT, OF KANSAS
MEREDITH E. GLASS, OF VIRGINIA
RACHEL C. GRACIANO, OF WASHINGTON
BREANNA LENORE GREEN, OF MINNESOTA
ALAMANDA L. GRIBBIN, OF FLORIDA
NAILA M. GUTIERREZ, OF FLORIDA
ANDREW E. HALUS, OF PENNSYLVANIA
ANN MCCAMISH HARDMAN, OF KENTUCKY
BRYAN RH. HARRISON, OF ILLINOIS
RICHARD P. HARRISON, OF VIRGINIA
IAN HAYWARD, OF THE DISTRICT OF COLUMBIA
DANA D. HILL, OF MARYLAND
GRETA E. HINKLE, OF VIRGINIA
AMANDA LEE HOBAN, OF VIRGINIA
JOSEPH PATRICK HOBAN, OF VIRGINIA
BRANDON ALLEN HUDSPETH, OF TEXAS
DAVID M. HUGHES, OF VIRGINIA
TIM HUSON, OF CALIFORNIA
JOHN H. HYP, OF VIRGINIA
STEVEN J. JACOB, OF VIRGINIA
BRANDI NASHAY JAMES, OF GEORGIA
LIDA JOHANSON, OF VIRGINIA
PATRICK JOSEPH KELLY, OF VIRGINIA
MEGAN M. KEPHART, OF THE DISTRICT OF COLUMBIA
MICHAEL G. KIRBY, OF VIRGINIA
DENEYSE ANTOINETTE KIRKPATRICK, OF TEXAS
DAMON PATRICK KITTERMAN, OF GEORGIA
SCOTT ERIC KOFMEHL, OF PENNSYLVANIA
JUSTIN L. KOLBECK, OF CALIFORNIA
BRIAN LANDAN, OF THE DISTRICT OF COLUMBIA
KELLY CHRISTINE LANDRY, OF GEORGIA
LEAH D. LATHAM, OF VIRGINIA
ADAM JESSE LENERT, OF TEXAS
ROSALIE PARKER LOEWEN, OF THE DISTRICT OF COLUMBIA
JOHN D. MAHR, OF VIRGINIA
WOSSENYELESH MAZENGIA, OF PENNSYLVANIA
AMIEE R. MCGIMPSEY, OF IOWA
CAMERON D. MCGLOTHLIN, OF THE DISTRICT OF COLUMBIA
LORI MICHAELSON, OF THE DISTRICT OF COLUMBIA
RYIA MILLER, OF VIRGINIA
BROOKE SUMMERS MOPPERT, OF CONNECTICUT
KEVIN S. MORAN, OF VIRGINIA
ROBERT T. MORGAN, OF MARYLAND

KIRA J. MORIAH, OF THE DISTRICT OF COLUMBIA
AMY REBECCA NAGLE, OF THE DISTRICT OF COLUMBIA
WAYNE BACTAD NANKIL, OF MARYLAND
MICHAEL PETER NOLL, OF VIRGINIA
DEVINA SOLMORO OJASCASTRO, OF CALIFORNIA
JENNIFER L. ORRICO, OF WISCONSIN
BLANCA R. PADILLA, OF VIRGINIA
ESTHER PAN, OF NEW YORK
C. DARREN PERDUE, OF WEST VIRGINIA
CLARENCE JASEN PETERSON, OF MICHIGAN
GREGORY WILLIAM PFLEGER, JR., OF NEW JERSEY
JOHN T. POIRIER, OF VIRGINIA
BRIANNA ELIZABETH POWERS, OF NORTH CAROLINA
ERICA LEIGH PRENZLOW, OF THE DISTRICT OF COLUMBIA
ROBYN KATHERINE PRINZ, OF CALIFORNIA
BRIAN REAMS, OF VIRGINIA
ROBERT ERIC REEVES, OF HAWAII
HALA RHARRIT, OF NEVADA
JOHN V. RHATIGAN, OF NEW YORK
JANE RHEE, OF TEXAS
CHRISTEN CLAIRE RHODES, OF VIRGINIA
DONNA L. ROBER, OF MARYLAND
LUIS ALBERTO ROJAS, OF VIRGINIA
KEVIN J. ROSIER, OF LOUISIANA
CHRISTOPHER DAVID SCHEFFMAN, OF VIRGINIA
HOLLY PALUBIAK SCHWENDLER, OF VIRGINIA
LYNETTE SCHUBERT, OF VIRGINIA
KENNETH JOHN SCUDDER, OF CALIFORNIA
IONA L. SEGARAM, OF VIRGINIA
AMY CHRISTINE SENNEKE, OF ILLINOIS
EMILY C. SHAFFER, OF VIRGINIA
RACHAEL ANN SHARON, OF ILLINOIS
BRIAN LOYD SHELBOURN, OF TEXAS
DIONANDREA FRANCINE SHORTS, OF COLORADO
HYUN BO SIM, OF NEW YORK
SHENOA LIAN SIMPSON, OF MISSOURI
MICHELLE BERNADETTE SIVERT, OF CALIFORNIA
ANNE M. SLACK, OF NEW HAMPSHIRE
ELEANOR CHARLOTTE STONE, OF VIRGINIA
FRANK P. TALLUTO, OF GEORGIA
JOSHUA TEMBLADOR, OF NEW YORK
OLIVER M. THOMAS, OF VIRGINIA
JAMI J. THOMPSON, OF INDIANA
KAREEN KAY-ANN THORPE, OF NEW YORK
ESPERANZA MARIE TILGHMAN, OF CALIFORNIA
VERNICA TORRES, OF ILLINOIS
CHAD E. TRAXLER, OF COLORADO
PEI J. TSAI, OF TEXAS
MIGNON RENEE TURNER, OF NORTH CAROLINA
DAVID L. VANCE, OF MISSOURI
LILIANE VERLAGE, OF VIRGINIA
STAFFORD A. WARD, OF GEORGIA
CHELISA C. WHEELER, OF NEW MEXICO
MATTHEW WHITTON, OF VIRGINIA
GEORGE J. WIEDEROCK II, OF VIRGINIA
ANGELINA M. WILKINSON, OF FLORIDA
ALISON ELSPETH WILLIAMS, OF THE DISTRICT OF COLUMBIA
KIMBERLY E. WRIGHT, OF NEW YORK

THE FOLLOWING-NAMED CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE DEPARTMENT OF STATE FOR PROMOTION IN THE SENIOR FOREIGN SERVICE TO THE CLASS INDICATED:

CAREER MEMBER OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF MINISTER-COUNSELOR:

JAMES J. EHRMAN, OF MARYLAND
MICHAEL PATRICK GLOVER, OF TEXAS
LAWRENCE C. MANDEL, OF VIRGINIA

THE FOLLOWING-NAMED CAREER MEMBER OF THE FOREIGN SERVICE OF THE DEPARTMENT OF STATE FOR PROMOTION INTO THE SENIOR FOREIGN SERVICE, AND FOR APPOINTMENT AS CONSULAR OFFICER AND SECRETARY IN THE DIPLOMATIC SERVICE, AS INDICATED:

CAREER MEMBER OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF COUNSELOR, AND CONSULAR OFFICER AND SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

DEAN L. SMITH, OF TEXAS

CONFIRMATIONS

Executive nominations confirmed by the Senate Wednesday, March 7, 2007:

DEPARTMENT OF STATE

STANLEY DAVIS PHILLIPS, OF NORTH CAROLINA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF ESTONIA.

WILLIAM B. WOOD, OF NEW YORK, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE ISLAMIC REPUBLIC OF AFGHANISTAN.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.