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# Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable JOHN E. SUNUNU, a Senator from the State of New Hampshire.

## PRAYER

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

Let us pray.

O God, who can test our thoughts and examine our hearts, look within our leaders today and remove anything that will hinder Your Providence. Replace destructive criticism with kindness and humility. Give to our Senators a wisdom that will bring unity and respect. Help them to commit the labors of this day to You, knowing they can trust You to provide help when they need it most.

Be merciful and bless each of us. May Your face shine with favor upon those who love You, as You unleash Your saving power in our world.

Help us to do with our might that which lies to our hands so that we may fight the good fight and at the end receive the crown which You will award to those who have been faithful.

This we ask in Your holy Name. Amen.

## PLEDGE OF ALLEGIANCE

The Honorable JOHN E. SUNUNU 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. STEVENS).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
*Washington, DC, April 14, 2005.*

*To the Senate:*

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JOHN E. SUNUNU, a Senator from the State of New Hampshire, to perform the duties of the Chair.

TED STEVENS,
*President pro tempore.*

Mr. SUNUNU 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. FRIST. Mr. President, once again today, the Senate will be in a period for morning business for 60 minutes. Following that time, the Senate will resume debate on the emergency supplemental appropriations bill. We have several amendments pending from yesterday that are currently under review, and Members may want to speak to those amendments.

Much of the day yesterday we spent—both on the floor and off the floor—discussing the immigration issue. The issues surrounding immigration are critically important to our economy, to equity, and to security and fairness. They are all vital to this country. The leadership has encouraged those who want to participate in a comprehensive debate on immigration to postpone consideration of their amendments from this standpoint because this is an emergency supplemental spending bill to support our troops in Iraq and Afghanistan and to have appropriate funding for tsunami relief.

There will be a time later, before the end of the year, when we will address immigration in a comprehensive way. In spite of that, we have respected the rights of individual Senators who feel they absolutely must address specific issues, but I continue to encourage those who want to address immigration in a comprehensive way to do so at a more appropriate time.

I know we can work out a process to keep moving forward on the emergency supplemental bill, but we have to address specifically the range of immigration issues that have been brought forth to the managers.

The managers will continue to consider the amendments that are brought forward. Amendments that are brought forward, I encourage they relate to the supplemental emergency spending bill as much as possible. We expect votes over the course of today, and we will have, I expect, a very busy schedule over the course of the day.

Mr. President, I have a few other remarks to make, but I will be happy to turn to the Democratic leader.

Mr. REID. Mr. President, I thank the leader. I say through the Chair to the majority leader, we have worked—even started working last week—on the immigration amendments. We have a finite list now. We have 12 amendments. I think that can be whittled down, for lack of a better word, to even less than that, considerably less than that.

What we should do is lock in these amendments as a finite list. Within a very short period of time, we can find out how many really have to be offered.

The pending amendment, the one Senator MIKULSKI offered, will have nearly—in fact, it may have—60 votes. So that will be adopted with ease.

I hope we do not have to file cloture on this bill. I acknowledge this is important legislation. The money for the funding of the troops is absolutely necessary. All one has to do is read the paper every morning to understand how badly our troops need it. I was just there, and they need all the resources they can get. We want to make sure they do not have to wait a second for what they need.

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

I will work with the leader through the morning and early afternoon, and see if we can get this number whittled down. Also, the majority leader has a few on his side.

I hope we can limit the immigration amendments to very few—I would say, at the most, three on each side, or four at most, and have the others set aside until a time the majority leader has indicated he will give, sometime before we finish work this year, so there can be a full debate on those immigration matters.

As the leader knows, the problem—and he had nothing to do with it—is in this bill. There is immigration material in this bill. They have so-called REAL ID which came about as a result of our trying to get other legislation done last year. An arrangement was made by the House leadership that they would allow, on the first moving vehicle to come along, the chairman of the Judiciary Committee to put his legislation in the bill. It is in this bill. That is the problem we have.

The Republican leader did not want it in this bill, I did not want it in this bill, but it is in the bill. As a result, we do not have the normal objection that is available when we legislate on an appropriations bill.

I will work with the leader. We will get staff working on this, as they have, to see if we can narrow this considerably. The amendments that deal with the subject matter at hand, the funding of this bill, are just a few in number. We dealt with some of the most important ones yesterday.

I hope we can finish this bill in a reasonably good period of time, and maybe, if we are fortunate, we can get something such as the highway bill or something such as that before we finish our work period—maybe the TANF bill, whatever is out there for us to do.

I understand the problems the leader has, and I will be happy to work with him to alleviate his load as much as possible.

Mr. FRIST. Mr. President, I have a few other comments.

## H2N2 FLU VIRUS

Mr. FRIST. Mr. President, there is one issue I talked about initially Monday and want to bring forth once again.

Nothing is more important than the safety of the American people, and we have a lot of work to do in a particular area. Yesterday we learned that samples of the deadly H2N2 flu virus were accidentally shipped to 5,000 laboratories all over the world. Thankfully, nearly all of the samples have been destroyed.

The H2N2 virus is lethal. It is fatal. Back in 1957, it killed over 70,000 people just here in the United States and as many as 1 million to 4 million people around the world.

This latest news underscores, once again, just how vulnerable we are as an American people, as a world people, because viruses know no borders, they know no geography. There are no barriers.

On Monday, 3 days ago, I spoke of the need to bolster State preparedness and Federal preparedness in this arena. I mentioned that exotic and deadly viruses, such as the Marburg virus that at this very moment is racking all of northern Angola—the Marburg virus being a virus which is an Ebola-like virus, a hemorrhagic-fever-type virus—those viruses that are racking that country which we do not understand, for which we have no cure, for which we have no vaccine, are literally just a plane ride away from this room or from whoever is listening to me now through the media around the country. It is just a plane ride away.

Avian flu has already killed 50 people. Some say, 50 people, that is not thousands of people. But it is 50 people from a virus that not too long ago we did not know anything about, that began to be harbored in birds, and now is being harbored in other animals and now has killed and jumped to kill 50 people; with just a tiny drift and ultimately a shift in a mutation, it becomes transmissible.

Once again, we have no vaccine for avian flu. It is something for which we have no cure. We only have to look back to 1917, another type of avian flu, but very similar, which killed a half a million Americans, 50 million people around the world.

Meanwhile, as all this goes on, there are only five major vaccine manufacturers worldwide that have production facilities in the United States. That is for all vaccines. Only two of those are actually United States companies. Our manufacturing base for vaccines is woefully inadequate for any of the threats I have just mentioned.

Over the past 2 decades, the number of manufacturers who make vaccines for children has dwindled from 12 down to now just 4, and only 2 of the 4 manufacturers that make lifesaving vaccines for children are here in the United States.

I spoke, as I mentioned, on this topic on Monday. I spoke on Monday because it was the 50th anniversary of the polio vaccine. Yesterday's news about the H2N2 virus is just one more reason why we need to take action. It is imperative we strengthen our domestic vaccine supply, we offer appropriate legal protections, and we encourage and incentivize collaboration between public and private sectors. We need to advance research and development. We need to put all these initiatives together to protect us from a deadly viral outbreak that scientific experts warn could come to our shores any day.

America has been the engine of countless lifesaving discoveries and global health efforts. Once again, we are called upon to lead for the safety of our fellow citizens and, indeed, citizens around the world.

Mr. President, I yield the floor.

## RESERVATION OF LEADER TIME

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

## MORNING BUSINESS

Mr. FRIST. Mr. President, under the previous order, there will now be a period for the transaction of morning business for up to 60 minutes, with the first half of the time under the control of the Democratic leader or his designee and the second half of the time under the control of the majority leader or his designee.

The Senator from North Dakota.

## IMPORTANT ISSUES TO BE FACED

Mr. DORGAN. Mr. President, I wish to make a couple of comments today on some very important issues we will face in the days ahead.

We have the supplemental appropriations bill on the floor of the Senate asking for just over $80 billion for the cost of the war in Iraq and Afghanistan.

Most of it is to replenish military accounts. A number of amendments have been offered. Immigration amendments are now pending. I intend to offer a couple of amendments as well.

I will describe one of those amendments this morning. It deals with the establishment of a special committee of the Senate, modeled after the Truman Commission, to investigate the waste, fraud, and abuse that is happening with respect to contracting in Iraq.

I also wish to address another amendment I will offer, that would shut down the investigation that has been going on now 10 years by Mr. Barrett, an independent counsel. He started in 1995 to investigate allegations against Henry Cisneros, who was a Cabinet Secretary, allegations that he had given payments to a former mistress and then lied about it.

That independent counsel investigation started in 1995 and has been going on ever since. But Mr. Cisneros pled guilty in 1999. And he was pardoned in 2001 by a Presidential pardon. Yet here it is 2005 and the independent counsel is still spending money, $1.3 million, I believe, for the previous 6 months. I believe it is time for this Congress to say stop, enough is enough. Stop wasting the taxpayers money. What on Earth could you be thinking about? Four years after the person was pardoned and 7 years after the person pled guilty, the independent counsel is still spending money? If ever there were an example of Government waste and lack of common sense, this is it.

I also wish to mention briefly this country's trade deficit. I wanted to come to the floor the day before yesterday, but I was not able to do that.

There was a small announcement the day before yesterday that in February our trade deficit was $61 billion in 1

month. This is an example of what is happening to this country's trade deficits: We are choking on red ink. This is serious. It is a crisis, and nobody seems to care. The White House is snoring its way through this issue. The Congress is sleeping through it. Nobody gives a rip about this at all. Nearly $2 billion a day is the amount we purchase from abroad from other countries in goods and services in excess of the amount we sell to them. That means every single day foreign countries and foreign investors own $2 billion more of our country, claims against our country, stocks, bonds, assets, or real estate.

This is a crisis that will have a profound impact on future economic growth in this country. It will have a profound impact, and does, on the wholesale export of American jobs all across the world.

Yesterday, I read a piece that General Motors called in its subcontractors and said: You need to start moving your jobs to China to be more competitive.

Evidence is all around us that this trade strategy we have is unsound. It does not work. It injures our country. It is hollowing out our manufacturing sector, and it is moving American jobs overseas. This country had better take notice. This Congress had better sit up and start caring about this, and this President had better start parking Air Force One and providing some leadership on things that are a crisis.

No, Social Security is not in crisis. Social Security will be fully solvent until George Bush is 106 years old. That is hardly a crisis. But the announcement that in February of this year we had a $61 billion 1-month trade deficit ought to provoke this White House and this Congress, Republicans and Democrats, to take action in support of this country's economic interests for a change.

What do we hear about trade? We do not hear anybody wanting to do anything about this, and I will speak later on about what we should do in some detail. What we hear is we want another trade agreement to be passed by the Congress called the Central American Free Trade Agreement, CAFTA. To me, it is an acronym that means careless and foolish trade agreement.

Along with my colleague from Georgia, Senator LINDSEY GRAHAM, we are going to lead the opposition, and I hope we can round up the votes in this Congress to defeat this trade agreement. The message ought to be to those folks who are negotiating these agreements and then sending them to Congress under fast track, please fix some of the problems that have been created in past trade agreements before negotiating new ones and before asking the Congress to approve new ones. Fix a few of the problems that have been created.

Do my colleagues think this is not a problem? This comes from NAFTA. This comes from GATT. This comes from all of the distant cousins of the trade agreements that we brought to the Senate floor, almost all of which I have voted against, because I believe they pull the rug out from under the interests of this country. They pull the rug out from under our workers and our businesses. So I hope very much that we can finally get someone's attention. If $61 billion a month in trade deficits is not a wake-up call that gets someone's attention, my guess is they are permanently asleep.

Now, I wish to speak about the issue of contracting in Iraq. There is massive waste, fraud, and abuse going on in contracting in Iraq, as is the case in many circumstances where a lot of money is being poured out to prosecute a war. If one does not watch carefully, people are going to fleece the taxpayers, and that is what is happening. Nobody seems to care about that, either.

We cannot get aggressive hearings in the Congress about oversight. Why is that? I do not know. So as chairman of the Democratic Policy Committee, we have held four hearings on these abuses.

In a moment, I will read a few newspaper headlines about this waste, and yes, these headlines mention the word Halliburton, and I know that when the word Halliburton is mentioned people think, okay, now this is political, it is partisan, now we are going after Vice President CHENEY because he used to head that corporation. This has nothing to do with Vice President CHENEY. He has been long gone from Halliburton. This has nothing to do with the Vice President, nothing to do with partisan politics. It has everything to do with the American taxpayers being cheated.

So to the extent that Halliburton is in these headlines, it is because they were given very large sole-source contracts without any competitive bidding. Billions of dollars have gone into the pockets of Halliburton and here is the result, with a substantial lack of oversight.

First, let me describe this picture. This does not deal with Halliburton, by the way. This deals with a company called Custer Battles, two guys named Custer and Battles. This picture shows $2 million in cash wrapped in Saran wrap. This fellow, incidentally, was the guy who was turning over the $2 million because the company that was owed the $2 million showed up with a bag. Why did they show up with a bag to collect cash wrapped in Saran wrap? Because they were told in Iraq: When you are contracting, bring a bag, you are going to get cash, by the bagful.

Now, these people got a lot of cash. This is their first $2 million. They have been accused of substantial fraud. Doing security at airports, they allegedly confiscated the forklift trucks, took them off the airport property, repainted them, and then sold them back to the Coalition Provisional Authority, which was the U.S. taxpayer.

So here is the first delivery of $2 million in cash in a bag to a company that is now widely accused of fraud.

Now, here are some of the stories of waste that I mentioned, involving Halliburton. I will read some of these headlines. This was a former Halliburton employee who testified before our committee: ''Halliburton Manipulated Purchase Orders to Avoid Oversight''—that is a newspaper headline. For purchase orders under $2,500 buyers only needed to solicit one quote from a vendor. To avoid competitive bidding, requisitions were quoted individually and later combined into the $2,500 and more. They were told to do that in order to cheat.

In fact, this particular guy held up a towel, and he said: This was a towel we were supposed to order because we were buying towels for U.S. soldiers.

They paid nearly double the price for the towels because instead of ordering the towel that was the plain towel, they ordered one embroidered with their company's logo on it so the American taxpayer could pay nearly double.

''Halliburton Discouraged Full Disclosure to Auditors.'' ''Halliburton Overcharged for Oil.'' This is from the fellow who used to run the portion of the Defense Department that would purchase oil, yes, even in areas where we were at war, and he said: During my tenure at the Defense Department, we were occasionally forced to pay sole-source prices in some locations, but not even in remote central Asia did we pay close to a gallon for jet fuel of what Halliburton was charging in Iraq. He said that overcharging for oil was simply out of control. This is a former Defense Department official.

By the way, Halliburton ordered 25 tons of nails—that is 50,000 pounds of nails. Do my colleagues know where they are today? They are laying in the sand of Iraq because they came in the wrong size. Somebody made a mistake on the order. If someone wants 50,000 pounds of nails, they are laying in the sands of Iraq someplace. The American taxpayer paid for them, and Halliburton got reimbursed for it.

We had testimony of people driving $85,000 trucks in Iraq, and those trucks were abandoned just because they had a flat tire or because they had a clogged fuel pump. They were abandoned and torched, and they went and bought new trucks. So much for oversight. Nobody cares because it is a war and because there are sole-source contracts. These are pieces of testimony from whistleblowers, from former employees, who said: Here is what is going on. The truck piece was from a truck-driver in Iraq who worked for Halliburton.

It is just unbelievable when one listens to what is happening: Bags of cash, billions of dollars. We say we are going to put air-conditioning in a building near Baghdad, and so our contractor hires a subcontractor, who hires a couple of workers, and we get

charged for air-conditioning and they put in a ceiling fan that does not work. Does anybody care? Can we get anybody in this Congress, any committee, to hold oversight hearings to care about the massive fraud, waste, and abuse? Not on one's life, not a chance. God forbid that we should be critical of anything that is going on around here, despite the fact that the American taxpayer is getting fleeced wholesale.

I offered an amendment in the Appropriations Committee that would have set up a Truman-style investigating committee. Senator Harry Truman from Missouri, at a time when there was a Democrat in the White House, decided there was substantial abuse by contractors at the start of World War II, and he persuaded a Democratic Congress to set up an investigative committee. Yes, a Democratic Congress and a Democrat in the White House set up an investigative committee, and they saved a massive amount of money by uncovering a dramatic amount of fraud and waste.

Now we have one party control, and nobody wants to embarrass anyone else, so they do not look at anything. It is see no evil, hear no evil, speak no evil. Meanwhile, the American taxpayers are completely getting fleeced by massive waste, fraud, and abuse.

We have done four hearings. I mentioned Halliburton, but I also can mention Custer Battles. I can mention other companies. Obviously, Halliburton is the poster child because they received giant contracts without bidding, and then we see that they are charging the American taxpayer to feed 42,000 soldiers a day when, in fact, they are only feeding 14,000 soldiers a day. So they are charging us for 28,000 meals that are not served. Fraud? I would think so. But what happens these days? First, it does not even get investigated. If it does get investigated, they get a slap on the wrist and a pat on the back with another contract.

This Congress needs to start facing up to these issues and getting tough. No, this is not partisan. If we are going to shove $81 billion out the door in a supplemental defense funding bill, should we not, along with it, provide the appropriate approach to investigate these? That is what my amendment will do.

I offered my amendment in the Appropriations Committee. It was turned down on a partisan vote, regrettably. This is not a partisan amendment. My hope is that perhaps I will see a different result on the Senate floor.

How much time remains on our 30 minutes?

The PRESIDING OFFICER (Mr. COLEMAN). There is 15½ minutes remaining.

Mr. DORGAN. Mr. President, I believe the Senator from Connecticut is going to be coming over to claim parts of our 30 minutes, but the time is running. I see the Senator from Kentucky is on the floor. I know that by previous consent we have established 30 minutes on our side followed by 30 minutes on the other side. At this point, I will relinquish the floor if I could ask that we would reserve the remaining time for Senator LIEBERMAN from Connecticut because he is not here. If the other side would like to continue to take some of their time and then provided that when Senator LIEBERMAN comes, he would have reserved the additional 15½ minutes? I will make that a unanimous consent request and see if the Senator from Kentucky would agree to that.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The majority whip.

## FILIBUSTERING OF JUDICIAL NOMINEES

Mr. MCCONNELL. Mr. President, we as senators have an enormous amount of work to do for the American people. For example, while our economy is strong, unfortunately gas prices are way too high. People are feeling those costs every time they fill up at the pump. This Senate needs to seriously address a long-term energy policy for this country, and reduce our dependence on foreign oil.

We have serious work to do to reform America's tax code, so it is fairer for all Americans, and leads to a more robust economy.

We have undertaken a debate on how to reform Social Security so it is stronger and more secure for future generations, as it has served millions so well already over the last 70 years.

Our road system needs improving. Millions of Americans take to the roads everyday to get to work and keep this country moving. It's critical the Senate pass a highway bill. In short, we have a formidable agenda before us. We welcome that challenge. I think that our constituents sent us here to get things done, not just to sit in these fancy chairs. But the Nation's business may soon come to an abrupt halt.

In the face of so much important work to be done, sadly, my Democratic friends on the other side of the aisle are promising to pull the plug on this chamber, and thus shut down the Government. Just because a majority of Senators want to restore the 200-year-old norms and traditions of the Senate, by granting a President's judicial nominees who have majority support the simple courtesy of an up-or-down vote, my colleagues on the other side of the aisle are threatening to stop this Senate dead in its tracks.

An energy bill to begin to address the high cost of gasoline and reduce our dependence on foreign oil? They would say: Forget it.

A highway bill, to begin desperately needed repairs on bridges and roads across the country? They would say: Not a chance.

These and other priorities will not happen if the Democrats shut down the Government. Because they cannot have what no Senate minority has ever had in 200 years—the requirement of a supermajority for confirmation—they threaten to shut the Government down.

The American people by now must rightly be asking, ''How did we get in such a mess?''

It was not by accident. The Democrats did not stumble into this position. It was carefully conceived.

Four years ago, in May of 2001, the New York Times reported that 42 of the Senate's then-50 Democrats attended a private weekend retreat in Farmington, PA, to discuss a plan of attack against the President's judicial nominees.

According to this article, the unprecedented obstruction by the other side is not based on checks and balances, or the rights of the minority. It is about ideology. The Democrats invited speakers to their retreat who warned them that President Bush was planning to, ''pack the courts with staunch conservatives.''

Now, here's the clincher. According to the New York Times, one participant said:

> It was important for the Senate to change the ground rules, and there was no obligation to confirm someone just because they are scholarly or erudite.

Let me make sure that last part came through loud and clear. The Democrats are accusing the Republicans, who merely want to restore the 200-year-tradition of giving judicial nominees with majority support an up-or-down vote, of some kind of power grab. Yet here is a 4-year-old admission that it is the Democrats who are clearly out to ''change the ground rules.'' They knew what they were doing. This was thoroughly premeditated.

That quote says it all. If a minority of the Senate does not get its way in obstructing judges from serving on our Nation's Federal courts, they will ''change the ground rules.'' They will shut down the Government. I say to my friends, I wouldn't take the extreme step of shutting the government down.

I ask unanimous consent to have this New York Times article of May 1, 2001 printed in the RECORD.

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

[From the New York Times, May 1, 2001]

DEMOCRATS READYING FOR JUDICIAL FIGHT

(By Neil A. Lewis)

President Bush has yet to make his first nominee to a federal court and no one knows whether anyone will retire from the Supreme Court this summer, an event that would lead to a high-stakes confirmation battle.

Nonetheless, the Senate's Democrats and Republicans are already engaged in close-quarters combat over how to deal with the eventual nominees from the Bush White House. Democrats in particular are trying to show some muscle as they insist that they will not simply stand aside and confirm any nominees they deem right-wing ideologues.

''What we're trying to do is set the stage and make sure that both the White House and the Senate Republicans know that we

expect to have significant input in the process,'' Senator Charles E. Schumer, New York's senior Democrat, said in an interview. ''We're simply not going to roll over.''

Forty-two of the Senate's 50 Democrats attended a private retreat this weekend in Farmington, Pa., where a principal topic was forging a unified party strategy to combat the White House on judicial nominees.

The senators listened to a panel composed of Prof. Laurence H. Tribe of Harvard Law School, Prof. Cass M. Sunstein of the University of Chicago Law School and Marcia R. Greenberger, the co-director of the National Women's Law Center, on the need to scrutinize judicial nominees more closely than ever. The panelists argued, said some people who were present, that the nation's courts were at a historic juncture because, they said, a band of conservative lawyers around Mr. Bush was planning to pack the courts with staunch conservatives.

''They said it was important for the Senate to change the ground rules and there was no obligation to confirm someone just because they are scholarly or erudite,'' a person who attended said.

Senator Tom Daschle of South Dakota, the Democratic leader, then exhorted his colleagues behind closed doors on Saturday morning to refrain from providing snap endorsements of any Bush nominee. One senior Democratic Senate staff aide who spoke on the condition of anonymity said that was because some people still remembered with annoyance the fact that two Democratic senators offered early words of praise for the nomination of Senator John Ashcroft to be attorney general.

Senators Robert G. Torricelli of New Jersey and Joseph R. Biden Jr. of Delaware initially praised the Ashcroft selection, impeding the early campaign against the nomination. Both eventually acceded to pressure and voted against the nomination.

The current partisan battle is over a parliamentary custom that Republicans are considering changing, which governs whether a senator may block or delay a nominee from his home State. Democrats and Republicans on the Judiciary Committee have not resolved their dispute over the ''blue-slip policy'' that allows senators to block a nominee by filing a blue slip with the committee.

On Friday, Senator Patrick J. Leahy of Vermont, the ranking Democrat on the Judiciary Committee, and Mr. Schumer sent a letter to the White House signed by all committee Democrats insisting on a greater role in selecting judges, especially given that the Senate is divided 50–50 and that the Republicans are the majority only because Vice President Dick Cheney is able to break any tie.

Senator Trent Lott of Mississippi, the Republican leader, told reporters today that he believed ''some consideration will be given to Democratic input, but I don't think they should expect to name judges from their State.''

Mr. Lott said he expected that Democrats might slow the process but, in the end, would not block any significant number of nominees.

Behind all the small-bore politics is the sweeping issue of the direction of the federal courts, especially the 13 circuit courts that increasingly have the final word on some of the most contentious social issues. How the federal bench is shaped in the next 4 or 8 years, scholars say, could have a profound effect on issues like affirmative action, abortion rights and the lengths to which the government may go in aiding parochial schools.

Mr. Bush is expected to announce his first batch of judicial nominees in the next several days, and it is likely to include several staunch conservatives as well as some women and members of minorities, administration officials have said. Among those Mr. Bush may put forward to important Federal appeals court positions are such conservatives as Jeffrey S. Sutton, Peter D. Keisler, Representative Christopher Cox of California and Miguel Estrada.

The first group of nominees, which may number more than two dozen, is part of an effort to fill the 94 vacancies on the Federal bench while the Republicans still control the Senate.

But it remains unclear if there will be a Supreme Court vacancy at the end of the court's term in July. Speculation on possible retirements has focused on Chief Justice William H. Rehnquist and Justices Sandra Day O'Connor and John Paul Stevens. But in recent days, associates of Justice O'Connor have signaled that she wants it known that she will not retire after this term.

Mr. MCCONNELL. the record about who is out to change what is not merely confined to the statements from this article. No, we have 4 years of behavior to corroborate these statements.

Soon after that Democrat retreat, and continuing to this day, we have seen our Democratic friends make major changes in the Senate's ground rules for confirming qualified judicial nominees.

For example, almost immediately the Democrats began to litmus-test judges in order to strain out the ones they considered too conservative. When they controlled the Judiciary Committee in the 107th Congress, they even held hearings on using ideology in the confirmation process in an effort to legitimize their practice of litmus-testing judges.

The Democrats have widely-applied their litmus tests. They have filibustered almost 1 circuit court nominee for every 3 they have confirmed. As a result, in his first term, President George W. Bush had only 69 percent of his circuit-court nominees confirmed. That is the lowest confirmation percentage of any President since World War II.

In addition, the Democrats began to demand that they in effect get to co-nominate judges along with the President. The Constitution clearly provides in Article II, Section 2, that the President, and the President alone, nominates judges. The Senate is empowered to give ''advice'' and ''consent.'' The Democrats, however, have sought to redefine ''advice and consent'' to mean ''co-nominate.''

President Bush, rightly so, has not acceded to this attempt to upset our Constitution's separation of powers. Unfortunately, the administration of justice is suffering. In the case of the Sixth Circuit, for example, Democratic Senators are willing to let one-fourth of the circuit seats sit empty in order to enforce their demands. As a result, the Sixth Circuit—which includes Tennessee, Kentucky, Ohio and Michigan—is far and away the slowest circuit in the Nation. My constituents and the other residents of the Sixth Circuit are the victims. Thanks to the other side's obstruction, Kentuckians know too well that justice delayed means justice denied.

The Democrats have changed other ground rules in the confirmation process. But all these changes were just precursors to what happened in the last Congress. In 2003, Democrats instituted the ultimate change in the Senate's ground rules: they began to obstruct, via the filibuster, on a systematic and partisan basis, well-qualified nominees who commanded majority support. That is unprecedented in over 200 years of Senate history.

Republicans did not filibuster judicial nominees, even though it would have been easy for us to do so. Let me give you the names of some very controversial Democratic judicial nominees whom we could have easily filibustered, during the Clinton and Carter years: Richard Paez, William Fletcher, Susan Oki Molloway, Abner Mikva. None of these nominees had 60 votes for confirmation.

Other controversial Democratic nominees, like Marsha Berzon, barely had 60 votes for confirmation, but we did not whip our caucus to try to filibuster them either. Indeed, just the opposite occurred: Senators LOTT and HATCH, to their great credit, argued that we ought not to set such a precedent, no matter ow strongly we oppose the nominee. I remember voting for cloture myself, voting to shut off debate on Paez and Berzon both, and then voting against them when they got their up-or-down vote, which they were entitled to get.

Our friends, the Democrats, are driving a double standard: The nominees of a Democratic President only had to garner majority support, as had every other judicial nominee in history until Democrats sought to change the ground rules. But nominees of a Republican President have to get a much higher level of support. That is the ultimate in hypocrisy.

Because the majority may seek to restore the norms and traditions of the Senate—norms and traditions that my Democratic friends have upset—the Democrats are now threatening to shut down the Government. That is not right.

We need to recommit ourselves to the 200 year principle that in a democracy an up-or-down vote should be given to a President's judicial nominees. It is simple. It is fair. It has been that way for over 2 centuries. And it's served us well.

I yield the floor.

Mr. COCHRAN, Mr. President, the continual controversy over Senate confirmation of Federal judges needs to be resolved. It promises to hang as a cloud over the Senate unless we reach an understanding of the appropriate role of the Senate.

I had been hopeful that the Senate leadership would be able to resolve this issue by reaching an agreement that would be acceptable to both sides. However, that does not now appear likely.

Therefore, I have advised the distinguished majority leader, Mr. FRIST,

that I will support him in his effort to bring this confrontation over judicial filibusters to an end.

There should be no question in anyone's mind about my intentions. I will work in concert with our leader, and with the distinguished majority whip, Mr. MCCONNELL, to end filibusters of judicial nominations in the Senate.

The PRESIDING OFFICER (Mr. COLEMAN). The Senator from North Dakota.

Mr. DORGAN. Mr. President, how much time remains?

The PRESIDING OFFICER. There remains 14 minutes 20 seconds.

Mr. DORGAN. My colleague from Connecticut is here. Let me take a couple of minutes and then yield to my colleague for the remaining time.

I must confess, it is hard sometimes to listen on the floor of the Senate without a big broad smile at the irony of this debate. Restoring the normal traditions of the Senate? There is a debate going on in the Senate, but that is not what it is about. This is about changing the rules in the middle of a game because one party in control doesn't get everything they want on every issue all the time.

We have confirmed 205 judges for this President and opposed the confirmation of only 10 of them. Because of that, the other side has an apoplectic seizure and decides they want to turn this Senate into the House, where there is no unlimited debate and one party can treat the other party like a piece of furniture they can sit on.

The Framers of this Constitution did not consider the Senate should be a compliant body during one-party rule. The minority has rights. One of those rights is unlimited debate.

I think it is very interesting to hear on the floor of the Senate how generously the Republicans treated nominees under the Presidency of President Clinton, when they—in 50 cases of people who were notified by the President they were nominated for a lifetime appointment on the Federal court—did not even have the courtesy of giving them 1 day of hearings. Not even a day of hearings. They didn't get to see the light of day in this Congress, let alone a filibuster.

What a shameful thing to do to someone to whom the President says, I am going to nominate you for a lifetime appointment on the court. They didn't give them 1 day of hearings.

Now they complain because we approved 204 and didn't approve 10. Now they complain the President didn't get every single judgeship he wanted. Have they ever heard of the words ''checks and balances''? Did they take a course at least in high school to understand what it means?

No. If this nuclear option, as it is called in this town, is employed by the majority party, with an arrogance that I have never seen in the years I have served in the Congress—if they do that, they will rue the day because they, one day, will be in the minority and they, one day, will wonder what on Earth did we do, to eliminate the unlimited debate provision in the United States Senate that George Washington and Thomas Jefferson said represents the cooling of the passions in this country, represents the one location of reasoned debate in this Government of ours.

I hear all these discussions about how this is about traditions and norms. Nothing could be further from the truth. What the majority is trying to do is change the rules of the Senate because the minority didn't approve 10 out of 215 judges. What an arrogant attitude and what damage they will do to this institution if they employ a tactic to change the rules at this point and turn this Senate into another House of Representatives. They will have done damage for the long term and damage I believe they themselves will regret because one day they, too, will be in the minority. Then they will again understand what this Constitution provides with respect to minority rights.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

## DEATH BENEFITS IN THE SUPPLEMENTAL APPROPRIATIONS BILL

Mr. LIEBERMAN. Mr. President, I rise to speak in morning business about the provision of this supplemental appropriations bill before us that rights a wrong done with regard to death benefits of those who served the United States in uniform. I begin my remarks by thanking my friend and colleague from Alabama, Senator SESSIONS, and acknowledge his leadership on this very important humanitarian reform. I also thank the Senate Appropriations Committee, under the leadership of Senator COCHRAN and Senator BYRD, for bringing forward this emergency supplemental in a way that includes an important provision to improve the financial benefits for families of our fallen soldiers.

I am grateful that this supplemental uses the so-called HEROES bill, S. 77, which Senator SESSIONS and I cosponsored and introduced in January as the basis for the reforms to enhance the death benefit and the level of coverage under the Servicemen's Group Life Insurance Program.

Yesterday, the Senate amended this provision and voted to increase eligibility for the expanded death benefit to $100,000, which was in our HEROES bill, to include all active-duty service men and women.

These reforms honor the brave men and women wearing America's uniform who have made the ultimate sacrifice to defend our liberty by giving them and their families what we the American people owe them. Obviously, nothing can replace the loss of life. But a decent death benefit and adequate life insurance can provide our service members and their loved ones with a sense of security about their future which they deserve. For too long, they have not gotten that peace of mind, and indeed not the respect they deserve.

Senator SESSIONS and I have worked together for some time as members of the Senate Armed Services Committee to investigate and then to react to this wrong. We began looking at the question of what survivor benefits were in place for our men and women in uniform as we were concerned that the benefits being provided to families of those who lose their lives in the service of this country lagged behind benefits provided for public service employees in high-risk occupations, namely policemen and firefighters. The families of fallen policemen and firefighters deserve those higher benefits. But so, too, of course, do the families of fallen military personnel.

When Senator SESSIONS and I began this review, the death benefit paid to the families of service men and women who were killed in action was $6,000, an embarrassing sum. A small step forward was taken last year when the death benefit was increased to $12,000, but obviously that was still woefully inadequate.

Two studies, one done by the Department of Defense and the other done by the Government Accountability Office, documented that survivor benefits provided to some of the public employee groups I have mentioned in high-risk positions were greater than those provided for our soldiers killed in combat. That was evidently unfair, and that is why our legislation, the HEROES bill, was worked on for over 2 years with the Pentagon's service member group and veterans groups which resulted in a bill to correct that imbalance by adjusting military survivor benefits to more equitably reflect today's world.

I am very gratified that idea has taken hold, and it is reflected in the emergency supplemental before the Congress today.

With the changes adopted, if soldiers buy the servicemen's group life insurance, their families will receive $250,000, for which the soldier pays, and then an additional $150,000 of insurance the U.S. Government will pay for. In addition to that will be the $100,000 death benefit. That is half a million dollars, which in these times is not a lot when we consider families left behind, a parent or a spouse and children who will need to go to college and all the expenses related to it. These families who have lost a family member have a terrible void. All of us who have visited with them in our respective States or elsewhere have felt that void and have tried to the extent we could to let them know we share it with them. But, of course, it is uniquely and singularly theirs as they go through their life. Nothing can fill that void. But the least we can do is what we do in this bill—give them some sense of financial security as they go forward, with a kind of security in a much more fundamental sense that their loved one's service has given each and every American.

Theodore Roosevelt once said:

A man who was good enough to shed blood for his country is good enough to be given a square deal afterward.

Of course, in our time we say a man and a woman.

T.R. was right, and the men and women who are shedding blood for our Nation today in the cause of liberty and doing so in a way that has fundamentally improved the security of the American people here at home should know their families will be taken care of no matter what happens to them.

I can't think of a piece of legislation which I have been involved in my over 17 years in the Senate that I have felt better about. This is one of those occasions that doesn't get celebrated quite enough where we forget the party labels, Republican and Democrat, and act in a higher calling, which is our status as Americans which unites us all. I am glad to see we are about to put these reforms in place.

We all recognize we have to keep faith with our service men and women. We have to give them a square deal. They are doing their duty to protect us, and it is our duty to protect their families, should they give their lives in defense of our liberty. That is what the provisions in the supplemental do. I am proud to have been a part of it. I am grateful to my colleagues for supporting it. I urge its adoption.

I thank the Chair. I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SESSIONS. Mr. President, I associate myself with the comments of Senator LIEBERMAN and say how he expressed my feelings about this important legislation. It has been a pleasure to work with him in a bipartisan way. He has demonstrated time and again his interest in matters of national defense and national security and his commitment to those who serve us. I, too, believe, as was discussed not too long ago at one of the hearings, there is a bond between the American people and those we send out to defend our interests in dangerous areas of the world. We as American people need to honor that bond.

One of the commitments I think we must make as a people is to say to those who go in harm's way to execute the just policies of the United States that if something happens to you, we are going to try to take care of your family. That is one thing you don't need to worry about.

I believe the HEROES bill, as we named it, honoring every requirement of exemplary service, is the legislation that moves us a long way in that regard. I couldn't be more excited. I thank the Appropriations Committee Chairman, Senator COCHRAN, and the ranking member, Senator BYRD, for their support of making this a part of the supplemental.

We certainly have worked hard in trying to gain support from the military community and the Department of Defense which understands exactly how and what we should do to better support those who lose their lives in the service to their country. We did a number of things.

Two years ago, as part of the Defense bill I asked that we put in language to study this. Senator LIEBERMAN and I talked about it. And they put that language in. We have gotten some studies back. We began to figure and think about what we could do to make families more secure in the case of the loss of a loved one. Last year, they completed the study and we began to look at it. The President and the Secretary of Defense responded to our request promptly and, I believe, honestly and objectively.

The Senate report that is before us today recommended increasing the death gratuity benefit from $12,420 to $100,000 for our service members who die on active duty in a combat theater, and then we amended the bill to include those who serve on active duty who lose their lives. It also allows, as I have proposed, for every member of the military to raise the level of coverage under the servicemen's group life insurance which is capped out at $250,000 to $400,000. I believe that is a more legitimate sum for a family suffering this kind of loss.

Additionally, for those serving in the combat zone or a designated contingency, the Department of Defense will pay the member's premium for the first $150,000 of insurance to guarantee they are participants in that program.

The report before us also makes these changes retroactive to cover those who lost their lives since the beginning of the global war on terrorism which began October 7, 2001. Families of our service members who have died since October 7, 2001, will receive a one-time cash payment of $238,000 which is a sum of the added coverage of life insurance, $150,000 more life insurance, coupled with proposed increase of the death gratuity of $88,000.

Finally, the report will place language in the law to require service members to inform their spouses of the level of coverage that may be enacted.

As I conclude my remarks, let me be clear on this issue. There is no amount of compensation that can replace the loss of a loved one. Not for a soldier, not for a police officer, not for a teacher, or a fireman. However, our military service members volunteer to leave their families and engage in a very difficult and dangerous campaign to defeat terrorists and secure peace and prosperity not only for America but for countless millions around the world. The training and operations conducted to ready them for combat are also dangerous and will also be included in the death gratuity section of the report. The enhancements of the death gratuity and SGLI outlined in this bill reflect the risks and dangers faced by our service men and women as they serve us around the world.

The language stays true to what our President requested in the supplemental and what Senator LIEBERMAN and I put in S. 77, the HEROES bill. This report and the death benefits enhancements offered are based on a sound analysis of this highly important and emotional issue. We can never do enough to thank these brave Americans. Each and every one of them who serves us in our military today is a national treasure.

I am thankful and grateful that the Senate has included the HEROES provision in this report, and I look forward to voting on this bill and seeing it enacted into law.

I note that not too many months ago I flew from Baghdad to Kuwait in a C–130 late at night, and there were two flag-draped coffins of soldiers who had given their lives in service to our country. Yesterday, I talked with the daughter, 25 years old, of Sergeant Major Banks. Her mother, a sergeant major in the Army, was one of the soldiers who died in the tragic helicopter crash in Afghanistan recently. I talked to her about her mother, and how much she admired her mother, and to think how she had risen through the ranks to become a sergeant major, growing up in a poor area of Alabama, African American, who inspired her daughter, Shante Banks, as she described her mother's influence on her life. She gave her life serving our country, as many have.

I believe we have done the right thing here. I think it is going to be a good step forward. I have enjoyed the opportunity to work with Senator LIEBERMAN as we have moved this legislation forward.

I thank the President and yield the floor.

The PRESIDING OFFICER (Mr. VITTER). The Senator from South Dakota is recognized.

Mr. THUNE. I thank the Senator from Alabama and the Senator from Connecticut for the great work they have done in recognizing the sacrifice of our men and women who are fighting for freedom's cause in Iraq and Afghanistan and other places around the world. This is important legislation. I am pleased to be able to support their efforts and to see it becomes a matter of law.

(The remarks of Mr. THUNE pertaining to the introduction of S.J. Res. 12 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

## CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

## EMERGENCY SUPPLEMENTAL APPROPRIATIONS ACT, 2005

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of H.R. 1268, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 1268) making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes.

Pending:

Mikulski Amendment No. 387, to revise certain requirements for H–2B employers and require submission of information regarding H–2B nonimmigrants.

Feinstein Amendment No. 395, to express the sense of the Senate that the text of the REAL ID Act of 2005 should not be included in the conference report.

Bayh Amendment No. 406, to protect the financial condition of members of the reserve components of the Armed Forces who are ordered to long-term active duty in support of a contingency operation.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. CORZINE. Mr. President, I was about to call up amendment No. 366, which I am going to pull back from at this point. We are working with a number of subcommittees to get exact language, but I would like to go ahead and frame the debate. Senator BROWNBACK will be joining me.

This is actually the Darfur Accountability Act which we had introduced on the floor at an earlier point. We have 30 cosponsors of the amendment. We will continue to work with the appropriate subcommittees and others to refine the language before we bring it back.

This amendment we will be offering is one that parallels the importance which is now being placed on moving this supplemental, which is absolutely essential to support our men and women in uniform. They deserve our support. We all know that. It is most certain that I will be voting positively with regard to making sure that our deeds and words match in our support of the troops and that we allocate our resources accordingly. That is what the debate on the supplemental is about. I look forward to working on that.

But so, too, there are those the Congress and the administration have already acknowledged are being subjected to acts of genocide, the Black Muslim villagers of Darfur, Sudan. This genocide is being committed by their own countrymen with the support of their Government. It is time for action. Here, too, we need to put our words and deeds into a match. They need to be congruent. This amendment is intended to deal with the emergency, the urgently needed response to this ongoing genocide taking place in Darfur as I stand here, a place where there have been killings of up to 10,000 people every month, 300 to 350 human beings almost every day.

Never have we been so aware of mankind's horrible history, and yet so reluctant to act on its lessons as it applies to this situation in Darfur. This month we are commemorating the 11th anniversary of the Rwandan genocide. ''Hotel Rwanda,'' the movie, is showing on thousands of screens in homes across the country, and we continue to recall our shameful failure to prevent the slaughter of 800,000 people. Do we need to have a play 5 years from now or 10 years from now called ''Hotel Darfur''?

April 17 marks the 30th anniversary of the Khmer Rouge takeover in Cambodia, the beginning of a genocide that killed between 1 and 2 million people. Do we need to revisit the killing fields? In January, the liberation of Auschwitz was commemorated by the Congress and by a special session of the United Nations General Assembly. Throughout all of these commemorations and remembrances, we hear the same words: Never again. Never again will we accept the slaughter of our fellow human beings. Never again will we stand by and let this happen.

As Vice President CHENEY said eloquently at the Holocaust commemorations in Poland:

[We] look to the future with hope—that He may grant us the wisdom to recognize evil in all its forms . . . and give us courage to prevent it from ever rising again.

There is perhaps no more powerful moral voice over the last half century than author and Holocaust survivor Elie Wiesel. Last year he spoke to the Darfur issue.

He said:

How can a citizen of a free country not pay attention? How can anyone, anywhere not feel outraged? How can a person, whether religious or secular, not be moved by compassion? And above all, how can anyone who remembers remain silent? That is what the issue in Darfur, Sudan, is about. That is why this Darfur Accountability Act—this amendment that we are speaking to today—is so important.

I ask unanimous consent that the full remarks by Mr. Wiesel on Darfur be printed in the RECORD.

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

[Remarks delivered at the Darfur Emergency Summit, New York, July 14, 2004]

ON THE ATROCITIES IN SUDAN

(By Elie Wiesel)

Sudan has become today's world, capital of human pain, suffering and agony. There, one part of the population has been—and still is—subjected by another part, the dominating part, to humiliation, hunger and death. For a while, the so-called civilized world knew about it and preferred to look away. Now people know. And so they have no excuse for their passivity bordering on indifference. Those who, like you my friends, try to break the walls of their apathy deserve everyone's support and everyone's solidarity.

This gathering was organized by several important bodies. The U.S. Holocaust Memorial Museum's Committee on Conscience (Jerry Fowler), the Graduate Center of the City University of New York, the American Jewish World Service (Ruth Messinger) and several other humanitarian organizations.

As for myself, I have been involved in the efforts to help Sudanese victims for some years. It was a direct or indirect consequence of a millennium lecture I had given in the White House on the subject, ''The Perils of Indifference''. After I concluded, a woman in the audience rose and said: ''I am from Rwanda.'' She asked me how I could explain the international community's indifference to the Rwandan massacres. I turned to the President who sat at my right and said: ''Mr. President, you better answer this question. You know as well as we do that the Rwanda tragedy, which cost from 600,000 to 800,000 victims, innocent men, women and children, could have been averted. Why wasn't it?'' His answer was honest and sincere: ''It is true, that tragedy could have been averted. That's why I went there to apologize in my personal name and in the name of the American people. But I promise you: it will not happen again.''

The next day I received a delegation from Sudan and friends of Sudan, headed by a Sudanese refugee bishop. They informed me that two million Sudanese had already died. They said, ''You are now the custodian of the President's pledge. Let him keep it by helping stop the genocide in Sudan.''

That brutal tragedy is still continuing, now in Sudan's Darfur region. Now its horrors are shown on television screens and on front pages of influential publications. Congressional delegations, special envoys and humanitarian agencies send back or bring back horror-filled reports from the scene. A million human beings, young and old, have been uprooted, deported. Scores of women are being raped every day, children are dying of disease hunger and violence.

How can a citizen of a free country not pay attention? How can anyone, anywhere not feel outraged? How can a person, whether religious or secular, not be moved by compassion? And above all, how can anyone who remembers remain silent?

As a Jew who does not compare any event to the Holocaust, I feel concerned and challenged by the Sudanese tragedy. We must be involved. How can we reproach the indifference of non-Jews to Jewish suffering if we remain indifferent to another people's plight?

It happened in Cambodia, then in former Yugoslavia, and in Rwanda, now in Sudan. Asia, Europe, Africa: Three continents have become prisons, killing fields and cemeteries for countless innocent, defenseless populations. Will the plague be allowed to spread?

''Lo taamod al dam réakha'' is a Biblical commandment. ''Thou shall not stand idly by the shedding of the blood of thy fellow man.'' The word is not ''akhikha,'' thy Jewish brother, but ''réakha,'' thy fellow human being, be he or she Jewish or not. All are entitled to live with dignity and hope. All are entitled to live without fear and pain.

Not to assist Sudan's victims today would for me be unworthy of what I have learned from my teachers, my ancestors and my friends, namely that God alone is alone: His creatures must not be.

What pains and hurts me most now is the simultaneity of events. While we sit here and discuss how to behave morally, both individually and collectively, over there, in Darfur and elsewhere in Sudan, human beings kill and die.

Should the Sudanese victims feel abandoned and neglected, it would be our fault—and perhaps our guilt.

That's why we must intervene.

If we do, they and their children will be grateful for us. As will be, through them, our own.

Mr. CORZINE. Tragically, since that speech by Mr. Wiesel, we have seen precious little actionable courage in preventing the genocide that rages in Darfur. Last July, the Congress recognized that genocide is taking place and voted on it here on the floor of the Senate. In September, the Bush administration did the same. Yet, since then, the situation has only deteriorated.

Estimates of the death toll in Darfur now range from between 250,000 to over 300,000 human beings. Killings, torture, destruction of villages, rape and other forms of sexual violence all continue. More than 1.8 million persons have been forced from their homes, and unless the attacks subside and access by humanitarian organizations improves, as many as 3 million Sudanese people could be displaced by the end of the year.

Let me say that these displaced individuals are going into camps strategically. We need to understand that this is not breeding a community of good will to the rest of the world. These are people who are disenfranchised, dislocated, and will pose a strategic threat, potentially, as a breeding ground of terrorism for the future.

This tragedy is that the Government of Sudan remains deeply complicit in this genocide, supporting jingaweit militias and participating in attacks on civilians. Helicopter gunships strafe villages, spraying nail-like flachettes unsuitable for anything other than killing.

International monitors of all kinds have been attacked, including members of the African Union force deployed to Darfur to try to bring about a monitoring of the peace agreements that have been set forth. Government-backed militias have threatened foreigners and U.N. convoys.

In recent weeks, an American aid official was shot and wounded, and the U.N. was forced to withdraw its international staff in west Darfur to the provincial capital. Other NGOs are uneasy about their people and are talking about withdrawal.

Even today, we get reports of a new rampage—an attack on a village in Darfur by 350 armed militia. The report by the UN and the AU called it a ''senseless and premeditated savage attack.'' The militia ''rampaged through the village, killing, burning and destroying everything in their paths and leaving in their wake total destruction, with only the mosque and the school spared.''

I have a U.N. report, and I ask unanimous consent that it be printed in the RECORD.

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

[From UN News Service, Apr. 8, 2005]

UN, AFRICAN UNION CONDEMN ''SAVAGE ATTACK'' ON DARFUR VILLAGE BY ARMED MILITIA

United Nations and African Union representatives today condemned a ''senseless and pre-meditated savage attack'' Thursday on a town in the western Darfur area of Sudan by more than 350 armed militia while the Government dragged its heels in designating land for the AU monitoring force meant to deter such incidents.

Having learnt ''with utter shock and disbelief'' of the relentless daylong attack on Khor Abeche by armed militia of the Miseriyya tribe of Niteaga, ''we condemn this senseless, and pre-meditated savage attack,'' Jan Pronk, the Special Representative of UN Secretary-General Kofi Annan, and AU Ambassador Baba Gana Kingibe said in a joint statement.

Nasir Al Tijani Adel Kaadir was identified as having commanded the initial force of over 200 on horses and camels and they were later reinforced by a further 150, also from Niteaga, they said in a statement.

His name and those of his collaborators would be sent to the UN Security Council sanctions committee to be brought to justice and they expected the Sudanese Government to take appropriate action, the two said.

The attackers ''rampaged through the village, killing, burning and destroying everything in their paths and leaving in their wake total destruction with only the mosque and the school spared,'' their statement said.

''This attack, the savagery of which has not been seen since the sacking of Hamada in January 2005, was apparently in retaliation for the alleged theft of 150 cattle whose tracks were supposedly traced to Khor Abeche village,'' Mr. Pronk and Mr. Kingibe said.

They noted that since 3 April the AU had prepared to deploy troops in Niteaga and Khor Abeche to deter precisely this kind of attack, ''but was prevented from acting by what can only be inferred as deliberate official procrastination over the allocation of land for the troops' accommodation.''

Mr. CORZINE. Mr. President, how has the international community responded to these issues? In recent weeks, the U.N. Security Council passed three resolutions. To be sure, to give them credit, there has been some progress. One resolution referred the situation in Darfur to the International Criminal Court. Another established a U.N. committee to recommend targeted sanctions against those responsible for human rights abuses.

But much has not been done. There have been no efforts to impose, or even seriously threaten, sanctions against the Government of Sudan. In fact, the Security Council promised significant assistance as a reward for the welcomed implementation of the January peace agreement, the north-sought agreement between Khartoum and the south, without any conditions related to Darfur. Our amendment, which Senator BROWNBACK and I will be proposing, supports the peace agreement and allows assistance to implement that agreement. But we should not be rewarding the Government of Khartoum while thousands upon thousands of civilians in Darfur are dying.

This amendment will call for military no-fly zones over Darfur. Neither the Bush administration nor our NATO allies have addressed this critical issue. We need to act so that the kinds of tragedies we see in this picture to my right are no longer permitted.

This amendment calls for accelerated assistance to the African Union. A retired Marine colonel, Brian Steidle, who worked alongside the AU, has described the AU's effectiveness where it has been deployed. But there are currently only 2,200 African Union troops on the ground. Over 3,400 are authorized, and we hope it can grow to over 6,000 in the next year. We need to increase their numbers and provide whatever assistance they need. Therefore, I am offering a second amendment later in the debate on this underlying supplemental with Senators DEWINE, BROWNBACK, and others. It is a money appropriation or allocation for the AU to accelerate the deployment of boots on the ground.

But money alone will not bring security to Darfur. The Darfur Accountability Act calls for an expansion of the AU's mandate to include the protection of civilians. Ultimately, we will have to be realistic about what it takes to police an area the size of Texas. It will take many thousands of troops, more than the AU will be able to field. The 10,000 new U.N. troops authorized by the Security Council are therefore a welcome development. But, again, their role in Darfur is virtually undefined, certainly vague and uncertain as to whether they can be involved in this.

Mr. President, the people of Darfur will not be saved unless stopping genocide becomes a priority. Words and deeds need to match. This amendment will call on the administration to raise Darfur in all relevant bilateral and multilateral meetings. I hope we can get it raised.

I am pleased that Deputy Secretary of State Zoellick is going to Sudan this week. But unless we mobilize an international effort, this engagement will be insufficient. We have already seen a lot of lost opportunities. I will leave that for the record where President Bush, Secretary of Defense Rumsfeld, and the Secretary of State have been in international areas where we can mobilize that kind of support. We simply cannot just keep calling it genocide and labeling it and talking about it; we need to do something about it. Stopping this evil is an urgent and highly moral issue for all of us to take on. That is why there is so much bipartisan focus on this issue.

We want to evoke the culture of life. We ought to be protecting those 10,000 people a month who are dying. How can we claim to be learning the lessons of history when we fail to act? How can we do that? We cannot continue to talk about moral responsibilities and then not act on them.

In his remarks in the piece that I put in the RECORD, Elie Wiesel put this clearly:

What pains and hurts most now is the simultaneity of events. While we sit here and

discuss how to behave morally, both individually and collectively, over there, in Darfur and elsewhere in Sudan, human beings kill and die.

Mr. President, we must act. The United States must lead a coalition of conscience to stop the genocide. That is what this amendment calls for. I urge my colleagues to support it. We will be back with the exact details. I am very appreciative of the leadership of Senator BROWNBACK, Senator DEWINE, and a number of individuals on both sides of the aisle. We need to make that coalition of conscience real. It is time to act. I believe this is an appropriate amendment on the supplemental.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. BROWNBACK. Mr. President, I am delighted to join my colleague from New Jersey on this amendment. I think by definition a supplemental is about emergency needs and emergency spending. I don't know of a bigger one taking place right now in the world than in Darfur. So it is my hope that within this supplemental we will be able to deal with this issue of Darfur, both in funding and in some language to be able to stop this. This is a completely manmade genocide; it is a completely manmade disaster. It is one that can be stopped with a reasonable number of troops on the ground, with a reasonable engagement strategy.

This can stop. Instead of the 300,000 deaths going on up, this can and will stop. They need food aid, and they need allocation of funds for African Union forces. We will have Assistant Secretary Zoellick on the ground in Khartoum. He is going to go to the south, and then to the western part of Sudan after that, to look and to press the situation. The administration is engaged and is pushing. We need to do this in the supplemental. It is important for it to take place.

Lest people think this was last year's disaster that we are just putting forward more now and saying wasn't that terrible then, we should have acted, I want to show you pictures from this year. Senator CORZINE showed pictures earlier. This is of a village; it was taken by African Union monitors. It is completely burned out, razed. You can still see the smoke smoldering. This was taken by monitors, and they got there just after the village was burned.

I have some very graphic pictures I am going to be showing. If people don't want to see them, please turn away. It is the face of genocide. Genocide, by definition, involves the killing of one group of people by another. That is taking place and is taking place now. This is a young child who was shot in the upper right portion of the torso, and it exits here. You can see the gash here. We don't know if this child lived or died. He probably died given the state of health care there. This happened after a raid that took place. This is a child shot in a raid because he was an African child.

This is a gentleman who was killed and burned.

This is a village that is on fire. Someone in a helicopter took this picture, supported by the African Union.

These are all current pictures.

This one I believe my colleague showed as well. It is of a gentleman who was tied up, killed, and probably brutalized in Darfur.

These are the faces, and this is the picture of genocide. It is continuing to occur, and it is occurring now. I encourage my colleagues to vote for the passage of the amendment Senator CORZINE and I and others are putting forward. It is an amended version of the Darfur Accountability Act. It has the wide bipartisan support of 30 members. The amendment calls for several steps to be taken, which my colleague outlined: a new U.N. Security Council resolution with sanctions against the Government of Sudan; an extension of the current arms embargo to cover the Government of Sudan; military no-fly zone over Darfur; expansion of the U.N. mission in the Sudan; and a mandate to protect civilians in all of Sudan, which includes Darfur. It calls on the United States to appoint a Presidential envoy to Sudan and to raise this issue at the highest diplomatic levels in bilateral relations with Sudan, the Chinese, and other governments that can be of assistance. This calls for accelerated assistance to the African Union mission in Darfur and an expansion of the size and mandate of the mission necessary to protect civilians.

In addition, I hope the administration will push for a coalition of conscience. My colleagues mentioned a coalition of willing nations to join the efforts and demand an end to the genocide by making a declaration of conscience and backing it by actions if the U.N. Security Council fails to do so.

Last week was the 11th-year anniversary of the genocide in Rwanda, when we declared and the world declared ''never again.'' We are now seeing it take place yet again. Can we learn from that? This is stoppable, and it is not by a huge commitment. We are not asking for 100,000 U.S. troops to go there. We are not asking for any U.S. troops. We are asking for financial support for the African Union and food aid to be able to maintain the villagers who have been run out of their village. With that, we believe firmly that this can and will stop and that people will be able to return to their villages.

Time is of the essence. Every day in this harsh climate in this region is a day that more people die. There simply are not the resources in the area to be able to support the individuals who are involved.

My colleague covered most of the points. I plead with my colleagues to pass this amendment in the supplemental. It is an emergency need. It is an emergency that is taking place. With this, we will be able to save lives. Keep it in the conference report so it gets to the President, it gets implemented and the help does come, so when Secretary Zoellick returns from the region, he will have this level of resources to work with, he will have this commitment from the Congress to work with, and we will be able to move forward.

If the U.N. fails to act—and I am terribly disappointed in what the U.N. is doing in this situation; they are not doing anything at all—the United States must press forward with those willing to act so the genocide can stop, so the killing will stop, so we can move forward with peace and people can go back to their lives.

I hope people can start to feel and see some of that pain in front of our very eyes that we can stop. We can stop this. I plead with my colleagues to please stop it and support this amendment.

I do believe we will get this passed. We need to pass it. I hope it is kept in the bill through the entire process.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BROWNBACK. 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. BROWNBACK. Mr. President, I add one postscript on this Darfur Accountability Act. The House has language dealing with Darfur. We did not have as much of it in here. It is two parts: food and military assistance. We are working closely with the committee to try to get this worked through. It will not go over the amount that is in it. It will be offset in other places within the budget. I want to make sure that is clear to my colleagues who are interested in this. They are supportive, but they do not want to bust the supplemental caps. This will be taken from other places we are working on right now.

Senator MCCONNELL, Senator COCHRAN, and other of our colleagues are working diligently with us. It is in two places as far as food aid and its assistance to peacekeepers. These will be African Union peacekeepers. So I want to get the practicalities of it out.

I also admonish my colleagues that where we sit as the most powerful Nation on the face of the Earth, we are called on to remember those who are in bondage as if we were in bondage ourselves. That may seem a strange concept, but when others are free, we are free. If others are in bondage, we are going to feel those chains and it will constantly rub against our souls. This is something that is important and it is also historic for us.

When we fought against slavery in this country, the issue was that the bondage of others was our bondage and people felt it, they fought against it. It is in the great heritage of this country to fight for freedom for other people, so

that when they are in bondage we feel that, but when we can help break that, we will also break bondages on ourselves and make us use the greatness of America for the goodness of the world. It is that goodness that keeps us moving toward greatness.

This is not a large sum of money we are talking about, but it is critically important.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, I salute the Senator from Kansas. I know he and the Senator from New Jersey have demonstrated extraordinary leadership on many issues that have come before this Senate, but certainly on the Darfur Accountability Act. I am an original cosponsor of that bipartisan measure and a strong supporter.

The latest estimates tell us more than 300,000 people have died in Darfur. The world has let this happen. In spite of all of our anguished promises after Rwanda that this would never happen again, it is happening again. Reports from aid workers back from Sudan state that attacks on the ground are still taking place. Villages are still being burned. Much of Darfur is still in a climate of terror. People are still afraid to go out for basics, to venture out for water, for wood, or the necessities of life.

Early this week, Human Rights Watch released a new report that Sudanese security forces, including police deployed to protect displaced persons, and allied jingaweit militias continue to commit rape and sexual violence on a daily basis. Refugee camps are no refuge. Women who fled Darfur to refugee camps in Chad have been imprisoned by Chadian authorities for trying to collect firewood outside their camps. Many of them were raped while in jail.

This has become a charnel house. This is an inferno. This is one of the rings of hell, and it is happening on our watch.

In some areas of Sudan, women who are raped by the jingaweit militia are now being threatened with prosecution. In short, Darfur still cries out for action. If these conditions do not constitute an emergency, I do not know what does.

Do we want to return to the Senate 6 months from now and lament the fact that another 300,000 victims have been added to the death tolls in this area? The amendment which will be offered later seeks a new U.N. Security Council resolution with sanctions, concerted United States diplomacy, an extension of the current arms embargo to cover the Government of Sudan, the freezing of assets and denial of visas to those responsible for genocide, crimes against humanity and war crimes, accelerated assistance of the African Union Mission, and a military no-fly zone in Darfur.

One of the other components of this amendment is the appointment of a new special envoy to seek peace in Sudan to fill the role Ambassador Danforth played so well. As in many things, Pope John Paul II was ahead of this. He sent a special envoy last year so that voices of the people of Darfur might be heard.

The Bible tells us: Blessed be the peacemaker. We need to be peacemakers today. Let us hold the Government of Sudan accountable for its crimes and for these atrocities. Let us help the people of Darfur, and in doing so let us help to end this genocide.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. COCHRAN. Mr. President, I have requests to make on behalf of the managers of the bill with respect to amendments that have been cleared on both sides of the aisle.

The PRESIDING OFFICER. The Senator is recognized.

AMENDMENT NO. 422

Mr. COCHRAN. I send an amendment to the desk, on behalf of Mr. LEAHY and Mr. OBAMA, and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the pending amendments are set aside. The clerk will report.

The legislative clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN], for Mr. LEAHY and Mr. OBAMA, proposes an amendment numbered 422.

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

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

The amendment is as follows:

On page 194, line 14, delete ''should'' and insert in lieu thereof ''shall''.

On page 194, line 16, delete ''Avian flu'' and insert in lieu thereof ''avian influenza virus, to be administered by the United States Agency for International Development''.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 422) was agreed to.

Mr. COCHRAN. I move to reconsider the vote by which the amendment was agreed to, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 370, AS MODIFIED

Mr. COCHRAN. Mr. President, I call up amendment No. 370, as modified, on behalf of Mr. SALAZAR, concerning democracy assistance for Lebanon.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN], for Mr. SALAZAR, proposes an amendment numbered 370, as modified.

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

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

The amendment is as follows:

(Purpose: To provide assistance to promote democracy in Lebanon)

On page 175, on line 24, strike ''$1,631,300,000'' and insert ''$1,636,300,000''. On page 176, line 12 after the colon insert the following: ''*Provided further*, That of the funds appropriated under this heading, not less than $5,000,000 shall be made available for programs and activities to promote democracy, including political party development, in Lebanon and such amount shall be managed by the Bureau of Democracy, Human Rights, and Labor of the Department of State:''.

On page 179, line 24, strike ''$30,500,000'' and insert ''$25,500,000''.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 370), as modified, was agreed to.

Mr. COCHRAN. I move to reconsider the vote by which the amendment was agreed to, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 423

Mr. COCHRAN. Mr. President, I now send an amendment to the desk, on behalf of Mr. LEAHY, providing reprogramming authority for certain State Department accounts. I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN], for Mr. LEAHY, proposes an amendment numbered 423.

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

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

The amendment is as follows:

(Purpose: To provide reprogramming authority for certain accounts in the Departments of Commerce, Justice, State, the Judiciary, and Related Agencies Appropriations Act, 2005)

On page 183, after line 23, insert the following new general provision:

SEC. —. The amounts set forth in the eighth proviso in the Diplomatic and Consular Programs appropriation in the FY 2005 Departments of Commerce, Justice, State, the Judiciary, and Related Agencies Appropriations Act (P.L. 108–447, Div. B) may be subject to reprogramming pursuant to section 605 of that Act.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 423) was agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to and move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 361

Mr. COCHRAN. Mr. President, I now send an amendment to the desk, on behalf of Mr. REID and Mr. LEVIN, regarding retired pay and veterans disability compensation, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN], for Mr. REID, for himself, and Mr. LEVIN, proposes an amendment numbered 361.

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

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

The amendment is as follows:

(Purpose: To express the sense of the Senate that veterans with a service-connected disability rated as total by virtue of unemployability should be treated as covered by the repeal of the phase-in of concurrent receipt of retired pay and veterans disability compensation for military retirees)

On page 169, between lines 8 and 9, insert the following:

SENSE OF SENATE ON TREATMENT OF CERTAIN VETERANS UNDER REPEAL OF PHASE-IN OF CONCURRENT RECEIPT OF RETIRED PAY AND VETERANS DISABILITY COMPENSATION

SEC. 1122. It is the sense of the Senate that any veteran with a service-connected disability rated as total by virtue of having been deemed unemployable who otherwise qualifies for treatment as a qualified retiree for purposes of section 1414 of title 10, United States Code, should be entitled to treatment as qualified retiree receiving veterans disability compensation for a disability rated as 100 percent for purposes of the final clause of subsection (a)(1) of such section, as amended by section 642 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 1957), and thus entitled to payment of both retired pay and veterans' disability compensation under such section 1414 commencing as of January 1, 2005.

Mr. REID. Mr. President, I rise today to speak on the issue of concurrent receipt and the Bush administration's unfair attempt to continue to restrict some of our Nation's veterans from receiving the full pay and benefits they have earned.

We have debated the ban on concurrent receipt for many years. It is an unfair and outdated policy that I and many others in this Chamber have worked hard to end.

Over the years, we have made some progress.

In 2003, the Congress passed my legislation which allowed disabled retired veterans with at least a 50-percent disability rating to become eligible for full Concurrent Receipt benefits over a 10-year period. This was a significant victory, and as a result of the legislation, hundreds of thousands of veterans today are on the road to receiving both their retirement and disability benefits.

And we made further progress last year, with the help of Senator LEVIN and others, when we were able to eliminate the 10-year phase-in period for the most severely disabled veterans—those who were 100 percent disabled. A 10-year waiting period was particularly harsh for these veterans, some of whom would not live to see their full benefits restored over the 10-year period, and others who could not work a second job and were in fact considered ''unemployable.'' So we passed legislation to end the waiting period and provide some relief to these deserving, totally disabled veterans.

Unfortunately, the administration's implementation of this legislation has created a new inequity by discriminating between two categories of totally disabled retirees.

There are those veterans who have been awarded a 100 percent disability rating by the VA and those whom the VA has rated ''totally disabled''. The veterans considered totally disabled are paid at the 100 percent disabled rate. This is because the VA has certified that their service-connected disabilities have left them unemployable.

I ask unanimous consent to have printed in the RECORD a letter sent by the Defense Department to the Office of Management and Budget on this issue last December.

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

(See exhibit 1.)

Mr. REID. The letter indicates clearly the Defense Department General Counsel's opinion that both of these groups should be paid their full retired pay and disability compensation under the law Congress passed last year, and it requested permission from OMB to execute the payments to unemployables.

That permission apparently was not forthcoming, since the Pentagon is still withholding payments for the ''unemployable'' group after all these months—contrary to its own General Counsel's legal review.

For all other purposes, both the VA and the Defense Department treat unemployables exactly the same as those with 100 percent disability ratings.

In fact, these unemployables must meet a criterion that not even the 100 percent-rated disability retirees have to meet. They are certified as unable to work because of their service-connected disability. The administration pays equal combat-related special compensation to both categories. Yet the administration is discriminating unemployables and 100 percent disabled retirees with noncombat disabilities in flagrant disregard for the letter of the law as interpreted by its own legal counsel.

The time to act is now.

As we stated last year, these veterans do not have 10 years to wait for the full phase-in of their benefits. The administration needs to act quickly.

Hopefully, the expression of the Senate contained in this bill will clarify the intent of the Congress so those most severely disabled veterans will begin to reap the benefits of last year's legislation.

EXHIBIT 1

OFFICE OF THE
UNDER SECRETARY OF DEFENSE,
*Washington, DC, Dec. 21, 2004.*

Dr. KATHLEEN PEROFF,
*Deputy Associate Director for National Security, Office of Management and Budget, Washington, DC.*

DEAR MS. PEROFF: This letter is to advise your office of how the Department intends to compensate members for full concurrent payment of military retired pay in addition to their Veterans' Affairs (VA) disability compensation under the provisions of section 1414 of title 10, United States Code, as amended by section 642 of the Ronald Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375). Section 642 eliminated the phase-in period for those retirees/veterans determined by the Department of Veterans Affairs to have a disability or combination of disabilities rated as 100 percent disabled.

An issue has arisen as to whether this change in the law includes those who are rated as less than 100 percent disabled, but for whom a rating of 100 percent (total) disability is assigned by the VA because the individual is deemed unemployable. Based on a legal review of the relevant statutory authority and legislative intent language (10 U.S.C. 1414; H. Rept. 108–767), we intend to consider these unemployable retirees/veterans covered by the exemption to the phase-in period and grant them full concurrent payments beginning January 1, 2005.

The determination to include these unemployable retirees/veterans will result in an added cost of about $1.3 billion in Military Retirement Fund (MRF) outlays over the course of the phase-in period. It will not affect costs after the phase-in period or carry any added increase in accrual costs. Further, all the added cost of full concurrent receipt is passed directly to the Treasury for payments to the MRF. While verbal communication with relevant congressional committee staff suggests that Congress may not have intended to exempt from the phase-in period those unemployable retirees/veterans compensated for 100 percent disability, neither the amended stature nor legislative intent language support this position.

We plan to issue guidance to the Defense Finance and Accounting System and the Services on the matter as quickly as possible. Please advise us if the Administration has any differing views.

Sincerely,

CHARLES S. ABELL.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 361) was agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 424

Mr. COCHRAN. Mr. President, I now send an amendment to the desk, on my own behalf, to make a technical correction to the bill. I ask it be reported.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN] proposes an amendment numbered 424.

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

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

The amendment is as follows:

On page 219 of the bill, line 16, strike ''or'' and insert ''and'';

On page 219 of the bill, line 17, after ''and'' insert ''seismic-related''.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment

The amendment (No. 424) was agreed to.

Mr. COCHRAN. I move to reconsider the vote by which the amendment was agreed to, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 387

Mr. LEAHY. Mr. President, I notice we have been in a quorum call and realize I am not taking time from others. I thought this might be a good time to note that I am a cosponsor of the Mikulski amendment.

We all know, from the discussion we had yesterday with the distinguished Senator from Maryland and others, that the amendment makes additional visas available for aliens who wish to perform seasonal work in the United States. We are well aware of that in my State of Vermont. We are also aware of the fact that for the second year in a row the statutory cap on so-called H–2B visas was met before businesses that needed additional summer employees were even eligible to apply for visas.

This is kind of a catch-22. They are told they have to wait for a period of time to be eligible to apply for the visas, and then when the time comes, the visas are already used. It has hurt businesses across the country. This amendment would provide needed relief.

In Vermont, many hotels and inns and resorts that have a busy summer season use these visas. I have heard from dozens of these businesses in Vermont over the past year. They have struggled mightily to manage without temporary foreign labor. I know the Lake Champlain Chamber of Commerce, the Vermont Lodging & Restaurant Association, and many small businesses in Vermont are vitally concerned, and I expect similar associations and businesses in the other States are as well.

It is interesting, one of the places I have heard from is a summer business where I worked when I was working my way through college. I know even then, in our little State, to keep it open, to go forward, they needed those foreign workers.

You have a wide range of industries that use these visas. This is not a parochial issue. It is not just Vermont. I suspect the same argument, one way or the other, could be made in virtually every State. I would be surprised if there is any Senator who has not heard from a constituent who has been harmed by the sudden shortage of H–2B visas. Many of them fear they are going to go out of business altogether if Congress does not make these visas available.

Now, the amendment would not raise the cap on the program but would allow those who had entered the United States in previous years through the H–2B program to return. It seems to be a very fair, very reasonable compromise. After all, these are people, by definition, who came to the United States legally. Then, after coming to the United States legally, they returned to their own countries legally, as they are required to do. The amendment also addresses those concerns some Members have expressed about fraud.

I have been working to solve this crisis for more than a year. I joined, last year, with a very substantial coalition of both Republican and Democratic Senators in introducing S. 2252, the Save Summer Act of 2004. This was going to increase the cap on the H–2B program. Unfortunately, there was a small number of Republican Senators who opposed it, so they put a hold on it. It was never allowed to have a vote. Our constituents suffered the consequences.

This year, I have urged the Mikulski-Gregg bill, on which this amendment is based, S. 352, be considered by the Judiciary Committee without delay. It is a bipartisan bill. It deserves to win a broad majority in this body. But this is not one of these things we can talk about and delay and delay and delay on throughout the spring and summer. Many of these businesses, if they are even going to open their doors, if they are going to stay in business this year, need the relief today.

Most of them are small businesses. An awful lot of them—I know the owners in my State; I suspect Senator GREGG from New Hampshire knows them in his State—are people who work very hard, with 80- and 90-hour weeks. They are sort of mom-and-pop operations. They own their businesses, and they need this seasonal help or they go out of business. If they go out of business, the other people they hire year-round are out of a job, and the local community has lost a significant place.

We should move forward. These are people relying on us. I do not know the politics of any of these people. I do not care. They are relying on us to help keep their businesses afloat.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

AMENDMENT NO. 427

Mr. DURBIN. Mr. President, those following the debate on the floor understand we are considering the supplemental appropriations bill that deals with the war in Iraq and Afghanistan, the tsunami relief, and some other very important elements. I understand there are pending amendments and also an effort to reach an agreement about how future amendments will be offered. So even though I will not be offering an amendment at this time, I would like to say a few words about an amendment which I plan to offer as soon as an agreement is reached and to alert my colleagues and those following the debate what we are seeking to achieve.

This amendment, which I am proud to cosponsor with Senator KENNEDY and Senator LEVIN, relates to troop training in Iraq. I thank the chairman and ranking member for their hard work on the bill. I believe it is imperative we continue to support our troops and address other emergencies in the world, including the devastating tsunami that swept across the Pacific right after Christmas.

We fully support our troops. We also want to see them come home. Training Iraqi troops to take the lead in Iraq is critical to our success in that country and to getting our service men and women back where they belong—with their families at home. Therefore, we are offering an amendment today to measure our progress toward that goal.

In this bill, the Senate is appropriating $5.7 billion for the Iraqi Security Forces Fund. The accompanying committee report states:

The funds shall be available to train, equip, and deploy Iraqi security forces as well as provide increased counterinsurgency capabilities.

That is certainly very good. Our troops cannot come home until Iraqi forces can hold their own.

When I was in Iraq just a few weeks ago, General Petraeus took us from the Baghdad airport to a training field nearby, where we saw about 12 Iraqi soldiers who were masked to hide their identity for fear of retribution from their fellow Iraqis as they went through training drills.

I have not been in the military. I can't grade these troops as to their progress. It certainly appeared that they were learning important skills. How many troops in Iraq are reaching that level of competence, I can't say. That is the purpose of the amendment.

Iraqi forces and police must be able to take the lead in conducting counterinsurgency operations. They must be able to protect their own borders, safeguard civilian populations, uphold and enforce the rule of law. When I met with General Petraeus, he said he believed he was making progress toward that goal, but I think

we need to have a better metric to evaluate. We have received mixed messages and mixed information and statistics from the administration about how many Iraqis are trained and what their training really means.

Recent figures we received from the Department of Defense tell us that 136,000 Iraqis have been officially trained and equipped, but it is still not clear what that means. Does it mean that 136,000 Iraqi police, military, and border personnel are ready to defend their country, to protect its citizens and borders? Are they ready to take on and defeat the serious insurgent threat against American troops and Iraqis?

A March GAO study was very skeptical about the numbers. Joseph Christoff, Director of the GAO, testified before the House Government Reform Committee that:

Data on the status of Iraqi security forces is unreliable and provides limited information on their capabilities.

That was a result of a GAO report of the progress being made by our Department of Defense. We need answers to basic questions. That is why we are offering the amendment—Senator KENNEDY, Senator LEVIN, and I—requiring the Department of Defense to assess unit readiness of Iraqi forces and evaluate the effectiveness and status of training of police forces.

Our amendment is straightforward. It is a reporting requirement asking for regular assessments of both the military forces and the police who are being trained with our tax dollars. This is simply accountability. As American tax dollars go into Iraq for the training of forces, American taxpayers have the right to know whether we are making progress. Are we meeting our goals? The GAO report indicated, for example, substantial desertions from the ranks of police in Iraq, the number in perhaps the tens of thousands. That is something we need to know if it continues. We need to know how many battalions of soldiers are trained, how effectively they can operate. They face a fierce insurgency. Are they ready for battle? We want to give them the tools to successfully confront it.

Finally, we also ask for an assessment of how many American forces will be needed in 6, 12, and 18 months. We are not imposing a deadline. What we are doing is saying to the administration: Tell us on the one hand the level of success which you are experiencing in training Iraqis to defend their own country and tell us what it means in terms of American forces. When can we expect troops to start returning if this Iraqi training is successful?

As Iraqi troop training expands and improves, we certainly hope American troops will come home. We all want to see progress in Iraq. I want to be able to measure it in a way that everyone in Congress—and certainly everyone across the country—knows we are making meaningful progress.

Mr. KENNEDY. Mr. President, will the Senator from Illinois yield for a question?

Mr. DURBIN. Yes, I am happy to.

Mr. KENNEDY. The Senator points out the part of the amendment which is asking for an estimate of the number of troops. I am a member of the Armed Services Committee. This issue has come up in a number of different contexts. We are talking about an estimate. We are looking for an estimate in 6 months and 12 months and 18 months. I am just wondering whether the Senator from Illinois saw the New York Times on April 11 where General Casey, top commander in Iraq, told CNN a week ago that if all went well, ''we should be able to take some fairly substantial reductions in the size of our forces.'' And another senior military official said American forces in Iraq could drop to around 105,000 by early next year from 142,000 now.

Clearly, there are estimates that are being considered. It seems that the American people would like to know what these numbers are rather than reading them in the paper. I believe that is what the purpose of the amendment is—to try to communicate to the American people what the best judgment is in terms of the troops. Estimates can vary. As authors of the amendment, we understand that. But I do thank the Senator for referring to the GAO report, the fact that the GAO report of March 14 said that U.S. Government agencies do not report reliable data on the extent to which the security forces are trained and equipped. The number of Iraqi police is unreliable, and the data does not exclude police absent from duty.

All we are trying to do is to get estimates for the American people. Am I correct?

Mr. DURBIN. The Senator from Massachusetts is correct. He makes a valuable point. When we in Congress ask the Department of Defense, how are we doing in terms of training troops for the Iraqi side, what are your guesses and best estimates in terms of when American troops can come home, many times they tell us, we can't share that information. They give us widely different numbers.

The Senator from Massachusetts makes the point that spokesmen for the U.S. military apparently speak to the media frequently, volunteering information about how quickly troops can come home to the United States. If it is good enough for CNN, should it not be good enough for the USA; should not American taxpayers be given this information? I think we want to know that.

I understand that we have to stay the course and finish our job. I am committed to that, even though I shared Senator KENNEDY's sentiments about the initiation of the invasion. One of the problems with the insurgency is the question of whether we are a permanent occupying force. I hope we make it clear to the Iraqis that we are there to finish the job, to stabilize their country, and come home. As we start moving down the line on this amendment, which the Senator from Massachusetts and Senator LEVIN have cosponsored, we are going to be moving toward that goal and delivering the right message.

Mr. KENNEDY. I thank the Senator. I agree with his conclusions. Many of us believe this will be enormously helpful in trying to establish the independent Iraq that all of us would like to see. But I thank the Senator for bringing up this matter.

This follows other evidence that we have had at other times in Defense appropriations legislation, basically to provide this kind of information to the parents, to the military. We are looking for a best judgment, best estimate. Clearly, today the military is thinking in those terms. I believe we ought to have some opportunity to share that information.

I thank the Senator from Illinois for offering this amendment.

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

The PRESIDING OFFICER (Mr. MARTINEZ). Is there objection to setting aside the pending amendment?

Without objection, it is so ordered.

The clerk will report.

The bill clerk read as follows:

The Senator from Illinois [Mr. DURBIN], for himself, Mr. LEVIN, Mr. KENNEDY, Mr. BYRD, and Mr. LEAHY, proposes an amendment numbered 427.

Mr. DURBIN. 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 reports on Iraqi security services)

On page 169, between lines 8 and 9, insert the following:

REPORTS ON IRAQI SECURITY FORCES

SEC. 1122. Not later than 60 days after the date of enactment of this Act, and every 90 days thereafter, the President shall submit an unclassified report to Congress, which may include a classified annex, that includes a description of the following:

(1) The extent to which funding appropriated by this Act will be used to train and equip capable and effectively led Iraqi security services and promote stability and security in Iraq.

(2) The estimated strength of the Iraqi insurgency and the extent to which it is composed of non-Iraqi fighters, and any changes over the previous 90-day period.

(3) A description of all militias operating in Iraq, including their number, size, strength, military effectiveness, leadership, sources of external support, sources of internal support, estimated types and numbers of equipment and armaments in their possession, legal status, and the status of efforts to disarm, demobilize, and reintegrate each militia.

(4) The extent to which recruiting, training, and equipping goals and standards for Iraqi security forces are being met, including the number of Iraqis recruited and trained for the army, air force, navy, and other Ministry of Defense forces, police, and highway patrol of Iraq, and all other Ministry of Interior forces, and the extent to which personal

and unit equipment requirements have been met.

(5) A description of the criteria for assessing the capabilities and readiness of Iraqi security forces.

(6) An evaluation of the operational readiness status of Iraqi military forces and special police, including the type, number, size, unit designation and organizational structure of Iraqi battalions that are—

(A) capable of conducting counterinsurgency operations independently;

(B) capable of conducting counterinsurgency operations with United States or Coalition mentors and enablers; or

(C) not ready to conduct counterinsurgency operations.

(7) The extent to which funding appropriated by this Act will be used to train capable, well-equipped, and effectively led Iraqi police forces, and an evaluation of Iraqi police forces, including—

(A) the number of police recruits that have received classroom instruction and the duration of such instruction;

(B) the number of veteran police officers who have received classroom instruction and the duration of such instruction;

(C) the number of Iraqi police forces who have received field training by international police trainers and the duration of such instruction;

(D) a description of the field training program, including the number, the planned number, and nationality of international field trainers;

(E) the number of police present for duty;

(F) data related to attrition rates; and

(G) a description of the training that Iraqi police have received regarding human rights and the rule of law.

(8) The estimated total number of Iraqi battalions needed for the Iraqi security forces to perform duties now being undertaken by the Coalition Forces, including defending Iraq's borders, defeating the insurgency, and providing law and order.

(9) The extent to which funding appropriated by this Act will be used to train Iraqi security forces in counterinsurgency operations and the estimated total number of Iraqi security force personnel expected to be trained, equipped, and capable of participating in counterinsurgency operations by the end of 2005 and of 2006.

(10) The estimated total number of adequately trained, equipped, and led Iraqi battalions expected to be capable of conducting counterinsurgency operations independently and the estimated total number expected to be capable of conducting counterinsurgency operations with United States or Coalition mentors and enablers by the end of 2005 and of 2006.

(11) An assessment of the effectiveness of the chain of command of the Iraqi military.

(12) The number and nationality of Coalition mentors and advisers working with Iraqi security forces as of the date of the report, plans for decreasing or increasing the number of such mentors and advisers, and a description of their activities.

(13) A list of countries of the North Atlantic Treaty Organisation (''NATO'') participating in the NATO mission for training of Iraqi security forces and the number of troops from each country dedicated to the mission.

(14) A list of countries participating in training Iraqi security forces outside the NATO training mission and the number of troops from each country dedicated to the mission.

(15) For any country, which made an offer to provide forces for training that has not been accepted, an explanation of the reasons why the offer was not accepted.

(16) A list of foreign countries that have withdrawn troops from the Multinational Security Coalition in Iraq during the previous 90 days and the number of troops withdrawn.

(17) A list of foreign countries that have added troops to the Coalition in Iraq during the previous 90 days and the number of troops added.

(18) For offers to provide forces for training that have been accepted by the Iraqi government, a report on the status of such training efforts, including the number of troops involved by country and the number of Iraqi security forces trained.

(19) An assessment of the progress of the National Assembly of Iraq in drafting and ratifying the permanent constitution of Iraq, and the performance of the new Iraqi Government in its protection of the rights of minorities and individual human rights, and its adherence to common democratic practices.

(20) The estimated number of United States military forces who will be needed in Iraq 6, 12, and 18 months from the date of the report.

Mr. DURBIN. I thank the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I thank Senator DURBIN for bringing up this matter on the supplemental. I welcome the opportunity to join with him and our colleague from Michigan, Senator LEVIN, and others who support the amendment. As we have outlined, this amendment basically requires periodic reports on the progress we are making in training Iraqi security forces.

The Senate is currently debating an appropriations bill that would provide $81 billion, primarily for our ongoing war effort in Iraq. This funding will bring the total U.S. bill for the war in Iraq to $192 billion—and still counting.

All of us support our troops. We obviously want to do all that we can to see that they have proper equipment, vehicles, and everything else they need to protect their lives as they carry out their mission. It is scandalous that the administration has kept sending them into battle in Iraq without proper equipment. No soldier should be sent into battle unprotected. No parents should have to go in desperation to the local Wal-Mart to buy armored plates and mail them to their sons and daughters serving in Iraq.

Our military is performing brilliantly under enormously difficult circumstances. But they don't want—and the American people don't want—an open-ended commitment. After all the blunders that took us into war, we need to be certain that the President has a strategy for success.

The $5.7 billion in this bill for training Iraqi security forces is a key element of a successful strategy to stabilize Iraq and withdraw American military forces.

The administration has spoken frequently about the need for these funds. But there has been no accountability. It is time to put some facts behind our policy, and that is what this amendment does.

The administration has never really given us a straight answer about how many Iraqi security forces are adequately trained and equipped. We're obviously making progress, but it is far from clear how much. The American people deserve an honest assessment that provides the basic facts.

But that is not what we're being given. According to a GAO report in March:

U.S. government agencies do not report reliable data on the extent to which Iraqi security forces are trained and equipped.

It goes on to say:

The Departments of State and Defense no longer report on the extent to which Iraqi security forces are equipped with their required weapons, vehicles, communications, equipment, and body armor.

It is clear from the administration's own statements that they are using the notorious ''fuzzy math'' tactic to avoid an honest appraisal.

On February 4, 2004, Secretary Donald Rumsfeld said:

We have accelerated the training of Iraqi security forces, now more than 200,000 strong.

Then, a year later, on January 19, 2005, Secretary Condoleezza Rice said that:

We think the number right now is somewhere over 120,000.

On February 3, 2005, in response to questions from Senator LEVIN at a Senate Armed Services Hearing, General Richard Myers, chairman of the Joint Chiefs of Staff, conceded that only 40,000 Iraqi security forces are really capable. He said:

48 deployable (battalions) around the country, equals about 40,000, which is the number that can go anywhere and do anything.

Obviously, we need a better accounting of how much progress is being made to train and equip effective and capable Iraqi Security forces.

I am encouraged by reports from our commanders in Iraq that we are making enough progress in fighting the insurgents and training the Iraqi security forces to enable the Pentagon to plan for significant troop reductions by early next year.

On March 27, General Casey, our top commander in Iraq, said, if things go well in Iraq, ''by this time next year . . . we should be able to take some fairly substantial reductions in the size of our forces.''

According to the New York Times, on Monday, senior military officials are saying American troop levels in Iraq could ''drop to around 105,000'' by early in 2006.

These reports are welcome news after 2 years of war in Iraq.

April 9 marked the second anniversary of the fall of Baghdad, and in these last 2 years we have paid a high price for the invasion of Iraq.

America went to war in Iraq because President Bush insisted that Iraq had strong ties to al-Qaida. It did not. We went to war because President Bush insisted that Saddam Hussein was on the verge of acquiring a nuclear capability. He was not. Long after the invasion of Iraq began, our teams were scouring possible sites for weapons of mass destruction. Finally, last January, 21

months after the invasion, the search was called off all together.

As Hans Blix, the former chief U.N. weapons inspector, said in a lecture last month, the United States preferred ''to believe in faith based intelligence.''

Today, American forces continue to serve bravely and with great honor in Iraq. But the war in Iraq has made it more likely—not less likely—that we will face terrorist attacks in American cities, and not just on the streets of Baghdad. The war has clearly made us less safe and less secure. It has made the war against al-Qaida harder to win.

As CIA Director Porter Goss told the Senate Intelligence Committee on February 16, we have created a breeding ground for terrorists in Iraq and a worldwide cause for the continuing recruitment of anti-American extremists.

He said:

The Iraq conflict, while not a cause of extremism, has become a cause for extremists . . . Islamic extremists are exploiting the Iraqi conflict to recruit new anti-U.S. jihadists . . . These jihadists who survive will leave Iraq experienced in and focused on acts of urban terrorism. They represent a potential pool of contacts to build transnational terrorist cells, groups, and networks in Saudi Arabia, Jordan and other countries.

Three and a half years after the 9/11 attacks, al-Qaida is still the gravest threat to our national security, and the war in Iraq has ominously given al-Qaida new incentives, new recruits, and new opportunities to attack us.

According to CIA Director Goss, ''al-Qaida is intent on finding ways to circumvent U.S. security enhancements to strike Americans and the homeland.''

Admiral James Loy, Deputy Secretary of Homeland Security, also warned the Intelligence Committee about the threat from al-Qaida. He said, ''We believe that attacking the homeland remains at the top of al-Qaida's operational priority list . . . We believe that their intent remains strong for attempting another major operation here.''

The danger was also emphasized by Robert Mueller, the FBI Director, who told the Intelligence Committee, ''The threat posed by international terrorism, and in particular from al-Qaida and related groups, continues to be the gravest we face.'' He said, ''al-Qaida continues to adapt and move forward with its desire to attack the United States using any means at its disposal. Their intent to attack us at home remains—and their resolve to destroy America has never faltered.''

In addition to taking the focus off the real war on terror—the war against al-Qaida—the war in Iraq has cost us greatly in human terms.

Since the invasion began, we have lost more than 1500 servicemen and women. More than 11,500 have been wounded. That's the equivalent of a full Army division, and we only have 10 active divisions in the entire army. Despite recent progress, since the Iraqi elections in January we have still lost more than one soldier a day.

We need to train the Iraqis for the stability of Iraq. But we also need to train them because our current level of deployment is not sustainable. Our military has been stretched to the breaking point, with threats in other parts of the world ever-present.

As the Defense Science Board told Secretary Rumsfeld last September, ''Current and projected force structure will not sustain our current and projected global stabilization commitments.''

LTG John Riggs said it clearly: ''I have been in the Army 39 years, and I've never seen the Army as stretched in that 39 years as I have today.'' A full 32 percent of our military has already served two or more tours of duty in Iraq or Afghanistan. That fact makes it harder for us to respond to threats elsewhere in the world.

The war has also undermined the Guard and Reserve. Forty percent of the troops in Iraq are Guard or Reservists, and we are rapidly running out of available soldiers who can be deployed.

The average tour for reservists recalled to active duty is now 320 days, close to a year. In the first Gulf War, it was 156 days; in Bosnia and Kosovo, 200 days. In December, General James Helmley, the head of the Army Reserves warned that the Reserve ''is rapidly degenerating into a 'broken' force'' and ''is in grave danger of being unable to meet other operational requirements.''

The families of our military, Guard and Reserves are also suffering. Troops in Iraq are under an order that prevents them ever from leaving active duty when their term of service is over.

A survey by the Defense Department last May found that reservists, their spouses, their families, and their employers are less supportive now of their remaining in the military than they were a year ago.

The war has clearly undermined the Pentagon's ability to attract new recruits and retain those already serving. In March, the active duty Army fell short of its recruiting goal by a full 32 percent. Every month this year, the Marines have missed their recruiting goal. The last time that happened was July 1995.

The Army Reserves are being hit especially hard. In March, it missed a recruiting goal by almost half, falling short by 46 percent.

To deal with its recruiting problems, the Army National Guard has increased retention bonuses from $5,000 to $15,000 and first-time signing bonuses from $6000 to $10,000. The Pentagon has raised the maximum age for Army National Guard recruits from 34 to 39. Without these changes, according to General Steven Blum, Chief of the Army National Guard, ''The Guard will be broken and not ready the next time it's needed, either here at home or for war.''

We all hope for the best in Iraq. We all want democracy to take root firmly and irrevocably.

Our men and women in uniform, and the American people deserve to know that the President has a strategy for success. They want to know how long it will take to train the Iraqi security forces to ably defend their own country so American men and women will no longer have to die in Iraq. They want to know when we will have achieved our mission, and when our soldiers will be able to come home with dignity and honor.

At a March 1 hearing in the Senate Armed Services Committee, General Abizaid, the leader of the Central Command, gave the clearest indication so far about when our mission might end.

General Abizaid said, ''I believe that in 2005, the most important statement that we should be able to make is that in the majority of the country, Iraqi security forces will take the lead in fighting the counterinsurgency. That is our goal.''

Speaking about the capabilities of the Iraqi security forces, General Abizaid said, ''I think in 2005 they'll take on the majority of the tasks necessary to be done.'' That's this year.

On March 27, General Casey, commanding General of the Multi-National Force in Iraq said, ''By this time next year . . . assuming that the political process continues to go positively . . . and the Iraqi army continues to progress and develop as we think it will, we should be able to take some fairly substantial reductions in the size of our forces.''

Our troops are clearly still needed to deal with the insurgency. Just as clearly, we need an effective training program to enable the Iraqis to be self-reliant.

But there is wide agreement that the presence of American troops fuels the insurgency. If the Iraqis make significant progress this year, it is perfectly logical to expect that more American troops will be able to return home.

Shortly after the elections in Iraq in January, the administration announced that 15,000 American troops that were added to provide security for the elections would return.

Additional reductions in our military presence, as Iraqis are trained to take over those functions, would clearly help take the American face off the occupation and send a clearer signal to the Iraqi people that we have no long-term designs on their country.

In US News and World Report in February, General Abizaid emphasized this basic point. He said ''An overbearing presence, or a larger than acceptable footprint in the region, works against you . . . The first thing you say to yourself is that you have to have the local people help themselves.''

Deputy Secretary Wolfowitz stated in a hearing at the Senate Armed Services Committee on February 3, ''I have talked to some of our commanders in the area. They believe that over the course of the next six months you will see whole areas of Iraq successfully handed over to the Iraqi army and

Iraqi police.'' Today 2 of those 6 months have passed, and all of us hope that we are on track to meet his goal.

Before the election in Iraq in January, the administration repeatedly stated that 14 of the 18 provinces in Iraq are safe. We heard a similar view in a briefing from Ambassador Negroponte earlier this year.

If some areas can soon be turned over to the Iraqis, as Secretary Wolfowitz indicated, it should be done. It would be a powerful signal to the Iraqi people that the United States is not planning a permanent occupation of their country. If entire areas are being turned over to the Iraqis, we should be able to bring more American troops home.

We know the road ahead will be difficult, because the violence is far from ended.

The President's commitment to keeping American troops in Iraq as long as it takes and not a day longer is not enough for our soldiers and their loved ones. They deserve a clearer indication of what lies ahead, and so do the American people.

President Bush should be able to tell us how much progress—how much real progress—we are making in training the Iraqi security forces. Our amendment asks for specific information on that progress, if it's happening.

President Bush should be able to tell us how many American soldiers he expects will still be in Iraq 6 months from now, 12 months from now, 18 months from now.

General Abizaid and other military officials have begun to provide clarification of that very important issue, and I hope the President will as well.

Our amendment contributes significantly to that goal, and I urge my colleagues to support it.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. LEVIN. Mr. President, I rise to support the amendment Senator KENNEDY has addressed, which was introduced by Senator DURBIN. It represents an effort to obtain information that is critically important to the American people in reaching a judgment, critically important to the Congress in reaching a judgment, critically important, I believe, to our military leaders, first and foremost, in reaching a judgment as to how quickly we can remove forces from Iraq.

It is in everybody's interest that we succeed in Iraq. Some of us who were highly critical of the way we went into Iraq—more unilaterally than we should have, without the support of any Muslim nations, making our presence a Western occupation of a Muslim nation, with all of the problems that unleashes, and many of us who have been critical of the way in which the Iraqi army was disbanded unilaterally, without much thought, and the way in which we did not have a plan for a violent aftermath when we went in, the way in which we didn't listen to our military leaders in terms of the need to prepare for the possibility of the violent aftermath. All of us, those of us who were critics and those of us who were supporters, now have a common interest in Iraq and have had, once the decision was made to go into Iraq, and that is that we succeed in Iraq.

Success in Iraq requires that the Iraqis take over their own defense and their own security. This amendment will help give us a roadmap toward understanding how long it will take, what is necessary, what the cost will be for the Iraqis to take over their own security, the key to our exit, first reductions in our American forces, and then to our ultimate departure from Iraq, and the key to it is how quickly we can turn over to Iraq their own security.

This amendment sets forth a number of reporting requirements, which will help us to make a judgment as to how quickly that can be done, which will help the American people to understand there is a strategy here, there are markers along the road we are on which will tell us whether we are achieving that essential security and, more importantly, whether the Iraqis are achieving that essential security for themselves.

Two things are going to be necessary here for success to be achieved. One is to secure the area and the other is a political accommodation between the people in Iraq—people who have different religious beliefs, different ethnic backgrounds, people who are now going to have to put themselves together to form a nation.

In terms of the training of Iraqi troops, we have very different estimates over the months, and it is very difficult for us in Congress and for the American people to make a judgment as to how quickly we are going to be able to reduce our presence in Iraq—a presence which has fueled the insurgency against us, which is used as a propaganda tool against us, because we are characterized as Western occupiers in a Muslim nation. The longer we stay there, the more troops we have there, the more we play into the hands of those who want to destroy us and destroy the hopes of Iraqis for a nation.

I want to give a few examples of the discrepancies in the characterization of the ability of the Iraqis to protect and defend themselves. Back in September of last year, President Bush said the following:

> Nearly 100,000 fully trained—
>
> I emphasize fully trained.
>
> —and equipped Iraqi soldiers, police officers, and other security personnel are working today.

But then George Casey, our commander of the multinational force in Iraq, in January said the following:

> When Prime Minister Allawi took office in June of 2004, he had one deployable battalion. Today, he has 40. When you multiply 40 battalions that are deployable with the number of people in each battalion, it comes out to approximately 30,000 personnel.

So when General Casey spoke in January, months after President Bush told us there were 100,000 fully trained and equipped Iraqi soldiers, there were still but 30,000 personnel in Iraq who were deployable.

This is what General Myers said in February: That there are about 40,000 Iraqis in the police and military battalions, 40,000 that can ''go anywhere in the country and take on almost any threat.''

That is a very different impression than is given by the weekly status reports we get from the administration. This is the State Department's most recent weekly status report as to what they call trained-and-equipped Iraqi forces—152,000 this week.

There are not 152,000 Iraqi forces capable of taking on insurgents. If we are lucky, the number is about one-third of that. But we have to know two numbers, not just one, not just the weekly State Department number as to how many people are trained and equipped, but how many of those people are sufficiently trained and equipped so they can take on the insurgency. That is the critical number—how many are capable militarily of taking on insurgents.

I will give one other example of the discrepancy of the characterization of the capability of Iraqi forces.

When this supplemental in front of us was provided to us in February, this is what the supplemental represented to us: That 89 of the 90 battalions of Iraqi security forces that have been fielded—89 of 90—are ''lightly equipped and armed and have very limited mobility and sustainment capabilities.'' That is about 95 percent plus of the Iraqi security forces today, according to the supplemental request; 95 percent are lightly equipped and armed and have limited mobility and sustainment. How different that is from the most recent weekly report we just received of 152,000 troops.

It is essential, it is critically important, no matter what one's views of the war are—the wisdom of going in, how well run it has been since we went in—no matter how pessimistic or optimistic one is, no matter how critical or positive one is, in terms of the operations and the way they were planned or not planned and the decision to go in as we did, we must have numbers, we must have estimates, which this amendment would require in regular reports, as to what the capabilities are of the Iraqi forces.

We need two numbers. We need that total number, 152,000, but we need the number of Iraqi forces that are capable of taking on the insurgents: How many are deployable? how many have real mobility and sustainment capabilities? How many are well trained and equipped so they can take on the insurgents?

That number is critical to Iraq. It is critical to Americans. Americans have the right to know the information this amendment requires be provided in regular reports.

I have one other comment before I yield the floor. In addition to the security requirements that must be met so

we can say that our involvement in Iraq has been a success, there must be a political accommodation. That political accommodation, in many ways, is more complicated than the military situation. We need people who now distrust each other, people who have attacked each other over the decades, to now come together politically and to work out a new constitution which will protect the rights of minorities in Iraq.

We have a major group in Iraq, the Shi'a, who feel, and properly so, that a small minority of Sunni Baathists, particularly in the leadership of the Baathist political movement, attacked the Shi'as with gas and with other means. These are Iraqis who were destroyed by Iraqis, by Saddam Hussein and the henchmen who were around Saddam Hussein. So the Shi'a community needs to accommodate themselves to a significant protection for a Sunni minority, and that Sunni minority must get used to the fact, the reality, the Shi'as are the majority of Iraqis, and they have elected a majority of members who are going to be present in the Iraqi Assembly. Of course, there is the yearning of the Kurds for significant autonomy. All that needs to be put together.

It is a very complicated equation for that to happen. As we hopefully achieve some success on the security side, we must keep a very wary eye open as to what is happening or not happening on the political side of the challenge in Iraq.

The constitution will be written by a commission which will be selected by an assembly which is now in place. That assembly will have its Prime Minister within the next few days and will then be able to select a constitutional commission which will write a constitution. That commission needs to reflect the Iraqi people, not the makeup of the assembly which has much too small a percentage of Sunnis, given the fact they did not vote. But the Shi'a majority needs to be wise enough, in selecting the commission that will write the constitution, to have a broadly representative commission that will write a constitution that is protective of the minorities in Iraq, that will guarantee majority rights, of course, but that in any decent nation will protect the minority as well.

That is the challenge they face. They are supposed to meet that challenge by August. They will not do that, obviously. They have a 6-month extension beyond that where they must write a constitution. Getting that constitution written is a major challenge, and anything we can do to facilitate that, it seems to me, would be very wise, indeed.

We have two challenges, one of which is addressed in the amendment before us relative to Iraqi security and the progress they are hopefully making, to give us the information that is important for a judgment to which the American people, the Congress, and our uniformed military are entitled from this administration. I hope this has broad support and the Senate adopts the Durbin amendment.

I thank the Chair, and I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

AMENDMENT NO. 387

Mr. ALLEN. Mr. President, I rise today to speak in support of an amendment that my good friend from Maryland, Senator MIKULSKI, and I and a number of other Senators have offered and which does have bipartisan support. It has to do with the H–2B visa program.

Small businesses all over our Nation count on the H–2B visa program to keep their businesses operating. Many use this program year after year because it is the only way they can legally hire temporary or seasonal positions when no American workers are available. These companies hire all the American workers they can find, and they do look for American workers. But if they cannot find them, they need to get additional seasonal help, they need to find workers to meet the demands of their businesses and, indeed, to stay in business. These businesses are in construction, seafood, yard services, tourism and other season enterprises.

Congress has capped the H–2B visa program at 66,000 visas per year. That has not been adjusted since this visa category was initially capped in 1990. So since 1990 the visa cap has been 66,000. However, during those years, and here we are 15 years later, there are a variety of factors that have hampered U.S. employers from having the ability to find and hire more willing American workers for short-term positions. The shortages occur for a variety of reasons. It is actually getting much worse because Americans are unwilling to engage in low-skilled, semi-skilled short-term employment. In most instances, Americans are unwilling to relocate to a new location for several months out of a year, a move that many of these short-term jobs require. That is logical. People aren't going to want to move for 3 or 4 months and then move back to another place.

According to the Department of Homeland Security, the H–2B cap of 66,000 was reached a few months into the fiscal year. This is the second year in a row the cap has been reached this early. You may wonder why we are reaching the cap at such an early stage. What is the problem? Under current law employers cannot file an H–2B application until 120 days before they need the employee. Therefore, the H–2B program puts businesses whose peaks are in the summer and in the autumn at a disadvantage because the Citizenship and Immigration Services cannot process their applications until at least January or February, since these jobs generally start around Memorial Day. Therefore, if the cap is reached in January and February, as it was in the last several years, these employers who rely on seasonal workers are clearly put at a disadvantage.

I have heard from these employers. One of our most important jobs that I have as a Senator is to listen to people out there in the real world, to see what are the effects of certain laws and see if there are ways to allow those in the free enterprise system, particularly small businesses, to continue to operate. I do listen to my constituents. My constituents have clearly voiced their concerns about the H–2B program and have asked for help. I think it is important that we respond.

I will give some examples of what is going on. There is a company called WEMOW. WEMOW is a landscaping design and lawn maintenance company in Blacksburg, VA. This company relies heavily on the H–2B program, and sadly they have had to cut back on services they can provide because of the lack of a workforce to meet that demand. Christopher Via, who is the president of WEMOW, wrote me. I will quote from his letter. He said:

> While my company spends considerable time and money to recruit U.S. workers, the positions we need to fill are hot, labor intensive, physically exhausting low- and semi-skilled jobs that many Americans do not want to fill. Therefore, our ability to meet seasonal demand and stay in business relies on finding temporary workers. H–2B workers have proven critical in filling this need.

Of course, they are late in the season, so therefore they do not get the workers they could to meet those needs.

Another letter I received is from a company in Yorktown. Yorktown is a very famous tourism area. Stephen C. Barrs, the president of C.A. Barrs Contractor, Inc., wrote:

> While our company recruits U.S. workers, our company and our industry as a whole have been unable to find American workers. We have presented evidence to the Department of Labor that there are no U.S. workers available to fill our vacant positions. Our company employs approximately 100 people, and we specialize in road construction. The H–2B program provides foreign employees who have proven tremendous employees. We have relied on the H–2B program for 6 years and find this program invaluable. Once our season ends, our H–2B workers return home. This is more a small business issue than an immigration issue. We fear this program is in jeopardy, and if it is cut in any way, our small businesses will sustain a very damaging loss.

These are two of hundreds of letters I have received from small businesses all across Virginia, asking for our immediate help. Our amendment does that. It provides an immediate legislative remedy that helps these businesses get part-time seasonal workers.

Before I get into the details of what this amendment does, I want to clearly outline what this amendment does not do. I first want to stress that this amendment in no way changes the existing requirements for applying for an H–2B visa. U.S. employers must demonstrate to State and Federal departments of labor that there are no available U.S. workers to fill vacant seasonal positions. Subsequently, they

must obtain an approved labor certification from the U.S. Department of Labor, file a visa petition application with the Citizenship and Immigration Service for H–2B workers, and obtain approved H–2B visas for workers in their home countries.

With that understanding, I would like to outline what this amendment does effectuate. Specifically, our amendment would exempt temporary seasonal workers who have participated in the H–2B visa program, and have completely followed the law during the past 3 fiscal years from counting toward the statutory cap of 66,000.

Second, this amendment has a number of new antifraud provisions. One such provision requires employers to pay an additional fee of $150 on each H–2B petition, and those fees are placed into the fraud and prevention detection account of the U.S. Treasury.

Third, this amendment creates new sanctions for those who misrepresent facts on a petition of an H–2B visa. This provision is designed to further strengthen the Department of Homeland Security's enforcement power to sanction those who violate our Nation's immigration laws. If an employer violates this section, the Department of Homeland Security will have the power to fine the individual employer and/or not approve, of course, their H–2B petitions.

Fourth, moreover, the amendment divides the cap more equitably, giving half of the visas to fall and winter businesses and half to spring and summer businesses. So you do not get into this whole gaming situation of when do the applications get in, and end up with a frustrating disruption at the end of the year.

Finally, this amendment adds some simple, commonsense reporting requirements that will allow Congress to get more information on the H–2B program users as we in Congress move toward a more comprehensive, long-term solution to this problem.

Our amendment provides the needed temporary addressing and the fix that is needed to a problem that, if left unresolved, will ultimately harm our economy. Jobs will be lost, whether they are in landscaping, whether they are in seafood, whether they are in contracting, whether they are in tourism. These are all small businesses. They are good, law-abiding citizens. They are trying to use and will use this program lawfully, but we need to bring some common sense into this program.

We need to act as soon as possible. Many of these businesses are family businesses, and they need to stay in operation. They provide services which their customers and the people in their communities desire.

I strongly and respectfully urge my colleagues to vote in favor of this amendment. It is not solely an immigration issue. As my friend and constituent from Yorktown said, this is a small business issue as well.

I thank the Chair. I yield the floor.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. SALAZAR. Mr. President, I ask unanimous consent that the pending amendments be set aside.

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

AMENDMENT NO. 351

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Colorado [Mr. SALAZAR] proposes an amendment numbered 351.

Mr. SALAZAR. 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 express the sense of the Senate that the earned income tax credit provides critical support to many military and civilian families)

At the appropriate place, insert the following:

**SEC. __. SENSE OF THE SENATE ON THE EARNED INCOME TAX CREDIT.**

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

(1) In an effort to provide support to military families, this Act includes an important increase in the maximum payable benefit under Servicemembers' Group Life Insurance from $150,000 to $400,000.

(2) In an effort to provide support to military families, this Act includes an important increase in the death gratuity from $12,000 to $100,000.

(3) In an effort to provide support to military families, this Act includes an important increase in the maximum Reserve Affiliation bonus to $10,000.

(4) The Federal earned income tax credit (EITC) under section 32 of the Internal Revenue Code of 1986 provides critical tax relief and support to military as well as civilian families. In 2003, approximately 21,000,000 families benefitted from the EITC.

(5) Nearly 160,000 active duty members of the armed forces, 11 percent of all active duty members, currently are eligible for the EITC, based on analyses of data from the Department of Defense and the Government Accountability Office.

(6) Congress acted in 2001 and 2004 to expand EITC eligibility to more military personnel, recognizing that military families and their finances are intensely affected by war.

(7) With over 300,000 National Guard and reservists called to active duty since September 11, 2001, the need for tax assistance is greater than ever.

(8) Census data shows that the EITC lifted 4,900,000 people out of poverty in 2002, including 2,700,000 children. The EITC lifts more children out of poverty than any other single program or category of programs.

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

(1) Congress should take steps necessary to support our troops and their families;

(2) it is not in the interests of our troops and their families to reduce the earned income tax credit under section 32 of the Internal Revenue Code of 1986; and

(3) the conference committee for H. Con. Res. 96, the concurrent resolution on the budget for fiscal year 2006, should not assume any reduction in the earned income tax credit in the budget process this year, as provided in such resolution as passed by the House of Representatives.

Mr. SALAZAR. Mr. President, before commenting on this amendment, I wish to take a minute to thank the chairman and ranking member, Senators COCHRAN and BYRD, for all their hard work on this important bill. I am especially appreciative of the help and support they have offered this Senator on two amendments.

They and their staffs have been helpful as we try to ensure that the brave Lebanese people who stood up to their Syrian occupiers know we are here to support them. Earlier today we made a down payment on a commitment to help ensure they have the free and fair elections and strong and vibrant democracy they have earned. I want especially to thank the staffs of Senators MCCONNELL and LEAHY for the help on the Lebanon amendment.

I am also hopeful that we will be able to fix something that I have considered an injustice since I came to the Senate earlier this year. The assistance we provide to military families in the event of a loss of their family member is referred to as the ''death gratuity.'' That is a misnomer, and I am hopeful that we will be able to correct that by renaming this assistance as something more fitting, namely, ''Fallen Hero Compensation.''

Regarding the amendment I have just sent to the desk, it is quite simple. It clearly states our support for the earned income tax credit, especially because this program benefits working families and a large amount of our active duty military personnel.

Given that we are considering a bill that provides critical support to our troops and their families and that later this week many millions of Americans will be filing their taxes, I believe this amendment needed to be heard on this bill this week.

The EITC was first enacted in 1975 to aid the working poor. According to an analysis released just this week by a highly respected, non-partisan institute in Denver, the Bell Policy Center, in the past year, more than 150,000 active military personnel nationwide qualified for the EITC. In my State of Colorado alone, over 3,000 members of the military qualified for the EITC.

The EITC has long enjoyed bipartisan support because the credit is extended only to families that have work income. Most recently, under the leadership of Senator MARK PRYOR, this body overwhelmingly approved the expansion of the EITC to more military families.

That is as it should be . . . given all that these families give for our country, it is the least the country can do for them.

Now, however, it appears that this effective program that has lifted over 2.7 million children above the poverty level is coming under attack.

Recently the House of Representatives indicated that it is considering cutting the EITC in its budget reconciliation. Such cuts, if enacted by

the full Congress, could lead to higher taxes for many of our military families.

This is not fair and this is not right.

At a time when many of our military personnel are overseas and when our national guard reserves have been called up at historic rates, we should be providing for our men and women in uniform. We should not be taking away from them and placing them at a greater financial disadvantage.

I hope the Senate will be heard loudly and clearly that this is not the right thing to do. Our troops and their families deserve no less.

I urge my Senate colleagues to reject any cuts to the EITC.

I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. Mr. President, I thank the Senator from Colorado. In fact, I rise to discuss an individual who the Senator from Colorado and I met when we were part of a bipartisan delegation led by the Democratic leader, HARRY REID, a couple of weeks ago. On that trip, we visited a number of countries—Kuwait, Iraq, Israel, France, Georgia, Ukraine, and the Palestinian territory. We saw a number of emerging democracies. It made me think of what our own country might have been like more than 200 years ago. We visited with two men who were named Prime Minister and Speaker of the Iraqi Parliament a week later. In Georgia, we saw the young government. Many of them were educated here in the United States as students. When we went to Ukraine, we met Mr. Yuschenko and some of the students who had been part of this revolution. What we saw was very impressive, as were those people we were introduced to.

But from my way of thinking, there was no one more impressive than the Finance Minister of the Palestinian Authority, Salam Fayyad, who instituted a number of reforms to fight corruption and bring transparency to the finances of that Authority.

This remarkable individual was born Palestinian, and his family fled the West Bank for Jordan in 1968. He studied at the American University in Beirut. He later received a Ph.D. in economics from the University of Texas at Austin. He worked for the Federal Reserve in St. Louis and the International Monetary Fund in Washington, DC. He became the IMF representative to the Palestinian Authority and moved to Jerusalem in 1995. Then, in 2002, he was named Finance Minister of the Palestinian Authority.

What is remarkable is that all of us either know or suspect that when Arafat was in power, there was gross corruption with the moneys that came into Palestine. Mr. Fayyad has done the following things: He centralized control of the Palestinian Authority's finances. Previously, agencies had collected the money and kept it. That meant, for example, that education was poorly funded since it collected little money. Mr. Fayyad forced all the incoming funds to be put into the general treasury and disbursed by the Finance Minister.

The next thing he did was direct deposits for Palestinian security forces. Previously, money was given in plastic bags to commanders for them to distribute. Obviously, this led to what might generously be called a lot of mismanagement of those funds. Now soldiers are much happier because they get their pay on time, and the government is sure the money is going where it should. The soldiers and the government both know the money is not going to somebody who didn't earn it.

Public budgeting: He issued the first publicly detailed budget for the Authority, which totaled about $1.28 billion. The Ministry now issues public monthly reports of the government's financial status.

Eliminating graft: Due to his efforts, revenue of the Palestinian Authority is up from $45 million to $75 million, largely because money that was skimmed off the top in the past is going into the treasury where it belongs. I am not just saying this today because I want to give a pat on the back to Mr. Fayyad, who, in taking these steps, has shown a great deal of courage. I am sure there are a good number of people in the Palestinian territory who were skimming money off the top before who are not going to be happy with him now. I am bringing this up today because it has to do with a vote we are about to take here in the Senate.

The bill before us, the supplemental appropriations bill, provides $200 million of the President's request for aid to the Palestinian territories. There is another $150 million in the normal budgeting process. Unlike the House version of this supplemental appropriations bill, our version—the Senate version as it is coming to us—preserves the President's waiver authority that would allow him to designate a portion of those funds as he sees fit by the use of the Palestinian Authority. I believe that policy—the Senate policy—is the right policy. In other words, our policy would permit our President, President Bush, to decide that Mr. Fayyad and the government of the Palestinian Authority could properly spend this money. Some people are saying they stole money over there before. Yes they did. Yasser Arafat is dead and buried. It is time to make a new start.

The Finance Minister has made great strides to ensure that funds are publicly accountable. We will be able to keep track of where our taxpayer money goes. The Palestinian Authority needs some money. There is no poorer part of the world than the Gaza Strip. Someone has to provide security in the Gaza Strip. We look to the Palestinian Authority to do that if the Israelis pull out. Someone has to provide a social services safety net for these poor people so they are not tempted to join with the terrorists. We look to the Palestinian Authority to do that.

Why in the world would we keep our President from making the decision that would give the money to the Palestinian Authority, which is the group we are counting on to provide security and to provide the social safety net?

Nongovernment agriculture organizations can provide valuable help in support of what the Palestinian Authority is doing. If we are going to do business with the Palestinian Authority, and are going to expect them to be accountable for keeping things safe and providing a basic level of social services so people are able to eat, we should deal directly with them. At the very least we should give the President of the United States the authority, as the Senate bill does, to deal directly with the Palestinian Authority.

I am happy with what our Committee on Appropriations has done. I disagree with what the House of Representatives has done, and I suppose the matter will go to conference. I hope in the conference the Senators will insist on the Senate provision, and I hope our House Members will see the wisdom of giving our President the discretion to give the money to the Government that we are going to hold accountable.

I suggest the absence of a quorum.

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

The legislative clerk proceeded to call the roll.

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

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

Mrs. CLINTON. Mr. President, my colleague from South Carolina, Senator LINDSEY GRAHAM, and I come to the floor this afternoon to speak about the necessity of expanding TRICARE for National Guard members and reservists. I especially thank Senator GRAHAM for his hard work and advocacy on behalf of this legislation.

Almost 2 years ago exactly, in the spring of 2003, Senator GRAHAM and I joined at the Reserve Officers Association building to announce the first version of this legislation. In the intervening years, we have made a great deal of progress in expanding access to TRICARE, the military health program. But we agree there is still a long way to go.

We recently discovered our proposed legislation to ensure that National Guard and Reserve members have access to the military health program known as TRICARE does not have a cost this year, so it was not appropriate for us to attempt to attach this to the supplemental appropriations bill that is currently on the floor. But we are extremely hopeful we will be able to include legislation in this year's Department of Defense authorization bill.

Because Senator GRAHAM and I serve on the Armed Services Committee, we have heard firsthand, as have many of my colleagues, about the extraordinary

strain being placed on our Guard and Reserve Forces. We are well aware that a major part of our military success in Iraq and Afghanistan has been because of the role played by reservists and Guard members who heeded the call to serve their country—for some, not once, not twice, but three times in Iraq and/or Afghanistan.

Since September 11, our reservists and National Guard members have been called upon with increasing frequency. From homeland security missions where they were absolutely essential in New York after 9/11, National Guard men and women patrolled and guarded our subways, the Amtrak lines in Penn Station, other places of importance. We have seen in so many other instances where they were called to duty here in our own homeland. We also know they have paid the ultimate sacrifice, losing their lives in serving the missions they were called to fulfill in Iraq and Afghanistan or being grievously wounded and returning home, having given their all to our country.

In New York we have over 30,000 members of the Guard and Reserves, and over 4,000 are currently deployed in support of Operation Iraqi Freedom. When I have visited with our activated reservists and National Guard in New York, I have been greatly impressed by their willingness and even eagerness, in some cases, to serve. But I have also heard about the strains they face, that their families have borne, that their businesses have endured. It is abundantly clear we are having some difficulty in recruitment and retention of the Guard and Reserve because of the extraordinary stresses being placed on these very dedicated individuals. Now more than ever, we need to address the needs of our Guard and Reserve members. The general of the Army Reserves, General Helmly, has expressed concern about whether we are going to be able to meet our needs for the Reserve component.

The legislation Senator GRAHAM and I have been working on for 2 years is bipartisan. It is not a party issue. It is a core American issue. Our TRICARE legislation allows Guard and Reserve members the option of enrolling full time in TRICARE, getting the family health insurance coverage that is offered to active-duty military personnel. The change would offer health care stability to families who lose coverage under their employers' plans when a family member is called to active duty. In fact, one of the most shocking statistics was that about 25 percent of our active-duty Guard and Reserve had some medical problems, but the numbers were particularly high for the Guard and Reserve because so many of these—primarily but not exclusively—young people either had jobs which didn't offer health insurance or worked for themselves and could not afford health insurance. So when they were activated and reported, they were not medically ready to be deployed. This is not simply the right thing to do; this is part of our military readiness necessity.

The legislation addresses these critical issues. I am very grateful for Senator GRAHAM's leadership and the support of so many in this body. He and I will be working with Chairman WARNER and Ranking Member LEVIN and the rest of the Armed Services Committee to get our TRICARE legislation authorized in this year's Department of Defense authorization bill.

Finally, I know there are questions of cost that obviously have to be addressed. I don't think you can put a price on the military service these men and women have given our country. When I was in Iraq a couple of weeks ago, I was struck by how many men I saw with white hair. I think I was surprised there were so many people in their fifties, late fifties, who had been called back to active duty, members of the Individual Readiness Reserve. The men I spoke with had flown combat missions in Vietnam. There they were again, having left their families, left their employment, their homes, and doing their duty in Baghdad or Fallujah or Kirkuk and so many other places of danger.

We have an all-volunteer military. That all-volunteer military has to be given not only the respect it so deserves but the support and the resources it has earned.

I am hopeful we will have unanimous support in the Armed Services Committee to add this legislation, that we will have support from the administration and, in an overwhelming vote in both Houses of Congress, not give lipservice and rhetorical pats on the back to our Guard and Reserve members but show them in a tangible way that we appreciate and respect their service and we understand the strains they are living under and often their families are suffering under. One small way to show our appreciation as a nation is to make sure once and for all they and their families have access to health care.

It is a great pleasure to be working with Senator GRAHAM, and I look forward to successfully ensuring that this legislation is once and for all enacted, first in the Armed Services Committee and then on the floor of the Senate.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. GRAHAM. Mr. President, I will take up where my colleague left off. Before she leaves the floor, I acknowledge what a pleasure it has been to work with her and other members of the Democratic Party and the Republican Party to do something for our Guard and Reserve Forces. She has outlined very well what we are trying to do. It shows what can happen when the body will come together on an issue that should never divide us. Whether you are Republican or Democrat or independent, this war affects us all. No one asked the young men and women fighting the war their party identification or affiliation or their political background when they went off to serve our Nation.

The least we can do as a body is stand behind them and their families to provide a benefit they need.

We had a hearing yesterday, to build upon what Senator CLINTON said. We had the chief of the Army, Air Force, Marine Corps, Reserve components, and the Naval Reserve, and we talked about the stress on the force in terms of the Reserve community. We have 175,000 people today who have experienced duty in this war from the Guard and Reserve. Forty percent of the people in Iraq and Afghanistan are guardsmen and reservists. We could not fight without them.

This is the biggest utilization of the Guard and Reserve since World War II. The skill set they bring to the fight is indispensable. There are civil affairs people helping Afghan and Iraqi officials set up a democracy. We have medical personnel and many others who are indispensable. The military police are predominantly guardsmen and reservists, and they are indispensable in Iraq and Afghanistan. They have done a terrific job.

The reason we are involved in this legislation and we have so much bipartisan support for what we are trying to do is the Guard and Reserve is the only group of part-time Federal employees—and as a guardsman or reservist, you work for the Federal Government. You also work for the State government, but you have a dual status. Reservists are part of the Federal military, the DOD. They are the only group in the whole Federal Government that is not eligible for some form of health care from the Federal Government.

A temporary employee in your office or my office, somebody working in a temporary capacity, is able to sign up for Federal health care benefits that we enjoy. They have to pay a premium. A part-time worker is able to sign up for Federal health care benefits. The only group that works part time and doesn't get any benefits is the Guard and Reserve. The one thing we found from the hearing is that is a mistake. At least 10 percent of the people being called to active duty from the Guard and Reserve are unable to be deployed because of health care problems. About 30 percent of the people in the Guard and Reserve have no private health care insurance. So from a ratings point of view, about 10 percent of the force is taken out of the fight without a shot being fired. That makes no readiness sense. The health care network for the Guard and Reserve today is not doing the job in terms of making the force fit and ready to serve.

When a person is deployed from the Guard and Reserve, they leave behind a family more times than not. Half of the people going into the fight from the Guard and Reserve suffer a pay reduction, having no continuity of health care or predictability of what the benefits will be in a continuous fashion.

How long you will be gone and when you are coming home matters in terms of recruiting and retention. Sixty-eight percent of the Army Reserve's goal is being met in recruiting. The Guard and Active Forces are suffering in recruiting because this war has taken a toll. The more attractive the benefit package is, the more we can appreciate the service, the more likely we are to get the good people and recruit patriotic Americans.

What this legislation is designed to do is fill in that gap and solve the problem that faces the Guard and Reserve families, and that is lack of health care. Every Reserve component chief says that when they talk to the troops, the one thing that means the most to them, on top of every other request, is continuity of health care. So we are proposing a benefit for the Guard and Reserve that they will have to pay for, but we will allow, for the first time, Guard and Reserve members to sign up for TRICARE, the military health care system, like their Active-Duty counterparts have, with one major difference: they will have to pay a premium, unless they are called to active duty, similar to what we pay as Federal employees.

I believe that is a fair compromise. It will allow uninsured guardsmen and reservists to have health care at an affordable price. It will allow people who have uneven health care in the private sector to get constant health care. We will have a system where people, when they are called to active duty, will have the same set of doctors and hospitals that service the family as when they are in the Guard and Reserve status. We think it desperately will help recruiting and retention and readiness, and it will make people ready for the fight.

We have worked on the costs. We are looking at cutting the cost of the program in half by requiring a slightly higher premium from the force and offering TRICARE standard versus TRICARE prime. I believe it fiscally makes sense but still achieves the goal of the original legislation of providing continuity of health care.

The reason we are not offering the amendment on the supplemental is that because of the cost saving we have achieved in redesigning the program, there is no cost to be incurred in 2005. We are working in a bipartisan manner with the chairman of the Armed Services Committee to go ahead and offer a full-time military health care benefit to guardsmen and reservists that they can sign up for, to give them continuity of care at a fair premium. It is a good deal for all concerned. The reason we are doing this is obvious: We are utilizing the Guard and Reserve in a historic fashion. If we don't change the benefit structure, we are going to drive the men and women away from wanting to serve. After a while, it gets to be too onerous. I hope we will be able to produce a product in committee in the authorization bill that will allow this program to be offered to the entire force.

Here is what we did last year. I will end on this note. The body reached a compromise last year. Last year, we came up with a program that for every person in the Guard and Reserve who was mobilized for 90 days or more, from September 11, 2001, forward to today, for every 90 days they served on active duty, they would get a year of TRICARE for themselves and their families. That program goes into effect April 26 of this year, a few days from now. I have the brochure called TRICARE Reserve Select. About a third of the force would be eligible. It will cover the Selective Reserve, drilling reservists. That is one change we made.

I am still in the Reserves, but I am in an inactive status. I do my duty over at Bolling Air Force Base. I am not subject to deployment, so I will not be included. The bill we are designing covers people subject to being deployed and being sent to the site. The compromise of last year will allow a year of TRICARE for every 90 days you are being called to active duty.

There are thousands of reservists who will be eligible for this program, and this brochure called TRICARE Reserve Select will be available to your unit, and you need to inquire as to whether you and your family would be eligible to join TRICARE because of your 90-day-plus deployment. The goal this year is to build upon what we did last year by offering the program to the entire drilling force.

The other two-thirds of the Select Reserves who are subject to being deployed, who drill and prepare for combat-related duties so that when they get called, if they do, they will be ready to go to the fight, it will be a benefit for their families that I think most Americans would be glad to provide.

So we have a program in place for those who have been called to active duty for 90 days or more since September 11, 2001. It goes into effect in a week. It will make you and your family eligible for TRICARE a year for every 90 days you serve. So if you serve a year in Iraq, you get 4 years. The goal this year is expanded to total drilling Selected Reserve force. We cut the program in half by increasing the benefit payment required of the Guard and Reserve member and reshaping the benefit package. I think it is more affordable than ever, but the cost of having 10 percent of the force unable to go to the fight is financially and militarily very large. The cost of lack of continuity of health care for Guard and Reserve families is emotionally devastating.

With about two-tenths of 1 percent of the military budget, we can fix this problem and reward Americans who are doing a great job for their country. The likelihood of the Guard and Reserve being involved in a deep and serious way in the war on terror is probably unlimited.

The last fact I will leave with you is this: We talked to the Reserve commander yesterday about the utilization of the Air Reserves. Fifty percent of the people flying airplanes in terms of transport into the theater of operation and servicing the theater of operation with a C–130 are Reserve or Guard crews. I have been to Iraq 3 times now, and I have flown about 16 or 17 flights on a C–130 from Kuwait into Iraq and Afghanistan. Every crew except one has been a Reserve or Guard crew.

There is a rule in the military that a Guard or Reserve member cannot be deployed involuntarily for more than 24 months. That rule has served the force well because it takes stress off the force, it keeps people gainfully employed because if you are gone all the time, it is hard to keep a civilian job. So we put a cap of 24 months of involuntary service into the theater of operations, into the war zone.

What astonished me was that two-thirds of the pilots and the aircrews in the Guard and Reserve have already reached that mark. Two-thirds of those who serve in the Guard and Reserve have already met their 2-year involuntary commitment.

One fact that keeps this war afloat is that they are volunteering to go back. Legally we cannot make them go back, but they are volunteering to keep flying. And God bless them because two-thirds of 50 percent statutorily do not have to go to this fight. They choose to go to this fight. This benefit package is a recognition of that commitment.

I am very optimistic—to all those Guard and Reserve families who may be listening today—that help is on the way, that this body is going to rise to the occasion, and we are going to improve your health care benefits because you earned it.

I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

AMENDMENT NO. 430

Mr. BYRD. Mr. President, in every year since 1951, Congress has included a provision in the General Government Appropriations Act which states the following:

> No part of any appropriation contained in this or in any other act shall be used for publicity or propaganda purposes within the United States not heretofore authorized by Congress.

I am quoting from section 624 of Public Law 108–447.

This is the law of the land, and yet despite the law, the Congress and the American people continue to hear about propaganda efforts by executive branch agencies. On more than one occasion, this administration has provided tax dollars to well-known conservative talk show hosts to promote its agenda. One was paid a hefty fee to promote the No Child Left Behind Act. Another talk show host was paid to promote the administration's welfare and family policies.

If those examples are not bad enough, in an effort to blur the line between

independent media and administration propaganda, some agencies have produced prepackaged news stories designed to be indistinguishable from news stories produced by free market news outlets.

According to the Government Accountability Office, the GAO, which is an arm of the Congress, in an opinion dated February 17, 2005, the administration has violated the prohibition on publicity and propaganda. In a memorandum sent to executive branch agencies, the GAO stated:

> During the past year, we found that several prepackaged news stories produced and distributed by certain Government agencies violated this provision.

So very simply, according to the GAO, the administration broke the law. The GAO specifically cited the Office of National Drug Control Policy and the Department of Health and Human Services for violating the antipropaganda law. But these are not the only agencies pretending to be a credible news outlet.

On March 13, 2005, the New York Times wrote about the administration's approach in an article entitled ''Under Bush a New Age of Prepackaged TV News.''

I ask unanimous consent that the entire article be printed in the RECORD following my remarks.

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

(See exhibit 1.)

Mr. BYRD. The Times article spotlighted three new segments that each looked the same as any other 90-second segment on the local news. But these are not new. The Federal Government produced all three of these. The Times told of a news segment produced by the State Department featuring a jubilant Iraqi American telling a news crew in Kansas City: ''Thank you, Bush. Thank you, USA.''

The Department of Homeland Security apparently produced a so-called news report on the creation of the Transportation Security Administration. The reporter called the establishment of TSA ''one of the most remarkable campaigns in aviation history.'' But what the American people, the viewers, did not know was that the so-called reporter was actually a public relations professional working under a false name for the Transportation Security Administration. How about that?

A third segment broadcast in January was based on a news report produced by the Department of Agriculture. The Agriculture Department apparently employs two full-time people to act—listen now—to act as reporters. They travel the country and create their own so-called news, distributing their work via satellite and mail, always pushing the White House line.

What are things coming to?

In the January report, these U.S. Department of Agriculture employees, claiming to be independent journalists, called President Bush ''the best envoy in the world.''

I am not here to argue whether George W. Bush is America's best envoy to the world, but I would rather leave that discussion to independent analysts, not to administration employees or on-the-payroll journalists pushing the White House line.

Yes, the administration should explain its ideas and positions to the American people. No one argues that fact. Educating the public about issues affecting their lives is an essential role of the Government. But the administration should not engage in a blatant manipulation of the news media. Leave the work of manipulation to the Rush Limbaughs of the world. Keep the job of Government focused on the people. Manufacturing propaganda is a blatant misuse of taxpayer dollars, and it is your money, your money, Mr. and Mrs. Taxpayer.

The administration has disputed GAO's views. The administration takes the view that it is OK to mask the source as long as the ads are ''purely informational.''

The White House Office of Management and Budget, with the support of the Justice Department, went so far as to issue a memorandum to agency heads dated March 11, 2005, specifically contradicting the conclusions of the Government Accountability Office. The Justice Department concluded that the Government Accountability Office's:

> . . . conclusion fails to recognize the distinction between covert propaganda and purely informational Video News Reports, which do not constitute propaganda within the common meaning of the term and therefore are not subject to the appropriations restriction.

If paying national columnists and talk show hosts, faking news segments, hiring actors to pretend to be reporters ''do not constitute propaganda,'' what does? What does constitute propaganda? It is time for the administration to back off.

We, the American people, trust the media to provide us with independent sources of information, not biased news stories produced by the administration at the taxpayers' expense. It is time for the White House to be upfront with the American people: no propaganda, no manipulation of the press. The administration should tell the people its position on issues, yes, but should do so honorably and without such deliberate manipulation of the free press. Propaganda efforts such as these are not the stuff for a Republic such as ours. The American people must be able to rely on the independence of the news media. The constitutionally guaranteed freedom of the press is not for sale. The country must know that reporters—real reporters—are presenting facts honestly, presenting facts fairly, presenting facts without bias. Democracy should not be built on deception.

Just yesterday, the Federal Communications Commission, on a unanimous vote—on a unanimous vote of 4 to 0—approved a public notice that directs—that directs, hear me—that directs television broadcasters to disclose to viewers the origin of video news releases produced by the Government or corporations when the material runs on the public airwaves. The Commission acknowledged the critical role that broadcast licensees and cable operators play in providing information to the audiences they serve. This information is an important component of a well-functioning democracy. Along with this role comes a responsibility, the responsibility that licensees and operators make the sponsorship announcements required by the foregoing rule and obtain the information from all pertinent individuals necessary for them to do so. The public notice goes on to stress that the Commission may impose sanctions, including fines, including imprisonment, for failure to comply with the ruling. You better watch out. So the FCC, by a unanimous vote, I say, made clear, crystal clear, as clear as the noonday Sun in a cloudless sky, what their rules are. They made clear to the broadcasters what their rules are.

Now Congress should make clear what the rules are for Federal agencies. Just yesterday, the Federal Communications Commission, on a unanimous vote, 4 to 0, approved this public notice, I am saying it again, that directs television broadcasters to disclose to viewers the origin of video news releases produced by the Government or corporations—I will say this a third time—when the material runs on the public airwaves.

So this is a warning. We, in the Congress, ought to do our best in support of the ruling and to enforce it.

Let me say now that my amendment prevents any agency from using taxpayer dollars to produce or distribute prepackaged news stories intended to be viewed, intended to be heard, intended to be read, which do not clearly identify the so-called news was created by a Federal agency or funded with taxpayer dollars. That is plain common sense.

I urge Senators to back the law that we, Congress, have passed each year since 1951:

> No part of any appropriation contained in this or any other Act shall be used for publicity or propaganda purposes within the United States not heretofore authorized by Congress.

Back it up. My amendment simply makes it clear, I say again, that Congress does mean what Congress says. I urge adoption of the amendment. I will yield the floor, but I want to send my amendment to the desk.

EXHIBIT 1

[From the New York Times, Mar. 13, 2005]

UNDER BUSH, A NEW AGE OF PREPACKAGED TV NEWS

(By David Barstow and Robin Stein)

It is the kind of TV news coverage every president covets.

''Thank you, Bush. Thank you, U.S.A.,'' a jubilant Iraqi-American told a camera crew

in Kansas City for a segment about reaction to the fall of Baghdad. A second report told of ''another success'' in the Bush administration's ''drive to strengthen aviation security''; the reporter called it ''one of the most remarkable campaigns in aviation history.'' A third segment, broadcast in January, described the administration's determination to open markets for American farmers.

To a viewer, each report looked like any other 90-second segment on the local news. In fact, the federal government produced all three. The report from Kansas City was made by the State Department. The ''reporter'' covering airport safety was actually a public relations professional working under a false name for the Transportation Security Administration. The farming segment was done by the Agriculture Department's office of communications.

Under the Bush administration, the federal government has aggressively used a well-established tool of public relations: the prepackaged, ready-to-serve news report that major corporations have long distributed to TV stations to pitch everything from headache remedies to auto insurance. In all, at least 20 federal agencies, including the Defense Department and the Census Bureau, have made and distributed hundreds of television news segments in the past four years, records and interviews show. Many were subsequently broadcast on local stations across the country without any acknowledgement of the government's role in their production.

This winter, Washington has been roiled by revelations that a handful of columnists wrote in support of administration policies without disclosing they had accepted payments from the government. But the administration's efforts to generate positive news coverage have been considerably more pervasive than previously known. At the same time, records and interviews suggest widespread complicity or negligence by television stations, given industry ethics standards that discourage the broadcast of prepackaged news segments from any outside group without revealing the source.

Federal agencies are forthright with broadcasters about the origin of the news segments they distribute. The reports themselves, though, are designed to fit seamlessly into the typical local news broadcast. In most cases, the ''reporters'' are careful not to state in the segment that they work for the government. Their reports generally avoid overt ideological appeals. Instead, the government's news-making apparatus has produced a quiet drumbeat of broadcasts describing a vigilant and compassionate administration.

Some reports were produced to support the administration's most cherished policy objectives, like regime change in Iraq or Medicare reform. Others focused on less prominent matters, like the administration's efforts to offer free after-school tutoring, its campaign to curb childhood obesity, its initiatives to preserve forests and wetlands, its plans to fight computer viruses, even its attempts to fight holiday drunken driving. They often feature ''interviews'' with senior administration officials in which questions are scripted and answers rehearsed. Critics, though, are excluded, as are any hints of mismanagement, waste or controversy.

Some of the segments were broadcast in some of nation's largest television markets, including New York, Los Angeles, Chicago, Dallas and Atlanta.

An examination of government-produced news reports offers a look inside a world where the traditional lines between public relations and journalism have become tangled, where local anchors introduce prepackaged segments with ''suggested'' leadins written by public relations experts. It is a world where government-produced reports disappear into a maze of satellite transmissions, Web portals, syndicated news programs and network feeds, only to emerge cleansed on the other side as ''independent'' journalism.

It is also a world where all participants benefit.

Local affiliates are spared the expense of digging up original material. Public relations firms secure government contracts worth millions of dollars. The major networks, which help distribute the releases, collect fees from the government agencies that produce segments and the affiliates that show them. The administration, meanwhile, gets out an unfiltered message, delivered in the guise of traditional reporting.

The practice, which also occurred in the Clinton administration, is continuing despite President Bush's recent call for a clearer demarcation between journalism and government publicity efforts. ''There needs to be a nice independent relationship between the White House and the press,'' Mr. Bush told reporters in January, explaining why his administration would no longer pay pundits to support his policies.

In interviews, though, press officers for several federal agencies said the president's prohibition did not apply to government-made television news segments, also known as video news releases. They described the segments as factual, politically neutral and useful to viewers. They insisted that there was no similarity to the case of Armstrong Williams, a conservative columnist who promoted the administration's chief education initiative, the No Child Left Behind Act, without disclosing $240,000 in payments from the Education Department.

What is more, these officials argued, it is the responsibility of television news directors to inform viewers that a segment about the government was in fact written by the government. ''Talk to the television stations that ran it without attribution,'' said William A. Pierce, spokesman for the Department of Health and Human Services. ''This is not our problem. We can't be held responsible for their actions.''

Yet in three separate opinions in the past year, the Government Accountability Office, an investigative arm of Congress that studies the federal government and its expenditures, has held that government made news segments may constitute improper ''covert propaganda'' even if their origin is made clear to the television stations. The point, the office said, is whether viewers know the origin. Last month, in its most recent finding, the G.A.O. said federal agencies may not produce prepackaged news reports ''that conceal or do not clearly identify for the television viewing audience that the agency was the source of those materials.''

It is not certain, though, whether the office's pronouncements will have much practical effect. Although a few federal agencies have stopped making television news segments, others continue. And on Friday, the Justice Department and the Office of Management and Budget circulated a memorandum instructing all executive branch agencies to ignore the G.A.O. findings. The memorandum said the G.A.O. failed to distinguish between covert propaganda and ''purely informational'' news segments made by the government. Such informational segments are legal, the memorandum said, whether or not an agency's role in producing them is disclosed to viewers.

Even if agencies do disclose their role, those efforts can easily be undone in a broadcaster's editing room. Some news organizations, for example, simply identify the government's ''reporter'' as one of their own and then edit out any phrase suggesting the segment was not of their making.

So in a recent segment produced by the Agriculture Department, the agency's narrator ended the report by saying ''In Princess Anne, Maryland, I'm Pat O'Leary reporting for the U.S. Department of Agriculture.'' Yet AgDay, a syndicated farm news program that is shown on some 160 stations, simply introduced the segment as being by ''AgDay's Pat O'Leary.'' The final sentence was then trimmed to ''In Princess Anne, Maryland, I'm Pat O'Leary reporting.''

Brian Conrady, executive producer of AgDay, defended the changes. ''We can clip 'Department of Agriculture' at our choosing,'' he said. ''The material we get from the U.S.D.A., if we choose to air it and how we choose to air it is our choice.''

SPREADING THE WORD: GOVERNMENT EFFORTS AND ONE WOMAN'S ROLE

Karen Ryan cringes at the phrase ''covert propaganda.'' These are words for dictators and spies, and yet they have attached themselves to her like a pair of handcuffs.

Not long ago, Ms. Ryan was a much sought-after ''reporter'' for news segments produced by the federal government. A journalist at ABC and PBS who became a public relations consultant, Ms. Ryan worked on about a dozen reports for seven federal agencies in 2003 and early 2004. Her segments for the Department of Health and Human Services and the Office of National Drug Control Policy were a subject of the accountability office's recent inquiries.

The G.A.O. concluded that the two agencies ''designed and executed'' their segments ''to be indistinguishable from news stories produced by private sector television news organizations.'' A significant part of that execution, the office found, was Ms. Ryan's expert narration, including her typical signoff—''In Washington, I'm Karen Ryan reporting''—delivered in a tone and cadence familiar to television reporters everywhere.

Last March, when The New York Times first described her role in a segment about new prescription drug benefits for Medicare patients, reaction was harsh. In Cleveland, The Plain Dealer ran an editorial under the headline ''Karen Ryan, You're a Phony,'' and she was the object of late-night jokes by Jon Stewart and received hate mail.

''I'm like the Marlboro man,'' she said in a recent interview.

In fact, Ms. Ryan was a bit player who made less than $5,000 for her work on government reports. She was also playing an accepted role in a lucrative art form, the video news release. ''I just don't feel I did anything wrong,'' she said. ''I just did what everyone else in the industry was doing.''

It is a sizable industry. One of its largest players, Medialink Worldwide Inc., has about 200 employees, with offices in New York and London. It produces and distributes about 1,000 video news releases a year, most commissioned by major corporations. The Public Relations Society of America even gives an award, the Bronze Anvil, for the year's best video news release.

Several major television networks play crucial intermediary roles in the business. Fox, for example, has an arrangement with Medialink to distribute video news releases to 130 affiliates through its video feed service, Fox News Edge. CNN distributes releases to 750 stations in the United States and Canada through a similar feed service, CNN Newsource. Associated Press Television News does the same thing worldwide with its Global Video Wire.

''We look at them and determine whether we want them to be on the feed,'' David M. Winstrom, director of Fox News Edge, said of video news releases. ''If got one that said tobacco cures cancer or something like that, I would kill it.''

In essence, video news releases seek to exploit a growing vulnerability of television news: Even as news staffs at the major networks are shrinking, many local stations are expanding their hours of news coverage without adding reporters.

''No TV news organization has the resources in labor, time or funds to cover every worthy story,'' one video news release company, TVA Productions, said in a sales pitch to potential clients, adding that ''90 percent of TV newsrooms now rely on video news releases.''

Federal agencies have been commissioning video news releases since at least the first Clinton administration. An increasing number of state agencies are producing television news reports, too; the Texas Parks and Wildlife Department alone has produced some 500 video news releases since 1993.

Under the Bush administration, federal agencies appear to be producing more releases, and on a broader array of topics.

A definitive accounting is nearly impossible. There is no comprehensive archive of local television news reports, as there is in print journalism, so there is no easy way to determine what has been broadcast, and when and where.

Still, several large agencies, including the Defense Department, the State Department and the Department of Health and Human Services, acknowledge expanded efforts to produce news segments. Many members of Mr. Bush's first-term cabinet appeared in such segments.

A recent study by Congressional Democrats offers another rough indicator: the Bush administration spent $254 million in its first term on public relations contracts, nearly double what the last Clinton administration spent.

Karen Ryan was part of this push—a ''paid shill for the Bush administration,'' as she self-mockingly puts it. It is, she acknowledges, an uncomfortable title.

Ms. Ryan, 48, describes herself as not especially political, and certainly no Bush diehard. She had hoped for a long career in journalism. But over time, she said, she grew dismayed by what she saw as the decline of television news—too many cut corners, too many ratings stunts.

In the end, she said, the jump to video news releases from journalism was not as far as one might expect. ''It's almost the same thing,'' she said.

There are differences, though. When she went to interview Tommy G. Thompson, then the health and human services secretary, about the new Medicare drug benefit, it was not the usual reporter-source exchange. First, she said, he already knew the questions, and she was there mostly to help him give better, snappier answers. And second, she said, everyone involved is aware of a segment's potential political benefits.

Her Medicare report, for example, was distributed in January 2004, not long before Mr. Bush hit the campaign trail and cited the drug benefit as one of his major accomplishments.

The script suggested that local anchors lead into the report with this line: ''In December, President Bush signed into law the first-ever prescription drug benefit for people with Medicare.'' In the segment, Mr. Bush is shown signing the legislation as Ms. Ryan describes the new benefits and reports that ''all people with Medicare will be able to get coverage that will lower their prescription drug spending.''

The segment made no mention of the many critics who decry the law as an expensive gift to the pharmaceutical industry. The G.A.O. found that the segment was ''not strictly factual,'' that it contained ''notable omissions'' and that it amounted to ''a favorable report'' about a controversial program.

And yet this news segment, like several others narrated by Ms. Ryan, reached an audience of millions. According to the accountability office, at least 40 stations ran some part of the Medicare report. Video news releases distributed by the Office of National Drug Control Policy, including one narrated by Ms. Ryan, were shown on 300 stations and reached 22 million households. According to Video Monitoring Services of America, a company that tracks news programs in major cities, Ms. Ryan's segments on behalf of the government were broadcast a total of at least 64 times in the 40 largest television markets.

Even these measures, though, do not fully capture the reach of her work. Consider the case of News 10 Now, a cable station in Syracuse owned by Time Warner. In February 2004, days after the government distributed its Medicare segment, News 10 Now broadcast a virtually identical report, including the suggested anchor lead-in. The News 10 Now segment, however, was not narrated by Ms. Ryan. Instead, the station edited out the original narration and had one of its reporters repeat the script almost word for word.

The station's news director, Sean McNamara, wrote in an e-mail message, ''Our policy on provided video is to clearly identify the source of that video.'' In the case of the Medicare report, he said, the station believed it was produced and distributed by a major network and did not know that it had originally come from the government.

Ms. Ryan said she was surprised by the number of stations willing to run her government segments without any editing or acknowledgement of origin. As proud as she says she is of her work, she did not hesitate, even for a second, when asked if she would have broadcast one of her government reports if she were a local news director.

''Absolutely not.''

### LITTLE OVERSIGHT: TV'S CODE OF ETHICS, WITH UNCERTAIN WEIGHT

''Clearly disclose the origin of information and label all material provided by outsiders.''

Those words are from the code of ethics of the Radio-Television News Directors Association, the main professional society for broadcast news directors in the United States. Some stations go further, all but forbidding the use of any outside material, especially entire reports. And spurred by embarrassing publicity last year about Karen Ryan, the news directors association is close to proposing a stricter rule, said its executive director, Barbara Cochran.

Whether a stricter ethics code will have much effect is unclear; it is not hard to find broadcasters who are not adhering to the existing code, and the association has no enforcement powers.

The Federal Communications Commission does, but it has never disciplined a station for showing government-made news segments without disclosing their origin, a spokesman said.

Could it? Several lawyers experienced with F.C.C. rules say yes. They point to a 2000 decision by the agency, which stated, ''Listeners and viewers are entitled to know by whom they are being persuaded.''

In interviews, more than a dozen station news directors endorsed this view without hesitation. Several expressed disdain for the prepackaged segments they received daily from government agencies, corporations and special interest groups who wanted to use their airtime and credibility to sell or influence.

But when told that their stations showed government-made reports without attribution, most reacted with indignation. Their stations, they insisted, would never allow their news programs to be co-opted by segments fed from any outside party, let alone the government.

''They're inherently one-sided, and they don't offer the possibility for follow-up questions—or any questions at all,'' said Kathy Lehmann Francis, until recently the news director at WDRB, the Fox affiliate in Louisville, Ky.

Yet records from Video Monitoring Services of America indicate that WDRB has broadcast at least seven Karen Ryan segments, including one for the government, without disclosing their origin to viewers.

Mike Stutz, news director at KGTV, the ABC affiliate in San Diego, was equally opposed to putting government news segments on the air.

''It amounts to propaganda, doesn't it?'' he said.

Again, though, records from Video Monitoring Services of America show that from 2001 to 2004 KGTV ran at least one government-made segment featuring Ms. Ryan, 5 others featuring her work on behalf of corporations, and 19 produced by corporations and other outside organizations. It does not appear that KGTV viewers were told the origin of these 25 segments.

''I thought we were pretty solid,'' Mr. Stutz said, adding that they intend to take more precautions.

Confronted with such evidence, most news directors were at a loss to explain how the segments made it on the air. Some said they were unable to find archive tapes that would help answer the qustion. Others promised to look into it, then stopped returning telephone messages. A few removed the segments from their Web sites, promised greater vigilance in the future or pleaded ignorance.

### AFGHANISTAN TO MEMPHIS: AN AGENCY'S REPORT ENDS UP ON THE AIR

On Sept. 11, 2002, WHBQ, the Fox affiliate in Memphis, marked the anniversary of the 9/11 attacks with an uplifting report on how assistance from the United States was helping to liberate the women of Afghanistan.

Tish Clark, a reporter for WHBQ, described how Afghan women, once barred from schools and jobs, were at last emerging from their burkas, taking up jobs as seamstresses and bakers, sending daughters off to new schools, receiving decent medical care for the first time and even participating in a fledgling democracy. Her segment included an interview with an Afghan teacher who recounted how the Taliban only allowed boys to attend school. An Afghan doctor described how the Taliban refused to let male physicians treat women.

In short, Ms. Clark's report seemed to corroborate, however modestly, a central argument of the Bush foreign policy, that forceful American intervention abroad was spreading freedom, improving lives and winning friends.

What the people of Memphis were not told, though, was that the interviews used by WHBQ were actually conducted by State Department contractors. The contractors also selected the quotes used from those interviews and shot the video that went with the narration. They also wrote the narration, much of which Ms. Clark repeated with only minor changes.

As it happens, the viewers of WHBQ were not the only ones in the dark.

Ms. Clark, now Tish Clark Dunning, said in an interview that she, too, had no idea the report originated at the State Department. ''If that's true, I'm very shocked that anyone would false report on anything like that,'' she said.

How a television reporter in Memphis unwittingly came to narrate a segment by the

State Department reveals much about the extent to which government-produced news accounts have seeped into the broader news media landscape.

The explanation begins inside the White House, where the president's communications advisers devised a strategy after Sept. 11, 2001, to encourage supportive news coverage of the fight against terrorism. The idea, they explained to reporters at the time, was to counter charges of American imperialism by generating accounts that emphasized American efforts to liberate and rebuild Afghanistan and Iraq.

An important instrument of this strategy was the Office of Broadcasting Services, a State Department unit of 30 or so editors and technicians whose typical duties include distributing video from news conferences. But in early 2002, with close editorial direction from the White House, the unit began producing narrated feature reports, many of them promoting American achievements in Afghanistan and Iraq and reinforcing the administration's rationales for the invasions. These reports were then widely distributed in the United States and around the world for use by local television stations. In all, the State Department has produced 59 such segments.

United States law contains provisions intended to prevent the domestic dissemination of government propaganda. The 1948 Smith-Mundt Act, for example, allows Voice of America to broadcast progovernment news to foreign audiences, but not at home. Yet State Department officials said that law does not apply to the Office of Broadcasting Services. In any event, said Richard A. Boucher, a State Department spokesman: ''Our goal is to put out facts and the truth. We're not a propaganda agency.''

Even so, as a senior department official, Patricia Harrison, told Congress last year, the Bush administration has come to regard such ''good news'' segments as ''powerful strategic tools'' for influencing public opinion. And a review of the department's segments reveals a body of work in sync with the political objectives set forth by the White House communications team after 9/11.

In June 2003, for example, the unit produced a segment that depicted American efforts to distribute food and water to the people of southern Iraq. ''After living for decades in fear, they are now receiving assistance—and building trust—with their coalition liberators,'' the unidentified narrator concluded.

Several segments focused on the liberation of Afghan women, which a White House memo from January 2003 singled out as a ''prime example'' of how ''White House-led efforts could facilitate strategic, proactive communications in the war on terror.''

Tracking precisely how a ''good news'' report on Afghanistan could have migrated to Memphis from the State Department is far from easy. The State Department typically distributes its segments via satellite to international news organizations like Reuters and Associated Press Television News, which in turn distribute them to the major United States networks, which then transmit them to local affiliates.

''Once these products leave our hands, we have no control,'' Robert A. Tappan, the State Department's deputy assistant secretary for public affairs, said in an interview. The department, he said, never intended its segments to be shown unedited and without attribution by local news programs. ''We do our utmost to identify them as State Department-produced products.''

Representatives for the networks insist that government-produced reports are clearly labeled when they are distributed to affiliates. Yet with segments bouncing from satellite to satellite, passing from one news organization to another, it is easy to see the potential for confusion. Indeed, in response to questions from The Times, Associated Press Television News acknowledged that they might have distributed at least one segment about Afghanistan to the major United States networks without identifying it as the product of the State Department. A spokesman said it could have ''slipped through our net because of a sourcing error.''

Kenneth W. Jobe, vice president for news at WHBQ in Memphis, said he could not explain how his station came to broadcast the State Department's segment on Afghan women. ''It's the same piece, there's no mistaking it,'' he said in an interview, insisting that it would not happen again.

Mr. Jobe, who was not with WHBQ in 2002, said the station's script for the segment has no notes explaining its origin. But Tish Clark Dunning said it was her impression at the time that the Afghan segment was her station's version of one done first by network correspondents at either Fox News or CNN. It is not unusual, she said, for a local station to take network reports and then give them a hometown look.

''I didn't actually go to Afghanistan,'' she said. ''I took that story and reworked it. I had to do some research on my own. I remember looking on the Internet and finding out how it all started as far as women covering their faces and everything.''

At the State Department, Mr. Tappan said the broadcasting office is moving away from producing narrated feature segments. Instead, the department is increasingly supplying only the ingredients for reports—sound bites and raw video. Since the shift, he said, even more State Department material is making its way into news broadcasts.

### MEETING A NEED: RISING BUDGET PRESSURES, READY-TO-RUN SEGMENTS

WCIA is a small station with a big job in central Illinois.

Each weekday, WCIA's news department produces a three-hour morning program, a noon broadcast and three evening programs. There are plans to add a 9 p.m. broadcast. The staff, though, has been cut to 37 from 39. ''We are doing more with the same,'' said Jim P. Gee, the news director.

Farming is crucial in Mr. Gee's market, yet with so many demands, he said, ''It is hard for us to justify having a reporter just focusing on agriculture.''

To fill the gap, WCIA turned to the Agriculture Department, which has assembled one of the most effective public relations operations inside the federal government. The department has a Broadcast Media and Technology Center with an annual budget of $3.2 million that each year produces some 90 ''mission messages'' for local stations—mostly feature segments about the good works of the Agriculture Department.

''I don't want to use the word 'filler,' per se, but they meet a need we have,'' Mr. Gee said.

The Agriculture Department's two full-time reporters, Bob Ellison and Pat O'Leary, travel the country filing reports, which are vetted by the department's office of communications before they are distributed via satellite and mail. Alisa Harrison, who oversees the communications office, said Mr. Ellison and Mr. O'Leary provide unbiased, balanced and accurate coverage.

''They cover the secretary just like any other reporter,'' she said.

Invariably, though, their segments offer critic-free accounts of the department's policies and programs. In one report, Mr. Ellison told of the agency's efforts to help Florida clean up after several hurricanes.

''They've done a fantastic job,'' a grateful local official said in the segment.

More recently, Mr. Ellison reported that Mike Johanns, the new agriculture secretary, and the White House were determined to reopen Japan to American beef products. Of his new boss, Mr. Ellison reported, ''He called Bush the best envoy in the world.''

WCIA, based in Champaign, has run 26 segments made by the Agriculture Department over the past three months alone. Or put another way, WCIA has run 26 reports that did not cost it anything to produce.

Mr. Gee, the news director, readily acknowledges that these accounts are not exactly independent, tough-minded journalism. But, he added: ''We don't think they're propaganda. They meet our journalistic standards. They're informative. They're balanced.''

More than a year ago, WCIA asked the Agriculture Department to record a special sign-off that implies the segments are the work of WCIA reporters. So, for example, instead of closing his report with ''I'm Bob Ellison, reporting for the U.S.D.A.,'' Mr. Ellison says, ''With the U.S.D.A., I'm Bob Ellison, reporting for 'The Morning Show.' ''

Mr. Gee said the customized sign-off helped raise ''awareness of the name of our station.'' Could it give viewers the idea that Mr. Ellison is reporting on location with the U.S.D.A. for WCIA? ''We think viewers can make up their own minds,'' Mr. Gee said.

Ms. Harrison, the Agriculture Department press secretary, said the WCIA sign-off was an exception. The general policy, she said, is to make clear in each segment that the reporter works for the department. In any event, she added, she did not think there was much potential for viewer confusion. ''It's pretty clear to me,'' she said.

### THE 'GOOD NEWS' PEOPLE: A MENU OF REPORTS FROM MILITARY HOT SPOTS

The Defense Department is working hard to produce and distribute its own news segments for television audiences in the United States.

The Pentagon Channel, available only inside the Defense Department last year, is now being offered to every cable and satellite operator in the United States. Army public affairs specialists, equipped with portable satellite transmitters, are roaming war zones in Afghanistan and Iraq, beaming news reports, raw video and interviews to TV stations in the United States. All a local news director has to do is log on to a military-financed Web site, www.dvidshub.net., browse a menu of segments and request a free satellite feed.

Then there is the Army and Air Force Hometown News Service, a unit of 40 reporters and producers set up to send local stations news segments highlighting the accomplishments of military members.

''We're the 'good news' people,'' said Larry W. Gilliam, the unit's deputy director.

Each year, the unit films thousands of soldiers sending holiday greetings to their hometowns. Increasingly, the unit also produces news reports that reach large audiences. The 50 stories it filed last year were broadcast 236 times in all, reaching 41 million households in the United States.

The news service makes it easy for local stations to run its segments unedited. Reporters, for example, are never identified by their military titles. ''We know if we put a rank on there they're not going to put it on their air,'' Mr. Gilliam said.

Each account is also specially tailored for local broadcast. A segment sent to a station in Topeka, Kan., would include an interview with a service member from there. If the same report is sent to Oklahoma City, the soldier is switched out for one from Oklahoma City. ''We try to make the individual soldier a star in their hometown,'' Mr. Gilliam said, adding that segments were distributed only to towns and cities selected by the service members interviewed.

Few stations acknowledge the military's role in the segments. ''Just tune in and you'll see a minute-and-a-half news piece and it looks just like they went out and did the story,'' Mr. Gilliam said. The unit, though, makes no attempt to advance any particular political or policy agenda, he said.

''We don't editorialize at all,'' he said.

Yet sometimes the ''good news'' approach carries political meaning, intended or not. Such was the case after the Abu Ghraib prison scandal surfaced last spring. Although White House officials depicted the abuse of Iraqi detainees as the work of a few rogue soldiers, the case raised serious questions about the training of military police officers.

A short while later, Mr. Gilliam's unit distributed a news segment, sent to 34 stations, that examined the training of prison guards at Fort Leonard Wood in Missouri, where some of the military police officers implicated at Abu Ghraib had been trained.

''One of the most important lessons they learn is to treat prisoners strictly but fairly,'' the reporter said in the segment, which depicted a regimen emphasizing respect for detainees. A trainer told the reporter that military police officers were taught to ''treat others as they would want to be treated.'' The account made no mention of Abu Ghraib or how the scandal had prompted changes in training at Fort Leonard Wood.

According to Mr. Gilliam, the report was unrelated to any effort by the Defense Department to rebut suggestions of a broad command failure.

''Are you saying that the Pentagon called down and said, 'We need some good publicity?' '' he asked. ''No, not at all.''

The PRESIDING OFFICER. Without objection, the pending amendment is laid aside. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from West Virginia [Mr. BYRD] for himself, Mrs. CLINTON, Mr. LAUTENBERG, Mr. KERRY, Mr. WYDEN, Mr. DORGAN, Mr. HARKIN, and Mr. KENNEDY, proposes an amendment numbered 430.

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

Mr. BYRD. I have no objection to that.

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

The amendment is as follows:

(Purpose: To prohibit the use of funds by any Federal agency to produce a prepackaged news story without including in such story a clear notification for the audience that the story was prepared or funded by a Federal agency)

At the appropriate place, insert the following:

SEC. ____. None of the funds provided in this Act or any other Act may be used by a Federal agency to produce any prepackaged news story unless the story includes a clear notification to the audience that the story was prepared or funded by that Federal agency.

Mr. KENNEDY. Mr. President, I applaud the Senator from West Virginia for his amendment. We have to put a stop to all of the taxpayer-financed propaganda put out by our government to influence the American people.

Over the last year, we have found out that the Bush administration has used taxpayer funds to finance ''fake news reports'' by actors posing as reporters, not actual journalists, who read the administration's script on prescription drugs and the No Child Left Behind education program. Even more recently, we have found out that a number of actual real-life journalists have been secretly paid by the Bush administration to promote its political agenda. This is dangerous to our democracy. It's an unethical misuse of taxpayer funds.

Senator LAUTENBERG and I have generated a series of investigations by the Government Accountability Office critical of the Bush administration's propaganda efforts. We have introduced legislation, the Stop Government Propaganda Act, that the Byrd amendment complements. Our legislation, like the Byrd amendment, specifically prevents the administration—any administration, Democratic or Republican—from paying actors to pose as legitimate journalists in order to push for a political agenda.

I urge my colleagues to support the Byrd amendment. Congress cannot sit still while the administration corrupts the first amendment and freedom of the press.

Mr. GREGG. Mr. President, I am intrigued by the amendment of the Senator from West Virginia. I do not believe taxpayers should be funding propaganda. I think it is totally inappropriate, other than in an attempt to promote American policy overseas, for example, where we should be funding communication with other people around the Earth, as we do through Radio Free America, Radio Liberty, and other radio stations that have been developed over the years for the purposes of presenting the American position in regions of the world where our access is limited.

But here in the United States, clearly, if the Government wishes to make a point, that should be disclosed. If taxpayers' dollars are being used to make a point, that should be disclosed. I agree with the basic concept of the theme of the Senator's amendment. So I expect that this amendment must apply to National Public Radio. National Public Radio, of course, receives a large amount of tax subsidy. It presents views which one could argue are propaganda, in many instances. If I read this amendment correctly, I believe, and I would hope the record would reflect, this amendment will apply to National Public Radio so that when they put out a newscast it will have to be announced that this newscast is put out at the expense of the American taxpayer and that the American taxpayer has paid for this report.

I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I see my colleague from Maryland is also seeking the floor. We both have important meetings at 3 o'clock. I wondered how long the Senator from Maryland will take?

Ms. MIKULSKI. Less than a minute.

Mr. BOND. I am happy to yield to my colleague from Maryland.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. Mr. President, I ask for the regular order with respect to my amendment.

The PRESIDING OFFICER. That amendment is now pending.

CLOTURE MOTION

Ms. MIKULSKI. 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 assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the Mikulski amendment No. 387 to H.R. 1268.

B.A. Mikulski, J. Lieberman, J. Corzine, Jeff Bingaman, Byron Dorgan, Ron Wyden, Ken Salazar, Hillary Clinton, Mark Pryor, Dick Durbin, Bill Nelson, Chuck Schumer, Barack Obama, Frank Lautenberg, Patrick Leahy, Debbie Stabenow, Chris Dodd.

Ms. MIKULSKI. Mr. President, I understand that negotiations are ongoing on all of the immigration provisions. I am sorry I have to do this, and I will be very glad to withdraw this cloture motion if we are able to come to an understanding.

AMENDMENT NO. 430

I now ask unanimous consent that the Senate resume consideration of the Byrd amendment.

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

Without objection, it is so ordered.

The Senator from Missouri.

Mr. BOND. Mr. President, I appreciate the comments raised by the Senator from New Hampshire.

As chairman of the new Appropriations Subcommittee on Transportation, Treasury, Judiciary, and HUD, I understand this measure would fall within the general government provisions of this bill. While I think all of us share concerns that have been expressed by the distinguished Senator from West Virginia, I urge my colleagues to oppose this amendment. We appreciate what the Senator is trying to do, but I don't believe his amendment provides the appropriate remedy to the problems he has described.

Using Federal funds for the purpose of propaganda is already unlawful under section 1913 of title 18 of the United States Code, and the governmentwide general provisions title of the Transportation, Treasury Appropriations Act includes further restrictions from using appropriated funds for propaganda.

Section 624 of the 2005 Transportation, Treasury Appropriations Act states:

No part of any appropriations contained in this or any other Act shall be used for publicity or propaganda purposes within the United States not heretofore authorized by the Congress.

The distinction between educating the public about an issue and advocating a policy is not always obvious.

If the Senator's amendment better defined appropriate communications by Federal agencies from publicity or propaganda, I would join with the Senator in support. The Senator's amendment, however, does not add any clarity to the murky waters of advocacy and does not make the line between education and advocacy any brighter, and in fact may have some untoward consequences that I feel are sufficient to kill the amendment.

The uniform practice of the Federal Government is and has been to provide full disclosure that video news releases or other matters are prepared or funded by a Federal agency. The sponsoring Government agency identifies itself at the beginning of a video news release.

Just as newspaper reporters and editors parse through their press releases issued by Federal agencies, television news rooms make editorial and content decisions about how to use video news releases. It is, in fact, an editorial decision of the broadcast station to air or not to air the agency identification.

The Senator's amendment, however, would begin the practice of allowing the Federal Government to make editorial decisions and dictating broadcast content of news reports.

Alternatively, it would require that any use of material supplied by the Federal Government must be disclosed in a manner that I believe would have a chilling impact on the freedom of speech and on the freedom of press. Such mandate on the broadcast media may in fact be unconstitutional.

If this amendment were adopted, it may have the unintended consequence of reducing the use of this important tool, thereby undermining the ability of the Federal Government to meet its obligation to inform the public of important information.

I believe the impact would be felt in rural areas, especially as broadcasters in small and medium markets rely on video news releases more than their big-city colleagues.

If we go back and look at the history, we see that video news releases have been used by Government agencies since the beginning of video. The USDA produced some of the first footage of the Wright brothers' early flight tests in the early 1919s, as well as the highly acclaimed Dust Bowl documentary, ''The Plow That Broke the Plains,'' 1935.

In the 1980s, to respond to a changing broadcast environment, USDA established a weekly satellite feed of material for news and farm broadcasters. This included ready-to-air feature stories, sometimes called video news releases. The information includes where there are signups for commodity or disaster programs; promoting producer participation in county committee elections; new farming practices or technologies; or important crop reports and surveys.

From the Department of Health and Human Services, there has been a long list of video news releases such as the Surgeon General's Osteoporosis and Bone Health Report; educating the public health officials on how to recognize anthrax; CDC in post 9/11, educating the public on CDC's capabilities; healthy baby news releases, which I have been very interested in. The Health Resource Services Administration put out a video news release educating parents and parents-to-be on the health care of their newborns.

There have been efforts to educate women of childbearing age about the absolute necessity of including 400 micrograms of the appropriate vitamins in their diets to prevent tooth defects.

The CDC has educated public and health communities about the proper use of antibiotics and the potential problems of overuse of antibiotics.

The IRS has produced VNRs on two topics: how to file electronically, and the earned income tax credit. The goal was to generate coverage of the e-filing to help Americans understand qualifications for claiming the EITC.

These news releases were produced by an advertising agency, and pitched in the media outlets by our IRS media specialists who provided full disclosure to the media outlets if they were from the IRS.

This amendment goes further, however, and says the entity using this information must include a clear notice that it was prepared or funded by a Federal agency. That is a requirement on not only broadcasters but on newspapers, which I think steps over the line.

As the distinguished Senator from West Virginia pointed out, the FCC yesterday unanimously clarified the rules applying to broadcasters, saying they must disclose to the viewer the origin of video news releases, though the agency does not specify what form that disclosure must take.

Commissioner Adelstein, a Democrat, said:

> We have a responsibility to tell broadcasters that they have to let people know where the material is coming from. Viewers would think it was a real news story when it might be from government or a big corporation trying to influence how they think. This would be put them in a better position to decide for themselves what to make of it.

The FCC has already acted in this area.

I am very much concerned that the amendment proposed by the distinguished Senator from West Virginia would go even further in attempting to dictate by congressional action what should be reported, not only in video or electronic news stories but in print media stories as well. That is objectionable. That would cause many problems for media of all types.

I urge my colleagues to oppose this amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. I rise in support of the Byrd amendment. This amendment is important. It is offered at an important time, and it is offered during a period when we have seen so many examples of fake news, or propaganda, to use another word.

I don't think this is partisan. I think it would apply to a Republican or Democratic administration.

The question is, Should the Federal Government be involved in propaganda? Should we be observant of fake news and do nothing about it?

The Senator from West Virginia offers an amendment that is filled with common sense. Let me describe a fake news program. A report narrated by a woman who speaks in glowing terms about an administration's plan and concludes by saying: ''In Washington, this is Karen Ryan reporting.''

The Department of Health and Human Services spent $44,000 in taxpayer dollars on this type of propaganda. Is this what we want to pass for news?

I have talked often in the Senate on a subject very important to me, the concentration of broadcasting in this country. Fewer and fewer people owning more and more broadcast properties, controlling what people see, hear, and think by what is presented to them. As more and more companies are bought, they hollow out the newsrooms, get rid of the newsroom staff, and just have a shell left. Then they are interested in filling that shell with cheap media feeds.

If you read the discussion about what has prompted these television stations to run these prepackaged fake news items, they are looking for fillers for a news script because they got rid of their news people. So this, now, passes as news when, in fact, it is fake news.

In my judgment, it ought to be labeled exactly what it is. That is what the Senator is offering with respect to this amendment. This is not an amendment that is in any way radical. It is an amendment that is filled with common sense.

A few minutes ago my colleague who talked about Public Broadcasting or National Public Radio was clever and funny—and good for him—but this has nothing to do with the issue at hand. Winning debates that we are not having is hardly a blue ribbon activity in this Chamber. This debate is not about National Public Radio or anything of the sort. It is about the specific subject that my colleague from West Virginia brings to the Senate.

The subject, incidentally, has more tentacles attached to it. We learned in January a syndicated columnist, Armstrong Williams, had been paid a quarter of a million dollars, actually $240,000, to promote the No Child Left Behind Program on his television show and to urge other African-American journalists to do the same. That contract was not disclosed to the public. It was taxpayers' dollars offered to a journalist, commentator, television personality, and we only learned about it because USA Today obtained the

document through a Freedom of Information request.

That, incidentally, was part of a $1 million deal with the Ketchum public relations firm which was contracted to produce video news releases designed to appear like real news reports.

So there is more to do on this issue than just the Byrd amendment. That is why I say this amendment is modest in itself. It is not, as some would suggest, a big deal. It is a modest amendment that addresses a problem in a very specific way. We really do have more to do dealing with some of the other tentacles—the hiring of public relations firms to the tune of tens of millions of dollars.

We found out in late January the Department of Health and Human Services paid $21,500 to another syndicated columnist to advocate a $300 million Presidential proposal encouraging marriage. That contract was not disclosed either.

The list goes on. Fake news. We discovered a while back the White House had allowed a fake journalist, using a fake name, to get a daily clearance to come into the Presidential news conference and daily news briefings and to ask questions. Another part of fake news, I guess, a different tentacle and a different description.

The Byrd amendment is simple on its face. The question is, Do we want fake news being produced with taxpayers' dollars with no disclosure at all; that it is, in fact, propaganda, not news?

I support the Byrd amendment. I hope we will address other parts of this issue at some future time. This amendment is modest enough, and my hope is to engage a majority of the Senate to be supportive of it.

While I have the floor, I might indicate a second time that I intend to offer an amendment that would cease or discontinue funding for the independent counsel who is still active, an independent counsel who was impaneled to investigate the payment of money to a mistress by a former Cabinet official, Mr. Cisneros. That independent counsel has spent now $21 million over 10 years. The particular Cabinet official admitted the indiscretion. He pled guilty in Federal court and he since left office and has since been pardoned by a President in 2001. Yet the independent counsel investigating this is still investigating it, still spending money.

The most recent report showed this independent counsel spent $1.26 million in Federal funds over the previous 6 months, which brings it to $21 million by an independent counsel's office that was launched nearly 10 years ago to investigate a Cabinet official who left the Government very soon thereafter, who then pled guilty, who then was pardoned. In 1995, the independent counsel was named. That was 10 years ago. In 1999, the Cabinet official pled guilty. In 2001, 4 years ago, the Cabinet official was given a Presidential pardon. Yet we have an independent counsel's office that is still spending money.

We ought to shut off that money. I will offer an amendment to do that, telling that independent counsel the money dries up on June 1. Finish your report and leave town—at least if your home is elsewhere—but finish up the report and get off the public payroll after 10 years, 4 years after the subject in question received a Presidential pardon, 6 years after the subject in question pled guilty in court.

Some things need addressing on an urgent basis. This one does. I understand it, too, will not be, perhaps, germane to this bill, but it is one that I hope every Senator would understand we ought to shut down.

With that, I appreciate the amendment offered by Senator BYRD. I am pleased to come over in support of that amendment this afternoon.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. I thank the very distinguished Senator for his support and for his statement. It is a very pertinent statement. In the FCC Public Notice 05–84, dated April 13, 2005, on page 2, it says:

> This Public Notice is confined to the disclosure obligations required under Section 317 and our rules thereunder, and does not address the recent controversy over when or whether the government is permitted to sponsor VNRs, which is an issue beyond the Commission's jurisdiction.

My amendment is simple and clear. Here is what it says:

> None of the funds provided in this Act or any other Act may be used by a Federal agency to produce any prepackaged news story unless the story includes a clear notification to the audience that the story was prepared or funded by that Federal agency.

Mr. President, it does not create confusion, as a Senator said a moment ago. It creates clarity.

Mr. BYRD. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I notice that the distinguished Senator from New Jersey is on the floor. He is a cosponsor of this amendment. I assume he is here to talk on the amendment. I was going to try to bring the discussion to a close so we could vote on the amendment or vote in relation to the amendment, but I am happy to withhold because I do not want to cut off anyone who wants to talk on this subject.

Mr. LAUTENBERG. Mr. President, I am not sure I heard precisely what the manager was asking. I would help bring this to a close by giving my remarks very quickly. I appreciate the opportunity and thank the Senator from Mississippi.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I salute my colleague and friend, the Senator from West Virginia. Senator BYRD is someone I greatly respect and admire. I have now been here a long time, even though, according to the rules, I am a freshman or just above a freshman, maybe a sophomore—I don't think so—but whenever Senator ROBERT C. BYRD speaks, it is always worth listening. And I find more often than not it is very much worth following the idea that the Senator from West Virginia puts forward.

So I am pleased to support the Byrd amendment on propaganda. It is an issue that has disturbed me over time and something I have worked on. The Byrd amendment is an important step toward preventing the Government from delivering messages that are, if I can call them, kind of incognito. They are hidden from identifying as to what they really are. It is a step toward accomplishing a goal that is not clearly defined as being presented as a neutral observer. So we want to stop the spread of covert Government propaganda.

By the way, I want it to be understood that this is not brand new. This is not something that has only happened since this administration took over; it happened in years past.

I was asked the question at a hearing this morning: Well, then why didn't we talk about it in years past? Because there has been a proliferation of these things. As a consequence, I think for all parties but particularly for the American people, it is a good idea to use this opportunity to clear up the situation.

As a result of a request I made with Senator KENNEDY, the Government Accountability Office ruled that fake television news stories, produced by the administration, or produced, period, were illegal propaganda. The fake news accounts that were produced, known as ''prepackaged news stories,'' featured a report by Karen Ryan. The news story extolled the benefits of the new Medicare law and ended with a statement:

> This is Karen Ryan, reporting from Washington.

But Karen Ryan is not a reporter. She is a public relations consultant working for a firm hired by the Government. So it is designed to fool people into believing that this news reporter had come on to something really great and wanted to add her view of the efficacy of the program.

Now, that fake news story made its way onto local news shows on 40 television stations across the country. Once again, people thought they were watching news. Americans watched Karen Ryan's report and thought they were hearing the real deal, but what they were watching was Government-produced propaganda.

Think about that for a second. Our Government is sending out news reports to television stations across the country by satellite. Many of these news stations had no way of knowing that the reports were Government propaganda. News stations across the country have run Government news stories without realizing what they had. This is not aimed at the broadcasters; it is aimed at clarifying the

fact that we do not think the Government should be doing this. The stations that had this story and did not realize it was not fresh news included a station in Memphis, TN, WHBQ; KGTV in San Diego; WDRB in Louisville, KY. The list goes on and on about producers who were fooled by the fact that they were getting a propaganda piece and did not recognize that it was not news.

If the news stations did not know the story was produced by the Government, how would the viewer ever know that? How would a family, let's say, in Covington, TN, watching WHBQ, know that Karen Ryan, the person in this case, is not a reporter? How would they know the news story they just watched was concocted to sell something, actually Government propaganda? The reality is, they would not know.

We had a situation of similar character with a reporter named Armstrong Williams. Mr. Williams had a program, a news program, and he was paid a couple hundred thousand dollars, as I remember the number, to take this story and talk about it as news when, in fact, it was a paid-for story designed to deceive, very frankly. So we have seen it.

The GAO said that this practice is not only wrong but illegal. The GAO said the fake news stories were illegal because they did not disclose the fact that the Government was behind it. GAO is right. We cannot allow covert propaganda to be done by our Government, continued by a practice that has been condemned by GAO.

The Byrd amendment will give Federal agencies clear direction on this issue. It is a simple proposition: The Government needs to disclose its role. I do not think that is a lot to ask; otherwise, every ad that goes on the air has a disclosure on it. It identifies the product, uses a trademark, all kinds of things. But they make sure people know it is being done for a mission.

For whatever reason, the administration has refused to go along with the GAO ruling. They have said so: Yes, we know it. But so what? The Office of Management and Budget recently sent out a memo saying that agencies could continue to produce fake news stories and hide the Government's role.

That is their opinion, but I don't agree with it. Certainly, the Byrd amendment challenges that view. We need to be straight with the American people. When we are running ads, it has to say, ad run by the United States Government. We need to reject covert government propaganda. We can do it today with this amendment. The Byrd amendment will make the rules on this matter crystal clear. I hope we can get the support to do this, to say to the American people, when you see a piece of news, don't let it be biased by Government ads that pay for it. Why would the Government pay for it? Once again, when an ad is run, it is to sell someone a bill of goods. That doesn't mean it is a bad piece of goods, but it is designed to sell something. We ought not let that be the product of the United States Government when talking to the people across the country.

I hope we will be able to pass this. I commend the Senator from West Virginia for offering it. I hope our colleagues will support it.

I yield the floor.

Mr. BYRD. Mr. President, I thank the distinguished Senator from New Jersey for his comments and support. I thank him profusely.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, I ask unanimous consent to speak on the pending Mikulski amendment.

Mr. COCHRAN. Reserving the right to object—I, of course, will not object—it is my hope that we can continue to deal with the Byrd amendment and dispose of the Byrd amendment. Then the Senator can talk about the Mikulski amendment or any other amendment he wants to talk about.

I do not have an objection.

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

AMENDMENT NO. 387

Mr. JEFFORDS. Mr. President, I would like to take a moment to talk about the amendment offered by the Senator from Maryland. As a cosponsor of that amendment, I rise in support of this amendment to the supplemental appropriations bill.

The Save Our Small and Seasonal Business Act, on which this amendment is based, is very important to my State of Vermont. This amendment will ensure the seasonal businesses in our country have the workers they need to support their company, our local economics, and to help the U.S. economy flourish. Action on this critical issue is long overdue.

In March of last year, the United States Citizenship and Immigration Services announced they had received enough petitions to meet the cap on the H–2B visas. As a result, they stopped accepting petitions for these temporary work visas halfway through the Federal fiscal year. This announcement was a shock to many businesses throughout the country that depend on foreign workers to fill their temporary and seasonal positions.

Tourism is the largest sector of Vermont's economy and, as a result, many Vermont businesses hire seasonal staff during their summer, winter, or fall seasons. Last year, I heard from many Vermont businesses that were unable to employ foreign workers for their summer and fall seasons because the cap had been reached. Not only was this unexpected, but many of the individuals were people who had been returning to the same employer year after year. These employers lost essential staff and, in many cases, well-trained, experienced employees.

While I am proud to say that Vermont businesses have risen to this challenge with hard work and creativity in the past, the need for these workers has not, and will not, diminish. Congress must act and must act now. The companies I have heard from are proud of the work their staffs have done under these circumstances. Yet they believe their businesses and their personnel will suffer if they are not able to employ seasonal foreign workers again this year. Many foresee a devastating effect on their businesses if they are not able to bring in foreign workers soon.

I have also heard from Vermont businesses that they had to lay off or not hire American workers because they could not find enough employees to round out their crews. Without having the sufficient number of workers to complete projects, they could not hire or maintain their year-round staff. They also could not bid on projects and many had to scale back their operations. In these instances, the lack of seasonal workers had a detrimental effect on our economy and on the employment of American workers.

As many may know, I strongly believe American workers must be given the opportunity to fill jobs and that this Nation's strength is in its own workforce. However, the companies that have contacted me did their utmost to find Americans for positions available. Efforts to find American workers included working closely with the State of Vermont's Employment and Training Office, increasing wages and benefits, and implementing aggressive, year-round recruiting.

We are lucky in Vermont to count tourism among our chief industries, and we have our beautiful rural landscape to thank for the visitors who flock to our small State each year. While many Vermont businesses were able to survive last year, thanks to that old Yankee ingenuity, I am not optimistic about this year. It is imperative we immediately address this problem in order to prevent further harm to this Nation's small businesses and the economy.

I urge my colleagues to support this amendment by Senator MIKULSKI.

I yield the floor.

AMENDMENT NO. 430

The PRESIDING OFFICER. The assistant Democratic leader.

Mr. DURBIN. Mr. President, I rise in support of the Byrd-Lautenberg amendment. I would like to say a few words. I know we may be moving close to a vote, and the chairman of the committee has been patiently awaiting that possibility.

Tonight you are going to turn on your nightly news and try to get some information. People do it all the time. You expect when you turn on your television and turn on a newscast, the information being given to you is objective, at least as objective as people can make it. It isn't a paid advertisement; it is the news. If you are running a paid advertisement, you would know it. It would have laundry detergent on it or some new pharmaceutical drug or a political ad with a disclaimer at the bottom.

When you turn on your newscast, you don't expect to get hit by an ad that doesn't look like an ad. That is what the Byrd amendment is all about. The General Accounting Office took a look at some of the ads that were being sent out by the Bush administration for their policies and programs and said they went too far. They didn't identify the videos they were sending to these television stations were actually produced by the Bush administration, by these agencies, to promote a particular point of view. They basically said these ads deceived the American people. They were propaganda from the Government.

We decided a long time ago you couldn't do that. If you were going to put that kind of information up to try to convince the American people, one way or the other, you have an obligation to tell them so. The basic rule in this country is people want to hear both sides of the story, then make up their own minds. They want to know what is a fact and what is an opinion. Make up your own mind. You can't do it when there is a deception involved.

It is that deception that Senator BYRD is addressing. The Byrd amendment is so brief and to the point, it is worth repeating:

None of the funds provided in this Act or any other Act may be used by a Federal agency to produce any prepackaged news story unless the story includes a clear notification to the audience that the story was prepared or funded by that Federal agency.

That is pretty simple. Tell us who prepared it. If it was prepared at taxpayer expense by the Senate, it should disclose that. If it was prepared by an agency of the Bush administration, disclose it. Then the American people decide. They watch the show. They say: That is a pretty interesting point of view. That happens to be what the official Government point of view is. I wonder what the other side of the story is.

You have a right to ask that question. But what if it wasn't disclosed? What if what you thought was a news story turned out to be an ad, propaganda? That is a deception. It is a deception Senator BYRD is trying to end.

We sent the General Accounting Office out and we said: Take a look at two or three Government agencies in the Bush administration. See how they are using these videotapes. According to the GAO, the Office of National Drug Control Policy violated the publicity and propaganda prohibition in our law when it produced and distributed fake news stories called video news releases as part of its National Youth Anti-Drug Media Campaign. There is nothing wrong with fighting drugs.

We want to protect our children from that possibility. We want to end the scourge of drug abuse in America. But be honest about it. If it is a Government-produced program, then identify it. That is all Senators BYRD and LAUTENBERG say in their amendment. In a separate report, the GAO found that the Centers for Medicare and Medicaid Services violated publicity and propaganda prohibition by sending out more fake news stories about the benefits of the new prescription drug law for seniors. I was on the Senate floor when that was debated. There are pros and cons—people who are against it and who are for it. There are two sides to the story. Here came the official Government press release suggesting: Here are the facts for you, Mr. and Mrs. America. It turns out they didn't identify that that official news release came from an agency of the Bush administration.

They used phony reporters, phony news stories, and they told the viewers certain things they hoped they would believe. It turns out they were deceiving the American people.

Remember the case of Armstrong Williams? Interesting fellow. He was hired by the Federal Department of Education to promote the new No Child Left Behind law on his nationally syndicated television show and urged other journalists to do the same. We paid him taxpayer dollars of $240,000 to go on his talk show and say nice things about the Bush administration's No Child Left Behind law. Well, is that fair? Is that where you want to spend your tax dollars? Would it not have been worth a few bucks to put the money into the classroom for children, instead of putting on contract this man who never disclosed his conflict of interest and went about talking on his syndicated TV show as if he were an objective judge? He was so embarrassed by this that the Department stopped paying him and he issued something of an apology. The fact is, he used our Federal taxpayer dollars as an incentive to promote a point of view and didn't tell the American people, deceiving them in the process.

The Social Security Administration has gone through the same thing when it comes to the President's privatization plan. They will be producing these fake news stories and video press releases that mislead people about the nature of the challenge of the problem.

I have an example. One of the things that went out in the Social Security Administration's phony news story was the following statement: ''In 2041, the Social Security trust funds will be exhausted.'' That was put out as an official Government statement—not identified but sent out. It turns out it is not true. In 2041, the Social Security trust fund will not be exhausted. If we don't touch the Social Security trust fund, it will make every single payment to every single retiree, every single month of every single year until 2041. Then if we do nothing to change it after 36 years, it will continue to pay up to 75 to 80 percent. The trust fund is not going to be exhausted. That is a misstatement put out by this administration without identifying the fact that they are trying to promote a point of view which, sadly, is not correct and not honest.

So what Senator BYRD said is simple. If you want to put out something as a Federal Government agency, trust the American people. Tell them who you are. Let them decide whether it is worth believing. Don't pull the wool over their eyes. America is entitled to hear both sides of the story. We are entitled to know what is fact, what is fiction, what is basically news, and what is opinion. I think we can trust the American people to make that judgment. If Members of the Senate cannot trust the American people to make a judgment, how do they submit their own names for election? That is what we do regularly in an election year. I trust their judgment. I trust Senator BYRD's amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. COCHRAN. Mr. President, I appreciate very much the Senator from West Virginia offering the amendment and bringing this issue to the attention of the Senate and making the suggestion that is included in this amendment, which would ''prohibit the use of funds by any Federal agency to produce a prepackaged news story without including in such a story notification for the audience that the story was prepared or funded by a Federal agency.''

That is what the amendment says the purpose is, and that looks totally OK to me—harmless, no reason we should not support it. Then if you read down in the body of the amendment itself as to what it actually would provide in law, it says:

None of the funds provided in this act or any other act may be used by a Federal agency to produce any prepackaged news story, unless the story includes a clear notification to the audience that the story was prepared or funded by that Federal agency.

This creates a new obligation—not one that is enforced now by the FCC, not one that is embraced by Members of Congress or Senators when they send news releases out to news organizations about their activities or their views on a subject, it includes an obligation on anyone sending such a news story or statement or video release to communicate to the audience—the person looking at the television show or listening to the radio or reading the newspaper—that it is prepared by a Federal agency, or it uses funds to prepare it that are given to a Federal agency. It creates a new requirement, one that is almost impossible to meet.

Think about it. When we send a news release to a newspaper back home, we don't send it to all of the readers or subscribers of that newspaper. We send it to the newspaper, the address, the name of the newspaper in the town where it does business. So that is the defect in the amendment. That is why Senator BOND, speaking as chairman of the subcommittee that has jurisdiction over the funding and the laws under the jurisdiction of the subcommittee that would be involved and affected by

this, spoke against the amendment. That is why the Senate should not adopt the amendment.

We all agree you need to include a disclaimer. We have to do that and we do that. Federal agencies do that. We cannot make the news editor or the producer of the news show include the disclaimer in the broadcast though. Nor should we be held responsible personally or criticized if that news agency didn't disclaim or print or announce where they got the news story. That is an entirely different obligation and one that the FCC will enforce now and that we all support.

So what I am suggesting is that these are great speeches. This is a good political issue—to accuse the administration of trying to fool the American people by creating the impression that some of their news stories that are produced for the news media are produced by them and not the radio station or the television station or the newspaper that published it or broadcasted it. That is nothing new. But it is not up to the agency or the person who writes the story to communicate it to the audience.

That is the problem. We cannot support it. So it would be my intention to move to table the amendment because of that—not because it is not motivated by the right reasons or doesn't carry with it the sentiment that is appropriate. Of course, it does. But the wording of the amendment itself—not just the purpose of the amendment—is defective in that it imposes an obligation that should not be imposed on Federal agencies, the Government, or individual Members of Congress.

I am hopeful that—and I am sure the Senator from West Virginia will, if he can—the Senator will modify his amendment so it can be accepted. But if that cannot be done, I am prepared to move to table the amendment. I will not do that and cut off the right of any other person to talk about the subject.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, I thank the distinguished Senator for his willingness to not move to table at this point. I hope we can take a little time and see if we might reach a meeting of the minds on language that might accomplish the purposes that we hoped to accomplish.

For that reason, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DORGAN. 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. DORGAN. Mr. President, I wonder if I might ask my colleague, the chairman of the committee, my understanding is the pending amendment is the Byrd amendment. But I heard my colleague Senator BYRD indicate he was trying to see whether there was some language that could be changed so this amendment would be acceptable. I have an amendment I had previously announced I would like to offer. It is an amendment dealing with the independent counsel expenditure of $21 million. I twice before mentioned this.

I ask the Senator from Mississippi whether it would be appropriate at this point to offer an amendment. My understanding is we would have to set aside the Byrd amendment to do so. I ask the chairman and also Senator BYRD whether that is possible at this moment.

Mr. COCHRAN. Mr. President, I have no objection.

Mr. BYRD. Mr. President, I have no objection. We can reach an understanding if I am unable to come up with language that is capable of being a workable and effective compromise that we might go ahead and have a vote on the Byrd amendment. Might we have a time limit on the Senator's proposal?

Mr. DORGAN. I will be mercifully brief. This is not an amendment that will take a long time to explain, and I do not intend to delay the proceedings of the Senate at all.

AMENDMENT NO. 399

Mr. DORGAN. Mr. President, with that in mind and with the cooperation of the Senator from Mississippi, the chairman of the committee, and my colleague Senator BYRD, as well, I offer an amendment on behalf of myself and Senator DURBIN has asked to be a cosponsor as well. I send the amendment to the desk and ask for its immediate consideration.

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

The clerk will report.

The legislative clerk read as follows:

The Senator from North Dakota [Mr. DORGAN], for himself and Mr. DURBIN, proposes an amendment numbered 399.

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

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

The amendment is as follows:

(Purpose: To prohibit the continuation of the independent counsel investigation of Henry Cisneros past June 1, 2005 and request an accounting of costs from GAO)

At the end of the bill, add the following:

SEC. ___. (a) None of the funds appropriated or made available in this Act or any other Act may be used to fund the independent counsel investigation of Henry Cisneros after June 1, 2005.

(b) Not later than July 1, 2005, the Government Accountability Office shall provide the Committee on Appropriations of each House with a detailed accounting of the costs associated with the independent counsel investigation of Henry Cisneros.

Mr. DORGAN. Mr. President, this matter deals with something I was quite surprised to read about, frankly, in the newspaper, and I have since done some research about it. It was a rather lengthy newspaper article disclosing that an independent counsel who had been appointed 10 years ago in 1995, a Mr. David Barrett, was still in business and was involved in an investigation that has now cost the American taxpayers $21 million.

That was an investigation dealing with a Cabinet Secretary who was alleged to have lied, I believe, to the FBI, to authorities, about a payment he gave to a mistress. So an independent counsel was impaneled and began investigating that charge.

That independent counsel has been working for some 10 years, in fact. But the Cabinet officer who was the subject of the investigation pled guilty in 1999. That was 6 years ago. That Cabinet officer was also subsequently pardoned in the year 2001.

In the most recent 6-month report, the independent counsel who was appointed for investigating this transgression is still in business, and had spent $1.26 million in just that period. And the costs are trending upward, 10 years after he started, 6 years after the subject pled guilty, and 4 years after the subject was pardoned. It is unbelievable.

I do not know anything about the case. I do not really know the Cabinet official in question. I guess I met him some years ago. But this is not about that official any longer. He has pled guilty, been pardoned, and here we are years later with an independent counsel's office still spending money.

I quote Judge Stanley Sporkin, the presiding judge over Mr. Cisneros' trial:

The problem with this case is that it took too long to develop and much too long to bring to judgment day . . . [the matter] should have been resolved a long time ago, perhaps even years ago.

That was a quote from 1999. It is now 2005. The independent counsel is still spending money.

David Barrett, the independent counsel, said in 1999:

We are just glad to have this over and done with. That was following the plea agreement of Mr. Cisneros. Here it is 6 years later and the independent counsel is still in business.

Mr. Barrett said in July 2001:

I want to conclude this investigation as soon as possible.

It is now 4 years later, with the counsel spending $1.26 million in the last 6 months.

The three-judge panel that is providing oversight to the independent counsel said:

Whether a cost-benefit analysis at this point would support Mr. Barrett's effort is a question to which I have no answer.

Judge Cudahy, a member of the three-judge oversight panel said:

Mr. Barrett can go on forever. A great deal of time has elapsed and a lot of money spent in pursuing charges that on their face do not seem of overwhelming complexity.

Again, this is someone who is accused of lying to the FBI about paying money to a mistress. In the year 1995, the investigation began with Mr. Barrett and the independent counsel. In

1999, the individual pled guilty. In the year 2001, the individual was pardoned. And the independent counsel is still in business spending money. What on Earth is going on?

A former Federal prosecutor following the plea agreement, Lawrence Barcella, said this:

This is a classic example of why this independent counsel statute was a problem. You give this person all the resources to go after one person, and the first thing that is lost is perspective.

Joseph DiGenova, a Republican lawyer and former independent counsel himself, said in the April 1, 2005, Washington Post:

If this does not prove [the independent counsel's] worthlessness as a governmental entity, I don't know what does.

I do not come here as a partisan, a member of a political party. I come here as someone outraged to wake up in the morning and read a report about an independent counsel impaneled 10 years ago to investigate a subject who pled guilty 6 years ago and was pardoned 4 years ago, and the independent counsel is still spending the taxpayers' money, $1.26 million over the last 6 months.

My amendment is painfully simple. I propose we stop the spending on June 1 and tell this independent counsel: Finish your report, finish up, move on, and give the taxpayers a break.

That is what the amendment is. It is very simple. I hope it might be considered and supported by my colleagues.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

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

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

AMENDMENT NO. 430, AS MODIFIED

Mr. BYRD. Mr. President, I have a proposed modification to the amendment which I have discussed with the distinguished manager of the bill, the chairman of the committee, Mr. COCHRAN.

I send the modification to the desk and ask that it be stated by the clerk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD] proposes an amendment numbered 430, as modified:

At the appropriate place, insert the following:

SEC. ____. Unless otherwise authorized by existing law, none of the funds provided in this Act or any other Act may be used by a Federal agency to produce any prepackaged news story unless the story includes a clear notification within the text or audio of the prepackaged news that the prepackaged news story was prepared or funded by that Federal agency.

The PRESIDING OFFICER. Is there objection to the modification of the amendment at this time?

Without objection, the amendment is so modified.

Mr. BYRD. Mr. President, I am prepared now to go to a vote, if the distinguished chairman is also prepared. And I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. BYRD. Mr. President, may I just be sure that we are clear on this language.

I understand that the language as read by the clerk is agreed to on both sides.

Mr. COCHRAN. Mr. President, we have no objection to the modification.

The PRESIDING OFFICER. The amendment has been so modified. The question is on agreeing to the amendment, as modified. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MCCONNELL. The following Senator was necessarily absent: the Senator from Oklahoma (Mr. INHOFE).

Mr. DURBIN. I announce that the Senator from Maryland (Mr. SARBANES) is necessarily absent.

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

The result was announced—yeas 98, nays 0, as follows:

[Rollcall Vote No. 95 Leg.]

YEAS—98

| | | |
|---|---|---|
| Akaka | Dodd | Martinez |
| Alexander | Dole | McCain |
| Allard | Domenici | McConnell |
| Allen | Dorgan | Mikulski |
| Baucus | Durbin | Murkowski |
| Bayh | Ensign | Murray |
| Bennett | Enzi | Nelson (FL) |
| Biden | Feingold | Nelson (NE) |
| Bingaman | Feinstein | Obama |
| Bond | Frist | Pryor |
| Boxer | Graham | Reed |
| Brownback | Grassley | Reid |
| Bunning | Gregg | Roberts |
| Burns | Hagel | Rockefeller |
| Burr | Harkin | Salazar |
| Byrd | Hatch | Santorum |
| Cantwell | Hutchison | Schumer |
| Carper | Inouye | Sessions |
| Chafee | Isakson | Shelby |
| Chambliss | Jeffords | Smith |
| Clinton | Johnson | Snowe |
| Coburn | Kennedy | Specter |
| Cochran | Kerry | Stabenow |
| Coleman | Kohl | Stevens |
| Collins | Kyl | Sununu |
| Conrad | Landrieu | Talent |
| Cornyn | Lautenberg | Thomas |
| Corzine | Leahy | Thune |
| Craig | Levin | Vitter |
| Crapo | Lieberman | Voinovich |
| Dayton | Lincoln | Warner |
| DeMint | Lott | Wyden |
| DeWine | Lugar | |

NOT VOTING—2

| | |
|---|---|
| Inhofe | Sarbanes |

The amendment (No. 430), as modified, was agreed to.

Mr. COCHRAN. 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 Chair wishes to clarify for the record that Senator MURRAY did not sign the cloture motion on amendment No. 387, and Senator LEAHY did sign that motion.

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

The PRESIDING OFFICER. The pending amendment is amendment No. 399 by Senator DORGAN. There are other amendments which are, however, the regular order with respect to that amendment.

Mr. COCHRAN. The Dorgan amendment is the pending amendment.

The PRESIDING OFFICER. That is correct.

Mr. COCHRAN. I thank the Chair.

Mr. President, for the information of Senators, I have been asked and others have been asking the leadership about the intention of the Senate to proceed to votes on other amendments tonight. That is certainly up to the Senate. We are here open for business. We have an emergency supplemental appropriations bill pending before the Senate, and we need to move with dispatch to complete action on this bill to get the money to the Departments of Defense and State for accounts that have been depleted and that we need in the war on terror, that we need for our troops in Iraq and Afghanistan. So I hope we can proceed to further consideration of amendments that are pending. There are amendments pending. I hope Senators can cooperate with the managers and the leadership in moving this bill ahead.

I thank all Senators. 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. OBAMA. Mr. President, I ask that the quorum call be dispensed with.

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

AMENDMENT NO. 390

Mr. OBAMA. Mr. President, I call up amendment No. 390 and ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection to setting aside the pending amendments? Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Illinois [Mr. OBAMA], for himself, Mr. GRAHAM, Mr. BINGAMAN and Mr. CORZINE, proposes an amendment numbered 390.

The amendment is as follows:

(Purpose: To provide meal and telephone benefits for members of the Armed Forces who are recuperating from injuries incurred on active duty in Operation Iraqi Freedom or Operation Enduring Freedom)

At the appropriate place, insert the following:

**SEC. ___. BENEFITS FOR MEMBERS OF THE ARMED FORCES RECUPERATING FROM INJURIES INCURRED IN OPERATION IRAQI FREEDOM OR OPERATION ENDURING FREEDOM.**

(a) PROHIBITION ON CHARGES FOR MEALS.—

(1) PROHIBITION.—A member of the Armed Forces entitled to a basic allowance for subsistence under section 402 of title 37, United

States Code, who is undergoing medical recuperation or therapy, or is otherwise in the status of ''medical hold'', in a military treatment facility for an injury, illness, or disease incurred or aggravated while on active duty in the Armed Forces in Operation Iraqi Freedom or Operation Enduring Freedom shall not, during any month in which so entitled, be required to pay any charge for meals provided such member by the military treatment facility.

(2) EFFECTIVE DATE.—The limitation in paragraph (1) shall take effect on January 1, 2005, and shall apply with respect to meals provided members of the Armed Forces as described in that paragraph on or after that date.

(b) TELEPHONE BENEFITS.—

(1) PROVISION OF ACCESS TO TELEPHONE SERVICE.—The Secretary of Defense shall provide each member of the Armed Forces who is undergoing in any month medical recuperation or therapy, or is otherwise in the status of ''medical hold'', in a military treatment facility for an injury, illness, or disease incurred or aggravated while on active duty in the Armed Forces in Operation Iraqi Freedom or Operation Enduring Freedom access to telephone service at or through such military treatment facility in an amount for such month equivalent to the amount specified in paragraph (2).

(2) MONTHLY AMOUNT OF ACCESS.—The amount of access to telephone service provided a member of the Armed Forces under paragraph (1) in a month shall be the number of calling minutes having a value equivalent to $40.

(3) ELIGIBILITY AT ANY TIME DURING MONTH.—A member of the Armed Forces who is eligible for the provision of telephone service under this subsection at any time during a month shall be provided access to such service during such month in accordance with that paragraph, regardless of the date of the month on which the member first becomes eligible for the provision of telephone service under this subsection.

(4) USE OF EXISTING RESOURCES.—In carrying out this subsection, the Secretary shall maximize the use of existing Department of Defense telecommunications programs and capabilities, private organizations, or other private entities offering free or reduced-cost telecommunications services.

(5) COMMENCEMENT.—

(A) IN GENERAL.—This subsection shall take effect on the first day of the first month beginning on or after the date of the enactment of this Act.

(B) EXPEDITED PROVISION OF ACCESS.—The Secretary shall commence the provision of access to telephone service under this subsection as soon as practicable after the date of the enactment of this Act.

(6) TERMINATION.—The Secretary shall cease the provision of access to telephone service under this subsection on the date this is 60 days after the later of—

(A) the date, as determined by the Secretary, on which Operation Enduring Freedom terminates; or

(B) the date, as so determined, on which Operation Iraqi Freedom terminates.

Mr. OBAMA. Mr. President, today I am offering an amendment to the fiscal year 2005 emergency supplemental which I am pleased to announce is being cosponsored by Senators CORZINE, BINGAMAN, and GRAHAM. This amendment would meet certain needs of our injured service members in recognition of the tremendous sacrifice they have made in defense of our country.

The other day I had the opportunity to visit some of our wounded heroes at Walter Reed Army Medical Center. I know many of you have made the same trip. I heard about their visits, but there is nothing that can fully prepare you for what you see when you take that first step into the physical therapy room.

These are kids in there, our kids, the ones we watched grow up, the ones we hoped would live lives that were happy, healthy, and safe. These kids left their homes and families for a dangerous place halfway around the world. After years of being protected by their parents, these kids risk their lives to protect us. Now some of them have come home from that war with scars that may change their lives forever, scars that may never heal. Yet they sit there in the hospital so full of hope and still so proud of their country. They are the best that America has to offer, and they deserve our highest respect, and they deserve our help.

Recently, I learned that some of our most severely wounded soldiers are being forced to pay for their own meals and their own phone calls while being treated in medical hospitals. Up until last year, there was a law on the books that prohibited soldiers from receiving both their basic subsistence allowance and free meals from the military. Basically, this law allowed the Government to charge our wounded heroes for food while they were recovering from their war injuries. Thankfully, this body acted to change this law in 2003 so that wounded soldiers would not have to pay for their meals. But we are dealing with a bureaucracy here and, as we know, nothing is ever simple in a bureaucracy. So now, because the Department of Defense does not consider getting physical rehabilitation or therapy services in a medical hospital as being hospitalized, there are wounded veterans who still do not qualify for the free meals other veterans receive. After 90 days, even those classified as hospitalized on an outpatient status lose their free meals as well.

Also, while our soldiers in the field qualify for free phone service, injured service men and women who may be hospitalized hundreds or thousands of miles from home do not receive this same benefit. For soldiers whose family members are not able to take off work and travel to a military hospital, hearing the familiar voice of mom or dad or husband or wife on the other side of the phone can make all the difference in the world. Yet right now our Government will not help pay for these calls, and it will not help pay for these meals.

Now, think about the sacrifices these young people have made for their country, many of them literally sacrificing life and in some cases limb. Now, at $8.30 a meal, they could end up with a $250 bill from the Government that sent them to war, and they could get that bill every single month. This is wrong, and we have a moral obligation to fix it. The amendment I am offering today will do this.

The amendment will expand the group of hospitalized soldiers who cannot be charged for their meals to include those service members undergoing medical recuperation, therapy, or otherwise on ''medical hold.'' The number of people affected by this amendment will be small. Only about 4,000 service members are estimated to fall under the category of non-hospitalized. The amendment is retroactive to January 1, 2005, in an effort to provide those injured service members who may have already received bills for their meals with some relief from these costs.

The amendment will also extend free phone service to those injured service members who are hospitalized or otherwise undergoing medical recuperation or therapy. I am very proud this amendment is supported by the American Legion, and I hope my colleagues will join them in that support. I ask all of my colleagues to join me in supporting this amendment. It should be something that is very simple for us to do. These are our children and they risked their lives for us. When they come home with injuries, we should be expected to provide them the best possible service and the best possible support. This is a small price to pay for those who have sacrificed so much for their country.

I want to mention and extend my thanks to the senior Senator from Alaska and my colleague from Mississippi for working with me on this issue. I am hoping that we can reach an agreement on this bill.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I thank the Senator for the explanation of his amendment. There is one thing, in looking at the amendment, that I am not sure of, and I am wondering if he could advise the Senate. Does the Senator have an estimate from anyone at the Department of Defense or in the Hospital Services Agency of the Department of Defense as to what the costs of the amendment would be during the balance of this fiscal year?

Mr. OBAMA. Yes, I do. DOD currently charges soldiers $8.30 per day for meals at the nondiscounted rate. So if all the eligible soldiers ate all of their meals at military facilities through the end of this fiscal year, the amendment would cost about $10.2 million. Now, that is probably a high estimate because my expectation would be these wounded soldiers would not be eating all of their meals at the hospital. So it would probably end up being lower, but the upper threshold would be $10.2 million.

Mr. COCHRAN. I thank the Senator. I think the Senator certainly hits upon a subject that we are very sensitive about at this time. We are following very closely the situation of the servicemen who are participating in the war against terror in Iraq, Afghanistan, and elsewhere. We are proud of

them. We are sorry that any of them have to be in the hospital or have to have access to services that are provided under the terms of this amendment. I would be happy to take the suggestion that is embodied in this amendment to the conference committee and try to work out an acceptable provision to be included in the final conference report and bring it back to the Senate.

So I recommend the Senate accept the amendment.

The PRESIDING OFFICER. Is there further debate?

The Senator from Illinois.

Mr. OBAMA. I thank my colleague, the Senator from Mississippi, for that offer, and I believe all of us feel the same way. These are the soldiers that are most severely wounded. We want to take the very best care of them, and I very much appreciate the consideration of the Senator from Mississippi.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 390) was agreed to.

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

The motion to lay on the table was agreed to.

Mr. COCHRAN. I thank the Senator and thank the Chair.

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. COCHRAN. 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. COCHRAN. Mr. President, I have requests to make, on behalf of the managers of the bill, with respect to amendments that have been cleared on both sides of the aisle.

AMENDMENT NO. 352

I now call up amendment No. 352, on behalf of Mr. SALAZAR, regarding the renaming of the death gratuity.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN], for Mr. SALAZAR, for himself and Mr. ALLARD, proposes an amendment numbered 352.

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

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

The amendment is as follows:

(Purpose: To rename the death gratuity payable for deaths of members of the Armed Forces as fallen hero compensation, and for other purposes)

On page 162, between lines 22 and 23, insert the following:

**SEC. 1113. RENAMING OF DEATH GRATUITY PAYABLE FOR DEATHS OF MEMBERS OF THE ARMED FORCES AS FALLEN HERO COMPENSATION.**

(a) IN GENERAL.—Subchapter II of chapter 75 of title 10, United States Code, is amended as follows:

(1) In section 1475(a), by striking ''have a death gratuity paid'' and inserting ''have fallen hero compensation paid''.

(2) In section 1476(a)—

(A) in paragraph (1), by striking ''a death gratuity'' and inserting ''fallen hero compensation''; and

(B) in paragraph (2), by striking ''A death gratuity'' and inserting ''Fallen hero compensation''.

(3) In section 1477(a), by striking ''A death gratuity'' and inserting ''Fallen hero compensation''.

(4) In section 1478(a), by striking ''The death gratuity'' and inserting ''The amount of fallen hero compensation''.

(5) In section 1479(1), by striking ''the death gratuity'' and inserting ''fallen hero compensation''.

(6) In section 1489—

(A) in subsection (a), by striking ''a gratuity'' in the matter preceding paragraph (1) and inserting ''fallen hero compensation''; and

(B) in subsection (b)(2), by inserting ''or other assistance'' after ''lesser death gratuity''.

(b) CLERICAL AMENDMENTS.—(1) Such subchapter is further amended by striking ''**Death gratuity:**'' each place it appears in the heading of sections 1475 through 1480 and 1489 and inserting ''**Fallen hero compensation:**''.

(2) The table of sections at the beginning of such subchapter is amended by striking ''Death gratuity:'' in the items relating to sections 1474 through 1480 and 1489 and inserting ''Fallen hero compensation:''.

(c) GENERAL REFERENCES.—Any reference to a death gratuity payable under subchapter II of chapter 75 of title 10, United States Code, in any law, regulation, document, paper, or other record of the United States shall be deemed to be a reference to fallen hero compensation payable under such subchapter, as amended by this section.

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

The amendment (No. 352) was agreed to.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 438

Mr. COCHRAN. I send to the desk an amendment on behalf of Mr. SPECTER that is technical in nature and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN], for Mr. SPECTER, proposes an amendment numbered 438.

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

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

The amendment is as follows:

(Purpose: To make a technical correction to cite the proper section intended to repeal the Department of Labor's transfer authority)

On page 220, line 12, strike ''Section 101'' and insert ''Section 102'' in lieu thereof.

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

The amendment (No. 438) was agreed to.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 354

Mr. COCHRAN. Mr. President, I call up amendment No. 354 on behalf of Mr. GRAHAM regarding functions of the general counsel and judge advocate general of the Air Force.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN], for Mr. GRAHAM, proposes an amendment numbered 354.

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

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

The amendment is as follows:

(Purpose: To prohibit the implementation of certain orders and guidance on the functions and duties of the General Counsel and Judge Advocate General of the Air Force)

On page 169, between lines 8 and 9, insert the following:

PROHIBITION ON IMPLEMENTATION OF CERTAIN ORDERS AND GUIDANCE ON FUNCTIONS AND DUTIES OF GENERAL COUNSEL AND JUDGE ADVOCATE GENERAL OF THE AIR FORCE

SEC. 1122. No funds appropriated or otherwise made available by this Act, or any other Act, may be obligated or expended to implement or enforce either of the following:

(1) The order of the Secretary of the Air Force dated May 15, 2003, and entitled ''Functions and Duties of the General Counsel and the Judge Advocate General''.

(2) Any internal operating instruction or memorandum issued by the General Counsel of the Air Force in reliance upon the order referred to in paragraph (1).

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

The amendment (No. 354) was agreed to.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 393

Mr. COCHRAN. Mr. President, I now call up amendment No. 393, on behalf of Mr. KENNEDY, regarding the Veterans Health Administration facilities.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN], for Mr. KENNEDY, proposes an amendment numbered 393.

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

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

The amendment is as follows:

(Purpose: To clarify the limitation on the implementation of mission changes for specified Veterans Health Administration Facilities)

At the appropriate place, insert the following:

**SEC. ___. IMPLEMENTATION OF MISSION CHANGES AT SPECIFIC VETERANS HEALTH ADMINISTRATION FACILITIES.**

(a) IN GENERAL.—Section 414 of the Veterans Health Programs Improvement Act of 2004, is amended by adding at the end the following:

''(h) DEFINITION.—In this section, the term 'medical center' includes any outpatient clinic.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the Veterans Health Programs Improvement Act of 2004 (Public Law 108–422).

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

The amendment (No. 393) was agreed to.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 394

Mr. COCHRAN. Mr. President, I now call up amendment No. 394, on behalf of Mr. WARNER, regarding a reporting requirement.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN], for Mr. WARNER, proposes an amendment numbered 394.

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

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

The amendment is as follows:

(Purpose: To require a report on the re-use and redevelopment of military installations closed or realigned as part of the 2005 round of base closure and realignment)

On page 169, between lines 8 and 9, insert the following:

RE-USE AND REDEVELOPMENT OF CLOSED OR REALIGNED MILITARY INSTALLATIONS

SEC. 1122 (a) In order to assist communities with preparations for the results of the 2005 round of defense base closure and realignment, and consistent with assistance provided to communities by the Department of Defense in previous rounds of base closure and realignment, the Secretary of Defense shall, not later than July 15, 2005, submit to the congressional defense committees a report on the processes and policies of the Federal Government for disposal of property at military installations proposed to be closed or realigned as part of the 2005 round of base closure and realignment, and the assistance available to affected local communities for re-use and redevelopment decisions.

(b) The report under subsection (a) shall include—

(1) a description of the processes of the Federal Government for disposal of property at military installations proposed to be closed or realigned;

(2) a description of Federal Government policies for providing re-use and redevelopment assistance;

(3) a catalogue of community assistance programs that are provided by the Federal Government related to the re-use and redevelopment of closed or realigned military installations;

(4) a description of the services, policies, and resources of the Department of Defense that are available to assist communities affected by the closing or realignment of military installations as a result of the 2005 round of base closure and realignment;

(5) guidance to local communities on the establishment of local redevelopment authorities and the implementation of a base redevelopment plan; and

(6) a description of the policies and responsibilities of the Department of Defense related to environmental clean-up and restoration of property disposed by the Federal Government.

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

The amendment (No. 394) was agreed to.

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

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Ms. MURKOWSKI). Without objection, it is so ordered.

Mr. REID. Is there a pending amendment?

The PRESIDING OFFICER. There are amendments pending.

Mr. REID. I ask unanimous consent that the amendments be set aside and I be allowed to offer an amendment.

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

AMENDMENT NO. 445

Mr. REID. I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 445.

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

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

The amendment is as follows:

(Purpose: To achieve an acceleration and expansion of efforts to reconstruct and rehabilitate Iraq and to reduce the future risks to United States Armed Forces personnel and future costs to United States taxpayers, by ensuring that the people of Iraq and other nations to do their fair share to secure and rebuild Iraq)

On page 183, after line 23, add the following new section:

INTERNATIONAL EFFORTS FOR RECONSTRUCTION IN IRAQ

SEC. 2105. (a) Congress makes the following findings:

(1) The United States Armed Forces have borne the largest share of the burden for securing and stabilizing Iraq. Since the war's start, more than 500,000 United States military personnel have served in Iraq and, as of the date of the enactment of this Act, more than 130,000 such personnel are stationed in Iraq. Though the Department of Defense has kept statistics related to international troop contributions classified, it is estimated that all of the coalition partners combined have maintained a total force level in Iraq of only 25,000 troops since early 2003.

(2) United States taxpayers have borne the vast majority of the financial costs of securing and reconstructing Iraq. Prior to the date of the enactment of this Act, the United States appropriated more than $175,000,000,000 for military and reconstruction efforts in Iraq and, including the funds appropriated in this Act, the amount appropriated for such purposes increases to a total of more than $250,000,000,000.

(3) Of such total, Congress appropriated $2,475,000,000 in the Emergency Wartime Supplemental Appropriations Act, 2003 (Public Law 108–11; 117 Stat. 559) (referred to in this section as ''Public Law 108–11'') and $18,439,000,000 in the Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004 (Public Law 108–106; 117 Stat. 1209) (referred to in this section as ''Public Law 108–106'') under the heading ''IRAQ RELIEF AND RECONSTRUCTION FUND'' for humanitarian assistance and to carry out reconstruction and rehabilitation in Iraq.

(4) The Sixth Quarterly Report required by section 2207 of Public Law 108–106 (22 U.S.C. 2151 note), submitted by the Secretary of State in April 2005, stated that $12,038,000,000 of the $18,439,000,000 appropriated by Public Law 108–106 under the heading ''IRAQ RELIEF AND RECONSTRUCTION FUND'' had been obligated and that only $4,209,000,000, less than 25 percent of the total amount appropriated, had actually been spent.

(5) According to such report, the international community pledged more than $13,500,000,000 in foreign assistance to Iraq in the form of grants, loans, credits, and other assistance. While the report did not specify how much of the assistance is intended to be provided as loans, it is estimated that loans constitute as much as 80 percent of contributions pledged by other nations. The report further notes that, as of the date of the enactment of this Act, the international community has contributed only $2,700,000,000 out of the total pledged amount, falling far short of its commitments.

(6) Iraq has the second largest endowment of oil in the world and experts believe Iraq has the capacity to generate $30,000,000,000 to $40,000,000,000 per year in revenues from its oil industry. Prior to the launch of United States operations in Iraq, members of the Administration stated that profits from Iraq's oil industry would provide a substantial portion of the funds needed for the reconstruction and relief of Iraq and United Nations Security Council Resolution 1483 (2003) permitted the coalition to use oil reserves to finance long-term reconstruction projects in Iraq.

(7) Securing and rebuilding Iraq benefits the people of Iraq, the United States, and the world and all nations should do their fair share to achieve that outcome.

(b) Notwithstanding any other provision of law, not more than 50 percent of the previously appropriated Iraqi reconstruction funds that have not been obligated or expended prior to the date of the enactment of this Act may be obligated or expended, as the case may be, for Iraq reconstruction programs unless—

(1) the President certifies to Congress that all countries that pledged financial assistance at the Madrid International Conference on Reconstruction in Iraq or in other fora since March 2003, for the relief and reconstruction of Iraq, including grant aid, credits, and in-kind contributions, have fulfilled their commitments; or

(2) the President—

(A) certifies to Congress that the President or his representatives have made credible and good faith efforts to persuade other countries that made pledges of financial assistance at the Madrid International Conference on Reconstruction in Iraq or in other fora to fulfill their commitments;

(B) determines that, notwithstanding the efforts by United States troops and taxpayers on behalf of the people of Iraq and the failure of other countries to fulfill their commitments, revenues generated from the sale of Iraqi oil or other sources of revenue under the control of the Government of Iraq may not be used to reimburse the Government of the United States for the obligation and expenditure of a significant portion of the remaining previously appropriated Iraqi reconstruction funds;

(C) determines that, notwithstanding the failure of other countries to fulfill their commitments as described in subparagraph (A) and that revenues generated from the sale of Iraqi oil or other sources of revenue under the control of the government of Iraq shall not be used to reimburse the United States government as described in subparagraph (B), the obligation and expenditure of remaining previously appropriated Iraqi reconstruction funds is in the national security interests of the United States; and

(D) submits to Congress a written notification of the determinations made under this paragraph, including a detailed justification for such determinations, and a description of the actions undertaken by the President or other official of the United States to convince other countries to fulfill their commitments described in subparagraph (A).

(c) This section may not be superseded, modified, or repealed except pursuant to a provision of law that makes specific reference to this section.

(d) In this section:

(1) The term ''previously appropriated Iraqi reconstruction funds'' means the aggregate amount appropriated or otherwise made available in chapter 2 of title II of Public Law 108–106 under the heading ''IRAQ RELIEF AND RECONSTRUCTION FUND'' or under title I of Public Law 108–11 under the heading ''IRAQ RELIEF AND RECONSTRUCTION FUND''.

(2)(A) The term ''Iraq reconstruction programs'' means programs to address the infrastructure needs of Iraq, including infrastructure relating to electricity, oil production, public works, water resources, transportation and telecommunications, housing and construction, health care, and private sector development.

(B) The term does not include programs to fund military activities (including the establishment of national security forces or the Commanders' Emergency Response Programs), public safety (including border enforcement, police, fire, and customs), and justice and civil society development.

AMENDMENT NO. 395

Mr. LEAHY. Mr. President, I rise in support of amendment 395. There are many Members on both sides of the aisle with strong objections to the REAL ID Act. Those of us who value our Nation's historic commitment to asylum do not want to see severe restrictions placed on the ability of asylum seekers to obtain refuge here. Those of us who value states rights side with the National Governors Association, the National Conference of State Legislatures, and the Council of State Governments in opposing the imposition of unworkable Federal mandates on State drivers license policies. Those of us who value the environment and the rule of law object to requiring the DHS Secretary to waive all laws, environmental or otherwise, that may get in the way of the construction of border fences, and forbidding judicial review of the Secretary's actions.

To include the REAL ID Act in the conference report for this supplemental would also deprive the Judiciary Committee and the Senate as a whole of the opportunity to consider and review these wide-ranging provisions.

The majority leader has indicated in recent days that the Senate will be considering immigration reform this year. The provisions in the REAL ID Act should be considered at that time and in conjunction with a broader debate about immigration. They should not be forced upon the Senate by the leadership of the other body.

I urge my colleagues to vote in favor of this resolution, which I am proud to cosponsor with Senators FEINSTEIN, BROWNBACK, ALEXANDER, and many others.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

## MORNING BUSINESS

Mr. FRIST. I ask unanimous consent that there now be a period of morning business with Senators permitted to speak for up to 10 minutes each.

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

## BURMA

Mr. MCCONNELL. Madam President, the United Nations Human Rights Commission adopted a resolution expressing concern with the ''ongoing systematic violation of human rights'' of the Burmese people. These violations include: extrajudicial killings, rape and other forms of violence persistently carried out by members of the armed forces, the continued use of torture, political arrests, forced and child labor, and systematic use of child soldiers.

While the Commission's action is welcomed, it is not enough. The United Nations Security Council must discuss and debate the immediate regional threats that country poses to its neighbors—whether from illicit narcotics, HIV/AIDS, trafficked and internally displaced persons, or refugees.

I am dismayed that both China and India reportedly objected to an ''unbalanced approach'' in the Commission's action against Burma.

In my view, India can—and should—play a catalytic role in fostering change in Burma. I would remind India that such objections serve only to tarnish its image as the world's largest democracy, and send the wrong message to Daw Aung San Suu Kyi, Nobel Peace Laureate and recipient of India's Jawaharlal Nehru Award for International Understanding. India should, as it did in the past, stand firmly with Burma's democrats and work to foster reconciliation between the National League for Democracy, ethnic nationalities and the illegal military junta.

On a separate matter, I want to recognize Ms. Cindy Chang in the State Department's Bureau of Legislative Affairs. Cindy works closely with the State/Foreign Operations Subcommittee, which I chair, and I want the Secretary of State to know how ably Cindy represents that Department's—and the President's—interests on the Hill. She is a star in that Bureau.

## NATIONAL ASSOCIATED ALUMNAE AND ALUMNI OF THE SACRED HEART

Mr. DURBIN. Madam President, I rise today to recognize the National Associated Alumnae and Alumni of the Sacred Heart during their 35th biennial conference.

The theme of the conference is ''St. Madeleine Sophie's vision of service—living our legacy,'' and a panel discussion will be hosted by Barat College. St. Madeleine Sophie Barat was the foundress of the Society of the Sacred Heart, and she still is a true inspiration to all who seek to follow the call of service.

The late Senator Paul Simon was my mentor when I began my political career in downstate Illinois. His wife, Jean Hurley Simon, graduated from Barat College in 1944. Since I first met Jean, I have had a special admiration for those educated in the Sacred Heart tradition.

The Associated Alumnae and Alumni of the Sacred Heart includes over 51,000 women and men educated in the Sacred Heart schools. Recently, Sacred Heart alumni have led efforts to provide relief for people in Indonesia effected by the devastating tsunami. Funds raised by Sacred Heart alumni have allowed for much-needed health and education programs in the region, including interfaith projects to house and lead activities for orphaned children.

Like Senator Simon before me, I have strongly supported higher education initiatives and access to professional development training for our elementary and secondary teachers. After all, teachers have the ability to influence, impact, and shape the citizens of tomorrow.

I know that my fellow Senators will join me in commending the Sacred

Heart alumni for their legacy of service. I am confident that this proud history and tradition will continue in the spirit of St. Madeleine Sophie for years to come.

## PROTECT OUR COMMUNITIES, NOT THE GUN INDUSTRY

Mr. LEVIN. Madam President, it has been reported that the Senate may consider the misnamed Protection of Lawful Commerce in Arms Act in the near future. I was pleased that this legislation was defeated during the 108th Congress, and I continue to oppose its passage.

This bill would rewrite well-accepted principles of liability law, providing the gun industry legal protections not enjoyed by other industries. It would grant broad immunity from liability even in cases where gross negligence or recklessness led to someone being injured or killed. Enactment of this special interest legislation for the gun industry would also lead to the termination of a wide range of pending and prospective civil cases, depriving gun violence victims with legitimate cases of their day in court.

It would be all the more irresponsible for the Senate to pass the gun industry immunity legislation while also continuing to ignore many gun safety issues that are critically important to the law enforcement community. Recent editorials in major newspapers around the country have highlighted Congress' inability to enact common sense gun safety legislation. An editorial from Monday's edition of the Los Angeles Times stated: Over the last four years, the president and his congressional allies have repudiated or quietly eviscerated key gun laws and regulations. Now they are poised to shield firearms makers and sellers from nearly all damage claims when their products kill or maim.

Thus far, Congress has failed to act to reauthorize the assault weapons ban that expired on September 13, 2004. This inaction allowed criminals and terrorists potential easy access to many of the most powerful and deadly firearms manufactured. In addition, Congress has failed to close a loophole that allows individuals on terrorist watch lists to buy these weapons and has failed to pass legislation that would, at the very least, require a background check for individuals attempting to buy the previously banned assault weapons at gun shows.

Rather than considering a bill to protect members of the gun industry from liability, we should help protect our families and communities by addressing the loopholes that potentially allow known and suspected terrorists to legally purchase military style firearms within our own borders. I again urge my colleagues to take up and pass common sense gun safety legislation that will address these loopholes and the threats they pose.

I ask unanimous consent that the April 11, 2005 Los Angeles Times editorial titled ''Remember Gun Control?'' be printed in the CONGRESSIONAL RECORD.

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

[From the Los Angeles Times, Apr. 11, 2005]

REMEMBER GUN CONTROL?

After four years of George W. Bush, the notions that some people might be too dangerous or unstable to trust with a firearm or that assault weapons do not belong in civilized society are deader than a wild turkey in hunting season.

During Bush's first campaign, a National Rifle Assn. leader quipped, ''If we win, we'll have a president where we work out of their office.'' How right he was.

Over the last four years, the president and his congressional allies have repudiated or quietly eviscerated key gun laws and regulations. Now they are poised to shield firearms makers and sellers from nearly all damage claims when their products kill or maim. Not only is this a gift no other industry enjoys, it's a truly bad idea that even gun owners have reason to oppose.

Last year, Republican congressional leaders simply ran out the clock on the 10-year-old federal assault gun ban, refusing to even call a vote on renewing it despite steady popular support for the law. Bush, who once claimed that he supported the ban, refused to make so much as a phone call to his House or Senate allies to keep it alive. With it died the ban on domestically made ammunition clips with more than 10 rounds, a boon for any disgruntled employee, terrorist or high school student who wants to mow down a crowd. The president also signed a bill that requires the destruction within 24 hours of all records from background checks of gun buyers. And Congress required the Bureau of Alcohol, Tobacco, Firearms and Explosives to keep secret the data that tracks weapons used in crimes.

Meanwhile, a Government Accountability Office study examining FBI and state background-check records found that 35 people whose names appeared on terrorism watch lists were able to buy a gun. Incredibly, a would-be buyer's presence on a watch list does not disqualify him or her from buying a firearm. Because background-check data now must be promptly destroyed, it is impossible to know how many more terrorism suspects might be lawfully armed.

The immunity bill, introduced by Sen. Larry E. Craig (R-Idaho) and Rep. Cliff Stearns (R-Fla.), would protect gun manufacturers and sellers from damage suits by victims of gun violence. It would even block injury suits from gun owners. That means gun owners can't sue if poorly made handguns explode in their hands or fire unintentionally. In many instances, the bill would shield gun dealers who allow criminals to buy a firearm, by severely weakening the ATF's ability to shut down unscrupulous dealers.

This reckless measure, long on the NRA's wish list, has come before Congress before, but enough lawmakers balked. This time, emboldened by last November's GOP victories, there looks to be less resistance. Senate Majority Leader Bill Frist (R-Tenn.) says he's ready to call for a floor vote any time. Unless voters speak up.

## TRIBUTE TO DR. MAURICE HILLEMAN

Mr. BAUCUS. Madam President, I rise today to memorialize the life and accomplishments of Dr. Maurice Hilleman, a renowned microbiologist and native son of Montana.

Dr. Maurice R. Hilleman dedicated his life to developing vaccines for mumps, measles, chickenpox, pneumonia, meningitis and other diseases, saving tens of millions of lives. He died on Monday at a hospital in Philadelphia at the age of 85.

Raised on a farm in Montana, Dr. Hilleman credited much of his success to his boyhood work with chickens, whose eggs form the foundation of so many vaccines. Much of modern preventive medicine is based on Dr. Hilleman's work, though he never received the public recognition of Salk, Sabin or Pasteur. He is credited with having developed more human and animal vaccines than any other scientist, helping to extend human life expectancy and improving the economies of many countries.

According to two medical leaders, Dr. Anthony S. Fauci, director of the National Institute of Allergy and Infectious Diseases, and Dr. Paul A. Offit, chief of infectious diseases at Children's Hospital in Philadelphia, Dr. Hilleman probably saved more lives than any other scientist in the 20th century. ''The scientific quality and quantity of what he did was amazing,'' Dr. Fauci is quoted as saying. ''Just one of his accomplishments would be enough to have made for a great scientific career. One can say without hyperbole that Maurice changed the world with his extraordinary contributions in so many disciplines: virology, epidemiology, immunology, cancer research and vaccinology.''

Dr. Hilleman developed 8 of the 14 vaccines routinely recommended: measles, mumps, hepatitis A, hepatitis B, chickenpox, meningitis, pneumonia and Haemophilus influenzae bacteria. He also developed the first generation of a vaccine against rubella, also known as German measles. The vaccines have virtually vanquished many of the once common childhood diseases in developed countries.

In addition, Dr. Hilleman overcame immunological obstacles to combine vaccines so that one shot could protect against several diseases, like the MMR vaccine for measles, mumps and rubella. He developed about 40 experimental and licensed animal and human vaccines, mostly with his team from Merck of Whitehouse Station, NJ His role in their development included lab work as well as scientific and administrative leadership.

And as a sign of his humility, Dr. Hilleman routinely credited others for their roles in advances, according to his colleagues.

Vaccine development is complex, requiring an artistry to safely produce large amounts of weakened live or dead microorganisms. Dr. Offit once said, ''Maurice was that artist: no one had the green thumb of mass production that he had.'' The hepatitis B vaccine, licensed in 1981, is credited as the first

to prevent a human cancer: a liver cancer, known as a hepatoma, that can develop as a complication of infection from the hepatitis B virus.

One of Dr. Hilleman's goals was to develop the first licensed vaccine against any viral cancer. He achieved it in the early 1970s, developing a vaccine to prevent Marek's disease, a lymphoma cancer of chickens caused by a member of the herpes virus family. Preventing the disease helped revolutionize the economics of the poultry industry. Dr. Hilleman's vaccines have also prevented deafness, blindness and other permanent disabilities among millions of people, a point made in 1988 when President Ronald Reagan presented him with the National Medal of Science, the Nation's highest scientific honor.

Because scientific knowledge about viruses was so limited when he began his career, Dr. Hilleman said that trial and error, sound judgment and luck drove much of his research. Luck played a major role in the discovery of adenoviruses. Dr. Hilleman flew a team to Missouri to collect specimens from troops suffering from influenza. But by the time his team arrived, influenza had died out. Fearing that he would be fired for an expensive useless exercise, Dr. Hilleman seized on his observation of the occurrence of a fresh outbreak of a different disease. His team discovered three new types of adenoviruses among the troops.

In the early 1950s, he made a discovery that helps prevent influenza. He detected a pattern of genetic changes that the influenza virus undergoes as it mutates. The phenomenon is known as drift—minor changes—and shift—major changes. Vaccine manufacturers take account of drift in choosing the strains of influenza virus included in the vaccines that are freshly made each influenza season. Shifts can herald a large outbreak or pandemic of influenza, and Dr. Hilleman was the first to detect the shift that caused the 1957 Asian influenza pandemic. He read an article in the New York Times on April 17, 1957, about influenza among infants in Hong Kong—cases that had escaped detection from the worldwide influenza surveillance systems. At the time, he directed the central laboratory for worldwide military influenza surveillance and was sure that the cases represented the advent of an influenza pandemic. So he immediately sent for specimens from Hong Kong and helped isolate a new strain of influenza virus. He also demanded that breeders keep roosters that would otherwise have been slaughtered so they could fertilize enough eggs to prepare 40 million doses of influenza to protect Americans against the 1957 influenza strain.

Standing tall at six-foot-one and wearing reading glasses that rested on the tip of his nose, Dr. Hilleman described himself as a renegade. He often participated in scientific meetings, where he could be irascible while amusing his colleagues with profane asides. At one of many meetings with this physician-reporter, a Thanksgiving Day dinner during a conference at the World Health Organization in Geneva in the 1980s, Dr. Hilleman said he was driven by a goal to get rid of disease and by a belief that scientists had to serve society.

Maurice Ralph Hilleman was born on Aug. 30, 1919, in Miles City, MT. His mother and twin sister died during his birth. In 1937, he went to work in the local J. C. Penney's store where he helped cowpokes, as he described his customers, pick out chenille bathrobes for their girlfriends, and he was well on the way to a career in retailing until his oldest brother suggested that he go to college. After graduating from Montana State University in 1941, he received his Ph.D. in microbiology from the University of Chicago and then joined E. R. Squibb & Sons. There, he developed a vaccine against Japanese B encephalitis to protect American troops in the World War II Pacific offensive. In 1948, he moved to the Walter Reed Army Medical Center and stayed until 1957, when Vannevar Bush, then chairman of Merck and a former director of the Federal Office of Scientific Research and Development in World War II, persuaded him to direct a virus research program for the drug company.

After retiring as senior vice president for Merck research laboratories in 1984, Dr. Hilleman continued to work on vaccines, saying they were needed for at least 20 diseases, including AIDS. Dr. Hilleman is survived by his wife, Lorraine, a retired nurse; two daughters, Jeryl Lynn of Palo Alto, CA., and Kirsten J. of New York City; two brothers, Victor, of Fontana, CA., and Norman, of Santa Barbara, CA.; and five grandchildren. His daughter Jeryl Lynn is at least in part responsible for the mumps vaccine. In 1963, when her salivary glands started to swell with the disease, Dr. Hilleman swabbed her throat and went on to isolate the virus. He then weakened it and within 4 years had produced the now-standard mumps vaccine. The weakened strain bears her name.

Mr. President, it is an honor for me to pay my respects to such a great and accomplished man as Dr. Maurice Hilleman. And it is an honor for me to call him a fellow Montanan.

## ADDITIONAL STATEMENTS

### 100 YEARS OF EXEMPLARY SERVICE

• Mr. INOUYE. Mr. President, on April 15, the U.S. Army Corps of Engineers, Honolulu Engineer District, HED, will celebrate 100 years of exemplary service to Hawaii, the Pacific region, the U.S. military and the Nation.

For an entire century, the District has served with pride and distinction. I have personally witnessed their hard work and dedication to improve the lives of our fellow citizens in many ways. They have never failed to answer the call.

The District has had a significant impact on the ability of our servicemen and women to fight the global war on terror; it has bolstered the region's economy and worked to enhance the safety of communities in and about waterways and the functionability of the many major harbors in my home State of Hawaii. In everything they do they safeguard the environment.

From civil works projects navigation, flood control and shore protection to building and maintaining the infrastructure for our military personnel, the Honolulu District is proud of its service.

The U.S. Army Corps of Engineers' missions in the Pacific region have expanded exponentially since the unit's conception in 1905 when LT John Slattery was designated as Honolulu District Engineer on the Island of Oahu.

The mission of the Twelfth Lighthouse District was to design and construct lighthouses for navigation, acquire land for military fortifications, improve the harbors and expand the Corps' services to other Pacific islands.

In its first 100 years, the Honolulu District has supported the military in peace and in war, helped protect the island from enemies and forces of nature, protected the environment and wetlands, and added to Hawaii's economic growth.

HED's legacy includes: the creation of Sand Island; the acquisition of Fort DeRussy area in Waikiki; the expansion of Honolulu Harbor; the repair of Hickam, Wheeler and Pearl Harbor airfields after the December 1941 attack; the construction of the National Memorial Cemetery of the Pacific at Punchbowl, the Tripler Army Medical Center, the Hale Koa Hotel and numerous military and federal construction projects; and the creation of the Kaneohe-Kailua Dam, as well as a host of disaster mitigation and assistance measures.

At the beginning of the 20th century, HED constructed six deep-draft harbors on the five major Hawaiian Islands and three crucial lighthouses for navigation.

Under Slattery's command, the District began transforming the swampy coral reef used as a quarantine station in Honolulu Harbor into what is now known as Sand Island. Lt. Slattery's contributions are honored today with the Lt. John R. Slattery Bridge which connects Sand Island with the City of Honolulu.

He later purchased the 74-acre Fort DeRussy area in Waikiki for just $2,700 an acre for use as a military fortification. At the time, the land was little more than a swampy parcel. Today the area provides a valuable green oasis in the heart of Waikiki.

Throughout the 20th century, HED supported Oahu's defense by building a multitude of coastal fortifications including Pearl Harbor, Forts Ruger,

Armstrong, Weaver, Barrette and Kamehameha as well as Batteries Randolph, Williston, Hatch, and Harlow.

Changes in technology and the approach of World War I changed HED's missions. Batteries and forts were supplemented with artillery fire control and submarine mine defense systems.

As cars began replacing horse-drawn wagons, HED built new roads and tunnels to transport equipment and troops. The District enlarged Honolulu Harbor to 1,000 feet long and 800 feet wide—a critical project because the newly-created Panama Canal had transformed Honolulu into a major port-of-call for ships needing coal and supplies.

The District's role in the Pacific increased dramatically during World War II. At the height of the war, HED employed more than 26,000 people. Not only was the District creating the new airfield ferry routes and repairing the damaged airfields at Hickam, Wheeler and Pearl Harbor, but the District was also tasked with additional responsibilities beyond its normal realm.

The District was suddenly responsible for determining shipping priorities in the harbor; converting sugarcane and pineapple plantations to vegetable farms; organizing a rationing program for oil and other consumer goods; camouflaging equipment and landmarks; building trenches and air raid shelters; erecting radar stations and excavating extensive underground rooms and tunnels for ammunition storage.

Before war was declared, the District had been creating a new Airfield Ferry Route System. The original route from the Philippines, Marianas, Wake Island, Midway, Hawaii to California was considered vulnerable to Japanese attack. New air ferry routes to the east and south were necessary to the war effort and the military buildup in Australia.

Building seven runways and support facilities on small, remote islands presented a number of challenges involving materials, manpower and water shortages, communication, transportation and geographical topography. The southern route, from California, Hawaii, Christmas, Canton, Fiji, New Caledonia to Australia and the eastern route, from Christmas, Penrhyn, Aitutaki, Tongatabu, Norfolk to Sydney, were finished by the 1-year anniversary of the attack on Pearl Harbor—an impressive accomplishment by any standard.

When the war ended, HED had constructed 69 miles of runways and taxiways, and 2,700,000 square yards of aircraft parking area.

Although the District's workload diminished after the war, the post-war years were anything but quiet as HED continued to supply engineering troops overseas and to dispose of real estate on the islands.

The Corps was also busy with major endeavors including construction of Tripler Army Medical Center, the National Memorial Cemetery of the Pacific at Punchbowl, and flood control and shore protection projects critical to the safety and future enjoyment of many communities.

Tripler Army Medical Center, commonly known as the ''Pink Lady,'' was completed in 1948 at a cost of $40 million. The 14-story, 1,500-bed hospital was an extensive project featuring 12 separate buildings—each constructed separately to make the Medical Center earthquake-resistant. Today, Tripler continues serving military members and their families from around the Pacific, as well as Hawaii's veterans and military retirees.

During the 1960s and 1970s, new Federal policies further expanded HED's duties. The National Environmental Policy Act of 1969 required the Corps to prepare environmental impact statements, EIS, on all proposed federal actions affecting the environment. The Clean Water Act of 1977 brought changes to the Corps' regulatory mission and required the Corps to issue permits for all dredged or fill material. The Corps was now responsible for all the nation's water and wetlands—a scope that now stretches far beyond navigable waters. This began the Corps' mission as ''Stewards of the Environment.''

The 1970s were also a time of internal change for the District. In 1973, the functions of the Pacific Ocean Division and the Honolulu Engineer District were merged to form a single operating division. The Division moved from Fort Armstrong to its present location at Fort Shafter on Oahu.

Civil works and capital improvement programs expanded to Guam, American Samoa, Kwajalein and the Commonwealth of the Northern Mariana Islands. Main projects on Oahu included building military housing and improving facilities at Hickam AFB, Wheeler, Schofield, Aliamanu and Fort Shafter.

In 1973, HED began construction of the Hale Koa Military Rest and Recreational Hotel at Fort DeRussy in Waikiki. The original highrise hotel tower has 416 rooms, 15 floors and was built for $15.7 million.

Nearby Battery Randolph was transformed into the U.S. Army Museum. The second floor of the museum today houses the U.S. Army Corps of Engineers Pacific Regional Visitors Center.

The Corps' responsibilities were further expanded in 1980 with the addition of an Emergency Management Division. In July 2002, HED disaster recovery specialists provided support in the wake of Typhoon Chataan. Just 6 months later, HED responded swiftly in December 2002 when Pacific Ocean Division disaster recovery specialists were called upon and arrived 2 days after Super Typhoon Pongsona devastated Guam with 184-mph winds. Within 2 weeks, more than 100 members from all eight Corps of Engineers divisions were on the ground to execute a $20 million in disaster cleanup.

In the fall of 2004, HED sent emergency management teams and manpower to Florida, Louisiana, Alabama and South Carolina in response to the devastation by Hurricanes Ivan, Charley, and Frances.

HED today continues to serve a variety of missions in a region of 12 million square miles from Hawaii to Micronesia an area of operations spanning five time zones, the equator and the international dateline. This they have done with the utmost of professionalism, integrity and an unwavering commitment to service.

I am truly honored to have the Honolulu Engineer District in my home State. They serve as ''America's Engineers in the Pacific.'' I have no doubt that they will continue their service and legacy with pride and aloha for the next hundred years and beyond. Happy Birthday. Congratulations on a job well done. On behalf of a grateful Nation, thank you for your service.●

## MR. RALPH DREES

● Mr. BUNNING. Mr. President, I pay tribute and congratulate Mr. Ralph Drees of Northern KY, who was recently honored with one of the ''Movers and Shakers'' awards for the Greater Cincinnati area. Mr. Drees' life accomplishments and dedication to Commonwealth of Kentucky have given me reason to be proud.

Mr. Drees was born in 1934 and grew up in Wilder, KY. After graduating from Newport Catholic High School in 1952, he was drafted and went on to serve in the Army Corps of Engineers. At the age of 23 he returned home to Kentucky to join his father and brother in the family business. This business, the Drees Company, has grown to become the largest privately held company within the greater Cincinnati area.

Throughout his life, Mr. Drees has always been active in civic affairs in Northern Kentucky. He's served as an Erlanger councilman, president of Home Builders Association of Northern Kentucky and member of the Northern Kentucky Area Planning Commission. In 1990, he was named the Northern Kentucky Chamber of Commerce's Business Person of the year.

The ''Movers and Shakers'' award of Northern Kentucky is an annual award presented to honor those within the Greater Cincinnati region who stand as an example for all. It is presented by the Kentucky Enquirer, the Sales and Marketing Council of Northern Kentucky, The Home Builders Association of Northern Kentucky and The Kentucky Post.

As a U.S. Senator from Kentucky, I appreciate the devotion Mr. Drees has shown over the years to the citizens of Kentucky. I commend his efforts and hope his example of dedication and hard work will serve as an inspiration to the entire State.●

## HONORING DR. PATRICK J. SCHLOSS

• Mr. JOHNSON. Mr. President, I rise today to publicly recognize the inauguration of Dr. Patrick J. Schloss as the 15th President of Northern State University in Aberdeen, SD.

A dedicated scholar, diligent educator and attentive family man, Dr. Schloss certainly deserves this great honor and responsibility. After obtaining both his bachelors degree in special education and his masters degree in counseling from Illinois State University, Patrick went on to earn his doctorate in rehabilitation psychology from the University of Wisconsin.

Dr. Schloss is a man of great scholarship and knowledge. A prolific writer and frequent contributor to professional literature, his writings about special education methods relating to vocational education and community integration are studied in colleges and universities throughout the Nation.

Prior to joining the faculty of Bloomsburg University in Pennsylvania, Dr. Schloss held numerous administrative and academic positions at the University of Missouri and Pennsylvania State University. While at Bloomsburg, he served as assistant vice president and dean of graduate studies from 1994 until 2000, when he was appointed provost and vice president for academic affairs. Under Patrick's direction, Bloomsburg's enrollment not only increased 12 percent, but the university launched its undergraduate engineering and doctoral programs, as well.

In addition to his passion for education, Dr. Schloss served as president of the Pennsylvania Association of Graduate Schools, and also held board, committee, and task force appointments on behalf of the Council for Exceptional Children and the Association for Retarded Citizens.

It is an honor for me to share Dr. Schloss's accomplishments with my colleagues and to publicly commend him for his extraordinary academic career. Serving as president of Northern State University is an honor he richly deserves, and I am certain he will prove to be a tremendous asset to the university and the entire Aberdeen community. On behalf of all South Dakotans, I would like to congratulate Dr. Schloss and wish him all the best.•

## HONORING THE SPEARFISH HIGH SCHOOL PARTICIPANTS IN THE ''WE THE PEOPLE'' COMPETITION

• Mr. JOHNSON. Mr. President, on April 30–May 2, 2005, more than 1,200 students from across the United States will visit Washington, DC, to compete in the national finals of We the People: The Citizen and the Constitution Program. This is the most extensive educational program in the country developed specifically to educate young people about the Constitution and the Bill of Rights. Administered by the Center for Civic Education, the We the People program is funded by the U.S. Department of Education by act of Congress.

I am proud to announce that the class from Spearfish High School will represent the state of South Dakota in this national event. These young scholars have worked conscientiously to reach the national finals by participating at local and statewide competitions. As a result of their experience, they have gained a deep knowledge and understanding of the fundamental principles and values of our constitutional democracy.

The 3-day We the People national competition is modeled after hearings in the U.S. Congress. The hearings consist of oral presentations by high school students before a panel of adult judges on constitutional topics. The students are given an opportunity to demonstrate their knowledge while they evaluate, develop, and defend positions on relevant historical and contemporary issues. Their testimony is followed by a period of questioning by the judges, who probe the students' depth of understanding and ability to apply their constitutional knowledge.

The We the People program provides curricular materials at upper elementary, middle, and high school levels. The curriculum not only enhances students' understanding of the institutions of American constitutional democracy, it also helps them identify the contemporary relevance of the Constitution and Bill of Rights. Critical thinking exercises, problem-solving activities, and cooperative learning techniques help develop participatory skills necessary for students to become active, responsible citizens.

The class from Spearfish High School is currently preparing for their participation in the national competition in Washington, DC. It is inspiring to see these young people advocate the fundamental ideals and principles of our Government, ideas that identify us as a people and bind us together as a nation. It is important for future generations to understand these values and principles that we hold as standards in our endeavor to preserve and realize the promise of our constitutional democracy. Congratulations to Bethany Baker, Brandon Bentley, Hannah Bucher, Meghan Byrum, Joe Cooch, Jenna Eddy, Elise Foltz, Amber Ginter, Meggan Joachim, Frankelly Martinez Garcia, Lauren Meyers, Jason Nies, Emily Oldekamp, Aly Oswald, Jessica Richey, Lauren Schempf, Lindsay Senden, Janette Sigle, Nick Smith, Brent Swisher, Calli Tetrault, Kaysie Tope, and their teacher, Patrick Gainey. I wish these young constitutional scholars the very best at the We the People national finals.•

## RECOGNIZING THE 50TH ANNIVERSARY OF THE DENVER REGIONAL COUNCIL OF GOVERNMENTS (DRCOG)

• Mr. SALAZAR. Mr. President, I rise today to recognize a model of intergovernmental cooperation from my home State of Colorado: the Denver Regional Council of Governments, known as DRCOG.

DRCOG is a nonprofit, cooperative effort of the 51 county and municipal governments in the Denver metropolitan area, representing two and a half million residents, with another million expected by 2030, across eight counties: Adams, Arapahoe, Boulder, Broomfield, Clear Creek, Denver, Douglas, Gilpin and Jefferson. It was founded 50 years ago as the Inter-County Regional Planning Association, conceived as a place where local officials could work cooperatively to solve the region's problems. And it is a voluntary organization—the members are choosing to work together for mutual benefit.

DRCOG champions efforts in a number of areas, including services for seniors, transportation and commuter solutions, public safety training and testing, where it has repeatedly benefited from the highly successful COPS Program, as well as regional growth and water quality plans. It has focused on long-term plans to solve these issues, including developing understandable, fair and objective project selection processes for regional projects eligible for Federal, State and local funds and a long-term regional growth plan.

Last night was DRCOG's Annual Awards Dinner, where it will hand out a number of awards, including the John V. Christensen Memorial Award. Named after one of DRCOG's cofounders, the late John Christensen was a county commissioner for Arapahoe County and one of the Denver area's biggest proponents of cooperative problem solving for the metro area. The Christensen award will go tonight to a regionalist who has displayed outstanding commitment to working for the region's common good. Past award recipients have included Colorado State legislators, mayors, county commissioners, as well as county planners, regional leaders, and others during the award's 32-year history.

DRCOG has strived to speak, as its motto says, ''With One Voice.'' Its members have eschewed partisanship and ideological bickering to focus on a single goal: Cooperative problem solving that benefits all of the people of the Denver metro area. By coming to the table with the commitment to work towards a common solution, DRCOG has exemplified what we seek in our leaders: Thoughtful consideration and deliberate action.

DRCOG is exactly the kind of effort to which we all aspire, a place for ideas and insight, for working in a nonpartisan fashion across jurisdictional lines. I applaud the accomplishments and efforts of the Denver Regional Council of Governments and look forward to its continued success.•

## 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.)

## MESSAGES FROM THE HOUSE

At 2:10 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 8. An act to make the repeal of the estate tax permanent.

H.R. 483. An act to designate a United States courthouse in Brownsville, Texas, as the ''Reynaldo G. Garza and Filemon B. Vela United States Courthouse''.

H.R. 787. An act to designate the United States courthouse located at 501 I Street in Sacramento, California, as the ''Robert T. Matsui United States Courthouse''.

H.R. 1463. An act to designate a portion of the Federal building located at 2100 Jamieson Avenue, in Alexandria, Virginia, as the ''Justin W. Williams United States Attorney's Building''.

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At 3:41 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 bill, without amendment:

S. 256. An act to amend title 11 of the United States Code, and for other purposes.

## ENROLLED BILLS SIGNED

At 4:27 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker of the House of Representatives has signed the following enrolled bill:

S. 256. An act to amend title 11 of the United States Code, and for other purposes.

The enrolled bill was signed subsequently by the President pro tempore (Mr. STEVENS).

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At 5:25 p.m., a message from the House of Representatives, delivered by one of its clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 1134. An act to amend the Internal Revenue Code of 1986 to provide for the proper tax treatment of certain disaster mitigation payments.

The enrolled bill was signed subsequently by the President pro tempore (Mr. STEVENS).

## MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 483. An act to designate a United States courthouse in Brownsville, Texas, as the ''Reynaldo G. Garza and Filemon B. Vela United States Courthouse''; to the Committee on Environment and Public Works.

H.R. 1463. An act to designate a portion of the Federal building located at 2100 Jamieson Avenue, in Alexandria, Virginia, as the ''Justin W. Williams United States Attorney's Building''; to the Committee on Environment and Public Works.

## 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–1697. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''CORRECTION: Modification of Restricted Areas 5103A, 5103B, and 5103C, and Revocation of Restricted Area 5103D; McGregor, NM'' ((RIN2120–AA66) (2005–0054)) received on April 4, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1698. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Revision of Colored Federal Airway; AK'' ((RIN2120–AA66) (2005–0045)) received on April 4, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1699. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of VOR Federal Airway 623'' ((RIN2120–AA66) (2005–0044)) received on April 4, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1700. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class D and E Airspace; Olive Branch, MS and Amendment of Class E Airspace; Memphis TN'' ((RIN2120–AA66) (2005–0043)) received on April 4, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1701. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Revocation of Class D Airspace; South Lake Tahoe, CA'' ((RIN2120–AA66) (2005–0042)) received on April 4, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1702. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E2 Airspace; Wichita Colonel James Jabara Airport, KS'' ((RIN2120–AA66) (2005–0050)) received on April 4, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1703. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E2 Airspace; and Modification of Class E5 Airspace; Independence, KS'' ((RIN2120–AA66) (2005–0051)) received on April 4, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1704. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E2 Airspace; Lawrence, KS'' ((RIN2120–AA66) (2005–0052)) received on April 4, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1705. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E2 Airspace; and Modification of Class E5 Airspace; Newton, IA '' ((RIN2120–AA66) (2005–0067)) received on April 4, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1706. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E2 Airspace; and Modification of Class E5 Airspace; Newton, KS'' ((RIN2120–AA66) (2005–0073)) received on April 4, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1707. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Revision of Class E Airspace; Point Lay, AK'' ((RIN2120–AA66) (2005–0063)) received on April 4, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1708. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E2 Airspace; and Modification of Class E5 Airspace; Ames, IA'' ((RIN2120–AA66) (2005–0072)) received on April 4, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1709. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E2 Airspace; and Modification of Class E5 Airspace; Ankeny, IA'' ((RIN2120–AA66) (2005–0071)) received on April 4, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1710. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Class E, E2, and E4 Airspace; Columbus Lawson AAF, GA, and Class E5 Airspace; Columbus, GA: CORRECTION'' ((RIN2120–AA66) (2005–0074)) received on April 4, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1711. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Revision of Class E Airspace; Ketchikan, AK'' ((RIN2120–AA66) (2005–0062)) received on April 4, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1712. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment to Class E Airspace; Presque Isle, ME'' ((RIN2120–AA66) (2005–0079)) received on April 4, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1713. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: The Cessna Aircraft Company Models C208 and C208B Airplanes; REQUEST FOR COMMENTS'' ((RIN2120–AA64) (2005–0172)) received on April 4, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1714. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Aging Aircraft Safety; DISPOSITION OF COMMENTS'' ((RIN2120–AE42) (2005–0001)) received on April 4, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1715. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Noise Limitations for Aircraft Operations in the Vicinity of Grand Canyon National Park'' (RIN2120–AG34) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1716. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Repair Stations; DELAY OF EFFECTIVE DATE'' (RIN2120–AI60) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1717. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Passenger Facility Charge Program, Non–Hub Pilot Program and Related Changes'' (RIN2120–AI15) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1718. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Rules of Practice in FAA Civil Penalty Actions; technical amendment'' (RIN2120–ZZ72) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1719. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Emergency Medical Equipment'' (RIN2120–AI55) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1720. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Rules of Practice in FAA Civil Penalty Actions; technical amendment'' ((RIN2120–ZZ72) (2005–0002)) received on April 7, 2005 ; to the Committee on Commerce, Science, and Transportation.

EC–1721. A communication from the Executive Director, Air Transportation Stabilization Board, transmitting, pursuant to law , the report of a rule entitled ''14 CFR Chapter VI, Subchapter B, Air Transportation Stabilization Board, PART 1310, Air Carrier Guarantee Loan Program Administrative Regulations and Amendment or Waiver of a Term or Condition of a Guaranteed Loan'' (RIN1505–AA98) received March 28, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1722. A communication from the Deputy Assistant Secretary for Export Administration, Bureau of Industry and Security, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Amendments Affecting the Country Scope of the End-User/End-Use Controls in Section 744.4 of the Export Administration Regulations (EAR)'' (RIN0694–AD15) received on April 11, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1723. A communication from the Director, Industry Programs , International Trade Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Steel Import Monitoring and Analysis System'' (RIN0625–AA64) received on April 4, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1724. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''NMFS is Prohibiting Directed Fishing for Pollock in Statistical Area 610 of the Gulf of Alaska (GOA)'' received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1725. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Closure of Directed Fishing for Yellowfin Sole by Vessels Using Trawl Gear in Bycatch Limitation Zone 1 of the Bering Sea and Aleutian Islands Management Area'' received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1726. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Closure of Pacific Cod to Catcher/Processors Using Trawl Gear in Bering Sea and Aleutian Islands Management Area'' received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1727. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Closure of Pacific Cod to Catcher Vessels Using Trawl Gear in Bering Sea and Aleutian Islands Management Area'' received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1728. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Closure of Directed Fishing for Pacific Cod by Specified Sectors in the Western and Central Regulatory Areas of the Gulf of Alaska (GOA)'' received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1729. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Closure of Pacific Cod by Catcher/Processor Vessels Using Hook-and-Line Gear in the Bering Sea and Aleutian Islands Management Area'' received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1730. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Notice of Fishing Season Dates for the Sablefish Fixed Gear Individual Fishing Quota (IFQ) Program'' received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1731. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''NMFS is Prohibiting Directed Fishing for Pacific Cod by Catcher Vessels Less than 60 ft (18.3 meters (m)) length overall (LOA) Using Jig or Hook-and-Line Gear in the Bogoslof Pacific Cod Exemption Area of the Bering Sea and Aleutian Islands Management Area'' received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1732. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Closure of Groundfish by Vessels Using Non-Pelagic Trawl Gear in the Red King Crab Savings Subarea'' received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1733. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''NMFS is Prohibiting Directed Fishing for Pacific Cod by Catcher Vessels 60 Feet (18.3 Meters (m)) Length Overall and Longer Using Hook–and–Line Gear in the Bering Sea and Aleutian Islands Management Area (BSAI)'' received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1734. A communication from the Assistant Administrator, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Atlantic Highly Migratory Species; Atlantic Bluefin Tuna Quota Specifications, General Category Effort Controls, and Catch-and-Release Provision'' ((RIN0648) (I.D. No. 072304B)) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1735. A communication from the Secretary, Federal Maritime Commission, transmitting, pursuant to law, the report of a rule entitled ''Update of Existing and Addition of New Filing Fees (Docket No. 04–11) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1736. A communication from the Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Atlantic Highly Migratory Species; Bluefin Tuna Fisheries; Angling Category Closure'' (I.D. No. 030405B) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1737. A communication from the Secretary of the Commission , Bureau of Competition, Federal Trade Commission, transmitting, pursuant to law, the report of a rule entitled ''16 CFR Parts 801, 802 and 803 Premerger Notification: Reporting and Waiting Period Requirements; Final Rule and Confirming Changes to HSR Formal Interpretations (Issuance of Formal Interpretation 18 and Repeal of Formal Interpretation 15)'' (RIN3084–AA91) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1738. A communication from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Evergreen, Alabama, and Shalimar, Florida'' (MB Docket No. 04–219) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1739. A communication from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Chillicothe, Dublin, Hillsboro, and Marion, Ohio)'' (MB Docket No. 02–266, RM–10557) received on April 7, 2005 ; to the Committee on Commerce, Science, and Transportation.

EC–1740. A communication from the Acting Chief, Consumer and Governmental Affairs Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Rules and Regulations Implementing the Telephone Consumer

Protection Act of 1991, CG Docket No. 02–278 Second Order on Reconsideration'' (FCC 05–28) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1741. A communication from the Acting Chief, Consumer and Governmental Affairs Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Provision of Improved Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, Order on Reconsideration'' (FCC 05–48) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1742. A communication from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Gunnison, Crawford, and Olathe, Breckenridge, Eagle, Fort Morgan, Greenwood Village, Loveland, and Stasburg, CO, and Laramie, WY'' (MB Docket No. 03–144) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1743. A communication from the Secretary of Commerce, transmitting, a report of proposed legislation relative to the U .S. Ocean Action Plan; to the Committee on Commerce, Science, and Transportation.

EC–1744. A communication from the Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the Administration's 2005 annual report entitled ''Atlantic Highly Migratory Species''; to the Committee on Commerce, Science, and Transportation.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. SPECTER, from the Committee on the Judiciary, with an amendment:

S. 119. A bill to provide for the protection of unaccompanied alien children, and for other purposes.

By Mr. SPECTER, from the Committee on the Judiciary, without amendment:

S. 555. A bill to amend the Sherman Act to make oil-producing and exporting cartels illegal.

## EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

Mr. STEVENS. Mr. President, for the Committee on Commerce, Science, and Transportation I report favorably the following nomination lists which were printed in the Records on the dates indicated, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar that these nominations lie at the Secretary's desk for the information of Senators.

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

Coast Guard nominations beginning with Curtis L. Sumrok and ending with Jed R. Boba, which nominations were received by the Senate and appeared in the Congressional Record on March 14, 2005.

Coast Guard nominations beginning with Michael T. Cunningham and ending with David K. Young, which nominations were received by the Senate and appeared in the Congressional Record on March 14, 2005.

National Oceanic and Atmospheric Administration nominations beginning with Paul Andrew Kunicki and ending with Lindsey M. Vandenberg, which nominations were received by the Senate and appeared in the Congressional Record on April 4, 2005.

By Mr. SPECTER for the Committee on the Judiciary.

Thomas B. Griffith, of Utah, to be United States Circuit Judge for the District of Columbia Circuit.

James C. Dever III, of North Carolina, to be United States District Judge for the Eastern District of North Carolina.

Robert J. Conrad, Jr., of North Carolina, to be United States District Judge for the Western District of North Carolina.

By Mr. ROBERTS for the Select Committee on Intelligence.

*John D. Negroponte, of New York, to be Director of National Intelligence.

*Lieutenant General Michael V. Hayden, United States Air Force, to be Principal Deputy Director of National Intelligence.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. ENSIGN (for himself, Mr. AKAKA, and Mr. VOINOVICH):

S. 780. A bill to amend title 10, United States Code, to establish the position of Deputy Secretary of Defense for Management, and for other purposes; to the Committee on Armed Services.

By Mr. CRAPO:

S. 781. A bill to preserve the use and access of pack and saddle stock animals on land administered by the National Park Service, the Bureau of Land Management, the United States Fish and Wildlife Service, or the Forest Service on which there is a historical tradition of the use of pack and saddle stock animals, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. FEINGOLD:

S. 782. A bill to amend title 37, United States Code, to authorize travel and transportation for family members of members of the Armed Forces hospitalized in the United States in connection with non-serious illnesses or injuries incurred or aggravated in a contingency operation, and for other purposes; to the Committee on Armed Services.

By Mr. KYL (for himself, Mr. CORNYN, and Mr. COBURN):

S. 783. A bill to repeal the sunset on the 2004 material-support enhancements, to increase penalties for providing material support to terrorist groups, to bar from the United States aliens who have received terrorist training, and for other purposes; to the Committee on the Judiciary.

By Mr. THOMAS (for himself and Mrs. LINCOLN):

S. 784. A bill to amend title XVIII of the Social Security Act to provide for the coverage of marriage and family therapist services and mental health counselor services under part B of the medicare program, and for other purposes; to the Committee on Finance.

By Mr. LOTT (for himself and Mrs. LINCOLN):

S. 785. A bill to amend the Internal Revenue Code of 1986 to modify the small refiner exception to the oil depletion deduction; to the Committee on Finance.

By Mr. SANTORUM:

S. 786. A bill to clarify the duties and responsibilities of the National Weather Service, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. SCHUMER (for himself, Mr. KENNEDY, Mrs. CLINTON, Mr. LEVIN, Mr. DURBIN, Mr. SARBANES, Mr. KERRY, Mr. CARPER, Mrs. FEINSTEIN, Ms. MIKULSKI, Mr. LAUTENBERG, and Mr. SALAZAR):

S. 787. A bill to amend the Internal Revenue Code of 1986 to equalize the exclusion from gross income of parking and transportation fringe benefits and to provide for a common cost-of-living adjustment, and for other purposes; to the Committee on Finance.

By Mr. SANTORUM:

S. 788. A bill to suspend temporarily the duty on Liquid Crystal Device panel assemblies for use in Liquid Crystal Device direct view televisions; to the Committee on Finance.

By Mr. SANTORUM:

S. 789. A bill to suspend temporarily the duty on Liquid Crystal Device panel assemblies for use in Liquid Crystal Device projection type televisions; to the Committee on Finance.

By Mr. SANTORUM:

S. 790. A bill to suspend temporarily the duty on electron guns for high definition cathode ray tubes; to the Committee on Finance.

By Mr. SANTORUM:

S. 791. A bill to suspend temporarily the duty on flat panel screen assemblies for use in televisions; to the Committee on Finance.

By Mr. DORGAN (for himself, Mr. SPECTER, Mr. DAYTON, Mr. COLEMAN, Mr. CONRAD, Mr. JOHNSON, Mr. LUGAR, and Mr. DURBIN):

S. 792. A bill to establish a National sex offender registration database, and for other purposes; to the Committee on the Judiciary.

By Mr. DURBIN:

S. 793. A bill to establish national standards for discharges from cruise vessels into the waters of the United States, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. HARKIN:

S. 794. A bill to amend title 23, United States Code, to improve the safety of nonmotorized transportation, including bicycle and pedestrian safety; to the Committee on Commerce, Science, and Transportation.

By Mr. DODD (for himself and Mr. WARNER):

S. 795. A bill to provide driver safety grants to States with graduated driver licensing laws that meet certain minimum requirements; to the Committee on Environment and Public Works.

By Ms. MURKOWSKI:

S. 796. A bill to amend the National Aquaculture Act of 1980 to prohibit the issuance of permits for marine aquaculture facilities until requirements for such permits are enacted into law; to the Committee on Agriculture, Nutrition, and Forestry.

By Ms. MURKOWSKI (for herself and Mr. STEVENS):

S. 797. A bill to amend the Magnuson-Stevens Fishery Conservation and Management Act to clarify the status of certain communities in the western Alaska community development quota program; to the Committee on Commerce, Science, and Transportation.

By Mr. FEINGOLD (for himself, Mr. CORZINE, Mr. DAYTON, Mr. DURBIN,

Mr. LAUTENBERG, Ms. MIKULSKI, and Mrs. MURRAY):

S. 798. A bill to amend the Family and Medical Leave Act of 1993 and title 5, United States Code, to provide entitlement to leave to eligible employees whose spouse, son, daughter, or parent is a member of the Armed Forces who is serving on active duty in support of a contingency operation or who is notified of an impending call or order to active duty in support of a contingency operation, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. KENNEDY:

S. 799. A bill to amend the Public Health Service Act to provide for the coordination of Federal Government policies and activities to prevent obesity in childhood, to provide for State childhood obesity prevention and control, and to establish grant programs to prevent childhood obesity within homes, schools, and communities; to the Committee on Health, Education, Labor, and Pensions.

By Ms. COLLINS (for herself, Mr. LIEBERMAN, Mr. VOINOVICH, Mr. AKAKA, Ms. LANDRIEU, and Mr. DURBIN):

S. 800. A bill to amend the District of Columbia Home Rule Act to provide the District of Columbia with autonomy over its budgets, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

By Mr. NELSON of Florida:

S. 801. A bill to designate the United States courthouse located at 300 North Hogan Street, Jacksonville, Florida, as the ''John Milton Bryan Simpson United States Courthouse''; to the Committee on Environment and Public Works.

By Mr. DOMENICI (for himself, Mr. BAUCUS, Mr. BURNS, Mr. JOHNSON, Mr. ROBERTS, Mr. BINGAMAN, Mr. ALLARD, Mr. WYDEN, Mr. SMITH, Mr. HAGEL, and Mr. BROWNBACK):

S. 802. A bill to establish a National Drought Council within the Department of Agriculture, to improve national drought preparedness, mitigation, and response efforts, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry .

By Mr. COLEMAN (for himself and Mrs. CLINTON):

S. 803. A bill to amend the Employee Retirement Income Security Act of 1974, the Public Health Service Act, and the Internal Revenue Code of 1986 to provide parity with respect to substance abuse treatment benefits under group health plans and health insurance coverage; to the Committee on Health, Education, Labor, and Pensions.

By Mr. VITTER:

S. 804. A bill to amend the Internal Revenue Code of 1986 to allow certain coins to be acquired by individual retirement accounts and other individually directed pension plan accounts, and for other purposes; to the Committee on Finance.

By Mr. VITTER:

S. 805. A bill to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to allow the area of a Presidentially declared disaster to include the outer Continental Shelf; to the Committee on Homeland Security and Governmental Affairs.

By Mr. CRAIG (for himself and Mr. AKAKA):

S. 806. A bil to amend title 38, United States Code, to provide a traumatic injury protection rider to servicemembers insured under section 1967(a)(1) of such title; to the Committee on Veterans' Affairs.

By Mr. CRAIG (for himself, Mr. CRAPO, and Mr. SMITH):

S. 807. A bill to amend the Federal Land Policy and Management Act of 1976 to provide owners of non-Federal lands with a reliable method of receiving compensation for damages resulting from the spread of wildfire from nearby forested National Forest System lands or Bureau of Land Management lands, when those forested Federal lands are not maintained in the forest health status known as condition class 1; to the Committee on Energy and Natural Resources.

By Mr. DURBIN (for himself and Ms. COLLINS):

S. 808. A bill to encourage energy conservation through bicycling; to the Committee on Commerce, Science, and Transportation.

By Mr. LAUTENBERG (for himself, Mr. CORZINE, and Mrs. BOXER):

S. 809. A bill to establish certain duties for pharmacies when pharmacists employed by the pharmacies refuse to fill valid prescriptions for drugs or devices on the basis of personal beliefs, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. CLINTON:

S. 810. A bill to regulate the transmission of personally identifiable information to foreign affiliates and subcontractors; to the Committee on the Judiciary.

By Mr. HATCH (for himself, Mrs. FEINSTEIN, Mr. THUNE, Mr. TALENT, Mr. ALEXANDER, Mr. ALLARD, Mr. ALLEN, Mr. BAUCUS, Mr. BROWNBACK, Mr. BURNS, Mr. BURR, Mr. CHAMBLISS, Mr. COBURN, Mr. COLEMAN, Ms. COLLINS, Mr. CORNYN, Mr. CRAIG, Mr. CRAPO, Mr. DEWINE, Mr. DOMENICI, Mr. ENSIGN, Mr. ENZI, Mr. FRIST, Mr. GRAHAM, Mr. GRASSLEY, Mr. INHOFE, Mr. KYL, Mrs. LINCOLN, Mr. LOTT, Mr. LUGAR, Mr. MCCAIN, Mr. ROBERTS, Mr. SANTORUM, Mr. SESSIONS, Mr. SHELBY, Mr. THOMAS, Mr. VITTER, Mr. WARNER, Mr. BOND, Mr. BUNNING, Mr. DEMINT, Mrs. DOLE, Mr. GREGG, Mr. HAGEL, Mrs. HUTCHISON, Mr. JOHNSON, Mr. MARTINEZ, Mr. NELSON of Nebraska, Ms. SNOWE, Mr. SPECTER, and Mr. STEVENS):

S.J. Res. 12. A joint resolution proposing an amendment to the Constitution of the United States authorizing Congress to prohibit the physical desecration of the flag of the United States; to the Committee on the Judiciary.

By Mr. BROWNBACK (for himself and Mr. INHOFE):

S.J. Res. 13. A joint resolution proposing an amendment to the Constitution of the United States relative to marriage; to the Committee on the Judiciary.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Ms. COLLINS (for herself, Mr. DURBIN, Mr. LIEBERMAN, Mr. STEVENS, Mr. VOINOVICH, Mr. AKAKA, Mr. COLEMAN, Mr. LEVIN, Mr. COBURN, Mr. DEWINE, Ms. LANDRIEU, and Mr. LAUTENBERG):

S. Res. 107. A resolution commending Annice M. Wagner, Chief Judge of the District of Columbia Court of Appeals, for her public service; to the Committee on Homeland Security and Governmental Affairs.

By Mr. AKAKA (for himself, Mr. VOINOVICH, Ms. COLLINS, Mr. LIEBERMAN, Mr. COLEMAN, Mr. LEVIN, Mr. COBURN, and Mr. CARPER):

S. Res. 108. A resolution expressing the sense of the Senate that public servants should be commended for their dedication and continued service to the Nation during Public Service Recognition Week, May 2 through 8, 2005; to the Committee on Homeland Security and Governmental Affairs.

By Mr. INHOFE (for himself and Mr. COBURN):

S. Res. 109. A resolution commending the University of Oklahoma Sooners men's gymnastics team for winning the National Collegiate Athletic Association Division I Mens' Gymnastics Championship; considered and agreed to.

By Mr. INHOFE (for himself and Mr. COBURN):

S. Res. 110. A resolution commending Oklahoma State University's wrestling team for winning the 2005 National Collegiate Athletic Association Division I Wrestling Championship; considered and agreed to.

By Mr. KENNEDY (for himself, Mr. FRIST, Mr. LEVIN, Mr. KERRY, Ms. MIKULSKI, Mr. BOND, Mr. BAYH, Mr. AKAKA, Mr. REID, Mr. JOHNSON, Mrs. MURRAY, and Mrs. DOLE):

S. Con. Res. 27. A concurrent resolution honoring military children during ''National Month of the Military Child''; considered and agreed to.

## ADDITIONAL COSPONSORS

S. 7

At the request of Mr. KYL, the name of the Senator from Kansas (Mr. ROBERTS) was added as a cosponsor of S. 7, a bill to increase American jobs and economic growth by making permanent the individual income tax rate reductions, the reduction in the capital gains and dividend tax rates, and the repeal of the estate, gift, and generation-skipping transfer taxes.

S. 78

At the request of Mrs. HUTCHISON, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 78, a bill to make permanent marriage penalty relief.

S. 172

At the request of Mr. DEWINE, the name of the Senator from Kentucky (Mr. BUNNING) was added as a cosponsor of S. 172, a bill to amend the Federal Food, Drug, and Cosmetic Act to provide for the regulation of all contact lenses as medical devices, and for other purposes.

S. 185

At the request of Mr. NELSON of Florida, the names of the Senator from Oregon (Mr. SMITH) and the Senator from Arkansas (Mr. PRYOR) were added as cosponsors of S. 185, a bill to amend title 10, United States Code, to repeal the requirement for the reduction of certain Survivor Benefit Plan annuities by the amount of dependency and indemnity compensation and to modify the effective date for paid-up coverage under the Survivor Benefit Plan.

S. 267

At the request of Ms. MURKOWSKI, her name was added as a cosponsor of S. 267, a bill to reauthorize the Secure Rural Schools and Community Self-Determination Act of 2000, and for other purposes.

S. 268

At the request of Mr. HARKIN, the name of the Senator from South Carolina (Mr. GRAHAM) was added as a cosponsor of S. 268, 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. 285

At the request of Mr. BOND, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 285, a bill to reauthorize the Children's Hospitals Graduate Medical Education Program.

S. 300

At the request of Ms. COLLINS, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 300, a bill to extend the temporary increase in payments under the medicare program for home health services furnished in a rural area.

S. 352

At the request of Ms. MIKULSKI, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 352, a bill to revise certain requirements for H–2B employers and require submission of information regarding H–2B non-immigrants, and for other purposes.

S. 359

At the request of Mr. CRAIG, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 359, a bill to provide for the adjustment of status of certain foreign agricultural workers, to amend the Immigration and Nationality Act to reform the H–2A worker program under that Act, to provide a stable, legal agricultural workforce, to extend basic legal protections and better working conditions to more workers, and for other purposes.

S. 408

At the request of Mr. DEWINE, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 408, a bill to provide for programs and activities with respect to the prevention of underage drinking.

S. 420

At the request of Mr. KYL, the names of the Senator from Florida (Mr. MARTINEZ) and the Senator from Mississippi (Mr. LOTT) were added as cosponsors of S. 420, a bill to make the repeal of the estate tax permanent.

S. 432

At the request of Mr. ALLEN, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 432, a bill to establish a digital and wireless network technology program, and for other purposes.

S. 461

At the request of Mr. ROCKEFELLER, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 461, a bill to amend title 37, United States Code, to require that a member of the uniformed services who is wounded or otherwise injured while serving in a combat zone continue to be paid monthly military pay and allowances, while the member recovers from the wound or injury, at least equal to the monthly military pay and allowances the member received immediately before receiving the wound or injury, to continue the combat zone tax exclusion for the member during the recovery period, and for other purposes.

S. 473

At the request of Ms. CANTWELL, the names of the Senator from Arkansas (Mrs. LINCOLN) and the Senator from Washington (Mrs. MURRAY) were added as cosponsors of S. 473, a bill to amend the Public Health Service Act to promote and improve the allied health professions.

S. 484

At the request of Mr. WARNER, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 484, 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. 495

At the request of Mr. BROWNBACK, the name of the Senator from North Carolina (Mr. BURR) was added as a cosponsor of S. 495, a bill to impose sanctions against perpetrators of crimes against humanity in Darfur, Sudan, and for other purposes.

At the request of Mr. CORZINE, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 495, supra.

S. 548

At the request of Mr. CONRAD, the names of the Senator from Nebraska (Mr. NELSON), the Senator from Iowa (Mr. HARKIN) and the Senator from Nebraska (Mr. HAGEL) were added as cosponsors of S. 548, a bill to amend the Food Security Act of 1985 to encourage owners and operators of privately-held farm, ranch, and forest land to voluntarily make their land available for access by the public under programs administered by States and tribal governments.

S. 555

At the request of Mr. DEWINE, the name of the Senator from Oklahoma (Mr. COBURN) was added as a cosponsor of S. 555, a bill to amend the Sherman Act to make oil-producing and exporting cartels illegal.

S. 579

At the request of Mr. LIEBERMAN, the names of the Senator from South Dakota (Mr. JOHNSON) and the Senator from Arkansas (Mrs. LINCOLN) were added as cosponsors of S. 579, a bill to amend the Public Health Service Act to authorize funding for the establishment of a program on children and the media within the National Institute of Child Health and Human Development to study the role and impact of electronic media in the development of children.

S. 593

At the request of Ms. COLLINS, the names of the Senator from New Mexico (Mr. BINGAMAN), the Senator from Maine (Ms. SNOWE) and the Senator from Michigan (Ms. STABENOW) were added as cosponsors of S. 593, a bill to amend title VII of the Tariff Act of 1930 to provide that the provisions relating to countervailing duties apply to nonmarket economy countries.

S. 602

At the request of Ms. MIKULSKI, the name of the Senator from South Carolina (Mr. GRAHAM) was added as a cosponsor of S. 602, a bill to amend the Public Health Service Act to fund breakthroughs in Alzheimer's disease research while providing more help to caregivers and increasing public education about prevention.

S. 614

At the request of Mr. SPECTER, the name of the Senator from South Dakota (Mr. THUNE) was added as a cosponsor of S. 614, a bill to amend title 38, United States Code, to permit medicare-eligible veterans to receive an out-patient medication benefit, to provide that certain veterans who receive such benefit are not otherwise eligible for medical care and services from the Department of Veterans Affairs, and for other purposes.

S. 619

At the request of Mrs. FEINSTEIN, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 619, a bill to amend title II of the Social Security Act to repeal the Government pension offset and windfall elimination provisions.

S. 638

At the request of Mrs. MURRAY, the name of the Senator from North Carolina (Mrs. DOLE) was added as a cosponsor of S. 638, a bill to extend the authorization for the ferry boat discretionary program, and for other purposes.

S. 642

At the request of Mr. FRIST, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of S. 642, a bill to support certain national youth organizations, including the Boy Scouts of America, and for other purposes.

S. 662

At the request of Ms. COLLINS, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 662, a bill to reform the postal laws of the United States.

S. 666

At the request of Mr. DEWINE, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 666, a bill to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products.

S. 772

At the request of Mr. CORNYN, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S.

772, a bill to amend the Internal Revenue Code of 1986 to expand workplace health incentives by equalizing the tax consequences of employee athletic facility use.

S. CON. RES. 4

At the request of Mr. NELSON of Florida, the name of the Senator from North Carolina (Mrs. DOLE) was added as a cosponsor of S. Con. Res. 4, a concurrent resolution expressing the sense of the Congress that the Department of Defense should continue to exercise its statutory authority to support the activities of the Boy Scouts of America, in particular the periodic national and world Boy Scout Jamborees.

AMENDMENT NO. 316

At the request of Mr. NELSON of Florida, the name of the Senator from Colorado (Mr. SALAZAR) was added as a cosponsor of amendment No. 316 intended to be proposed to H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes.

AMENDMENT NO. 338

At the request of Ms. SNOWE, the names of the Senator from Wyoming (Mr. ENZI), the Senator from Maine (Ms. COLLINS) and the Senator from Missouri (Mr. TALENT) were added as cosponsors of amendment No. 338 intended to be proposed to H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes.

AMENDMENT NO. 342

At the request of Mr. DEWINE, the names of the Senator from Illinois (Mr. OBAMA) and the Senator from Connecticut (Mr. LIEBERMAN) were added as cosponsors of amendment No. 342 intended to be proposed to H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes.

AMENDMENT NO. 387

At the request of Ms. MIKULSKI, the names of the Senator from South Dakota (Mr. THUNE) and the Senator from South Dakota (Mr. JOHNSON) were added as cosponsors of amendment No. 387 proposed to H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes.

AMENDMENT NO. 393

At the request of Mr. KENNEDY, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of amendment No. 393 proposed to H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes.

AMENDMENT NO. 399

At the request of Mr. DORGAN, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of amendment No. 399 proposed to H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes.

AMENDMENT NO. 400

At the request of Mr. JEFFORDS, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of amendment No. 400 intended to be proposed to H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes.

AMENDMENT NO. 409

At the request of Mr. JEFFORDS, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of amendment No. 409 intended to be proposed to H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. KYL (for himself, Mr. CORNYN, and Mr. COBURN):

S. 783. A bill to repeal the sunset on the 2004 material-support enhancements, to increase penalties for providing material support to terrorist groups, to bar from the United States aliens who have received terrorist training, and for other purposes; to the Committee on the Judiciary.

Mr. KYL. Mr. President, I rise today to introduce the Material Support to Terrorism Prohibition Improvements Act of 2005.

Mr. Barry Sabin, the Chief of the Counterterrorism Section of the Justice Department's Criminal Division, testified as to the importance of the material support statute at a September 13 hearing before the Terrorism Subcommittee last year. He emphasized that:

> a key element of the [Justice] Department's strategy for winning the war against terrorism has been to use the material support statutes to prosecute aggressively those individuals who supply terrorists with the support and resources they need to survive. The Department seeks to identify and apprehend terrorists before they can carry out their plans, and the material support statutes are a valuable tool for prosecutors seeking to bring charges against and incapacitate terrorists before they are able to cause death and destruction.

The bill that I introduce today expands current law's exclusion from the United States of persons who give material support to terrorism by training at a terrorist camp. The bill makes such persons inadmissible to the United States, they now only are deportable, and applies these exclusions to pre-enactment terrorist training. Mr. Sabin described at last year's hearing the threat posed by persons who have receive training at a terrorist camp:

> A danger is posed to the vital foreign policy interests and national security of the United States whenever a person knowingly receives military-type training from a designated terrorist organization or persons acting on its behalf. Such an individual stands ready to further the malicious intent of the terrorist organization through terrorist activity that threatens the security of United States nationals or the national security of the United States.

My bill would ensure that such persons not only are removed from the United States once they are found

here, but also are prevented from entering this country in the first place.

Today's bill also repeals a 2006 sunset on several recent clarifications that were made to the material-support statute in order to address vagueness concerns expressed by some courts. At the September 13 Terrorism Subcommittee hearing, George Washington University law professor Jonathan Turley said of the original legislative proposal to clarify the statute: ''[t]his proposal would actually improve the current federal law by correcting gaps and ambiguities that have led to recent judicial reversals. In that sense, the proposal can be viewed as a slight benefit to civil liberties by removing a dangerous level of ambiguity in the law.''

There is no reason why this important provision, and other improvements to the material-support statute made in last year's 9/11 Commission bill, should be allowed to expire at the end of this Congress. This bill would make these improvements permanent.

I ask unanimous consent that the text of the bill and a section by section analysis be printed in the RECORD.

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

S. 783

*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 ''Material Support to Terrorism Prohibition Improvements Act of 2005''.

**SEC. 2. REPEAL OF SUNSET ON 2004 MATERIAL-SUPPORT ENHANCEMENTS.**

Section 6603(g) of the Intelligence Reform and Terrorism Prevention Act of 2004 (18 U.S.C. 2332b note) is repealed.

**SEC. 3. BARRING ENTRY TO THE UNITED STATES FOR REPRESENTATIVES AND MEMBERS OF TERRORIST GROUPS AND ALIENS WHO HAVE RECEIVED MILITARY-TYPE TRAINING FROM TERRORIST GROUPS.**

Section 212(a)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)) is amended—

(1) in clause (i)—

(A) in subclause (IV), by amending item (aa) to read as follows:

''(aa) a terrorist organization as defined in clause (vi), or''.

(B) by striking subclause (V) and inserting the following:

''(V) is a member of a terrorist organization—

''(aa) described in subclause (I) or (II) of clause (vi); or

''(bb) described in clause (vi)(III), unless the alien can demonstrate by clear and convincing evidence that the alien did not know, and should not reasonably have known, that the organization was a terrorist organization,''.

(C) in subclause (VI), by striking ''or'' at the end;

(D) in subclause (VII), by inserting ''or'' at the end; and

(E) by inserting after subclause (VII) the following:

''(VIII) has received military-type training (as defined in section 2339D(c)(1) of title 18, United States Code) from, or on behalf of, any organization that, at the time the training was received, was a terrorist organization,''; and

(2) in clause (vi), by striking ''clause (i)(VI)'' and inserting ''subclauses (VI) and (VIII) of clause (i)''.

**SEC. 4. EXPANDED REMOVAL FROM THE UNITED STATES OF ALIENS WHO HAVE RECEIVED MILITARY-TYPE TRAINING FROM TERRORIST GROUPS.**

Section 237(a)(4)(E) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(4)(E)) is amended to read as follows:

''(E) RECIPIENT OF MILITARY-TYPE TRAINING.—Any alien who has received military-type training (as defined in section 2339D(c)(1) of title 18, United States Code) from or on behalf of any organization that, at the time the training was received, was a terrorist organization (as defined in section 212(a)(3)(B)(vi)), is deportable.''.

**SEC. 5. BARRING ENTRY TO AND REMOVING TERRORIST ALIENS FROM THE UNITED STATES BASED ON PRE-ENACTMENT TERRORIST CONDUCT.**

The amendments made by sections 3 and 4 of this Act shall apply to—

(1) all aliens subject to removal, deportation, or exclusion at any time; and

(2) acts and conditions constituting a ground for inadmissibility, excludability, deportation, or removal occurring or existing before, on, or after the date of enactment of this Act.

**SEC. 6. INCREASED PENALTIES FOR PROVIDING MATERIAL SUPPORT TO TERRORIST GROUPS.**

(a) PROVIDING MATERIAL SUPPORT TO TERRORISTS.—Section 2339A(a) of title 18, United States Code, is amended by striking '', imprisoned not more than 15 years,'' and all that follows through ''life.'' and inserting ''and imprisoned for not less than 5 years and not more than 25 years, and, if the death of any person results, shall be imprisoned for not less than 15 years or for life.''.

(b) PROVIDING MATERIAL SUPPORT OR RESOURCES TO DESIGNATED FOREIGN TERRORIST ORGANIZATIONS.—Section 2339B(a) of title 18, United States Code, is amended by striking ''or imprisoned not more than 15 years,'' and all that follows through ''life.'' and inserting ''and imprisoned for not less than 5 years and not more than 25 years, and, if the death of any person results, shall be imprisoned for not less than 15 years or for life.''.

(c) RECEIVING MILITARY-TYPE TRAINING FROM A FOREIGN TERRORIST ORGANIZATION.—Section 2339D of title 18, United States Code, is amended by striking ''or imprisoned for ten years, or both.'' and inserting ''and imprisoned for not less than 3 years and not more than 15 years.''.

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Section 1. Bill Title. ''Material Support to Terrorism Prohibition Improvements Act of 2005.''

Section 2. Repeal of Sunset on 2004 Material-Support Enhancements. Section 6603 of the Intelligence Reform and Terrorism Prevention Act of 2004 (the 9/11 Commission Act) includes important provisions that expand and clarify the material-support statutes (18 U.S.C. §§ 2339A & 2339B). These provisions clarify the definitions of the terms ''personnel'', ''training'', and ''expert advice or assistance,'' in order to correct void-for-vagueness problems identified by the Ninth Circuit; expand the jurisdictional bases for material-support offenses; clarify the definition of ''material support;'' and clarify that the United States need only show that a defendant knew that the organization to which he gave material support either engaged in terrorism or was designated as a terror group—thus overruling the Ninth Circuit's conclusion that the United States also must show that the defendant knew of the particular terrorist activity that caused an organization to be designated as a terror group. All of these changes are set to expire on December 31, 2006, pursuant to subsection 6603(g) of the 9/11 Commission Act. This section of this Act repeals subsection (g), making the 2004 material-support enhancements permanent.

Section 3. Barring Entry to the United States for Representatives and Members of Terrorist Groups and Aliens Who Have Received Military-Type Training from Terrorist Groups. This section bars entry to the United States for any alien who has received military-type training from a either a terrorist group that is designated as such by the Secretary of State, or from an undesignated terrorist group. (These groups are defined in 8 U.S.C. § 1182(a)(3)(B)(vi). An undesignated terrorist group is a group that commits or incites terrorist activity with the intent to cause serious bodily injury, prepares or plans terrorist activity, or gathers information on potential targets for terrorist activity.) This section would correct a deficiency in current law, which makes aliens who receive military-type terror training deportable but does not make them inadmissible. Aliens who receive training in violent activity from a terrorist group are not allowed to remain in the United States—they should not be permitted to enter the United States in the first place. This section also bars entry to the United States for aliens who are representatives or members of either designated or undesignated terrorist organizations, though members of undesignated terror groups may avoid exclusion if they can show by clear and convincing evidence that they did not know, and should not reasonably have known, that the organization to which they belonged was a terrorist organization.

Section 4. Expanded Removal from the United States of Aliens Who Have Received Military-Type Training from Terrorist Groups. Under current law, an alien is deportable if he has received military-type training from a terrorist group that is designated as such by the Secretary of State. See 8 U.S.C. § 1227(a)(4)(E). This section also makes deportable an alien who has received military-type training from an undesignated terrorist group. (See Section 3 above for definition of undesignated terror group.)

Section 5. Barring Entry to and Removing Terrorist Aliens from the United States Based on Pre-Enactment Terrorist Conduct. This section makes clear that the terrorist-alien deportation and exclusion provisions in sections 3 and 4 of this Act apply to terrorist activity that the alien engaged in before the enactment of this Act. Congress indisputably has the authority to bar and remove aliens from the United States based on past terrorist conduct. See Lehmann v. U.S. ex rel. Carson, 353 U.S. 685, 690 (1957) (''It seems to us indisputable, therefore, that Congress was legislating retrospectively, as it may do, to cover offenses of the kind here involved.'' (emphasis added; citations omitted)). Under this section, an alien who received military-type training from a terrorist group in Afghanistan in 2001 would be barred from entering or remaining in the United States.

Section 6. Increased Penalties for Providing Material Support to Terrorist Groups. Under current law, providing material support to a terrorist group is a criminal offense that is punishable by zero to 15 years' imprisonment, or zero to life if death results. Receiving military-type training from a terrorist group is punishable by zero to 10

years in prison. Under the Supreme Court's recent decision in United States v. Booker, 125 S.Ct. 738 (January 12, 2005), the federal sentencing guidelines' prescriptions no longer are mandatory—district judges now have discretion to impose little or no jail time for material-support offenses. Booker/Fanfan also limits the appellate courts' ability to correct a district judge's failure to impose jail time for a material-support offense. This section increases the penalties for material-support offenses to 5–25 years' imprisonment, with 15 years to life if death results, and raises the military-type-training penalty to 3–15 years' imprisonment. These enhanced penalties reflect both the gravity of the offense of providing material support to a terrorist group, and the heightened importance, since the terrorist attacks of September 11, 2001, of deterring individuals from providing aid and comfort to terrorist organizations.

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By Mr. THOMAS (for himself and Mrs. LINCOLN):

S. 784. A bill to amend title XVIII of the Social Security Act to provide for the coverage of marriage and family therapist services and mental health counselor services under part B of the medicare program, and for other purposes; to the Committee on Finance.

Mr. THOMAS. Mr. President, I am pleased to rise today to introduce the ''Seniors Mental Health Access Improvement Act of 2005'' with my distinguished colleague from Arkansas, Mrs. LINCOLN. Specifically, the ''Seniors Mental Health Access Improvement Act of 2005'' permits mental health counselors and marriage and family therapists to bill Medicare for services provided to seniors. This will result in an increased choice of mental health providers for seniors and enhance their ability to access mental health services in their communities.

This legislation is especially crucial to rural seniors who are often forced to travel long distances to utilize the services of mental health providers currently recognized by the Medicare program. Rural communities have difficulty recruiting and retaining providers, especially mental health providers. In many small towns, a mental health counselor or a marriage and family therapist is the only mental health care provider in the area. Medicare law—as it exists today—compounds the situation because only psychiatrists, clinical psychologists, clinical social workers and clinical nurse specialists are able to bill Medicare for their services.

It is time the Medicare program recognized the qualifications of mental health counselors and marriage and family therapists as well as the critical role they play in the mental health care infrastructure. These providers go through rigorous training, similar to the curriculum of masters level social workers, and yet are excluded from the Medicare program.

Particularly troubling to me is the fact that seniors have disproportionally higher rates of depression and suicide than other populations. Additionally, 75 percent of the 518 nationally designated Mental Health Professional Shortage Areas are located in rural areas and one-fifth of all rural counties have no mental health services of any kind. Frontier counties have even more drastic numbers as 95 percent do not have a psychiatrist, 68 percent do not have a psychologist and 78 percent do not have a social worker. It is quite obvious we have an enormous task ahead of us to reduce these staggering statistics. Providing mental health counselors and marriage and family therapists the ability to bill Medicare for their services is a key part of the solution.

Virtually all of Wyoming is designated a mental health professional shortage area and will greatly benefit from this legislation. Wyoming has 174 psychologists, 37 psychiatrists and 263 clinical social workers for a total of 474 Medicare eligible mental health providers. Enactment of the ''Seniors Mental Health Access Improvement Act of 2005'' will more than double the number of mental health providers available to seniors in my State with the addition of 528 mental health counselors and 61 marriage and family therapists currently licensed in the State.

I believe this legislation is critically important to the health and well-being of our Nation's seniors and I strongly urge all my colleagues to become a cosponsor.

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. 784

*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 ''Seniors Mental Health Access Improvement Act of 2005''.

**SEC. 2. COVERAGE OF MARRIAGE AND FAMILY THERAPIST SERVICES AND MENTAL HEALTH COUNSELOR SERVICES UNDER PART B OF THE MEDICARE PROGRAM.**

(a) COVERAGE OF SERVICES.—

(1) IN GENERAL.—Section 1861(s)(2) of the Social Security Act (42 U.S.C. 1395x(s)(2)) is amended—

(A) in subparagraph (Y), by striking ''and'' after the semicolon at the end;

(B) in subparagraph (Z), by inserting ''and'' after the semicolon at the end; and

(C) by adding at the end the following new subparagraph:

''(AA) marriage and family therapist services (as defined in subsection (bbb)(1)) and mental health counselor services (as defined in subsection (bbb)(3));''.

(2) DEFINITIONS.—Section 1861 of the Social Security Act (42 U.S.C. 1395x) is amended by adding at the end the following new subsection:

''Marriage and Family Therapist Services; Marriage and Family Therapist; Mental Health Counselor Services; Mental Health Counselor

''(bbb)(1) The term 'marriage and family therapist services' means services performed by a marriage and family therapist (as defined in paragraph (2)) for the diagnosis and treatment of mental illnesses, which the marriage and family therapist is legally authorized to perform under State law (or the State regulatory mechanism provided by State law) of the State in which such services are performed, as would otherwise be covered if furnished by a physician or as an incident to a physician's professional service, but only if no facility or other provider charges or is paid any amounts with respect to the furnishing of such services.

''(2) The term 'marriage and family therapist' means an individual who—

''(A) possesses a master's or doctoral degree which qualifies for licensure or certification as a marriage and family therapist pursuant to State law;

''(B) after obtaining such degree has performed at least 2 years of clinical supervised experience in marriage and family therapy; and

''(C) in the case of an individual performing services in a State that provides for licensure or certification of marriage and family therapists, is licensed or certified as a marriage and family therapist in such State.

''(3) The term 'mental health counselor services' means services performed by a mental health counselor (as defined in paragraph (4)) for the diagnosis and treatment of mental illnesses which the mental health counselor is legally authorized to perform under State law (or the State regulatory mechanism provided by the State law) of the State in which such services are performed, as would otherwise be covered if furnished by a physician or as incident to a physician's professional service, but only if no facility or other provider charges or is paid any amounts with respect to the furnishing of such services.

''(4) The term 'mental health counselor' means an individual who—

''(A) possesses a master's or doctor's degree in mental health counseling or a related field;

''(B) after obtaining such a degree has performed at least 2 years of supervised mental health counselor practice; and

''(C) in the case of an individual performing services in a State that provides for licensure or certification of mental health counselors or professional counselors, is licensed or certified as a mental health counselor or professional counselor in such State.''.

(3) PROVISION FOR PAYMENT UNDER PART B.—Section 1832(a)(2)(B) of the Social Security Act (42 U.S.C. 1395k(a)(2)(B)) is amended by adding at the end the following new clause:

''(v) marriage and family therapist services and mental health counselor services;''.

(4) AMOUNT OF PAYMENT.—Section 1833(a)(1) of the Social Security Act (42 U.S.C. 1395*l*(a)(1)) is amended—

(A) by striking ''and (V)'' and inserting ''(V)''; and

(B) by inserting before the semicolon at the end the following: '', and (W) with respect to marriage and family therapist services and mental health counselor services under section 1861(s)(2)(AA), the amounts paid shall be 80 percent of the lesser of the actual charge for the services or 75 percent of the amount determined for payment of a psychologist under subparagraph (L)''.

(5) EXCLUSION OF MARRIAGE AND FAMILY THERAPIST SERVICES AND MENTAL HEALTH COUNSELOR SERVICES FROM SKILLED NURSING FACILITY PROSPECTIVE PAYMENT SYSTEM.—Section 1888(e)(2)(A)(ii) of the Social Security Act (42 U.S.C. 1395yy(e)(2)(A)(ii)) is amended by inserting ''marriage and family therapist services (as defined in section 1861(bbb)(1)), mental health counselor services (as defined in section 1861(bbb)(3)),'' after ''qualified psychologist services,''.

(6) INCLUSION OF MARRIAGE AND FAMILY THERAPISTS AND MENTAL HEALTH COUNSELORS AS PRACTITIONERS FOR ASSIGNMENT OF CLAIMS.—Section 1842(b)(18)(C) of the Social Security Act (42 U.S.C. 1395u(b)(18)(C)) is amended by adding at the end the following new clauses:

''(vii) A marriage and family therapist (as defined in section 1861(bbb)(2)).

''(viii) A mental health counselor (as defined in section 1861(bbb)(4)).''.

(b) COVERAGE OF CERTAIN MENTAL HEALTH SERVICES PROVIDED IN CERTAIN SETTINGS.—

(1) RURAL HEALTH CLINICS AND FEDERALLY QUALIFIED HEALTH CENTERS.—Section 1861(aa)(1)(B) of the Social Security Act (42 U.S.C. 1395x(aa)(1)(B)) is amended by striking ''or by a clinical social worker (as defined in subsection (hh)(1)),'' and inserting '', by a clinical social worker (as defined in subsection (hh)(1)), by a marriage and family therapist (as defined in subsection (bbb)(2)), or by a mental health counselor (as defined in subsection (bbb)(4)),''.

(2) HOSPICE PROGRAMS.—Section 1861(dd)(2)(B)(i)(III) of the Social Security Act (42 U.S.C. 1395x(dd)(2)(B)(i)(III)) is amended by inserting ''or one marriage and family therapist (as defined in subsection (bbb)(2))'' after ''social worker''.

(c) AUTHORIZATION OF MARRIAGE AND FAMILY THERAPISTS TO DEVELOP DISCHARGE PLANS FOR POST-HOSPITAL SERVICES.—Section 1861(ee)(2)(G) of the Social Security Act (42 U.S.C. 1395x(ee)(2)(G)) is amended by inserting ''marriage and family therapist (as defined in subsection (bbb)(2)),'' after ''social worker,''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to services furnished on or after January 1, 2006.

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By Mr. SANTORUM:

S. 786. A bill to clarify the duties and responsibilities of the National Weather Service, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. SANTORUM. Mr. President, I rise to introduce the National Weather Services Duties Act of 2005 to clarify the responsibilities of the National Weather Service (NWS) within the National Oceanic and Atmospheric Association, NOAA. This legislation modernizes the statutory description of NWS roles in the national weather enterprise so that it reflects today's reality in which the NWS and the commercial weather industry both play important parts in providing weather products and services to the Nation.

Back in 1890 when the current NWS organic statute was enacted, and all the way through World War II, the public received its weather forecasts and warnings almost exclusively from the Weather Bureau, the NWS's predecessor. In the late 1940s, a fledging weather service industry began to develop. From then until December 2004, the NWS has had policies sensitive to the importance of fostering the industry's expansion, and since 1948 has had formal policies discouraging its competition with industry. Fourteen years ago the NWS took the extra step of carefully delineating the respective roles of the NWS and the commercial weather industry, in addition to pledging its intention not to provide products or services that were or could be provided by the commercial weather industry. This longstanding non-competition and non-duplication policy has had the effect of facilitating the growth of the industry into a billion dollar sector and of strengthening and extending the national weather enterprise, now the best in the world.

Regrettably, the parent agency of the NWS, NOAA, repealed the 1991 non-competition and non-duplication policy in December 2004. Its new policy only promises to ''give due consideration'' to the abilities of private sector entities. The new policy appears to signal the intention of NOAA and the NWS to expand their activities into areas that are already well served by the commercial weather industry. This detracts from NWS's core missions of maintaining a modem and effective meteorological infrastructure, collecting comprehensive observational data, and issuing warnings and forecasts of severe weather that imperils life and property.

Additionally, NOAA's action threatens the continued success of the commercial weather industry. It is not an easy prospect for a business to attract advertisers, subscribers, or investors when the government is providing similar products and services for free. This bill restores the NWS non-competition policy. However, the legislation leaves NWS with complete and unfettered freedom to carry out its critical role of preparing and issuing severe weather warnings and forecasts designed for the protection of life and property of the general public. I believe it is in the best interest of both the government and NWS to concentrate on this critical role and its other core missions. The beauty of a highly competent private sector is that services that are not inherently involved in public safety and security can be carried out with little or no expenditure of taxpayer dollars. At a time of tight agency budgets, the commercial weather industry's increasing capabilities offer the Federal Government the opportunity to focus its resources on the governmental functions of collecring and distributing weather data, research and development of atmospheric models and core forecasts, and on ensuring that NWS meteorologists provide the most timely and accurate warnings and forecasts of life-threatening weather.

The National Weather Service Duties Act also addresses the potential misuse of insider information. Currently, NOAA and the NWS are doing little to safeguard the NWS information that could be used by opportunistic investors to gain unfair profits in the weather futures markets, in the agriculture and energy markets, and in other business segments influenced by government weather outlooks, forecasts, and warnings. No one knows who may be taking advantage of this information. In recent years there have been various examples of NWS personnel providing such information to specific TV stations and others that enable those businesses to secure an advantage over their competitors. The best way to address this problem is to require that NWS data, information, guidance, forecasts and warnings be issued in real time and simultaneously to all members of the public, the media and the commercial weather industry. This bill imposes just such a requirement, which is common to other Federal agencies. The responsibilities of the commercial weather industry as the only private sector producer of weather information, services and systems deserve this definition to ensure continued growth and investment in the private sector and to properly focus the government's activities.

We have every right to expect these agencies to minimize unnecessary, competitive, and commercial-type activities, and to do the best possible job of warning the public about impending flash floods, hurricanes, tornadoes, tsunamis, and other potentially catastrophic events. I encourage my colleagues to support this important piece of legislation.

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By Mr. DURBIN:

S. 793. A bill to establish national standards for discharges from cruise vessels into the waters of the United States, and for other purposes; to the Committee on Commerce, Science, and Transportation.

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. 793

*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 ''Clean Cruise Ship Act of 2005''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:



**SEC. 2. FINDINGS AND PURPOSES.**

(a) FINDINGS.—Congress finds that—

(1) cruise vessels carry millions of passengers each year, and in 2001, carried 8,400,000 passengers in North America;

(2) cruise vessels carry passengers to and through the most beautiful ocean areas in the United States and provide many people in the United States ample opportunities to relax and learn about oceans and marine ecosystems;

(3) ocean pollution threatens the beautiful and inspiring oceans and marine wildlife

that many cruise vessels intend to present to travelers;

(4) cruise vessels generate tremendous quantities of pollution, including—

(A) sewage (including sewage sludge);

(B) graywater from showers, sinks, laundries, baths, and galleys;

(C) oily water;

(D) toxic chemicals from photo processing, dry cleaning, and paints;

(E) ballast water;

(F) solid wastes; and

(G) emissions of air pollutants;

(5) some of the pollution generated by cruise ships, particularly sewage discharge, can lead to high levels of nutrients that are known to harm and kill coral reefs and which can increase the quantity of pathogens in the water and heighten the susceptibility of many coral species to scarring and disease;

(6) laws in effect as of the date of enactment of this Act do not provide adequate controls, monitoring, or enforcement of certain discharges from cruise vessels into the waters of the United States; and

(7) to protect coastal and ocean areas of the United States from pollution generated by cruise vessels, new Federal legislation is needed to reduce and better regulate discharges from cruise vessels, and to improve monitoring, reporting, and enforcement of discharges.

(b) PURPOSES.—The purposes of this Act are—

(1) to prevent the discharge of any untreated sewage or graywater from a cruise vessel entering ports of the United States into the waters of the United States;

(2) to prevent the discharge of any treated sewage, sewage sludge, graywater, or bilge water from cruise vessels entering ports of the United States into the territorial sea;

(3) to establish new national effluent limits and management standards for the discharge of treated sewage or graywater from cruise vessels entering ports of the United States into the exclusive economic zone of the United States in any case in which the discharge is not within an area in which discharges are prohibited; and

(4) to ensure that cruise vessels entering ports of the United States comply with all applicable environmental laws.

**SEC. 3. DEFINITIONS.**

In this Act:

(1) COMMANDANT.—The term ''Commandant'' means the Commandant of the Coast Guard.

(2) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Environmental Protection Agency.

(3) TERRITORIAL SEA.—The term ''territorial sea''—

(A) means the belt of the sea measured from the baseline of the United States determined in accordance with international law, as set forth in Presidential Proclamation number 5928, dated December 27, 1988; and

(B) includes the waters lying seaward of the line of ordinary low water and extending to the baseline of the United States, as determined under subparagraph (A).

(4) EXCLUSIVE ECONOMIC ZONE.—The term ''exclusive economic zone'' means the Exclusive Economic Zone of the United States established by Presidential Proclamation number 5030, dated March 10, 1983.

(5) WATERS OF THE UNITED STATES.—The term ''waters of the United States'' means the waters of the territorial sea, the exclusive economic zone, and the Great Lakes.

(6) GREAT LAKE.—The term ''Great Lake'' means—

(A) Lake Erie;

(B) Lake Huron (including Lake Saint Clair);

(C) Lake Michigan;

(D) Lake Ontario; and

(E) Lake Superior.

(7) CRUISE VESSEL.—The term ''cruise vessel''—

(A) means a passenger vessel (as defined in section 2101(22) of title 46, United States Code), that—

(i) is authorized to carry at least 250 passengers; and

(ii) has onboard sleeping facilities for each passenger; and

(B) does not include—

(i) a vessel of the United States operated by the Federal Government; or

(ii) a vessel owned and operated by the government of a State.

(8) PASSENGER.—The term ''passenger''—

(A) means any person on board a cruise vessel for the purpose of travel; and

(B) includes—

(i) a paying passenger; and

(ii) a staffperson, such as a crew member, captain, or officer.

(9) PERSON.—The term ''person'' means—

(A) an individual;

(B) a corporation;

(C) a partnership;

(D) a limited liability company;

(E) an association;

(F) a State;

(G) a municipality;

(H) a commission or political subdivision of a State; and

(I) an Indian tribe.

(10) CITIZEN.—The term ''citizen'' means a person that has an interest that is or may be adversely affected by any provision of this Act.

(11) DISCHARGE.—The term ''discharge''—

(A) means a release of any substance, however caused, from a cruise vessel; and

(B) includes any escape, disposal, spilling, leaking, pumping, emitting or emptying of any substance.

(12) SEWAGE.—The term ''sewage'' means—

(A) human body wastes;

(B) the wastes from toilets and other receptacles intended to receive or retain human body wastes; and

(C) sewage sludge.

(13) GRAYWATER.—The term ''graywater'' means galley, dishwasher, bath, and laundry waste water.

(14) BILGE WATER.—The term ''bilge water'' means wastewater that includes lubrication oils, transmission oils, oil sludge or slops, fuel or oil sludge, used oil, used fuel or fuel filters, or oily waste.

(15) SEWAGE SLUDGE.—The term ''sewage sludge''—

(A) means any solid, semi-solid, or liquid residue removed during the treatment of municipal waste water or domestic sewage;

(B) includes—

(i) solids removed during primary, secondary, or advanced waste water treatment;

(ii) scum;

(iii) septage;

(iv) portable toilet pumpings;

(v) type III marine sanitation device pumpings (as defined in part 159 of title 33, Code of Federal Regulations); and

(vi) sewage sludge products; and

(C) does not include—

(i) grit or screenings; or

(ii) ash generated during the incineration of sewage sludge.

(16) INDIAN TRIBE.—The term ''Indian tribe'' has the meaning given in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

**SEC. 4. PROHIBITIONS AND CONDITIONS REGARDING THE DISCHARGE OF SEWAGE, GRAYWATER, OR BILGE WATER.**

(a) PROHIBITION.—

(1) IN GENERAL.—Except as provided in paragraph (2) and section 11, no cruise vessel entering a port of the United States may discharge sewage, graywater, or bilge water into the waters of the United States.

(2) EXCEPTION.—A cruise vessel described in paragraph (1) may not discharge sewage, graywater, or bilge water into the exclusive economic zone but outside the territorial sea, or, in the case of the Great Lakes, beyond any point that is 12 miles from the shore unless—

(A)(i) in the case of a discharge of sewage or graywater, the discharge meets all applicable effluent limits established under this Act and is in accordance with all other applicable laws; or

(ii) in the case of a discharge of bilge water, the discharge is in accordance with all applicable laws;

(B) the cruise vessel meets all applicable management standards established under this Act; and

(C) the cruise vessel is not discharging in an area in which the discharge is otherwise prohibited.

(b) SAFETY EXCEPTION.—

(1) SCOPE OF EXCEPTION.—Subsection (a) shall not apply in any case in which—

(A) a discharge is made solely for the purpose of securing the safety of the cruise vessel or saving a human life at sea; and

(B) all reasonable precautions have been taken for the purpose of preventing or minimizing the discharge.

(2) NOTIFICATION OF COMMANDANT.—

(A) IN GENERAL.—If the owner, operator, or master, or other individual in charge, of a cruise vessel authorizes a discharge described in paragraph (1), the individual shall notify the Commandant of the decision to authorize the discharge as soon as practicable, but not later than 24 hours, after authorizing the discharge.

(B) REPORT.—Not later than 7 days after the date on which an individual described in subparagraph (A) notifies the Commandant of an authorization of a discharge under the safety exception under this paragraph, the individual shall submit to the Commandant a report that includes—

(i) the quantity and composition of each discharge made under the safety exception;

(ii) the reason for authorizing each discharge;

(iii) the location of the vessel during the course of each discharge; and

(iv) such other supporting information and data as are requested by the Commandant.

**SEC. 5. EFFLUENT LIMITS FOR DISCHARGES OF SEWAGE AND GRAYWATER.**

(a) EFFLUENT LIMITS.—

(1) IN GENERAL.—Not later than 3 years after the date of enactment of this Act, the Commandant and the Administrator shall jointly promulgate effluent limits for sewage and graywater discharges from cruise vessels entering ports of the United States.

(2) REQUIREMENTS.—The effluent limits shall—

(A) require the application of the best available technology that will result in the greatest level of effluent reduction achievable, recognizing that the national goal is the elimination of the discharge of all pollutants in sewage and graywater by cruise vessels into the waters of the United States by 2015; and

(B) require compliance with all relevant water quality criteria standards.

(b) MINIMUM LIMITS.—The effluent limits under subsection (a) shall require, at a minimum, that treated sewage and graywater effluent discharges from cruise vessels shall, not later than 3 years after the date of enactment of this Act, meet the following standards:

(1) IN GENERAL.—The discharge satisfies the minimum level of effluent quality specified in section 133.102 of title 40, Code of Regulations (or a successor regulation).

(2) FECAL COLIFORM.—With respect to the samples from the discharge during any 30-day period—

(A) the geometric mean of the samples shall not exceed 20 fecal coliform per 100 milliliters; and

(B) not more than 10 percent of the samples shall exceed 40 fecal coliform per 100 milliliters.

(3) RESIDUAL CHLORINE.—Concentrations of total residual chlorine in samples shall not exceed 10 milligrams per liter.

(c) REVIEW AND REVISION OF EFFLUENT LIMITS.—The Commandant and the Administrator shall jointly—

(1) review the effluent limits required by subsection (a) at least once every 3 years; and

(2) revise the effluent limits as necessary to incorporate technology available at the time of the review in accordance with subsection (a)(2).

**SEC. 6. INSPECTION AND SAMPLING.**

(a) DEVELOPMENT AND IMPLEMENTATION OF INSPECTION PROGRAM.—

(1) IN GENERAL.—The Commandant, in consultation with the Administrator, shall promulgate regulations to implement an inspection, sampling, and testing program sufficient to verify that cruise vessels calling on ports of the United States are in compliance with—

(A) this Act (including regulations promulgated under this Act);

(B) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) (including regulations promulgated under that Act);

(C) other applicable Federal laws and regulations; and

(D) all applicable requirements of international agreements.

(2) INSPECTIONS.—The program shall require that—

(A) regular announced and unannounced inspections be conducted of any relevant aspect of cruise vessel operations, equipment, or discharges, including sampling and testing of cruise vessel discharges; and

(B) each cruise vessel that calls on a port of the United States shall be subject to an unannounced inspection at least annually.

(b) REGULATIONS.—Not later than 1 year after the date of enactment of this Act, the Commandant, in consultation with the Administrator, shall promulgate regulations that, at a minimum—

(1) require the owner, operator, or master, or other individual in charge, of a cruise vessel to maintain and produce a logbook detailing the times, types, volumes, and flow rates, origins, and locations of any discharges from the cruise vessel;

(2) provide for routine announced and unannounced inspections of—

(A) cruise vessel environmental compliance records and procedures; and

(B) the functionality and proper operation of installed equipment for abatement and control of any cruise vessel discharge (which equipment shall include equipment intended to treat sewage, graywater, or bilge water);

(3) require the sampling and testing of cruise vessel discharges that require the owner, operator, or master, or other individual in charge, of a cruise vessel—

(A) to conduct that sampling or testing; and

(B) to produce any records of the sampling or testing;

(4) require any owner, operator, or master, or other individual in charge, of a cruise vessel who has knowledge of a discharge from the cruise vessel in violation of this Act (including regulations promulgated under this Act) to immediately report that discharge to the Commandant (who shall provide notification of the discharge to the Administrator); and

(5) require the owner, operator, or master, or other individual in charge, of a cruise vessel to provide to the Commandant and Administrator a blueprint of each cruise vessel that includes the location of every discharge pipe and valve.

(c) EVIDENCE OF COMPLIANCE.—

(1) VESSEL OF THE UNITED STATES.—

(A) IN GENERAL.—A cruise vessel registered in the United States to which this Act applies shall have a certificate of inspection issued by the Commandant.

(B) ISSUANCE OF CERTIFICATE.—The Commandant may issue a certificate described in subparagraph (A) only after the cruise vessel has been examined and found to be in compliance with this Act, including prohibitions on discharges and requirements for effluent limits, as determined by the Commandant.

(C) VALIDITY OF CERTIFICATE.—A certificate issued under this paragraph—

(i) shall be valid for a period of not more than 5 years, beginning on the date of issuance of the certificate;

(ii) may be renewed as specified by the Commandant; and

(iii) shall be suspended or revoked if the Commandant determines that the cruise vessel for which the certificate was issued is not in compliance with the conditions under which the certificate was issued.

(D) SPECIAL CERTIFICATES.—The Commandant may issue special certificates to certain vessels that exhibit compliance with this Act and other best practices, as determined by the Commandant.

(2) FOREIGN VESSEL.—

(A) IN GENERAL.—A cruise vessel registered in a country other than the United States to which this Act applies may operate in the waters of the United States, or visit a port or place under the jurisdiction of the United States, only if the cruise vessel has been issued a certificate of compliance by the Commandant.

(B) ISSUANCE OF CERTIFICATE.—The Commandant may issue a certificate described in subparagraph (A) to a cruise vessel only after the cruise vessel has been examined and found to be in compliance with this Act, including prohibitions on discharges and requirements for effluent limits, as determined by the Commandant.

(C) ACCEPTANCE OF FOREIGN DOCUMENTATION.—The Commandant may consider a certificate, endorsement, or document issued by the government of a foreign country under a treaty, convention, or other international agreement to which the United States is a party, in issuing a certificate of compliance under this paragraph. Such a certificate, endorsement, or document shall not serve as a proxy for certification of compliance with this Act.

(D) VALIDITY OF CERTIFICATE.—A certificate issued under this section—

(i) shall be valid for a period of not more than 24 months, beginning on the date of issuance of the certificate;

(ii) may be renewed as specified by the Commandant; and

(iii) shall be suspended or revoked if the Commandant determines that the cruise vessel for which the certificate was issued is not in compliance with the conditions under which the certificate was issued.

(d) CRUISE OBSERVER PILOT PROGRAM.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Commandant shall establish, and for each of fiscal years 2006 through 2008, shall carry out, a program for the placement of 2 or more independent observers on cruise vessels for the purpose of monitoring and inspecting cruise vessel operations, equipment, and discharges to ensure compliance with—

(A) this Act (including regulations promulgated under this Act); and

(B) all other relevant Federal laws and international agreements.

(2) RESPONSIBILITIES.—An observer described in paragraph (1) shall—

(A) observe and inspect—

(i) onboard environmental treatment systems;

(ii) use of shore-based treatment and storage facilities;

(iii) discharges and discharge practices; and

(iv) blueprints, logbooks, and other relevant information;

(B) have the authority to interview and otherwise query any crew member with knowledge of vessel operations;

(C) have access to all data and information made available to government officials under this section; and

(D) immediately report any known or suspected violation of this Act or any other applicable Federal law or international agreement to—

(i) the Coast Guard; and

(ii) the Environmental Protection Agency.

(3) REPORT.—Not later than January 31, 2008, the Commandant shall submit to Congress a report describing the results, and recommendations for continuance, of the program under this subsection.

(e) ONBOARD MONITORING SYSTEM PILOT PROGRAM.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Administrator of the National Oceanic and Atmospheric Administration, in consultation with the Administrator and the Commandant, shall establish, and for each of fiscal years 2006 through 2011, shall carry out, with industry partners as necessary, a pilot program to develop and promote commercialization of technologies to provide real-time data to Federal agencies regarding—

(A) graywater and sewage discharges from cruise vessels; and

(B) functioning of cruise vessel components relating to pollution control.

(2) TECHNOLOGY REQUIREMENTS.—Technologies developed under the program under this subsection—

(A) shall have the ability to record—

(i) the location and time of discharges from cruise vessels;

(ii) the source, content, and volume of those discharges; and

(iii) the state of components relating to pollution control at the time of the discharges, including whether the components are operating correctly; and

(B) shall be tested on not less than 10 percent of all cruise vessels operating in the territorial sea of the United States, including large and small vessels.

(3) PARTICIPATION OF INDUSTRY.—

(A) COMPETITIVE SELECTION PROCESS.—Industry partners willing to participate in the program may do so through a competitive selection process conducted by the Administrator of the National Oceanic and Atmospheric Administration.

(B) CONTRIBUTION.—A selected industry partner shall contribute not less than 20 percent of the cost of the project in which the industry partner participates.

(4) REPORT.—Not later than January 31, 2008, the Administrator of the National Oceanic and Atmospheric Administration shall submit to Congress a report describing the results, and recommendations for continuance, of the program under this subsection.

**SEC. 7. EMPLOYEE PROTECTION.**

(a) PROHIBITION OF DISCRIMINATION AGAINST PERSONS FILING, INSTITUTING, OR TESTIFYING

IN PROCEEDINGS UNDER THIS ACT.—No person shall terminate the employment of, or in any other way discriminate against (or cause the termination of employment of or discrimination against), any employee or any authorized representative of employees by reason of the fact that the employee or representative—

(1) has filed, instituted, or caused to be filed or instituted any proceeding under this Act; or

(2) has testified or is about to testify in any proceeding resulting from the administration or enforcement of the provisions of this Act.

(b) APPLICATION FOR REVIEW; INVESTIGATION; HEARINGS; REVIEW.—

(1) IN GENERAL.—An employee or a representative of employees who believes that the termination of the employment of the employee has occurred, or that the employee has been discriminated against, as a result of the actions of any person in violation of subsection (a) may, not later than 30 days after the date on which the alleged violation occurred, apply to the Secretary of Labor for a review of the alleged termination of employment or discrimination.

(2) APPLICATION.—A copy of an application for review filed under paragraph (1) shall be sent to the respondent.

(3) INVESTIGATION.—

(A) IN GENERAL.—On receipt of an application for review under paragraph (1), the Secretary of Labor shall carry out an investigation of the complaint.

(B) REQUIREMENTS.—In carrying out this subsection, the Secretary of Labor shall—

(i) provide an opportunity for a public hearing at the request of any party to the review to enable the parties to present information relating to the alleged violation;

(ii) ensure that, at least 5 days before the date of the hearing, each party to the hearing is provided written notice of the time and place of the hearing; and

(iii) ensure that the hearing is on the record and subject to section 554 of title 5, United States Code.

(C) FINDINGS OF COMMANDANT.—On completion of an investigation under this paragraph, the Secretary of Labor shall—

(i) make findings of fact;

(ii) if the Secretary of Labor determines that a violation did occur, issue a decision, incorporating an order and the findings, requiring the person that committed the violation to take such action as is necessary to abate the violation, including the rehiring or reinstatement, with compensation, of an employee or representative of employees to the former position of the employee or representative; and

(iii) if the Secretary of Labor determines that there was no violation, issue an order denying the application.

(D) ORDER.—An order issued by the Secretary of Labor under subparagraph (C) shall be subject to judicial review in the same manner as orders and decisions of the Administrator are subject to judicial review under this Act.

(c) COSTS AND EXPENSES.—In any case in which an order is issued under this section to abate a violation, at the request of the applicant, a sum equal to the aggregate amount of all costs and expenses (including attorney's fees), as determined by the Secretary of Labor, to have been reasonably incurred by the applicant for, or in connection with, the institution and prosecution of the proceedings, shall be assessed against the person committing the violation.

(d) DELIBERATE VIOLATIONS BY EMPLOYEE ACTING WITHOUT DIRECTION FROM EMPLOYER OR AGENT.—This section shall not apply to any employee that, without direction from the employer of the employee (or agent of the employer), deliberately violates any provision of this Act.

**SEC. 8. JUDICIAL REVIEW.**

(a) REVIEW OF ACTIONS BY ADMINISTRATOR OR COMMANDANT; SELECTION OF COURT; FEES.—

(1) REVIEW OF ACTIONS.—

(A) IN GENERAL.—Any interested person may petition for a review, in the United States circuit court for the circuit in which the person resides or transacts business directly affected by the action of which review is requested—

(i) of an action of the Commandant in promulgating any effluent limit under section 5; or

(ii) of an action of the Commandant in carrying out an inspection, sampling, or testing under section 6.

(B) DEADLINE FOR REVIEW.—A petition for review under subparagraph (A) shall be made—

(i) not later than 120 days after the date of promulgation of the limit or standard relating to the review sought; or

(ii) if the petition for review is based solely on grounds that arose after the date described in clause (i), as soon as practicable after that date.

(2) CIVIL AND CRIMINAL ENFORCEMENT PROCEEDINGS.—An action of the Commandant or Administrator with respect to which review could have been obtained under paragraph (1) shall not be subject to judicial review in any civil or criminal proceeding for enforcement.

(3) AWARD OF FEES.—In any judicial proceeding under this subsection, a court may award costs of litigation (including reasonable attorney and expert witness fees) to any prevailing or substantially prevailing party in any case in which the court determines such an award to be appropriate.

(b) ADDITIONAL EVIDENCE.—

(1) IN GENERAL.—In any judicial proceeding instituted under subsection (a) in which review is sought of a determination under this Act required to be made on the record after notice and opportunity for hearing, if any party applies to the court for leave to adduce additional evidence, and demonstrates to the satisfaction of the court that the additional evidence is material and that there were reasonable grounds for the failure to adduce the evidence in the proceeding before the Commandant or Administrator, the court may order the additional evidence (and evidence in rebuttal of the additional evidence) to be taken before the Commandant or Administrator, in such manner and on such terms and conditions as the court determines to be appropriate.

(2) MODIFICATION OF FINDINGS.—On admission of additional evidence under paragraph (1), the Commandant or Administrator—

(A) may modify findings of fact of the Commandant or Administrator, as the case may be, relating to a judicial proceeding, or make new findings of fact, by reason of the additional evidence so admitted; and

(B) shall file with the return of the additional evidence any modified or new findings, and any related recommendations, for the modification or setting aside of any original determinations of the Commandant or Administrator.

**SEC. 9. ENFORCEMENT.**

(a) IN GENERAL.—Any person that violates section 4 or any regulation promulgated under this Act may be assessed—

(1) a class I or class II penalty described in subsection (b); or

(2) a civil penalty in a civil action under subsection (c).

(b) AMOUNT OF ADMINISTRATIVE PENALTY.—

(1) CLASS I.—The amount of a class I civil penalty under subsection (a)(1) may not exceed—

(A) $10,000 per violation; or

(B) $25,000 in the aggregate, in the case of multiple violations.

(2) CLASS II.—The amount of a class II civil penalty under subsection (a)(1) may not exceed—

(A) $10,000 per day for each day during which the violation continues; or

(B) $125,000 in the aggregate, in the case of multiple violations.

(3) SEPARATE VIOLATIONS.—Each day on which a violation continues shall constitute a separate violation.

(4) DETERMINATION OF AMOUNT.—In determining the amount of a civil penalty under subsection (a)(1), the Commandant or the court, as appropriate, shall consider—

(A) the seriousness of the violation;

(B) any economic benefit resulting from the violation;

(C) any history of violations;

(D) any good-faith efforts to comply with the applicable requirements;

(E) the economic impact of the penalty on the violator; and

(F) such other matters as justice may require.

(5) PROCEDURE FOR CLASS I PENALTY.—

(A) IN GENERAL.—Before assessing a civil penalty under this subsection, the Commandant shall provide to the person to be assessed the penalty—

(i) written notice of the proposal of the Commandant to assess the penalty; and

(ii) the opportunity to request, not later than 30 days after the date on which the notice is received by the person, a hearing on the proposed penalty.

(B) HEARING.—A hearing described in subparagraph (A)(ii)—

(i) shall not be subject to section 554 or 556 of title 5, United States Code; but

(ii) shall provide a reasonable opportunity to be heard and to present evidence.

(6) PROCEDURE FOR CLASS II PENALTY.—

(A) IN GENERAL.—Except as otherwise provided in this subsection, a class II civil penalty shall be assessed and collected in the same manner, and subject to the same provisions, as in the case of civil penalties assessed and collected after notice and an opportunity for a hearing on the record in accordance with section 554 of title 5, United States Code.

(B) RULES.—The Commandant may promulgate rules for discovery procedures for hearings under this subsection.

(7) RIGHTS OF INTERESTED PERSONS.—

(A) PUBLIC NOTICE.—Before issuing an order assessing a class II civil penalty under this subsection, the Commandant shall provide public notice of and reasonable opportunity to comment on the proposed issuance of each order.

(B) PRESENTATION OF EVIDENCE.—

(i) IN GENERAL.—Any person that comments on a proposed assessment of a class II civil penalty under this subsection shall be given notice of—

(I) any hearing held under this subsection; and

(II) any order assessing the penalty.

(ii) HEARING.—In any hearing described in clause (i)(I), a person described in clause (i) shall have a reasonable opportunity to be heard and to present evidence.

(C) RIGHTS OF INTERESTED PERSONS TO A HEARING.—

(i) IN GENERAL.—If no hearing is held under subparagraph (B) before the date of issuance of an order assessing a class II civil penalty under this subsection, any person that commented on the proposed assessment may, not later than 30 days after the date of issuance of the order, petition the Commandant—

(I) to set aside the order; and

(II) to provide a hearing on the penalty.

(ii) NEW EVIDENCE.—If any evidence presented by a petitioner in support of the petition under clause (i) is material and was not considered in the issuance of the order, as determined by the Commandant, the Commandant shall immediately—

(I) set aside the order; and

(II) provide a hearing in accordance with subparagraph (B)(ii).

(iii) DENIAL OF HEARING.—If the Commandant denies a hearing under this subparagraph, the Commandant shall provide to the petitioner, and publish in the Federal Register, notice of and the reasons for the denial.

(8) FINALITY OF ORDER.—

(A) IN GENERAL.—An order assessing a class II civil penalty under this subsection shall become final on the date that is 30 days after the date of issuance of the order unless, before that date—

(i) a petition for judicial review is filed under paragraph (10); or

(ii) a hearing is requested under paragraph (7)(C).

(B) DENIAL OF HEARING.—If a hearing is requested under paragraph (7)(C) and subsequently denied, an order assessing a class II civil penalty under this subsection shall become final on the date that is 30 days after the date of the denial.

(9) EFFECT OF ACTION ON COMPLIANCE.—No action by the Commandant under this subsection shall affect the obligation of any person to comply with any provision of this Act.

(10) JUDICIAL REVIEW.—

(A) IN GENERAL.—Any person against which a civil penalty is assessed under this subsection, or that commented on the proposed assessment of such a penalty in accordance with paragraph (7), may obtain review of the assessment in a court described in subparagraph (B) by—

(i) filing a notice of appeal with the court within the 30-day period beginning on the date on which the civil penalty order is issued; and

(ii) simultaneously sending a copy of the notice by certified mail to the Commandant and the Attorney General.

(B) COURTS OF JURISDICTION.—Review of an assessment under subparagraph (A) may be obtained by a person—

(i) in the case of assessment of a class I civil penalty, in—

(I) the United States District Court for the District of Columbia; or

(II) the United States district court for the district in which the violation occurred; or

(ii) in the case of assessment of a class II civil penalty, in—

(I) the United States Court of Appeals for the District of Columbia Circuit; or

(II) the United States circuit court for any other circuit in which the person resides or transacts business.

(C) COPY OF RECORD.—On receipt of notice under subparagraph (A)(ii), the Commandant, shall promptly file with the appropriate court a certified copy of the record on which the order assessing a civil penalty that is the subject of the review was issued.

(D) SUBSTANTIAL EVIDENCE.—A court with jurisdiction over a review under this paragraph—

(i) shall not set aside or remand an order described in subparagraph (C) unless—

(I) there is not substantial evidence in the record, taken as a whole, to support the finding of a violation; or

(II) the assessment by the Commandant of the civil penalty constitutes an abuse of discretion; and

(ii) shall not impose additional civil penalties for the same violation unless the assessment by the Commandant of the civil penalty constitutes an abuse of discretion.

(11) COLLECTION.—

(A) IN GENERAL.—If any person fails to pay an assessment of a civil penalty after the assessment has become final, or after a court in a proceeding under paragraph (10) has entered a final judgment in favor of the Commandant, the Commandant shall request the Attorney General to bring a civil action in an appropriate district court to recover—

(i) the amount assessed; and

(ii) interest that has accrued on the amount assessed, as calculated at currently prevailing rates beginning on the date of the final order or the date of the final judgment, as the case may be.

(B) NONREVIEWABILITY.—In an action to recover an assessed civil penalty under subparagraph (A), the validity, amount, and appropriateness of the civil penalty shall not be subject to judicial review.

(C) FAILURE TO PAY PENALTY.—Any person that fails to pay, on a timely basis, the amount of an assessment of a civil penalty under subparagraph (A) shall be required to pay, in addition to the amount of the civil penalty and accrued interest—

(i) attorney's fees and other costs for collection proceedings; and

(ii) for each quarter during which the failure to pay persists, a quarterly nonpayment penalty in an amount equal to 20 percent of the aggregate amount of the assessed civil penalties and nonpayment penalties of the person that are unpaid as of the beginning of the quarter.

(12) SUBPOENAS.—

(A) IN GENERAL.—The Commandant may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, or documents in connection with hearings under this subsection.

(B) REFUSAL TO OBEY.—In case of contumacy or refusal to obey a subpoena issued under this paragraph and served on any person—

(i) the United States district court for any district in which the person is found, resides, or transacts business, on application by the United States and after notice to the person, shall have jurisdiction to issue an order requiring the person to appear and give testimony before the Commandant or to appear and produce documents before the Commandant; and

(ii) any failure to obey such an order of the court may be punished by the court as a contempt of the court.

(c) CIVIL ACTION.—The Commandant may commence, in the United States district court for the district in which the defendant is located, resides, or transacts business, a civil action to impose a civil penalty under this subsection in an amount not to exceed $25,000 for each day of violation.

(d) CRIMINAL PENALTIES.—

(1) NEGLIGENT VIOLATIONS.—A person that negligently violates section 4 or any regulation promulgated under this Act commits a Class A misdemeanor.

(2) KNOWING VIOLATIONS.—Any person that knowingly violates section 4 or any regulation promulgated under this Act commits a Class D felony.

(3) FALSE STATEMENTS.—Any person that knowingly makes any false statement, representation, or certification in any record, report, or other document filed or required to be maintained under this Act or any regulation promulgated under this Act, or that falsifies, tampers with, or knowingly renders inaccurate any testing or monitoring device or method required to be maintained under this Act or any regulation promulgated under this Act, commits a Class D felony.

(e) REWARDS.—

(1) PAYMENTS TO INDIVIDUALS.—

(A) IN GENERAL.—The Commandant or the court, as the case may be, may order payment, from a civil penalty or criminal fine collected under this section, of an amount not to exceed ½ of the civil penalty or fine, to any individual who furnishes information that leads to the payment of the civil penalty or criminal fine.

(B) MULTIPLE INDIVIDUALS.—If 2 or more individuals provide information described in subparagraph (A), the amount available for payment as a reward shall be divided equitably among the individuals.

(C) INELIGIBLE INDIVIDUALS.—No officer or employee of the United States, a State, or an Indian tribe who furnishes information or renders service in the performance of the official duties of the officer or employee shall be eligible for a reward payment under this subsection.

(2) PAYMENTS TO STATES OR INDIAN TRIBES.—The Commandant or the court, as the case may be, may order payment, from a civil penalty or criminal fine collected under this section, to a State or Indian tribe providing information or investigative assistance that leads to payment of the penalty or fine, of an amount that reflects the level of information or investigative assistance provided.

(3) PAYMENTS DIVIDED AMONG STATES, INDIAN TRIBES, AND INDIVIDUALS.—In a case in which a State or Indian tribe and an individual under paragraph (1) are eligible to receive a reward payment under this subsection, the Commandant or the court shall divide the amount available for the reward equitably among those recipients.

(f) LIABILITY IN REM.—A cruise vessel operated in violation of this Act or any regulation promulgated under this Act—

(1) shall be liable in rem for any civil penalty or criminal fine imposed under this section; and

(2) may be subject to a proceeding instituted in the United States district court for any district in which the cruise vessel may be found.

(g) COMPLIANCE ORDERS.—

(1) IN GENERAL.—If the Commandant determines that any person is in violation of section 4 or any regulation promulgated under this Act, the Commandant shall—

(A) issue an order requiring the person to comply with the section or requirement; or

(B) bring a civil action in accordance with subsection (b).

(2) COPIES OF ORDER, SERVICE.—

(A) CORPORATE ORDERS.—In any case in which an order under this subsection is issued to a corporation, a copy of the order shall be served on any appropriate corporate officer.

(B) METHOD OF SERVICE; SPECIFICATIONS.—An order issued under this subsection shall—

(i) be by personal service;

(ii) state with reasonable specificity the nature of the violation for which the order was issued; and

(iii) specify a deadline for compliance that is not later than—

(I) 30 days after the date of issuance of the order, in the case of a violation of an interim compliance schedule or operation and maintenance requirement; and

(II) such date as the Commandant, taking into account the seriousness of the violation and any good faith efforts to comply with applicable requirements, determines to be reasonable, in the case of a violation of a final deadline.

(h) CIVIL ACTIONS.—

(1) IN GENERAL.—The Commandant may commence a civil action for appropriate relief, including a permanent or temporary injunction, for any violation for which the Commandant is authorized to issue a compliance order under this subsection.

(2) COURT OF JURISDICTION.—

(A) IN GENERAL.—A civil action under this subsection may be brought in the United

States district court for the district in which the defendant is located, resides, or is doing business.

(B) JURISDICTION.—A court described in subparagraph (A) shall have jurisdiction to grant injunctive relief to address a violation, and require compliance, by the defendant.

**SEC. 10. CITIZEN SUITS.**

(a) AUTHORIZATION.—Except as provided in subsection (c), any citizen may commence a civil action on his or her own behalf—

(1) against any person (including the United States and any other governmental instrumentality or agency to the extent permitted by the eleventh amendment of the Constitution) that is alleged to be in violation of—

(A) the conditions imposed by section 4;

(B) an effluent limit or management standard under this Act; or

(C) an order issued by the Administrator or Commandant with respect to such a condition, effluent limit, or performance standard; or

(2) against the Administrator or Commandant, in a case in which there is alleged a failure by the Administrator or Commandant to perform any nondiscretionary act or duty under this Act.

(b) JURISDICTION.—The United States district courts shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties—

(1) to enforce a condition, effluent limit, performance standard, or order described in subsection (a)(1);

(2) to order the Administrator or Commandant to perform a nondiscretionary act or duty described in subsection (a)(2); and

(3) to apply any appropriate civil penalties under section 9(b).

(c) NOTICE.—No action may be commenced under this section—

(1) before the date that is 60 days after the date on which the plaintiff gives notice of the alleged violation—

(A) to the Administrator or Commandant; and

(B) to any alleged violator of the condition, limit, standard, or order; or

(2) if the Administrator or Commandant has commenced and is diligently prosecuting a civil or criminal action on the same matter in a court of the United States (but in any such action, a citizen may intervene as a matter of right).

(d) VENUE.—

(1) IN GENERAL.—Any civil action under this section shall be brought in—

(A) the United States District Court for the District of Columbia; or

(B) any other United States district court for any judicial district in which a cruise vessel or the owner or operator of a cruise vessel are located.

(2) INTERVENTION.—In a civil action under this section, the Administrator or the Commandant, if not a party, may intervene as a matter of right.

(3) PROCEDURES.—

(A) SERVICE.—In any case in which a civil action is brought under this section in a court of the United States, the plaintiff shall serve a copy of the complaint on—

(i) the Attorney General;

(ii) the Administrator; and

(iii) the Commandant.

(B) CONSENT JUDGMENTS.—No consent judgment shall be entered in a civil action under this section to which the United States is not a party before the date that is 45 days after the date of receipt of a copy of the proposed consent judgment by—

(i) the Attorney General;

(ii) the Administrator; and

(iii) the Commandant.

(e) LITIGATION COSTS.—

(1) IN GENERAL.—A court of jurisdiction, in issuing any final order in any civil action brought in accordance with this section, may award costs of litigation (including reasonable attorney's and expert witness fees) to any prevailing or substantially prevailing party, in any case in which the court determines that such an award is appropriate.

(2) SECURITY.—In any civil action under this section, the court of jurisdiction may, if a temporary restraining order or preliminary injunction is sought, require the filing of a bond or equivalent security in accordance with the Federal Rules of Civil Procedure.

(f) STATUTORY OR COMMON LAW RIGHTS NOT RESTRICTED.—Nothing in this section restricts the rights of any person (or class of persons) under any statute or common law to seek enforcement or other relief (including relief against the Administrator or Commandant).

(g) CIVIL ACTION BY STATE GOVERNORS.—A Governor of a State may commence a civil action under subsection (a) of this section, without regard to the limitation under subsection (c), against the Administrator or Commandant in any case in which there is alleged a failure of the Administrator or Commandant to enforce an effluent limit or performance standard under this Act, the violation of which is causing—

(1) an adverse effect on the public health or welfare in the State; or

(2) a violation of any water quality requirement in the State.

**SEC. 11. ALASKAN CRUISE VESSELS.**

(a) DEFINITION OF ALASKAN CRUISE VESSEL.—In this section, the term ''Alaskan cruise vessel'' means a cruise vessel—

(1) that seasonally operates in water of or surrounding the State of Alaska;

(2) in which is installed, not later than the date of enactment of this Act (or, at the option of the Commandant, not later than September 30 of the fiscal year in which this Act is enacted), and certified by the State of Alaska for continuous discharge and operation in accordance with all applicable Federal and State law (including regulations), an advanced treatment system for the treatment and discharge of graywater and sewage; and

(3) that enters a port of the United States.

(b) APPLICABILITY.—

(1) IN GENERAL.—Except as provided in paragraph (2), an Alaskan cruise vessel shall not be subject to this Act (including regulations promulgated under this Act) until the date that is 15 years after the date of enactment of this Act.

(2) EXCEPTIONS.—An Alaskan cruise vessel—

(A) shall not be subject to the minimum effluent limits prescribed under section 5(b) until the date that is 3 years after the date of enactment of this Act;

(B) shall not be subject to effluent limits promulgated under section 5(a) or 5(c) until the date that is 6 years after the date of enactment of this Act; and

(C) shall be prohibited from discharging sewage, graywater, and bilge water in the territorial sea, in accordance with this Act, as of the date of enactment of this Act.

**SEC. 12. BALLAST WATER.**

It is the sense of Congress that action should be taken to enact legislation requiring strong, mandatory standards for ballast water to reduce the threat of aquatic invasive species.

**SEC. 13. FUNDING.**

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Commandant and the Administrator such sums as are necessary to carry out this Act for each of fiscal years 2006 through 2010.

(b) CRUISE VESSEL POLLUTION CONTROL FUND.—

(1) ESTABLISHMENT.—There is established in the general fund of the Treasury a separate account to be known as the ''Cruise Vessel Pollution Control Fund'' (referred to in this section as the ''Fund'').

(2) APPROPRIATION OF AMOUNTS.—There are appropriated to the Fund such amounts as are deposited in the Fund under subsection (c)(5).

(3) USE OF AMOUNTS IN FUND.—The Administrator and the Commandant may use amounts in the fund, without further appropriation, to carry out this Act.

(c) FEES ON CRUISE VESSELS.—

(1) IN GENERAL.—The Commandant shall establish and collect from each cruise vessel a reasonable and appropriate fee, in an amount not to exceed $10 for each paying passenger on a cruise vessel voyage, for use in carrying out this Act.

(2) ADJUSTMENT OF FEE.—

(A) IN GENERAL.—The Commandant shall biennially adjust the amount of the fee established under paragraph (1) to reflect changes in the Consumer Price Index for All Urban Consumers published by the Department of Labor during each 2-year period.

(B) ROUNDING.—The Commandant may round the adjustment in subparagraph (A) to the nearest 1/10 of a dollar.

(3) FACTORS IN ESTABLISHING FEES.—

(A) IN GENERAL.—In establishing fees under paragraph (1), the Commandant may establish lower levels of fees and the maximum amount of fees for certain classes of cruise vessels based on—

(i) size;

(ii) economic share; and

(iii) such other factors as are determined to be appropriate by the Commandant and Administrator.

(B) FEE SCHEDULES.—Any fee schedule established under paragraph (1), including the level of fees and the maximum amount of fees, shall take into account—

(i) cruise vessel routes;

(ii) the frequency of stops at ports of call by cruise vessels; and

(iii) other relevant considerations.

(4) COLLECTION OF FEES.—A fee established under paragraph (1) shall be collected by the Commandant from the owner or operator of each cruise vessel to which this Act applies.

(5) DEPOSITS TO FUND.—Notwithstanding any other provision of law, all fees collected under this subsection, and all penalties and payments collected for violations of this Act, shall be deposited into the Fund.

**SEC. 14. EFFECT ON OTHER LAW.**

(a) UNITED STATES.—Nothing in this Act restricts, affects, or amends any other law or the authority of any department, instrumentality, or agency of the United States.

(b) STATES AND INTERSTATE AGENCIES.—

(1) IN GENERAL.—Except as provided in paragraph (2), nothing in this Act precludes or denies the right of any State (including a political subdivision of a State) or interstate agency to adopt or enforce—

(A) any standard or limit relating to the discharge of pollutants by cruise ships; or

(B) any requirement relating to the control or abatement of pollution.

(2) EXCEPTION.—If an effluent limit, performance standard, water quality standard, or any other prohibition or limitation is in effect under Federal law, a State (including a political subdivision of a State) or interstate agency described in paragraph (1) may not adopt or enforce any effluent limit, performance standard, water quality standard, or any other prohibition that—

(A) is less stringent than the effluent limit, performance standard, water quality standard, or other prohibition or limitation under this Act; or

(B) impairs or in any manner affects any right or jurisdiction of the State with respect to the waters of the State.

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By Mr. HARKIN:

S. 794. A bill to amend title 23, United States Code, to improve the safety of nonmotorized transportation, including bicycle and pedestrian safety; to the Committee on Commerce, Science, and Transportation.

By Mr. HARKIN. Mr. President, I am pleased to introduce the ''Safe and Complete Streets Act of 2005.''

This legislation helps put this Nation on the path to a safer and, importantly, healthier America, by making some very modest adjustments in how State transportation departments and regional and local transportation agencies address the safety needs of pedestrians and bicyclists.

This proposal is being introduced today to ensure greater attention to the ''SAFETEA'' elements of the surface transportation renewal bill that will come before the Senate in the coming weeks. With some selected, but modest, adjustments to this surface transportation legislation, we can improve the safety of pedestrians and bicyclists. And with that improved safety, we make it easier for Americans to walk and use bicycles to meet their transportation needs, whether to work, for errands or for simple exercise and enjoyment.

Currently, safety concerns reduce the comfort of many people to move by foot and bicycle. Many roadways simply do not have sidewalks. And it is a particular problem for our growing elderly population. In many cases, the timing of lights makes it difficult for the elderly and those with a disability to simply get from one side of a busy intersection to another.

There is clearly a need for further progress in this area. Consider that nearly 52,000 pedestrians and more than 7,400 bicyclists were killed in the most recent 10-year period, ending 2003. And, we know that many of these deaths, and thousands of more injuries, are avoidable, if we commit ourselves to doing those things that make a difference.

This bill proposes three important changes to current law. First, it insists that Federal, State and local agencies receiving billions of dollars in federal transportation funds modernize their processes—how they plan, what they study and how they lead—so that the safety of pedestrians and bicyclists are more fully considered. Second, it ensures that investments we make today don't add to the problems we already have, which is the burden of retrofitting and reengineering existing transportation networks because we forgot about pedestrians and bicyclists. Finally, it commits additional resources to a national priority need—getting our children to schools safely on foot and bicycles through a stronger funding commitment to Safe Routes to School.

The Senate will soon take up a surface transportation renewal plan that already includes key provisions to help us make further progress on the safety needs of nonmotorized travelers. The ''Safe and Complete Streets Act of 2005'' is specifically designed and developed to complement the efforts in the committee passed measure. Only in two areas, pertaining to the Safe Routes to School initiative and a small nonmotorized pilot program, does this legislation propose any additional funding commitments. All other aspects of the legislation before you today build upon existing commitments and existing features of current law.

Let me speak briefly to the issues of the Safe Routes to School program specifically. This legislation proposes to raise the Senate's commitment to increased safety for our school age kids by slightly more than $100 million annually over the level in the surface transportation bill that the Senate will soon consider.

I am proposing this modest increase in spending because there is a crtical need for us to accelerate what we are doing to protect our most exposed citizens, our school age children. This Nation has spent the last two generations getting kids into cars and buses, rather than on foot or bicycles.

Now, we are reaping the harvest. Billions more in added transportation costs for our schools districts to bus our kids to schools. Added congestion on our roadways as families transport their kids to school by I private automobile, clogging traffic at the worst time possible, during the morning commute. In Marin County, CA, a pilot program has demonstrated substantial success in reducing congestion by shifting children to walking and riding their bikes to school.

In addition, we see rising obesity in our children and looming public health challenges over the next several generations, and even shortened life expectancy. We need to promote walking for both health and transportation purposes.

The ''Safe and Complete Streets Act of 2005'' will not only promote the safety of pedestrians and bicyclists, it also will provide benefits to society from smarter use of tax dollars, and by focusing on safety first. I urge my Senate colleagues to join with me in supporting this important legislation.

I am pleased to announce that it has the support of the following eleven national organizations: AARP, American Bikes, American Heart Association, American Public Health Association, American Society of Landscape Architects, American Planning Association, League of American Bicyclists, National Center for Bicycling & Walking, Paralyzed Veterans of America, Rail-to-Trails Conservancy and the Surface Transportation Policy Project.

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By Mr. DODD (for himself and Mr. WARNER):

S. 795, A bill to provide driver safety grants to States with graduated driver licensing laws that meet certain minimum requirements; to the Committee on Environment and Public Works.

Mr. DODD. Mr. President, I rise with my colleague from Virginia, Senator WARNER, to introduce the Safe Teen and Novice Driver Uniform Protection (STAND UP) Act of 2005—an important piece of legislation that seeks to protect and ensure the lives of the 20 million teenage drivers in our country.

We all know that the teenage years represent an important formative stage in a person's life. They are a bridge between childhood and adulthood—the transitional and often challenging period during which a person will first gain an inner awareness of his or her identity. The teenage years encompass a time for discovery, a time for growth, and a time for gaining independence—all of which ultimately help boys and girls transition successfully into young men and women.

As we also know, the teenage years also encompass a time for risk-taking. A groundbreaking study to be published soon by the National Institutes of Health concludes that the frontal lobe region of the brain which inhibits risky behavior is not fully formed until the age of 25. In my view, this important report implies that we approach teenagers' behavior with a new sensitivity. It also implies that we have a societal obligation to steer teenagers towards positive risk-taking that fosters further growth and development and away from negative risk-taking that has an adverse effect on their well-being and the well-being of others.

Unfortunately, we see all too often this negative risk-taking in teenagers when they are behind the wheel of a motor vehicle. We see all too often how this risk-taking needlessly endangers the life of a teenage driver, his or her passengers, and other drivers on the road. And we see all too often the tragic results of this risk-taking when irresponsible and reckless behavior behind the wheel of a motor vehicle causes severe harm and death.

According to the National Transportation Safety Board, motor vehicle crashes are the leading cause of death for Americans between 15 and 20 years of age. In 2002, teenage drivers, who constituted only 6.4 percent of all drivers, were involved in 14.3 percent of all fatal motor vehicle crashes. In 2003, 5,691 teenage drivers were killed in motor vehicle crashes and 300,000 teenage drivers suffered injuries in motor vehicle crashes.

The National Highway Traffic Safety Administration reports that teenage drivers have a fatality rate that is four times higher than the average fatality rate for drivers between 25 and 70 years of age. Furthermore, teenage drivers who are 16 years of age have a motor vehicle crash rate that is almost ten times the crash rate for drivers between the ages of 30 and 60.

Finally, the Insurance Institute for Highway Safety concludes that the chance of a crash by a driver either 16

or 17 years of age is doubled if there are two peers in the motor vehicle and quadrupled with three or more peers in the vehicle.

Crashes involving teenage injuries or fatalities are often highprofile tragedies in the area where they occur. However, when taken together, these individual tragedies speak to a national problem clearly illustrated by the staggering statistics I just mentioned. It is a problem that adversely affects teenage drivers, their passengers, and literally everyone else who operates or rides in a motor vehicle. Clearly, more work must be done to design and implement innovative methods that educate our young drivers on the awesome responsibilities that are associated with operating a motor vehicle safely.

One such method involves implementing and enforcing a graduated driver's license system, or a GDL system. Under a typical GDL system, a teenage driver passes through several sequential learning stages before earning the full privileges associated with an unrestricted driver's license. Each learning stage is designed to teach a teenage driver fundamental lessons on driver operations, responsibilities, and safety. Each stage also imposes certain restrictions, such as curfews on nighttime driving and limitations on passengers, that further ensure the safety of the teenage driver, his or her passengers, and other motorists.

First implemented over ten years ago, three-stage GDL systems now exist in 38 States. Furthermore, every State in the country has adopted at least one driving restriction for new teenage drivers. Several studies have concluded that GDL systems and other license restriction measures have been linked to an overall reduction on the number of teenage driver crashes and fatalities. In 1997, in the first full year that its GDL system was in effect, Florida experienced a 9 percent reduction in fatal and injurious motor vehicle crashes among teenage drivers between 15 and 18 years of age. After GDL systems were implemented in Michigan and North Carolina in 1997, the number of motor vehicle crashes involving teenage drivers 16 years in age decreased in each State by 25 percent and 27 percent, respectively. And in California, the numbers of teenage passenger deaths and injuries in crashes involving teenage drivers 16 years in age decreased by 40 percent between 1998 and 2000, the first three years that California's GDL system was in effect. The number of ''at-fault'' crashes involving teenage drivers decreased by 24 percent during the same period.

These statistics are promising and clearly show that many States are taking an important first step towards addressing this enormous problem concerning teenage driver safety. However, there is currently no uniformity between States with regards to GDL system requirements and other novice driver license restrictions. Some States have very strong initiatives in place that promote safe teenage driving while others have very weak initiatives in place. Given how many teenagers are killed or injured in motor vehicle crashes each year, and given how many other motorists and passengers are killed or injured in motor vehicle crashes involving teenage drivers each year, Senator Warner and I believe that the time has come for an initiative that sets a national minimum safety standard for teen driving laws while giving each State the flexibility to set additional standards that meet the more specific needs of its teenage driver population. The bill that Senator Warner and I are introducing today—the STANDUP Act—is such an initiative. There are four principal components of this legislation about which I would like to discuss.

First, The STANDUP Act mandates that all States implement a national minimum safety standard for teenage drivers that contains three core requirements recommended by the National Transportation Safety Board. These requirements include implementing a three-stage GDL system, implementing at least some prohibition on nighttime driving, and placing a restriction on the number of passengers without adult supervision.

Second, the STANDUP Act directs the Secretary of Transportation to issue voluntary guidelines beyond the three core requirements that encourage States to adopt additional standards that improve the safety of teenage driving. These additional standards may include requiring that the learner's permit and intermediate stages be six months each, requiring at least 30 hours of behind-the-wheel driving for a novice driver in the learner's permit stage in the company of a licensed driver who is over 21 years of age, requiring a novice driver in the learner's permit stage to be accompanied and supervised by a licensed driver 21 years of age or older at all times when the novice driver is operating a motor vehicle, and requiring that the granting of an unrestricted driver's license be delayed automatically to any novice driver in the learner's permit or intermediate stages who commits a motor vehicle offense, such as driving while intoxicated, misrepresenting his or her true age, reckless driving, speeding, or driving without a fastened seatbelt.

Third, the STANDUP Act provides incentive grants to States that come into compliance within three fiscal years. Calculated on a State's annual share of the Highway Trust Fund, these incentive grants could be used for activities such as training law enforcement and relevant State agency personnel in the GDL law or publishing relevant educational materials on the GDL law.

Finally, the STANDUP Act calls for sanctions to be imposed on States that do not come into compliance after three fiscal years. The bill withholds 1.5 percent of a State's Federal highway share after the first fiscal year of non-compliance, three percent after the second fiscal year, and six percent after the third fiscal year. The bill does allow a State to reclaim any withheld funds if that State comes into compliance within two fiscal years after the first fiscal year of non-compliance.

There are those who will say that the STAND UP Act infringes on States' rights. I respectfully disagree. I believe that working to protect and ensure the lives and safety of the millions of teenage drivers, their passengers, and other motorists in this country is national in scope and a job that is rightly suited for Congress. I also believe that the number of motor vehicle deaths and injuries associated with teenage drivers each year compels us to address this important national issue today and not tomorrow.

The teenage driving provisions within the STANDUP Act are both well-known and popular with the American public. A Harris Poll conducted in 2001 found that 95 percent of Americans support a requirement of 30 to 50 hours of practice driving within an adult, 92 percent of Americans support a six-month learner's permit stage, 74 percent of Americans support limiting the number of teen passengers in a motor vehicle with a teen driver, and 74 percent of Americans also support supervised or restricted driving during high-risk periods such as nighttime. Clearly, these numbers show that teen driving safety is an issue that transcends party politics and is strongly embraced by a solid majority of Americans. Therefore, I ask my colleagues today to join Senator Warner and myself in protecting the lives of our teenagers and in supporting this important legislation.

I ask unanimous consent that the text of this legislation be printed in the RECORD.

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

S. 795

*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 ''Safe Teen and Novice Driver Uniform Protection Act of 2005'' or the ''STANDUP Act''.

**SEC. 2. FINDINGS.**

Congress finds the following:

(1) The National Transportation Safety Board has reported that—

(A) in 2002, teen drivers, which constituted only 6.4 percent of all drivers, were involved in 14.3 percent of all fatal motor vehicle crashes;

(B) motor vehicle crashes are the leading cause of death for Americans between 15 and 20 years of age;

(C) between 1994 and 2003, almost 64,000 Americans between 15 and 20 years of age died in motor vehicle crashes, an average of 122 per week; and

(D) in 2003—

(i) 3,657 American drivers between 15 and 20 years of age were killed in motor vehicle crashes;

(ii) 300,000 Americans between 15 and 20 years of age were injured in motor vehicle crashes; and

(iii) 7,884 American drivers between 15 and 20 years of age were involved in fatal crashes, resulting in 9,088 total fatalities, a 5 percent increase since 1993.

(2) Though only 20 percent of driving by young drivers occurs at night, over 50 percent of the motor vehicle crash fatalities involving young drivers occur at night.

(3) The National Highway Traffic Safety Administration has reported that—

(A) 6,300,000 motor vehicle crashes claimed the lives of nearly 43,000 Americans in 2003 and injured almost 3,000,000 more Americans;

(B) teen drivers between 16 and 20 years of age have a fatality rate that is 4 times the rate for drivers between 25 and 70 years of age; and

(C) drivers who are 16 years of age have a motor vehicle crash rate that is almost ten times the crash rate for drivers aged between 30 and 60 years of age.

(4) According to the Insurance Institute for Highway Safety, the chance of a crash by a 16- or 17-year-old driver is doubled if there are 2 peers in the vehicle and quadrupled with 3 or more peers in the vehicle.

(5) In 1997, the first full year of its graduated driver licensing system, Florida experienced a 9 percent reduction in fatal and injurious crashes among young drivers between the ages of 15 and 18, compared with 1995, according the Insurance Institute for Highway Safety.

(6) The Journal of the American Medical Association reports that crashes involving 16-year-old drivers decreased between 1995 and 1999 by 25 percent in Michigan and 27 percent in North Carolina. Comprehensive graduated driver licensing systems were implemented in 1997 in these States.

(7) In California, according to the Automobile Club of Southern California, teenage passenger deaths and injuries resulting from crashes involving 16-year-old drivers declined by 40 percent from 1998 to 2000, the first 3 years of California's graduated driver licensing program. The number of at-fault collisions involving 16-year-old drivers decreased by 24 percent during the same period.

(8) The National Transportation Safety Board reports that 39 States and the District of Columbia have implemented 3-stage graduated driver licensing systems. Many States have not yet implemented these and other basic safety features of graduated driver licensing laws to protect the lives of teenage and novice drivers.

(9) A 2001 Harris Poll indicates that—

(A) 95 percent of Americans support a requirement of 30 to 50 hours of practice driving with an adult;

(B) 92 percent of Americans support a 6-month learner's permit period; and

(C) 74 percent of Americans support limiting the number of teen passengers in a car with a teen driver and supervised driving during high-risk driving periods, such as night.

**SEC. 3. STATE GRADUATED DRIVER LICENSING LAWS.**

(a) MINIMUM REQUIREMENTS.—A State is in compliance with this section if the State has a graduated driver licensing law that includes, for novice drivers under the age of 21—

(1) a 3-stage licensing process, including a learner's permit stage and an intermediate stage before granting an unrestricted driver's license;

(2) a prohibition on nighttime driving during the learner's permit and intermediate stages;

(3) a prohibition, during the learner's permit intermediate stages, from operating a motor vehicle with more than 1 non-familial passenger under the age of 21 if there is no licensed driver 21 years of age or older present in the motor vehicle; and

(4) any other requirement that the Secretary of Transportation (referred to in this Act as the ''Secretary'') may require, including—

(A) a learner's permit stage of at least 6 months;

(B) an intermediate stage of at least 6 months;

(C) for novice drivers in the learner's permit stage—

(i) a requirement of at least 30 hours of behind-the-wheel training with a licensed driver who is over 21 years of age; and

(ii) a requirement that any such driver be accompanied and supervised by a licensed driver 21 years of age or older at all times when such driver is operating a motor vehicle; and

(D) a requirement that the grant of full licensure be automatically delayed, in addition to any other penalties imposed by State law for any individual who, while holding a provisional license, convicted of an offense, such as driving while intoxicated, misrepresentation of their true age, reckless driving, unbelted driving, speeding, or other violations, as determined by the Secretary.

(b) RULEMAKING.—After public notice and comment rulemaking the Secretary shall issue regulations necessary to implement this section.

**SEC. 4. INCENTIVE GRANTS.**

(a) IN GENERAL.—For each of the first 3 fiscal years following the date of enactment of this Act, the Secretary shall award a grant to any State in compliance with section 3(a) on or before the first day of that fiscal year that submits an application under subsection (b).

(b) APPLICATION.—Any State desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require, including a certification by the governor of the State that the State is in compliance with section 3(a).

(c) GRANTS.—For each fiscal year described in subsection (a), amounts appropriated to carry out this section shall be apportioned to each State in compliance with section 3(a) in an amount determined by multiplying—

(1) the amount appropriated to carry out this section for such fiscal year; by

(2) the ratio that the amount of funds apportioned to each such State for such fiscal year under section 402 of title 23, United States Code, bears to the total amount of funds apportioned to all such States for such fiscal year under such section 402.

(d) USE OF FUNDS.—Amounts received under a grant under this section shall be used for—

(1) enforcement and providing training regarding the State graduated driver licensing law to law enforcement personnel and other relevant State agency personnel;

(2) publishing relevant educational materials that pertain directly or indirectly to the State graduated driver licensing law; and

(3) other administrative activities that the Secretary considers relevant to the State graduated driver licensing law.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $25,000,000 for each of the fiscal years 2005 through 2009.

**SEC. 5. WITHHOLDING OF FUNDS FOR NON-COMPLIANCE.**

(a) IN GENERAL.—

(1) FISCAL YEAR 2010.—The Secretary shall withhold 1.5 percent of the amount otherwise required to be apportioned to any State for fiscal year 2010 under each of the paragraphs (1), (3), and (4) of section 104(b) of title 23, United States Code, if that State is not in compliance with section 3(a) of this Act on October 1, 2009.

(2) FISCAL YEAR 2011.—The Secretary shall withhold 3 percent of the amount otherwise required to be apportioned to any State for fiscal year 2011 under each of the paragraphs (1), (3), and (4) of section 104(b) of title 23, United States Code, if that State is not in compliance with section 3(a) of this Act on October 1, 2010.

(3) FISCAL YEAR 2012 AND THEREAFTER.—The Secretary shall withhold 6 percent of the amount otherwise required to be apportioned to any State for each fiscal year beginning with fiscal year 2012 under each of the paragraphs (1), (3), and (4) of section 104(b) of title 23, United States Code, if that State is not in compliance with section 3(a) of this Act on the first day of such fiscal year.

(b) PERIOD OF AVAILABILITY OF WITHHELD FUNDS.—

(1) FUNDS WITHHELD ON OR BEFORE SEPTEMBER 30, 2011.—Any amount withheld from any State under subsection (a) on or before September 30, 2011, shall remain available for distribution to the State under subsection (c) until the end of the third fiscal year following the fiscal year for which such amount is appropriated.

(2) FUNDS WITHHELD AFTER SEPTEMBER 30, 2011.—Any amount withheld under subsection (a)(2) from any State after September 30, 2011, may not be distributed to the State.

(c) APPORTIONMENT OF WITHHELD FUNDS AFTER COMPLIANCE.—

(1) IN GENERAL.—If, before the last day of the period for which funds withheld under subsection (a) are to remain available to a State under subsection (b), the State comes into compliance with section 3(a), the Secretary shall, on the first day on which the State comes into compliance, distribute to the State any amounts withheld under subsection (a) that remains available for apportionment to the State.

(2) PERIOD OF AVAILABILITY OF SUBSEQUENTLY APPORTIONED FUNDS.—Any amount distributed under paragraph (1) shall remain available for expenditure by the State until the end of the third fiscal year for which the funds are so apportioned. Any amount not expended by the State by the end of such period shall revert back to the Treasury of the United States.

(3) EFFECT OF NON-COMPLIANCE.—If a State is not in compliance with section 3(a) at the end of the period for which any amount withheld under subsection (a) remains available for distribution to the State under subsection (b), such amount shall revert back to the Treasury of the United States.

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By Ms. MURKOWSKI:

S. 796. A bill to amend the National Aquaculture Act of 1980 to prohibit the issuance of permits for marine aquaculture facilities until requirements for such permits are enacted into law; to the Committee on Agriculture, Nutrition, and Forestry.

Ms. MURKOWSKI. Mr. President. I am today reintroducing a very important bill on a subject that was not resolved last year, and which continues to be an outstanding issue for those of us who are dependent on healthy and productive natural populations of ocean fish and shellfish.

Simply put, this bill prohibits further movement toward the development of aquaculture facilities in federal waters until Congress has had an opportunity to review all of the very

serious implications, and make decisions on how such development should proceed.

Some people are calling for a moratorium on offshore aquaculture. Frankly, Mr. President, we need more than a delay—we need a very comprehensive discussion of this issue and a serious debate on what the ground-rules should be.

For years, some members of the federal bureaucracy have advocated going forward with offshore aquaculture development without that debate. Doing so, would be an extraordinarily bad idea.

We are now being told that the Administration is in the final stages of preparing a draft bill to allow offshore aquaculture development to occur, and that it plans to send a draft to the Hill in the very near future. The problem is, that draft has been prepared in deep secrecy. We have only rumors about what may be in that draft bill. The administration has had meetings on the general topic of aquaculture, but has done little to nothing to work with those of us who represent constituents whose livelihoods might be imperiled and states with resources that might be endangered if the administration gets it wrong.

Scientists, the media and the public are awakening to the serious disadvantages of fish raised in fish farming operations compared to naturally healthy wild fish species such as Alaska salmon, halibut, sablefish, crab and many other species.

It has become common to see news reports that cite not only the general health advantages of eating fish at least once or twice a week, but the specific advantages of fish such as wild salmon, which contains essential Omega-3 fatty acids that may help reduce the risk of heart disease and possibly have similar beneficial effects on other diseases.

Educated and watchful consumers have also seen recent stories citing research that not only demonstrates that farmed salmon fed vegetable-based food does not have the same beneficial impact on cardio-vascular health, but also that the demand for other fish to grind up and use as feed in those fish farms may lead to the decimation of those stocks.

Those same alert consumers may also have seen stories indicating that fish farms may create serious pollution problems from the concentration of fish feces and uneaten food, that fish farms may harbor diseases that can be transmitted to previously healthy wild fish stocks, and that fish farming has had a devastating effect on communities that depend on traditional fisheries.

It is by no means certain that all those problems would be duplicated if we begin to develop fish farms that are farther offshore, but neither is there any evidence that they would not be. Yet despite the uncertainties, proponents have continued to push hard for legislation that would encourage the development of huge new fish farms off our coasts.

Not only do the proponents want to encourage such development, but reports indicate they may also want to change the way decisions are made so that all the authority rests in the hands of just one federal agency. I believe that would be a serious mistake. There are simply too many factors that should be evaluated—from hydraulic engineering, to environmental impacts, to fish biology, to the management of disease, to the nutritional character of farmed fish, and so on—for any existing agency.

We cannot afford a rush to judgment on this issue—it is far too dangerous if we make a mistake. In my view, such a serious matter deserves the same level of scrutiny by Congress as the recommendations of the U.S. Commission on Ocean Policy for other sweeping changes in ocean governance.

The ''Natural Stock Conservation Act'' I am introducing today lays down a marker for where the debate on offshore aquaculture needs to go. It would prohibit the development of new offshore aquaculture operations until Congress has acted to ensure that every federal agency involved does the necessary analyses in areas such as disease control, engineering, pollution prevention, biological and genetic impacts, economic and social effects, and other critical issues, none of which are specifically required under existing law.

I strongly urge my colleagues to understand that this is not a parochial issue, but a very real threat to the literal viability of natural fish and shellfish stocks as well as the economic viability of many coastal communities.

I sincerely hope that this issue is taken up seriously in the context of reauthorizing the Magnuson-Stevens Act, which governs fishery management, and responding to the recommendations of the U.S. Oceans Commission and the Pew Oceans Commission.

We all want to make sure we enjoy abundant supplies of healthy foods in the future, but not if it means unnecessary and avoidable damage to wild species, to the environment generally, and to the economies of America's coastal fishing communities.

I ask unanimous consent that the text of my bill be printed in the RECORD.

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

S. 796

*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 ''Natural Stock Conservation Act of 2005''.

**SEC. 2. PROHIBITION ON PERMITS FOR AQUACULTURE.**

The National Aquaculture Act of 1980 (16 D.S.C. 2801 et seq.) is amended—

(1) by redesignating sections 10 and 11 as sections 11 and 12 respectively; and S.L.C.

(2) by inserting after section 9 the following new section:

PROHIBITION ON PERMITS FOR AQUACULTURE

''SEC. 10. (a) IN GENERAL.—The head of an agency with jurisdiction to regulate aquaculture may not issue a permit or license to permit an aquaculture facility located in the exclusive economic zone to operate until after the date on which a bill is enacted into law that—

''(1) sets out the type and specificity of the analyses that the head of an agency with jurisdiction to regulate aquaculture shall carry out prior to issuing any such permit or license, including analyses related to—

''(A) disease control;

''(B) structural engineering;

''(C) pollution;

''(D) biological and genetic impacts;

''(E) access and transportation;

''(F) food safety; and

''(G) social and economic impacts of such facility on other marine activities, including commercial and recreational fishing; and

''(2) requires that a decision to issue such a permit or license be—

''(A) made only after the head of the agency that issues such license or permit consults with the Governor of each State located within a 200-mile radius of the aquaculture facility; and

''(B) approved by the regional fishery management council that is granted authority under title III of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1851 et seq.) over a fishery in the region where the aquaculture facility will be located.

''(b) DEFINITIONS.—In this section:

''(1) AGENCY WITH JURISDICTION TO REGULATE AQUACULTURE.—The term 'agency with jurisdiction to regulate aquaculture' means each agency and department of the United States, as follows:

''(A) The Department of Agriculture.

''(B) The Coast Guard.

''( C) The Department of Commerce.

''(D) The Environmental Protection Agency.

''(E) The Department of the Interior.

''(F) The U.S. Army Corps of Engineers.

''(2) EXCLUSIVE ECONOMIC ZONE.—The term 'exclusive ecoriomic zone' has the meaning given that term in section 3 of the of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1802).

''(3) Regional fishery management council.—The term 'regional fishery management council' means a regional fishery management council established under section 302(a) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1852(a)).''.

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By Ms. MURKOWSKI (for herself and Mr. STEVENS):

S. 797. A bill to amend the Magnuson-Stevens Fishery Conservation and Management Act to clarify the status of certain communities in the western Alaska community development quota program; to the Committee on Commerce, Science, and Transportation.

Ms. MURKOWSKI. Mr. President, I am today reintroducing legislation to clarify the status of villages participating in the federally established Community Development Quota (CDQ) program created to assist economically disadvantaged communities around the edge of the Bering Sea.

The CDQ program is one of the youngest but most successful of a variety of programs intended to improve economic opportunities in some of my State's most challenged communities.

The CDQ Community Preservation Act is intended to maintain the participation of all currently eligible communities along the shore of the Bering Sea in Alaska's Community Development Quota program. It is necessary because inconsistencies in statutory and regulatory provisions may require a reassessment of eligibility and the exclusion of some communities from the program. This was not the intent of the original program, nor of any subsequent changes to it. In order to clarify that fact, a legislative remedy is needed.

Senator STEVENS joined me in introducing just such a remedy last year, but work on it was not completed and we were forced to settle for only temporary relief. It is time we dealt with this matter more appropriately.

Alaska has been generously blessed with natural resources, but due to its location and limited transportation infrastructure it continues to have pockets of severe poverty. Nowhere is this more evident than in the villages around the rim of the Bering Sea.

The Community Development Quota Program began in 1992, at the recommendation of the North Pacific Fishery Management Council, one of the regional councils formed under the Magnuson-Stevens Fishery Conservation and Management Act. Congress gave the program permanent status in the 1996 reauthorization of the Act. The program presently includes 65 communities within a 50 nautical-mile radius of the Bering Sea, which have formed six regional non-profit associations to participate in the program. The regional associations range in size from one to 20 communities. Under the program, a portion of the regulated annual harvests of pollock, halibut, sablefish, Atka mackerel, Pacific cod, and crab is assigned to each of the associations, which operate under combined Federal and State agency oversight. Almost all of an association's earnings must be invested in fishing-related projects in order to encourage a sustainable economic base for the region.

Typically, each association sells its share of the annual harvest quotas to established fishing companies in return for cash and agreements to provide job training and employment opportunities for residents of the region. The program has been remarkably successful.

Since 1992, approximately 9,000 jobs have been created for western Alaska residents with wages totaling more than $60 million. The CDQ program has also contributed to fisheries infrastructure development in western Alaska, as well as providing vessel loan programs; education, training and other CDQ-related benefits.

The CDQ program has its roots in the amazing success story of how our offshore fishery resources were Americanized after the passage of the original Magnuson Act in 1976. At the time, vast foreign fishing fleets were almost the only ones operating in the U.S. 200-mile Exclusive Economic Zone. American fishermen simply did not have either the vessels or the expertise to participate.

The Magnuson-Stevens Act changed all that. It led to the adoption of what we called a ''fish and chips'' policy that provided for an exchange of fish allocations for technological and practical expertise. Within the next few years, harvesting fell almost exclusively to American vessels. Within a few years after that, processing also became Americanized. Today, there are no foreign fishing or processing vessels operating in the 200-mile zone off Alaska, and the industry is worth billions of dollars each year.

The CDQ program helps bring some of the benefits of that great industry to local residents in one of the most impoverished areas of the entire country. It is a vital element in the effort to create and maintain a lasting economic base for the region's many poor communities, and truly deserves the support of this body.

I ask unanimous consent that the text of my bill be printed in the RECORD.

There being no objection, the bill was 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 ''CDQ Community Preservation Act''.

**SEC. 2. WESTERN ALASKA COMMUNITY DEVELOPMENT QUOTA PROGRAM.**

(a) ELIGIBLE COMMUNITIES.—Section 305(i)(1) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1855(i)) is amended adding at the end the following:

''(E) A community shall be eligible to participate in the western Alaska community development quota program under subparagraph (A) if the community was—

''(i) listed in table 7 to part 679 of title 50, Code of Federal Regulations, as in effect on January 1, 2004; or

''(ii) approved by the National Marine Fisheries Service on April 19, 1999.''.

(b) CONFORMING AMENDMENT.—Such section is further amended, in paragraph (B), by striking ''To'' and inserting, ''Except as provided in subparagraph (E), to''.

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By Mr. FEINGOLD (for himself, Mr. CORZINE, Mr. DAYTON, Mr. DURBIN, Mr. LAUTENBERG, Ms. MIKULSKI, and Mrs. MURRAY):

S. 798. A bill to amend the Family and Medical Leave Act of 1993 and title 5, United States Code, to provide entitlement to leave to eligible employees whose spouse, son, daughter, or parent is a member of the Armed Forces who is serving on active duty in support of a contingency operation or who is notified of an impending call or order to active duty in support of a contingency operation, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. FEINGOLD. Mr. President, today I introduce legislation on behalf of myself and Senators CORZINE, DAYTON, DURBIN, LAUTENBERG, MIKULSKI, and MURRAY, that would bring a small measure of relief to the families of our brave military personnel who are being deployed for the ongoing fight against terrorism, the war in Iraq, and other missions in this country and around the world. It is legislation that the Senate adopted unanimously when I offered it as an amendment to the fiscal year 2004 Iraq supplemental spending bill and I think it would be very fitting for my colleagues to join me in supporting this measure again during this, the National Month of the Military Child.

The men and women of our Armed Forces undertake enormous sacrifices in their service to our country. They spend time away from home and from their families in different parts of the country and different parts of the world and are placed into harm's way in order to protect the American people and our way of life. We owe them a huge debt of gratitude for their dedicated service.

The ongoing deployments for the fight against terrorism and for the campaign in Iraq are turning upside down the lives of thousands of active duty, National Guard, and Reserve personnel and their families as they seek to do their duty to their country and honor their commitments to their families, and, in the case of the reserve components, to their employers as well. Today, there are more than 180,000 National Guard and Reserve personnel on active duty.

Some of my constituents are facing the latest in a series of activations and deployments for family members who serve our country in the military. Others are seeing their loved ones off on their first deployment. All of these families share in the worry and concern about what awaits their relatives and hope, as we do, for their swift and safe return.

Many of those deployed in Iraq have had their tours extended beyond the time they had expected to stay. This extension has played havoc with the lives of those deployed and their families. Worried mothers, fathers, spouses, and children expecting their loved ones home after more than a year of service have been forced to wait another three or four months before their loved ones' much-anticipated homecoming. The emotional toll is huge. So is the impact on a family's daily functioning as bills still need to be paid, children need to get to school events, and sick family members must still be cared for.

Our men and women in uniform face these challenges without complaint. But we should do more to help them and their families with the many things that preparing to be deployed requires.

During the first round of mobilizations for operations in Afghanistan and Iraq, military personnel and their families were given only a couple of days' notice that their units would be deployed. As a result, these dedicated

men and women had only a very limited amount of time to get their lives in order. For members of the National Guard and Reserve, this included informing their employers of the deployment. I want to commend the many employers around the country for their understanding and support when their employees were called to active duty.

In preparation for a deployment, military families often have to scramble to arrange for child care, to pay bills, to contact their landlords or mortgage companies, and to take care of other things that we deal with on a daily basis.

The legislation I introduce today would allow eligible employees whose spouses, parents, sons, or daughters are military personnel who are serving on or called to active duty in support of a contingency operation to use their Family and Medical Leave Act (FMLA) benefits for issues directly relating to or resulting from that deployment. These instances could include preparation for deployment or additional responsibilities that family members take on as a result of a loved one's deployment, such as child care.

But don't just take my word for it. Here is what the National Military Family Association has to say in a letter of support:

(The National Military Family Association) has heard from many families about the difficulty of balancing family obligations with job requirements when a close family member is deployed. Suddenly, they are single parents or, in the case of grandparents, assuming the new responsibility of caring for grandchildren. The days leading up to a deployment can be filled with pre-deployment briefings and putting legal affairs in order.

In that same letter, the National Military Family Association states that, ''Military families, especially those of deployed service members, are called upon to make extraordinary sacrifices. (The Military Families Leave Act) offers families some breathing room as they adjust to this time of separation.''

On July 21, 2004, then-Governor Joseph Kernan of Indiana testified before a joint hearing of the Senate Health, Labor, Education, and Pensions and Armed Services committees that Congress should revise FMLA to include activated National Guard families, as recommended by the National Governors' Association. The legislation I introduce today would give many military families some of the assistance Governor Kernan spoke of.

Let me make sure there is no confusion about what this legislation does and does not do. This legislation does not expand eligibility for FMLA to employees not already covered by FMLA. It does not expand FMLA eligibility to active duty military personnel. It simply allows those already covered by FMLA to use those benefits in one additional set of circumstances—to deal with issues directly related to or resulting from the deployment of a family member.

I was proud to cosponsor and vote for the legislation that created the landmark Family and Medical Leave Act (FMLA) during the early days of my service to the people of Wisconsin as a member of this body. This important legislation allows eligible workers to take up to 12 weeks of unpaid leave per year for the birth or adoption of child, the placement of a foster child, to care for a newborn or newly adopted child or newly placed foster child, or to care for their own serious health condition or that of a spouse, a parent, or a child. Some employers offer a portion of this time as paid leave in addition to other accrued leave, while others allow workers to use accrued vacation or sick leave for this purpose prior to going on unpaid leave.

Since its enactment in 1993, the FMLA has helped more than 35 million American workers to balance responsibilities to their families and their jobs. According to the Congressional Research Service, between 2.2 million and 6.1 million people took advantage of these benefits in 1999-2000.

Our military families sacrifice a great deal. Active duty families often move every couple of years due to transfers and new assignments. The twelve years since FMLA' s enactment has also been a time where we as a country have relied more heavily on National Guard and Reserve personnel for more and more deployments of longer and longer duration. The growing burden on these service members' families must be addressed, and this legislation is one way to do so.

This legislation has the support of a number of organizations, including the Wisconsin National Guard, the Military Officers Association of America, the Enlisted Association of the National Guard of the United States, the Reserve Enlisted Association, the Reserve Officers Association, the National Military Family Association, the National Council on Family Relations, and the National Partnership for Women and Families. The Military Coalition, an umbrella organization of 31 prominent military organizations, specified this legislation as one of five meriting special consideration during the fiscal year 2004 Iraq supplemental debate.

We owe it to our military personnel and their families to do all we can to support them in this difficult time. I hope that this legislation will bring a small measure of relief to our military families and I urge my colleagues to support it.

I ask unanimous consent that the text of my bill be printed in the RECORD.

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

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 ''Military Families Leave Act of 2005''.

**SEC. 2. LEAVE FOR MILITARY FAMILIES UNDER THE FAMILY AND MEDICAL LEAVE ACT OF 1993.**

(a) ENTITLEMENT TO LEAVE.—Section 102(a)(1) of the Family and Medical Leave Act of 1993 (29 U.S.C. 2612(a)(1)) is amended by adding at the end the following new subparagraph:

''(E) Because of any qualifying exigency (as the Secretary may by regulation determine) arising out of the fact that the spouse, or a son, daughter, or parent of the employee is on active duty (or has been notified of an impending call or order to active duty) in the Armed Forces in support of a contingency operation.''.

(b) INTERMITTENT OR REDUCED LEAVE SCHEDULE.—Section 102(b)(1) of such Act (29 U.S.C. 2612(b)(1)) is amended by inserting after the second sentence the following new sentence: ''Subject to subsection (e)(3) and section 103(f), leave under subsection (a)(1)(E) may be taken intermittently or on a reduced leave schedule.''.

(c) SUBSTITUTION OF PAID LEAVE.—Section 102(d)(2)(A) of such Act (29 U.S.C. 2612(d)(2)(A)) is amended by striking ''or (C)'' and inserting ''(C), or (E)''.

(d) NOTICE.—Section 102(e) of such Act (29 U.S.C. 2612(e)) is amended by adding at the end the following new paragraph:

''(3) NOTICE FOR LEAVE DUE TO ACTIVE DUTY OF FAMILY MEMBER.—In any case in which the necessity for leave under subsection (a)(1)(E) is foreseeable based on notification of an impending call or order to active duty in support of a contingency operation, the employee shall provide such notice to the employer as is reasonable and practicable.''.

(e) CERTIFICATION.—Section 103 of such Act (29 U.S.C. 2613) is amended by adding at the end the following new subsection:

''(f) CERTIFICATION FOR LEAVE DUE TO ACTIVE DUTY OF FAMILY MEMBER.—An employer may require that a request for leave under section 102(a)(1)(E) be supported by a certification issued at such time and in such manner as the Secretary shall by regulation prescribe. If the Secretary issues a regulation requiring such certification, the employee shall provide, in a timely manner, a copy of such certification to the employer.''.

(f) DEFINITION.—Section 101 of such Act (29 U.S.C. 2611) is amended by adding at the end the following new paragraph:

''(14) CONTINGENCY OPERATION.—The term 'contingency operation' has the same meaning given such term in section 101(a)(13) of title 10, United States Code.''.

**SEC. 3. LEAVE FOR MILITARY FAMILIES UNDER TITLE 5, UNITED STATES CODE.**

(a) ENTITLEMENT TO LEAVE.—Section 6382(a)(1) of title 5, United States Code, is amended by adding at the end the following new subparagraph:

''(E) Because of any qualifying exigency (as defined under section 6387) arising out of the fact that the spouse, or a son, daughter, or parent, of the employee is on active duty (or has been notified of an impending call or order to active duty) in the Armed Forces in support of a contingency operation.''.

(b) INTERMITTENT OR REDUCED LEAVE SCHEDULE.—Section 6382(b)(1) of such title is amended by inserting after the second sentence the following new sentence: ''Subject to subsection (e)(3) and section 6383(f), leave under subsection (a)(1)(E) may be taken intermittently or on a reduced leave schedule.''.

(c) SUBSTITUTION OF PAID LEAVE.—Section 6382(d) of such title is amended by striking ''or (D)'' and inserting ''(D), or (E)''.

(d) NOTICE.—Section 6382(e) of such title is amended by adding at the end the following new paragraph:

''(3) In any case in which the necessity for leave under subsection (a)(1)(E) is foreseeable based on notification of an impending

call or order to active duty in support of a contingency operation, the employee shall provide such notice to the employing agency as is reasonable and practicable.''.

(e) CERTIFICATION.—Section 6383 of such title is amended by adding at the end the following new subsection:

''(f) An employing agency may require that a request for leave under section 6382(a)(1)(E) be supported by a certification issued at such time and in such manner as the employing agency may require.''.

(f) DEFINITION.—Section 6381 of such title is amended—

(1) in paragraph (5)(B), by striking ''and'' at the end;

(2) in paragraph (6)(B), by striking the period at the end and inserting ''; and''; and

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

''(6) the term 'contingency operation' has the same meaning given such term in section 101(a)(13) of title 10.''.

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By Mr. KENNEDY:

S. 799. A bill to amend the Public Health Service Act to provide for the coordination of Federal Government policies and activities to prevent obesity in childhood, to provide for State childhood obesity prevention and control, and to establish grant programs to prevent childhood obesity within homes, schools, and communities; to the Committee on Health, Education, Labor, and Pensions.

Mr. KENNEDY. Mr. President, America is facing a major public health problem because of the epidemic of obesity in the nation's children. Nine million children today are obese. Over the past three decades, the rate of obesity has more than doubled in preschool children and adolescents, and tripled among all school-age children. The health risks are immense. If the current rates do not decrease, 30 percent of boys and 40 percent of girls born in 2000 will develop diabetes, which can lead to kidney failure, blindness, heart disease and stroke.

Obese children are 80 percent likely to become obese adults, with significantly greater risk for not only diabetes, but heart disease, arthritis and certain types of cancer. The economic impact of obesity-related health expenditures in 2004 reached $129 billion, a clear sign of the lower quality of life likely to be faced by the growing number of the nation's youth.

Childhood obesity is the obvious result of too much food and too little exercise. Children are especially susceptible because of the dramatic social changes that have been taking place for many years. Children are exposed to 40,000 food advertisements a year one food commercial every minute—urging them to eat candy, snacks, and fast food. Vending machines are now in 43 percent of elementary schools and 97 percent of high schools, offering young students easy access to soft drinks and snacks that can double their risk of obesity. Many schools have eliminated physical education classes, leaving children less active throughout the school day. More communities are built without sidewalks, safe parks, or bike trails. Parents, who worry about the safety of their children in outside play, encourage them to sit and watch television. Fast food stores are nearby, grocery stores and farmers markets with fresh fruits and vegetables are not.

According to the Institute of Medicine, prevention of obesity in children and youth requires public health action at its broadest and most inclusive level, with coordination between federal and state governments, within schools and communities, and involving industry and media, so that children can make food and activity choices that lead to healthy weights.

The Prevention of Childhood Obesity Act makes the current epidemic a national public health priority. It appoints a federal commission on food policies to promote good nutrition. Guidelines for food and physical activity advertisements will be established by a summit conference of representatives from education, industry, and health care. Grants are provided to states to implement anti-obesity plans, including curricula and training for educators, for obesity prevention activities in preschool, school and after-school programs, and for sidewalks, bike trails, and parks where children can play and be both healthy and safe.

Prevention is the cornerstone of good health and long, productive lives for all Americans. Childhood obesity is preventable, but we have to work together to stop this worsening epidemic and protect our children's future. Congress must to do its part and I urge my colleagues to support this legislation.

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. 799

*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 ''Prevention of Childhood Obesity Act''.

**SEC. 2. FINDINGS.**

Congress makes the following findings:

(1) Childhood overweight and obesity is a major public health threat to the United States. The rates of obesity have doubled in preschool children and tripled in adolescents in the past 25 years. About 9,000,000 young people are considered overweight.

(2) Overweight and obesity is more prevalent in Mexican American and African American youth. Among Mexican Americans, 24 percent of children (6 to 11 years) and adolescents (12 to 19 years) are obese and another 40 percent of children and 44 percent of adolescents are overweight. Among African Americans, 20 percent of children and 24 percent of adolescents are obese and another 36 percent of children and 41 percent of adolescents are overweight.

(3) Childhood overweight and obesity is related to the development of a number of preventable chronic diseases in childhood and adulthood, such as type 2 diabetes and hypertension.

(4) Overweight adolescents have up to an 80 percent chance of becoming obese adults. In 2003, obesity-related health conditions in adults resulted in approximately $11,000,000,000 in medical expenditures.

(5) Childhood overweight and obesity is preventable but will require changes across the multiple environments to which our children are exposed. This includes homes, schools, communities, and society at large.

(6) Overweight and obesity in children are caused by unhealthy eating habits and insufficient physical activity.

(7) Only 2 percent of school children meet all of the recommendations of the Food Guide Pyramid. Sixty percent of young people eat too much fat and less than 20 percent eat the recommended 5 or more servings of fruits and vegetables each day.

(8) More than one third of young people do not meet recommended guidelines for physical activity. Daily participation in high school physical education classes dropped from 42 percent in 1991 to 28 percent in 2003.

(9) Children spend an average of 5½ hours per day using media, more time than they spend doing anything besides sleeping.

(10) Children are exposed to an average of 40,000 television advertisements each year for candy, high sugar cereals, and fast food. Fast food outlets alone spend $3,000,000,000 in advertisements targeting children. Children are exposed to 1 food commercial every 5 minutes.

(11) A coordinated effort involving evidence-based approaches is needed to ensure children develop in a society in which healthy lifestyle choices are available and encouraged.

**TITLE I—FEDERAL OBESITY PREVENTION**

**SEC. 101. FEDERAL LEADERSHIP COMMISSION TO PREVENT CHILDHOOD OBESITY.**

Part Q of title III of the Public Health Service Act (42 U.S.C. 280h et seq.) is amended by inserting after section 399W, the following:

**''SEC. 399W–1. FEDERAL LEADERSHIP COMMISSION TO PREVENT CHILDHOOD OBESITY.**

''(a) IN GENERAL.—The Secretary shall ensure that the Federal Government coordinates efforts to develop, implement, and enforce policies that promote messages and activities designed to prevent obesity among children and youth.

''(b) ESTABLISHMENT OF LEADERSHIP COMMISSION.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall establish within the Centers for Disease Control and Prevention a Federal Leadership Commission to Prevent Childhood Obesity (referred to in this section as the 'Commission') to assess and make recommendations for Federal departmental policies, programs, and messages relating to the prevention of childhood obesity. The Director shall serve as the chairperson of the Commission.

''(c) MEMBERSHIP.—The Commission shall include representatives of offices and agencies within—

''(1) the Department of Health and Human Services;

''(2) the Department of Agriculture;

''(3) the Department of Commerce;

''(4) the Department of Education;

''(5) the Department of Housing and Urban Development;

''(6) the Department of the Interior;

''(7) the Department of Labor;

''(8) the Department of Transportation;

''(9) the Federal Trade Commission; and

''(10) other Federal entities as determined appropriate by the Secretary.

''(d) DUTIES.—The Commission shall—

''(1) serve as a centralized mechanism to coordinate activities related to obesity prevention across all Federal departments and agencies;

''(2) establish specific goals for obesity prevention, and determine accountability for

reaching these goals, within and across Federal departments and agencies;

''(3) review evaluation and economic data relating to the impact of Federal interventions on the prevention of childhood obesity;

''(4) provide a description of evidence-based best practices, model programs, effective guidelines, and other strategies for preventing childhood obesity;

''(5) make recommendations to improve Federal efforts relating to obesity prevention and to ensure Federal efforts are consistent with available standards and evidence; and

''(6) monitor Federal progress in meeting specific obesity prevention goals.

''(e) STUDY; SUMMIT; GUIDELINES.—

''(1) STUDY.—The Government Accountability Office shall—

''(A) conduct a study to assess the effect of Federal nutrition assistance programs and agricultural policies on the prevention of childhood obesity, and prepare a report on the results of such study that shall include a description and evaluation of the content and impact of Federal agriculture subsidy and commodity programs and policies as such relate to Federal nutrition programs;

''(B) make recommendations to guide or revise Federal policies for ensuring access to nutritional foods in Federal nutrition assistance programs; and

''(C) complete the activities provided for under this section not later than 18 months after the date of enactment of this section.

''(2) INSTITUTE OF MEDICINE STUDY.—

''(A) IN GENERAL.—Not later than 6 months after the date of enactment of this section, the Secretary shall request that the Institute of Medicine (or similar organization) conduct a study and make recommendations on guidelines for nutritional food and physical activity advertising and marketing to prevent childhood obesity. In conducting such study the Institute of Medicine shall—

''(i) evaluate children's advertising and marketing guidelines and evidence-based literature relating to the impact of advertising on nutritional foods and physical activity in children and youth; and

''(ii) make recommendations on national guidelines for advertising and marketing practices relating to children and youth that—

''(I) reduce the exposure of children and youth to advertising and marketing of foods of poor or minimal nutritional value and practices that promote sedentary behavior; and

''(II) increase the number of media messages that promote physical activity and sound nutrition.

''(B) GUIDELINES.—Not later than 2 years after the date of enactment of this section, the Institute of Medicine shall submit to the Commission the final report concerning the results of the study, and making the recommendations, required under this paragraph.

''(3) NATIONAL SUMMIT.—

''(A) IN GENERAL.—Not later than 1 year after the date on which the report under paragraph (2)(B) is submitted, the Commission shall convene a National Summit to Implement Food and Physical Activity Advertising and Marketing Guidelines to Prevent Childhood Obesity (referred to in this section as the 'Summit').

''(B) COLLABORATIVE EFFORT.—The Summit shall be a collaborative effort and include representatives from—

''(i) education and child development groups;

''(ii) public health and behavioral science groups;

''(iii) child advocacy and health care provider groups; and

''(iv) advertising and marketing industry.

''(C) ACTIVITIES.—The participants in the Summit shall develop a 5-year plan for implementing the national guidelines recommended by the Institute of Medicine in the report submitted under paragraph (2)(B).

''(D) EVALUATION AND REPORTS.—Not later than 1 year after the date of enactment of this section, and biannually thereafter, the Commission shall evaluate and submit a report to Congress on the efforts of the Federal Government to implement the recommendations made by the Institute of Medicine in the report under paragraph (2)(B) that shall include a detailed description of the plan of the Secretary to implement such recommendations.

''(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, such sums as may be necessary for each of fiscal years 2006 through 2010.

''(g) DEFINITIONS.—For purposes of this section, the definitions contained in section 401 of the Prevention of Childhood Obesity Act shall apply.''.

**SEC. 102. FEDERAL TRADE COMMISSION AND MARKETING TO CHILDREN AND YOUTH.**

(a) IN GENERAL.—Notwithstanding section 18 of the Federal Trade Commission Act (15 U.S.C. 57a), the Federal Trade Commission is authorized to promulgate regulations and monitor compliance with the guidelines for advertising and marketing of nutritional foods and physical activity directed at children and youth, as recommended by the National Summit to Implement Food and Physical Activity Advertising and Marketing Guidelines to Prevent Childhood Obesity (as established under section 399W–1(e)(3) of the Public Health Service Act).

(b) FINES.—Notwithstanding section 18 of the Federal Trade Commission Act (15 U.S.C. 57a), the Federal Trade Commission may assess fines on advertisers or network and media groups that fail to comply with the guidelines described in subsection (a).

## TITLE II—STATE CHILDREN AND YOUTH OBESITY PREVENTION AND CONTROL

**SEC. 201. AMENDMENT TO THE PUBLIC HEALTH SERVICE ACT.**

Title III of the Public Health Service Act (42 U.S.C. 241 et seq.) is amended by adding at the end the following:

### ''PART R—OBESITY PREVENTION AND CONTROL

**''SEC. 399AA. STATE CHILDHOOD OBESITY PREVENTION AND CONTROL PROGRAMS.**

''(a) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall award competitive grants to eligible entities to support activities that implement the children's obesity prevention and control plans contained in the applications submitted under subsection (b)(2).

''(b) ELIGIBILITY.—To be eligible to receive a grant under this section, an entity shall—

''(1) be a State, territory, or an Indian tribe; and

''(2) submit to the Secretary an application at such time, in such manner, and containing such agreements, assurances, and information as the Secretary may require, including a children's obesity prevention and control plan that—

''(A) is developed with the advice of stakeholders from the public, private, and nonprofit sectors that have expertise relating to obesity prevention and control;

''(B) targets prevention and control of childhood obesity;

''(C) describes the obesity-related services and activities to be undertaken or supported by the applicant; and

''(D) describes plans or methods to evaluate the services and activities to be carried out under the grant.

''(c) USE OF FUNDS.—An eligible entity shall use amounts received under a grant under this section to conduct, in a manner consistent with the children's obesity prevention and control plan under subsection (b)(2)—

''(1) an assessment of the prevalence and incidence of obesity in children;

''(2) an identification of evidence-based and cost-effective best practices for preventing childhood obesity;

''(3) innovative multi-level behavioral or environmental interventions to prevent childhood obesity;

''(4) demonstration projects for the prevention of obesity in children and youth through partnerships between private industry organizations, community-based organizations, academic institutions, schools, hospitals, health insurers, researchers, health professionals, or other health entities determined appropriate by the Secretary;

''(5) ongoing coordination of efforts between governmental and nonprofit entities pursuing obesity prevention and control efforts, including those entities involved in related areas that may inform or overlap with childhood obesity prevention and control efforts, such as activities to promote school nutrition and physical activity; and

''(6) evaluations of State and local policies and programs related to obesity prevention in children.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, such sums as may be necessary for each of fiscal years 2006 through 2010.

**''SEC. 399AA–1. COMPREHENSIVE OBESITY PREVENTION ACTION GRANTS.**

''(a) IN GENERAL.—The Secretary shall award grants on a competitive basis to eligible entities to enable such entities to implement activities related to obesity prevention and control.

''(b) ELIGIBILITY.—To be eligible to receive a grant under this section, an entity shall—

''(1) be a public or private nonprofit entity; and

''(2) submit to the Secretary an application at such time, in such manner, and containing such agreements, assurances, and information as the Secretary may require, including a description of how funds received under a grant awarded under this section will be used to—

''(A) supplement or fulfill unmet needs identified in the children's obesity prevention and control plan of a State, Indian tribe, or territory (as prepared under this part); and

''(B) otherwise help achieve the goals of obesity prevention as established by the Secretary or the Commission.

''(c) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to eligible entities submitting applications proposing to carry out programs for preventing obesity in children and youth from at-risk populations or reducing health disparities in underserved populations.

''(d) USE OF FUNDS.—An eligible entity shall use amounts received under a grant awarded under subsection (a) to implement and evaluate behavioral and environmental change programs for childhood obesity prevention.

''(e) EVALUATION.—An eligible entity that receives a grant under this section shall submit to the Secretary an evaluation of the operations and activities carried out under such grant that includes an analysis of the utilization and benefit of public health programs relevant to the activities described in subsection (d).

''(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, such sums as may be

necessary for each of fiscal years 2006 through 2010.

**''SEC. 399AA–2. DISCOVERY TO PRACTICE CENTERS OF EXCELLENCE WITHIN THE HEALTH PROMOTION AND DISEASE PREVENTION RESEARCH CENTERS OF THE CENTERS FOR DISEASE CONTROL AND PREVENTION.**

''(a) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall award grants to eligible entities for the establishment of Centers of Excellence for Discovery to Practice (referred to in this section as the 'Centers') implemented through the Health Promotion and Disease Prevention Research Centers of the Centers for Disease Control and Prevention. Such eligible entities shall use grant funds to disseminate childhood obesity prevention evidence-based practices to individuals, families, schools, organizations, and communities.

''(b) ELIGIBILITY.—To be eligible to receive a grant under this section, an entity shall—

''(1) be a Health Promotion and Disease Prevention Research Center of the Centers for Disease Control and Prevention;

''(2) demonstrate a history of service to and collaboration with populations with a high incidence of childhood obesity; and

''(3) submit to the Secretary an application at such time, in such manner, and containing such agreements, assurances, and information as the Secretary may require.

''(c) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to applications targeting childhood obesity prevention activities in underserved populations.

''(d) USE OF FUNDS.—An eligible entity shall use amounts received under a grant under this section to disseminate childhood obesity prevention evidence-based practices through activities that—

''(1) expand the availability of evidence-based nutrition and physical activity programs designed specifically for the prevention of childhood obesity; and

''(2) train lay and professional individuals on determinants of and methods for preventing childhood obesity.

''(e) EVALUATION.—An eligible entity that receives a grant under this section shall submit to the Secretary an evaluation of the operations and activities carried out under such a grant that includes an analysis of increased utilization and benefit of programs relevant to the activities described in subsection (d).

''(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $50,000,000 for each of fiscal years 2006 through 2010.

**''SEC. 399AA–3. DEFINITIONS.**

''For purposes of this part, the definitions contained in section 401 of the Prevention of Childhood Obesity Act shall apply.''.

## TITLE III—FEDERAL PROGRAMS TO PREVENT CHILDHOOD OBESITY

### Subtitle A—Preventing Obesity at Home

**SEC. 301. DEVELOPMENT OF OBESITY PREVENTION BEHAVIOR CHANGE CURRICULA FOR EARLY CHILDHOOD HOME VISITATION PROGRAMS.**

Title III of the Public Health Service Act (42 U.S.C. 241 et seq.), as amended by section 201, is further amended by adding at the end the following:

**''PART S—PREVENTING CHILDHOOD OBESITY**

**''SEC. 399BB. DEVELOPMENT OF OBESITY PREVENTION BEHAVIOR CHANGE CURRICULA FOR EARLY CHILDHOOD HOME VISITATION PROGRAMS.**

''(a) IN GENERAL.—The Secretary, in collaboration with the Director of the Centers for Disease Control and Prevention and the Secretary of Education, shall award grants for the development of obesity prevention behavior change curricula to be incorporated into early childhood home visitation programs.

''(b) ELIGIBILITY.—To be eligible to receive a grant under this section, an entity shall—

''(1) be an academic center collaborating with a public or private nonprofit organization that has the capability of testing behavior change curricula in service delivery settings and disseminating results to home visiting programs nationally, except that an organization testing the behavior change curricula developed under the grant shall implement a model of home visitation that—

''(A) focuses on parental education and care of children who are prenatal through 5 years of age;

''(B) promotes the overall health and well-being of young children; and

''(C) adheres to established quality standards; and

''(2) submit to the Secretary an application at such time, in such manner, and containing such agreements, assurances, and information as the Secretary may require.

''(c) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to eligible entities submitting applications that propose to develop and implement programs for preventing childhood obesity and reducing health disparities in underserved populations.

''(d) USE OF FUNDS.—An eligible entity shall use amounts received under a grant under this section to develop, implement, and evaluate the impact of behavior change curricula for early childhood home visitation programs that—

''(1) encourage breast-feeding of infants;

''(2) promote age-appropriate portion sizes for a variety of nutritious foods;

''(3) promote consumption of fruits and vegetables and low-energy dense foods; and

''(4) encourage education around parental modeling of physical activity and reduction in television viewing and other sedentary activities by toddlers and young children.

''(e) EVALUATION.—Not later than 3 years after the date on which a grant is awarded under this section, the grantee shall submit to the Secretary a report that describes the activities carried out with funds received under the grant and the effectiveness of such activities in preventing obesity by improving nutrition and increasing physical activity.

''(f) INCORPORATION INTO EVIDENCE-BASED PROGRAMS.—The Secretary, in consultation with the heads of other Federal departments and agencies, shall ensure that policies that prevent childhood obesity are incorporated into evidence-based early childhood home visitation programs in a manner that provides for measurable outcomes.

''(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $25,000,000 for each of fiscal years 2006 through 2010.''.

### Subtitle B—Preventing Childhood Obesity in Schools

**SEC. 311. PREVENTING CHILDHOOD OBESITY IN SCHOOLS.**

(a) IN GENERAL.—Part S of title III of the Public Health Service Act (as added by section 301) is amended by adding at the end the following:

**''SEC. 399BB–1. PREVENTING CHILDHOOD OBESITY IN SCHOOLS.**

''(a) IN GENERAL.—The Secretary, in collaboration with the Director of the Centers for Disease Control and Prevention, the Secretary of Education, the Secretary of Agriculture, and the Secretary of the Interior shall establish and implement activities to prevent obesity by encouraging healthy nutrition choices and physical activity in schools.

''(b) SCHOOLS.—The Secretary, in consultation with the Secretary of Education, shall require that each local educational agency that receives Federal funds establish policies to ban vending machines that sell foods of poor or minimal nutritional value in schools.

''(c) SCHOOL DISTRICTS.—

''(1) IN GENERAL.—The Secretary shall award grants to local educational agencies to enable elementary and secondary schools to promote good nutrition and physical activity among children.

''(2) CAROL M. WHITE PHYSICAL EDUCATION PROGRAM.—The Secretary of Education, in collaboration with the Secretary, may give priority in awarding grants under the Carol M. White Physical Education Program under subpart 10 of part D of title V of the Elementary and Secondary Education Act of 1965 to local educational agencies and other eligible entities that have a plan to—

''(A) implement behavior change curricula that promotes the concepts of energy balance, good nutrition, and physical activity;

''(B) implement policies that encourage the appropriate portion sizes and limit access to soft drinks or other foods of poor or minimal nutritional value on school campuses, and at school events;

''(C) provide age-appropriate daily physical activity that helps students to adopt, maintain, and enjoy a physically active lifestyle;

''(D) maintain a minimum number of functioning water fountains (based on the number of individuals) in school buildings;

''(E) prohibit advertisements and marketing in schools and on school grounds for foods of poor or minimal nutritional value such as fast foods, soft drinks, and candy; and

''(F) develop and implement policies to conduct an annual assessment of each student's body mass index and provide such assessment to the student and the parents of that student with appropriate referral mechanisms to address concerns with respect to the results of such assessments.

''(3) GRANTS FOR ADDITIONAL ACTIVITIES.—The Director of the Centers for Disease Control and Prevention, in collaboration with the Secretary, the Secretary of Agriculture, and the Secretary of Education, shall award grants for the implementation and evaluation of activities that—

''(A) educate students about the health benefits of good nutrition and moderate or vigorous physical activity by integrating it into other subject areas and curriculum;

''(B) provide food options that are low in fat, calories, and added sugars such as fruit, vegetables, whole grains, and dairy products;

''(C) develop and implement guidelines for healthful snacks and foods for sale in vending machines, school stores, and other venues within the school's control;

''(D) restrict student access to vending machines, school stores, and other venues that contain foods of poor or minimal nutritional value;

''(E) encourage adherence to single-portion sizes, as defined by the Food and Drug Administration, in foods offered in the school environment;

''(F) provide daily physical education for students in prekindergarten through grade 12 through programs that are consistent with the Guidelines for Physical Activity as reported by Centers for Disease Control and Prevention and the American College of Sports Medicine and National Physical Education Standards;

''(G) encourage the use of school facilities for physical activity programs offered by the school or community-based organizations outside of school hours;

''(H) promote walking or bicycling to and from school using such programs as Walking School Bus and Bike Train;

''(I) train school personnel in a manner that provides such personnel with the knowledge and skills needed to effectively teach lifelong healthy eating and physical activity; and

''(J) evaluate the impact of school nutrition and physical education programs and facilities on body mass index and related fitness criteria at annual intervals to determine the extent to which national guidelines are met.

''(d) EVALUATION.—Not later than 3 years after the date on which a grant is awarded under this section, the grantee shall submit to the Director of the Centers for Disease Control and Prevention a report that describes the activities carried out with funds received under the grant and the effectiveness of such activities in improving nutrition and increasing physical activity.

''(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $50,000,000 for each of fiscal years 2006 through 2010.''.

(b) CAROL M. WHITE PHYSICAL EDUCATION PROGRAM.—Subpart 10 of part D of title V of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7261 et seq.) is amended by adding at the end the following:

**''SEC. 5508. AUTHORIZATION OF APPROPRIATIONS.**

''There are authorized to be appropriated to carry out this subpart, $150,000,000 for each of fiscal years 2006 through 2010.''.

## Subtitle C—Preventing Childhood Obesity in Afterschool Programs

**SEC. 321. CHILDHOOD OBESITY PREVENTION GRANTS TO AFTERSCHOOL PROGRAMS.**

Part S of title III of the Public Health Service Act (as amended by section 311) is further amended by adding at the end the following:

**''SEC. 399BB–2. CHILDHOOD OBESITY PREVENTION GRANTS TO AFTERSCHOOL PROGRAMS.**

''(a) IN GENERAL.—The Secretary, in collaboration with the Director of the Centers for Disease Control and Prevention and the Secretary of Education, shall award grants for the development of obesity prevention behavior change curricula for afterschool programs for children.

''(b) ELIGIBILITY.—To be eligible to receive a grant under this section, an entity shall—

''(1) be an academic center collaborating with a public or private nonprofit organization that has the capability of testing behavior change curricula in service delivery settings and disseminating results to afterschool programs on a nationwide basis, except that an organization testing the behavior change curricula developed under the grant shall implement a model of afterschool programming that shall—

''(A) focus on afterschool programs for children up to the age of 13 years;

''(B) promote the overall health and well-being of children and youth; and

''(C) adhere to established quality standards; and

''(2) submit to the Secretary an application at such time, in such manner, and containing such agreements, assurances, and information as the Secretary may require.

''(c) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to eligible entities submitting applications proposing to develop, implement, and evaluate programs for preventing and controlling childhood obesity or reducing health disparities in underserved populations.

''(d) USE OF FUNDS.—An eligible entity shall use amounts received under a grant under this section to develop, implement, and evaluate, and disseminate the results of such evaluations, the impact of curricula for afterschool programs that promote—

''(1) age-appropriate portion sizes;

''(2) consumption of fruits and vegetables and low-energy dense foods;

''(3) physical activity; and

''(4) reduction in television viewing and other passive activities.

''(e) EVALUATION.—Not later than 3 years after the date on which a grant is awarded under this section, the grantee shall submit to the Secretary a report that described the activities carried out with funds received under the grant and the effectiveness of such activities in preventing obesity, improving nutrition, and increasing physical activity.

''(f) INCORPORATION OF POLICIES INTO FEDERAL PROGRAMS.—The Secretary, in consultation with the heads of other Federal departments and agencies, shall ensure that policies that prevent childhood obesity are incorporated into evidence-based afterschool programs in a manner that provides for measurable outcomes.

''(g) DEFINITION.—In this section, the term 'afterschool programs' means programs providing structured activities for children during out-of-school time, including before school, after school, and during the summer months.

''(h) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $25,000,000 for each of fiscal years 2006 through 2010.''.

## Subtitle D—Training Early Childhood and Afterschool Professionals to Prevent Childhood Obesity

**SEC. 331. TRAINING EARLY CHILDHOOD AND AFTERSCHOOL PROFESSIONALS TO PREVENT CHILDHOOD OBESITY.**

Part S of title III of the Public Health Service Act (as amended by section 321) is further amended by adding at the end the following:

**''SEC. 399BB–3. TRAINING EARLY CHILDHOOD AND AFTERSCHOOL PROFESSIONALS TO PREVENT CHILDHOOD OBESITY.**

''(a) IN GENERAL.—The Secretary, acting through the Administrator of the Health Resources and Services Administration, shall award grants to support the training of early childhood professionals (such as parent educators and child care providers) about obesity prevention, with emphasis on nationally accepted standards.

''(b) ELIGIBILITY.—To be eligible to receive a grant under this section, an entity shall—

''(1) be a public or private nonprofit organization that conducts or supports early childhood and afterschool programs, home visitation, or other initiatives that—

''(A) focus on parental education and care of children;

''(B) promote the overall health and well-being of children;

''(C) adhere to established quality standards; and

''(D) have the capability to provide or distribute training on a nationwide basis; and

''(2) submit to the Secretary an application at such time, in such manner, and containing such agreements, assurances, and information as the Secretary may require.

''(c) EVALUATION.—Not later than 3 years after the date on which a grant is awarded under this section, the grantee shall submit to the Administrator of the Health Resources and Services Administration a report that describes the activities carried out with funds received under the grant and the effectiveness of such activities in improving the practice of child care and afterschool professionals with respect to the prevention of obesity.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $10,000,000 for each of fiscal years 2006 through 2010.''.

## Subtitle E—Preventing Childhood Obesity in Communities

**SEC. 341. PREVENTING CHILDHOOD OBESITY IN COMMUNITIES.**

Part S of title III of the Public Health Service Act (as amended by section 331) is further amended by adding at the end the following:

**''SEC. 399BB–4. PREVENTING CHILDHOOD OBESITY IN COMMUNITIES.**

''(a) IN GENERAL.—The Director of the Centers for Disease Control and Prevention, in collaboration with the Secretary, the Secretary of Transportation, and Secretary of the Interior, shall award grants and implement activities to encourage healthy nutrition and physical activity by children in communities.

''(b) ELIGIBILITY.—To be eligible to receive a grant under this section, an entity shall—

''(1) be a public or private nonprofit organization or community-based organizations that conduct initiatives that—

''(A) focus on parental education and care of children;

''(B) promote the overall health and well-being of children;

''(C) adhere to established quality standards; and

''(D) have the capability to provide training on a nationwide basis; and

''(2) submit to the Secretary an application at such time, in such manner, and containing such agreements, assurances, and information as the Secretary may require.

''(c) COMMUNITIES.—

''(1) IN GENERAL.—The Director of the Centers for Disease Control and Prevention, in collaboration with the Secretary, the Secretary of Transportation, and Secretary of the Interior, shall award grants to eligible entities to develop broad partnerships between private and public and nonprofit entities to promote healthy nutrition and physical activity for children by assessing, modifying, and improving community planning and design.

''(2) ACTIVITIES.—Amounts awarded under a grant under paragraph (1) shall be used for the implementation and evaluation of activities—

''(A) to create neighborhoods that encourage healthy nutrition and physical activity;

''(B) to promote safe walking and biking routes to schools;

''(C) to design pedestrian zones and construct safe walkways, cycling paths, and playgrounds;

''(D) to implement campaigns, in communities at risk for sedentary activity, designed to increase levels of physical activity, which should be evidence-based, and may incorporate informational, behavioral, and social, or environmental and policy change interventions;

''(E) to implement campaigns, in communities at risk for poor nutrition, that are designed to promote intake of foods by children consistent with established dietary guidelines through the use of different types of media including television, radio, newspapers, movie theaters, billboards, and mailings; and

''(F) to implement campaigns, in communities at risk for poor nutrition, that promote water as the main daily drink of choice for children through the use of different types of media including television, radio, newspapers, movie theaters, billboards, and mailings.

''(d) EVALUATION.—Not later than 3 years after the date on which a grant is awarded under this section, the grantee shall submit

to the Director of the Centers for Disease Control and Prevention a report that describes the activities carried out with funds received under the grant and the effectiveness of such activities in increasing physical activity and improving dietary intake.

''(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $50,000,000 for each of fiscal years 2006 through 2010.''.

**SEC. 342. GRANTS AND CONTRACTS FOR A NATIONAL CAMPAIGN TO CHANGE CHILDREN'S HEALTH BEHAVIORS.**

Section 399Y of the Public Health Service Act (42 U.S.C. 280h–2) is amended by striking subsection (b) and inserting the following:

''(b) GRANTS.—

''(1) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall award grants or contracts to eligible entities to design and implement culturally and linguistically appropriate and competent campaigns to change children's health behaviors.

''(2) ELIGIBLE ENTITY.—In this subsection, the term 'eligible entity' means a marketing, public relations, advertising, or other appropriate entity.

''(3) CONTENT.—An eligible entity that receives a grant under this subsection shall use funds received through such grant or contract to utilize marketing and communication strategies to—

''(A) communicate messages to help young people develop habits that will foster good health over a lifetime;

''(B) provide young people with motivation to engage in sports and other physical activities;

''(C) influence youth to develop good health habits such as regular physical activity and good nutrition;

''(D) educate parents of young people on the importance of physical activity and improving nutrition, how to maintain healthy behaviors for the entire family, and how to encourage children to develop good nutrition and physical activity habits; and

''(E) discourage stigmatization and discrimination based on body size or shape.

''(4) REPORT.—The Secretary shall evaluate the effectiveness of the campaign described in paragraph (1) in changing children's behaviors and report such results to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives.

''(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $125,000,000 for fiscal year 2006, and such sums as may be necessary for each of fiscal years 2007 through 2011.''.

**SEC. 343. PREVENTION OF CHILDHOOD OBESITY RESEARCH THROUGH THE NATIONAL INSTITUTES OF HEALTH.**

(a) IN GENERAL.—The Director of the National Institutes of Health, in accordance with the National Institutes of Health's Strategic Plan for Obesity Research, shall expand and intensify research that addresses the prevention of childhood obesity.

(b) PLAN.—The Director of the National Institutes of Health shall—

(1) conduct or support research programs and research training concerning the prevention of obesity in children; and

(2) develop and periodically review, and revise as appropriate, the Strategic Plan for Obesity Research.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, such sums as may be necessary for each of fiscal years 2006 through 2011. Amounts appropriated under this section shall be in addition to other amounts available for carrying out activities of the type described in this section.

**SEC. 344. RESEARCH ON THE RELATIONSHIP BETWEEN THE PHYSICAL ACTIVITY OF CHILDREN AND THE BUILT ENVIRONMENT.**

Part S of title III of the Public Health Service Act (as amended by section 341) is further amended by adding at the end the following:

**''SEC. 399BB–5. RESEARCH ON THE RELATIONSHIP BETWEEN THE PHYSICAL ACTIVITY OF CHILDREN AND THE BUILT ENVIRONMENT.**

''(a) IN GENERAL.—The Secretary shall support research efforts to promote physical activity in children through enhancement of the built environment.

''(b) ELIGIBILITY.—In this section, the term 'eligible institution' means a public or private nonprofit institution that submits to the Secretary an application at such time, in such manner, and containing such agreements, assurances, and information as the Secretary may require.

''(c) GRANT PROGRAMS.—

''(1) RESEARCH.—The Secretary, in collaboration with the Transportation Research Board of the National Research Council, shall award grants to eligible institutions to expand, intensify, and coordinate research that will—

''(A) investigate and define causal links between the built environment and levels of physical activity in children;

''(B) include focus on a variety of geographic scales, with particular focus given to smaller geographic units of analysis such as neighborhoods and areas around elementary schools and secondary schools;

''(C) identify or develop effective intervention strategies to promote physical activity among children with focus on behavioral interventions and enhancements of the built environment that promote increased use by children; and

''(D) assure the generalizability of intervention strategies to high-risk populations and high-risk communities, including low-income urban and rural communities.

''(2) INTERVENTION PILOT PROGRAMS.—The Secretary, in collaboration with the Transportation Research Board of the National Research Council and with appropriate Federal agencies, shall award grants to pilot test the intervention strategies identified or developed through research activities described in paragraph (1) relating to increasing use of the built environment by children.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of fiscal years 2006 through 2010.

**''SEC. 399BB–6. DEFINITIONS.**

''For purposes of this part, the definitions contained in section 401 of the Prevention of Childhood Obesity Act shall apply.''.

**TITLE IV—MISCELLANEOUS PROVISIONS**

**SEC. 401. DEFINITIONS.**

In this Act:

(1) CHILDHOOD.—The term ''childhood'' means children and youth from birth to 18 years of age.

(2) CHILDREN.—The term ''children'' means children and youth from birth through 18 years of age.

(3) FOOD OF POOR OR MINIMAL NUTRITIONAL VALUE.—The term ''food of poor or minimal nutritional value'' has the meaning given the term ''food of minimal nutritional value'' for purposes of the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.) and part 210 of title 7, Code of Federal Regulations.

(4) OBESITY AND OVERWEIGHT.—The terms ''obesity'' and ''overweight'' have the meanings given such terms by the Centers for Disease Control and Prevention.

(5) OBESITY CONTROL.—The term ''obesity control'' means programs or activities for the prevention of excessive weight gain.

(6) OBESITY PREVENTION.—The term ''obesity prevention'' means prevention of obesity or overweight.

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By Ms. COLLINS (for herself, Mr. LIEBERMAN, Mr. VOINOVICH, Mr. AKAKA, Ms. LANDRIEU, and Mr. DURBIN):

S. 800. A bill to amend the District of Columbia Home Rule Act to provide the District of Columbia with autonomy over its budgets, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

Ms. Collins. Mr. President, today I am introducing legislation that includes the District of Columbia Budget Autonomy Act of 2005 and the District of Columbia Independence of the Chief Financial Officer Act of 2005. Last Congress, I introduced this legislation, which passed the Senate unanimously. This legislation would provide the District of Columbia with more autonomy over its local budget and make permanent the authority of the D.C. Chief Financial Officer.

Providing the District of Columbia with more autonomy over its local budget will help the Mayor and the Council of the District of Columbia better manage and run the city. Currently, the District of Columbia must submit its budget through the normal Federal appropriations process. Unfortunately, this process is often riddled with delays. For example, the average delay for enactment of an appropriations bill for the District of Columbia has been 3 months. The result of this delay is clear. For a local community these delays affect programs, planning and management initiatives important to the everyday lives of the residents of the city.

The ability of D.C., like any other city in the Nation, to operate efficiently and address the needs of its citizens is of utmost importance. Unlike other budgets that are approved by Congress, the local D.C. budget has a direct effect on local services and programs and affects the quality oflife for the residents of D.C. Congress has recognized the practical issues associated with running a city. As a result, in the 1970s, Congress passed the D.C. Home Rule Act which established the current form of local government. Congress also empowered D.C. to enact local laws that affect the everyday lives of District residents. And, now, I believe it is time for Congress to do the same with regard to the local budget.

The District of Columbia Budget Autonomy Act of 2005 would address these problems by authorizing the local government to pass its own budget each year. This bill would only affect that portion of the D.C. budget that includes the use oflocal funds, not Federal funds. In addition, the bill still provides for congressional oversight. Prior to a local budget becoming effective, Congress will have a 30-day period

in which to review the local budget. In addition, the local authority to pass a budget would be suspended during any periods of poor financial condition that would trigger a control year.

Having the locally elected officials of those providing the funds that are the subject of the budget process decide on how those funds should be spent is a matter of simple fairness. There are also the practical difficulties that the current system causes when the local budget is not approved until well into the fiscal year. By enacting this bill, Congress would be appropriately carrying out its constitutional duties with respect to the District by improving the city's ability to better plan, manage and run its local programs and services. This is what the taxpayers of the District of Columbia have elected their local officials to do.

The legislation also includes the District of Columbia Independence of the Chief Financial Officer Act of 2005 which would make permanent the authority of the District of Columbia Chief Financial Officer. The current Chief Financial Officer for the District of Columbia is operating under authority it derived from the D.C. Control Board, which is currently dormant due to the city's improved financial situation. That authority was set to sunset when the D.C. Control Board was phased out; however, the CFO's authority continues to be extended through the appropriations process, until such time as permanent legislation is enacted.

Ensuring continued financial accountability of the D.C. government is crucial for the fiscal stability of the city. The CFO has played a significant role in maintaining this stability. While providing the District with more autonomy over its budgets, it is also important that the CFO's authority is made permanent and that its role is clear.

I urge my colleagues to support this important piece of legislation.

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By Mr. NELSON of Florida:

S. 801. A bill to designate the United States courthouse located at 300 North Hogan Street, Jacksonville, Florida, as the ''John Milton Bryan Simpson United States Courthouse''; to the Committee on Environment and Public Works.

Mr. NELSON. Mr. President, today I rise to introduce a bill designating a Jacksonville courthouse as the John Milton Bryan Simpson United States Courthouse.

John Milton Bryan Simpson was born in Kissimmee, FL, in 1903. He was nominated to the Southern District Court of Florida by President Truman in 1950 and to the Federal court of appeals by President Johnson in 1966.

Designating this courthouse after the late Judge Simpson is a fitting tribute to a man whose judicial decisions were instrumental in desegregating public facilities in Jacksonville, Orlando, and Daytona Beach.

It is important that we remember not only his name but also his legacy of courage during that period of our history.

I hope that other members of the Senate will join me in honoring Judge Simpson, a man who was not only a hero to the state of Florida, but a national hero.

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By Mr. DOMENICI (for himself, Mr. BAUCUS, Mr. BURNS, Mr. JOHNSON, Mr. ROBERTS, Mr. BINGAMAN, Mr. ALLARD, Mr. WYDEN, Mr. SMITH, Mr. HAGEL, and Mr. BROWNBACK):

S. 802. A bill to establish a National Drought Council within the Department of Agriculture, to improve national drought preparedness, mitigation, and response efforts, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. DOMENICI1. Mr. President, I rise today to introduce The National Drought Preparedness Act of 2005. First off, I would like to thank Senator BAUCUS. As the lead cosponsor, his strong leadership and hard work on this bill has been a tremendous help.

Drought is a unique emergency situation; it creeps in unlike other abrupt weather disasters. Without a national drought policy we constantly live not knowing what the next year will bring. Unfortunately, when we find ourselves facing a drought, towns often scramble to drill new water wells, fires often sweep across bone dry forests and farmers and ranchers are forced to watch their way of life blow away with the dust.

We must be vigilant and prepare ourselves for quick action when the next drought cycle begins. Better planning on our part could limit some of the damage felt by drought. I submit that this bill is the exact tool needed for facilitating better planning.

This Act establishes a National Drought Council within the Department of Agriculture to improve national drought preparedness, mitigation and response efforts. The National Drought Council will formulate strategies to alleviate the effects of drought by fostering a greater understanding of what triggers wide-spread drought conditions. By educating the public in water conservation and proper land stewardship, we can ensure a better preparedness when future drought plagues our country.

The impacts of drought are also very costly. According to NOAA, there have been 12 different drought events since 1980 that resulted in damages and costs exceeding $1 billion each. In 2000, severe drought in the South-Central and Southeastern states caused losses to agriculture and related industries of over $4 billion. Western wildfires that year totaled over $2 billion in damages. The Eastern drought in 1999 led to $1 billion in losses. These are just a few of the statistics.

While drought affects the economic and environmental well being of the entire nation, the United States has lacked a cohesive strategy for dealing with serious drought emergencies. As many of you know, the impact of drought emerges gradually rather than suddenly as is the case with other natural disasters.

I am pleased to be following through on what I started in 1997. The bill that we are introducing today is the next step in implementing a national, cohesive drought policy. The bill recognizes that drought is a recurring phenomenon that causes serious economic and environmental loss and that a national drought policy is needed to ensure an integrated, coordinated strategy.

The National Drought Preparedness Act of 2005 does the following: It creates national policy for drought. This will hopefully move the country away from the costly, ad hoc, response-oriented approach to drought, and move us toward a pro-active, preparedness approach. The new national policy would provide the tools and focus, similar to the Stafford Act, for Federal, State, tribal and local governments to address the diverse impacts and costs caused by drought.

The Bill would improve delivery of federal drought programs. This would ensure improved program delivery, integration and leadership. To achieve this intended purpose, the bill establishes the National Drought Council, designating USDA as the lead federal agency. The Council and USDA would provide the coordinating and integrating function for federal drought programs, much like FEMA provides that function for other natural disasters under the Stafford Act.

The Act will provide new tools for drought preparedness planning. Building on existing policy and planning processes, the bill would assist states, local governments, tribes, and other entities in the development and implementation of drought preparedness plans. The bill does not mandate state and local planning, but is intended to facilitate plan development and implementation through establishment of the Drought Assistance Fund.

The bill would improve forecasting & monitoring by facilitating the development of the National Drought Monitoring Network in order to improve the characterization of current drought conditions and the forecasting of future droughts. Ultimately, this would provide a better basis to ''trigger'' federal drought assistance.

Finally, the bill would authorize the USDA to provide reimbursement to states for reasonable staging and prepositioning costs when there is a threat of a wildfire.

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. 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 ''National Drought Preparedness Act of 2005''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:



**SEC. 2. FINDINGS.**

Congress finds that—

(1) drought is a natural disaster;

(2) regional drought disasters in the United States cause serious economic and environmental losses, yet there is no national policy to ensure an integrated and coordinated Federal strategy to prepare for, mitigate, or respond to such losses;

(3) drought has an adverse effect on resource-dependent businesses and industries (including the recreation and tourism industries);

(4) State, tribal, and local governments have to increase coordinated efforts with each Federal agency involved in drought monitoring, planning, mitigation, and response;

(5) effective drought monitoring—

(A) is a critical component of drought preparedness and mitigation; and

(B) requires a comprehensive, integrated national program that is capable of providing reliable, accessible, and timely information to persons involved in drought planning, mitigation, and response activities;

(6) the National Drought Policy Commission was established in 1998 to provide advice and recommendations on the creation of an integrated, coordinated Federal policy designed to prepare for and respond to serious drought emergencies;

(7) according to the report issued by the National Drought Policy Commission in May 2000, the guiding principles of national drought policy should be—

(A) to favor preparedness over insurance, insurance over relief, and incentives over regulation;

(B) to establish research priorities based on the potential of the research to reduce drought impacts;

(C) to coordinate the delivery of Federal services through collaboration with State and local governments and other non-Federal entities; and

(D) to improve collaboration among scientists and managers; and

(8) the National Drought Council, in coordination with Federal agencies and State, tribal, and local governments, should provide the necessary direction, coordination, guidance, and assistance in developing a comprehensive drought preparedness system.

**SEC. 3. DEFINITIONS.**

In this Act:

(1) COUNCIL.—The term ''Council'' means the National Drought Council established by section 101(a).

(2) CRITICAL SERVICE PROVIDER.—The term ''critical service provider'' means an entity that provides power, water (including water provided by an irrigation organization or facility), sewer services, or wastewater treatment.

(3) DIRECTOR.—The term ''Director'' means the Director of the Office appointed under section 112(a).

(4) DROUGHT.—The term ''drought'' means a natural disaster that is caused by a deficiency in precipitation—

(A) that may lead to a deficiency in surface and subsurface water supplies (including rivers, streams, wetlands, ground water, soil moisture, reservoir supplies, lake levels, and snow pack); and

(B) that causes or may cause—

(i) substantial economic or social impacts; or

(ii) physical damage or injury to individuals, property, or the environment.

(5) FUND.—The term ''Fund'' means the Drought Assistance Fund established by section 121(a).

(6) 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).

(7) INTERSTATE WATERSHED.—The term ''interstate watershed'' means a watershed that crosses a State or tribal boundary.

(8) MITIGATION.—The term ''mitigation'' means a short- or long-term action, program, or policy that is implemented in advance of or during a drought to minimize any risks and impacts of drought.

(9) NATIONAL INTEGRATED DROUGHT INFORMATION SYSTEM.—The term ''National Integrated Drought Information System'' means a comprehensive system that collects and integrates information on the key indicators of drought, including stream flow, ground water levels, reservoir levels, soil moisture, snow pack, and climate (including precipitation and temperature), in order to make usable, reliable, and timely assessments of drought, including the severity of drought and drought forecasts.

(10) NEIGHBORING COUNTRY.—The term ''neighboring country'' means Canada and Mexico.

(11) OFFICE.—The term ''Office'' means the National Office of Drought Preparedness established under section 111.

(12) SECRETARY.—The term ''Secretary'' means the Secretary of Agriculture.

(13) STATE.—The term ''State'' means—

(A) each of the several States of the United States;

(B) the District of Columbia;

(C) the Commonwealth of Puerto Rico;

(D) Guam;

(E) American Samoa;

(F) the Commonwealth of the Northern Mariana Islands;

(G) the Federated States of Micronesia;

(H) the Republic of the Marshall Islands;

(I) the Republic of Palau; and

(J) the United States Virgin Islands.

(14) TRIGGER.—The term ''trigger'' means the thresholds or criteria that must be satisfied before mitigation or emergency assistance may be provided to an area—

(A) in which drought is emerging; or

(B) that is experiencing a drought.

(15) UNDER SECRETARY.—The term ''Under Secretary'' means the Under Secretary of Agriculture for Natural Resources and Environment.

(16) UNITED STATES.—The term ''United States'', when used in a geographical sense, means all of the States.

(17) WATERSHED.—

(A) IN GENERAL.—The term ''watershed'' means—

(i) a region or area with common hydrology;

(ii) an area drained by a waterway that drains into a lake or reservoir;

(iii) the total area above a designated point on a stream that contributes water to the flow at the designated point; or

(iv) the topographic dividing line from which surface streams flow in 2 different directions.

(B) EXCLUSION.—The term ''watershed'' does not include a region or area described in subparagraph (A) that is larger than a river basin.

(18) WATERSHED GROUP.—The term ''watershed group'' means a group of individuals that—

(A) represents the broad scope of relevant interests in a watershed; and

(B) works in a collaborative manner to jointly plan the management of the natural resources in the watershed; and

(C) is formally recognized by each of the States in which the watershed lies.

**SEC. 4. EFFECT OF ACT.**

This Act does not affect—

(1) the authority of a State to allocate quantities of water under the jurisdiction of the State; or

(2) any State water rights established as of the date of enactment of this Act.

## TITLE I—DROUGHT PREPAREDNESS

### Subtitle A—National Drought Council

**SEC. 101. MEMBERSHIP AND VOTING.**

(a) IN GENERAL.—There is established in the Office of the Secretary a council to be known as the ''National Drought Council''.

(b) MEMBERSHIP.—

(1) COMPOSITION.—The Council shall be composed of—

(A) the Secretary;

(B) the Secretary of Commerce;

(C) the Secretary of the Army;

(D) the Secretary of the Interior;

(E) the Director of the Federal Emergency Management Agency;

(F) the Administrator of the Environmental Protection Agency;

(G) 4 members appointed by the Secretary, in coordination with the National Governors Association—

(i) who shall each be a Governor of a State; and

(ii) who shall collectively represent the geographic diversity of the United States;

(H) 1 member appointed by the Secretary, in coordination with the National Association of Counties;

(I) 1 member appointed by the Secretary, in coordination with the United States Conference of Mayors;

(J) 1 member appointed by the Secretary of the Interior, in coordination with Indian tribes, to represent the interests of tribal governments; and

(K) 1 member appointed by the Secretary, in coordination with the National Association of Conservation Districts, to represent local soil and water conservation districts.

(2) DATE OF APPOINTMENT.—The appointment of each member of the Council shall be made not later than 120 days after the date of enactment of this Act.

(c) TERM; VACANCIES.—

(1) TERM.—

(A) IN GENERAL.—Except as provided in subparagraph (B), a member of the Council shall serve for the life of the Council.

(B) EXCEPTION.—A member of the Council appointed under subparagraphs (G) through

(K) of subsection (b)(1) shall be appointed for a term of 2 years.

(2) VACANCIES.—

(A) IN GENERAL.—A vacancy on the Council—

(i) shall not affect the powers of the Council; and

(ii) shall be filled in the same manner as the original appointment was made.

(B) DURATION OF APPOINTMENT.—A member appointed to fill a vacancy occurring before the expiration of the term for which the predecessor was appointed shall be appointed only for the remainder of the term.

(d) MEETINGS.—

(1) IN GENERAL.—The Council shall meet at the call of the co-chairs.

(2) FREQUENCY.—The Council shall meet at least semiannually.

(e) QUORUM.—A majority of the members of the Council, including a designee of a member, shall constitute a quorum, but a lesser number may hold hearings or conduct other business.

(f) CO-CHAIRS.—

(1) IN GENERAL.—There shall be a Federal co-chair and non-Federal co-chair of the Council.

(2) APPOINTMENT.—

(A) FEDERAL CO-CHAIR.—The Secretary shall be Federal co-chair.

(B) NON-FEDERAL CO-CHAIR.—Every 2 years, the Council members appointed under subparagraphs (G) through (K) of subsection (b)(1) shall select a non-Federal co-chair from among the members appointed under those subparagraphs.

(g) DIRECTOR.—

(1) IN GENERAL.—The Director shall serve as Director of the Council.

(2) DUTIES.—The Director shall serve the interests of all members of the Council.

**SEC. 102. DUTIES OF THE COUNCIL.**

(a) IN GENERAL.—The Council shall—

(1) not later than 1 year after the date of the first meeting of the Council, develop a comprehensive National Drought Policy Action Plan that—

(A)(i) delineates and integrates responsibilities for activities relating to drought (including drought preparedness, mitigation, research, risk management, training, and emergency relief) among Federal agencies; and

(ii) ensures that those activities are coordinated with the activities of the States, local governments, Indian tribes, and neighboring countries;

(B) is consistent with—

(i) this Act and other applicable Federal laws; and

(ii) the laws and policies of the States for water management;

(C) is integrated with drought management programs of the States, Indian tribes, local governments, watershed groups, and private entities; and

(D) avoids duplicating Federal, State, tribal, local, watershed, and private drought preparedness and monitoring programs in existence on the date of enactment of this Act;

(2) evaluate Federal drought-related programs in existence on the date of enactment of this Act and make recommendations to Congress and the President on means of eliminating—

(A) discrepancies between the goals of the programs and actual service delivery;

(B) duplication among programs; and

(C) any other circumstances that interfere with the effective operation of the programs;

(3) make recommendations to the President, Congress, and appropriate Federal Agencies on—

(A) the establishment of common interagency triggers for authorizing Federal drought mitigation programs; and

(B) improving the consistency and fairness of assistance among Federal drought relief programs;

(4) in conjunction with the Secretary of Commerce, coordinate and prioritize specific activities to establish and improve the National Integrated Drought Information System by—

(A) taking into consideration the limited resources for—

(i) drought monitoring, prediction, and research activities; and

(ii) water supply forecasting; and

(B) providing for the development of an effective drought early warning system that—

(i) communicates drought conditions and impacts to—

(I) decisionmakers at the Federal, regional, State, tribal, and local levels of government;

(II) the private sector; and

(III) the public; and

(ii) includes near-real-time data, information, and products developed at the Federal, regional, State, tribal, and local levels of government that reflect regional and State differences in drought conditions;

(5) in conjunction with the Secretary of the Army and the Secretary of the Interior—

(A) encourage and facilitate the development of drought preparedness plans under subtitle C, including establishing the guidelines under sections 121(c) and 122(a); and

(B) based on a review of drought preparedness plans, develop and make available to the public drought planning models to reduce water resource conflicts relating to water conservation and droughts;

(6) develop and coordinate public awareness activities to provide the public with access to understandable, and informative materials on drought, including—

(A) explanations of the causes of drought, the impacts of drought, and the damages from drought;

(B) descriptions of the value and benefits of land stewardship to reduce the impacts of drought and to protect the environment;

(C) clear instructions for appropriate responses to drought, including water conservation, water reuse, and detection and elimination of water leaks;

(D) information on State and local laws applicable to drought; and

(E) information on the assistance available to resource-dependent businesses and industries during a drought; and

(7) establish operating procedures for the Council.

(b) CONSULTATION.—In carrying out this section, the Council shall consult with groups affected by drought emergencies, including groups that represent—

(1) agricultural production, wildlife, and fishery interests;

(2) forestry and fire management interests;

(3) the credit community;

(4) rural and urban water associations;

(5) environmental interests;

(6) engineering and construction interests;

(7) the portion of the science community that is concerned with drought and climatology;

(8) resource-dependent businesses and other private entities (including the recreation and tourism industries); and

(9) watershed groups.

(c) AGENCY ROLES AND RESPONSIBILITIES.—

(1) DESIGNATION OF LEAD AGENCIES.—

(A) DEPARTMENT OF COMMERCE.—The Department of Commerce shall be the lead agency for purposes of implementing subsection (a)(4).

(B) DEPARTMENTS OF THE ARMY AND THE INTERIOR.—The Department of the Army and the Department of the Interior shall jointly be the lead agency for purposes of implementing—

(i) paragraphs (5) and (6) of section subsection (a); and

(ii) section 122.

(C) DEPARTMENT OF AGRICULTURE.—The Department of Agriculture, in cooperation with the lead agencies designated under subparagraphs (A) and (B), shall be the lead agency for purposes of implementing section 121.

(2) COOPERATION FROM OTHER FEDERAL AGENCIES.—The head of each Federal agency shall cooperate as appropriate with the lead agencies in carrying out any duties under this Act.

(d) REPORTS TO CONGRESS.—

(1) ANNUAL REPORT.—

(A) IN GENERAL.—Not later than 1 year after the date of the first meeting of the Council, and annually thereafter, the Council shall submit to Congress a report on the activities carried out under this title.

(B) INCLUSIONS.—

(i) IN GENERAL.—The annual report shall include a summary of drought preparedness plans completed under sections 123 through 125.

(ii) INITIAL REPORT.—The initial report submitted under subparagraph (A) shall include any recommendations of the Council under paragraph (2) or (3) of subsection (a).

(2) FINAL REPORT.—Not later than 7 years after the date of enactment of this Act, the Council shall submit to Congress a report that recommends—

(A) amendments to this Act; and

(B) whether the Council should continue.

**SEC. 103. POWERS OF THE COUNCIL.**

(a) HEARINGS.—The Council may hold hearings, meet and act at any time and place, take any testimony and receive any evidence that the Council considers advisable to carry out this title.

(b) INFORMATION FROM FEDERAL AGENCIES.—

(1) IN GENERAL.—The Council may obtain directly from any Federal agency any information that the Council considers necessary to carry out this title.

(2) PROVISION OF INFORMATION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), on request of the Secretary or the non-Federal co-chair, the head of a Federal agency may provide information to the Council.

(B) LIMITATION.—The head of a Federal agency shall not provide any information to the Council that the Federal agency head determines the disclosure of which may cause harm to national security interests.

(c) POSTAL SERVICES.—The Council may use the United States mail in the same manner and under the same conditions as other agencies of the Federal Government.

(d) GIFTS.—The Council may accept, use, and dispose of gifts or donations of services or property.

(e) FEDERAL FACILITIES.—If the Council proposes the use of a Federal facility for the purposes of carrying out this title, the Council shall solicit and consider the input of the Federal agency with jurisdiction over the facility.

**SEC. 104. COUNCIL PERSONNEL MATTERS.**

(a) COMPENSATION OF MEMBERS.—

(1) NON-FEDERAL EMPLOYEES.—A member of the Council who is not an officer or employee of the Federal Government shall serve without compensation.

(2) FEDERAL EMPLOYEES.—A member of the Council who is an officer or employee of the United States shall serve without compensation in addition to the compensation received for services of the member as an officer or employee of the Federal Government.

(b) TRAVEL EXPENSES.—A member of the Council shall be allowed travel expenses 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 Council.

**SEC. 105. AUTHORIZATION OF APPROPRIATIONS.**

There is authorized to be appropriated to carry out this title $2,000,000 for each of the 7 fiscal years after the date of enactment of this Act.

**SEC. 106. TERMINATION OF COUNCIL.**

The Council shall terminate 8 years after the date of enactment of this Act.

### Subtitle B—National Office of Drought Preparedness

**SEC. 111. ESTABLISHMENT.**

The Secretary shall establish an office to be known as the ''National Office of Drought Preparedness'', which shall be under the jurisdiction of the Under Secretary, to provide assistance to the Council in carrying out this title.

**SEC. 112. DIRECTOR OF THE OFFICE.**

(a) APPOINTMENT.—

(1) IN GENERAL.—The Under Secretary shall appoint a Director of the Office under sections 3371 through 3375 of title 5, United States Code.

(2) QUALIFICATIONS.—The Director shall be a person who has experience in—

(A) public administration; and

(B) drought mitigation or drought management.

(b) POWERS.—The Director may hire such other additional personnel or contract for services with other entities as necessary to carry out the duties of the Office.

**SEC. 113. OFFICE STAFF.**

(a) IN GENERAL.—The Office shall have at least 5 full-time staff, including the detailees detailed under subsection (b)(1).

(b) DETAILEES.—

(1) REQUIRED DETAILEES.—There shall be detailed to the Office, on a nonreimbursable basis—

(A) by the Director of the Federal Emergency Management Agency, 1 employee of the Federal Emergency Management Agency with expertise in emergency planning;

(B) by the Secretary of Commerce, 1 employee of the Department of Commerce with experience in drought monitoring;

(C) by the Secretary of the Interior, 1 employee of the Bureau of Reclamation with experience in water planning; and

(D) by the Secretary of the Army, 1 employee of the Army Corps of Engineers with experience in water planning.

(2) ADDITIONAL DETAILEES.—

(A) IN GENERAL.—In addition to any employees detailed under paragraph (1), any other employees of the Federal Government may be detailed to the Office.

(B) REIMBURSEMENT.—An employee detailed under subparagraph (A) shall be detailed without reimbursement, unless the Secretary, on the recommendation of the Director, determines that reimbursement is appropriate.

(3) CIVIL SERVICE STATUS.—The detail of an employee under paragraph (1) or (2) shall be without interruption or loss of civil service status or privilege.

### Subtitle C—Drought Preparedness Plans

**SEC. 121. DROUGHT ASSISTANCE FUND.**

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a fund to be known as the ''Drought Assistance Fund''.

(b) PURPOSE.—The Fund shall be used to pay the costs of—

(1) providing technical and financial assistance (including grants and cooperative assistance) to States, Indian tribes, local governments, watershed groups, and critical service providers for the development and implementation of drought preparedness plans under sections 123 through 125;

(2) providing to States, Indian tribes, local governments, watershed groups, and critical service providers the Federal share, as determined by the Secretary, in consultation with the other members of the Council, of the cost of mitigating the overall risk and impacts of droughts;

(3) assisting States, Indian tribes, local governments, watershed groups, and critical service providers in the development of mitigation measures to address environmental, economic, and human health and safety issues relating to drought;

(4) expanding the technology transfer of drought and water conservation strategies and innovative water supply techniques;

(5) developing post-drought evaluations and recommendations; and

(6) supplementing, if necessary, the costs of implementing actions under section 102(a)(4).

(c) GUIDELINES.—

(1) IN GENERAL.—The Secretary, in consultation with the non-Federal co-chair and with the concurrence of the Council, shall promulgate guidelines to implement this section.

(2) GENERAL REQUIREMENTS.—The guidelines shall—

(A) ensure the distribution of amounts from the Fund within a reasonable period of time;

(B) take into consideration regional differences;

(C) take into consideration all impacts of drought in a balanced manner;

(D) prohibit the use of amounts from the Fund for Federal salaries that are not directly related to the provision of drought assistance;

(E) require that amounts from the Fund provided to States, local governments, watershed groups, and critical service providers under subsection (b)(1) be coordinated with and managed by the State in which the local governments, watershed groups, or critical service providers are located, consistent with the drought preparedness priorities and relevant water management plans in the State;

(F) require that amounts from the Fund provided to Indian tribes under subsection (b)(1) be used to implement plans that are, to the maximum extent practicable—

(i) coordinated with any State in which land of the Indian tribe is located; and

(ii) consistent with existing drought preparedness and water management plans of the State; and

(G) require that a State, Indian tribe, local government, watershed group, or critical service provider that receives Federal funds under paragraph (2) or (3) of subsection (b) pay, using amounts made available through non-Federal grants, cash donations made by non-Federal persons or entities, or any other non-Federal funds, not less than 25 percent of the total cost of carrying out a project for which Federal funds are provided under this Act.

(3) SPECIAL REQUIREMENTS APPLICABLE TO INTERSTATE WATERSHEDS.—

(A) DEVELOPMENT OF DROUGHT PREPAREDNESS PLANS.—The guidelines promulgated under paragraph (1) shall require that, to receive financial assistance under subsection (b)(1) for the development of drought preparedness plans for interstate watersheds, the States or Indian tribes in which the interstate watershed is located shall—

(i) cooperate in the development of the plan; and

(ii) in developing the plan—

(I) ensure that the plan is consistent with any applicable State and tribal water laws, policies, and agreements;

(II) ensure that the plan is consistent and coordinated with any interstate stream compacts;

(III) include the participation of any appropriate watershed groups; and

(IV) recognize that while implementation of the plan will involve further coordination among the appropriate States and Indian tribes, each State and Indian tribe has sole jurisdiction over implementation of the portion of the watershed within the State or tribal boundaries.

(B) IMPLEMENTATION OF DROUGHT PREPAREDNESS PLANS.—The guidelines promulgated under paragraph (1) shall require that, to receive financial assistance under subsection (b)(1) for the implementation of drought preparedness plans for interstate watersheds, the States or Indian tribes in which the interstate watershed is located shall, to the maximum extent practicable—

(i) cooperate in implementing the plan;

(ii) in implementing the plan—

(I) provide that the distribution of funds to all States and Indian tribes in which the watershed is located is not required; and

(II) consider the level of impact within the watershed on the affected States or Indian tribes; and

(iii) ensure that implementation of the plan does not interfere with State water rights in existence on the date of enactment of this Act.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Fund such sums as are necessary to carry out subsection (b).

**SEC. 122. DROUGHT PREPAREDNESS PLANS.**

(a) IN GENERAL.—The Secretary of the Interior and the Secretary of the Army shall, with the concurrence of the Council, jointly promulgate guidelines for administering a national program to provide technical and financial assistance to States, Indian tribes, local governments, watershed groups, and critical service providers for the development, maintenance, and implementation of drought preparedness plans.

(b) REQUIREMENTS.—To build on the experience and avoid duplication of efforts of Federal, State, local, tribal, and regional drought plans in existence on the date of enactment of this Act, the guidelines may recognize and incorporate those plans.

**SEC. 123. FEDERAL PLANS.**

(a) IN GENERAL.—The Secretary, the Secretary of the Interior, the Secretary of the Army, and other appropriate Federal agency heads shall develop and implement Federal drought preparedness plans for agencies under the jurisdiction of the appropriate Federal agency head.

(b) REQUIREMENTS.—The Federal plans—

(1) shall be integrated with each other;

(2) may be included as components of other Federal planning requirements;

(3) shall be integrated with drought preparedness plans of State, tribal, and local governments that are affected by Federal projects and programs; and

(4) shall be completed not later than 2 years after the date of enactment of this Act.

**SEC. 124. STATE AND TRIBAL PLANS.**

States and Indian tribes may develop and implement State and tribal drought preparedness plans that—

(1) address monitoring of resource conditions that are related to drought;

(2) identify areas that are at a high risk for drought;

(3) describes mitigation strategies to address and reduce the vulnerability of an area to drought; and

(4) are integrated with State, tribal, and local water plans in existence on the date of enactment of this Act.

**SEC. 125. REGIONAL AND LOCAL PLANS.**

Local governments, watershed groups, and regional water providers may develop and implement drought preparedness plans that—

(1) address monitoring of resource conditions that are related to drought;

(2) identify areas that are at a high risk for drought;

(3) describe mitigation strategies to address and reduce the vulnerability of an area to drought; and

(4) are integrated with corresponding State plans.

**SEC. 126. PLAN ELEMENTS.**

The drought preparedness plans developed under sections 123 through 125—

(1) shall be consistent with Federal and State laws, contracts, and policies;

(2) shall allow each State to continue to manage water and wildlife in the State;

(3) shall address the health, safety, and economic interests of those persons directly affected by drought;

(4) shall address the economic impact on resource-dependent businesses and industries, including regional tourism;

(5) may include—

(A) provisions for water management strategies to be used during various drought or water shortage thresholds, consistent with State water law;

(B) provisions to address key issues relating to drought (including public health, safety, economic factors, and environmental issues such as water quality, water quantity, protection of threatened and endangered species, and fire management);

(C) provisions that allow for public participation in the development, adoption, and implementation of drought plans;

(D) provisions for periodic drought exercises, revisions, and updates;

(E) a hydrologic characterization study to determine how water is being used during times of normal water supply availability to anticipate the types of drought mitigation actions that would most effectively improve water management during a drought;

(F) drought triggers;

(G) specific implementation actions for droughts;

(H) a water shortage allocation plan, consistent with State water law; and

(I) comprehensive insurance and financial strategies to manage the risks and financial impacts of droughts; and

(6) shall take into consideration—

(A) the financial impact of the plan on the ability of the utilities to ensure rate stability and revenue stream; and

(B) economic impacts from water shortages.

**TITLE II—WILDFIRE SUPPRESSION**

**SEC. 201. GRANTS FOR PREPOSITIONING WILDFIRE SUPPRESSION RESOURCES.**

Title II of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5131 et seq.) is amended by adding at the end the following:

**"SEC. 205. GRANTS FOR PREPOSITIONING WILDFIRE SUPPRESSION RESOURCES.**

''(a) FINDINGS AND PURPOSE.—

''(1) FINDINGS.—Congress finds that—

''(A) droughts increase the risk of catastrophic wildfires that—

''(i) drastically alter and otherwise adversely affect the landscape for communities and the environment;

''(ii) because of the potential of such wildfires to overwhelm State wildfire suppression resources, require a coordinated response among States, Federal agencies, and neighboring countries; and

''(iii) result in billions of dollars in losses each year;

''(B) the Federal Government must, to the maximum extent practicable, prevent and suppress such catastrophic wildfires to protect human life and property;

''(C) not taking into account State, local, and private wildfire suppression costs, during the period of 2000 through 2004, the Federal Government expended more than $5,800,000,000 for wildfire suppression costs, at an average annual cost of almost $1,200,000,000;

''(D) since 1980, 2.8 percent of Federal wildfires have been responsible for an average annual cost to the Forest Service of more than $350,000,000;

''(E) the Forest Service estimates that annual national mobilization costs are between $40,000,000 and $50,000,000;

''(F) saving 10 percent of annual national mobilization costs through more effective use of local resources would reduce costs by $4,000,000 to $5,000,000 each year;

''(G) it is more cost-effective to prevent wildfires by prepositioning wildfire fighting resources to catch flare-ups than to commit millions of dollars to respond to large uncontrollable fires; and

''(H) it is in the best interest of the United States to invest in catastrophic wildfire prevention and mitigation by easing the financial burden of prepositioning wildfire suppression resources.

''(2) PURPOSE.—The purpose of this section is to encourage the mitigation and prevention of wildfires by providing financial assistance to States for prepositioning of wildfire suppression resources.

''(b) AUTHORIZATION.—Subject to the availability of funds, the Director of the Federal Emergency Management Agency (referred to in this section as the 'Director') shall reimburse a State for the cost of prepositioning wildfire suppression resources on potential multiple and large fire complexes when the Director determines, in accordance with the national and regional severity indices contained in the Forest Service handbook entitled 'Interagency Standards for Fire and Fire Aviation Operations', that a wildfire event poses a threat to life and property in the area.

''(c) ELIGIBILITY.—Wildfire suppression resources of the Federal Government, neighboring countries, and any State other than the State requesting assistance are eligible for reimbursement under this section.

''(d) REIMBURSEMENT.—

''(1) IN GENERAL.—The Director may reimburse a State for the costs of prepositioning of wildfire suppression resources of the entities specified in subsection (c), including mobilization to, and demobilization from, the staging or prepositioning area.

''(2) REQUIREMENTS.—For a State to receive reimbursement under paragraph (1)—

''(A) any resource provided by an entity specified in subsection (c) shall have been specifically requested by the State seeking reimbursement; and

''(B) staging or prepositioning costs—

''(i) shall be expended during the approved prepositioning period; and

''(ii) shall be reasonable.

''(3) LIMITATION.—The amount of all reimbursements made under this subsection during any year shall not exceed $50,000,000.''.

Mr. JOHNSON. Mr. President, I rise today in support of bipartisan National Drought Preparedness Act of 2005. For the last 5 years a devastating drought has forced many families across South Dakota and the United States to make difficult life-changing decisions about their future in agriculture. Many of our Nation's hard-working producers have had to abandon their farms, and the family farm life has been threatened for too many people.

I was hopeful that the drought measures I have helped pass in the last 5 years would assist producers in weathering the current drought. With my support, the Senate, and ultimately Congress, agreed to legislation providing either or agriculture disaster assistance packages for 2001–2002 and 2003–2004. While this assistance is greatly appreciated by those suffering from this natural disaster, I am concerned for our future prospects for drought aid. Given the President's reluctance to fund crucial USDA farm bill programs in his proposed fiscal year 2006 budget, his insistence on cannibalizing $3 billion from the Conservation Security Program, CSP to fund the 2003–2004 package, which should in fact be recognized as an uncapped entitlement provision, and a historically high budgetary deficit, I am concerned at our prospects of securing substantive monies for future disasters. I will continue to work with my Senate colleagues to ensure adequate dollars for South Dakota, but we must examine more comprehensive measures for addressing drought.

That National Drought Preparedness Act will help us better prepare for future droughts and reduce the need for large ad hoc disaster programs that may cannibalize funds from other agricultural programs. I am fully prepared to support special disaster assistance when it is necessary, but with this act made law, producers, tribes, States, and Federal agencies will be much better prepared for future droughts.

This act will do several things that will significantly increase our ability to deal with drought conditions. The bill establishes, in the office of the Secretary of Agriculture, a National Drought Council to oversee the development of a national drought policy action plan. This plan will be the blueprint for dealing with and preparing for drought. The Federal government has plans for dealing with floods and hurricanes, and we need the same kind of plan for the slow, dry disaster that is drought. This bill recognizes drought as the natural disaster it is.

The act also creates the National Office of Drought Preparedness. This would be the permanent body that assists the National Drought Council in the formulation and carrying out of the national drought policy action plan.

A drought assistance fund will be established by this act, to assist State and local governments in their development and implementation of drought preparedness plans. The act will also provide assistance for the rapid response to wildfires, which is critical to mitigating the effects of a prolonged drought in forested areas, like we have in western South Dakota.

Lastly, the act provides for the development of a national drought forecasting and monitoring network, that will help forecast the onset of droughts better and improve reporting on current droughts.

I am encouraged by what the National Drought Preparedness Act of 2005 has to offer to the farmers and ranchers of our great country. We must treat drought like all other disasters are treated, and take an aggressive stance toward minimizing its effect on communities across America. That is why I am pleased to be an original cosponsor of this important bipartisan piece of legislation.

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By Mr. COLEMAN (for himself and Mrs. CLINTON):

S. 803. A bill to amend the Employee Retirement Income Security Act of 1974, the Public Health Service Act, and the Internal Revenue Code of 1986 to provide parity with respect to substance abuse treatment benefits under group health plans and health insurance coverage; to the Committee on Health, Education, Labor, and Pensions.

Mr. COLEMAN. Mr. President, I am pleased to introduce the Help Expand Access to Recovery and Treatment (HEART) Act of 2005 with my friend and colleague, Senator CLINTON of New York.

By passing this life-saving legislation, Congress would provide equitable access to substance abuse treatment services for 23 million adults and children who need treatment for the disease of alcoholism and other drug dependencies.

HEART would put the decision of whether or not consumers are granted substance abuse treatment services in the hands of doctors and trained addiction professionals, and patients. At least 75 percent of individuals who suffer from alcoholism have access to private health insurance. However, fewer than 70 percent of employer-provided health plans cover alcoholism and drug treatment at the same level as other medical conditions.

Our bill eliminates this inequitable coverage of medical conditions so those who need treatment receive it.

I look forward to working with my colleagues to pass this legislation that is not just important to our nation's economy and the health of our workforce but to the quality of life for millions of Americans and their families.

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. 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 ''Help Expand Access to Recovery and Treatment Act of 2005'' or the ''HEART Act''.

**SEC. 2. FINDINGS.**

Congress finds the following:

(1) Substance abuse, if left untreated, is a medical emergency and a private and public health crisis.

(2) Nothing in this Act should be construed as prohibiting application of the concept of parity to substance abuse treatment provided by faith-based treatment providers.

**SEC. 3. PARITY IN SUBSTANCE ABUSE TREATMENT BENEFITS.**

(a) GROUP HEALTH PLANS.—

(1) PUBLIC HEALTH SERVICE ACT AMENDMENTS.—

(A) IN GENERAL.—Subpart 2 of part A of title XXVII of the Public Health Service Act (42 U.S.C. 300gg–4 et seq.) is amended by adding at the end the following new section:

**''SEC. 2707. PARITY IN THE APPLICATION OF TREATMENT LIMITATIONS AND FINANCIAL REQUIREMENTS TO SUBSTANCE ABUSE TREATMENT BENEFITS.**

''(a) IN GENERAL.—In the case of a group health plan (or health insurance coverage offered in connection with such a plan) that provides both medical and surgical benefits and substance abuse treatment benefits, the plan or coverage shall not impose treatment limitations or financial requirements on the substance abuse treatment benefits unless similar limitations or requirements are imposed for medical and surgical benefits.

''(b) CONSTRUCTION.—Nothing in this section shall be construed—

''(1) as requiring a group health plan (or health insurance coverage offered in connection with such a plan) to provide any substance abuse treatment benefits; or

''(2) to prevent a group health plan or a health insurance issuer offering group health insurance coverage from negotiating the level and type of reimbursement with a provider for care provided in accordance with this section.

''(c) EXEMPTIONS.—

''(1) SMALL EMPLOYER EXEMPTION.—

''(A) IN GENERAL.—This section shall not apply to any group health plan (and group health insurance coverage offered in connection with a group health plan) for any plan year of a small employer.

''(B) SMALL EMPLOYER.—For purposes of subparagraph (A), the term 'small employer' means, in connection with a group health plan with respect to a calendar year and a plan year, an employer who employed an average of at least 2 but not more than 50 employees on business days during the preceding calendar year and who employs at least 2 employees on the first day of the plan year.

''(C) APPLICATION OF CERTAIN RULES IN DETERMINATION OF EMPLOYER SIZE.—For purposes of this paragraph—

''(i) APPLICATION OF AGGREGATION RULE FOR EMPLOYERS.—Rules similar to the rules under subsections (b), (c), (m), and (o) of section 414 of the Internal Revenue Code of 1986 shall apply for purposes of treating persons as a single employer.

''(ii) EMPLOYERS NOT IN EXISTENCE IN PRECEDING YEAR.—In the case of an employer which was not in existence throughout the preceding calendar year, the determination of whether such employer is a small employer shall be based on the average number of employees that it is reasonably expected such employer will employ on business days in the current calendar year.

''(iii) PREDECESSORS.—Any reference in this paragraph to an employer shall include a reference to any predecessor of such employer.

''(2) INCREASED COST EXEMPTION.—This section shall not apply with respect to a group health plan (or health insurance coverage offered in connection with a group health plan) if the application of this section to such plan (or to such coverage) results in an increase in the cost under the plan (or for such coverage) of at least 1 percent.

''(d) SEPARATE APPLICATION TO EACH OPTION OFFERED.—In the case of a group health plan that offers a participant or beneficiary 2 or more benefit package options under the plan, the requirements of this section shall be applied separately with respect to each such option.

''(e) DEFINITIONS.—For purposes of this section:

''(1) TREATMENT LIMITATION.—The term 'treatment limitation' means, with respect to benefits under a group health plan or health insurance coverage, any day or visit limits imposed on coverage of benefits under the plan or coverage during a period of time.

''(2) FINANCIAL REQUIREMENT.—The term 'financial requirement' means, with respect to benefits under a group health plan or health insurance coverage, any deductible, coinsurance, or cost-sharing or an annual or lifetime dollar limit imposed with respect to the benefits under the plan or coverage.

''(3) MEDICAL OR SURGICAL BENEFITS.—The term 'medical or surgical benefits' means benefits with respect to medical or surgical services, as defined under the terms of the plan or coverage (as the case may be), but does not include substance abuse treatment benefits.

''(4) SUBSTANCE ABUSE TREATMENT BENEFITS.—The term 'substance abuse treatment benefits' means benefits with respect to substance abuse treatment services.

''(5) SUBSTANCE ABUSE TREATMENT SERVICES.—The term 'substance abuse treatment services' means any of the following items and services provided for the treatment of substance abuse:

''(A) Inpatient treatment, including detoxification.

''(B) Nonhospital residential treatment.

''(C) Outpatient treatment, including screening and assessment, medication management, individual, group, and family counseling, and relapse prevention.

''(D) Prevention services, including health education and individual and group counseling to encourage the reduction of risk factors for substance abuse.

''(6) SUBSTANCE ABUSE.—The term 'substance abuse' includes chemical dependency.

''(f) NOTICE.—A group health plan under this part shall comply with the notice requirement under section 714(f) of the Employee Retirement Income Security Act of 1974 with respect to the requirements of this section as if such section applied to such plan.''.

(B) CONFORMING AMENDMENT.—Section 2723(c) of such Act (42 U.S.C. 300gg–23(c)) is amended by striking ''section 2704'' and inserting ''sections 2704 and 2707''.

(2) ERISA AMENDMENTS.—

(A) IN GENERAL.—Subpart B of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1185 et seq.) is amended by adding at the end the following new section:

**''SEC. 714. PARITY IN THE APPLICATION OF TREATMENT LIMITATIONS AND FINANCIAL REQUIREMENTS TO SUBSTANCE ABUSE TREATMENT BENEFITS.**

''(a) IN GENERAL.—In the case of a group health plan (or health insurance coverage offered in connection with such a plan) that provides both medical and surgical benefits and substance abuse treatment benefits, the plan or coverage shall not impose treatment limitations or financial requirements on the substance abuse treatment benefits unless similar limitations or requirements are imposed for medical and surgical benefits.

''(b) CONSTRUCTION.—Nothing in this section shall be construed—

''(1) as requiring a group health plan (or health insurance coverage offered in connection with such a plan) to provide any substance abuse treatment benefits; or

''(2) to prevent a group health plan or a health insurance issuer offering group health

insurance coverage from negotiating the level and type of reimbursement with a provider for care provided in accordance with this section.

''(c) EXEMPTIONS.—

''(1) SMALL EMPLOYER EXEMPTION.—

''(A) IN GENERAL.—This section shall not apply to any group health plan (and group health insurance coverage offered in connection with a group health plan) for any plan year of a small employer.

''(B) SMALL EMPLOYER.—For purposes of subparagraph (A), the term 'small employer' means, in connection with a group health plan with respect to a calendar year and a plan year, an employer who employed an average of at least 2 but not more than 50 employees on business days during the preceding calendar year and who employs at least 2 employees on the first day of the plan year.

''(C) APPLICATION OF CERTAIN RULES IN DETERMINATION OF EMPLOYER SIZE.—For purposes of this paragraph—

''(i) APPLICATION OF AGGREGATION RULE FOR EMPLOYERS.—Rules similar to the rules under subsections (b), (c), (m), and (o) of section 414 of the Internal Revenue Code of 1986 shall apply for purposes of treating persons as a single employer.

''(ii) EMPLOYERS NOT IN EXISTENCE IN PRECEDING YEAR.—In the case of an employer which was not in existence throughout the preceding calendar year, the determination of whether such employer is a small employer shall be based on the average number of employees that it is reasonably expected such employer will employ on business days in the current calendar year.

''(iii) PREDECESSORS.—Any reference in this paragraph to an employer shall include a reference to any predecessor of such employer.

''(2) INCREASED COST EXEMPTION.—This section shall not apply with respect to a group health plan (or health insurance coverage offered in connection with a group health plan) if the application of this section to such plan (or to such coverage) results in an increase in the cost under the plan (or for such coverage) of at least 1 percent.

''(d) SEPARATE APPLICATION TO EACH OPTION OFFERED.—In the case of a group health plan that offers a participant or beneficiary 2 or more benefit package options under the plan, the requirements of this section shall be applied separately with respect to each such option.

''(e) DEFINITIONS.—For purposes of this section:

''(1) TREATMENT LIMITATION.—The term 'treatment limitation' means, with respect to benefits under a group health plan or health insurance coverage, any day or visit limits imposed on coverage of benefits under the plan or coverage during a period of time.

''(2) FINANCIAL REQUIREMENT.—The term 'financial requirement' means, with respect to benefits under a group health plan or health insurance coverage, any deductible, coinsurance, or cost-sharing or an annual or lifetime dollar limit imposed with respect to the benefits under the plan or coverage.

''(3) MEDICAL OR SURGICAL BENEFITS.—The term 'medical or surgical benefits' means benefits with respect to medical or surgical services, as defined under the terms of the plan or coverage (as the case may be), but does not include substance abuse treatment benefits.

''(4) SUBSTANCE ABUSE TREATMENT BENEFITS.—The term 'substance abuse treatment benefits' means benefits with respect to substance abuse treatment services.

''(5) SUBSTANCE ABUSE TREATMENT SERVICES.—The term 'substance abuse treatment services' means any of the following items and services provided for the treatment of substance abuse:

''(A) Inpatient treatment, including detoxification.

''(B) Nonhospital residential treatment.

''(C) Outpatient treatment, including screening and assessment, medication management, individual, group, and family counseling, and relapse prevention.

''(D) Prevention services, including health education and individual and group counseling to encourage the reduction of risk factors for substance abuse.

''(6) SUBSTANCE ABUSE.—The term 'substance abuse' includes chemical dependency.

''(f) NOTICE UNDER GROUP HEALTH PLAN.—The imposition of the requirements of this section shall be treated as a material modification in the terms of the plan described in section 102(a), for purposes of assuring notice of such requirements under the plan; except that the summary description required to be provided under section 104(b)(1) with respect to such modification shall be provided by not later than 60 days after the first day of the first plan year in which such requirements apply.''.

(B) CONFORMING AMENDMENTS.—

(i) Section 731(c) of such Act (29 U.S.C. 1191(c)) is amended by striking ''section 711'' and inserting ''sections 711 and 714''.

(ii) Section 732(a) of such Act (29 U.S.C. 1191a(a)) is amended by striking ''section 711'' and inserting ''sections 711 and 714''.

(iii) The table of contents in section 1 of such Act is amended by inserting after the item relating to section 713 the following new item:

''714. Parity in the application of treatment limitations and financial requirements to substance abuse treatment benefits''.

(3) INTERNAL REVENUE CODE AMENDMENTS.—

(A) IN GENERAL.—Subchapter B of chapter 100 of the Internal Revenue Code of 1986 (relating to other requirements) is amended by adding at the end the following new section:

**''SEC. 9813. PARITY IN THE APPLICATION OF TREATMENT LIMITATIONS AND FINANCIAL REQUIREMENTS TO SUBSTANCE ABUSE TREATMENT BENEFITS.**

''(a) IN GENERAL.—In the case of a group health plan that provides both medical and surgical benefits and substance abuse treatment benefits, the plan shall not impose treatment limitations or financial requirements on the substance abuse treatment benefits unless similar limitations or requirements are imposed for medical and surgical benefits.

''(b) CONSTRUCTION.—Nothing in this section shall be construed—

''(1) as requiring a group health plan to provide any substance abuse treatment benefits; or

''(2) to prevent a group health plan from negotiating the level and type of reimbursement with a provider for care provided in accordance with this section.

''(c) EXEMPTIONS.—

''(1) SMALL EMPLOYER EXEMPTION.—

''(A) IN GENERAL.—This section shall not apply to any group health plan for any plan year of a small employer.

''(B) SMALL EMPLOYER.—For purposes of subparagraph (A), the term 'small employer' means, in connection with a group health plan with respect to a calendar year and a plan year, an employer who employed an average of at least 2 but not more than 50 employees on business days during the preceding calendar year and who employs at least 2 employees on the first day of the plan year.

''(C) APPLICATION OF CERTAIN RULES IN DETERMINATION OF EMPLOYER SIZE.—For purposes of this paragraph—

''(i) APPLICATION OF AGGREGATION RULE FOR EMPLOYERS.—Rules similar to the rules under subsections (b), (c), (m), and (o) of section 414 shall apply for purposes of treating persons as a single employer.

''(ii) EMPLOYERS NOT IN EXISTENCE IN PRECEDING YEAR.—In the case of an employer which was not in existence throughout the preceding calendar year, the determination of whether such employer is a small employer shall be based on the average number of employees that it is reasonably expected such employer will employ on business days in the current calendar year.

''(iii) PREDECESSORS.—Any reference in this paragraph to an employer shall include a reference to any predecessor of such employer.

''(2) INCREASED COST EXEMPTION.—This section shall not apply with respect to a group health plan if the application of this section to such plan results in an increase in the cost under the plan of at least 1 percent.

''(d) SEPARATE APPLICATION TO EACH OPTION OFFERED.—In the case of a group health plan that offers a participant or beneficiary 2 or more benefit package options under the plan, the requirements of this section shall be applied separately with respect to each such option.

''(e) DEFINITIONS.—For purposes of this section:

''(1) TREATMENT LIMITATION.—The term 'treatment limitation' means, with respect to benefits under a group health plan, any day or visit limits imposed on coverage of benefits under the plan during a period of time.

''(2) FINANCIAL REQUIREMENT.—The term 'financial requirement' means, with respect to benefits under a group health plan, any deductible, coinsurance, or cost-sharing or an annual or lifetime dollar limit imposed with respect to the benefits under the plan.

''(3) MEDICAL OR SURGICAL BENEFITS.—The term 'medical or surgical benefits' means benefits with respect to medical or surgical services, as defined under the terms of the plan, but does not include substance abuse treatment benefits.

''(4) SUBSTANCE ABUSE TREATMENT BENEFITS.—The term 'substance abuse treatment benefits' means benefits with respect to substance abuse treatment services.

''(5) SUBSTANCE ABUSE TREATMENT SERVICES.—The term 'substance abuse treatment services' means any of the following items and services provided for the treatment of substance abuse:

''(A) Inpatient treatment, including detoxification.

''(B) Nonhospital residential treatment.

''(C) Outpatient treatment, including screening and assessment, medication management, individual, group, and family counseling, and relapse prevention.

''(D) Prevention services, including health education and individual and group counseling to encourage the reduction of risk factors for substance abuse.

''(6) SUBSTANCE ABUSE.—The term 'substance abuse' includes chemical dependency.''.

(B) CONFORMING AMENDMENTS.—

(i) Section 4980D(d)(1) of such Code is amended by striking ''section 9811'' and inserting ''sections 9811 and 9813''.

(ii) The table of sections of subchapter B of chapter 100 of such Code is amended by adding at the end the following new item:

''9813. Parity in the application of treatment limitations and financial requirements to substance abuse treatment benefits''.

(b) INDIVIDUAL HEALTH INSURANCE.—

(1) AMENDMENT TO THE PUBLIC HEALTH SERVICE ACT.—Part B of title XXVII of the

Public Health Service Act (42 U.S.C. 300gg–41 et seq.) is amended by inserting after section 2752 the following new section:

**"SEC. 2753. PARITY IN THE APPLICATION OF TREATMENT LIMITATIONS AND FINANCIAL REQUIREMENTS TO SUBSTANCE ABUSE BENEFITS.**

''(a) IN GENERAL.—The provisions of section 2707 (other than subsection (e)) shall apply to health insurance coverage offered by a health insurance issuer in the individual market in the same manner as it applies to health insurance coverage offered by a health insurance issuer in connection with a group health plan in the small or large group market.

''(b) NOTICE.—A health insurance issuer under this part shall comply with the notice requirement under section 714(f) of the Employee Retirement Income Security Act of 1974 with respect to the requirements referred to in subsection (a) as if such section applied to such issuer and such issuer were a group health plan.''.

(2) CONFORMING AMENDMENT.—Section 2762(b)(2) of such Act (42 U.S.C. 300gg–62(b)(2)) is amended by striking ''section 2751'' and inserting ''sections 2751 and 2753''.

(c) EFFECTIVE DATES.—

(1) GROUP HEALTH PLANS.—Subject to paragraph (3), the amendments made by subsection (a) apply with respect to group health plans for plan years beginning on or after January 1, 2006.

(2) INDIVIDUAL HEALTH INSURANCE.—The amendments made by subsection (b) apply with respect to health insurance coverage offered, sold, issued, renewed, in effect, or operated in the individual market on or after January 1, 2006.

(3) SPECIAL RULE.—In the case of a group health plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified before the date of enactment of this Act, the amendments made by subsection (a) shall not apply to plan years beginning before the later of—

(A) the date on which the last collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of enactment of this Act), or

(B) January 1, 2006.

For purposes of subparagraph (A), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by subsection (a) shall not be treated as a termination of such collective bargaining agreement.

(d) COORDINATED REGULATIONS.—Section 104(1) of the Health Insurance Portability and Accountability Act of 1996 is amended by striking ''this subtitle (and the amendments made by this subtitle and section 401)'' and inserting ''the provisions of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974, and the provisions of parts A and C of title XXVII of the Public Health Service Act, and chapter 100 of the Internal Revenue Code of 1986''.

(e) PREEMPTION.—Nothing in the amendments made by this section shall be construed to preempt any provision of State law that provides protections to individuals that are greater than the protections provided under such amendments.

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By Mr. CRAIG (for himself and Mr. AKAKA):

S. 806. A bill to amend title 38, United States Code, to provide a traumatic injury protection rider to servicemembers insured under section 1967(a)(1) of such title; to the Committee on Veterans' Affairs.

Mr. CRAIG. Mr. President, I rise on behalf of myself and the distinguished ranking member of the Veterans Committee, Senator AKAKA, to introduce legislation providing a traumatic injury protection rider for servicemembers. I urge all my colleagues to review this important legislation and support its enactment, and I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 806

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. TRAUMATIC INJURY PROTECTION.**

(a) IN GENERAL.—Subchapter III of chapter 19 of title 38, United States Code, is amended—

(1) in section 1965, by adding at the end the following:

''(11) The term 'activities of daily living' means the inability to independently perform 2 of the 6 following functions:

''(A) Bathing.

''(B) Continence.

''(C) Dressing.

''(D) Eating.

''(E) Toileting.

''(F) Transferring.''; and

(2) by adding at the end the following:

**''§ 1980A. Traumatic injury protection**

''(a) A member who is insured under subparagraph (A)(i), (B), or (C)(i) of section 1967(a)(1) shall automatically be issued a traumatic injury protection rider that will provide for a payment not to exceed $100,000 if the member, while so insured, sustains a traumatic injury that results in a loss described in subsection (b)(1). The maximum amount payable for all injuries resulting from the same traumatic event shall be limited to $100,000. If a member suffers more than 1 such loss as a result of traumatic injury, payment will be made in accordance with the schedule in subsection (d) for the single loss providing the highest payment.

''(b)(1) A member who is issued a traumatic injury protection rider under subsection (a) is insured against—

''(A) total and permanent loss of sight;

''(B) loss of a hand or foot by severance at or above the wrist or ankle;

''(C) total and permanent loss of speech;

''(D) total and permanent loss of hearing in both ears;

''(E) loss of thumb and index finger of the same hand by severance at or above the metacarpophalangeal joints;

''(F) quadriplegia, paraplegia, or hemiplegia;

''(G) burns greater than second degree, covering 30 percent of the body or 30 percent of the face; and

''(H) coma or the inability to carry out the activities of daily living resulting from traumatic injury to the brain.

''(2) For purposes of this subsection—

''(A) the term 'quadriplegia' means the complete and irreversible paralysis of all 4 limbs;

''(B) the term 'paraplegia' means the complete and irreversible paralysis of both lower limbs; and

''(C) the term 'hemiplegia' means the complete and irreversible paralysis of the upper and lower limbs on 1 side of the body.

''(3) In no case will a member be covered against loss resulting from—

''(A) attempted suicide, while sane or insane;

''(B) an intentionally self-inflicted injury or any attempt to inflict such an injury;

''(C) illness, whether the loss results directly or indirectly;

''(D) medical or surgical treatment of illness, whether the loss results directly or indirectly;

''(E) any infection other than—

''(i) a pyogenic infection resulting from a cut or wound; or

''(ii) a bacterial infection resulting from ingestion of a contaminated substance;

''(F) the commission of or attempt to commit a felony;

''(G) being legally intoxicated or under the influence of any narcotic unless administered or consumed on the advice of a physician; or

''(H) willful misconduct as determined by a military court, civilian court, or administrative body.

''(c) A payment under this section may be made only if—

''(1) the member is insured under Servicemembers' Group Life Insurance when the traumatic injury is sustained;

''(2) the loss results directly from that traumatic injury and from no other cause; and

''(3) the member suffers the loss not later than 90 days after sustaining the traumatic injury, except, if the loss is quadriplegia, paraplegia, or hemiplegia, the member suffers the loss not later than 365 days after sustaining the traumatic injury.

''(d) Payments under this section for losses described in subsection (b)(1) will be made in accordance with the following schedule:

''(1) Loss of both hands, $100,000.

''(2) Loss of both feet, $100,000.

''(3) Inability to carry out activities of daily living resulting from traumatic brain injury, $100,000.

''(4) Burns greater than second degree, covering 30 percent of the body or 30 percent of the face, $100,000.

''(5) Loss of sight in both eyes, $100,000.

''(6) Loss of 1 hand and 1 foot, $100,000.

''(7) Loss of 1 hand and sight of 1 eye, $100,000.

''(8) Loss of 1 foot and sight of 1 eye, $100,000.

''(9) Loss of speech and hearing in 1 ear, $100,000.

''(10) Total and permanent loss of hearing in both ears, $100,000.

''(11) Quadriplegia, $100,000.

''(12) Paraplegia, $75,000.

''(13) Loss of 1 hand, $50,000.

''(14) Loss of 1 foot, $50,000.

''(15) Loss of sight one eye, $50,000.

''(16) Total and permanent loss of speech, $50,000.

''(17) Loss of hearing in 1 ear, $50,000.

''(18) Hemiplegia, $50,000.

''(19) Loss of thumb and index finger of the same hand, $25,000.

''(20) Coma resulting from traumatic brain injury, $50,000 at time of claim and $50,000 at end of 6-month period.

''(e)(1) During any period in which a member is insured under this section and the member is on active duty, there shall be deducted each month from the member's basic or other pay until separation or release from active duty an amount determined by the Secretary of Veterans Affairs as the premium allocable to the pay period for providing traumatic injury protection under this section (which shall be the same for all such members) as the share of the cost attributable to provided coverage under this section, less any costs traceable to the extra hazards of such duty in the uniformed services.

''(2) During any month in which a member is assigned to the Ready Reserve of a uniformed service under conditions which meet the qualifications set forth in section 1965(5)(B) of this title and is insured under a

policy of insurance purchased by the Secretary of Veterans Affairs under section 1966 of this title, there shall be contributed from the appropriation made for active duty pay of the uniformed service concerned an amount determined by the Secretary of Veterans Affairs (which shall be the same for all such members) as the share of the cost attributable to provided coverage under this section, less any costs traceable to the extra hazards of such duty in the uniformed services. Any amounts so contributed on behalf of any member shall be collected by the Secretary of the concerned service from such member (by deduction from pay or otherwise) and shall be credited to the appropriation from which such contribution was made in advance on a monthly basis.

''(3) The Secretary of Veterans Affairs shall determine the premium amounts to be charged for traumatic injury protection coverage provided under this section.

''(4) The premium amounts shall be determined on the basis of sound actuarial principles and shall include an amount necessary to cover the administrative costs to the insurer or insurers providing such insurance.

''(5) Each premium rate for the first policy year shall be continued for subsequent policy years, except that the rate may be adjusted for any such subsequent policy year on the basis of the experience under the policy, as determined by the Secretary of Veterans Affairs in advance of that policy year.

''(6) The cost attributable to insuring such member under this section, less the premiums deducted from the pay of the member's uniformed service, shall be paid by the Secretary of Defense to the Secretary of Veterans Affairs. This amount shall be paid on a monthly basis, and shall be due within 10 days of the notice provided by the Secretary of Veterans Affairs to the Secretary of the concerned uniformed service.

''(7) The Secretary of Defense shall provide the amount of appropriations required to pay expected claims in a policy year, as determined according to sound actuarial principles by the Secretary of Veterans Affairs.

''(8) The Secretary of Defense shall forward an amount to the Secretary of Veterans Affairs that is equivalent to half the anticipated cost of claims for the current fiscal year, upon the effective date of this legislation.

''(f) The Secretary of Defense shall certify whether any member claiming the benefit under this section is eligible.

''(g) Payment for a loss resulting from traumatic injury will not be made if the member dies not more than 7 days after the date of the injury. If the member dies before payment to the member can be made, the payment will be made according to the member's most current beneficiary designation under Servicemembers' Group Life Insurance, or a by law designation, if applicable.

''(h) Coverage for loss resulting from traumatic injury provided under this section shall cease at midnight on the date of the member's separation from the uniformed service. Payment will not be made for any loss resulting from injury incurred after the date a member is separated from the uniformed services.

''(i) Insurance coverage provided under this section is not convertible to Veterans' Group Life Insurance.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 19 of title 38, United States Code, is amended by adding after the item relating to section 1980 the following:

''1980A. Traumatic injury protection. ''.

**SEC. 2. EFFECTIVE DATE.**

The amendments made by section 1 shall take effect on the first day of the first month beginning more than 180 days after the date of enactment of this Act.

By Mr. CRAIG (for himself, Mr. CRAPO, and Mr. SMITH):

S. 807. A bill to amend the Federal Land Policy and Management Act of 1976 to provide owners of non-Federal lands with a reliable method of receiving compensation for damages resulting from the spread of wildfire from nearby forested National Forest System lands or Bureau of Land Management lands, when those forested Federal lands are not maintained in the forest health status known as condition class 1; to the Committee on Energy and Natural Resources.

Mr. CRAIG. Mr. President, I rise today to introduce the Enhanced Safety from Wildfire Act of 2005. I am joined by my colleagues Mr. CRAPO and Mr. SMITH.

The legislation we are introducing would amend the Federal Land Policy and Management Act of 1976 to make it possible for non-federal land owners to receive compensation for a loss of property as a result of wildfire spreading from Federal land that has not been managed as Condition Class 1.

As we all know, in recent years, there has been a significant amount of injury and loss of property resulting from the spread of wildfire from Federal forested lands to non-Federal lands. Recent wildfires on federal forested lands have shown that lands managed under approved forest health management practices are less susceptible to wildfire, or are subjected to less severe wildfire, than similarly forested lands that are not actively managed.

There is a continuing and growing threat to the safety of communities, individuals, homes and other property, and timber on non-Federal lands that adjoin Federal forested lands because of the unnatural accumulation of forest fuels on these Federal lands and the lack of active Federal management of these lands.

The use of approved forest health management practices to create forest fire ''buffer zones'' between forested Federal lands and adjacent non-Federal lands would reduce the occurrence of wildfires on forested federal lands or, at least, limit their spread to non-Federal lands and the severity of the resulting damage.

This legislation requires the agencies to manage a ''buffer zone'' on Federal land, greater than 6,400 acres, that is adjacent to non-Federal land. When forested Federal lands adjacent to non-Federal lands are not adequately managed with a ''buffer zone'' and wildfire occurs, the legislation states the owners of the non-Federal lands are eligible for compensation for damages resulting from the spread of wildfire to their lands. The legislation sets minimum criteria for non-Federal land to be eligible for compensation.

Our federal land management agencies need to take responsibility for the impacts that occur on non-Federal land as a result of a lack of management on federal land. As a society, we have come to expect that our neighbors take responsibility for their actions and I feel the federal land management agencies should not escape this responsibility either.

In the next few weeks, the weather will heat up, the drought ridden West will become drier, wildfire danger will rise, and I fear we will once again hear reports regarding the loss of property.

I know this legislation may not be the answer to solving our Federal land management problems and I am willing to discuss other options, but I know that until we address the heart of this issue, homes, private land, and communities will continue to be at risk because of poor Federal land management. Being a good neighbor means being responsible for your actions.

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By Mr. DURBIN (for himself and Ms. COLLINS):

S. 808. A bill to encourage energy conservation through bicycling; to the Committee on Commerce, Science, and Transportation.

Mr. DURBIN. Madam President, I rise today to introduce the Conserve by Bike Act to promote energy conservation and improve public health. I am pleased to be joined by my colleague from Maine, Senator SUSAN COLLINS, in introducing this measure. This legislation addresses one part of our Nation's energy challenges. Although there is no single solution to solve our energy problems, I believe that every possible approach must be considered.

Our Nation would realize several benefits from the increased use of bicycle transportation, including lessened dependence on foreign oil and prevention of harmful air emissions. Currently, less than one trip in one hundred, .88 percent, is by bicycle. If we can increase cycling use to one and a half trips per hundred, which is less than one bike trip every two weeks for the average person, we will save more than 462 million gallons of gasoline in a year, worth more than $721 million. That is the equivalent of one full day per year in which the U.S. will not need to import any foreign oil.

In addition to fostering greater energy security, this bill will help mitigate air quality challenges, which can be harmful to public health and the environment. Unlike automotive transportation, bicycling is emission-free.

The Conserve by Bike Act encourages bicycling through two key components: a pilot program and a research project. The Conserve by Bike Pilot Program established by this legislation would be implemented by the U.S. Department of Transportation. The Department would fund up to ten pilot projects throughout the country that would utilize education and marketing tools to encourage people to convert some of their car trips to bike trips. Each of these pilot projects must: (1) document project results and energy conserved; (2) facilitate partnerships among stakeholders in two or more of the following fields: transportation, law enforcement, education, public health,

and the environment; (3) maximize current bicycle facility investments; (4) demonstrate methods that can be replicated in other locations; and (5) produce ongoing programs that are sustained by local resources.

This legislation also directs the Transportation Research Board of the National Academy of Sciences to conduct a research project on converting car trips to bike trips. The study will consider: (1) what car trips Americans can reasonably be expected to make by bike, given such factors as weather, land use, and traffic patterns, carrying capacity of bicycles, and bicycle infrastructure; (2) what energy savings would result, or how much energy could be conserved, if these trips were converted from car to bike, (3) the cost-benefit analysis of bicycle infrastructure investments; and (4) what factors could encourage more car trips to be replaced with bike trips. The study also will identify lessons we can learn from the documented results of the pilot programs.

The Conserve by Bike Program is a small investment that has the potential to produce significant returns: greater independence from foreign oil and a healthier environment and population. The Conserve by Bike Act authorizes a total of $6.2 million to carry out the pilot programs and research. A total of $5,150,000 will be used to implement the pilot projects; $300,000 will be used by the Department of Transportation to coordinate, publicize, and disseminate the results of the program; and $750,000 will be utilized for the research study.

The provisions in this bill enjoy strong, bipartisan support and have passed by unanimous consent as an amendment to a previous Senate energy package. The measure is endorsed by the League of American Bicyclists, which has over 300,000 affiliates, as well as the Association of Pedestrian and Bicycle Professionals, Rails to Trails Conservancy, Thunderhead Alliance, Bikes Belong Coalition, Adventure Cycling, International Mountain Bicycling Association, Chicagoland Bicycle Federation, and the League of Illinois Bicyclists.

I ask that the text of the legislation be printed in the RECORD.

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

S. 808

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. CONSERVE BY BICYCLING PROGRAM.**

(a) DEFINITIONS.—In this section:

(1) PROGRAM.—The term ''program'' means the Conserve by Bicycling Program established by subsection (b).

(2) SECRETARY.—The term ''Secretary'' means the Secretary of Transportation.

(b) ESTABLISHMENT.—There is established within the Department of Transportation a program to be known as the ''Conserve by Bicycling Program''.

(c) PROJECTS.—

(1) IN GENERAL.—In carrying out the program, the Secretary shall establish not more than 10 pilot projects that are—

(A) dispersed geographically throughout the United States; and

(B) designed to conserve energy resources by encouraging the use of bicycles in place of motor vehicles.

(2) REQUIREMENTS.—A pilot project described in paragraph (1) shall—

(A) use education and marketing to convert motor vehicle trips to bicycle trips;

(B) document project results and energy savings (in estimated units of energy conserved);

(C) facilitate partnerships among interested parties in at least 2 of the fields of—

(i) transportation;

(ii) law enforcement;

(iii) education;

(iv) public health;

(v) environment; and

(vi) energy;

(D) maximize bicycle facility investments;

(E) demonstrate methods that may be used in other regions of the United States; and

(F) facilitate the continuation of ongoing programs that are sustained by local resources.

(3) COST SHARING.—At least 20 percent of the cost of each pilot project described in paragraph (1) shall be provided from State or local sources.

(d) ENERGY AND BICYCLING RESEARCH STUDY.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary shall enter into a contract with the National Academy of Sciences for, and the National Academy of Sciences shall conduct and submit to Congress a report on, a study on the feasibility of converting motor vehicle trips to bicycle trips.

(2) COMPONENTS.—The study shall—

(A) document the results or progress of the pilot projects under subsection (b);

(B) determine the type and duration of motor vehicle trips that people in the United States may feasibly make by bicycle, taking into consideration factors such as—

(i) weather;

(ii) land use and traffic patterns;

(iii) the carrying capacity of bicycles; and

(iv) bicycle infrastructure;

(C) determine any energy savings that would result from the conversion of motor vehicle trips to bicycle trips;

(D) include a cost-benefit analysis of bicycle infrastructure investments; and

(E) include a description of any factors that would encourage more motor vehicle trips to be replaced with bicycle trips.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $6,200,000, to remain available until expended, of which—

(1) $5,150,000 shall be used to carry out pilot projects described in subsection (c);

(2) $300,000 shall be used by the Secretary to coordinate, publicize, and disseminate the results of the program; and

(3) $750,000 shall be used to carry out subsection (d).

Ms. COLLINS. Mr. President, I am pleased to join with my colleague from Illinois in reintroducing the Conserve by Bike Act to recognize and promote bicycling's important impact on energy savings and public health.

With America's dependence on foreign oil, it is vital that we look to the contribution that bike travel can make toward solving our Nation's energy challenges. The legislation we are reintroducing today would establish a Conserve by Bike pilot program that would oversee pilot projects throughout the country designed to conserve energy resources by providing education and marketing tools to convert car trips into bike trips. Right now, fewer than 1 trip in 100 nationwide is by bicycle. If we could increase this statistic to 1½ trips per 100, we could save over 462 million gallons of gasoline per year, worth nearly $1 billion.

While more bike trips would benefit our energy conservation efforts, additional bicycling activity would also help improve the Nation's public health. According to the U.S. Surgeon General, fewer than one-third of Americans meet Federal recommendations to engage in at least 30 minutes of moderate physical activity 5 days a week. Even more disturbing is the fact that approximately 300,000 American deaths a year are associated with obesity. By promoting biking, we are working to ensure that Americans, young and old, will increase their physical activity.

In my home State of Maine, citizen activists have led the way in encouraging their fellow Mainers to use bicycling as an alternative mode of transportation. Founded in 1992, the Bicycle Coalition of Maine, BCM, has grown substantially in its first decade plus of operation. In 1996, when BCM hired its current executive director, Jeffrey Miller, the organization had 200 individual and family memberships. Today, it has over 1,700. For a State of less than 1.3 million residents—many of them elderly—BCM's broad membership is especially impressive.

Over the years, this group has advocated increased bicycle access to Maine's roads and bridges, organized the first ''Bike to Work Day'' in our State, initiated bicycle safety education in our classrooms—teaching more than 60,000 schoolchildren in over 500 Maine schools—and produced ''Share the Road'' public service announcements for television stations statewide, among numerous other accomplishments.

No matter how energetic, committed, and organized BCM and other bicycle activists are, however, these groups cannot accomplish their mission alone. There is an important role for Government to play in encouraging more individuals to make bicycling their alternative mode of transportation. In Maine, BCM has built strong, active partnerships with local governments and the State's Department of Transportation. These key relationships have benefitted bicyclists throughout Maine and, in doing so, have encouraged more Mainers to ride their bikes on a regular basis. Indeed, more than 4 percent of Maine's commuters currently bike or walk, ranking the State 14th in that category nationwide. I believe the Federal Government needs to become more engaged in encouraging bicycling as a means of alternative transportation, and the Conserve by Bike Act would contribute to the worthy goal of convincing more Americans to travel by bicycle.

The Senate is already on record in support of this bill. In the previous

Congress, during consideration of the Energy bill, identical legislation was accepted by voice vote as an amendment. I urge my colleagues to maintain their support for the Conserve by Bike Act.

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By Mr. LAUTENBERG (for himself, Mr. CORZINE, and Mrs. BOXER):

S. 809. A bill to establish certain duties for pharmacies when pharmacists employed by the pharmacies refuse to fill valid prescriptions for drugs or devices on the basis of personal beliefs, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. LAUTENBERG. Mr. President, today I am introducing the Access to Legal Pharmaceuticals Act (ALPhA). I want to thank Senators CORZINE and BOXER for cosponsoring this important piece of legislation.

This bill is simple. It ensures timely access to contraception and is crucial to protecting a woman's health and autonomy, and to keeping pharmacists and politicians out of personal, private matters.

This bill would protect an individual's access to legal contraception by requiring that if a pharmacist has a personal objection to filling a legal prescription for a drug or device, the pharmacy would be required to ensure that the prescription is filled by another pharmacist employed by the pharmacy who does not have a personal objection.

I came to the Senate 22 years ago. We've made a lot of progress, in women's health and women's rights since then. But today it seems like we're fighting to keep from sliding backward in some areas.

An individual's fundamental right of access to birth control is being attacked. Reports of some pharmacists refusing to fill prescriptions have been documented in twelve states.

The women that were denied were young and old; married and single; with children and without. Even women who were using birth control for other medical reasons aside from preventing conception have been denied access to the birth control pill.

If you told me 10 years ago that a woman's right to use contraception would be in jeopardy, I probably wouldn't have believed it. Today I have to believe it—because it's happening.

In Texas last year, a pharmacist refused to fill a legal prescription for the ''morning after'' contraceptive for a woman who had been raped. First she was assaulted and violated—then her rights were violated by a self-righteous pharmacist who didn't want to do his job.

In Milwaukee, a married woman in her mid–40s with four children got a prescription from her doctor for a morning-after pill. A pharmacist refused to do his job. He wouldn't fill the prescription.

A handful of pharmacists are saying they have a ''right'' to ignore prescriptions written by medical doctors.

Well, they do have a right. They have a right to get a new job if they don't want to fill legal prescriptions.

But nobody has a right to come between any person and their doctor. Not the government . . . not an insurance company . . . and not a pharmacist.

The American Pharmaceutical Association has adopted an ''Oath of Pharmacists.'' The last part of the oath states: I take these vows voluntarily with the full realization of the responsibility with which I am entrusted by the public.

People trust pharmacists to fill the prescriptions that are written by their doctors. If pharmacists are allowed to pick and choose which prescriptions get filled, everyone's health will be at risk. Today they might not fill prescriptions for birth control pills. Tomorrow it could be painkillers for a cancer patient. Next year it could be medicine that prolongs the life of a person with AIDS or some other terminal disease.

I'm going to fight to protect all Americans against this radical assault on our rights.

I'm proud to introduce a bill that will require pharmacists to do one simple thing: their job.

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. 809

*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 ''Access to Legal Pharmaceuticals Act''.

**SEC. 2. FINDINGS.**

The Congress finds as follows:

(1) An individual's right to religious belief and worship is a protected, fundamental right in the United States.

(2) An individual's right to access legal contraception is a protected, fundamental right in the United States.

(3) An individual's right to religious belief and worship cannot impede an individual's access to legal prescriptions, including contraception.

**SEC. 3. DUTIES OF PHARMACIES WITH RESPECT TO REFUSAL OF PHARMACISTS TO FILL VALID PRESCRIPTIONS.**

(a) IN GENERAL.—Part B of title II of the Public Health Service Act (42 U.S.C. 238 et seq.) is amended by adding at the end the following section:

**''SEC. 249. DUTIES OF PHARMACIES WITH RESPECT TO REFUSAL OF PHARMACISTS TO FILL VALID PRESCRIPTIONS.**

''(a) IN GENERAL.—A pharmacy that receives prescription drugs or prescription devices in interstate commerce shall maintain compliance with the following conditions:

''(1) If a product is in stock and a pharmacist employed by the pharmacy refuses on the basis of a personal belief to fill a valid prescription for the product, the pharmacy ensures, subject to the consent of the individual presenting the prescription in any case in which the individual has reason to know of the refusal, that the prescription is, without delay, filled by another pharmacist employed by the pharmacy.

''(2) Subject to subsection (b), if a product is not in stock and a pharmacist employed by the pharmacy refuses on the basis of a personal belief or on the basis of pharmacy policy to order or to offer to order the product when presented a valid prescription for the product—

''(A) the pharmacy ensures that the individual presenting the prescription is immediately informed that the product is not in stock but can be ordered by the pharmacy; and

''(B) the pharmacy ensures, subject to the consent of the individual, that the product is, without delay, ordered by another pharmacist employed by the pharmacy.

''(3) The pharmacy does not employ any pharmacist who engages in any conduct with the intent to prevent or deter an individual from filling a valid prescription for a product or from ordering the product (other than the specific conduct described in paragraph (1) or (2)), including—

''(A) the refusal to return a prescription form to the individual after refusing to fill the prescription or order the product, if the individual requests the return of such form;

''(B) the refusal to transfer prescription information to another pharmacy for refill dispensing when such a transfer is lawful, if the individual requests such transfer;

''(C) subjecting the individual to humiliation or otherwise harassing the individual; or

''(D) breaching medical confidentiality with respect to the prescription or threatening to breach such confidentiality.

''(b) PRODUCTS NOT ORDINARILY STOCKED.—Subsection (a)(2) applies only with respect to a pharmacy ordering a particular product for an individual presenting a valid prescription for the product, and does not require the pharmacy to keep such product in stock, except that such subsection has no applicability with respect to a product for a health condition if the pharmacy does not keep in stock any product for such condition.

''(c) ENFORCEMENT.—

''(1) CIVIL PENALTY.—A pharmacy that violates a requirement of subsection (a) is liable to the United States for a civil penalty in an amount not exceeding $5,000 per day of violation, and not to exceed $500,000 for all violations adjudicated in a single proceeding.

''(2) PRIVATE CAUSE OF ACTION.—Any person aggrieved as a result of a violation of a requirement of subsection (a) may, in any court of competent jurisdiction, commence a civil action against the pharmacy involved to obtain appropriate relief, including actual and punitive damages, injunctive relief, and a reasonable attorney's fee and cost.

''(3) LIMITATIONS.—A civil action under paragraph (1) or (2) may not be commenced against a pharmacy after the expiration of the five-year period beginning on the date on which the pharmacy allegedly engaged in the violation involved.

''(d) DEFINITIONS.—For purposes of this section:

''(1) The term 'employ', with respect to the services of a pharmacist, includes entering into a contract for the provision of such services.

''(2) The term 'pharmacist' means a person authorized by a State to practice pharmacy, including the dispensing and selling of prescription drugs.

''(3) The term 'pharmacy' means a person who—

''(A) is authorized by a State to engage in the business of selling prescription drugs at retail; and

''(B) employs one or more pharmacists.

''(4) The term 'prescription device' means a device whose sale at retail is restricted under section 520(e)(1) of the Federal Food, Drug, and Cosmetic Act.

''(5) The term 'prescription drug' means a drug that is subject to section 503(b)(1) of the Federal Food, Drug, and Cosmetic Act.

''(6) The term 'product' means a prescription drug or a prescription device.

''(7) The term 'valid', with respect to a prescription, means—

''(A) in the case of a drug, a prescription within the meaning of section 503(b)(1) of the Federal Food, Drug, and Cosmetic Act that is in compliance with applicable law, including, in the case of a prescription for a drug that is a controlled substance, compliance with part 1306 of title 21, Code of Federal Regulations, or successor regulations; and

''(B) in the case of a device, an authorization of a practitioner within the meaning of section 520(e)(1) of such Act that is in compliance with applicable law.

''(8) The term 'without delay', with respect to a pharmacy filling a prescription for a product or ordering the product, means within the usual and customary timeframe at the pharmacy for filling prescriptions for products for the health condition involved or for ordering such products, respectively.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) takes effect upon the expiration of 30 days after the date of the enactment of this Act, without regard to whether the Secretary of Health and Human Services has issued any guidance or final rule regarding such amendment.

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By Mr. HATCH (for himself, Mrs. FEINSTEIN, Mr. THUNE, Mr. TALENT, Mr. ALEXANDER, Mr. ALLARD, Mr. ALLEN, Mr. BAUCUS, Mr. BROWNBACK, Mr. BURNS, Mr. BURR, Mr. CHAMBLISS, Mr. COBURN, Mr. COLEMAN, Ms. COLLINS, Mr. CORNYN, Mr. CRAIG, Mr. CRAPO, Mr. DEWINE, Mr. DOMENICI, Mr. ENSIGN, Mr. ENZI, Mr. FRIST, Mr. GRAHAM, Mr. GRASSLEY, Mr. INHOFE, Mr. KYL, Mrs. LINCOLN, Mr. LOTT, Mr. LUGAR, Mr. MCCAIN, Mr. ROBERTS, Mr. SANTORUM, Mr. SESSIONS, Mr. SHELBY, Mr. THOMAS, Mr. VITTER, Mr. WARNER, Mr. BOND, Mr. BUNNING, Mr. DEMINT, Mrs. DOLE, Mr. GREGG, Mr. HAGEL, Mrs. HUTCHISON, Mr. JOHNSON, Mr. MARTINEZ, Mr. NELSON of Nebraska, Ms. SNOWE, Mr. SPECTER, and Mr. STEVENS):

S.J. Res. 12. A joint resolution proposing an amendment to the Constitution of the United States authorizing Congress to prohibit the physical desecration of the flag of the United States; to the Committee on the Judiciary.

Mr. HATCH. Mr. President, it is with a sense of honor that my friend and colleague, Senator FEINSTEIN, and I rise to introduce a bipartisan constitutional amendment that would allow Congress to prohibit the physical desecration of the American flag.

I am proud and privileged to be working again with my California colleague on this important proposal. Among our principal cosponsors are our colleagues Senator THUNE and Senator TALENT. It is heartening to us to see some of the Senate's newest Members come to this issue with the same passion that its original supporters still feel.

This amendment is truly bipartisan. Today, we count 51 original cosponsors of this resolution. And, nearly two-thirds of the Members of this body have indicated their support. Those numbers seem to grow with each passing year.

No doubt, some will still argue that this amendment is unnecessary. Fortunately, that refrain is gradually losing its punch.

When this amendment eventually passes the Senate, as I believe that it will, our victory will not be attributed to the passions of the moment. Rather, it will be due to the tireless efforts of citizens committed to convincing their elected representatives that this amendment matters.

I have heard from some Utahans who love our country's flag but are opposed to amending the Constitution. To them I would say, amending the Constitution should never be taken lightly. Yet after serious study of the issue, I have concluded there is no other way to guarantee that our flag is protected, as I will discuss in a few minutes.

And, indeed, guaranteeing the physical integrity of the flag is a cause worth fighting for. The American people seem to understand what the opponents of this amendment fail to grasp. This amendment is a necessary statement that citizens still have some control over the destiny of this Nation and in maintaining the traditions and symbols that have helped to bind us together in all our diversity for over 200 years.

Those who oppose protecting the flag through a constitutional amendment are probably not aware of our constitutional history. Indeed, for most of America's history, our Nation's laws guaranteed the physical integrity of the American flag.

These were laws no one questioned. No one every questioned that the simple act of providing legal protection for the flag, a unique symbol of our ties as a Nation, could somehow violate the Constitution.

We should take a moment and recall what we were taught about the flag as schoolchildren. Our flag's 13 stripes show our origins. We started as 13 separate colonies that first became separate States and then one Nation through the Declaration of Independence and the American Revolution. The 50 stars on the field of blue represent what we have become: a Nation unified. And over the past 230 years, we have become ever more united in our commitment to the extension of liberty and equality.

Among all of our differences, differences frequently reflected in this body, we do remain one Nation undivided and indivisible, and our flag is a simple but profound statement of that union. That is why we open the Senate each day by pledging our allegiance to the flag. It is a reminder of all that we have in common.

Supreme Court Justice John Paul Stevens understood the significance of the flag's status when he wrote:

A country's flag is a symbol of more than nationhood and national unity. It also signifies the ideas that characterize the society that has chosen that emblem as well as the special history that has animated the growth and power of those ideas . . . So it is with the American flag. It is more than a proud symbol of the courage, the determination, and the gifts of a nation that transformed 13 fledgling colonies into a world power. It is a symbol of freedom, of equal opportunity, of religious tolerance, and of goodwill for other peoples who share our aspirations.

There is a certain wisdom to Justice Stevens' statement that our constituents immediately grasp. Some polls show that over 80 percent of the American people support an amendment to protect the flag.

Its unique character is represented in the diversity of the groups that have worked over the years to bring this amendment to fruition. Veterans, police, African Americans, Polish Americans, farmers, and so many more diverse groups see in the flag a symbol of our Nation; they understand that it is perfectly consistent with our constitutional traditions for us to protect it.

Unfortunately, in 1989 the Supreme Court intervened and ovrrode every State law barring desecration of the American flag.

None of these States has restricted first amendment political speech in any way.

Their laws did not lead us down some slippery slope that would result in restraints on political opinions.

These States drew reasonable distinctions between political speech and inflammatory and frequently violent acts.

Yet in Texas v. Johnson, the Supreme Court held that a Texas statute, and others like it, that barred desecration of the American flag, violated core first amendment principles. That certainly would have been news to those who wrote the Constitution and our Bill of Rights.

It was news, bad news, to the American people as well.

So in response to this imprudent decision, the Senate acted quickly and passed The Flag Protection Act. It became law on October 28, 1989.

Then, in 1990, the Court struck down even this legislation in United States v. Eichman.

And that is why a constitutional amendment has become necessary.

With due respect to our courts, and to my colleagues who continue to support these decisions, these legal arguments against flag protection just do not hold water.

Detractors of our amendment contend that the first amendment guarantees the right to burn the American flag. It does no such thing.

They contend it would carve out an exception to the first amendment as some say. It would not. Rather, it would reaffirm what was understood not only by those who ratified the Constitution but also by citizens of today: that the first amendment never guaranteed such expressive conduct. Whether one is an originalist or whether one believes in a living Constitution, this argument falls short.

The American people have long distinguished between the first amendment's guarantee of an individual's right to speak his or her mind and the repulsive expression of desecrating the flag. For many years, the people's elected representatives in Congress and 49 State legislatures passed statutes prohibiting physical desecration of the flag, and our political speech thrived. It was just as robust as it is today.

Yet in 1989, the Supreme Court's novel interpretation of the first amendment concluded that the people, their elected legislators, and the courts are no longer capable of making these reasonable distinctions, distinctions that we frequently make in this body such as when we prohibit speeches or demonstrations of any kind, even in the silent display of signs or banners, in the public galleries.

The American people created the Constitution, and they reserved to themselves the right to amend the Constitution when they saw fit. Is it wrong to give the American people the opportunity to review whether the Supreme Court got it right in this case? I think not.

The fact is, a Senator does not take an oath to support and defend the holdings of the Supreme Court. We take an oath to support the Constitution. And, it is entirely appropriate that when we think the Court gets it wrong, we correct it through proper constitutional devices, devices set out in the Constitution itself . . . Though it has been forgotten over the years, this is hardly a radical idea. It was one supported by the founders of both the Republican and Democratic parties, Thomas Jefferson and Abraham Lincoln.

As some in this body have noted, our courts are now frequently attempting to identify a national consensus to justify contemporary interpretations of our constitutional guarantees. The progress of this amendment to protect the flag demonstrates to me at least just how such a consensus is supposed to develop. Through argument, through give and take, through debate—over time the American people, as reflected in the actions of their representatives, have become more sure than ever that they should have the opportunity to protect their flag through moderate and reasonable legislation.

After September 11, citizens proudly flew the flag, defying the terrorist challenge to our core values of liberty and equality, and confirming its unique status as a symbol of our nation's strength and purpose. In the struggle that has followed, our flag stands as a reminder of the many personal sacrifices made to protect and strengthen our nation.

And so, to protect this symbol, I am today introducing this amendment.

I thank my colleagues, Senators FEINSTEIN, THUNE, and TALENT for their work on this. I urge those who are not cosponsors of this amendment to keep an open mind as we debate this resolution.

It is my hope that the Judiciary committee will move the resolution to the floor.

And, in turn, I ask that our leadership ensure this resolution gets a vote on the floor.

Mr. THUNE. Mr. President, today, it is my distinct honor and privilege to rise and speak on behalf of Senator HATCH, Senator FEINSTEIN, Senator TALENT, myself, and 47 other senators, as we introduce bipartisan legislation we believe to be long overdue. It is not reform legislation. It does not authorize new government programs, create new sources of tax revenue, or provide incentives to stimulate our economy. It is none of those things, but it is a matter of great importance. The events of 9/11 have reminded us all of that. It is, instead, legislation that speaks to the core of our beliefs and hopes as a Nation, and as a people. It is about a national treasure and a symbol of our country that the vast majority of Americans—and the majority of this great body, I might add—believe is worth special status and worthy of protection. It is about the American flag.

Our American flag is more than mere cloth and ink. It is a symbol of the liberty and freedom that we enjoy today thanks to the immeasurable sacrifices of generations of Americans who came before us.

It represents the fiber and strength of our values and it has been sanctified by the blood of those who died defending it.

I rise today to call upon all members of this body to support a constitutional amendment that would give Congress the power to prohibit the physical desecration of the American flag. It would simply authorize, but not require, Congress to pass a law protecting the American flag.

This amendment does not affect anyone's right to express their political beliefs.

It would only allow Congress to prevent our flag from being used as a prop, to be desecrated in some ways simply not appropriate to even mention in these halls.

This resolution and similar legislation have been the subject of debate before this body before. There is, in fact, a quite lengthy legislative history regarding efforts to protect the American flag from desecration. In 1989, the Supreme Court declared essentially that burning the American flag is ''free speech.'' That is a decision the American people should make, particularly when this country finds itself fighting for democracy and expending American lives for that cause, on battlefields overseas.

South Dakota veterans and members of the armed forces from my State know exactly what I'm talking about, as I'm sure they do from every state represented in the Senate. In recent months, units of the 147th field artillery and 153rd engineer battalions of the South Dakota National Guard returned home after spending a difficult year in Iraq. Likewise, the 452nd ordinance company of the United States Army Reserve is preparing to depart for Iraq in September.

My father, like many other veterans of World War II, understands the importance of taking this step. Veterans from across South Dakota have asked me to step up and defend the flag of this great Nation and today I am answering that call.

Today, members of both political parties will introduce a proposed constitutional amendment that would give back to the American people the power to prevent the desecration of the American flag. We know the gravity of this legislation. There is nothing complex about this amendment, nor are there any hidden consequences. This amendment provides Congress with the power to outlaw desecration of the American flag, a right that is widely recognized by Madison, Jefferson, and Supreme Court Justice Hugo Black, one of the foremost advocates of first amendment freedoms.

Most states officially advocate Congress passing legislation to protect the flag. Frankly, I do not see this as a first amendment issue.

It is an attempt to restore the traditional protections to the symbol cherished so dearly by our Government and the people of the United States. Some acts are not accepted as ''free speech'' even in societies like ours where we consider free speech a cherished right. For example, an attempt to burn down this Capitol building as a political statement would never be viewed as someone's right of free speech. Our laws would not tolerate the causing of harm to other's property or life as an act of ''free speech.'' This flag happens to be the property of the American people, in my opinion, and this question should be put before the States and their people to decide how and if to protect it. I think the answer will come back as a resounding ''yes''.

There is little doubt that the debate over state ratification will trigger a tremendous discussion over our values, beliefs and whether we will ultimately bestow a lasting honor on our traditions. Importantly, it will be an indication of how we recognize our servicemen and women who are sacrificing—right now—in Iraq and Afghanistan, to protect those traditions and values for us. Will we honor them, and all the veterans who served and died in wars for this country and our flag over the last 200 years? That's not a question which a court should hold the final answer.

I believe the time has finally come. I believe our country wants this debate. The majority of this Senate, I believe, wants this amendment. We begin it here, and we begin it now. Let the debate begin.

Mr. BURNS. Mr. President, I come to the floor today to voice my support for the flag amendment.

The flag of the United States of America is a symbol of freedom. The flag of the United States of America

has been sanctified by the blood of thousands of U.S. soldiers who have fought across the world, and it must be protected from desecration. This proposed constitutional amendment would overturn the 1989 U.S. Supreme Court's 5–4 ruling which held that laws banning desecration of the U.S. flag were unconstitutional infringements on free speech and therefore a violation of the first amendment.

I am proud of the first amendment right to free speech and will always ensure all Americans maintain that right. I am also proud of the American flag and the values behind it. The American flag flies over this great country as a symbol of liberty and patriotism. Desecration of the flag would be destruction of the core principles on which this great Nation was founded. I will continue to be an advocate on behalf of the American flag and the values the flag represents.

I encourage my colleagues to support this measure and join me in ensuring the everlasting integrity of the American flag.

## SUBMITTED RESOLUTIONS

### SENATE RESOLUTION 107—COMMENDING ANNICE M. WAGNER, CHIEF JUDGE OF THE DISTRICT OF COLUMBIA COURT OF APPEALS, FOR HER PUBLIC SERVICE

Ms. COLLINS (for herself, Mr. DURBIN, Mr. LIEBERMAN, Mr. STEVENS, Mr. VOINOVICH, Mr. AKAKA, Mr. COLEMAN, Mr. LEVIN, Mr. COBURN, Mr. DEWINE, Ms. LANDRIEU, and Mr. LAUTENBERG) submitted the following resolution; which was referred to the Committee on Homeland Security and Governmental Affairs:

S. RES. 107

Whereas Annice M. Wagner, Chief Judge of the District of Columbia Court of Appeals, entered Federal Government service in 1973 as the first woman to be appointed General Counsel of the National Capital Housing Authority, then a Federal agency;

Whereas, from 1975 to 1977, the Honorable Annice M. Wagner served as People's Counsel for the District of Columbia, an office created by Congress to represent the interests of utility consumers before the District of Columbia Public Service Commission and the District of Columbia Court of Appeals;

Whereas, in 1977, the Honorable Annice M. Wagner was appointed by President Carter and confirmed by the Senate to serve as an Associate Judge of the Superior Court for the District of Columbia;

Whereas, while serving as an Associate Judge of the Superior Court, the Honorable Annice M. Wagner served in the civil, criminal, family, probate, and tax divisions and served for 2 years as presiding judge of the probate and tax divisions;

Whereas, while serving as an Associate Judge of the Superior Court, Annice M. Wagner served on various commissions and committees to improve the District of Columbia judicial system, including serving as chairperson of the Committee on Selection and Tenure of Hearing Commissioners, and as a member of the Superior Court Rules Committee and the Sentencing Guidelines Commission;

Whereas, as an Associate Judge of the Superior Court, Annice M. Wagner served as chairperson of the Court's Advisory Committee on Probate and Fiduciary Rules and was largely responsible for the implementation of new rules intended to streamline and clarify procedures regarding missing, protected, and incapacitated individuals;

Whereas, as an Associate Judge of the Superior Court, the Honorable Annice M. Wagner served as chairperson of the Task Force on Gender Bias in the Courts, which conducted a comprehensive study of bias in the courts;

Whereas, under Annice M. Wagner's leadership, the District of Columbia courts established the Standing Committee on Fairness and Access to the Courts to ensure racial, gender, and ethnic fairness;

Whereas Annice M. Wagner was appointed by President George H.W. Bush and confirmed by the Senate in 1990 to be an Associate Judge of the District of Columbia Court of Appeals;

Whereas Annice M. Wagner was appointed in 1994 to serve as Chief Judge of the District Court of Appeals;

Whereas, while Chief Judge of the District of Columbia Court of Appeals, Annice M. Wagner served as Chair of the Joint Committee on Judicial Administration in the District of Columbia;

Whereas, under Annice M. Wagner's leadership, the District of Columbia courts initiated the renovation of the Old District of Columbia Courthouse (Old City Hall) in Judiciary Square, a National Historic Landmark, for future use by the District of Columbia Court of Appeals;

Whereas, under Annice M. Wagner's leadership, the District of Columbia courts initiated the master planning process for the renovation and use of unused or underutilized court properties, which will lead to the revitalization of the Judiciary Square area in the Nation's Capital;

Whereas, under Annice M. Wagner's leadership, the Court of Appeals, along with the District of Columbia Bar, the District of Columbia Bar Foundation, and the District of Columbia Consortium of Legal Service Providers, established the District of Columbia Access to Justice Commission, a commission that will propose ways to make lawyers and the legal system more available for poor individuals in the District of Columbia;

Whereas Annice M. Wagner served as President of the Conference of Chief Justices, an organization of Chief Justices and Chief Judges of the highest court of each of the 50 States, the District of Columbia, and the territories;

Whereas Annice M. Wagner served as Chairperson of the Board of Directors of the National Center for State Courts;

Whereas the Honorable Annice M. Wagner commands wide respect within the legal profession nationally, having been selected to serve as one of 11 members of the American Bar Association's Section on Dispute Resolution's Drafting Committee on the Uniform Mediation Act, which collaborated with the National Conference of Commissioners on Uniform State Laws in promulgating the Uniform Mediation Act, which, in 2001, was approved and recommended for enactment in all of the States, to foster prompt, economical, and amicable resolution of disputes through mediation processes which promote public confidence and uniformity across state lines;

Whereas, since 1979, Annice M. Wagner has been involved with the United Planning Organization, which was established in 1962 to conduct initiatives designed to provide human services in the District of Columbia and she has served as Interim President of the Organization's Board of Trustees;

Whereas, since 1986, Annice M. Wagner has participated as a member of a teaching team for the Trial Advocacy Workshop at Harvard Law School;

Whereas Annice M. Wagner, Chief Judge of the District of Columbia Court of Appeals, was born in the District of Columbia and attended District of Columbia Public Schools and received her Bachelor's and law degrees from Wayne State University in Detroit, Michigan; and

Whereas Annice M. Wagner's dedication to public service and the citizens of the District of Columbia has contributed to the improvement of the judicial system, increased equal access to justice, and advanced public confidence in the court system: Now, therefore, be it

*Resolved,* That the Senate commends the Honorable Annice M. Wagner for her commitment and dedication to public service, the judicial system, equal access to justice, and the community.

Ms. COLLINS. Mr. President, today I am submitting a Senate resolution to commend Chief Judge Annice M. Wagner of the District of Columbia Court of Appeals for more than 32 years of public service. As the Chairman of the Committee on Homeland Security and Governmental Affairs, which has oversight jurisdiction of the District of Columbia courts, I believe that it is important to recognize the contributions of Chief Judge Wagner who will be retiring this year. As chief judge of the D.C. Court of Appeals, she has worked closely with the Committee on Homeland Security and Governmental Affairs on various issues related to the D.C. courts and the justice system in the District.

Chief Judge Wagner entered Federal Government service in 1973 as the first woman to be appointed General Counsel of the National Capital Housing Authority, then a Federal agency. Subsequently, she served as People's Counsel for the District of Columbia, an office created by Congress to represent the interests of utility consumers before the District of Columbia Public Service Commission and the District of Columbia Court of Appeals.

Chief Judge Wagner was twice confirmed by the Senate. First, in 1977, when she was nominated by President Jimmy Carter to serve as an Associate Judge of the Superior Court for the District of Columbia and again when she was nominated by President George H. W. Bush, in 1990, to serve as an Associate Judge of the D.C. Court of Appeals. She was later appointed, in 1994, to serve as chief judge. During her 28 years of service in the D.C. courts, she served in every division of the D.C. Superior Court, and served for two years as presiding judge of the Probate and Tax divisions. She also served on various commissions and committees, including serving as chairperson of the Committee on Selection and Tenure of Hearing Commissioners, Chair of the Joint Committee on Judicial Administration in the District of Columbia, and as a member of the Superior Court Rules Committee and the Sentencing Guidelines Commission.

Chief Judge Wagner has also demonstrated a commitment to improving access to justice. To this end, she served as chairperson of the Court's Advisory Committee on Probate and Fiduciary Rules and was largely responsible for the implementation of new rules intended to streamline and clarify procedures regarding the affairs of missing, protected, and incapacitated individuals. She also served as chairperson of the Task Force on Gender Bias in the Courts, which conducted a comprehensive study of bias in the courts and, under her leadership, the District of Columbia courts established the Standing Committee on Fairness and Access to the Courts to ensure racial, gender, and ethnic fairness.

More recently, under her leadership, the Court of Appeals, along with the District of Columbia Bar, the District of Columbia Bar Foundation, and the District of Columbia Consortium of Legal Service Providers, established the D.C. Access to Justice Commission, a commission that will propose ways to make lawyers and access to justice more available for poor individuals in the District of Columbia.

Chief Judge Wagner's work at the D.C. courts also extends beyond legal issues. As the space needs of the District of Columbia courts continued to grow beyond their current building, Chief Judge Wagner led the effort to examine solutions to resolve the courts continued space problems. Her efforts led the D.C. courts to plan and initiate the renovation of the Old Courthouse/City Hall in Judiciary Square, a National Historic Landmark, for the future use by the D.C. Court of Appeals. In addition, as Congress enacted new legislative mandates on the courts which further increased their space needs, under her leadership, the District of Columbia courts initiated the master planning process for the renovation and use of all court properties in Judiciary Square. This effort will result not only in the improvement of court operations, but is expected to lead to the revitalization of the Judiciary Square area in the Nation's Capital.

Chief Judge Wagner's service also extends beyond the boundaries of the District. She has served as President of the Conference of Chief Justices, an organization of chief justices and chief judges of the highest court of each of the fifty states, the District of Columbia, and the territories, as chairperson of the Board of Directors of the National Center for State Courts, and as one of eleven members of the American Bar Association's Section on Dispute Resolution's Drafting Committee on the Uniform Mediation Act which collaborated with the National Conference of Commissioners on Uniform State Laws in promulgating the Uniform Mediation Act, which, in 2001, was approved and recommended for enactment in all the States, to foster prompt, economical, and amicable resolution of disputes through mediation processes which promote public confidence and uniformity across state lines.

Chief Judge Wagner's dedication and service to the District of Columbia and to the judicial system are highly commendable and warrant our recognition.

I urge my colleagues to support this resolution.

## SENATE RESOLUTION 108—EXPRESSING THE SENSE OF THE SENATE THAT PUBLIC SERVANTS SHOULD BE COMMENDED FOR THEIR DEDICATION AND CONTINUED SERVICE TO THE NATION DURING PUBLIC SERVICE RECOGNITION WEEK, MAY 2 THROUGH 8, 2005

Mr. AKAKA (for himself, Mr. VOINOVICH, Ms. COLLINS, Mr. LIEBERMAN, Mr. COLEMAN, Mr. LEVIN, Mr. COBURN, and Mr. CARPER) submitted the following resolution; which was referred to the Committee on Homeland Security and Governmental Affairs:

S. RES. 108

Whereas Public Service Recognition Week provides an opportunity to honor and celebrate the commitment of men and women who meet the needs of the Nation through work at all levels of government;

Whereas over 18,000,000 individuals work in government service in every city, county, and State across America and in hundreds of cities abroad;

Whereas Federal, State, and local officials perform essential services the Nation relies upon every day;

Whereas the United States of America is a great and prosperous nation, and public service employees contribute significantly to that greatness and prosperity;

Whereas the Nation benefits daily from the knowledge and skills of these highly trained individuals;

Whereas public servants—

(1) help the Nation recover from natural disasters and terrorist attacks;

(2) provide vital strategic support functions to our military and serve in the National Guard and Reserves;

(3) fight crime and fire;

(4) deliver the United States mail;

(5) deliver social security and medicare benefits;

(6) fight disease and promote better health;

(7) protect the environment and the Nation's parks;

(8) defend and secure critical infrastructure;

(9) teach and work in our schools and libraries;

(10) improve and secure our transportation systems;

(11) keep the Nation's economy stable; and

(12) defend our freedom and advance United States interests around the world;

Whereas public servants at every level of government are hard-working men and women, committed to doing their jobs regardless of the circumstances;

Whereas members of the uniformed services and civilian employees at all levels of government make significant contributions to the general welfare of the United States, and are on the front lines in the fight against terrorism and in maintaining homeland security;

Whereas public servants work in a professional manner to build relationships with other countries and cultures in order to better represent America's interests and promote American ideals;

Whereas Federal, State, and local government employees have risen to the occasion and demonstrated professionalism, dedication, and courage while fighting the war against terrorism;

Whereas public servants alert Congress and the public to government waste, fraud, abuse, and dangers to public health;

Whereas the men and women serving in the Armed Forces of the United States, as well as those skilled trade and craft Federal employees who provide support to their efforts, contribute greatly to the security of the Nation and the world;

Whereas government workers have much to offer, as demonstrated by their expertise and innovative ideas, and serve as examples by passing on institutional knowledge to train the next generation of public servants;

Whereas May 2 through 8, 2005, has been designated Public Service Recognition Week to honor America's Federal, State, and local government employees;

Whereas the theme for Public Service Recognition Week 2005 is Celebrating Government Workers Nationwide to highlight the important work civil servants perform throughout the Nation; and

Whereas Public Service Recognition Week is celebrating its 21st anniversary through job fairs, student activities, and agency exhibits: Now, therefore, be it

*Resolved*, That the Senate—

(1) commends public servants for their outstanding contributions to this great Nation;

(2) salutes their unyielding dedication and spirit for public service;

(3) honors those government employees who have given their lives in service to their country;

(4) calls upon a new generation of workers to consider a career in public service as an honorable profession; and

(5) encourages efforts to promote public service careers at all levels of government.

Mr. AKAKA. Mr. President, today I rise to pay tribute to America's public servants. Whether it is at the Federal, State, or local level, the men and women who choose public service provide essential services that we rely on every day. As the ranking member of the Senate Homeland Security and Governmental Affairs Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia, I am pleased to submit a resolution honoring these employees and celebrating Public Service Recognition Week. I am delighted to be joined by the leadership of the Senate Homeland Security and Governmental Affairs Committee, Senators VOINOVICH, COLLINS, LIEBERMAN, COLEMAN, LEVIN, COBURN, and CARPER.

The 21st anniversary of Public Service Recognition Week, which takes place the week of May 2, 2005, showcases the talented individuals who serve their country as Federal, State and local government employees, both civilian and military. From Hawaii to Maine, throughout the Nation, and around the world, public employees use the week to educate their fellow citizens on Government services make life better for all of us and the exciting challenges of a career in public service.

Public servants are teachers, members of the Armed Forces, civilian defense workers, postal employees, food

inspectors, law enforcement officers, firemen, social workers, crossing guards, and road engineers. They deliver essential Government services; defend our freedom; go above and beyond the call of duty to notify the public of Government waste, fraud, abuse; and respond with professionalism and honor during emergencies. They deserve our respect and gratitude for their dedication and service to this country.

As the conflict in Iraq continues, as well as the global war on terrorism, I would like to take this opportunity to thank the brave men and women who have given their lives for their country. Over 1,500 Americans have lost their lives in defense of freedom since the beginning of Operation Iraqi Freedom. Members of the Federal civilian workforce work side-by-side with members of the Armed Services and are crucial to our Nation's defense, security, and general welfare. Like those who came before them and those who are yet to come, our military and civilian support staff show courage in the face of adversity and deserve our admiration and respect.

Public Service Recognition Week provides an opportunity to honor and celebrate the commitment of individuals who serve the needs of the Nation as Government and municipal employees. It is also a time to call on a new generation of Americans to consider public service. Through job fairs, special exhibits, and agency sponsored education programs, Public Service Recognition Week provides an opportunity for individuals to gain a deeper understanding of the exciting and challenging work in the Federal Government.

I encourage my colleagues to recognize Federal employees in their States, as well as State and local government employees, and to let them know how much their work is appreciated. I invite my colleagues to join in the annual celebration.

## SENATE RESOLUTION 109—COMMENDING THE UNIVERSITY OF OKLAHOMA SOONERS MEN'S GYMNASTICS TEAM FOR WINNING THE NATIONAL COLLEGIATE ATHLETIC ASSOCIATION DIVISION I MEN'S GYMNASTICS CHAMPIONSHIP

Mr. INHOFE (for himself and Mr. COBURN) submitted the following resolution; which was considered and agreed to:

S. RES. 109

Whereas on April 8, 2005, the University of Oklahoma Sooners won their sixth National Collegiate Athletic Association (NCAA) Division I Men's Gymnastics Championship, at West Point, New York;

Whereas the 2005 NCAA Championship is the Sooners' third championship in the past 4 years;

Whereas the championship title crowned a remarkable season for the Sooners in which the team achieved an impressive record of 21 wins and only 2 losses;

Whereas the Sooners clinched a spectacular, nail-biting victory over the Ohio State Buckeyes, which was made possible by a heroic final performance on the vault by freshman Jonathan Horton;

Whereas the Sooners' winning score of 225.675 set a school record and dramatically surpassed second-place Ohio State's score of 225.450;

Whereas 6 members of the University of Oklahoma men's gymnastics team, including Taqiy Abdullah-Simmons, Josh Gore, David Henderson, Jamie Henderson, Jonathan Horton, and Jacob Messina, also garnered a school-record 13 All-America honors in the individual event finals;

Whereas senior David Henderson's 2005 NCAA title on the still rings gave the University of Oklahoma its 18th all-time individual national champion and capped off an exceptional 4 years;

Whereas Head Coach Mark Williams was named the 2005 NCAA Coach of the Year, making it the third time in his distinguished career that Head Coach Williams has received that honor;

Whereas the tremendous success of the 2005 Sooners adds to the outstanding legacy of men's gymnastics at the University of Oklahoma and is a reflection of the heart and dedication of the entire school, from the president to the athletic directors, coaches, athletes, managers, and staff members;

Whereas the teamwork, grit, and sportsmanship demonstrated by the University of Oklahoma Sooners men's gymnastics team is a proud tribute to the university and the communities from which the team members hail: Now, therefore, be it

*Resolved,* That the Senate—

(1) congratulates the University of Oklahoma Sooners for their sixth National Collegiate Athletic Association Division I Men's Gymnastics Championship;

(2) recognizes all who have contributed their hard work and support to making the 2005 season a historic success; and

(3) directs the Secretary of the Senate to transmit a copy of this resolution to University of Oklahoma President David L. Boren and Head Coach Mark Williams for appropriate display.

## SENATE RESOLUTION 110—COMMENDING OKLAHOMA STATE UNIVERSITY'S WRESTLING TEAM FOR WINNING THE 2005 NATIONAL COLLEGIATE ATHLETIC ASSOCIATION DIVISION I WRESTLING CHAMPIONSHIP

Mr. INHOFE (for himself and Mr. COBURN) submitted the following resolution; which was considered and agreed to:

S. RES. 110

Whereas on March 19, 2005, the Oklahoma State University Cowboys claimed their 33rd National Collegiate Athletic Association Wrestling Championship in St. Louis, Missouri;

Whereas the 33 wrestling championships won by the Cowboys is more than have been won by any other school in the history of National Collegiate Athletic Association Division I wrestling;

Whereas the Cowboys now have won 3 consecutive wrestling championships, a feat not accomplished since they won the national wrestling championship in 1954, 1955, and 1956;

Whereas the Cowboys' 2005 championship topped off an impressive season in which they were undefeated in the regular season and also had a perfect record in the finals;

Whereas the Cowboys outscored second place Michigan, 153 to 83, achieving a margin of victory that was the second-highest in National Collegiate Athletic Association wrestling history;

Whereas the Cowboys crowned a school-record 5 individual national champions, tying a national tournament record;

Whereas the Cowboys' outstanding 2005 season contributed to an already rich and proud tradition of wrestling excellence at Oklahoma State University;

Whereas the amazing accomplishments of the past year reflect the dedication, commitment, and tireless effort of the entire school, from the president to the athletic directors, coaches, athletes, managers, and staff members; and

Whereas the student athletes of the Oklahoma State University wrestling team, through their exceptional athletic achievements, have not only brought credit to themselves but to their fellow students, their university, and their community: Now, therefore be it

*Resolved,* That the Senate—

(1) commends the Oklahoma State Cowboys for their third straight National Collegiate Athletic Association Division I Wrestling Championship;

(2) recognizes the players, coaches, staff, and all who have made the historic successes of the 2005 season possible; and

(3) directs the Secretary of the Senate to transmit an enrolled copy of this resolution to Oklahoma State University President Dr. David J. Schmidly and Coach John Smith for appropriate display.

## SENATE CONCURRENT RESOLUTION 27—HONORING MILITARY CHILDREN DURING ''NATIONAL MONTH OF THE MILITARY CHILD''

Mr. KENNEDY (for himself, Mr. FRIST, Mr. LEVIN, Mr. KERRY, Ms. MIKULSKI, Mr. BOND, Mr. BAYH, Mr. AKAKA, Mr. REID, Mr. JOHNSON, Mrs. MURRAY, and Mrs. DOLE) submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 27

Whereas more than a million Americans are demonstrating their courage and commitment to freedom by serving in the Armed Forces of the United States;

Whereas nearly 40 percent of the members of the Armed Forces, when deployed away from their permanent duty stations, have left families with children behind;

Whereas no one feels the effect of those deployments more than the children of deployed service members;

Whereas as of March 31, 2005, approximately 1,000 of these children have lost a parent serving in the Armed Forces during the preceding 5 years;

Whereas the daily struggles and personal sacrifices of children of members of the Armed Forces too often go unnoticed;

Whereas the children of members of the Armed Forces are a source of pride and honor to all Americans and it is fitting that the Nation recognize their contributions and celebrate their spirit;

Whereas the ''National Month of the Military Child'', observed in April each year, recognizes military children for their sacrifices and contributes to demonstrating the Nation's unconditional support to members of the Armed Forces;

Whereas in addition to Department of Defense programs to support military families and military children, a variety of programs

and campaigns have been established in the private sector to honor, support, and thank military children by fostering awareness and appreciation for the sacrifices and the challenges they face;

Whereas a month-long salute to military children will encourage support for those organizations and campaigns established to provide direct support for military children and families

*Resolved by the Senate (the House of Representatives concurring)*, That the Senate—

(1) joins the Secretary of Defense in honoring the children of members of the Armed Forces and recognizes that they too share in the burden of protecting the Nation;

(2) urges Americans to join with the military community in observing the ''National Month of the Military Child'' with appropriate ceremonies and activities that honor, support, and thank military children; and

(3) recognizes with great appreciation the contributions made by private-sector organizations that provide resources and assistance to military families and the communities that support them.

## AMENDMENTS SUBMITTED AND PROPOSED

SA 412. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table.

SA 413. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 414. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 415. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 416. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 417. Mr. GRASSLEY (for himself, Mr. BAUCUS, and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 418. Mr. CHAMBLISS (for himself, Mr. ISAKSON, Mr. PRYOR, Mr. INHOFE, Mr. LUGAR, Mrs. DOLE, Mrs. LINCOLN, Mr. BAYH, Mr. REED, Mr. CHAFEE, Mr. BYRD, Mr. BURR, Mr. LOTT, and Mr. MARTINEZ) submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 419. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 420. Mr. BURNS submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 421. Mr. KENNEDY (for himself and Mr. KOHL) submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 422. Mr. COCHRAN (for Mr. LEAHY (for himself and Mr. OBAMA)) proposed an amendment to the bill H.R. 1268, supra.

SA 423. Mr. COCHRAN (for Mr. LEAHY) proposed an amendment to the bill H.R. 1268, supra.

SA 424. Mr. COCHRAN proposed an amendment to the bill H.R. 1268, supra.

SA 425. Mr. BENNETT submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 426. Mr. SANTORUM (for himself and Ms. MIKULSKI) submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 427. Mr. DURBIN (for himself, Mr. LEVIN, Mr. KENNEDY, Mr. BYRD, Mr. LEAHY, Mr. FEINGOLD, Mr. LAUTENBERG, and Mr. BINGAMAN) proposed an amendment to the bill H.R. 1268, supra.

SA 428. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 429. Mr. ISAKSON submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 430. Mr. BYRD (for himself, Mrs. CLINTON, Mr. LAUTENBERG, Mr. KERRY, Mr. WYDEN, Mr. DORGAN, Mr. HARKIN, and Mr. KENNEDY) proposed an amendment to the bill H.R. 1268, supra.

SA 431. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 432. Mr. CHAMBLISS (for himself and Mr. KYL) submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 433. Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 434. Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 435. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 375 submitted by Mr. CRAIG (for himself and Mr. KENNEDY) and intended to be proposed to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 436. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 437. Mr. ROCKEFELLER submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 438. Mr. COCHRAN (for Mr. SPECTER) proposed an amendment to the bill H.R. 1268, supra.

SA 439. Mr. CRAIG (for himself and Mr. AKAKA) submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 440. Mr. BIDEN (for himself, Mr. BINGAMAN, and Mr. CARPER) submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 441. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 442. Mr. REED (for himself, Ms. SNOWE, Mr. KENNEDY, Mr. CHAFEE, and Mr. KERRY) submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 443. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 444. Mrs. BOXER (for herself and Mr. BINGAMAN) submitted an amendment intended to be proposed by her to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 445. Mr. REID proposed an amendment to the bill H.R. 1268, supra.

SA 446. Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

## TEXT OF AMENDMENTS

**SA 412.** Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 231, between lines 3 and 4, and insert the following:

SENSE OF CONGRESS ON A STUDY OF THE ROLE OF NATURAL BARRIERS

(a) Congress makes the following findings:

(1) The tsunami that struck in the Indian Ocean on December 26, 2004 not only killed approximately 250,000 people, it also obliterated the natural coastal barriers in the region affected by the tsunami.

(2) More than 3,000 miles of coastline were affected by the tsunami, a distance that is equal to the distance of the United States shoreline from Galveston, Texas to Bangor, Maine.

(3) The United Nations Environmental Program estimates that the damage to the environment could total $675,000,000 in loss of natural habitats and important ecosystem function.

(4) Without the barriers that act as nature's own line of defense against flooding, storm surge, hurricanes, and even tsunamis, human lives are at greater risk.

(5) Restoring the reefs, barrier islands, and shorelines of these areas will help in long-term disaster risk reduction.

(6) While the Atlantic and Gulf of Mexico coasts are at some risk for a tsunami, the major threat each year comes from hurricanes. In 2004, multiple hurricanes in rapid succession decimated the people and natural barriers of Florida, the southeast Atlantic seaboard, and most of the Gulf south. These annual extremes of mother nature make critical the need to reinvest in the natural barriers of the United States.

(b) It is the sense of Congress that the head of the United States Geological Survey should study the role of natural barriers in the coastal areas of the United States to assess the vulnerabilities of such areas to extreme conditions, the possible effects such conditions could have on coastal populations, and the means, mechanisms, and feasibility of restoring already deteriorated natural barriers along the coast lines of the United States.

**SA 413.** Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30,

2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 231, between lines 3 and 4, and insert the following:

SENSE OF CONGRESS ON A COMPREHENSIVE EVACUATION PLAN

(a) Congress makes the following findings:

(1) In the United States, 122,000,000 people, approximately 53 percent of the population, live in coastal countries or parishes.

(2) In the annual occurrence of massive and deadly hurricanes that affect coastal areas in the United States, the lack of adequate highways, planning, and communication sends many people scrambling into gridlocked traffic jams where they are vulnerable to injury and unable to evacuate to safe areas in a reasonable amount of time.

(3) Federal interstate and other highways may be used in an efficient and safe manner to quickly evacuate large populations to safer areas in the event of natural disasters that occur and affect low-lying coastal communities.

(b) It is the sense of Congress that the head of the Federal Highway Administration should develop a comprehensive plan for evacuation of the coastal areas of the United States during any of the variety of natural disasters that affect coastal populations. The plan should include plans for evacuation in the event of a hurricane, flash flooding, tsunami, or other natural or man-made disaster that require mass evacuation.

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**SA 414.** Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 194, line 13, after ''tsunami:'' insert ''*Provided further*, That of the funds appropriated under this heading, not less than $25,000,000 should be made available to support initiatives that focus on the immediate and long-term needs of children, including the registration of unaccompanied children, the reunification of children with their immediate or extended families, the facilitation and promotion of domestic and international adoption for orphaned children, the protection of women and children from violence and exploitation, and activities designed to prevent the capture of children by armed forces and promote the integration of war affected youth:''.

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**SA 415.** Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 174, line 2, after ''programs:'' insert ''*Provided further*, That of the funds appropriated under this heading, not less than $5,000,000 should be made available to support initiatives that focus on the immediate and long-term needs of children, including the registration of unaccompanied children, the reunification of children with their immediate or extended families, the promotion of domestic and international adoption for orphaned children, the protection of women and children from violence and exploitation, and activities designed to prevent the capture of children by armed forces and the reintegration of war affected youth:''.

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**SA 416.** Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 169, between lines 8 and 9, insert the following:

TRAVEL AND TRANSPORTATION FOR FAMILY OF MEMBERS OF THE ARMED FORCES HOSPITALIZED IN UNITED STATES IN CONNECTION WITH NON-SERIOUS ILLNESSES OR INJURIES INCURRED OR AGGRAVATED IN A CONTINGENCY OPERATION

SEC. 1122. (a) AUTHORITY.—Subsection (a) of section 411h of title 37, United States Code, is amended—

(1) in paragraph (2)—

(A) by inserting ''and'' at the end of subparagraph (A); and

(B) by striking subparagraphs (B) and (C) and inserting the following new subparagraph:

''(B) either—

''(i) is seriously ill, seriously injured, or in a situation of imminent death (whether or not electrical brain activity still exists or brain death is declared), and is hospitalized in a medical facility in or outside the United States; or

''(ii) is not described in clause (i), but has an illness or injury incurred or aggravated in a contingency operation and is hospitalized in a medical facility in the United States for treatment of that condition.''; and

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

''(3) Not more than one roundtrip may be provided to a family member under paragraph (1) on the basis of clause (ii) of paragraph (2)(B).''.

(b) CONFORMING AMENDMENTS.—

(1) HEADING FOR AMENDED SECTION.—The heading for section 411h of such title is amended to read as follows:

**''§ 411h. Travel and transportation allowances: transportation of family members incident to illness or injury of members''.**

(2) CLERICAL AMENDMENT.—The item relating to such section in the table of sections at the beginning of chapter 7 of such title is amended to read as follows:

''411h. Travel and transportation allowances: transportation of family members incident to illness or injury of members.''.

(c) FUNDING.—Funds for the provision of transportation in fiscal year 2005 under section 411h of title 37, United States Code, by reason of the amendments made by this section shall be derived as follows:

(1) In the case of transportation provided by the Department of the Army, from amounts appropriated for fiscal year 2005 by this Act and the Department of Defense Appropriations Act, 2005 (Public Law 108–287) for the Military Personnel, Army account.

(2) In the case of transportation provided by the Department of the Navy, from amounts appropriated for fiscal year 2005 by the Acts referred to in paragraph (1) for the Operation and Maintenance, Navy account.

(3) In the case of transportation provided by the Department of the Air Force, from amounts appropriated for fiscal year 2005 by the Acts referred to in paragraph (1) for the Operation and Maintenance, Air Force account.

(d) REPORT ON TRANSPORTATION IN EXCESS OF CERTAIN LIMIT.—If in any fiscal year the amount of transportation provided in such fiscal year under section 411h of title 37, United States Code, by reason of the amendments made by this section exceeds $20,000,000, the Secretary of Defense shall submit to the congressional defense committees a report on that fact, including the total amount of transportation provided in such fiscal year under such section 411h by reason of the amendments made by this section.

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**SA 417.** Mr. GRASSLEY (for himself, Mr. BAUCUS, and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 200, between lines 13 and 14, insert the following:

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

For an additional amount for necessary expenses of the Office of the United States Trade Representative, $2,000,000, to remain available until expended: *Provided*, That the entire amount is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

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**SA 418.** Mr. CHAMBLISS (for himself, Mr. ISAKSON, Mr. PRYOR, Mr. INHOFE, Mr. LUGAR, Mrs. DOLE, Mrs. LINCOLN, Mr. BAYH, Mr. REED, Mr. CHAFEE, Mr.

BYRD, Mr. BURR, Mr. LOTT, and Mr. MARTINEZ) submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 169, between lines 8 and 9, insert the following:

PROHIBITION ON TERMINATION OF EXISTING JOINT-SERVICE MULTIYEAR PROCUREMENT CONTRACT FOR C/KC–130J AIRCRAFT

SEC. 1122. No funds appropriated or otherwise made available by this Act, or any other Act, may be obligated or expended to terminate the joint service multiyear procurement contract for C/KC–130J aircraft that is in effect on the date of the enactment of this Act.

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**SA 419.** Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 231, between lines 3 and 4, and insert the following:

SENSE OF CONGRESS ON ORPHANS

(a) Congress makes the following findings:

(1) It is estimated that, by the end of 2003, there were 143,000,000 orphans under the age of 18 years in 93 countries in sub-Sahara Africa, Asia, Latin American, and the Caribbean.

(2) Millions of children have been orphaned or made vulnerable by HIV/AIDS. The region most affected by HIV/AIDS is sub-Sahara Africa, where an estimated 12,300,000 millions orphans of HIV/AIDS live.

(3) To survive and thrive, children need to be raised in a family that is prepared to provide for their physical and emotional well being.

(4) The institutionalization of a child, especially during the first few years of life, has been proven to inhibit the physical and emotional development of the child.

(5) Large numbers of orphans present dire challenges to the economic and social structures of affected countries, and such countries that ignore such challenges at their peril.

(b) It is the sense of Congress that—

(1) the United States Agency for International Development should develop and fund a comprehensive, long-term agenda for reducing the number of orphans;

(2) the strategy under paragraph (1) should include policies and programs designed to prevent abandonment, reduce the transmission of HIV/AIDS to parents and their children, and connect orphaned children with permanent families through adoption; and

(3) humanitarian assistance programs funded with amounts appropriated in this Act should be required to promote the permanent placement of orphaned children, rather than long-term foster care or institutionalization, as the best means of caring for such children.

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**SA 420.** Mr. BURNS submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 231, between lines 3 and 4, insert the following:

SEC. 6047.(a) In this section:

(1) The term ''Administrator'' means the Administrator of General Services.

(2) The term ''Federal land'' means the approximately 508,582.70 square feet of land on the easternmost lot depicted on the plat entitled ''Plat of Computation on a Tract of Land 'Taxed as Square 2055''', recorded in the Office of the Surveyor of the District of Columbia on page 81 of Survey Book 199, which is also taxed as part of Lot 800 in Square 2055.

(3) The term ''Fund'' means the State Department trust fund established under subsection (c)(4)(A).

(4) The term ''lease'' means the lease between the United States and the International Telecommunications Satellite Organization, dated June 8, 1982.

(5) The term ''Parks land'' means the parcels of land designated in the lease as Park I and Park II.

(6) The term ''Secretary'' means the Secretary of State.

(7) The term ''successor entity'' means the successor entity of the International Telecommunications Satellite Organization or an assignee of the successor entity.

(b) Notwithstanding Public Law 90–553 (82 Stat. 958), on request of the successor entity, the Secretary, in coordination with the Administrator, shall convey to the successor entity, by quitclaim deed, all right, title, and interest of the United States in and to—

(1) the Federal land; and

(2) the Parks land.

(c)(1) The amount of consideration for the conveyance of Federal land under subsection (b)(1) shall be determined in accordance with Article 10–1 of the lease.

(2) The amount of consideration for the conveyance of the Parks land under subsection (b)(2) shall be—

(A) determined in accordance with the terms of the lease; or

(B) in an amount agreed to by the Secretary and the successor entity.

(3) On the conveyance of the Federal land and the Parks land under subsection (b), the successor entity shall pay to the United States the full amount of consideration (as determined under paragraph (1) or (2)).

(4)(A) Amounts received by the United States as consideration under paragraph (3) shall be deposited in a State Department trust fund, to be established within the Treasury.

(B) Amounts deposited in the Fund under subparagraph (A)—

(i) shall be used by the Secretary, in coordination with the Administrator, for the costs of surveys, plans, expert assistance, and acquisition relating to the development of additional areas within the National Capital Region for chancery and diplomatic purposes;

(ii) may be used to pay the administrative expenses of the Secretary and the Administrator in carrying out this section;

(iii) may be invested in public debt obligations; and

(iv) shall remain available until expended.

(d) The conveyance of the Federal land and Parks land under subsection (b) shall be subject to the terms and conditions described in this section and any other terms and conditions agreed to by the Secretary and the successor entity, which shall be included in the quitclaim deed referred to in subsection (b).

(e)(1) The conveyance of the Federal land and Parks land under subsection (b) shall be subject to restrictions on the use, development, or occupancy of the Federal land and Parks land (including restrictions on leasing and subleasing) that provide that the Secretary may prohibit any use, development, occupancy, lease, or sublease that the Secretary determines could—

(A) impair the safety or security of the International Center;

(B) impair the continued operation of the International Center; and

(C) be contrary to the character of commercially acceptable occupants or uses in the surrounding area.

(2) A determination under paragraph (1) that is based on safety or security considerations shall—

(A) only be made by the Secretary; and

(B) be final and conclusive as a matter of law.

(3) A determination under paragraph (1) that is based on damage to the continued operation of the International Center or incompatibility with the character of commercially acceptable occupants or uses in the surrounding area shall be subject to judicial review.

(4) If the successor entity fails to submit any use, development, or occupancy of the Federal land or Parks land to the Secretary for prior approval or violates any restriction imposed by the Secretary, the Secretary may—

(A) bring a civil action in any appropriate district court of the United States to enjoin the use, development, or occupancy; and

(B) obtain any appropriate legal or equitable remedies to require full and immediate compliance with the covenant.

(5) Any transfer (including a sale, lease, or sublease) of any interest in the Federal land or Parks land in violation of the restrictions included in the quitclaim deed or otherwise imposed by the Secretary shall be null and void.

(f) On conveyance to the successor entity, the Federal land and Parks land shall not be subject to Public Law 90–553 (82 Stat. 958) or the lease.

(g) The authority of the Secretary under this section shall not be subject to—

(1) sections 521 through 529 and sections 541 through 559 of title 40, United States Code;

(2) any other provision of Federal law that is inconsistent with this section; or

(3) any other provision of Federal law relating to environmental protection or historic preservation.

(h) The Federal land and Parks land shall not be considered to be unutilized or underutilized for purposes of section 501 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11411).

**SA 421.** Mr. KENNEDY (for himself and Mr. KOHL) submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 169, between lines 8 and 9, insert the following:

PERMANENT MAGNET MOTOR FOR NEXT GENERATION DESTROYER PROGRAM

SEC. 1122. (a) ADDITIONAL AMOUNT FOR RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, NAVY.—The amount appropriated by this chapter under the heading ''RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, NAVY'' is hereby increased by $15,000,000, with the amount of such increase designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

(b) AVAILABILITY OF FUNDS.—Of the amount appropriated or otherwise made available by this Act under the heading ''RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, NAVY'', as increased by subsection (a), $15,000,000 shall be available for continued development and testing of the Permanent Magnet Motor for the next generation destroyer (DD(X)) program.

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**SA 422.** Mr. COCHRAN (for Mr. LEAHY (for himself and Mr. OBAMA)) proposed an amendment to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorist from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; as follows:

On page 194, line 14, delete ''should'' and insert in lieu thereof ''shall''.

On page 194, line 16, delete ''Avian flu'' and insert in lieu thereof ''avian influenza virus, to be administered by the United States Agency for International Development''.

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**SA 423.** Mr. COCHRAN (for Mr. LEAHY) proposed an amendment to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; as follows:

On page 183, after line 23, insert the following new general provision:

SEC. . The amounts set forth in the eighth proviso in the Diplomatic and Consular Programs appropriation in the FY 2005 Department of Commerce, Justice, State, the Judiciary, and Related Agencies Appropriations Act (P.L. 108–447, Div. B) may be subject to reprogramming pursuant to section 605 of that Act.

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**SA 424.** Mr. COCHRAN proposed an amendment to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; as follows:

On page 219 of the bill, line 16, strike ''or'' and insert ''and'';

On page 219 of the bill, line 17, after ''and'' insert ''seismic-related''.

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**SA 425.** Mr. BENNETT submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 194, line 13, after ''tsunami:'' insert ''*Provided further*, That of the funds appropriated under this heading, not less that $20,000,000 shall be made available for microcredit programs in countries affected by the tsunami, to be administered by the United States Agency for International Development:''.

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**SA 426.** Mr. SANTORUM (for himself and Ms. MIKULSKI) submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 231, between lines 3 and 4, insert the following:

VISA WAIVER COUNTRY

SEC. 6047. (a) Congress makes the following findings:

(1) Since the founding of the United States, Poland has proven its steadfast dedication to the causes of freedom and friendship with the United States, exemplified by the brave actions of Polish patriots such as Casimir Pulaski and Tadeusz Kosciuszko during the American Revolution.

(2) Polish history provides pioneering examples of constitutional democracy and religious tolerance.

(3) The United States is home to nearly 9,000,000 people of Polish ancestry.

(4) Polish immigrants have contributed greatly to the success of industry and agriculture in the United States.

(5) Since the demise of communism, Poland has become a stable, democratic nation.

(6) Poland has adopted economic policies that promote free markets and rapid economic growth.

(7) On March 12, 1999, Poland demonstrated its commitment to global security by becoming a member of the North Atlantic Treaty Organization.

(8) On May 1, 2004, Poland became a member state of the European Union.

(9) Poland was a staunch ally to the United States during Operation Iraqi Freedom.

(10) Poland has committed 2,300 soldiers to help with ongoing peacekeeping efforts in Iraq.

(11) The Secretary of Homeland Security and Secretary of State administer the visa waiver program, which allows citizens from 27 countries, including France and Germany, to visit the United States as tourists without visas.

(12) On April 15, 1991, Poland unilaterally repealed the visa requirement for United States citizens traveling to Poland for 90 days or less.

(13) More than 100,000 Polish citizens visit the United States each year.

(b) Effective on the date of the enactment of this Act, and notwithstanding section 217(c) of the Immigration and Nationality Act (8 U.S.C. 1187(c)), Poland shall be deemed a designated program country for purposes of the visa waiver program established under section 217 of such Act.

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**SA 427.** Mr. DURBIN (for himself, Mr. LEVIN, Mr. KENNEDY, Mr. BYRD, Mr. LEAHY, Mr. FEINGOLD, Mr. LAUTENBERG, and Mr. BINGAMAN) proposed an amendment to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 169, between lines 8 and 9, insert the following:

REPORTS ON IRAQI SECURITY FORCES

SEC. 1122. Not later than 60 days after the date of enactment of this Act, and every 90 days thereafter, the President shall submit an unclassified report to Congress, which may include a classified annex, that includes a description of the following:

(1) The extent to which funding appropriated by this Act will be used to train and equip capable and effectively led Iraqi security services and promote stability and security in Iraq.

(2) The estimated strength of the Iraqi insurgency and the extent to which it is composed of non-Iraqi fighters, and any changes over the previous 90-day period.

(3) A description of all militias operating in Iraq, including their number, size, strength, military effectiveness, leadership, sources of external support, sources of internal support, estimated types and numbers of equipment and armaments in their possession, legal status, and the status of efforts to disarm, demobilize, and reintegrate each militia.

(4) The extent to which recruiting, training, and equipping goals and standards for Iraqi security forces are being met, including the number of Iraqis recruited and trained for the army, air force, navy, and other Ministry of Defense forces, police, and highway patrol of Iraq, and all other Ministry of Interior forces, and the extent to which personal and unit equipment requirements have been met.

(5) A description of the criteria for assessing the capabilities and readiness of Iraqi security forces.

(6) An evaluation of the operational readiness status of Iraqi military forces and special police, including the type, number, size, unit designation and organizational structure of Iraqi battalions that are—

(A) capable of conducting counterinsurgency operations independently;

(B) capable of conducting counterinsurgency operations with United States or Coalition mentors and enablers; or

(C) not ready to conduct counterinsurgency operations.

(7) The extent to which funding appropriated by this Act will be used to train capable, well-equipped, and effectively led Iraqi police forces, and an evaluation of Iraqi police forces, including—

(A) the number of police recruits that have received classroom instruction and the duration of such instruction;

(B) the number of veteran police officers who have received classroom instruction and the duration of such instruction;

(C) the number of Iraqi police forces who have received field training by international police trainers and the duration of such instruction;

(D) a description of the field training program, including the number, the planned number, and nationality of international field trainers;

(E) the number of police present for duty;

(F) data related to attrition rates; and

(G) a description of the training that Iraqi police have received regarding human rights and the rule of law.

(8) The estimated total number of Iraqi battalions needed for the Iraqi security forces to perform duties now being undertaken by the Coalition Forces, including defending Iraq's borders, defeating the insurgency, and providing law and order.

(9) The extent to which funding appropriated by this Act will be used to train Iraqi security forces in counterinsurgency operations and the estimated total number of Iraqi security force personnel expected to be trained, equipped, and capable of participating in counterinsurgency operations by the end of 2005 and of 2006.

(10) The estimated total number of adequately trained, equipped, and led Iraqi battalions expected to be capable of conducting counterinsurgency operations independently and the estimated total number expected to be capable of conducting counterinsurgency operations with United States or Coalition mentors and enablers by the end of 2005 and of 2006.

(11) An assessment of the effectiveness of the chain of command of the Iraqi military.

(12) The number and nationality of Coalition mentors and advisers working with Iraqi security forces as of the date of the report, plans for decreasing or increasing the number of such mentors and advisers, and a description of their activities.

(13) A list of countries of the North Atlantic Treaty Organisation (''NATO'') participating in the NATO mission for training of Iraqi security forces and the number of troops from each country dedicated to the mission.

(14) A list of countries participating in training Iraqi security forces outside the NATO training mission and the number of troops from each country dedicated to the mission.

(15) For any country, which made an offer to provide forces for training that has not been accepted, an explanation of the reasons why the offer was not accepted.

(16) A list of foreign countries that have withdrawn troops from the Multinational Security Coalition in Iraq during the previous 90 days and the number of troops withdrawn.

(17) A list of foreign countries that have added troops to the Coalition in Iraq during the previous 90 days and the number of troops added.

(18) For offers to provide forces for training that have been accepted by the Iraqi government, a report on the status of such training efforts, including the number of troops involved by country and the number of Iraqi security forces trained.

(19) An assessment of the progress of the National Assembly of Iraq in drafting and ratifying the permanent constitution of Iraq, and the performance of the new Iraqi Government in its protection of the rights of minorities and individual human rights, and its adherence to common democratic practices.

(20) The estimated number of United States military forces who will be needed in Iraq 6, 12, and 18 months from the date of the report.

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**SA 428.** Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 169, between lines 8 and 9, insert the following:

OFFICE OF THE SPECIAL INSPECTOR GENERAL FOR IRAQ RECONSTRUCTION

(INCLUDING RESCISSIONS OF FUNDS)

SEC. 1122. (a) Subsection (o) of section 3001 of the Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004 (Public Law 108–106; 117 Stat. 1234; 5 U.S.C. App. 3 section 8G note), as amended by section 1203(j) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2081) is amended by striking ''obligated'' and inserting ''expended''.

(b) Of the amount appropriated in chapter 2 of title II of the Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004 (Public Law 108–106; 117 Stat. 1224) under the heading ''OTHER BILATERAL ECONOMIC ASSISTANCE'' and under the subheading ''IRAQ RELIEF AND RECONSTRUCTION FUND'', $50,000,000 is hereby rescinded.

(c) There is appropriated $50,000,000 to carry out section 3001 of the Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004 (Public Law 108–106; 117 Stat. 1234). Such amount shall be in addition to any other amount available for such purpose and available until the date of the termination of the Office of the Special Inspector General for Iraq Reconstruction.

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**SA 429.** Mr. ISAKSON submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 231, after line 6, insert the following:

**TITLE VII—REAL ID ACT OF 2005**

**SEC. 701. SHORT TITLE.**

This title may be cited as the ''REAL ID Act of 2005''.

**Subtitle A—Amendments to Federal Laws to Protect Against Terrorist Entry**

**SEC. 711. PREVENTING TERRORISTS FROM OBTAINING RELIEF FROM REMOVAL.**

(a) CONDITIONS FOR GRANTING ASYLUM.—Section 208(b)(1) of the Immigration and Nationality Act (8 U.S.C. 1158(b)(1)) is amended—

(1) by striking ''The Attorney General'' the first place such term appears and inserting the following:

''(A) ELIGIBILITY.—The Secretary of Homeland Security or the Attorney General'';

(2) by striking ''the Attorney General'' the second and third places such term appears and inserting ''the Secretary of Homeland Security or the Attorney General''; and

(3) by adding at the end the following:

''(B) BURDEN OF PROOF.—

''(i) IN GENERAL.—The burden of proof is on the applicant to establish that the applicant is a refugee, within the meaning of section 101(a)(42)(A). To establish that the applicant is a refugee within the meaning of such section, the applicant must establish that race, religion, nationality, membership in a particular social group, or political opinion was or will be a central reason for persecuting the applicant.

''(ii) SUSTAINING BURDEN.—The testimony of the applicant may be sufficient to sustain the applicant's burden without corroboration, but only if the applicant satisfies the trier of fact that the applicant's testimony is credible, is persuasive, and refers to specific facts sufficient to demonstrate that the applicant is a refugee. In determining whether the applicant has met the applicant's burden, the trier of fact may weigh the credible testimony along with other evidence of record. Where the trier of fact determines, in the trier of fact's discretion, that the applicant should provide evidence which corroborates otherwise credible testimony, such evidence must be provided unless the applicant does not have the evidence and cannot reasonably obtain the evidence without departing the United States. The inability to obtain corroborating evidence does not excuse the applicant from meeting the applicant's burden of proof.

''(iii) CREDIBILITY DETERMINATION.—The trier of fact should consider all relevant factors and may, in the trier of fact's discretion, base the trier of fact's credibility determination on any such factor, including the demeanor, candor, or responsiveness of the applicant or witness, the inherent plausibility of the applicant's or witness's account, the consistency between the applicant's or witness's written and oral statements (whenever made and whether or not made under oath), the internal consistency of each such statement, the consistency of such statements with other evidence of record (including the reports of the Department of State on country conditions), and any inaccuracies or falsehoods in such statements, without regard to whether an inconsistency, inaccuracy, or falsehood goes to the heart of the applicant's claim. There is no presumption of credibility.''.

(b) WITHHOLDING OF REMOVAL.—Section 241(b)(3) of the Immigration and Nationality Act (8 U.S.C. 1231(b)(3)) is amended by adding at the end the following:

''(C) SUSTAINING BURDEN OF PROOF; CREDIBILITY DETERMINATIONS.—In determining whether an alien has demonstrated that the alien's life or freedom would be threatened for a reason described in subparagraph (A), the trier of fact shall determine whether the alien has sustained the alien's burden of proof, and shall make credibility determinations, in the manner described in clauses (ii) and (iii) of section 208(b)(1)(B).''.

(c) OTHER REQUESTS FOR RELIEF FROM REMOVAL.—Section 240(c) of the Immigration and Nationality Act (8 U.S.C. 1230(c)) is amended—

(1) by redesignating paragraphs (4), (5), and (6) as paragraphs (5), (6), and (7), respectively; and

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

''(4) APPLICATIONS FOR RELIEF FROM REMOVAL.—

''(A) IN GENERAL.—An alien applying for relief or protection from removal has the burden of proof to establish that the alien—

''(i) satisfies the applicable eligibility requirements; and

''(ii) with respect to any form of relief that is granted in the exercise of discretion, that the alien merits a favorable exercise of discretion.

''(B) SUSTAINING BURDEN.—The applicant must comply with the applicable requirements to submit information or documentation in support of the applicant's application for relief or protection as provided by law or by regulation or in the instructions for the application form. In evaluating the testimony of the applicant or other witness in support of the application, the immigration judge will determine whether or not the testimony is credible, is persuasive, and refers to specific facts sufficient to demonstrate that the applicant has satisfied the applicant's burden of proof. In determining whether the applicant has met such burden, the immigration judge shall weigh the credible testimony along with other evidence of record. Where the immigration judge determines in the judge's discretion that the applicant should provide evidence which corroborates otherwise credible testimony, such evidence must be provided unless the applicant demonstrates that the applicant does not have the evidence and cannot reasonably obtain the evidence without departing from the United States. The inability to obtain corroborating evidence does not excuse the applicant from meeting the burden of proof.

''(C) CREDIBILITY DETERMINATION.—The immigration judge should consider all relevant factors and may, in the judge's discretion, base the judge's credibility determination on any such factor, including the demeanor, candor, or responsiveness of the applicant or witness, the inherent plausibility of the applicant's or witness's account, the consistency between the applicant's or witness's written and oral statements (whenever made and whether or not made under oath), the internal consistency of each such statement, the consistency of such statements with other evidence of record (including the reports of the Department of State on country conditions), and any inaccuracies or falsehoods in such statements, without regard to whether an inconsistency, inaccuracy, or falsehood goes to the heart of the applicant's claim. There is no presumption of credibility.''.

(d) STANDARD OF REVIEW FOR ORDERS OF REMOVAL.—Section 242(b)(4) of the Immigration and Nationality Act (8 U.S.C. 1252(b)(4)) is amended by adding at the end, after subparagraph (D), the following: ''No court shall reverse a determination made by a trier of fact with respect to the availability of corroborating evidence, as described in section 208(b)(1)(B), 240(c)(4)(B), or 241(b)(3)(C), unless the court finds that a reasonable trier of fact is compelled to conclude that such corroborating evidence is unavailable.''.

(e) CLARIFICATION OF DISCRETION.—Section 242(a)(2)(B) of the Immigration and Nationality Act (8 U.S.C. 1252(a)(2)(B)) is amended—

(1) by inserting ''or the Secretary of Homeland Security'' after ''Attorney General'' each place such term appears; and

(2) in the matter preceding clause (i), by inserting ''and regardless of whether the judgment, decision, or action is made in removal proceedings,'' after ''other provision of law,''.

(f) REMOVAL OF CAPS.—Section 209 of the Immigration and Nationality Act (8 U.S.C. 1159) is amended—

(1) in subsection (a)(1)—

(A) by striking ''Service'' and inserting ''Department of Homeland Security''; and

(B) by striking ''Attorney General'' each place such term appears and inserting ''Secretary of Homeland Security or the Attorney General'';

(2) in subsection (b)—

(A) by striking ''Not more'' and all that follows through ''asylum who—'' and inserting ''The Secretary of Homeland Security or the Attorney General, in the Secretary's or the Attorney General's discretion and under such regulations as the Secretary or the Attorney General may prescribe, may adjust to the status of an alien lawfully admitted for permanent residence the status of any alien granted asylum who—''; and

(B) in the matter following paragraph (5), by striking ''Attorney General'' and inserting ''Secretary of Homeland Security or the Attorney General''; and

(3) in subsection (c), by striking ''Attorney General'' and inserting ''Secretary of Homeland Security or the Attorney General''.

(g) EFFECTIVE DATES.—

(1) The amendments made by paragraphs (1) and (2) of subsection (a) shall take effect as if enacted on March 1, 2003.

(2) The amendments made by subsections (a)(3), (b), and (c) shall take effect on the date of the enactment of this title and shall apply to applications for asylum, withholding, or other removal made on or after such date.

(3) The amendment made by subsection (d) shall take effect on the date of the enactment of this title and shall apply to all cases in which the final administrative removal order is or was issued before, on, or after such date.

(4) The amendments made by subsection (e) shall take effect on the date of the enactment of this title and shall apply to all cases pending before any court on or after such date.

(5) The amendments made by subsection (f) shall take effect on the date of the enactment of this title.

(h) REPEAL.—Section 5403 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458) is repealed.

**SEC. 712. WAIVER OF LAWS NECESSARY FOR IMPROVEMENT OF BARRIERS AT BORDERS.**

Section 102(c) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1103 note) is amended to read as follows:

''(c) WAIVER.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of Homeland Security shall have the authority to waive, and shall waive, all laws such Secretary, in such Secretary's sole discretion, determines necessary to ensure expeditious construction of the barriers and roads under this section.

''(2) NO JUDICIAL REVIEW.—Notwithstanding any other provision of law (statutory or nonstatutory), no court, administrative agency, or other entity shall have jurisdiction—

''(A) to hear any cause or claim arising from any action undertaken, or any decision made, by the Secretary of Homeland Security pursuant to paragraph (1); or

''(B) to order compensatory, declaratory, injunctive, equitable, or any other relief for damage alleged to arise from any such action or decision.''.

**SEC. 713. INADMISSIBILITY DUE TO TERRORIST AND TERRORIST-RELATED ACTIVITIES.**

(a) IN GENERAL.—So much of section 212(a)(3)(B)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(i)) as precedes the final sentence is amended to read as follows:

''(i) IN GENERAL.—Any alien who—

''(I) has engaged in a terrorist activity;

''(II) a consular officer, the Attorney General, or the Secretary of Homeland Security knows, or has reasonable ground to believe, is engaged in or is likely to engage after entry in any terrorist activity (as defined in clause (iv));

''(III) has, under circumstances indicating an intention to cause death or serious bodily harm, incited terrorist activity;

''(IV) is a representative (as defined in clause (v)) of—

''(aa) a terrorist organization (as defined in clause (vi)); or

''(bb) a political, social, or other group that endorses or espouses terrorist activity;

''(V) is a member of a terrorist organization described in subclause (I) or (II) of clause (vi);

''(VI) is a member of a terrorist organization described in clause (vi)(III), unless the alien can demonstrate by clear and convincing evidence that the alien did not know, and should not reasonably have known, that the organization was a terrorist organization;

''(VII) endorses or espouses terrorist activity or persuades others to endorse or espouse terrorist activity or support a terrorist organization;

''(VIII) has received military-type training (as defined in section 2339D(c)(1) of title 18, United States Code) from or on behalf of any organization that, at the time the training was received, was a terrorist organization (as defined in clause (vi)); or

''(IX) is the spouse or child of an alien who is inadmissible under this subparagraph, if the activity causing the alien to be found inadmissible occurred within the last 5 years, is inadmissible.''.

(b) ENGAGE IN TERRORIST ACTIVITY DEFINED.—Section 212(a)(3)(B)(iv) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(iv)) is amended to read as follows:

''(iv) ENGAGE IN TERRORIST ACTIVITY DEFINED.—As used in this Act, the term 'engage in terrorist activity' means, in an individual capacity or as a member of an organization—

''(I) to commit or to incite to commit, under circumstances indicating an intention to cause death or serious bodily injury, a terrorist activity;

''(II) to prepare or plan a terrorist activity;

''(III) to gather information on potential targets for terrorist activity;

''(IV) to solicit funds or other things of value for—

''(aa) a terrorist activity;

''(bb) a terrorist organization described in clause (vi)(I) or (vi)(II); or

''(cc) a terrorist organization described in clause (vi)(III), unless the solicitor can demonstrate by clear and convincing evidence that he did not know, and should not reasonably have known, that the organization was a terrorist organization;

''(V) to solicit any individual—

''(aa) to engage in conduct otherwise described in this subsection;

''(bb) for membership in a terrorist organization described in clause (vi)(I) or (vi)(II); or

''(cc) for membership in a terrorist organization described in clause (vi)(III) unless the solicitor can demonstrate by clear and convincing evidence that he did not know, and should not reasonably have known, that the organization was a terrorist organization; or

''(VI) to commit an act that the actor knows, or reasonably should know, affords material support, including a safe house, transportation, communications, funds, transfer of funds or other material financial benefit, false documentation or identification, weapons (including chemical, biological, or radiological weapons), explosives, or training—

''(aa) for the commission of a terrorist activity;

''(bb) to any individual who the actor knows, or reasonably should know, has committed or plans to commit a terrorist activity;

''(cc) to a terrorist organization described in subclause (I) or (II) of clause (vi) or to any member of such an organization; or

''(dd) to a terrorist organization described in clause (vi)(III), or to any member of such an organization, unless the actor can demonstrate by clear and convincing evidence that the actor did not know, and should not reasonably have known, that the organization was a terrorist organization.

This clause shall not apply to any material support the alien afforded to an organization or individual that has committed terrorist activity, if the Secretary of State, after consultation with the Attorney General and the Secretary of Homeland Security, or the Attorney General, after consultation with the Secretary of State and the Secretary of Homeland Security, concludes in his sole unreviewable discretion, that this clause should not apply.''.

(c) TERRORIST ORGANIZATION DEFINED.—Section 212(a)(3)(B)(vi) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(vi)) is amended to read as follows:

''(vi) TERRORIST ORGANIZATION DEFINED.—As used in this section, the term 'terrorist organization' means an organization—

''(I) designated under section 219;

''(II) otherwise designated, upon publication in the Federal Register, by the Secretary of State in consultation with or upon the request of the Attorney General or the Secretary of Homeland Security, as a terrorist organization, after finding that the organization engages in the activities described in subclauses (I) through (VI) of clause (iv); or

''(III) that is a group of two or more individuals, whether organized or not, which engages in, or has a subgroup which engages in, the activities described in subclauses (I) through (VI) of clause (iv).''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this title, and these amendments, and section 212(a)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)), as amended by this section, shall apply to—

(1) removal proceedings instituted before, on, or after the date of the enactment of this title; and

(2) acts and conditions constituting a ground for inadmissibility, excludability, deportation, or removal occurring or existing before, on, or after such date.

**SEC. 714. REMOVAL OF TERRORISTS.**

(a) IN GENERAL.—

(1) IN GENERAL.—Section 237(a)(4)(B) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(4)(B)) is amended to read as follows:

''(B) TERRORIST ACTIVITIES.—Any alien who is described in subparagraph (B) or (F) of section 212(a)(3) is deportable.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date of the enactment of this title, and the amendment, and section 237(a)(4)(B) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(4)(B)), as amended by such paragraph, shall apply to—

(A) removal proceedings instituted before, on, or after the date of the enactment of this title; and

(B) acts and conditions constituting a ground for inadmissibility, excludability, deportation, or removal occurring or existing before, on, or after such date.

(b) REPEAL.—Effective as of the date of the enactment of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458), section 5402 of such Act is repealed, and the Immigration and Nationality Act shall be applied as if such section had not been enacted.

**SEC. 715. JUDICIAL REVIEW OF ORDERS OF REMOVAL.**

(a) IN GENERAL.—Section 242 of the Immigration and Nationality Act (8 U.S.C. 1252) is amended—

(1) in subsection (a)—

(A) in paragraph (2)—

(i) in subparagraph (A), by inserting ''(statutory or nonstatutory), including section 2241 of title 28, United States Code, or any other habeas corpus provision, and sections 1361 and 1651 of such title'' after ''Notwithstanding any other provision of law'';

(ii) in each of subparagraphs (B) and (C), by inserting ''(statutory or nonstatutory), including section 2241 of title 28, United States Code, or any other habeas corpus provision, and sections 1361 and 1651 of such title, and except as provided in subparagraph (D)'' after ''Notwithstanding any other provision of law''; and

(iii) by adding at the end the following:

''(D) JUDICIAL REVIEW OF CERTAIN LEGAL CLAIMS.—Nothing in subparagraph (B) or (C), or in any other provision of this Act which limits or eliminates judicial review, shall be construed as precluding review of constitutional claims or pure questions of law raised upon a petition for review filed with an appropriate court of appeals in accordance with this section.''; and

(B) by adding at the end the following:

''(4) CLAIMS UNDER THE UNITED NATIONS CONVENTION.—Notwithstanding any other provision of law (statutory or nonstatutory), including section 2241 of title 28, United States Code, or any other habeas corpus provision, and sections 1361 and 1651 of such title, a petition for review filed with an appropriate court of appeals in accordance with this section shall be the sole and exclusive means for judicial review of any cause or claim under the United Nations Convention Against Torture and Other Forms of Cruel, Inhuman, or Degrading Treatment or Punishment, except as provided in subsection (e).

''(5) EXCLUSIVE MEANS OF REVIEW.—Notwithstanding any other provision of law (statutory or nonstatutory), including section 2241 of title 28, United States Code, or any other habeas corpus provision, and sections 1361 and 1651 of such title, a petition for review filed with an appropriate court of appeals in accordance with this section shall be the sole and exclusive means for judicial review of an order of removal entered or issued under any provision of this Act, except as provided in subsection (e). For purposes of this Act, in every provision that limits or eliminates judicial review or jurisdiction to review, the terms 'judicial review' and 'jurisdiction to review' include habeas corpus review pursuant to section 2241 of title 28, United States Code, or any other habeas corpus provision, sections 1361 and 1651 of such title, and review pursuant to any other provision of law (statutory or nonstatutory).'';

(2) in subsection (b)—

(A) in paragraph (3)(B), by inserting ''pursuant to subsection (f)'' after ''unless''; and

(B) in paragraph (9), by adding at the end the following: ''Except as otherwise provided in this section, no court shall have jurisdiction, by habeas corpus under section 2241 of title 28, United States Code, or any other habeas corpus provision, by section 1361 or 1651 of such title, or by any other provision of law (statutory or nonstatutory), to review such an order or such questions of law or fact.''; and

(3) in subsection (g), by inserting ''(statutory or nonstatutory), including section 2241 of title 28, United States Code, or any other habeas corpus provision, and sections 1361 and 1651 of such title'' after ''notwithstanding any other provision of law''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect upon the date of the enactment of this title and shall apply to cases in which the final administrative order of removal, deportation, or exclusion was issued before, on, or after the date of the enactment of this title.

(c) TRANSFER OF CASES.—If an alien's case, brought under section 2241 of title 28, United States Code, and challenging a final administrative order of removal, deportation, or exclusion, is pending in a district court on the date of the enactment of this title, then the district court shall transfer the case (or the part of the case that challenges the order of removal, deportation, or exclusion) to the court of appeals for the circuit in which a petition for review could have been properly filed under section 242(b)(2) of the Immigration and Nationality Act (8 U.S.C. 1252), as amended by this section, or under section 309(c)(4)(D) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1101 note). The court of appeals shall treat the transferred case as if it had been filed pursuant to a petition for review under such section 242, except that subsection (b)(1) of such section shall not apply.

(d) TRANSITIONAL RULE CASES.—A petition for review filed under former section 106(a) of the Immigration and Nationality Act (as in effect before its repeal by section 306(b) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1252 note)) shall be treated as if it had been filed as a petition for review under section 242 of the Immigration and Nationality Act (8 U.S.C. 1252), as amended by this section. Notwithstanding any other provision of law (statutory or nonstatutory), including section 2241 of title 28, United States Code, or

any other habeas corpus provision, and sections 1361 and 1651 of such title, such petition for review shall be the sole and exclusive means for judicial review of an order of deportation or exclusion.

**SEC. 716. DELIVERY BONDS.**

(a) DEFINITIONS.—For purposes of this section:

(1) DELIVERY BOND.—The term ''delivery bond'' means a written suretyship undertaking for the surrender of an individual against whom the Department of Homeland Security has issued an order to show cause or a notice to appear, the performance of which is guaranteed by an acceptable surety on Federal bonds.

(2) PRINCIPAL.—The term ''principal'' means an individual who is the subject of a bond.

(3) SURETYSHIP UNDERTAKING.—The term ''suretyship undertaking'' means a written agreement, executed by a bonding agent on behalf of a surety, which binds all parties to its certain terms and conditions and which provides obligations for the principal and the surety while under the bond and penalties for forfeiture to ensure the obligations of the principal and the surety under the agreement.

(4) BONDING AGENT.—The term ''bonding agent'' means any individual properly licensed, approved, and appointed by power of attorney to execute or countersign surety bonds in connection with any matter governed by the Immigration and Nationality Act as amended (8 U.S.C. 1101, et seq.), and who receives a premium for executing or countersigning such surety bonds.

(5) SURETY.—The term ''surety'' means an entity, as defined by, and that is in compliance with, sections 9304 through 9308 of title 31, United States Code, that agrees—

(A) to guarantee the performance, where appropriate, of the principal under a bond;

(B) to perform the bond as required; and

(C) to pay the face amount of the bond as a penalty for failure to perform.

(b) VALIDITY, AGENT NOT CO-OBLIGOR, EXPIRATION, RENEWAL, AND CANCELLATION OF BONDS.—

(1) VALIDITY.—Delivery bond undertakings are valid if such bonds—

(A) state the full, correct, and proper name of the alien principal;

(B) state the amount of the bond;

(C) are guaranteed by a surety and countersigned by an agent who is properly appointed;

(D) bond documents are properly executed; and

(E) relevant bond documents are properly filed with the Secretary of Homeland Security.

(2) BONDING AGENT NOT CO-OBLIGOR, PARTY, OR GUARANTOR IN INDIVIDUAL CAPACITY, AND NO REFUSAL IF ACCEPTABLE SURETY.—Section 9304(b) of title 31, United States Code, is amended by adding at the end the following: ''Notwithstanding any other provision of law, no bonding agent of a corporate surety shall be required to execute bonds as a co-obligor, party, or guarantor in an individual capacity on bonds provided by the corporate surety, nor shall a corporate surety bond be refused if the corporate surety appears on the current Treasury Department Circular 570 as a company holding a certificate of authority as an acceptable surety on Federal bonds and attached to the bond is a currently valid instrument showing the authority of the bonding agent of the surety company to execute the bond.''.

(3) EXPIRATION.—A delivery bond undertaking shall expire at the earliest of—

(A) 1 year from the date of issue;

(B) at the cancellation of the bond or surrender of the principal; or

(C) immediately upon nonpayment of the renewal premium.

(4) RENEWAL.—Delivery bonds may be renewed annually, with payment of proper premium to the surety, if there has been no breach of conditions, default, claim, or forfeiture of the bond. Notwithstanding any renewal, when the alien is surrendered to the Secretary of Homeland Security for removal, the Secretary shall cause the bond to be canceled.

(5) CANCELLATION.—Delivery bonds shall be canceled and the surety exonerated—

(A) for nonrenewal after the alien has been surrendered to the Department of Homeland Security for removal;

(B) if the surety or bonding agent provides reasonable evidence that there was misrepresentation or fraud in the application for the bond;

(C) upon the death or incarceration of the principal, or the inability of the surety to produce the principal for medical reasons;

(D) if the principal is detained by any law enforcement agency of any State, county, city, or any political subdivision thereof;

(E) if it can be established that the alien departed the United States of America for any reason without permission of the Secretary of Homeland Security, the surety, or the bonding agent;

(F) if the foreign state of which the principal is a national is designated pursuant to section 244 of the Act (8 U.S.C. 1254a) after the bond is posted; or

(G) if the principal is surrendered to the Department of Homeland Security, removal by the surety or the bonding agent.

(6) SURRENDER OF PRINCIPAL; FORFEITURE OF BOND PREMIUM.—

(A) SURRENDER.—At any time, before a breach of any of the bond conditions, if in the opinion of the surety or bonding agent, the principal becomes a flight risk, the principal may be surrendered to the Department of Homeland Security for removal.

(B) FORFEITURE OF BOND PREMIUM.—A principal may be surrendered without the return of any bond premium if the principal—

(i) changes address without notifying the surety, the bonding agent, and the Secretary of Homeland Security in writing prior to such change;

(ii) hides or is concealed from a surety, a bonding agent, or the Secretary;

(iii) fails to report to the Secretary as required at least annually; or

(iv) violates the contract with the bonding agent or surety, commits any act that may lead to a breach of the bond, or otherwise violates any other obligation or condition of the bond established by the Secretary.

(7) CERTIFIED COPY OF BOND AND ARREST WARRANT TO ACCOMPANY SURRENDER.—

(A) IN GENERAL.—A bonding agent or surety desiring to surrender the principal—

(i) shall have the right to petition the Secretary of Homeland Security or any Federal court, without having to pay any fees or court costs, for an arrest warrant for the arrest of the principal;

(ii) shall forthwith be provided 2 certified copies each of the arrest warrant and the bond undertaking, without having to pay any fees or courts costs; and

(iii) shall have the right to pursue, apprehend, detain, and surrender the principal, together with certified copies of the arrest warrant and the bond undertaking, to any Department of Homeland Security detention official or Department detention facility or any detention facility authorized to hold Federal detainees.

(B) EFFECTS OF DELIVERY.—Upon surrender of a principal under subparagraph (A)(iii)—

(i) the official to whom the principal is surrendered shall detain the principal in custody and issue a written certificate of surrender; and

(ii) the Secretary of Homeland Security shall immediately exonerate the surety from any further liability on the bond.

(8) FORM OF BOND.—Delivery bonds shall in all cases state the following and be secured by a corporate surety that is certified as an acceptable surety on Federal bonds and whose name appears on the current Treasury Department Circular 570:

''(A) BREACH OF BOND; PROCEDURE, FORFEITURE, NOTICE.—

''(i) If a principal violates any conditions of the delivery bond, or the principal is or becomes subject to a final administrative order of deportation or removal, the Secretary of Homeland Security shall—

''(I) immediately issue a warrant for the principal's arrest and enter that arrest warrant into the National Crime Information Center (NCIC) computerized information database;

''(II) order the bonding agent and surety to take the principal into custody and surrender the principal to any one of 10 designated Department of Homeland Security 'turn-in' centers located nationwide in the areas of greatest need, at any time of day during 15 months after mailing the arrest warrant and the order to the bonding agent and the surety as required by subclause (III), and immediately enter that order into the National Crime Information Center (NCIC) computerized information database; and

''(III) mail 2 certified copies each of the arrest warrant issued pursuant to subclause (I) and 2 certified copies each of the order issued pursuant to subclause (II) to only the bonding agent and surety via certified mail return receipt to their last known addresses.

''(ii) Bonding agents and sureties shall immediately notify the Secretary of Homeland Security of their changes of address and/or telephone numbers.

''(iii) The Secretary of Homeland Security shall establish, disseminate to bonding agents and sureties, and maintain on a current basis a secure nationwide toll-free list of telephone numbers of Department of Homeland Security officials, including the names of such officials, that bonding agents, sureties, and their employees may immediately contact at any time to discuss and resolve any issue regarding any principal or bond, to be known as 'Points of Contact'.

''(iv) A bonding agent or surety shall have full and complete access, free of charge, to any and all information, electronic or otherwise, in the care, custody, and control of the United States Government or any State or local government or any subsidiary or police agency thereof regarding the principal that may be helpful in complying with section 715 of the REAL ID Act of 2005 that the Secretary of Homeland Security, by regulations subject to approval by Congress, determines may be helpful in locating or surrendering the principal. Beyond the principal, a bonding agent or surety shall not be required to disclose any information, including but not limited to the arrest warrant and order, received from any governmental source, any person, firm, corporation, or other entity.

''(v) If the principal is later arrested, detained, or otherwise located outside the United States and the outlying possessions of the United States (as defined in section 101(a) of the Immigration and Nationality Act), the Secretary of Homeland Security shall—

''(I) immediately order that the surety is completely exonerated, and the bond canceled; and

''(II) if the Secretary of Homeland Security has issued an order under clause (i), the surety may request, by written, properly filed

motion, reinstatement of the bond. This subclause may not be construed to prevent the Secretary of Homeland Security from revoking or resetting a bond at a higher amount.

''(vi) The bonding agent or surety must—

''(I) during the 15 months after the date the arrest warrant and order were mailed pursuant to clause (i)(III) surrender the principal one time; or

''(II)(aa) provide reasonable evidence that producing the principal was prevented—

''(AA) by the principal's illness or death;

''(BB) because the principal is detained in custody in any city, State, country, or any political subdivision thereof;

''(CC) because the principal has left the United States or its outlying possessions (as defined in section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)); or

''(DD) because required notice was not given to the bonding agent or surety; and

''(bb) establish by affidavit that the inability to produce the principal was not with the consent or connivance of the bonding agent or surety.

''(vii) If compliance occurs more than 15 months but no more than 18 months after the mailing of the arrest warrant and order to the bonding agent and the surety required under clause (i)(III), an amount equal to 25 percent of the face amount of the bond shall be assessed as a penalty against the surety.

''(viii) If compliance occurs more than 18 months but no more than 21 months after the mailing of the arrest warrant and order to the bonding agent and the surety required under clause (i)(III), an amount equal to 50 percent of the face amount of the bond shall be assessed as a penalty against the surety.

''(ix) If compliance occurs more than 21 months but no more than 24 months after the mailing of the arrest warrant and order to the bonding agent and the surety required under clause (i)(III), an amount equal to 75 percent of the face amount of the bond shall be assessed as a penalty against the surety.

''(x) If compliance occurs 24 months or more after the mailing of the arrest warrant and order to the bonding agent and the surety required under clause (i)(III), an amount equal to 100 percent of the face amount of the bond shall be assessed as a penalty against the surety.

''(xi) If any surety surrenders any principal to the Secretary of Homeland Security at any time and place after the period for compliance has passed, the Secretary of Homeland Security shall cause to be issued to that surety an amount equal to 50 percent of the face amount of the bond: *Provided*, *however*, That if that surety owes any penalties on bonds to the United States, the amount that surety would otherwise receive shall be offset by and applied as a credit against the amount of penalties on bonds it owes the United States, and then that surety shall receive the remainder of the amount to which it is entitled under this subparagraph, if any.

''(xii) All penalties assessed against a surety on a bond, if any, shall be paid by the surety no more than 27 months after the mailing of the arrest warrant and order to the bonding agent and the surety required under clause (i)(III).

''(B) The Secretary of Homeland Security may waive penalties or extend the period for payment or both, if—

''(i) a written request is filed with the Secretary of Homeland Security; and

''(ii) the bonding agent or surety provides an affidavit that diligent efforts were made to effect compliance of the principal.

''(C) COMPLIANCE; EXONERATION; LIMITATION OF LIABILITY.—

''(i) COMPLIANCE.—A bonding agent or surety shall have the absolute right to locate, apprehend, arrest, detain, and surrender any principal, wherever he or she may be found, who violates any of the terms and conditions of his or her bond.

''(ii) EXONERATION.—Upon satisfying any of the requirements of the bond, the surety shall be completely exonerated.

''(iii) LIMITATION OF LIABILITY.—Notwithstanding any other provision of law, the total liability on any surety undertaking shall not exceed the face amount of the bond.''.

(c) EFFECTIVE DATE.—The provisions of this section shall take effect on the date of the enactment of this title and shall apply to bonds and surety undertakings executed before, on, or after the date of the enactment of this title.

**SEC. 717. RELEASE OF ALIENS IN REMOVAL PROCEEDINGS.**

(a) IN GENERAL.—Section 236(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1226(a)(2)) is amended to read as follows:

''(2) subject to such reasonable regulations as the Secretary of Homeland Security may prescribe, shall permit agents, servants, and employees of corporate sureties to visit in person with individuals detained by the Secretary of and, subject to section 241(a)(8), may release the alien on a delivery bond of at least $10,000, with security approved by the Secretary, and containing conditions and procedures prescribed by section 715 of the REAL ID Act of 2005 and by the Secretary, but the Secretary shall not release the alien on or to his own recognizance unless an order of an immigration judge expressly finds and states in a signed order to release the alien to his own recognizance that the alien is not a flight risk and is not a threat to the United States''.

(b) REPEAL.—Section 286(r) of the Immigration and Nationality Act (8 U.S.C. 1356(r)) is repealed.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this title.

**SEC. 718. DETENTION OF ALIENS DELIVERED BY BONDSMEN.**

(a) IN GENERAL.—Section 241(a) of the Immigration and Nationality Act (8 U.S.C. 1231(a)) is amended by adding at the end the following:

''(8) EFFECT OF PRODUCTION OF ALIEN BY BONDSMAN.—Notwithstanding any other provision of law, the Secretary of Homeland Security shall take into custody any alien subject to a final order of removal, and cancel any bond previously posted for the alien, if the alien is produced within the prescribed time limit by the obligor on the bond whether or not the Department of Homeland Security accepts custody of the alien. The obligor on the bond shall be deemed to have substantially performed all conditions imposed by the terms of the bond, and shall be released from liability on the bond, if the alien is produced within such time limit.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this title and shall apply to all immigration bonds posted before, on, or after such date.

## Subtitle B—Improved Security for Drivers' Licenses and Personal Identification Cards

**SEC. 721. DEFINITIONS.**

In this subtitle, the following definitions apply:

(1) DRIVER'S LICENSE.—The term ''driver's license'' means a motor vehicle operator's license, as defined in section 30301 of title 49, United States Code.

(2) IDENTIFICATION CARD.—The term ''identification card'' means a personal identification card, as defined in section 1028(d) of title 18, United States Code, issued by a State.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of Homeland Security.

(4) STATE.—The term ''State'' means a State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

**SEC. 722. MINIMUM DOCUMENT REQUIREMENTS AND ISSUANCE STANDARDS FOR FEDERAL RECOGNITION.**

(a) MINIMUM STANDARDS FOR FEDERAL USE.—

(1) IN GENERAL.—Beginning 3 years after the date of the enactment of this title, a Federal agency may not accept, for any official purpose, a driver's license or identification card issued by a State to any person unless the State is meeting the requirements of this section.

(2) STATE CERTIFICATIONS.—The Secretary shall determine whether a State is meeting the requirements of this section based on certifications made by the State to the Secretary of Transportation. Such certifications shall be made at such times and in such manner as the Secretary of Transportation, in consultation with the Secretary of Homeland Security, may prescribe by regulation.

(b) MINIMUM DOCUMENT REQUIREMENTS.—To meet the requirements of this section, a State shall include, at a minimum, the following information and features on each driver's license and identification card issued to a person by the State:

(1) The person's full legal name.

(2) The person's date of birth.

(3) The person's gender.

(4) The person's driver's license or identification card number.

(5) A digital photograph of the person.

(6) The person's address of principle residence.

(7) The person's signature.

(8) Physical security features designed to prevent tampering, counterfeiting, or duplication of the document for fraudulent purposes.

(9) A common machine-readable technology, with defined minimum data elements.

(c) MINIMUM ISSUANCE STANDARDS.—

(1) IN GENERAL.—To meet the requirements of this section, a State shall require, at a minimum, presentation and verification of the following information before issuing a driver's license or identification card to a person:

(A) A photo identity document, except that a non-photo identity document is acceptable if it includes both the person's full legal name and date of birth.

(B) Documentation showing the person's date of birth.

(C) Proof of the person's social security account number or verification that the person is not eligible for a social security account number.

(D) Documentation showing the person's name and address of principal residence.

(2) SPECIAL REQUIREMENTS.—

(A) IN GENERAL.—To meet the requirements of this section, a State shall comply with the minimum standards of this paragraph.

(B) EVIDENCE OF LAWFUL STATUS.—A State shall require, before issuing a driver's license or identification card to a person, valid documentary evidence that the person—

(i) is a citizen of the United States;

(ii) is an alien lawfully admitted for permanent or temporary residence in the United States;

(iii) has conditional permanent resident status in the United States;

(iv) has an approved application for asylum in the United States or has entered into the United States in refugee status;

(v) has a valid, unexpired nonimmigrant visa or nonimmigrant visa status for entry into the United States;

(vi) has a pending application for asylum in the United States;

(vii) has a pending or approved application for temporary protected status in the United States;

(viii) has approved deferred action status; or

(ix) has a pending application for adjustment of status to that of an alien lawfully admitted for permanent residence in the United States or conditional permanent resident status in the United States.

(C) TEMPORARY DRIVERS' LICENSES AND IDENTIFICATION CARDS.—

(i) IN GENERAL.—If a person presents evidence under any of clauses (v) through (ix) of subparagraph (B), the State may only issue a temporary driver's license or temporary identification card to the person.

(ii) EXPIRATION DATE.—A temporary driver's license or temporary identification card issued pursuant to this subparagraph shall be valid only during the period of time of the applicant's authorized stay in the United States or, if there is no definite end to the period of authorized stay, a period of one year.

(iii) DISPLAY OF EXPIRATION DATE.—A temporary driver's license or temporary identification card issued pursuant to this subparagraph shall clearly indicate that it is temporary and shall state the date on which it expires.

(iv) RENEWAL.—A temporary driver's license or temporary identification card issued pursuant to this subparagraph may be renewed only upon presentation of valid documentary evidence that the status by which the applicant qualified for the temporary driver's license or temporary identification card has been extended by the Secretary of Homeland Security.

(3) VERIFICATION OF DOCUMENTS.—To meet the requirements of this section, a State shall implement the following procedures:

(A) Before issuing a driver's license or identification card to a person, the State shall verify, with the issuing agency, the issuance, validity, and completeness of each document required to be presented by the person under paragraph (1) or (2).

(B) The State shall not accept any foreign document, other than an official passport, to satisfy a requirement of paragraph (1) or (2).

(C) Not later than September 11, 2005, the State shall enter into a memorandum of understanding with the Secretary of Homeland Security to routinely utilize the automated system known as Systematic Alien Verification for Entitlements, as provided for by section 404 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (110 Stat. 3009–664), to verify the legal presence status of a person, other than a United States citizen, applying for a driver's license or identification card.

(d) OTHER REQUIREMENTS.—To meet the requirements of this section, a State shall adopt the following practices in the issuance of drivers' licenses and identification cards:

(1) Employ technology to capture digital images of identity source documents so that the images can be retained in electronic storage in a transferable format.

(2) Retain paper copies of source documents for a minimum of 7 years or images of source documents presented for a minimum of 10 years.

(3) Subject each person applying for a driver's license or identification card to mandatory facial image capture.

(4) Establish an effective procedure to confirm or verify a renewing applicant's information.

(5) Confirm with the Social Security Administration a social security account number presented by a person using the full social security account number. In the event that a social security account number is already registered to or associated with another person to which any State has issued a driver's license or identification card, the State shall resolve the discrepancy and take appropriate action.

(6) Refuse to issue a driver's license or identification card to a person holding a driver's license issued by another State without confirmation that the person is terminating or has terminated the driver's license.

(7) Ensure the physical security of locations where drivers' licenses and identification cards are produced and the security of document materials and papers from which drivers' licenses and identification cards are produced.

(8) Subject all persons authorized to manufacture or produce drivers' licenses and identification cards to appropriate security clearance requirements.

(9) Establish fraudulent document recognition training programs for appropriate employees engaged in the issuance of drivers' licenses and identification cards.

(10) Limit the period of validity of all driver's licenses and identification cards that are not temporary to a period that does not exceed 8 years.

**SEC. 723. LINKING OF DATABASES.**

(a) IN GENERAL.—To be eligible to receive any grant or other type of financial assistance made available under this title, a State shall participate in the interstate compact regarding sharing of driver license data, known as the ''Driver License Agreement'', in order to provide electronic access by a State to information contained in the motor vehicle databases of all other States.

(b) REQUIREMENTS FOR INFORMATION.—A State motor vehicle database shall contain, at a minimum, the following information:

(1) All data fields printed on drivers' licenses and identification cards issued by the State.

(2) Motor vehicle drivers' histories, including motor vehicle violations, suspensions, and points on licenses.

**SEC. 724. TRAFFICKING IN AUTHENTICATION FEATURES FOR USE IN FALSE IDENTIFICATION DOCUMENTS.**

(a) CRIMINAL PENALTY.—Section 1028(a)(8) of title 18, United States Code, is amended by striking ''false authentication features'' and inserting ''false or actual authentication features''.

(b) USE OF FALSE DRIVER'S LICENSE AT AIRPORTS.—

(1) IN GENERAL.—The Secretary shall enter, into the appropriate aviation security screening database, appropriate information regarding any person convicted of using a false driver's license at an airport (as such term is defined in section 40102 of title 49, United States Code).

(2) FALSE DEFINED.—In this subsection, the term ''false'' has the same meaning such term has under section 1028(d) of title 18, United States Code.

**SEC. 725. GRANTS TO STATES.**

(a) IN GENERAL.—The Secretary may make grants to a State to assist the State in conforming to the minimum standards set forth in this subtitle.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for each of the fiscal years 2005 through 2009 such sums as may be necessary to carry out this subtitle.

**SEC. 726. AUTHORITY.**

(a) PARTICIPATION OF SECRETARY OF TRANSPORTATION AND STATES.—All authority to issue regulations, set standards, and issue grants under this subtitle shall be carried out by the Secretary, in consultation with the Secretary of Transportation and the States.

(b) COMPLIANCE WITH STANDARDS.—All authority to certify compliance with standards under this subtitle shall be carried out by the Secretary of Transportation, in consultation with the Secretary of Homeland Security and the States.

(c) EXTENSIONS OF DEADLINES.—The Secretary may grant to a State an extension of time to meet the requirements of section 722(a)(1) if the State provides adequate justification for noncompliance.

**SEC. 727. REPEAL.**

Section 7212 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458) is repealed.

**SEC. 728. LIMITATION ON STATUTORY CONSTRUCTION.**

Nothing in this subtitle shall be construed to affect the authorities or responsibilities of the Secretary of Transportation or the States under chapter 303 of title 49, United States Code.

### Subtitle C—Border Infrastructure and Technology Integration

**SEC. 731. VULNERABILITY AND THREAT ASSESSMENT.**

(a) STUDY.—The Under Secretary of Homeland Security for Border and Transportation Security, in consultation with the Under Secretary of Homeland Security for Science and Technology and the Under Secretary of Homeland Security for Information Analysis and Infrastructure Protection, shall study the technology, equipment, and personnel needed to address security vulnerabilities within the United States for each field office of the Bureau of Customs and Border Protection that has responsibility for any portion of the United States borders with Canada and Mexico. The Under Secretary shall conduct follow-up studies at least once every 5 years.

(b) REPORT TO CONGRESS.—The Under Secretary shall submit a report to Congress on the Under Secretary's findings and conclusions from each study conducted under subsection (a) together with legislative recommendations, as appropriate, for addressing any security vulnerabilities found by the study.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Homeland Security Directorate of Border and Transportation Security such sums as may be necessary for fiscal years 2006 through 2011 to carry out any such recommendations from the first study conducted under subsection (a).

**SEC. 732. USE OF GROUND SURVEILLANCE TECHNOLOGIES FOR BORDER SECURITY.**

(a) PILOT PROGRAM.—Not later than 180 days after the date of the enactment of this title, the Under Secretary of Homeland Security for Science and Technology, in consultation with the Under Secretary of Homeland Security for Border and Transportation Security, the Under Secretary of Homeland Security for Information Analysis and Infrastructure Protection, and the Secretary of Defense, shall develop a pilot program to utilize, or increase the utilization of, ground surveillance technologies to enhance the border security of the United States. In developing the program, the Under Secretary shall—

(1) consider various current and proposed ground surveillance technologies that could be utilized to enhance the border security of the United States;

(2) assess the threats to the border security of the United States that could be addressed by the utilization of such technologies; and

(3) assess the feasibility and advisability of utilizing such technologies to address such threats, including an assessment of the technologies considered best suited to address such threats.

(b) ADDITIONAL REQUIREMENTS.—

(1) IN GENERAL.—The pilot program shall include the utilization of a variety of ground surveillance technologies in a variety of topographies and areas (including both populated and unpopulated areas) on both the northern and southern borders of the United States in order to evaluate, for a range of circumstances—

(A) the significance of previous experiences with such technologies in homeland security or critical infrastructure protection for the utilization of such technologies for border security;

(B) the cost, utility, and effectiveness of such technologies for border security; and

(C) liability, safety, and privacy concerns relating to the utilization of such technologies for border security.

(2) TECHNOLOGIES.—The ground surveillance technologies utilized in the pilot program shall include the following:

(A) Video camera technology.

(B) Sensor technology.

(C) Motion detection technology.

(c) IMPLEMENTATION.—The Under Secretary of Homeland Security for Border and Transportation Security shall implement the pilot program developed under this section.

(d) REPORT.—Not later than 1 year after implementing the pilot program under subsection (a), the Under Secretary shall submit a report on the program to the Senate Committee on Commerce, Science, and Transportation, the House of Representatives Committee on Science, the House of Representatives Committee on Homeland Security, and the House of Representatives Committee on the Judiciary. The Under Secretary shall include in the report a description of the program together with such recommendations as the Under Secretary finds appropriate, including recommendations for terminating the program, making the program permanent, or enhancing the program.

**SEC. 733. ENHANCEMENT OF COMMUNICATIONS INTEGRATION AND INFORMATION SHARING ON BORDER SECURITY.**

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this title, the Secretary of Homeland Security, acting through the Under Secretary of Homeland Security for Border and Transportation Security, in consultation with the Under Secretary of Homeland Security for Science and Technology, the Under Secretary of Homeland Security for Information Analysis and Infrastructure Protection, the Assistant Secretary of Commerce for Communications and Information, and other appropriate Federal, State, local, and tribal agencies, shall develop and implement a plan—

(1) to improve the communications systems of the departments and agencies of the Federal Government in order to facilitate the integration of communications among the departments and agencies of the Federal Government and State, local government agencies, and Indian tribal agencies on matters relating to border security; and

(2) to enhance information sharing among the departments and agencies of the Federal Government, State and local government agencies, and Indian tribal agencies on such matters.

(b) REPORT.—Not later than 1 year after implementing the plan under subsection (a), the Secretary shall submit a copy of the plan and a report on the plan, including any recommendations the Secretary finds appropriate, to the Senate Committee on Commerce, Science, and Transportation, the House of Representatives Committee on Science, the House of Representatives Committee on Homeland Security, and the House of Representatives Committee on the Judiciary.

**SA 430.** Mr. BYRD (for himself, Mrs. CLINTON, Mr. LAUTENBERG, Mr. KERRY, Mr. WYDEN, Mr. DORGAN, Mr. HARKIN, and Mr. KENNEDY) proposed an amendment to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. ____. None of the funds provided in this Act or any other Act may be used by a Federal agency to produce any prepackaged news story unless the story includes a clear notification to the audience that the story was prepared or funded by that Federal agency.

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**SA 431.** Ms. SNOWE submitted an amendment intended to be proposed by her to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 169, between lines 8 and 9, insert the following:

FULL UTILIZATION OF INDUSTRIAL CAPACITY FOR REFURBISHMENT AND REPLACEMENT OF TACTICAL WHEELED VEHICLES

SEC. 1122. The Secretary of the Army shall use funds in the Other Procurement, Army account to utilize fully the industrial capacity of the United States, including the capacity of Maine Military Authority, to meet requirements for the refurbishment and replacement of tactical wheeled vehicles in order to facilitate the delivery of up armored tactical vehicles to deployed units of the Armed Forces.

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**SA 432.** Mr. CHAMBLISS (for himself, and Mr. KYL) submitted an amendment intended to be proposed to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; as follows:

On page 231, between lines 3 and 4, insert the following:

**TITLE VII—TEMPORARY AGRICULTURAL WORKERS**

**SEC. 701. SHORT TITLE.**

This title may be cited as the ''Temporary Agricultural Work Reform Act of 2005''.

**Subtitle A—Temporary H–2A Workers**

**SEC. 711. ADMISSION OF TEMPORARY H–2A WORKERS.**

Section 218 of the Immigration and Nationality Act (8 U.S.C. 1188) is amended to read as follows:

''ADMISSION OF TEMPORARY H–2A WORKERS

''SEC. 218. (a) APPLICATION.—An alien may not be admitted as an H–2A worker unless the employer has filed with the Secretary of Homeland Security a petition attesting to the following:

''(1) TEMPORARY OR SEASONAL WORK OR SERVICES.—

''(A) IN GENERAL.—The agricultural employment for which the H–2A worker or workers is or are sought is temporary or seasonal, the number of workers sought, and the wage rate and conditions under which they will be employed.

''(B) TEMPORARY OR SEASONAL WORK.—For purposes of subparagraph (A), a worker is employed on a 'temporary' or 'seasonal' basis if the employment is intended not to exceed 10 months.

''(2) BENEFITS, WAGE, AND WORKING CONDITIONS.—The employer will provide, at a minimum, the benefits, wages, and working conditions required by subsection (m) to all workers employed in the jobs for which the H–2A worker or workers is or are sought and to all other temporary workers in the same occupation at the place of employment.

''(3) NONDISPLACEMENT OF UNITED STATES WORKERS.—The employer did not displace and will not displace a United States worker employed by the employer during the period of employment and during a period of 30 days preceding the period of employment in the occupation at the place of employment for which the employer seeks approval to employ H–2A workers.

''(4) RECRUITMENT.—

''(A) IN GENERAL.—The employer shall attest that the employer—

''(i) conducted adequate recruitment in the metropolitan statistical area of intended employment before filing the attestation; and

''(ii) was unsuccessful in locating qualified United States workers for the job opportunity for which the certification is sought.

''(B) RECRUITMENT.—The adequate recruitment requirement under subparagraph (A) is satisfied if the employer—

''(i) places a job order with America's Job Bank Program of the Department of Labor; and

''(ii) places a Sunday advertisement in a newspaper of general circulation or an advertisement in an appropriate trade journal or ethnic publication that is likely to be patronized by a potential worker in the area of intended employment.

''(C) ADVERTISEMENT CRITERIA.—The advertisement requirement under subparagraph (B)(ii) is satisfied if the advertisement—

''(i) names the employer;

''(ii) directs applicants to report or send resumes, as appropriate for the occupation, to the employer;

''(iii) provides a description of the vacancy that is specific enough to apprise United States workers of the job opportunity for which certification is sought;

''(iv) describes the geographic area with enough specificity to apprise applicants of any travel requirements and where applicants will likely have to reside to perform the job;

''(v) states the rate of pay, which must equal or exceed the wage paid for the occupation in the area of intended employment; and

''(vi) offers wages, terms, and conditions of employment, which are at least as favorable as those offered to the alien.

''(5) OFFERS TO UNITED STATES WORKERS.—The employer has offered or will offer the job for which the nonimmigrant is, or the nonimmigrants are, sought to any eligible United States worker who applies and is equally or better qualified for the job and who will be available at the time and place of need.

''(6) PROVISION OF INSURANCE.—If the job for which the nonimmigrant is, or the nonimmigrants are, sought is not covered by State workers' compensation law, the employer will provide, at no cost to the worker, insurance covering injury and disease arising out of, and in the course of, the worker's employment which will provide benefits at least equal to those provided under the State workers' compensation law for comparable employment.

''(7) STRIKE OR LOCKOUT.—The specific job opportunity for which the employer is requesting an H–2A worker is not vacant because the former occupant is on strike or being locked out in the course of a labor dispute.

''(8) PREVIOUS VIOLATIONS.—The employer has not, during the previous 5-year period, employed H–2A workers and knowingly violated a material term or condition of approval with respect to the employment of domestic or nonimmigrant workers, as determined by the Secretary of Labor after notice and opportunity for a hearing.

''(b) PUBLICATION.—The employer shall make available for public examination, within 1 working day after the date on which a petition under this section is filed, at the employer's principal place of business or worksite, a copy of each such petition (and such accompanying documents as are necessary).

''(c) LIST.—The Secretary of Labor shall compile, on a current basis, a list (by employer) of the petitions filed under subsection (a). Such list shall include the wage rate, number of aliens sought, period of intended employment, and date of need. The Secretary of Labor shall make such list available for public examination in Washington, District of Columbia.

''(d) SPECIAL RULES FOR CONSIDERATION OF PETITIONS.—The following rules shall apply in the case of the filing and consideration of a petition under subsection (a):

''(1) DEADLINE FOR FILING APPLICATIONS.—The Secretary of Homeland Security may not require that the petition be filed more than 28 days before the first date the employer requires the labor or services of the H–2A worker or workers.

''(2) ISSUANCE OF APPROVAL.—Unless the Secretary of Homeland Security finds that the petition is incomplete or obviously inaccurate, the Secretary of Homeland Security shall provide a decision within 7 days of the date of the filing of the petition.

''(e) ROLES OF AGRICULTURAL ASSOCIATIONS.—

''(1) PERMITTING FILING BY AGRICULTURAL ASSOCIATIONS.—A petition to hire an alien as a temporary agricultural worker may be filed by an association of agricultural producers which use agricultural services.

''(2) TREATMENT OF ASSOCIATIONS ACTING AS EMPLOYERS.—If an association is a joint or sole employer of temporary agricultural workers, such workers may be transferred among its producer members to perform agricultural services of a temporary or seasonal nature for which the petition was approved.

''(3) STATEMENT OF LIABILITY.—The application form shall include a clear statement explaining the liability under this section of an employer who places an H–2A worker with another H–2A employer if the other employer displaces a United States worker in violation of the condition described in subsection (a)(7).

''(4) TREATMENT OF VIOLATIONS.—

''(A) MEMBER'S VIOLATION DOES NOT NECESSARILY DISQUALIFY ASSOCIATION OR OTHER MEMBERS.—If an individual producer member of a joint employer association is determined to have committed an act that is in violation of the conditions for approval with respect to the member's petition, the denial shall apply only to that member of the association unless the Secretary of Labor determines that the association or other member participated in, had knowledge of, or had reason to know of the violation.

''(B) ASSOCIATION'S VIOLATION DOES NOT NECESSARILY DISQUALIFY MEMBERS.—

''(i) JOINT EMPLOYER.—If an association representing agricultural producers as a joint employer is determined to have committed an act that is in violation of the conditions for approval with respect to the association's petition, the denial shall apply only to the association and does not apply to any individual producer member of the association, unless the Secretary of Labor determines that the member participated in, had knowledge of, or had reason to know of the violation.

''(ii) SOLE EMPLOYER.—If an association of agricultural producers approved as a sole employer is determined to have committed an act that is in violation of the conditions for approval with respect to the association's petition, no individual producer member of such association may be the beneficiary of the services of temporary alien agricultural workers admitted under this section in the commodity and occupation in which such aliens were employed by the association which was denied approval during the period such denial is in force, unless such producer member employs such aliens in the commodity and occupation in question directly or through an association which is a joint employer of such workers with the producer member.

''(f) EXPEDITED ADMINISTRATIVE APPEALS OF CERTAIN DETERMINATIONS.—Regulations shall provide for an expedited procedure for the review of a denial of approval under this section, or at the applicant's request, for a de novo administrative hearing respecting the denial.

''(g) MISCELLANEOUS PROVISIONS.—

''(1) ENDORSEMENT OF DOCUMENTS.—The Secretary of Homeland Security shall provide for the endorsement of entry and exit documents of nonimmigrants described in section 101(a)(15)(H)(ii)(a) as may be necessary to carry out this section and to provide notice for purposes of section 274A.

''(2) PREEMPTION OF STATE LAWS.—The provisions of subsections (a) and (c) of section 214 and the provisions of this section preempt any State or local law regulating admissibility of nonimmigrant workers.

''(3) FEES.—

''(A) IN GENERAL.—The Secretary of Homeland Security may require, as a condition of approving the petition, the payment of a fee in accordance with subparagraph (B) to recover the reasonable costs of processing petitions.

''(B) AMOUNTS.—

''(i) EMPLOYER.—The fee for each employer that receives a temporary alien agricultural labor certification shall be equal to $100 plus $10 for each job opportunity for H–2A workers certified, provided that the fee to an employer for each temporary alien agricultural labor certification received shall not exceed $1,000.

''(ii) JOINT EMPLOYER ASSOCIATION.—In the case of a joint employer association that receives a temporary alien agricultural labor certification, each employer-member receiving such certification shall pay a fee equal to $100 plus $10 for each job opportunity for H–2A workers certified, provided that the fee to an employer for each temporary alien agricultural labor certification received shall not exceed $1,000. The joint employer association shall not be charged a separate fee.

''(C) PAYMENTS.—The fees collected under this paragraph shall be paid by check or money order made payable to the 'Department of Homeland Security'. In the case of employers of H–2A workers that are members of a joint employer association applying on their behalf, the aggregate fees for all employers of H–2A workers under the petition may be paid by 1 check or money order.

''(D) INFLATION ADJUSTMENT.—In the case of any calendar year beginning after 2005, each dollar amount in subparagraph (B) may be increased by an amount equal to—

''(i) such dollar amount; multiplied by

''(ii) the percentage (if any) by which the average of the Consumer Price Index for all urban consumers (United States city average) for the 12-month period ending with August of the preceding calendar year exceeds such average for the 12-month period ending with August 2004.

''(h) FAILURE TO MEET CONDITIONS.—If the Secretary of Labor finds, after notice and opportunity for a hearing, a failure to meet a condition of subsection (a), or a material misrepresentation of fact in a petition under subsection (a)—

''(1) the Secretary of Labor shall notify the Secretary of Homeland Security of such finding and may, in addition, impose such other administrative remedies (including civil money penalties in an amount not to exceed $1,000 per violation) as the Secretary of Labor determines to be appropriate; and

''(2) the Secretary of Homeland Security may disqualify the employer from the employment of H–2A workers for a period of 1 year.

''(i) WILLFUL FAILURES AND WILLFUL MISREPRESENTATIONS.—If the Secretary of Labor finds, after notice and opportunity for a hearing, a willful failure to meet a material condition of subsection (a) or a willful misrepresentation of a material fact in a petition under subsection (a)—

''(1) the Secretary of Labor shall notify the Secretary of Homeland Security of such finding and may, in addition, impose such other administrative remedies (including civil money penalties in an amount not to exceed $5,000 per violation) as the Secretary of Labor determines to be appropriate;

''(2) the Secretary of Homeland Security may disqualify the employer from the employment of H–2A workers for a period of 2 years;

''(3) for a second violation, the Secretary of Homeland Security may disqualify the employer from the employment of H-2A workers for a period of 5 years; and

''(4) for a third violation, the Secretary of Homeland Security may permanently disqualify the employer from the employment of H-2A workers.

''(j) DISPLACEMENT OF UNITED STATES WORKERS.—If the Secretary of Labor finds, after notice and opportunity for a hearing, a willful failure to meet a material condition of subsection (a) or a willful misrepresentation of a material fact in a petition under subsection (a), in the course of which failure or misrepresentation the employer displaced a United States worker employed by the employer during the period of employment on the employer's petition under subsection (a) or during the period of 30 days preceding such period of employment—

''(1) the Secretary of Labor shall notify the Secretary of Homeland Security of such finding and may, in addition, impose such other

administrative remedies (including civil money penalties in an amount not to exceed $15,000 per violation) as the Secretary of Labor determines to be appropriate;

''(2) the Secretary of Homeland Security may disqualify the employer from the employment of H–2A workers for a period of 5 years; and

''(3) for a second violation, the Secretary of Homeland Security may permanently disqualify the employer from the employment of H–2A workers.

''(k) LIMITATIONS ON CIVIL MONEY PENALTIES.—The Secretary of Labor shall not impose total civil money penalties with respect to a petition under subsection (a) in excess of $90,000.

''(l) FAILURES TO PAY WAGES OR REQUIRED BENEFITS.—If the Secretary of Labor finds, after notice and opportunity for a hearing, that the employer has failed to pay the wages, or provide the housing allowance, transportation, subsistence reimbursement, or guarantee of employment required under subsection (a)(2), the Secretary of Labor shall assess payment of back wages, or other required benefits, due any United States worker or H–2A worker employed by the employer in the specific employment in question. The back wages or other required benefits under subsection (a)(2) shall be equal to the difference between the amount that should have been paid and the amount that actually was paid to such worker.

''(m) MINIMUM BENEFITS, WAGES, AND WORKING CONDITIONS.—

''(1) PREFERENTIAL TREATMENT OF ALIENS PROHIBITED.—

''(A) IN GENERAL.—Employers seeking to hire United States workers shall offer the United States workers not less than the same benefits, wages, and working conditions that the employer is offering, intends to offer, or will provide to H–2A workers. Conversely, no job offer may impose on United States workers any restrictions or obligations which will not be imposed on the employer's H–2A workers.

''(B) INTERPRETATIONS AND DETERMINATIONS.—While benefits, wages, and other terms and conditions of employment specified in this subsection are required to be provided in connection with employment under this section, every interpretation and determination made under this Act or under any other law, regulation, or interpretative provision regarding the nature, scope, and timing of the provision of these and any other benefits, wages, and other terms and conditions of employment shall be made in conformance with the governing principles that the services of workers to their employers and the employment opportunities afforded to workers by their employers, including those employment opportunities that require United States workers or H–2A workers to travel or relocate in order to accept or perform employment, mutually benefit such workers, as well as their families, and employers, principally benefitting neither, and that employment opportunities within the United States further benefit the United States economy as a whole and should be encouraged.

''(2) REQUIRED WAGES.—

''(A) An employer applying for workers under subsection (a) shall offer to pay, and shall pay, all workers in the occupation for which the employer has applied for workers, not less than the prevailing wage.

''(B) In complying with subparagraph (A), an employer may request and obtain a prevailing wage determination from the State employment security agency.

''(C) In lieu of the procedure described in subparagraph (B), an employer may rely on other wage information, including a survey of the prevailing wages of workers in the occupation in the area of intended employment that has been conducted or funded by the employer or a group of employers, that meets criteria specified by the Secretary of Labor in regulations.

''(D) An employer who obtains such prevailing wage determination, or who relies on a qualifying survey of prevailing wages, and who pays the wage determined to be prevailing, shall be considered to have complied with the requirement of subparagraph (A).

''(E) No worker shall be paid less than the greater of the prevailing wage or the applicable State minimum wage.

''(3) REQUIREMENT TO PROVIDE HOUSING OR A HOUSING ALLOWANCE.—

''(A) IN GENERAL.—An employer applying for workers under subsection (a) shall offer to provide housing at no cost to all workers in job opportunities for which the employer has applied under that section and to all other workers in the same occupation at the place of employment, whose place of residence is beyond normal commuting distance.

''(B) TYPE OF HOUSING.—In complying with subparagraph (A), an employer may, at the employer's election, provide housing that meets applicable Federal standards for temporary labor camps or secure housing that meets applicable local standards for rental or public accommodation housing, or other substantially similar class of habitation, or in the absence of applicable local standards, State standards for rental or public accommodation housing or other substantially similar class of habitation. In the absence of applicable State or local standards, Federal temporary labor camp standards shall apply.

''(C) CERTIFICATE OF INSPECTION.—Prior to any occupation by a worker in housing described in subparagraph (B), the employer shall submit a certificate of inspection by an approved Federal or State agency to the Secretary of Labor.

''(D) WORKERS ENGAGED IN THE RANGE PRODUCTION OF LIVESTOCK.—The Secretary of Labor shall issue regulations that address the specific requirements for the provision of housing to workers engaged in the range production of livestock.

''(E) LIMITATION.—Nothing in this paragraph shall be construed to require an employer to provide or secure housing for persons who were not entitled to such housing under the temporary labor certification regulations in effect on June 1, 1986.

''(F) HOUSING ALLOWANCE AS ALTERNATIVE.—

''(i) IN GENERAL.—The employer may provide a reasonable housing allowance in lieu of offering housing under subparagraph (A) if the requirement under clause (v) is satisfied.

''(ii) ASSISTANCE TO LOCATE HOUSING.—Upon the request of a worker seeking assistance in locating housing, the employer shall make a good-faith effort to assist the worker in locating housing in the area of intended employment.

''(iii) LIMITATION.—A housing allowance may not be used for housing which is owned or controlled by the employer. An employer who offers a housing allowance to a worker, or assists a worker in locating housing which the worker occupies, pursuant to this clause shall not be deemed a housing provider under section 203 of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1823) solely by virtue of providing such housing allowance.

''(iv) REPORTING REQUIREMENT.—The employer must provide the Secretary of Labor with a list of the names of all workers assisted under this subparagraph and the local address of each such worker.

''(v) CERTIFICATION.—The requirement of this clause is satisfied if the Governor of the State certifies to the Secretary of Labor that there is adequate housing available in the area of intended employment for migrant farm workers, and H–2A workers, who are seeking temporary housing while employed at farm work. Such certification shall expire after 3 years unless renewed by the Governor of the State.

''(vi) AMOUNT OF ALLOWANCE.—

''(I) NONMETROPOLITAN COUNTIES.—If the place of employment of the workers provided an allowance under this subparagraph is a nonmetropolitan county, the amount of the housing allowance under this subparagraph shall be equal to the statewide average fair market rental for existing housing for nonmetropolitan counties for the State, as established by the Secretary of Housing and Urban Development pursuant to section 8(c) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)), based on a 2-bedroom dwelling unit and an assumption of 2 persons per bedroom.

''(II) METROPOLITAN COUNTIES.—If the place of employment of the workers provided an allowance under this paragraph is in a metropolitan county, the amount of the housing allowance under this subparagraph shall be equal to the statewide average fair market rental for existing housing for metropolitan counties for the State, as established by the Secretary of Housing and Urban Development pursuant to section 8(c) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)), based on a 2-bedroom dwelling unit and an assumption of 2 persons per bedroom.

''(G) EXEMPTION.—An employer applying for workers under subsection (a) whose primary job site is located 150 miles or less from the United States border shall not be required to provide housing or a housing allowance.

''(4) REIMBURSEMENT OF TRANSPORTATION.—

''(A) TO PLACE OF EMPLOYMENT.—

''(i) IN GENERAL.—A worker who completes 50 percent of the period of employment of the job opportunity for which the worker was hired, measured from the worker's first day of work in such employment, shall be reimbursed by the employer for the cost of the worker's transportation and subsistence from the place from which the worker was approved to enter the United States to work for the employer (or place of last employment, if the worker traveled from such place) to the place of employment by the employer.

''(ii) OTHER FEES.—The employer shall not be required to reimburse visa, passport, consular, or international border-crossing fees or any other fees associated with the worker's lawful admission into the United States to perform employment that may be incurred by the worker.

''(iii) TIMELY REIMBURSEMENT.—Reimbursement to the worker of expenses for the cost of the worker's transportation and subsistence to the place of employment shall be considered timely if such reimbursement is made not later than the worker's first regular payday after the worker completes 50 percent of the period of employment of the job opportunity as provided under this paragraph.

''(B) FROM PLACE OF EMPLOYMENT.—A worker who completes the period of employment for the job opportunity involved shall be reimbursed by the employer for the cost of the worker's transportation and subsistence from the place from which the worker was approved to enter the United States to work for the employer.

''(C) LIMITATION.—

''(i) AMOUNT OF REIMBURSEMENT.—Except as provided in clause (ii), the amount of reimbursement provided under subparagraph (A) or (B) to a worker or alien shall not exceed the lesser of—

''(I) the actual cost to the worker or alien of the transportation and subsistence involved; or

''(II) the most economical and reasonable common carrier transportation charges and subsistence costs for the distance involved.

''(ii) DISTANCE TRAVELED.—No reimbursement under subparagraph (A) or (B) shall be required if the distance traveled is 100 miles or less or if the worker is not residing in employer-provided housing or housing secured through an allowance as provided in paragraph (3).

''(D) EARLY TERMINATION.—If the worker is laid off or employment is terminated for contract impossibility (as described in paragraph (5)(D)) before the anticipated ending date of employment, the employer shall provide the transportation and subsistence required by subparagraph (B) and, notwithstanding whether the worker has completed 50 percent of the period of employment, shall provide the transportation reimbursement required by subparagraph (A).

''(E) TRANSPORTATION BETWEEN LIVING QUARTERS AND WORKSITE.—The employer shall provide transportation between the worker's living quarters (such as housing provided by the employer pursuant to paragraph (3), including housing provided through a housing allowance) and the employer's worksite without cost to the worker, and such transportation will be in accordance with applicable laws and regulations.

''(5) GUARANTEE OF EMPLOYMENT.—

''(A) OFFER TO WORKER.—The employer shall guarantee to offer the worker employment for the hourly equivalent of at least 75 percent of the work days of the total period of employment, beginning with the first work day after the arrival of the worker at the place of employment and ending on the expiration date specified in the job offer. For purposes of this subparagraph, the hourly equivalent means the number of hours in the work days as stated in the job offer and shall exclude the worker's Sabbath and Federal holidays. If the employer affords the United States or H–2A worker less employment than that required under this subparagraph, the employer shall pay such worker the amount which the worker would have earned had the worker, in fact, worked for the guaranteed number of hours.

''(B) FAILURE TO WORK.—Any hours which the worker fails to work, up to a maximum of the number of hours specified in the job offer for a work day, when the worker has been offered an opportunity to do so, and all hours of work actually performed (including voluntary work in excess of the number of hours specified in the job offer in a work day, on the worker's Sabbath, or on Federal holidays) may be counted by the employer in calculating whether the period of guaranteed employment has been met.

''(C) ABANDONMENT OF EMPLOYMENT; TERMINATION FOR CAUSE.—If the worker voluntarily abandons employment before the end of the contract period, or is terminated for cause, the worker is not entitled to the 75 percent guarantee described in subparagraph (A).

''(D) CONTRACT IMPOSSIBILITY.—If, before the expiration of the period of employment specified in the job offer, the services of the worker are no longer required for reasons beyond the control of the employer due to any form of natural disaster (including a flood, hurricane, freeze, earthquake, fire, or drought), plant or animal disease, pest infestation, or regulatory action, before the employment guarantee in subparagraph (A) is fulfilled, the employer may terminate the worker's employment. In the event of such termination, the employer shall fulfill the employment guarantee in subparagraph (A) for the work days that have elapsed from the first work day after the arrival of the worker to the termination of employment. In such cases, the employer will make efforts to transfer the United States worker to other comparable employment acceptable to the worker.

''(n) PETITIONING FOR ADMISSION.—An employer, or an association acting as an agent or joint employer for its members, that seeks the admission into the United States of an H–2A worker must file a petition with the Secretary of Homeland Security. The petition shall include the attestations for the certification described in section 101(a)(15)(H)(ii)(a).

''(o) EXPEDITED ADJUDICATION BY THE SECRETARY.—The Secretary of Homeland Security—

''(1) shall establish a procedure for expedited adjudication of petitions filed under subsection (n); and

''(2) not later than 7 working days after such filing shall, by fax, cable, or other means assuring expedited delivery transmit a copy of notice of action on the petition—

''(A) to the petitioner; and

''(B) in the case of approved petitions, to the appropriate immigration officer at the port of entry or United States consulate where the petitioner has indicated that the alien beneficiary or beneficiaries will apply for a visa or admission to the United States.

''(p) DISQUALIFICATION.—

''(1) Subject to paragraph (2), an alien shall be considered inadmissible to the United States and ineligible for nonimmigrant status under section 101(a)(15)(H)(ii)(a) if the alien has, at any time during the past 5 years, violated a term or condition of admission into the United States as a nonimmigrant, including overstaying the period of authorized admission.

''(2) WAIVERS.—

''(A) IN GENERAL.—An alien outside the United States, and seeking admission under section 101(a)(15)(H)(ii)(a), shall not be deemed inadmissible under such section by reason of paragraph (1) or section 212(a)(9)(B) if the previous violation occurred on or before April 1, 2005.

''(B) LIMITATION.—In any case in which an alien is admitted to the United States upon having a ground of inadmissibility waived under subparagraph (A), such waiver shall be considered to remain in effect unless the alien again violates a material provision of this section or otherwise violates a term or condition of admission into the United States as a nonimmigrant, in which case such waiver shall terminate.

''(q) ABANDONMENT OF EMPLOYMENT.—

''(1) IN GENERAL.—An alien admitted or provided status under section 101(a)(15)(H)(ii)(a) who abandons the employment which was the basis for such admission or status shall be considered to have failed to maintain nonimmigrant status as an H–2A worker and shall depart the United States or be subject to removal under section 237(a)(1)(C)(i).

''(2) REPORT BY EMPLOYER.—The employer (or association acting as agent for the employer) shall notify the Secretary of Homeland Security within 7 days of an H–2A worker's having prematurely abandoned employment.

''(3) REMOVAL BY THE SECRETARY.—The Secretary of Homeland Security shall promptly remove from the United States any H–2A worker who violates any term or condition of the worker's nonimmigrant status.

''(4) VOLUNTARY TERMINATION.—Notwithstanding paragraph (1), an alien may voluntarily terminate his or her employment if the alien promptly departs the United States upon termination of such employment.

''(r) REPLACEMENT OF ALIEN.—

''(1) IN GENERAL.—Upon presentation of the notice to the Secretary of Homeland Security required by subsection (q)(2), the Secretary of State shall promptly issue a visa to, and the Secretary of Homeland Security shall admit into the United States, an eligible alien designated by the employer to replace an H–2A worker who abandons or prematurely terminates employment.

''(2) CONSTRUCTION.—Nothing in this subsection shall limit any preference required to be accorded United States workers under any other provision of this Act.

''(s) IDENTIFICATION DOCUMENT.—

''(1) IN GENERAL.—The Department of Homeland Security shall provide each alien authorized to be admitted under section 101(a)(15)(H)(ii)(a) with a single machine-readable, tamper-resistant, and counterfeit-resistant document that—

''(A) authorizes the alien's entry into the United States; and

''(B) serves, for the appropriate period, as an employment eligibility document.

''(2) REQUIREMENTS.—No identification and employment eligibility document may be issued which does not meet the following requirements:

''(A) The document shall be capable of reliably determining whether—

''(i) the individual with the identification and employment eligibility document whose eligibility is being verified is in fact eligible for employment;

''(ii) the individual whose eligibility is being verified is claiming the identity of another person; and

''(iii) the individual whose eligibility is being verified is authorized to be admitted into, and employed in, the United States as an H–2A worker.

''(B) The document shall—

''(i) be compatible with other databases of the Secretary of Homeland Security for the purpose of excluding aliens from benefits for which they are not eligible and determining whether the alien is unlawfully present in the United States; and

''(ii) be compatible with law enforcement databases to determine if the alien has been convicted of criminal offenses.

''(t) EXTENSION OF STAY OF H–2A WORKERS IN THE UNITED STATES.—

''(1) EXTENSION OF STAY.—

''(A) IN GENERAL.—An employer may seek up to 2 10-month extensions under this subsection.

''(B) PETITION.—If an employer seeks to employ an H–2A worker who is lawfully present in the United States, the petition filed by the employer or an association pursuant to subsection (n) shall request an extension of the alien's stay.

''(C) COMMENCEMENT; MAXIMUM PERIOD.—An extension of stay under this subsection—

''(i) may only commence upon the termination of the H–2A worker's contract with an employer; and

''(ii) may not exceed 10 months unless the employer files a written request for up to an additional 30 days accompanied by justification that the need for such additional time is necessitated by adverse weather conditions, acts of God, or economic hardship beyond the control of the employer.

''(D) FUTURE ELIGIBILITY.—At the conclusion of 3 10-month employment periods authorized under this section, the alien so employed may not be employed in the United States as an H–2A worker until the alien has returned to the alien's country of nationality or country of last residence for not less than 6 months.

''(2) WORK AUTHORIZATION UPON FILING PETITION FOR EXTENSION OF STAY.—

''(A) IN GENERAL.—An alien who is lawfully present in the United States may commence or continue the employment described in a petition under paragraph (1) on the date on which the petition is filed. The employer

shall provide a copy of the employer's petition to the alien, who shall keep the petition with the alien's identification and employment eligibility document, as evidence that the petition has been filed and that the alien is authorized to work in the United States.

''(B) APPROVAL.—Upon approval of a petition for an extension of stay or change in the alien's authorized employment, the Secretary of Homeland Security shall provide a new or updated employment eligibility document to the alien indicating the new validity date, after which the alien is not required to retain a copy of the petition.

''(C) DEFINITION.—In this paragraph, the term 'file' means sending the petition by certified mail via the United States Postal Service, return receipt requested, or delivered by guaranteed commercial delivery which will provide the employer with a documented acknowledgment of the date of receipt of the petition.

''(u) SPECIAL RULE FOR ALIENS EMPLOYED AS SHEEPHERDERS, GOATHERDERS, OR DAIRY WORKERS.—Notwithstanding any other provision of this section, an alien admitted under section 101(a)(15)(H)(ii)(a) for employment as a sheepherder, goatherder, or dairy worker may be admitted for a period of up to 2 years.

''(v) DEFINITIONS.—For purposes of this section:

''(1) AREA OF EMPLOYMENT.—The term 'area of employment' means the area within normal commuting distance of the worksite or physical location where the work of the H–2A worker is or will be performed. If such worksite or location is within a Metropolitan Statistical Area, any place within such area is deemed to be within the area of employment.

''(2) ELIGIBLE INDIVIDUAL.—The term 'eligible individual' means, with respect to employment, an individual who is not an unauthorized alien (as defined in section 274A(h)(3)) with respect to that employment.

''(3) DISPLACE.—In the case of a petition with respect to 1 or more H–2A workers by an employer, the employer is considered to 'displace' a United States worker from a job if the employer lays off the worker from a job that is essentially the equivalent of the job for which the H–2A worker or workers is or are sought. A job shall not be considered to be essentially equivalent of another job unless it involves essentially the same responsibilities, was held by a United States worker with substantially equivalent qualifications and experience, and is located in the same area of employment as the other job.

''(4) H–2A WORKER.—The term 'H–2A worker' means a nonimmigrant described in section 101(a)(15)(H)(ii)(a).

''(5) LAYS OFF.—

''(A) IN GENERAL.—The term 'lays off', with respect to a worker—

''(i) means to cause the worker's loss of employment, other than through a discharge for inadequate performance, violation of workplace rules, cause, voluntary departure, voluntary retirement, or the expiration of a grant or contract (other than a temporary employment contract entered into in order to evade a condition described in paragraph (3) or (7) of subsection (a); but

''(ii) does not include any situation in which the worker is offered, as an alternative to such loss of employment, a similar employment opportunity with the same employer (or, in the case of a placement of a worker with another employer under subsection (a)(7), with either employer described in such subsection) at equivalent or higher compensation and benefits than the position from which the employee was discharged, regardless of whether or not the employee accepts the offer.

''(B) CONSTRUCTION.—Nothing in this paragraph is intended to limit an employee's rights under a collective bargaining agreement or other employment contract.

''(6) PREVAILING WAGE.—The term 'prevailing wage' means, with respect to an agricultural occupation in an area of intended employment, the rate of wages that includes the 51st percentile of employees with similar experience and qualifications in the agricultural occupation in the area of intended employment, expressed in terms of the prevailing method of pay for the occupation in the area of intended employment.

''(7) UNITED STATES WORKER.—The term 'United States worker' means any worker, whether a United States citizen or national, a lawfully admitted permanent resident alien, or any other alien authorized to work in the relevant job opportunity within the United States, except—

''(A) an alien admitted or otherwise provided status under section 101(a)(15)(H)(ii)(a); and

''(B) an alien provided status under section 220.''.

**SEC. 712. LEGAL ASSISTANCE PROVIDED BY THE LEGAL SERVICES CORPORATION.**

Section 305 of the Immigrant Reform and Control Act of 1986 (8 U.S.C. 1101 note) is amended—

(1) by striking ''A nonimmigrant'' and inserting the following:

''(a) IN GENERAL.—A nonimmigrant''; and

(2) by adding at the end the following:

''(b) LEGAL ASSISTANCE.—The Legal Services Corporation may not provide legal assistance for or on behalf of any alien, and may not provide financial assistance to any person or entity that provides legal assistance for or on behalf of any alien, unless the alien—

''(1) is present in the United States at the time the legal assistance is provided; and

''(2) is an alien to whom subsection (a) applies.''

''(c) REQUIRED MEDIATION.—No party may bring a civil action for damages on behalf of a nonimmigrant described in section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)) or pursuant to those in the Blue Card Program established under section 220 of such Act, unless at least 90 days before bringing the action a request has been made to the Federal Mediation and Conciliation Service to assist the parties in reaching a satisfactory resolution of all issues involving all parties to the dispute and mediation has been attempted.''.

**Subtitle B—Blue Card Status**

**SEC. 721. BLUE CARD PROGRAM.**

(a) IN GENERAL.—Chapter 2 of title II of the Immigration and Nationality Act (8 U.S.C. 1181 et seq.) is amended by adding at the end the following:

''BLUE CARD PROGRAM

''SEC. 220. (a) DEFINITIONS.—As used in this section—

''(1) the term 'agricultural employment'—

''(A) means any service or activity that is considered to be agricultural under section 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f)) or agricultural labor under section 3121(g) of the Internal Revenue Code of 1986; and

''(B) includes any service or activity described in—

''(i) title 37, 37–3011, or 37–3012 (relating to landscaping) of the Department of Labor 2004–2005 Occupational Information Network Handbook;

''(ii) title 45 (relating to farming fishing, and forestry) of such handbook; or

''(iii) title 51, 51–3022, or 51–3023 (relating to meat, poultry, fish processors and packers) of such handbook.

''(2) the term 'blue card status' means the status of an alien who has been—

''(A) lawfully admitted for a temporary period under subsection (b); and

''(B) issued a tamper-resistant, machine-readable document that serves as the alien's visa, employment authorization, and travel documentation and contains such biometrics as are required by the Secretary;

''(3) the term 'employer' means any person or entity, including any farm labor contractor and any agricultural association, that employs workers in agricultural employment;

''(4) the term 'Secretary' means the Secretary of Homeland Security;

''(5) the term 'small employer' means an employer employing fewer than 500 employees based upon the average number of employees for each of the pay periods for the preceding 10 calendar months, including the period in which the employer employed H–2A workers; and

''(6) the term 'United States worker' means any worker, whether a United States citizen or national, a lawfully admitted permanent resident alien, or any other alien authorized to work in the relevant job opportunity within the United States, except—

''(A) an alien admitted or otherwise provided status under section 101(a)(15)(H)(ii)(a); and

''(B) an alien provided status under this section.

''(b) BLUE CARD PROGRAM.—

''(1) BLUE CARD PROGRAM.—Notwithstanding any other provision of law, the Secretary shall confer blue card status upon an alien who qualifies under this subsection if the Secretary determines that the alien—

''(A) has been in the United States continuously as of April 1, 2005;

''(B) has performed more than 50 percent of total annual weeks worked in agricultural employment in the United States (except in the case of a child provided derivative status as of April 1, 2005);

''(C) is otherwise admissible to the United States under section 212, except as otherwise provided under paragraph (2); and

''(D) is the beneficiary of a petition filed by an employer, as described in paragraph (3).

''(2) WAIVER OF CERTAIN GROUNDS FOR INADMISSIBILITY.—In determining an alien's eligibility for blue card status under paragraph (1)(C)—

''(A) the provisions of paragraphs (5), (6)(A), (7)(A), and (9)(B) of section 212(a) shall not apply;

''(B) the provisions of section 212(a)(6)(C) shall not apply with respect to prior or current agricultural employment; and

''(C) the Secretary may not waive paragraph (1), (2), or (3) of section 212(a) unless such waiver is permitted under another provision of law.

''(3) PETITIONS.—

''(A) IN GENERAL.—An employer seeking blue card status under this section for an alien employee shall file a petition for blue card status with the Secretary.

''(B) EMPLOYER PETITION.—An employer filing a petition under subparagraph (A) shall—

''(i) pay a registration fee of—

''(I) $1,000, if the employer employs more than 500 employees; or

''(II) $500, if the employer is a small employer employing 500 or fewer employees;

''(ii) pay a processing fee to cover the actual costs incurred in adjudicating the petition; and

''(iii) attest that the employer conducted adequate recruitment in the metropolitan statistical area of intended employment before filing the attestation and was unsuccessful in locating qualified United States workers for the job opportunity for which

the certification is sought, which attestation shall be valid for a period of 60 days.

''(C) RECRUITMENT.—

''(i) The adequate recruitment requirement under subparagraph (B)(iii) is satisfied if the employer—

''(I) places a job order with America's Job Bank Program of the Department of Labor; and

''(II) places a Sunday advertisement in a newspaper of general circulation or an advertisement in an appropriate trade journal or ethnic publication that is likely to be patronized by a potential worker in the metropolitan statistical area of intended employment.

''(ii) An advertisement under clause (i)(II) shall—

''(I) name the employer;

''(II) direct applicants to report or send resumes, as appropriate for the occupation, to the employer;

''(III) provide a description of the vacancy that is specific enough to apprise United States workers of the job opportunity for which certification is sought;

''(IV) describe the geographic area with enough specificity to apprise applicants of any travel requirements and where applicants will likely have to reside to perform the job;

''(V) state the rate of pay, which must equal or exceed the wage paid for the occupation in the area of intended employment; and

''(VI) offer wages, terms, and conditions of employment, which are at least as favorable as those offered to the alien.

''(D) NOTIFICATION OF DENIAL.—The Secretary shall provide notification of a denial of a petition filed for an alien to the alien and the employer who filed such petition.

''(E) EFFECT OF DENIAL.—If the Secretary denies a petition filed for an alien, such alien shall return to the country of the alien's nationality or last residence outside the United States.

''(4) BLUE CARD STATUS.—

''(A) BLUE CARD.—

''(i) ALL-IN-ONE CARD.—The Secretary, in conjunction with the Secretary of State, shall develop a single machine-readable, tamper-resistant document that—

''(I) authorizes the alien's entry into the United States;

''(II) serves, during the period an alien is in blue card status, as an employment authorized endorsement or other appropriate work permit for agricultural employment only; and

''(III) serves as an entry and exit document to be used in conjunction with a proper visa or as a visa and as other appropriate travel and entry documentation using biometric identifiers that meet the biometric identifier standards jointly established by the Secretary of State and the Secretary.

''(ii) BIOMETRICS.—

''(I) After a petition is filed by an employer and receipt of such petition is confirmed by the Secretary, the alien, in order to further adjudicate the petition, shall submit 2 biometric identifiers, as required by the Secretary, at an Application Support Center.

''(II) The Secretary shall prescribe a process for the submission of a biometric identifier to be incorporated electronically into an employer's prior electronic filing of a petition. The Secretary shall prescribe an alternative process for employers to file a petition in a manner other than electronic filing, as needed.

''(B) DOCUMENT REQUIREMENTS.—The Secretary shall issue a blue card that is—

''(i) capable of reliably determining if the individual with the blue card whose eligibility is being verified is—

''(I) eligible for employment;

''(II) claiming the identify of another person; and

''(III) authorized to be admitted; and

''(ii) compatible with—

''(I) other databases maintained by the Secretary for the purpose of excluding aliens from benefits for which they are not eligible and determining whether the alien is unlawfully present in the United States; and

''(II) law enforcement databases to determine if the alien has been convicted of criminal offenses.

''(C) AUTHORIZED TRAVEL.—During the period an alien is in blue card status granted under this section and pursuant to regulations established by the Secretary, the alien may make brief visits outside the United States. An alien may be readmitted to the United States after such a visit without having to obtain a visa if the alien presents the alien's blue card document. Such periods of time spent outside the United States shall not cause the period of blue card status in the United States to be extended.

''(D) PORTABILITY.—

''(i) During the period in which an alien is in blue card status, the alien issued a blue card may accept new employment upon the Secretary's receipt of a petition filed by an employer on behalf of the alien. Employment authorization shall continue for such alien until such petition is adjudicated.

''(ii) If a petition filed under clause (i) is denied and the alien has ceased employment with the previous employer, the authorization under clause (i) shall terminate and the alien shall be required to return to the country of the alien's nationality or last residence.

''(iii) A fee may be required by the Secretary to cover the actual costs incurred in adjudicating a petition under this subparagraph. No other fee may be required under this subparagraph.

''(iv) A petition by an employer under this subparagraph may not be accepted within 90 days after the adjudication of a previous petition on behalf of an alien.

''(E) ANNUAL CHECK IN.—The employer of an alien in blue card status who has been employed for 1 year in blue card status shall confirm the alien's continued employment status with the Secretary electronically or in writing. Such confirmation will not require a further labor attestation.

''(F) TERMINATION OF BLUE CARD STATUS.—

''(i) During the period of blue card status granted an alien, the Secretary may terminate such status upon a determination by the Secretary that the alien is deportable or has become inadmissible.

''(ii) The Secretary may terminate blue card status granted to an alien if—

''(I) the Secretary determines that, without the appropriate waiver, the granting of blue card status was the result of fraud or willful misrepresentation (as described in section 212(a)(6)(C)(i));

''(II) the alien is convicted of a felony or a misdemeanor committed in the United States; or

''(III) the Secretary determines that the alien is deportable or inadmissible under any other provision of this Act.

''(5) PERIOD OF AUTHORIZED ADMISSION.—

''(A) IN GENERAL.—The initial period of authorized admission for an alien with blue card status shall be not more than 3 years. The employer of such alien may petition for extensions of such authorized admission for 2 additional periods of not more than 3 years each.

''(B) EXCEPTION.—The limit on renewals shall not apply to a nonimmigrant in a position of full-time, non-temporary employment who has managerial or supervisory responsibilities. The employer of such nonimmigrant shall be required to make an additional attestation to such an employment classification with the filing of a petition.

''(C) REPORTING REQUIREMENT.—If an alien with blue card status ceases to be employed by an employer, such employer shall immediately notify the Secretary of such cessation of employment. The Secretary shall provide electronic means for making such notification.

''(D) LOSS OF EMPLOYMENT.—

''(i) An alien's blue card status shall terminate if the alien is unemployed for 60 or more consecutive days.

''(ii) An alien whose period of authorized admission terminates under clause (i) shall be required to return to the country of the alien's nationality or last residence.

''(6) GROUNDS FOR INELIGIBILITY.—

''(A) BAR TO FUTURE VISAS FOR CONDITION VIOLATIONS.—Any alien having blue card status shall not again be eligible for the same blue card status if the alien violates any term or condition of such status.

''(B) ALIENS UNLAWFULLY PRESENT.—Any alien who enters the United States after April 1, 2005, without being admitted or paroled shall be ineligible for blue card status.

''(C) ALIENS IN H–2A STATUS.—Any alien in lawful H–2A status as of April 1, 2005, shall be ineligible for blue card status.

''(7) BAR ON CHANGE OR ADJUSTMENT OF STATUS.—

''(A) IN GENERAL.—An alien having blue card status shall not be eligible to change or adjust status in the United States or obtain a different nonimmigrant or immigrant visa from a United States Embassy or consulate.

''(B) LOSS OF ELIGIBILITY.—An alien having blue card status shall lose eligibility for such status if the alien—

''(i) files a petition to adjust status to legal permanent residence in the United States; or

''(ii) requests a consular processing for an immigrant visa outside the United States.

''(C) EXCEPTION.—An alien having blue card status may not adjust status to legal permanent resident status or obtain another nonimmigrant or immigrant status unless—

''(i)(I) the alien renounces his or her blue card status by providing written notification to the Secretary of Homeland Security or the Secretary of State; or

''(II) the alien's blue card status otherwise expires; and

''(ii) the alien has resided and been physically present in the alien's country of nationality or last residence for not less than 1 year after leaving the United States and the renouncement or expiration of blue card status.

''(8) JUDICIAL REVIEW.—There shall be no judicial review of a denial of blue card status.

''(c) SAFE HARBOR.—

''(1) SAFE HARBOR OF ALIEN.—An alien for whom a nonfrivolous petition is filed under this section—

''(A) shall be granted employment authorization pending final adjudication of the petition;

''(B) may not be detained, determined inadmissible or deportable, or removed pending final adjudication of the petition for change in status, unless the alien commits an act which renders the alien ineligible for such change of status; and

''(C) may not be considered an unauthorized alien as defined in section 274A(h)(3) until such time as the petition for status is adjudicated.

''(2) SAFE HARBOR FOR EMPLOYER.—An employer that files a petition for blue card status for an alien shall not be subject to civil and criminal tax liability relating directly to the employment of such alien. An employer that provides unauthorized aliens with copies of employment records or other

evidence of employment pursuant to the petition shall not be subject to civil and criminal liability pursuant to section 274A for employing such unauthorized aliens.

''(d) TREATMENT OF SPOUSES AND CHILDREN.—

''(1) SPOUSES.—A spouse of an alien having blue card status shall not be eligible for derivative status by accompanying or following to join the alien. Such a spouse may obtain status based only on an independent petition filed by an employer petitioning under subsection (b)(3) with respect to the employment of the spouse.

''(2) CHILDREN.—A child of an alien having blue card status shall not be eligible for the same temporary status unless—

''(A) the child is accompanying or following to join the alien; and

''(B) the alien is the sole custodial parent of the child or both custodial parents of the child have obtained such status.''.

(b) CLERICAL AMENDMENT.—The table of contents of the Immigration and Nationality Act is amended by inserting after the item relating to section 219 the following:

''Sec. 220. Blue card program.''.

**SEC. 722. PENALTIES FOR FALSE STATEMENTS.**

Section 1546 of title 18, United States Code, is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following:

''(c) Any person, including the alien who is the beneficiary of a petition, who—

''(1) files a petition under section 220(b)(3) of the Immigration and Nationality Act; and

''(2)(A) knowingly and willfully falsifies, conceals, or covers up a material fact related to such a petition;

''(B) makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry related to such a petition; or

''(C) creates or supplies a false writing or document for use in making such a petition, shall be fined in accordance with this title, imprisoned not more than 5 years, or both.''.

**SEC. 723. SECURING THE BORDERS.**

Not later than 6 months after the date of enactment of this Act, the Secretary of Homeland Security shall submit to Congress a comprehensive plan for securing the borders of the United States.

**SEC. 724. EFFECTIVE DATE.**

This subtitle shall take effect on the date that is 6 months after the date of enactment of this Act.

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**SA 433.** Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

SEC. . SETTLEMENT OF CLAIMS.—It is the sense of the Congress that the United States should—

(a) reach a settlement agreement with the Republic of Iraq providing for fair and full compensation of any unresolved claim of any United States national who was victimized by acts of terrorism committed by the former Iraqi regime, including hostage-taking and torture committed during the period between the Iraqi invasion of Kuwait on August 2, 1990 and the conclusion of the First Persian Gulf War on February 25, 1991; and

(b) seek compensation from responsible parties for any United States civilian who has been victimized by acts of terror committee in response to U.S. foreign and military policy in Iraq since March 21, 2003.

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**SA 434.** Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 231, between lines 3 and 4, insert the following:

DIVERSITY LOTTERY VISAS

SEC. 6047. (a) Section 204(a)(1)(I)(ii) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(I)(ii)) is amended by striking subclause (II) and inserting the following:

''(II) An alien who qualifies, through random selection, for a visa under section 203(c) or adjustment of status under section 245(a) shall remain eligible to receive such visa beyond the end of the specific fiscal year for which the alien was selected if the alien—

''(aa) properly applied for such visa or adjustment of status during the fiscal year for which alien was selected; and

''(bb) was notified by the Secretary of State, through the publication of the Visa Bulletin, that the application was authorized.''.

(b)(1) Notwithstanding any other provision of law, a visa shall be available under section 203(c) of the Immigration and Nationality Act (8 U.S.C. 1153(c)) if—

(A) such alien was eligible for and properly applied for an adjustment of status during a fiscal year between 1998 and 2004;

(B) the application submitted by such alien was denied because personnel of the Department of Homeland Security or the Immigration and Naturalization Service failed to adjudicate such application during the fiscal year in which such application was filed;

(C) such alien moves to reopen such adjustment of status applications pursuant to procedures or instructions provided by the Secretary of Homeland Security or the Secretary of State; and

(D) such alien has continuously resided in the United States since the date of submitting such application.

(2) A visa made available under paragraph (1) may not be counted toward the numerical maximum for the worldwide level of set out in section 201(e) of the Immigration and Nationality Act (8 U.S.C. 1151(e)).

(c) The amendment made by subsection (a) shall take effect on October 1, 2005.

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**SA 435.** Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 375 submitted by Mr. CRAIG) for himself and Mr. KENNEDY) and intended to be proposed to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 6, line 12, strike ''(e)(2)'' and all that follows through line 18, and insert the following: ''(e)(2); or

''(II) is convicted of a felony or misdemeanor committed in the United States.''.

On page 16, line 2, strike ''(e)(2)'' and all that follows through line 8, and insert the following: ''(e)(2); or

''(II) is convicted of a felony or misdemeanor committed in the United States.''.

On page 18, line 16, strike ''(e)(2)'' and all that follows through line 22, and insert the following: ''(e)(2); or

''(ii) is convicted of a felony or misdemeanor committed in the United States.''.

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**SA 436.** Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 13, strike line 5 and all that follows through page 14, line 23, and insert the following:

(i) QUALIFYING EMPLOYMENT.—The alien has performed at least 5 years of agricultural employment in the United States, for at least 575 hours or 100 work days per year, during the 6-year period beginning on the date of enactment of this Act.

(ii) APPLICATION PERIOD.—The alien applies for adjustment of status not later than 7 years after the date of enactment of this Act.

(iii) PROOF.—In meeting the requirements under clause (i), an alien may submit the record of employment described in subsection (a)(5) or such documentation as may be submitted under subsection (d)(3).

(iv) DISABILITY.—In determining whether an alien has met the requirements under clause (i), the Secretary shall credit the alien with any work days lost because the alien was unable to work in agricultural employment due to injury or disease arising out of and in the course of the alien's agricultural employment, if the alien can establish such disabling injury or disease through medical records.

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**SA 437.** Mr. ROCKEFELLER submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for

State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 231, after line 6, add the following:

**SEC. 6047. SENSE OF SENATE ON SELECT COMMITTEE ON INTELLIGENCE OF THE SENATE INVESTIGATION INTO PRISONER DETENTION, INTERROGATION, AND RENDITION POLICIES AND PRACTICES OF THE UNITED STATES GOVERNMENT.**

(a) SENSE OF SENATE.—

(1) IN GENERAL.—It is the sense of the Senate that the Select Committee on Intelligence of the Senate should conduct an investigation into, and study of, all matters relating to the authorities, policies, and practices of the departments, agencies, and other entities of the United States Government on the detention, interrogation, or rendition of prisoners for intelligence purposes (other than for purely domestic law enforcement purposes), whether by such departments, agencies, or entities themselves or in conjunction with any foreign government or entity.

(2) ELEMENTS.—The investigation and study under paragraph (1) should address and consider—

(A) the history of the authorities, policies, and practices of the United States Government on the detention, interrogation, or rendition of prisoners for intelligence purposes before September 11, 2001, including—

(i) a review of any presidential or other authorities, and other written guidance, before that date on the detention, interrogation, or rendition of prisoners;

(ii) a review of any experience before that date with the detention, interrogation, or rendition of prisoners; and

(iii) an assessment of the legality and efficacy of the practices before that date with respect to the detention, interrogation, and rendition of prisoners;

(B) all presidential and other authorities since September 11, 2001, on the detention, interrogation, or rendition of prisoners for intelligence purposes;

(C) all legal opinions and memoranda of any official or component of the Department of Justice since September 11, 2001 on the authorities, polices, or practices of the United States Government with respect to the detention, interrogation, or rendition of prisoners for intelligence purposes;

(D) all legal opinions and memoranda of any official or component of any other department, agency, or entity of the United States Government since September 11, 2001 on authorities, policies, or practices with respect to the detention, interrogation, or rendition of prisoners for intelligence purposes;

(E) all investigations and reviews conducted since September 11, 2001 by any department, agency, or entity of the United States Government, or by any nongovernmental organization, on the authorities, policies, and practices of the United States Government with respect to the detention, interrogation, or rendition of prisoners for intelligence purposes;

(F) all facts concerning the actual detention, interrogation, or rendition of prisoners for intelligence purposes by any department, agency, or other entity of the United States Government since September 11, 2001;

(G) all facts concerning the knowledge of any department, agency, or other entity of the United States Government of the detention and interrogation methods of any foreign government or entity to which persons detained by the departments, agencies, or other entities of the United States Government have been rendered;

(H) case studies and evaluations of the detention, interrogation, or rendition of persons, including any methods used and the reliability of the information obtained;

(I) all rules, practices, plans, and actual experiences on the use of classified information in military tribunals, commissions, or other proceedings on the detention, continued detention, or military trials of detainees;

(J) all plans for the long-term detention, or for prosecution by civilian courts or military tribunals or commissions, of persons detained by any department, agency, or other entity of the United States Government or of persons who have been rendered by the United States Government to any foreign government or entity; and

(K) any other matters that the Select Committee on Intelligence of the Senate considers appropriate for the investigation and study.

(b) REPORT.—

(1) IN GENERAL.—The Select Committee on Intelligence of the Senate should submit to the Senate, not later than six months after the date of the enactment of this Act, a report on the investigation and study under subsection (b).

(2) ELEMENTS.—The report under paragraph (1) should include—

(A) such findings as the Select Committee on Intelligence considers appropriate in light of the investigation and study under that paragraph; and

(B) such recommendations, including recommendations for legislative or administrative action, as the Select Committee on Intelligence considers appropriate in light of the investigation and study.

(3) FORM.—The report under paragraph (1) should be submitted in unclassified form, but may include a classified annex.

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**SA. 438.** Mr. COCHRAN (for Mr. SPECTER) proposed an amendment to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; as follows:

On page 220, line 12, strike ''Section 101'' and insert ''Section 102'' in lieu thereof.

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**SA 439.** Mr. CRAIG (for himself and Mr. AKAKA) submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. ___. TRAUMATIC INJURY PROTECTION.**

(a) IN GENERAL.—Subchapter III of chapter 19, Title 38, United States Code, is amended—

(1) in section 1965, by adding at the end the following:

''(11) The term 'activities of daily living' means the inability to independently perform 2 of the 6 following functions:

''(A) Bathing.

''(B) Continence.

''(C) Dressing.

''(D) Eating.

''(E) Toileting.

''(F) Transferring.''; and

(2) by adding at the end the following:

**''§ 1980A. Traumatic injury protection**

''(a) A member who is insured under subparagraph (A)(i), (B), or (C)(i) of section 1967(a)(1) shall automatically be issued a traumatic injury protection rider that will provide for a payment not to exceed $100,000 if the member, while so insured, sustains a traumatic injury that results in a loss described in subsection (b)(1). The maximum amount payable for all injuries resulting from the same traumatic event shall be limited to $100,000. If a member suffers more than 1 such loss as a result of traumatic injury, payment will be made in accordance with the schedule in subsection (d) for the single loss providing the highest payment.

''(b)(1) A member who is issued a traumatic injury protection rider under subsection (a) is insured against—

''(A) total and permanent loss of sight;

''(B) loss of a hand or foot by severance at or above the wrist or ankle;

''(C) total and permanent loss of speech;

''(D) total and permanent loss of hearing in both ears;

''(E) loss of thumb and index finger of the same hand by severance at or above the metacarpophalangeal joints;

''(F) quadriplegia, paraplegia, or hemiplegia;

''(G) burns greater than second degree, covering 30 percent of the body or 30 percent of the face; and

''(H) coma or the inability to carry out the activities of daily living resulting from traumatic injury to the brain.

''(2) For purposes of this subsection—

''(A) the term 'quadriplegia' means the complete and irreversible paralysis of all 4 limbs;

''(B) the term 'paraplegia' means the complete and irreversible paralysis of both lower limbs; and

''(C) the term 'hemiplegia' means the complete and irreversible paralysis of the upper and lower limbs on 1 side of the body.

''(3) In no case will a member be covered against loss resulting from—

''(A) attempted suicide, while sane or insane;

''(B) an intentionally self-inflicted injury or any attempt to inflict such an injury;

''(C) illness, whether the loss results directly or indirectly;

''(D) medical or surgical treatment of illness, whether the loss results directly or indirectly;

''(E) any infection other than—

''(i) a pyogenic infection resulting from a cut or wound; or

''(ii) a bacterial infection resulting from ingestion of a contaminated substance;

''(F) the commission of or attempt to commit a felony;

''(G) being legally intoxicated or under the influence of any narcotic unless administered or consumed on the advice of a physician; or

''(H) willful misconduct as determined by a military court, civilian court, or administrative body.

''(c) A payment under this section may be made only if—

''(1) the member is insured under Servicemembers' Group Life Insurance when the traumatic injury is sustained;

''(2) the loss results directly from that traumatic injury and from no other cause; and

''(3) the member suffers the loss not later than 90 days after sustaining the traumatic injury, except, if the loss is quadriplegia, paraplegia, or hemiplegia, the member suffers the loss not later than 365 days after sustaining the traumatic injury.

''(d) Payments under this section for losses described in subsection (b)(1) will be made in accordance with the following schedule:

''(1) Loss of both hands, $100,000.

''(2) Loss of both feet, $100,000.

''(3) Inability to carry out activities of daily living resulting from traumatic brain injury, $100,000.

''(4) Burns greater than second degree, covering 30 percent of the body or 30 percent of the face, $100,000.

''(5) Loss of sight in both eyes, $100,000.

''(6) Loss of 1 hand and 1 foot, $100,000.

''(7) Loss of 1 hand and sight of 1 eye, $100,000.

''(8) Loss of 1 foot and sight of 1 eye, $100,000.

''(9) Loss of speech and hearing in 1 ear, $100,000.

''(10) Total and permanent loss of hearing in both ears, $100,000.

''(11) Quadriplegia, $100,000.

''(12) Paraplegia, $75,000.

''(13) Loss of 1 hand, $50,000.

''(14) Loss of 1 foot, $50,000.

''(15) Loss of sight one eye, $50,000.

''(16) Total and permanent loss of speech, $50,000.

''(17) Loss of hearing in 1 ear, $50,000.

''(18) Hemiplegia, $50,000.

''(19) Loss of thumb and index finger of the same hand, $25,000.

''(20) Coma resulting from traumatic brain injury, $50,000 at time of claim and $50,000 at end of 6-month period.

''(e)(1) During any period in which a member is insured under this section and the member is on active duty, there shall be deducted each month from the member's basic or other pay until separation or release from active duty an amount determined by the Secretary of Veterans Affairs as the premium allocable to the pay period for providing traumatic injury protection under this section (which shall be the same for all such members) as the share of the cost attributable to provided coverage under this section, less any costs traceable to the extra hazards of such duty in the uniformed services.

''(2) During any month in which a member is assigned to the Ready Reserve of a uniformed service under conditions which meet the qualifications set forth in section 1965(5)(B) of this title and is insured under a policy of insurance purchased by the Secretary of Veterans Affairs under section 1966 of this title, there shall be contributed from the appropriation made for active duty pay of the uniformed service concerned an amount determined by the Secretary of Veterans Affairs (which shall be the same for all such members) as the share of the cost attributable to provided coverage under this section, less any costs traceable to the extra hazards of such duty in the uniformed services. Any amounts so contributed on behalf of any member shall be collected by the Secretary of the concerned service from such member (by deduction from pay or otherwise) and shall be credited to the appropriation from which such contribution was made in advance on a monthly basis.

''(3) The Secretary of Veterans Affairs shall determine the premium amounts to be charged for traumatic injury protection coverage provided under this section.

''(4) The premium amounts shall be determined on the basis of sound actuarial principles and shall include an amount necessary to cover the administrative costs to the insurer or insurers providing such insurance.

''(5) Each premium rate for the first policy year shall be continued for subsequent policy years, except that the rate may be adjusted for any such subsequent policy year on the basis of the experience under the policy, as determined by the Secretary of Veterans Affairs in advance of that policy year.

''(6) The cost attributable to insuring such member under this section, less the premiums deducted from the pay of the member's uniformed service, shall be paid by the Secretary of Defense to the Secretary of Veterans Affairs. This amount shall be paid on a monthly basis, and shall be due within 10 days of the notice provided by the Secretary of Veterans Affairs to the Secretary of the concerned uniformed service.

''(7) The Secretary of Defense shall provide the amount of appropriations required to pay expected claims in a policy year, as determined according to sound actuarial principles by the Secretary of Veterans Affairs.

''(8) The Secretary of Defense shall forward an amount to the Secretary of Veterans Affairs that is equivalent to half the anticipated cost of claims for the current fiscal year, upon the effective date of this legislation.

''(f) The Secretary of Defense shall certify whether any member claiming the benefit under this section is eligible.

''(g) Payment for a loss resulting from traumatic injury will not be made if the member dies not more than 7 days after the date of the injury. If the member dies before payment to the member can be made, the payment will be made according to the member's most current beneficiary designation under Servicemembers' Group Life Insurance, or a by law designation, if applicable.

''(h) Coverage for loss resulting from traumatic injury provided under this section shall cease at midnight on the date of the member's separation from the uniformed service. Payment will not be made for any loss resulting from injury incurred after the date a member is separated from the uniformed services.

''(i) Insurance coverage provided under this section is not convertible to Veterans' Group Life Insurance.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 19 of title 38, United States Code, is amended by adding after the item relating to section 1980 the following:

''1980A. Traumatic injury protection. ''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first month beginning more than 120 days after the date of enactment of this Act.

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**SA 440.** Mr. BIDEN (for himself, Mr. BINGAMAN, and Mr. CARPER) submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 169, between lines 8 and 9, insert the following:

FORCE PROTECTION WORK AND MEDICAL CARE AT VACCINE HEALTH CARE CENTERS

SEC. 1122. (a) INCREASE IN AMOUNT FOR DEFENSE HEALTH PROGRAM.—The amount appropriated by this chapter under the heading ''DEFENSE HEALTH PROGRAM'' is hereby increased by $6,000,000.

(b) AVAILABILITY OF AMOUNT.—Of the amount appropriated or otherwise made available by this chapter under the heading ''DEFENSE HEALTH PROGRAM'', as increased by subsection (a), $6,000,000 shall be available for force protection work and medical care at the Vaccine Health Care Centers.

(c) OFFSET.—The amount appropriated by chapter 2 of this title under the heading ''GLOBAL WAR ON TERROR PARTNERS FUND'' is hereby reduced by $6,000,000.

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**SA 441.** Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 231, between lines 3 and 4, insert the following:

SEC. 6047. Notwithstanding any other provision of law, funds that have been appropriated to and awarded by the Secretary of Energy under the Clean Coal Power Initiative in accordance with financial assistance solicitation number DE-PS26-02NT41428 (as described in 67 Fed. Reg. 575) to construct a Fischer-Tropsch coal-to-oil project may be used by the Secretary to provide a loan guarantee for the project.

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**SA 442.** Mr. REED (for himself, Ms. SNOWE, Mr. KENNEDY, Mr. CHAFEE, and Mr. KERRY) submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 204, between lines 4 and 5, insert the following:

CHAPTER 5

DEPARTMENT OF COMMERCE

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

For an additional amount for ''Operations, Research and Facilities'', $1,000,000, to remain available until expended, for the National Marine Fisheries Service to establish a cooperative research program to study the

causes of lobster disease and the decline in the lobster fishery in New England waters: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

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**SA 443.** Mr. DURBIN submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 231, after line 3, insert the following:

AFFIRMING THE PROHIBITION ON TORTURE AND CRUEL, INHUMAN, OR DEGRADING TREATMENT

SEC. 6047. (a)(1) None of the funds appropriated or otherwise made available by this Act shall be obligated or expended to subject any person in the custody or under the physical control of the United States to torture or cruel, inhuman, or degrading treatment or punishment that is prohibited by the Constitution, laws, or treaties of the United States.

(2) Nothing in this section shall affect the status of any person under the Geneva Conventions or whether any person is entitled to the protections of the Geneva Conventions.

(b) As used in this section—

(1) the term ''torture'' has the meaning given that term in section 2340(1) of title 18, United States Code; and

(2) the term ''cruel, inhuman, or degrading treatment or punishment'' means the cruel, unusual, and inhumane treatment or punishment prohibited by the fifth amendment, eighth amendment, or fourteenth amendment to the Constitution of the United States.

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**SA 444.** Mrs. BOXER (for herself and Mr. BINGAMAN) submitted an amendment intended to be proposed by her to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

DEPLOYMENT OF WARLOCK SYSTEMS AND OTHER FIELD JAMMING SYSTEMS

SEC. 1122. (a) ADDITIONAL AMOUNT FOR OTHER PROCUREMENT, ARMY.—The amount appropriated by this chapter under the heading ''OTHER PROCUREMENT, ARMY'' is hereby increased by $35,000,000, with the amount of such increase designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

(b) AVAILABILITY OF FUNDS.—Of the amount appropriated or otherwise made available by this chapter under the heading ''OTHER PROCUREMENT, ARMY'', as increased by subsection (a), $60,000,000 shall be available under the Tactical Intelligence and Related Activities (TIARA) program to facilitate the rapid deployment of Warlock systems and other field jamming systems.

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**SA 445.** Mr. REID proposed an amendment to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; as follows:

On page 183, after line 23, add the following new section:

INTERNATIONAL EFFORTS FOR RECONSTRUCTION IN IRAQ

SEC. 2105. (a) Congress makes the following findings:

(1) The United States Armed Forces have borne the largest share of the burden for securing and stabilizing Iraq. Since the war's start, more than 500,000 United States military personnel have served in Iraq and, as of the date of the enactment of this Act, more than 130,000 such personnel are stationed in Iraq. Though the Department of Defense has kept statistics related to international troop contributions classified, it is estimated that all of the coalition partners combined have maintained a total force level in Iraq of only 25,000 troops since early 2003.

(2) United States taxpayers have borne the vast majority of the financial costs of securing and reconstructing Iraq. Prior to the date of the enactment of this Act, the United States appropriated more than $175,000,000,000 for military and reconstruction efforts in Iraq and, including the funds appropriated in this Act, the amount appropriated for such purposes increases to a total of more than $250,000,000,000.

(3) Of such total, Congress appropriated $2,475,000,000 in the Emergency Wartime Supplemental Appropriations Act, 2003 (Public Law 108–11; 117 Stat. 559) (referred to in this section as ''Public Law 108–11'') and $18,439,000,000 in the Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004 (Public Law 108–106; 117 Stat. 1209) (referred to in this section as ''Public Law 108–106'') under the heading ''IRAQ RELIEF AND RECONSTRUCTION FUND'' for humanitarian assistance and to carry out reconstruction and rehabilitation in Iraq.

(4) The Sixth Quarterly Report required by section 2207 of Public Law 108–106 (22 U.S.C. 2151 note), submitted by the Secretary of State in April 2005, stated that $12,038,000,000 of the $18,439,000,000 appropriated by Public Law 108–106 under the heading ''IRAQ RELIEF AND RECONSTRUCTION FUND'' had been obligated and that only $4,209,000,000, less than 25 percent of the total amount appropriated, had actually been spent.

(5) According to such report, the international community pledged more than $13,500,000,000 in foreign assistance to Iraq in the form of grants, loans, credits, and other assistance. While the report did not specify how much of the assistance is intended to be provided as loans, it is estimated that loans constitute as much as 80 percent of contributions pledged by other nations. The report further notes that, as of the date of the enactment of this Act, the international community has contributed only $2,700,000,000 out of the total pledged amount, falling far short of its commitments.

(6) Iraq has the second largest endowment of oil in the world and experts believe Iraq has the capacity to generate $30,000,000,000 to $40,000,000,000 per year in revenues from its oil industry. Prior to the launch of United States operations in Iraq, members of the Administration stated that profits from Iraq's oil industry would provide a substantial portion of the funds needed for the reconstruction and relief of Iraq and United Nations Security Council Resolution 1483 (2003) permitted the coalition to use oil reserves to finance long-term reconstruction projects in Iraq.

(7) Securing and rebuilding Iraq benefits the people of Iraq, the United States, and the world and all nations should do their fair share to achieve that outcome.

(b) Notwithstanding any other provision of law, not more than 50 percent of the previously appropriated Iraqi reconstruction funds that have not been obligated or expended prior to the date of the enactment of this Act may be obligated or expended, as the case may be, for Iraq reconstruction programs unless—

(1) the President certifies to Congress that all countries that pledged financial assistance at the Madrid International Conference on Reconstruction in Iraq or in other fora since March 2003, for the relief and reconstruction of Iraq, including grant aid, credits, and in-kind contributions, have fulfilled their commitments; or

(2) the President—

(A) certifies to Congress that the President or his representatives have made credible and good faith efforts to persuade other countries that made pledges of financial assistance at the Madrid International Conference on Reconstruction in Iraq or in other fora to fulfill their commitments;

(B) determines that, notwithstanding the efforts by United States troops and taxpayers on behalf of the people of Iraq and the failure of other countries to fulfill their commitments, revenues generated from the sale of Iraqi oil or other sources of revenue under the control of the Government of Iraq may not be used to reimburse the Government of the United States for the obligation and expenditure of a significant portion of the remaining previously appropriated Iraqi reconstruction funds;

(C) determines that, notwithstanding the failure of other countries to fulfill their commitments as described in subparagraph (A) and that revenues generated from the sale of Iraqi oil or other sources of revenue under the control of the government of Iraq shall not be used to reimburse the United States government as described in subparagraph (B), the obligation and expenditure of remaining previously appropriated Iraqi reconstruction funds is in the national security interests of the United States; and

(D) submits to Congress a written notification of the determinations made under this paragraph, including a detailed justification for such determinations, and a description of the actions undertaken by the President or other official of the United States to convince other countries to fulfill their commitments described in subparagraph (A).

(c) This section may not be superseded, modified, or repealed except pursuant to a provision of law that makes specific reference to this section.

(d) In this section:

(1) The term ''previously appropriated Iraqi reconstruction funds'' means the aggregate amount appropriated or otherwise made available in chapter 2 of title II of Public Law 108–106 under the heading ''IRAQ RELIEF AND RECONSTRUCTION FUND'' or under title I of Public Law 108–11 under the heading ''IRAQ RELIEF AND RECONSTRUCTION FUND''.

(2)(A) The term ''Iraq reconstruction programs'' means programs to address the infrastructure needs of Iraq, including infrastructure relating to electricity, oil production, public works, water resources, transportation and telecommunications, housing and construction, health care, and private sector development.

(B) The term does not include programs to fund military activities (including the establishment of national security forces or the Commanders' Emergency Response Programs), public safety (including border enforcement, police, fire, and customs), and justice and civil society development.

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**SA 446.** Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 231, between lines 3 and 4, insert the following:

SEC. 6047. Section 908(b)(1)(A) of the Trade Sanctions Reform and Export Enhancement Act of 2000 (22 U.S.C. 7207(b)(1)(A)) is amended by inserting before the period at the end the following: '', which in this subsection means the payment by the purchaser of an agricultural commodity or product and the receipt of the payment by the seller prior to—

''(i) the transfer of title of the commodity or product to the purchaser; and

''(ii) the release of control of the commodity or product to the purchaser.''.

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## NOTICES OF HEARINGS/MEETINGS

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. CHAMBLISS. Mr. President, I would like to announce that the Committee on Agriculture, Nutrition, and Forestry will hold a hearing to consider the nomination of Thomas Dorr to be Under Secretary of Agriculture for Rural Development and to be a Member of the Board of Directors of the Commodity Credit Corporation. The hearing will be held on Wednesday, April 27, 2005, at 10:30 a.m. in SR–328A Russell Senate Office Building. Senator SAXBY CHAMBLISS will preside.

For further information, please contact the Committee at 224–2035.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. LOTT. Mr. President, I wish to announce that the Joint Committee on Printing will meet on Thursday, April 21, 2005, at 2 p.m. to conduct its organization meeting for the 109th Congress.

For further information regarding this hearing, please contact Susan Wells at the Rules and Administration Committee on 224–6352.

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## AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on April 14, 2005, at 9:30 a.m., in open session to receive testimony on implementation by the Department of Defense of the National Security Personnel System.

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on April 14, 2005, at 10 a.m., to conduct a hearing on ''The Terrorism Risk Insurance Program.''

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on pending Committee business, on Thursday, April 14, 2005, at 10 a.m.

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

COMMITTEE ON FINANCE

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session on Thursday, April 14, 2005, at 10 a.m., to hear testimony on ''The $350 Billion Question: How To Solve the Tax Gap.''

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

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. COCHRAN. 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 Thursday, April 14, 2005, at 10 a.m., in SD–430.

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

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet on Thursday, April 14, 2005, at 2 p.m., for a hearing title: ''U.S. Postal Service: What Is Needed To Ensure Its Future Viability?''

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

COMMITTEE ON THE JUDICIARY

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a markup on Thursday, April 14, 2005 at 9:30 a.m. in Senate Dirksen Office Building Room 226.

AGENDA:

I. Nominations: Thomas B. Griffith to be U.S. Circuit Judge for the District of Columbia Circuit; Terrence W. Boyle, II to be U.S. Circuit Judge for the Fourth Circuit; Priscilla R. Owen to be U.S. Circuit Judge for the Fifth Circuit; Janice Rogers Brown to be U.S. Circuit Judge for the District of Columbia Circuit; Robert J. Conrad, Jr. to be U.S. District Judge for the Western District of North Carolina; and James C. Dever, III to be U.S. Circuit Judge for the Eastern District of North Carolina.

II. Bills: S. 378, Reducing Crime and Terrorism at America's Seaports Act of 2005: BIDEN, SPECTER, FEINSTEIN, KYL, CORNYN; S. 119, Unaccompanied Alien Child Protection Act of 2005: FEINSTEIN, SCHUMER, DURBIN, DEWINE, FEINGOLD, KENNEDY, BROWNBACK, SPECTER, LEAHY; S. 629, Railroad Carriers and Mass Transportation Act of 2005: SESSIONS, KYL; and S. 555, No oil Producing and Exporting Cartels Act of 2005: DEWINE, KOHL, LEAHY, GRASSLEY, FEINGOLD, SCHUMER, DURBIN.

III. Matters: Asbestos

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on April 14, 2005, a 10 a.m. to hold a hearing.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on April 14, 2005, at 2 p.m. to hold a closed briefing.

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

SUBCOMMITTEE ON AIRLAND

Mr. COCHRAN, Mr. President, I ask unanimous consent that the subcommittee on Airland be authorized to meet during the session of the Senate on April 14, 2005, at 2:30 p.m., in open session to receive testimony on Air Force Acquisition oversight in review of the defense authorization request for fiscal year 2006.

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

SUBCOMMITTEE ON IMMIGRATION, BORDER SECURITY AND CITIZENSHIP SUBCOMMITTEE ON TERRORISM, TECHNOLOGY AND HOMELAND SECURITY

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Committee on the Judiciary and the Committee Subcommittee on Immigration, Border Security and Citizenship and the Subcommittee on Terrorism, Technology and Homeland Security be authorized to meet to conduct a joint

hearing on ''Strengthening Interior Enforcement: Deportation and Related Issues'' on Thursday, April 14, 2005 in Dirksen room 226 at 2:30 p.m.

Panel I: Jonathan Cohn, Deputy Assistant Attorney General for the Civil Division, U.S. Department of Justice, Washington, DC and Victor Cerda, Acting Director of Detention and Removal, U.S. Department of Homeland Security, Washington, DC.

Panel II: David Venturella, U.S. Investigations Service, Washington, DC and Lee Gelernt, Senior Staff Counsel, Immigrant's Rights Project, American Civil Liberties Union, Washington, DC.

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

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT, THE FEDERAL WORKFORCE AND THE DISTRICT OF COLUMBIA

Mr. COCHRAN. Mr. President, I ask unanimous consent that the subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia be authorized to meet on Thursday, April 14, at 10 a.m. for a hearing entitled, ''Passing the Buck: A Review of the Unfunded Mandates Reform Act.''

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

## PRIVILEGE OF THE FLOOR

Mr. BROWNBACK. Mr. President, I ask unanimous consent Jennifer Pollom, a detailee on the Senate Budget Committee staff, be granted the privilege of the floor during consideration of H.R. 1268.

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

## ROBERT T. MATSUI UNITED STATES COURTHOUSE

Mr. FRIST. I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 787 which was received from the House.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 787) to designate the United States courthouse located at 501 I Street, Sacramento, California, as the ''Robert T. Matsui United States Courthouse''.

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. I ask unanimous consent the bill be read a third time and passed, the motion to reconsider be laid upon the table, and any statements be printed in the RECORD.

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

The bill (H.R. 787) was read the third time and passed.

## COMMENDING THE UNIVERSITY OF OKLAHOMA SOONERS MEN'S GYMNASTICS TEAM

## COMMENDING OKLAHOMA STATE UNIVERSITY'S WRESTLING TEAM

Mr. FRIST. Madam President, I ask unanimous consent that the Senate now proceed to the en bloc consideration of S. Res. 109 and S. Res. 110, which were submitted earlier today.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the resolutions by title en bloc.

The assistant legislative clerk read as follows:

A resolution (S. Res. 109) commending the University of Oklahoma Sooners men's gymnastics team for winning the National Collegiate Athletic Association Division I Men's Gymnastics Championship.

A resolution (S. Res. 110) commending Oklahoma State University's wrestling team for winning the 2005 National Collegiate Athletic Association Division I Wrestling Championship.

There being no objection, the Senate proceeded to consider the resolutions en bloc.

S. RES. 109

Mr. INHOFE. Madam President, I rise today to recognize the University of Oklahoma Sooners men's gymnastics team for winning the 2005 NCAA Division I men's gymnastics championship on April 8, 2005 at West Point, NY. This historic achievement is an enormous source of pride for the university that they represent as well as for the people of my entire State.

This championship achieved by the Sooners, under the outstanding leadership of NCAA Coach of the Year Mark Williams, is OU's sixth overall national title and their third in the past 4 years. It was undoubtedly an accomplishment that they earned and grittily sweated out.

The Sooners' dramatic victory over second-place Ohio State came down to the wire with the competition narrowly being determined by the final rotation on the vault. Freshman Jonathan Horton delivered a heroic performance, which secured OU's winning score of 225.675 over the Buckeyes' 225.450.

The tremendous success of the 2005 Sooners gives support to the Sports Illustrated cover's designation of Oklahoma as ''America's Gymnastics Hotbed'' that notably included the International Gymnastics Hall of Fame, the Bart Conner Gymnastics Academy, Nadia Comaneci, Shannon Miller, and the world's largest gymnastics magazine, International Gymnast.

In addition to the national championship, the Sooners boasted six team members who attained a total of 13 All-America honors for OU at the individual event finals. The 13 honors of 2005 added to an already substantial collection of 141 honors garnered by the university over the 39 years of the men's gymnastics program's existence. Moreover, senior David Henderson's 2005 NCAA title on the still rings, gave OU its 18th all-time individual national champion, capping off a brilliant 4 years for this extraordinary young man.

The Sooners' victory is a product of the heart, determination, and teamwork of these exceptional student athletes, and I extend my heart-felt congratulations to the entire team for a job truly well done and well deserved.

S. RES. 110

Mr. INHOFE. Madam. President, I also rise today to extend my congratulations to the Oklahoma State University's wrestling team for winning the 2005 National Collegiate Athletic Association's Division I Wrestling Championship on March 19, 2005, at St. Louis, MO.

The Cowboys' historic victory this year contributes to an already exceptional legacy of achievement that makes the OSU wrestling program a touchstone for all others. In fact, the Collegiate Wrestling Hall of Fame is at OSU.

The 2005 Championship title is the 33rd overall title in the storied history of wrestling at OSU, and also represents the most possessed by any school in the history of Division I wrestling. Moreover, this year's win marks the Cowboys' third consecutive championship under the dynasty of Coach John Smith, an accomplishment that had not occurred at OSU since the 1954 to 1956 seasons.

Indeed, the Cowboys' dominance was in full display not only during the season in which they went undefeated but also in the finals where they continued to remain perfect. The Cowboys swept all five of its matches and clinched the national championship, getting titles from Steve Mocco, Zack Esposito, Johny Hendricks, Chris Pendleton, and Jake Rosholt and tying the record of five championships set by Iowa in 1997. In all, OSU finished with an all-time high of 153 points and far surpassed second-place Michigan by 70 points, which was the second highest winning margin in NCAA wrestling history.

Much credit for this amazing achievement undoubtedly goes to coach John Smith, who was named Big 12 Wrestling Coach of the Year for the sixth time in his career. Finally I would be remiss, if I did not recognize the extraordinary effort, commitment, and grit of these student athletes. They are a tremendous source of pride for their university and community, and I offer them my sincere congratulations for all that they have achieved.

Mr. FRIST. Madam President, I ask unanimous consent that the resolutions be agreed to, the preambles be agreed to, and the motions to reconsider be laid upon the table, all en bloc.

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

The resolution (S. Res. 109) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 109

Whereas on April 8, 2005, the University of Oklahoma Sooners won their sixth National Collegiate Athletic Association (NCAA) Division I Men's Gymnastics Championship, at West Point, New York;

Whereas the 2005 NCAA Championship is the Sooners' third championship in the past 4 years;

Whereas the championship title crowned a remarkable season for the Sooners in which the team achieved an impressive record of 21 wins and only 2 losses;

Whereas the Sooners clinched a spectacular, nail-biting victory over the Ohio State Buckeyes, which was made possible by a heroic final performance on the vault by freshman Jonathan Horton;

Whereas the Sooners' winning score of 225.675 set a school record and dramatically surpassed second-place Ohio State's score of 225.450;

Whereas 6 members of the University of Oklahoma men's gymnastics team, including Taqiy Abdullah-Simmons, Josh Gore, David Henderson, Jamie Henderson, Jonathan Horton, and Jacob Messina, also garnered a school-record 13 All-America honors in the individual event finals;

Whereas senior David Henderson's 2005 NCAA title on the still rings gave the University of Oklahoma its 18th all-time individual national champion and capped off an exceptional 4 years;

Whereas Head Coach Mark Williams was named the 2005 NCAA Coach of the Year, making it the third time in his distinguished career that Head Coach Williams has received that honor;

Whereas the tremendous success of the 2005 Sooners adds to the outstanding legacy of men's gymnastics at the University of Oklahoma and is a reflection of the heart and dedication of the entire school, from the president to the athletic directors, coaches, athletes, managers, and staff members;

Whereas the teamwork, grit, and sportsmanship demonstrated by the University of Oklahoma Sooners men's gymnastics team is a proud tribute to the university and the communities from which the team members hail: Now, therefore, be it

*Resolved*, That the Senate—

(1) congratulates the University of Oklahoma Sooners for their sixth National Collegiate Athletic Association Division I Men's Gymnastics Championship;

(2) recognizes all who have contributed their hard work and support to making the 2005 season a historic success; and

(3) directs the Secretary of the Senate to transmit a copy of this resolution to University of Oklahoma President David L. Boren and Head Coach Mark Williams for appropriate display.

The resolution (S. Res. 110) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 110

Whereas on March 19, 2005, the Oklahoma State University Cowboys claimed their 33rd National Collegiate Athletic Association Wrestling Championship in St. Louis, Missouri;

Whereas the 33 wrestling championships won by the Cowboys is more than have been won by any other school in the history of National Collegiate Athletic Association Division I wrestling;

Whereas the Cowboys now have won 3 consecutive wrestling championships, a feat not accomplished since they won the national wrestling championship in 1954, 1955, and 1956;

Whereas the Cowboys' 2005 championship topped off an impressive season in which they were undefeated in the regular season and also had a perfect record in the finals;

Whereas the Cowboys outscored second place Michigan, 153 to 83, achieving a margin of victory that was the second-highest in National Collegiate Athletic Association wrestling history;

Whereas the Cowboys crowned a school-record 5 individual national champions, tying a national tournament record;

Whereas the Cowboys' outstanding 2005 season contributed to an already rich and proud tradition of wrestling excellence at Oklahoma State University;

Whereas the amazing accomplishments of the past year reflect the dedication, commitment, and tireless effort of the entire school, from the president to the athletic directors, coaches, athletes, managers, and staff members; and

Whereas the student athletes of the Oklahoma State University wrestling team, through their exceptional athletic achievements, have not only brought credit to themselves but to their fellow students, their university, and their community: Now, therefore be it

*Resolved*, That the Senate—

(1) commends the Oklahoma State Cowboys for their third straight National Collegiate Athletic Association Division I Wrestling Championship;

(2) recognizes the players, coaches, staff, and all who have made the historic successes of the 2005 season possible; and

(3) directs the Secretary of the Senate to transmit an enrolled copy of this resolution to Oklahoma State University President Dr. David J. Schmidly and Coach John Smith for appropriate display.

## NATIONAL MONTH OF THE MILITARY CHILD

Mr. FRIST. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Con. Res. 27, submitted earlier today.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 27) honoring military children during ''National Month of the Military Child.''

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. FRIST. Madam President, I ask unanimous consent that the concurrent resolution and preamble be agreed to en bloc, the motion to reconsider be laid upon the table, and that any statements relating thereto be printed in the RECORD, without intervening action or debate.

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

The concurrent resolution (S. Con. Res. 27) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

S. CON. RES. 27

Whereas more than a million Americans are demonstrating their courage and commitment to freedom by serving in the Armed Forces of the United States;

Whereas nearly 40 percent of the members of the Armed Forces, when deployed away from their permanent duty stations, have left families with children behind;

Whereas no one feels the effect of those deployments more than the children of deployed service members;

Whereas as of March 31, 2005, approximately 1,000 of these children have lost a parent serving in the Armed Forces during the preceding 5 years;

Whereas the daily struggles and personal sacrifices of children of members of the Armed Forces too often go unnoticed;

Whereas the children of members of the Armed Forces are a source of pride and honor to all Americans and it is fitting that the Nation recognize their contributions and celebrate their spirit;

Whereas the ''National Month of the Military Child'', observed in April each year, recognizes military children for their sacrifices and contributes to demonstrating the Nation's unconditional support to members of the Armed Forces;

Whereas in addition to Department of Defense programs to support military families and military children, a variety of programs and campaigns have been established in the private sector to honor, support, and thank military children by fostering awareness and appreciation for the sacrifices and the challenges they face;

Whereas a month-long salute to military children will encourage support for those organizations and campaigns established to provide direct support for military children and families

*Resolved by the Senate (the House of Representatives concurring)*, That the Senate—

(1) joins the Secretary of Defense in honoring the children of members of the Armed Forces and recognizes that they too share in the burden of protecting the Nation;

(2) urges Americans to join with the military community in observing the ''National Month of the Military Child'' with appropriate ceremonies and activities that honor, support, and thank military children; and

(3) recognizes with great appreciation the contributions made by private-sector organizations that provide resources and assistance to military families and the communities that support them.

## ORDERS FOR FRIDAY, APRIL 15, 2005

Mr. FRIST. Madam President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m. on Friday, April 15. I further ask consent that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and the Senate then resume consideration of H.R. 1268, the Iraq-Afghanistan supplemental appropriations bill.

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

## PROGRAM

Mr. FRIST. Madam President, tomorrow, the Senate will resume consideration of the Iraq-Afghanistan supplemental. Although no rollcall votes will occur tomorrow, we hope to make additional progress on the bill. We expect to lock in some of the pending amendments for votes on Monday, and therefore Senators can expect a series of

votes to occur Monday evening. It is my intention to complete action on this bill early next week, and Members should not wait until the last minute to offer their amendments.

## ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. FRIST. Madam President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:20 p.m., adjourned until Friday, April 15, 2005, at 9:30 a.m.

## NOMINATIONS

Executive nominations received by the Senate April 14, 2005:

DEPARTMENT OF TRANSPORTATION

PHYLLIS F. SCHEINBERG, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF TRANSPORTATION, VICE LINDA MORRISON COMBS.

DEPARTMENT OF ENERGY

DAVID R. HILL, OF MISSOURI, TO BE GENERAL COUNSEL OF THE DEPARTMENT OF ENERGY, VICE LEE SARAH LIBERMAN OTIS, RESIGNED.

DEPARTMENT OF STATE

CRAIG ROBERTS STAPLETON, OF CONNECTICUT, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO FRANCE.

EDUARDO AGUIRRE, JR., OF TEXAS, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO SPAIN, AND TO SERVE CONCURRENTLY AND WITHOUT ADDITIONAL COMPENSATION AS AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO ANDORRA.

EMIL A. SKODON, OF ILLINOIS, 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 BRUNEI DARUSSALAM.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be general*

LT. GEN. MICHAEL V. HAYDEN

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

*To be brigadier general*

COL. JOHN C. INGLIS, 0000

IN THE ARMY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADES INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

*To be major general*

BRIG. GEN. MICHAEL R. EYRE, 0000

*To be brigadier general*

COL. JIMMY E. FOWLER, 0000
COL. SANFORD E. HOLMAN, 0000
COL. DAVID A. MORRIS, 0000
COL. WILLIAM D. WAFF, 0000

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be admiral*

VICE ADM. HENRY G. ULRICH III, 0000

IN THE ARMY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY VETERINARY CORPS UNDER TITLE 10, U.S.C., SECTIONS 624 AND 3064:

*To be major*

LISA M. AMOROSO, 0000
JANICE L. BAKER, 0000
STEVEN A. BATY, 0000
JENNIFER J. BECK, 0000
KELLY C. BROOKS, 0000
AMMON W. BROWN, 0000
PATTY H. CHEN, 0000
WILLIAM CULP, 0000
CHRISTINE A. EGE, 0000
REBECCA I. EVANS, 0000
SARAH B. HINDS, 0000
JENNIFER M. KISHIMORI, 0000
THOMAS KOHLER, 0000
WENDY E. MEY, 0000
KRINON D. MOCCIA, 0000
MARY A. PARHAM, 0000
SANDI K. PARRIOTT, 0000
GERALD R. SARGENT, 0000
LARRY J. SHELTON, JR., 0000
CHAD A. WEDDELL, 0000
WILLIAM L. WILKINS, 0000
SAMUEL L. YINGST, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY MEDICAL SPECIALIST CORPS AND FOR REGULAR APPOINTMENT (IDENTIFIED BY AN ASTERISK(*)) UNDER TITLE 10, U.S.C., SECTIONS 624, 531, AND 3064:

*To be major*

STEVEN B. * ANDERSON, 0000
BRUCE J. BEECHER, 0000
RICHARD E. * BETT, 0000
JANETTA R. * BLACKMORE, 0000
MICHAEL E. * BOOTH, 0000
SEAN F. * BRAY, 0000
KENNETH S. * BROOKS, 0000
ASMA S. * BUKHARI, 0000
STUART M. * CAMPBELL, 0000
STACIE M. CASWELL, 0000
SHON D. * COMPTON, 0000
GAIL A. * DREITZLER, 0000
DOUGLAS I. * DUSENBERRY, 0000
MICHAEL D. * DYCHES, 0000
KERRY W. * EBERHARD, 0000
FREDERICK E. * FOLTZ, 0000
STEVEN S. GAY, 0000
MARK J. * GESLAK, 0000
DONALD L. * GOSS, 0000
LEONARD Q. * GRUPPO, JR., 0000
PAUL V. * JACOBSON, 0000
JERRY L. * JOHNSTON, 0000
BRIAN W. * JOVAG, 0000
CHAD A. * KOENIG, 0000
KOHJI K. * KURE, 0000
CHRISTOPHER M. * LECCESE, 0000
BETH E. * MASON, 0000
DOUGLAS J. * MCKNIGHT, 0000
ELIZABETH L. * NORTH, 0000
JESSE K. * ORTEL, 0000
CORDES L. * PRYOR, 0000
MICHAEL A. * ROBERTSON, 0000
PAMELA A. * ROOF, 0000
PAUL * SANDERS, 0000
JAMES T. * SCHUMACHER, JR., 0000
PATRICK A. * SHERMAN, 0000
DONALD G. SHIPMAN, 0000
RANDALL R. * SITZ, 0000
TERRY L. * SMITH, 0000
DALE A. * SPENCE, 0000
RANDY B. THOMAS, 0000
ROBERT M. * TOMSETT, 0000
COLIN S. * TURNNIDGE, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY MEDICAL SERVICE CORPS AND FOR REGULAR APPOINTMENT (IDENTIFIED BY AN ASTERISK(*)) UNDER TITLE 10, U.S.C., SECTIONS 624, 531, AND 3064

*To be major*

CHRISTOPHER B. * ACKERMAN, 0000
GINA E. * ADAM, 0000
KAYS * ALALI, 0000
MATTHEW J. * ALLEN, 0000
DWIGHT A. * ARMBRUST, 0000
HUGH H. BAILEY, 0000
MARIA Y. * BATES, 0000
BRADLEY M. BEAUVAIS, 0000
BRENDON * BLUESTEIN, 0000
DAVID M. * BOWEN, 0000
DEVVON L. * BRADLEY, 0000
EDWARD L. * BRYAN, JR., 0000
DAVID S. * BRYANT, 0000
GABRIELLE N. * BRYEN, 0000
CRAIG W. * BUKOWSKI, 0000
MARC BUSTAMANTE, 0000
DAVID E. * CABRERA, 0000
TIMOTHY K. * CARROLL, 0000
YVONNE * CEPERO, 0000
CHARLES D. * CLARK, 0000
JAMES D. CLAY, 0000
CARLOS E. CORREDOR, 0000
SCOTT A. * CRAIL, 0000
JOSEPHINE E. * CREEL, 0000
JUSTIN C. * CURRY, 0000
LUCCA J. * DALLE, 0000
RUSSELL A. DEVRIES, 0000
JACOB J. * DLUGOSZ, 0000
JOHN R. DOELLER, 0000
MICHAEL J. * DOLAN, 0000
RANDY D. * DORSEY, 0000
JACQUELINE L. * DURANT, 0000
JOSEPH P. EDGER, 0000
JONATHAN A. EDWARDS, 0000
MARVIN A. * EMERSON, 0000
ROBERT A. ERICKSON, 0000
BRIAN P. * EVANS, 0000
ARTHUR * FINCH III, 0000
CRAIG D. GEHRELS, 0000
JONATHAN L. * GOODE, 0000
JOHN B. GOODRICH, 0000
RICHARD E. * GREMILLION, 0000
TARA L. HALL, 0000
CINTHYA A. * HAMMER, 0000
KEVIN A. * HANNAH, 0000
ALFONSO A. * HARO III, 0000
BRIAN A. HAUG, 0000
CLAUDIA L. * HENEMYREHARRIS, 0000
SAMANTHA S. * HINCHMAN, 0000
JIMMY D. HUMPHRIES, 0000
GREGORY A. * HUTCHESON, 0000
MARION A. JEFFERSON, 0000
KENNETH D. JONES II, 0000
SHELLEY C. * JORGENSEN, 0000
MARK D. * KELLOGG, 0000
ERIC J. * KELLY, 0000
VEDA F. * KENNEDY, 0000
WILLIAM D. * KILLGORE, 0000
PHILIP C. * KNIGHTSHEEN, 0000
KENNETH M. KOYLE, 0000
KRIS E. * KRATZ, 0000
JON R. LASELL, 0000
MICHAEL D. * LAWSON, 0000
LEE J. * LEFKOWITZ, 0000
WALTER G. * LEKITES IV, 0000
STEPHEN J. * LETTRICH, 0000
EDWARD F. MANDRIL, 0000
MONIQUE G. * MCCOY, 0000
MICHAEL S. MCFADDEN, 0000
DARREN D. MCWHIRT, 0000
ANTHONY A. * MEADOR, 0000
VICTOR * MELENDEZ, JR., 0000
ERIC G. * MIDBOE, 0000
CHRISTOPHER J. MOORE, 0000
DANIEL J. MOORE, 0000
MARK K. * MORRIS, 0000
DAVID J. * MULLER, 0000
NEIL I. NELSON, 0000
SCOTT J. * NEWBERG, 0000
MICHAEL T. OLEARY, 0000
CHARLES H. * ONEAL, 0000
SEAN S. * ONEIL, 0000
DAVID E. * PARKER, 0000
STEVEN L. * PATTERSON, 0000
CHRISTOPHER G. * PETERSON, 0000
DAVID J. PHILLIPS, 0000
CHRISTOPHER D. * PITCHER, 0000
STEPHAN C. * PORTER, 0000
THOMAS W. * PORTER, 0000
MARK A. * POTTER, 0000
BRYAN K. * PREER, 0000
SUEANN O. * RAMSEY, 0000
MARTIN B. * ROBINETTE, 0000
SCOTT D. * ROLLSTON, 0000
FRANCISCO A. ROMERO III, 0000
BARRY W. * RYLE, 0000
WENDY L. * SAMMONS, 0000
ANTHONY L. * SCHUSTER, 0000
JASON D. * SCHWARTZ, 0000
ANDREW L. * SCOTT, 0000
JASON R. SEPANIC, 0000
ROBERT W. * SHARPES, 0000
LUKE J. * SHATTUCK, 0000
STEPHEN W. * SMITH, 0000
GARY * STAPOLSKY, 0000
SUSANNA J. * STEGGLES, 0000
MELBA * STETZ, 0000
DOUGLAS L. STRATTON, 0000
KEITH E. * STRETCHKO, 0000
THOMAS E. * STROHMEYER, 0000
JEFFREY L. * THOMAS, 0000
LEONA R. TOLLE, 0000
EVANS D. * TRAMMEL, JR., 0000
CLIFTON B. * TROUT, 0000
KELLY L. * TURNER, 0000
WILLIAM N. * UPTERGROVE, 0000
RAYMOND * VAZQUEZ, 0000
ROY L. VERNON, JR., 0000
ERIC T. WALLIS, 0000
MICHAEL J. * WALTER, 0000
CHARLENE L. * WARRENDAVIS, 0000
KIRK W. WEBB, 0000
EDWARD J. WEINBERG, 0000
KENNEY H. * WELLS, 0000
LILLIAN A. WESTFIELD, 0000
RONALD J. * WHALEN, 0000
VERNON W. * WHEELER, 0000
DUVEL W. WHITE, 0000
DAVID J. * ZAJAC, 0000
CHARLES D. ZIMMERMAN, JR., 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY NURSE CORPS AND FOR REGULAR APPOINTMENT (IDENTIFIED BY AN ASTERISK(*)) UNDER TITLE 10, U.S.C., SECTIONS 624, 531, AND 3064:

*To be major*

HERMAN A. ALLISON, 0000
ROBERT R. * ARNOLD, 0000
PACITA G. * ATKINSON, 0000
ERIKA J. * AYERS, 0000
JENNIFER M. * BANNON, 0000
DENISE M. BEAUMONT, 0000
KIRK C. * BIEBER, 0000
AVA M. BIVENS, 0000
CHRISTIE L. BROWN, 0000
PEGGY A. * BRYANT, 0000
JAMES D. * BURK, 0000
KATE E. * CARR, 0000
SHEILA D. * CASTEEL, 0000
EUGENE J. CHRISTEN III, 0000
MELINDA L. * CHURCH, 0000
SHERMAN D. CLAGG, 0000
GILBERT A. * CLAPPER, 0000
MARY L. * CONDELUCI, 0000

AMY L. * COOPERSMITH, 0000
JENNIFER L. * COYNER, 0000
WARREN T. CUSICK, 0000
JULIE A. * DARGIS, 0000
ROBERT S. DAVIS, 0000
JUANITA * DEJESUSMARTINEZ, 0000
DANNY R. DENKINS, 0000
LAURIE D. * DESANTIS, 0000
CHRISTOPHER B. * DOMER, 0000
DAVID G. * DOTY, 0000
COREY L. * EICHELBERGER, 0000
AARON R. ELLIOTT, 0000
MICHAEL T. ENDRES, 0000
DAVID S. FARLEY, 0000
DAVID C. * FAZEKAS, 0000
MONNICA D. * FELIX, 0000
JESUS FLORES, 0000
JULIE J. * FREEMAN, 0000
KATHERINE E. FROST, 0000
JANA N. GAINOK, 0000
SUSAN R. * GARTUNG, 0000
SUSAN E. * GILBERT, 0000
JANET A. * GLENN, 0000
JOHN D. * GORDON, 0000
STEVEN L. * GRAHAM, 0000
PASCALE L. * GUIRAND, 0000
TYKISE L. * HAIRSTON, 0000
GREGORY W. * HANN, 0000
ANTHONY J. * HARKIN, 0000
PATRICK C. * HARTLEY, 0000
SHELLEY A. * HASKINS, 0000
ROBERT L. * HERROLD, 0000
WILFRED D. * HINZE, 0000
JAMES R. HUNLEY, JR., 0000
BRADLEY G. HUTTON, 0000
MICHELLE J. JARRELL, 0000
CONSTANCE L. JENKINS, 0000
CHERYL L. * JONES, 0000
BARBARA W. * KANE, 0000
JR R. * KENT, 0000
STEVEN A. * KINDLE, 0000
ROBERT N. LADD, 0000
ELAINE M. * LADICH, 0000
BRIAN M. * LENZMEIER, 0000
ANTHONY G. * LEONARD, 0000
JEFF L. LOGAN, 0000
CHERYL D. * LOVE, 0000
EDWIN S. * MANIULIT, 0000
CHERYLL A. * MARCHALK, 0000
FRED D. * MARCUM, 0000
DANIEL R. * MATTSON, 0000
TAMMY K. MAYER, 0000
ALAN E. * MEEKINS, 0000
JOHN J. * MELVIN, 0000
ZENON * MERCADO III, 0000
VINCENT R. * MILLER, 0000
CHERYL R. * MONTGOMERY, 0000
ANGELO D. MOORE, 0000
RICHARD T. * MORTON, JR., 0000
JANA L. NOHRENBERG, 0000
JOSE M. * NUNEZ, 0000
RONALD R. * OLIVER, 0000
OMER * OZGUC, 0000
KEITH C. * PALM, 0000
BRENT J. PERSONS, 0000
UN Y. * RAINEY, 0000
VINA A. RAJSKI, 0000
JANE E. * RALPH, 0000
TARA C. * REAVEY, 0000
BARBARA A. * REILLY, 0000
JAMES E. * RIGOT, 0000
CHRISTOPHER M. RIVERA, 0000
FELECIA M. RIVERS, 0000
ANDREA L. ROBERTS, 0000
RICCI R. * ROBISON, 0000
DOUGLAS W. ROGERS, 0000
ERICSON B. * ROSCA, 0000
MARGUERITE A. ROSSIELLO, 0000
SONYA I. ROWE, 0000
EDITHA D. RUIZ, 0000
EDWARD RUIZ, JR., 0000
JAY C. * SCHUSTER, 0000
TOMAS * SERNA, 0000
BROCK M. * SMITH, 0000
TARA O. * SPEARS, 0000
ANN M. * STARR, 0000
JOHN C. STICH, 0000
ROBERT D. SWINFORD, 0000
KELLY L. * TAYLOR, 0000
JAMIE S. THOMAS, 0000
MICHAEL K. * THOMAS, 0000
TROY R. THOMPSON, 0000
CHARLES E. TRUDO, 0000
CYBIL A. * TRUE, 0000
JESSICA T. * TRUEBLOOD, 0000
CHRISTIANE H. TURLINGTON, 0000
DENNIS R. * TURNER, 0000
ADAM W. * VANEK, 0000
MARY J. * VERNON, 0000
JOHN W. * VINING, 0000
ELIZABETH P. VINSON, 0000
KRISTEN L. * VONDRUSKA, 0000
MARVETTA WALKER, 0000
MIKO Y. * WATKINS, 0000
THOMAS K. WEICHART, 0000
CHRISTOPHER P. * WEIDLICH, 0000
BRIAN K. * WEISGRAM, 0000
RHONDA G. * WHITFIELD, 0000
RYAN J. WILCOX, 0000
JENNIFER L. WILEY, 0000
VAUGHN C. * WILHITE, 0000
ANGELA R. WILLIAMS, 0000
FAYE H. * WILSON, 0000
JOE C. WILSON, 0000
MERYIA D. WINDISCH, 0000
HEATHER L. ZUNIGA, 0000