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Senate

The Senate met at 9:30 a.m. and was called to order by the PRESIDENT pro tempore (Mr. STEVENS).

PRAYER

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

Let us pray.

O Lord, You have made this day for Yourself and for us. It is Your day, and we share its meaning. Remind us that You use our minds, hands, and feet to do Your work in our world.

Help us to bring aid and comfort to those who have been battered by the forces of nature. May we see in their trials opportunities to serve You.

Give the Members of this body the wisdom to use this day for Your glory. May they use their talents to strengthen our Nation and world. Empower them to strive for integrity, faith, love, and peace.

Entwine our lives with Your purposes so that our land will be blessed by Your providence.

We pray in Your sovereign Name. Amen.

PLEDGE OF ALLEGIANCE

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

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

RESERVATION OF LEADER TIME

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

EXECUTIVE SESSION

NOMINATION OF JOHN G. ROBERTS, JR., TO BE CHIEF JUSTICE OF THE UNITED STATES—Resumed

The PRESIDENT pro tempore. Under the previous order, the Senate will proceed to executive session to resume consideration of Calendar No. 317, which the clerk will report.

The legislative clerk read the nomination of John G. Roberts, Jr., of Maryland to be Chief Justice of the United States.

The PRESIDENT pro tempore. Under the previous order, the time until 10:30 a.m. will be equally divided between the two leaders or their designees.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, in a few minutes, we will begin the final remarks regarding the nomination of Judge John Roberts to serve as Chief Justice of the United States. Beginning at 10:30 this morning, the time until the vote has been allocated for closing comments by the chairman and ranking member of the Judiciary Committee. The vote on the confirmation of Judge Roberts will begin at 11:30.

I remind all Senators to be at their desks at the outset of this historic vote. Senators should come to the Chamber around 11:20 for the 11:30 vote.

Following the confirmation vote on Judge Roberts, the Senate will take up the Defense appropriations bill. Senators should expect additional votes on the Defense bill, as well as votes on Friday.

The vote we cast today is one of the most consequential of our careers. With the confirmation of John Roberts, the Supreme Court will embark upon a new era in its history—the Roberts era. For many years to come, long after many of us will have left public service, the Roberts Court will be deliberating on some of the most difficult and fundamental questions of U.S. law. As all Supreme Courts that have come before, their decisions will affect the lives of all Americans.

When the President announced his nomination of Judge Roberts in July, we pledged to conduct a full, thorough, and fair review of Judge Roberts' credentials and qualifications. We also pledged we would conduct those deliberations in a timely and expeditious manner so the Supreme Court could begin its term on October 3 at full strength. We have delivered on both promises.

I thank Chairman ARLEN SPECTER for his leadership and handling of the hearings process, and I also want to thank my colleagues for moving forward so the Supreme Court can do its important work for the American people.

I expect a strong bipartisan vote in support for Judge Roberts later this morning. As has been said by Members on both sides of the aisle, Judge Roberts is an exceptional candidate who possesses the keen intelligence, the exemplary character, and sterling credentials to serve as Chief Justice of the highest Court in the land. I look forward to confirming him to lead the Supreme Court of the United States.

I yield the floor.

The PRESIDENT pro tempore. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, my friend and colleague, the Senator from New York, is here. He wants to speak briefly. I know the time is divided for the next hour. I ask unanimous consent that he follow my remarks.

The PRESIDENT pro tempore. The time is equally divided.

Mr. FRIST. Mr. President, for the information of my colleagues, Senator LOTT has been scheduled to speak. When he comes, we will be alternating back and forth.

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

The PRESIDENT pro tempore. Does the Senator seek recognition now?

The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I will probably speak 8 or 9 minutes. My colleague wanted to speak for about 4 or 5 minutes. That would not interfere with the previous agreement. I ask unanimous consent that he be recognized following me.

The PRESIDENT pro tempore. That would take an amendment to the previously agreed-to order.

Without objection, it is so ordered.

Mr. KENNEDY. I thank the Chair.

Mr. President, the Supreme Court of the United States is the ultimate arbiter of our Constitution and, as such, it is the final protector of individual rights and liberties in this great Nation. So when we vote to confirm a justice for a lifetime appointment to the Supreme Court, we have an awesome responsibility to get it right. And when we vote to confirm the Chief Justice of the United States, we have an even greater responsibility, because the stakes are even higher.

The Chief Justice sets the tone for the Court and, through leadership, influences Court decisions in ways both subtle and direct. Indeed, during the course of his confirmation hearings, Judge Roberts expressly acknowledged the important role that a Chief Justice can play in persuading his fellow justices to come along to his way of thinking about a particular case. During my discussion with him of the Supreme Court's landmark decision in Brown v. Board of Education, I mentioned that the decision was a unanimous one. Judge Roberts responded:

Yes. That represented a lot of work by Chief Justice Earl Warren because my understanding of the history is that it initially was not. And he spent—it was re-argued. He spent a considerable amount of time talking to his colleagues and bringing around to the point where they ended up with unanimous court. . .

On another day, when I again mentioned Brown and the indispensable role played by Chief Justice Warren, Judge Roberts said:

Well, Senator, my point with respect to Chief Justice Warren was that he appreciated the impact that the decision in Brown would have. And he appreciated that the impact would be far more beneficial and favorable and far more effectively implemented with the unanimous court, the court speaking with one voice, than a splintered court.

The issue was significant enough that he spent the extra time in the reargument of the case to devote his energies to convincing the other justices—and, obviously, there's no arm-twisting or anything of that; it's the type of collegial discussion that judges and justices have to engage in—of the importance of what the court was doing and an appreciation of its impact on real people and real lives.

I have thought long and hard about the exchanges I had with Judge Roberts, and I have read and re-read the transcript and the record. And try as I might, I cannot find the evidence to conclude that John Roberts understands the real world impact of court decisions on civil rights and equal rights in this country. And I cannot find the evidence to conclude that a Chief Justice John Roberts would be the kind of inspirational leader who would use his powers of persuasion to bring all the Court along on America's continued march toward progress.

Therefore, I do not believe that John Roberts has met the burden of proof necessary to be confirmed by the Senate as Chief Justice of the United States. Sadly, there is ample evidence in John Roberts' record to indicate that he would turn the clock back on this country's great march of progress toward equal opportunity for all. The White House has refused to release documents and information from his years in the Reagan administration and in the first Bush administration that might indicate otherwise, but without those records we have no way of knowing.

Both in committee and on the floor, some have argued that those of us who oppose John Roberts' nomination are trying to force a nominee to adopt our ''partisan'' positions, to support our ''causes,'' to yield to our ''special interest'' agendas.

But progress toward a freer, fairer Nation where ''justice for all'' is a reality—not just a pledge in the Constitution—is not a personal ''cause'' or a ''special interest'' or a ''partisan'' philosophy or ideology or agenda.

For more than half a century, our Nation's progress toward a just society has been a shared goal of both Democrats and Republicans. Since Republican Senate Leader Everett Dirksen led his party in supporting the Civil Rights Act of 1964, equal rights for all has been a consensus cause, not a ''partisan cause.'' Since Congress adopted the Voting Rights Act of 1965 and began the process of spreading true democracy to all Americans, it has been a national goal, not a ''special interest'' goal. Fulfilling the Founders' ideals of equality and justice for all is not just a personal ideology, it is America's ideology. Surely, in the 21st century, anyone who leaves the slightest doubt as to whether he shares it fully, openly and enthusiastically should not be confirmed to any office, let alone the highest judicial office in the land.

Our doubts about John Roberts' commitment to continuing our national progress toward justice was, quite appropriately, a major issue in the committee hearings. The fundamental question was whether his record and his answers suggested that he would be an obstacle to that progress, by treating cases before the Supreme Court in a narrow legalistic way that resists and undermines the extraordinary gains of the past.

For all his brilliance and polish, he gave us insufficient evidence to demonstrate that the John Roberts of today is not the ideological activist he clearly was before. The strong evidence from his own hand and mind, the crucial 3-year gap in evidence because of the Administration's refusal to release his papers as Deputy Solicitor General, and his grudging and ambiguous answers at the hearing left too many fundamental doubts, and could put the entire Nation at risk for decades to come.

Some argue that John Roberts was just doing his job and carrying out the policies of the Reagan administration in the early 1980s. But his own writings refute that argument—these were clearly his own views, and were enthusiastically offered as his views. If he didn't agree with those policies as a lawyer in the Justice Department in 1981 and 1982, he would not have applied for the more political and more sensitive job in the White House Counsel's office when he left the Justice Department. He knowingly chose to be a voice for their policies, and often advocated even more extreme versions of those policies.

He certainly knew what was expected of him when he chose to become Deputy Solicitor General in 1989. That position was explicitly created to be the political monitor over all Department of Justice litigation. He was eager to advance the ideological views that his earlier memoranda show he personally supported. He obviously wasn't just ''following orders''—he was an eager recruit for those causes. That was the evidence he needed to overcome in the hearings, and his effort to do so is unconvincing.

I hope I am proven wrong about John Roberts. I have been proven wrong before on my confirmation votes. I regret my vote to confirm Justice Scalia even though he, too, like John Roberts, was a nice person and a very smart Harvard lawyer. I regret my vote against Justice Souter, although at the time, his record did not persuade me he was in tune with the Nation's goals and progress.

But as the example of Justice Scalia shows, and contrary to the assertions of my colleagues across the aisle, I have never hesitated to vote for a Republican President's nominee to the Supreme Court whose commitment to core national goals and values appeared clear at the time. In fact, I have voted for seven of them, more than the number of nominees of Democratic Presidents I have voted for.

Our Senate responsibility to provide advice and consent on the Supreme Court Justices and other nominations is one of our most important functions. The future and the quality of life in this Nation may literally depend on how we exercise it. If we are merely a rubberstamp for the President's nominees, if we put party over principle, then we have failed in this vital responsibility. Even more important, if we go along to get along with the White House, we will be undermining the trust the Founders placed in us, and we will diminish the great institution entrusted to our care. Every thoughtful and reasonable ''no'' vote is a vote for the balance of powers and for

the Constitution, so we must never hesitate to cast it when our independent consciences tell us to do so.

I yield the floor.

The PRESIDENT pro tempore. The Senator from New York is recognized.

Mr. SCHUMER. Mr. President, I thank the Senator from Massachusetts for his leadership on these issues through the decades.

Mr. President, today John Roberts will be confirmed as the 17th Chief Justice of the United States, so it is a historic day. Not everyone in this Senate will vote for him, and our opinions differ on many things: How much we were consulted, how many documents we received, how fair John Roberts will be, how ideological he will be.

In the end, I decided that while there was a very good chance that Judge Roberts would be a very conservative but mainstream Justice without an ideological agenda, he was not convincing enough. And the down side, even a minority downside that he would be a Justice in the mold of Scalia and Thomas, was too great to risk, so I will vote no.

But no matter how we vote, today we all share a fervent hope that Justice Roberts becomes a great jurist and serves our Nation well. In the end, I cannot vote for Judge Roberts, but I hope he proves me wrong in my vote and that he takes the goodwill of this body and the American people with him onto the bench; that he rules fairly; that he looks out for the little guy if the law is on the little guy's side; that he will be the lawyer's lawyer, without an ideological agenda; that he sees justice done in the many areas of the law that he will profoundly affect over the next several decades.

However, as the curtain falls on this vote, the curtain is about to rise on the nomination of a replacement for Justice Sandra Day O'Connor. If ever there was a time that cried out for consensus, the time is now. If the President nominates a consensus nominee, he will be embraced, the President will be embraced, and the nominee will be embraced with open arms by people on this side of the aisle. Not only we on this side of the aisle, but the American people hope and pray in these difficult times for a consensus nominee. The ball is in your court, Mr. President.

I yield the floor.

The PRESIDING OFFICER (Ms. MURKOWSKI). The Senator from Mississippi is recognized.

Mr. LOTT. Madam President, I am delighted this morning to rise to speak on the nomination of Judge John Roberts to become Chief Justice of the U.S. Supreme Court. Before I proceed on my discussion of Judge Roberts, I want to take a moment to commend the President of the United States for his brilliant selection of this outstanding human being, lawyer, judge, and public servant. I had thought there would be pressures to move in some other direction, that some other person might be selected for a variety of reasons—good reasons. But the most important thing was for him to select the best man or woman for the job, regardless of anything else. That is what the President did.

When I had an opportunity to comment to White House representatives when they asked my recommendations, I said, frankly, I didn't have a particular person I recommend. I have faith in this President and I believe he will make the right choice. But second, I urged that he pick the best person, regardless of sex, religion, race, religious background, region of the country, or philosophy. And then I had one or two that I thought, well, maybe you do not want to suggest these people.

I was, frankly, delightfully surprised when the President selected Judge Roberts. I am very pleased with this selection.

I also want to thank Senator SPECTER of Pennsylvania for conducting these confirmation hearings in such a fair, dignified, and respectful manner. We can only hope that the nature of these hearings will carry over to the next Supreme Court nomination. Every Senator had ample opportunity to make statements and ask what were supposed to be questions that quite often became just another speech, but I thought that the overall tenor and tone of the committee hearings was very good.

Maybe this nomination and the conduct of these hearings in the Judiciary Committee and the vote today in the Senate will be overwhelming and will bring to a final close a dark and ugly chapter in the history of Federal judicial nominations and confirmations. What we have done to men, women, and minorities over the past 4 years, until May of this year, was one of the nastiest things I have ever witnessed. Good people's remarks were misinterpreted. I will not even describe how strongly I feel about some of the things that were said and done.

We found a way to change the atmosphere, to move some of these nominees, and now to vote on this nomination. Thank goodness. This is a good opportunity. Let's continue these future hearings and these nomination considerations in this vein.

We are set to vote later this morning on the nomination of Judge Roberts to be the 17th Chief Justice of the U.S. Supreme Court, the youngest nominee in probably over 150 years. The vote will place Judge Roberts at the head of the judiciary branch, a job that comes with an immense amount of responsibility and a position for which Judge Roberts is eminently qualified.

Before I met Judge Roberts, I knew him by his reputation. I had some mutual friends who had worked with him at the Supreme Court, who had served with him in previous administrations, who had known him in a variety of roles, and to a man or woman they gave glowing reports on his quality and his credentials.

By Supreme Court standards he is still a young man, just 50 years old, but he has compiled an outstanding résumé, graduating sum cum laude from Harvard, taking only 3 years. He graduated magna cum laude from Harvard Law School and served as managing editor of the Harvard Law Review, with clerkships for Judge Henry Friendly and then Associate Justice William Rehnquist.

When I met with him I said, You have an outstanding résumé and we will overlook the Harvard thing—which always gets a laugh. And I am only jesting—in half.

Judge Roberts embarked upon a distinguished career in public service and served as Associate White House Counsel in the Reagan administration and the Principal Deputy Solicitor General in the George H.W. Bush administration. In all, Judge Roberts argued 39 cases before the U.S. Supreme Court, winning more than half. That is a pretty sterling record of appearances, let alone the victories. The American Bar Association gave him its highest rating, a unanimous ''well-qualified,'' both for the Supreme Court and DC Circuit nominations.

After visiting with Judge Roberts and watching how he has conducted himself during his nomination process, I continue to be extremely impressed. He is brilliant, eminently qualified, and fair man who clearly has a passion for the law. If confirmed, I believe he will serve the United States with honor and distinction for a long time.

Before Hurricane Katrina hit my home area and shifted the focus of us all, as we try to do all we can in a responsible way to help the people who have been so devastated by this natural disaster, I consistently heard concerns from Mississippians about the direction of our judicial system. My constituents realized that judicial activism is a serious problem that threatens their rights and ignores the constitutional obligations of the judiciary. With recent decisions such as Kelo v. City of New London that allows local governments to take private property and give it to someone else for private development, and the Pledge of Allegiance cases out of the Ninth Circuit, it should be clear to everyone what the dangers of judicial activism are and how it causes serious concerns.

I have a friend who serves in the Federal Judiciary, a very close friend. Recently, we were together in my home and after breakfast on Sunday morning we were talking about things in general. He said: I am concerned about the attitude toward the Federal judiciary. We actually have to worry about security in our courthouses. Why is this?

And I said: Your Honor, my friend, look at your decisions. You Federal judicial members are out of control. And until you get back in the box and stay as judges, not as legislators, and quit rendering these ridiculous decisions, there will be no respect.

However, I have learned, also, in so many ways in recent years, that one of the sayings of the Jaycees when I was

a young man in a young businessman's organization was that this is a government of laws, not of men. It is just not so. You can have the best laws in the world, you can have the best system in the world, which we do, but if you have the wrong men and women in place, it does not work.

So we have a little changing of the judiciary that is called for. And these recent decisions I refer to just magnify why this is needed. Judicial activism is a threat to all Americans, regardless of political alliances. The use of judicial activism to advance conservative or liberal political goals is simply wrong.

Judge Roberts' own testimony illustrates his understanding of the constitutional role of the judiciary and shows his understanding of the issue. He said:

> Judges are like umpires. Umpires don't make the rules, they apply them. . . . They make sure everybody plays by the rules, but it is a limited role.

While Judge Roberts acknowledged this analysis might be an oversimplification, but it shows a welcome respect for the constitutional role of the Judiciary.

When he was asked what type of judge he would like to be known as, Judge Roberts responded ''a modest judge,'' meaning he has an ''appreciation that the role of the judge is limited, that a judge is to decide the cases before them, they are not to legislate, they are not to execute the laws.''

Judge Roberts vowed to decide each case in a fair-minded, independent, and unbiased fashion and has stated repeatedly that personal ideology has no place in the decision making process of a judge.

Simply put, this is a rock solid judicial philosophy. This is what separates judges from legislators. We as legislators are free to use our personal ideology and make decisions, and boy do we. We are elected and accountable to our constituents for those decisions if we go too far, in their opinion, one way or the other.

Judge Roberts addressed the role of personal ideology in the judiciary during his hearings by saying:

> [Judges] are not individuals promoting their own particular views, but they are supposed to be doing their best to interpret the law, to interpret the Constitution, according to the rule of law, not their own preferences, not their own personal beliefs.

During his hearings, Judge Roberts was asked to answer several questions on issues that potentially could come before him if confirmed to the Supreme Court. He handled those questions exactly as he should have. It is a well-established standard that nominees should not answer questions that might bias them on future cases. I commend Judge Roberts for his handling of that sometimes difficult situation with steadfastness, with intelligent responses, and even sometimes with a sense of humor.

This nomination has served as a fantastic example of how the Ginsburg standard should be applied. Judicial nominees should have a fair and respectful hearing. They should not be expected to prejudge issues or cases. Judges must remain impartial and should not be asked to commit to rule a certain way in order to win confirmation votes. Judge Roberts, like Justice Ginsburg and all the other sitting judges, rightly refused to prejudge cases or issues likely to come before the Supreme Court.

During this process, Judge Roberts' record was scrutinized more closely than any other person in the history of judicial nominees. Senators had access to unprecedented 76,000 pages of documents from his time spent in public service and 327 cases decided by him on the DC Circuit. In addition, he was questioned for nearly 20 hours by the Judiciary Committee before receiving bipartisan support and a vote of 13 to 5. Through all of this intense scrutiny Judge Roberts and his record remain consistent and impressive.

Being placed under the microscope like this is not for the fainthearted. I admire how he handled this entire process with grace and poise.

Nobody should be surprised that when faced with a Supreme Court vacancy President Bush nominated a judicial conservative for that position. He said he would, I expected him to, and so he did. I expect him to do it again. In fact, you are talking about a consensus nominee. There won't be a consensus if he nominates somebody like Justice Ginsburg.

But I voted for her. I knew she was going to be way out of the mainstream, extremely liberal, but President Clinton won the election. He selected her. She was qualified by education, by experience, by demeanor. I voted for her. I did not expect her then to go on the Supreme Court and vote the way I would vote. She was a liberal. She is today. And probably—I have every reason to believe—a wonderful lady and a very thoughtful judge. She just comes to wrong conclusions, in my opinion.

The President was elected twice to the Presidency, telling anyone who would listen he would fill a vacancy in the Supreme Court with a judicial conservative. So why are we surprised? Why would you expect anything else? That is the way it is going to be; and that is the way it should be. He has followed through on that promise with John Roberts. He will likely do so again in the next nomination. And the next nominee, whoever it might be, deserves to be treated with the same fairness, respect, and dignity given to Judge Roberts.

There is clear and convincing evidence here that Judge Roberts is the right choice to be Chief Justice of the U.S. Supreme Court. I look forward to voting in favor of his confirmation.

I yield the floor.

Mr. AKAKA. Mr. President, I rise today in reluctant opposition to the confirmation of John Roberts as Chief Justice of the United States. While Judge Roberts is a talented lawyer and Constitutional scholar, I do not believe that these qualities alone are sufficient for leading the highest court in the land.

I approached this nomination as I do any nomination: with an open mind. I take my role of advice and consent on nominations seriously. That is why I joined a group of my colleagues in the Senate to respectfully ask the President to make available documents from Roberts' time in the Solicitor General's office. These documents could have provided valuable insight into how Roberts views important Constitutional questions, and I am disappointed that the White House did not fulfill this request. The White House owes not only the Senate, but also the American people, access to this information.

And so I am left to wonder about Judge Roberts' positions on critical questions regarding our Constitution and our way of life. I continue to hope that Judge Roberts shares my understanding that the Constitution provides robust protections guaranteeing the equality of all Americans. I hope that Judge Roberts' view of the Constitution is not as narrow as I have been led to believe.

However, neither the White House nor Judge Roberts has convinced me. On the contrary, they have given me reasons for alarm. Because the White House failed to respond to requests for Roberts' more recent work at the Solicitor General's office, the memoranda Judge Roberts wrote as a young lawyer in government service are all I have to go on. These memos raise serious concerns for me about Judge Roberts' commitment to protecting fundamental rights. Judge Roberts expressed views on civil rights, the Voting Rights Act, and the right to privacy convey a view of the Constitution that I simply do not agree with.

I recognize that these memos were written a long time ago, which is why I reserved judgement until Judge Roberts had the opportunity to clarify his position on these issues at the hearings. I listened carefully for Judge Roberts to dispel concerns about these memoranda, hoping that Judge Roberts would clarify the values that would guide his deliberations as Chief Justice. While Judge Roberts would occasionally distance himself from his old memos, stating that he was simply an employee doing what his boss had asked of him, he never fully explained where he stands on these important issues now.

Consequently, I am left with the memos to piece together Judge Roberts' judicial philosophy. These memos concerned me not only for the ideas they conveyed, but also the language that Judge Roberts chose to express his ideas. To me, phrases such as ''illegal amigo,'' ''Indian giveaway,'' and ''supposed right to privacy'' convey an unacceptable lack of respect for the people whose rights and freedoms Judge

Roberts would be entrusted to protect. It disappointed me that, when asked whether he regretted his flippant tone, Judge Roberts not only deflected responsibility but also failed to articulate any semblance of regret for these hostile words.

For these reasons, I cannot vote for this nominee. This was not an easy decision for me. I have great respect for my many friends—both inside and outside this body—who have come to a different conclusion. I hope the President will use his next nomination to appoint a justice whom all Senators can agree upon, and if doubts arise the White House will choose to resolve rather than exacerbate them.

Mr. BOND. Mr. President, among the great responsibilities and privileges of being a Member of the U.S. Senate is assessing the qualifications and voting on the confirmation of members of the U.S. Supreme Court. Reflecting upon this vote, one gets a sense of the weight of the responsibility—we will be voting on a replacement for only the 17th Chief Justice in the history of our great country.

But this vote is not unique because of its infrequency but because of its place in our system of government. The Supreme Court is the final voice in the land on the meaning of the words of the Constitution as they apply to the extent of the rights guaranteed to individuals by the document. It is the final word on the demarcation of power between the legislative and executive branch of government and it is the voice on defining the power reserved for the Federal Government and the governments of the individual States.

As a member of the legislative branch of our national government who was in a former life a State Governor, I am acutely aware of the importance of these lines and the consequences when they are breached. As a Member of the Senate, I do not welcome decisions overturning legislative acts that I support but I frequently work with my colleagues to reject efforts to meddle in state affairs. As a Governor attempting to guide my State, I had to labor through the burdens placed in my way by an intrusive Federal Government.

The judicial branch of our government, most notably the Supreme Court, has been designated by the Constitution as the branch to maintain these divisions of power and law making.

So it is a great privilege and responsibility to have a role in confirming people who will occupy a place on the court. In this case, confirming the person that will lead that court.

After observing Judge Roberts during 3 days of hearing before the Committee on the Judiciary, I am convinced the power that comes with the vote of a Supreme Court Justice will be in wise and capable hands. First, throughout this strenuous session, Judge Roberts' intelligence, patience and temperament were on full display and were nothing short of extraordinary.

But it was that which he had to say that satisfies me and secures my vote for his confirmation.

He made a convincing case through his words and his demeanor that he will approach his responsibility with modesty and humility, which means approaching cases with an open mind and carefully studying the words of Congress or the precedents of the Court on constitutional questions. As Judge Roberts said and I agree, ''a certain humility should characterize the judicial role. Judges . . . are servants of the law, not the other way around.''

Also, as Judge Roberts repeatedly reminded his inquisitors, he is not a politician. In that statement, I am comforted. I commend him on his willingness to remind my colleagues that he was not before Congress to compromise or give hints on how he might vote on a hypothetical case in exchange for confirmation votes. Rather, he confirmed repeatedly that the constitution and the rule of law will be his guide.

Judge Roberts made the case that he recognizes that the authority on the division of power between the branches of government and the authority on the division of power in our federalist system of government are contained in the Constitution.

It is a positive thing that we are going to confirm a decent person for the Court, but that should not be our guiding principle. Our vote should not rest on whether a future judge will approach cases as a father or a son, on the side of the weak or the strong or with the intent to expand rights or protections. That subjects judicial decision making to subjective standards, compromises impartiality and removes the blinders from justice. Some have argued that this is to dodge a question. Rather, it is an indication that one recognizes that the obligation of the judge is to follow the Constitution rather than his own interests.

At one point during the proceedings, the Judge was prodded to comment on a case in which he participated to decide the extent of benefits available under a health plan. To limit or expand the benefits provided under a statute is the job of a legislature, not a judge. Judge Roberts agrees with this important principal. As he stated. ''As far as a Judge is concerned, they have to decide questions according to the rule of law, not their own social preferences, not their policy views, not their personal preferences, but according to the rule of law.''

If the support of a majority of a State or national legislature can be won, a statute can be changed and this concern addressed. I suspect that many of my colleagues, particularly those who will vote against this nomination, have come to rely on the judiciary to advance changes that have no support in legislatures. Hence, their frustration with Judge Roberts. He has clearly defined views of the role of the judiciary and the role of the legislature and they do not appear to be blurred. He has not shown a willingness to approach case guided by a point of view or a subjective standard—that is what is to motivate legislators as they debate on the campaign trail and the floors of congress and statehouses across the country.

But as Judge Roberts again put it so well, ''If the people who framed our Constitution were jealous of their freedom and liberty, they would not have sat around and said, 'Let's take all the hard issues and give them over to the judges.' That would have been the farthest thing from their mind.''

As did the Founders, I do not believe State and national legislative bodies are incapable of settling tough and contious issues. I do not believe it is benevolent or admirable for judges to remove questions from the public realm because they are divisive. Roberts has shown the modesty and respect for the role of the court and an legislature to refrain from that path.

Judge Roberts has also made it clear that he finds no place for reflection on the public attitudes and legal documents of foreign lands in the consideration of constitutional questions. They do not offer any guidance as to the words of our constitution.

During his testimony, Judge Roberts displayed a respect for Constitution and the rule of law as the principles that should guide him when ruling on a case. His view of the role of the judiciary is very consistent with that of my own.

Finally, I believe President Bush has executed his duties in a responsible manner that will serve our Nation well. He interviewed many distinguished and qualified attorneys an judges in the country to serve on our Nation's highest court. After responsible consultation with members of the Senate and careful and thoughtful deliberation, President Bush returned to the Senate the name of John Roberts. As we have learned, his qualifications to lead the Supreme Court and Federal judiciary are as unquestioned as they are impressive.

President Bush was reelected with over 62 million votes, the highest received by a presidential candidate. He is the first candidate in 16 years to win a majority of the popular vote, something not achieved by his predecessor, who incidentally won easy confirmation of both of his appointments to the high court.

President Bush resoundingly won the right to nominate someone who he views as fit to serve on the Supreme Court and he won the right to have that nominee considered fairly and impartially. The President also asked for the thoughts and advice of Members of this body as to the pending nomination. When it came time to exercise his responsibility as President, he did so by nominating someone with an impeccable record and extraordinary qualifications. In the execution of his duties, President Bush exceeded any standard to which he should be held.

Nonetheless, I suspect that this nomination and the subsequent nomination will not be treated in the manner that President Clinton's nominees were treated, when they received 96 votes. But it should as should the next nominee.

Judge Roberts is an outstanding nomination. He will get my support and he deserves the overwhelming support of this body.

Mr. ENSIGN. Mr. President, I rise to speak in support of John Roberts' nomination for Chief Justice of the Supreme Court. The debate that the Senate will have this week is truly historic. In our Nation's history there have only been 16 previous Chief Justices. The opportunity to vote on a nomination for Chief Justice is a once-in-a-lifetime opportunity and should be undertaken with recognition of its importance. The importance of this vote simply cannot be overstated.

I believe that our Nation is best served when we confirm individuals who appreciate that the role of a judge is not to make laws but to uphold the Constitution. We need judges who understand that their oath requires them to follow the Constitution and to apply the law in a modest fashion. Judges do not serve in the legislative branch. They should not make the law. As Senators, that is our job.

Under our Constitution, judges are appointed to interpret the law. They should apply the law without prejudice. Judges must be open to the legal arguments presented by each of the parties before them. They must fully and fairly analyze the facts and faithfully apply the law.

I have carefully considered John Roberts' record and his qualifications. I believe that his record reflects a proper understanding of the role of judges. I met with him and discussed face-to-face his views on the role of Supreme Court Justices. Judge Roberts possesses the highest intellect and integrity. He has also demonstrated that he is fair-minded. He possesses the necessary experience, as an attorney for the government, in private practice and as a judge, to serve on the high court. By any objective measure, John Roberts is qualified to sit on the bench, and he deserves to be confirmed.

Judge Roberts, in his testimony before the Judiciary Committee and in his writings throughout his career, has presented himself as a man with a clear view of the role of a Supreme Court Justice: to interpret the law and to uphold the Constitution. His answers to specific questions have been necessarily and appropriately limited so we must trust, as we have with past nominees to the Court, that Judge Roberts is presenting himself and his views honestly. I believe he has, and for the sake of our country, I hope so.

Today, throughout the judicial branch, judicial activism is impeding and restricting freedoms the American people should expect to enjoy as envisioned by our Nation's founders. Recent and significant rulings have established standards created not by elected Members of Congress but by activist judges. These rulings have infringed on Americans' rights to exercise their religious beliefs; to recite the Pledge of Allegiance; and to own property without fear that the Government might seize that property for economic gain.

Now more than ever we need justices who will stand against this type of judicial activism, adhere to the proper role of upholding the Constitution, and leave the task of creating laws to the Congress. John Roberts is representing himself as someone who believes in a return to what our founders intended and we hope his portrayal of his views is honest and true.

Historically, the Senate has confirmed a nominee when the nominee is found to be well qualified. John Roberts certainly meets this criterion. Historically, the Senate has based confirmation on a nominee's record, writings, and prior decisions. There is ample documentation on which my colleagues can make a decision with respect to John Roberts' nomination. And the documentation supports confirmation.

John Roberts deserves to be confirmed, and America deserves a Chief Justice like John Roberts.

I yield the floor.

Mr. FEINGOLD. Mr. President, I will vote in favor of the nomination of Judge John Roberts to be the Chief Justice of the United States. This has not been an easy decision, but I believe it is the correct one. Judge Roberts' impeccable legal credentials, his reputation and record as a fair-minded person, and his commitment to modesty and respect for precedent have persuaded me that he will not bring an ideological agenda to the position of Chief Justice of the United States and that he should be confirmed.

I have often noted that the scrutiny that I will apply to a President's nominee to the Supreme Court is the highest of any nomination and that the scrutiny to be applied to the position of Chief Justice must be the very highest. I have voted for executive branch appointments, and even for court of appeals nominees, whom I would not necessarily vote to put on the Supreme Court.

Furthermore, because the Supreme Court, alone among our courts, has the power to revisit and reverse its precedents, I believe that anyone who sits on that Court must not have a pre-set agenda to reverse precedents with which he or she disagrees and must recognize and appreciate the awesome power and responsibility of the Court to do justice when other branches of Government infringe on or ignore the freedoms and rights of all citizens.

Judge Roberts came to his hearing with a record that few can top. His long record of excellence as a lawyer practicing before the Supreme Court, and his reputation as a lawyer's lawyer who has no ideological agenda, carry substantial weight. I wanted to see, however, how that record and reputation would stand up against a searching inquiry into his past statements and current views. As a member of the Judiciary Committee, I was proud to play a role in that inquiry. I believe the hearing was fair and thorough and I congratulate the chairman and ranking member, and all of the members of the committee, for the seriousness with which they undertook this task.

One important question I had was about Judge Roberts' views on the role of precedent and stare decisis in our legal system. A lot of the concern about this nomination stems from the fact that many important precedents seem to be hanging by a thread. In both our private meeting and in his hearing, Judge Roberts demonstrated a great respect for precedent and for the importance of stability and settled expectations. His themes of modesty and humility showed appropriate respect for the work of the Justices who have come before him. He convinced me that he will take these issues very seriously, with respect to both the constitutional right to privacy and many other issues of settled law.

As I am sure every Member of the Senate noticed and expected, Judge Roberts did not expressly say how he would rule if asked to overturn Roe v. Wade. But if Judge Roberts abides by what he said about how he would approach the question of stare decisis, I think he should vote to uphold Roe. He certainly left some wiggle room, and he said he would approach the possibility of overturning a case differently if the underlying precedents themselves came into question. But it will be difficult to overrule Roe or other important precedents while remaining true to his testimony about stability and settled law, including his statement that he agrees with the outcome in Griswold v. Connecticut. I know the American people will be watching him very closely on that question, and I personally will consider it a reversal of huge proportions, and a grave disappointment, if he ultimately does attempt to go down that road.

I was also impressed that Judge Roberts does not seem inclined to try to rein in Congress's power under the commerce clause. He repeatedly called attention to the Court's recent decision in Gonzales v. Raich as indicating that the Court is not headed inexorably in the direction it turned in the Lopez and Morrison cases limiting Congress's power. His approving references to Raich suggests to me that he will take a more moderate stance on these issues than his mentor, Chief Justice Rehnquist. His attitude seems to be if Congress does its job right, he will not stand in the way as a judge. That is, of course, cold comfort if the Court creates new hoops for Congress to jump through and applies them retroactively. I hope that Judge Roberts will recognize that Congress can pay attention to what the Court says is

needed to justify legislation only if the Court gives clear advance notice of those requirements.

Judge Roberts also seemed to reject a return to the Lochner era, when a majority of the Court invoked the due process and contracts clauses of the Constitution to strike down child labor and other laws it disagreed with, and the courts openly acted as a superlegislature, rejecting congressional enactments based on their own political and economic judgments. Judge Roberts disparaged the Lochner decision, saying, ''[y]ou can read that opinion today and it's quite clear that they're not interpreting the law, they're making the law.'' That is a marked contrast to many in the so-called ''Constitution in Exile'' movement, including recently confirmed DC Circuit Judge Janice Rogers Brown.

Judge Roberts' determination to be a humble and modest judge should lead him to reject efforts to undermine Congress's power to address social and economic problems through national legislation. I view that as a significant commitment he has made to the Congress and to the country.

Another important issue involves not so much respect for settled precedent, but rather questions that will arise in the future with respect to the application of the Bill of Rights in a time of war. The Supreme Court has already dealt with a series of cases arising from the Bush administration's conduct of the fight against terrorism, and will undoubtedly face many more during the next Chief Justice's term. Indeed, how the new Justices address these issues may well define them and the Court in history.

For me, Judge Roberts' discussion of the Foreign Intelligence Surveillance Court, which has been such an issue in the Patriot Act debate, was a defining moment in the hearing. His answers showed a gut-level understanding of the potential dangers of a court that operates entirely in secret, with no adversary process. His instincts as a lawyer, one who trusts our judicial system and its protections to yield the correct result under the rule of law, seemed to take over, and he seemed genuinely disturbed by the idea of a court without the usual protections of an open, adversary process. Here is what he said about the FISA Court to Senator DEWINE:

> I'll be very candid. When I first learned about the FISA Court, I was surprised. It's not what we usually think of when we think of a court. We think of a place where we can go, we can watch the lawyers argue and it's subject to the glare of publicity and the judges explain their decision to the public and they can examine them. That's what we think of as a court.
>
> This is a very different and unusual institution. That was my first reaction. I appreciate the reasons that it operates the way it does, but it does seem to me that the departures from the normal judicial model that are involved there put a premium on the individuals involved.

Judge Roberts' comments, and that he went out of his way to express surprise at the fact that this secret court even exists, suggests to me that he would address issues related to FISA, such as government secrecy and challenges to civil liberties, with an appropriately skeptical mindset.

I was troubled when Judge Roberts refused to give a fuller answer about his view of the Supreme Court's decision in the Hamdi case, and I have concerns about his decision as an appeals court judge in the Hamdan case regarding military commissions. But Judge Roberts did tell me that he believes: ''The Bill of Rights doesn't change during times of war. The Bill of Rights doesn't change in times of crisis.'' I was pleased to hear him recognize this fundamental principle.

I do not want to minimize the concerns that have been expressed by those who oppose the nomination. I share some of them. Many of my misgivings about this nomination stem from Judge Roberts' refusal to answer many of our reasonable questions. Not only that, he refused to acknowledge that many of the positions he took as a member of the Reagan administration team were misguided or in some cases even flat-out wrong.

I do not understand why the one person who cannot express an opinion on virtually anything the Supreme Court has done is the person whom the American public most needs to hear from. No one on the committee asked him for a commitment on a given case or set of issues. We certainly recognize that it is possible his views might change once he is on the Court and hears the arguments and discusses the issues with his colleagues. All of those caveats would have been perfectly appropriate. But why shouldn't the committee and the public have some idea of where he stands, or at least what his instincts are, on recent controversial decisions?

Although in some areas he was more forthcoming than others, Judge Roberts did not answer questions that he could and should have—unfortunately with the full support of committee members who want to smooth his confirmation—and I think that is disrespectful of the Senate's constitutional role. In addition, the administration's refusal to respond to a reasonable, limited request for documents from the time Judge Roberts served in the Solicitor General's office did a real disservice to the country and to the nominee. My voting in favor of Judge Roberts does not endorse this refusal. In fact, if not for Judge Roberts' singular qualifications, I may have felt compelled to oppose his nomination on these grounds alone. Future nominees who refuse to answer reasonable questions or whose documents the administration—any administration—refuses to provide should not count on my approval.

Also troubling was Judge Roberts' approach to the memos he wrote as a young Reagan administration lawyer. His writings from his early service in government were those of a very smart man who was at times a little too sure of himself and too dismissive of other viewpoints. I wanted to see if the Judge Roberts of 2005 had grown from the John Roberts of 1985, whose strong views often suggested a rigid ideological agenda. I wanted to see the possibility of a seasoned, wise, and just John Roberts on the Supreme Court, not just a more polished, shrewder version of his younger self.

Unfortunately, he refused to disavow any of those memos, many of which laid out disturbing opinions on a variety of issues, from voting rights, to habeas corpus, to affirmative action. He refused to acknowledge that some of his tone and word choice in that era demonstrated a lack of sensitivity to minorities and women, and to the challenges they face. Instead, he took refuge in the argument that he was simply doing his job, so we are not now supposed to infer anything about his beliefs or motivations based on the memos he wrote in the 1980s.

I found these arguments unpersuasive, particularly since several of these memos indicate that those were, in fact, his own personal views. And I do not understand why he felt he had to defend these 20-year-old memos. Maybe it was pride. Maybe it was a political strategy dictated by a White House that so rarely admits error. But take voting rights—it should have been easy for Judge Roberts to say that in retrospect he was wrong about the dangers of the effects test, and that the 1982 amendments to the Voting Rights Act that he opposed have been good for the country. Instead, he said he wasn't an expert on the Voting Rights Act and insisted on the correctness of his position. That troubles me.

The John Roberts of 2005 did not have to embrace the John Roberts of 1985, but in some cases he did, all too readily. On the other hand, I am not sure that the John Roberts of 1985 would have told Senator FEINSTEIN with respect to affirmative action that: ''A measured effort that can withstand strict scrutiny is . . . a very positive approach.'' His answers to questions on affirmative action, seemed to me, on balance, to be an encouraging sign that he will not undo the Court's current approach.

Finally, I was unhappy with Judge Roberts' failure to recuse himself in the Hamdan v. Rumsfeld case, once he realized he was being seriously considered for a Supreme Court nomination. It is also hard to believe, as Judge Roberts testified, that he does not remember precisely when the possibility of an ethics violation first came to his attention. Judge Roberts sat on a court of appeals panel that heard the appeal of a district court ruling that, if upheld, would have been a huge setback for the administration's position on military commissions and the detainees at Guantanamo Bay. And he heard oral argument just 6 days after interviewing for a Supreme Court appointment with the Attorney General of the

United States, who also was a major participant in the underlying legal judgment of the administration that was challenged in the case. I am troubled that Judge Roberts apparently didn't recognize at the time that there was an ethical issue.

I give great weight to ethical considerations in judicial nominations. For example, when Judge Charles Pickering solicited letters of recommendation for his court of appeals nomination from lawyers practicing before him in the district court, I found that very significant, especially in combination with his actions in a cross burning case where improper ex parte contacts were alleged. But while the issue raised about Judge Roberts is serious, I do not see such a pattern with Judge Roberts, who has a long record and reputation for ethical behavior. Nor is there evidence of the egregious, almost aggressive unethical behavior that was present in the nomination of Judge Pickering.

I hope that Judge Roberts now understands the concerns that I and a number of respected legal ethicists have about his participation in the Hamdan case. It is not too late for him to recuse himself and allow a new panel to hear the case.

At the end of the day, I had to ask myself: What kind of Justice does this man aspire to be? An ideologue? A lawyer's lawyer? A great Supreme Court Justice like Justice Jackson, who moved comfortably from the top legal positions in the Department of Justice to a judicial position in which he was more than willing to challenge executive power? A Chief Justice who will go down in history as the leader of a sharp ideological turn to the right, or a consensus builder who is committed to the Court and its role as guarantor of basic freedoms?

I have talked to a number of people who know John Roberts or to people who know people who know John Roberts. Those I have heard from directly or indirectly have seen him develop since 1985 into one of the foremost Supreme Court advocates in the Nation, whose skills and judgment are respected by lawyers from across the ideological spectrum. They don't see him as a champion of one cause, as a narrow ideologue who wants to impose his views on the country. They see him as openminded, respectful, thoughtful, devoted to the law, and truly one of the great legal minds of his time. That carries a great deal of weight with me. And it helps to overcome my frustration with Judge Roberts for not distancing himself from what he wrote in his Reagan-era memos and with the White House for refusing to release relevant documents to the committee.

History has shown that control of the White House, and with it the power to shape the courts, never stays for too long with one party. When my party retakes the White House, there may very well be a Democratic John Roberts nominated to the Court, a man or woman with outstanding qualifications, highly respected by virtually everyone in the legal community, and perhaps with a paper trail of political experience or service on the progressive side of the ideological spectrum. When that day comes, and it will, that will be the test for the Senate. And, in the end, it is one of the central reasons I will vote to confirm Judge John Roberts to be perhaps the last Chief Justice of the United States in my lifetime. This is not a matter of deference to the President's choice. It is instead a recognition that the Supreme Court should be open to the very brightest of legal minds on either side of the political spectrum.

The position of Chief Justice demands the very highest scrutiny from the Senate, and the qualifications and abilities of the nominee for this position must shine through. Judge Roberts has the legal skills, the intellect, and the character to be a good Chief Justice, and I hope he fulfills that promise. I wish him well. May his service be a credit not only to the rule of law, but also to the principles of equality and freedom and justice that make this country so great.

Mr. CORZINE. Mr. President, I believe that the U.S. Constitution is about protecting the rights of Americans, not about restricting those rights. And that is why I will vote against Judge John Roberts' nomination to be Chief Justice of the United States.

Judge Roberts and I appear to hold different views of the role that the Federal Government should play in our country. I believe that Government is here to preserve rights, to protect and support our citizens, and to offer opportunity to those less fortunate. Based on the limited record before us, I am not convinced that John Roberts shares these views.

Though he is clearly intelligent, articulate, and accomplished, I am deeply concerned that Judge Roberts' narrow and cramped view of the Constitution will lead inevitably to the restriction of our most scared rights and protections. I fear that Judge Roberts will interpret the Constitution so narrowly that he will reach results that are inconsistent with decades of well-established Supreme Court precedent.

From civil liberties to the ability of courts to protect minorities, from voting rights to school desegregation, from privacy to environmental protections, Judge Roberts has consistently adopted positions intended to limit the role of Government in a way that would harm all Americans.

I simply cannot vote to confirm a nominee who may vote to roll back decades of progress and protections for our most fundamental rights. Our most basic rights hang in the balance and I am not prepared to gamble with these rights.

Before the hearings on Judge Roberts began, I stated that we needed to learn his positions on all of the important issues that face Americans today, including the right to privacy, a woman's right to choose, civil rights, the rights of consumers, federalism, the scope of executive power, and the Government's ability to help those who need it most. I asserted that it was essential to learn Judge Roberts' position on first amendment protections and the authority of Congress to enact laws protecting the environment.

I also requested that the White House and Judge Roberts release documents relating to 16 cases in which he was involved from 1989 to 1993 as the Principal Deputy Solicitor General in the Justice Department. I wanted to review these documents to learn all we needed to know about a man selected for a lifetime appointment to the highest Court in the Nation.

I sought this information and asked for these documents because I strongly believe that Senators have both a right and a duty to evaluate thoroughly Supreme Court nominees. We have a right to request that the nominee answer relevant questions about legal philosophy and we have a corresponding duty to look carefully into all aspects of the nominee's record, including his or her prior statements, memoranda, and judicial opinions. When faced with a nominee who has an extremely sparse record, as Judge Roberts does, the level of scrutiny required in evaluating answers and reviewing documents must necessarily be higher.

Unfortunately, during 3 days of testimony before the Senate Judiciary Committee, Judge Roberts raised more questions than he answered. And we have never been given the opportunity to review the documents requested from the Solicitor General's Office. This lack of information, when coupled with Judge Roberts' early writings in which he advanced an exceedingly restrictive view of the civil rights laws as a lawyer in the administrations of Presidents Ronald Reagan and George H.W. Bush, raises serious concerns.

During his testimony, Judge Roberts failed to answer the most basic questions about his constitutional and legal philosophy—in total, he refused to answer almost 100 questions during the hearings. Judge Roberts also refused to distance himself from the vast majority of his prior, controversial writings. In failing to state his position on many critical issues, Judge Roberts left us with little to go on beyond his prior writings and limited judicial record.

I have been struck, in listening to the statements of many of my colleagues who have struggled with how to vote on this nomination, by the simple fact that we are all guessing—guessing if Judge Roberts will uphold the right to privacy, guessing if he will restrict the right of a woman to choose, guessing if he will uphold Federal laws regulating the environment, guessing if he will greatly expand Executive power, and guessing if he will support the gains we have made in the area of civil rights during the past 40

years. I cannot in good conscience cast a vote for the position of Chief Justice of the Supreme Court based on conjecture.

My concerns about Judge Roberts' legal philosophy run deepest in the areas of privacy, civil rights, and federalism.

One of our most important liberties is the right of individuals to privacy, which includes a woman's right to choose. During his hearings, Judge Roberts acknowledged that the due process clause of the Constitution encompasses the right to privacy. He also stated that he believed that the right to privacy encompasses the right of married couples to access contraception as established by the Court in *Griswold* v. *Connecticut*, 381 U.S. 479 (1965). However, beyond these broad, generalized statements supporting the constitutional underpinnings of the right to privacy and the holding in Griswold, Judge Roberts failed to explain his views on the right to privacy.

When pressed with questions on the landmark 1973 decision, *Roe* v. *Wade*, 410 U.S. 113, which extended the right to privacy recognized in Griswold to encompass a woman's right to choose, Judge Roberts either refused to answer the questions or responded with generalizations about precedent. Judge Roberts made it clear that his analysis on this issue starts with the holding in the 1992 Supreme Court case, *Planned Parenthood of Connecticut* v. *Casey*, 505 U.S. 833, which held that the right to choose may be restricted so long as State statutes do not have the purpose or effect of imposing an ''undue burden'' on a woman's right. In using this as his starting point, Judge Roberts leaves open the strong possibility that he may vote, perhaps as early as the upcoming Supreme Court term, to further restrict a woman's right to choose.

I cannot overlook the similarity between Judge Roberts' responses to questions about a woman's right to choose and the answers given by Justice Clarence Thomas during his confirmation hearings. Like Judge Roberts, Justice Thomas acknowledged a right to privacy in the Constitution. Justice Thomas also expressed support for the decision in Griswold. However, once he was confirmed to the Supreme Court, Justice Thomas argued vehemently against the existence of a general right to privacy and even called for the reversal of Roe v. Wade, describing the decision as ''grievously wrong.''

We simply cannot allow this to happen again. And we should not have to. We should not be in a position today where we have to guess if Judge Roberts will attempt to overrule Roe v. Wade or to further restrict the constitutional right of all women to choose.

In addition to my concerns about the right to privacy, I have serious concerns about Judge Roberts' views on civil rights. His record is extremely limited, but what little evidence we have reveals Judge Roberts' repeated attempts to roll back legal protections afforded to minorities and to those less fortunate.

In the area of affirmative action, Roberts urged the Reagan and the first Bush administrations to oppose affirmative action programs. Roberts sought to overturn established precedent supporting affirmative action programs and, in 1981, he fought to abolish race- and gender-conscious remedies for discrimination. This position was contrary to the Supreme Court's ruling in *United Steelworkers of America* v. *Weber*, 443 U.S. 193 (1979), which upheld affirmative action in employment. During his confirmation hearings, Judge Roberts refused to state his present position on this issue.

Judge Roberts also has a detailed record of opposing a broad interpretation of the Voting Rights Act, which is considered one of the most powerful and effective civil rights laws ever enacted. While working in the Justice Department during the Reagan administration, Judge Roberts urged the administration to oppose a bill that allowed discrimination under section 2 of the act to be proven through a showing of the discriminatory effects, and not just the discriminatory intent, of State voting restrictions. Congress enacted the bill over the administration's objections. Judge Roberts' approach, had it been adopted, would have made it tremendously difficult to overturn discriminatory voting laws. Again, during his confirmation hearings, Judge Roberts refused to state his present position on this issue.

Judge Roberts' record in the area of access to education is also troubling. In prior writings, Judge Roberts expressed opposition to the Supreme Court decision in *Plyler* v. *Doe*, 457 U.S. 202 (1982), wherein the Court ruled that the Constitution mandates that all children, including the children of undocumented immigrants, have the same access to education. Again, during his confirmation hearings, Judge Roberts refused to state his present position on this issue.

Additionally, memoranda written by Judge Roberts during his tenure at the Department of Justice raise concerns about his eagerness to deny the Supreme Court the power to decide questions of constitutional interpretation and subsequent remedies. In one writing, Judge Roberts argued that Congress had the power to strip courts of the power to desegregate schools through busing in the wake of *Brown* v. *Board of Education*, 347 U.S. 483 (1954). During his hearings, Judge Roberts neither stated his present view on this issue nor distanced himself from his prior writings.

Had Judge Roberts' views prevailed on these civil rights issues or on other similar issues during his tenure in the Reagan and George H.W. Bush administrations, we would today live in a far different world. It would be a world with fewer protections for minorities, women, and people with disabilities.

I am also concerned about Judge Roberts' views on the power of the Federal Government to pass legislation under the commerce clause of the Constitution. Although Judge Roberts' record is sparse, his dissent from a full court opinion denying a rehearing en banc in *Rancho Viejo, LLC* v. *Norton*, 334 F.3d 1158 (2003), causes concern. Judge Roberts was one of only two judges on the entire U.S. Court of Appeals for the DC Circuit to challenge the decision of the panel to uphold the constitutionality of the Endangered Species Act. Although Judge Roberts allowed in a footnote that there could be alternative grounds on which the full DC Circuit might uphold the constitutionality of the Act, his opinion demonstrates a narrow view of Congress's power to legislate under the commerce clause.

I am concerned that, based upon this critical view of Federal power, Judge Roberts may vote to limit Congress's authority to enact laws that help all American citizens. In the wake of Hurricanes Katrina and Rita, the role of the Federal Government in protecting all Americans, and particularly those less fortunate, has never been clearer. Congress must have the power to assist those in need, and to help citizens during times of natural and manmade disasters.

I am mindful of Judge Roberts' frequent statements that he would approach the law with modesty and restraint. However, we have never learned the reference point for this modesty and restraint. The starting point in this inquiry is as important as the ending point, for either can dictate the result. It is difficult to tell from Judge Roberts' testimony and writings whether, in exercising restraint, Judge Roberts would be deferring to the original intent of the Founders, Supreme Court precedent, the contemporary understanding of the Constitution, or something else entirely. Without this information, we are unable to meaningfully understand Judge Roberts' judicial philosophy.

If he begins at the point where Justices Scalia and Thomas do, Judge Roberts would view judicial restraint and modesty as adherence to a static, narrow, antiquated, and inaccurate originalist view of the Constitution that fails to acknowledge the realities of modern America. This form of ''modesty'' and ''restraint'', followed by Justices Scalia and Thomas, quite openly seeks to overrule the accomplishments of much of our Supreme Court jurisprudence during the past 200 years. Justices Scalia and Thomas believe that they exercise judicial restraint when they attempt to overturn Supreme Court precedent such as Roe v. Wade on the ground that it is inconsistent with their own originalist understanding of the Constitution. Although they may call this modesty and restraint, this view of the Constitution is

neither modest nor restrained; rather, it is a form of judicial activism as aggressive as any the Court has ever seen.

I have carefully weighed my concerns in light of my constitutional duty as a U.S. Senator. And I have concluded that, fundamentally, I cannot vote yes without being confident that Judge Roberts will not vote to roll back the protections and rights our Nation fought so hard to attain.

I am deeply mindful that we must never become so cynical or political that we fail to do what is best for the citizens of our Nation. And that means that we must place the value of an independent judiciary above the partisan politics of the day. That also means that we must not be afraid to stand up to the President and vote against a nominee who puts us in a position of guessing about his constitutional and legal philosophy.

We must never forget that our Supreme Court depends, first and foremost, on the Justices who hear arguments and issue rulings each and every day. As all Americans know, the Supreme Court is the highest Court in the United States. This is the Court that issues final rulings on many of the most important issues of our time, ones that touch the lives of all Americans. Therefore, it is essential that we know the views of each and every person whom we approve for a lifetime appointment to the Supreme Court.

There is no question that Judge John Roberts will get an up-or-down vote in the full Senate. However, that does not mean that he will get my vote. I will only vote to confirm Justices who will uphold established precedent and understand that the Constitution is about protecting rights, not about restricting them.

The stakes are simply too high to guess about the future of our fundamental rights and protections.

Mr. SHELBY. Mr. President, I rise today to support the nomination of Judge John Roberts to be Chief Justice of the U.S. Supreme Court.

Judge Roberts is a man of integrity whose reputation is irrefutable. He has been widely praised for his affable and humble personality as well as his integrity and intellect. Judge Roberts is already greatly respected by his colleagues and current Supreme Court Justices who know him as a leading advocate before that Court.

I believe that Judge Roberts is eminently qualified for this position. He earned both his bachelor's degree and his law degree from Harvard University. In fact, after earning his bachelor's degree summa cum laude, he managed to earn his law degree magna cum laude while serving as the editor of the Harvard Law Review. Following graduation, Judge Roberts earned a clerkship on the Supreme Court for the late Chief Justice William Rehnquist.

Since that time, Judge Roberts has had a long and distinguished career of service to this country, including serving as an attorney in the Office of the Solicitor General. Most recently, he served as a judge on the DC Circuit Court of Appeals, widely considered the second most powerful court in the Nation. During his service on the court, he has been consistent and fair.

Judge Roberts has also been a private practice attorney representing the full range of clients before the Supreme Court. He has argued before the Supreme Court 39 times, an impressive record even if you do not consider the fact that his client prevailed in 25 of those cases. In fact, Judge Roberts is widely considered by his colleagues to be one of the most accomplished attorneys to argue before the Supreme Court.

For some time I have been concerned that our judiciary was being overwhelmed by activist judges who attempt to legislate from the bench. They appear to make decisions based upon political philosophy and twist the words of our Forefathers and of Congress to serve their ideological goals.

We do not need judges who will make their own laws and interpret the Constitution based on one political philosophy or another. Rather, we must insist on judges who maintain a fair and judicious tone—judges who rule without the influence of ideology or personal opinion.

After 20 hours of testimony before the Senate Judiciary Committee, I believe the Nation learned a great deal about how Judge Roberts views the judicial role and what kind of service he will provide the Nation as Chief Justice. Judge Roberts is a skilled lawyer who understands and respects the Constitution. I believe he understands that the role of the judiciary is to interpret the law—not make law. It is clear from his testimony that his goal will be to fairly and effectively interpret the Constitution and the law without prejudice and with the utmost respect for the rule of law.

I commend President Bush for his continued efforts to put judges in place who respect the rule of law. I believe that Judge Roberts is a shining example of this type of jurist, and there is no doubt in my mind that he should be confirmed as our country's 17th Chief Justice, and I am proud to support his nomination.

Ms. STABENOW. Mr. President, this is a critical time in our Nation's history. For the first time in more than a decade, we have not just one but two vacancies on the United States Supreme Court. Sandra Day O'Conner, the first woman justice and often the critical deciding vote, is retiring, and Chief Justice Rehnquist, who served on the Court for more than 33 years, passed away after a courageous battle with cancer.

The two nominees who will receive these lifetime appointments will dramatically impact the direction of the Court for decades to come and will shape decisions that will affect the rights and freedoms of all Americans.

Furthermore, the new Chief Justice will play a unique and critical role. He will lead the Court. The new Chief Justice will set the initial agenda of what cases should be considered, and assign the justice who will write the majority opinion when he or she is a part of the majority. He will be the most powerful judge in the country.

We all understand that the U.S. Senate has a constitutional obligation to ''advise and consent'' on all Federal judicial nominees. Unlike other nominations that come before the Senate, judicial nominations are lifetime appointments. These are not decisions that will affect our courts for 3 or 4 years but for 30 or 40 years, making it even more important for the Senate to act carefully and responsibly.

I am one of the newer Members of this chamber. In fact, I rank 74th in seniority. I don't have the 20 year voting history on Supreme Court nominees that many of my colleagues do. I didn't vote on the nominations of Justices Scalia, Ginsburg, O'Connor or Thomas.

But I bring a different kind of history to this Chamber. I am the first woman U.S. Senator in history from the State of Michigan. My office is next door to the Sewell Belmont house, where Alice Paul and Lucy Burns planned their suffrage marches and fought to get women the right to vote.

I can see it from my window and every day I am reminded of what the women before me went through so that I could speak on the Senate floor today. I feel the same responsibility to fight against discrimination and for equal rights, for the women that will come after me.

I take this responsibility very seriously and have closely studied Judge Roberts' writings and testimony at the Judiciary Committee hearings. I commend Senators SPECTER and LEAHY for conducting the hearings in a civil and bipartisan manner.

The Judiciary Committee hearings were the only opportunity for Americans to hear directly from Judge Roberts on issues and concerns that impact their daily lives, and to find out what a ''Roberts Court'' might look like. Unfortunately, Judge Roberts refused to answer many of the questions that are on the minds of most Americans.

However, the American people are being asked to hire Judge Roberts for this lifetime job without knowing the answers to most of the interview questions. This problem has been exacerbated by the White House's refusal to share even a limited number of documents from Judge Roberts' time as Deputy Solicitor General.

The Constitution grants all Americans the same rights, liberties and freedoms under the law. These are the sacred, bedrock values upon which the United States of America was founded. And we count on the Supreme Court to protect these constitutional rights at all times, whether they are popular or not.

Unfortunately, Judge Roberts refused to answer most substantive questions

about how he would protect our fundamental constitutional rights. Because of his failure to answer questions on the major legal issues of our time in a forthright manner, I feel compelled to base my decision on his writings and opinions.

When you closely examine these documents, you see a forceful and instinctive opposition toward protecting the fundamental rights of all Americans. In case after case, Judge Roberts argued that the Constitution did not protect workers, voters, women, minorities and people with disabilities from discrimination. He also argued that the Constitution does not firmly establish the right of privacy for all Americans.

In all of his memos, writings and briefs, Judge Roberts took the view that the Constitution only protects Americans in the most narrow and technical ways, and does not convey to us fundamental rights, liberties and freedoms. Because of these views, after much deliberation, I have concluded that Judge Roberts is the wrong choice for a lifetime appointment as Chief Justice of the U.S. Supreme Court.

Judge Roberts is certainly an intelligent man with a record of public service. However, that alone does not qualify him to lead the entire third branch of our government. I believe that his writings reveal a philosophy that undermines our most cherished and fundamental rights, liberties and freedoms as Americans, and for that reason, I will be voting no on his nomination.

The Supreme Court decides cases that have a broad impact on American jobs and the economy. Manufacturing is the backbone of Michigan's economy, and these court decisions will affect the livelihood of the families, workers and businesses I represent. We in Michigan need to know whether Judge Roberts will stand with us and with our families or be on the side of major special interests who were his clients in the private sector.

Right now, we are feeling the full impact of price-gouging and oil company monopolies at the gas pumps. But Americans don't know what Judge Roberts' views are of antitrust and consumer protection laws that punish these illegal corporate practices. How will he rule on cases dealing with insider-trading, anti-competitive business behavior and other kinds of corporate fraud to prevent another Enron?

We don't know if he supports basic consumer protections like patients' rights to receive a second doctor's opinion if their HMO tries to deny them treatment. Judge Roberts fought against these patients' right when he represented HMOs in private practice and Americans are entitled to know where he stands on this issue.

Americans need to know where Judge Roberts stands on worker protections under the Family and Medical Leave Act. And will Judge Roberts rule to protect their pensions and retirement benefits? We don't have the answers to these basic questions.

The foundation of our democracy is the belief that all people are created equal and that every American deserves an equal opportunity for a good education, good job, and a good life. The Supreme Court will be deciding cases that have an enormous impact on our civil rights protections and this fundamental American notion of equality.

As a lawyer in the Reagan administration, Judge Roberts argued against some of the most basic civil rights protections such as workplace discrimination laws and strengthening the Voting Rights Act. When he was asked if he disagreed with any of those positions today, Judge Roberts said he was just reflecting the administration's views, and refused to provide any clarity on his own personal views.

However these memos expressed more than just the administration's position; they included Judge Roberts' own extreme views on everything from school desegregation to title IX.

When urging the Attorney General to step up efforts to oppose legislation to strengthen the Voting Rights Act, Judge Roberts wrote, ''My own view is that something must be done to educate the Senators on the seriousness of this problem.'' This legislation ultimately passed with overwhelming bipartisan support.

In memos, he referred to the ''purported gender gap'' and ''the canard that women are discriminated against because they receive $0.59 to every $1.00 earned by men. . . .'' In response to an equal pay letter from three Republican congresswomen, Roberts wrote, ''I honestly find it troubling that three Republican representatives are so quick to embrace such a radical redistributive concept. Their slogan may as well be 'from each according to his ability, to each according to her gender.' ''

As special assistant, Roberts criticized the Labor Department's affirmative action program and referred to the policies which required ''employers who contract with the government to engage in race and sex conscious affirmative action as a condition of doing business with the government'' as ''offensive.'' Roberts wrote: ''Under our view of the law it is not enough to say that blacks and women have been historically discriminated against as groups and are therefore entitled to special preferences.''

What is particularly troublesome is not just the content of these writings but his tone toward these issues—one that is disrespectful. And one which Judge Roberts refused to disavow during the hearings.

As Senator FEINSTEIN, the only woman on the Senate Judiciary Committee said, ''If Judge Roberts had provided different answers to these questions, he could have easily demonstrated to us that wisdom comes with age, and a sense of his own autonomy. But he did neither.''

These are opinions and attitudes that will have an impact on real people's lives. And Judge Roberts' opinion matters.

They will affect whether or not we have admissions policies that promote diversity at our Nation's universities and policies that help minority-owned and women-owned businesses compete for government contracts.

They will determine how well our antidiscrimination laws are enforced to protect all Americans from housing discrimination, abusive work environments, sexual harassment, discriminatory hiring policies, and sexism in education and collegiate sports under title IX.

And they will determine whether our most fundamental democratic right—the right to vote—is protected.

As Chief Justice, Judge Roberts would decide in case after case, whether these principals of equal opportunity and equal protection should be upheld and whether these laws should be enforced.

The constitutional right to privacy is one of the most fundamental rights we have as Americans. At its core, it is about the role of government in the most personal of family decisions. It is about a woman's right to make her own reproductive choices and a couple's right to use contraception.

But it is also about keeping medical records private to prevent them from being used against Americans in their jobs or when they are trying to get health insurance. It is about a parent's right to send their child to the school of their choice. And it is about the role of government in right-to-die cases, as the nation witnessed in the Terry Schiavo case.

Our constitutional right to privacy is a complicated and often politically charged area of the law. It is extremely important that a Supreme Court nominee approach this issue as a fair and independent-minded jurist who will uphold settled law, and not approach it with a politically motivated agenda.

While Judge Roberts acknowledged that a right to privacy exists, he refused to explain what he believes that right actually encompasses. Like Justice Thomas in his testimony before the committee, Judge Roberts refused to say whether he believed the right to privacy extended beyond a married couple's right to contraception. Senator SCHUMER asked Judge Roberts whether he agreed that there is a ''general'' right to privacy provided in the Constitution. Roberts' response was, ''I wouldn't use the phrase 'general,' because I don't know what that means.''

He repeatedly refused to answer whether the right to privacy protects a woman's right to make her own reproductive choices, and like many women across the country, I was very disappointed that he was evasive in answering this important privacy question.

How Judge Roberts will approach and decide these questions of law will have a profound impact on not just our lives but on the lives of our children and grandchildren.

I had hoped that the hearings would give us insight into his legal reasoning and judicial philosophy on all of these important issues. And I strongly believe that the American people deserve these answers. This isn't a decision that should be based on guesswork or a leap of faith.

So all we have to go on are Judge Roberts' own writings over the past 25 years. Based on this record, I cannot in good conscience cast my vote for John Roberts to be Chief Justice of the United States Supreme Court.

Mr. KOHL. Mr. President, Judge Roberts came before the Senate Judiciary Committee earlier this month as a very well respected judge with a sterling academic record and a remarkable legal career. He left the Judiciary Committee with that reputation intact, if not enhanced. I have enormous respect for Judge Roberts' legal talents. They are undeniable. As a result, I supported his nomination last week in the Senate Judiciary Committee.

It is for this reason, his distinguished career and his sterling reputation as a lawyer and a judge, that I will vote my hopes today and not my fears and support Judge Roberts' nomination for Chief Justice of the United States.

During a private meeting with him, as well as through four impressive days of testimony, Judge Roberts made clear that he will be a modest judge. He assures us that he will address each case on its merits and approach each argument with an open mind. He recognized that judges should not substitute their policy preferences for those of Congress, and I agree.

Judge Roberts sees a clear boundary to the judge's role. He told us repeatedly that his personal views about issues did not matter. He assured us that he will not be an activist; and that he will rarely, if ever, look to overturn precedent. Rather, precedent, not his version of how the law should be, will mark the beginning of his constitutional analysis.

Judge Roberts recognizes a right to privacy in the Constitution, and he understands that people have come to rely on it. He made clear his agreement with the cases on the right to privacy that led to the Court's decisions in Roe and Casey.

Judge Roberts rejected ''originalist'' or a ''literalist'' philosophies. He does not bind the Constitution to narrow interpretations of the past. Too many judicial activists have used this philosophy to limit our rights and freedoms. Judge Roberts believes that as society evolves, our interpretation of the Constitution must evolve with it.

We choose to take Judge Roberts at his word, and believe that those words will bind him throughout his tenure on the Court. Ultimately, Judge Roberts persuaded us that he will be the Chief Justice we saw during his hearing, not the Chief Justice that his critics see in his past.

Nonetheless, the decision was not an easy one. While I support moderation in judicial temperament, I do not support inaction in the face of injustice. I worry that a Court full of neutral umpires would not have decided Brown v. Board of Education or other cases in which the Court moved America forward. Modesty is to be respected to a point, but not when it stands in the way of progress. Historically, the courts have often succeeded when our democratically-elected branches could not.

However, Judge Roberts testified, and I do not disagree, that his confirmation to replace Chief Justice Rehnquist will not radically shift the balance of the Court. If he had been nominated, as he was originally, to replace Justice O'Connor then his confirmation would have moved the Court to the right. That would have been a much more difficult decision. It is my hope that the White House recognizes this concern when they choose their next nominee.

In considering my decision, I was troubled by parts of Judge Roberts' record, but I was impressed by the man himself. I will support him as a Chief Justice who will keep an open mind and reject ideological extremism and simplistic approaches to interpreting the Constitution. I will vote my hopes and not my fears.

Mr. ROCKEFELLER. Mr. President, I rise today in support of the nomination of Judge John G. Roberts, Jr., to be Chief Justice of the United States Supreme Court.

In Judge Roberts the Nation is presented with a nominee who possesses an extraordinary intellect, a modest temperament, and a steady hand. I see in him the will and the ability to seek common ground among the Justices of the Court on important national issues. And I believe he possesses sufficient humility, as a man and as a judge, to be mindful of the powerful impact of his actions on the lives of average Americans.

Four days of intensive hearings allowed all of us, and much of America, to come to know something of John Roberts and to observe and assess what we don't know.

None of us can fully fathom the matters that will be determined, and the people who will be affected, by a judge with lifetime tenure on the highest Court of the land. John Roberts today very likely becomes the Chief Justice of a generation.

It is not surprising that this President would select a nominee with whom I disagree on some important issues, particularly as articulated in his early policy work. But it is reassuring, and ultimately determinative, that the President has selected a nominee who asserts with conviction, supported by the record, that he is not an ideologue, that he takes precedent as established law and people and cases as they come before him. I take him at his word, and trust that in interpreting and applying the law he will be his own man.

Yet once a nominee's high credentials and unimpeachable integrity have been established, the selection of a Supreme Court justice further demands of us a leap of faith. And it is in that leap of faith that we must attempt to know more: Who is he as a person? What is his understanding of the human condition? Does he take seriously our fundamental responsibility to people as well as to legal concepts?

Judge Roberts and I had the opportunity to meet in recent days to discuss his nomination. We had a good, long talk about West Virginia and our country and the people who make America great.

In talking with Judge Roberts I looked for assurance that when he tackles the grave questions that will come before his Court, he will consider fully the lives of average people, the lives of those in need and those whose voices often are not heard, the lives of working men and women, children, the elderly, our veterans.

Judge Roberts listened. He is a careful and attentive listener. And, I want my fellow West Virginians to know, Judge Roberts shared that his grandfather was a coal miner and his father worked in the steel mills, and that he is, in fact, mindful of the awesome responsibility he faces toward all Americans, from all walks of life, equally and unequivocally deserving of the rights and protections of our Nation.

I yield the floor.

Mr. LAUTENBERG. Mr. President, the Constitution grants the Senate the power and responsibility to advise and consent on the President's judicial nominations. And there is no more important judicial nomination than Chief Justice of the United States.

The President and Congress share responsibility for the makeup of the third branch. The President nominates a candidate to be a Federal judge, and the Senate is required to give its advice and consent for that nominee to be placed on the bench. It is a shared function; the Senate is not merely a rubber stamp for a President's nominee.

To evaluate a nominee, Congress must be informed about that nominee. We are not supposed to consent first and be informed later.

In the case of Judge Roberts, we cannot make an informed judgment because he was so evasive at his hearing. During his confirmation hearing, Judge Roberts declined to answer questions more than 90 times. The Senate and the American people deserve to know more about an individual who will lead our Nation's judiciary for decades to come.

Despite numerous efforts by members of the Senate Judiciary Committee, the Bush administration was not forthcoming. Not a single document from the years when Roberts was deputy Solicitor General was made available.

To be deprived of important information left me unable to give informed consent. The Constitution requires the

Senate to advise and consent on these lifetime appointments, not to consent first and advise later.

However, there are some things we do know about John Roberts. We know that as an attorney for the Reagan and first Bush administrations, his writings on many issues relating to women's rights were disturbing for those concerned about such matters. In an official memo to the Attorney General, Roberts wrote about the ''so-called right to privacy.'' In the Supreme Court case Rust v. Sullivan, Roberts co-authored a brief that declared Roe v. Wade was ''wrongly decided'' and should be overturned. At his hearings, Mr. Roberts refused to clarify whether he still would vote to overturn Roe.

Roberts also wrote of a ''perceived'' gender bias in the workplace. A ''perceived'' bias?

I know that Roberts admitted in his confirmation hearings that there has been discrimination against women in the past. He had to say that. But did he really once believe such a bias was merely ''perceived,'' and could he still believe that today?

Let me tell my colleague, about gender bias that was not perceived. When my father died at an early age, my mother was left a young widow. I watched her struggle to make her way in the workplace. She never got the same opportunities for advancement as men. She was very successful as an insurance sales person, but she was told that after the war, the company she worked for would be unable to continue her employment. Her manager told her, ''You know, we don't hire women for these jobs,'' and thus she was terminated.

The views of John Roberts portray a judge who could also undermine important protections for the environment and minorities. In his 2 years as a judge on the U.S. Court of Appeals for the DC Circuit, for instance, Mr. Roberts did not support congressional powers to use the commerce clause of our Constitution to pass clean air and clean water regulations.

While working for President Reagan, Roberts opposed a bill in Congress that would have strengthened the protections of the Voting Rights Act. Memos from the 1980s also show that Roberts supported the Reagan administration's opposition to measures initiated to redress past racial discrimination.

John Roberts has said that when writing many of these memos in Republican administrations, he was merely a staff attorney, just doing his job, advocating the position of his client. He claims that these memos do not necessarily reflect his views.

Yet, when the Judiciary Committee gave him ample opportunities to clarify exactly which memos expressed his views and which ones did not, he declined to answer.

So, even though Mr. Roberts had ample opportunity to answer the questions of the Judiciary Committee, we are still uncertain what he really believes.

I believe the risk is too great to support the confirmation of a Chief Justice to the United States Supreme Court, the highest-ranking leader in the judicial branch of our Government.

The fact that he is an intelligent and experienced fellow isn't enough. That is not enough for me to be able to reassure the people of New Jersey that he would preserve and protect their rights. I don't know some things that I need to know and some of the things that I do know are disconcerting. I will therefore oppose his confirmation.

Mrs. DOLE. Mr. President, Judge John Roberts is indeed an outstanding choice to be the 17th Chief Justice of the United States. He is one of our Nation's top legal minds, and as the American public has learned, he is a man of great intelligence and skill who will serve our country with the same integrity that has been the hallmark of his professional career.

In fact, it is hard to think of anyone who is more qualified to lead this Nation's High Court. Soon after graduating magna cum laude from Harvard Law, where he was managing editor of the Harvard Law Review, Roberts clerked for then-Associate Justice Rehnquist—a man he learned much from and deeply admired for 25 years. He went on to work in various legal capacities in the Reagan administration and later went into private practice. Just 2 ago, the Senate confirmed Roberts for a seat on the DC Circuit Court of Appeals.

In his distinguished career, including his tenure as a government lawyer, Roberts has argued a remarkable 39 cases before the Supreme Court. The issues at the heart of these cases have spanned the legal spectrum—from healthcare law to Indian law, environmental law to labor law, and many, many other areas of the law as well.

In his Senate confirmation hearings last week, John Roberts reinforced that he will be the kind of Chief Justice America needs and deserves. Undergoing hours upon hours of questioning, Judge Roberts maintained a steady, even temperament. He politely and respectfully answered more than 500 questions—and amazingly without much of a glance at notes. Most importantly, Judge Roberts revealed a great deal about how he views the judicial role. He emphasized that he is committed to the rule of law, not to his personal preferences or views. He emphasized his belief that judges are not politicians or legislators and that the role of a judge is limited. I wholeheartedly agree with Judge Roberts' assessment of the appropriate role of judges, and I am confident that he will strictly uphold the law and not attempt to legislate his own personal views from the bench.

I can think of no vote more important, save a declaration of war, than giving advice and consent to a nominee for Chief Justice of the United States. This has been a fair process, and the Judiciary Committee held extensive and meaningful hearings. Over the course of the last week, the Senate has conducted a spirited debate on the qualifications of John Roberts to be the next Chief Justice. And today, we will give him an up or down vote.

I am very pleased that my colleagues have proceeded expeditiously on the nomination of Judge Roberts, as it is of utmost importance that this nation's High Court have a new Chief Justice before the start of the Court's fall term.

For many in this Chamber, today's vote will be the only time in their entire Senate careers that they provide advice and consent on a nominee to be Chief Justice. I commend my colleagues who have risen above the normal day-to-day politics of this institution. But still, there are some of you who question how Judge Roberts will vote on specific cases in the future. Others of you may also be swayed by the passions of partisans.

But none have questioned Judge Robert's integrity. None have questioned his temperament. None have questioned his intellectual ability. And none have questioned his qualifications. These are the traditional measures the Senate has looked to when evaluating a judicial nomination of this importance. I would ask that my fellow Senators look to these time-tested standards and vote to confirm John Roberts as Chief Justice of the United States.

Ms. LANDRIEU. Mr. President, I will vote for the nomination of John Roberts to be the next Chief Justice of the United States. He is intelligent with an impressive educational background; extensive experience arguing before the Supreme Court; and distinguished public service experience at the highest levels of government. Based on his resume, he has the qualifications to be Chief Justice.

But a nominee's resume alone is not automatic grounds for confirmation to any office. The Senate has a duty to delve more deeply beyond a nominee's paper record. So while Judge Roberts's credentials are clearly impressive, I still had concerns about his original nomination to the Court.

My concern lay in the fact that Judge Roberts was originally nominated to replace Justice Sandra Day O'Connor who in her 24 years on the court brought a voice of moderation and balance to an increasingly polarized body. She wrote opinions that surprised and outraged both the right and the left; proof positive that she was not grinding a particular political ax or was beholden to one unbending judicial philosophy. She judged and considered both sides of a case and the law carefully and was more interested in getting the case right than pushing a particular agenda.

Justice O'Connor understood, just as Potter Stewart did before her, that power on the Court lay in the center, not at the extremes. Judge Roberts was about to replace that all-important center. I was not sure which way he would go. In the wake of William Rehnquist's death, my concerns for this nominee deepened.

We had seen far right wing conservative ideologues nominated for these life-long positions on the Federal bench. Democrats fought for greater consultation with the President about them, only to be met with the ''nuclear

option.'' Fortunately, a group of my colleagues and I were able to reach agreement to avoid this outcome; we were called the Gang of 14. Judge Roberts's nomination was going to be the first major test of this agreement.

When I had the opportunity to meet with Judge Roberts, he was able to relieve some of my concerns, enough that I knew we would not have to consider a filibuster. He struck me in two ways. First, he described his judicial philosophy as modest. Modesty is not a word that gets used to describe public figures in Washington, DC, that often. He saw the role of a judge as being limited. As he said in his opening remarks before his hearing: ''I come before the committee with no agenda. I have no platform. Judges are not politicians who can promise to do certain things in exchange for votes. I have no agenda, but I do have a commitment. If I am confirmed, I will confront every case with an open mind.'' He further said that the legitimacy of a judge's role is confined to interpreting the law and not making it.

The second thing that impressed me in our meeting was his appreciation that for many in this country the Supreme Court is seen as the last hope they have to ensure that their rights are not taken away. Earlier this year, as my colleagues will remember the Senate finally went on record apologizing for lynching. James Allen's book ''Without Sanctuary'' described in vivid black and white photos and prose the acts of barbarism that were used to terrorize African Americans in our Nation's not too distant past.

I showed this book to Judge Roberts and he was visibly moved. He told me that he never wanted to forget that the courts were there to protect the powerless. Lynching victims did not get due process of law, even though many of the mobs had law enforcement officers in their midst, and often acted to avenge some perceived crime. Those victims did not get a jury trial with the right to face their accusers as called for under the Constitution.

I came away from this meeting believing he will treat all people who come before the Court with respect. That every argument would receive fair consideration because for the party making that argument a tremendous amount could be at stake.

I am well aware of the criticism of Judge Roberts's earlier writings both those we have seen and several we have not. Some of the things he wrote while a young lawyer in the Reagan White House and Justice Departments indicate that he was hostile to civil rights, women's rights, the Voting Rights Act, and the right of privacy. While he was in the Solicitor General's office he wrote a brief suggesting that Roe v. Wade be overruled.

In thinking about these writings and what they mean for who he is now, I was reminded of something that Justice Oliver Wendell Holmes once said: ''The character of every act depends upon the circumstances in which it is done.'' I chose to look at Judge Roberts's earlier writings in the same light. When Judge Roberts wrote those things he was a young lawyer who came to the Reagan Administration fresh from a prestigious clerkship with then Associate Justice William Rehnquist. He was a young conservative working at the highest levels of power in our country for a conservative icon, President Reagan. In those positions he was an advocate for the administration and the President's agenda at the time.

His most recent experience in private practice has changed his views on the role of the court, the law, and the needs of individuals. He pointed out to me that he has represented a wide range of clients in his private practice: large and small businesses, indigent defendants, and State governments. Each one, he said, deserved a careful analysis of their position and how the law would apply to their case. He took that approach to his current work on the Court of appeals.

I believe that Judge Roberts has taken to heart another observation by Oliver Wendell Holmes and that is, ''to have doubted one's own first principles is the mark of a civilized man.'' Judge Roberts, I am sure would look back on his earlier writings and understand that he must revisit them in light of the new responsibilities he is about to undertake.

In the weeks leading up to the confirmation hearings, there was a great deal of discussion and criticism of the administration for not turning over memoranda Judge Roberts wrote while he was Deputy Solicitor General at the Department of Justice. I was disappointed that the administration was not more forthcoming with these documents. I hope in the future we can reach an accommodation of some kind so that Senators will have complete information on a nominee. But the fact that we do not have these memos is not enough to keep this highly qualified nominee from becoming our next Chief Justice.

I want to congratulate Chairman SPECTER and Ranking Member LEAHY for the quality of the hearings they held for this nominee. The questioning was tough, but fair, and the committee performed its work with dignity. The hearing record gave us plenty of information to go on in making our decisions about this nominee. The qualities that every member of the Judiciary Committee saw in Judge Roberts, I saw firsthand in our meeting.

John Roberts is an excellent nominee who will be a fine Chief Justice. I encourage President Bush to send us a similarly qualified, modest, fair nominee to replace Justice O'Connor. The White House reached out to many Senators before naming Judge Roberts and I hope the administration will continue to build on that approach for this next nominee. I fully expect the President to nominate a conservative to fill Justice O'Connor's seat, but I also expect that nominee to be fair. Judge Roberts has set a very high bar. I hope the next nominee meets that standard.

The PRESIDING OFFICER. The majority whip.

Mr. MCCONNELL. Madam President, Senators cast many important votes—votes to strengthen our highway system, or to implement a comprehensive energy strategy, for example—but it is not often we cast a vote that is both important and truly historic. We do so, however, when we vote on whether to confirm a nominee to be Chief Justice of the United States.

There have been 9,869 Members of the House of Representatives, 1,884 Senators, and 43 Presidents of the United States, but only 16 Chief Justices. On average, each Chief Justice serves for well over a decade. Our last Chief Justice served for 19 years, a little short of two decades. The occupant of the ''center seat'' on the Court often has had a profound impact on the shape and substance of our legal system. But despite such profound effects, the position of Chief Justice actually got off to a rather inauspicious start.

The Constitution of the United States mentions the position of Chief Justice only once. Interestingly, it does not do so in Article III, which establishes the judicial branch of our Government. Rather, the Constitution refers to the position of Chief Justice, almost in passing, only in Article I, which sets forth the powers of the legislative branch.

There, in section 3, clause 6, it discusses the Senate's procedures for a trial of an impeached President, stating that ''When the President of the United States is tried, the Chief Justice shall preside.'' That is the sum and substance of his constitutional authority.

The Judiciary Act of 1789, which established the Federal court system, did not add much to the Chief Justice's responsibilities. It specified merely that ''the supreme court of the United States shall consist of a chief justice and five associate justices.''

It is not surprising, then, that the position of Chief Justice initially was not viewed as particularly important. Indeed, the first Chief Justice, John Jay, left completely disillusioned, believing that neither the Court nor the post would ever amount to very much.

It took George Washington four tries to find Jay's successor, as prominent people repeatedly turned him down. They were turning down George Washington's offers to make them the Chief Justice of the United States.

With such humble constitutional roots for the office, the power, prestige, and independence of the Supreme Court and the Federal court system in general often has been tied to the particular personal qualities of those who have served as Chief Justice.

John Marshall was our first great Chief Justice. His twin legacies were to increase respect for the Court and, relatedly, its power as well. He worked to

establish clear, unanimous opinions for the Court, and his opinion in Marbury v. Madison forever cemented the Court as a coequal branch of Government.

Marshall's successes were viewed, then as now, as a function of his formidable personal qualities. He is said to have had a ''first-class mind and a thoroughly engaging personality.'' Thomas Jefferson, for example, tried, in vain, to break his influence on the Court. In writing to James Madison, his successor, about Supreme Court appointments, Jefferson said:

[I]t will be difficult to find a character of firmness to preserve his independence on the same bench with Marshall.

That is Thomas Jefferson speaking about Chief Justice Marshall.

I find myself agreeing with the columnist George Will, who wrote recently in one of his columns:

Marshall is the most important American never to have been President.

William Howard Taft and Charles Evans Hughes also used their individual talents to become great Chief Justices. Taft, the only Chief Justice to serve also as President, which was prior to that, had a singular determination to modernize the Federal courts. He used his energy and his political acumen to convince Congress to establish what is now the Judicial Conference of the United States to administer the Federal courts; enact the Judiciary Act of 1925, which allowed the Court to decide the cases it would hear; and, before he left office, to give the Court its first, and current, permanent home—a stone's throw from where we stand today, across the East Lawn of the Capitol.

A fellow Justice called Charles Evans Hughes ''the greatest in a great line of Chief Justices.'' He was known for his leadership in running the Court and for constantly working to enhance the public's confidence in the Court. His successes were at least partly due to his keen appreciation of the limits of that office. This is what Charles Evans Hughes had to say:

The Chief Justice as the head of the Court has an outstanding position, but in a small body of able men with equal authority in the making of decisions, it is evident that his actual influence will depend on the strength of his character and the demonstration of his ability in the intimate relations of the judges.

Hughes was famous for the efficient, skillful, and courteous way in which he presided at oral argument, ran the Court's conferences, and assigned opinions, calling the latter his ''most delicate task.'' But his greatest service may have been in spearheading public opposition to FDR's court-packing plan.

Our last great Chief Justice, William Rehnquist, may be said to have possessed the best qualities of Marshall, Taft, and Hughes. He had an exceptional mind, an engaging personality, boundless energy, and a courteous and professional manner. These qualities helped him revolutionize Federal jurisprudence, administer the Supreme Court and the court system very efficiently, and interact constructively with those of us here in Congress.

Of course, we will soon vote on the nomination of his successor, Judge John Roberts, who, in one of life's bittersweet turns, served as a young and able law clerk to then-Associate Justice Rehnquist. In meeting with him, and watching his confirmation hearings, I believe Judge Roberts possesses many of the qualities of our great Chief Justices: an impressive legal acumen, a sterling reputation for integrity, and an outstanding judicial temperament. But I want to focus on one quality in particular; and that is, his devotion to the rule of law.

We use that term all the time, but the question is, what does it mean? I focus on the rule of law because of the positions my colleagues have taken during his nomination. One distinguished Member of this body said on the floor that he needed to find out ''whose side'' John Roberts ''is on.'' Another asked Judge Roberts whether, as a general proposition, he will be on the side of the ''big guy'' or the ''little guy.'' Still another insisted that the position to which Judge Roberts is nominated is akin to an elected official; in other words, an elected politician. Comments such as these are based on a fundamental misunderstanding of the role of a judge.

Many of the Founders were politicians, and they, of course, recognized that politics may favor certain constituencies. Judges, however, are not supposed to be on any group's ''side.'' They are not supposed to favor one party's ''little guy'' at the expense of another political party's ''big guy.'' In short, judges are anti-politicians; at least they are supposed to be.

In giving life tenure to Federal judges, the Founders did not want them—did not want them—to exercise the powers of politicians, to whom they had denied life tenure. None of us are given life tenure here, for good reason. As Alexander Hamilton wrote in Federalist No. 78:

It can be of no weight to say that the courts . . . may substitute their own pleasure to the constitutional intentions of the legislature. . . . The Courts must declare the sense of the law; and if they should be disposed to exercise will instead of judgment—

''Will instead of judgment''—

the consequence would equally be the substitution of their pleasure to that of the legislative body.

In other words, judges must only interpret the law, not write it in order to favor one group over another. Judge Roberts understands the role of a judge is that, and he is committed to adhering to it. Here is what he had to say. This was Judge Roberts at his hearing:

Judges are not politicians who can promise to do certain things in exchange for votes. I have no agenda, but I do have a commitment. If I am confirmed, I will confront every case with an open mind. . . . and I will decide every case . . . according to the rule of law, without fear or favor, to the best of my ability.

''Without fear or favor, to the best of my ability.''

To put it more simply, he knows if the law favors the ''little guy,'' then the ''little guy'' will win. If the law favors the ''big guy,'' then the ''big guy'' will win. It is as simple and principled as that.

I do not know—none of us do—the mark a Chief Justice Roberts will leave on the Court. With his many fine qualities, he may be a great administrator. He may lead some great reform of our court system. He may revolutionize some area of law. But he will be a successful leader. And I suspect that whatever else, with his total devotion to the rule of law, he will instill in our legal system a renewed appreciation for the role of judges in our Republic and, thereby, keep the Court on the path the Founders intended.

So today, I, like my colleagues, am mindful of the gravity and the privilege of this vote to confirm our 17th Chief Justice. I do so with the absolute conviction that Judge John Roberts meets the measure of his great predecessors, and will lead the Court with judgment, skill, and integrity as befits the third branch of Government—the branch that protects our liberties by insisting that ours is a country of laws and not of men.

I yield the floor.

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

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

Under the previous order, the time from 10:30 a.m. to 10:45 a.m. will be under the control of the Senator from Vermont.

Mr. LEAHY. Madam President, as we come to the conclusion of these confirmation proceedings, I commend Senators on both sides of the aisle for taking the time and making the effort to actively participate in this process. Few duties and few votes are as enduring and as consequential as deciding on a nomination for the premier jurist of the United States in our Federal court system. We have had 43 Presidents in our Nation's history. We have only had 16 Chief Justices of the United States. In fact, only slightly under two dozen Members of the Senate have ever voted on the question of a Chief Justice.

We have had full and fair hearings. We have had a constructive debate. This process has been a credit to the Senate and to the Judiciary Committee. I commend especially Senator SPECTER of Pennsylvania, our chairman, and all of the members of the committee on both sides and their staffs for the detailed, sometimes grueling, preparation that evaluating a Supreme Court nomination requires.

I am sure people understand when I refer to the committee's Democratic

staff. They worked for 2 months. They labored dutifully. They gave up their weekends and their evenings, and with professionalism they helped Senators in our review of this important nomination. I particularly thank Bruce Cohen, Edward Pagano, Andrew Mason, Chris Matthias, Daniel Fine, Daniel Triggs, David Carle, Ed Barron, Elizabeth Martin, Erica Chabot, Erica Santo Pietro, Helaine Greenfeld, Jennie Pasquarella, Jeremy Paris, Jessica Bashford, Joe Sexton, Joshu Harris, Julia Franklin, Julie Katzman, Kathryn Neal, Katy Hutchison, Kristine Lucius, Kyra Harris, Lisa Anderson, Margaret Gage, Marit DeLozier, Mary Kate Meyer, Matt Nelson, Matt Oresman, Matt Virkstis, Nate Burris, Noah Bookbinder, Sam Schneider, Sripriya Narasimhan, Susan Davies, Tara Magner, Tracy Schmaler, Valerie Frias and William Bittinger. And their experience was duplicated by the hardworking Republican staff.

As a member of the minority party, I speak about our vital role in our system that is often less visible, but is crucial just the same. The minority sharpens the Senate's and the public's focus on issues that come before the Senate or sometimes on unattended issues that deserve the Senate's attention.

In these proceedings, we have helped sharpen the Senate's focus on issues that matter most in the decision before us, that of confirming a new Chief Justice of the United States.

I especially commend my fellow Democrats for taking this responsibility so dutifully. They waited to hear the evidence and to learn the particulars about this nomination. They did not rush to judgment. They did not speak out until after the hearings. Individual Senators now have weighed the evidence, and they have come to their individual conclusions.

On this side of the aisle, there will not be a lockstep vote. I appreciate the thoughtful remarks by those who decided to vote in favor of confirmation and by those who decide to vote against the nomination. I respect the decisions of Senators who have come to different conclusions on this nomination. I know for many, including myself, it was a difficult decision. I have said that each Senator must carefully weigh this matter and decide for herself or himself.

We are, each of us, 1 vote out of 100, but those 100 votes are entrusted with protecting the rights of 280 million of our fellow citizens. We stand in the shoes of 280 million Americans in this Chamber. What a somber and humbling responsibility we have in casting this vote.

I was glad to hear the Republican leader say earlier this week that a judge must jettison politics in order to be a fair jurist. He is right. I thought the remarks of the senior Senator from Maine were especially meaningful, and I appreciated that she was careful to include judicial philosophy among the criteria she considered on this nomination. And of course she is right.

As the Senate considers the nomination, it is important to have more information, rather than less, about a nominee's approach to the law and about his or her judicial philosophy.

For the American people whose lives will be directly and indirectly affected by the decisions of a nominee, it is equally important that the Senate's review process be fair, that it be transparent, and that it be thorough. The hearings we conduct and the debates we hold are the best and only opportunity for the American people to hear from and learn about the persons who could have significant influence over their constitutional protections and freedoms. We owe the people we represent a vigorous and open review, including forthright answers to questions.

My Vermont roots, which go back three centuries, have always told me to go with my conscience, and that is what I have done in this decision. Judge Roberts is a man of integrity. For me, a vote to confirm requires faith that the words he spoke to the Judiciary Committee in the hearings and to me in our meetings have meaning. I have taken him at his word that he does not have an ideological agenda, that he will be his own man as Chief Justice. I take him at his word that he will steer the Court so it will serve as an appropriate check on potential abuses of Presidential power, not just today but tomorrow. I hope that he will, and I trust that he will.

As we close the debate on this nomination and move to a vote, we do so knowing we will soon be considering another Supreme Court nominee in the Senate. Last week, Chairman SPECTER and I, along with the Republican and Democratic leaders of the Senate, met with the President. I urged him to follow through with meaningful consultation. I urged him to share with us his intentions and seek our advice on the next nomination before he acts.

There could and should have been consultation with the Senate on the nomination of someone to serve as the 17th Chief Justice of the United States. I am sorry there was not, but there could and should be meaningful consultation on the person to be named to succeed Justice O'Connor, who has so often been the decisive vote of the Supreme Court.

The stakes for all Americans and for the Nation's well-being are high as the President contemplates his second pick for a Justice on the Nation's highest Court, a choice that will fill a swing vote and could steer the Court's direction long after the President is gone and long after most of us are gone.

The President does have this opportunity to work with us to unite the country, to be a uniter, to unite us around a nominee to succeed Justice O'Connor. Now more than ever, with Americans fighting and dying in Iraq every day, with hundreds of thousands of Americans displaced by disasters at home, it is a time to unite rather than divide. The Supreme Court belongs to all Americans, not to any faction. So for the sake of the Nation, I urge the President to live up to his original promise, to be a uniter and not a divider.

If I might speak just personally to Judge John Roberts who will soon be Chief Justice John Roberts: Be there for all Americans. And whoever comes before you as Chief Justice, it should make no difference if their name is PATRICK LEAHY or Patrick Jones, George Bush or George Smith. No matter what their issue is, be there for all of us because what you do will affect our children and our grandchildren. And, Judge Roberts, it will affect your two lovely children. It will affect all Americans.

We are a great and a good country, but we are a diverse country. Any nation the size of ours, a nation built on immigrants—such as my Italian grandparents or my Irish great grandparents—has to be diverse. But we are diverse in all ways. Protect that diversity. Protect that diversity because it is that diversity that makes us strong as a nation, far more than our military might if we protect our diversity—a diversity of thought, a diversity of religion, a diversity of race, a diversity of politics.

Judge Roberts, soon to be Chief Justice Roberts, be there for all 280 million Americans. That is what I have tried to do in putting myself in the shoes of those 280 million Americans. I will cast my vote with hope and faith, but you, Judge Roberts, show the same hope and faith for this great country that you love and I love and all the other 99 Members of the Senate love.

Madam President, I yield the floor.

The PRESIDING OFFICER. Under the previous order, the time from 10:45 a.m. to 11 a.m. will be under the control of the Senator from Pennsylvania.

The Senator from Pennsylvania.

Mr. SPECTER. Madam President, at the outset, I compliment and salute my distinguished colleague, Senator LEAHY, for his appropriate, really elegant, remarks in support of the nomination of Judge Roberts to be Chief Justice. I compliment him on his leadership in taking a difficult stand, being the first Democrat to announce support for Judge Roberts' confirmation. It is difficult to step out against party leadership, against what may be a party position, but I believe it is precisely that kind of leadership which is so important for the Senate to discharge its constitutional responsibility in the confirmation process. I compliment as well the other committee members—Senator KOHL and Senator FEINGOLD for stepping out in support of Judge Roberts. And at last count, I know that some 18 Democrats have stated their intention to vote for Judge Roberts.

As yet, there are some who are undeclared, so that number will grow

beyond. I believe it is a matter of real urgency that when we come to the designation of the Chief Justice of the United States, or any Supreme Court nominee, that politics stop. We say in foreign policy that partisanship should stop at the water's edge, and I extend that metaphor on the recognition that the pillars of the Senate immediately outside the Chamber are lined up directly with the pillars of the Supreme Court of the United States.

In that intervening few blocks on the green, on the Capitol complex, that partisanship should stop at the Senate pillars as they extend across the way to the Supreme Court pillars.

In the confirmation of a Supreme Court nominee, there is a unique confluence of the three branches of Government on our separation of powers, with the President exercising the executive authority to nominate, the Senate on the confirmation process, and then the seating of the new Justice in the Supreme Court. It is a matter of vital concern that it be nonpartisan.

Twelve days ago, on September 17, at the Constitution Center in Philadelphia, the 218th anniversary of the signing of the Constitution was celebrated. Today is an historic day, with Judge Roberts, by all conventional wisdom, slated to become the 17th Chief Justice of the United States. On only 16 occasions in the past have we had a new Chief Justice of our Nation.

I believe Judge Roberts comes to this position uniquely qualified, with an academic record of superior standing, magna cum laude, summa cum laude, Harvard College and Harvard Law School, a distinguished career clerking first with Circuit Judge Henry Friendly, a very distinguished judge in the Court of Appeals; then clerked for then Associate Justice Rehnquist; then as an assistant to Attorney General William French Smith; later as associate White House counsel in the Reagan administration; a distinguished practice in the law firm of Hogan & Hartson; then 39 cases argued before the Supreme Court of the United States. So he has a phenomenal record.

His answers to the questioning before the committee, which I think was very intense, very directed, appropriately tough, was that he saw the Constitution as a document for the ages responding to societal changes; that he saw the phrases ''equal protection of the law'' and ''due process of law'' as expansive phrases which can accommodate societal changes.

As he approaches the job of Chief Justice, he has a remarkable running start. He described his arguments before the Court as a dialog among equals, a phrase that I think is unique and in a sense remarkable; that as an advocate he had the confidence to consider himself talking to equals when he addressed the nine members of the Supreme Court.

There have already been indications from the members of the Court about their liking the fact that Judge Roberts is going to be the new Chief Justice. It is not easy to come into a court at the age of 50, where Justice Stevens, the senior Justice, is 85 and others, Justice Scalia, 68, the next youngest member, Justice Thomas, 57. When he has the self-confidence to consider as an advocate a dialog among equals, that is a good sign that he has the potential to bring consensus to the Court.

There was an extended discussion during his confirmation proceeding about what Chief Justice Earl Warren did in bringing the Court together for a unanimous decision in Brown v. Board of Education and how important it was. In a case involving deep-seated patterns of segregation and the difficulty of implementing that decision and the years it has taken—it is still a work in process to give quality to African Americans, to Blacks in our society—let us make no mistake about it, it has been, since 1954 when the decision came down, 51 years, and there is still more work to be done, but it was an outstanding job by Chief Justice Warren to bring the Court together with a unanimous decision to put desegregation on the best possible plane with unanimity among the nine Justices who decided the case.

As I emphasized during my questioning of Judge Roberts, there is much to be done to move away from the 5-to-4 decisions of the Court, some inexplicable this year. The Court upheld the displaying of the Ten Commandments on a tower in Texas 5 to 4, and rejected displaying the Ten Commandments in Kentucky; within the past 5 years, inconsistent decisions on the interpretation of the Americans with Disabilities Act, 5 to 4 upholding the access provisions, 5 to 4 rejecting the constitutionality on the provisions relating to discrimination in employment.

Judge Roberts as Chief Justice has the capacity to fully understand the balance of power between the Congress and the Court and to move away from the denigrating comments that the Court made in Alabama v. Garrett that in declaring an act unconstitutional they had a superior ''method of reasoning,'' or that in establishing the flabby test, flabby being the words of Justice Scalia, on invoking the test of proportionality and congruence in the 1997 case of Boerne, where Justice Scalia accurately noted in his dissent in Tennessee v. Lane that it was a flabby test that allowed judicial legislation and that the Court was setting itself up as the taskmaster of the Congress to see that the Congress had done its homework.

So the new Chief Justice will have his work cut out in trying to bring a consensus on the reduction of the proliferation of opinions with so many concurrences coming out of the Court.

Yesterday's Washington Post had a headline about a filibuster showdown looms in the Senate and a recitation of frustration among so-called Democratic political activists who do not think their elected leaders put up a serious enough fight as to Judge Roberts.

Having been there for every minute of the Roberts proceeding in my capacity as chairman to preside, it was a searching, probing inquiry into Judge Roberts' background and his approach to the issue confronting the Court. When they say there was not a sufficient fight, there were very senior Senators, very experienced, leading the opposition. Who can challenge the tenacity of Senator KENNEDY, Senator BIDEN, Senator FEINSTEIN, Senator SCHUMER, and Senator DURBIN putting up that battle?

In the final analysis, we have had many experienced Senators who have come forward to join Senators LEAHY, KOHL, and FEINGOLD on the committee, and Senators of standing and distinction—Senator BYRD, who has been in this body since his election in 1958, Senator LEVIN, 27 years in this body, Senator DODD, 25 years, Senator LIEBERMAN, and so many among the 18 Senators—where there is the showing of that kind of bipartisanship.

It is my hope we will carry forward the spirit of bipartisanship which was demonstrated in the last two confirmation proceedings. Justice Breyer was confirmed in 1994 with an 87-to-9 vote, with 31 Republicans joining 56 Democrats, so it did not make any difference to 31 Republicans that Justice Breyer was nominated by President Clinton, who was a Democrat.

The year before, Justice Ginsburg was confirmed 96 to 3, with 41 Republicans voting for her nomination. Before that, Justice Souter was confirmed 90 to 9, with 45 Democrats joining 45 Republicans. Nine Democrats did vote ''no'' against Justice Souter, perhaps influenced by the posters that he would wreck Roe v. Wade. We know he was in the joint opinion in Casey v. Planned Parenthood.

Before that, the votes were unanimous as to Justice John Paul Stevens and Justice Scalia, 98 to 0, and Justice O'Connor was confirmed 99 to 0.

While the votes among the Democrats will not be as strong as the 41 Republicans who voted for President Clinton's nomination of Justice Ginsburg, we have a sufficient indication of a strong bipartisan vote so that I think it is not unduly optimistic to look for a future where we will have partisanship stopping at the Senate columns.

We face another nomination imminently. There have been discussions as to what our sequence and timing will be. We have shown, with the cooperation of Senator LEAHY and the Senate Democratic leader, Senator REID, as we negotiated this timetable—and we had some angst in the negotiations but we worked in a cooperative way so that on September 29 we have met the timetable which we anticipated, although nobody was bound to it. There could have been objections and there could have been delaying tactics, but Senator REID, Senator LEAHY, and the Judiciary Committee, with Democrats as

well as Republicans, supported that timetable.

It is my hope we will have a nominee who will come forward to replace Justice O'Connor who will be in the mold of Judge Roberts. In a sense, Judge Roberts replaces Chief Justice Rehnquist. Perhaps the ideology is not so important with that replacement, but it is my hope we will have someone who in the mold of Judge Roberts will stand up to the job, looking for the interpretations of due process and equal protection as Judge Roberts did in an expansive way, and looking for societal interests in that broad interpretation.

I am pleased to be a participant in this historic occasion, and again I salute my colleagues on both sides of the aisle for the dignified proceeding and meeting our timetable, in coming forward to this confirmation vote at 11:30 this morning.

The PRESIDING OFFICER (Mr. ENSIGN). Under the previous order, the time from 11 a.m. to 11:15 a.m. will be under the control of the Democratic leader.

Mr. REID. Mr. President, as I announced on this floor last week, I intend to vote against the nomination of Judge John Roberts to be Chief Justice of the United States. In my meetings with John Roberts, I found him to be a very nice person. I like him. I respect his legal skills. I respect much of the work he has done in his career. For example, his advocacy on the environmental side of the Lake Tahoe takings case several years ago was remarkably good. He decided the law did not look too good to him, so he figured the way to win the case was to argue to the Court the facts, and he did that and he won the case. So I admire his legal skills, as I think everyone in this body does. But at the end of the day, I have had many unanswered questions about the nominee, and because of that, I cannot justify a vote confirming him to this lifetime position.

Each one of the 100 Senators applies his or her own standard in carrying out the advice and consent clause of the Constitution. That is a constitutional role that we have. I know that elections have consequences, and I agree that Presidents are entitled to a measure of deference in appointing judicial nominees. After all, the Senate has confirmed well over 200 of President Bush's nominees, some of whom possess a judicial philosophy with which I disagree. But deference to the President can only go so far. Our Founding Fathers gave the Senate the central role in the nominations process, and that role is especially important in placing someone on the Supreme Court.

If confirmed by the Senate, John Roberts will serve as Chief Justice of the United States and leader of the third branch of the Federal Government for decades to come. He will possess enormous legal authority. In my view, we should only vote to confirm this nominee if he has persuaded us he will protect the freedoms that all Americans hold dear. This is a close question for me, but I will resolve my doubts in favor of the American people, whose rights would be in jeopardy if John Roberts turns out to be the wrong person for the job.

As I have indicated, I was impressed with Judge Roberts the first time I met him. This was a day or two after he was nominated. I knew that he had been a thoughtful member of the DC Circuit Court of Appeals for the last 2 years. But several factors caused me to reassess my initial view. Most notably, I was disturbed by memos that surfaced from John Roberts' years of service in the Reagan administration. These documents raised serious questions about the nominee's approach to the rights of women and civil rights.

In the statement that I gave last week, I gave some specific examples of the memos that concerned me. I also explained that I was prepared to look past these memos if the nominee distanced himself from these views at his Judiciary Committee hearings. He did not. I was so disappointed when he took the disingenuous stance that the views expressed in these memos were merely the views of his client, the Reagan administration. Anyone who has read the memos can see that their author was expressing his own personal views.

When I saw Senator SCHUMER throw him the proverbial softball in these hearings, I waited with anticipation for the answer that I knew would come. This brilliant man, John Roberts, certainly could see what Senator SCHUMER was attempting to do. He was attempting to have John Roberts say: Well, I was younger then. It was a poor choice of words. If I offended anyone, I am sorry. I know it was insensitive. I could have made the same point in a different manner.

But he didn't say that. For example, the softball that was thrown to him by Senator SCHUMER was words to the effect: In a memo you wrote that President Reagan was going to have a meeting in just a short period of time with some illegal amigos, Hispanics—that was insensitive. It was unwise. And it was wrong. And he should have acknowledged that and he did not.

That affected me. It gave me an insight into who John Roberts is.

My concerns about these Reagan-era memos were heightened when the White House rejected a reasonable request by the committee Democrats for documents written by the nominee when he served as Deputy Solicitor General in the first Bush administration. The claim of attorney-client privilege to shield these documents was unpersuasive. This was stonewalling, plain and simple.

In the absence of these documents, it was equally important for the nominee to answer fully questions from the committee members at his hearing. He didn't do that. Of course a judicial nominee should decline to answer questions regarding specific cases that will come before the Court to which the witness has been nominated. We all know that. But Judge Roberts refused to answer many questions certainly more remote than that, including questions seeking his views of long-settled precedents.

Finally, I was swayed by the testimony of civil rights and women's rights leaders against this confirmation. As we proceed through our public life, we have an opportunity to meet lots of people. That is one of the pluses of this wonderful job, the great honor that the people of the State of Nevada have bestowed upon me. During my public service, I have had the opportunity to serve in Congress with some people whom I consider heroes. One of those is a man by the name of JOHN LEWIS. JOHN LEWIS was part of the civil rights movement, and he has scars to show his involvement in the civil rights movement. Any time they show films of the beatings that took place in the Southern part of the United States of people trying to change America, John Lewis is one of those people you will see on the ground being kicked and stomped on while punches are thrown. He still has those scars.

But those scars are on the outside, not the inside. This man is one of the most kind, gentle people I have ever met, someone who is very sensitive to the civil rights we all enjoy. Congressman JOHN LEWIS is an icon and, as I have said, a personal hero of mine. When JOHN LEWIS says that John Roberts was on the wrong side of history and should not be confirmed, his view carries great weight with me.

So I weigh John Roberts' fine résumé and his 2 years of mainstream judicial service against the Reagan-era memos, the nominee's unsatisfactory testimony, and the administrations's failure to produce relevant documents. I have to reluctantly conclude the scales tipped against confirmation.

Some have accused Democrats of treating this nominee unfairly. Nothing could be further from the truth. There are volumes written about the uncivil atmosphere in Washington, about how things could be better in the Senate. All those people who write that, let them take a look at how this proceeding transpired in the Senate and I hope on the face of America. It was not easy to get to this point. In 20 minutes, we will have a vote on the Chief Justice of the United States. But people should understand that the Judiciary Committee conducted itself in an exemplary fashion, led by ARLEN SPECTER and PAT LEAHY. No better example in Government could be shown than to look at how they conducted the hearings and the full breadth of everything that took place with this confirmation process. It is exemplary.

People have strong feelings, not only in that committee but in the Senate, and there were many opportunities for mischief. But because of the strong leadership of two distinguished Senators—one from the tiny State of

Vermont and one from the very heavily populated State of Pennsylvania—it all worked out. They trusted each other and the members of the Judiciary Committee trusted them, and after a few weeks of this process, which went on for months, by the way, every Member of the Senate saw that this was going to be a civil proceeding, and it was. It has been. I commend and applaud the dignity of these hearings.

Each Democrat considered the nomination on the merits and approached the vote as a matter of conscience. Democrats were not told how to vote, not by me, not by the chairman of the Judiciary Committee, not by the senior Member of the Senate, Senator BYRD. They will vote their conscience.

Democrats have not employed any procedural tactics that we might have otherwise considered. As Senator SPECTER and Senator LEAHY have said to the President himself—I have been there when they said it—we want the next nominee not to be extreme.

The fact that some Democrats will vote no on this nomination is hardly unfair. We are simply doing our duty under the Constitution that we hold so dearly. The Constitution—that is what this is all about, this little document. We have a role, a constitutional role, of giving advice and consent to the President. The consent will come in a few minutes. The advice has been long in coming.

In the fullness of time, John Roberts may well prove to be a fine Supreme Court Justice. I hope that he is. If so, I will happily admit that I was wrong in voting against his confirmation. But I have reluctantly concluded that this nominee has not satisfied the high burden that would justify my voting for his confirmation based on the current record.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. I wonder if the senior Senator from Nevada will yield to me. I wish to make a comment. I know he still has a couple of minutes left.

Mr. REID. The time is yours.

Mr. LEAHY. Mr. President, I want to compliment the senior Senator from Nevada, the Democratic leader. I supported him for assistant leader, and I supported him for leader, and I have never regretted, nor doubted, that support.

I have been here 31 years. He is a fine leader. I have been here for 12 nominations to the Supreme Court, 2 of them for Chief Justice. I am one of only a handful of Senators who can say that. I know, throughout all this process, the Senator from Nevada, Senator REID, dealt with us evenhandedly and fairly. Never at any time did he try to twist any arms on this side of the aisle. Throughout it all he said: Keep your powder dry—his expression which I picked up—until the hearings were over. That is the sort of thing we should do. Hear the evidence first. Hear the evidence, and then reach a verdict. I am extremely proud of him.

We have reached different conclusions on this, but we remain friends and respectful to each other throughout. His praise of Senator SPECTER and of myself means so much to me. But I think, more importantly, what he has done means so much to the Senate. Senator REID has worked with both sides of the aisle to make sure that we were going to have a hearing for the Chief Justice of the United States that reflected what was best in this country.

When I finished my speech, I spoke directly to Judge John Roberts, and I will do so again: Please, remember there are 280 million Americans. Be a Chief Justice for all of us.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

The majority leader is recognized.

Mr. FRIST. Mr. President, the duty before us today to provide advice and consent on John Roberts' nomination as Chief Justice of the United States is perhaps the most significant responsibility we will undertake as elected leaders. It is a duty decreed to us by the Constitution and an obligation the American people have entrusted us to fulfill.

In this Chamber today, we are seated at the drafting table of history. We are prepared to write a new chapter in the history of our Nation. Our words and our actions will be judged not only by the American people today but by the eyes of history forever.

As we prepare to pick up the pen to write these words that will shape the course of our highest Court, I ask that we think hard about the words we will write. I ask that we think hard about the question we must answer: Is Judge Roberts qualified to lead the highest Court in the land? I believe the answer to this question is yes.

Judge Roberts possesses the qualities Americans expect in the Chief Justice of its highest Court and the qualifications that America deserves. Without a doubt, he is the brightest of the bright. His understanding of constitutional law is unquestionable. Judge Roberts has proven through his tenure on the District of Columbia Circuit Court of Appeals and in his testimony before the Judiciary Committee that he is committed to upholding the rule of law and the Constitution. He has demonstrated that he won't let personal opinions sway his fairminded approach. He will check political views at the door to the Court, for he respects the role of the judiciary and recognizes the importance of separation of powers.

As he so eloquently stated before the committee: ''Judges are like umpires. Umpires don't make the rules, they apply them . . . They make sure everybody plays by the rules, but it is a limited role.''

Judge Roberts will be a great umpire on the High Court. He will be fair and openminded. He will stand on principle and lead by example. He will be respectful of the judicial colleagues and litigants who come before the Court. And above all, he will be a faithful steward of the Constitution.

This is what we know about John Roberts: In the last few weeks, he has provided us information and answered our questions. John Roberts has fulfilled his obligation to the Senate.

Now it is time to fulfill our obligation to the American people. It is time for each Member to answer, Is John Roberts the right person for the job of Chief Justice of the United States? It is my belief that the answer is yes. It is my belief that the chapter we write should begin with his name. It is my hope that today Members will join me in writing the words; that Members will join me in writing ''yes'' for John Roberts' nomination as our Nation's 17th Chief Justice.

I ask for the yeas and nays.

The PRESIDENT pro tempore. Is there a sufficient second?

There is a sufficient second.

The question is, Will the Senate advise and consent to the nomination of John G. Roberts, Jr., of Maryland, to be the Chief Justice of the United States?

Under Resolution 480, the standing orders of the Senate, during the yea and nay votes of the Senate, each Senator shall vote from the assigned desk of the Senator.

The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 78, nays 22, as follows:

[Rollcall Vote No. 245 Ex.]

YEAS—78

Alexander	Dole	Martinez
Allard	Domenici	McCain
Allen	Dorgan	McConnell
Baucus	Ensign	Murkowski
Bennett	Enzi	Murray
Bingaman	Feingold	Nelson (FL)
Bond	Frist	Nelson (NE)
Brownback	Graham	Pryor
Bunning	Grassley	Roberts
Burns	Gregg	Rockefeller
Burr	Hagel	Salazar
Byrd	Hatch	Santorum
Carper	Hutchison	Sessions
Chafee	Inhofe	Shelby
Chambliss	Isakson	Smith
Coburn	Jeffords	Snowe
Cochran	Johnson	Specter
Coleman	Kohl	Stevens
Collins	Kyl	Sununu
Conrad	Landrieu	Talent
Cornyn	Leahy	Thomas
Craig	Levin	Thune
Crapo	Lieberman	Vitter
DeMint	Lincoln	Voinovich
DeWine	Lott	Warner
Dodd	Lugar	Wyden

NAYS—22

Akaka	Corzine	Kennedy
Bayh	Dayton	Kerry
Biden	Durbin	Lautenberg
Boxer	Feinstein	Mikulski
Cantwell	Harkin	
Clinton	Inouye	

Obama	Reid	Schumer
Reed	Sarbanes	Stabenow

The nomination was confirmed.

Mr. FRIST. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. FRIST. I ask that the President be immediately notified of the Senate's action.

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

LEGISLATIVE SESSION

Mr. FRIST. I ask that the Senate resume legislative session.

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

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

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

The legislative clerk proceeded to call the roll.

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

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

IRAQ

Mr. FEINGOLD. Mr. President, I rise once again today to comment on the deeply disturbing consequences of the President's misguided policies in Iraq. I have spoken before about my grave concern that the administration's Iraq policies are actually strengthening the hand of our enemies, fueling the insurgency's recruitment of foreign fighters, and unifying elements of the insurgency that might otherwise turn on each other.

But today I want to focus on a different and equally alarming issue, which is that the Bush administration's policies in Iraq are making America weaker. None of us should stand by and allow this to continue.

It is shocking to me this Senate has not found the time and the energy to take up the Defense authorization bill and give that bill the full debate and attention it deserves. Our men and women in uniform and our military families continue to make real sacrifices every day in service to this country. They perform their duties with skill and honor, sometimes in the most difficult of circumstances. But the Senate has not performed its duties, and the state of the U.S. military desperately needs our attention.

The administration's policies in Iraq are breaking the U.S. Army. As soldiers confront the prospect of a third tour in the extremely difficult theater of Iraq, it would be understandable if they began to wonder why all of the sacrifice undertaken by our country in wartime seems to be falling on their shoulders. It would be understandable if they and their brothers and sisters in the Marine Corps began to feel some skepticism about whether essential resources, such as adequately armored vehicles, will be there when they need them. It would be understandable if they came to greet information about deployment schedules with cynicism because reliable information has been hard to come by for our military families in recent years. And it would be understandable if they asked themselves whether their numbers will be great enough—great enough—to hold hard-won territory, and whether properly vetted translators will be available to help them distinguish friend from foe.

At some point, the sense of solidarity and commitment that helps maintain strong retention rates can give way to a sense of frustration with the status quo. I fear we may be very close to that tipping point today. It is possible we may not see the men and women of the Army continue to volunteer for more of the same. It is not reasonable to expect that current retention problems will improve rather than worsen. We should not bet our national security on that kind of wishful thinking.

Make no mistake, our military readiness is already suffering. According to a recent RAND study, the Army has been stretched so thin that active-duty soldiers are now spending 1 of every 2 years abroad, leaving little of the Army left in any appropriate condition to respond to crises that may emerge elsewhere in the world. In an era in which we confront a globally networked enemy, and at a time when nuclear weapons proliferation is an urgent threat, continuing on our present course is irresponsible at best.

We are not just wearing out the troops; we are also wearing out equipment much faster than it is being replaced or refurbished. Days ago, the chief of the National Guard, GEN H. Steven Blum, told a group of Senate staffers that the National Guard had approximately 75 percent of the equipment it needed on 9/11, 2001. Today, the National Guard has only 34 percent of the equipment it needs. The response to Hurricane Katrina exposed some of the dangerous gaps in the Guard's communications systems.

What we are asking of the Army is not sustainable, and the burden and the toll it is taking on our military families is unacceptable. This cannot go on.

Many of my colleagues, often led by Senator REED of Rhode Island, have taken stock of where we stand and have joined to support efforts to expand the size of our standing Army. But this effort, which I support, is a solution for the long term, because it depends on new recruits to address our problems. We cannot suddenly increase the numbers of experienced soldiers so essential to providing leadership in the field. It takes years to grow a new crop of such leaders. But the annual resignation rate of Army lieutenants and captains rose last year to its highest rate since the attacks of September 11, 2001. We are heading toward crisis right now.

Growing the all-volunteer Army can only happen if qualified new recruits sign up for duty. But all indications suggest that at the end of this month the Army will fall thousands short—thousands short—of its annual recruiting goal. Barring some sudden and dramatic change, the Army National Guard and Army Reserve too will miss their annual targets by about 20 percent, missing their targets this year by 20 percent in terms of recruitment. GEN Peter Schoomaker, the Army's Chief of Staff, told Congress recently that 2006 ''may be the toughest recruiting environment ever.''

Too often, too many of us are reluctant to criticize the administration's policies in Iraq for fear that anything other than staying the course set by the President will somehow appear weak. But the President's course is misguided, and it is doing grave damage to our extraordinarily professional and globally admired all-volunteer U.S. Army. To stand by—to stand by—while this damage is done is not patriotic. It is not supportive. It is not tough on terrorism, nor is it strong on national security. Because I am proud of our men and women in uniform, and because I am committed to working with all of my colleagues to make this country more secure, I am convinced we must change our course.

As some of my colleagues know, I have introduced a resolution calling for the President to provide a public report clarifying the mission the United States military is being asked to accomplish in Iraq, and laying out a plan and a timeframe for accomplishing that mission and subsequently bringing our troops home. It is in our interest to provide some clarity about our intentions and restore confidence at home and abroad that U.S. troops will not be in Iraq indefinitely. I have tried to jump-start this discussion by proposing a date for U.S. troop withdrawal: December 31, 2006.

We need to start working with a realistic set of plans and benchmarks if we are to gain control of our Iraq policy, instead of simply letting it dominate our security strategy and drain vital resources for an unlimited amount of time.

So this brings me to another facet of this administration's misguided approach to Iraq, another front on which our great country is growing weaker rather than stronger as a result of the administration's policy choices, and that is the tremendously serious fiscal consequences of the President's decision to put the entire Iraq war on our national tab. How much longer can the elected representatives of the American people in this Congress allow the President to rack up over $1 billion a week in new debts? This war is draining, by one estimate, $5.6 billion every month from our economy—funds that might be used to help the victims of Hurricane Katrina recover, or to help

address the skyrocketing health care costs facing businesses and families, or to help pay down the enormous debt this Government has already piled up.

Not only are we weakening our economy today, this costly war is undermining our Nation's economic future because none of that considerable expenditure has been offset in the budget by cuts in spending elsewhere or by revenue increases. All of it—every penny—has been added to the already massive debt that will be paid by future generations of Americans.

For years now, this administration has refused to budget for the cost of our ongoing operations in Iraq that can be predicted, and has refused to make the hard choices that would be required to cover those costs. Instead—instead—the President apparently prefers to leave those tough calls to our children.

Mrs. BOXER. Mr. President, will the Senator yield for a quick question?

Mr. FEINGOLD. Could I do that in 2 minutes?

Mrs. BOXER. Sure.

Mr. FEINGOLD. I want to finish my statement.

Mr. President, in effect, we are asking future generations to pay for this war, and they will pay for it in the form of higher taxes or fewer Government benefits. They stand to inherit a weakened America, one so compromised by debt and economic crisis that the promise of opportunity for all has faded. And there is no end in sight.

In addition to that, the war will leave other costly legacies. Here again, it is the members of the military and their families who will endure the most severe costs. But even if the war ended tomorrow, the Nation will continue to pay the price for decades to come.

Linda Bilmes of the Kennedy School of Government at Harvard estimates that over the next 45 years, the health care, disability, and other benefits due our Iraq war veterans will cost $315 billion. We owe our brave troops the services and benefits they are due. We owe it to them and to their children and to their grandchildren to guide the course of this country and this economy to ensure that we are in a position to deliver for our veterans and for all Americans.

I cannot support an Iraq policy that makes our enemies stronger and our country weaker, and that is why I will not support staying the course the President has set. If Iraq were truly the solution to our national security challenges, this gamble with the future of our military and with our economy—who knows?—might make sense, if that were the case. If Iraq, rather than such strategically more significant countries as Saudi Arabia and Pakistan, were at the heart of the global fight against violent Islamic terrorism, this might make some sense. If it were true that fighting insurgents in Baghdad meant we would not have to fight them elsewhere, all the costs of this policy might well make sense.

But these things are not true. Iraq is not—is not—the ''silver bullet'' in the fight against global terrorist networks. As I have argued in some detail, it is quite possible that the administration's policies in Iraq are actually strengthening the terrorists by helping them to recruit new fighters from around the world, giving those jihadists on-the-ground training in terrorism, and building new, transnational networks among our enemies. Meanwhile, the costs of staying this course indefinitely, the consequences of weakening America's military and America's economy, loom more ominously before us with each passing week. There is no leadership in simply hoping for the best. We must insist on an Iraq policy that makes sense.

I yield to the Senator from California for a question.

Mrs. BOXER. Mr. President, I thank the Senator from Wisconsin, Mr. FEINGOLD. I am very proud to be on his resolution which finally would hold this President and his administration accountable for the disastrous situation we find ourselves in in Iraq, a situation that has led to now nearly 2,000 dead, countless wounded, young people and not so young without limbs, without their full brain capacity. It is a stunning failure.

Finally, in the Senate, we have a resolution that simply says to this administration: Do tell us, what is your plan? When are we getting out? Give us the milestones. And, what is the mission?

I have a couple of questions I wanted to ask my friend. As my friend was talking, I wrote down the various missions that we have heard from the administration that we were supposed to have in Iraq. The first one was weapons of mass destruction. Remember when Secretary Rumsfeld said: I know where they are; I could point to where they are. No, there weren't any. Then they said: We have to get Saddam. He is a tyrant. We all agreed, he is a tyrant. Saddam is gone for all intents and purposes. That was the second mission. Then they said: We are going to rebuild Iraq, a disastrous situation over which Secretary Rice is in charge. I haven't seen much rebuilding. I have seen a lot of no-bid contracts. Then they said: We have to have an election. That is the next mission. They had an election. After that, everything fell apart. Then they said: We need to bring security. We are going to train the Iraqi forces. The Senator from Wisconsin and I agree with that. We want to see them trained—it seems to be taking forever—especially when we have the President saying: We will stay there as long as it takes. What kind of message is that to the Iraqis?

We had a briefing yesterday. We can't discuss the details of that briefing, but it seemed to me there were yet other missions laid out.

I ask my friend, does he see the situation the way I do: An ever-changing mission in Iraq, setting the bar higher and higher with no end in sight is where we are at the present time?

Mr. FEINGOLD. I thank the Senator from California. She accurately described the way in which we got in this situation. I called it on the Senate floor, in October 2002, shifting justifications. The one we began with, the one that sold the American people, was that somehow there was a connection between Osama bin Laden and Saddam Hussein. Most of the American people apparently believed it because the President told them so at the time of the invasion. That would have been the ultimate justification because everybody assumed the Iraq invasion had something to do with that.

Ever since that myth has been exploded, the administration has been trying any way, scampering any way they can to come up with other justifications—the obviously failed attempt to suggest the imminent threat of weapons of mass destruction from Saddam Hussein, and then 6 to 7 months later, a year later, the President suddenly announces what he was really trying to do was to start a domino effect. We were going to fight a war that was going to create a domino effect of democracy around the world, which is a lovely ideal and notion, but nobody thought that was the justification when we voted here. I am guessing that it wouldn't have gotten one single vote if Members thought we were buying into that kind of project.

The Senator is right, not only with regard to how we got into the war but also with regard to how this administration is conducting the war. It is a mixture of so many inconsistent justifications that it doesn't make sense.

I had 18 town meetings in northern and central Wisconsin, some of them at very conservative areas, during the August recess. These were places where most of the people supported the Iraq war. They came to my town meetings and said: Why is this happening? Why were we given false pretenses to get into the war, and why is it that there isn't a serious plan to finish the war? Because of the failure of the administration to handle this war in any sensible way, the very people who supported the war are starting to say: Let's just leave.

So the President presents us with a false choice. He says: We have to stay the course. And if you don't believe in staying the course, then you must be for cutting and running. He is causing the movement in America to simply leave Iraq because of his failure of leadership.

What our resolution does—and I thank the Senator from California for her cosponsorship—is modest. It just says: Mr. President, within 30 days, could you give us a written plan that lays out the best way you want, without being bound to it, what is the plan, what is the mission, what are the benchmarks we have to achieve, by what time do you think we can achieve those benchmarks, and at what point and through what stages do you think we can begin and then complete the withdrawal of our American troops.

I say to my friend through the Chair, I think her comments and her question are right on the point.

I yield for another question.

Mrs. BOXER. Mr. President, I wish to thank my colleague for correcting me on the point that I missed that, yes, out of the five or six missions I named, I left out the very important one that he corrected me on, which is that there was a link between Saddam and al-Qaida and, in fact, there was al-Qaida all over Iraq.

The Senator and I sit on the Foreign Relations Committee. I think he remembers this document that I put into the RECORD, because I remember he very much wanted it, which showed that about a month after September 11 when we were so viciously attacked by bin Laden—who, by the way, we were going to get dead or alive, and we need to do that—the fact is, the State Department in its own document said there wasn't one al-Qaida cell, not one, in Iraq. There were more cells in America than in Iraq, according to our own State Department. We have put that in the RECORD.

Now, of course, it is a haven for terrorism because of this failed policy, this disastrous policy, this policy that is utter chaos with no end in sight, unless the Senate and the administration look at what my friend put forward, which is finally saying to the President: You need a mission, a mission that can be accomplished, and we need to end this in an orderly fashion.

I wanted to ask my friend one more point, and then I will leave the Chamber. That is about the National Guard. Right now, there are fires raging in my home State, sadly. We have them every year at this time. It is heartwrenching. We need all the help we can get. We always get all the help we ask for. We have never had a problem. The National Guard is called out when it gets really out of control.

Is my friend aware that the best equipment that the National Guard had at its disposal is in Iraq, not here at home? And when the people were crying out for help, not only were so many of the National Guard over in Iraq, my understanding is—and my friend can correct me—approximately 40 percent of our troops over there are National Guard. That is my information. Not only that, the best equipment of the National Guard is over in Iraq.

Don't our people deserve better than that so when they experience disasters, our National Guard can respond?

Mr. FEINGOLD. Mr. President, I thank the Senator from California. The Senator has very nicely returned to the main point of what I was trying to illustrate today. We certainly agree on the problems of how we got into this war and our very troubled feelings about that and also the myriad of problems with the way the war is being conducted. But what the Senator from California has done is returned us to the main point I wanted to make today: This strategy is weakening America. I am not talking about some general sense. We are talking specifically about our military. We are talking specifically about our Army. We are talking specifically about our National Guard.

Yes, we know about this in Wisconsin. We have some 10,000 Guard and Reserve. The vast majority of them have been called up for action overseas. There are serious concerns that have been reported—which, by the way, were beginning prior to 9/11—about equipment. It is to the point where my National Guard people ask me to ask the Secretary of Defense, Are we going to replenish these things for our National Guard? What is the guarantee? I received a rather weak answer, as I recall. The equipment needs are only at 34 percent for the National Guard—a dramatic decline in the last 4 years. Since 9/11, we have allowed the situation to become much worse in terms of equipment for our National Guard, whether it be for use in a foreign conflict or whether it be used to handle a terrorist situation domestically or whether it be used to help deal with one of the natural disasters that obviously can and do occur.

I appreciate the Senator heightening this point. This isn't about opposing a war. This is about mistakes being made by an administration in terms of forgetting the main point of fighting terrorism and forgetting about the need for our military to be strong both internationally and to be able to help, as the National Guard must, domestically.

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. STEVENS. 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. STEVENS. Mr. President, I ask unanimous consent that I be able to speak as in morning business. Is that proper at this time?

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

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2006

Mr. STEVENS. Mr. President, I am disturbed that we are delayed in taking up the Defense appropriations bill for 2006. It has been a problem. We have to wait for the authorization bill to come before the Senate. I have asked the leader for permission to take up this bill, along with my colleague from Hawaii, and bring the Defense appropriations bill for 2006 before the Senate today. I understand that has been objected to on some procedural ground.

It is my intention to make the statement I would make if the bill were before us. I will later ask that it be printed in the RECORD when the bill is laid before us.

I think the Senate should be using this time. We had intended to have votes today and tomorrow. We will not have votes Monday and Tuesday, but the bill will be before the Senate Monday and Tuesday.

We tried our best to work with the Armed Services Committee on their authorization bill, and we have a dispute between our subcommittee and the Intelligence Committee. That dispute pertains to a matter that should not be discussed on the floor. It is one we thought we had worked out by virtue of a compromise provision we put into this Defense appropriations bill, and I hope the members of the Intelligence Committee will recognize that as such.

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

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

Mr. HARKIN. Mr. President, I ask unanimous consent to speak up to 10 minutes as if in morning business.

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

AVIAN FLU PANDEMIC

Mr. HARKIN. I thank the Presiding Officer.

Mr. President, I come to the floor at this time to discuss a matter of grave national security. If recent Hurricane Katrina and Hurricane Rita have taught us anything, it is that we have to do a dramatically better job of preparing for diseases before they strike so we are not left picking up the pieces afterward.

I am very gravely concerned that the United States is totally unprepared for an outbreak—and a subsequent international pandemic—of avian flu. We have had two disasters in the last 4 years—9/11 and Katrina followed by Rita. And the Federal Government was totally unprepared for both, despite clear warnings. Similarly, we have been warned in no uncertain terms about avian flu, but our preparations so far have been grossly inadequate.

I think I got my first briefing on this about a year ago from CDC in Atlanta. I have been following it closely in our Labor, Health and Human Services, Education and Related Agencies Appropriations Subcommittee.

As it has unfolded over the last several months, it is clear that it is not a question of if avian flu is going to reach us, it is a question of when—not if, just when.

As many of my colleagues know, avian flu—or as it is called in the technical jargon, H5N1—has been known to pass first in bird species. It was passed from bird to bird, chicken to chicken, and that type of thing. It has then gotten into migratory waterfowl, which has spread from countries such as Thailand, Cambodia, Vietnam, and Hong Kong. And they have now found it as far away as Kazakhstan and as far north as the northern regions of Russia. It is just a matter of time before it gets here.

We have known this passed from bird to bird. We now know it has passed from birds to mammals, certain types of cats, particular tigers. We also know now it has passed from birds to humans. We have some cases. Now we have a few cases that have been reported of passing from human to human.

So the virus is mutating. It is getting smarter. It knows that it has now gone from bird to bird, bird to mammal, and bird to human, and now from human to human.

Experts in virology at the Department of Health and Human Services and others tell us that it is only a matter of time until the virus mutates from human to human to human, and then it becomes widespread. When that happens, we are in deep trouble.

An outbreak in China, Vietnam or Cambodia could trigger, within a couple of weeks' time, a worldwide outbreak, facilitated by air traffic and the mass movement of people across borders. And the data so far shows that of the 150 cases of the human avian flu—H5N1—that we know of, 54 have died. Almost 50 percent of the people infected have died.

This is a virulent form of the flu virus. It is a nightmare scenario—a kind of 21st century Black Death.

It is not hard to picture that could happen within a few months' period of time.

Again, as I say, many experts say it is not a matter of if, it is when. We have to ask tough questions.

Where do our preparedness efforts stand? What could we be doing better?

At some future time—I have it on charts, but I didn't have time to put it together—I will have charts to show what happened with the last great flu pandemic that hit the world in 1918 and 1919. Understand this: 500 million people were infected worldwide. This was almost 100 years ago—20 million to 40 million deaths worldwide. There were over 500 deaths in the United States.

In one month alone, October 1918, 196 people died in the United States from this influenza.

I have been told by experts that this H5N1 and how it manifests itself mirrors the influenza of 1918 and 1919.

Where do our efforts stand, and what can we be doing better?

First, where do we stand?

The Centers for Disease Control, under the great leadership of Dr. Gerberding, is doing a fine job working in cooperation with the World Health Organization and governments in affected regions to detect the disease and to help to stop its spread. Surveillance can alert us to an outbreak and governments can then take measures to isolate the disease so that widespread infection does not occur.

Again, we know how to do this. The CDC knows how to do this. They had great success with surveillance, isolation, and quarantine during the SARS outbreak, and they managed to control its spread. We never got SARS in the United States because we were able to isolate it and quarantine it in other countries.

We also learned valuable lessons from this SARS episode. We need to be doing a better job of surveillance. We have had some problems with some countries which do not have a very good public health infrastructure. They may not report illnesses and deaths as do we or some other places.

But we have CDC personnel on the ground in these countries. They know what to do. But they are woefully inadequate in funds. They don't have the funds needed to conduct adequate surveillance in these countries such as Cambodia, Thailand, Vietnam, Russia, and places such as that. They need some more support for surveillance. I will get into that in a little bit.

In order for us to get the necessary vaccines for this drug, it is going to take a few months.

The best thing we can be about in the initial stages is surveillance, finding out where it is outbreaking, control it, isolate it, and quarantine it.

As I said, the Centers for Disease Control and Prevention know how do that. There are other things we can be doing better. The World Health Organization is encouraging the purchase of antiviruses, medicines that help mitigate the infectious disease once you have already gotten it. Unfortunately, the United States only has enough antiviral medication for 1 percent of our population. That is not enough. We need to invest approximately $3 billion to build an adequate stockpile of antiviral medications. That would get us enough for about 50 percent of the population.

The experts tell us that we ought to be prepared for that kind of an infectious rate in the United States; that it could be up to 50 percent or more of our people in the United States affected by this—140 million people.

If we stay where we are, and we only have 1 percent or 10 percent, then you raise the question: Who gets it? How is it distributed?

We need to reassure our people that we have enough of these antivirals. These antivirals have a long shelf life—7 to 10 years, and maybe even more.

It is not as if we are buying something that is going to disintegrate right away. These antivirals have a long shelf life.

In addition, the President's budget cut $120 million from State and public health agencies. These are the agencies that will be on the front lines of both surveillance and disease prevention should an outbreak occur. We have to restore this funding. But that is not adequate.

In the future, our public health infrastructure would be stretched to the limits by an outbreak of avian influenza.

We need to invest in more public health professionals, epidemiologists, physicians, laboratory technicians, and others.

As I said, if we have an outbreak and it gets to the United States, the first thing we want to do is have good surveillance, isolation, and quarantine. That costs money.

Lastly, we also must take measures to increase our Nation's vaccine capacity. Currently, there is only one flu vaccine manufacturing facility in the United States.

I have wondered about that. Why is that so?

In meetings with the drug industry and others, I have learned that vaccine production is not very profitable compared to other types of drug development and manufacturing. Plus, they do not know if there is going to be a market for it.

This is a classic point of market failure—where the market really can't respond to a future need.

This is where the Government must step in to provide incentives for more manufacturers to build facilities in the United States.

Many will remember what happened during the last flu season, when overseas manufacturing facilities were shut down for safety reasons. Because we had no manufacturing capacity domestically, we were stuck. We should learn from this lesson. We cannot afford this problem when faced with the threat of avian influenza. So the Federal Government can and must do more to improve domestic vaccine capacity.

What does that mean? That means we are going to have to have some kind of guarantee that if you make this vaccine, we guarantee we will buy so many millions of doses of this vaccine.

Why is that important?

For this strain of the avian flu—in technological terms, H5N1—the virus that we have isolated in people who have contracted it in Thailand, Cambodia, Vietnam, and Hong Kong, the National Institutes of Health and Infectious Disease, under Dr. Fauci, has been developing a vaccine. The initial reports that came out in July were that this vaccine has great promise. However, what we don't know is will the virus that mutates and comes to this country be H5N1 or will it be H5N3 or H5N5? We don't know. Therefore, if a manufacturer were to manufacture all these doses of vaccine for H5N1, that may not work for the kind of viruses we might get later on. I am told it might work for some; it might slow it down a little bit.

That is why we need to have incentives for vaccine manufacturers in this country so they know if they manufacture the vaccine, it will be purchased. We may not use it all. We may have to develop new vaccines later on down the road. But at least we will have these vaccines in case H5N1 is the virus that gets here because we know that virus. That is why we have to move and we have to move right now. We do not have much time to invest in preparation for avian flu.

Some may ask, Why wasn't this done before? Perhaps we should have done

something better before. But after Katrina, maybe a lot of our eyes were opened that we were not prepared and that we have to do something different from what we are doing. Also, the virulence and the spread of avian flu has taken new leaps in the last several months that we had hoped might not happen. So we are faced right now with an urgent situation. We need to start right now.

Later on, I will be offering an amendment to this bill that will basically do the following things: One, double our global surveillance of the avian flu through the Centers for Disease Control to identify and contain as soon as possible. In my conversation with CDC and others, this figure is about $33 million to adequately do the surveillance.

Second, to restore the budget cuts to local and State public health departments and emergency preparedness activities to help communities prepare to recognize, treat, and quarantine the avian flu virus if it reaches our country. The President's budget cut $122 million from grants to State and local public health departments for emergency preparedness activities. These were grants that were first funded under our Subcommittee on Labor, Health, and Human Services in 2001 in response to the September 11 attacks.

Again, as best as we could determine in talking to those who administer programs, in order to get it up to the point where they would be prepared for an avian flu outbreak, it is about $600 million nationally.

Next, we need to increase the stockpile of antivirals. I mentioned earlier the World Health Organization recommended that each company stockpile enough Tamiflu—that is a brand name made by Roche Pharmaceuticals in Switzerland. They have the patent which has been very effective. The World Health Organization recommended each country stockpile enough for 40 percent of their population.

As I mentioned, right now we have enough for about 1 percent. Other countries have heeded this warning and have gotten in line to purchase this. The United States, as I said, has 2 million doses on hand, enough for 1 percent of the population.

We need additional resources. We need to build this up to serve at least 50 percent of our population. This comes at about $20 per dose as it is a multidose vaccine. It is not just one vaccine, you have to take a couple, three doses but only if you get infected. The tab for this is about $3 billion.

Why, again, do we need to do that? Because we do not have any company making it in this country. Roche has the patent. I want to be respectful of patent rights, but other companies in America could, under patent law, make an agreement with Roche, for example, to manufacture it under their patent. Again, they are not going to do it if there is no buyer out there. Who is buying it? If we are to have enough of a stockpile to protect 50 percent of our population, we are going to need to come up with the money right now to guarantee a buyer out there to get more antivirals manufactured in a hurry.

Consider the nightmare scenario if next year, God forbid, avian flu does mutate, it does reach the United States, and we only have enough doses for a million or 2 million people? Who will get it? How will it be distributed?

The next part of the amendment builds up and strengthens our vaccine infrastructure. We only have one manufacturer of flu vaccine in the United States, and they do not have the capacity to rapidly ramp up and make enough vaccine for what we need. In the event of a pandemic, the United States would have to rely on imported vaccines which countries may be unwilling to export to us; They will want it for their own people.

Again, the estimate to get a guaranteed order out for the vaccines would be about $125 million. To provide new resources for outreach educational efforts to health providers in the public, the estimate is $75 million.

What this all adds up to, to be prepared for an outbreak of avian flu, is going to require somewhere around $4 billion, a little bit less than $4 billion. That is a big chunk of change. I remind my colleagues that is less than what we spend in Iraq in 1 month in order to start reassuring the people of this country that we are going to do whatever is necessary to respond to this threat that is looming on the horizon.

I don't have my charts. I will have some later that will demonstrate the kinds of deaths we can expect in this country. When we looked at the flu epidemic of 1918 and 1919, there were about 500,000 deaths in the United States, 20 to 40 million deaths worldwide. We are looking at the possibility in the United States of deaths that can range anywhere from 100,000 up to 2 million, anywhere in that range. Hospitalizations could go anywhere from 300,000 to 10 million. Illnesses—we do not really know, but it could go from 20 to 30 to 40 million up to 100 million or more. That is the kind of pandemic we are looking at.

When I first had my briefing on this at CDC last year, it was perhaps hoped that this avian flu would not mutate as rapidly as it has. But it has. So now we are in a situation of waiting until that next shoe drops when we find it has gone from a human to a human to a human. When that happens, we have to be able to react immediately. It is almost the midnight hour right now.

I hope it never hits, obviously; but since the experts say it is not a matter of if but is only a matter of when because this is a virulent virus, I hope it is put off long enough so we can get the vaccines made, buy the antiviral, and put in place the surveillance and quarantine that we need so that when it does happen—because we are assured by the experts that it will—we can respond, we can quarantine, we can isolate, and if it starts to spread we can give the people who are infected the antivirus they need and we can vaccinate other people so they do not get it.

I am hopeful we can reach some agreement on an amendment to do that. I hope to be offering that sometime later. It is being worked on right now. I hope we can find the money to do this. This is an emergency basis because I think this is an emergency basis. We passed an emergency to respond to Katrina; no one objected to that. We passed emergencies to respond to September 11; no one objected to that. I am tired of looking in the rearview mirror. I don't want to have us looking in the rearview mirror a couple of years from now when the avian flu has struck. It is time to look ahead. That is what this is geared to do, start putting these things in place.

Keep in mind, it is less than 1 month's expenditure of money in Iraq.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. OBAMA. I am happy to defer to Senator STEVENS if he has something he would like to say.

Mr. STEVENS. We are still in morning business, are we?

The PRESIDING OFFICER. We are.

Mr. STEVENS. I will wait for the Senator's statement.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. OBAMA. Mr. President, I thank the distinguished Senator from Alaska. I will try to be brief.

I just want to offer my strong support for the amendment Senator HARKIN is going to propose and state why I think this is such an important issue.

Let me first say, that I am generally of the view that we should not be tacking on unrelated amendments to the defense bills.

The money in this legislation is badly needed by our men and women in uniform and I do not want to slow this bill down.

But, this amendment dealing with the avian flu pandemic is so important to our public health security—and our national security—so important to the lives of millions of people around the world, that it simply cannot wait. In fact, the situation is so ominous that Dr. Julie Gerberding, the Director of the CDC, said that an avian flu outbreak is ''the most important threat that we are facing [today].''

In light of these developments, I believe it is worth the U.S. Senate spending just a few hours on this critical issue, even if it is not directly related to the underlying legislation.

Over the last few months, we have heard alarming reports from countries all over Asia—Indonesia, China, Vietnam, Thailand—about deaths from the avian flu.

International health experts say that two of the three conditions for an

avian flu pandemic in Southeast Asia already exist. First, a new strain of the virus, called H5N1, has emerged and humans have little or no immunity. Second, this strain has shown that it can jump between species.

The last condition—the ability for the virus to travel efficiently from human to human—has not been met, and it is the only thing preventing a full blown pandemic. Once this virus mutates and can be transmitted from human to human, because of global trade and travel, we will not be able to contain this disease. We learned this lesson from SARS, which took less than 4 months to get from Asia to Canada, where it caused human and economic devastation.

When I started talking about this issue 7 months ago, many people thought that the avian flu was a mild concern, an Asian problem, an unlikely threat to Americans here in the U.S.

As time has progressed, the Nation's top scientists and experts have focused greater attention on the possibilities of an avian flu pandemic, and they have rapidly come to consensus that it is not a matter of if the pandemic will hit but when? It is not a question of whether will people die but how many? And the main question, the question that keeps me awake at night, is whether the United States will be able to deal with this calamity?

From what we have seen with the lack of readiness and dismal response to Hurricane Katrina, I think that all of us would have to conclude that the answer, at this point in time, is no.

Whether we are talking about having adequate surveillance capacities in our State and local health departments, having enough doctors and hospital beds and medical equipment for infected individuals, or having a vaccine or treatment that is guaranteed to work, I don't want to be an alarmist, but here in the U.S., we are in serious trouble.

Several of us here in the Congress—on a bipartisan basis—have taken the first steps needed to address this looming crisis. In April of this year, I introduced the AVIAN Act, S. 969 that would increase our preparedness for avian flu pandemic. Senators LUGAR and DURBIN and several others have cosponsored this act and I thank them for that. We need to move this bill as quickly as possible.

In May, I and Senators LUGAR, MCCONNELL, and LEAHY included $25 million for avian flu activities as part of the Iraq supplemental. Today, this money is helping the World Health Organization to step up its international surveillance and response efforts.

In July, I included an additional $10 million to combat avian flu in the Foreign Operations assistance bill. That bill is currently in conference, and I hope this funding will be retained.

I am also working with Senate Defense authorizers on an amendment to require the DOD report to Congress on its efforts to prepare for pandemic influenza.

This report must address the procurement of vaccines, antivirals and other medicine; the protocols for distributing such vaccines or medicine to high priority populations; and how the DOD intends to work with other agencies, such as HHS and State, to respond to pandemic flu.

Today, with leadership by Senator HARKIN, we are introducing an amendment to the DOD appropriations bill to provide $3.9 billion in emergency funds for avian flu activities. Senator HARKIN has already outlined what this amendment does, so I will not rehash what he has already said.

The bottom line is that this amendment needs to be passed and passed as quickly as possible.

I know that $3.9 billion is a lot of money—especially given our fiscal situation today. But this is one issue on which we cannot be penny-wise and pound-foolish. If we don't invest the money now, this pandemic will hit America harder, more lives will be lost, and we will have to spend significantly more in resources to respond after the fact.

As we learned the hard way after Hurricane Katrina, the failure to prepare for emergencies can have devastating consequences. This nation must not be caught off guard when faced with the prospect of the avian flu. This amendment will help the Federal agencies to prepare the Nation to prevent and respond to avian flu.

America is already behind in recognizing and preparing for a potentially deadly and economically devastating avian flu pandemic that public health experts say is not a matter of if but when. We must face the reality that in this age when you can get on a plane in Bangkok and arrive in Chicago in hours, this is not a problem isolated half a world away but one that could impact us right here at home.

The need is great, and the time to act is way overdue. I urge my colleagues to vote ''yes'' and support this amendment.

To reiterate, Senators LUGAR, MCCONNELL, and LEAHY already worked with me to include $25 million for avian flu activities as part of the Iraq supplemental. I included an additional $10 million to combat avian flu in the foreign operations assistance bill. But as Senator HARKIN noted, we need much more based on the briefing we received from the administration yesterday. We have to move now on this issue. It has to be moved rapidly. We have to build an infrastructure to create vaccines and to purchase enough antiviral drugs. I strongly urge that on a bipartisan basis we make this one of our top priorities. This is a crisis waiting to happen. If we are not prepared for it now, we will all be extraordinarily sorry.

The only other comment I will make is, I know times are tough with respect to our budget. I am working with my colleagues across the aisle to figure out ways we can come up with the money for Katrina and Iraq. This is a sound investment. If we don't make this investment now, we will pay much more later.

So I hope the amendment Senator HARKIN is going to offer will get bipartisan support and receive the utmost consideration from this Chamber.

Thank you very much, Mr. President.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I want the Senate to know I welcome the attention of Senators to the problem of the avian virus. In 1997, because of information I discovered concerning what Senator OBAMA just mentioned—the intersection where wild birds come to Alaska from the Chinese mainland and other places in the world, including Russia—we began a series of funds in the Agriculture bill to study the process of this virus being transmitted. As Senator OBAMA has mentioned, so far it has always been bird to bird or animal to animal. There has been no transmutation to take it from human to human or bird to human. It is one of the dangerous problems of the world, no question about it.

When I first heard of Senator HARKIN's amendment, I said I might—I said I would cosponsor it. As I read it, it is not just about the virus. It is reversing the President's decision with regard to State and local public health agencies. It is starting an addition to the domestic vaccine infrastructure. All of that, I understand, was part of the briefing some Senators had yesterday and I am informed others will soon get.

There is a BioShield group working in the administration, particularly in the agencies that are dealing with disease control and various other subjects. There will undoubtedly be a presentation by them to the Congress. There has not been such a presentation yet. The briefing the Senators got was for the information concerning what those people are doing who are working on that plan.

This is an amendment that sort of short circuits the concept of dealing with it and asks for some of the money they ask for, but I am told the amendment will not distribute the money the way the BioShield proposal will distribute it. It is brought to us as an emergency measure. It may well be that the BioShield people bring us a bill that is partially emergency and partially funded. We do not know yet.

But very clearly we do know there is no current human-to-human transmission that has been known of in the world. For us to say this is the greatest problem we have and is superior to some of the things we are doing, particularly in Iraq or in the war on terror, I think is a totally misplaced comparison, as far as I am concerned. I am just back from Iraq. I have seen some of the dangers over there and have talked to some of the people who have been injured over there. To compare the money we have in this bill to fund them with funding a proposal to deal

with a virus, for something that has not yet become a threat to human beings, I believe is wrong.

The BioShield proposal will be before the Congress, I am told, in this Congress. I want to announce now that I will ask the chairman of the Budget Committee to raise a point of order to this amendment. It is an emergency declaration. It is not the recommendations of the BioShield group who briefed the Senator last night. It is a premature attempt to bring it to the floor on the Defense bill where it does not belong. So I hope the Senate will agree with us and not make this an emergency appropriations at this time.

Now, there is no question in my mind this could well develop into a political argument. I have been on this floor now since 1981 as one of the managers of this bill. I cannot remember a time when we had a political argument on a nongermane amendment to this bill. This is a bill to fund the people in uniform overseas. It is not the authorization bill where there are amendments from time to time offered which are nongermane. We have had a policy of no nongermane amendments on this bill. I intend to pursue that policy.

This is not a germane amendment. This is an amendment that is premature in terms of avian flu. Again, I say no one has a greater interest in this avian flu than I do. When I go home on weekends and I go to a restaurant I love, I know I am sitting next to people who have just come back from Russia. We go to Russia daily from my State. We go to China daily from my State. We have pilots who fly planes throughout China, throughout Russia, living right there in the community in which I live. We know there is an avian flu potential over there. The birds that come from over there intersect with our birds. We know that. We have been studying that since 1997. Just yesterday, I talked to a doctor about avian flu vaccine and when we would be able to get it for Alaska. I was told we will get it in time.

But now I come out here and I have an amendment to be offered when we take up the bill that makes it an emergency to appropriate almost $4 billion, and not on the basis of recommendations of the experts but on the basis of some Senators who were briefed yesterday, prematurely, at their request, of studies that are going on at the administration.

Now, I am not one who takes lightly bringing subjects to this bill that do not pertain to protecting people in uniform. We had a similar situation once with regard to anthrax and other studies, and we acted very promptly because that did apply to people in uniform. But this is not something that pertains to the defense of the United States. It could very well be in the future a very vital issue to our Nation and to the world, but right now we ought to wait for the scientists to come and tell us what needs to be done, how it needs to be done, where it needs to be done, and who is going to do it. But this is throwing money at a wall. I will oppose that.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2006

Mr. STEVENS. Mr. President, I now ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 230, H.R. 2863. I further ask consent that the committee-reported substitute be agreed to as original text for the purposes of further amendment, with no points of order waived by virtue of this agreement.

The PRESIDING OFFICER. Is there objection?

Mr. HARKIN. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. With the understanding I would be able to offer an amendment as soon as the bill is laid down.

Mr. STEVENS. Mr. President, once the bill is before the Senate, it is open to amendment.

The PRESIDING OFFICER. Does the Senator modify his request?

Mr. STEVENS. I will not consent to that. Under the rules, he is entitled to offer an amendment. I have asked unanimous consent.

Mr. HARKIN. Okay.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 2863) making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes.

Thereupon, the Senate proceeded to consider the bill, which had been reported from the Committee on Appropriations, with an amendment.

(Strike the part in black brackets and insert the part shown in italic.)

H.R. 2863

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2006, for military functions administered by the Department of Defense and for other purposes, namely:

[TITLE I

[MILITARY PERSONNEL

[MILITARY PERSONNEL, ARMY

[For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Army on active duty, (except members of reserve components provided for elsewhere), cadets, and aviation cadets; for members of the Reserve Officers' Training Corps; and for payments pursuant to section 156 of Public Law 97–377, as amended (42 U.S.C. 402 note), and to the Department of Defense Military Retirement Fund, $24,357,895,000.

[MILITARY PERSONNEL, NAVY

[For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Navy on active duty (except members of the Reserve provided for elsewhere), midshipmen, and aviation cadets; for members of the Reserve Officers' Training Corps; and for payments pursuant to section 156 of Public Law 97–377, as amended (42 U.S.C. 402 note), and to the Department of Defense Military Retirement Fund, $19,417,696,000.

[MILITARY PERSONNEL, MARINE CORPS

[For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Marine Corps on active duty (except members of the Reserve provided for elsewhere); and for payments pursuant to section 156 of Public Law 97–377, as amended (42 U.S.C. 402 note), and to the Department of Defense Military Retirement Fund, $7,839,813,000.

[MILITARY PERSONNEL, AIR FORCE

[For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Air Force on active duty (except members of reserve components provided for elsewhere), cadets, and aviation cadets; for members of the Reserve Officers' Training Corps; and for payments pursuant to section 156 of Public Law 97–377, as amended (42 U.S.C. 402 note), and to the Department of Defense Military Retirement Fund, $20,083,037,000.

[RESERVE PERSONNEL, ARMY

[For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army Reserve on active duty under sections 10211, 10302, and 3038 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, $2,862,103,000.

[RESERVE PERSONNEL, NAVY

[For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Navy Reserve on active duty under section 10211 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, $1,486,061,000.

[RESERVE PERSONNEL, MARINE CORPS

[For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Marine Corps Reserve on active duty under section 10211 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing

drills or equivalent duty, and for members of the Marine Corps platoon leaders class, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, $472,392,000.

[RESERVE PERSONNEL, AIR FORCE

[For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air Force Reserve on active duty under sections 10211, 10305, and 8038 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, $1,225,360,000.

[NATIONAL GUARD PERSONNEL, ARMY

[For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army National Guard while on duty under section 10211, 10302, or 12402 of title 10 or section 708 of title 32, United States Code, or while serving on duty under section 12301(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, $4,359,704,000.

[NATIONAL GUARD PERSONNEL, AIR FORCE

[For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air National Guard on duty under section 10211, 10305, or 12402 of title 10 or section 708 of title 32, United States Code, or while serving on duty under section 12301(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, $2,028,215,000.

[TITLE II

[OPERATION AND MAINTENANCE

[OPERATION AND MAINTENANCE, ARMY

[(INCLUDING TRANSFER OF FUNDS)

[For expenses, not otherwise provided for, necessary for the operation and maintenance of the Army, as authorized by law; and not to exceed $11,478,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Army, and payments may be made on his certificate of necessity for confidential military purposes, $22,432,727,000: *Provided*, That of funds made available under this heading, $2,500,000 shall be available for Fort Baker, in accordance with the terms and conditions as provided under the heading ''Operation and Maintenance, Army'', in Public Law 107–117.

[OPERATION AND MAINTENANCE, NAVY

[For expenses, not otherwise provided for, necessary for the operation and maintenance of the Navy and the Marine Corps, as authorized by law; and not to exceed $6,003,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Navy, and payments may be made on his certificate of necessity for confidential military purposes, $28,719,818,000.

[OPERATION AND MAINTENANCE, MARINE CORPS

[For expenses, not otherwise provided for, necessary for the operation and maintenance of the Marine Corps, as authorized by law, $3,123,766,000.

[OPERATION AND MAINTENANCE, AIR FORCE

[For expenses, not otherwise provided for, necessary for the operation and maintenance of the Air Force, as authorized by law; and not to exceed $7,699,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Air Force, and payments may be made on his certificate of necessity for confidential military purposes, $28,659,373,000.

[OPERATION AND MAINTENANCE, DEFENSE-WIDE

[(INCLUDING TRANSFER OF FUNDS)

[For expenses, not otherwise provided for, necessary for the operation and maintenance of activities and agencies of the Department of Defense (other than the military departments), as authorized by law, $18,323,516,000: *Provided*, That not more than $25,000,000 may be used for the Combatant Commander Initiative Fund authorized under section 166a of title 10, United States Code, and of which not to exceed $40,000,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of Defense, and payments may be made on his certificate of necessity for confidential military purposes: *Provided further*, That notwithstanding any other provision of law, of the funds provided in this Act for Civil Military programs under this heading, $500,000 shall be available for a grant for Outdoor Odyssey, Roaring Run, Pennsylvania, to support the Youth Development and Leadership program and Department of Defense STARBASE program: *Provided further*, That of the funds made available under this heading, $5,000,000 is available for contractor support to coordinate a wind test demonstration project on an Air Force installation using wind turbines manufactured in the United States that are new to the United States market and to execute the renewable energy purchasing plan: *Provided further*, That none of the funds appropriated or otherwise made available by this Act may be used to plan or implement the consolidation of a budget or appropriations liaison office of the Office of the Secretary of Defense, the office of the Secretary of a military department, or the service headquarters of one of the Armed Forces into a legislative affairs or legislative liaison office: *Provided further*, That $4,000,000, to remain available until expended, is available only for expenses relating to certain classified activities, and may be transferred as necessary by the Secretary to operation and maintenance appropriations or research, development, test and evaluation appropriations, to be merged with and to be available for the same time period as the appropriations to which transferred: *Provided further*, That any ceiling on the investment item unit cost of items that may be purchased with operation and maintenance funds shall not apply to the funds described in the preceding proviso: *Provided further*, That the transfer authority provided under this heading is in addition to any other transfer authority provided elsewhere in this Act.

[OPERATION AND MAINTENANCE, ARMY RESERVE

[For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Army Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications, $1,791,212,000.

[OPERATION AND MAINTENANCE, NAVY RESERVE

[For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Navy Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications, $1,178,607,000.

[OPERATION AND MAINTENANCE, MARINE CORPS RESERVE

[For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Marine Corps Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications, $199,929,000.

[OPERATION AND MAINTENANCE, AIR FORCE RESERVE

[For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Air Force Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications, $2,465,122,000.

[OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

[For expenses of training, organizing, and administering the Army National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, and repairs to structures and facilities; hire of passenger motor vehicles; personnel services in the National Guard Bureau; travel expenses (other than mileage), as authorized by law for Army personnel on active duty, for Army National Guard division, regimental, and battalion commanders while inspecting units in compliance with National Guard Bureau regulations when specifically authorized by the Chief, National Guard Bureau; supplying and equipping the Army National Guard as authorized by law; and expenses of repair, modification, maintenance, and issue of supplies and equipment (including aircraft), $4,142,875,000.

[OPERATION AND MAINTENANCE, AIR NATIONAL GUARD

[For expenses of training, organizing, and administering the Air National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, and repairs to structures and facilities; transportation of things, hire of passenger motor vehicles; supplying and equipping the Air National Guard, as authorized by law; expenses for repair, modification, maintenance, and issue of supplies and equipment, including those furnished from stocks under the control of agencies of the Department of Defense; travel expenses (other than mileage) on the same basis as authorized by law for Air National Guard personnel on active Federal duty, for Air National Guard commanders while inspecting units in compliance with National Guard Bureau regulations when specifically authorized by the Chief, National Guard Bureau, $4,547,515,000.

[OVERSEAS CONTINGENCY OPERATIONS TRANSFER ACCOUNT

[(INCLUDING TRANSFER OF FUNDS)

[For expenses directly relating to Overseas Contingency Operations by United States military forces, $20,000,000, to remain available until expended: *Provided*, That the Secretary of Defense may transfer these funds only to military personnel accounts; operation and maintenance accounts within this title; procurement accounts; research, development, test and evaluation accounts; and to working capital funds: *Provided further*, That the funds transferred shall be merged with and shall be available for the same purposes and for the same time period, as the appropriation to which transferred: *Provided further*, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: *Provided further*, That the transfer authority provided in this paragraph is in addition to any other transfer authority contained elsewhere in this Act.

[UNITED STATES COURT OF APPEALS FOR THE ARMED FORCES

[For salaries and expenses necessary for the United States Court of Appeals for the Armed Forces, $11,236,000, of which not to exceed $5,000 may be used for official representation purposes.

[OVERSEAS HUMANITARIAN, DISASTER, AND CIVIC AID

[For expenses relating to the Overseas Humanitarian, Disaster, and Civic Aid programs of the Department of Defense (consisting of the programs provided under sections 401, 402, 404, 2557, and 2561 of title 10, United States Code), $61,546,000, to remain available until September 30, 2007.

[FORMER SOVIET UNION THREAT REDUCTION ACCOUNT

[For assistance to the republics of the former Soviet Union, including assistance provided by contract or by grants, for facilitating the elimination and the safe and secure transportation and storage of nuclear, chemical and other weapons; for establishing programs to prevent the proliferation of weapons, weapons components, and weapon-related technology and expertise; for programs relating to the training and support of defense and military personnel for demilitarization and protection of weapons, weapons components and weapons technology and expertise, and for defense and military contacts, $415,549,000, to remain available until September 30, 2008.

[TITLE III

[PROCUREMENT

[AIRCRAFT PROCUREMENT, ARMY

[For construction, procurement, production, modification, and modernization of aircraft, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $2,879,380,000, to remain available for obligation until September 30, 2008, of which $203,500,000 shall be available for the Army National Guard and Army Reserve: *Provided,* That $75,000,000 of the funds provided in this paragraph are available only for the purpose of acquiring four (4) HH–60L medical evacuation variant Blackhawk helicopters for the C/1–159th Aviation Regiment (Army Reserve): *Provided further,* That three (3) UH–60 Blackhawk helicopters in addition to those referred to in the preceding proviso shall be available only for the C/1–159th Aviation Regiment (Army Reserve).

[MISSILE PROCUREMENT, ARMY

[For construction, procurement, production, modification, and modernization of missiles, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $1,239,350,000, to remain available for obligation until September 30, 2008, of which $150,000,000 shall be available for the Army National Guard and Army Reserve.

[PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEHICLES, ARMY

[For construction, procurement, production, and modification of weapons and tracked combat vehicles, equipment, including ordnance, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $1,670,949,000, to remain available for obligation until September 30, 2008, of which $614,800,000 shall be available for the Army National Guard and Army Reserve.

[PROCUREMENT OF AMMUNITION, ARMY

[For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities, authorized by section 2854 of title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $1,753,152,000, to remain available for obligation until September 30, 2008, of which $119,000,000 shall be available for the Army National Guard and Army Reserve.

[OTHER PROCUREMENT, ARMY

[For construction, procurement, production, and modification of vehicles, including tactical, support, and non-tracked combat vehicles; the purchase of passenger motor vehicles for replacement only; communications and electronic equipment; other support equipment; spare parts, ordnance, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $4,491,634,000, to remain available for obligation until September 30, 2008, of which $765,400,000 shall be available for the Army National Guard and Army Reserve.

[AIRCRAFT PROCUREMENT, NAVY

[For construction, procurement, production, modification, and modernization of aircraft, equipment, including ordnance, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway, $9,776,440,000, to remain available for obligation until September 30, 2008, of which $57,779,000 shall be available for the Navy Reserve and the Marine Corps Reserve.

[WEAPONS PROCUREMENT, NAVY

[For construction, procurement, production, modification, and modernization of missiles, torpedoes, other weapons, and related support equipment including spare parts, and accessories therefor; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway, $2,596,781,000, to remain available for obligation until September 30, 2008.

[PROCUREMENT OF AMMUNITION, NAVY AND MARINE CORPS

[For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities, authorized by section 2854 of title 10, United States Code and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $885,170,000, to remain available for obligation until September 30, 2008, of which $19,562,000 shall be available for the Navy Reserve and Marine Corps Reserve.

[SHIPBUILDING AND CONVERSION, NAVY

[For expenses necessary for the construction, acquisition, or conversion of vessels as authorized by law, including armor and armament thereof, plant equipment, appliances, and machine tools and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; procurement of critical, long leadtime components and designs for vessels to be constructed or converted in the future; and expansion of public and private plants, including land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title, as follows:

[Carrier Replacement Program (AP), $564,913,000.

[Virginia Class Submarine, $1,637,698,000.

[Virginia Class Submarine (AP), $763,786,000.

[SSGN Conversion, $286,516,000.
[CVN Refueling Overhauls, $1,300,000,000.
[CVN Refueling Overhauls (AP), $20,000,000.
[SSN Engineered Refueling Overhauls (AP), $39,524,000.
[SSBN Engineered Refueling Overhauls, $230,193,000.
[SSBN Engineered Refueling Overhauls (AP), $62,248,000.
[DDG–51 Destroyer, $1,550,000,000.
[DDG–51 Destroyer Modernization, $50,000,000.
[Littoral Combat Ship, $440,000,000.
[LHD–1, $197,769,000.
[LPD–17, $1,344,741,000.
[LHA–R (AP), $200,447,000.
[Service Craft, $46,000,000.
[LCAC Service Life Extension Program, $100,000,000.
[Prior year shipbuilding costs, $394,523,000.
[Outfitting, post delivery, conversions, and first destination transportation, $385,000,000.
[In all: $9,613,358,000, to remain available for obligation until September 30, 2010: *Provided*, That additional obligations may be incurred after September 30, 2010, for engineering services, tests, evaluations, and other such budgeted work that must be performed in the final stage of ship construction: *Provided further*, That none of the funds provided under this heading for the construction or conversion of any naval vessel to be constructed in shipyards in the United States shall be expended in foreign facilities for the construction of major components of such vessel: *Provided further*, That none of the funds provided under this heading shall be used for the construction of any naval vessel in foreign shipyards.

[OTHER PROCUREMENT, NAVY

[For procurement, production, and modernization of support equipment and materials not otherwise provided for, Navy ordnance (except ordnance for new aircraft, new ships, and ships authorized for conversion); the purchase of passenger motor vehicles for replacement only; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway, $5,461,196,000, to remain available for obligation until September 30, 2008, of which $43,712,000 shall be available for the Navy Reserve and Marine Corps Reserve.

[PROCUREMENT, MARINE CORPS

[For expenses necessary for the procurement, manufacture, and modification of missiles, armament, military equipment, spare parts, and accessories therefor; plant equipment, appliances, and machine tools, and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; vehicles for the Marine Corps, including the purchase of passenger motor vehicles for replacement only; and expansion of public and private plants, including land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title, $1,426,405,000, to remain available for obligation until September 30, 2008.

[AIRCRAFT PROCUREMENT, AIR FORCE

[For construction, procurement, and modification of aircraft and equipment, including armor and armament, specialized ground handling equipment, and training devices, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things, $12,424,298,000, to remain available for obligation until September 30, 2008, of which $380,000,000 shall be available for the Air National Guard and Air Force Reserve.

[MISSILE PROCUREMENT, AIR FORCE

[For construction, procurement, and modification of missiles, spacecraft, rockets, and related equipment, including spare parts and accessories therefor, ground handling equipment, and training devices; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things, $5,062,949,000, to remain available for obligation until September 30, 2008.

[PROCUREMENT OF AMMUNITION, AIR FORCE

[For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities, authorized by section 2854 of title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $1,031,907,000, to remain available for obligation until September 30, 2008, of which $164,800,000 shall be available for the Air National Guard and Air Force Reserve.

[OTHER PROCUREMENT, AIR FORCE

[For procurement and modification of equipment (including ground guidance and electronic control equipment, and ground electronic and communication equipment), and supplies, materials, and spare parts therefor, not otherwise provided for; the purchase of passenger motor vehicles for replacement only; lease of passenger motor vehicles; and expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon, prior to approval of title; reserve plant and Government and contractor-owned equipment layaway, $13,737,214,000, to remain available for obligation until September 30, 2008, of which $135,800,000 shall be available for the Air National Guard and Air Force Reserve.

[PROCUREMENT, DEFENSE-WIDE

[For expenses of activities and agencies of the Department of Defense (other than the military departments) necessary for procurement, production, and modification of equipment, supplies, materials, and spare parts therefor, not otherwise provided for; the purchase of passenger motor vehicles for replacement only; expansion of public and private plants, equipment, and installation thereof in such plants, erection of structures, and acquisition of land for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway, $2,728,130,000, to remain available for obligation until September 30, 2008.

[DEFENSE PRODUCTION ACT PURCHASES

[For activities by the Department of Defense pursuant to sections 108, 301, 302, and 303 of the Defense Production Act of 1950 (50 U.S.C. App. 2078, 2091, 2092, and 2093), $28,573,000, to remain available until expended.

[TITLE IV

[RESEARCH, DEVELOPMENT, TEST AND EVALUATION

[RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY

[For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, $10,827,174,000 (reduced by $10,000,000) (increased by $10,000,000), to remain available for obligation until September 30, 2007.

[RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY

[For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, $18,481,862,000, to remain available for obligation until September 30, 2007: *Provided*, That funds appropriated in this paragraph which are available for the V–22 may be used to meet unique operational requirements of the Special Operations Forces: *Provided further*, That funds appropriated in this paragraph shall be available for the Cobra Judy program.

[RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE

[For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, $22,664,868,000, to remain available for obligation until September 30, 2007.

[RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE

[For expenses of activities and agencies of the Department of Defense (other than the military departments), necessary for basic and applied scientific research, development, test and evaluation; advanced research projects as may be designated and determined by the Secretary of Defense, pursuant to law; maintenance, rehabilitation, lease, and operation of facilities and equipment, $19,514,530,000, to remain available for obligation until September 30, 2007.

[OPERATIONAL TEST AND EVALUATION, DEFENSE

[For expenses, not otherwise provided for, necessary for the independent activities of the Director, Operational Test and Evaluation, in the direction and supervision of operational test and evaluation, including initial operational test and evaluation which is conducted prior to, and in support of, production decisions; joint operational testing and evaluation; and administrative expenses in connection therewith, $168,458,000, to remain available for obligation until September 30, 2007.

[TITLE V

[REVOLVING AND MANAGEMENT FUNDS

[DEFENSE WORKING CAPITAL FUNDS

[For the Defense Working Capital Funds, $1,154,340,000.

[NATIONAL DEFENSE SEALIFT FUND

[For National Defense Sealift Fund programs, projects, and activities, and for expenses of the National Defense Reserve Fleet, as established by section 11 of the Merchant Ship Sales Act of 1946 (50 U.S.C. App. 1744), and for the necessary expenses to maintain and preserve a U.S.-flag merchant fleet to serve the national security needs of the United States, $1,599,459,000, to remain available until expended: *Provided*, That none of the funds provided in this paragraph shall be used to award a new contract that provides for the acquisition of any of the following major components unless such components are manufactured in the United States: auxiliary equipment, including pumps, for all shipboard services; propulsion system components (that is; engines, reduction gears, and propellers); shipboard cranes; and spreaders for shipboard cranes: *Provided further*, That the exercise of an option in a contract awarded through the obligation of previously appropriated funds shall not be considered to be the award of a new contract: *Provided further*, That the Secretary of the military department responsible for such procurement may waive the restrictions in the first proviso on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes.

[TITLE VI

[OTHER DEPARTMENT OF DEFENSE PROGRAMS

[CHEMICAL AGENTS AND MUNITIONS DESTRUCTION, ARMY

[For expenses, not otherwise provided for, necessary for the destruction of the United States stockpile of lethal chemical agents and munitions in accordance with the provisions of section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521), and for the destruction of other chemical warfare materials that are not in the chemical weapon stockpile, $1,355,827,000, of which $1,191,514,000 shall be for Operation and maintenance; $116,527,000 shall be for Procurement to remain available until September 30, 2008; $47,786,000 shall be for Research, development, test and evaluation to remain available until September 30, 2007; and not less than $119,300,000 shall be for the Chemical Stockpile Emergency Preparedness Program, of which $36,800,000 shall be for activities on military installations and $82,500,000 shall be to assist State and local governments.

[DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES, DEFENSE

[(INCLUDING TRANSFER OF FUNDS)

[For drug interdiction and counter-drug activities of the Department of Defense, for transfer to appropriations available to the Department of Defense for military personnel of the reserve components serving under the provisions of title 10 and title 32, United States Code; for Operation and maintenance; for Procurement; and for Research, development, test and evaluation, $906,941,000: *Provided*, That the funds appropriated under this heading shall be available for obligation for the same time period and for the same purpose as the appropriation to which transferred: *Provided further*, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: *Provided further*, That the transfer authority provided under this heading is in addition to any other transfer authority contained elsewhere in this Act.

[OFFICE OF THE INSPECTOR GENERAL

[For expenses and activities of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $209,687,000, of which $208,687,000 shall be for Operation and maintenance, of which not to exceed $700,000 is available for emergencies and extraordinary expenses to be expended on the approval or authority of the Inspector General, and payments may be made on the Inspector General's certificate of necessity for confidential military purposes; and of which $1,000,000, to remain available until September 30, 2008, shall be for Procurement.

[TITLE VII

[RELATED AGENCIES

[CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM FUND

[For payment to the Central Intelligence Agency Retirement and Disability System Fund, to maintain the proper funding level for continuing the operation of the Central Intelligence Agency Retirement and Disability System, $244,600,000.

[INTELLIGENCE COMMUNITY MANAGEMENT ACCOUNT

[(INCLUDING TRANSFER OF FUNDS)

[For necessary expenses of the Intelligence Community Management Account, $376,844,000 of which $27,454,000 for the Advanced Research and Development Committee shall remain available until September 30, 2007: *Provided*, That of the funds appropriated under this heading, $39,000,000 shall be transferred to the Department of Justice for the National Drug Intelligence Center to support the Department of Defense's counter-drug intelligence responsibilities, and of the said amount, $1,500,000 for Procurement shall remain available until September 30, 2008 and $1,000,000 for Research, development, test and evaluation shall remain available until September 30, 2007: *Provided further*, That the National Drug Intelligence Center shall maintain the personnel and technical resources to provide timely support to law enforcement authorities and the intelligence community by conducting document and computer exploitation of materials collected in Federal, State, and local law enforcement activity associated with counter-drug, counter-terrorism, and national security investigations and operations.

[TITLE VIII

[GENERAL PROVISIONS

[SEC. 8001. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes not authorized by the Congress.

[SEC. 8002. During the current fiscal year, provisions of law prohibiting the payment of compensation to, or employment of, any person not a citizen of the United States shall not apply to personnel of the Department of Defense: *Provided*, That salary increases granted to direct and indirect hire foreign national employees of the Department of Defense funded by this Act shall not be at a rate in excess of the percentage increase authorized by law for civilian employees of the Department of Defense whose pay is computed under the provisions of section 5332 of title 5, United States Code, or at a rate in excess of the percentage increase provided by the appropriate host nation to its own employees, whichever is higher: *Provided further*, That this section shall not apply to Department of Defense foreign service national employees serving at United States diplomatic missions whose pay is set by the Department of State under the Foreign Service Act of 1980: *Provided further*, That the limitations of this provision shall not apply to foreign national employees of the Department of Defense in the Republic of Turkey.

[SEC. 8003. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year, unless expressly so provided herein.

[SEC. 8004. No more than 20 percent of the appropriations in this Act which are limited for obligation during the current fiscal year shall be obligated during the last 2 months of the fiscal year: *Provided*, That this section shall not apply to obligations for support of active duty training of reserve components or summer camp training of the Reserve Officers' Training Corps.

[(TRANSFER OF FUNDS)

[SEC. 8005. Upon determination by the Secretary of Defense that such action is necessary in the national interest, he may, with the approval of the Office of Management and Budget, transfer not to exceed $4,000,000,000 of working capital funds of the Department of Defense or funds made available in this Act to the Department of Defense for military functions (except military construction) between such appropriations or funds or any subdivision thereof, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred: *Provided*, That such authority to transfer may not be used unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which funds are requested has been denied by the Congress: *Provided further*, That the Secretary of Defense shall notify the Congress promptly of all transfers made pursuant to this authority or any other authority in this Act: *Provided further*, That no part of the funds in this Act shall be available to prepare or present a request to the Committees on Appropriations for reprogramming of funds, unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which reprogramming is requested has been denied by the Congress: *Provided further*, That a request for multiple reprogrammings of funds using authority provided in this section must be made prior to June 30, 2006: *Provided further*, That transfers among military personnel appropriations shall not be taken into account for purposes of the limitation on the amount of funds that may be transferred under this section.

[(TRANSFER OF FUNDS)

[SEC. 8006. During the current fiscal year, cash balances in working capital funds of the Department of Defense established pursuant to section 2208 of title 10, United States Code, may be maintained in only such amounts as are necessary at any time for cash disbursements to be made from such funds: *Provided*, That transfers may be made between such funds: *Provided further*, That transfers may be made between working capital funds and the ''Foreign Currency Fluctuations, Defense'' appropriation and the ''Operation and Maintenance'' appropriation accounts in such amounts as may be determined by the Secretary of Defense, with the approval of the Office of Management and Budget, except that such transfers may not be made unless the Secretary of Defense has notified the Congress of the proposed transfer. Except in amounts equal to the amounts appropriated to working capital funds in this Act, no obligations may be made against a working capital fund to procure or increase the value of war reserve material inventory, unless the Secretary of Defense has notified the Congress prior to any such obligation.

[SEC. 8007. Funds appropriated by this Act may not be used to initiate a special access program without prior notification 30 calendar days in session in advance to the congressional defense committees.

[SEC. 8008. None of the funds provided in this Act shall be available to initiate: (1) a multiyear contract that employs economic order quantity procurement in excess of $20,000,000 in any 1 year of the contract or that includes an unfunded contingent liability in excess of $20,000,000; or (2) a contract for advance procurement leading to a multiyear contract that employs economic order quantity procurement in excess of $20,000,000 in any 1 year, unless the congressional defense committees have been notified at least 30 days in advance of the proposed contract award: *Provided*, That no part of any appropriation contained in this Act shall be available to initiate a multiyear contract for which the economic order quantity advance procurement is not funded at least to the limits of the Government's liability: *Provided further*, That no part of any appropriation contained in this Act shall be available to initiate multiyear procurement contracts for any systems or component thereof if the value of the multiyear contract would exceed $500,000,000 unless specifically provided in this Act: *Provided further*, That no multiyear procurement contract can be terminated without 10-day prior notification to the congressional defense committees: *Provided further*, That the execution of multiyear authority shall require the use of a present value analysis to determine lowest cost compared to an annual procurement: *Provided further*, That none of the funds provided in this Act may be used for a multiyear contract executed after the date of the enactment of this Act unless in the case of any such contract—

[(1) the Secretary of Defense has submitted to Congress a budget request for full funding of units to be procured through the contract;

[(2) cancellation provisions in the contract do not include consideration of recurring manufacturing costs of the contractor associated with the production of unfunded units to be delivered under the contract;

[(3) the contract provides that payments to the contractor under the contract shall not be made in advance of incurred costs on funded units; and

[(4) the contract does not provide for a price adjustment based on a failure to award a follow-on contract.

[Funds appropriated in title III of this Act may be used for a multiyear procurement contract as follows:

[UH–60/MH–60 Helicopters.

[Apache Block II Conversion.

[Modernized Target Acquisition Designation Sight/Pilot Night Vision Sensor (MTADS/PNVS).

[SEC. 8009. Within the funds appropriated for the operation and maintenance of the Armed Forces, funds are hereby appropriated pursuant to section 401 of title 10, United States Code, for humanitarian and civic assistance costs under chapter 20 of title 10, United States Code. Such funds may also be obligated for humanitarian and civic assistance costs incidental to authorized operations and pursuant to authority granted in section 401 of chapter 20 of title 10, United States Code, and these obligations shall be reported as required by section 401(d) of title 10, United States Code: *Provided*, That funds available for operation and maintenance shall be available for providing humanitarian and similar assistance by using Civic Action Teams in the Trust Territories of the Pacific Islands and freely associated states of Micronesia, pursuant to the Compact of Free Association as authorized by Public Law 99–239: *Provided further*, That upon a determination by the Secretary of the Army that such action is beneficial for graduate medical education programs conducted at Army medical facilities located in Hawaii, the Secretary of the Army may authorize the provision of medical services at such facilities and transportation to such facilities, on a nonreimbursable basis, for civilian patients from American Samoa, the Commonwealth of the Northern Mariana Islands, the Marshall Islands, the Federated States of Micronesia, Palau, and Guam.

[SEC. 8010. (a) During fiscal year 2006, the civilian personnel of the Department of Defense may not be managed on the basis of any end-strength, and the management of such personnel during that fiscal year shall not be subject to any constraint or limitation (known as an end-strength) on the number of such personnel who may be employed on the last day of such fiscal year.

[(b) The fiscal year 2007 budget request for the Department of Defense as well as all justification material and other documentation supporting the fiscal year 2007 Department of Defense budget request shall be prepared and submitted to the Congress as if subsections (a) and (b) of this provision were effective with regard to fiscal year 2007.

[(c) Nothing in this section shall be construed to apply to military (civilian) technicians.

[SEC. 8011. None of the funds appropriated in this or any other Act may be used to initiate a new installation overseas without 30-day advance notification to the Committees on Appropriations.

[SEC. 8012. None of the funds made available by this Act shall be used in any way, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before the Congress.

[SEC. 8013. None of the funds appropriated by this Act shall be available for the basic pay and allowances of any member of the Army participating as a full-time student and receiving benefits paid by the Secretary of Veterans Affairs from the Department of Defense Education Benefits Fund when time spent as a full-time student is credited toward completion of a service commitment: *Provided*, That this subsection shall not apply to those members who have reenlisted with this option prior to October 1, 1987: *Provided further*, That this subsection applies only to active components of the Army.

[SEC. 8014. (a) LIMITATION ON CONVERSION TO CONTRACTOR PERFORMANCE.—None of the funds appropriated by this Act shall be available to convert to contractor performance an activity or function of the Department of Defense that, on or after the date of the enactment of this Act, is performed by more than 10 Department of Defense civilian employees unless—

[(1) the conversion is based on the result of a public-private competition that includes a most efficient and cost effective organization plan developed by such activity or function;

[(2) the Competitive Sourcing Official determines that, over all performance periods stated in the solicitation of offers for performance of the activity or function, the cost of performance of the activity or function by a contractor would be less costly to the Department of Defense by an amount that equals or exceeds the lesser of—

[(A) 10 percent of the most efficient organization's personnel-related costs for performance of that activity or function by Federal employees; or

[(B) $10,000,000; and

[(3) the contractor does not receive an advantage for a proposal that would reduce costs for the Department of Defense by—

[(A) not making an employer-sponsored health insurance plan available to the workers who are to be employed in the performance of that activity or function under the contract; or

[(B) offering to such workers an employer-sponsored health benefits plan that requires the employer to contribute less towards the premium or subscription share than the amount that is paid by the Department of Defense for health benefits for civilian employees under chapter 89 of title 5, United States Code.

[(b) EXCEPTIONS.—

[(1) The Department of Defense, without regard to subsection (a) of this section or subsections (a), (b), or (c) of section 2461 of title 10, United States Code, and notwithstanding any administrative regulation, requirement, or policy to the contrary shall have full authority to enter into a contract for the performance of any commercial or industrial type function of the Department of Defense that—

[(A) is included on the procurement list established pursuant to section 2 of the Javits-Wagner-O'Day Act (41 U.S.C. 47);

[(B) is planned to be converted to performance by a qualified nonprofit agency for the blind or by a qualified nonprofit agency for other severely handicapped individuals in accordance with that Act; or

[(C) is planned to be converted to performance by a qualified firm under at least 51 percent ownership by an Indian tribe, as defined in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)), or a Native Hawaiian Organization, as defined in section 8(a)(15) of the Small Business Act (15 U.S.C. 637(a)(15)).

[(2) This section shall not apply to depot contracts or contracts for depot maintenance as provided in sections 2469 and 2474 of title 10, United States Code.

[(c) TREATMENT OF CONVERSION.—The conversion of any activity or function of the Department of Defense under the authority provided by this section shall be credited toward any competitive or outsourcing goal, target, or measurement that may be established by statute, regulation, or policy and is deemed to be awarded under the authority of, and in compliance with, subsection (h) of section 2304 of title 10, United States Code, for the competition or outsourcing of commercial activities.

[(TRANSFER OF FUNDS)

[SEC. 8015. Funds appropriated in title III of this Act for the Department of Defense Pilot Mentor-Protege Program may be transferred to any other appropriation contained in this Act solely for the purpose of implementing a Mentor-Protege Program developmental assistance agreement pursuant to section 831 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 10 U.S.C. 2302 note), as amended, under the authority of this provision or any other transfer authority contained in this Act.

[SEC. 8016. None of the funds in this Act may be available for the purchase by the Department of Defense (and its departments and agencies) of welded shipboard anchor and mooring chain 4 inches in diameter and under unless the anchor and mooring chain are manufactured in the United States from components which are substantially manufactured in the United States: *Provided*, That for the purpose of this section manufactured will include cutting, heat treating, quality control, testing of chain and welding (including the forging and shot blasting process): *Provided further*, That for the purpose of this section substantially all of the components of anchor and mooring chain shall be considered to be produced or manufactured in the United States if the aggregate cost of the components produced or manufactured in the

United States exceeds the aggregate cost of the components produced or manufactured outside the United States: *Provided further*, That when adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis, the Secretary of the service responsible for the procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations that such an acquisition must be made in order to acquire capability for national security purposes.

[SEC. 8017. None of the funds available to the Department of Defense may be used to demilitarize or dispose of M–1 Carbines, M–1 Garand rifles, M–14 rifles, .22 caliber rifles, .30 caliber rifles, or M–1911 pistols.

[SEC. 8018. No more than $500,000 of the funds appropriated or made available in this Act shall be used during a single fiscal year for any single relocation of an organization, unit, activity or function of the Department of Defense into or within the National Capital Region: *Provided*, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the congressional defense committees that such a relocation is required in the best interest of the Government.

[SEC. 8019. In addition to the funds provided elsewhere in this Act, $8,000,000 is appropriated only for incentive payments authorized by section 504 of the Indian Financing Act of 1974 (25 U.S.C. 1544): *Provided*, That a prime contractor or a subcontractor at any tier that makes a subcontract award to any subcontractor or supplier as defined in 25 U.S.C. 1544 or a small business owned and controlled by an individual or individuals defined under 25 U.S.C. 4221(9) shall be considered a contractor for the purposes of being allowed additional compensation under section 504 of the Indian Financing Act of 1974 (25 U.S.C. 1544) whenever the prime contract or subcontract amount is over $500,000 and involves the expenditure of funds appropriated by an Act making Appropriations for the Department of Defense with respect to any fiscal year: *Provided further*, That notwithstanding 41 U.S.C. 430, this section shall be applicable to any Department of Defense acquisition of supplies or services, including any contract and any subcontract at any tier for acquisition of commercial items produced or manufactured, in whole or in part by any subcontractor or supplier defined in 25 U.S.C. 1544 or a small business owned and controlled by an individual or individuals defined under 25 U.S.C. 4221(9): *Provided further*, That businesses certified as 8(a) by the Small Business Administration pursuant to section 8(a)(15) of Public Law 85–536, as amended, shall have the same status as other program participants under section 602 of Public Law 100–656, 102 Stat. 3825 (Business Opportunity Development Reform Act of 1988) for purposes of contracting with agencies of the Department of Defense.

[SEC. 8020. None of the funds appropriated by this Act shall be available to perform any cost study pursuant to the provisions of OMB Circular A–76 if the study being performed exceeds a period of 24 months after initiation of such study with respect to a single function activity or 30 months after initiation of such study for a multi-function activity.

[SEC. 8021. Funds appropriated by this Act for the American Forces Information Service shall not be used for any national or international political or psychological activities.

[SEC. 8022. Notwithstanding any other provision of law or regulation, the Secretary of Defense may adjust wage rates for civilian employees hired for certain health care occupations as authorized for the Secretary of Veterans Affairs by section 7455 of title 38, United States Code.

[SEC. 8023. During the current fiscal year, the Department of Defense is authorized to incur obligations of not to exceed $350,000,000 for purposes specified in section 2350j(c) of title 10, United States Code, in anticipation of receipt of contributions, only from the Government of Kuwait, under that section: *Provided*, That upon receipt, such contributions from the Government of Kuwait shall be credited to the appropriations or fund which incurred such obligations.

[(INCLUDING TRANSFER OF FUNDS)

[SEC. 8024. (a) Of the funds made available in this Act, not less than $33,767,000 shall be available for the Civil Air Patrol Corporation, of which—

[(1) $24,376,000 shall be available from ''Operation and Maintenance, Air Force'' to support Civil Air Patrol Corporation operation and maintenance, readiness, counterdrug activities, and drug demand reduction activities involving youth programs;

[(2) $8,571,000 shall be available from ''Aircraft Procurement, Air Force''; and

[(3) $820,000 shall be available from ''Other Procurement, Air Force'' for vehicle procurement.

[(b) The Secretary of the Air Force should waive reimbursement for any funds used by the Civil Air Patrol for counter-drug activities in support of Federal, State, and local government agencies.

[SEC. 8025. (a) None of the funds appropriated in this Act are available to establish a new Department of Defense (department) federally funded research and development center (FFRDC), either as a new entity, or as a separate entity administrated by an organization managing another FFRDC, or as a nonprofit membership corporation consisting of a consortium of other FFRDCs and other non-profit entities.

[(b) No member of a Board of Directors, Trustees, Overseers, Advisory Group, Special Issues Panel, Visiting Committee, or any similar entity of a defense FFRDC, and no paid consultant to any defense FFRDC, except when acting in a technical advisory capacity, may be compensated for his or her services as a member of such entity, or as a paid consultant by more than one FFRDC in a fiscal year: *Provided*, That a member of any such entity referred to previously in this subsection shall be allowed travel expenses and per diem as authorized under the Federal Joint Travel Regulations, when engaged in the performance of membership duties.

[(c) Notwithstanding any other provision of law, none of the funds available to the department from any source during fiscal year 2006 may be used by a defense FFRDC, through a fee or other payment mechanism, for construction of new buildings, for payment of cost sharing for projects funded by Government grants, for absorption of contract overruns, or for certain charitable contributions, not to include employee participation in community service and/or development.

[(d) Notwithstanding any other provision of law, of the funds available to the department during fiscal year 2006, not more than 5,537 staff years of technical effort (staff years) may be funded for defense FFRDCs: *Provided*, That this subsection shall not apply to staff years funded in the National Intelligence Program.

[(e) The Secretary of Defense shall, with the submission of the department's fiscal year 2007 budget request, submit a report presenting the specific amounts of staff years of technical effort to be allocated for each defense FFRDC during that fiscal year.

[(f) Notwithstanding any other provision of this Act, the total amount appropriated in this Act for FFRDCs is hereby reduced by $40,000,000.

[SEC. 8026. None of the funds appropriated or made available in this Act shall be used to procure carbon, alloy or armor steel plate for use in any Government-owned facility or property under the control of the Department of Defense which were not melted and rolled in the United States or Canada: *Provided*, That these procurement restrictions shall apply to any and all Federal Supply Class 9515, American Society of Testing and Materials (ASTM) or American Iron and Steel Institute (AISI) specifications of carbon, alloy or armor steel plate: *Provided further*, That the Secretary of the military department responsible for the procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes: *Provided further*, That these restrictions shall not apply to contracts which are in being as of the date of the enactment of this Act.

[SEC. 8027. For the purposes of this Act, the term ''congressional defense committees'' means the Armed Services Committee of the House of Representatives, the Armed Services Committee of the Senate, the Subcommittee on Defense of the Committee on Appropriations of the Senate, and the Subcommittee on Defense of the Committee on Appropriations of the House of Representatives.

[SEC. 8028. During the current fiscal year, the Department of Defense may acquire the modification, depot maintenance and repair of aircraft, vehicles and vessels as well as the production of components and other Defense-related articles, through competition between Department of Defense depot maintenance activities and private firms: *Provided*, That the Senior Acquisition Executive of the military department or Defense Agency concerned, with power of delegation, shall certify that successful bids include comparable estimates of all direct and indirect costs for both public and private bids: *Provided further*, That Office of Management and Budget Circular A-76 shall not apply to competitions conducted under this section.

[SEC. 8029. (a)(1) If the Secretary of Defense, after consultation with the United States Trade Representative, determines that a foreign country which is party to an agreement described in paragraph (2) has violated the terms of the agreement by discriminating against certain types of products produced in the United States that are covered by the agreement, the Secretary of Defense shall rescind the Secretary's blanket waiver of the Buy American Act with respect to such types of products produced in that foreign country.

[(2) An agreement referred to in paragraph (1) is any reciprocal defense procurement memorandum of understanding, between the United States and a foreign country pursuant to which the Secretary of Defense has prospectively waived the Buy American Act for certain products in that country.

[(b) The Secretary of Defense shall submit to the Congress a report on the amount of Department of Defense purchases from foreign entities in fiscal year 2006. Such report shall separately indicate the dollar value of items for which the Buy American Act was waived pursuant to any agreement described in subsection (a)(2), the Trade Agreement Act of 1979 (19 U.S.C. 2501 et seq.), or any international agreement to which the United States is a party.

[(c) For purposes of this section, the term ''Buy American Act'' means title III of the Act entitled ''An Act making appropriations

for the Treasury and Post Office Departments for the fiscal year ending June 30, 1934, and for other purposes'', approved March 3, 1933 (41 U.S.C. 10a et seq.).

[SEC. 8030. Appropriations contained in this Act that remain available at the end of the current fiscal year, and at the end of each fiscal year hereafter, as a result of energy cost savings realized by the Department of Defense shall remain available for obligation for the next fiscal year to the extent, and for the purposes, provided in section 2865 of title 10, United States Code.

[SEC. 8031. The President shall include with each budget for a fiscal year submitted to the Congress under section 1105 of title 31, United States Code, materials that shall identify clearly and separately the amounts requested in the budget for appropriation for that fiscal year for salaries and expenses related to administrative activities of the Department of Defense, the military departments, and the defense agencies.

[SEC. 8032. Notwithstanding any other provision of law, funds available during the current fiscal year and hereafter for ''Drug Interdiction and Counter-Drug Activities, Defense'' may be obligated for the Young Marines program.

[(INCLUDING TRANSFER OF FUNDS)

[SEC. 8033. During the current fiscal year, amounts contained in the Department of Defense Overseas Military Facility Investment Recovery Account established by section 2921(c)(1) of the National Defense Authorization Act of 1991 (Public Law 101–510; 10 U.S.C. 2687 note) shall be available until expended for the payments specified by section 2921(c)(2) of that Act.

[SEC. 8034. (a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of the Air Force may convey at no cost to the Air Force, without consideration, to Indian tribes located in the States of North Dakota, South Dakota, Montana, and Minnesota relocatable military housing units located at Grand Forks Air Force Base and Minot Air Force Base that are excess to the needs of the Air Force.

[(b) PROCESSING OF REQUESTS.—The Secretary of the Air Force shall convey, at no cost to the Air Force, military housing units under subsection (a) in accordance with the request for such units that are submitted to the Secretary by the Operation Walking Shield Program on behalf of Indian tribes located in the States of North Dakota, South Dakota, Montana, and Minnesota.

[(c) RESOLUTION OF HOUSING UNIT CONFLICTS.—The Operation Walking Shield Program shall resolve any conflicts among requests of Indian tribes for housing units under subsection (a) before submitting requests to the Secretary of the Air Force under subsection (b).

[(d) INDIAN TRIBE DEFINED.—In this section, the term ''Indian tribe'' means any recognized Indian tribe included on the current list published by the Secretary of the Interior under section 104 of the Federally Recognized Indian Tribe Act of 1994 (Public Law 103–454; 108 Stat. 4792; 25 U.S.C. 479a–1).

[SEC. 8035. During the current fiscal year, appropriations which are available to the Department of Defense for operation and maintenance may be used to purchase items having an investment item unit cost of not more than $250,000.

[SEC. 8036. (a) During the current fiscal year, none of the appropriations or funds available to the Department of Defense Working Capital Funds shall be used for the purchase of an investment item for the purpose of acquiring a new inventory item for sale or anticipated sale during the current fiscal year or a subsequent fiscal year to customers of the Department of Defense Working Capital Funds if such an item would not have been chargeable to the Department of Defense Business Operations Fund during fiscal year 1994 and if the purchase of such an investment item would be chargeable during the current fiscal year to appropriations made to the Department of Defense for procurement.

[(b) The fiscal year 2007 budget request for the Department of Defense as well as all justification material and other documentation supporting the fiscal year 2007 Department of Defense budget shall be prepared and submitted to the Congress on the basis that any equipment which was classified as an end item and funded in a procurement appropriation contained in this Act shall be budgeted for in a proposed fiscal year 2007 procurement appropriation and not in the supply management business area or any other area or category of the Department of Defense Working Capital Funds.

[SEC. 8037. None of the funds appropriated by this Act for programs of the Central Intelligence Agency shall remain available for obligation beyond the current fiscal year, except for funds appropriated for the Reserve for Contingencies, which shall remain available until September 30, 2007: *Provided*, That funds appropriated, transferred, or otherwise credited to the Central Intelligence Agency Central Services Working Capital Fund during this or any prior or subsequent fiscal year shall remain available until expended: *Provided further*, That any funds appropriated or transferred to the Central Intelligence Agency for advanced research and development acquisition, for agent operations, and for covert action programs authorized by the President under section 503 of the National Security Act of 1947, as amended, shall remain available until September 30, 2007.

[SEC. 8038. Notwithstanding any other provision of law, funds made available in this Act for the Defense Intelligence Agency may be used for the design, development, and deployment of General Defense Intelligence Program intelligence communications and intelligence information systems for the Services, the Unified and Specified Commands, and the component commands.

[SEC. 8039. Of the funds appropriated to the Department of Defense under the heading ''Operation and Maintenance, Defense-Wide'', not less than $10,000,000 shall be made available only for the mitigation of environmental impacts, including training and technical assistance to tribes, related administrative support, the gathering of information, documenting of environmental damage, and developing a system for prioritization of mitigation and cost to complete estimates for mitigation, on Indian lands resulting from Department of Defense activities.

[SEC. 8040. (a) None of the funds appropriated in this Act may be expended by an entity of the Department of Defense unless the entity, in expending the funds, complies with the Buy American Act. For purposes of this subsection, the term ''Buy American Act'' means title III of the Act entitled ''An Act making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1934, and for other purposes'', approved March 3, 1933 (41 U.S.C. 10a et seq.).

[(b) If the Secretary of Defense determines that a person has been convicted of intentionally affixing a label bearing a ''Made in America'' inscription to any product sold in or shipped to the United States that is not made in America, the Secretary shall determine, in accordance with section 2410f of title 10, United States Code, whether the person should be debarred from contracting with the Department of Defense.

[(c) In the case of any equipment or products purchased with appropriations provided under this Act, it is the sense of the Congress that any entity of the Department of Defense, in expending the appropriation, purchase only American-made equipment and products, provided that American-made equipment and products are cost-competitive, quality-competitive, and available in a timely fashion.

[SEC. 8041. None of the funds appropriated by this Act shall be available for a contract for studies, analysis, or consulting services entered into without competition on the basis of an unsolicited proposal unless the head of the activity responsible for the procurement determines—

[(1) as a result of thorough technical evaluation, only one source is found fully qualified to perform the proposed work;

[(2) the purpose of the contract is to explore an unsolicited proposal which offers significant scientific or technological promise, represents the product of original thinking, and was submitted in confidence by one source; or

[(3) the purpose of the contract is to take advantage of unique and significant industrial accomplishment by a specific concern, or to insure that a new product or idea of a specific concern is given financial support: *Provided*, That this limitation shall not apply to contracts in an amount of less than $25,000, contracts related to improvements of equipment that is in development or production, or contracts as to which a civilian official of the Department of Defense, who has been confirmed by the Senate, determines that the award of such contract is in the interest of the national defense.

[SEC. 8042. (a) Except as provided in subsection (b) and (c), none of the funds made available by this Act may be used—

[(1) to establish a field operating agency; or

[(2) to pay the basic pay of a member of the Armed Forces or civilian employee of the department who is transferred or reassigned from a headquarters activity if the member or employee's place of duty remains at the location of that headquarters.

[(b) The Secretary of Defense or Secretary of a military department may waive the limitations in subsection (a), on a case-by-case basis, if the Secretary determines, and certifies to the Committees on Appropriations of the House of Representatives and Senate that the granting of the waiver will reduce the personnel requirements or the financial requirements of the department.

[(c) This section does not apply to field operating agencies funded within the National Intelligence Program.

[SEC. 8043. The Secretary of Defense, acting through the Office of Economic Adjustment of the Department of Defense, may use funds made available in this Act under the heading ''Operation and Maintenance, Defense-Wide'' to make grants and supplement other Federal funds in accordance with the guidance provided in the report of the Committee on Appropriations of the House of Representatives accompanying this Act, and the projects specified in such guidance shall be considered to be authorized by law.

[(RESCISSIONS)

[SEC. 8044. Of the funds appropriated in Department of Defense Appropriations Acts, the following funds are hereby rescinded from the following accounts and programs in the specified amounts:

[''Other Procurement, Army, 2005/2007'', $60,500,000.

[''Shipbuilding and Conversion, Navy, 2005/2011'', $325,000,000.

[''Aircraft Procurement, Air Force, 2005/2007'', $10,000,000.

[''Other Procurement, Air Force, 2005/2007'', $3,400,000.

[''Research, Development, Test and Evaluation, Army, 2005/2006'', $21,600,000.

[''Research, Development, Test and Evaluation, Navy, 2005/2006'', $5,100,000.

[''Research, Development, Test and Evaluation, Air Force, 2005/2006'', $142,000,000.

[''Research, Development, Test and Evaluation, Defense-Wide, 2005/2006'', $65,950,000.

[SEC. 8045. None of the funds available in this Act may be used to reduce the authorized positions for military (civilian) technicians of the Army National Guard, the Air National Guard, Army Reserve and Air Force Reserve for the purpose of applying any administratively imposed civilian personnel ceiling, freeze, or reduction on military (civilian) technicians, unless such reductions are a direct result of a reduction in military force structure.

[SEC. 8046. None of the funds appropriated or otherwise made available in this Act may be obligated or expended for assistance to the Democratic People's Republic of North Korea unless specifically appropriated for that purpose.

[SEC. 8047. Funds appropriated in this Act for operation and maintenance of the Military Departments, Combatant Commands and Defense Agencies shall be available for reimbursement of pay, allowances and other expenses which would otherwise be incurred against appropriations for the National Guard and Reserve when members of the National Guard and Reserve provide intelligence or counterintelligence support to Combatant Commands, Defense Agencies and Joint Intelligence Activities, including the activities and programs included within the National Intelligence Program, the Joint Military Intelligence Program, and the Tactical Intelligence and Related Activities aggregate: *Provided*, That nothing in this section authorizes deviation from established Reserve and National Guard personnel and training procedures.

[SEC. 8048. (a) None of the funds available to the Department of Defense for any fiscal year for drug interdiction or counter-drug activities may be transferred to any other department or agency of the United States except as specifically provided in an appropriations law.

[(b) None of the funds available to the Central Intelligence Agency for any fiscal year for drug interdiction and counter-drug activities may be transferred to any other department or agency of the United States except as specifically provided in an appropriations law.

[(TRANSFER OF FUNDS)

[SEC. 8049. Appropriations available under the heading ''Operation and Maintenance, Defense-Wide'' for the current fiscal year and hereafter for increasing energy and water efficiency in Federal buildings may, during their period of availability, be transferred to other appropriations or funds of the Department of Defense for projects related to increasing energy and water efficiency, to be merged with and to be available for the same general purposes, and for the same time period, as the appropriation or fund to which transferred.

[SEC. 8050. None of the funds appropriated by this Act may be used for the procurement of ball and roller bearings other than those produced by a domestic source and of domestic origin: *Provided*, That the Secretary of the military department responsible for such procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate, that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes: *Provided further*, That this restriction shall not apply to the purchase of ''commercial items'', as defined by section 4(12) of the Office of Federal Procurement Policy Act, except that the restriction shall apply to ball or roller bearings purchased as end items.

[SEC. 8051. None of the funds in this Act may be used to purchase any supercomputer which is not manufactured in the United States, unless the Secretary of Defense certifies to the congressional defense committees that such an acquisition must be made in order to acquire capability for national security purposes that is not available from United States manufacturers.

[SEC. 8052. Notwithstanding any other provision of law, each contract awarded by the Department of Defense during the current fiscal year for construction or service performed in whole or in part in a State (as defined in section 381(d) of title 10, United States Code) which is not contiguous with another State and has an unemployment rate in excess of the national average rate of unemployment as determined by the Secretary of Labor, shall include a provision requiring the contractor to employ, for the purpose of performing that portion of the contract in such State that is not contiguous with another State, individuals who are residents of such State and who, in the case of any craft or trade, possess or would be able to acquire promptly the necessary skills: *Provided*, That the Secretary of Defense may waive the requirements of this section, on a case-by-case basis, in the interest of national security.

[SEC. 8053. None of the funds made available in this or any other Act may be used to pay the salary of any officer or employee of the Department of Defense who approves or implements the transfer of administrative responsibilities or budgetary resources of any program, project, or activity financed by this Act to the jurisdiction of another Federal agency not financed by this Act without the express authorization of Congress: *Provided*, That this limitation shall not apply to transfers of funds expressly provided for in Defense Appropriations Acts, or provisions of Acts providing supplemental appropriations for the Department of Defense.

[SEC. 8054. (a) LIMITATION ON TRANSFER OF DEFENSE ARTICLES AND SERVICES.—Notwithstanding any other provision of law, none of the funds available to the Department of Defense for the current fiscal year may be obligated or expended to transfer to another nation or an international organization any defense articles or services (other than intelligence services) for use in the activities described in subsection (b) unless the congressional defense committees, the Committee on International Relations of the House of Representatives, and the Committee on Foreign Relations of the Senate are notified 15 days in advance of such transfer.

[(b) COVERED ACTIVITIES.—This section applies to—

[(1) any international peacekeeping or peace-enforcement operation under the authority of chapter VI or chapter VII of the United Nations Charter under the authority of a United Nations Security Council resolution; and

[(2) any other international peacekeeping, peace-enforcement, or humanitarian assistance operation.

[(c) REQUIRED NOTICE.—A notice under subsection (a) shall include the following:

[(1) A description of the equipment, supplies, or services to be transferred.

[(2) A statement of the value of the equipment, supplies, or services to be transferred.

[(3) In the case of a proposed transfer of equipment or supplies—

[(A) a statement of whether the inventory requirements of all elements of the Armed Forces (including the reserve components) for the type of equipment or supplies to be transferred have been met; and

[(B) a statement of whether the items proposed to be transferred will have to be replaced and, if so, how the President proposes to provide funds for such replacement.

[SEC. 8055. None of the funds available to the Department of Defense under this Act shall be obligated or expended to pay a contractor under a contract with the Department of Defense for costs of any amount paid by the contractor to an employee when—

[(1) such costs are for a bonus or otherwise in excess of the normal salary paid by the contractor to the employee; and

[(2) such bonus is part of restructuring costs associated with a business combination.

[(INCLUDING TRANSFER OF FUNDS)

[SEC. 8056. During the current fiscal year, no more than $30,000,000 of appropriations made in this Act under the heading ''Operation and Maintenance, Defense-Wide'' may be transferred to appropriations available for the pay of military personnel, to be merged with, and to be available for the same time period as the appropriations to which transferred, to be used in support of such personnel in connection with support and services for eligible organizations and activities outside the Department of Defense pursuant to section 2012 of title 10, United States Code.

[SEC. 8057. During the current fiscal year, in the case of an appropriation account of the Department of Defense for which the period of availability for obligation has expired or which has closed under the provisions of section 1552 of title 31, United States Code, and which has a negative unliquidated or unexpended balance, an obligation or an adjustment of an obligation may be charged to any current appropriation account for the same purpose as the expired or closed account if—

[(1) the obligation would have been properly chargeable (except as to amount) to the expired or closed account before the end of the period of availability or closing of that account;

[(2) the obligation is not otherwise properly chargeable to any current appropriation account of the Department of Defense; and

[(3) in the case of an expired account, the obligation is not chargeable to a current appropriation of the Department of Defense under the provisions of section 1405(b)(8) of the National Defense Authorization Act for Fiscal Year 1991, Public Law 101–510, as amended (31 U.S.C. 1551 note): *Provided*, That in the case of an expired account, if subsequent review or investigation discloses that there was not in fact a negative unliquidated or unexpended balance in the account, any charge to a current account under the authority of this section shall be reversed and recorded against the expired account: *Provided further*, That the total amount charged to a current appropriation under this section may not exceed an amount equal to 1 percent of the total appropriation for that account.

[SEC. 8058. (a) Notwithstanding any other provision of law, the Chief of the National Guard Bureau may permit the use of equipment of the National Guard Distance Learning Project by any person or entity on a space-available, reimbursable basis. The Chief of the National Guard Bureau shall establish the amount of reimbursement for such use on a case-by-case basis.

[(b) Amounts collected under subsection (a) shall be credited to funds available for the National Guard Distance Learning Project and be available to defray the costs associated with the use of equipment of the

project under that subsection. Such funds shall be available for such purposes without fiscal year limitation.

[SEC. 8059. Using funds available by this Act or any other Act, the Secretary of the Air Force, pursuant to a determination under section 2690 of title 10, United States Code, may implement cost-effective agreements for required heating facility modernization in the Kaiserslautern Military Community in the Federal Republic of Germany: *Provided*, That in the City of Kaiserslautern such agreements will include the use of United States anthracite as the base load energy for municipal district heat to the United States Defense installations: *Provided further*, That at Landstuhl Army Regional Medical Center and Ramstein Air Base, furnished heat may be obtained from private, regional or municipal services, if provisions are included for the consideration of United States coal as an energy source.

[SEC. 8060. None of the funds appropriated in title IV of this Act may be used to procure end-items for delivery to military forces for operational training, operational use or inventory requirements: *Provided*, That this restriction does not apply to end-items used in development, prototyping, and test activities preceding and leading to acceptance for operational use: *Provided further*, That this restriction does not apply to programs funded within the National Intelligence Program: *Provided further*, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that it is in the national security interest to do so.

[SEC. 8061. None of the funds made available in this Act may be used to approve or license the sale of the F/A–22 advanced tactical fighter to any foreign government.

[SEC. 8062. (a) The Secretary of Defense may, on a case-by-case basis, waive with respect to a foreign country each limitation on the procurement of defense items from foreign sources provided in law if the Secretary determines that the application of the limitation with respect to that country would invalidate cooperative programs entered into between the Department of Defense and the foreign country, or would invalidate reciprocal trade agreements for the procurement of defense items entered into under section 2531 of title 10, United States Code, and the country does not discriminate against the same or similar defense items produced in the United States for that country.

[(b) Subsection (a) applies with respect to—

[(1) contracts and subcontracts entered into on or after the date of the enactment of this Act; and

[(2) options for the procurement of items that are exercised after such date under contracts that are entered into before such date if the option prices are adjusted for any reason other than the application of a waiver granted under subsection (a).

[(c) Subsection (a) does not apply to a limitation regarding construction of public vessels, ball and roller bearings, food, and clothing or textile materials as defined by section 11 (chapters 50–65) of the Harmonized Tariff Schedule and products classified under headings 4010, 4202, 4203, 6401 through 6406, 6505, 7019, 7218 through 7229, 7304.41 through 7304.49, 7306.40, 7502 through 7508, 8105, 8108, 8109, 8211, 8215, and 9404.

[SEC. 8063. (a) PROHIBITION.—None of the funds made available by this Act may be used to support any training program involving a unit of the security forces of a foreign country if the Secretary of Defense has received credible information from the Department of State that the unit has committed a gross violation of human rights, unless all necessary corrective steps have been taken.

[(b) MONITORING.—The Secretary of Defense, in consultation with the Secretary of State, shall ensure that prior to a decision to conduct any training program referred to in subsection (a), full consideration is given to all credible information available to the Department of State relating to human rights violations by foreign security forces.

[(c) WAIVER.—The Secretary of Defense, after consultation with the Secretary of State, may waive the prohibition in subsection (a) if he determines that such waiver is required by extraordinary circumstances.

[(d) REPORT.—Not more than 15 days after the exercise of any waiver under subsection (c), the Secretary of Defense shall submit a report to the congressional defense committees describing the extraordinary circumstances, the purpose and duration of the training program, the United States forces and the foreign security forces involved in the training program, and the information relating to human rights violations that necessitates the waiver.

[SEC. 8064. None of the funds appropriated or made available in this Act to the Department of the Navy shall be used to develop, lease or procure the T-AKE class of ships unless the main propulsion diesel engines and propulsors are manufactured in the United States by a domestically operated entity: *Provided*, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes or there exists a significant cost or quality difference.

[SEC. 8065. None of the funds appropriated or otherwise made available by this or other Department of Defense Appropriations Acts may be obligated or expended for the purpose of performing repairs or maintenance to military family housing units of the Department of Defense, including areas in such military family housing units that may be used for the purpose of conducting official Department of Defense business.

[SEC. 8066. Notwithstanding any other provision of law, funds appropriated in this Act under the heading ''Research, Development, Test and Evaluation, Defense-Wide'' for any new start advanced concept technology demonstration project may only be obligated 30 days after a report, including a description of the project, the planned acquisition and transition strategy and its estimated annual and total cost, has been provided in writing to the congressional defense committees: *Provided*, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying to the congressional defense committees that it is in the national interest to do so.

[SEC. 8067. The Secretary of Defense shall provide a classified quarterly report to the House and Senate Appropriations Committees, Subcommittees on Defense on certain matters as directed in the classified annex accompanying this Act.

[SEC. 8068. During the current fiscal year, refunds attributable to the use of the Government travel card, refunds attributable to the use of the Government Purchase Card and refunds attributable to official Government travel arranged by Government Contracted Travel Management Centers may be credited to operation and maintenance, and research, development, test and evaluation accounts of the Department of Defense which are current when the refunds are received.

[SEC. 8069. (a) REGISTERING FINANCIAL MANAGEMENT INFORMATION TECHNOLOGY SYSTEMS WITH DOD CHIEF INFORMATION OFFICER.—None of the funds appropriated in this Act may be used for a mission critical or mission essential financial management information technology system (including a system funded by the defense working capital fund) that is not registered with the Chief Information Officer of the Department of Defense. A system shall be considered to be registered with that officer upon the furnishing to that officer of notice of the system, together with such information concerning the system as the Secretary of Defense may prescribe. A financial management information technology system shall be considered a mission critical or mission essential information technology system as defined by the Under Secretary of Defense (Comptroller).

[(b) CERTIFICATIONS AS TO COMPLIANCE WITH FINANCIAL MANAGEMENT MODERNIZATION PLAN.—

[(1) During the current fiscal year, a financial management automated information system, a mixed information system supporting financial and non-financial systems, or a system improvement of more than $1,000,000 may not receive Milestone A approval, Milestone B approval, or full rate production, or their equivalent, within the Department of Defense until the Under Secretary of Defense (Comptroller) certifies, with respect to that milestone, that the system is being developed and managed in accordance with the Department's Financial Management Modernization Plan. The Under Secretary of Defense (Comptroller) may require additional certifications, as appropriate, with respect to any such system.

[(2) The Chief Information Officer shall provide the congressional defense committees timely notification of certifications under paragraph (1).

[(c) CERTIFICATIONS AS TO COMPLIANCE WITH CLINGER-COHEN ACT.—

[(1) During the current fiscal year, a major automated information system may not receive Milestone A approval, Milestone B approval, or full rate production approval, or their equivalent, within the Department of Defense until the Chief Information Officer certifies, with respect to that milestone, that the system is being developed in accordance with the Clinger-Cohen Act of 1996 (40 U.S.C. 1401 et seq.). The Chief Information Officer may require additional certifications, as appropriate, with respect to any such system.

[(2) The Chief Information Officer shall provide the congressional defense committees timely notification of certifications under paragraph (1). Each such notification shall include, at a minimum, the funding baseline and milestone schedule for each system covered by such a certification and confirmation that the following steps have been taken with respect to the system:

[(A) Business process reengineering.

[(B) An analysis of alternatives.

[(C) An economic analysis that includes a calculation of the return on investment.

[(D) Performance measures.

[(E) An information assurance strategy consistent with the Department's Global Information Grid.

[(d) DEFINITIONS.—For purposes of this section:

[(1) The term ''Chief Information Officer'' means the senior official of the Department of Defense designated by the Secretary of Defense pursuant to section 3506 of title 44, United States Code.

[(2) The term ''information technology system'' has the meaning given the term ''information technology'' in section 5002 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1401).

[SEC. 8070. During the current fiscal year, none of the funds available to the Department of Defense may be used to provide support to another department or agency of the

United States if such department or agency is more than 90 days in arrears in making payment to the Department of Defense for goods or services previously provided to such department or agency on a reimbursable basis: *Provided*, That this restriction shall not apply if the department is authorized by law to provide support to such department or agency on a nonreimbursable basis, and is providing the requested support pursuant to such authority: *Provided further*, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that it is in the national security interest to do so.

[SEC. 8071. None of the funds provided in this Act may be used to transfer to any nongovernmental entity ammunition held by the Department of Defense that has a centerfire cartridge and a United States military nomenclature designation of ''armor penetrator'', ''armor piercing (AP)'', ''armor piercing incendiary (API)'', or ''armor-piercing incendiary-tracer (API–T)'', except to an entity performing demilitarization services for the Department of Defense under a contract that requires the entity to demonstrate to the satisfaction of the Department of Defense that armor piercing projectiles are either: (1) rendered incapable of reuse by the demilitarization process; or (2) used to manufacture ammunition pursuant to a contract with the Department of Defense or the manufacture of ammunition for export pursuant to a License for Permanent Export of Unclassified Military Articles issued by the Department of State.

[SEC. 8072. Notwithstanding any other provision of law, the Chief of the National Guard Bureau, or his designee, may waive payment of all or part of the consideration that otherwise would be required under 10 U.S.C. 2667, in the case of a lease of personal property for a period not in excess of 1 year to any organization specified in 32 U.S.C. 508(d), or any other youth, social, or fraternal non-profit organization as may be approved by the Chief of the National Guard Bureau, or his designee, on a case-by-case basis.

[SEC. 8073. None of the funds appropriated by this Act shall be used for the support of any nonappropriated funds activity of the Department of Defense that procures malt beverages and wine with nonappropriated funds for resale (including such alcoholic beverages sold by the drink) on a military installation located in the United States unless such malt beverages and wine are procured within that State, or in the case of the District of Columbia, within the District of Columbia, in which the military installation is located: *Provided*, That in a case in which the military installation is located in more than one State, purchases may be made in any State in which the installation is located: *Provided further*, That such local procurement requirements for malt beverages and wine shall apply to all alcoholic beverages only for military installations in States which are not contiguous with another State: *Provided further*, That alcoholic beverages other than wine and malt beverages, in contiguous States and the District of Columbia shall be procured from the most competitive source, price and other factors considered.

[SEC. 8074. Funds available to the Department of Defense for the Global Positioning System during the current fiscal year may be used to fund civil requirements associated with the satellite and ground control segments of such system's modernization program.

[(INCLUDING TRANSFER OF FUNDS)

[SEC. 8075. (a) Of the amounts appropriated in this Act under the heading, ''Research, Development, Test and Evaluation, Defense-Wide'', $90,000,000 shall remain available until expended: *Provided*, That notwithstanding any other provision of law, the Secretary of Defense is authorized to transfer such funds to other activities of the Federal Government.

[(b) Of the amounts appropriated in this Act under the heading, ''Operation and Maintenance, Army'', $147,900,000 shall remain available until expended: *Provided*, That notwithstanding any other provision of law, the Secretary of Defense is authorized to transfer such funds to other activities of the Federal Government: *Provided further*, That the Secretary of Defense is authorized to enter into and carry out contracts for the acquisition of real property, construction, personal services, and operations related to projects described in further detail in the Classified Annex accompanying the Department of Defense Appropriations Act, 2006, consistent with the terms and conditions set forth therein: *Provided further*, That contracts entered into under the authority of this section may provide for such indemnification as the Secretary determines to be necessary: *Provided further*, That projects authorized by this section shall comply with applicable Federal, State, and local law to the maximum extent consistent with the national security, as determined by the Secretary of Defense.

[SEC. 8076. Section 8106 of the Department of Defense Appropriations Act, 1997 (titles I through VIII of the matter under subsection 101(b) of Public Law 104–208; 110 Stat. 3009–111; 10 U.S.C. 113 note) shall continue in effect to apply to disbursements that are made by the Department of Defense in fiscal year 2006.

[SEC. 8077. In addition to amounts provided elsewhere in this Act, $2,500,000 is hereby appropriated to the Department of Defense, to remain available for obligation until expended: *Provided*, That notwithstanding any other provision of law, these funds shall be available only for a grant to the Fisher House Foundation, Inc., only for the construction and furnishing of additional Fisher Houses to meet the needs of military family members when confronted with the illness or hospitalization of an eligible military beneficiary.

[SEC. 8078. Amounts appropriated in title II of this Act are hereby reduced by $264,630,000 to reflect savings attributable to efficiencies and management improvements in the funding of miscellaneous or other contracts in the military departments, as follows:

[(1) From ''Operation and Maintenance, Army'', $12,734,000.

[(2) From ''Operation and Maintenance, Navy'', $91,725,000.

[(3) From ''Operation and Maintenance, Marine Corps'', $1,870,000.

[(4) From ''Operation and Maintenance, Air Force'', $158,301,000.

[SEC. 8079. The total amount appropriated or otherwise made available in this Act is hereby reduced by $167,000,000 to limit excessive growth in the procurement of advisory and assistance services, to be distributed as follows:

[''Operation and Maintenance, Army'', $24,000,000.

[''Operation and Maintenance, Navy'', $19,000,000.

[''Operation and Maintenance, Air Force'', $74,000,000.

[''Operation and Maintenance, Defense-Wide'', $50,000,000.

[(INCLUDING TRANSFER OF FUNDS)

[SEC. 8080. Of the amounts appropriated in this Act under the heading ''Research, Development, Test and Evaluation, Defense-Wide'', $77,616,000 shall be made available for the Arrow missile defense program: *Provided*, That of this amount, $15,000,000 shall be available for the purpose of producing Arrow missile components in the United States and Arrow missile components and missiles in Israel to meet Israel's defense requirements, consistent with each nation's laws, regulations and procedures: *Provided further*, That funds made available under this provision for production of missiles and missile components may be transferred to appropriations available for the procurement of weapons and equipment, to be merged with and to be available for the same time period and the same purposes as the appropriation to which transferred: *Provided further*, That the transfer authority provided under this provision is in addition to any other transfer authority contained in this Act.

[(INCLUDING TRANSFER OF FUNDS)

[SEC. 8081. Of the amounts appropriated in this Act under the heading ''Shipbuilding and Conversion, Navy'', $394,523,000 shall be available until September 30, 2006, to fund prior year shipbuilding cost increases: *Provided*, That upon enactment of this Act, the Secretary of the Navy shall transfer such funds to the following appropriations in the amounts specified: *Provided further*, That the amounts transferred shall be merged with and be available for the same purposes as the appropriations to which transferred:

[To: Under the heading, ''Shipbuilding and Conversion, Navy, 1998/2007'':

[NSSN, $28,000,000.

[Under the heading, ''Shipbuilding and Conversion, Navy, 1999/2009'':

[LPD–17 Amphibious Transport Dock Ship, $25,000,000; and

[NSSN, $72,000,000.

[Under the heading, ''Shipbuilding and Conversion, Navy, 2000/2009'':

[LPD–17 Amphibious Transport Dock Ship, $41,800,000.

[Under the heading, ''Shipbuilding and Conversion, Navy, 2001/2007'':

[Carrier Replacement Program, $145,023,000; and

[NSSN, $82,700,000.

[SEC. 8082. The Secretary of the Navy may settle, or compromise, and pay any and all admiralty claims under 10 U.S.C. 7622 arising out of the collision involving the U.S.S. GREENEVILLE and the EHIME MARU, in any amount and without regard to the monetary limitations in subsections (a) and (b) of that section: *Provided*, That such payments shall be made from funds available to the Department of the Navy for operation and maintenance.

[SEC. 8083. Notwithstanding any other provision of law or regulation, the Secretary of Defense may exercise the provisions of 38 U.S.C. 7403(g) for occupations listed in 38 U.S.C. 7403(a)(2) as well as the following:

[Pharmacists, Audiologists, and Dental Hygienists.

[(A) The requirements of 38 U.S.C. 7403(g)(1)(A) shall apply.

[(B) The limitations of 38 U.S.C. 7403(g)(1)(B) shall not apply.

[SEC. 8084. Funds appropriated by this Act, or made available by the transfer of funds in this Act, for intelligence activities are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414) during fiscal year 2006 until the enactment of the Intelligence Authorization Act for fiscal year 2006.

[SEC. 8085. None of the funds in this Act may be used to initiate a new start program without prior written notification to the Office of Secretary of Defense and the congressional defense committees.

[SEC. 8086. The amounts appropriated in title II of this Act are hereby reduced by

$250,000,000 to reflect cash balance and rate stabilization adjustments in Department of Defense Working Capital Funds, as follows:

[(1) From ''Operation and Maintenance, Army'', $107,000,000.

[(2) From ''Operation and Maintenance, Air Force'', $143,000,000.

[SEC. 8087. (a) In addition to the amounts provided elsewhere in this Act, the amount of $6,000,000 is hereby appropriated to the Department of Defense for ''Operation and Maintenance, Army National Guard''. Such amount shall be made available to the Secretary of the Army only to make a grant in the amount of $6,000,000 to the entity specified in subsection (b) to facilitate access by veterans to opportunities for skilled employment in the construction industry.

[(b) The entity referred to in subsection (a) is the Center for Military Recruitment, Assessment and Veterans Employment, a nonprofit labor-management co-operation committee provided for by section 302(c)(9) of the Labor-Management Relations Act, 1947 (29 U.S.C. 186(c)(9)), for the purposes set forth in section 6(b) of the Labor Management Cooperation Act of 1978 (29 U.S.C. 175a note).

[SEC. 8088. FINANCING AND FIELDING OF KEY ARMY CAPABILITIES.—The Department of Defense and the Department of the Army shall make future budgetary and programming plans to fully finance the Non-Line of Sight Future Force cannon and resupply vehicle program (NLOS–C) in order to field this system in fiscal year 2010, consistent with the broader plan to field the Future Combat System (FCS) in fiscal year 2010: *Provided*, That if the Army is precluded from fielding the FCS program by fiscal year 2010, then the Army shall develop the NLOS–C independent of the broader FCS development timeline to achieve fielding by fiscal year 2010. In addition the Army will deliver eight (8) combat operational pre-production NLOS–C systems by the end of calendar year 2008. These systems shall be in addition to those systems necessary for developmental and operational testing: *Provided further*, That the Army shall ensure that budgetary and programmatic plans will provide for no fewer than seven (7) Stryker Brigade Combat Teams.

[SEC. 8089. In addition to the amounts appropriated or otherwise made available elsewhere in this Act, $14,400,000 is hereby appropriated to the Department of Defense, to remain available until September 30, 2006: *Provided*, That the Secretary of Defense shall make grants in the amounts specified as follows: $4,500,000 to the Intrepid Sea-Air-Space Foundation; $1,000,000 to the Pentagon Memorial Fund, Inc.; $4,400,000 to the Center for Applied Science and Technologies at Jordan Valley Innovation Center; $1,000,000 to the Vietnam Veterans Memorial Fund for the Teach Vietnam initiative; $500,000 for the Westchester County World Trade Center Memorial; $1,000,000 for the Women in Military Service for America Memorial Foundation; and $2,000,000 to the Presidio Trust.

[SEC. 8090. None of the funds appropriated in this Act under the heading ''Overseas Contingency Operations Transfer Account'' may be transferred or obligated for Department of Defense expenses not directly related to the conduct of overseas contingencies: *Provided*, That the Secretary of Defense shall submit a report no later than 30 days after the end of each fiscal quarter to the Committees on Appropriations of the Senate and House of Representatives that details any transfer of funds from the ''Overseas Contingency Operations Transfer Account'': *Provided further*, That the report shall explain any transfer for the maintenance of real property, pay of civilian personnel, base operations support, and weapon, vehicle or equipment maintenance.

[SEC. 8091. For purposes of section 1553(b) of title 31, United States Code, any subdivision of appropriations made in this Act under the heading ''Shipbuilding and Conversion, Navy'' shall be considered to be for the same purpose as any subdivision under the heading ''Shipbuilding and Conversion, Navy'' appropriations in any prior fiscal year, and the 1 percent limitation shall apply to the total amount of the appropriation.

[SEC. 8092. The budget of the President for fiscal year 2007 submitted to the Congress pursuant to section 1105 of title 31, United States Code shall include separate budget justification documents for costs of United States Armed Forces' participation in contingency operations for the Military Personnel accounts, the Operation and Maintenance accounts, and the Procurement accounts: *Provided*, That these documents shall include a description of the funding requested for each contingency operation, for each military service, to include all Active and Reserve components, and for each appropriations account: *Provided further*, That these documents shall include estimated costs for each element of expense or object class, a reconciliation of increases and decreases for each contingency operation, and programmatic data including, but not limited to, troop strength for each Active and Reserve component, and estimates of the major weapons systems deployed in support of each contingency: *Provided further*, That these documents shall include budget exhibits OP–5 and OP–32 (as defined in the Department of Defense Financial Management Regulation) for all contingency operations for the budget year and the two preceding fiscal years.

[SEC. 8093. None of the funds in this Act may be used for research, development, test, evaluation, procurement or deployment of nuclear armed interceptors of a missile defense system.

[SEC. 8094. Of the amounts provided in title II of this Act under the heading, ''Operation and Maintenance, Defense-Wide'', $20,000,000 is available for the Regional Defense Counter-terrorism Fellowship Program, to fund the education and training of foreign military officers, ministry of defense civilians, and other foreign security officials, to include United States military officers and civilian officials whose participation directly contributes to the education and training of these foreign students.

[SEC. 8095. None of the funds appropriated or made available in this Act shall be used to reduce or disestablish the operation of the 53rd Weather Reconnaissance Squadron of the Air Force Reserve, if such action would reduce the WC–130 Weather Reconnaissance mission below the levels funded in this Act: *Provided*, That the Air Force shall allow the 53rd Weather Reconnaissance Squadron to perform other missions in support of national defense requirements during the non-hurricane season.

[SEC. 8096. None of the funds provided in this Act shall be available for integration of foreign intelligence information unless the information has been lawfully collected and processed during the conduct of authorized foreign intelligence activities: *Provided*, That information pertaining to United States persons shall only be handled in accordance with protections provided in the Fourth Amendment of the United States Constitution as implemented through Executive Order No. 12333.

[SEC. 8097. (a) From within amounts made available in title II of this Act under the heading ''Operation and Maintenance, Army'' $4,500,000 is only for an additional amount for the project for which funds were appropriated in section 8103 of Public Law 106–79, for the same purposes, which shall remain available until expended: *Provided,* That no funds in this or any other Act, nor non-appropriated funds, may be used to operate recreational facilities (such as the officers club, golf course, or bowling alleys) at Ft. Irwin, California, if such facilities provide services to Army officers of the grade O–7 or higher, until such time as the project in the previous proviso has been fully completed.

[(b) From within amounts made available in title II of this Act under the heading ''Operation and Maintenance, Marine Corps'', the Secretary of the Navy shall make a grant in the amount of $2,000,000, notwithstanding any other provision of law, to the City of Twentynine Palms, California, for the widening of off-base Adobe Road, which is used by members of the Marine Corps stationed at the Marine Corps Air Ground Task Force Training Center, Twentynine Palms, California, and their dependents, and for construction of pedestrian and bike lanes for the road, to provide for the safety of the Marines stationed at the installation.

[SEC. 8098. (a) At the time members of reserve components of the Armed Forces are called or ordered to active duty under section 12302(a) of title 10, United States Code, each member shall be notified in writing of the expected period during which the member will be mobilized.

[(b) The Secretary of Defense may waive the requirements of subsection (a) in any case in which the Secretary determines that it is necessary to do so to respond to a national security emergency or to meet dire operational requirements of the Armed Forces.

[(INCLUDING TRANSFER OF FUNDS)

[SEC. 8099. The Secretary of the Navy may transfer funds from any available Department of the Navy appropriation to any available Navy ship construction appropriation for the purpose of liquidating necessary changes resulting from inflation, market fluctuations, or rate adjustments for any ship construction program appropriated in law: *Provided*, That the Secretary may transfer not to exceed $100,000,000 under the authority provided by this section: *Provided further*, That the funding transferred shall be available for the same time period as the appropriation to which transferred: *Provided further*, That the Secretary may not transfer any funds until 30 days after the proposed transfer has been reported to the Committee on Appropriations of the Senate and the House of Representatives, unless sooner notified by the Committees that there is no objection to the proposed transfer: *Provided further*, That the transfer authority provided by this section is in addition to any other transfer authority contained elsewhere in this Act.

[SEC. 8100. (a) The total amount appropriated or otherwise made available in title II of this Act is hereby reduced by $147,000,000 to limit excessive growth in the travel and transportation of persons.

[(b) The Secretary of Defense shall allocate this reduction proportionately to each budget activity, activity group, subactivity group, and each program, project, and activity within each applicable appropriation account.

[SEC. 8101. Of the funds appropriated or otherwise made available in this Act, a reduction of $176,500,000 is hereby taken from title III, Procurement, from the following accounts in the specified amounts:

[''Missile Procurement, Army'', $9,000,000.

[''Other Procurement, Army'', $112,500,000.

[''Procurement, Marine Corps'', $55,000,000: *Provided*, That within 30 days of enactment of this Act, the Secretary of the Army and

the Secretary of the Navy shall provide a report to the House Committee on Appropriations and the Senate Committee on Appropriations which describes the application of these reductions to programs, projects or activities within these accounts.

[(INCLUDING TRANSFER OF FUNDS)

[SEC. 8102. (a) THREE-YEAR EXTENSION.—During the current fiscal year and each of fiscal years 2007 and 2008, the Secretary of Defense may transfer not more than $20,000,000 of unobligated balances remaining in the expiring RDT&E, Army, appropriation account to a current Research, Development, Test and Evaluation, Army, appropriation account to be used only for the continuation of the Army Venture Capital Fund demonstration.

[(b) EXPIRING RDT&E, ARMY, ACCOUNT.—For purposes of this section, for any fiscal year, the expiring RDT&E, Army, account is the Research, Development, Test and Evaluation, Army, appropriation account that is then in its last fiscal year of availability for obligation before the account closes under section 1552 of title 31, United States Code.

[(c) ARMY VENTURE CAPITAL FUND DEMONSTRATION.—For purposes of this section, the Army Venture Capital Fund demonstration is the program for which funds were initially provided in section 8150 of the Department of Defense Appropriations Act, 2002 (division A of Public Law 107–117; 115 Stat. 2281), as extended and revised in section 8105 of Department of Defense Appropriations Act, 2003 (Public Law 107–248; 116 Stat. 1562).

[(d) ADMINISTRATIVE PROVISIONS.—The provisos in section 8105 of the Department of Defense Appropriations Act, 2003 (Public Law 107–248; 116 Stat. 1562), shall apply with respect to amounts transferred under this section in the same manner as to amounts transferred under that section.

[TITLE IX

[ADDITIONAL APPROPRIATIONS

[MILITARY PERSONNEL

[MILITARY PERSONNEL, ARMY

[For an additional amount for ''Military Personnel, Army'', $5,877,400,000: *Provided,* That the amount provided under this heading is designated as making appropriations for contingency operations related to the global war on terrorism pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

[MILITARY PERSONNEL, NAVY

[For an additional amount for ''Military Personnel, Navy'', $282,000,000: *Provided*, That the amount provided under this heading is designated as making appropriations for contingency operations related to the global war on terrorism pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

[MILITARY PERSONNEL, MARINE CORPS

[For an additional amount for ''Military Personnel, Marine Corps'', $667,800,000: *Provided*, That the amount provided under this heading is designated as making appropriations for contingency operations related to the global war on terrorism pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

[MILITARY PERSONNEL, AIR FORCE

[For an additional amount for ''Military Personnel, Air Force'', $982,800,000: *Provided,* That the amount provided under this heading is designated as making appropriations for contingency operations related to the global war on terrorism pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

[RESERVE PERSONNEL, ARMY

[For an additional amount for ''Reserve Personnel, Army'', $138,755,000: *Provided,* That the amount provided under this heading is designated as making appropriations for contingency operations related to the global war on terrorism pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

[NATIONAL GUARD PERSONNEL, ARMY

[For an additional amount for ''National Guard Personnel, Army'', $67,000,000: *Provided,* That the amount provided under this heading is designated as making appropriations for contingency operations related to the global war on terrorism pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

[OPERATION AND MAINTENANCE

[OPERATION AND MAINTENANCE, ARMY

[For an additional amount for ''Operation and Maintenance, Army'', $20,398,450,000: *Provided,* That the amount provided under this heading is designated as making appropriations for contingency operations related to the global war on terrorism pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

[OPERATION AND MAINTENANCE, NAVY

[For an additional amount for ''Operation and Maintenance, Navy'', $1,907,800,000: *Provided,* That the amount provided under this heading is designated as making appropriations for contingency operations related to the global war on terrorism pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

[OPERATION AND MAINTENANCE, MARINE CORPS

[For an additional amount for ''Operation and Maintenance, Marine Corps'', $1,827,150,000: *Provided,* That the amount provided under this heading is designated as making appropriations for contingency operations related to the global war on terrorism pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

[OPERATION AND MAINTENANCE, AIR FORCE

[For an additional amount for ''Operation and Maintenance, Air Force'', $3,559,900,000: *Provided,* That the amount provided under this heading is designated as making appropriations for contingency operations related to the global war on terrorism pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

[OPERATION AND MAINTENANCE, DEFENSE-WIDE

[For an additional amount for ''Operation and Maintenance, Defense-Wide'', $826,000,000: *Provided,* That the amount provided under this heading is designated as making appropriations for contingency operations related to the global war on terrorism pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

[IRAQ FREEDOM FUND

[(INCLUDING TRANSFER OF FUNDS)

[For an additional amount for ''Iraq Freedom Fund'', $3,500,000,000, to remain available for transfer until September 30, 2007, only to support operations in Iraq or Afghanistan and classified activities: *Provided*, That the Secretary of Defense may transfer the funds provided herein to appropriations for military personnel; operation and maintenance; Overseas Humanitarian, Disaster, and Civic Aid; procurement; research, development, test and evaluation; and working capital funds: *Provided further*, That of the amounts provided under this heading, not less than $2,500,000,000 shall be for classified programs, which shall be in addition to amounts provided for elsewhere in this Act: *Provided further*, That funds transferred shall be merged with and be available for the same purposes and for the same time period as the appropriation or fund to which transferred: *Provided further*, That this transfer authority is in addition to any other transfer authority available to the Department of Defense: *Provided further*, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: *Provided further*, That the Secretary of Defense shall, not fewer than 5 days prior to making transfers from this appropriation, notify the congressional defense committees in writing of the details of any such transfer: *Provided further,* That the Secretary shall submit a report no later than 30 days after the end of each fiscal quarter to the congressional defense committees summarizing the details of the transfer of funds from this appropriation: *Provided further,* That the amount provided under this heading is designated as making appropriations for contingency operations related to the global war on terrorism pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

[OPERATION AND MAINTENANCE, ARMY RESERVE

[For an additional amount for ''Operation and Maintenance, Army Reserve'', $35,700,000: *Provided,* That the amount provided under this heading is designated as making appropriations for contingency operations related to the global war on terrorism pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

[OPERATION AND MAINTENANCE, MARINE CORPS RESERVE

[For an additional amount for ''Operation and Maintenance, Marine Corps Reserve'', $23,950,000: *Provided,* That the amount provided under this heading is designated as making appropriations for contingency operations related to the global war on terrorism pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

[OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

[For an additional amount for ''Operation and Maintenance, Army National Guard'', $159,500,000: *Provided*, That the amount provided under this heading is designated as making appropriations for contingency operations related to the global war on terrorism pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

[PROCUREMENT

[PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEHICLES, ARMY

[For an additional amount for ''Procurement of Weapons and Tracked Combat Vehicles, Army'', $455,427,000, to remain available until September 30, 2008: *Provided,* That the amount provided under this heading is designated as making appropriations for contingency operations related to the global war on terrorism pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

[PROCUREMENT OF AMMUNITION, ARMY

[For an additional amount for ''Procurement of Ammunition, Army'', $13,900,000, to

remain available until September 30, 2008: *Provided,* That the amount provided under this heading is designated as making appropriations for contingency operations related to the global war on terrorism pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

[OTHER PROCUREMENT, ARMY

[For an additional amount for ''Other Procurement, Army'', $1,501,270,000, to remain available until September 30, 2008: *Provided,* That of the amount provided in this paragraph, not less than $200,370,000 shall be available only for the Army Reserve: *Provided further,* That the amount provided under this heading is designated as making appropriations for contingency operations related to the global war on terrorism pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

[WEAPONS PROCUREMENT, NAVY

[For an additional amount for ''Weapons Procurement, Navy'', $81,696,000, to remain available until September 30, 2008: *Provided,* That the amount provided under this heading is designated as making appropriations for contingency operations related to the global war on terrorism pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

[PROCUREMENT OF AMMUNITION, NAVY AND MARINE CORPS

[For an additional amount for ''Procurement of Ammunition, Navy and Marine Corps'', $144,721,000, to remain available until September 30, 2008: *Provided,* That the amount provided under this heading is designated as making appropriations for contingency operations related to the global war on terrorism pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

[OTHER PROCUREMENT, NAVY

[For an additional amount for ''Other Procurement, Navy'', $48,800,000, to remain available until September 30, 2008: *Provided,* That the amount provided under this heading is designated as making appropriations for contingency operations related to the global war on terrorism pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

[PROCUREMENT, MARINE CORPS

[For an additional amount for ''Procurement, Marine Corps'', $389,900,000, to remain available until September 30, 2008: *Provided,* That the amount provided under this heading is designated as making appropriations for contingency operations related to the global war on terrorism pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

[AIRCRAFT PROCUREMENT, AIR FORCE

[For an additional amount for ''Aircraft Procurement, Air Force'', $115,300,000, to remain available until September 30, 2008: *Provided,* That the amount provided under this heading is designated as making appropriations for contingency operations related to the global war on terrorism pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

[OTHER PROCUREMENT, AIR FORCE

[For an additional amount for ''Other Procurement, Air Force'', $2,400,000, to remain available until September 30, 2008: *Provided,* That the amount provided under this heading is designated as making appropriations for contingency operations related to the global war on terrorism pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

[PROCUREMENT, DEFENSE-WIDE

[For an additional amount for ''Procurement, Defense-Wide'', $103,900,000, to remain available until September 30, 2008: *Provided,* That the amount provided under this heading is designated as making appropriations for contingency operations related to the global war on terrorism pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

[RESEARCH, DEVELOPMENT, TEST AND EVALUATION

[RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY

[For an additional amount for ''Research, Development, Test and Evaluation, Navy'', $13,100,000, to remain available until September 30, 2007: *Provided,* That the amount provided under this heading is designated as making appropriations for contingency operations related to the global war on terrorism pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

[RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE

[For an additional amount for ''Research, Development, Test and Evaluation, Defense-Wide'', $75,000,000, to remain available until September 30, 2007: *Provided,* That the amount provided under this heading is designated as making appropriations for contingency operations related to the global war on terrorism pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

[REVOLVING AND MANAGEMENT FUNDS

[DEFENSE WORKING CAPITAL FUNDS

[For an additional amount for ''Defense Working Capital Funds'', $2,055,000,000: *Provided,* That the amount provided under this heading is designated as making appropriations for contingency operations related to the global war on terrorism pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

[TITLE IX

[GENERAL PROVISIONS

[SEC. 9001. Appropriations provided in this title are available for obligation until September 30, 2006, unless otherwise so provided in this title.

[SEC. 9002. Notwithstanding any other provision of law or of this Act, funds made available in this title are in addition to amounts provided elsewhere in this Act.

[(TRANSFER OF FUNDS)

[SEC. 9003. Upon his determination that such action is necessary in the national interest, the Secretary of Defense may transfer between appropriations up to $2,500,000,000 of the funds made available to the Department of Defense in this title: *Provided,* That the Secretary shall notify the Congress promptly of each transfer made pursuant to the authority in this section: *Provided further,* That the authority provided in this section is in addition to any other transfer authority available to the Department of Defense and is subject to the same terms and conditions as the authority provided in section 8005 of this Act: *Provided further,* That the amounts transferred under the authority of this section are designated as making appropriations for contingency operations related to the global war on terrorism pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

[SEC. 9004. Funds appropriated in this title, or made available by the transfer of funds in or pursuant to this title, for intelligence activities are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414) during fiscal year 2006 until the enactment of the Intelligence Authorization Act for fiscal year 2006.

[SEC. 9005. None of the funds provided in this title may be used to finance programs or activities denied by Congress in fiscal years 2005 or 2006 appropriations to the Department of Defense or to initiate a procurement or research, development, test and evaluation new start program without prior written notification to the congressional defense committees.

[SEC. 9006. Notwithstanding any other provision of law, funds made available in this title to the Department of Defense for operation and maintenance may be used by the Secretary of Defense, with the concurrence of the Secretary of State, to train, equip and provide related assistance only to military or security forces of Iraq and Afghanistan to enhance their capability to combat terrorism and to support United States military operations in Iraq and Afghanistan: *Provided*, That such assistance may include the provision of equipment, supplies, services, training, and funding: *Provided further*, That the authority to provide assistance under this section is in addition to any other authority to provide assistance to foreign nations: *Provided further*, That the Secretary of Defense shall notify the congressional defense committees, the Committee on International Relations of the House of Representatives, and the Committee on Foreign Relations of the Senate not less than 15 days before providing assistance under the authority of this section.

[SEC. 9007. (a) FISCAL YEAR 2006 AUTHORITY.—During the current fiscal year, from funds made available to the Department of Defense for operation and maintenance pursuant to title IX, not to exceed $500,000,000 may be used by the Secretary of Defense to provide funds—

[(1) for the Commanders' Emergency Response Program established by the Administrator of the Coalition Provisional Authority for the purpose of enabling United States military commanders in Iraq to respond to urgent humanitarian relief and reconstruction requirements within their areas of responsibility by carrying out programs that will immediately assist the Iraqi people; and

[(2) for a similar program to assist the people of Afghanistan.

[(b) QUARTERLY REPORTS.—Not later than 15 days after the end of each fiscal year quarter, the Secretary of Defense shall submit to the congressional defense committees a report regarding the source of funds and the allocation and use of funds during that quarter that were made available pursuant to the authority provided in this section or under any other provision of law for the purposes stated in subsection (a).

[(c) LIMITATION ON USE OF FUNDS.—Funds authorized for the Commanders' Emergency Response Program by this section may not be used to provide goods, services, or funds to national armies, national guard forces, border security forces, civil defense forces, infrastructure protection forces, highway patrol units, police, special police, or intelligence or other security forces.

[(d) SECRETARY OF DEFENSE GUIDANCE.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall issue to the commander of the United States Central Command detailed guidance concerning the types of activities

for which United States military commanders in Iraq may use funds under the Commanders' Emergency Response Program to respond to urgent relief and reconstruction requirements and the terms under which such funds may be expended. The Secretary shall simultaneously provide a copy of that guidance to the congressional defense committees.

[SEC. 9008. During the current fiscal year, funds available to the Department of Defense for operation and maintenance may be used, notwithstanding any other provision of law, to provide supplies, services, transportation, including airlift and sealift, and other logistical support to coalition forces supporting military and stability operations in Iraq and Afghanistan: *Provided*, That the Secretary of Defense shall provide quarterly reports to the congressional defense committees regarding support provided under this section.

[SEC. 9009. Congress, consistent with international and United States law, reaffirms that torture of prisoners of war and detainees is illegal and does not reflect the policies of the United States Government or the values of the people of the United States.

[SEC. 9010. The reporting requirements of section 9010 of Public Law 108–287 regarding the military operations of the Armed Forces and the reconstruction activities of the Department of Defense in Iraq and Afghanistan shall apply to the funds appropriated in this Act.

[SEC. 9011. The Secretary of Defense may present promotional materials, including a United States flag, to any member of an Active or Reserve component under the Secretary's jurisdiction who, as determined by the Secretary, participates in Operation Enduring Freedom or Operation Iraqi Freedom.

[SEC. 9012. SENSE OF CONGRESS AND REPORT CONCERNING RELIGIOUS FREEDOM AND TOLERANCE AT UNITED STATES AIR FORCE ACADEMY. (a) SENSE OF CONGRESS.—It is the sense of Congress that—

[(1) the expression of personal religious faith is welcome in the United States military;

[(2) the military must be a place where there is freedom for religious expression for all faiths; and

[(3) the Secretary of the Air Force and the Department of Defense Inspector General have undertaken several reviews of the issues of religious tolerance at the Air Force Academy.

[(b) REPORT.—

[(1) RECOMMENDATIONS.—The Secretary of the Air Force, based upon the reviews referred in subsection (a)(3), shall develop recommendations to maintain a positive climate of religious freedom and tolerance at the United States Air Force Academy.

[(2) SECRETARY OF AIR FORCE REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall submit to the congressional defense committees a report providing the recommendations developed pursuant to paragraph (1).

[SEC. 9013. None of the funds made available in this Act may be used in contravention of the following laws enacted or regulations promulgated to implement the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (done at New York on December 10, 1984):

[(1) Section 2340A of title 18, United States Code.

[(2) Section 2242 of the Foreign Affairs Reform and Restructuring Act of 1998 (division G of Public Law 105–277; 112 Stat. 2681–822; 8 U.S.C. 1231 note) and any regulations prescribed thereto, including regulations under part 208 of title 8, Code of Federal Regulations, and part 95 of title 22, Code of Federal Regulations.

[This Act may be cited as the ''Department of Defense Appropriations Act, 2006''.]

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2006, for military functions administered by the Department of Defense and for other purposes, namely:

TITLE I—MILITARY PERSONNEL

MILITARY PERSONNEL, ARMY

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Army on active duty, (except members of reserve components provided for elsewhere), cadets, and aviation cadets; for members of the Reserve Officer's Training Corps; and for payments pursuant to section 156 of Public Law 97–377, as amended (42 U.S.C. 402 note), and to the Department of Defense Military Retirement Fund, $28,099,587,000.

MILITARY PERSONNEL, NAVY

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Navy on active duty (except members of the Reserve provided for elsewhere), midshipmen, and aviation cadets; for members of the Reserve Officer's Training Corps; and for payments pursuant to section 156 of Public Law 97–377, as amended (42 U.S.C. 402 note), and to the Department of Defense Military Retirement Fund, $22,671,875,000.

MILITARY PERSONNEL, MARINE CORPS

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Marine Corps on active duty (except members of the Reserve provided for elsewhere); and for payments pursuant to section 156 of Public Law 97–377, as amended (42 U.S.C. 402 note), and to the Department of Defense Military Retirement Fund, $8,894,984,000.

MILITARY PERSONNEL, AIR FORCE

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Air Force on active duty (except members of reserve components provided for elsewhere), cadets, and aviation cadets; for members of the Reserve Officer's Training Corps; and for payments pursuant to section 156 of Public Law 97–377, as amended (42 U.S.C. 402 note), and to the Department of Defense Military Retirement Fund, $22,908,750,000.

RESERVE PERSONNEL, ARMY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army Reserve on active duty under sections 10211, 10302, and 3038 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, $3,052,269,000.

RESERVE PERSONNEL, NAVY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Navy Reserve on active duty under section 10211 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, $1,617,299,000.

RESERVE PERSONNEL, MARINE CORPS

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Marine Corps Reserve on active duty under section 10211 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and for members of the Marine Corps platoon leaders class, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, $491,601,000.

RESERVE PERSONNEL, AIR FORCE

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air Force Reserve on active duty under sections 10211, 10305, and 8038 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, $1,263,046,000.

NATIONAL GUARD PERSONNEL, ARMY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army National Guard while on duty under section 10211, 10302, or 12402 of title 10 or section 708 of title 32, United States Code, or while serving on duty under section 12301(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, $4,555,794,000.

NATIONAL GUARD PERSONNEL, AIR FORCE

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air National Guard on duty under section 10211, 10305, or 12402 of title 10 or section 708 of title 32, United States Code, or while serving on duty under section 12301(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, $2,125,632,000.

TITLE II—OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, ARMY

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Army, as authorized by law; and not to exceed $11,478,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Army, and payments may be made on his certificate of necessity for confidential military purposes, $24,573,795,000.

OPERATION AND MAINTENANCE, NAVY

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Navy and the Marine Corps, as authorized by law; and not to exceed $6,003,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Navy, and payments may be made on his certificate of necessity for confidential military purposes, $30,317,964,000.

OPERATION AND MAINTENANCE, MARINE CORPS

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Marine Corps, as authorized by law, $3,780,926,000.

OPERATION AND MAINTENANCE, AIR FORCE

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Air Force, as authorized by law; and not to exceed $7,699,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Air Force, and payments may be made on his certificate of necessity for confidential military purposes, $30,891,386,000.

OPERATION AND MAINTENANCE, DEFENSE-WIDE

(INCLUDING TRANSFER OF FUNDS)

For expenses, not otherwise provided for, necessary for the operation and maintenance of activities and agencies of the Department of Defense (other than the military departments), as authorized by law, $18,517,218,000: Provided, That not more than $25,000,000 may be used for the Combatant Commander Initiative Fund authorized under section 166a of title 10, United States Code, and of which not to exceed $32,000,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of Defense, and payments may be made on his certificate of necessity for confidential military purposes: Provided further, That of the funds provided under this heading not less than $27,009,000 shall be made available for the Procurement Technical Assistance Cooperative Agreement Program, of which not less than $3,600,000 shall be available for centers defined in 10 U.S.C. 2411(1)(D): Provided further, That none of the funds appropriated or otherwise made available by this Act may be used to plan or implement the consolidation of a budget or appropriations liaison office of the Office of the Secretary of Defense, the office of the Secretary of a military department, or the service headquarters of one of the Armed Forces into a legislative affairs or legislative liaison office: Provided further, That $4,000,000, to remain available until expended, is available only for expenses relating to certain classified activities, and may be transferred as necessary by the Secretary to operation and maintenance appropriations or research, development, test and evaluation appropriations, to be merged with and to be available for the same time period as the appropriations to which transferred: Provided further, That any ceiling on the investment item unit cost of items that may be purchased with operation and maintenance funds shall not apply to the funds described in the preceding proviso: Provided further, That the transfer authority provided under this heading is in addition to any other transfer authority provided elsewhere in this Act.

OPERATION AND MAINTENANCE, ARMY RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Army Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications, $1,956,482,000.

OPERATION AND MAINTENANCE, NAVY RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Navy Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications, $1,239,295,000.

OPERATION AND MAINTENANCE, MARINE CORPS RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Marine Corps Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications, $197,734,000.

OPERATION AND MAINTENANCE, AIR FORCE RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Air Force Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications, $2,474,286,000.

OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

For expenses of training, organizing, and administering the Army National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, and repairs to structures and facilities; hire of passenger motor vehicles; personnel services in the National Guard Bureau; travel expenses (other than mileage), as authorized by law for Army personnel on active duty, for Army National Guard division, regimental, and battalion commanders while inspecting units in compliance with National Guard Bureau regulations when specifically authorized by the Chief, National Guard Bureau; supplying and equipping the Army National Guard as authorized by law; and expenses of repair, modification, maintenance, and issue of supplies and equipment (including aircraft), $4,428,119,000: Provided, That $10,000,000 shall be available for the operations and development of training and technology for the Joint Interagency Training Center-East and the affiliated Center for National Response at the Memorial Tunnel and for providing homeland defense/security and traditional warfighting training to the Department of Defense, other federal agency, and state and local first responder personnel at the Joint Interagency Training Center-East.

OPERATION AND MAINTENANCE, AIR NATIONAL GUARD

For expenses of training, organizing, and administering the Air National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, and repairs to structures and facilities; transportation of things, hire of passenger motor vehicles; supplying and equipping the Air National Guard, as authorized by law; expenses for repair, modification, maintenance, and issue of supplies and equipment, including those furnished from stocks under the control of agencies of the Department of Defense; travel expenses (other than mileage) on the same basis as authorized by law for Air National Guard personnel on active Federal duty, for Air National Guard commanders while inspecting units in compliance with National Guard Bureau regulations when specifically authorized by the Chief, National Guard Bureau, $4,681,291,000.

UNITED STATES COURT OF APPEALS FOR THE ARMED FORCES

For salaries and expenses necessary for the United States Court of Appeals for the Armed Forces, $11,236,000, of which not to exceed $5,000 may be used for official representation purposes.

ENVIRONMENTAL RESTORATION, ARMY

(INCLUDING TRANSFER OF FUNDS)

For the Department of the Army, $407,865,000, to remain available until transferred: Provided, That the Secretary of the Army shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris of the Department of the Army, or for similar purposes, transfer the funds made available by this appropriation to other appropriations made available to the Department of the Army, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: Provided further, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

ENVIRONMENTAL RESTORATION, NAVY

(INCLUDING TRANSFER OF FUNDS)

For the Department of the Navy, $305,275,000, to remain available until transferred: Provided, That the Secretary of the Navy shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris of the Department of the Navy, or for similar purposes, transfer the funds made available by this appropriation to other appropriations made available to the Department of the Navy, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: Provided further, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

ENVIRONMENTAL RESTORATION, AIR FORCE

(INCLUDING TRANSFER OF FUNDS)

For the Department of the Air Force, $406,461,000, to remain available until transferred: Provided, That the Secretary of the Air Force shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris of the Department of the Air Force, or for similar purposes, transfer the funds made available by this appropriation to other appropriations made available to the Department of the Air Force, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: Provided further, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

ENVIRONMENTAL RESTORATION, DEFENSE-WIDE

(INCLUDING TRANSFER OF FUNDS)

For the Department of Defense, $28,167,000, to remain available until transferred: Provided, That the Secretary of Defense shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris of the Department of Defense, or for similar purposes, transfer the funds made available by this appropriation to other appropriations made available to the Department of Defense, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: Provided further, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

ENVIRONMENTAL RESTORATION, FORMERLY USED DEFENSE SITES

(INCLUDING TRANSFER OF FUNDS)

For the Department of the Army, $271,921,000, to remain available until transferred: Provided,

That the Secretary of the Army shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris at sites formerly used by the Department of Defense, transfer the funds made available by this appropriation to other appropriations made available to the Department of the Army, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: Provided further, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

OVERSEAS HUMANITARIAN, DISASTER, AND CIVIC AID

For expenses relating to the Overseas Humanitarian, Disaster, and Civic Aid programs of the Department of Defense (consisting of the programs provided under sections 401, 402, 404, 2557, and 2561 of title 10, United States Code), $61,546,000, to remain available until September 30, 2007.

FORMER SOVIET UNION THREAT REDUCTION ACCOUNT

For assistance to the republics of the former Soviet Union, including assistance provided by contract or by grants, for facilitating the elimination and the safe and secure transportation and storage of nuclear, chemical and other weapons; for establishing programs to prevent the proliferation of weapons, weapons components, and weapon-related technology and expertise; for programs relating to the training and support of defense and military personnel for demilitarization and protection of weapons, weapons components and weapons technology and expertise, and for defense and military contacts, $415,549,000, to remain available until September 30, 2008: Provided, That of the amounts provided under this heading, $15,000,000 shall be available only to support the dismantling and disposal of nuclear submarines, submarine reactor components, and security enhancements for transport and storage of nuclear warheads in the Russian Far East.

TITLE III—PROCUREMENT

AIRCRAFT PROCUREMENT, ARMY

For construction, procurement, production, modification, and modernization of aircraft, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $2,562,480,000, to remain available for obligation until September 30, 2008.

MISSILE PROCUREMENT, ARMY

For construction, procurement, production, modification, and modernization of missiles, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $1,214,919,000, to remain available for obligation until September 30, 2008.

PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEHICLES, ARMY

For construction, procurement, production, and modification of weapons and tracked combat vehicles, equipment, including ordnance, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $1,359,465,000, to remain available for obligation until September 30, 2008.

PROCUREMENT OF AMMUNITION, ARMY

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities authorized by section 2854 of title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $1,708,680,000, to remain available for obligation until September 30, 2008.

OTHER PROCUREMENT, ARMY

For construction, procurement, production, and modification of vehicles, including tactical, support, and non-tracked combat vehicles; the purchase of passenger motor vehicles for replacement only; and the purchase of 14 vehicles required for physical security of personnel, notwithstanding price limitations applicable to passenger vehicles but not to exceed $255,000 per vehicle; communications and electronic equipment; other support equipment; spare parts, ordnance, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $4,426,531,000, to remain available for obligation until September 30, 2008.

AIRCRAFT PROCUREMENT, NAVY

For construction, procurement, production, modification, and modernization of aircraft, equipment, including ordnance, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway, $9,880,492,000, to remain available for obligation until September 30, 2008.

WEAPONS PROCUREMENT, NAVY

For construction, procurement, production, modification, and modernization of missiles, torpedoes, other weapons, and related support equipment including spare parts, and accessories therefor; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway, $2,593,341,000, to remain available for obligation until September 30, 2008.

PROCUREMENT OF AMMUNITION, NAVY AND MARINE CORPS

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities authorized by section 2854 of title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $832,791,000, to remain available for obligation until September 30, 2008.

SHIPBUILDING AND CONVERSION, NAVY

For expenses necessary for the construction, acquisition, or conversion of vessels as authorized by law, including armor and armament thereof, plant equipment, appliances, and machine tools and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; procurement of critical, long leadtime components and designs for vessels to be constructed or converted in the future; and expansion of public and private plants, including land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title, as follows:

Carrier Replacement Program (AP), $651,613,000;
NSSN, $1,637,698,000;
NSSN (AP), $763,786,000;
SSGN, $286,516,000;
CVN Refuelings, $1,493,563,000;
CVN Refuelings (AP), $20,000,000;
SSBN Submarine Refuelings, $230,193,000;
SSBN Submarine Refuelings (AP), $62,248,000;
DD(X) (AP), $765,992,000;
DDG–51 Destroyer, $29,773,000;
LHD–8, $197,769,000;
LPD–17, $1,344,741,000;
LHA–R, $150,447,000;
LCAC Landing Craft Air Cushion, $110,583,000;
Prior year shipbuilding costs, $517,523,000;
Service Craft, $46,055,000; and
For outfitting, post delivery, conversions, and first destination transportation, $369,387,000;

in all: $8,677,887,000, to remain available for obligation until September 30, 2010: Provided, That additional obligations may be incurred after September 30, 2010, for engineering services, tests, evaluations, and other such budgeted work that must be performed in the final stage of ship construction: Provided further, That none of the funds provided under this heading for the construction or conversion of any naval vessel to be constructed in shipyards in the United States shall be expended in foreign facilities for the construction of major components of such vessel: Provided further, That none of the funds provided under this heading shall be used for the construction of any naval vessel in foreign shipyards.

OTHER PROCUREMENT, NAVY

For procurement, production, and modernization of support equipment and materials not otherwise provided for, Navy ordnance (except ordnance for new aircraft, new ships, and ships authorized for conversion); the purchase of passenger motor vehicles for replacement only, and the purchase of 9 vehicles required for physical security of personnel, notwithstanding price

limitations applicable to passenger vehicles but not to exceed $255,000 per vehicle; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway, $5,293,157,000, to remain available for obligation until September 30, 2008.

PROCUREMENT, MARINE CORPS

For expenses necessary for the procurement, manufacture, and modification of missiles, armament, military equipment, spare parts, and accessories therefor; plant equipment, appliances, and machine tools, and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; vehicles for the Marine Corps, including the purchase of passenger motor vehicles for replacement only; and expansion of public and private plants, including land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title, $1,361,605,000, to remain available for obligation until September 30, 2008.

AIRCRAFT PROCUREMENT, AIR FORCE

For construction, procurement, and modification of aircraft and equipment, including armor and armament, specialized ground handling equipment, and training devices, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things, $12,729,492,000, to remain available for obligation until September 30, 2008.

MISSILE PROCUREMENT, AIR FORCE

For construction, procurement, and modification of missiles, spacecraft, rockets, and related equipment, including spare parts and accessories therefor, ground handling equipment, and training devices; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things, $5,068,974,000, to remain available for obligation until September 30, 2008.

PROCUREMENT OF AMMUNITION, AIR FORCE

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities authorized by section 2854 of title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $996,111,000, to remain available for obligation until September 30, 2008.

OTHER PROCUREMENT, AIR FORCE

For procurement and modification of equipment (including ground guidance and electronic control equipment, and ground electronic and communication equipment), and supplies, materials, and spare parts therefor, not otherwise provided for; the purchase of passenger motor vehicles for replacement only, and the purchase of 2 vehicles required for physical security of personnel, notwithstanding price limitations applicable to passenger vehicles but not to exceed $255,000 per vehicle; lease of passenger motor vehicles; and expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon, prior to approval of title; reserve plant and Government and contractor-owned equipment layaway, $14,048,439,000, to remain available for obligation until September 30, 2008.

PROCUREMENT, DEFENSE-WIDE

For expenses of activities and agencies of the Department of Defense (other than the military departments) necessary for procurement, production, and modification of equipment, supplies, materials, and spare parts therefor, not otherwise provided for; the purchase of passenger motor vehicles for replacement only, and the purchase of 5 vehicles required for physical security of personnel, notwithstanding prior limitations applicable to passenger vehicles but not to exceed $255,000 per vehicle; expansion of public and private plants, equipment, and installation thereof in such plants, erection of structures, and acquisition of land for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway, $2,572,250,000, to remain available for obligation until September 30, 2008.

NATIONAL GUARD AND RESERVE EQUIPMENT

For procurement of aircraft, missiles, tracked combat vehicles, ammunition, other weapons, and other procurement for the reserve components of the Armed Forces, $422,000,000, to remain available for obligation until September 30, 2008: Provided, That the Chiefs of the Reserve and National Guard components shall, not later than 30 days after the enactment of this Act, individually submit to the congressional defense committees the modernization priority assessment for their respective Reserve or National Guard component.

DEFENSE PRODUCTION ACT PURCHASES

For activities by the Department of Defense pursuant to sections 108, 301, 302, and 303 of the Defense Production Act of 1950 (50 U.S.C. App. 2078, 2091, 2092, and 2093), $68,573,000, to remain available until expended.

TITLE IV—RESEARCH, DEVELOPMENT, TEST AND EVALUATION

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY

For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, $10,520,592,000, to remain available for obligation until September 30, 2007.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY

For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, $18,557,904,000, to remain available for obligation until September 30, 2007: Provided, That funds appropriated in this paragraph which are available for the V–22 may be used to meet unique operational requirements of the Special Operations Forces: Provided further, That funds appropriated in this paragraph shall be available for the Cobra Judy program.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE

For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, $21,859,010,000, to remain available for obligation until September 30, 2007.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE

For expenses of activities and agencies of the Department of Defense (other than the military departments), necessary for basic and applied scientific research, development, test and evaluation; advanced research projects as may be designated and determined by the Secretary of Defense, pursuant to law; maintenance, rehabilitation, lease, and operation of facilities and equipment, $19,301,618,000, to remain available for obligation until September 30, 2007.

OPERATIONAL TEST AND EVALUATION, DEFENSE

For expenses, not otherwise provided for, necessary for the independent activities of the Director, Operational Test and Evaluation, in the direction and supervision of operational test and evaluation, including initial operational test and evaluation which is conducted prior to, and in support of, production decisions; joint operational testing and evaluation; and administrative expenses in connection therewith, $168,458,000, to remain available for obligation until September 30, 2007.

TITLE V—REVOLVING AND MANAGEMENT FUNDS

DEFENSE WORKING CAPITAL FUNDS

For the Defense Working Capital Funds, $1,154,940,000.

NATIONAL DEFENSE SEALIFT FUND

For National Defense Sealift Fund programs, projects, and activities, and for expenses of the National Defense Reserve Fleet, as established by section 11 of the Merchant Ship Sales Act of 1946 (50 U.S.C. App. 1744), and for the necessary expenses to maintain and preserve a U.S.-flag merchant fleet to serve the national security needs of the United States, $579,954,000, to remain available until expended: Provided, That none of the funds provided in this paragraph shall be used to award a new contract that provides for the acquisition of any of the following major components unless such components are manufactured in the United States: auxiliary equipment, including pumps, for all shipboard services; propulsion system components (that is; engines, reduction gears, and propellers); shipboard cranes; and spreaders for shipboard cranes: Provided further, That the exercise of an option in a contract awarded through the obligation of previously appropriated funds shall not be considered to be the award of a new contract: Provided further, That the Secretary of the military department responsible for such procurement may waive the restrictions in the first proviso on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes.

TITLE VI—OTHER DEPARTMENT OF DEFENSE PROGRAMS

DEFENSE HEALTH PROGRAM

For expenses, not otherwise provided for, for medical and health care programs of the Department of Defense, as authorized by law, $20,237,962,000, of which $19,345,087,000 shall be for Operation and maintenance, of which not to exceed 2 percent shall remain available until September 30, 2007, and of which up to $10,157,427,000 may be available for contracts entered into under the TRICARE program; of which $377,319,000, to remain available for obligation until September 30, 2008, shall be for Procurement; and of which $515,556,000, to remain

available for obligation until September 30, 2007, shall be for Research, development, test and evaluation.

CHEMICAL AGENTS AND MUNITIONS DESTRUCTION, ARMY

For expenses, not otherwise provided for, necessary for the destruction of the United States stockpile of lethal chemical agents and munitions, to include construction of facilities, in accordance with the provisions of section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521), and for the destruction of other chemical warfare materials that are not in the chemical weapon stockpile, $1,430,727,000, of which $1,241,514,000 shall be for Operation and maintenance; $116,527,000 shall be for Procurement to remain available until September 30, 2008; $72,686,000 shall be for Research, development, test and evaluation, of which $57,926,000 shall only be for the Assembled Chemical Weapons Alternatives (ACWA) program, to remain available until September 30, 2007; and no less than $119,300,000 may be for the Chemical Stockpile Emergency Preparedness Program, of which $36,800,000 shall be for activities on military installations and $82,500,000 shall be to assist State and local governments.

DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES, DEFENSE

(INCLUDING TRANSFER OF FUNDS)

For drug interdiction and counter-drug activities of the Department of Defense, for transfer to appropriations available to the Department of Defense for military personnel of the reserve components serving under the provisions of title 10 and title 32, United States Code; for Operation and maintenance; for Procurement; and for Research, development, test and evaluation, $926,821,000: Provided, That the funds appropriated under this heading shall be available for obligation for the same time period and for the same purpose as the appropriation to which transferred: Provided further, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: Provided further, That the transfer authority provided under this heading is in addition to any other transfer authority contained elsewhere in this Act.

OFFICE OF THE INSPECTOR GENERAL

For expenses and activities of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $209,687,000, of which $208,687,000 shall be for Operation and maintenance, of which not to exceed $700,000 is available for emergencies and extraordinary expenses to be expended on the approval or authority of the Inspector General, and payments may be made on the Inspector General's certificate of necessity for confidential military purposes; and of which $1,000,000, to remain available until September 30, 2008, shall be for Procurement.

TITLE VII—RELATED AGENCIES

CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM FUND

For payment to the Central Intelligence Agency Retirement and Disability System Fund, to maintain the proper funding level for continuing the operation of the Central Intelligence Agency Retirement and Disability System, $244,600,000.

INTELLIGENCE COMMUNITY MANAGEMENT ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Intelligence Community Management Account, $413,344,000, of which $27,454,000 for the Advanced Research and Development Committee shall remain available until September 30, 2007: Provided, That of the funds appropriated under this heading, $17,000,000 shall be transferred to the Department of Justice for the National Drug Intelligence Center to support the Department of Defense's counter-drug intelligence responsibilities.

TITLE VIII—GENERAL PROVISIONS

SEC. 8001. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes not authorized by the Congress.

SEC. 8002. During the current fiscal year, provisions of law prohibiting the payment of compensation to, or employment of, any person not a citizen of the United States shall not apply to personnel of the Department of Defense: Provided, That salary increases granted to direct and indirect hire foreign national employees of the Department of Defense funded by this Act shall not be at a rate in excess of the percentage increase authorized by law for civilian employees of the Department of Defense whose pay is computed under the provisions of section 5332 of title 5, United States Code, or at a rate in excess of the percentage increase provided by the appropriate host nation to its own employees, whichever is higher: Provided further, That this section shall not apply to Department of Defense foreign service national employees serving at United States diplomatic missions whose pay is set by the Department of State under the Foreign Service Act of 1980: Provided further, That the limitations of this provision shall not apply to foreign national employees of the Department of Defense in the Republic of Turkey.

SEC. 8003. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year, unless expressly so provided herein.

SEC. 8004. No more than 20 percent of the appropriations in this Act which are limited for obligation during the current fiscal year shall be obligated during the last 2 months of the fiscal year: Provided, That this section shall not apply to obligations for support of active duty training of reserve components or summer camp training of the Reserve Officers' Training Corps.

(TRANSFER OF FUNDS)

SEC. 8005. Upon determination by the Secretary of Defense that such action is necessary in the national interest, he may, with the approval of the Office of Management and Budget, transfer not to exceed $3,500,000,000 of working capital funds of the Department of Defense or funds made available in this Act to the Department of Defense for military functions (except military construction) between such appropriations or funds or any subdivision thereof, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred: Provided, That such authority to transfer may not be used unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which funds are requested has been denied by the Congress: Provided further, That the Secretary of Defense shall notify the Congress promptly of all transfers made pursuant to this authority or any other authority in this Act: Provided further, That no part of the funds in this Act shall be available to prepare or present a request to the Committees on Appropriations for reprogramming of funds, unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which reprogramming is requested has been denied by the Congress: Provided further, That a request for multiple reprogrammings of funds using authority provided in this section must be made prior to June 30, 2006: Provided further, That transfers among military personnel appropriations shall not be taken into account for purposes of the limitation on the amount of funds that may be transferred under this section.

(TRANSFER OF FUNDS)

SEC. 8006. During the current fiscal year, cash balances in working capital funds of the Department of Defense established pursuant to section 2208 of title 10, United States Code, may be maintained in only such amounts as are necessary at any time for cash disbursements to be made from such funds: Provided, That transfers may be made between such funds: Provided further, That transfers may be made between working capital funds and the ''Foreign Currency Fluctuations, Defense'' appropriation and the ''Operation and Maintenance'' appropriation accounts in such amounts as may be determined by the Secretary of Defense, with the approval of the Office of Management and Budget, except that such transfers may not be made unless the Secretary of Defense has notified the Congress of the proposed transfer. Except in amounts equal to the amounts appropriated to working capital funds in this Act, no obligations may be made against a working capital fund to procure or increase the value of war reserve material inventory, unless the Secretary of Defense has notified the Congress prior to any such obligation.

SEC. 8007. Funds appropriated by this Act may not be used to initiate a special access program without prior notification 30 calendar days in session in advance to the congressional defense committees.

SEC. 8008. None of the funds provided in this Act shall be available to initiate: (1) a multiyear contract that employs economic order quantity procurement in excess of $20,000,000 in any 1 year of the contract or that includes an unfunded contingent liability in excess of $20,000,000; or (2) a contract for advance procurement leading to a multiyear contract that employs economic order quantity procurement in excess of $20,000,000 in any 1 year, unless the congressional defense committees have been notified at least 30 days in advance of the proposed contract award: Provided, That no part of any appropriation contained in this Act shall be available to initiate a multiyear contract for which the economic order quantity advance procurement is not funded at least to the limits of the Government's liability: Provided further, That no part of any appropriation contained in this Act shall be available to initiate multiyear procurement contracts for any systems or component thereof if the value of the multiyear contract would exceed $500,000,000 unless specifically provided in this Act: Provided further, That no multiyear procurement contract can be terminated without 10-day prior notification to the congressional defense committees: Provided further, That the execution of multiyear authority shall require the use of a present value analysis to determine lowest cost compared to an annual procurement: Provided further, That none of the funds provided in this Act may be used for a multiyear contract executed after the date of the enactment of this Act unless in the case of any such contract—

(1) the Secretary of Defense has submitted to Congress a budget request for full funding of units to be procured through the contract;

(2) cancellation provisions in the contract do not include consideration of recurring manufacturing costs of the contractor associated with the production of unfunded units to be delivered under the contract;

(3) the contract provides that payments to the contractor under the contract shall not be made in advance of incurred costs on funded units; and

(4) the contract does not provide for a price adjustment based on a failure to award a follow-on contract.

Funds appropriated in title III of this Act may be used for a multiyear procurement contract as follows:

UH–60/MH–60 Helicopters; and

C–17 Globemaster.

SEC. 8009. Within the funds appropriated for the operation and maintenance of the Armed Forces, funds are hereby appropriated pursuant to section 401 of title 10, United States Code, for humanitarian and civic assistance costs under chapter 20 of title 10, United States Code. Such funds may also be obligated for humanitarian

and civic assistance costs incidental to authorized operations and pursuant to authority granted in section 401 of chapter 20 of title 10, United States Code, and these obligations shall be reported as required by section 401(d) of title 10, United States Code: Provided, That funds available for operation and maintenance shall be available for providing humanitarian and similar assistance by using Civic Action Teams in the Trust Territories of the Pacific Islands and freely associated states of Micronesia, pursuant to the Compact of Free Association as authorized by Public Law 99–239: Provided further, That upon a determination by the Secretary of the Army that such action is beneficial for graduate medical education programs conducted at Army medical facilities located in Hawaii, the Secretary of the Army may authorize the provision of medical services at such facilities and transportation to such facilities, on a nonreimbursable basis, for civilian patients from American Samoa, the Commonwealth of the Northern Mariana Islands, the Marshall Islands, the Federated States of Micronesia, Palau, and Guam.

SEC. 8010. (a) During fiscal year 2006, the civilian personnel of the Department of Defense may not be managed on the basis of any end-strength, and the management of such personnel during that fiscal year shall not be subject to any constraint or limitation (known as an end-strength) on the number of such personnel who may be employed on the last day of such fiscal year.

(b) The fiscal year 2007 budget request for the Department of Defense as well as all justification material and other documentation supporting the fiscal year 2007 Department of Defense budget request shall be prepared and submitted to the Congress as if subsections (a) and (b) of this provision were effective with regard to fiscal year 2006.

(c) Nothing in this section shall be construed to apply to military (civilian) technicians.

SEC. 8011. None of the funds appropriated in this or any other Act may be used to initiate a new installation overseas without 30-day advance notification to the Committees on Appropriations.

SEC. 8012. None of the funds made available by this Act shall be used in any way, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before the Congress.

SEC. 8013. None of the funds appropriated by this Act shall be available for the basic pay and allowances of any member of the Army participating as a full-time student and receiving benefits paid by the Secretary of Veterans Affairs from the Department of Defense Education Benefits Fund when time spent as a full-time student is credited toward completion of a service commitment: Provided, That this subsection shall not apply to those members who have reenlisted with this option prior to October 1, 1987: Provided further, That this subsection applies only to active components of the Army.

SEC. 8014. (a) LIMITATION ON CONVERSION TO CONTRACTOR PERFORMANCE.—None of the funds appropriated by this Act shall be available to convert to contractor performance an activity or function of the Department of Defense that, on or after the date of the enactment of this Act, is performed by more than 10 Department of Defense civilian employees unless—

(1) the conversion is based on the result of a public-private competition that includes a most efficient and cost effective organization plan developed by such activity or function;

(2) the Competitive Sourcing Official determines that, over all performance periods stated in the solicitation of offers for performance of the activity or function, the cost of performance of the activity or function by a contractor would be less costly to the Department of Defense by an amount that equals or exceeds the lesser of—

(A) 10 percent of the most efficient organization's personnel-related costs for performance of that activity or function by Federal employees; or

(B) $10,000,000; and

(3) the contractor does not receive an advantage for a proposal that would reduce costs for the Department of Defense by—

(A) not making an employer-sponsored health insurance plan available to the workers who are to be employed in the performance of that activity or function under the contract; or

(B) offering to such workers an employer-sponsored health benefits plan that requires the employer to contribute less towards the premium or subscription share than the amount that is paid by the Department of Defense for health benefits for civilian employees under chapter 89 of title 5, United States Code.

(b) EXCEPTIONS.—

(1) The Department of Defense, without regard to subsection (a) of this section or subsections (a), (b), or (c) of section 2461 of title 10, United States Code, and notwithstanding any administrative regulation, requirement, or policy to the contrary shall have full authority to enter into a contract for the performance of any commercial or industrial type function of the Department of Defense that—

(A) is included on the procurement list established pursuant to section 2 of the Javits-Wagner-O'Day Act (41 U.S.C. 47);

(B) is planned to be converted to performance by a qualified nonprofit agency for the blind or by a qualified nonprofit agency for other severely handicapped individuals in accordance with that Act; or

(C) is planned to be converted to performance by a qualified firm under at least 51 percent ownership by an Indian tribe, as defined in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)), or a Native Hawaiian Organization, as defined in section 8(a)(15) of the Small Business Act (15 U.S.C. 637(a)(15)).

(2) This section shall not apply to depot contracts or contracts for depot maintenance as provided in sections 2469 and 2474 of title 10, United States Code.

(c) TREATMENT OF CONVERSION.—The conversion of any activity or function of the Department of Defense under the authority provided by this section shall be credited toward any competitive or outsourcing goal, target, or measurement that may be established by statute, regulation, or policy and is deemed to be awarded under the authority of, and in compliance with, subsection (h) of section 2304 of title 10, United States Code, for the competition or outsourcing of commercial activities.

(TRANSFER OF FUNDS)

SEC. 8015. Funds appropriated in title III of this Act for the Department of Defense Pilot Mentor-Protege Program may be transferred to any other appropriation contained in this Act solely for the purpose of implementing a Mentor-Protege Program developmental assistance agreement pursuant to section 831 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 10 U.S.C. 2302 note), as amended, under the authority of this provision or any other transfer authority contained in this Act.

SEC. 8016. None of the funds in this Act may be available for the purchase by the Department of Defense (and its departments and agencies) of welded shipboard anchor and mooring chain 4 inches in diameter and under unless the anchor and mooring chain are manufactured in the United States from components which are substantially manufactured in the United States: Provided, That for the purpose of this section manufactured will include cutting, heat treating, quality control, testing of chain and welding (including the forging and shot blasting process): Provided further, That for the purpose of this section substantially all of the components of anchor and mooring chain shall be considered to be produced or manufactured in the United States if the aggregate cost of the components produced or manufactured in the United States exceeds the aggregate cost of the components produced or manufactured outside the United States: Provided further, That when adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis, the Secretary of the service responsible for the procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations that such an acquisition must be made in order to acquire capability for national security purposes.

SEC. 8017. None of the funds appropriated by this Act available for the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) or TRICARE shall be available for the reimbursement of any health care provider for inpatient mental health service for care received when a patient is referred to a provider of inpatient mental health care or residential treatment care by a medical or health care professional having an economic interest in the facility to which the patient is referred: Provided, That this limitation does not apply in the case of inpatient mental health services provided under the program for persons with disabilities under subsection (d) of section 1079 of title 10, United States Code, provided as partial hospital care, or provided pursuant to a waiver authorized by the Secretary of Defense because of medical or psychological circumstances of the patient that are confirmed by a health professional who is not a Federal employee after a review, pursuant to rules prescribed by the Secretary, which takes into account the appropriate level of care for the patient, the intensity of services required by the patient, and the availability of that care.

SEC. 8018. Of the funds appropriated or otherwise made available in this Act, a reduction of $591,100,000 is hereby taken from title III, Procurement, from the ''Other Procurement, Army'' account: Provided, That within 30 days of enactment of this Act, the Secretary of the Army shall provide a report to the House Committee on Appropriations and the Senate Committee on Appropriations which describes the application of these reductions to programs, projects or activities within this account.

SEC. 8019. None of the funds available to the Department of Defense may be used to demilitarize or dispose of M–1 Carbines, M–1 Garand rifles, M–14 rifles, .22 caliber rifles, .30 caliber rifles, or M–1911 pistols.

SEC. 8020. No more than $500,000 of the funds appropriated or made available in this Act shall be used during a single fiscal year for any single relocation of an organization, unit, activity or function of the Department of Defense into or within the National Capital Region: Provided, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the congressional defense committees that such a relocation is required in the best interest of the Government.

SEC. 8021. In addition to the funds provided elsewhere in this Act, $8,000,000 is appropriated only for incentive payments authorized by section 504 of the Indian Financing Act of 1974 (25 U.S.C. 1544): Provided, That a prime contractor or a subcontractor at any tier that makes a subcontract award to any subcontractor or supplier as defined in section 1544 of title 25, United States Code or a small business owned and controlled by an individual or individuals defined under section 4221(9) of title 25, United States Code shall be considered a contractor for the purposes of being allowed additional compensation under section 504 of the Indian Financing Act of 1974 (25 U.S.C. 1544) whenever the prime contract or subcontract amount is over $500,000 and involves the expenditure of funds appropriated by an Act making Appropriations for the Department of Defense with respect to any fiscal year: Provided further, That notwithstanding section 430 of title 41, United States

Code, this section shall be applicable to any Department of Defense acquisition of supplies or services, including any contract and any subcontract at any tier for acquisition of commercial items produced or manufactured, in whole or in part by any subcontractor or supplier defined in section 1544 of title 25, United States Code or a small business owned and controlled by an individual or individuals defined under section 4221(9) of title 25, United States Code: Provided further, That, during the current fiscal year and hereafter, businesses certified as 8(a) by the Small Business Administration pursuant to section 8(a)(15) of Public Law 85–536, as amended, shall have the same status as other program participants under section 602 of Public Law 100–656, 102 Stat. 3825 (Business Opportunity Development Reform Act of 1988) for purposes of contracting with agencies of the Department of Defense.

SEC. 8022. None of the funds appropriated by this Act shall be available to perform any cost study pursuant to the provisions of OMB Circular A–76 if the study being performed exceeds a period of 24 months after initiation of such study with respect to a single function activity or 30 months after initiation of such study for a multi-function activity.

SEC. 8023. Funds appropriated by this Act for the American Forces Information Service shall not be used for any national or international political or psychological activities.

SEC. 8024. Notwithstanding any other provision of law or regulation, the Secretary of Defense may adjust wage rates for civilian employees hired for certain health care occupations as authorized for the Secretary of Veterans Affairs by section 7455 of title 38, United States Code.

SEC. 8025. The Secretary of Defense, acting through the Office of Economic Adjustment of the Department of Defense, may use funds made available in this Act under the heading ''Operation and Maintenance, Defense-Wide'' to make grants and supplement other Federal funds in accordance with the guidance provided in the report of the Committee on Appropriations of the Senate accompanying this Act, and the projects specified in such guidance shall be considered to be authorized by law.

SEC. 8026. During the current fiscal year, the Department of Defense is authorized to incur obligations of not to exceed $350,000,000 for purposes specified in section 2350j(c) of title 10, United States Code, in anticipation of receipt of contributions, only from the Government of Kuwait, under that section: Provided, That upon receipt, such contributions from the Government of Kuwait shall be credited to the appropriations or fund which incurred such obligations.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8027. (a) Of the funds made available in this Act, not less than $31,109,000 shall be available for the Civil Air Patrol Corporation, of which—

(1) $24,288,000 shall be available from ''Operation and Maintenance, Air Force'' to support Civil Air Patrol Corporation operation and maintenance, readiness, counterdrug activities, and drug demand reduction activities involving youth programs;

(2) $6,000,000 shall be available from ''Aircraft Procurement, Air Force''; and

(3) $821,000 shall be available from ''Other Procurement, Air Force'' for vehicle procurement.

(b) The Secretary of the Air Force should waive reimbursement for any funds used by the Civil Air Patrol for counter-drug activities in support of Federal, State, and local government agencies.

SEC. 8028. (a) None of the funds appropriated in this Act are available to establish a new Department of Defense (department) federally funded research and development center (FFRDC), either as a new entity, or as a separate entity administrated by an organization managing another FFRDC, or as a nonprofit membership corporation consisting of a consortium of other FFRDCs and other non-profit entities.

(b) No member of a Board of Directors, Trustees, Overseers, Advisory Group, Special Issues Panel, Visiting Committee, or any similar entity of a defense FFRDC, and no paid consultant to any defense FFRDC, except when acting in a technical advisory capacity, may be compensated for his or her services as a member of such entity, or as a paid consultant by more than one FFRDC in a fiscal year: Provided, That a member of any such entity referred to previously in this subsection shall be allowed travel expenses and per diem as authorized under the Federal Joint Travel Regulations, when engaged in the performance of membership duties.

(c) Notwithstanding any other provision of law, none of the funds available to the department from any source during fiscal year 2006 may be used by a defense FFRDC, through a fee or other payment mechanism, for construction of new buildings, for payment of cost sharing for projects funded by Government grants, for absorption of contract overruns, or for certain charitable contributions, not to include employee participation in community service and/or development.

(d) Notwithstanding any other provision of law, of the funds available to the department during fiscal year 2006, not more than 5,500 staff years of technical effort (staff years) may be funded for defense FFRDCs: Provided, That of the specific amount referred to previously in this subsection, not more than 1,050 staff years may be funded for the defense studies and analysis FFRDCs: Provided further, That this subsection shall not apply to staff years funded in the National Intelligence Program (NIP).

(e) The Secretary of Defense shall, with the submission of the department's fiscal year 2007 budget request, submit a report presenting the specific amounts of staff years of technical effort to be allocated for each defense FFRDC during that fiscal year.

(f) Notwithstanding any other provision of this Act, the total amount appropriated in this Act for FFRDCs is hereby reduced by $51,600,000.

SEC. 8029. None of the funds appropriated or made available in this Act shall be used to procure carbon, alloy or armor steel plate for use in any Government-owned facility or property under the control of the Department of Defense which were not melted and rolled in the United States or Canada: Provided, That these procurement restrictions shall apply to any and all Federal Supply Class 9515, American Society of Testing and Materials (ASTM) or American Iron and Steel Institute (AISI) specifications of carbon, alloy or armor steel plate: Provided further, That the Secretary of the military department responsible for the procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes: Provided further, That these restrictions shall not apply to contracts which are in being as of the date of the enactment of this Act.

SEC. 8030. For the purposes of this Act, the term ''congressional defense committees'' means the Armed Services Committee of the House of Representatives, the Armed Services Committee of the Senate, the Subcommittee on Defense of the Committee on Appropriations of the Senate, and the Subcommittee on Defense of the Committee on Appropriations of the House of Representatives.

SEC. 8031. During the current fiscal year, the Department of Defense may acquire the modification, depot maintenance and repair of aircraft, vehicles and vessels as well as the production of components and other Defense-related articles, through competition between Department of Defense depot maintenance activities and private firms: Provided, That the Senior Acquisition Executive of the military department or Defense Agency concerned, with power of delegation, shall certify that successful bids include comparable estimates of all direct and indirect costs for both public and private bids: Provided further, That Office of Management and Budget Circular A–76 shall not apply to competitions conducted under this section.

SEC. 8032. (a)(1) If the Secretary of Defense, after consultation with the United States Trade Representative, determines that a foreign country which is party to an agreement described in paragraph (2) has violated the terms of the agreement by discriminating against certain types of products produced in the United States that are covered by the agreement, the Secretary of Defense shall rescind the Secretary's blanket waiver of the Buy American Act with respect to such types of products produced in that foreign country.

(2) An agreement referred to in paragraph (1) is any reciprocal defense procurement memorandum of understanding, between the United States and a foreign country pursuant to which the Secretary of Defense has prospectively waived the Buy American Act for certain products in that country.

(b) The Secretary of Defense shall submit to the Congress a report on the amount of Department of Defense purchases from foreign entities in fiscal year 2006. Such report shall separately indicate the dollar value of items for which the Buy American Act was waived pursuant to any agreement described in subsection (a)(2), the Trade Agreement Act of 1979 (19 U.S.C. 2501 et seq.), or any international agreement to which the United States is a party.

(c) For purposes of this section, the term ''Buy American Act'' means title III of the Act entitled ''An Act making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1934, and for other purposes'', approved March 3, 1933 (41 U.S.C. 10a et seq.).

SEC. 8033. Appropriations contained in this Act that remain available at the end of the current fiscal year, and at the end of each fiscal year hereafter, as a result of energy cost savings realized by the Department of Defense shall remain available for obligation for the next fiscal year to the extent, and for the purposes, provided in section 2865 of title 10, United States Code.

SEC. 8034. None of the funds in this Act may be used for research, development, test, evaluation, procurement or deployment of nuclear armed interceptors of a missile defense system.

SEC. 8035. None of the funds appropriated in this Act shall be used to study, demonstrate, or implement any plans privatizing, divesting or transferring of any Civil Works missions, functions, or responsibilities for the United States Army Corps of Engineers to other government agencies without specific direction in a subsequent Act of Congress.

SEC. 8036. The President shall include with each budget for a fiscal year submitted to the Congress under section 1105 of title 31, and hereafter, United States Code, materials that shall identify clearly and separately the amounts requested in the budget for appropriation for that fiscal year for salaries and expenses related to administrative activities of the Department of Defense, the military departments, and the defense agencies.

SEC. 8037. Notwithstanding any other provision of law, funds available during the current fiscal year and hereafter for ''Drug Interdiction and Counter-Drug Activities, Defense'' may be obligated for the Young Marines program.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8038. During the current fiscal year, amounts contained in the Department of Defense Overseas Military Facility Investment Recovery Account established by section 2921(c)(1)

of the National Defense Authorization Act of 1991 (Public Law 101–510; 10 U.S.C. 2687 note) shall be available until expended for the payments specified by section 2921(c)(2) of that Act.

SEC. 8039. (a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of the Air Force may convey at no cost to the Air Force, without consideration, to Indian tribes located in the States of North Dakota, South Dakota, Montana, and Minnesota relocatable military housing units located at Grand Forks Air Force Base and Minot Air Force Base that are excess to the needs of the Air Force.

(b) PROCESSING OF REQUESTS.—The Secretary of the Air Force shall convey, at no cost to the Air Force, military housing units under subsection (a) in accordance with the request for such units that are submitted to the Secretary by the Operation Walking Shield Program on behalf of Indian tribes located in the States of North Dakota, South Dakota, Montana, and Minnesota.

(c) RESOLUTION OF HOUSING UNIT CONFLICTS.—The Operation Walking Shield Program shall resolve any conflicts among requests of Indian tribes for housing units under subsection (a) before submitting requests to the Secretary of the Air Force under subsection (b).

(d) INDIAN TRIBE DEFINED.—In this section, the term ''Indian tribe'' means any recognized Indian tribe included on the current list published by the Secretary of the Interior under section 104 of the Federally Recognized Indian Tribe Act of 1994 (Public Law 103–454; 108 Stat. 4792; 25 U.S.C. 479a–1).

SEC. 8040. During the current fiscal year, appropriations which are available to the Department of Defense for operation and maintenance may be used to purchase items having an investment item unit cost of not more than $250,000.

SEC. 8041. (a) During the current fiscal year, none of the appropriations or funds available to the Department of Defense Working Capital Funds shall be used for the purchase of an investment item for the purpose of acquiring a new inventory item for sale or anticipated sale during the current fiscal year or a subsequent fiscal year to customers of the Department of Defense Working Capital Funds if such an item would not have been chargeable to the Department of Defense Business Operations Fund during fiscal year 1994 and if the purchase of such an investment item would be chargeable during the current fiscal year to appropriations made to the Department of Defense for procurement.

(b) The fiscal year 2007 budget request for the Department of Defense as well as all justification material and other documentation supporting the fiscal year 2007 Department of Defense budget shall be prepared and submitted to the Congress on the basis that any equipment which was classified as an end item and funded in a procurement appropriation contained in this Act shall be budgeted for in a proposed fiscal year 2007 procurement appropriation and not in the supply management business area or any other area or category of the Department of Defense Working Capital Funds.

SEC. 8042. None of the funds appropriated by this Act for programs of the Central Intelligence Agency shall remain available for obligation beyond the current fiscal year, except for funds appropriated for the Reserve for Contingencies, which shall remain available until September 30, 2007: Provided, That funds appropriated, transferred, or otherwise credited to the Central Intelligence Agency Central Services Working Capital Fund during this or any prior or subsequent fiscal year shall remain available until expended: Provided further, That any funds appropriated or transferred to the Central Intelligence Agency for advanced research and development acquisition, for agent operations, and for covert action programs authorized by the President under section 503 of the National Security Act of 1947, as amended, shall remain available until September 30, 2007.

SEC. 8043. Notwithstanding any other provision of law, funds made available in this Act for the Defense Intelligence Agency may be used for the design, development, and deployment of General Defense Intelligence Program intelligence communications and intelligence information systems for the Services, the Unified and Specified Commands, and the component commands.

SEC. 8044. Of the funds appropriated to the Department of Defense under the heading ''Operation and Maintenance, Defense-Wide'', not less than $10,000,000 shall be made available only for the mitigation of environmental impacts, including training and technical assistance to tribes, related administrative support, the gathering of information, documenting of environmental damage, and developing a system for prioritization of mitigation and cost to complete estimates for mitigation, on Indian lands resulting from Department of Defense activities.

SEC. 8045. (a) None of the funds appropriated in this Act may be expended by an entity of the Department of Defense unless the entity, in expending the funds, complies with the Buy American Act. For purposes of this subsection, the term ''Buy American Act'' means title III of the Act entitled ''An Act making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1934, and for other purposes'', approved March 3, 1933 (41 U.S.C. 10a et seq.).

(b) If the Secretary of Defense determines that a person has been convicted of intentionally affixing a label bearing a ''Made in America'' inscription to any product sold in or shipped to the United States that is not made in America, the Secretary shall determine, in accordance with section 2410f of title 10, United States Code, whether the person should be debarred from contracting with the Department of Defense.

(c) In the case of any equipment or products purchased with appropriations provided under this Act, it is the sense of the Congress that any entity of the Department of Defense, in expending the appropriation, purchase only American-made equipment and products, provided that American-made equipment and products are cost-competitive, quality-competitive, and available in a timely fashion.

SEC. 8046. None of the funds appropriated by this Act shall be available for a contract for studies, analysis, or consulting services entered into without competition on the basis of an unsolicited proposal unless the head of the activity responsible for the procurement determines—

(1) as a result of thorough technical evaluation, only one source is found fully qualified to perform the proposed work;

(2) the purpose of the contract is to explore an unsolicited proposal which offers significant scientific or technological promise, represents the product of original thinking, and was submitted in confidence by one source; or

(3) the purpose of the contract is to take advantage of unique and significant industrial accomplishment by a specific concern, or to insure that a new product or idea of a specific concern is given financial support: Provided, That this limitation shall not apply to contracts in an amount of less than $25,000,000, contracts related to improvements of equipment that is in development or production, or contracts as to which a civilian official of the Department of Defense, who has been confirmed by the Senate, determines that the award of such contract is in the interest of the national defense.

SEC. 8047. (a) Except as provided in subsection (b) and (c), none of the funds made available by this Act may be used—

(1) to establish a field operating agency; or

(2) to pay the basic pay of a member of the Armed Forces or civilian employee of the department who is transferred or reassigned from a headquarters activity if the member or employee's place of duty remains at the location of that headquarters.

(b) The Secretary of Defense or Secretary of a military department may waive the limitations in subsection (a), on a case-by-case basis, if the Secretary determines, and certifies to the Committees on Appropriations of the House of Representatives and Senate that the granting of the waiver will reduce the personnel requirements or the financial requirements of the department.

(c) This section does not apply to—

(1) field operating agencies funded within the National Intelligence Program; or

(2) an Army field operating agency established to eliminate, mitigate, or counter the effects of improvised explosive devices, and, as determined by the Secretary of the Army, other similar threats.

SEC. 8048. Up to $3,000,000 of the funds appropriated in Title II of this Act under the heading, ''Operation and Maintenance, Army'', may be made available to contract with the Army Historical Foundation, a non profit organization, for services required to solicit non-Federal donations to support construction and operation of the National Museum of the United States Army at Fort Belvoir, Virginia: Provided, That notwithstanding any other provision of law, the Army is authorized to receive future payments in this or the subsequent fiscal year from any non-profit organization chartered to support the National Museum of the United States Army to reimburse amounts expended by the Army pursuant to this section: Provided further, That any reimbursements received pursuant to this section shall be merged with ''Operation and Maintenance, Army'' and shall be made available for the same purposes and for the same time period as that appropriation account.

(RESCISSIONS)

SEC. 8049. Of the funds appropriated in Department of Defense Appropriations Acts, the following funds are hereby rescinded from the following accounts and programs in the specified amounts:

''Other Procurement, Army, 2005/2007'', $68,500,000;

''Aircraft Procurement, Navy, 2005/2007'', $104,800,000;

''Shipbuilding and Conversion, Navy, 2005/2009'', $67,300,000;

''Other Procurement, Navy, 2005/2007'', $43,000,000;

''Aircraft Procurement, Air Force, 2004/2006'', $4,000,000;

''Aircraft Procurement, Air Force, 2005/2007'', $20,000,000;

''Missile Procurement, Air Force, 2005/2007'', $29,000,000;

''Research, Development, Test and Evaluation, Army, 2005/2006'', $25,900,000;

''Research, Development, Test and Evaluation, Navy, 2005/2006'', $70,900,000; and

''Research, Development, Test and Evaluation, Air Force, 2005/2006'', $63,400,000.

SEC. 8050. None of the funds available in this Act may be used to reduce the authorized positions for military (civilian) technicians of the Army National Guard, the Air National Guard, Army Reserve and Air Force Reserve for the purpose of applying any administratively imposed civilian personnel ceiling, freeze, or reduction on military (civilian) technicians, unless such reductions are a direct result of a reduction in military force structure.

SEC. 8051. None of the funds appropriated or otherwise made available in this Act may be obligated or expended for assistance to the Democratic People's Republic of North Korea unless specifically appropriated for that purpose.

SEC. 8052. During the current fiscal year and hereafter, funds appropriated in this Act are available to compensate members of the National Guard for duty performed pursuant to a plan submitted by a Governor of a State and approved by the Secretary of Defense under section 112 of title 32, United States Code: Provided, That during the performance of such duty, the members of the National Guard shall be under State command and control: Provided further, That such duty shall be treated as full-time National Guard duty for purposes of sections 12602(a)(2) and (b)(2) of title 10, United States Code.

SEC. 8053. Funds appropriated in this Act for operation and maintenance of the Military Departments, Combatant Commands and Defense Agencies shall be available for reimbursement of pay, allowances and other expenses which would otherwise be incurred against appropriations for the National Guard and Reserve when members of the National Guard and Reserve provide intelligence or counterintelligence support to Combatant Commands, Defense Agencies and Joint Intelligence Activities, including the activities and programs included within the National Intelligence Program (NIP), the Joint Military Intelligence Program (JMIP), and the Tactical Intelligence and Related Activities (TIARA) aggregate: Provided, That nothing in this section authorizes deviation from established Reserve and National Guard personnel and training procedures.

SEC. 8054. During the current fiscal year, none of the funds appropriated in this Act may be used to reduce the civilian medical and medical support personnel assigned to military treatment facilities below the September 30, 2003 level: Provided, That the Service Surgeons General may waive this section by certifying to the congressional defense committees that the beneficiary population is declining in some catchment areas and civilian strength reductions may be consistent with responsible resource stewardship and capitation-based budgeting.

SEC. 8055. Up to $2,000,000 of the funds appropriated under the heading, ''Operation and Maintenance, Navy'' may be made available to contract for the installation, repair, and maintenance of an on-base and adjacent off-base wastewater/treatment facility and infrastructure critical to base operations and the public health and safety of community residents in the vicinity of the NCTAMS.

SEC. 8056. Notwithstanding any other provision of law, that not more than 35 percent of funds provided in this Act for environmental remediation may be obligated under indefinite delivery/indefinite quantity contracts with a total contract value of $130,000,000 or higher.

SEC. 8057. (a) None of the funds available to the Department of Defense for any fiscal year for drug interdiction or counter-drug activities may be transferred to any other department or agency of the United States except as specifically provided in an appropriations law.

(b) None of the funds available to the Central Intelligence Agency for any fiscal year for drug interdiction and counter-drug activities may be transferred to any other department or agency of the United States except as specifically provided in an appropriations law.

(TRANSFER OF FUNDS)

SEC. 8058. Appropriations available under the heading ''Operation and Maintenance, Defense-Wide'' for the current fiscal year and hereafter for increasing energy and water efficiency in Federal buildings may, during their period of availability, be transferred to other appropriations or funds of the Department of Defense for projects related to increasing energy and water efficiency, to be merged with and to be available for the same general purposes, and for the same time period, as the appropriation or fund to which transferred.

SEC. 8059. None of the funds appropriated by this Act may be used for the procurement of ball and roller bearings other than those produced by a domestic source and of domestic origin: Provided, That the Secretary of the military department responsible for such procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate, that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes: Provided further, That this restriction shall not apply to the purchase of ''commercial items'', as defined by section 4(12) of the Office of Federal Procurement Policy Act, except that the restriction shall apply to ball or roller bearings purchased as end items.

SEC. 8060. Notwithstanding any other provision of law, funds available to the Department of Defense shall be made available to provide transportation of medical supplies and equipment, on a nonreimbursable basis, to American Samoa, and funds available to the Department of Defense shall be made available to provide transportation of medical supplies and equipment, on a nonreimbursable basis, to the Indian Health Service when it is in conjunction with a civil-military project.

SEC. 8061. None of the funds in this Act may be used to purchase any supercomputer which is not manufactured in the United States, unless the Secretary of Defense certifies to the congressional defense committees that such an acquisition must be made in order to acquire capability for national security purposes that is not available from United States manufacturers.

SEC. 8062. Notwithstanding any other provision of law, each contract awarded by the Department of Defense during the current fiscal year for construction or service performed in whole or in part in a State (as defined in section 381(d) of title 10, United States Code) which is not contiguous with another State and has an unemployment rate in excess of the national average rate of unemployment as determined by the Secretary of Labor, shall include a provision requiring the contractor to employ, for the purpose of performing that portion of the contract in such State that is not contiguous with another State, individuals who are residents of such State and who, in the case of any craft or trade, possess or would be able to acquire promptly the necessary skills: Provided, That the Secretary of Defense may waive the requirements of this section, on a case-by-case basis, in the interest of national security.

SEC. 8063. None of the funds made available in this or any other Act may be used to pay the salary of any officer or employee of the Department of Defense who approves or implements the transfer of administrative responsibilities or budgetary resources of any program, project, or activity financed by this Act to the jurisdiction of another Federal agency not financed by this Act without the express authorization of Congress: Provided, That this limitation shall not apply to transfers of funds expressly provided for in Defense Appropriations Acts, or provisions of Acts providing supplemental appropriations for the Department of Defense.

SEC. 8064. (a) LIMITATION ON TRANSFER OF DEFENSE ARTICLES AND SERVICES.—Notwithstanding any other provision of law, none of the funds available to the Department of Defense for the current fiscal year may be obligated or expended to transfer to another nation or an international organization any defense articles or services (other than intelligence services) for use in the activities described in subsection (b) unless the congressional defense committees, the Committee on International Relations of the House of Representatives, and the Committee on Foreign Relations of the Senate are notified 15 days in advance of such transfer.

(b) COVERED ACTIVITIES.—This section applies to—

(1) any international peacekeeping or peace-enforcement operation under the authority of chapter VI or chapter VII of the United Nations Charter under the authority of a United Nations Security Council resolution; and

(2) any other international peacekeeping, peace-enforcement, or humanitarian assistance operation.

(c) REQUIRED NOTICE.—A notice under subsection (a) shall include the following:

(1) A description of the equipment, supplies, or services to be transferred.

(2) A statement of the value of the equipment, supplies, or services to be transferred.

(3) In the case of a proposed transfer of equipment or supplies—

(A) a statement of whether the inventory requirements of all elements of the Armed Forces (including the reserve components) for the type of equipment or supplies to be transferred have been met; and

(B) a statement of whether the items proposed to be transferred will have to be replaced and, if so, how the President proposes to provide funds for such replacement.

SEC. 8065. (a) The total amount appropriated or otherwise made available in title II of this Act is hereby reduced by $92,000,000 to limit excessive growth in the travel and transportation of persons.

(b) The Secretary of Defense shall allocate this reduction proportionately to each budget activity, activity group, subactivity group, and each program, project, and activity within each applicable appropriation account.

SEC. 8066. None of the funds available to the Department of Defense under this Act shall be obligated or expended to pay a contractor under a contract with the Department of Defense for costs of any amount paid by the contractor to an employee when—

(1) such costs are for a bonus or otherwise in excess of the normal salary paid by the contractor to the employee; and

(2) such bonus is part of restructuring costs associated with a business combination.

SEC. 8067. None of the funds provided in this Act may be obligated to realign or relocate forces or operational assets from bases to be converted to enclave status until the Secretary of Defense certifies that he has sought new missions for these bases as mandated by the 2005 Defense Base Closure and Realignment Commission: Provided, That the Secretary of Defense shall report his findings to the congressional defense committees not later than October 1, 2006.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8068. During the current fiscal year, no more than $30,000,000 of appropriations made in this Act under the heading ''Operation and Maintenance, Defense-Wide'' may be transferred to appropriations available for the pay of military personnel, to be merged with, and to be available for the same time period as the appropriations to which transferred, to be used in support of such personnel in connection with support and services for eligible organizations and activities outside the Department of Defense pursuant to section 2012 of title 10, United States Code.

SEC. 8069. During the current fiscal year, in the case of an appropriation account of the Department of Defense for which the period of availability for obligation has expired or which has closed under the provisions of section 1552 of title 31, United States Code, and which has a negative unliquidated or unexpended balance, an obligation or an adjustment of an obligation may be charged to any current appropriation account for the same purpose as the expired or closed account if—

(1) the obligation would have been properly chargeable (except as to amount) to the expired or closed account before the end of the period of availability or closing of that account;

(2) the obligation is not otherwise properly chargeable to any current appropriation account of the Department of Defense; and

(3) in the case of an expired account, the obligation is not chargeable to a current appropriation of the Department of Defense under the provisions of section 1405(b)(8) of the National Defense Authorization Act for Fiscal Year 1991, Public Law 101–510, as amended (31 U.S.C. 1551 note): Provided, That in the case of an expired account, if subsequent review or investigation discloses that there was not in fact a negative unliquidated or unexpended balance in the account, any charge to a current account under the authority of this section shall be reversed and recorded against the expired account: Provided further, That the total amount charged to a current appropriation under this section may

not exceed an amount equal to 1 percent of the total appropriation for that account.

SEC. 8070. Notwithstanding section 12310(b) of title 10, United States Code, a Reserve who is a member of the National Guard serving on full-time National Guard duty under section 502(f) of Title 32 may perform duties in support of the ground-based elements of the National Ballistic Missile Defense System.

SEC. 8071. (a) Notwithstanding any other provision of law, the Chief of the National Guard Bureau may permit the use of equipment of the National Guard Distance Learning Project by any person or entity on a space-available, reimbursable basis. The Chief of the National Guard Bureau shall establish the amount of reimbursement for such use on a case-by-case basis.

(b) Amounts collected under subsection (a) shall be credited to funds available for the National Guard Distance Learning Project and be available to defray the costs associated with the use of equipment of the project under that subsection. Such funds shall be available for such purposes without fiscal year limitation.

SEC. 8072. Using funds available by this Act or any other Act, the Secretary of the Air Force, pursuant to a determination under section 2690 of title 10, United States Code, may implement cost-effective agreements for required heating facility modernization in the Kaiserslautern Military Community in the Federal Republic of Germany: Provided, That in the City of Kaiserslautern such agreements will include the use of United States anthracite as the base load energy for municipal district heat to the United States Defense installations: Provided further, That at Landstuhl Army Regional Medical Center and Ramstein Air Base, furnished heat may be obtained from private, regional or municipal services, if provisions are included for the consideration of United States coal as an energy source.

SEC. 8073. None of the funds appropriated in title IV of this Act may be used to procure end-items for delivery to military forces for operational training, operational use or inventory requirements: Provided, That this restriction does not apply to end-items used in development, prototyping, and test activities preceding and leading to acceptance for operational use: Provided further, That this restriction does not apply to programs funded within the National Intelligence Program: Provided further, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that it is in the national security interest to do so.

SEC. 8074. None of the funds made available in this Act may be used to approve or license the sale of the F–22 advanced tactical fighter to any foreign government.

SEC. 8075. (a) The Secretary of Defense may, on a case-by-case basis, waive with respect to a foreign country each limitation on the procurement of defense items from foreign sources provided in law if the Secretary determines that the application of the limitation with respect to that country would invalidate cooperative programs entered into between the Department of Defense and the foreign country, or would invalidate reciprocal trade agreements for the procurement of defense items entered into under section 2531 of title 10, United States Code, and the country does not discriminate against the same or similar defense items produced in the United States for that country.

(b) Subsection (a) applies with respect to—

(1) contracts and subcontracts entered into on or after the date of the enactment of this Act; and

(2) options for the procurement of items that are exercised after such date under contracts that are entered into before such date if the option prices are adjusted for any reason other than the application of a waiver granted under subsection (a).

(c) Subsection (a) does not apply to a limitation regarding construction of public vessels, ball and roller bearings, food, and clothing or textile materials as defined by section 11 (chapters 50–65) of the Harmonized Tariff Schedule and products classified under headings 4010, 4202, 4203, 6401 through 6406, 6505, 7019, 7218 through 7229, 7304.41 through 7304.49, 7306.40, 7502 through 7508, 8105, 8108, 8109, 8211, 8215, and 9404.

SEC. 8076. (a) PROHIBITION.—None of the funds made available by this Act may be used to support any training program involving a unit of the security forces of a foreign country if the Secretary of Defense has received credible information from the Department of State that the unit has committed a gross violation of human rights, unless all necessary corrective steps have been taken.

(b) MONITORING.—The Secretary of Defense, in consultation with the Secretary of State, shall ensure that prior to a decision to conduct any training program referred to in subsection (a), full consideration is given to all credible information available to the Department of State relating to human rights violations by foreign security forces.

(c) WAIVER.—The Secretary of Defense, after consultation with the Secretary of State, may waive the prohibition in subsection (a) if he determines that such waiver is required by extraordinary circumstances.

(d) REPORT.—Not more than 15 days after the exercise of any waiver under subsection (c), the Secretary of Defense shall submit a report to the congressional defense committees describing the extraordinary circumstances, the purpose and duration of the training program, the United States forces and the foreign security forces involved in the training program, and the information relating to human rights violations that necessitates the waiver.

SEC. 8077. (a) The Secretary of Defense, in coordination with the Secretary of Health and Human Services, may carry out a program to distribute surplus dental and medical equipment of the Department of Defense, at no cost to the Department of Defense, to Indian Health Service facilities and to federally-qualified health centers (within the meaning of section 1905(l)(2)(B) of the Social Security Act (42 U.S.C. 1396d(l)(2)(B))).

(b) In carrying out this provision, the Secretary of Defense shall give the Indian Health Service a property disposal priority equal to the priority given to the Department of Defense and its twelve special screening programs in distribution of surplus dental and medical supplies and equipment.

SEC. 8078. None of the funds appropriated or made available in this Act to the Department of the Navy shall be used to develop, lease or procure the T–AKE class of ships unless the main propulsion diesel engines and propulsors are manufactured in the United States by a domestically operated entity: Provided, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes or there exists a significant cost or quality difference.

SEC. 8079. None of the funds appropriated or otherwise made available by this or other Department of Defense Appropriations Acts may be obligated or expended for the purpose of performing repairs or maintenance to military family housing units of the Department of Defense, including areas in such military family housing units that may be used for the purpose of conducting official Department of Defense business.

SEC. 8080. Notwithstanding any other provision of law, funds appropriated in this Act under the heading ''Research, Development, Test and Evaluation, Defense-Wide'' for any new start advanced concept technology demonstration project may only be obligated 30 days after a report, including a description of the project, the planned acquisition and transition strategy and its estimated annual and total cost, has been provided in writing to the congressional defense committees: Provided, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying to the congressional defense committees that it is in the national interest to do so.

SEC. 8081. The Secretary of Defense shall provide a classified quarterly report, beginning 30 days after enactment of this Act, to the Houseand Senate Appropriations Committees, Subcommittees on Defense on certain matters as directed in the classified annex accompanying this Act.

SEC. 8082. During the current fiscal year, refunds attributable to the use of the Government travel card, refunds attributable to the use of the Government Purchase Card and refunds attributable to official Government travel arranged by Government Contracted Travel Management Centers may be credited to operation and maintenance, and research, development, test and evaluation accounts of the Department of Defense which are current when the refunds are received.

SEC. 8083. (a) REGISTERING FINANCIAL MANAGEMENT INFORMATION TECHNOLOGY SYSTEMS WITH DOD CHIEF INFORMATION OFFICER.—None of the funds appropriated in this Act may be used for a mission critical or mission essential financial management information technology system (including a system funded by the defense working capital fund) that is not registered with the Chief Information Officer of the Department of Defense. A system shall be considered to be registered with that officer upon the furnishing to that officer of notice of the system, together with such information concerning the system as the Secretary of Defense may prescribe. A financial management information technology system shall be considered a mission critical or mission essential information technology system as defined by the Under Secretary of Defense (Comptroller).

(b) CERTIFICATIONS AS TO COMPLIANCE WITH FINANCIAL MANAGEMENT MODERNIZATION PLAN.—

(1) During the current fiscal year, a financial management automated information system, a mixed information system supporting financial and non-financial systems, or a system improvement of more than $1,000,000 may not receive Milestone A approval, Milestone B approval, or full rate production, or their equivalent, within the Department of Defense until the Under Secretary of Defense (Comptroller) certifies, with respect to that milestone, that the system is being developed and managed in accordance with the Department's Financial Management Modernization Plan. The Under Secretary of Defense (Comptroller) may require additional certifications, as appropriate, with respect to any such system.

(2) The Chief Information Officer shall provide the congressional defense committees timely notification of certifications under paragraph (1).

(c) CERTIFICATIONS AS TO COMPLIANCE WITH CLINGER-COHEN ACT.—

(1) During the current fiscal year, a major automated information system may not receive Milestone A approval, Milestone B approval, or full rate production approval, or their equivalent, within the Department of Defense until the Chief Information Officer certifies, with respect to that milestone, that the system is being developed in accordance with the Clinger-Cohen Act of 1996 (40 U.S.C. 1401 et seq.). The Chief Information Officer may require additional certifications, as appropriate, with respect to any such system.

(2) The Chief Information Officer shall provide the congressional defense committees timely

notification of certifications under paragraph (1). Each such notification shall include, at a minimum, the funding baseline and milestone schedule for each system covered by such a certification and confirmation that the following steps have been taken with respect to the system:

(A) Business process reengineering.

(B) An analysis of alternatives.

(C) An economic analysis that includes a calculation of the return on investment.

(D) Performance measures.

(E) An information assurance strategy consistent with the Department's Global Information Grid.

(d) DEFINITIONS.—For purposes of this section:

(1) The term ''Chief Information Officer'' means the senior official of the Department of Defense designated by the Secretary of Defense pursuant to section 3506 of title 44, United States Code.

(2) The term ''information technology system'' has the meaning given the term ''information technology'' in section 5002 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1401).

SEC. 8084. During the current fiscal year, none of the funds available to the Department of Defense may be used to provide support to another department or agency of the United States if such department or agency is more than 90 days in arrears in making payment to the Department of Defense for goods or services previously provided to such department or agency on a reimbursable basis: Provided, That this restriction shall not apply if the department is authorized by law to provide support to such department or agency on a nonreimbursable basis, and is providing the requested support pursuant to such authority: Provided further, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that it is in the national security interest to do so.

SEC. 8085. None of the funds provided in this Act may be used to transfer to any nongovernmental entity ammunition held by the Department of Defense that has a center-fire cartridge and a United States military nomenclature designation of ''armor penetrator'', ''armor piercing (AP)'', ''armor piercing incendiary (API)'', or ''armor-piercing incendiary-tracer (API-T)'', except to an entity performing demilitarization services for the Department of Defense under a contract that requires the entity to demonstrate to the satisfaction of the Department of Defense that armor piercing projectiles are either: (1) rendered incapable of reuse by the demilitarization process; or (2) used to manufacture ammunition pursuant to a contract with the Department of Defense or the manufacture of ammunition for export pursuant to a License for Permanent Export of Unclassified Military Articles issued by the Department of State.

SEC. 8086. Notwithstanding any other provision of law, the Chief of the National Guard Bureau, or his designee, may waive payment of all or part of the consideration that otherwise would be required under section 2667 of title 10, United States Code, in the case of a lease of personal property for a period not in excess of 1 year to any organization specified in 32 U.S.C. 508(d), or any other youth, social, or fraternal non-profit organization as may be approved by the Chief of the National Guard Bureau, or his designee, on a case-by-case basis.

SEC. 8087. None of the funds appropriated by this Act shall be used for the support of any nonappropriated funds activity of the Department of Defense that procures malt beverages and wine with nonappropriated funds for resale (including such alcoholic beverages sold by the drink) on a military installation located in the United States unless such malt beverages and wine are procured within that State, or in the case of the District of Columbia, within the District of Columbia, in which the military installation is located: Provided, That in a case in which the military installation is located in more than one State, purchases may be made in any State in which the installation is located: Provided further, That such local procurement requirements for malt beverages and wine shall apply to all alcoholic beverages only for military installations in States which are not contiguous with another State: Provided further, That alcoholic beverages other than wine and malt beverages, in contiguous States and the District of Columbia shall be procured from the most competitive source, price and other factors considered.

SEC. 8088. Up to $2,500,000 of the funds appropriated under the heading ''Operation and Maintenance, Navy'' in this Act for the Pacific Missile Range Facility may be made available to contract for the repair, maintenance, and operation of adjacent off-base water, drainage, and flood control systems, electrical upgrade to support additional missions critical to base operations, and support for a range footprint expansion to further guard against encroachment.

SEC. 8089. Funds available to the Department of Defense for the Global Positioning System during the current fiscal year may be used to fund civil requirements associated with the satellite and ground control segments of such system's modernization program.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8090. Of the amounts appropriated in this Act under the heading, ''Operation and Maintenance, Army'', $147,900,000 shall remain available until expended: Provided, That notwithstanding any other provision of law, the Secretary of Defense is authorized to transfer such funds to other activities of the Federal Government: Provided further, That the Secretary of Defense is authorized to enter into and carry out contracts for the acquisition of real property, construction, personal services, and operations related to projects described in further detail in the Classified Annex accompanying the Department of Defense Appropriations Act, 2006, consistent with the terms and conditions set forth therein: Provided further, That contracts entered into under the authority of this section may provide for such indemnification as the Secretary determines to be necessary: Provided further, That projects authorized by this section shall comply with applicable Federal, State, and local law to the maximum extent consistent with the national security, as determined by the Secretary of Defense.

SEC. 8091. Section 8106 of the Department of Defense Appropriations Act, 1997 (titles I through VIII of the matter under subsection 101(b) of Public Law 104–208; 110 Stat. 3009–111; 10 U.S.C. 113 note) shall continue in effect to apply to disbursements that are made by the Department of Defense in fiscal year 2006.

SEC. 8092. Amounts appropriated in title II of this Act are hereby reduced by $265,890,000 to reflect savings attributable to efficiencies and management improvements in the funding of miscellaneous or other contracts in the military departments, as follows:

(1) From ''Operation and Maintenance, Army'', $36,890,000.

(2) From ''Operation and Maintenance, Navy'', $79,000,000.

(3) From ''Operation and Maintenance, Air Force'', $150,000,000.

SEC. 8093. The total amount appropriated or otherwise made available in this Act is hereby reduced by $100,000,000 to limit excessive growth in the procurement of advisory and assistance services, to be distributed as follows:

''Operation and Maintenance, Army'', $37,000,000;

''Operation and Maintenance, Air Force'', $6,000,000;

''Operation and Maintenance, Defense-Wide'', $45,000,000; and

''Operation and Maintenance, Army Reserve'', $12,000,000.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8094. Of the amounts appropriated in this Act under the heading ''Research, Development, Test and Evaluation, Defense-Wide'', $143,600,000 shall be made available for the Arrow missile defense program: Provided, That of this amount, $70,000,000 shall be available for the purpose of producing Arrow missile components in the United States and Arrow missile components and missiles in Israel to meet Israel's defense requirements, consistent with each nation's laws, regulations and procedures, and $10,000,000 shall be available for the purpose of the initiation of a joint feasibility study and risk reduction activities designated the Short Range Ballistic Missile Defense (SRBMD) initiative: Provided further, That funds made available under this provision for production of missiles and missile components may be transferred to appropriations available for the procurement of weapons and equipment, to be merged with and to be available for the same time period and the same purposes as the appropriation to which transferred: Provided further, That the transfer authority provided under this provision is in addition to any other transfer authority contained in this Act.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8095. Of the amounts appropriated in this Act under the heading ''Shipbuilding and Conversion, Navy'', $517,523,000 shall be available until September 30, 2006, to fund prior year shipbuilding cost increases: Provided, That upon enactment of this Act, the Secretary of the Navy shall transfer such funds to the following appropriations in the amounts specified: Provided further, That the amounts transferred shall be merged with and be available for the same purposes as the appropriations to which transferred:

To:

Under the heading, ''Shipbuilding and Conversion, Navy, 1998/2006'':

New SSN, $28,000,000.

Under the heading, ''Shipbuilding and Conversion, Navy, 1999/2006'':

LPD–17 Amphibious Transport Dock Ship Program, $95,000,000;

New SSN, $72,000,000.

Under the heading, ''Shipbuilding and Conversion, Navy, 2000/2006'':

LPD–17 Amphibious Transport Dock Ship Program, $94,800,000.

Under the heading, ''Shipbuilding and Conversion, Navy, 2001/2006'':

Carrier Replacement Program, $145,023,000;

New SSN, $82,700,000.

SEC. 8096. The Secretary of the Navy may settle, or compromise, and pay any and all admiralty claims under section 7622 of title 10, United States Code arising out of the collision involving the U.S.S. GREENEVILLE and the EHIME MARU, in any amount and without regard to the monetary limitations in subsections (a) and (b) of that section: Provided, That such payments shall be made from funds available to the Department of the Navy for operation and maintenance.

SEC. 8097. None of the funds available to the Department of Defense may be obligated to modify command and control relationships to give Fleet Forces Command administrative and operational control of U.S. Navy forces assigned to the Pacific fleet: Provided, That the command and control relationships which existed on October 1, 2004, shall remain in force unless changes are specifically authorized in a subsequent Act.

SEC. 8098. Notwithstanding any other provision of law or regulation, the Secretary of Defense may exercise the provisions of section 7403(g) of title 38, United States Code for occupations listed in section 7403(a)(2) of title 38, United States Code as well as the following:

Pharmacists, Audiologists, and Dental Hygienists.

(A) The requirements of section 7403(g)(1)(A) of title 38, United States Code shall apply.

(B) The limitations of section 7403(g)(1)(B) of title 38, United States Code shall not apply.

SEC. 8099. Funds appropriated by this Act, or made available by the transfer of funds in this Act, for intelligence activities are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414) during fiscal year 2006 until the enactment of the Intelligence Authorization Act for fiscal year 2006.

SEC. 8100. In addition to funds made available elsewhere in this Act, $5,500,000 is hereby appropriated and shall remain available until expended to provide assistance, by grant or otherwise (such as, but not limited to, the provision of funds for repairs, maintenance, construction, and/or for the purchase of information technology, text books, teaching resources), to public schools that have unusually high concentrations of special needs military dependents enrolled: Provided, That in selecting school systems to receive such assistance, special consideration shall be given to school systems in States that are considered overseas assignments, and all schools within these school systems shall be eligible for assistance: Provided further, That up to 2 percent of the total appropriated funds under this section shall be available to support the administration and execution of the funds or program and/or events that promote the purpose of this appropriation (e.g. payment of travel and per diem of school teachers attending conferences or a meeting that promotes the purpose of this appropriation and/or consultant fees for on-site training of teachers, staff, or Joint Venture Education Forum (JVEF) Committee members): Provided further, That up to $2,000,000 shall be available for the Department of Defense to establish a non-profit trust fund to assist in the public-private funding of public school repair and maintenance projects, or provide directly to non-profit organizations who in return will use these monies to provide assistance in the form of repair, maintenance, or renovation to public school systems that have high concentrations of special needs military dependents and are located in States that are considered overseas assignments: Provided further, That to the extent a Federal agency provides this assistance, by contract, grant, or otherwise, it may accept and expend non-Federal funds in combination with these Federal funds to provide assistance for the authorized purpose, if the non-Federal entity requests such assistance and the non-Federal funds are provided on a reimbursable basis.

SEC. 8101. None of the funds in this Act may be used to initiate a new start program without prior written notification to the Office of Secretary of Defense and the congressional defense committees.

SEC. 8102. The amounts appropriated in title II of this Act are hereby reduced by $350,000,000 to reflect cash balance and rate stabilization adjustments in Department of Defense Working Capital Funds, as follows:

(1) From ''Operation and Maintenance, Army'', $100,000,000.

(2) From ''Operation and Maintenance, Navy'', $150,000,000.

(3) From ''Operation and Maintenance, Air Force'', $100,000,000.

SEC. 8103. FINANCING AND FIELDING OF KEY ARMY CAPABILITIES.—The Department of Defense and the Department of the Army shall make future budgetary and programming plans to fully finance the Non-Line of Sight Future Force cannon and resupply vehicle program (NLOS–C) in order to field this system in fiscal year 2010, consistent with the broader plan to field the Future Combat System (FCS) in fiscal year 2010: Provided, That if the Army is precluded from fielding the FCS program by fiscal year 2010, then the Army shall develop the NLOS–C independent of the broader FCS development timeline to achieve fielding by fiscal year 2010. In addition the Army will deliver eight (8) combat operational pre-production NLOS–C systems by the end of calendar year 2008. These systems shall be in addition to those systems necessary for developmental and operational testing: Provided further, That the Army shall ensure that budgetary and programmatic plans will provide for no fewer than seven (7) Stryker Brigade Combat Teams.

SEC. 8104. Of the funds made available in this Act, not less than $76,100,000 shall be available to maintain an attrition reserve force of 18 B–52 aircraft, of which $3,900,000 shall be available from ''Military Personnel, Air Force'', $44,300,000 shall be available from ''Operation and Maintenance, Air Force'', and $27,900,000 shall be available from ''Aircraft Procurement, Air Force'': Provided, That the Secretary of the Air Force shall maintain a total force of 94 B–52 aircraft, including 18 attrition reserve aircraft, during fiscal year 2006: Provided further, That the Secretary of Defense shall include in the Air Force budget request for fiscal year 2007 amounts sufficient to maintain a B–52 force totaling 94 aircraft.

SEC. 8105. The Secretary of the Air Force is authorized, using funds available under the heading ''Operation and Maintenance, Air Force'', to complete a phased repair project, which repairs may include upgrades and additions, to the infrastructure of the operational ranges managed by the Air Force in Alaska: Provided, That the total cost of such phased projects shall not exceed $32,000,000.

SEC. 8106. In addition to the amounts appropriated or otherwise made available elsewhere in this Act, $12,850,000 is hereby appropriated to the Department of Defense, to remain available until September 30, 2006: Provided, That the Secretary of Defense shall make grants in the amounts specified as follows: $850,000 to the Fort Des Moines Memorial Park and Education Center; $2,000,000 to the American Civil War Center at Historic Tredegar; $3,000,000 to the Museum of Flight, American Heroes Collection; $1,000,000 to the National Guard Youth Foundation; $3,000,000 to the United Services Organization; $2,000,000 to the Dwight D. Eisenhower Memorial Commission; and $1,000,000 to the Iraq Cultural Heritage Assistance Project.

(TRANSFER OF FUNDS)

SEC. 8107. The Secretary of Defense may transfer funds from any currently available Department of the Navy appropriation to any available Navy shipbuilding and conversion appropriation for the purpose of funding shipbuilding cost increases for any ship construction program, to be merged with and to be available for the same purposes and for the same time period as the appropriation to which transferred: Provided, That all transfers under this section shall be subject to the notification requirements applicable to transfers under section 8005 of this Act.

SEC. 8108. The budget of the President for fiscal year 2007 submitted to the Congress pursuant to section 1105 of title 31, United States Code shall include separate budget justification documents for costs of United States Armed Forces' participation in contingency operations for the Military Personnel accounts, the Operation and Maintenance accounts, and the Procurement accounts: Provided, That these documents shall include a description of the funding requested for each contingency operation, for each military service, to include all Active and Reserve components, and for each appropriations account: Provided further, That these documents shall include estimated costs for each element of expense or object class, a reconciliation of increases and decreases for each contingency operation, and programmatic data including, but not limited to, troop strength for each Active and Reserve component, and estimates of the major weapons systems deployed in support of each contingency: Provided further, That these documents shall include budget exhibits OP–5 and OP–32 (as defined in the Department of Defense Financial Management Regulation) for all contingency operations for the budget year and the two preceding fiscal years.

SEC. 8109. Of the amounts provided in title II of this Act under the heading, ''Operation and Maintenance, Defense-Wide'', $20,000,000 is available for the Regional Defense Counter-terrorism Fellowship Program, to fund the education and training of foreign military officers, ministry of defense civilians, and other foreign security officials, to include United States military officers and civilian officials whose participation directly contributes to the education and training of these foreign students.

SEC. 8110. None of the funds appropriated or made available in this Act shall be used to reduce or disestablish the operation of the 53rd Weather Reconnaissance Squadron of the Air Force Reserve, if such action would reduce the WC–130 Weather Reconnaissance mission below the levels funded in this Act: Provided, That the Air Force shall allow the 53rd Weather Reconnaissance Squadron to perform other missions in support of national defense requirements during the non-hurricane season.

SEC. 8111. None of the funds provided in this Act shall be available for integration of foreign intelligence information unless the information has been lawfully collected and processed during the conduct of authorized foreign intelligence activities: Provided, That information pertaining to United States persons shall only be handled in accordance with protections provided in the Fourth Amendment of the United States Constitution as implemented through Executive Order No. 12333.

SEC. 8112. For purposes of section 612 of title 41, United States Code, any subdivision of appropriations made under the heading ''Shipbuilding and Conversion, Navy'' that is not closed at the time reimbursement is made shall be available to reimburse the Judgment Fund and shall be considered for the same purposes as any subdivision under the heading ''Shipbuilding and Conversion, Navy'' appropriations in the current fiscal year or any prior fiscal year.

(TRANSFER OF FUNDS)

SEC. 8113. Upon enactment of this Act, the Secretary of Defense shall make the following transfer of funds: Provided, That funds so transferred shall be merged with and shall be available for the same purpose and for the same time period as the appropriation to which transferred: Provided further, That the amounts shall be transferred between the following appropriations in the amounts specified:

From:

Under the heading, ''Shipbuilding and Conversion, Navy, 2003/2007'':

For outfitting, post delivery, conversions, and first destination transportation, $3,300,000;

Under the heading, ''Shipbuilding and Conversion, Navy, 2004/2008'':

For outfitting, post delivery, conversions, and first destination transportation, $6,100,000;

To:

Under the heading, ''Shipbuilding and Conversion, Navy, 2003/2007'':

SSGN, $3,300,000.

Under the heading, ''Shipbuilding and Conversion, Navy, 2004/2008'':

SSGN, $6,100,000.

SEC. 8114. None of the funds in this Act may be obligated for a classified program as described on page 18 of the compartmented annex to Volume IV of the Fiscal Year 2006 National Intelligence Program justification book unless specifically authorized in the Intelligence Authorization Act for Fiscal Year 2006.

SEC. 8115. (a) The Director of the Office of Management and Budget shall, in coordination with the Secretary of Defense and the Secretary of Homeland Security, conduct a study on improving the response of the Federal Government to disasters.

(b) The study under subsection (a) shall—

(1) consider mechanisms for coordinating and expediting disaster response efforts;

(2) examine the role of the Department of Defense in participating in disaster response efforts, including by providing planning, logistics, and relief and reconstruction assistance;

(3) consider the establishment of criteria for automatically triggering the participation of the Department of Defense in disaster response efforts; and

(4) assess the role of the United States Geological Survey in enhancing disaster preparation measures.

(c) Not later than May 1, 2006, the Director of the Office of Management and Budget shall submit to Congress a report on the study conducted under subsection (a), including—

(1) recommendations for improving the response of the Federal Government to disasters, including by providing for greater participation by the Department of Defense in response efforts; and

(2) proposals for any legislation or regulations that the Director determines necessary to implement such recommendations.

TITLE IX—ADDITIONAL WAR-RELATED APPROPRIATIONS

DEPARTMENT OF DEFENSE—MILITARY

MILITARY PERSONNEL

MILITARY PERSONNEL, ARMY

For an additional amount for ''Military Personnel, Army'', $5,009,420,000.

MILITARY PERSONNEL, NAVY

For an additional amount for ''Military Personnel, Navy'', $180,000.

MILITARY PERSONNEL, MARINE CORPS

For an additional amount for ''Military Personnel, Marine Corps'', $455,420,000.

MILITARY PERSONNEL, AIR FORCE

For an additional amount for ''Military Personnel, Air Force'', $372,480,000.

RESERVE PERSONNEL, ARMY

For an additional amount for ''Reserve Personnel, Army'', $121,500,000.

RESERVE PERSONNEL, NAVY

For an additional amount for ''Reserve Personnel, Navy'', $10,000,000.

NATIONAL GUARD PERSONNEL, ARMY

For an additional amount for ''National Guard Personnel, Army'', $232,300,000.

NATIONAL GUARD PERSONNEL, AIR FORCE

For an additional amount for ''National Guard Personnel, Air Force'', $5,300,000.

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, ARMY

For an additional amount for ''Operation and Maintenance, Army'', $21,915,547,000.

OPERATION AND MAINTENANCE, NAVY

For an additional amount for ''Operation and Maintenance, Navy'', $1,806,400,000.

OPERATION AND MAINTENANCE, MARINE CORPS

For an additional amount for ''Operation and Maintenance, Marine Corps'', $1,275,800,000.

OPERATION AND MAINTENANCE, AIR FORCE

For an additional amount for ''Operation and Maintenance, Air Force'', $2,014,900,000.

OPERATION AND MAINTENANCE, DEFENSE-WIDE

For an additional amount for ''Operation and Maintenance, Defense-Wide'', $980,000,000, of which up to $195,000,000, to remain available until expended, may be used for payments to reimburse Pakistan, Jordan, and other key cooperating nations, for logistical, military, and other support provided, or to be provided, to United States military operations, notwithstanding any other provision of law: Provided, That such payments may be made in such amounts as the Secretary of Defense, with the concurrence of the Secretary of State, and in consultation with the Director of the Office of Management and Budget, may determine, in his discretion, based on documentation determined by the Secretary of Defense to adequately account for the support provided, and such determination is final and conclusive upon the accounting officers of the United States, and 15 days following notification to the appropriate congressional committees: Provided further, That the Secretary of Defense shall provide quarterly reports to the congressional defense committees on the use of funds provided in this paragraph.

OPERATION AND MAINTENANCE, ARMY RESERVE

For an additional amount for ''Operation and Maintenance, Army Reserve'', $53,700,000.

OPERATION AND MAINTENANCE, NAVY RESERVE

For an additional amount for ''Operation and Maintenance, Navy Reserve'', $9,400,000.

OPERATION AND MAINTENANCE, MARINE CORPS RESERVE

For an additional amount for ''Operation and Maintenance, Marine Corps Reserve'', $27,950,000.

OPERATION AND MAINTENANCE, AIR FORCE RESERVE

For an additional amount for ''Operation and Maintenance, Air Force Reserve'', $7,000,000.

OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

For an additional amount for ''Operation and Maintenance, Army National Guard'', $201,300,000.

OPERATION AND MAINTENANCE, AIR NATIONAL GUARD

For an additional amount for ''Operation and Maintenance, Air National Guard'', $13,400,000.

IRAQ FREEDOM FUND

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for ''Iraq Freedom Fund'', $4,100,000,000, to remain available for transfer until September 30, 2006, only to support operations in Iraq or Afghanistan and classified activities: Provided, That the Secretary of Defense may transfer the funds provided herein to appropriations for military personnel; operation and maintenance; Overseas Humanitarian, Disaster, and Civic Aid; procurement; research, development, test and evaluation; the Defense Health Program; and working capital funds: Provided further, That of the amounts provided under this heading, $2,850,000,000 shall only be for classified programs, described in further detail in the classified annex accompanying this Act: Provided further, That $750,000,000 shall be available for the Joint IED Defeat Task Force: Provided further, That funds transferred shall be merged with and be available for the same purposes and for the same time period as the appropriation or fund to which transferred: Provided further, That this transfer authority is in addition to any other transfer authority available to the Department of Defense: Provided further, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: Provided further, That the Secretary of Defense shall, not fewer than 5 days prior to making transfers from this appropriation, notify the congressional defense committees in writing of the details of any such transfer: Provided further, That the Secretary shall submit a report no later than 30 days after the end of each fiscal quarter to the congressional defense committees summarizing the details of the transfer of funds from this appropriation.

PROCUREMENT

AIRCRAFT PROCUREMENT, ARMY

For an additional amount for ''Aircraft Procurement, Army'', $348,100,000, to remain available until September 30, 2008.

MISSILE PROCUREMENT, ARMY

For an additional amount for ''Missile Procurement, Army'', $80,000,000, to remain available until September 30, 2008.

PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEHICLES, ARMY

For an additional amount for ''Procurement of Weapons and Tracked Combat Vehicles, Army'', $910,700,000, to remain available until September 30, 2008.

PROCUREMENT OF AMMUNITION, ARMY

For an additional amount for ''Procurement of Ammunition, Army'', $335,780,000, to remain available until September 30, 2008.

OTHER PROCUREMENT, ARMY

For an additional amount for ''Other Procurement, Army'', $3,916,000,000, to remain available until September 30, 2008.

AIRCRAFT PROCUREMENT, NAVY

For an additional amount for ''Aircraft Procurement, Navy'', $151,537,000, to remain available until September 30, 2008.

WEAPONS PROCUREMENT, NAVY

For an additional amount for ''Weapons Procurement, Navy'', $56,700,000, to remain available until September 30, 2008.

PROCUREMENT OF AMMUNITION, NAVY AND MARINE CORPS

For an additional amount for ''Procurement of Ammunition, Navy and Marine Corps'', $48,485,000, to remain available until September 30, 2008.

OTHER PROCUREMENT, NAVY

For an additional amount for ''Other Procurement, Navy'', $116,048,000, to remain available until September 30, 2008.

PROCUREMENT, MARINE CORPS

For an additional amount for ''Procurement, Marine Corps'', $2,303,700,000, to remain available until September 30, 2008.

AIRCRAFT PROCUREMENT, AIR FORCE

For an additional amount for ''Aircraft Procurement, Air Force'', $118,058,000, to remain available until September 30, 2008.

MISSILE PROCUREMENT, AIR FORCE

For an additional amount for ''Missile Procurement, Air Force'', $17,000,000, to remain available until September 30, 2008.

OTHER PROCUREMENT, AIR FORCE

For an additional amount for ''Other Procurement, Air Force'', $17,500,000, to remain available until September 30, 2008.

PROCUREMENT, DEFENSE-WIDE

For an additional amount for ''Procurement, Defense-Wide'', $132,075,000, to remain available until September 30, 2008.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY

For an additional amount for ''Research, Development, Test and Evaluation, Army'', $72,000,000, to remain available until September 30, 2007.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE

For an additional amount for ''Research, Development, Test and Evaluation, Air Force'', $17,800,000, to remain available until September 30, 2007.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE

For an additional amount for ''Research, Development, Test and Evaluation, Defense-Wide'', $2,500,000, to remain available until September 30, 2007.

REVOLVING AND MANAGEMENT FUNDS

DEFENSE WORKING CAPITAL FUNDS

For an additional amount for ''Defense Working Capital Funds'', $2,716,400,000.

OTHER DEPARTMENT OF DEFENSE PROGRAMS

DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES, DEFENSE

For an additional amount for ''Drug Interdiction and Counter-drug Activities, Defense'', $27,620,000.

GENERAL PROVISIONS, TITLE IX

SEC. 9001. Appropriations provided in this title are available for obligation until September 30, 2006, unless otherwise so provided in this title.

SEC. 9002. Notwithstanding any other provision of law or of this Act, funds made available in this title are in addition to amounts provided elsewhere in this Act.

(TRANSFER OF FUNDS)

SEC. 9003. Upon his determination that such action is necessary in the national interest, the Secretary of Defense may transfer between appropriations up to $2,500,000,000 of the funds made available to the Department of Defense in this title: Provided, That the Secretary shall notify the Congress promptly of each transfer made pursuant to the authority in this section: Provided further, That the authority provided in this section is in addition to any other transfer authority available to the Department of Defense and is subject to the same terms and conditions as the authority provided in section 8005 of this Act.

SEC. 9004. Funds appropriated in this title, or made available by the transfer of funds in or pursuant to this title, for intelligence activities are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414).

SEC. 9005. None of the funds provided in this title may be used to finance programs or activities denied by Congress in fiscal years 2005 and 2006 appropriations to the Department of Defense or to initiate a procurement or research, development, test and evaluation new start program without prior written notification to the congressional defense committees.

SEC. 9006. Notwithstanding any other provision of law, from funds made available in this title to the Department of Defense for operation and maintenance, not to exceed $500,000,000 may be used by the Secretary of Defense, with the concurrence of the Secretary of State, to train, equip and provide related assistance only to the New Iraqi Army and the Afghan National Army to enhance their capability to combat terrorism and to support U.S. military operations in Iraq and Afghanistan: Provided, That such assistance may include the provision of equipment, supplies, services, training and funding: Provided further, That the authority to provide assistance under this section is in addition to any other authority to provide assistance to foreign nations: Provided further, That the Secretary of Defense shall notify the congressional defense committees, the Committee on International Relations of the House of Representatives, and the Committee on Foreign Relations of the Senate not less than 15 days before providing assistance under the authority of this section.

SEC. 9007. (a) From funds made available in this title to the Department of Defense, not to exceed $500,000,000 may be used, notwithstanding any other provision of law, to fund the Commander's Emergency Response Program, for the purpose of enabling military commanders in Iraq to respond to urgent humanitarian relief and reconstruction requirements within their areas of responsibility by carrying out programs that will immediately assist the Iraqi people, and to fund a similar program to assist the people of Afghanistan.

(b) QUARTERLY REPORTS.—Not later than 15 days after the end of each fiscal year quarter (beginning with the first quarter of fiscal year 2006), the Secretary of Defense shall submit to the congressional defense committees a report regarding the source of funds and the allocation and use of funds during that quarter that were made available pursuant to the authority provided in this section or under any other provision of law for the purposes of the programs under subsection (a).

SEC. 9008. Amounts provided in this title for operations in Iraq and Afghanistan may be used by the Department of Defense for the purchase of heavy and light armored vehicles for force protection purposes, notwithstanding price or other limitations specified elsewhere in this Act, or any other provision of law: Provided, That the Secretary of Defense shall submit a report in writing no later than 30 days after the end of each fiscal quarter notifying the congressional defense committees of any purchase described in this section, including the cost, purposes, and quantities of vehicles purchased.

SEC. 9009. During the current fiscal year, funds available to the Department of Defense for operation and maintenance may be used, notwithstanding any other provision of law, to provide supplies, services, transportation, including airlift and sealift, and other logistical support to coalition forces supporting military and stability operations in Iraq and Afghanistan: Provided, That the Secretary of Defense shall provide quarterly reports to the congressional defense committees regarding support provided under this section.

SEC. 9010. (a) Not later than 60 days after the date of the enactment of this Act and every 90 days thereafter through the end of fiscal year 2006, the Secretary of Defense shall set forth in a report to Congress a comprehensive set of performance indicators and measures for progress toward military and political stability in Iraq.

(b) The report shall include performance standards and goals for security, economic, and security force training objectives in Iraq together with a notional timetable for achieving these goals.

(c) In specific, the report requires, at a minimum, the following:

(1) With respect to stability and security in Iraq, the following:

(A) Key measures of political stability, including the important political milestones that must be achieved over the next several years.

(B) The primary indicators of a stable security environment in Iraq, such as number of engagements per day, numbers of trained Iraqi forces, and trends relating to numbers and types of ethnic and religious-based hostile encounters.

(C) An assessment of the estimated strength of the insurgency in Iraq and the extent to which it is composed of non-Iraqi fighters.

(D) A description of all militias operating in Iraq, including the number, size, equipment strength, military effectiveness, sources of support, legal status, and efforts to disarm or reintegrate each militia.

(E) Key indicators of economic activity that should be considered the most important for determining the prospects of stability in Iraq, including—

(i) unemployment levels;

(ii) electricity, water, and oil production rates; and

(iii) hunger and poverty levels.

(F) The criteria the Administration will use to determine when it is safe to begin withdrawing United States forces from Iraq.

(2) With respect to the training and performance of security forces in Iraq, the following:

(A) The training provided Iraqi military and other Ministry of Defense forces and the equipment used by such forces.

(B) Key criteria for assessing the capabilities and readiness of the Iraqi military and other Ministry of Defense forces, goals for achieving certain capability and readiness levels (as well as for recruiting, training, and equipping these forces), and the milestones and notional timetable for achieving these goals.

(C) The operational readiness status of the Iraqi military forces, including the type, number, size, and organizational structure of Iraqi battalions that are—

(i) capable of conducting counterinsurgency operations independently;

(ii) capable of conducting counterinsurgency operations with the support of United States or coalition forces; or

(iii) not ready to conduct counterinsurgency operations.

(D) The rates of absenteeism in the Iraqi military forces and the extent to which insurgents have infiltrated such forces.

(E) The training provided Iraqi police and other Ministry of Interior forces and the equipment used by such forces.

(F) Key criteria for assessing the capabilities and readiness of the Iraqi police and other Ministry of Interior forces, goals for achieving certain capability and readiness levels (as well as for recruiting, training, and equipping), and the milestones and notional timetable for achieving these goals, including—

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

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

(iii) the number of police candidates screened by the Iraqi Police Screening Service, the number of candidates derived from other entry procedures, and the success rates of those groups of candidates;

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

(v) attrition rates and measures of absenteeism and infiltration by insurgents.

(G) The estimated total number of Iraqi battalions needed for the Iraqi security forces to perform duties now being undertaken by coalition forces, including defending the borders of Iraq and providing adequate levels of law and order throughout Iraq.

(H) The effectiveness of the Iraqi military and police officer cadres and the chain of command.

(I) The number of United States and coalition advisors needed to support the Iraqi security forces and associated ministries.

(J) An assessment, in a classified annex if necessary, of United States military requirements, including planned force rotations, through the end of calendar year 2006.

SEC. 9011. Congress, consistent with international and United States law, reaffirms that torture of prisoners of war and detainees is illegal and does not reflect the policies of the United States Government or the values of the people of the United States.

SEC. 9012. Supervision and administration costs associated with a construction project funded with appropriations available for operation and maintenance, and executed in direct support of the Global War on Terrorism only in Iraq and Afghanistan, may be obligated at the time a construction contract is awarded: Provided, That for the purpose of this section, supervision and administration costs include all in-house Government cost.

SEC. 9013. Amounts appropriated or otherwise made available in this title are designated as making appropriations for contingency operations related to the global war on terrorism pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

This Act may be cited as the ''Department of Defense Appropriations Act, 2006''.

The committee amendment in the nature of a substitute was agreed to.

Mr. STEVENS. Along with the Senator from Hawaii, I am pleased to present the Defense appropriations bill for 2006. This bill reflects the bipartisan approach that my cochairman, Senator INOUYE, and I have always maintained regarding the Department of Defense. It is, once again, a pleasure

to work with him on this bill and with other members of our subcommittee and the full Appropriations Committee through this process.

This bill was reported out of the full Appropriations Committee yesterday by a unanimous vote of 28 to 0. We have worked hard to make certain the bill reaches out and is understood, is appreciated, and supported by every member of our Appropriations Committee.

As we will be debating this bill, there are hundreds of thousands of men and women in uniform forward deployed and serving our country in over 120 countries and also throughout the United States. Their bravery and dedication to our country are extraordinary, and their sacrifices do not go unnoticed.

Each year, the Department of Defense faces critical challenges. The Department must ensure that we can maintain high levels of readiness and we are able to respond to the call of duty wherever and whenever it is necessary. And it must ensure we are simultaneously invested in the resources which will enable us to meet the threats of tomorrow.

This bill, which Senator INOUYE and I will present I hope today, reflects a prudent balance among those challenges. It recommends $440.2 billion in budget authority for the Department of Defense. This funding includes $50 billion for contingency operations related to the global war on terrorism pursuant to section 402 of the concurrent budget resolution on the budget for 2006.

While this bill is a $7 billion reduction from that provided in the President's budget request for 2006, it still meets the Defense Subcommittee's allocation for both budget authority and outlays, and it is consistent with the objectives of this administration and the recommendations contained in the Senate national defense authorization bill for 2006 as it was reported.

We have sought to recommend a balanced bill to the Senate. We believe this bill addresses key requirements for readiness, quality of life, and transformation of the force. This bill will honor our commitment to our Armed Forces. It helps ensure they will continue to have first-rate training, modernized equipment, and quality infrastructure. It also provides the funds needed to continue the global war on terrorism.

Mr. President, yesterday Senator INOUYE and I met with GEN John Abizaid, Commander of the U.S. Central Command, and GEN George Casey, the Commander of the multinational force in Iraq, to discuss the global war on terrorism and the current situation in Iraq.

The central command, with its responsibility for the Middle East, the Horn of Africa, parts of south Asia, and central Asia, has the lead in fighting this war on terrorism. It is a war that some envision may last for several generations. I am not talking about the war in Iraq. I am talking about the overall war on terrorism. And I repeat, we are informed that is a war that many envision will last for generations.

The terrorists we face view this war as a worldwide crusade for their ideology, a war that they are willing to win at all costs, at least try to win at all costs. In fact, they see that inflicting suffering on innocent civilians furthers their cause. In my view, the United States has to lead the world in fighting this terrorist movement. We must remain resilient. We must set the example. We must stay the course.

Our meeting with Generals Abizaid and Casey was both insightful and disturbing, but I am convinced our country has entrusted this global war on terrorism to two very capable leaders. They understand the challenges we face and are committed to successfully prosecuting this war on terrorism.

We also talked about the strategy in Iraq and agreed that building local Iraq military capacity is a central tenet to our success there. General Abizaid and General Casey informed us that Iraqi security forces are already in charge of large parts of Iraq. Fourteen of the country's 18 provinces are now in charge of their own force.

Last year, before the Iraqi elections, we deployed an additional 12,000 troops to maintain stability throughout the countryside. This year, our senior commanders have only requested 2,000 troops for that same purpose. Let me repeat that. When they had an election last year, it was believed that 12,000 troops, our troops, in addition to the forces there, were needed to help maintain stability throughout the countryside. This year, senior commanders have only requested 2,000 troops for that. Although this is a small metric, it is tangible proof of forward progress and tangible proof that the Iraqis can, will, and are taking over substantial responsibility to meet the problems in their own country.

Currently, our military leaders have assigned 8 to 10 military personnel to each and every Iraqi unit as advisers. They are helping Iraqi units leverage their strength and shore up their weaknesses.

There are those who say we should accelerate this process, training more Iraqi forces faster so we can bring U.S. troops home sooner. this sounds like a straightforward solution, but the situation is not so simple or clear-cut.

Earlier this month, along with Senators WARNER and KERRY, I traveled to Iraq, and I repeatedly asked two questions: Can we speed up the training and equipping of Iraqi forces? And even more fundamentally, I asked of those there, both Iraqis and Americans, what do they think about our mission in Iraq.

On the first question, the unanimous feedback from U.S. civilian and military officials was that we cannot be rushed in the process of training Iraqis. It must be done in a careful and measured way.

The U.S. Government is not only helping to build Iraqi forces, we are building capacity both within the Iraqi ministries and the security forces within the Government itself. The Iraqi Government must assume responsibility for these forces, which means after the United States equips and trains these people, the Iraqis must pay their way and sustain them. This may lead to a drawdown of U.S. forces at an appropriate time in the future, but a premature withdrawal of U.S. forces would be disastrous for the Iraqi people and for the world. We must continue to demonstrate our commitment that we will stay in Iraq until our mission is complete and remain engaged in a mission so that we are certain that the Iraqis will complete that and be able to sustain their new Government.

The second question I asked was: What do you think of our mission in Iraq? The response I received was unanimous. U.S. civilians, our men and women in uniform, told me they believe we are doing what is important, that we should stay the course and get the job done, do our job.

I was impressed with the fact that so many young military people, when I asked them how long they had been there, told me they had been there two and three times, and they had asked to come back so they were sure they had a part in finishing the job we undertook in Iraq.

Senator INOUYE and I are part of a different generation. We are what is left of the World War II generation in the Senate. Our generation had no doubt about our duty. I believe the young men and women of today's Armed Forces share our commitment to preserve and protect freedom. Our visit with them was inspiring, and many times it left tears in my eyes. These young men and women make me proud to be an American. Every one of them volunteered to enter the armed services. There are no draftees in Iraq. I promised them that I am going to be back again to make certain they have the materials and the support they need.

On this same trip, we traveled throughout the region to Kuwait, Turkey, and other countries where we visited with senior NATO officials. They, too, talked about the broad problem of the world, the threat of international terrorism. These military leaders from other countries, as well as ours, and NATO highlighted the need for the United States to take the lead on the global war on terrorism and to continue to assist our friends and allies in Iraq, Afghanistan, Africa, and Europe, to make sure this crusade does not take root, that it does not gather steam.

The bill we will place before the Senate will enable us to maintain our commitment and our support of these troops. I am proud again to thank my cochairman, my friend for so many years, for his support and invaluable counsel on this bill. I thank Sid

Ashworth, who has worked with me, and Charlie Houy, who has worked with Senator INOUYE, and recognize them for their tremendous efforts on this bill. We have all worked together for a long time now, and I believe this is as good a bill as we have ever brought before the Senate, represented by the vote I mentioned. Every member of the full Appropriations Committee voted that we should be allowed to bring this bill to the floor.

I hope that sometime today that will be possible. I hope my friend understands the circumstances under which we are making statements.

I yield the floor.

The PRESIDING OFFICER (Mr. MARTINEZ). The Senator from Hawaii.

Mr. INOUYE. Mr. President, I rise today to offer my strong endorsement of H.R. 2863, the fiscal year 2006 Defense appropriations bill. As the chairman noted, this bill was unanimously approved by the Appropriations Committee. It is a bipartisan bill which was crafted by Chairman STEVENS with the full involvement of the minority.

In compliance with the committee allocations, this bill is $7 billion lower than the amount requested by the administration. As such, the committee had to make several difficult decisions to meet the reduced level. Even under these conditions, I can assure my colleagues that this is a very good bill which will meet our national security needs for the coming year.

The top priority of this measure is to ensure that we provide for the well-being of our men and women in uniform and their families. The bill includes a 3.1-percent pay raise, and it provides $19.3 billion to run our military hospitals and pay for the other day-to-day health care costs for our forces.

Not counting the costs of operations in Afghanistan and Iraq, this measure includes nearly $125 billion to safeguard military readiness and pay for other routine operations of the Department of Defense.

As most of my colleagues are surely aware, recruiting has become a greater challenge in recent years. So I am pleased to note that this bill includes $622 million above the budgeted amount to improve recruiting tools so that we can maintain the highest quality in our military. Furthermore, a total of $146 billion is recommended in this bill for investing in much needed equipment for our forces today and our forces of the future.

We all know that the war in Iraq is controversial, on which many of our colleagues have very strong opinions. But I believe what we all agree upon is the need to support our troops who are now serving in harm's way. To that end, the bill provides an additional $50 billion for pay, operations, and equipment to support our fighting forces overseas. These funds are essential to support these brave men and women.

Today is September 29. The fiscal year ends tomorrow. It is imperative that we move this bill as quickly as possible. After Senate passage, the committee will still need to take this bill into conference. Because of that, I would urge my colleagues not to offer amendments to this bill which might be better suited for other legislation except to meet truly emergency requirements. I believe there will be plenty of time in the coming months to consider issues which are not relevant to this defense spending measure.

This is a good bill. I strongly support it and urge all of my colleagues to do so as well.

Mr. STEVENS. Mr. President, I say to my colleagues that the classified annex that accompanies the 2006 Defense appropriations bill is available in S407 for all Members and those staffs who have appropriate clearance. There has been a request that we distribute this to Members' offices. That is prohibited. We must keep these documents in a classified area, and only those who are cleared may have access to them. This annex is available in S407. We will make arrangements for that room to stay open whatever time the Senators and their cleared staff wish to have access to it, but it is not possible for us to distribute.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

The PRESIDING OFFICER. The Senator from Iowa.

AMENDMENT NO. 1886

(Purpose: To make available emergency funds for pandemic flu preparedness)

Mr. HARKIN. Mr. President, I have an amendment I send to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Iowa [Mr. HARKIN], for himself, Mr. OBAMA, Mr. REID, Mr. KENNEDY, Mr. DURBIN, Mr. BAYH, Mr. DODD, Mr. SCHUMER, and Mr. REED, proposes an amendment numbered 1886:

On page , at the appropriate place at the end of Title 9, insert the following:

TITLE .

SEC. 101.

(a) From the money in the Treasury not otherwise obligated or appropriated, there are appropriated to the Centers for Disease Control and Prevention $3,913,000,000 for activities relating to the avian flu epidemic during the fiscal year ending September 30, 2006, which shall be available until expended.

(b) Of the amount appropriated under subsection (a)—

(1) $3,080,000,000 shall be for the stockpiling of antivirals and necessary medical supplies

(2) $33,000,000 shall be for global surveillance relating to avian flu

(3) $125,000,000 shall be to increase the national investment in domestic vaccine infrastructure including development and research

(4) $600,000,000 shall be for additional grants to state and local public health agencies for emergency preparedness, to increase funding for emergency preparedness centers, and to expand hospital surge capacity

(5) $75,000,000 shall be for risk communication and outreach to providers, businesses, and to the American public

(c) The amount appropriated under subsection (a)

(1) is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress); and

(2) shall remain available until expended.

(d) This title shall take effect on the date of enactment of this Act.

ORDER OF PROCEDURE

Mr. STEVENS. Mr. President, I ask unanimous consent that there be a period of routine morning business between the hours of 2:30 p.m. and 4 p.m. today. Senators have been invited to the White House to attend the swearing in of Judge Roberts. Buses will be provided for transportation. We will not conduct business during the period of that important event.

The PRESIDING OFFICER. Is there objection?

The Democratic leader.

Mr. REID. Mr. President, would the distinguished President pro tempore of the Senate allow us to be in a period of morning business during that period of time? There are some people who want to come and talk.

Mr. STEVENS. I am asking for morning business during that period. There would be morning business with no votes from 2:30 to 4 o'clock.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Iowa.

Mr. HARKIN. Mr. President, I wanted the amendment I sent to the desk read because I want those who are not here, who are maybe in their offices, and their staff to understand what it is. It is not that long of an amendment. It basically tracks what I said earlier in my opening statement.

I wish to respond a little bit to what was said on the floor just a minute ago. First of all, I point out to the Senator from Alaska that maybe this might be more appropriate on the Labor-HHS bill, the Labor-Health and Human Services appropriations bill.

I remind people, tomorrow is the end of the fiscal year. They have not brought the Labor-Health and Human Services appropriations bill to the floor. We do not know if they are ever going to bring it to the floor. So we do not have an opportunity to offer it there. The Defense authorization bill was up, and they took that off the floor. So I have not had an opportunity to offer it there.

Now we have Defense appropriations. Quite frankly, this is about defense. It is about defending our people—not against a terrorist but against terrorism, the terrorism of an avian flu pandemic. That is what this is about.

Now, I heard the Senator talk about BioShield. Well, I think maybe we ought to understand that BioShield money cannot be used for this because BioShield money can only be used for

drugs for which there is no commercial market. Obviously there is a great commercial market for Tamiflu.

So they can have all kinds of study groups and stuff going on down at the White House, but they have been privy to this information for a long time down at the White House, I say to my colleagues, more privy to this information than we have been. So if people are saying, ''Well, why are you offering this now?'' I am offering it now because it is the midnight hour. We have to do something about this. We have to put the money up there. We have to get moving on it now—not next year, not after some study group in the White House has banged this thing around for another 3 months.

Who is in charge of this study group? I do not know. We had a briefing yesterday by Secretary Leavitt, Dr. Fauci, Dr. Gerberding, others. I thought it very unusual we would have a top-secret meeting, a briefing. Be that as it may, that is what they wanted to do. It became clear to me we have to do something. We can't dawdle any longer.

The Senator said there is a task force at the White House working under BioShield. That is not what this is about. BioShield, fine, that has its own process. There is a reason for BioShield, for developing drugs that have no commercial market. That is not what this is about. This is about money for surveillance, quarantine. It is about money for building up local public health facilities, buying antivirals to cover half of our people. There is a market for that. We just don't have them; that is all. It is about putting money into vaccine production.

We only have one flu vaccine manufacturing plant in America. I am told the reason for that is because there is not much profit in vaccines, not like Viagra or Cyalis, drugs such as that. I can't fault the drug companies. There is no money to be made from this. They are in the business of answering to their shareholders. This is a proper place for Government interference, interjection.

Some of the things I heard from Alaska didn't comport with what we are trying to do. H5N1, the virus that struck in Southeast Asia, was isolated. We brought it back to NIH. They have been developing a vaccine based on H5N1. Preliminary reports are promising, but we are not there yet. The problem is, if we run off on a tangent, all we do is make the vaccine for H5N1, we might be invaded by H5N2 or 3, or 4 or 5, some other mutation, and that vaccine may not be adaptable for that. That is why we need to build up the vaccination manufacturing capability in this country.

Yes, we need to be preparing the vaccine for H5N1, but we have to build up capacity for rapidly developing other vaccines in case it is a mutation and is not that virus. Keep in mind, this is not some scenario of maybe. When you talk to the people at the Centers for Disease Control and Prevention or NIH, they say it is not a matter of if, it is when. We have to be prepared.

We had warnings before. We had warnings about Katrina. We knew things weren't adequate in New Orleans and the gulf coast. We had a lot of warnings before 9/11 about terrorists blowing up the World Trade Center, using airplanes as weapons. We had all those warnings. We ignored them. We cannot afford to ignore this.

The chairman raised all kinds of arguments as to why this should not be on the Defense appropriations bill. Well, we don't have any other bill. It is before us. This is a money matter. It has to do with using Government money to get us ready. Quite frankly, I can think of a better place than the appropriations bill.

The Senator from Alaska also said this has never happened where we have done something that didn't pertain to our troops and defense on an appropriations bill. I am sorry. About 14 years ago, I offered an amendment to increase funding for breast cancer research to the Defense appropriations bill, and it was adopted. Quite frankly, I must say, the DOD has done a great job in utilizing those funds ever since, and the money we put in after that. They have done some of the best grant programs on breast cancer research. That didn't have anything to do with troops in the field, but it was added to the Defense bill. That is not the only example. There are others. I mentioned that one because I happened to be involved. To say we have never done this before on a Defense appropriations bill is not factual.

I am hopeful we can get to a vote on this amendment and have a strong bipartisan vote on this bill to get us ready and to reassure our people that we are going to defend them to the maximum extent possible from an outbreak of avian flu.

I yield the floor.

The PRESIDING OFFICER (Mr. THUNE). The Senator from North Carolina.

Mr. BURR. Mr. President, I rise to commend my colleague from Iowa. My colleague recognizes the need for this country to prepare for a possible influenza pandemic. I am not here to be a historian, to determine what has happened in the past on Defense appropriations bills. I will share that disease surveillance is not something new. It occurs day in and day out. The Centers for Disease Control is an active participant in the surveillance efforts for a potential global outbreak of avian flu. Post-9/11, this country became not only concerned but began actively preparing for consequences of chemical, biological, and radiological threats that could be used by terrorists.

We should pause and remind ourselves these potential acts can be deliberate, accidental, or natural. Clearly, the threat of avian flu is a natural occurrence. The Centers for Disease Control, the World Health Organization, all participate in preventing the spread of avian flu and work to make us better understand when that threat may affect us here at home.

The Senator from Iowa targets a number of things that are very appropriate and important: stockpiles, global surveillance, a national investment in domestic vaccine infrastructure, additional grant moneys for local public health agencies. But clearly, the chairman of the Appropriations Committee is right; the majority of these need to be considered in and appropriated from the committees that have jurisdiction over the relevant agencies—the National Institutes of Health, the Centers for Disease Control.

We are all alarmed about any of these threats, whether it is deliberate, accidental, or natural. This year the Subcommittee on Bioterrorism and Public Preparedness has held six hearings and/or roundtables on this subject. We have examined the infrastructure we currently have to research, develop, and approve countermeasures against all of these threats. These countermeasures can be antivirals, as the Senator spoke of, for avian flu. They could be vaccines, as we have already purchased with BioShield, for anthrax for example. We are committed to ensure that we have the right kinds of countermeasures to protect the American public.

But we have a fiduciary responsibility to the American people, too. That is to make sure that we do not invest billions and billions and billions of dollars into a stockpile that, in fact, has a life expectancy shorter than the threat.

I have come to plead with my colleagues, let's approach this in a comprehensive way. Let's, in fact, put together a plan that addresses not only avian flu but all of those chemical, biological, radiological threats that exist today. I remind you of the threat from anthrax and smallpox we have debated in this building before this date. I remind my colleagues that we have currently invested some $800 million for anthrax vaccines for the national stockpile. We have this week received a briefing from the Secretary of Health and Human Services, as Senator HARKIN said, and the Director of the CDC and the head of National Institute for Allergies and Infectious Diseases during which they talked about their initial approach to the threat of avian flu. I stress the word ''initial'' because it is yet to have the input of this body, of the committees, and the subcommittees that have held hearings, that have met with representatives from industry, that understand the deficiencies in our infrastructure to confront this and other similar threats.

Vaccine shortages are not just an infrastructure deficiency for avian flu. There is a deficiency across the board for vaccines in this country, in large part because of the policies we have adopted. I suggest this is not an issue we can just throw money at. This is an

issue that needs a comprehensive plan and approach as to how we set up a structure and mechanism so we are not on this floor in the future talking about further deficiencies. In many cases, everything Senator HARKIN lists will be components of comprehensive legislation that we plan to deal with how much and what we should stockpile. It will deal with global surveillance and whether we can do it better than we do today. It will deal with the vaccine infrastructure and our reliance on having the manufacturing, research, and development capabilities on the shores of the United States and not have us reliant on a company that might have a facility outside of the United States.

Once again, I urge my colleagues, let's do it in a comprehensive way so we are prepared to move forward in an expedited process that would answer all these questions before we adjourn this calendar year.

Mr. HARKIN. Will the Senator yield?

Mr. BURR. I am happy to yield.

The PRESIDING OFFICER. The minority leader.

Mr. HARKIN. Mr. President, I was yielded to for a question.

The PRESIDING OFFICER. The Senator from North Carolina yielded for a question to the Senator from Iowa.

Mr. BURR. Will the Senator from Iowa allow me to yield to the minority leader?

Mr. HARKIN. Absolutely.

I thank the Senator. He is a very thoughtful individual and chairman of the Bioterrorism Subcommittee on which I sit. He has given a thoughtful response. I respect that. I think there is a certain logic to what the Senator has said. I might use the phrase ''seductive logic,'' because obviously there is a lot more out there than just this.

I respond to my friend by using an analogy: Just as I thought, it was wrong to put FEMA under Homeland Security because they are two different things. Homeland Security has to do with terrorism, that kind of threat; FEMA, natural disasters. I still think those should be separate. I thought it was wrong before to put them together. This is also the same kind of thing. The bioterrorism the chairman has been doing a great job at, that is one thing. The surveillance that is needed for terrorism and things such as that is different than the kind of surveillance needed by the CDCP in terms of a flu outbreak. You are talking about different people, different disciplines, a whole different set of parameters other than fighting some kind of biological terrorist threat.

So while there may be logic, at some point, for doing this in a broader authorization bill—that is fine—I am saying to my friend, I don't think we have time to wait for that. I don't know when the bill would come up. Secondly, as I said to the chairman of this committee, this probably ought to be on the Labor-Health and Human Services appropriations bill. But that has not been brought up, and I don't know if it is ever going to be brought up.

So my thinking is that because of the urgency of this—and the Senator and I heard the briefing yesterday—I thought we ought to at least do something to get this thing moving and moving now rather be waiting to January or February or who knows when. So I submit to the chairman that while he has logic in what he says in putting this together, I think in this one case it has to be separated out right now. That is all I am trying to say.

Mr. BURR. Mr. President, let me try to connect the logic with the reality, that if the Senator permits me, I will sit down with him next week. I believe I can show him at least the initial language that puts this altogether in a comprehensive way and in fact addresses not only the deliberate and accidental biological, chemical, and radiological threats but also includes the natural threat that avian flu clearly emanates from. I believe there is a new structure, not an existing structure, within the framework that will work, and if the Senator will work with me next week, I think his comfort level would be as great as mine today that we can address this threat in a comprehensive way, and that is a pledge that we will do it expeditiously, this year.

Mr. HARKIN. I say to my friend, if he will yield further, I appreciate it. I would like to work with him on this, and I think our staffs have been, but again I am not certain when we are going to get to the appropriation on that. That is what I don't know. When will we ever get to an appropriation on that? I say to my friend, I don't know. As I said, there is a logic in what he is saying. I am saying because of the problem of avian flu, because it could be so imminent, I don't think we have any days to wait. That is all I am saying.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina holds time.

Mr. BURR. I would be happy to yield time to the minority leader.

Mr. REID. The Senator doesn't need to recognize me. The Chair needs to recognize me. Is he finished?

Mr. BURR. Does the Senator need time before 2:30?

Mr. REID. I don't know. Are we under controlled time?

The PRESIDING OFFICER. The Senate is not under controlled time.

Mr. REID. I would like to be recognized.

The PRESIDING OFFICER. Does the Senator from North Carolina yield the floor?

Mr. BURR. If the minority leader will allow me a few more minutes, I will conclude my comments as they relate to the amendment by the Senator from Iowa.

Let me say, if I can, for the purposes of what the Senator raised with me, there is a willingness on the part of Members on both sides of the aisle that this body move expeditiously to address this threat. I don't believe the timing is going to be a problem as we move through this year. I think it is a question of whether we sufficiently construct a mechanism to assure us that we have done the right thing; that just to dump money into any system that might be deficient today would be a mistake. I truly believe that with the support on both sides of the aisle and both bodies of leadership, this is an issue we can sufficiently resolve and we can do it in an expeditious way.

With that, I yield back my time.

The PRESIDING OFFICER. The minority leader.

Mr. REID. Mr. President, I thank you very much. I apologize to the Senator from North Carolina for interrupting. I did not mean to do that.

Mr. President, I approach this a little differently. There is always tomorrow. But on this issue, there is no tomorrow; there is only today. I have been worried about this issue for some time. Yesterday, my concern became paramount. The people of the State of Nevada and this country deserve our attention today, not tomorrow.

Dr. Julie Gerberding said:

> . . . many influenza experts, including those at CDC, consider the threat of a serious influenza pandemic to the United States to be high. Although the timing and impact of an influenza pandemic is unpredictable, the occurrence is inevitable and potentially devastating.

I am concerned about smallpox. I am concerned about anthrax. I am concerned about chemical terrorism, biological terrorism. But this pandemic is coming. We have been told this time and time again. I think it is incumbent upon this body to pass our amendment that is now before the Senate. Republicans and Democrats need to pass this amendment because the American people deserve it.

Four years after 9/11, the Government was supposed to be better prepared for the next national disaster. Yet as we witnessed all too clearly and painfully with Hurricane Katrina, our Government was not. We owe it to the American people to do better in the future. Today, we have that opportunity.

The human and economic toll of Hurricane Katrina has been dramatic, but the devastation caused by Katrina would pale in comparison with a potential global avian flu pandemic, which, the head of the Centers for Disease Control says is inevitable.

One health expert has concluded that nearly 2 million Americans would die in the first year alone from this. Now, a flu pandemic in the United States would cost our economy hundreds of billions of dollars due to death, lost productivity, and disruptions to commerce and society.

Perhaps the only thing more troubling than contemplating the possible consequences of avian flu is recognizing that neither this Nation nor the world is prepared to deal with it. We have no plan. Today we have no plan.

We know that one of our best opportunities to limit the scope and consequences of any outbreak is to rapidly detect the emergence of a new strain that is capable of sustained human-to-human transmission. Yet we are not devoting enough resources to effective surveillance abroad.

We all know that State and local health departments will be on the front lines of a pandemic and health care providers must develop surge capacity plans so they can respond to a pandemic.

This Congress is poised to approve a $130 million cut for State and local preparedness funding for the Centers for Disease Control. That is in the President's budget—a $130 million cut.

We also know once a flu strain has been identified, we need to develop a vaccine. That takes time, some say as long as 8 months. Our existing stock of vaccines, assuming they are effective against a future, as yet unidentified, strain may protect less than 1 percent of all Americans. And we have only one domestic flu vaccine manufacturer located in the United States.

It is estimated that if our capacity to produce a vaccine is not improved, it could take 15 months to vaccinate the first responders, medical personnel and other high risk groups.

We know it will take months to develop, produce, and distribute a vaccine once we have had it perfected. But we must rely on antiviral medicines as a stopgap against this pandemic. Other nations that certainly do not have the resources we have, including Great Britain, France, Norway, Portugal, Switzerland, Finland, and New Zealand have ordered enough of this Tamiflu, an antiviral pill, to cover up to 40 percent of their population. We have virtually nothing.

The consequences of a pandemic could be far reaching, impacting virtually every sector of our society and our economy. Yet we have not taken appropriate action to prepare the medical community, business community, or the American public so they can take necessary steps to prepare for and respond to an avian flu outbreak.

This great country of ours can do better. We have to. We cannot afford to wait to do better. That is why I am so happy to join my friends in sponsoring this amendment.

To put this amendment in perspective, this amendment calls for $3.9 billion in emergency funds for pandemic flu preparedness at the CDC. To put this amount in perspective, the cost of our amendment is less than what we spend in 1 month on the war in Iraq—far less than we spend in 1 month there. We are facing the real prospect of another war here at home called the flu. This amendment would go a long way toward committing the resources necessary to fighting and winning the war.

People say, well, where are we going to get the money? We have no choice. The American people deserve it. We can't stay back saying we will do it tomorrow. We need to do it today and I want everyone within the sound of my voice to know this is not a partisan issue. We need Republicans and Democrats to support this effort because this flu is going to strike us all.

This is not meant to be alarmist. It is meant to let everyone know the time is here to do something about this.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. BURR. Mr. President, we have several minutes remaining before we move on. I take this opportunity to assure the minority leader that I was in the same briefing. I think all Members were somewhat shocked at some of the things we heard. This is a Member who was not shocked because I have been charged as a subcommittee chairman since the beginning of the year with looking at all the aspects of this. I read daily the international press reports of how many new cases of avian flu, in what country, how many humans have contracted it from an animal source, how many humans potentially have contracted it from another human. The reality is this is something that from a committee standpoint we keep up with. We understand the sense of urgency. I plead with my colleagues that the answer is not to throw money at the threat. It is to have a comprehensive plan where research and the investment for that research pays off in countermeasures to protect the American people.

Senator HARKIN described very well that what is H5N1 avian flu in most of Southeast Asia today, by the time it travels, whether it is by humans or potentially by wild birds, the mutations that may take place might make irrelevant any vaccine that is produced today and antivirals that exist today, used to treat it might have potentially less than a satisfactory effect. Without a system that invests in research and development, how in the world do we expect new antiviral drugs and new vaccines to be produced?

To suggest that we put all our eggs into this limited approach—let's put this money up, and let's buy whatever is available on the marketplace—is comforting if, in fact, we believe this is a threat for tomorrow or next week or next month. The reality is this pandemic may occur next year or 3 years or 5 years down the road, and if we want to protect the American people, if we want to do our job, then you have to set up a comprehensive mechanism for that research, that development, and whatever product is needed to address the threat we may face.

Again, I commend those Members who have come to the floor and proposed the appropriations for this item. I disagree that this is the appropriate bill. I disagree that you should appropriate this much money or any money without a comprehensive plan as to how we produce countermeasures that continue past this one appropriations.

I pledge to the minority leader and to Senator HARKIN, but more importantly to every Member of this body, to work with them aggressively over the next 60 days to not only produce legislation out of the subcommittee, but to work with my chairman, Chairman ENZI, and to work with both leaders and all 100 Senators to make sure this legislation is passed in this body and by the House of Representatives, and signed into law by this President. I believe that it is that urgent. But, there is also a requirement for us to do it right, in fact, that is the single most important factor that we should consider.

I yield the floor.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to a period for the transaction of morning business until 4 p.m.

The Senator from Wyoming.

AMENDMENT NO. 1886 TO THE DEPARTMENT OF DEFENSE APPROPRIATIONS BILL

Mr. ENZI. Mr. President, I wish to continue the discussion we were having. I cannot tell you how disappointed I am that the first amendment on the Department of Defense appropriations bill is one dealing with avian flu. If that is the most important amendment the other side of the aisle has for the Department of Defense bill, we ought to go ahead and vote on the appropriations bill as a whole right now. That is not the appropriate place to put it.

To make it sound as though nobody is working on this issue and no money is available is a total disservice to the agencies that work on it and this body as a whole. We have been working on it. We have been working on it partly through the Katrina episode, making sure vaccines and other items that were needed for whatever would be available down there in a timely manner. Fortunately, we already had some laws in effect that allowed the Secretary of Health and Human Services to take some emergency action to put items in place and get things done. We will be reviewing that to see if they worked as well as they could.

We have had a bioshield fund in place for a while. That bioshield fund has money in it to do what needs to be done on any kind of terrorism or pandemic that comes up. What we have lacked is the plan. Actually, the plan falls under the jurisdiction of my committee, and we have been working on it. I divided the committee up—and Senator HARKIN is on the committee—to more closely follow the acronym of our office. We are the HELP Committee, and we are in charge of health and education and labor and pensions.

Of course, we have been devoting a tremendous amount of time recently to getting a pensions bill ready so it can be debated on the floor on a moment's notice. It is ready to go. There is a lot of agreement on both sides of the aisle, so we can get that out of here pretty

fast and protect hard-working Americans' pension funds. But we need to do the Department of Defense appropriations bill first.

A more appropriate place to debate this issue would be on almost anything that comes up later. As the Senator from Iowa knows, if there is a lot of debate on a bill that comes up, it probably is not going anywhere at this time of the year and with the crises we face. So perhaps that is why he decided he would put it on this bill.

We are working on it. Again I assure everybody we are working on it in the subcommittee that deals with public health and bioterrorism, under the jurisdiction of Senator BURR. He has been doing an outstanding job with that subcommittee. He hired some spectacular people who have a depth of understanding that I don't think we have seen for a long time in regard to those particular issues. He has held hearings on those issues and gathered valuable information. He has gone pretty far afield to make sure we are covering all of the things that could happen.

He has a bill that is virtually ready to go. It will include the capability and the plan for handling a pandemic, as well as any unexpected event. It greatly compresses the time for dealing with those issues from anything we have had before. It provides a coordination basis that is necessary for unexpected events.

I congratulate him for his efforts and for how widely he has researched it, and for the number of fellow Senators he has involved in it.

Yesterday, there was a briefing he helped set up so we would know more about, particularly, avian flu. That kind of thoroughness should be congratulated. We ought to be working with him to make sure we are getting the bill done.

I have to say, whether the threat is made by man or one that occurs naturally, we need to be prepared, and I agree with Senator HARKIN on that point.

Senator HARKIN, Senator BURR, and I serve on the Senate Committee on Health, Education, Labor, and Pensions. All of us also serve on the Subcommittee on Bioterrorism and Public Health Preparedness. As I said, Senator BURR is chairman of that subcommittee. He has held six hearings and roundtables on what we need to do to have a strong national biodefense.

As chairman of the full committee, I am looking forward to working with Senator BURR, Senator HARKIN, and the rest of the committee members to pass a bill this fall that will develop our capabilities to develop defenses against avian flu and a host of other biological threats we face—some known and some unknown—regardless of whether they are manmade or naturally occurring.

Senator BURR has been working on that comprehensive bill to build on Project BioShield. His bill will address everything from liability protection to biosurveillance, from the threat of terrorism to the threat of a normal disease.

As committee chairman, I fully intend to report that legislation to the floor this year to create a viable and innovative biodefense industry. We do need to create incentives and eliminate barriers to develop this industry because we cannot count on the Government alone to supply us with the countermeasures, the antidotes, and the detection tools we have to have to ensure our safety against biological threats.

Most importantly, we already have billions of dollars available in Project BioShield to do what Senator HARKIN wants to do. What we need to do is create an environment that will encourage business into this industry before we discourage them out of the industry. We need to get them back in. We need the innovativeness of small business and big business, and we need to make it more attractive so the drug and biotechnology companies will want to be engaged.

We have the money. What we need is a plan, and that plan is what we have been working on diligently. I do ask Senator HARKIN to work with me, to work with Senator BURR, to work with our majority leader, and to work with Senator KENNEDY, the ranking member on the HELP Committee, to make that happen. We have the capability to do it. We should be able to put together a package that should take relatively short debate on the floor, the House can match up to it, and we can do a conference and get it into effect. That would be better than having a full-blown debate on the Department of Defense appropriations bill, holding that bill up interminably when the money is needed, and creating difficulty in the conference committee, which will undoubtedly result in this measure being thrown out of the conference committee because it is not applicable to this bill and, therefore, that conference committee.

I appreciate the attention he has brought to the issue. It has brought attention to the issue. We need to do it the right way, and that is to include it in the development of a comprehensive bill that will deal with public health and bioterrorism.

Again, I congratulate Senator BURR and all those who have been working with him on developing that bill. I don't think anybody could have put it together in a shorter time period than he has. We are just 9 months into this term, and he is already delivering. That is a tremendous statement on our part of his capability. Again, I cannot express how thorough it has been. Let's do it right. Let's do it through a stand-alone bill on which both sides of the aisle can join. Let's get this done, solved, and eliminate it as a problem under the Department of Defense.

I yield the floor.

The PRESIDING OFFICER. The Senator from Indiana.

AVIAN FLU

Mr. BAYH. Mr. President, let me begin by thanking our colleague, Senator KENNEDY from Massachusetts. He is busy and has a lot on his agenda. He has graciously agreed to let me speak before giving his remarks. I thank him for his courtesy.

I also commend Senator HARKIN, our colleague from Iowa, and Minority Leader HARRY REID for putting this pressing issue squarely on the national agenda. The issue of avian flu is one of the critically important issues of our time. Second only to the potential for the existence of weapons of mass destruction in the hands of suicidal terrorists, this issue has the potential to be catastrophic to the national security interests of this country.

I cannot imagine a more timely issue or one more appropriate to be brought up on this legislation than something that will protect the American people who are currently dreadfully exposed to the possibility of a global pandemic. We need a new sense of urgency in addressing this issue.

People have died because of avian influenza: 115 people have contracted it in Asia; 59 of those people have died. Leading experts say it is only a matter of time before this deadly disease becomes more efficient in moving from person to person. We should not await that dreadful day, but act proactively to protect the national security interests and the health interests of the people of the United States of America.

Previous influenza epidemics have been catastrophic, killing not hundreds of thousands, but millions of human beings. We cannot afford to wait for that kind of event to occur.

We are currently woefully unprepared. The estimates are that we have in our stockpiles only enough vaccine to cover about 1 percent of the American people. There are about 2.3 million doses of Tamiflu and 2 million doses of experimental pandemic flu vaccine in our stockpile. And another antiviral may have been compromised by the Chinese use on their poultry population, thereby imperiling its efficacy. We are way behind the curve in preparing for a potential outbreak or pandemic of this severity and potential magnitude. Other developed nations are way ahead of us in terms of compiling their stockpiles and preparing their public health agencies for a rapid response to this grave health threat.

The final point I wish to make is I think more than anything else, the lesson of Hurricane Katrina has taught us this: When it is a matter of life and death for the American people, we better prepare for the worst, even as we hope for the best because then one of two things will happen: If the worst occurs, you are prepared to protect the life, the security, and the safety of those who place their confidence in us. That is the very least they should expect from their Government. And if the worst did not happen, then we will be pleasantly surprised.

When it comes to dealing with avian influenza, let us not have a repeat of the mistakes of Hurricane Katrina. Let us be prepared so we may protect our citizens or so we may be pleasantly surprised. That is what Government is all about. That is why I am pleased to be a cosponsor of the Harkin amendment.

I thank our leader HARRY REID and, once again, Senator KENNEDY for a lifetime of leadership on these issues and for his courtesy to me today.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. COLEMAN). The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I first pay tribute to my friend, colleague, and the chairman of our HELP Committee, Senator ENZI, for his comments and his statements. We have worked very closely together and will continue to do so on a variety of different health-related issues. We are working together on the challenges that we are facing from Hurricane Katrina, and we are also working on health and education, as well as issues of pensions and higher education.

We come at this with somewhat different viewpoints. First, I commend Secretary Leavitt for an excellent briefing and presentation yesterday. All of our colleagues have had the opportunity to read in our national newspapers the dangers associated with avian influenza, including the potential threat that it presents and why it is different from the seasonal flu that concerns families all over this country, particularly to the elderly.

We have to be reminded that 36,000 people every year die from the flu, even when we work to make sure they have access to the appropriate flu vaccine. But that is the number that we lose, and that certainly is a tragedy.

We heard an outstanding presentation by Secretary Leavitt, as well as an outstanding presentation by Dr. Julie Gerberding, who is the head of the CDC and who has been enormously perceptive in terms of looking at the avian flu that we are facing. We also heard from General Michael Hayden, Deputy Director of National Intelligence, and others. The one thing that came out of that meeting, that I think all of us were impressed by, is the sense of immediacy. I think that is what Senator HARKIN is reacting to and responding to, the real potential danger which would be devastating to potentially tens of millions of Americans.

Perhaps we are being overly sensitive to this issue by adding this amendment to the Defense appropriations bill because of the recent tragedy of Hurricanes Katrina and Rita. Obviously Katrina has been particularly devastating, and Rita was certainly enormously harmful as well.

There were several of us in that briefing who left saying if we are going to make a mistake, it will be on the side of taking too much action.

The Secretary outlined a very vigorous program that he himself is involved in, working with the other agencies of Government and working with other members of the Cabinet. Avian flu is going to involve just about every kind of public policy issue, including transportation, health, commerce, and so many others. He gave us the assurance that he is going to have his own plan that will be released in the next few weeks.

As Senator HARKIN and others have pointed out, this particular legislation outlines the areas where funding should be directed, and also gives great flexibility to the administration in terms of its expenditures. Senator HARKIN says that the funds will be available until spent. By passing this amendment today, we will not get caught at a time when either the Senate or the House is not in session. We now have an opportunity to make the necessary resources available, as well as direct the ways that it ought to be expended.

During the presentation, the Secretary pointed out that their goal was to buy enough antiviral treatment to cover 80 million people, which is about one-quarter of the Nation's population. That was going to be at the cost of $20 a course of treatment. It was brought up by our colleagues that if this pandemic strikes the United States, there is not going to be a family that is not going to want to make sure that they have protections for their children and for themselves, for their spouses, for their parents, and for their grandparents.

Every family is going to want to make sure they are able to afford and obtain that antiviral treatment. If one is affected by avian influenza and the antiviral treatment is taken immediately, the risk of death is diminished in a dramatic way. I think it is going to be very difficult to accept that this Nation will be satisfied with just one out of four Americans having access to this treatment. Even more so, when we already know the potential dangers of a pandemic by what we have seen in the places affected and impacted by avian flu.

This legislation will only cover 50 percent of the population. It does not cover three out of four Americans. And, it does not cover the whole population. It costs $1.6 billion just to cover a quarter. We doubled that roughly to $3.2 billion, which puts us into the range suggested by experts.

The point that was made very carefully by the Secretary is that we are going to have to deal with surge capacity, and that our hospitals do not have this capability at the present time. That is going to be very important.

Previously, we have provided help and assistance to local communities and to State agencies to help them meet their surge capacity needs. Beyond that, it is going to be enormously important that we invest funds, as this legislation does, in surveillance—not only detection in this country but detection in foreign countries. That is the best way that we are going to be able to deal with this avian flu, to get the earliest possible detection.

As a result of that briefing yesterday, I do not think any of us would feel that we have a full alert system working around the world. We had reports from various countries. A number of the countries, large countries as well as small, have effectively buried this health challenge and denied that they ever had it. We have to be very proactive if we are going to protect Americans. We have to be able to develop a system internationally where we can identify early warning signs of a pandemic. That kind of surveillance, is included in this legislation.

We have to make sure we have the capability in our States to be able to detect this when it first affects a community. We have to set up a system for our health clinics and for our hospitals to make sure that the first indications of this kind of health challenge are going to be addressed. We need the detection and then we need the containment. To contain flu, we need to build our public health infrastructure in the local community. We are very far away from that kind of capability.

A year ago, I think the Department submitted a public report about how many States actually had moved ahead in terms of developing their plans. About half of the states have yet to develop pandemic preparedness plans, and those with plans have yet to be evaluated for quality and feasibility.

When I entered the Chamber, I was listening to my friend, Senator ENZI, talk about the BioShield Program which we put in place in preparation for the kind of challenge that we might face from bioterrorists. It focused on different bioterrorism agents that might pose a direct health threat, and allows the Secretary to put in place a system to respond quickly and effectively to those kinds of challenges.

Our colleague, Senator BURR from North Carolina, has held an extraordinary number of hearings in these areas. I know he has been preparing legislation to deal with a number of these items that I am mentioning today. He has done a magnificent job in the development of those hearings. But that still does not mean that with the kind of challenge avian flu presents, which can be so devastating, that we should not be alert and ready to go.

We can point out that our whole system of vaccines is woefully lagging in the United States for a variety of different reasons. Today, we do not have the direct capability and capacity to develop the kind of avian flu countermeasures we need, including vaccines or producing enough antiviral medication. The best estimate is even if we were to give all the contracts out today, it would be well into the year 2007 before we were able to provide important coverage for all Americans. So we are talking years into the future before we can even provide Tamiflu, something that we know can make a difference.

It does seem to me that we do not have a day to waste. This is something that is very dangerous.

Finally, one could ask, Is it appropriate to be on a Defense appropriations bill? Well, if we were talking about something like nuclear weapons, I would say, yes, because we are concerned about the dangers of nuclear proliferation. I, quite frankly, believe avian flu presents a much greater threat, because it is imminent, highly lethal, and we have few countermeasures.

I do not see a great difference myself—certainly it will not be much of a difference to the families who are affected, whether it is terrorism or the fact that this kind of influenza has spread to this country and their family is infected with a deadly virus. That is why I believe that action is necessary.

Very quickly, we have seen reductions in two very important agencies. One is HRSA, which provides grants to help hospitals in the area of preparedness so that they can develop a response plan, get clearance with the State and HHS. Hospitals have begun working on plans, but they are woefully far behind, and this program was cut again this year.

Then we have the Centers for Disease Control that will be certainly a lead agency—I would hope that it would be a lead agency—and we know that their public health expenditures have been reduced. I think this is tragic myself. It is a jewel of an organization in terms of American public health, and it has done extraordinarily well. It is extremely well led at the present time, and it does not seem appropriate to me that we ought to be reducing the CDC budget, when the agency has such great responsibility in this area at this time.

Yesterday, when I asked Secretary Leavitt whether we could actually use the BioShield money—I think we have close to $6 billion in that—he said that it was set up and structured so that the funds are not applicable to this particular kind of challenge.

I think the amounts we are talking about are appropriate, given the essential nature of the potential disaster. The new flu strain poses a deadly threat. One of the important points made by Secretary Leavitt yesterday is that even this very deadly strain they are most concerned about can mutate further. It is always somewhat difficult to develop the vaccines and antivirals because these strains can alter and change, making the vaccines no longer effective. But having said that, they believe the treatments they have developed can have an important impact on saving the lives of those infected with avian flu. In the areas already affected with avian flu, we see a death rate of 44 percent in Vietnam, 71 percent in Thailand, almost 100 percent in Cambodia—and an average of 50 percent for all of Asia.

The great challenge, as we heard yesterday, occurs when it moves from the birds into human beings. That is a big leap. I will come back and make a longer talk about how that comes about and how rare that process is, but that has happened.

Then, the next leap is whether it is easily spread from person to person. For example, if one member of the family—if a child has it, is it easily communicable to the child's siblings? There is only one recorded instance, as we were told yesterday, where that has taken place. But it has taken place. That is a very important warning sign because it suggests that this influenza has the potential to become a pandemic and be absolutely devastating.

We were reminded yesterday, during the briefing, there are usually three pandemics every 100 years. They talked about what happened in the immediate postwar period of 1918, when soldiers had been at the front and they contracted dangerous influenza. In the US, over 500,000 people died from that pandemic flu, and another 50 million worldwide died.

We do not want to be unduly alarmist, but we have to be serious about it. This meeting we had was in S–407. It was going to be top secret, evidently. I said to the Secretary, now that we have heard all this news, it seems to me the public ought to know about it, they ought to understand it, and it ought to be explained by the top health officials in the country so we get accurate information. We have a number of those—Secretary Leavitt, Dr. Tony Fauci, Dr. Julie Gerberding—who are enormously competent, thoughtful scientists, researchers, who have a lifetime of commitment trying to understand these dangers. The more Americans listen to them and read the information on this and the authentic science, the better off they are going to be.

But I believe this Harkin amendment is saying we have been put on notice. If there is an avian flu outbreak, they will say, Didn't you go to the briefing upstairs in 407 where they laid this out to you? You are on the HELP committee. You know the dangers. You worked with Senator FRIST when we passed BioShield. Senator BURR, when he was in the House, was a principal sponsor—even before 9/11. The elements of preparedness, detection, and containment that are in this amendment were included in BioShield as well. These are thoughtful ideas. There is strong support for them in the HELP Committee. Today, we have an opportunity to take action on the floor. The administration is going to be responsible for that when this amendment is passed.

I join with my colleague and friend, Senator ENZI, and with Senator BURR, our other colleague who has provided great leadership in the committee, to get legislation on preparedness out as early as possible.

My chairman, Senator ENZI, likes to do it the old-fashioned way. He likes to listen to witnesses make the presentations, mark up the bill and get it to the floor, and he does it with extraordinary success. I would say, on this particular occasion, we ought to get the resources out there now.

Senator HARKIN has outlined the general areas which I think are justifiable, where the resources should be spent. I would also like to see the Secretary bring together all the major drug companies, which I think he intends to do, and go over this and get a plan from them about how we can maximize the safety and security for all Americans. This is what this amendment is all about.

I thank my colleague from Wyoming for his comments and statements about avian flu. I look forward to working with him on this issue. Our only real difference is whether we move ahead now, trying to at least provide those essential resources for the Secretary, the President, and the administration, to act now and prepare us for the threat of avian flu or wait until it's too late.

We can work with our colleagues within our committee to try to develop additional legislation to further improve our preparedness and develop effective treatments for avian flu. That is certainly a responsibility that we have. I welcome the opportunity to do that with my friend from Wyoming and also the Senator from North Carolina.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. DURBIN. Mr. President, reflect for a moment on what America went through with Hurricane Katrina, reflect on what it has meant to our country and what it has meant to our Government. That was the greatest natural disaster of modern time. Americans were shaken to the core watching television night after night to see victims of Hurricane Katrina and what they were living through. Many of those scenes we witnessed did not look like America. It just doesn't seem like our great Nation where people would be in such a helpless and almost hopeless state—to find people struggling just to survive the floodwaters and the hurricane damage, to see Americans begging for water and food, to see what appeared to be refugees—in fact, evacuees—trying to bring their children across interstate bridges to dry land, to see people thrown in many different directions, families divided and still not united. To see all of that occur day in and day out 24–7 was a startling scene. It was an indication to all of us that we needed to take a step back and

take a look at America from a different angle.

Perhaps too many of us had been lulled into the belief that this sort of thing could never happen, that leaders in America would never let us reach this terrible point, whether it is a natural disaster or a terrorist disaster, that someone somewhere in Washington or in a State capital or in a city hall had not made preparations and plans to deal with it. It is that concern that has led so many people to call for an honest appraisal of what happened with Hurricane Katrina and Hurricane Rita and what we need to do in America to be better and stronger and better prepared.

I don't think the people of this country expect the Senate or their Government to look at the world through the rearview mirror. We can't spend our time looking back and reliving every moment and pointing a finger of blame here and there or some place for some satisfaction, personal or political. But it is critically important that we review that scenario, that we don't repeat the same mistake, so that the next time, we are better prepared. That is what we need.

That is why we need an independent, nonpartisan commission—people without allegiance to the President or to the Democratic Party or to the Republican Party but people who are truly Americans first who will come together in a commission and ask those questions so that we can be better prepared for our future. Unfortunately, there has been resistance to this idea, but that is nothing new.

After 9/11, many of us called for the creation of a commission to find out why our intelligence sources failed so miserably and what we could have done to avoid that terrible disaster of 9/11. At that time, the White House opposed the creation of the 9/11 Commission, and many members of the President's party also said it is premature, we don't need it. But good sense prevailed. More than that, the 9/11 survivors' families prevailed—those widows and widowers, those children and spouses who came forward and demanded the creation of this independent Commission. They were the political force. They were an irresistible force. They created this Commission with two extremely talented individuals: Governor Kean of New Jersey, a Republican, and Congressman Lee Hamilton of Indiana, a Democrat. They came together with others of like mind and did a great national service.

The 9/11 Commission not only analyzed what went wrong, which you almost have to start with, but then they said: Here is how we could do better. They produced a proposal for reforming the intelligence agencies of America—there are many of them—so that they would be better coordinated, share information, and be there to protect America. The first line of defense against any terrorism is not our military. The first line of defense is intelligence. We need to see the danger coming before it strikes and stop it. That is what good intelligence can bring you.

With their suggestions, on a bipartisan basis with the support the 9/11 families, we moved forward. Credit should go where it is due. In the Senate, SUSAN COLLINS, Republican of Maine, and Senator JOE LIEBERMAN, Democrat of Connecticut, took the proposals of the 9/11 Commission, working with the Members of the House of Representatives, and crafted a piece of legislation which I was honored to be part of, and we worked literally for months to get that done. We gave up a valuable commodity around here: we gave up our time with our families. We came back during the August recess and held hearings. We pushed the bill, and it was signed by the President.

Good things happened. Why? Because we had the right leaders in place. These Commission leaders were in place. They pointed to weaknesses, and they told us how we could overcome. They called for reform. They stayed with the agenda until it was accomplished. It was a model for all of us and one we should look to when it comes to Hurricane Katrina and Hurricane Rita. That is why I believe an independent, nonpartisan commission is so necessary.

The House of Representatives had a hearing earlier this week. They brought in Michael Brown. He pointed a finger of blame in every direction, including his own administration. When it was all said and done, people said: Well, at least he was brought before this committee and the members that did appear and was held accountable. That is a good thing. It is an important thing. But it isn't going to bring us to the point we ought to be in this country. We want to find out what went wrong. Why didn't we think ahead if we had been warned so many times about the dangers in New Orleans? Why didn't we plan ahead when it came to positioning forces, positioning food and supplies? Why didn't we have a communications network that could survive a natural disaster? Why didn't we have better cooperation at all levels of government? Where do we need to change the law so that at some given moment, it is clear who is in charge? What could we have done to save those lives we lost in those disasters? What should we do now to reunite these families and put their lives back in order? These are all valid points.

The reason I have reflected on these circumstances, 9/11 and the hurricanes, is because the amendment that is pending right now on this Department of Defense appropriations bill gives this Senate an opportunity to step forward right now at an early moment to avert the next tragedy. Let me tell you what I mean. We need a wake-up call in America. Most public health officials here and around the world agree that an outbreak of a new pandemic is virtually inevitable. I use the words ''virtually inevitable'' with some care. Those are the words of Dr. Gerberding, who is the head of the Centers for Disease Control.

You have to be a student of history to remember the great flu pandemic of 1918 that claimed so many innocent lives in America. What Dr. Gerberding and other health officials are telling us is that unless we aggressively monitor and immediately contain this avian flu, it is likely to be a global pandemic.

The difference, of course, is the world of 2005 is so much different from the world of 1918. In the world of 2005, an infected person is 12 hours away from your doorstep. That is about as long as it takes to fly from one part of the world to another.

We have to prepare and we have to start now, no excuses. That is why the Harkin amendment, which I am happy to cosponsor, is so important. People say: Why would you bring up an amendment about a national pandemic of avian flu on a Department of Defense appropriations? Don't you have health appropriations or other things? It is true. And Senator HARKIN and I happen to be on the subcommittee that would more naturally be the place to bring up this amendment. However, he is doing it because we have relatively few opportunities in this Senate to act. We believe, in supporting this amendment, we need to act, and to act now.

I am told what makes the avian flu so dangerous is that humans have no natural immunity to this strain of flu. We remember the flu shots and all the warnings we have received over the years. For the most part, those flu shots are increasing our already natural resistance to flu. When it comes to the new strain of avian flu, we have no resistance. We have no immunity. It is not a question of children and sick people and the elderly being vulnerable, we are all vulnerable. That is what happened in 1918. The healthiest looking people on the street could be dead in 24 hours. That was the nature of that flu and could be the nature of this flu challenge.

The Centers for Disease Control has suggested that an avian flu outbreak in the United States could claim the lives of 200,000 people—a conservative estimate. Compare that to 36,000 lives lost each flu season to typical, normal flu. It is not just that the CDC that is anticipating a flu pandemic. Yesterday, Senator FRIST asked the Secretary of Health and Human Services, Mr. Leavitt, to ensure that there are U.S. antiviral drugs in the national stockpile to provide treatment for 50 percent of the American population in the event of an outbreak. I fully support Senator FRIST's recommendation. As most everyone knows, he is a medical doctor, in addition to being the majority leader of the Senate.

I am pleased to join in offering this amendment which provides the Department of Health and Human Services with the money it needs to purchase those drugs. That recommendation alone will require about $3 billion.

What is the antiviral drug? The one most commonly referred to is called Tamiflu. If a person has flu-like symptoms and calls the doctor as soon as they feel them coming on, that doctor might prescribe Tamiflu, which if taken quickly, could lessen the severity of the influenza. The notion is, we should be prepared as a nation with this antiviral Tamiflu in the stockpile, or something like it, so that if we do see this flu coming toward America, we are prepared to provide some treatment for people as they start to exhibit symptoms.

This amendment that Senator HARKIN has offered, with my support and others, provides funding to the Department of Health and Human Services so it can enter into a contract to buy those drugs now. Until the Department of Health and Human Services has that money on hand, all of our conversations are just theoretical.

Remember last year when we talked about running out of flu vaccine, and the flu had already hit? It was a little late. That is what we are trying to avoid. Step in early for the virtually inevitable pandemic and have a stockpile of medicine available for America. Be prepared. That is what this amendment has as its watchword.

The Department of Health and Human Services cannot add antiviral drugs to the stockpile until it has the money to purchase them. This amendment provides the money to the Department of Health and Human Services so they can purchase drugs to treat up to 50 percent of the U.S. population.

I asked yesterday in one of the briefings, why did you pick a number like 40 or 50 percent? The public health experts, such as Dr. Fauci and others, say that is the percentage of the population we think may be exposed. Let's not revisit the scenario of last year's flu season when there was not enough medicine and we had to make decisions about rationing the medicine. There came a time when we said there is not enough flu vaccine. I said, well, I feel pretty healthy, I will get to the end of the line. And when it was all over we ended up with more than we needed. It was not good management of flu vaccine in our country.

Baruch Fischoff of Carnegie Mellon University, an expert on the public perception of risk, says telling people they cannot get flu treatment ''isn't the American way.'' ''That is rationed health care. We just do not accept that.''

We have to prepare for developing something else which is going to take a lot of energy, a lot of resource and ingenuity. We have to prepare and develop a vaccine to deal with this flu that prevents the infection from ever setting in. Right now, that vaccine does not exist. Even if it did, we do not have the manufacturing capacity in the United States to produce vaccines at the rate we need them.

Senator HARKIN's amendment, now pending, doubles our commitment to research and development, the manufacture of, even the purchase of an effective avian flu vaccine.

Remember last year when one of two flu vaccine manufacturers for a typical flu season had to close its European facility? The United States could not turn to any domestic supplier to make up for the loss of those doses of vaccine because we did not have that capacity.

We talk a lot about the U.S. dependence on foreign suppliers for oil. We shouldn't have to depend on other countries for the medicines we need during a global health crisis.

Another lesson from last year's flu vaccine shortage, we have to have a plan. In the face of the vaccine shortage, prices for a dose of flu vaccine in Kansas at one point went as high as $600. In Colorado, 600 doses of flu vaccine were stolen from a doctor's office.

Despite these images of chaos, State and local health officials worked long and hard to maintain calm and also figure out how many doses there were, where they were, and how to get them to the people who needed them the most.

If we intend to rely on good work, long hours, and a public health workforce that does not get sick, we may be in trouble. This amendment restores cuts to State and local public health agencies so they will have the money to be prepared. It includes enough money for communities to figure out where we will take care of people who are sick when the hospitals and clinics reach capacity, which could happen.

Again, the people who turned New Orleans airport into a hospital showed bravery and grace under pressure. But we can do better than airport lounges and convention centers as makeshift clinics in America—only if we think ahead; only if we are prepared. Let's give our State and local agencies the resources and timeline to prepare for a pandemic flu outbreak.

This time, we are virtually certain it is going to hit. This time, no excuses. We should be prepared. We need to begin now to prepare, and do it aggressively. The best possible outcome would be an early detection of the outbreak, quick containment and treatment, and then development of a vaccine to prevent its spread. This amendment doubles the investment of the Centers for Disease Control in global disease detection in an effort to find, stop, and prevent the spread of the avian flu as soon as it mutates into a strain that can move efficiently, in the words of the medical community, ''from person to person.''

I heard one of the public health leaders the other day say it might not be this winter, it might be next winter, but it is going to happen. If we know that, and we do not act to prepare for what President Bush says could become the first pandemic of the 21st century, we are failing in leadership. We will have failed as much as any official who did not respond to the catastrophe of Hurricane Katrina.

The funding we propose to add to this bill to prepare for a virtually inevitable, probably global public health crisis is less than we spend on the war in Iraq in 1 month. That is what it will take to get America ready so this avian flu does not claim so many lives.

This investment will, in fact, save lives. Hundreds of thousands of American lives could be spared, by the most conservative estimates. It could be as many as 1.7 million American lives that are at risk in this pandemic, according to an adviser to the Department of Homeland Security. Understand, this amendment does not create any new programs or start any new initiatives. It simply accelerates the work of the CDC in preparing for the outbreak of this deadly flu. The preparation will take time. There is not much we can do about that. Avian flu could begin to spread at any time.

Currently, they have reported 115 cases of avian flu around the world. Where humans were affected by it, over half of them have died. There isn't anything we can do about the current situation, but there is something we can do about the threat to America. What we can do is step up to this challenge, purchase the antiviral drugs we need now, invest in domestic capabilities for vaccine protection for America, and prepare for emergency care during a flu pandemic.

We talk a lot about national security in the Department of Defense bill, but a strong America begins at home. We found that out. We found it out on the gulf coast. We were not prepared. We did not do our job. No one stood up soon enough and early enough and said it is time to hold people accountable. It is time to think ahead, think beyond the moment, think to what we need.

What if I am wrong? What if this flu pandemic does not occur? What if this money is invested in things that, frankly, do not become necessary? That could happen. And I pray that it does. If we could spare Americans and people around the world the suffering that could be associated with that pandemic, I wish that happily. I would be glad to stand and say, well, perhaps we did too much too soon. But I would much rather stand here and apologize for doing too much too soon than to stand here and make excuses for not doing enough when we had to.

The Harkin amendment is an important amendment for the strength of America, for the health of America, and for the protection of America. I look forward to supporting it. It would be wonderful if we had a strong bipartisan rollcall to say that we will start with this national challenge, coming together in a bipartisan fashion, both the administration and Congress dedicated to making certain that we learned a lesson from Hurricane Katrina.

I yield the floor.

The PRESIDING OFFICER. The Senator from Florida.

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Mr. NELSON of Florida. Mr. President, I am here for my daily speech on oil independence for this country. Before the assistant minority leader leaves the floor, as he has been such a leader in this area, and before this Senator launches into this series of conversations for the Senate about the need to have oil independence and the ways that we can be going about it, bringing to the Senate each day a new kind of technology we should be looking at—today I am going to talk about the expansion of ethanol—I invite the Senior Senator from Illinois, since he has been such a leader in this area, for any comments that the Senator would like to make in a colloquy before I continue with the series of speeches on oil independence.

Mr. DURBIN. Mr. President, I thank the Senator from Florida. He has identified an issue which every American family understands every time they go to the gasoline station.

The cost of filling up the tank nowadays is stunning. Even the automobile manufacturers are starting to advertise cars with good gas mileage. We haven't seen that in a long time, have we? It reminds all Americans how dependent we are on foreign fuel and foreign sources of energy.

The Senator from Florida, a leader on this issue, remembers we brought an amendment to the floor on the Energy bill saying we believe America should set as a national goal reducing our dependence on foreign oil by 40 percent over the next 20 years. Sadly, it was defeated on a partisan rollcall.

I cannot believe this is a partisan issue. Our dependence on foreign energy puts us at the mercy of the Saudis and others who really do not lose a lot of sleep if our economy is not doing well and if our families suffer.

I am glad the Senator stepped forward. He identifies ethanol. It is near and dear to my heart because my State produces more than any other State. And it is homegrown. We do not need to have a Saudi prince smiling at us to find a gallon of ethanol. All we need is for God to bless us with a little sunshine on that corn crop, and we know just what to do with it.

I am glad the Senator is raising this issue. It goes back to a point I made in my earlier statement about public health: a stronger America begins at home. What the Senator from Florida is reminding us is whether it is public health or energy, it is time to focus the ingenuity, creativity, and innovation of this country into making America stronger at home. I am glad the Senator is leading us in that discussion today.

Mr. NELSON of Florida. I would like the Senator from Illinois to respond to the fact that Hurricane Katrina and now Hurricane Rita has given us another lesson of just how thin and delicate this oil supply and refinery pipeline is, so that the least little disruption in it—a hurricane or the shutting down of a refinery, in this case, five or six refineries that are shut down, or, Lord forbid, a terrorist act, the sinking by a terrorist of a supertanker in the Strait of Hormuz in the Persian Gulf—any one of these things could absolutely disrupt the world that is so thirsty for oil consumption, and could send our gasoline prices not shooting through $3, but could be sending it through $4 and $5 and $6 a gallon.

Would the Senator comment on that?

Mr. DURBIN. I would like to comment, through the Chair, and say to the Senator from Florida that because of the hurricanes we have lost 22 percent of our refining capacity in America. So if you wonder why the price of gasoline is high, higher than it has been historically, that is one of the reasons. I might add, parenthetically, when it comes to the price of gasoline and oil companies, almost any excuse will do to raise the price of gasoline. But in this case, we know that the reduction of 22 percent of our refining capacity means there is less gasoline on hand and, therefore, prices are being pushed upwards.

Today at a press conference, I announced a bill that I am going to introduce which will create a national gasoline reserve and jet fuel reserve. Presently, we have 700 million barrels of crude oil which are being held as our National Petroleum Reserve. The President started releasing that. But releasing crude oil does not meet the need for refining capacity. So the crude oil coming into this narrow funnel of reduced refining capacity does not solve the need.

What I believe we should do is give to any President a tool to respond to shortages in gasoline in various regions that cause price spikes; the same thing with jet fuel. Three new airlines are in bankruptcy mainly because of the increase in the price of jet fuel. So we think we should be setting aside these resources, again, keeping America strong at home, so we are not watching our economy flounder and our families suffer because of these skyrocketing gasoline prices.

Mr. NELSON of Florida. Mr. President, I would like the Senator from Illinois to comment on the fact that in America most of the oil consumption is in the transportation sector. In the transportation sector, most of the oil is consumed in our personal vehicles. So we could start reducing the consumption of oil in our own vehicles a little, have increased miles per gallon, substitute ethanol for gasoline, have hybrid engines, hybrid engines you plug in to give a full charge at night while it is in the garage. We could have ethanol not made just from corn, which is homegrown, but made from sugarcane, sugar beats, cellulose. It could be grass. We happen to have 31 million acres of prairie grass in this country. Cut the grass. Make cheaper ethanol. Therefore, for every gallon of ethanol that goes into that gas tank—and you can use existing engines in our personal vehicles—you are making a mixture of gasoline and ethanol, and that means we are burning that much less gasoline, which means we are burning that much less oil that we have to import from foreign shores.

I would like the Senator from Illinois, who has been a leader in this area, to comment.

Mr. DURBIN. Responding to the Senator from Florida, through the Chair, the nation of Brazil decided, years ago, they were tired of their vulnerability to foreign energy sources and they said: We are going to make a national mission of energy independence. By moving toward homegrown fuels and conservation, they have reduced their dependence on foreign oil to less than 15 percent, while the United States depends on foreign oil, consuming over 60 percent at the current time. And most of it, as the Senator said, goes into the cars and trucks we drive.

The Senator raises an issue that is near and dear to my heart about the fuel efficiency of cars and trucks. A little walk down memory lane: In 1975, when the price of a barrel of oil went up from $3 to $5, to $12, America went into a panic and Congress said: We have to do something about it. The average fuel efficiency of cars and trucks in America was about 18 miles a gallon. So we put in a Federal Government mandate that the auto manufacturing companies had to have an average fleet fuel efficiency of 28 miles a gallon, which they had to reach over the next 10 years. They had to move from 18 miles a gallon to 28 miles a gallon over the next 10 years. They screamed bloody murder. They said: It is technologically impossible. The cars and trucks we build will not be safe. And you are forcing America to buy foreign vehicles.

We ignored them. We said: Do it. We believe you can. If we have to order you to do it, we are going to order you. We ordered them to do it, and in a matter of 10 years they reached the goal of an average fleet fuel efficiency of 28 miles per gallon. The year was 1985.

It has been 20 years since then, and we have done nothing except watch the truck exemption—which we converted into SUVs—create this new breed of heavy, fuel-inefficient vehicle such as this god-awful Hummer. If you want to drive a Hummer, for goodness sakes, join the Army.

In this situation, these fuel-inefficient vehicles have dominated our market, and our average fuel efficiency in America has gone from 28 miles a gallon in 1985 to less than 22 miles a gallon today. We are importing more and more oil to drive the miles we need.

So I offered an amendment on the floor—and the Senator from Florida, I am sure, remembers it—and said: Is it too much to ask the auto manufacturers to increase the fuel efficiency of cars and trucks in America by 1 mile a gallon each year for the next 10 years so we can get to 32 miles a gallon?

The Senator knows what happened. We had resistance not only from the

automobile companies but their workers. Do you know what they said? They said: It is technologically impossible. The cars and trucks you want us to build will not be safe. And you are going to force foreign manufacturers on American consumers. They will not have any place to go. It is the same story we heard 30 years ago. The amendment was defeated.

But today I think if we called it up for reconsideration there would be a few more votes. People are understanding you cannot control your fate and you cannot control your pocketbook if you are spending $100 every time you drive into the service station to fill the tank of that SUV. So I think folks are more sensitive to it.

I have written to the big three manufacturers, to their CEOs, and said: Listen, it is time to sit down and get serious. The American consumers want a more fuel-efficient vehicle. You know you can do it. How can we work together to achieve it?

Mr. NELSON of Florida. Mr. President, just exactly what the Senator from Illinois says, there is a waiting list a mile long to get the hybrid vehicles that, in the case of Toyota, get 50 miles to a gallon in city driving. Yet what do we have to do to get the rest of the automobile manufacturers?

Maybe it is going to take Hurricane Katrina, with a scare of a shortage, with the shutting down of refineries, that is going to finally get our collective heads out of the sand and face the fact we are so dependent on oil—and foreign oil—and that this is not a good position for this country to be in.

Does the Senator from Illinois remember when we offered a simple little amendment, and it was only to increase miles per gallon on SUVs, phased in over a multiyear period, and we could not get anymore than about 39 votes out of 100 Senators in this Chamber? Yet we are facing the crisis we are today.

Mr. DURBIN. I would say, in response to the Senator from Florida, through the Chair, I think America understands what this means. Our vulnerability, our dependence on foreign oil, means we are drawn into wars and foreign policy decisions which we may not want to make. It also means our economy is burdened by inefficiency and vehicles that are really burning too much gasoline. It also means that for every extra gallon we burn, there is more pollution in the air. So it is from three different perspectives.

Our lack of fuel efficiency in our vehicles is burdening America with responsibilities and decisions which American consumers would agree and American families would agree we should not have to make as a nation.

Now, I know I voted for the Energy bill—I do not know how the Senator from Florida did—because it contained provisions about ethanol and biodiesel. But if you look beyond those provisions, you will find in that bill many subsidies for oil companies. What an irony that we provide subsidies to oil companies at a time when they are experiencing the highest profits, windfall profits, they have ever seen—billions of dollars. And do you know why? Because the price of gasoline is much higher than is warranted by the price of crude oil. So that Energy bill we had the President sign last August really does not step up to the plate and address the reality of the energy challenge of America.

I believe Americans want us to move toward energy independence, to move toward using fuels that are efficient and do not pollute. And I believe they want us, as a nation, to create incentives for renewable, sustainable energy sources, for innovation in energy technology that will create new companies, new jobs, new opportunities in this country.

We cannot be looking backward. We have to look forward in terms of what our children need for energy in the 21st century.

Mr. NELSON of Florida. Mr. President, this Senator would say that it is only going to get worse if we do not do something now. This Senator thinks we are approaching a crisis because China is now on the scene, and China is becoming a huge consumer of oil. They are second only to the United States in the consumption of oil. They have had 40-percent growth in their demand on the world's oil supply. China's purchases of new passenger cars has risen by 75 percent.

In a tight world oil market, with new demands put on the supply by emerging nations such as China, it is only going to get worse. And here we are, the United States of America, importing 58 to 60 percent of our daily consumption of oil from foreign shores. It is an accident waiting to happen.

What does it take to collectively shake the American people to the point that the body politic will demand of their elected representatives that we start making changes—synthetic fuels, alternative fuels, higher miles per gallon, alternatives such as ethanol, hybrid vehicles, encouraging them, satisfying the demand? The waiting list is a long list. What is it going to take?

Will the Senator give me any kind of reflection?

Mr. DURBIN. I would like to respond to the Senator from Florida through the Chair and say that Hurricane Katrina, those catastrophic winds that blew down the coast of Mississippi and Alabama caused a great deal of suffering. People still suffer today from the consequences.

Maybe, in that terrible natural disaster and tragedy, something good will come of it. If those winds blow down the doors of indifference when it comes to some basic issues in America, then we can build, as a country, from that sad experience—whether it is caring for the most vulnerable in America, who were the ones who suffered; whether it is standing together as a nation, saying we are part of an American family, and if that tragedy hits your State of Florida or my State of Illinois, we will stand together to make sure your State gets back up on its feet; or whether it is looking at our dependence on foreign energy and saying: We have to change. This struck a part of America from which energy comes and is refined. We have to change in terms of our policy.

So I would say to the Senator from Florida, maybe that great disaster, that terrible suffering that came from it, will also bring with it a new awakening in this country about a new direction we need, a direction that moves our Nation together, unified as a community, to solve the serious challenge we face today.

It was not too long ago, I say to the Senator from Florida, we would sit on the floor and argue about the ''ownership society.'' Remember that? Privatizing Social Security: We don't need Social Security. Just let me have my own private account. Well, you heard that a lot. And the model of the ownership society group was: Just remember, we are all in this alone.

Well, we learned better. We learned with Hurricanes Katrina and Rita and other challenges, the only chance we have is when we are all in this together. And together as a nation we have done amazing things.

I think the life of the Senator from Florida tells that story. Most people don't know—but I sure do—you served in the House of Representatives. You were an elected statewide official in Florida and managed to squeeze into that public service career a trip in space as an astronaut. And I know you then came to the Senate with dedication even greater to this country.

Together, Florida is strong, Illinois is strong. We are strong as a nation.

Mr. NELSON of Florida. As we close this out—under the previous order, at 4 o'clock we will be in other business—I will continue my drumbeat on a daily basis about the need for energy independence. I know what our people in Florida believe. They feel very strongly about it. Before I engaged in the colloquy with the Senator from Illinois, I had intended to talk about some specifics of the use of ethanol and the manufacture of ethanol and how that could help us ween ourselves from dependence on foreign oil. I shall pick that up on another day, but I will continue this daily, trying to sound the alarm for this country that if we don't do something, we will rue the day that we did not.

I am told that we might have a couple of more minutes here. I will go ahead and close out some of my comments. As the Senator from Illinois and I discussed in our colloquy, it is true that transportation is where we are consuming most of our oil. If you want to do something about lessening your dependence on foreign oil, go to the place where we consume most of it. That is in our personal vehicles. One thing that we have to do is pursue alternative fuels to petroleum. Gasoline

and diesel, petroleum products, accounted for over 98 percent of transportation motor fuels sold in the year 2004. Only 2 percent are from alternatives to petroleum. We need to increase that 2 percent, and it can come from many different sources of alternatives to petroleum, such as ethanol.

As the Senator from Illinois and I discussed, corn is clearly a basis for ethanol. But with the advance of technology, there are many other sources as well. Cellulose and glucose are two. Glucose, sugar, we raise a lot of sugarcane in Florida. They do in Louisiana. We raise a lot of sugar beets throughout the Midwest and the West. That is a source of ethanol. It was one of the things that I pushed for, at the time of the discussion of CAFTA, to get the administration, through the Department of Agriculture, to start the study on making ethanol from sugarcane. I will pick up in the future with a discussion of ethanol made from sources other than corn, as I bring to the attention of the Senate how much this is getting to be an emergency situation that we are depending on oil. And of that oil, almost 60 percent of it comes from foreign shores. That is not good for this country. We have to change that.

I yield the floor.

MEDICARE COST-SHARING AND WELFARE EXTENSION ACT OF 2005

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Finance be discharged from further consideration of S. 1778 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER (Mr. CHAFEE). Without objection, it is so ordered. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1778) to extend Medicare cost-sharing for qualifying individuals through September 2006, to extend the Temporary Assistance for Needy Families Program, transitional medical assistance under the Medicaid Program, and related programs through March 31, 2006, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. STEVENS. I ask unanimous consent that the Grassley amendment at the desk be agreed to; the bill, as amended, be read a third time and passed; the motion to reconsider be laid on the table, and any statements relating to the measure be printed in the RECORD.

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

The amendment (No. 1894) was agreed to, as follows:

(Purpose: To eliminate coverage under the Medicare and Medicaid programs for drugs when used for treatment of erectile dysfunction)

At the end, add the following:

SEC. 4. RESTRICTION ON COVERED DRUGS UNDER THE MEDICAID AND MEDICARE PROGRAMS.

(a) EXCLUSION UNDER MEDICARE BEGINNING IN 2007.—Section 1860D–2(e)(2)(A) of the Social Security Act (42 U.S.C. 1395w–102(e)(2)(A)) is amended by inserting ''and, only with respect to 2006, other than subparagraph (K) (relating to agents when used to treat sexual or erectile dysfunction, unless such agents are used to treat a condition, other than sexual or erectile dysfunction, for which the agent has been approved by the Food and Drug Administration)'' after ''agents)''.

(b) RESTRICTION UNDER MEDICAID.—

(1) IN GENERAL.—Section 1927(d)(2) of the Social Security Act (42 U.S.C. 1396r–8(d)(2)) is amended by adding at the end the following new subparagraph:

''(K) Agents when used to treat sexual or erectile dysfunction, except that such exclusion or other restriction shall not apply in the case of such agents when used to treat a condition, other than sexual or erectile dysfunction, for which the agent has been approved by the Food and Drug Administration.''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to drugs dispensed on or after the date that is 60 days after the date of enactment of this Act.

(c) CLARIFICATION OF NO EFFECT ON DETERMINATION OF BASE EXPENDITURES.—Section 1935(c)(3)(B)(ii)(II) of the Social Security Act (42 U.S.C. 1396v(c)(3)(B)(ii)(II)) is amended by inserting '', including drugs described in subparagraph (K) of section 1927(d)(2)'' after ''1860D–2(e)''.

The bill (S. 1778), as amended, was read the third time and passed, as follows:

S. 1778

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Medicare Cost-Sharing and Welfare Extension Act of 2005''.

SEC. 2. EXTENSION OF QI PROGRAM THROUGH SEPTEMBER 2006.

(a) IN GENERAL.—Section 1902(a)(10)(E)(iv) of the Social Security Act (42 U.S.C. 1396a(a)(10)(E)(iv)) is amended by striking ''September 2005'' and inserting ''September 2006''.

(b) TOTAL AMOUNT AVAILABLE FOR ALLOCATION.—Section 1933(g)(2) of such Act (42 U.S.C. 1396u–3(g)(2)) is amended—

(1) by striking ''and'' at the end of subparagraph (B);

(2) by striking the period at the end of subparagraph (C) and inserting ''; and''; and

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

''(D) for the period that begins on October 1, 2005, and ends on December 31, 2005, the total allocation amount is $100,000,000; and

''(E) for the period that begins on January 1, 2006, and ends on September 30, 2006, the total allocation amount is $300,000,000.''.

SEC. 3. EXTENSION OF THE TEMPORARY ASSISTANCE FOR NEEDY FAMILIES BLOCK GRANT PROGRAM, TRANSITIONAL MEDICAL ASSISTANCE, AND RELATED PROGRAMS THROUGH MARCH 31, 2006.

(a) IN GENERAL.—Activities authorized by part A of title IV of the Social Security Act, and by sections 510, 1108(b), and 1925 of such Act, shall continue through March 31, 2006, in the manner authorized for fiscal year 2005, notwithstanding section 1902(e)(1)(A) of such Act, and out of any money in the Treasury of the United States not otherwise appropriated, there are hereby appropriated such sums as may be necessary for such purpose. Grants and payments may be made pursuant to this authority through the second quarter of fiscal year 2006 at the level provided for such activities through the second quarter of fiscal year 2005.

(b) CONFORMING AMENDMENT.—Section 403(a)(3)(H)(ii) of the Social Security Act (42 U.S.C. 603(a)(3)(H)(ii)), as amended by section 2(b)(2)(A) of the TANF Emergency Response and Recovery Act of 2005 (Public Law 109–68), is amended by striking ''December 31, 2005'' and inserting ''March 31, 2006''.

(c) EXTENSION OF THE NATIONAL RANDOM SAMPLE STUDY OF CHILD WELFARE AND CHILD WELFARE WAIVER AUTHORITY THROUGH MARCH 31, 2006.—Activities authorized by sections 429A and 1130(a) of the Social Security Act shall continue through March 31, 2006, in the manner authorized for fiscal year 2005, and out of any money in the Treasury of the United States not otherwise appropriated, there are hereby appropriated such sums as may be necessary for such purpose. Grants and payments may be made pursuant to this authority through the second quarter of fiscal year 2006 at the level provided for such activities through the second quarter of fiscal year 2005.

SEC. 4. RESTRICTION ON COVERED DRUGS UNDER THE MEDICAID AND MEDICARE PROGRAMS.

(a) EXCLUSION UNDER MEDICARE BEGINNING IN 2007.—Section 1860D–2(e)(2)(A) of the Social Security Act (42 U.S.C. 1395w–102(e)(2)(A)) is amended by inserting ''and, only with respect to 2006, other than subparagraph (K) (relating to agents when used to treat sexual or erectile dysfunction, unless such agents are used to treat a condition, other than sexual or erectile dysfunction, for which the agent has been approved by the Food and Drug Administration)'' after ''agents)''.

(b) RESTRICTION UNDER MEDICAID.—

(1) IN GENERAL.—Section 1927(d)(2) of the Social Security Act (42 U.S.C. 1396r–8(d)(2)) is amended by adding at the end the following new subparagraph:

''(K) Agents when used to treat sexual or erectile dysfunction, except that such exclusion or other restriction shall not apply in the case of such agents when used to treat a condition, other than sexual or erectile dysfunction, for which the agent has been approved by the Food and Drug Administration.''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to drugs dispensed on or after the date that is 60 days after the date of enactment of this Act.

(c) CLARIFICATION OF NO EFFECT ON DETERMINATION OF BASE EXPENDITURES.—Section 1935(c)(3)(B)(ii)(II) of the Social Security Act (42 U.S.C. 1396v(c)(3)(B)(ii)(II)) is amended by inserting '', including drugs described in subparagraph (K) of section 1927(d)(2)'' after ''1860D–2(e)''.

EXTENSION OF MORNING BUSINESS

Mr. STEVENS. Mr. President, I ask unanimous consent that morning business be extended for 15 minutes.

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

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

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

SAVINGS AND ECONOMIC COMPETITIVENESS

Mr. BAUCUS. Mr. President, more than 10,000 years ago, on the eastern edge of the Mediterranean Sea, people became farmers. They started growing crops of emmer and einkorn wheat. They harvested the grain with curved, handheld sickle-blades.

And 5,000 years ago, Mesopotamian farmers yoked cattle to pull plows. The plows' bronze-tipped blades cut deeply, greatly increasing productivity.

Today, in Ethiopia, wheat farmers still harvest their wheat with oxen or by hand. They use tools much like those invented 5,000 years ago. An Ethiopian wheat farmer harvests an acre of wheat in a week.

A few weeks ago, in Montana, a wheat farmer whom I know near Fort Benton, in Chouteau County, finished harvesting this year's hard-red spring-wheat crop. He and his family drive a John Deere 60 series STS combine that they bought for more than $225,000, a couple of years ago. STS stands for the ''single-tine separator'' system that the combine uses for threshing and separating. The combine's rotor technology yields a smooth, free-flowing crop stream, giving the farmer higher ground speeds and increased throughput capacity. This Fort Benton wheat farmer harvests 5 acres and 220 bushels of wheat in half an hour.

What the Ethiopian farmer can do in a week, the Montana farmer can do in 6 minutes.

There are a lot of reasons for the difference: land, climate, seed quality, farming skills. But one big difference between the productivity of farmers in Ethiopia and the productivity of farmers in Montana is their tools—their physical capital.

Capital distinguishes the modern age. Capital is the most important reason why the average American earns about $40,000 a year and the average sub-Saharan African earns about $600 a year. Capital makes American workers more productive and more competitive.

This is my fifth address to the Senate on competitiveness. Starting this summer, I spoke on competitiveness generally. I spoke on the role of education in competitiveness. I spoke on the role of trade in competitiveness. I spoke on the role of controlling health-care costs in competitiveness. And today, I wish to speak about the role of capital and savings in competitiveness.

Capital means financial wealth—especially that used to start or maintain a business. Many economists think of capital as one of three fundamental factors of production, along with land and labor.

Capital and the productivity that it engenders set apart developed economies from the developing world. With capital investment, the construction worker uses a backhoe, instead of a shovel. With capital investment, the accountant uses a calculator, instead of an abacus. With capital investment, the office worker uses a personal computer, instead of a pencil.

In the late 1950s, there were about 2,000 computers in the world. Each of these computers could process about 10,000 instructions per second.

Today, there are about 300 million computers. Each of them can process several hundred-million instructions per second.

In less than 50 years, the world's raw computing power has increased four-billion-fold. This sustained increase in productivity is unparalleled in history. Capital investment in information technology made it possible.

In 1960, capital investment in information technology was about 1 percent of our economy. By 1980, investment in IT increased to 2 percent of our economy. By 2000, investment in IT increased to 6 percent of our economy.

These are slow, single-digit increases in investment. But look at the revolutions that they ignited.

This information technology investment contributed to a new era of American worker productivity and competitiveness. That productivity continues today. In the mid-1990s, when the benefits of IT investment kicked in, American workers began producing nearly 4 percent more per hour. As increased productivity surged through the economy, the standard of living improved for the Nation.

Capital made possible this unprecedented productivity. Investment made possible this capital. And savings made possible this investment. Savings is the seed corn for productivity growth.

National savings fuels investment. Investment provides capital to our workers. Capital ignites productivity. And productivity makes our economy accelerate.

Savings is what is left of income after consumption. National savings collects the surpluses of private households, businesses, and governments. When workers put part of their salaries into 401(k) plans, that adds to national savings. When companies hold on to their excess earnings and profits, that too adds to national savings. And when the government runs a budget surplus, that public sector savings adds to the national pool of savings, as well.

The three elements of national savings—household savings, corporate savings and public savings—are fundamental to economic competitiveness. Savings lets us invest in new factory equipment, machines, or tools. Savings lets us invest in high-technology innovations. Savings lets us invest in human, physical, and intellectual capital.

But America's level of national savings is dwindling. The decline of America's savings demands action.

At the end of last year, net national savings stood at just under 2 percent of gross domestic product. That is less than $2 for every $100 that our Nation earns. This is down more than 70 percent since 2000. No other industrialized country in the world has such a low national savings rate.

If we break down national savings into its component parts, we can see why national savings has fallen off. First the good news: Corporate savings has held steady—even increased—over the past decade. But the good news ends there.

Personal savings—what American households are contributing to the Nation's savings—has fallen dramatically. Just 10 years ago, Americans saved about $4 of every $100 that our economy produced. By the end of 2004, we were saving just 99 cents. And today? The recent data show that personal savings has fallen even further, below zero.

In July, for every $100 of disposable income that Americans generated, we spent that $100, plus 60 cents more.

Rather than saving, American households are borrowing. In the 1980s, total household debt equaled about 70 percent of a year's aftertax income. By 2004, household debt equaled 107 percent of aftertax income.

And the bad news gets worse. As American households fish pennies out of the Nation's piggy bank, there is a growing hole at the bottom. The public sector is draining national savings as the huge Federal budget deficits grow.

In just 4 years, the Federal Government's contribution to national savings has gone from a positive contribution of more than 2 percent of the economy, to a drain of more than 3 percent. Instead of contributing $2 for every $100 the economy earns, the Federal Government takes out $3 dollars. Government deficits are the chief cause of our abysmal national savings rate.

With national savings so low, how has America's economy remained an engine of growth?

We find the answer in Japan, Europe, China, and even the developing world.

Americans have stopped saving. But the rest of the world has not.

Today, Americans turn to foreign lenders for our savings. The rest of the world has become America's creditor, happily lending their savings to our Government, corporations, and households. Fully 80 percent of the world's savings come to America. The world's largest economy has become the world's largest debtor.

This is a big change. Between 1950 and the early 1980s, our foreign borrowing was balanced. Some years we borrowed from foreigners. And other years we lent. But for most years, we remained a net creditor.

Since then, our situation has dramatically reversed. We now depend on foreigners to fuel our economy.

Look at foreign and domestic investment flows. Last year, our net borrowing from foreign lenders totaled nearly $700 billion. This year, our net foreign borrowing could well exceed $800 billion.

This kind of borrowing adds up. As recently as 1985, America had zero net foreign debt. Today, America's net foreign debt is the size of nearly 30 percent of our economy.

The last time that we had this level of foreign debt, Grover Cleveland lived in the White House. The last time that

we had this level of foreign debt, 18 percent of Americans were unemployed, violent railroad strikes shook the Nation, and a deep depression gripped the world economy.

What is worse, soon, the ratio of foreign debt to GDP will hit 50 percent. In 7 years, the ratio will hit 100 percent.

This is unprecedented, not just for the United States. It is unprecedented for any modern industrialized country.

We welcome foreign investment in America. Our economy's openness to the world's capital has helped keep our economy strong. Foreign investment fuels our economy and creates good American jobs.

But if we continue to become increasingly dependent on foreign capital, then we will have to pay the piper.

First, continued borrowing means an ever-growing claim on our Nation's assets. The more that foreigners lend to America, the more dividend and interest payments they will collect—not Americans but them.

In 2005, for the first time since these data were recorded, America will pay more on foreigners' investments in America than American investors earn on their investments abroad. This year, these payments could amount to $30 billion. By 2008, these payments could rocket to more than $260 billion.

That would be a quarter of a trillion dollars paid out that would not boost our productivity. That quarter of a trillion dollars would increase foreign countries' standard of living, not ours.

That would be a quarter of a trillion dollars simply paying on our existing debt. More and more, we would have to borrow new amounts from foreign sources to pay back funds that we had already borrowed.

And that would be a quarter of a trillion dollars of behavior that one associates with a Third World economy, not the United States of America.

Second, foreigners are increasingly not investing their savings in America's productive sectors, but in U.S. Government securities. Foreigners are frequently buying our Government securities as part of schemes to manipulate currency markets and subsidize their exports. Those schemes further hurt our competitiveness and our future standard of living.

That is, they are not investing in plants and equipment, they are investing in our securities so they can accomplish other objectives and goals.

When 80 percent of the world savings flows to one country, the world economy is unbalanced. When 80 percent of the world savings flows to just the United States of America, that is a big imbalance.

This imbalance creates dangerous problems and distortions in the U.S. economy and throughout the world.

Eventually, the pendulum will swing back. The world economy will return to equilibrium. Foreign investors will decide to rebalance their portfolios. They will reduce their lending to America. America will have to pay more for its borrowing. Interest rates will rise. This rebalancing could cause severe dislocations in our economy.

We can steer clear of some of these costs. But we can do so only if we consider them now and do what we can to secure our economy from sudden and difficult adjustments later.

Where do we look for solutions?

America must increase its own national savings. We must finance more of our own investment.

We must create a reliable and stable pool of investment funding to fulfill our investment needs. This saving will also make us more profitable in the long run. We will gain the returns on capital investment here. We will not send them abroad.

We will continue to welcome foreign savings to our shores. But America will have a higher stock of self-financed investment.

How do we do this? First, we must plug the biggest leak in our national savings pool: the federal budget deficit. The federal government continues to run huge deficits. Prior to 2003, the record deficit was $290 billion in 1992. But in 2003, the government set a new record deficit of $375 billion dollars. In 2004, the government set an even higher record deficit of $412 billion dollars. This year, the government is projected to run a deficit of more than $300 billion dollars. The last 3 years have produced the 3 largest deficits in the Nation's history.

Now with the immense costs of Hurricane Katrina, Goldman Sachs now predicts that the deficits for the next 2 years will once again be about $400 billion. That would be 2 more years of deficits once again approaching record levels. Each year's deficit adds up.

These deficits increase our national debt. At the end of fiscal year 2001, the government's debt held by the public was $3.3 trillion. By the end of this month, economists project that debt held by the public will rise to $4.6 trillion. This would be an increase of 40 percent in just 4 years.

There are times when deficits are appropriate. If the economy is in a recession, net borrowing by the federal government can help to restore prosperity and job growth. But with the economy humming along now, huge deficits no longer serve Americans well. Instead, these large deficits divert domestic and international savings away from productive economic sectors. These productive sectors need savings to invest in innovative capital goods that can boost productivity, help our economy to grow, and improve our Nation's living standards.

We must be honest about our spending needs today and in the future. Budget forecasts for the near-term that neglect the costs of war and of neglect upcoming reductions in revenues—such as reform of the alternative minimum tax—serve no one but cynical political strategists. And the retirement of the baby boom generation beginning in 2008 will put enormous long-term pressure on the federal budget through increased Social Security, Medicaid, and Medicare spending. We must own up to these long-run problems.

Once we define the problem honestly, we must find ways to solve it.

First, we must restore the pay-as-you-go rules for both entitlement spending and tax cuts. We are stuck in a hole. We have to stop digging. We must pay for any new spending or tax cuts that we enact.

Until 2003, tough pay-as-you-go rules governed the Congressional budget process. But these rules expired in 2003. And a virtually meaningless alternative has taken their place. We must restore strong and meaningful pay-go rules.

Second, we must reduce the annual tax gap. As much as $350 billion of taxes went unpaid in 2001. Since then, the government has collected only $55 billion of that 2001 shortfall. These huge gaps occur every year. We cannot afford this tax gap.

Third, we must eliminate wasteful and unnecessary spending. For example, the Inspector General at the Department of Health and Human Services recently discovered that the government had paid nearly $12 million in benefits to recipients in Florida who had already died.

Fourth, we must eliminate wasteful and unfair tax breaks such as abusive tax shelters and corporate tax loopholes.

Finally, we must slow the growth in healthcare costs. We cannot rein in budget deficits without controlling the growth in healthcare costs. The private sector cannot sustain its current healthcare cost growth. And neither can the public sector. We cannot clamp down on healthcare costs in the public sector alone. Providers will just shift healthcare costs to the private sector. Fortunately, solutions that contain private sector healthcare costs will likely also help contain public sector healthcare costs, as well.

Taking these five steps would go a long way towards reducing Federal budget deficits and increasing national savings.

Increasing private savings is more complicated. We cannot adopt pay-as-you-go rules for families. Instead, we have to provide families with the tools that they need to develop their own growth plan.

The first tool is financial education. Too few Americans know how to develop a family budget. And too few know how to assess the risk of an adjustable rate mortgage when interest rates are rising.

We need to provide our children, and their parents and grandparents, with the tools that they need to make good financial decisions—to have more savings and less debt.

Programs such as ''Stash Your Cash''—a program to teach young people the basics of finance, saving, and investing—are a good start.

As part of ''Stash Your Cash,'' this summer, 15 pigs—each one 4 feet tall

and 750 pounds—appeared in the streets of Washington. And it was not just another political statement.

The colorful animals on street corners were oversized piggy banks. Local middle school students and artists painted each one.

''Stash Your Cash'' gets to kids early. It teaches them financial vocabulary, how to create a budget, and how and why they should save for the future. It teaches middle-school students that creating a budget helps them understand where their money goes, ensures that they do not spend more than they earn, finds uses for money to achieve goals, and helps them set aside money for the future.

We can all benefit from these lessons. Savings is vital for our children's and our families' financial future. And what is vital for our families is vital for our country.

Second, we need to make it easier to save.

The most successful savings programs are payroll-deduction savings through employer-sponsored 401(k) plans. We can make these programs even more successful by encouraging employers to enroll eligible employees automatically. Employees would opt out of saving instead of opting in. Without automatic enrollment, just two-thirds of eligible employees contribute to a 401(k) plan. With automatic enrollment, participation jumps to over 90 percent. The largest increases are among younger and lower-income employees.

Only half of private sector workers have a 401(k) or similar plan available to them. We need to bring payroll-deduction retirement savings to the other half.

Who is that other half? Part-time workers, those who put in less than 1,000 hours a year, do not have to be covered by 401(k) plans. Small employers are less likely to offer 401(k) plans, or similar arrangements, to their workers. And lower-income workers are less likely to have a plan available than moderate- and higher-income workers.

We have a voluntary pension system. We should not change that. But we can make savings opportunities available to more workers without forcing employers to provide more benefits.

Third, we need to make incentives for saving more progressive. Like many tax incentives, our current savings incentives give more bang-for-the-buck to those in the higher tax brackets. Our income taxes go to just the opposite.

In 2001, we took an important step toward fairness by creating the Saver's Credit. The Saver's Credit helps low-to-moderate-income taxpayers to save by providing a credit of up to half of the first $2,000 that they contribute to an IRA or 401(k) plan. More than 5 million taxpayers claimed this credit in 2001. It works. But it will expire after 2006. We must extend it and we must expand it to cover those with no income tax liability.

In ancient times, people viewed the toil of farming as a curse. The ancient text tells how when man left the Garden of Eden, he heard God say:

> Cursed be the ground because of you;
> By toil shall you eat of it
> All the days of your life:
> By the sweat of your brow
> Shall you get bread to eat,
> Until you return to the ground—
> For from it you were taken.

But now, increased investment, capital, and productivity have made it so that we may hear the blessing with which Moses blessed the children of Israel on the plains of Moab, across the River Jordan:

> The Lord will give you abounding prosperity in . . . the offspring of your cattle, and the produce of your soil in the land that the Lord swore to your fathers to assign to you. The Lord will open for you His bounteous store, the heavens, to provide rain for your land in season and to bless all your undertakings. You will be creditor to many nations, but debtor to none.

From ancient times, the sages recognized that the terms ''prosperity'' and ''debtor'' rarely apply to the same country.

Let us return to being a country whose saving provides the seed corn that brings those blessings of ''abounding prosperity.''

Let us seek the blessings of being ''creditor to many nations, but debtor to none.''

And let us do the work that we need to do to see that ''[t]he Lord will [continue]. . . to bless all [the] undertakings'' of this great Land.

I yield the floor.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2006—Continued

Mr. STEVENS. Mr. President, there have been so many legislative fellows and interns requesting to have seats on the floor, I am not sure there will be room for any regular staff soon. So I am going to start refusing to agree to floor privileges unless we are sure that there is going to be space for those staff who are assigned to work with members of the committee on this bill.

It is our hope we will be able to get to a vote on the Harkin amendment soon. I want to make a short statement, and that is, we have had some information from the Department of Defense.

May we go back on the bill now? We are back on the bill automatically?

The PRESIDING OFFICER. The Senator is correct.

Mr. STEVENS. I call the attention of my colleagues to the fact that the money for Iraq and Afghanistan is in a reserve account in this bill and, theoretically, it should have started being available this Saturday. It will only be available when this bill is signed into law by the President.

Sometime during the first quarter, operating accounts for day-to-day operation costs—operation and maintenance for the Army, for the Marine Corps, and for the training efforts of Iraqis—are in the reserve account and will not be available. It is imperative we get this bill to the President so it can be signed to make the money available by the middle of November.

Increased fuel costs are putting pressure on operating accounts. We all know what it costs us when we pull up to a gas station and fill up a tank. It costs just as much or more to fill up the tanks in Iraq and Afghanistan for those people who are in the air and on the ground. That money is not going to be available unless we approve this bill.

One of the things that bothers me is that there is money in this bill to finance continued production of the C–130Js. That production contract is planned for mid-November, but there is no money available now. It will not be available until the 2006 bill is signed. There are a whole series of things in this bill that are designed to take the pressure off of the way the funding is being carried out at the Department of Defense. The ability to finance the improvised explosive device task force initiatives will be constrained unless that $50 billion portion of this bill is passed.

So I urge the Senate to help us get this bill through as quickly as possible. I know that is sort of difficult now with the recesses that are coming up, but very clearly we are starting to get amendments that are not germane to this bill, and I hope that will not go on.

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

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

Mr. STEVENS. Mr. President, I and the Senator from Hawaii join in asking the clerks in both cloakrooms that they would send out a notice that we intend to move for third reading if there is no amendment presented within an hour.

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

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

Mr. LEAHY. Mr. President, I discussed this with the distinguished floor managers.

First, parliamentary inquiry: Is the Harkin amendment now the pending business?

The PRESIDING OFFICER. It is the pending question.

Mr. LEAHY. I thank the Chair.

Mr. President, I ask unanimous consent that it be in order to set aside

that amendment so the distinguished Senator from Missouri and I could offer an amendment, and that upon the completion of action or the setting aside, whichever transpires first, it be in order to return to the Harkin amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

AMENDMENT NO. 1901

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Vermont [Mr. LEAHY], for himself and Mr. BOND, proposes an amendment numbered 1901.

Mr. LEAHY. 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 appropriate $1,300,000,000 for Additional War-Related Appropriations for National Guard and Reserve Equipment for homeland security and homeland security response equipment)

On page 228, between lines 4 and 5, insert the following:

NATIONAL GUARD AND RESERVE EQUIPMENT

For an additional amount for ''NATIONAL GUARD AND RESERVE EQUIPMENT'', $1,300,000,000, to remain available until expended: *Provided*, That the amount available under this heading shall be available for homeland security and homeland security response equipment; *Provided further*, 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).

Mr. LEAHY. Mr. President, so Members will know, this amendment adds $1.3 billion in emergency funding for National Guard equipment to the supplemental portion of the fiscal year 2006 Defense appropriations bill. The funding is set aside for the National Guard to buy much needed items for homeland security and natural disaster response.

Hurricane Katrina exposed glaring deficiencies in the equipment available for the National Guard to respond to such disasters. After Hurricane Katrina, we had barely sufficient levels of trucks, tractors, communication, and miscellaneous equipment that is necessary to respond to the overwhelming scale of this storm. If we have another hurricane or, God forbid, a large-scale terrorist attack, our National Guard is not going to have the basic level of resources to do the job right.

As we know, in every one of our 50 States, we have seen in our career times where the National Guard was called upon to help. The National Guard Chief, LTG Steven Blum, recently noted that the Guard has only about 35 percent of what is officially required to respond to hurricanes, natural disasters, or possible terrorist attacks at home.

Yesterday, in an appearance in the House of Representatives, General Blum noted that Guard members responded to this disaster with insufficient and outdated communications. General Blum noted we are going to need at least—a staggering amount—$7 billion to procure the communications, trucks, medical supplies, and machinery necessary to respond to future disasters.

We knew, even before that hearing, that without any doubt there is an immediate need for at least $1.3 billion. We have to procure essential equipment such as a family of medium tractor vehicles, new SINCGARS radios, night-vision goggles, and other equipment.

I ask unanimous consent that a recent report from the National Guard on these critical needs be printed in the RECORD.

EXECUTIVE SUMMARY

National Guard units that deployed to combat since September 11th have been the best trained and equipped force in American History. $4.3 billion has been invested to provide those units with the very best, state-of-the-art equipment available in the world today.

This is an unprecedented demonstration of the DoD commitment to ensure that no soldier or aiman, regardless of component (Active, Guard, or Reserve), goes to war ill-equipped or untrained. With the help of the US Congress, this was accomplished over a two-year period. It is a reality for National Guard overseas combat deployments.

Now, the senior leadership of the DoD is extending the same level of commitment to the National Guard, the nation's first military responders in time of domestic need.

The DoD has a comprehensive reset plan that recognizes the National Guard's critical role in Homeland Defense and support to Homeland Security operations. This will take time and resources. I am confident that a real sense of urgency exists to make this a reality for America.

Communications equipment, tactical vehicles and trucks and engineer equipment are the National Guard's highest equipment priorities.

H. STEVEN BLUM, LTG, USA,
Chief, National Guard Bureau.

Mr. LEAHY. Mr. President, we got into this situation for two reasons:

First, unfortunately, with all the other needs of this country, we have traditionally underfunded the National Guard's equipment level. Second, much of the equipment the Guard does have is being used in the ongoing war effort in Iraq, Afghanistan, and in our needs across the Middle East and Central Asia. We all know there is no prospect that we are going to see it again back in the United States any time soon.

The distinguished senior Senator from Missouri, Senator BOND, and I cochair the Senate National Guard Caucus. On September 13, the two of us wrote the President to urge that the administration deal with this problem immediately. We want to demonstrate by our letter that this is not a partisan issue, it is a national issue.

We asked the President include the $1.3 billion in the next supplemental spending bill to deal with Hurricane Katrina. But we can't wait for the President to request the funding. We have to act now. The date this next supplemental spending bill will be submitted is still uncertain. We don't know when it is going to be submitted. But with this Defense appropriations bill, we have billions of dollars in emergency funding. Much of that emergency funding, rightly so, will go toward ensuring that our men and women abroad have the right tools to do their jobs. We should do that. But it is just as reasonable and necessary that we add emergency funding to deal with the equipment needs of our troops at home.

Certainly in the last couple of months, we have seen probably at no other time how much that equipment is needed, and we know there will be other occasions.

I praise Senator STEVENS and Senator INOUYE for including so much equipment money for the Guard in supplemental baseline bills. While most of that new equipment will go toward the Guard's overseas warfighting needs, our Guard and Reserve have a greater percentage and a greater activity than at any time in decades, and they need the help. The funding we are now asking for takes a big step forward.

I have worked with them closely. Of course, I want to see the amendment accepted. I will, of course, ask for a vote, if we can't reach such agreement.

I know the distinguished Senator from Alaska and the distinguished Senator from Hawaii have spent even more years in this body than I have, and they worked closely to help our National Guard. Senator BOND and I have done our best to fashion a reasonable and necessary piece of legislation.

I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I rise today to join wholeheartedly my National Guard Caucus cochairman, the distinguished Senator from Vermont, in urging the Senate to adopt these emergency appropriations for our National Guard.

We have had a lot of talk about emergency responders and people wondered, Did this group do their job? Did that group do their job? As Governor of Missouri for 8 years, I saw the National Guard respond, and respond fully, to every natural disaster we had. We had floods, we had tornadoes, we had some other civil disorders, and the Guard responded. They responded with the equipment they needed.

Since that time, I have served in the Senate as cochairman of the National Guard. I have seen the Guard continue to respond to State emergencies time after time after time. When they have been called upon to go abroad as part of the national defense mission, they have done so extremely well.

Unfortunately, the men and women of the National Guard, those vital citizen soldiers who volunteer to serve their country, have not been well resourced. It appears when equipment

is available the Pentagon obviously takes care, first, of the active. In this situation, we have seen a tremendous drain on equipment—not just from emergencies around the country but from the National Guard's participation and contribution of equipment to our overseas mission. As a result, the equipment readiness in critical areas of the National Guard has fallen to about 34 percent. We are asking the men and women of the Guard to go into situations—whether they be overseas military situations or a vital rescue mission such as New Orleans—without the equipment.

Our Guard, along with others, responded and responded promptly to the disaster of the gulf coast. They were in Louisiana. They went proudly. We sent an engineer battalion from Jefferson Barracks in Missouri. They went down there, and they performed admirably. They had one set of trucks, one set of communications equipment, and one set of night vision goggles. The need was great, and they asked for a second of the National Guard engineering units to be deployed. We had to refuse, not because we did not have the personnel ready—we did not have the trucks, we did not have the communication equipment. We absolutely could not respond in that situation because of a lack of equipment.

When we read the stories about the National Guard's participation, one gets a better understanding of how effective and how responsive the National Guard is.

As the Senator from Vermont said, we have requested that an emergency appropriation be added to the supplemental. I join with him today in asking the Senate to approve as an emergency appropriations measure the money we need. This money is critically important. It includes trucks. The big trucks the National Guard has can drive through flood areas. They can rescue people. They can also go in war zones. They need night vision goggles. You may think night vision goggles are necessary primarily in war. Think about going into New Orleans, which has lost all of its power, all of its lighting, and you are trying to find people who are in grave personal danger because of the rising floodwaters. You need the night vision goggles to see them. Most importantly, think about communications. How do they work with other units, other Federal units, other State units, when they are on a civil mission? When they are under control of the local officials who have the responsibility, who have the local command, how do they communicate with them? They cannot in too many instances.

That is why this particular appropriation is so important that we begin resourcing our Guard. We can all be very proud of the Guard in our States. We do not have every Member of the Senate as a member of the National Guard Caucus, but I have not found a Member of this Senate who is not extremely proud of his or her National Guard. They know when the chips are down, when lives are in danger, the Guard can and will respond. The Guard comes to our defense regularly. The very least we can do is make sure we support the Guard when they go in. Not giving them the equipment they need is not an answer. We are not going to send them into harm's way without the equipment to do their job.

This is an important amendment. This is a large sum. We, obviously, are very much aware of the needs. This is a pressing need, and the emergencies and the wartime situation we are in compel a response to the needs of the Guard.

I thank my colleague from Vermont for offering this, and I urge my colleagues to join in seeing that the National Guard gets the appropriation resources they need. I thank the managers of the bill.

I yield the floor.

Mr. LEAHY. I thank the distinguished Senator from Missouri. I was going to suggest that if the Senator from Alaska and the Senator from Hawaii want to accept the amendment, we could actually get some significant business done right here.

While they are thinking about this, I must say there are few people in this Senate more senior than I, but certainly the Senator from Hawaii is much more senior, the Senator from Alaska is much more senior. They are only two of five people senior to me, and they want a quorum.

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. BOND. 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. BOND. Mr. President, one of the minor procedural problems we have around here with an emergency clause is this has to go through several layers of clearance. It is not a higher pay grade, it is a different pay grade, it is a different responsibility. The distinguished floor managers are working on that. We have the budget committees and others who have to act on it.

I appreciate very much the work of Chairman STEVENS and Senator INOUYE. I hope we will be able to resolve this very shortly. We have two of the best leaders in the Senate handling this bill. Whatever needs to be done I assure my colleagues will be done.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. STEVENS. 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. STEVENS. Mr. President, is the Harkin amendment the pending amendment?

The PRESIDING OFFICER. The Leahy amendment is pending.

AMENDMENT NO. 1886

Mr. STEVENS. I ask unanimous consent the Leahy amendment be set aside and the Harkin amendment be brought before the Senate.

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

Mr. STEVENS. We have had some conversations about this amendment. It is an amendment that raises the subject of the way the Government is going to approach the great problems associated with Asian flu. Under the circumstances, it has been my recommendation that we take this amendment to conference because then the subject will be in this bill. If the agencies involved can come together with an appropriate plan and request for money, we would then be able to do this in conference.

Although I have had some question about this amendment, we have discussed this now with the author of the amendment. As I indicated to him, if it would pass, I would cosponsor, and I ask that my name be added as a cosponsor.

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

Mr. STEVENS. I ask unanimous consent that the amendment be agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Iowa.

The amendment (No. 1886) was agreed to.

Mr. STEVENS. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. STEVENS. The pending amendment is the Leahy amendment?

The PRESIDING OFFICER. The Leahy amendment.

Mr. STEVENS. Is that the Leahy-Bond amendment?

The PRESIDING OFFICER. It is.

Mr. STEVENS. 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. BOND. 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. BOND. Mr. President, I clarify with the desk that I am shown on the Leahy amendment; it is the Leahy-Bond amendment?

The PRESIDING OFFICER. The Senator is listed as a cosponsor.

Mr. BOND. I thank the Chair.

NOMINATION OF JOHN ROBERTS

Mr. President, while I have the floor, I will reflect a moment on the vote we took earlier today. This vote has such weight because of its place in our system of government. The Supreme Court is a final voice on the extent of the rights guaranteed by the Constitution, the demarcation of power between

the legislative and executive branch of Government, and the division of power reserved for the Federal Government and the governments of the individual States. As a Member of this legislative body and in a former life as a State Governor, I am acutely aware of the importance of the lines and the consequences when they are broached.

As a Member of the Senate, I do not welcome decisions overturning legislative acts that I support, but I frequently work with my colleagues to reject efforts to meddle in State affairs. As a Governor attempting to guide my State, I had to labor through many burdens placed in our way, the State's way, by an intrusive Federal Government.

The judicial branch of our Government—most notably the Supreme Court—has been designated by the Constitution as the branch to maintain these divisions of power and referee the tensions between our governments. After observing Judge Roberts during the days of hearings before the Committee on the Judiciary, I am convinced the power that comes with the vote of a Supreme Court Justice will be in wise and capable hands.

Throughout the strenuous sessions, Judge Roberts' intelligence, patience, and temperament were on full display. Judge Roberts made a convincing case through words and demeanor that he will approach his responsibility with modesty and humility.

Also, as Judge Roberts repeatedly reminded his inquisitors, he is not a politician. I commend him on his willingness to remind my colleagues that he was not before Congress to compromise or give hints on how he might vote on a hypothetical case in exchange for confirmation votes; rather, he confirmed repeatedly that the Constitution will be his guide to these questions.

I suspect that some of my colleagues have come to rely on the judiciary to advance changes that have no support in the duly elected member of our legislature, State and national; hence, their frustration with Judge Roberts.

Judge Roberts has clearly defined views of the role of the judiciary and the role of the legislature, and they do not appear to be blurred. As Judge Roberts put it so well:

> If the people who framed our Constitution were jealous of their freedom and liberty, they would not have sat around and said, ''Let's take all the hard issues and give them over to the judges.'' That would have been the farthest thing from their mind.

As did the Founders, I do not believe State and National legislative bodies are incapable of settling tough and contentious issues. I do not believe it is benevolent or admirable for judges to remove questions from the public realm because they are divisive. Judge Roberts has shown the modesty and respect to refrain from that path.

Judge Roberts also has made it clear he finds no place for reflection on the public attitudes and legal documents of foreign lands in the consideration of constitutional questions. They do not and should not offer any guidance as to the words and the meaning of our own Constitution.

During his testimony, Judge Roberts displayed a respect for the Constitution and the rule of law as the principles that should guide him when ruling on a case. His view of the role of the judiciary is very consistent with my own.

Finally, I believe President Bush has executed his duties in a responsible manner that will serve our Nation well. He interviewed many distinguished and qualified judges and attorneys in the country. He consulted with Members of the Senate. After careful and thoughtful deliberation, President Bush returned to the Senate the name of John Roberts. I am very pleased today that 78 Members of the Senate agreed and confirmed him to the Supreme Court.

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

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

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

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. Mr. President, I ask unanimous consent to speak for 6 minutes as in morning business.

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

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

AMENDMENT NO. 1901

Ms. LANDRIEU. Mr. President, I ask unanimous consent to be added as a cosponsor of the Bond-Leahy amendment regarding additional funding for the Guard and Reserve.

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

Ms. LANDRIEU. This is relative to the extraordinary work that they did in Hurricanes Katrina and Rita and the extraordinary work that our Guard does throughout the Nation. In fact, as I speak, I am sure they are on the ground for this unfolding tragedy in California with the fires. I am not able to speak more fully at this time but I wanted to register my support for the amendment and will speak later tonight. I understand this amendment may be accepted. I thank my colleagues for their great support at this time of obvious need. The people of Louisiana and the gulf coast are grateful.

I yield the floor.

AMENDMENT NO. 1901, AS MODIFIED

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, the amendment before the Senate is now the Leahy-Bond amendment?

The PRESIDING OFFICER. The Senator is correct.

Mr. STEVENS. I have a modification at the desk. I ask unanimous consent that the amendment be so modified.

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

The amendment, as modified, is as follows:

On page 228, between lines 4 and 5, insert the following:

NATIONAL GUARD AND RESERVE EQUIPMENT

For an additional amount for ''NATIONAL GUARD AND RESERVE EQUIPMENT'', $1,300,000,000, to remain available until expended: *Provided*, That the amount available under this heading shall be available for homeland security and homeland security response equipment; *Provided further*, 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 (109th Congress).

Mr. STEVENS. There was one problem. The number of the Congress has been changed.

The PRESIDING OFFICER. The amendment is so modified.

Mr. STEVENS. I ask for consideration of the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to amendment No. 1901, as modified.

The amendment (No. 1901), as modified, was agreed to.

Mr. STEVENS. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. STEVENS. 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. 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.

Mr. DURBIN. Mr. President, is there a pending amendment before us?

The PRESIDING OFFICER. There is not.

AMENDMENT NO. 1908

Mr. DURBIN. I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Illinois [Mr. DURBIN], for himself, Ms. MIKULSKI, Mr. CORZINE, Mr. SALAZAR, Mrs. MURRAY, Mr. LAUTENBERG, Mr. BIDEN, Mr. NELSON of Florida, and Mr. BINGAMAN, proposes an amendment numbered 1908.

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 ensure that a Federal employee who takes leave without pay in order to perform service as a member of the uniformed services or member of the National Guard shall continue to receive pay in an amount which, when taken together with the pay and allowances such individual is receiving for such service, will be no less than the basic pay such individual would then be receiving if no interruption in employment had occurred)

At the appropriate place, insert the following:

SEC. ___. NONREDUCTION IN PAY WHILE FEDERAL EMPLOYEE IS PERFORMING ACTIVE SERVICE IN THE UNIFORMED SERVICES OR NATIONAL GUARD.

(a) SHORT TITLE.—This section may be cited as the ''Reservists Pay Security Act of 2005''.

(b) IN GENERAL.—Subchapter IV of chapter 55 of title 5, United States Code, is amended by adding at the end the following:

''§ 5538. Nonreduction in pay while serving in the uniformed services or National Guard

''(a) An employee who is absent from a position of employment with the Federal Government in order to perform active duty in the uniformed services pursuant to a call or order to active duty under a provision of law referred to in section 101(a)(13)(B) of title 10 shall be entitled, while serving on active duty, to receive, for each pay period described in subsection (b), an amount equal to the amount by which—

''(1) the amount of basic pay which would otherwise have been payable to such employee for such pay period if such employee's civilian employment with the Government had not been interrupted by that service, exceeds (if at all)

''(2) the amount of pay and allowances which (as determined under subsection (d))—

''(A) is payable to such employee for that service; and

''(B) is allocable to such pay period.

''(b)(1) Amounts under this section shall be payable with respect to each pay period (which would otherwise apply if the employee's civilian employment had not been interrupted)—

''(A) during which such employee is entitled to reemployment rights under chapter 43 of title 38 with respect to the position from which such employee is absent (as referred to in subsection (a)); and

''(B) for which such employee does not otherwise receive basic pay (including by taking any annual, military, or other paid leave) to which such employee is entitled by virtue of such employee's civilian employment with the Government.

''(2) For purposes of this section, the period during which an employee is entitled to reemployment rights under chapter 43 of title 38—

''(A) shall be determined disregarding the provisions of section 4312(d) of title 38; and

''(B) shall include any period of time specified in section 4312(e) of title 38 within which an employee may report or apply for employment or reemployment following completion of service on active duty to which called or ordered as described in subsection (a).

''(c) Any amount payable under this section to an employee shall be paid—

''(1) by such employee's employing agency;

''(2) from the appropriation or fund which would be used to pay the employee if such employee were in a pay status; and

''(3) to the extent practicable, at the same time and in the same manner as would basic pay if such employee's civilian employment had not been interrupted.

''(d) The Office of Personnel Management shall, in consultation with Secretary of Defense, prescribe any regulations necessary to carry out the preceding provisions of this section.

''(e)(1) The head of each agency referred to in section 2302(a)(2)(C)(ii) shall, in consultation with the Office, prescribe procedures to ensure that the rights under this section apply to the employees of such agency.

''(2) The Administrator of the Federal Aviation Administration shall, in consultation with the Office, prescribe procedures to ensure that the rights under this section apply to the employees of that agency.

''(f) For purposes of this section—

''(1) the terms 'employee', 'Federal Government', and 'uniformed services' have the same respective meanings as given them in section 4303 of title 38;

''(2) the term 'employing agency', as used with respect to an employee entitled to any payments under this section, means the agency or other entity of the Government (including an agency referred to in section 2302(a)(2)(C)(ii)) with respect to which such employee has reemployment rights under chapter 43 of title 38; and

''(3) the term 'basic pay' includes any amount payable under section 5304.''.

(c) CLERICAL AMENDMENT.—The table of sections for chapter 55 of title 5, United States Code, is amended by inserting after the item relating to section 5537 the following:

''5538. Nonreduction in pay while serving in the uniformed services or National Guard.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to pay periods (as described in section 5538(b) of title 5, United States Code, as amended by this section) beginning on or after the date of enactment of this Act.

Mr. DURBIN. Mr. President, this amendment has been offered before and agreed to before. Unfortunately, it has not been enacted into law. It does very well on the floor of the Senate. It just doesn't do very well in conference committee. For some reason, when it gets to a conference committee, it is usually removed. I hope this will be an exception because I think what we are talking about with this amendment is something that most Senators on both sides of the aisle would agree with.

The premise behind this amendment is as follows: If you are willing to serve in the Guard or Reserve and if you are willing, when activated, to leave your job and your family behind to risk your life for America, we should do our best as a nation to stand behind you. That is it.

How do we stand behind the men and women of the Guard and Reserve when they are activated to serve in Iraq and Afghanistan? In a variety of ways. Communities come forward, churches, friends, community groups help the family of a soldier who is overseas. But there is one other thing that happens that is as important, if not more. Many times that activated Guard or Reserve member faces a cut in pay. They have a good job. They have been activated. They have to serve for a year or more. They are being paid less during the time they are serving our country. So we encourage employers across America to stand behind their employees. If your employee is activated, stand behind your employee. Make up the difference in their pay.

It turns out that hundreds of corporations across America have said that is the right thing to do. That is the patriotic thing to do. Yes, we will stand behind the men and women activated into the Guard and Reserve. We will make up the difference in pay so that their families back home have financial peace of mind that they can pay the mortgage, the utility bills, keep the family together while that soldier is risking his life overseas.

We think so highly of these companies for their patriotism and dedication to our soldiers that we have created a Web site at the Department of Defense. You can go to it. It is a site that congratulates these employers for their devotion and allegiance to our troops.

Unfortunately, there is one employer that refuses to do this. It turns out it is the largest single employer of all the Guard and Reserve who are being activated. One employer that refuses, despite this Web site, despite all these speeches, one employer that refuses to stand behind the soldiers who were activated in the Guard and Reserve and to make up the difference in pay if they are paid less when they are activated than they were paid in civilian life. Who is this deadbeat employer that won't listen to these calls for patriotic responsibility to the men and women in uniform? What employer in America, after all that these soldiers have been through, will not stand behind them and make up the difference in pay? That employer is the Federal Government of the United States.

One out of 10 Guard and Reserve serving today are Federal employees. The Federal Government refuses to make up the difference in pay for those who have had a cut in pay because they are risking their lives for America.

I have offered this amendment time and again. I don't understand why it gets killed in conference committee every time I offer it. So many Senators come to the floor and say what a great idea it is. Yet when it goes to conference committee, it doesn't survive. This amendment brings the Federal Government into the 21st century and into line with countless other major employers. So many of America's top companies do the right thing for members of the National Guard and Reserve. So many of these are good patriotic corporate citizens in our private sector. But in the public sector, 24 State governments, including my home State of Illinois, provides the same income protection for their State government workers. Counties do it, cities do it, villages do it at great sacrifice, and we thank them for that.

This amendment simply allows the Federal Government to catch up with the times, to match what other major employers are already doing, and to provide the same type of income protection for our Federal Government civilian employees who also serve in the Guard and Reserve.

I propose this amendment because it is not clear that a real opportunity to

offer it will ever come on the Department of Defense authorization bill this year.

The Senate is on record as supporting this measure. We have passed it on three previous occasions. Two of those occasions were amendments to appropriations bills, such as the one before us.

This is the same language as reported out of the Governmental Affairs Committee last Congress, except this version does not include any retroactivity provision. Though I personally support that, this amendment doesn't go that far.

The Congressional Budget Office has confirmed that this measure has a cost but not a budget score. It is not retroactive. It is prospective only and subject to available appropriations. The funds to provide this differential pay to these Federal employees in the Guard and Reserve can come from funds already appropriated to the agencies for salaries. Twenty-four State governments do this. We have letters from those States attesting to the fact that the benefit has required no additional appropriations.

Many of my colleagues on both sides of the aisle have supported this measure in the past, and I thank them from the bottom of my heart for standing with our men and women in uniform.

Let me show data which is illustrative of what we are facing.

Recent data from the Department of Defense's newest ''Status of Forces Survey of Reserve Components'' tells us that 51 percent of reservists lose income during mobilization, and 11 percent lose more than $2,500 per month.

So in addition to the sacrifice of being separated from their family, risking their lives in service to their country, many of them are taking substantial cuts in pay.

The new ''Status of Forces Survey of Reserve Components'' also reveals that income loss is one of the top factors cited by National Guard and Reserve components as reasons they might choose to stop serving in Reserve components. This is not only an injustice that we in the Federal Government are not making up the pay differential, it, in fact, is one of the reasons some in the Reserve and Guard say they are not going to re-up. We cannot retain their good services to our country because of the economic sacrifice which that service creates.

The Department of Defense operates a program called Employer Support of Guard and Reserve—ESGR for short—which recognizes and pays tribute to those patriotic, outstanding employers who go beyond the legal minimum job protections in support of their workers who are citizen soldiers. ESGR operates this Web site which lists 900 companies, nonprofits, and State and local governments which offer this pay differential for mobilized workers. Search our Government Web site all you will, but you will not find the Federal Government on the list. We do not provide the same benefit to these men and women in service to our country as these other employers.

The number of employers providing this type of support to their workers in the National Guard and Reserve has grown steadily, and we owe them a great debt of gratitude for the love of country and devotion to our men and women in uniform, but the Federal Government is still not one of those employers.

I think this measure is long overdue. The Federal Government should not be lagging behind major corporations and roughly half of the governments of the States of the United States in terms of the quality of support for the men and women in the Guard and Reserve.

We should be a leader, not a follower. We should set the example right now with this amendment. We can fix this problem, and we can do it quickly.

Let me briefly make a few points for the minority of my colleagues who might continue to have reservations about this concept.

This measure does not bust the budget. Certainly, it results in some expenditures, but the money to make up for any lost income by these mobilized Federal workers is drawn from the funds already previously appropriated to the same agency the workers were serving in before they were activated. The money is already there. State governments that provide similar benefits report that they require no additional appropriations to meet this responsibility.

Second, this measure is not additional pay for military service. Reservists continue to receive the same military pay for the same military job. Any differential pay they receive from their Federal civilian employer is separate and apart from that and is simply intended to keep such employees financially whole while they are away. It is a reflection of the value they provided to their Federal agency before they were mobilized and a reflection of the value they will provide again when they return.

The military pay a reservist gets during mobilization is for the military role he or she performs and is utterly unchanged by this amendment.

Third, the wisdom of this amendment is readily understandable by the entire force, whether Active Duty or Reserve. Some people ask how to explain to an Active-Duty soldier or his or her family why a Reserve soldier sharing the same foxhole—to use an old colloquialism—performing the same duties, is allowed to draw both military pay as well as the lost portion of their civilian income. This is easy to explain and easy to understand.

Unlike Active component troops, Reserve component troops structure their lives and make their financial commitments based on their regular civilian income. Their house payments, their car payments, the kids' tuition payments—everything in their financial picture is based on the income of a civilian life. When that income disappears during mobilization and is replaced by lower military income, the family suffers a real hardship.

The Active component family may not suffer that hardship. They understood going in what the parameters of their family budgets were. Allowing a Federal civilian employer to alleviate this hardship for their workers, as many private employers already do, makes clearly explainable and understandable sense.

Soldiers take care of one another. No troop wants to see his buddy struggle or suffer problems with their family. Certainly, no Active-Duty soldier wants that Reserve soldier standing by his side helping him to fight this war to be distracted by financial hardship back home.

Let me tell you who endorses this legislation: the American Legion, the National Military Family Association, the Reserve Officers Association, the National Guard Association of the United States, and the Enlisted Association of the National Guard of the United States.

The reason to support this measure is simple and straightforward: the Federal Government cannot and should not do less for its employees in the Guard and Reserve than other major employers in America. It is time for the U.S. Government to be an employer which is as supportive of our troops as Sears, IBM, Home Depot, General Motors, and 24 State governments. They have already passed similar legislation. They have already made a commitment to our troops. How can we commend all these other employers who go the extra mile to support our troops while we fail to do so? Can we hold them up as examples and not be an example ourselves? I think the answer is no.

What we can do is adopt this amendment. I invite all my colleagues to come together once more to adopt the Reservist Pay Security Act, and I urge my colleagues on the Appropriations Committee, when this amendment is adopted, for goodness' sake and for the sake of these soldiers, don't kill it in conference committee. Stand by these soldiers all the way through the process. For years now, these soldiers have been shortchanged. It is time for us to make a difference in their lives and make a commitment to these great men and women.

Mr. President, I ask for the yeas and nays on the pending amendment.

The PRESIDING OFFICER (Mr. CHAFEE). Is there a sufficient second?

At this moment, there is not a sufficient second.

Mr. DURBIN. Mr. President, I withdraw that request and ask for the adoption of the pending amendment.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to amendment No. 1908.

The amendment (No. 1908) was agreed to.

Mr. STEVENS. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. STEVENS. 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. STEVENS. 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. STEVENS. Mr. President, for the information of Senators, there will be no further action on the Defense appropriations bill tonight.

MORNING BUSINESS

Mr. STEVENS. I ask unanimous consent that we go into a period for morning business.

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

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

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

CONTINUING RESOLUTION

Mr. BYRD. Mr. President, here we go again, yes, here we go again. The fiscal year ends tomorrow at midnight. Only two of the annual appropriations bills required to fund the Federal Government have been sent to the President. This is deja vu all over again.

As a result, the Congress is rushing through the stopgap money measure called a continuing resolution in order to prevent a massive shutdown of the departments and agencies of the Federal Government.

Is this the way to run a government?

This is no way to run a government.

The appropriations process is a very simple process, in reality. The President sends his recommendations to the Congress in the form of a budget, usually in early February. Subsequently, the House formulates reports, debates and passes 11 annual appropriations bills. To its credit, the House has done exactly that. It has done its job.

What is wrong with the Senate?

I commend the chairman of the Appropriations Committee, Mr. COCHRAN. Yes, I commend him. With his steady leadership, the Senate Appropriations Committee has formulated and reported all of the annual appropriations bills. Eight of those appropriations bills have been passed by the Senate. Four appropriations bills are now pending in the Senate. This includes the Defense appropriations bill, the Transportation-Treasury appropriations bill, Labor-Health and Human Services-Education appropriations bill, and the District of Columbia appropriations bill, which is likely to be added to the Transportation appropriations bill in order to conform to the House version.

That is where we stand today.

What is the problem?

Regrettably, the Senate Leadership has not seen fit to bring three of our appropriations bills to the floor. This is not the fault of the chairman of the Appropriations Committee. He has called upon the leadership, as did I, to give the appropriations bills high priority in the scheduling of floor time.

The Labor-HHS-Education appropriations bill, the Transportation-Treasury appropriations bill, and the District of Columbia appropriations bill were approved by our Appropriations Committee over 2 months ago. I simply do not understand why the leadership is dragging its feet! Why not debate legislation that will fund critical investments in our schools, in our healthcare systems, and for our Nation's transportation infrastructure? Are Senators not going to have the opportunity to debate bills that provide over $211 billion?

We need to debate each of these funding bills individually. We need to conference them individually with our House counterparts—not just consider them as sub-parts of a large omnibus package. That is what I believe the chairman of the Appropriations Committee wants, and that is what I, too, would like to see happen. I urge my colleagues to work toward that goal.

It is unfortunate that most of the regular programs of the departments and agencies of Government will limp into the new fiscal year, which begins—when? this Saturday, the day after tomorrow, under the terms and conditions of a very restrictive continuing resolution. Here we are in the midst of one of the largest natural disasters to hit the United States, and only two regular appropriations bills have been enacted. One would think that the Congress would want to enact all of the annual appropriations bills before the beginning of the fiscal year so that the Federal agencies can hit the road running on October 1st and deal with the problems confronting the American people. Instead, we are enacting a very restrictive stop-gap measure that merely prevents the Government from shutting down. What a shame. It is very unfortunate that the House majority refused to fix the problem created by the continuing resolution for the Community Services Block Grant program, which provides critical healthcare and nutrition services to the neediest Americans. It is very unfortunate that, as we approach winter with fuel prices expected to grow dramatically, this continuing resolution reduces funding for the Low Income Home Energy Assistance Program.

In conclusion, I am disappointed that the appropriations bills have not been enacted on a timely basis. Having said that, I urge my colleagues to support the continuing resolution. We have no other choice.

I urge the leadership to call up the remaining appropriations bills, debate them, and send them to conference with the House. We have an obligation to the American people to get our work done. Debate and deliberation is what the Senate is supposed to be about—debate and deliberation and amending. The American people expect us to debate these bills and to protect the power of the purse and, thereby, protect their hard-earned tax dollars. These matters should not be swept under a carpet somewhere. More, not less, transparency is needed in debating appropriations bills. The Congress should have completed action on all the appropriations bills—not just two—on all the appropriations bills before the end of the fiscal year tomorrow night. Failing that, we should enact eleven individual, fiscally responsible annual appropriations bills before the termination of this continuing resolution on November 18th.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

IN REMEMBRANCE OF SAM VOLPENTEST

Ms. CANTWELL. Mr. President, I rise today to commemorate and pay tribute to the life of a great Washingtonian, a great American, and someone that I know even in the Nation's Capital will be remembered for his great contributions. Yesterday, I learned of the death of Sam Volpentest, a resident of Washington State, who lived to be 101-year-old.

Sam has continued to play a leadership role in our State. We were all proud of the fact that we all attended his 100th birthday party last year and that for the last several months he has continued to play a vital role in the State of Washington on important economic issues.

I am proud to say that Sam was a friend, and I am grateful for his mentorship and his wisdom. My thoughts are with his family and the larger Tri-City community that mourn his loss. This is a man who had a list of unending accomplishments and literally touched thousands of lives of his fellow citizens. He changed the course of history in Washington State and left his mark on this Nation's history, as well.

Sam's legacy was one of generosity, of leadership, of commitment, of inspiration—important lessons for Washingtonians to still benefit from.

My remarks today cannot justify the significance of his contribution. Sam moved with his family from Seattle to the Tri-Cities in 1949 and went into business as a tavern owner. The Tri-Cities was just at the beginning the epicenter of the nuclear age, a sleepy little town in Richmond that sprung to life when the Hanford site was selected in 1943 as the location of the Manhattan Project, plutonium production activities as part of President Roosevelt's strategy to win World War II. The Manhattan Project transformed the entire region from literally an agriculture and fishing economy centered on the Columbia River into a Federal booming town. It changed the course of our State and Nation's history.

Central Washington was booming, and Sam thought it was the right place for a salesman like him and his family; so he went to work right away on community and business issues.

It was his vision for the community that continued to push the community and the representatives who came here to Washington and those in Washington, DC, to further see the future in Washington State.

Hanford had grown due to the Federal investment in the Manhattan Project and later in support of the Cold War. At that time, Sam, a former salesman and tavern owner, found himself rubbing shoulders with the likes of Senators Jackson and Magnuson, and stories about Sam, Scoop, and Maggie are numerous and legendary.

I think this picture shows that even at that time, with my predecessors, Senator Warren Magnuson and Senator Scoop Jackson, Sam Volpentest even back then was right in the thick of things. The fact that he still consulted with Senator MURRAY and me up until the last several months showed his dedication to what this country needed to be focused on.

In 1956, Sam decided that Richland, WA—one of the Tri-Cities surrounding Hanford—looked too much like a construction camp. That is because it was a community that literally sprang up overnight out in the desert. Sam wanted that community to continue to grow.

The N-Reactor was one of the most critical investments in the Tri-Cities, with Sam Volpentest's fingerprints on it. The Hanford site evolved as our Nation's nuclear needs changed. Sam's efforts helped America stay in the lead during the nuclear age, put Americans to work, improved the lives of those living in central Washington, and it played an incredible role for our country.

In the mid-1960s, as the nuclear age transitioned, Sam saw the writing on the wall: the Tri-Cities would need to evolve with it. As Hanford's nuclear weapons material production activities began to slow, Sam's vision drove him to change his strategy as well.

I come back to a critical point I want to say. In the 1940s, as World War II raged in Asia, Europe, and North Africa, my State responded to the Federal Government's call. As Federal investment grew during the early days of the Manhattan Project, this remote area of our State responded with the energy infrastructure that was so critical in helping launch the nuclear age. This world's first large-scale production nuclear reactor, the B Reactor, located in our State, played an incredibly vital role.

The reason I emphasize that is because Sam realized that once that goal was achieved, the region needed to keep playing an important role in our national security issues, and that was through the contributions of its workforce and materials needed throughout our time period post-World War II.

Our contribution and Sam's continuing contribution was to make sure the Federal investment and cleanup work at Hanford was actually achieved. Sam knew that the Tri-Cities had a lot to offer our Nation, but he knew that the economy needed to have diversity and that cleanup was part of it. So what did Sam do? He went about convincing Federal officials, private investment, and other resources to come to Hanford and explore more efficient ways to clean up the waste, and not just at our site in Washington State but around the world.

Sam's vision led to a larger vision that has leveraged the workforce in the State of Washington. Those efforts led to the establishment of one of our National Laboratories, the Pacific Northwest National Lab in the Tri-Cities. Today, Federal research dollars spur research and development in countless scientific areas—from proteomics research, nuclear materials cleanup, biofuels, and many more.

Sam did not just want to get the work done; he wanted the workforce and the community to be safe. Sam worked to further the economic development and success of his community through a variety of government and community organizations.

One of his most important projects was helping the business community get access to small business contracts that were being part of the Federal work commissioned at Hanford. Some of the most notable projects Sam Volpentest is responsible for in the Tri-Cities in Washington State are a six-story Federal building in Richland, the inception of the Pacific Northwest National Laboratory, three freeways, twin bridges over the Columbia River, the N-Reactor Hanford Generating Plant, the Fast Flux Test Facility, the Life Sciences Laboratory and the Environmental Molecular Sciences Laboratory, the Hanford House/Red Lion Hotel, the Iowa Beef Processing Plant, and Sam's namesake, the Volpentest HAMMER Training and Education Center.

This training center is probably one of Sam's greatest accomplishments because it still today provides Hanford workers with real-time training in safety and response. The training facility now has trained countless first responders from governments all over our country and all over the world on how to respond to safety incidents from a more robust public participation. Sam's efficiency at this training facility gives those who are first responders the on-the-job-training they need.

Sam was often asked when he was going to retire—for example, whether it would be at age 65 or 75. He said: Why would I want to do that? Don't retire. Look to the future. Ask what you can do for your community that has been so good to you. Get out there and do something. And even if you do it for free, it will make you feel great afterward.

That was Sam Volpentest, a great Washingtonian, a great member of our country. We will miss ''Mr. Tri-Cities,'' and we will try to live up to his legacy of accomplishment and continue to bring about a good cooperative relationship between a key part of Washington State, the great Tri-Cities, and our Federal Government, in making sure the Volpentest legacy continues.

I yield the floor, Mr. President.

AMENDING THE CONTINUING RESOLUTION

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I thought the CR—the continuing resolution, as it is known around this place—was going to be laid down tonight. I guess it will not be laid down until tomorrow. But I will be offering an amendment the first thing in the morning on behalf of myself and a number of other cosponsors: Mr. KOHL, Mr. JEFFORDS, Mr. LEVIN, Mr. BINGAMAN, Mrs. CLINTON, Ms. STABENOW, Ms. MIKULSKI, Mr. LAUTENBERG, Mr. ROCKEFELLER, Mr. AKAKA, Mr. PRYOR, Mr. CARPER, and Ms. CANTWELL. I think by tomorrow morning there are going to be a lot more on this list.

It is basically a very simple amendment. All it says is:

> Notwithstanding section 101 of this joint resolution, amounts are provided for making payments under the ''Community Services Block Grant Act'' at a rate not less than the amounts made available for such Act in fiscal year 2005.

Well, what that means is that this amendment, then, will continue the community services block grants at last year's level.

Now, you might say: Well, wait a minute. Isn't that what a continuing resolution does, it continues everything at last year's level?

Well, we have a continuing resolution the likes of which I have never seen. I have not seen it in the last 10 years. I have asked my staff to go back 20 years or so to see if we had something like it.

Here is what the House has done. They have sent us a continuing resolution that continues funding either at last year's level or at the House budget level, whichever is lower—whichever is

lower. Now, what you will find out in there is that there are cuts in education, cuts to a whole lot of things. But most of those cuts do not take effect until next year. Education money goes out next summer. So for the continuing resolution, from now until—what?—November 18, I think it is, or something like that—a couple months—they will not be hit. But there will be a 50-percent cut in the Community Services Block Grants, which means by Saturday they will be cut 50 percent—right now.

Now, the occupant of the Chair, a former distinguished Governor of Virginia, I know he knows about the community services block grants. They do a lot in his State, as they do in our States: the Low Income Home Energy Assistance Program, housing, Head Start, transportation for the elderly, job search, all kinds of things, even helping low-income people apply for the earned income tax credit. There are a whole host of things done by Community Services Block Grants. It will be cut 50 percent, not next year, Saturday, Sunday. It will be a 50-percent cut immediately.

Now, I am going to read it into the RECORD this evening. I am sorry I have to keep the distinguished Senator in the chair for a little while tonight, but I think it is important for people to understand what we are doing here.

If this were just affecting programs like education next year—we are going to fix that by November, granted. But this is now. This happens now. The poorest of the poor in our country are going to get hit Saturday, Sunday, Monday, because of the wording of that continuing resolution, with a 50-percent cut, including victims of Hurricane Katrina, children all across the country.

We just had the mayor of Baton Rouge here the other day, Kip Holden. He was up here asking for more money for community services block grants. When he found out from my staff what the continuing resolution did in cutting it 50 percent, he couldn't believe it. He said they have been invaluable in assisting Katrina evacuees, getting things done that FEMA could not. He was up here pleading for more funding for community services block grants. He said it was beyond belief that Congress would be cutting this program at a time when it is most urgently needed. But that is exactly what the Congress will do if it passes this CR.

Once again, we are 1 day from the end of the fiscal year. Like an irresponsible schoolchild, the Congress has not completed its homework. It has finished 2 of the 11 appropriations bills. Why do we find ourselves once again in this sorry state of disarray? Consider the Labor-Health and Human Services appropriations bill, which is the bill that funds community services block grants. Under the very capable leadership of our distinguished chairman, Senator ARLEN SPECTER, our subcommittee did its job in a timely, orderly manner. We passed the Senate Labor-Health and Human Services-Education appropriations bill 2½ months ago, July 14. But once it left our committee, it seemed to disappear into a black hole. It hasn't been brought up on the floor. It is not even scheduled to be brought up on the floor. This is the bill that funds the community services block grants.

We didn't cut it. It was bipartisan. Republicans and Democrats on the subcommittee and on the full Committee on Appropriations voted to continue the funding for community services block grants at last year's level. Here we are, 1 day away from yet another end-of-fiscal-year train wreck.

Like actual train wrecks, this one will have real human casualties and victims, real hardship. This has not been done before. I know no one is here. There are no more votes tonight. Senators have all gone home. But I will be back on this floor tomorrow. We get 30 minutes tomorrow morning, 30 minutes to do something to protect the poorest of the poor, those who have no one to fight for them, those who rely upon our community service agencies out there to help them get through a tough time, to provide the Low Income Heating Energy Assistance Program. Even in Virginia, as well as Iowa, up in the northern part of the country, cold weather is starting to set in. It is in the 30s at night. Pretty soon it will get down to freezing, in October and November. We are going to need to get LIHEAP money out to these people. How are we going to do it when we have cut funding 50 percent? We are not supposed to speak about the other body here, but what could have been on their minds in doing something like this?

Now we are going to bring this up tomorrow. I assume the leadership is going to want us to rubberstamp it, a continuing resolution that will mandate drastic cuts to these vital services for the poorest of the poor, rubberstamp it, get it out of here, 30 minutes of debate tomorrow. We will talk about it. We will rubberstamp it, and we will get on our planes and go home. We are comfortable. We are going to be able to afford heat. We will be able to afford food for our families. We don't have anything to worry about. We make a lot of money around here. Eighty percent of this place is filled with millionaires. That is fine. We are comfortable.

Think about those who are not so comfortable. We are going to see devastating cuts. I mentioned serving victims of Hurricane Katrina. One hundred seventy-one thousand people, estimated not by me but by those involved with the evacuees, 171,000 people are being served under the community services block grants right now. It is 50 percent, this weekend—not next year, now—a 50-percent cut now. I don't know if people understand this. Poor people are going to suffer.

For the record, in fiscal year 2005, the CSBG was funded at $637 million, $636.6 million, to be accurate. The House provided $320 million for next year. Therefore, under this continuing resolution, which says you either take last year's level or the House level, whichever is less, that is what you do. Well, the House level is $320 million, a 50-percent cut.

I have a chart that shows the funding levels for community services block grants. In each of the last 3 years, it has been cut. The last time it was raised was in the fiscal year from 2001 to 2002 to $650 million. Ever since then, in fiscal years 2003, 2004, and 2005, it was cut from 650 to 645 to 642 to 636.6. Now they want to cut it in half. What is interesting about this chart is they want to cut it to 320 million. That is the level it was at in 1986. That is how much we provided in 1986 for the community services block grants.

I ask unanimous consent that this chart be printed in the RECORD.

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

COMMUNITY SERVICES BLOCK GRANT APPROPRIATIONS HISTORY

[In millions]

FY 2005	$636.6
FY 2004	642.0
FY 2003	645.8
FY 2002	650.0
FY 2001	600.0
FY 2000	527.7
FY 1999	500.0
FY 1998	489.7
FY 1997	489.6
FY 1996	389.6
FY 1995	389.6
FY 1994	385.5
FY 1993	372.0
FY 1992	360.0
FY 1991	349.4
FY 1990	323.0
FY 1989	318.6
FY 1988	325.5
FY 1987	335.0
FY 1986	320.6
FY 1985	335.0
FY 1984	316.8
FY 1983	341.7
FY 1981	394.3

Mr. HARKIN. We are saying to the poorest in our country: We are going to take you back to 1986.

I have a modest proposal. Why don't we take our Tax Code and move it back to 1986? Whatever people were paying in taxes, we will move everything back to then. How would the most comfortable in our society, the wealthiest, the richest, like that? I rather doubt that that would be something you would ever accomplish around here. Yet for the poorest people in our country, we can take them back to 1986.

I have been here 30 years. I have never seen anything like this: 170,000 victims of Hurricane Katrina; in Texas, 72,000 evacuees have been served by this program; in Louisiana, more than 43,000 hurricane victims. Almost all the community action agencies in the impacted area were up and running by the second day after the storm. They were finding shelter, feeding people, clothing people, getting them medical attention. Now they are helping victims find employment. Community action agencies have been actively working with faith-based organizations all across the gulf coast to provide relief

services. I mentioned what the mayor of Baton Rouge said. He was up here wanting to get more money for community services block grants. What does he get hit in the face with? Not only are you not getting more, they are cutting you in half. He couldn't believe it.

Nationwide, this cut would eliminate or disrupt essential services for some 6.5 million low-income people, including nearly 2 million children. A majority of rural outreach centers will be closed, denying entire rural communities access to services. Many of the one-stop neighborhood centers in suburban and urban areas would also be shut down.

Here is a chart that gives you an idea of what this 50-percent cut means. I mentioned 6.5 million people, 2 million kids. Communities will lose 21 million CSBG-supported volunteers. These are the volunteers the CSBG people pull together to do things. These are volunteers who want to, for example, volunteer their time to drive some elderly, low-income people to a community health center. These are good people, many of them church based, who volunteer their time to drive people to a meal site for a senior citizen meal. They volunteer their time to take low-income kids to a Head Start Program, for example. They are volunteers doing good things, but they need someone to pull it together, organize it, manage it, and get the transportation. That is what CSBG does. So we are going to cut it by 50 percent.

These volunteers are going to say: I would like to volunteer my time to drive these elderly, but you don't have any vehicle for me. Who is setting up the time? Who is making sure they are going to be there when I get there? No one. As a result, we are going to lose all these wonderful volunteers.

Private food banks all over the Nation rely on space, refrigerators, and transportation supported by CSBG. Think about all of the food banks all over America that are already being stressed to the limit. They are supported by the community services block grants. Now we are going to cut them in half. What happens to the space, what happens to the refrigerators, the transportation? Several million Americans will lose nutritional services and emergency food—not next year; this is not prospective. This is next week. The Low Income Home Energy Assistance Program is administered by CSBG. This cut will reduce staff in half, while home heating costs are expected to rise 50 to 70 percent. Cold weather is coming. Heating costs are going up. Cut CSBG.

That is something we can be proud of right? We can be proud of what we are doing here. What a shame.

These cuts are callous, ill advised, and they are cruel. This is cruel. I have no other way to say it. They are cruel. It couldn't come at a worse time. We know the rate of poverty is going up. Winter is coming on. We have had a couple of disasters, Rita and Katrina. What we are saying is, guess what, we are going to pull the rug out from underneath you. We are going to hurt you a little bit more. Maybe the House didn't know what they were doing. Maybe they didn't know this was in there. I don't know. What my amendment does is, it simply continues the level at last year's level. It ought to be increased by all rights. We know the number of Americans living in poverty has increased in each of the last 4 years. The purchasing power of community services block grants continues to decline. Each year, about 1 million more people qualify for community services block grant services. There is not any money to meet their needs right now. As bad as this is, the picture I am painting, right now community service agencies provide services to only 1 in 5 people in poverty; with $636 million, 1 in 5 are served. Now we are going to take that down even more.

I don't understand why the majority party in this Congress again and again proposes to slash programs from those who have the least in our society while adamantly insisting that tax cuts for the most fortunate are untouchable and sacrosanct. We can't touch them.

We all recognize that after 4 years of tax cuts, war and emergency spending, budget deficits are out of control. We all know this must be addressed, including with appropriate spending cuts. But what I don't understand is why we are asking the poor to bear the lion's share of the burden when it comes cutting the funding. Why are they on the front line? Why are they being cut this weekend? I object to repeated efforts by the majority party in this Congress to try to balance the budget on the backs of the poor. Even before Katrina struck, the majority party was already planning to slash food stamps by $3 billion and Medicaid by $10 billion. Katrina stopped that.

But who is the target of spending cuts? The poor, those who rely on Federal programs for health, education, disability, and veterans benefits.

Last week, a group of House Republicans launched what they call Operation Offset. They insist that all of the tax cuts of the last 4 years are off limits and untouchable, including the huge tax cuts for the most privileged and wealthy people in our society. Instead, Operation Offset would pay for Katrina recovery by slashing programs for the least fortunate among us, including deep cuts in Medicare, cuts in Medicaid, cuts to the School Lunch Program, cuts to the Children's Health Insurance Program, cuts in college aid, needy students, and on and on.

In short, with the leadership in this Congress, tax reductions for the rich are sacred and cannot be touched, while programs for the poor are fair game for deep cuts. I object. I object to this. I believe the clear majority of Americans reject this approach also. It offends their sense of fairness and equity.

This has to stop, and this is the place to stop it on this continuing resolution. We have to stop this one. This is so unconscionable. I don't know how anyone could ever feel good about this or feel we have done our job.

It is unconscionable, it is drastic, and it is cruel to cut the community services block grants in this manner.

I know what people are going to say tomorrow. They are going to come out here and say: Well, the House passed the continuing resolution and they have gone home. If my amendment is adopted, why, it has to go back to the House and they went home, and we will be accused of shutting down the Government.

Mr. President, I am sorry. The House of Representatives can come back on Palm Sunday. On Palm Sunday, they can come back to vote on the Terri Schiavo situation. Regardless of what you think about it, right or wrong, I am saying, if they can call the House back for that, if they can do that, they can call the House back to protect the poorest in our society from the cuts in the CSBG. We can pass it in the Senate, call the House back, and they can vote on it. We would not be shutting the Government down. If the House does not want to come back, they will be shutting the Government down. We are supposed to put a knife in the backs of the poorest in our country because the House did this? They can come back. We ought to force them to come back. We ought to force them to do what is right.

It is up to us in this body to have the correct response. We have to seize this opportunity and correct the misplaced priorities of the last 5 years and correct this one.

Last week, September 15, President Bush in New Orleans said:

> We have a duty to confront poverty with bold action.

Let me repeat that. You may not have gotten it the first time. President Bush said on September 15:

> We have a duty to confront poverty with bold action.

OK, so what we are going to do is pass a continuing resolution that cuts community services block grants by 50 percent—starting this weekend—that service the poor in our country. They are going to cut it by 50 percent. I guess that is pretty bold action. I guess they are going to confront poverty with bold action; yes, they are going to make more poor people. We have a duty to confront poverty with bold action.

I wonder if the President knows this. I wonder if anyone around the President has told him what the House did. I wonder if he is saying: Yes, that is the thing to do. Is the President okaying this? Has he sent word to the House that this is perfectly fine with him, that this comports with what he said last week?

I would like to hear from the President on this one. I would like to hear if he supports cutting community services block grants by 50 percent.

I would like to quote from a letter I recently received from a number of faith-based groups urging Congress to drop plans on the budget reconciliation to cut CSBG. I want to talk about it because it is appropriate to this. The group said the budget:

continues to ask our Nation's working poor to pay the cost of a prosperity in which they may never share. It is clear that programs, such as Medicaid and the Food Stamp Program that are slated for cuts by Congress, will, in fact, have greater burdens placed on them as a result of Hurricane Katrina. These programs represent the deep and abiding commitment of the Nation to care for the least among us.

I could not have said it better. As we look for ways to assist the least among us, we should not hesitate to ask the most among us to help share some of the burden. We need to restore this funding.

I said I was going to give an example of who is hit by this. I have two other letters. One is from Ozark Action, West Plains, MO; Ozark Community Action Partnership:

The result of a Continuing Resolution as proposed, which would be the reduction of CSBG funds by 50 percent, Ozarks Action, Inc., located in rural southern Missouri (Douglas, Howell, Ozark, Oregon, Texas and Wright counties), would be faced with reducing its current staffing levels by 50 percent. As a result many of the services to low-income families would become unattainable.

Currently we have staff located in 10 communities on a full time basis in each of these six counties. The reduction would mean that 5 [full time employees] would be reduced. The issue then becomes which of the six counties no longer will be served or will have significantly reduced services.

In addition to serving the resident low-income population in this high poverty service area, these ten staff carry out the function of providing services to those individuals that have come to the area as a result of the two devastating hurricanes (Rita and Katrina). . . .

CSBG staff also conducts LIHEAP services for both the Energy Assistance program as well as providing the emergency energy services.

I did not mention that. Sometimes low-income people, especially elderly, get caught with the first or second cold snap. They have not thought ahead, and maybe they don't have enough oil in the tank. They need some help right away. They don't have credit, and they don't have money. The community services block grants provide for that, to get them enough fuel oil, heating oil—whatever it might be—to get them through that snap. They say:

This in and of itself will put a large burden on the State to provide adequate service to those in need of energy assistance.

Mr. President, I ask unanimous consent that this letter from Ozark Action, Inc., be printed in the RECORD.

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

OZARK ACTION, INC.,
West Plains, MO.

The result of a Continuing Resolution as proposed, which would be the reduction of CSBG funds by 50%, Ozarks Action, Inc., located in rural Southern Missouri (Douglas, Howell, Ozark, Oregon, Texas and Wright counties), would be faced *with reducing its current staffing levels by 50%*. As a result many of the services to low-income families would be unattainable.

Currently we have staff located in 10 communities on a full time basis in these six counties. The reduction would mean that about 5 fte's would be reduced. The issue then *becomes which of the six counties no longer will be served* or *will have significantly reduced services*.

In addition to serving the resident low-income population in *this high poverty service area*, these ten staff carry out the function of providing services to those individuals that have come to the area as a result of the two devastating Hurricanes (Rita and Katrina). In Howell County, which has seen approximately 15 to 20 evacuee families, Ozark Action is operating as the clearing house and information hub for needs and services. This service would no longer be available with such steep reductions as a result of staff cost. Just in this past five days we have had three additional families move to the area and we believe that as families decided to move further north after deciding that returning home will not be an option or limited option in the future, we will see another wave of individuals moving to the area.

CSBG staff also conducts LIHEAP services for both the Energy Assistance program as well as providing the emergency energy services. This in and of itself will put a large burden on the state to provide adequate service and coverage for those in need of energy assistance.

Additionally, one of the remaining staff conducts Earn Income Tax credit returns from the period of January 1 through April 30th. This would have a major impact on those who receive EITC and will reduce the available income that these individuals receive through the EITC program.

CSBG Funds are used also, in a variety of ways, to support other agency programs where their own funding is inadequate. All such support would of necessity cease.

Sincerely;

BRYAN ADCOCK,
Executive Director, OAI.

Mr. HARKIN. Mr. President, I have another letter from East Missouri Action, again outlining what is going to happen here:

In the event that a continuing resolution is passed which would effectively fund CSBG at the FY–06 House appropriations level—

A cut of 50 percent—

serious cuts in services provided to low-income families in Southwest Missouri would occur. . . .

In-home visits will no longer be a priority. This will require more volunteers for clients who are home bound. Other catalytic activities such as life skills training workshops will be scaled back if not totally eliminated.

[East Missouri Action Agency] serves as the point of service for most other helping organizations in seven of our eight counties. . . . Families will be referred to other helping agency with little or no follow-up . . . we will not have the staff to effectively work with them.

I ask unanimous consent that this letter from the East Missouri Action Agency also be printed in the RECORD.

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

EAST MISSOURI ACTION AGENCY, INC.

BOLLINGER, CAPE GIRARDEAU, IRON, MADISON, PERRY, ST. FRANCOIS, STE. GENEVIEVE, & WASHINGTON COUNTIES

IMPACT OF CONTINUING RESOLUTION AT HOUSE FY06 FUNDING LEVEL

In the event that a continuing resolution is passed which would effectively fund CSBG at the FY-06 House appropriations level, serious cuts in services currently provided to low-income families of Southeast Missouri would occur.

1. Working with families and individuals in one-on-one case management fashion to help them achieve self-sufficiency and providing projects to assist them in this effort will have to be eliminated. The remaining resources will have to be expended doing only emergency services.

2. EMAA serves as the point of service for most other helping organizations in seven of our eight counties. EMAA serves as the clearinghouse and screener for emergency services throughout the county. There will be no time for discussion of the underlying causes of the emergency situation with these families. Families will be referred to the other helping agency with little or no follow-up. Partnerships with these other organizations will be in jeopardy because we will not have the staff to effectively work with them.

3. As just recently seen with Hurricane Katrina, EMAA was one of hundreds of CAAs which mobilized relief efforts even before several of the national charitable organizations and the Federal Government itself mobilized. CAAs have always had the flexibility to rise to the need in these situations, however, with this cut, that ability is gone.

4. Community Change projects such as, resource development, poverty awareness & education, housing development, community gardening, emergency service coordination networks, leadership development, childcare development, and other projects to improve the community at large will be greatly scaled back due to the lack of funding.

5. In-home visits will no longer be a priority. This will require more volunteers for clients who are home bound. Other catalytic activities such as life skills training workshops will be scaled back if not totally eliminated. If we do not receive a special grant for income tax assistance, we may have to discontinue the VITA income tax assistance project which leveraged $1.4 million in our eight county area for 2004. If we do not provide this free income tax assistance for the low income families in Southeast Missouri, for-profit vendors will, which will reduce the benefit to the families even more.

Mr. HARKIN. Mr. President, people say, What do community services block grants do? Here are some of their activities: Parenting education to 175,000 Head Start families, helping people be good parents; transportation for elderly Americans to medical appointments, which I mentioned earlier, such as the community health centers; home ownership counseling for the low income, how they might be able to afford and pay for their own home; mentoring and counseling for at-risk youth; in-home chore services for homebound elderly. Think about that. Domestic violence services. I mentioned refrigerators and transportation services for food banks; transitional housing for homeless families. You wonder what happens to homeless families? Community service action agencies find them transitional housing and especially now with winter coming on. Lead inspection programs,

screening homes for lead-based paint, and we know how devastating that is on low-income children. Food stamp outreach, going out to make sure low-income people know they are eligible for food stamps, that they do not have to go hungry.

Community services block grant networks, let me talk about who these people are. Their local networks were made up of 1,090 local eligible entities, of which 88 percent were Community Action Agencies.

The local agencies use CSBG funding for their core operations developing and for developing and coordinating programs to fight poverty in 99 percent of the counties in the United States.

Who are the participants? Who are served? Twenty-two percent of all persons in poverty—I said about 1 out of 5; we are going to make it even lower than that—more than 15 million individuals who were members of almost 6 million low-income families.

Data provided by 4 million families show that more than 2.7 million had incomes at or below the poverty guideline. Think about this. Of these, 1.1 million families were ''severely poor'' with incomes below 50 percent of the poverty guideline. That means for a family of 4, we are talking about less than $7,000, probably $7,500 a year; 1.1 million families with less than $7,000 a year. That is who is being served by the community services block grant.

Another 1.6 million families had incomes between 50 percent and 100 percent of the poverty guideline; almost 1.7 million working poor families who relied on wages or unemployment insurance and collectively made up 44 percent of all program participants; nearly 430,000 families were TANF, Temporary Assistance to Needy Families; twenty-two percent of TANF monthly caseloads are CSBG clients; and about 1.4 million families are headed by single mothers.

These program serve more than 3.7 million children in poverty, 1.8 million adults who had never completed high school, 1.1 million people who were disabled, 3 million who lack health care.

That is who is served. I just mentioned all the programs that serve these people.

In my own State of Iowa, northwest Iowa, northeast Iowa, southwest Iowa, they are talking about how much they are going to have to cut back. In a five-county area in northwest Iowa, services at seven outreach centers which assist over 10,000 each year, have been scaled back. This is a 50-percent cut. This is not phony stuff. This is real. In a seven-county area in northeast Iowa, the Community Action Agencies already had to reduce office and staff hours in eight family service offices due to reductions in CSBG funding over the last 2 years. With a 50-percent reduction in CSBG, the family services staff will likely be reduced from 16 full and part-time individuals to 7 individuals employed less than 40 hours a week. That is to serve a seven-county area in northeast Iowa.

In Iowa, this is the time of the year temperatures are starting to drop and food supplies are running short as gardens stop producing. I think I just picked the last tomato off my tomato plant last week.

Without staff to take and process applications and provide assistance, the LIHEAP program year starts October 1. That is what, Saturday? That is Saturday. The LIHEAP program year starts October 1, Saturday.

In northeast Iowa, the CAA there faces an inability to ensure that those in poverty will continue to receive home heating assistance and food assistance. If CSBG is reduced—this is southeast Iowa—by 50 percent, the agency will have to reduce staff and close one very rural outreach center. That will mean clients who need emergency assistance for food, utilities, disconnect notices would have to drive about 45 miles to apply for assistance. These are people who probably do not even have transportation. They do not own cars.

The centers—I am reading here from the report—are terribly busy with the increase in the number of families coming to the outreach centers because they have been evicted, about to become homeless, have a disconnect notice from their utilities or their utilities have already been disconnected.

President Bush, September 15, 2005:

We have a duty to confront poverty with bold action.

I hope someone in the bowels of the White House is listening to a little bit of my remarks. They do not have to buy it all. I hope they listen to a little bit of it. I hope that something will click up in one of those heads in the White House and say: Wait a minute. Is Harkin right? Could this possibly be happening? He must be wrong. He is just up there doing his thing. But just in case, we better check on it. I hope somebody at the White House is saying, maybe we ought to check on this.

When they check, they will find out I am right. What the House has sent us will cut it 50 percent starting Saturday, and it will have these effects. One may say, Oh, no, it will not, but it will.

That is why I have not come out on the floor to bemoan the CR for the cuts in education because we are going to fix that. The money for education does not go out until next summer. We have time to take care of that. The other cuts that are in the CR, we can take care of that. I would not go on like this if it was just education because we are going to have time to fix it later on. That is not what I am talking about. I am talking about something that is right now, needs the money now, the money goes out now, not next year—now, October 1. October 1, they will be cut 50 percent just like that. There is no carryover money. There is not a lot of money sitting someplace that they can carry over.

We have already cut this program, as I said, in each of the last 3 years. This Senate—well, I should say the Appropriations Committee, I cannot say the Senate, the Appropriations Committee passed it at last year's level, bipartisan, Republicans and Democrats.

I hope someone in the White House may have picked up on this. I hope they are going to check it, and I hope one of them will say: We cannot leave our boss hanging out there. Our boss said this and our boss meant it.

I believe he did mean it. But he probably does not know.

The President is busy. I am not faulting him for that. He probably does not know what the House did.

I would like to believe that if this person in the White House who may have listened to this or picked up on it and checked out and found out that that is exactly what the CR does, the continuing resolution does, they will get to someone higher up the food chain to get to the President to let him know about this, and maybe the President will get on the phone and he will call the leadership and say: You have to do this. You have to adopt this amendment. You cannot leave me hanging out there having said this and then turn around and expect me to sign a continuing resolution that cuts the poorest of the poor.

That is what we would be saying. He said that last week. Now he is going to get something and he has to sign it. I would hope the President might get on the phone or at least have his Chief of Staff or somebody do it and tell them we have to fix this. If it means the House of Representatives comes back on Friday afternoon or Friday evening or Saturday morning to fix it, so be it.

So they are going to be a little uncomfortable—oh, my goodness. I assume some Congressmen have probably gotten on a plane, and they went someplace, they have gone home. My goodness, they will have to get on an airplane—not at their expense. The Government will pay for it. They do not have to pay anything for it. They have to go to an airport, get on an airplane, fly back to Washington, put on a suit and tie and go back to the House floor and correct this. I know it is a terrible burden. It is a terrible thing to ask of someone making $160,000 a year, or whatever we make around here now.

Well, I jest, tongue in cheek. It is not too much to ask. They should do it, and the President should tell them to do it. Come back here and fix this. Do not leave him hanging out there having said that last week.

Heaven forbid that we should have the House come back and work on a Friday. My, my, work on a Friday? Whoever heard of such a thing? The working poor work on Friday. Or maybe they have to come back Saturday and fix it, Saturday morning or Friday night. Poor people work at night. They are working two jobs.

No, I am sorry, I do not mind making Members of the House uncomfortable if they have to get on a plane or come back to the House and fix this. That is a small price to pay to make sure that

we live up to what the President said a week ago. This is not even bold action. This is continuing to do what we have been doing in the last year. It is not too much to ask. It is time that we made the comfortable a little bit uncomfortable so we can give some comfort to those who are uncomfortable.

We will be voting on this tomorrow. I hope that Senators will not be swayed by this, ''Well, we cannot do this because the House has gone home.'' Well, let us comfort the uncomfortable. Let us tell the poorest of the poor we are not going to leave them in the lurch, we are not going to cut them by 50 percent, and let us have them come back and fix this tomorrow night. They can do it.

I appreciate the indulgence of the occupant of the chair for allowing me to talk about my amendment because I will not have much time in the morning. I only have 30 minutes. Some other people may want to talk. I know no one is here. I hope some people may be watching and taking heed of this. I will be back tomorrow morning, in a more succinct manner, obviously, to lay out this case on why we have to adopt an amendment to keep the community services block grants at last year's level.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

The Senator from Illinois is recognized.

Mr. DURBIN. Mr. President, it is my understanding that the Senator from Iowa, Senator HARKIN, has come to the floor to offer an amendment that makes reference to the community services block grant funding and the possibility that if we pass a continuing resolution without adequately funding this program, communities all across America will be denied some basic funds they need.

I have made a point, as I travel around my State of Illinois, of asking village presidents and mayors and leaders how this money is used. It turns out to be money that is essential for many programs. It is one of the most unusual programs in that there is such a wide variety of things that are done with these dollars by communities, from afterschool programs for children at risk to programs for senior citizens that are essential for their well-being.

I am sorry I wasn't here earlier to join with Senator HARKIN, but I come to the floor in support of his effort. America can do better. We can make certain that we fund these essential programs so that the vulnerable across America are not left behind. If we focus on this, as we should have before Hurricane Katrina—and we will in the future—it is going to be a stronger nation.

I want to make sure my voice is added to that of Senator HARKIN in support of this valuable program.

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

The PRESIDING OFFICER. The clerk will please call the roll.

The legislative clerk proceeded to call the roll.

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

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

MORNING BUSINESS

Mr. FRIST. Mr. President, I ask unanimous consent 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.

REIMBURSING CHARITABLE WORK

Mr. ALEXANDER. Mr. President, earlier this week the Washington Post reported that the Federal Emergency Management Agency was making plans to ''reimburse churches and other organizations that have opened their doors to provide shelter, food and supplies to survivors of hurricanes Katrina and Rita.''

I understand FEMA's good intentions here, but we need to be very careful. There may be extraordinary circumstances when FEMA may need to rent buildings that might happen to belong to a church or mosque or synagogue. And I understand that under both Presidents George W. Bush and Bill Clinton, there have been appropriate ways to provide charitable choice and to fund faith-based organizations. I support that. I am currently working with Senators on both sides of the aisle on our Health, Education, Labor, and Pensions Committee on legislation to help all of Katrina's 372,000 displaced schoolchildren, including some who are enrolled in private and even religious schools. But the kind of reimbursement described in the Washington Post article makes me want to waive three yellow flags and two red ones.

One obvious concern is constitutional. The first amendment says that ''Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof.'' Paying churches for work they choose to undertake as churches raises obvious questions. That is not my major concern. My major concern is making sure that we honor what it has always meant in America to be a volunteer, to be charitable, and to respect our religious traditions.

When Jesus fed the loaves and the fishes to the multitude of 5,000, he didn't send the bill to Caesar. As Americans with a strong religious tradition, we believe in helping our neighbors. In the book of Mark, Jesus tells us to ''love the Lord thy God with all thy heart, and with all thy soul, and with all thy mind, and with all thy strength'' and to ''love their neighbor as thyself.'' This idea of loving and caring for our neighbors is not limited to Christianity. Jesus himself drew the commands to love God and love our neighbor from the Old Testament in Deuteronomy and Leviticus. I don't ever remember reading: ''Love God, love your neighbor, and send the bill to Washington for the expenses.''

From pioneer days, volunteering and helping our neighbors has been an essential part of the American character. No other country in the world has anything similar to what we have in their traditions. They do not give as we give. They do not have that same spirit. It is one of the things that makes this a unique country. Our forefathers would be dumbfounded to think that if a neighbor's barn burned down and the community joined together to rebuild it, that they would expect a check from Washington, DC to pay them back.

In that same Washington Post article, Reverend Robert E. Reccord of the Southern Baptist Convention helped put this in balance when he said:

> Volunteer labor is just that: volunteer. We would never ask the government to pay for it.

At my church in Nashville, Westminster Presbyterian, where I am an elder, we took up a collection for the victims of Katrina and raised about $80,000 in cash. We then filled up the parlor in the church with other things that we were told they needed in southern Mississippi. We loaded up a truck with diapers and Clorox and other necessities, and our associate pastor went down there with that truck for a few weeks to help people in need. Are we now supposed to send the Federal Government a bill for the food and the supplies and three weeks of the pastor's salary? Of course not. No one in our church expects that, nor should they.

So churches and synagogues and mosques and religious organizations that are being good neighbors aren't looking for a Government handout. They are looking to lend a hand. We should respect them. We should thank them. We should honor them. They are performing an invaluable service. We encourage them by providing tax incentives for charitable giving. But we should also remember that virtue is often its own reward and that some rewards are in heaven, and we should be very careful before we start reimbursing churches for their charity.

I ask unanimous consent that the article from the Washington Post to which I referred be printed in the RECORD.

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

[From the Washington Post, September 27, 2005]

FEMA PLANS TO REIMBURSE FAITH GROUPS FOR AID—AS CIVIL LIBERTARIANS OBJECT, RELIGIOUS ORGANIZATIONS WEIGH WHETHER TO APPLY

(By Alan Cooperman and Elizabeth Williamson)

After weeks of prodding by Republican lawmakers and the American Red Cross, the Federal Emergency Management Agency said yesterday that it will use taxpayer money to reimburse churches and other religious organizations that have opened their doors to provide shelter, food and supplies to survivors of hurricanes Katrina and Rita.

FEMA officials said it would mark the first time that the government has made large-scale payments to religious groups for helping to cope with a domestic natural disaster.

''I believe it's appropriate for the federal government to assist the faith community because of the scale and scope of the effort of how long it's lasting,'' said Joe Becker, senior vice president for preparedness and response with the Red Cross.

Civil liberties groups called the decision a violation of the traditional boundary between church and state, accusing FEMA of trying to restore its battered reputation by playing to religious conservatives.

''What really frosts me about all this is, here is an administration that didn't do its job and now is trying to dig itself out by making right-wing groups happy,'' said the Rev. Barry W. Lynn, executive director of Americans United for Separation of Church and State.

FEMA officials said religious organizations would be eligible for payments only if they operated emergency shelters, food distribution centers for medical facilities at the request of state or local governments in the three states that have declared emergencies—Louisiana, Mississippi and Alabama. In those cases, ''a wide range of costs would be available for reimbursement, including labor costs incurred in excess of normal operations, rent for the facility and delivery of essential needs like food and water,'' FEMA spokesman Eugene Kinerney said in an e-mail.

For churches, synagogues and mosques that have taken in hurricane survivors, FEMA's decision presents a quandary. Some said they were eager to get the money and had begun tallying their costs, from electric bills to worn carpets. Others said they probably would not apply for the funds, fearing donations would dry up if the public came to believe they were receiving government handouts.

''Volunteer labor is just that: volunteer,'' said the Rev. Robert E. Reccord, president of the Southern Baptist Convention's North American Mission Board. ''We would never ask the government to pay for it.''

When Hurricane Katrina devastated New Orleans and the Gulf Coast, religious charities rushed in to provide emergency services, often acting more quickly and efficiently than the government. Relief workers in the stricken states estimate that 500,000 people have taken refuge in facilities run by religious groups.

In the days after the disaster, house Majority Leader Tom DeLay (R-Tex.) and other Republicans complained that FEMA seemed reluctant to pay church groups. ''There are tons of questions about what is reimbursable, what is not reimbursable,'' DeLay said Sept. 13, noting that Houston alone had ''500 or 600 churches that took in evacuees, and they would get no reimbursement.''

Becker said he and his staff at the Red Cross also urged FEMA to allow reimbursement of religious groups. Ordinarily, Becker said, churches provide shelter for the first days after a disaster, then the Red Cross takes over. But in a storm season that has stretched every Red Cross shelter to the breaking point, church buildings must for the first time house evacuees indefinitely.

Even so, Lynn, of Americans United for Separation of Church and State, said that federal reimbursement is inappropriate.

''The good news is that this work is being done now, but I don't think a lot of people realize that a lot of these organizations are actively working to obtain federal funds. That's a strange definition of charity,'' he said.

Lynn added that he accepts the need for the government to coordinate with religious groups in a major disaster, but not to ''pay for their good works.''

''We've never complained about using a religious organization as a distribution point for food or clothing or anything else,'' Lynn said. But ''direct cash reimbursements would be unprecedented.''

FEMA outlined the policy in a Sept. 9 internal memorandum on ''Eligible Costs for Emergency Sheltering Declarations.'' Religious groups, like secular nonprofit groups, will have to document their costs and file for reimbursement from state and local emergency management agencies, which in turn will seek funds from FEMA.

David Fukitomi, infrastructure coordinator for FEMA in Louisiana, said that the organization has begun briefings for potential applicants in the disaster area but that it is too early to know how many will take advantage of the program.

''The need was so overwhelming that the faith-based groups stepped up, and we're trying to find a way to help them shoulder some of the burden for doing the right thing,'' he said, adding that ''the churches are interested'' but that ''part of our effort is getting the local governments to be interested in being their sponsor.''

A spokeswoman for the Salvation Amy said it has been in talks with state and federal officials about reimbursement for the 76,000 nights of shelter it has provided to Katrina survivors so far. But it is still unclear whether the Salvation Army will qualify, she said.

The Rev. Flip Benham, director of Operation Save America, an antiabortion group formerly known as Operation Rescue, said, ''Separation of church and state means nothing in time of disaster; you see immediately what a farce it is.''

Benham said that his group has been dispensing food and clothing and that ''Bibles and tracts go out with everything we put out.'' In Mendenhall, Miss., he said, he preached to evacuees while the mayor directed traffic and the sheriff put inmates from the county jail to work handing out supplies.

Yet Benham said he would never accept a dime from the federal government. ''The people have been so generous to give that for us to ask for reimbursement would be like gouging for gas,'' he said. ''That would be a crime against heaven.''

For some individual churches, however, reimbursement is very appealing. At Christus Victor Lutheran Church in Ocean Springs, Miss., as many as 200 evacuees and volunteer workers have been sleeping each night in the sanctuary and Sunday School classrooms. The church's entrance hall is a Red Cross reception area and medical clinic. As many as 400 people a day are eating in the fellowship hall.

Suzie Harvey, the parish administrator, said the church was asked by the Red Cross and local officials to serve as a shelter. The church's leadership agreed immediately, without anticipating that nearly a quarter of its 650 members would be rendered homeless and in no position to contribute funds. ''This was just something we had to do,'' she said. ''Later we realized we have no income coming in.''

Harvy said the electric bill has skyrocketed, water is being used round-the-clock and there has been ''20 years of wear on the carpet in one month.' When FEMA makes money available, she said, the church definitely will apply.

REMEMBRANCES OF SAM VOLPENTEST

Mrs. MURRAY. Mr. President, I rise this evening to share the very sad news that Sam Volpentest—a name many of us in Congress know well—passed away last night at the age of 101.

Here in our Nation's Capital, Sam was a near constant fixture—always searching for new ways to help his beloved community of the Tri-Cities to move forward.

To fully appreciate Sam's contributions, you have to understand something about the geography and history of my State. The Tri-Cities—which are Richland, Pasco, and Kennewick—are located on the Columbia River in the southeastern region of Washington State.

From the Hanford nuclear facility, to the pristine beauty of the last free-flowing stretch of the Columbia River, to the many varied agricultural and business challenges, the Tri-Cities are diverse and very unique.

Located across the Cascade Mountains from Seattle and other population centers, it could be pretty easy for these three communities to have their needs overlooked.

Well, Sam made sure that never happened.

Whenever something important was happening in the Tri-Cities, I could always count on Sam to show up in my Senate office to share it with me, even if I didn't know he was coming.

I vividly remember many years ago when the chair of the Energy Committee cut funding for the construction of HAMMER. HAMMER is a world-class training facility located in Richland, WA.

Well, I like to think I am always on top of the issues affecting my home State, but Sam kept me on my toes. I showed up at my office one morning at about 7:30 a.m. Guess who was already there, standing there, waiting for me outside my door. Sam Volpentest.

Although Sam may have only had about an inch or two on me, that man's passion could move mountains. And on that day, his passion was for building HAMMER.

Well, I didn't want to mess with Sam, so I marched right into that Energy Committee chairman's office, and I fought side by side with Sam to restore those cuts. And we won.

I was proud to stand with Sam at the HAMMER groundbreaking ceremony in July of 1995. Sam was 91 years young at that time. I still have that shovel on display in my office as a reminder of

what we can all do if we have passion and heart, and if we work together.

Just look at HAMMER today. It is a first-rate facility that keeps Hanford workers safe.

HAMMER has created jobs. It has created economic opportunities and development, and it has the potential now to be a Homeland Security training center for first responders across the country.

Our entire country owes Sam a debt of gratitude for all he has done for so many people.

During my years in the Senate, I have worked with a lot of people. But no one—no one—has come close to matching Sam's energy, his commitment, and his success.

Sam has been a role model to me and to all of us who want to spend our lives giving something back to the communities we care about most. I thank him for helping me be a better representative for all the people of my home State.

Sam was a one-person Chamber of Commerce. He was a visitor's center and he was a cheerleading squad all wrapped into one. Sam Volpentest was the heart and soul of the Tri-Cities. He was one of a kind. Sam will be dearly missed, but he will not be forgotten.

LOCAL LAW ENFORCEMENT ENHANCEMENT ACT OF 2005

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. Each Congress, Senator KENNEDY and I introduce hate crimes legislation that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society. Likewise, each Congress I have come to the floor to highlight a separate hate crime that has occurred in our country.

On October 31, 2002, Patrick Vogrich a State-funded caregiver, bludgeoned his disabled client Larry Rap to death with a hammer in an apartment outside of Chicago, IL. The apparent motivation for the attack began when Mr. Rap ran into Mr. Vogrich with his wheelchair. According to police, Mr. Vogrich was convicted of murder on November 19, 2002.

I believe that the Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

SEQUENTIAL REFERRAL REQUEST—INTELLIGENCE AUTHORIZATION ACT FOR FY 2006

Mr. WARNER. Mr. President, I ask unanimous consent that my letter to the majority leader dated September 29, 2005, be printed in the RECORD.

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

U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
Washington, DC, September 29, 2005.

Senator BILL FRIST,
Majority Leader, U.S. Senate,
Washington, DC.

DEAR MR. LEADER: Pursuant to paragraph 3(b) of S. Res. 400 of the 94th Congress, as amended, I request that the Intelligence Authorization Act for Fiscal Year 2006, as just reported by the Select Committee on Intelligence, be sequentially referred to the Committee on Armed Services for a period of 10 days. This request is without prejudice to any request for an additional extension of five days, as provided for under the resolution. Moreover, the amended resolution provides that the period of referral does not begin to run until the committee to which the bill is referred receives the bill, ''in its entirety and including annexes.'' Thus, the 10 days of initial referral will not begin to run until the Committee on Armed Services receives the classified annex to the bill, as well as the bill and report.

I request that I be consulted with regard to any unanimous consent or time agreements regarding this bill.

With kind regards, I am

Sincerely,

JOHN WARNER,
Chairman.

NATIONAL HISPANIC HERITAGE MONTH

Mr. FEINGOLD. Mr. President, we are currently observing National Hispanic Heritage Month, a time when many members of the Latino community and the country at large remember and celebrate the profound contributions of Hispanic culture that are woven into the great cultural fabric of America. National Hispanic Heritage Month is celebrated between September 15 and October 15, to coincide with the Independence Day anniversaries of nations throughout Latin America. In 1968, President Lyndon Johnson's proclamation of National Hispanic Heritage Month was authorized by Congress. In 1988, the recognition was expanded to a month-long celebration.

America is home to nearly 41 million Latinos, including a thriving population in my home state of Wisconsin. This month, we should take the time to embrace the many important contributions throughout American history of American Latinos that affect all of our everyday lives. This month we celebrate the historic efforts of Cesar Chavez, Jaime Escalante, Roberto Hernandez, Henry Cisneros, Ellen Ochoa and Roberto Clemente, to name just a few. We celebrate their work to break down barriers and create bridges for future generations.

But as we celebrate Hispanic heritage, it is also time to address the challenges that face the Hispanic community, such as access to education and health care, fair working conditions, racial profiling and, for many, an ability to keep their family together while working to become legal, permanent residents of this great country. I am a strong supporter of the SOLVE Act, introduced by Senators KENNEDY and MCCAIN, that would help keep many Latino families together while their petitions for permanent legal residency are processed. The legislation would help hard-working Hispanics and others become legalized citizens and would offer a new temporary worker program.

While we work to improve the immigration system, we must enhance the education of Latino students. Many Latino students face social, economic, and language barriers that can prevent them from receiving the top-quality education they, like all American students, deserve. We must increase funding for English proficiency programs, programs to help low-income students attend college, and programs to help parents involve themselves in their children's education. It must be a priority for Congress to ensure equal education for all so the Hispanic community can continue to flourish and contribute to American culture.

In closing, I express my hope that the 109th Congress begins to address these and other pressing priorities for Latinos across the country. We should not limit our celebration of National Hispanic Heritage Month to saluting the achievements of Hispanics, we also need to make sure that we act on the educational, health, labor and other needs of all Americans of Hispanic heritage.

WATER TECHNOLOGY AND INTERNATIONAL AID

Mr. DOMENICI. Mr. President, fresh water is a substance that we as Americans assume will be available when and where we want it. However, the disruption of water and wastewater services following Hurricane Katrina and Hurricane Rita has shown how fragile those assumptions can be. The resulting fear, panic and instability are what we rarely experience in this Nation. However, as we look around the globe, those same fears, sense of panic, and sense of instability is a daily occurrence for over 1 billion people across the globe who have little or no hope for a speedy resolution of their concerns.

We must help solve the expanding problems of insufficient clean drinking water and inadequate wastewater treatment. These are matters of international importance for several reasons. First, we are a member of an increasingly international economy, and the expansion or contraction of economies the world over affects our industry and economy. Furthermore, disease knows no borders and can spread through water. Most importantly, we care about the well being of others. All these national policy goals are intimately related to adequate water and wastewater treatment across the world.

There are many ways that we can help address this world-wide problem. However, lasting solutions require that local individuals and institutions have the capacity to maintain and expand their own services.

This point has been hammered home by a report to be released by the Center for Strategic and International Studies and Sandia National Laboratories today. The report reinforces what any organization addressing international water issues already knows: the local community must accept, embrace, maintain and take responsibility for the solution to their water issues. There are several initiatives in place in our country that are helping local communities across the globe in this regard.

The Department of Energy National Laboratories have tested tools and techniques for improving our domestic capacity in the desert southwest. The labs have shared that information with institutions around the globe to help strengthen local capacity.

As an example, Sandia National Laboratories' efforts to create new technologies to address major U.S. water issues are being applied to critical water issues in the strategically important Middle East. Ongoing interactions with Iraq, Jordan, Libya and Israel are helping address water safety, security and sustainability issues with technologies in water management modeling, water quality monitoring and desalination.

Sandia is also working to rebuild Iraq's science and technology capacity in collaboration with the Arab Science and Technology Foundation and the Departments of Energy and State. Just last week in Amman, Jordan, Sandia co-hosted a meeting where proposals developed by Iraqi scientists and their international collaborators were reviewed and presented to international funding agencies. Two such proposals for improving water resources management in Iraq were presented by Sandia staff and their Iraqi counterparts.

Separately, Sandia is working with the United Nations Educational, Scientific, and Cultural Organization to develop a proposed planning framework for water management in Iraq. This framework will utilize an advanced water management model developed at Sandia coupled with training of Iraqi water managers and scientists. This proposed framework is expected to be presented to Iraq's Ministry of Water in November.

In other areas, Sandia has reached a preliminary agreement with the Royal Scientific Society, RSS, in Jordan to pilot test a new technology for real-time collaborative development of water management models over the Internet. This technology will enable U.S. and Jordanian water experts to jointly assemble, test and deploy water management models, working in real time while half a world apart. Sandia has also developed a proposal with the Jordanians to pilot test real-time water quality monitoring technology utilizing Sandia's chem-lab-on-a-chip technology.

In Libya, Sandia is working on a program with the Departments of Energy and State to refocus former Libyan weapons scientists on development of peaceful technologies that will enable Libya to develop a strong, internationally-engaged economy. Water is a very high priority for the Libyans, and they are reconfiguring their former weapons development laboratory into a facility they have named the Renewable Energy and Water Desalination Research Center. Sandia is helping identify desalination technologies for use in Libya, with particular attention to technologies for treating the brackish water that is produced as a by-product of pumping oil and gas.

Further, Israeli water experts came to Sandia in 2003 to learn about water security. The trip led to a series of visits between Israeli water security experts, the Environmental Protection Agency's National Homeland Security Research Center, and Sandia. These interactions resulted in a collaborative proposal to test Sandia's real-time, chem-lab-on-a-chip water quality monitoring technology in Israel's water supply system.

Congress helped develop these tools by allowing the Department of Energy Laboratories to use part of their resources for laboratory directed research and development. In the case of Sandia, these seed funds have produced sensor technologies to test water for contaminants and terror agents, numerical models to help groups jointly manage and plan for the future and reduce conflict, water treatment technologies that may reduce costs and make impaired water available for beneficial uses, and tools to detect and respond to terrorist attacks in our municipal drinking water systems. These seed projects have then been extended and are coming to fruition under direct funding we have provided through the Department of Energy, DOE.

The work at Sandia National Laboratory does not represent a comprehensive list of all the achievements within the DOE. In fact, twelve of our national laboratories, all of whom have worked to expand and protect water supplies in some way, have worked jointly for three years to develop an outline of the ways water and energy resources are inter-related. These institutions are now working under DOE direction to develop a report to Congress on this interdependency, which I believe will help us determine which programs will most effectively ensure sufficient water supplies to support our energy needs and sufficient energy supplies to meet our water needs.

Additionally, these national laboratories are now working with both Federal and non-Federal institutions around the U.S. to develop a technology development roadmap. This effort will clearly identify our highest priority investments in research, development and commercialization so we can expand our nations' water supplies.

The success of these investments led us to authorize a new DOE program as part of the Energy Policy Act of 2005. That program is broad. I believe that overall it will help resolve problems related to water just as we are working to resolve our energy supply problems. I am particularly interested in the technology development aspects of the program and therefore plan to introduce a bill soon to instruct the DOE to focus attention on technology development and commercialization. A similar bill was introduced last Congress in partnership with Members from the House, and I have high hope that working together we can pass legislation this Congress.

I must note that DOE efforts are not the only activities that can assist the U.S. in addressing international water issues. The Bureau of Reclamation has a 30-year history of developing desalination technologies that have a significant international impact. The Bureau's reputation and capabilities in this area cannot be underestimated, and I hope the administration will develop a long-term strategy for use and expansion of those resources. Further, I have supported the Office of Naval Research's efforts to develop mobile water treatment technology for our troops. This technology has proven its worth by being deployed to Mississippi in the aftermath of Hurricane Katrina.

Additionally, my colleague and friend, Majority Leader FRIST, introduced legislation this spring entitled the ''Safe Water Currency for Peace Act of 2005'', S.492, which directs the Department of State to develop a cohesive international water development policy and then to begin to implement that strategy. This policy effort holds strong promise for the future of water as well.

I believe and remain a champion of the need to look ahead, to see the future of water supplies in this nation and the world and to actively prepare for that future. I have said before, and I still believe, that there is no more important or essential substance to us than water. It is the source from which life springs. It also has the potential to be the source of incredible conflict at both local and international levels. Fresh water supplies are coming under pressure all over the globe. Seriously confronting this problem before it leads to tremendous burdens on this nation and the world is an endeavor as worthwhile as any I can contemplate. The need is great. The goal is good. The initiatives I have discussed today, and others like them, can help us confront this problem.

AVIAN INFLUENZA

Mr. BIDEN. Mr. President, I am pleased to support and cosponsor Senator HARKIN's amendment aimed at enhancing our capability to combat an avian flu pandemic. This amendment provides absolutely crucial funding for key items that will clearly be needed to fight off this menace: a substantial stockpile of the only antiviral medication effective against H5N1 flu; expansion of the ability of our State and

local public health departments, which are the first line of defense against flu, to meet the threat; increased global surveillance for dangerous pathogens to pick up the first signs of a spreading epidemic, a priority issue that Senator FRIST and I have worked on for several years; improving our country's infrastructure for vaccine manufacture, which is sorely deficient; and money for communication and outreach, so we can have everybody prepared and on the same page.

We are all concerned about preparation for bioterrorist attacks. Smallpox, anthrax, plague, and other pathogens may be coming down the road at some point. But the public health experts tell us that H5N1 avian flu has already started down the road. It is not in the U.S. yet, and the scientists don't know when it might get here, but it is heading in our direction. The avian flu virus is spreading throughout Asia, carried by migratory waterfowl with a worldwide reach. The virus is continuously changing and adapting, heading toward the human-to-human transmission capability that could trigger a pandemic.

And we do know from the first 100 human cases, which have been limited so far to Southeast Asia, that this stuff is really lethal, with a case-fatality rate approaching 50 percent. By contrast, the deadly 1918 Spanish flu that killed millions of people had a case-fatality rate of only 2 percent. We're talking about a threat to this Nation as big as any we have faced.

Fortunately, we have a good idea of the measures we need to take to mitigate the impact of avian flu. But these measures cost money and have a significant lag time before they can be put in place. Many of these measures require resources only available in foreign countries. We don't know how much time we have got, and we have got to get moving on this right now. We really can't wait weeks and months for the ''right'' appropriation bill, for some ''advisory committee'' to finish its work, or for the completion of a ''comprehensive'' antiterror plan. The responsible, prudent move is to act now, to start putting in place the countermeasures that we know will work if implemented in time. The old philosopher who said that ''an ounce of prevention is worth a pound of cure'' may not have known anything about RNA viruses, but that advice would seem quite applicable to our current situation.

BUDGET SCOREKEEPING REPORT

Mr. GREGG. Mr. President, I hereby submit to the Senate the budget scorekeeping report prepared by the Congressional Budget Office under section 308(b) and in aid of section 311 of the Congressional Budget Act of 1974, as amended. This report meets the requirements for Senate scorekeeping of section 5 of S. Con. Res. 32, the first concurrent resolution on the budget for 1986.

This report shows the effects of congressional action on the 2005 budget through September 13, 2005. The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of the 2006 concurrent resolution on the budget, H. Con. Res. 95.

The estimates show that current level spending is over the budget resolution by $3.145 billion in budget authority and over the budget resolution by $101 million in outlays in 2005. Current level for revenues is $447 million above the budget resolution in 2005.

Since my last report for fiscal year 2005 dated September 20, 2005, the Congress has cleared and the President has signed the TANF Emergency Recovery and Response Act of 2005, Public Law 109–68, that increased budget authority for fiscal year 2005.

I ask unanimous consent that the accompanying letter and material be printed in the RECORD.

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

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 26, 2005.

Hon. JUDD GREGG,
Chairman, Committee on the Budget, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The enclosed tables show the effects of Congressional action on the 2005 budget and are current through September 23, 2005. This report is submitted under section 308(b) and in aid of section 311 of the Congressional Budget Act, as amended.

The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions for fiscal year 2005 that underlie H. Con. Res. 95, the Concurrent Resolution on the Budget for Fiscal Year 2006. Pursuant to section 402 of that resolution, provisions designated as emergency requirements are exempt from enforcement of the budget resolution. As a result, the enclosed current level report excludes these amounts (see footnote 2 on Table 2).

Since my last letter, dated September 15, 2005, the Congress has cleared and the President has signed the TANF Emergency Recovery and Response Act of 2005 (P.L. 109–68) that increased budget authority for fiscal year 2005.

The effects of the action listed above are detailed in the enclosed reports.

Sincerely,

DOUGLAS HOLTZ-EAKIN.

TABLE 1.—SENATE CURRENT-LEVEL REPORT FOR SPENDING AND REVENUES FOR FISCAL YEAR 2005, AS OF SEPTEMBER 23, 2005

[In billions of dollars]

	Budget resolution [1]	Current level [2]	Current level over/under (—) resolution
ON-BUDGET:			
Budget Authority	1,996.6	1,999.7	3.1
Outlays	2,023.9	2,024.0	0.1
Revenues	1,483.7	1,484.1	0.4
OFF-BUDGET:			
Social Security Outlays	398.1	398.1	0
Social Security Revenues	573.5	573.5	0

Note: * = less than $50 million.

[1] H. Con. Res. 95, the Concurrent Resolution on the Budget for Fiscal Year 2006, assumed the enactment of emergency supplemental appropriations for fiscal year 2005, in the amount of $81.8 billion in budget authority and $32.1 billion in outlays, which would be exempt from the enforcement of the budget resolution. Since current level excludes the emergency appropriations in P.L. 109–13 (see footnote 2 of Table 2), the budget authority and outlay totals specified in the budget resolution have also been reduced (by the amounts assumed for emergency supplemental appropriations) for purposes of comparison.

[2] Current level is the estimated effect on revenue and spending of all legislation that the Congress has enacted or sent to the President for his approval. In addition, full-year funding estimates under current law are included for entitlement and mandatory programs requiring annual appropriations even if the appropriations have not been made.

Source: Congressional Budget Office.

TABLE 2.—SUPPORTING DETAIL FOR THE SENATE CURRENT-LEVEL REPORT FOR ON-BUDGET SPENDING AND REVENUES FOR FISCAL YEAR 2005, AS OF SEPTEMBER 23, 2005

[In millions of dollars]

	Budget authority	Outlays	Revenues
Enacted in Previous Sessions: [1]			
Revenues	n.a.	n.a.	1,484,024
Permanents and other spending legislation	1,109,476	1,070,500	n.a.
Appropriation legislation	1,298,963	1,369,221	n.a.
Offsetting receipts	−415,912	−415,912	n.a.
Total, enacted in previous sessions:	1,992,527	2,023,809	1,484,024
Enacted This Session:			
Authorizing Legislation:			
Surface Transportation Extension Act of 2005 (P.L. 109–14)	16	0	0
TANF Extension Act of 2005 (P.L. 109–19)	81	45	0
Surface Transportation Extension Act of 2005, Part II (P.L. 109–20)	15	0	0
Surface Transportation Extension Act of 2005, Part III (P.L. 109–35)	3	0	0
Surface Transportation Extension Act of 2005, Part IV (P.L. 109–37)	5	0	0
Surface Transportation Extension Act of 2005, Part V (P.L. 109–40)	2	0	0

TABLE 2.—SUPPORTING DETAIL FOR THE SENATE CURRENT-LEVEL REPORT FOR ON-BUDGET SPENDING AND REVENUES FOR FISCAL YEAR 2005, AS OF SEPTEMBER 23, 2005—Continued

[In millions of dollars]

	Budget authority	Outlays	Revenues
Energy Policy Act of 2005 (P.L. 109–58)	0	0	40
Safe, Accountable, Flexible, and Efficient Transportation Equity Act: A Legacy for Users (P.L. 109–59)	1,562	8	0
TANF Emergency Response and Recovery Act of 2005 (P.L. 109–68)	5,067	0	0
Appropriation Acts:			
Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005 (P.L. 109–13) [2]	−1,058	4	41
Interior Appropriations Act, 2006 (P.L. 106–54)	1,500	120	0
Total, enacted this session:	7,193	177	81
Total Current Level [2, 3]	1,999,720	2,023,986	1,484,105
Total Budget Resolution	2,078,456	2,056,006	1,483,658
Adjustment to budget resolution for emergency requirements [4]	−81,881	−32,121	n.a.
Adjusted Budget Resolution	1,996,575	2,023,885	1,483,658
Current Level Over Adjusted Budget Resolution	3,145	101	447
Current Level Under Adjusted Budget Resolution	n.a.	n.a.	n.a.

Notes: n.a. = not applicable; P.L. = Public Law.

[1] The effects of an act to provide for the proper tax treatment of certain disaster mitigation payments (P.L. 109–7) and the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (P.L. 109–8) are included in this section of the table, consistent with the budget resolution assumptions.

[2] Pursuant to section 402 of H. Con. Res. 95, the Concurrent Resolution on the Budget for Fiscal Year 2006, provisions designated as emergency requirements are exempt from enforcement of the budget resolution. As a result, the current level excludes $83,140 million in budget authority and $33,034 million in outlays from the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005 (P.L. 109–13), $10,500 million in budget authority and $350 million in outlays from the Emergency Supplemental Appropriations Act to Meet Immediate Needs Arising From the Consequences of Hurricane Katrina, 2005 (P.L. 109–61), and $51,800 in budget authority and $25 million in outlays from the the Second Emergency Supplemental Appropriations Act to Meet Immediate Needs Arising From the Consequences of Hurricane Katrina, 2005 (P.L. 109–62).

[3] Excludes administrative expenses of the Social Security Administration, which are off-budget.

[4] H. Con. Res. 95, the Concurrent Resolution on the Budget for Fiscal Year 2006, assumed the enactment of emergency supplemental appropriations for fiscal year 2005, in the amount of $81,811 million in budget authority and $32,121 million in outlays, which would be exempt from the enforcement of the budget resolution. Since current level excludes the emergency appropriations in P.L. 109–13 (see footnote 2), the amounts specified in the budget resolution have also been reduced for purposes of comparison.

Source: Congressional Budget Office.

FARM AID'S 20TH ANNUAL CONCERT

Mr. HARKIN. Mr. President, on Sunday, September 18, just outside of Chicago, Farm Aid staged its 20th annual concert, playing to a sell-out crowd of more than 28,000. Over the years, Farm Aid has raised more than $27 million to fund national, State and local efforts of various kinds to support and strengthen family farm agriculture and rural communities.

The first Farm Aid concert, on September 22, 1985, was organized by a great American who is richly acquainted with the heart and soul of rural America, Willie Nelson. Originally conceived as a way to raise money to help struggling farm families, the first Farm Aid concert also served to highlight the crucial challenges facing family farms and rural communities.

I have vivid memories of that first Farm Aid concert 20 years ago. I remember getting on the train in Carroll, IA, west of Ames, and riding it all the way to Champaign, IL. That was a trainload of people with high hopes and good spirits. But more important, that train was packed with people who understood firsthand the severity of the farm crisis, and who had a deep, passionate commitment to doing something about it. We spent the train trip discussing ideas for turning the situation around, and by the time we arrived in Champaign, we were fired up to push for big changes.

The mid-1980s were a tumultuous time for rural America. In my own State of Iowa, the economic devastation experienced by family farms and small towns was the worst since the Great Depression. As in the 1930s, the human toll of the crisis was poignant and profound. There were many tens of thousands of people who had spent their lives working hard and playing by the rules, but who were losing their farms, their homes and their livelihoods. That affected me personally, as it did most Iowans and people all across America. And like so many others, I was convinced that we needed new ideas and better policies to save America's family farm agriculture and to revitalize our rural economy.

The first Farm Aid concert drew a tremendous amount of national and even international attention to the crisis in rural America. Farm Aid opened people's eyes to the plight of family farms and small towns. It helped farm families directly and it led to policy changes that have made a positive difference.

Family farms and rural communities are still struggling, and so Farm Aid is as important as ever. And in that same spirit, this year's concert highlighted and helped support a special Farm Aid Family Farm Disaster Fund to provide aid to farm families and rural communities that have been devastated by hurricanes across the gulf region, drought in the Midwest or other natural disasters elsewhere. In the tremendous response to the hurricanes, we have seen the same outpouring of concern and compassion by the American people that has supported Farm Aid over the years.

I salute Willie Nelson, John Mellencamp, Neil Young, Dave Matthews and all the others who have devoted themselves to making Farm Aid a success in helping family farms and rural communities throughout the years—including David Senter, Carolyn Mugar and Corky Jones. I wish them and Farm Aid many more successful years supporting family farms and rural communities and raising awareness of their vital importance to us all.

EMERGENCY COMMUNICATIONS

Mr. KERRY. Mr. President, today the Commerce Committee was scheduled to conduct an afternoon hearing regarding emergency communications. I regret that the hearing was postponed, and I hope and expect that the session will be quickly rescheduled. The events of September 11, 2001, uncovered a fundamental weakness in our communications system. We learned the hard way that in a time of crisis—when communication is most important—our first responders could not communicate at a basic level. Now, some 4 years later, Katrina has showed we have not fixed the problem. One of the biggest problem facing police, fire and first responders in the gulf coast was that the communications system was knocked off line. It was remarkable to watch as the television news crews had better luck communicating than our first responders. As the disaster unfolded, emergency officials repeatedly cited communications failures as a major obstacle to the disaster response effort.

So despite the good work of the 9/11 Commission and the hard work of national and local officials, we find that the system is not hardened against terror or nature, and we remain dangerously vulnerable. Like all of my colleagues, I want a system that will work when we need it most. Frankly, there is not much good in an emergency communications system that doesn't work in emergencies. We must push ahead with the DTV transition so that new spectrum is made available and new technologies can come online. The Federal Government must commit the time, resources, training, technology, and leadership to create a national and truly interoperable communications system. It is a national job to ensure capability across regions, among rescues units, and up and down chain of command.

I also believe we should deploy a redundant emergency communications system that, with a flick of switch, will operate during times of crisis when the main system is disabled. I have introduced a bill to address this immediate need. S. 1703 requires experts at the Department of Homeland Security and the Federal Communications Commission evaluate the feasibility and cost of deploying an emergency communications system. The agencies will evaluate all reasonable options, including

satellites, wireless and terrestrial-based systems. They will evaluate all available public and private resources that could provide such a system and submit a report to Congress detailing the findings.

The DHS is then authorized to request appropriations to implement the system. Congress would then be in position to put in place whatever programs and funding are needed to get the job done. We have myriad day-to-day communications issues to address. I am mindful of these needs. As was pointed out by a witness in the Commerce Committee's morning hearing, we have major problems with ''operability'' within a particular agency that must be addressed before we can seriously tackle ''interoperability''—communicating across jurisdictions and among different agencies.

However, we must also take steps to address an immediate crisis. We must ensure that we can respond in emergency situations with an eye toward building a reliable, redundant system for the long term. It is my hope that the Congress will consider this proposal, and other relevant proposals, before we recess for the year. I look forward to working with my colleagues in that regard.

PRESIDENT URIBE'S APPOINTMENT OF A CABINET-LEVEL ADVISOR ON AFRO-COLOMBIAN ISSUES

Mr. OBAMA. Mr. President, I rise today to call attention to an important step towards progress for Afro-descendants in Colombia, and an important opportunity for Afro-descendants throughout Latin America.

I wish to commend the work of my colleagues in the Congressional Black Caucus on this issue, as well as the tireless efforts of nongovernmental organizations and religious groups both here and in Colombia.

This August, President Uribe of Colombia created a cabinet-level position on Afro-Colombian issues, and appointed an Afro-Colombian to fill the post. The creation of this position is especially significant because it signals both a recognition of the severity of the situation of Afro-descendants in Colombia and a willingness to address these inequalities.

At the same time, many of us recognize that this is only a first step and much more needs to be done.

I will be monitoring the progress of this office very closely in the coming months, and I especially look forward to the development of President Uribe's Committee on Civil Rights and Sustainable Development for Afro-Colombians.

It is my hope that this institution will have the resources and mandate to do an effective job of bringing some measure of equality and justice to a marginalized segment of Colombian society. It is my hope that this will encourage other governments in Latin America to consider taking additional measures to address racial discrimination, as well as economic and social marginalization, faced by Afro-descendants in their countries.

In the wake of Hurricane Katrina, our own country is being awakened to a great divide in our midst. As we struggle with troubling intersections of race and class, and how we have failed the most vulnerable members of our population, I hope we will be able to take a moment to reflect on similar struggles in places such as Colombia, Ecuador, Brazil and Venezuela.

While I realize that Colombia continues to face many challenges—from human rights to narco-trafficking—I wanted to bring some good news, that is often overlooked, about the country of Colombia to the attention of the Senate. I applaud these efforts.

TRIBUTE TO SIMON WIESENTHAL

Mr. CORZINE. Mr. President, I rise today to pay tribute to Simon Wiesenthal, the moral conscience of our generation and of generations to come. I was proud to cosponsor the resolution authored by my friend and colleague, Senator SCHUMER, that passed the Senate by unanimous consent, commemorating Mr. Wiesenthal's life and accomplishments.

Mr. Wiesenthal died on Tuesday, September 20, 2005, at the age of 96. After surviving internment in 12 Nazi concentration camps, Mr. Wiesenthal took on a mission for the world—to ensure that through the crucible of the Holocaust we acknowledge and understand our common humanity.

Simon Wiesenthal's name has become synonymous with the term ''Nazi hunter,'' the man responsible for bringing more than 1,100 Holocaust collaborators to justice. But as the noted author, Robert Lifton, has said, what defined Wiesenthal ''wasn't so much his identifying particular Nazi criminals, . . . it was his insisting on an attitude of confronting what happened and constantly keeping what happened in mind and doing so at times when a lot of people would have preferred to forget.''

Simon Wiesenthal constantly made sure that we understood the Holocaust was not a discrete event relegated to a particular time and place, but that it was, and is, emblematic of the depths to which humanity can descend and the heights to which it can soar.

Simon Wiesenthal survived the Nazi death camps through what some might call luck, some might call random acts of kindness or just indifference, or what some might call miracles. Whatever the reason, fathomable or unfathomable, Wiesenthal became our guide on a painful and essential journey through memory and consciousness, an examination of what we are and what we should be. That is a journey that is never-ending by definition—it was not for him and should not be for us.

He was a detective searching for criminals, and he was a philosopher seeking after truth and justice. He found and helped find many criminals. His search for truth and justice is passed on to us and to our children. It lives on in the Simon Wiesenthal Center in Los Angeles, home to the Museum of Tolerance. It lives on in our assumption of responsibility.

Mr. Wiesenthal died in his sleep at his home in Vienna, Austria, his body at peace, his spirit among us.

THE PONTIFICAL VISIT OF HIS HOLINESS ARAM I

Mrs. BOXER. Mr. President, I take this opportunity to recognize the Pontifical Visit of His Holiness Aram I, Catholicos of the Great House of Cilicia, to my home State of California in October, 2005.

The Catholicos represents the Great House of Cilicia, an historic Armenian religious center established in 1441. The Catholicosate was relocated to Antelias, Lebanon following the atrocities of the Armenian Genocide, which included destruction of houses of worship in Cilicia. Today, His Holiness Aram I represents hundreds of thousands of Armenian American Christians, as well as Armenians across the Near East. The Armenian faith is 1,700 years old and it is significant that Armenia was the first nation to officially adopt Christianity as a state religion in 301 AD.

The Catholicos' spiritual, cultural and educational influence extends well beyond the Armenian people. His Holiness Aram I, who holds a Master of Divinity, a Master of Sacred Theology, a Ph.D., and several honorary degrees, has authored numerous articles and texts in Armenian, English and French, some of which have been translated into other languages. The Catholicos has worked to strengthen interfaith relations between Christian and Muslim communities. In 1974, the Catholicos was one of the founding members of the Middle East Council of Churches.

His Holiness Aram I was elected as Moderator of the Central and Executive Committees of the World Council of Churches, WCC, a renowned organization which represents over 400 million Christians worldwide. The WCC brings together over 340 churches and denominations in more than 100 countries throughout the world. The Catholicos is the first Orthodox, first Middle Easterner and youngest person to hold this position and his unanimous re-election as Moderator in 1998 was exceptional in the history of the WCC.

During his trip to California, which is titled ''Towards the Light of Knowledge,'' the Catholicos will visit churches as well as educational and cultural institutions in Los Angeles, Fresno and San Francisco. This momentous visit was initiated by His Eminence, Archbishop Moushegh Mardirossian of the

Western Prelacy of the Armenian Apostolic Church of America to commemorate the 90th Anniversary of the Armenian Genocide and the 1600th Anniversary of the creation of the Armenian alphabet.

I am honored to recognize this milestone visit to California by a distinguished Armenian and world leader. I wish both the Catholicos and the Armenian community in California a renewed sense of purpose and inspiration from this visit.

ALPHA KAPPA ALPHA SORORITY, INC.

Mrs. CLINTON. Mr. President, I am proud to pay tribute to Alpha Kappa Alpha Sorority, Incorporated, America's first Greek-letter organization established by black college women.

On Thursday, September 22, 2005, I had the pleasure of spending time with nearly one hundred members of this remarkable organization, including Representative Sheila Jackson Lee and AKA's International President, Linda White. I have long been aware of the rich history and tremendous contributions made to our Nation by Alpha Kappa Alpha and the other eight Black Greek Letter Organizations and I was particularly delighted to participate in AKA's event entitled ''The Spirit, Let's Share it and Connect,'' which focused on the many ways in which AKA contributes to our communities.

In 1908, Alpha Kappa Alpha Sorority was founded at Howard University in Washington, DC, by Ethel Hedgeman Lyle, who envisioned AKA as a source of social and intellectual enrichment for its members. Over the past century, AKA has evolved into a nationwide organization of college-trained women working to improve the socioeconomic conditions in their cities, States and countries throughout the world.

Alpha Kappa Alpha's achievements are the result of volunteer service that captures the organization's core values. Each year, a National Program theme is constructed around one of AKA's five ''targets'': Education, the Black Family, Health, Economics and the Arts. This year's target is Education, with the Signature Program of the administration being ''The Ivy Reading AKAdemy,'' a reading initiative focused on early learning and mastery of basic reading skills by the end of third grade. All AKA chapters are required to implement an after school reading initiative for students in kindergarten through third grade. Across the United States there are nine such federally funded demonstration sites in low-performing, economically deprived, innercity schools.

AKA has made several significant contributions to the black community and to American society over all over the past century. These efforts have included a wide range of issues, including among them election reform and health care and education initiatives. For example, in 1983 AKA launched a massive registration drive designed to increase black voter registration by 25 percent by the November 1984 elections. In 1999, AKA was awarded a $50,000 grant from the United States Department of Transportation to promote increased seatbelt use and vehicle passenger safety in the minority community. That same year, AKA established a funded partnership with the United States Department of Health and Human Services to promote women's health. Just 4 years ago, AKA raised over $25,000 for sickle cell anemia. In 2002, AKA built and dedicated nine AKAdemies in South Africa and contributed $25,000 to the National Council of Negro Women's Mortgage Liquidation Fund.

In addition to advancing these services, AKA maintains a focus on improving the quality of life for its members. AKA cultivates and encourages high scholastic and ethical standards; promotes unity and friendship among college women; alleviates problems facing girls and women; maintains a progressive interest in college life and serves over 170,000 women in the United States, the Caribbean, Europe, and Africa. Its distinguished alumni include national civic leaders such as astronaut Mae Jamison, author Toni Morrison, poet Maya Angelou, Coretta Scott King, Rosa Parks, and the late Judge Constance Baker Motley. I was deeply saddened to learn of the death of Judge Constance Baker Motley earlier this week. A champion of civil rights and a giant of the legal profession, she will be remembered for her lasting contributions to American jurisprudence and to our larger society. I am certain that the women of AKA join me in mourning her passing, grateful and heartened by the fact that the civil rights movement existed in large part because of the efforts of their friend in sisterhood.

I am privileged and proud to have a special bond with the remarkable women of Alpha Kappa Alpha, Incorporated and am honored to share with my colleagues the many reasons we should all admire and thank the members of this organization for their long-lasting and unwavering commitment to improving the lives of so many.

40TH ANNIVERSARY OF THE NATIONAL FOUNDATION FOR THE ARTS AND HUMANITIES

Mr. KENNEDY. Mr. President, 40 years ago today, President Lyndon Johnson signed landmark legislation into law creating the Foundation on the Arts and Humanities. I was privileged to be one of the cosponsors of this measure, which created the National Endowment for the Arts and the National Endowment for the Humanities and bring a new nationwide focus to the creative community across America in the fields of literature and history, the visual arts, and the performing arts.

Throughout these four decades, the Endowments have provided impressive leadership in enhancing the cultural life of the Nation. The budget for the two agencies is relatively small, but they have distributed Federal grants to a wide range of deserving educational and cultural organizations in communities in all parts of the country.

The best of our cultural heritage has broad appeal to peoples everywhere. The scholarship, the history, and the arts of America are admired around the world. Each generation of scholars and artists has much to share with the rest of the world, and with the generations to come as well. The important role of the Endowments is to support the museums, the galleries, and the theaters in our communities, and assist them in presenting these artistic achievements so that audiences, students and scholars can study them, and learn from them.

Down through the ages, the arts have inspired generations after generations with their beauty, tolerance and understanding. They enable individuals to reach beyond their own experience and know something of other peoples and other cultures. In this shrinking world, it is even more important to respect our neighbors, and build cultural bridges to reach out to one another in our shared world. The arts and humanities offer indispensable opportunities to achieve this important goal.

The Endowments help disseminate the creative work being done at the local level. In Massachusetts, we are privileged to have an extraordinary range of cultural institutions that document the story of our Commonwealth from its earliest days to the present. We are very proud of the cultural landmarks that tell of our history, so that future generations too will understand the challenges that faced the Pilgrim settlers in Plymouth, the struggle for independence that began in Boston Harbor and at Concord Bridge, the harrowing era of one stop on the Underground Railroad, the rugged life in the fishing community of New Bedford, and the early years of the China trade.

So, too, in every other State in our Nation, the story is told of discovery, development and achievement, the continuing story of the American journey.

The important task of the Endowments is to honor and preserve this legacy. Over the past four decades, they have compiled an impressive record of vital support for both the arts and humanities. The Arts Endowment has funded major arts exhibitions, dance tours by large national companies, and performances by smaller regional companies. The Humanities Endowment has provided vital research and educational support in colleges and universities across the country. It has supported a national effort to preserve important documents, brittle books and important artifacts. Its public programs have underwritten brilliant documentaries on topics ranging from the story of the Civil War to the story of baseball.

These two great Endowments have amply fulfilled the early hope that

they could improve the quality of the arts and humanities and expand their reach, and we in Congress are very proud of all they have accomplished.

There have been times of controversy and criticism as well, but the Endowments have clearly earned the bipartisan respect and support that they now enjoy. The arts and humanities are an essential part in the life of the Nation and in all of our lives, and the Endowment's mission is to ensure that they always will be.

I commend the current chairmen of the Humanities Endowment and the Arts Endowment, Bruce Cole and Dana Gioia. They follow in impressive footsteps of their illustrious predecessors, through Republican and Democratic administrations alike. We are grateful for all that they and their outstanding staff members do each day to fulfill their important mission.

It is gratifying on this 40th anniversary of the creation of the National Foundation on the Arts and Humanities to recognize their superb record of achievement, and I congratulate all those who have done so much to make it so.

ADDITIONAL STATEMENTS

MASSACHUSETTS BEST COMMUNITY WINNERS

● Mr. KERRY. Mr. President, I am honored to recognize three outstanding Massachusetts communities, each of which has been chosen by America's Promise as one of the ''100 Best Communities for Young People'' in this Nation. The communities of Barnstable County, Brockton, and Cambridge, have demonstrated outstanding civic leadership for our children. Community leaders, businesses, teachers and Government officials work together in these communities to give their children both the tools and the opportunities they need to succeed. I am very proud that such exemplary communities can be found in my home State.

Barnstable has an impressive record of civic involvement. Not only are community leaders active in the lives of their youth, but they encourage their children to participate in community activities. Over 40 percent of the households in Barnstable have young people participating in community service, and this is, in large part, a reflection of the extensive programs in area high schools such as Junior State of America, Mentoring, Peer Leaders, and National Honor Society. In the Barnstable middle school communities, initiatives such as Schools for Success, which works with underachieving youth in the Barnstable Middle School to improve academic achievement and social skills, have evolved and flourished. The community involvement extends outside of the school systems as well with organizations such as Children's Cove, a program run by the Barnstable County district attorney's office, the State department of social service, and Cape Cod Health Care, together with other community partners to assist children who have experienced sexual abuse.

In Brockton, successful community organizations work tirelessly to provide their children with every opportunity to learn, grow, and remain both physically and mentally healthy. The Brockton After Dark program organizes several different activities each weeknight at seven locations across the city, including basketball games, open swim time, tennis, soccer, performing arts, and open mike nights. By keeping vulnerable youth off the streets, the program contributed to a significant drop in crime. The Target Outreach initiative directs at-risk youth to positive alternatives offered by the Boys & Girls Clubs by recruiting children to club activities as a diversion to gang activities. In its first 2 years, the program far surpassed its enrollment goal. In 2004–2005, 179 members of the Brockton High School Key Club, a partner in Brockton's Promise, completed 3,800 hours of community service in Brockton. Together, the mayor, the district attorney and the chief of police have organized successful Kids Road Races, youth field trips to the local Brockton Rox baseball game, and much more.

The city of Cambridge has also illustrated its dedication to improving the quality of life for its youth and their families. In 1997, Cambridge introduced the Agenda for Children, which consisted of more than 50 meetings with over 600 community members to bring the city's health, human services, schools, police, and library departments together with nonprofit providers and the Cambridge Community Foundation to help improve the quality of life for its youth. In addition, the Neighborhood Service Project provides youth with an opportunity to work with their peers targeting a variety of issues from teen pregnancy to multiculturalism. The Cambridge Prevention Coalition, partnering with other organizations, has developed a Peer Leadership Program which creates teen leaders mobilized around substance abuse issues. All in all, Cambridge has over 150 programs within the city limits attending to the needs and services of youth and their families.

What I have given here is just a small sampling of the incredible programs occurring in the Commonwealth. I applaud these three cities on their recognition by America's Promise; encourage them to continue their great work and I hope other communities will follow their example.●

IN REMEMBRANCE OF MILDRED LIGHT ALDRIDGE

● Mr. LEVIN. Mr. President, I would like to take this opportunity to pay tribute to Mildred Light Aldridge, an educator and administrator for many years and the wife of the late Reverend Dr. Avery Aldridge, who passed away at the age of 77 on September 22, 2005. She was an important member of the Flint community, and she will be sorely missed by many.

Mildred Light Aldridge was born in 1928 in Earle, AR. She received her bachelor's of art degree in elementary education from the University of Michigan-Flint and her master's degree in guidance and counseling from Eastern Michigan University. She taught on the elementary school level and worked as a guidance counselor in several middle schools before serving as principal of the Doyle Ryder Community School until her retirement in 1986. After retirement, she remained active by founding and serving as the director of the Eagle's Nest Child Care and Development Center. She also served for the past 23 years as an instructor of the adult ladies fellowship class at Foss Avenue Baptist Church.

Mildred Light Aldridge participated in various civic and community organizations, including the Flint Chapters of the NAACP and the Urban League, the Visually Impaired Center of Flint, and on the advisory board of the Mott Community College Foundation. She was also affiliated with the National Association of Elementary School Principals and the Flint Congress of School Administrators. In addition, Dr. Aldridge held honorary doctorate degrees from Arkansas Baptist College and Selma University.

Dr. Aldridge is mourned by many in the Flint community and is survived by her two children, Derrick Aldridge and Karen Aldridge-Eason, and by her 10 grandchildren. This is, indeed, a great loss to all who knew her, and I know my colleagues will join me in paying tribute to the life of Mildred L. Aldridge.●

TRIBUTE TO JOHN DEERING AND HIS ''TESTAMENT'' SCULPTURE

● Mr. PRYOR. Mr. President, nearly half a century ago, Arkansas experienced one of its darkest moments. As nine African-American students fought to integrate Central High School, they were accosted by students, threatened by parents and forsaken by local leaders. It took an intervention by President Dwight Eisenhower to bring desegregation to this public school.

But in the 48 years since this event my State has seen brighter days, most recently on August 30, 2005, when I was proud to be present for the unveiling of ''Testament,'' a sculpture of the Little Rock Nine depicting the nine brave students on their journey to claim an equal education.

''Testament'' is a tribute by John Deering, one of Little Rock's own, to those students and the courage they demonstrated that day. The life-sized sculpture depicts the nine students as they were in 1957: Equally brave, scared, determined. It is the largest bronze statue in Arkansas and the first

monument honoring the civil rights movement on the grounds of a Southern State capitol. During the 40th anniversary of the desegregation, John came up with the idea for the sculpture. With approval from the Little Rock Nine Foundation, John created the work with his wife Kathy and studio partner Steve Scallion. The sculpture has been 7 years in the making and now stands proudly in Little Rock.

I would like to recognize John for this sculpture and his contributions to journalism and the arts. As the editorial cartoonist for the Arkansas Democrat-Gazette, John has earned numerous local and national accolades. He has been recognized by the Arkansas Press Association with the Best Editorial Cartoonist Award seven times in his career and in 1996 he won the illustrious Berryman Award from the National Press Foundation. His editorial cartoons are nationally syndicated, as is his comic strip ''Strange Brew,'' allowing readers throughout the country to share in his humor.

But make no mistake, John is serious about his cartoons, and the artistry is as important to him as the jokes. His dedication to artistry has translated to other mediums, including painting and sculpture. John has works displayed throughout the country. ''Testament'' is not the first monument he has sculpted for Arkansas. In 1987, John created a life-size sculpture of an American soldier for the Arkansas Vietnam Veterans Memorial, which I consider both poignant and powerful.

When the ''Testament'' sculpture was unveiled, the Little Rock Nine once again stood together in solidarity. An emotional moment for those brave men and women, it was also a moving event for John as 7 years of private work was finally put on public display. As this sculpture stands on Arkansas' capitol grounds, it serves as a testament to the Little Rock Nine, as well as Arkansas' past and future. I applaud John for his valuable artistic contribution to Arkansas and the nation and I hope that this statue will serve as a lasting reminder of the difficulties and triumphs of the civil rights movement for generations to come.●

TRIBUTE TO JOHN H. JOHNSON

● Mr. PRYOR. Mr. President, today, I pay tribute to the life and legacy of John H. Johnson. John was a pioneer whose monumental works in publishing and generous acts of philanthropy have had profound influence on the lives of millions, both inside and outside Arkansas.

John's life story is one we can all learn from and admire. Raising himself up from poverty to the top of the business world, he is proof that hard work and determination can create success. Born the grandson of slaves in a one-room house in Arkansas City in 1918, John went on to become the first African American to be named to Forbes' list of the 400 wealthiest Americans.

The founder, publisher and chairman of Johnson Publishing company—the largest African-American owned publishing company in the world—John's magazines, Ebony and Jet, are the number one African-American magazine and newsweekly respectively. Ebony currently has a circulation of 1.7 million and a monthly readership of over 11 million, while Jet has a readership of over 8 million weekly, and both publications continue to lead the way in African-American journalism. Linda Johnson Rice, John's daughter, currently serves as President and CEO of her father's company and I wish her the best in building on her father's success.

Awarded the Presidential Medal of Freedom in 1996—the highest honor this Nation bestows on civilians—John's life was full of accomplishments and accolades. John was recognized with the Magazine Publisher's Association publisher of the year award, the Black Journalists' Lifetime Achievement Award and the Wall Street Journal/Dow Jones Entrepreneurial Excellence Award. He has been inducted into the Advertising Hall of Fame, the National Business Hall of Fame and, in 2001, he became the first African American inducted into the Arkansas Business Hall of Fame. During his life, John was also appointed to various posts by Presidents Kennedy, Johnson and Nixon and served on the boards of corporations ranging from Dillard Department Stores to the Chrysler Corporation to Twentieth Century Fox Film.

But John's influence extends beyond the business world. He helped change race relations in this country, both with his publications and activism. In 1955, John made history when he published the unedited photographs of the mutilated body of Emmett Till, the 14-year-old murder victim who was viciously beaten, shot and then drowned in Mississippi for allegedly whistling at a white woman. The pictures, intended to show the reality of the Jim Crow South, helped spark the Civil Rights Movement.

As far as John went in life, he was not one to forget his roots. Raised in poverty in Arkansas by his mother, John has spent much of life giving back to his community and state. John's dedication to education and improving the lives of children has been one of his greatest passions and the results of his work will be felt in Arkansas for decades to come. In May, Arkansas City and the University of Arkansas at Pine Bluff dedicated the John H. Johnson Cultural and Educational Museum. The museum contains memorabilia, printed materials and videos about John's life, which will serve as an inspiration to our children as they strive to succeed. There are also plans in the works for the John H. Johnson Delta Cultural and Entrepreneurial Learning Center in Arkansas City, as well as a related academic complex in Pine Bluff. These facilities will undoubtedly be an asset to the university and provide valuable education opportunities for the students of Arkansas.

John H. Johnson's legacy will live on and continue to influence the State of Arkansas, and the Nation, for many years. Through his publications, activism and generosity, John has left an indelible mark on society. He was a trailblazer and his contributions to our Nation are immeasurable. I join all of Arkansas in saluting the memory of John H. Johnson.●

HONORING JUDGE CONSTANCE BAKER MOTLEY

● Mr. SALAZAR. Mr. President, I rise to honor and celebrate the remarkable life and legacy of Judge Constance Baker Motley, a trailblazer for civil rights who dedicated her life to advancing the American values of justice and equality for all.

Judge Motley was born and raised in New Haven, CT at a time when women and minorities were denied the right to an equal education, and employment, housing and voting rights. Despite remarkable odds, Judge Motley decided at the age of 15 that she would be an attorney. Although she was discouraged by many, Judge Motley remarked that she was ''the kind of person who would not be put down.''

Judge Motley graduated from Columbia Law School in 1946 and joined the legal staff of the NAACP Legal Defense and Education Fund, Inc. It was there that for nearly 20 years, Judge Motley orchestrated the legal challenge to the ''separate but equal doctrine,'' culminating in the Supreme Court victory in Brown v. Board of Education that guaranteed equal educational opportunities for all Americans. In addition to the seminal decision in Brown, Judge Motley argued the 1957 school desegregation case in Little Rock, AR that led President Eisenhower to call in federal troops to protect nine black students at Central High School. During Judge Motley's tenure at the NAACP, she successfully argued numerous cases desegregating restaurants and recreational facilities in Southern cities and cases overturning the convictions of the Reverend Fred Shuttlesworth and countless others who engaged in nonviolent sit-ins and protests of discriminatory practices.

In 1965, Judge Motley became the first woman to be elected president of the Borough of Manhattan where she continued to advocate for the rights of women, minorities and the poor. In 1966, President Johnson appointed Judge Motley to the United States District Court for the Southern District of New York. With her appointment, Judge Motley became the first African-American woman appointed to the Federal judiciary, where she served until 1986 when she assumed senior status.

Judge Motley's dedication and commitment to justice and equality changed our Nation for the better and

paved the way for women, minorities and the poor to enjoy the rights and privileges guaranteed by our constitution. Judge Motley stood tall in the face of great adversary for what was right. We all stand taller because of her life and because she was the kind of person who would not be put down.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, 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.)

NOTIFICATION REGARDING THE PROPOSED USE OF PUBLIC SAFETY FUNDS PROVIDED TO THE DISTRICT OF COLUMBIA PURSUANT TO TITLE I OF THE DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 2005, PUBLIC LAW 108–335—PM 24

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Appropriations:

To the Congress of the United States:

Consistent with title I of the District of Columbia Appropriations Act, 2005, Public Law 108–335, I am notifying the Congress of the proposed use of $10,151,538 provided in title I under the heading ''Federal Payment for Emergency Planning and Security Costs in the District of Columbia.'' This will reimburse the District for the costs of public safety expenses related to security events and responses to terrorist threats.

The details of this action are set forth in the enclosed letter from the Director of the Office of Management and Budget.

GEORGE W. BUSH,

THE WHITE HOUSE, *September 29, 2005*.

MESSAGES FROM THE HOUSE

At 9:37 a.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 bill, without amendment.

S. 1752. An act to amend the United States Grain Standards Act to reauthorize that Act.

ENROLLED BILLS SIGNED

The message also announced that the Speaker has signed the following enrolled bill:

H.R. 3864. An act to assist individuals with disabilities affected by Hurricane Katrina or Rita through vocational rehabilitation services.

The enrolled bill was signed subsequently by the President pro tempore (Mr. STEVENS).

The following enrolled bills, previously signed by the Speaker of the House, were signed yesterday, September 28, 2005, by the President pro tempore (Mr. STEVENS):

H.R. 2132. An act to extend the waiver authority of the Secretary of Education with respect to student financial assistance during a war or other military operation or national emergency.

H.R. 3200. An act to amend title 38, United States Code, to enhance the Servicemembers' Group Life Insurance program, and for other purposes.

H.R. 3667. An act to designate the facility of the United States Postal Service located at 200 South Barrington Street in Los Angeles, California, as the ''Karl Malden Station''.

H.R. 3767. An act to designate the facility of the United States Postal Service located at 2600 Oak Street in St. Charles, Illinois, as the ''Jacob L. Frazier Post Office Building''.

At 6:11 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

S. 1752. An act to amend the United States Grain Standards Act to reauthorize that Act.

At 7:19 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 joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 68. Joint resolution making continuing appropriations for the fiscal year 2006, and for other purposes.

MEASURES READ THE FIRST TIME

The following bill was read the first time:

S. 1802. A bill to provide for appropriate waivers, suspensions, or exemptions from provisions of title I of the Employee Retirement Income Security Act of 1974 with respect to individual account plans affected by Hurricane Katrina or Rita.

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–4039. A communication from the Assistant Administrator and Chief Information Officer, Office of Environmental Information, Environmental Protection Agency, transmitting, pursuant to law, a report relative to reducing the burden and streamlining program operations of the Toxic Release Inventory (TRI) Program; to the Committee on Environment and Public Works.

EC–4040. A communication from the Inspector General, Nuclear Regulatory Commission, transmitting, pursuant to law, the Commission's Fiscal Year 2005 Commercial and Inherently Governmental Activities Inventories; to the Committee on Environment and Public Works.

EC–4041. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; State of Utah; Ogden City Revised Carbon Monoxide Maintenance Plan and Approval of Related Revisions'' (FRL No. 7961–7) received September 18, 2005; to the Committee on Environment and Public Works.

EC–4042. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans; State of Missouri, Correction'' (FRL No. 7969–6) received September 18, 2005; to the Committee on Environment and Public Works.

EC–4043. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans; New York; Revised Motor Vehicle Emissions Budgets for 1990 and 2007 using MOBILE6'' (FRL No. 7968–1) received September 18, 2005; to the Committee on Environment and Public Works.

EC–4044. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plan; Minnesota'' (FRL No. 7969–7) received September 18, 2005; to the Committee on Environment and Public Works.

EC–4045. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''National Priorities List for Uncontrolled Hazardous Waste Sites'' (FRL No. 7968–3) received September 18, 2005; to the Committee on Environment and Public Works.

EC–4046. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Tennessee; Redesignation of the Montgomery County, Tennessee Portion of the Clarksville-Hopkinsville 8-Hour Nonattainment Area to Attainment'' (FRL No. 7973–5) received on September 18, 2005; to the Committee on Environment and Public Works.

EC–4047. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Kentucky; Redesignation of the Christian County, Kentucky Portion of the Clarksville-Hopkinsville 8-Hour Ozone Nonattainment Area to Attainment for Ozone'' (FRL No. 7972–9) received on September 18, 2005; to the Committee on Environment and Public Works.

EC–4048. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Designation of Areas for Air Quality Planning Purposes; Illinois; Lake Calumet PM–10 Redesignation and Maintenance Plan'' (FRL No. 7973–2) received on September 18, 2005; to the Committee on Environment and Public Works.

EC–4049. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Designation of Areas for Air Quality Planning Purposes; Illinois; Lyons Township PM–10 Redesignation and Maintenance Plan'' (FRL No. 7972–7) received on September 18, 2005; to the Committee on Environment and Public Works.

EC–4050. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''National Emission Standards for Hazardous Air Pollutants: Final Standards for Hazardous Air Pollutants for Hazardous Waste Combustors (Phase I Final Replacement Standards and Phase II)'' (FRL No. 7971–8) received on September 18, 2005; to the Committee on Environment and Public Works.

EC–4051. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Standards of Performance for New Stationary Sources and Emission Guidelines for Existing Sources: Commercial and Industrial Solid Waste Incineration Units'' (FRL No. 7971–9) received on September 18, 2005; to the Committee on Environment and Public Works.

EC–4052. A communication from the Secretary of Commerce, transmitting, the report of a draft bill ''to authorize appropriations to the Secretary of Commerce for the Magnuson-Stevens Fishery Conservation and Management Act for the fiscal years 2006 through 2010''; to the Committee on Commerce, Science, and Transportation.

EC–4053. A communication from the Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, a report entitled ''The Status of U.S. Fisheries'' for 2004; to the Committee on Commerce, Science, and Transportation.

EC–4054. A communication from the Assistant Administrator for Procurement, National Aeronautics and Space Administration, transmitting, pursuant to law, the report of a rule entitled ''Packaging, Handling, and Transportation'' (RIN2700–AD16) received on September 21, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4055. A communication from the Assistant Administrator for Procurement, National Aeronautics and Space Administration, transmitting, pursuant to law, the report of a rule entitled ''Head of Contracting Activity (HCA) Change for NASA Shared Services Center (NSSC)'' (RIN2700–AD13) received on September 21, 2005; to the Committee on Commerce, Science, and Transportation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. STEVENS, from the Committee on Appropriations:

Report to accompany H.R. 2863, a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes (Rept. No. 109–141).

By Mr. ROBERTS, from the Select Committee on Intelligence, without amendment:

S. 1803. An original bill to authorize appropriations for fiscal year 2006 for intelligence and intelligence-related activities of the United States Government, the Intelligence Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes (Rept. No. 109–142).

By Ms. COLLINS, from the Committee on Homeland Security and Governmental Affairs, with amendments:

S. 1725. A bill to strengthen Federal leadership, provide grants, enhance outreach and guidance, and provide other support to State and local officials to enhance emergency communications capabilities, to achieve communications interoperability, to foster improved regional collaboration and coordination, to promote more efficient utilization of funding devoted to public safety communications, to promote research and development by both the public and private sectors for first responder communications, and for other purposes.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. WARNER for the Committee on Armed Services.

Air Force nominations beginning with Salvatore A. Angellela and ending with Scott E. Wuesthoff, which nominations were received by the Senate and appeared in the Congressional Record on April 4, 2005.

Air Force nomination of Maj. Gen. Stephen R. Lorenz to be Lieutenant General.

Air Force nomination of Maj. Gen. Gary L. North to be Lieutenant General.

Air Force nomination of Lt. Gen. Duncan J. McNabb to be General.

Air Force nomination of Maj. Gen. Frank G. Klotz to be Lieutenant General.

Air Force nomination of Maj. Gen. Douglas M. Fraser to be Lieutenant General.

Air Force nomination of Lt. Gen. John F. Regni to be Lieutenant General.

Air Force nomination of Col. Richard J. Tubb to be Brigadier General.

Army nominations beginning with Brig. Gen. James P. Eggleton and ending with Col. Blake E. Williams, which nominations were received by the Senate and appeared in the Congressional Record on September 6, 2005.

Air Force nomination of Col. James S. Goodwin to be Brigadier General.

Air Force nomination of Col. Roger F. Clements to be Brigadier General.

Air Force nomination of Lt. Gen. Daniel P. Leaf to be Lieutenant General.

Army nomination of Lt. Gen. William S. Wallace to be General.

Army nomination of Col. Philip Volpe to be Brigadier General.

Army nomination of Brig. Gen. Eric B. Schoomaker to be Major General.

Army nomination of Brig. Gen. Michael H. Sumrall to be Major General.

Army nomination of Col. Errol R. Schwartz to be Brigadier General.

Army nomination of Col. James R. Joseph to be Brigadier General.

Army nomination of Maj. Gen. Anne E. Dunwoody to be Lieutenant General.

Army nomination of Col. John E. Cornelius to be Brigadier General.

Mr. WARNER. Mr. President, for the Committee on Armed Services 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.

Air Force nomination of Thomas L. Lutz to be Colonel.

Air Force nomination of Bruce A. Ellis, Jr. to be Lieutenant Colonel.

Air Force nominations beginning with Anselmo Feliciano and ending with Dake S. Vahovich, which nominations were received by the Senate and appeared in the Congressional Record on July 28, 2005.

Air Force nomination of Merrick E. Krause to be Colonel.

Air Force nomination of Anthony E. Barbarisi to be Lieutenant Colonel.

Air Force nominations beginning with Wesley A. Ardt and ending with Russell F. Zakolski, which nominations were received by the Senate and appeared in the Congressional Record on September 8, 2005.

Air Force nominations beginning with John M. Allen and ending with Wallace M. Yovetich, which nominations were received by the Senate and appeared in the Congressional Record on September 8, 2005.

Air Force nomination of Sean D. McClung to be Major.

Air Force nominations beginning with John M. Andrew and ending with Martin E. France, which nominations were received by the Senate and appeared in the Congressional Record on September 15, 2005.

Air Force nominations beginning with Christina A. Austinsmith and ending with Andrew S. Williams, which nominations were received by the Senate and appeared in the Congressional Record on September 19, 2005.

Army nominations beginning with Peter D. Guzzetti and ending with Terry M. Larkin, which nominations were received by the Senate and appeared in the Congressional Record on June 6, 2005.

Army nomination of Dennis J. Wing to be Colonel.

Army nominations beginning with Kelvin L. George and ending with Deborah A. Roberts, which nominations were received by the Senate and appeared in the Congressional Record on September 8, 2005.

Army nominations beginning with Janice E. Bruno and ending with David P. Sheridan, which nominations were received by the Senate and appeared in the Congressional Record on September 8, 2005.

Army nomination of William C. Dickey to be Lieutenant Colonel

Army nomination of Laura T. Wells to be Major.

Army nominations beginning with William R. Everett and ending with Peter D.P. Vint, which nominations were received by the Senate and appeared in the Congressional Record on September 15, 2005.

Army nominations beginning with Stanley A. Bloustine and ending with Terry D. Neville, which nominations were received by the Senate and appeared in the Congressional Record on September 15, 2005.

Army nominations beginning with Dario A. Barrato and ending with David L. Jarratt, which nominations were received by the Senate and appeared in the Congressional Record on September 15, 2005.

Army nominations beginning with Jerry Broman and ending with Franklin E. Tuttle, which nominations were received by the Senate and appeared in the Congressional Record on September 15, 2005.

Army nominations beginning with David A. Accetta and ending with Peter J. Ziomek, which nominations were received by the Senate and appeared in the Congressional Record on September 15, 2005.

Army nominations beginning with Lynette M. Arnhart and ending with Daniel E. Zalewski, which nominations were received by the Senate and appeared in the Congressional Record on September 15, 2005.

Army nominations beginning with David M. Abbinanti and ending with Martin A.

Zybura, which nominations were received by the Senate and appeared in the Congressional Record on September 15, 2005.

Army nominations beginning with Mary E. Abrams and ending with x1195, which nominations were received by the Senate and appeared in the Congressional Record on September 15, 2005.

Army nomination of Ronald J. Whalen to be Major.

Army nomination of Vaughn C. Wilhite to be Major.

Army nominations beginning with Cyle R. Richard and ending with Thomas J. Steinbach, which nominations were received by the Senate and appeared in the Congressional Record on September 15, 2005.

Army nominations beginning with Michael I. Allen and ending with Matthew S. Wysocki, which nominations were received by the Senate and appeared in the Congressional Record on September 15, 2005.

Army nominations beginning with Jacqueline B. Chen and ending with Moises Soto, which nominations were received by the Senate and appeared in the Congressional Record on September 15, 2005.

Army nominations beginning with Jean M. Brady and ending with Meshelle A. Taylor, which nominations were received by the Senate and appeared in the Congressional Record on September 15, 2005.

Army nominations beginning with Roman B. Reyes and ending with Christopher Van Winkle, which nominations were received by the Senate and appeared in the Congressional Record on September 15, 2005.

Army nomination of Anthony T. Febbo to be Major.

Army nominations beginning with Michael L. Howe and ending with Karl F. Suhr, Jr., which nominations were received by the Senate and appeared in the Congressional Record on September 19, 2005.

Army nominations beginning with Johnathan T. Ball and ending with Daniel M. Krumrei, which nominations were received by the Senate and appeared in the Congressional Record on September 19, 2005.

Army nomination of Danielle N. Bird to be Major.

Army nominations beginning with Ryan J. Allowitz and ending with Mark A. Vance, which nominations were received by the Senate and appeared in the Congressional Record on September 19, 2005.

Army nominations beginning with Eric D. Aguila and ending with Gary H. Wynn, which nominations were received by the Senate and appeared in the Congressional Record on September 19, 2005.

Marine Corps nomination of James R. Waris to be Lieutenant Colonel.

Marine Corps nomination of Richard T. Ostermeyer to be Lieutenant Colonel.

Navy nomination of Jeanene L. Torrance to be Commander.

Navy nominations beginning with James M. Carrasco and ending with Lisa M. Sullivan, which nominations were received by the Senate and appeared in the Congressional Record on September 8, 2005.

Navy nominations beginning with Charlie C. Biles and ending with William G. Willis, which nominations were received by the Senate and appeared in the Congressional Record on September 8, 2005.

Navy nominations beginning with Steven R. Barstow and ending with Mark S. Winward, which nominations were received by the Senate and appeared in the Congressional Record on September 8, 2005.

Navy nominations beginning with Robert P. Anselm and ending with Andrew T. Wilkes, which nominations were received by the Senate and appeared in the Congressional Record on September 8, 2005.

Navy nominations beginning with Arturo A. Aseo and ending with Jeffrey D. Thomas, which nominations were received by the Senate and appeared in the Congressional Record on September 8, 2005.

Navy nominations beginning with Joel D. Bashore and ending with Meredith L. Yeager, which nominations were received by the Senate and appeared in the Congressional Record on September 8, 2005.

Navy nominations beginning with Joseph H. Becht and ending with Calvin Zhao, which nominations were received by the Senate and appeared in the Congressional Record on September 8, 2005.

Navy nominations beginning with Maria C. Alberto and ending with Ladawn J. White, which nominations were received by the Senate and appeared in the Congressional Record on September 8, 2005.

Navy nominations beginning with Domingo B. Alinio and ending with Christopher R. Zegley, which nominations were received by the Senate and appeared in the Congressional Record on September 8, 2005.

Navy nominations beginning with Miguel A. Aguilera, Jr. and ending with Gordon J. Zubrod, which nominations were received by the Senate and appeared in the Congressional Record on September 8, 2005.

Navy nominations beginning with James W. Adkisson III and ending with Michael A. Zurich, which nominations were received by the Senate and appeared in the Congressional Record on September 8, 2005.

Navy nominations beginning with Jack F. Dalrymple, Jr. and ending with Fred R. Wilhelm III, which nominations were received by the Senate and appeared in the Congressional Record on September 15, 2005.

Navy nominations beginning with Ohene O. Gyapong and ending with Kevin R. Stephens, which nominations were received by the Senate and appeared in the Congressional Record on September 15, 2005.

Navy nominations beginning with Bruce W. Beam and ending with Sean P. Yemm, which nominations were received by the Senate and appeared in the Congressional Record on September 15, 2005.

Navy nominations beginning with Sheila T. Asbury and ending with James V. Walsh, which nominations were received by the Senate and appeared in the Congressional Record on September 15, 2005.

Navy nominations beginning with Khary A. Bates and ending with Aaron J. Zielinski, which nominations were received by the Senate and appeared in the Congressional Record on September 15, 2005.

Navy nominations beginning with Thanongdeth T. Chinyavong and ending with William E. Wren, Jr., which nominations were received by the Senate and appeared in the Congressional Record on September 15, 2005.

Navy nominations beginning with Richard S. Ardolino and ending with Benjamin D. Zittere, which nominations were received by the Senate and appeared in the Congressional Record on September 15, 2005.

Navy nominations beginning with Jamie W. Achee and ending with Holly A. Yudisky, which nominations were received by the Senate and appeared in the Congressional Record on September 15, 2005.

Navy nominations beginning with Brian M. Aker and ending with Ronald E. Yun, Jr., which nominations were received by the Senate and appeared in the Congressional Record on September 15, 2005.

Navy nominations beginning with David L. Aamodt and ending with Thomas A. Zdunczyk, which nominations were received by the Senate and appeared in the Congressional Record on September 15, 2005.

Navy nominations beginning with Martin C. Holland and ending with John M. Woo, which nominations were received by the Senate and appeared in the Congressional Record on September 19, 2005.

By Mr. SHELBY for the Committee on Banking, Housing, and Urban Affairs.

*Kim Kendrick, of the District of Columbia, to be an Assistant Secretary of Housing and Urban Development.

*Keith A. Nelson, of Texas, to be an Assistant Secretary of Housing and Urban Development.

*Darlene F. Williams, of Texas, to be an Assistant Secretary of Housing and Urban Development.

*Keith E. Gottfried, of California, to be General Counsel of the Department of Housing and Urban Development.

*David H. McCormick, of Pennsylvania, to be Under Secretary of Commerce for Export Administration.

*Franklin L. Lavin, of Ohio, to be Under Secretary of Commerce for International Trade.

*Israel Hernandez, of Texas, to be Assistant Secretary of Commerce and Director General of the United States and Foreign Commercial Service.

*Darryl W. Jackson, of the District of Columbia, to be an Assistant Secretary of Commerce.

*Emil W. Henry, Jr., of New York, to be an Assistant Secretary of the Treasury.

*Patrick M. O'Brien, of Minnesota, to be Assistant Secretary for Terrorist Financing, Department of the Treasury.

*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. SPECTER (for himself, Mr. LEAHY, Mrs. FEINSTEIN, and Mr. FEINGOLD):

S. 1789. A bill to prevent and mitigate identity theft, to ensure privacy, to provide notice of security breaches, and to enhance criminal penalties, law enforcement assistance, and other protections against security breaches, fraudulent access, and misuse of personally identifiable information; to the Committee on the Judiciary.

By Mr. LEVIN:

S. 1790. A bill for the relief of Mr. Anton Dodaj, Mrs. Gjyljana Dodaj, Franc Dodaj, and Kristjan Dodaj; to the Committee on the Judiciary.

By Mr. SMITH (for himself and Mrs. LINCOLN):

S. 1791. A bill to amend the Internal Revenue Code of 1986 to allow a deduction for qualified timber gains; to the Committee on Finance.

By Mr. LUGAR (for himself and Mr. BAYH):

S. 1792. A bill to designate the facility of the United States Postal Service located at 205 West Washington Street in Knox, Indiana, as the ''Grant W. Green Post Office Building''; to the Committee on Homeland Security and Governmental Affairs.

By Mr. BINGAMAN (for himself, Mr. SPECTER, Mr. NELSON of Nebraska, Mr. HARKIN, and Mr. ROCKEFELLER):

S. 1793. A bill to extend certain apportionments to primary airports; to the Committee on Commerce, Science, and Transportation.

By Mr. DURBIN (for himself and Mr. OBAMA):

S. 1794. A bill to establish a Strategic Gasoline and Fuel Reserve; to the Committee on Energy and Natural Resources.

By Mr. JOHNSON (for himself, Ms. CANTWELL, Mr. LEAHY, Mr. CORZINE, Mrs. MURRAY, Mr. SALAZAR, Mr. REED, and Ms. MIKULSKI):

S. 1795. A bill to amend the Social Security Act to protect Social Security cost-of-living adjustments (COLA); to the Committee on Finance.

By Mrs. MURRAY (for herself, Mr. LEAHY, Mr. DAYTON, Mr. DODD, and Mr. CORZINE):

S. 1796. A bill to promote the economic security and safety of victims of domestic violence, dating violence, sexual assault, or stalking, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. INHOFE:

S. 1797. A bill to provide for Congressional authority with respect to certain acquisitions, mergers, and takeovers under the Defense Production Act of 1950; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. CORZINE (for himself, Mr. JOHNSON, Mr. LAUTENBERG, and Ms. STABENOW):

S. 1798. A bill to amend titles XI and XVIII of the Social Security Act to prohibit outbound call telemarketing to individuals eligible to receive benefits under title XVIII of such Act; to the Committee on Finance.

By Ms. MIKULSKI (for herself, Mr. VOINOVICH, Mr. AKAKA, Mr. BIDEN, Mr. DORGAN, Mr. DURBIN, Mr. HARKIN, Mrs. MURRAY, Mr. SARBANES, Mr. SCHUMER, and Mr. WARNER):

S. 1799. A bill to amend title II of the Social Security Act to provide that the reductions in social security benefits which are required in the case of spouses and surviving spouses who are also receiving certain government pensions shall be equal to the amount by which two-thirds of the total amount of the combined monthly benefit (before reduction) and monthly pension exceeds $1,200, adjusted for inflation; to the Committee on Finance.

By Ms. SNOWE (for herself, Mr. ROCKEFELLER, and Mr. BUNNING):

S. 1800. A bill to amend the Internal Revenue Code of 1986 to extend the new markets tax credit; to the Committee on Finance.

By Mr. REED (for himself, Mr. ALLARD, Ms. COLLINS, Mr. SARBANES, Mr. BOND, Mrs. MURRAY, Mr. CHAFEE, Ms. MIKULSKI, Mr. DODD, Mr. AKAKA, Mr. SCHUMER, Mr. CORZINE, Mrs. CLINTON, and Ms. LANDRIEU):

S. 1801. A bill to amend the McKinney-Vento Homeless Assistance Act to reauthorize the Act, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. ENZI:

S. 1802. A bill to provide for appropriate waivers, suspensions, or exemptions from provisions of title I of the Employee Retirement Income Security Act of 1974 with respect to individual account plans affected by Hurricane Katrina or Rita; read the first time.

By Mr. ROBERTS:

S. 1803. An original bill to authorize appropriations for fiscal year 2006 for intelligence and intelligence-related activities of the United States Government, the Intelligence Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes; from the Select Committee on Intelligence; to the Committee on Armed Services pursuant to Section 3(b) of S. Res. 400, 94th Congress, as amended by S. Res. 445, 108th Congress, for a period not to exceed 10 days of session.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BIDEN (for himself, Mr. MCCAIN, Mr. HAGEL, Mr. LUGAR, and Mr. BROWNBACK):

S. Res. 260. A resolution calling for free and fair parliamentary elections in the Republic of Azerbaijan; to the Committee on Foreign Relations.

By Mr. KERRY (for himself, Mr. DURBIN, Mr. REID, Mr. OBAMA, Mrs. BOXER, and Mr. JEFFORDS):

S. Res. 261. A resolution expressing the sense of the Senate that the crisis of Hurricane Katrina should not be used to weaken, waive, or roll back Federal public health, environmental, and environmental justice laws and regulations, and for other purposes to the Committee on Environment and Public Works.

By Mr. CRAIG (for himself, Mr. ROCKEFELLER, Mr. HATCH, Mr. BAUCUS, Ms. SNOWE, Mr. BINGAMAN, Mr. CRAPO, Mrs. LINCOLN, Mr. DEWINE, Mr. REED, Mr. ALLEN, Mr. KOHL, Mr. SPECTER, Mr. LEVIN, Mr. VOINOVICH, Mr. BYRD, Mrs. DOLE, Ms. MIKULSKI, Mr. SHELBY, Ms. COLLINS, Mr. SARBANES, Mr. GRAHAM, Mr. REID, Mr. COLEMAN, Ms. STABENOW, Mr. SANTORUM, and Mr. DURBIN):

S. Con. Res. 55. A concurrent resolution expressing the sense of the Congress regarding the conditions for the United States to become a signatory to any multilateral agreement on trade resulting from the World Trade Organization's Doha Development Agenda Round; to the Committee on Finance.

ADDITIONAL COSPONSORS

S. 267

At the request of Mr. CRAIG, the name of the Senator from Virginia (Mr. ALLEN) 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. 347

At the request of Mr. NELSON of Florida, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 347, a bill to amend titles XVIII and XIX of the Social Security Act and title III of the Public Health Service Act to improve access to information about individuals' health care operations and legal rights for care near the end of life, to promote advance care planning and decision-making so that individuals' wishes are known should they become unable to speak for themselves, to engage health care providers in disseminating information about and assisting in the preparation of advance directives, which include living wills and durable powers of attorney for health care, and for other purposes.

S. 559

At the request of Mr. BIDEN, the names of the Senator from New Jersey (Mr. LAUTENBERG) and the Senator from California (Mrs. FEINSTEIN) were added as cosponsors of S. 559, a bill to make the protection of vulnerable populations, especially women and children, who are affected by a humanitarian emergency a priority of the United States Government, and for other purposes.

S. 566

At the request of Mr. ROCKEFELLER, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 566, a bill to continue State coverage of medicaid prescription drug coverage to medicare dual eligible beneficiaries for 6 months while still allowing the medicare part D benefit to be implemented as scheduled.

S. 576

At the request of Mr. BYRD, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 576, a bill to restore the prohibition on the commercial sale and slaughter of wild free-roaming horses and burros.

S. 595

At the request of Mr. SANTORUM, the name of the Senator from Missouri (Mr. TALENT) was added as a cosponsor of S. 595, a bill to amend the Internal Revenue Code of 1986 to modify the work opportunity credit and the welfare-to-work credit.

S. 637

At the request of Mr. DURBIN, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 637, a bill to establish a national health program administered by the Office of Personnel Management to offer health benefits plans to individuals who are not Federal employees, and for other purposes.

S. 908

At the request of Mr. MCCONNELL, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. 908, a bill to allow Congress, State legislatures, and regulatory agencies to determine appropriate laws, rules, and regulations to address the problems of weight gain, obesity, and health conditions associated with weight gain or obesity.

S. 927

At the request of Mr. CORZINE, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 927, a bill to amend title XVIII of the Social Security Act to expand and improve coverage of mental health services under the medicare program.

S. 1190

At the request of Mr. SALAZAR, the name of the Senator from Ohio (Mr.

DEWINE) was added as a cosponsor of S. 1190, a bill to provide sufficient blind rehabilitation outpatient specialists at medical centers of the Department of Veterans Affairs.

S. 1417

At the request of Mrs. CLINTON, the name of the Senator from North Dakota (Mr. CONRAD) was added as a cosponsor of S. 1417, a bill to impose tariff-rate quotas on certain casein and milk protein concentrates.

S. 1419

At the request of Mr. LUGAR, the name of the Senator from South Carolina (Mr. GRAHAM) was added as a cosponsor of S. 1419, a bill to maintain the free flow of information to the public by providing conditions for the federally compelled disclosure of information by certain persons connected with the news media.

S. 1516

At the request of Mr. DEWINE, his name was added as a cosponsor of S. 1516, a bill to reauthorize Amtrak, and for other purposes.

S. 1570

At the request of Mr. ROBERTS, the names of the Senator from Connecticut (Mr. LIEBERMAN) and the Senator from North Carolina (Mr. BURR) were added as cosponsors of S. 1570, a bill to promote employment of individuals with severe disabilities through Federal Government contracting and procurement processes, and for other purposes.

S. 1689

At the request of Mr. KYL, the name of the Senator from Louisiana (Mr. VITTER) was added as a cosponsor of S. 1689, a bill to state the policy of the United States on international taxation.

S. 1691

At the request of Mr. CRAIG, the name of the Senator from Oklahoma (Mr. COBURN) was added as a cosponsor of S. 1691, a bill to amend selected statutes to clarify existing Federal law as to the treatment of students privately educated at home under State law.

S. 1692

At the request of Mr. DAYTON, his name was added as a cosponsor of S. 1692, a bill to provide disaster assistance to agricultural producers for crop and livestock losses, and for other purposes.

S. 1749

At the request of Mr. KENNEDY, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. 1749, a bill to reinstate the application of the wage requirements of the Davis-Bacon Act to Federal contracts in areas affected by Hurricane Katrina.

S. 1770

At the request of Mr. OBAMA, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 1770, a bill to amend the Internal Revenue Code of 1986 to provide for advance payment of the earned income tax credit and the child tax credit for 2005 in order to provide needed funds to victims of Hurricane Katrina and to stimulate local economies.

S. 1772

At the request of Mr. INHOFE, the name of the Senator from Idaho (Mr. CRAIG) was added as a cosponsor of S. 1772, a bill to streamline the refinery permitting process, and for other purposes.

S. 1779

At the request of Mr. AKAKA, the names of the Senator from Rhode Island (Mr. REED) and the Senator from Massachusetts (Mr. KERRY) were added as cosponsors of S. 1779, a bill to amend the Humane Methods of Livestock Slaughter Act of 1958 to ensure the humane slaughter of nonambulatory livestock, and for other purposes.

S. 1780

At the request of Mr. SANTORUM, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 1780, a bill to amend the Internal Revenue Code of 1986 to provide incentives for charitable contributions by individuals and businesses, to improve the public disclosure of activities of exempt organizations, and to enhance the ability of low-income Americans to gain financial security by building assets, and for other purposes.

S. 1787

At the request of Mr. VITTER, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 1787, a bill to provide bankruptcy relief for victims of natural disasters, and for other purposes.

S.J. RES. 25

At the request of Mr. TALENT, the names of the Senator from South Carolina (Mr. GRAHAM) and the Senator from South Carolina (Mr. DEMINT) were added as cosponsors of S.J. Res. 25, a joint resolution proposing an amendment to the Constitution of the United States to authorize the President to reduce or disapprove any appropriation in any bill presented by Congress.

S. CON. RES. 25

At the request of Mr. TALENT, the name of the Senator from South Carolina (Mr. GRAHAM) was withdrawn as a cosponsor of S. Con. Res. 25, a concurrent resolution expressing the sense of Congress regarding the application of Airbus for launch aid.

S. CON. RES. 53

At the request of Mr. OBAMA, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. Con. Res. 53, a concurrent resolution expressing the sense of Congress that any effort to impose photo identification requirements for voting should be rejected.

S. RES. 256

At the request of Mr. SCHUMER, the names of the Senator from Connecticut (Mr. DODD) and the Senator from Rhode Island (Mr. REED) were added as cosponsors of S. Res. 256, a resolution honoring the life of Sandra Feldman.

AMENDMENT NO. 1534

At the request of Mr. DEWINE, the names of the Senator from Nebraska (Mr. NELSON) and the Senator from Hawaii (Mr. INOUYE) were added as cosponsors of amendment No. 1534 intended to be proposed to S. 1042, an original bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SPECTER (for himself, Mr. LEAHY, Mrs. FEINSTEIN, and Mr. FEINGOLD):

S. 1789. A bill to prevent and mitigate identity theft, to ensure privacy to provide notice of security breaches, and to enhance criminal penalties, law enforcement assistance, and other protections against security breaches, fraudulent access, and misuse of personally identifiable information; to the Committee on the Judiciary.

Mr. SPECTER. 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. 1789

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 ''Personal Data Privacy and Security Act of 2005''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

SEC. 2. FINDINGS.

Congress finds that—

(1) databases of personally identifiable information are increasingly prime targets of hackers, identity thieves, rogue employees, and other criminals, including organized and sophisticated criminal operations;

(2) identity theft is a serious threat to the nation's economic stability, homeland security, the development of e-commerce, and the privacy rights of Americans;

(3) over 9,300,000 individuals were victims of identity theft in America last year;

(4) security breaches are a serious threat to consumer confidence, homeland security, e-commerce, and economic stability;

(5) it is important for business entities that own, use, or license personally identifiable information to adopt reasonable procedures to ensure the security, privacy, and confidentially of that personally identifiable information;

(6) individuals whose personal information has been compromised or who have been victims of identity theft should receive the necessary information and assistance to mitigate their damages and to restore the integrity of their personal information and identities;

(7) data brokers have assumed a significant role in providing identification, authentication, and screening services, and related data collection and analyses for commercial, nonprofit, and government operations;

(8) data misuse and use of inaccurate data have the potential to cause serious or irreparable harm to an individual's livelihood, privacy, and liberty and undermine efficient and effective business and government operations;

(9) there is a need to insure that data brokers conduct their operations in a manner that prioritizes fairness, transparency, accuracy, and respect for the privacy of consumers;

(10) government access to commercial data can potentially improve safety, law enforcement, and national security; and

(11) because government use of commercial data containing personal information potentially affects individual privacy, and law enforcement and national security operations, there is a need for Congress to exercise oversight over government use of commercial data.

SEC. 3. DEFINITIONS.

In this Act:

(1) AGENCY.—The term ''agency'' has the same meaning given such term in section 551 of title 5, United States Code.

(2) AFFILIATE.—The term ''affiliate'' means persons related by common ownership or by corporate control.

(3) BUSINESS ENTITY.—The term ''business entity'' means any organization, corporation, trust, partnership, sole proprietorship, unincorporated association, venture established to make a profit, or nonprofit, and any contractor, subcontractor, affiliate, or licensee thereof engaged in interstate commerce.

(4) IDENTITY THEFT.—The term ''identity theft'' means a violation of section 1028 of title 18, United States Code, or any other similar provision of applicable State law.

(5) DATA BROKER.—The term ''data broker'' means a business entity which for monetary fees, dues, or on a cooperative nonprofit basis, currently or regularly engages, in whole or in part, in the practice of collecting, transmitting, or providing access to sensitive personally identifiable information primarily for the purposes of providing such information to nonaffiliated third parties on a nationwide basis on more than 5,000 individuals who are not the customers or employees of the business entity or affiliate.

(6) DATA FURNISHER.—The term ''data furnisher'' means any agency, governmental entity, organization, corporation, trust, partnership, sole proprietorship, unincorporated association, venture established to make a profit, or nonprofit, and any contractor, subcontractor, affiliate, or licensee thereof, that serves as a source of information for a data broker.

(7) PERSONAL ELECTRONIC RECORD.—The term ''personal electronic record'' means data associated with an individual contained in a database, networked or integrated databases, or other data system that holds sensitive personally identifiable information of that individual and is provided to non-affiliated third parties.

(8) PERSONALLY IDENTIFIABLE INFORMATION.—The term ''personally identifiable information'' means any information, or compilation of information, in electronic or digital form serving as a means of identification, as defined by section 1028(d)(7) of title 18, United State Code.

(9) PUBLIC RECORD SOURCE.—The term ''public record source'' means any agency, Federal court, or State court that maintains personally identifiable information in records available to the public.

(10) SECURITY BREACH.—

(A) IN GENERAL.—The term ''security breach'' means compromise of the security, confidentiality, or integrity of computerized data through misrepresentation or actions that result in, or there is a reasonable basis to conclude has resulted in, the unauthorized acquisition of and access to sensitive personally identifiable information.

(B) EXCLUSION.—The term ''security breach'' does not include—

(i) a good faith acquisition of sensitive personally identifiable information by a business entity or agency, or an employee or agent of a business entity or agency, if the sensitive personally identifiable information is not subject to further unauthorized disclosure; or

(ii) the release of a public record not otherwise subject to confidentiality or nondisclosure requirements.

(11) SENSITIVE PERSONALLY IDENTIFIABLE INFORMATION.—The term ''sensitive personally identifiable information'' means any information or compilation of information, in electronic or digital form that includes:

(A) An individual's name in combination with any 1 of the following data elements:

(i) A non-truncated social security number, driver's license number, passport number, or alien registration number.

(ii) Any 2 of the following:

(I) Information that relates to—

(aa) the past, present, or future physical or mental health or condition of an individual;

(bb) the provision of health care to an individual; or

(cc) the past, present, or future payment for the provision of health care to an individual.

(II) Home address or telephone number.

(III) Mother's maiden name, if identified as such.

(IV) Month, day, and year of birth.

(iii) Unique biometric data such as a finger print, voice print, a retina or iris image, or any other unique physical representation.

(iv) A unique electronic identification number, user name, or routing code in combination with the associated security code, access code, or password.

(v) Any other information regarding an individual determined appropriate by the Federal Trade Commission.

(B) A financial account number or credit or debit card number in combination with the required security code, access code, or password.

TITLE I—ENHANCING PUNISHMENT FOR IDENTITY THEFT AND OTHER VIOLATIONS OF DATA PRIVACY AND SECURITY

SEC. 101. FRAUD AND RELATED CRIMINAL ACTIVITY IN CONNECTION WITH UNAUTHORIZED ACCESS TO PERSONALLY IDENTIFIABLE INFORMATION.

Section 1030(a)(2) of title 18, United States Code, is amended—

(1) in subparagraph (B), by striking ''or'' after the semicolon;

(2) in subparagraph (C), by inserting ''or'' after the semicolon; and

(3) by adding at the end the following:

''(D) information contained in the databases or systems of a data broker, or in other personal electronic records, as such terms are defined in section 3 of the Personal Data Privacy and Security Act of 2005;''.

SEC. 102. ORGANIZED CRIMINAL ACTIVITY IN CONNECTION WITH UNAUTHORIZED ACCESS TO PERSONALLY IDENTIFIABLE INFORMATION.

Section 1961(1) of title 18, United States Code, is amended by inserting ''section 1030(a)(2)(D)(relating to fraud and related activity in connection with unauthorized access to personally identifiable information,'' before ''section 1084''.

SEC. 103. CONCEALMENT OF SECURITY BREACHES INVOLVING SENSITIVE PERSONALLY IDENTIFIABLE INFORMATION.

(a) IN GENERAL.—Chapter 47 of title 18, United States Code, is amended by adding at the end the following:

"§ 1039. Concealment of security breaches involving sensitive personally identifiable information

''(a) Whoever, having knowledge of a security breach and the obligation to provide notice of such breach to individuals under title IV of the Personal Data Privacy and Security Act of 2005, and having not otherwise qualified for an exemption from providing notice under section 422 of such Act, intentionally and willfully conceals the fact of such security breach which causes economic damages to 1 or more persons, shall be fined under this title or imprisoned not more than 5 years, or both.

''(b) For purposes of subsection (a), the term 'person' means any individual, corporation, company, association, firm, partnership, society, or joint stock company.''.

(b) CONFORMING AND TECHNICAL AMENDMENTS.—The table of sections for chapter 47 of title 18, United States Code, is amended by adding at the end the following:

''1039. Concealment of security breaches involving personally identifiable information.''.

(c) ENFORCEMENT AUTHORITY.—The United States Secret Service shall have the authority to investigate offenses under this section.

SEC. 104. AGGRAVATED FRAUD IN CONNECTION WITH COMPUTERS.

(a) IN GENERAL.—Chapter 47 of title 18, United States Code, is amended by adding after section 1030 the following:

"§ 1030A. Aggravated fraud in connection with computers

''(a) IN GENERAL.—Whoever, during and in relation to any felony violation enumerated in subsection (c), knowingly obtains, accesses, or transmits, without lawful authority, a means of identification of another person may, in addition to the punishment provided for such felony, be sentenced to a term of imprisonment of up to 2 years.

''(b) CONSECUTIVE SENTENCES.—Notwithstanding any other provision of law, should a court in its discretion impose an additional sentence under subsection (a)—

''(1) no term of imprisonment imposed on a person under this section shall run concurrently, except as provided in paragraph (3), with any other term of imprisonment imposed on such person under any other provision of law, including any term of imprisonment imposed for the felony during which the means of identifications was obtained, accessed, or transmitted;

''(2) in determining any term of imprisonment to be imposed for the felony during which the means of identification was obtained, accessed, or transmitted, a court shall not in any way reduce the term to be imposed for such crime so as to compensate for, or otherwise take into account, any separate term of imprisonment imposed or to be imposed for a violation of this section; and

''(3) a term of imprisonment imposed on a person for a violation of this section may, in the discretion of the court, run concurrently, in whole or in part, only with another term of imprisonment that is imposed by the court at the same time on that person for an additional violation of this section.

''(c) DEFINITION.—For purposes of this section, the term 'felony violation enumerated in subsection (c)' means any offense that is a felony violation of paragraphs (2) through (7) of section 1030(a).''.

(b) CONFORMING AND TECHNICAL AMENDMENTS.—The table of sections for chapter 47 of title 18, United States Code, is amended by inserting after the item relating to section 1030 the following new item:

''1030A. Aggravated fraud in connection with computers.''.

SEC. 105. REVIEW AND AMENDMENT OF FEDERAL SENTENCING GUIDELINES RELATED TO FRAUDULENT ACCESS TO OR MISUSE OF DIGITIZED OR ELECTRONIC PERSONALLY IDENTIFIABLE INFORMATION.

(a) REVIEW AND AMENDMENT.—Not later than 180 days after the date of enactment of this Act, the United States Sentencing Commission, pursuant to its authority under section 994 of title 28, United States Code, and in accordance with this section, shall review and, if appropriate, amend the Federal sentencing guidelines (including its policy statements) applicable to persons convicted of using fraud to access, or misuse of, digitized or electronic personally identifiable information, including identity theft or any offense under—

(1) sections 1028, 1028A, 1030, 1030A, 2511, and 2701 of title 18, United States Code; or

(2) any other relevant provision.

(b) REQUIREMENTS.—In carrying out the requirements of this section, the United States Sentencing Commission shall—

(1) ensure that the Federal sentencing guidelines (including its policy statements) reflect—

(A) the serious nature of the offenses and penalties referred to in this Act;

(B) the growing incidences of theft and misuse of digitized or electronic personally identifiable information, including identity theft; and

(C) the need to deter, prevent, and punish such offenses;

(2) consider the extent to which the Federal sentencing guidelines (including its policy statements) adequately address violations of the sections amended by this Act to—

(A) sufficiently deter and punish such offenses; and

(B) adequately reflect the enhanced penalties established under this Act;

(3) maintain reasonable consistency with other relevant directives and sentencing guidelines;

(4) account for any additional aggravating or mitigating circumstances that might justify exceptions to the generally applicable sentencing ranges;

(5) consider whether to provide a sentencing enhancement for those convicted of the offenses described in subsection (a), if the conduct involves—

(A) the online sale of fraudulently obtained or stolen personally identifiable information;

(B) the sale of fraudulently obtained or stolen personally identifiable information to an individual who is engaged in terrorist activity or aiding other individuals engaged in terrorist activity; or

(C) the sale of fraudulently obtained or stolen personally identifiable information to finance terrorist activity or other criminal activities;

(6) make any necessary conforming changes to the Federal sentencing guidelines to ensure that such guidelines (including its policy statements) as described in subsection (a) are sufficiently stringent to deter, and adequately reflect crimes related to fraudulent access to, or misuse of, personally identifiable information; and

(7) ensure that the Federal sentencing guidelines adequately meet the purposes of sentencing under section 3553(a)(2) of title 18, United States Code.

(c) EMERGENCY AUTHORITY TO SENTENCING COMMISSION.—The United States Sentencing Commission may, as soon as practicable, promulgate amendments under this section in accordance with procedures established in section 21(a) of the Sentencing Act of 1987 (28 U.S.C. 994 note) as though the authority under that Act had not expired.

TITLE II—ASSISTANCE FOR STATE AND LOCAL LAW ENFORCEMENT COMBATING CRIMES RELATED TO FRAUDULENT, UNAUTHORIZED, OR OTHER CRIMINAL USE OF PERSONALLY IDENTIFIABLE INFORMATION

SEC. 201. GRANTS FOR STATE AND LOCAL ENFORCEMENT.

(a) IN GENERAL.—Subject to the availability of amounts provided in advance in appropriations Acts, the Assistant Attorney General for the Office of Justice Programs of the Department of Justice may award a grant to a State to establish and develop programs to increase and enhance enforcement against crimes related to fraudulent, unauthorized, or other criminal use of personally identifiable information.

(b) APPLICATION.—A State seeking a grant under subsection (a) shall submit an application to the Assistant Attorney General for the Office of Justice Programs of the Department of Justice at such time, in such manner, and containing such information as the Assistant Attorney General may require.

(c) USE OF GRANT AMOUNTS.—A grant awarded to a State under subsection (a) shall be used by a State, in conjunction with units of local government within that State, State and local courts, other States, or combinations thereof, to establish and develop programs to—

(1) assist State and local law enforcement agencies in enforcing State and local criminal laws relating to crimes involving the fraudulent, unauthorized, or other criminal use of personally identifiable information;

(2) assist State and local law enforcement agencies in educating the public to prevent and identify crimes involving the fraudulent, unauthorized, or other criminal use of personally identifiable information;

(3) educate and train State and local law enforcement officers and prosecutors to conduct investigations and forensic analyses of evidence and prosecutions of crimes involving the fraudulent, unauthorized, or other criminal use of personally identifiable information;

(4) assist State and local law enforcement officers and prosecutors in acquiring computer and other equipment to conduct investigations and forensic analysis of evidence of crimes involving the fraudulent, unauthorized, or other criminal use of personally identifiable information; and

(5) facilitate and promote the sharing of Federal law enforcement expertise and information about the investigation, analysis, and prosecution of crimes involving the fraudulent, unauthorized, or other criminal use of personally identifiable information with State and local law enforcement officers and prosecutors, including the use of multi-jurisdictional task forces.

(d) ASSURANCES AND ELIGIBILITY.—To be eligible to receive a grant under subsection (a), a State shall provide assurances to the Attorney General that the State—

(1) has in effect laws that penalize crimes involving the fraudulent, unauthorized, or other criminal use of personally identifiable information, such as penal laws prohibiting—

(A) fraudulent schemes executed to obtain personally identifiable information;

(B) schemes executed to sell or use fraudulently obtained personally identifiable information; and

(C) online sales of personally identifiable information obtained fraudulently or by other illegal means;

(2) will provide an assessment of the resource needs of the State and units of local government within that State, including criminal justice resources being devoted to the investigation and enforcement of laws

related to crimes involving the fraudulent, unauthorized, or other criminal use of personally identifiable information; and

(3) will develop a plan for coordinating the programs funded under this section with other federally funded technical assistant and training programs, including directly funded local programs such as the Local Law Enforcement Block Grant program (described under the heading ''Violent Crime Reduction Programs, State and Local Law Enforcement Assistance'' of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1998 (Public Law 105–119)).

(e) MATCHING FUNDS.—The Federal share of a grant received under this section may not exceed 90 percent of the total cost of a program or proposal funded under this section unless the Attorney General waives, wholly or in part, the requirements of this subsection.

SEC. 202. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated to carry out this title $25,000,000 for each of fiscal years 2006 through 2009.

(b) LIMITATIONS.—Of the amount made available to carry out this title in any fiscal year not more than 3 percent may be used by the Attorney General for salaries and administrative expenses.

(c) MINIMUM AMOUNT.—Unless all eligible applications submitted by a State or units of local government within a State for a grant under this title have been funded, the State, together with grantees within the State (other than Indian tribes), shall be allocated in each fiscal year under this title not less than 0.75 percent of the total amount appropriated in the fiscal year for grants pursuant to this title, except that the United States Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands each shall be allocated 0.25 percent.

(d) GRANTS TO INDIAN TRIBES.—Notwithstanding any other provision of this title, the Attorney General may use amounts made available under this title to make grants to Indian tribes for use in accordance with this title.

TITLE III—DATA BROKERS

SEC. 301. TRANSPARENCY AND ACCURACY OF DATA COLLECTION.

(a) IN GENERAL.—Data brokers engaging in interstate commerce are subject to the requirements of this title for any product or service offered to third parties that allows access, use, compilation, distribution, processing, analyzing, or evaluation of sensitive personally identifiable information.

(b) LIMITATION.—Notwithstanding any other paragraph of this title, this section shall not apply to—

(1) brokers engaging in interstate commerce for any offered product or service currently subject to, and in compliance with, access and accuracy protections similar to those under subsections (c) through (f) of this section under the Fair Credit Reporting Act (Public Law 91–508), or the Gramm-Leach Bliley Act (Public Law 106–102);

(2) data brokers engaging in interstate commerce for any offered product or service currently in compliance with the requirements for such entities under the Health Insurance Portability and Accountability Act (Public Law 104–191), and implementing regulations;

(3) information in a personal electronic record held by a data broker if—

(A) the data broker maintains such information solely pursuant to a license agreement with another business entity; and

(B) the business entity providing such information to the data broker pursuant to a license agreement either complies with the provisions of this section or qualifies for this exemption; and

(4) information in a personal record that—

(A) the data broker has identified as inaccurate, but maintains for the purpose of aiding the data broker in preventing inaccurate information from entering an individual's personal electronic record; and

(B) is not maintained primarily for the purpose of transmitting or otherwise providing that information, or assessments based on that information, to non-affiliated third parties.

(c) DISCLOSURES TO INDIVIDUALS.—

(1) IN GENERAL.—A data broker shall, upon the request of an individual, clearly and accurately disclose to such individual for a reasonable fee all personal electronic records pertaining to that individual maintained for disclosure to third parties in the ordinary course of business in the databases or systems of the data broker at the time of the request.

(2) INFORMATION ON HOW TO CORRECT INACCURACIES.—The disclosures required under paragraph (1) shall also include guidance to individuals on the processes and procedures for demonstrating and correcting any inaccuracies.

(d) CREATION OF AN ACCURACY RESOLUTION PROCESS.—A data broker shall develop and publish on its website timely and fair processes and procedures for responding to claims of inaccuracies, including procedures for correcting inaccurate information in the personal electronic records it maintains on individuals.

(e) ACCURACY RESOLUTION PROCESS.—

(1) INFORMATION FROM A PUBLIC RECORD SOURCE.—

(A) IN GENERAL.—If an individual notifies a data broker of a dispute as to the completeness or accuracy of information, and the data broker determines that such information is derived from a public record source, the data broker shall determine within 30 days whether the information in its system accurately and completely records the information offered by the public record source.

(B) DATA BROKER ACTIONS.—If a data broker determines under subparagraph (A) that the information in its systems—

(i) does not accurately and completely record the information offered by a public record source, the data broker shall correct any inaccuracies or incompleteness, and provide to such individual written notice of such changes; and

(ii) does accurately and completely record the information offered by a public record source, the data broker shall—

(I) provide such individual with the name, address, and telephone contact information of the public record source; and

(II) notify such individual of the right to add for a period of 90 days to the personal electronic record of the individual maintained by the data broker notice of the dispute under subsection (f).

(2) INVESTIGATION OF DISPUTED INFORMATION NOT FROM A PUBLIC RECORD SOURCE.—If the completeness or accuracy of any nonpublic record source disclosed to an individual under subsection (c) is disputed by the individual and such individual notifies the data broker directly of such dispute, the data broker shall, before the end of the 30-day period beginning on the date on which the data broker receives the notice of the dispute—

(A) investigate free of charge and record the current status of the disputed information; or

(B) delete the item from the individuals data file in accordance with paragraph (8).

(3) EXTENSION OF PERIOD TO INVESTIGATE.—Except as provided in paragraph (4), the 30-day period described in paragraph (1) may be extended for not more than 15 additional days if a data broker receives information from the individual during that 30-day period that is relevant to the investigation.

(4) LIMITATIONS ON EXTENSION OF PERIOD TO INVESTIGATE.—Paragraph (3) shall not apply to any investigation in which, during the 30-day period described in paragraph (1), the information that is the subject of the investigation is found to be inaccurate or incomplete or a data broker determines that the information cannot be verified.

(5) NOTICE IDENTIFYING THE DATA FURNISHER.—If the completeness or accuracy of any information disclosed to an individual under subsection (c) is disputed by the individual, a data broker shall provide upon the request of the individual, the name, business address, and telephone contact information of any data furnisher who provided an item of information in dispute.

(6) DETERMINATION THAT DISPUTE IS FRIVOLOUS OR IRRELEVANT.—

(A) IN GENERAL.—Notwithstanding paragraphs (1) through (4), a data broker may decline to investigate or terminate an investigation of information disputed by an individual under those paragraphs if the data broker reasonably determines that the dispute by the individual is frivolous or irrelevant, including by reason of a failure by the individual to provide sufficient information to investigate the disputed information.

(B) NOTICE.—Not later than 5 business days after making any determination in accordance with subparagraph (A) that a dispute is frivolous or irrelevant, a data broker shall notify the individual of such determination by mail, or if authorized by the individual, by any other means available to the data broker.

(C) CONTENTS OF NOTICE.—A notice under subparagraph (B) shall include—

(i) the reasons for the determination under subparagraph (A); and

(ii) identification of any information required to investigate the disputed information, which may consist of a standardized form describing the general nature of such information.

(7) CONSIDERATION OF INDIVIDUAL INFORMATION.—In conducting any investigation with respect to disputed information in the personal electronic record of any individual, a data broker shall review and consider all relevant information submitted by the individual in the period described in paragraph (2) with respect to such disputed information.

(8) TREATMENT OF INACCURATE OR UNVERIFIABLE INFORMATION.—

(A) IN GENERAL.—If, after any review of public record information under paragraph (1) or any investigation of any information disputed by an individual under paragraphs (2) through (4), an item of information is found to be inaccurate or incomplete or cannot be verified, a data broker shall promptly delete that item of information from the individual's personal electronic record or modify that item of information, as appropriate, based on the results of the investigation.

(B) NOTICE TO INDIVIDUALS OF REINSERTION OF PREVIOUSLY DELETED INFORMATION.—If any information that has been deleted from an individual's personal electronic record pursuant to subparagraph (A) is reinserted in the personal electronic record of the individual, a data broker shall, not later than 5 days after reinsertion, notify the individual of the reinsertion and identify any data furnisher not previously disclosed in writing, or if authorized by the individual for that purpose, by any other means available to the data broker, unless such notification has been previously given under this subsection.

(C) NOTICE OF RESULTS OF INVESTIGATION OF DISPUTED INFORMATION FROM A NONPUBLIC RECORD SOURCE.—

(i) IN GENERAL.—Not later than 5 business days after the completion of an investigation under paragraph (2), a data broker shall provide written notice to an individual of the results of the investigation, by mail or, if authorized by the individual for that purpose, by other means available to the data broker.

(ii) ADDITIONAL REQUIREMENT.—Before the expiration of the 5-day period, as part of, or in addition to such notice, a data broker shall, in writing, provide to an individual—

(I) a statement that the investigation is completed;

(II) a report that is based upon the personal electronic record of such individual as that personal electronic record is revised as a result of the investigation;

(III) a notice that, if requested by the individual, a description of the procedures used to determine the accuracy and completeness of the information shall be provided to the individual by the data broker, including the business name, address, and telephone number of any data furnisher of information contacted in connection with such information; and

(IV) a notice that the individual has the right to request notifications under subsection (f).

(D) DESCRIPTION OF INVESTIGATION PROCEDURES.—Not later than 15 days after receiving a request from an individual for a description referred to in subparagraph (C)(ii)(III), a data broker shall provide to the individual such a description.

(E) EXPEDITED DISPUTE RESOLUTION.—If by no later than 3 business days after the date on which a data broker receives notice of a dispute from an individual of information in the personal electronic record of such individual in accordance with paragraph (2), a data broker resolves such dispute in accordance with subparagraph (A) by the deletion of the disputed information, then the data broker shall not be required to comply with subsections (e) and (f) with respect to that dispute if the data broker provides to the individual, by telephone or other means authorized by the individual, prompt notice of the deletion.

(f) NOTICE OF DISPUTE.—

(1) IN GENERAL.—If the completeness or accuracy of any information disclosed to an individual under subsection (c) is disputed and unless there is a reasonable ground to believe that such dispute is frivolous or irrelevant, an individual may request that the data broker indicate notice of the dispute for a period of—

(A) 30 days for information from a nonpublic record source; and

(B) 90 days for information from a public record source.

(2) COMPLIANCE.—A data broker shall be deemed in compliance with the requirements under paragraph (1) by either—

(A) allowing the individual to file a brief statement setting forth the nature of the dispute under paragraph (3); or

(B) using an alternative notice method that—

(i) clearly flags the disputed information for third parties accessing the information; and

(ii) provides a means for third parties to obtain further information regarding the nature of the dispute.

(3) CONTENTS OF STATEMENT.—A data broker may limit statements made under paragraph (2)(A) to not more than 100 words if it provides an individual with assistance in writing a clear summary of the dispute or until the dispute is resolved.

(g) ADDITIONAL REQUIREMENTS.—The Federal Trade Commission may exempt certain classes of data brokers from this title in a rulemaking process pursuant to section 553 of title 5, United States Code.

SEC. 302. ENFORCEMENT.

(a) CIVIL PENALTIES.—

(1) PENALTIES.—Any data broker that violates the provisions of section 301 shall be subject to civil penalties of not more than $1,000 per violation per day, with a maximum of $15,000 per day, while such violations persist.

(2) INTENTIONAL OR WILLFUL VIOLATION.—A data broker that intentionally or willfully violates the provisions of section 301 shall be subject to additional penalties in the amount of $1,000 per violation per day, with a maximum of an additional $15,000 per day, while such violations persist.

(3) EQUITABLE RELIEF.—A data broker engaged in interstate commerce that violates this section may be enjoined from further violations by a court of competent jurisdiction.

(4) OTHER RIGHTS AND REMEDIES.—The rights and remedies available under this subsection are cumulative and shall not affect any other rights and remedies available under law.

(b) INJUNCTIVE ACTIONS BY THE ATTORNEY GENERAL.—

(1) IN GENERAL.—Whenever it appears that a data broker to which this title applies has engaged, is engaged, or is about to engage, in any act or practice constituting a violation of this title, the Attorney General may bring a civil action in an appropriate district court of the United States to—

(A) enjoin such act or practice;

(B) enforce compliance with this title;

(C) obtain damages—

(i) in the sum of actual damages, restitution, and other compensation on behalf of the affected residents of a State; and

(ii) punitive damages, if the violation is willful or intentional; and

(D) obtain such other relief as the court determines to be appropriate.

(2) OTHER INJUNCTIVE RELIEF.—Upon a proper showing in the action under paragraph (1), the court shall grant a permanent injunction or a temporary restraining order without bond.

(c) STATE ENFORCEMENT.—

(1) CIVIL ACTIONS.—In any case in which the attorney general of a State has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by an act or practice that violates this title, the State may bring a civil action on behalf of the residents of that State in a district court of the United States of appropriate jurisdiction, or any other court of competent jurisdiction, to—

(A) enjoin that act or practice;

(B) enforce compliance with this title;

(C) obtain—

(i) damages in the sum of actual damages, restitution, or other compensation on behalf of affected residents of the State; and

(ii) punitive damages, if the violation is willful or intentional; or

(D) obtain such other legal and equitable relief as the court may consider to be appropriate.

(2) NOTICE.—

(A) IN GENERAL.—Before filing an action under this subsection, the attorney general of the State involved shall provide to the Attorney General—

(i) a written notice of that action; and

(ii) a copy of the complaint for that action.

(B) EXCEPTION.—Subparagraph (A) shall not apply with respect to the filing of an action by an attorney general of a State under this subsection, if the attorney general of a State determines that it is not feasible to provide the notice described in this subparagraph before the filing of the action.

(C) NOTIFICATION WHEN PRACTICABLE.—In an action described under subparagraph (B), the attorney general of a State shall provide the written notice and the copy of the complaint to the Attorney General as soon after the filing of the complaint as practicable.

(3) ATTORNEY GENERAL AUTHORITY.—Upon receiving notice under paragraph (2), the Attorney General shall have the right to—

(A) move to stay the action, pending the final disposition of a pending Federal proceeding or action as described in paragraph (4);

(B) intervene in an action brought under paragraph (1); and

(C) file petitions for appeal.

(4) PENDING PROCEEDINGS.—If the Attorney General has instituted a proceeding or action for a violation of this title or any regulations thereunder, no attorney general of a State may, during the pendency of such proceeding or action, bring an action under this subsection against any defendant named in such criminal proceeding or civil action for any violation that is alleged in that proceeding or action.

(5) RULE OF CONSTRUCTION.—For purposes of bringing any civil action under paragraph (1), nothing in this title shall be construed to prevent an attorney general of a State from exercising the powers conferred on the attorney general by the laws of that State to—

(A) conduct investigations;

(B) administer oaths and affirmations; or

(C) compel the attendance of witnesses or the production of documentary and other evidence.

(6) VENUE; SERVICE OF PROCESS.—

(A) VENUE.—Any action brought under this subsection may be brought in the district court of the United States that meets applicable requirements relating to venue under section 1931 of title 28, United States Code.

(B) SERVICE OF PROCESS.—In an action brought under this subsection process may be served in any district in which the defendant—

(i) is an inhabitant; or

(ii) may be found.

(d) NO PRIVATE CAUSE OF ACTION.—Nothing in this title establishes a private cause of action against a data broker for violation of any provision of this title.

SEC. 303. RELATION TO STATE LAWS.

No requirement or prohibition may be imposed under the laws of any State with respect to any subject matter regulated under section 301, relating to individual access to, and correction of, personal electronic records held by databrokers.

SEC. 304. EFFECTIVE DATE.

This title shall take effect 180 days after the date of enactment of this Act and shall be implemented pursuant to a State by State rollout schedule set by the Federal Trade Commission, but in no case shall full implementation and effect of this title occur later than 1 year and 180 days after the date of enactment of this Act.

TITLE IV—PRIVACY AND SECURITY OF PERSONALLY IDENTIFIABLE INFORMATION

Subtitle A—Data Privacy and Security Program

SEC. 401. PURPOSE AND APPLICABILITY OF DATA PRIVACY AND SECURITY PROGRAM.

(a) PURPOSE.—The purpose of this subtitle is to ensure standards for developing and implementing administrative, technical, and physical safeguards to protect the privacy, security, confidentiality, integrity, storage, and disposal of sensitive personally identifiable information.

(b) IN GENERAL.—A business entity engaging in interstate commerce that involves collecting, accessing, transmitting, using, storing, or disposing of sensitive personally identifiable information in electronic or digital form on 10,000 or more United States

persons is subject to the requirements for a data privacy and security program under section 402 for protecting sensitive personally identifiable information.

(c) LIMITATIONS.—Notwithstanding any other obligation under this subtitle, this subtitle does not apply to—

(1) financial institutions—

(A) subject to the data security requirements and implementing regulations under the Gramm-Leach-Bliley Act (15 U.S.C. 6801 et seq.); and

(B) subject to—

(i) examinations for compliance with the requirements of this Act by 1 or more Federal or State functional regulators (as defined in section 509 of the Gramm-Leach-Bliley Act (15 U.S.C. 6809)); or

(ii) compliance with part 314 of title 16, Code of Federal Regulations; or

(2) ''covered entities'' subject to the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1301 et seq.), including the data security requirements and implementing regulations of that Act.

(d) SAFE HARBOR.—A business entity shall be deemed in compliance with the privacy and security program requirements under section 402 if the business entity complies with or provides protection equal to industry standards, as identified by the Federal Trade Commission, that are applicable to the type of sensitive personally identifiable information involved in the ordinary course of business of such business entity.

SEC. 402. REQUIREMENTS FOR A PERSONAL DATA PRIVACY AND SECURITY PROGRAM.

(a) PERSONAL DATA PRIVACY AND SECURITY PROGRAM.—Unless otherwise limited under section 401(c), a business entity subject to this subtitle shall comply with the following safeguards and any others identified by the Federal Trade Commission in a rulemaking process pursuant to section 553 of title 5, United States Code, to protect the privacy and security of sensitive personally identifiable information:

(1) SCOPE.—A business entity shall implement a comprehensive personal data privacy and security program that includes administrative, technical, and physical safeguards appropriate to the size and complexity of the business entity and the nature and scope of its activities.

(2) DESIGN.—The personal data privacy and security program shall be designed to—

(A) ensure the privacy, security, and confidentiality of personal electronic records;

(B) protect against any anticipated vulnerabilities to the privacy, security, or integrity of personal electronic records; and

(C) protect against unauthorized access to use of personal electronic records that could result in substantial harm or inconvenience to any individual.

(3) RISK ASSESSMENT.—A business entity shall—

(A) identify reasonably foreseeable internal and external vulnerabilities that could result in unauthorized access, disclosure, use, or alteration of sensitive personally identifiable information or systems containing sensitive personally identifiable information;

(B) assess the likelihood of and potential damage from unauthorized access, disclosure, use, or alteration of sensitive personally identifiable information; and

(C) assess the sufficiency of its policies, technologies, and safeguards in place to control and minimize risks from unauthorized access, disclosure, use, or alteration of sensitive personally identifiable information.

(4) RISK MANAGEMENT AND CONTROL.—Each business entity shall—

(A) design its personal data privacy and security program to control the risks identified under paragraph (3); and

(B) adopt measures commensurate with the sensitivity of the data as well as the size, complexity, and scope of the activities of the business entity that—

(i) control access to systems and facilities containing sensitive personally identifiable information, including controls to authenticate and permit access only to authorized individuals;

(ii) detect actual and attempted fraudulent, unlawful, or unauthorized access, disclosure, use, or alteration of sensitive personally identifiable information, including by employees and other individuals otherwise authorized to have access; and

(iii) protect sensitive personally identifiable information during use, transmission, storage, and disposal by encryption or other reasonable means (including as directed for disposal of records under section 628 of the Fair Credit Reporting Act (15 U.S.C. 1681w) and the implementing regulations of such Act as set forth in section 682 of title 16, Code of Federal Regulations).

(b) TRAINING.—Each business entity subject to this subtitle shall take steps to ensure employee training and supervision for implementation of the data security program of the business entity.

(c) VULNERABILITY TESTING.—

(1) IN GENERAL.—Each business entity subject to this subtitle shall take steps to ensure regular testing of key controls, systems, and procedures of the personal data privacy and security program to detect, prevent, and respond to attacks or intrusions, or other system failures.

(2) FREQUENCY.—The frequency and nature of the tests required under paragraph (1) shall be determined by the risk assessment of the business entity under subsection (a)(3).

(d) RELATIONSHIP TO SERVICE PROVIDERS.—In the event a business entity subject to this subtitle engages service providers not subject to this subtitle, such business entity shall—

(1) exercise appropriate due diligence in selecting those service providers for responsibilities related to sensitive personally identifiable information, and take reasonable steps to select and retain service providers that are capable of maintaining appropriate safeguards for the security, privacy, and integrity of the sensitive personally identifiable information at issue; and

(2) require those service providers by contract to implement and maintain appropriate measures designed to meet the objectives and requirements governing entities subject to this section, section 401, and subtitle B.

(e) PERIODIC ASSESSMENT AND PERSONAL DATA PRIVACY AND SECURITY MODERNIZATION.—Each business entity subject to this subtitle shall on a regular basis monitor, evaluate, and adjust, as appropriate its data privacy and security program in light of any relevant changes in—

(1) technology;

(2) the sensitivity of personally identifiable information;

(3) internal or external threats to personally identifiable information; and

(4) the changing business arrangements of the business entity, such as—

(A) mergers and acquisitions;

(B) alliances and joint ventures;

(C) outsourcing arrangements;

(D) bankruptcy; and

(E) changes to sensitive personally identifiable information systems.

(f) IMPLEMENTATION TIME LINE.—Not later than 1 year after the date of enactment of this Act, a business entity subject to the provisions of this subtitle shall implement a data privacy and security program pursuant to this subtitle.

SEC. 403. ENFORCEMENT.

(a) CIVIL PENALTIES.—

(1) IN GENERAL.—Any business entity that violates the provisions of sections 401 or 402 shall be subject to civil penalties of not more than $5,000 per violation per day, with a maximum of $35,000 per day, while such violations persist.

(2) INTENTIONAL OR WILLFUL VIOLATION.—A business entity that intentionally or willfully violates the provisions of sections 401 or 402 shall be subject to additional penalties in the amount of $5,000 per violation per day, with a maximum of an additional $35,000 per day, while such violations persist.

(3) EQUITABLE RELIEF.—A business entity engaged in interstate commerce that violates this section may be enjoined from further violations by a court of competent jurisdiction.

(4) OTHER RIGHTS AND REMEDIES.—The rights and remedies available under this section are cumulative and shall not affect any other rights and remedies available under law

(b) INJUNCTIVE ACTIONS BY THE ATTORNEY GENERAL.—

(1) IN GENERAL.—Whenever it appears that a business entity or agency to which this subtitle applies has engaged, is engaged, or is about to engage, in any act or practice constituting a violation of this subtitle, the Attorney General may bring a civil action in an appropriate district court of the United States to—

(A) enjoin such act or practice;

(B) enforce compliance with this subtitle; and

(C) obtain damages—

(i) in the sum of actual damages, restitution, and other compensation on behalf of the affected residents of a State; and

(ii) punitive damages, if the violation is willful or intentional; and

(D) obtain such other relief as the court determines to be appropriate.

(2) OTHER INJUNCTIVE RELIEF.—Upon a proper showing in the action under paragraph (1), the court shall grant a permanent injunction or a temporary restraining order without bond.

(c) STATE ENFORCEMENT.—

(1) CIVIL ACTIONS.—In any case in which the attorney general of a State has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by an act or practice that violates this subtitle, the State may bring a civil action on behalf of the residents of that State in a district court of the United States of appropriate jurisdiction, or any other court of competent jurisdiction, to—

(A) enjoin that act or practice;

(B) enforce compliance with this subtitle;

(C) obtain—

(i) damages in the sum of actual damages, restitution, or other compensation on behalf of affected residents of the State; and

(ii) punitive damages, if the violation is willful or intentional; or

(D) obtain such other legal and equitable relief as the court may consider to be appropriate.

(2) NOTICE.—

(A) IN GENERAL.—Before filing an action under this subsection, the attorney general of the State involved shall provide to the Attorney General—

(i) a written notice of that action; and

(ii) a copy of the complaint for that action.

(B) EXCEPTION.—Subparagraph (A) shall not apply with respect to the filing of an action by an attorney general of a State under this subsection, if the attorney general of a

State determines that it is not feasible to provide the notice described in this subparagraph before the filing of the action.

(C) NOTIFICATION WHEN PRACTICABLE.—In an action described under subparagraph (B), the attorney general of a State shall provide the written notice and the copy of the complaint to the Attorney General as soon after the filing of the complaint as practicable.

(3) ATTORNEY GENERAL AUTHORITY.—Upon receiving notice under paragraph (2), the Attorney General shall have the right to—

(A) move to stay the action, pending the final disposition of a pending Federal proceeding or action as described in paragraph (4);

(B) intervene in an action brought under paragraph (1); and

(C) file petitions for appeal.

(4) PENDING PROCEEDINGS.—If the Attorney General has instituted a proceeding or action for a violation of this title or any regulations thereunder, no attorney general of a State may, during the pendency of such proceeding or action, bring an action under this subsection against any defendant named in such criminal proceeding or civil action for any violation that is alleged in that proceeding or action.

(5) RULE OF CONSTRUCTION.—For purposes of bringing any civil action under paragraph (1) nothing in this title shall be construed to prevent an attorney general of a State from exercising the powers conferred on the attorney general by the laws of that State to—

(A) conduct investigations;

(B) administer oaths and affirmations; or

(C) compel the attendance of witnesses or the production of documentary and other evidence.

(6) VENUE; SERVICE OF PROCESS.—

(A) VENUE.—Any action brought under this subsection may be brought in the district court of the United States that meets applicable requirements relating to venue under section 1931 of title 28, United States Code.

(B) SERVICE OF PROCESS.—In an action brought under this subsection process may be served in any district in which the defendant—

(i) is an inhabitant; or

(ii) may be found.

(d) NO PRIVATE CAUSE OF ACTION.—Nothing in this title establishes a private cause of action against a business entity for violation of any provision of this subtitle.

SEC. 404. RELATION TO STATE LAWS.

(a) IN GENERAL.—No State may—

(1) require an entity described in section 401(c) to comply with this subtitle or any regulation promulgated thereunder; and

(2) require an entity in compliance with the safe harbor established under section 401(d), to comply with any other provision of this subtitle.

(b) EFFECT OF SUBTITLE A.—Except as provided in subsection (a), this subtitle does not annul, alter, affect, or exempt any person subject to the provisions of this subtitle from complying with the laws of any State with respect to security programs for sensitive personally identifiable information, except to the extent that those laws are inconsistent with any provisions of this subtitle, and then only to the extent of such inconsistency.

Subtitle B—Security Breach Notification

SEC. 421. NOTICE TO INDIVIDUALS.

(a) IN GENERAL.—Any agency, or business entity engaged in interstate commerce, that uses, accesses, transmits, stores, disposes of or collects sensitive personally identifiable information shall, following the discovery of a security breach maintained by the agency or business entity that contains such information, notify any resident of the United States whose sensitive personally identifiable information was subject to the security breach.

(b) OBLIGATION OF OWNER OR LICENSEE.—

(1) NOTICE TO OWNER OR LICENSEE.—Any agency, or business entity engaged in interstate commerce, that uses, accesses, transmits, stores, disposes of, or collects sensitive personally identifiable information that the agency or business entity does not own or license shall notify the owner or licensee of the information following the discovery of a security breach containing such information.

(2) NOTICE BY OWNER, LICENSEE OR OTHER DESIGNATED THIRD PARTY.—Noting in this subtitle shall prevent or abrogate an agreement between an agency or business entity required to give notice under this section and a designated third party, including an owner or licensee of the sensitive personally identifiable information subject to the security breach, to provide the notifications required under subsection (a).

(3) BUSINESS ENTITY RELIEVED FROM GIVING NOTICE.—A business entity obligated to give notice under subsection (a) shall be relieved of such obligation if an owner or licensee of the sensitive personally identifiable information subject to the security breach, or other designated third party, provides such notification.

(c) TIMELINESS OF NOTIFICATION.—

(1) IN GENERAL.—All notifications required under this section shall be made without unreasonable delay following—

(A) the discovery by the agency or business entity of a security breach; and

(B) any measures necessary to determine the scope of the breach, prevent further disclosures, and restore the reasonable integrity of the data system.

(2) BURDEN OF PROOF.—The agency, business entity, owner, or licensee required to provide notification under this section shall have the burden of demonstrating that all notifications were made as required under this subtitle, including evidence demonstrating the necessity of any delay.

(d) DELAY OF NOTIFICATION AUTHORIZED FOR LAW ENFORCEMENT PURPOSES.—

(1) IN GENERAL.—If a law enforcement agency determines that the notification required under this section would impede a criminal investigation, such notification may be delayed upon the written request of the law enforcement agency.

(2) EXTENDED DELAY OF NOTIFICATION.—If the notification required under subsection (a) is delayed pursuant to paragraph (1), an agency or business entity shall give notice 30 days after the day such law enforcement delay was invoked unless a law enforcement agency provides written notification that further delay is necessary.

SEC. 422. EXEMPTIONS.

(a) EXEMPTION FOR NATIONAL SECURITY AND LAW ENFORCEMENT.—

(1) IN GENERAL.—Section 421 shall not apply to an agency if the head of the agency certifies, in writing, that notification of the security breach as required by section 421 reasonably could be expected to—

(A) cause damage to the national security; or

(B) hinder a law enforcement investigation or the ability of the agency to conduct law enforcement investigations.

(2) LIMITS ON CERTIFICATIONS.—The head of an agency may not execute a certification under paragraph (1) to—

(A) conceal violations of law, inefficiency, or administrative error;

(B) prevent embarrassment to a business entity, organization, or agency; or

(C) restrain competition.

(3) NOTICE.—In every case in which a head of an agency issues a certification under paragraph (1), the certification, accompanied by a concise description of the factual basis for the certification, shall be immediately provided to the Congress.

(b) RISK ASSESSMENT EXEMPTION.—An agency or business entity will be exempt from the notice requirements under section 421, if—

(1) a risk assessment concludes that there is no significant risk that the security breach has resulted in, or will result in, harm to the individuals whose sensitive personally identifiable information was subject to the security breach;

(2) without unreasonable delay, but not later than 45 days after the discovery of a security breach, unless extended by the United States Secret Service, the business entity notifies the United States Secret Service, in writing, of—

(A) the results of the risk assessment;

(B) its decision to invoke the risk assessment exemption; and

(3) the United States Secret Service does not indicate, in writing, within 10 days from receipt of the decision, that notice should be given.

(c) FINANCIAL FRAUD PREVENTION EXEMPTION.—

(1) IN GENERAL.—A business entity will be exempt from the notice requirement under section 421 if the business entity utilizes or participates in a security program that—

(A) is designed to block the use of the sensitive personally identifiable information to initiate unauthorized financial transactions before they are charged to the account of the individual; and

(B) provides for notice after a security breach that has resulted in fraud or unauthorized transactions.

(2) LIMITATION.—The exemption by this subsection does not apply if the information subject to the security breach includes, in addition to an account number, sensitive personally identifiable information.

SEC. 423. METHODS OF NOTICE.

An agency, or business entity shall be in compliance with section 421 if it provides:

(1) INDIVIDUAL NOTICE.—

(A) Written notification to the last known home mailing address of the individual in the records of the agency or business entity; or

(B) E-mail notice, if the individual has consented to receive such notice and the notice is consistent with the provisions permitting electronic transmission of notices under section 101 of the Electronic Signatures in Global and National Commerce Act (15 U.S.C. 7001).

(2) MEDIA NOTICE.—If more than 5,000 residents of a State or jurisdiction are impacted, notice to major media outlets serving that State or jurisdiction.

SEC. 424. CONTENT OF NOTIFICATION.

(a) IN GENERAL.—Regardless of the method by which notice is provided to individuals under section 423, such notice shall include, to the extent possible—

(1) a description of the categories of sensitive personally identifiable information that was, or is reasonably believed to have been, acquired by an unauthorized person;

(2) a toll-free number—

(A) that the individual may use to contact the agency or business entity, or the agent of the agency or business entity; and

(B) from which the individual may learn—

(i) what types of sensitive personally identifiable information the agency or business entity maintained about that individual or about individuals in general; and

(ii) whether or not the agency or business entity maintained sensitive personally identifiable information about that individual; and

(3) the toll-free contact telephone numbers and addresses for the major credit reporting agencies.

(b) ADDITIONAL CONTENT.—Notwithstanding section 429, a State may require that a notice under subsection (a) shall also include information regarding victim protection assistance provided for by that State.

SEC. 425. COORDINATION OF NOTIFICATION WITH CREDIT REPORTING AGENCIES.

If an agency or business entity is required to provide notification to more than 1,000 individuals under section 421(a), the agency or business entity shall also notify, without unreasonable delay, all consumer reporting agencies that compile and maintain files on consumers on a nationwide basis (as defined in section 603(p) of the Fair Credit Reporting Act (15 U.S.C. 1681a(p)) of the timing and distribution of the notices.

SEC. 426. NOTICE TO LAW ENFORCEMENT.

(a) SECRET SERVICE.—Any business entity or agency required to give notice under section 421 shall also give notice to the United States Secret Service if the security breach impacts—

(1) more than 10,000 individuals nationwide;

(2) a database, networked or integrated databases, or other data system associated with the sensitive personally identifiable information on more than 1,000,000 individuals nationwide;

(3) databases owned by the Federal Government; or

(4) primarily sensitive personally identifiable information of employees and contractors of the Federal Government involved in national security or law enforcement.

(b) NOTICE TO OTHER LAW ENFORCEMENT AGENCIES.—The United States Secret Service shall be responsible for notifying—

(1)(A) the Federal Bureau of Investigation, if the security breach involves espionage, foreign counterintelligence, information protected against unauthorized disclosure for reasons of national defense or foreign relations, or Restricted Data (as that term is defined in section 11y of the Atomic Energy Act of 1954 (42 U.S.C. 2014(y)), except for offenses affecting the duties of the United States Secret Service under section 3056(a) of title 18, United States Code; and

(B) the United States Postal Inspection Service, if the security breach involves mail fraud; and

(2) the attorney general of each State affected by the security breach.

(c) 30-DAY RULE.—The notices to Federal law enforcement and the attorney general of each State affected by a security breach required under this section shall be delivered without unreasonable delay, but not later than 30 days after discovery of the events requiring notice.

SEC. 427. CIVIL REMEDIES.

(a) PENALTIES.—Any agency, or business entity engaged in interstate commerce, that violates this subtitle shall be subject to a fine of—

(1) not more than $1,000 per individual per day whose sensitive personally identity information was, or is reasonably believed to have been, acquired by an unauthorized person; or

(2) not more than $50,000 per day while the failure to give notice under this subtitle persists.

(b) EQUITABLE RELIEF.—Any agency or business entity that violates, proposes to violate, or has violated this subtitle may be enjoined from further violations by a court of competent jurisdiction.

(c) OTHER RIGHTS AND REMEDIES.—The rights and remedies available under this subtitle are cumulative and shall not affect any other rights and remedies available under law.

(d) FRAUD ALERT.—Section 605A(b)(1) of the Fair Credit Reporting Act (15 U.S.C. 1681c–1(b)(1)) is amended by inserting ‘‘, or evidence that the consumer has received notice that the consumer's financial information has or may have been compromised,’’ after ‘‘identity theft report’’.

(e) INJUNCTIVE ACTIONS BY THE ATTORNEY GENERAL.—Whenever it appears that a business entity or agency to which this subtitle applies has engaged, is engaged, or is about to engage, in any act or practice constituting a violation of this subtitle, the Attorney General may bring a civil action in an appropriate district court of the United States to—

(1) enjoin such act or practice;

(2) enforce compliance with this subtitle;

(3) obtain damages—

(A) in the sum of actual damages, restitution, and other compensation on behalf of the affected residents of a State; and

(B) punitive damages, if the violation is willful or intentional; and

(4) obtain such other relief as the court determines to be appropriate.

SEC. 428. ENFORCEMENT BY STATE ATTORNEYS GENERAL.

(a) IN GENERAL.—

(1) CIVIL ACTIONS.—In any case in which the attorney general of a State, or any State or local law enforcement agency authorized by the State attorney general or by State statute to prosecute violations of consumer protection law, has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by the engagement of any agency or business entity in a practice that is prohibited under this subtitle, the State, as parens patriae on behalf of the residents of the State, or the State or local law enforcement agency on behalf of the residents of the agency's jurisdiction, may bring a civil action on behalf of the residents of the State or jurisdiction in a district court of the United States of appropriate jurisdiction or any other court of competent jurisdiction, including a State court, to—

(A) enjoin that practice;

(B) enforce compliance with this subtitle;

(C) obtain damages, restitution, or other compensation on behalf of residents of the State; or

(D) obtain such other relief as the court may consider to be appropriate.

(2) NOTICE.—

(A) IN GENERAL.—Before filing an action under paragraph (1), the attorney general of the State involved shall provide to the Attorney General of the United States—

(i) written notice of the action; and

(ii) a copy of the complaint for the action.

(B) EXEMPTION.—

(i) IN GENERAL.—Subparagraph (A) shall not apply with respect to the filing of an action by an attorney general of a State under this subtitle, if the State attorney general determines that it is not feasible to provide the notice described in such subparagraph before the filing of the action.

(ii) NOTIFICATION.—In an action described in clause (i), the attorney general of a State shall provide notice and a copy of the complaint to the Attorney General at the time the State attorney general files the action.

(b) FEDERAL PROCEEDINGS.—Upon receiving notice under subsection (a)(2), the Attorney General shall have the right to—

(1) move to stay the action, pending the final disposition of a pending Federal proceeding or action;

(2) intervene in an action brought under subsection (a)(2); and

(3) file petitions for appeal.

(c) PENDING PROCEEDINGS.—If the Attorney General has instituted a proceeding or action for a violation of this subtitle or any regulations thereunder, no attorney general of a State may, during the pendency of such proceeding or action, bring an action under this subtitle against any defendant named in such criminal proceeding or civil action for any violation that is alleged in that proceeding or action.

(d) CONSTRUCTION.—For purposes of bringing any civil action under subsection (a), nothing in this subtitle regarding notification shall be construed to prevent an attorney general of a State from exercising the powers conferred on such attorney general by the laws of that State to—

(1) conduct investigations;

(2) administer oaths or affirmations; or

(3) compel the attendance of witnesses or the production of documentary and other evidence.

(e) VENUE; SERVICE OF PROCESS.—

(1) VENUE.—Any action brought under subsection (a) may be brought in—

(A) the district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code; or

(B) another court of competent jurisdiction.

(2) SERVICE OF PROCESS.—In an action brought under subsection (a), process may be served in any district in which the defendant—

(A) is an inhabitant; or

(B) may be found.

(f) NO PRIVATE CAUSE OF ACTION.—Nothing in this subtitle establishes a private cause of action against a data broker for violation of any provision of this subtitle.

SEC. 429. EFFECT ON FEDERAL AND STATE LAW.

The provisions of this subtitle shall supersede any other provision of Federal law or any provision of law of any State relating to notification of a security breach, except as provided in section 424(b).

SEC. 430. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to cover the costs incurred by the United States Secret Service to carry out investigations and risk assessments of security breaches as required under this subtitle.

SEC. 431. REPORTING ON RISK ASSESSMENT EXEMPTION.

The United States Secret Service shall report to Congress not later than 18 months after the date of enactment of this Act, and upon the request by Congress thereafter, on the number and nature of the security breaches described in the notices filed by those business entities invoking the risk assessment exemption under section 422(b) and the response of the United States Secret Service to those notices.

SEC. 432. EFFECTIVE DATE.

This subtitle shall take effect on the expiration of the date which is 90 days after the date of enactment of this Act.

TITLE V—GOVERNMENT ACCESS TO AND USE OF COMMERCIAL DATA

SEC. 501. GENERAL SERVICES ADMINISTRATION REVIEW OF CONTRACTS.

(a) IN GENERAL.—In considering contract awards totaling more than $500,000 and entered into after the date of enactment of this Act with data brokers, the Administrator of the General Services Administration shall evaluate—

(1) the data privacy and security program of a data broker to ensure the privacy and security of data containing personally identifiable information, including whether such program adequately addresses privacy and security threats created by malicious software or code, or the use of peer-to-peer file sharing software;

(2) the compliance of a data broker with such program;

(3) the extent to which the databases and systems containing personally identifiable information of a data broker have been compromised by security breaches; and

(4) the response by a data broker to such breaches, including the efforts by such data broker to mitigate the impact of such breaches.

(b) COMPLIANCE SAFE HARBOR.—The data privacy and security program of a data broker shall be deemed sufficient for the purposes of subsection (a), if the data broker complies with or provides protection equal to industry standards, as identified by the Federal Trade Commission, that are applicable to the type of personally identifiable information involved in the ordinary course of business of such data broker.

(c) PENALTIES.—In awarding contracts with data brokers for products or services related to access, use, compilation, distribution, processing, analyzing, or evaluating personally identifiable information, the Administrator of the General Services Administration shall—

(1) include monetary or other penalties—

(A) for failure to comply with subtitles A and B of title IV of this Act; or

(B) if a contractor knows or has reason to know that the personally identifiable information being provided is inaccurate, and provides such inaccurate information; and

(2) require a data broker that engages service providers not subject to subtitle A of title IV for responsibilities related to sensitive personally identifiable information to—

(A) exercise appropriate due diligence in selecting those service providers for responsibilities related to personally identifiable information;

(B) take reasonable steps to select and retain service providers that are capable of maintaining appropriate safeguards for the security, privacy, and integrity of the personally identifiable information at issue; and

(C) require such service providers, by contract, to implement ad maintain appropriate measures designed to meet the objectives and requirements in title IV.

(d) LIMITATION.—The penalties under subsection (c) shall not apply to a data broker providing information that is accurately and completely recorded from a public record source.

SEC. 502. REQUIREMENT TO AUDIT INFORMATION SECURITY PRACTICES OF CONTRACTORS AND THIRD PARTY BUSINESS ENTITIES.

Section 3544(b) of title 44, United States Code, is amended—

(1) in paragraph (7)(C)(iii), by striking ''and'' after the semicolon;

(2) in paragraph (8), by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(9) procedures for evaluating and auditing the information security practices of contractors or third party business entities supporting the information systems or operations of the agency involving personally identifiable information (as that term is defined in section 3 of the Personal Data Privacy and Security Act of 2005) and ensuring remedial action to address any significant deficiencies.''.

SEC. 503. PRIVACY IMPACT ASSESSMENT OF GOVERNMENT USE OF COMMERCIAL INFORMATION SERVICES CONTAINING PERSONALLY IDENTIFIABLE INFORMATION.

(a) IN GENERAL.—Section 208(b)(1) of the E-Government Act of 2002 (44 U.S.C. 3501 note) is amended—

(1) in subparagraph (A)(i), by striking ''or''; and

(2) in subparagraph (A)(ii), by striking the period and inserting ''; or''; and

(3) by inserting after clause (ii) the following:

''(iii) purchasing or subscribing for a fee to personally identifiable information from a data broker (as such terms are defined in section 3 of the Personal Data Privacy and Security Act of 2005).''.

(b) LIMITATION.—Notwithstanding any other provision of law, commencing 1 year after the date of enactment of this Act, no Federal department or agency may enter into a contract with a data broker to access for a fee any database consisting primarily of personally identifiable information concerning United States persons (other than news reporting or telephone directories) unless the head of such department or agency—

(1) completes a privacy impact assessment under section 208 of the E-Government Act of 2002 (44 U.S.C. 3501 note), which shall subject to the provision in that Act pertaining to sensitive information, include a description of—

(A) such database;

(B) the name of the data broker from whom it is obtained; and

(C) the amount of the contract for use;

(2) adopts regulations that specify—

(A) the personnel permitted to access, analyze, or otherwise use such databases;

(B) standards governing the access, analysis, or use of such databases;

(C) any standards used to ensure that the personally identifiable information accessed, analyzed, or used is the minimum necessary to accomplish the intended legitimate purpose of the Federal department or agency;

(D) standards limiting the retention and redisclosure of personally identifiable information obtained from such databases;

(E) procedures ensuring that such data meet standards of accuracy, relevance, completeness, and timeliness;

(F) the auditing and security measures to protect against unauthorized access, analysis, use, or modification of data in such databases;

(G) applicable mechanisms by which individuals may secure timely redress for any adverse consequences wrongly incurred due to the access, analysis, or use of such databases;

(H) mechanisms, if any, for the enforcement and independent oversight of existing or planned procedures, policies, or guidelines; and

(I) an outline of enforcement mechanisms for accountability to protect individuals and the public against unlawful or illegitimate access or use of databases; and

(3) incorporates into the contract or other agreement totaling more than $500,000, provisions—

(A) providing for penalties—

(i) for failure to comply with title IV of this Act; or

(ii) if the entity knows or has reason to know that the personally identifiable information being provided to the Federal department or agency is inaccurate, and provides such inaccurate information.

(B) requiring a data broker that engages service providers not subject to subtitle A of title IV for responsibilities related to sensitive personally identifiable information to—

(i) exercise appropriate due diligence in selecting those service providers for responsibilities related to personally identifiable information;

(ii) take reasonable steps to select and retain service providers that are capable of maintaining appropriate safeguards for the security, privacy, and integrity of the personally identifiable information at issue; and

(iii) require such service providers, by contract, to implement ad maintain appropriate measures designed to meet the objectives and requirements in title IV.

(c) LIMITATION ON PENALTIES.—The penalties under paragraph (3)(A) shall not apply to a data broker providing information that is accurately and completely recorded from a public record source.

(d) INDIVIDUAL SCREENING PROGRAMS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, commencing one year after the date of enactment of this Act, no Federal department or agency may use commercial databases or contract with a data broker to implement an individual screening program unless such program is—

(A) congressionally authorized; and

(B) subject to regulations developed by notice and comment that—

(i) establish a procedure to enable individuals, who suffer an adverse consequence because the screening system determined that they might pose a security threat, to appeal such determination and correct information contained in the system;

(ii) ensure that Federal and commercial databases that will be used to establish the identity of individuals or otherwise make assessments of individuals under the system will not produce a large number of false positives or unjustified adverse consequences;

(iii) ensure the efficacy and accuracy of all of the search tools that will be used and ensure that the department or agency can make an accurate predictive assessment of those who may constitute a threat;

(iv) establish an internal oversight board to oversee and monitor the manner in which the system is being implemented;

(v) establish sufficient operational safeguards to reduce the opportunities for abuse;

(vi) implement substantial security measures to protect the system from unauthorized access;

(vii) adopt policies establishing the effective oversight of the use and operation of the system; and

(viii) ensure that there are no specific privacy concerns with the technological architecture of the system; and

(C) coordinated with the Terrorist Screening Center or any such successor organization.

(2) DEFINITION.—As used in this subsection, the term ''individual screening program''—

(A) means a system that relies on personally identifiable information from commercial databases to—

(i) evaluate all or most individuals seeking to exercise a particular right or privilege under Federal law; and

(ii) determine whether such individuals are on a terrorist watch list or otherwise pose a security threat; and

(B) does not include any program or system to grant security clearances.

(e) STUDY OF GOVERNMENT USE.—

(1) SCOPE OF STUDY.—Not later than 180 days after the date of enactment of this Act, the Comptroller General of the United States shall conduct a study and audit and prepare a report on Federal agency use of data brokers or commercial databases containing personally identifiable information, including the impact on privacy and security, and the extent to which Federal contracts include sufficient provisions to ensure privacy and security protections, and penalties for failures in privacy and security practices.

(2) REPORT.—A copy of the report required under paragraph (1) shall be submitted to Congress.

SEC. 504. IMPLEMENTATION OF CHIEF PRIVACY OFFICER REQUIREMENTS.

(a) DESIGNATION OF THE CHIEF PRIVACY OFFICER.—Pursuant to the requirements under section 522 of the Transportation, Treasury,

Independent Agencies, and General Government Appropriations Act, 2005 (Division H of Public Law 108–447; 118 Stat. 3199) that each agency designate a Chief Privacy Officer, the Department of Justice shall implement such requirements by designating a department-wide Chief Privacy Officer, whose primary role shall be to fulfill the duties and responsibilities of Chief Privacy Officer and who shall report directly to the Deputy Attorney General.

(b) DUTIES AND RESPONSIBILITIES OF CHIEF PRIVACY OFFICER.—In addition to the duties and responsibilities outlined under section 522 of the Transportation, Treasury, Independent Agencies, and General Government Appropriations Act, 2005 (Division H of Public Law 108–447; 118 Stat. 3199), the Department of Justice Chief Privacy Officer shall—

(1) oversee the Department of Justice's implementation of the requirements under section 603 to conduct privacy impact assessments of the use of commercial data containing personally identifiable information by the Department;

(2) promote the use of law enforcement technologies that sustain privacy protections, and assure that the implementation of such technologies relating to the use, collection, and disclosure of personally identifiable information preserve the privacy and security of such information; and

(3) coordinate with the Privacy and Civil Liberties Oversight Board, established in the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458), in implementing paragraphs (1) and (2) of this subsection.

Mr. LEAHY. Mr. President, today we reintroduce the Specter-Leahy Personal Data Privacy and Security Act of 2005.

Earlier this year, Senator SPECTER and I introduced a comprehensive bill to bring urgently needed reforms to protect Americans' privacy and to secure their personal data. Chairman SPECTER has shown great leadership on this issue, and I appreciate his dedication to solving these challenging problems through his willingness to work together to enhance this legislation as we have deemed appropriate. Since initial introduction of our bill, we have worked with Senator FEINSTEIN and other members of the Judiciary Committee to address areas of concern and to perfect the bill. We have also worked closely with a wide variety of stakeholders and experts in these issues, which has also improved the bill.

I especially thank Senator FEINSTEIN for her dedication and resolve to address these difficult data security and privacy concerns. I commend her input and leadership, and I am pleased that she is joining as an original cosponsor of this revised bill. I also thank Senator FEINGOLD for his commitment to ensuring that the government also acts responsibly in its use of our personal information and appreciate his support as an original cosponsor. This is a good bill—carefully calibrated to help remedy the problems we set out to address—and I look forward to continuing our efforts to pass effective legislation.

We have teamed together and applied our collective wisdom to sort through these issues with care and precision. We took the time needed to develop well-balanced, focused legislation that provides strong protections where necessary, and that offers strong penalties and consequences as disincentives for those who fail to protect Americans' most personal information.

Reforms like these are long overdue. As we look toward the end of the year, these necessary reforms should be included in our domestic priorities so that we can achieve some positive changes in areas that affect the everyday lives of Americans.

First our bill requires data brokers to let people know what sensitive personal information they have about them, and to allow people to correct inaccurate information. These principles have precedent from the credit report context, and we have adapted them in a way that makes sense for the data brokering industry. This is a simple matter of fairness.

Second, we would require companies that have databases with sensitive personal information on Americans to establish and implement data privacy and security programs. In the digital age, any company that wants to be trusted by the public must earn that trust by vigilantly protecting the databases they use and maintain which contain Americans' private data. They also have a responsibility in the next link in the security chain, to make sure that contractors hired to process data are adequately vetted to keep the personal information in these databases secure. This is increasingly important as Americans' personal information more and more is outsourced for processing overseas and beyond U.S. laws.

Third, our bill requires notice when sensitive personal information has been compromised. The American people have a right to know when they are at risk because of corporate failures to protect their data, or when a criminal has infiltrated data systems. The notice rules in our bill were carefully crafted to ensure that the trigger for notice is tied to ''significant risk of harm'' with appropriate checks-and-balances, in order to make sure that companies do not underreport. We also recognize important fraud prevention techniques that already exist. But our priority has been to make sure that victims have critical information as a roadmap that offers the assistance necessary to protect themselves, their families and their financial well-being.

Finally, our bill addresses the government's use of personal data. We are living in a world in which our government increasingly is turning to the private sector to get personal data the government could not legally collect on its own without oversight and appropriate protections. This bill would place privacy and security front and center in evaluating whether data brokers can be trusted with government contracts that involve sensitive information about the American people. It would require contract reviews that include these considerations, audits to ensure good practice, and contract penalties for failure to protect data privacy and security.

This legislation meets other key goals. It provides tough monetary and criminal penalties for compromising personal data or failing to provide necessary protections. This creates an incentive for companies to protect personal information, especially when there is no commercial relationship between individuals and companies using their data. We also would authorize an additional $100 million over four years to help state law enforcement agencies fight misuse of personal information.

This is a solid bill—a comprehensive bill—that not only deals with the need to provide Americans notice when they have already been hurt, but that also deals with the underlying problem of lax security and lack of accountability in dealing with the public's most personal and private information.

I commend Senator SPECTER for his leadership on this emerging problem. Senator FEINSTEIN and Senator FEINGOLD have long recognized the importance of data privacy and security, and I appreciate their support in this effort and on this bill. Other members on the Commerce Committee, such as Senator NELSON and Senator CANTWELL, and on the Banking Committee, have also taken great strides in these areas as well, and we look forward to working closely with them to pass legislation this year.

By Mr. BINGAMAN (for himself, Mr. SPECTER, Mr. NELSON of Nebraska, Mr. HARKIN and Mr. ROCKEFELLER):

S. 1793. A bill to extend certain apportionments to primary airports; to the Committee on Commerce, Science, and Transportation.

Mr. BINGAMAN. Mr. President, I rise today with my colleague Senator SPECTER to introduce legislation that is important to a number of rural communities located in over half of the States. Our legislation will ensure that over 50 mostly rural airports will not see an 85 percent reduction in their annual grant from the Federal Aviation Administration's Airport Improvement Program.

I think all Senators are well aware of the wide-ranging impact the tragic events of September 11, 2001, have had throughout our economy. One of the hardest hit industries has been commercial aviation, which is continuing to feel the effects in terms of higher costs and loss of passengers. Nowhere has the decline in commercial aviation been felt more than in small and rural communities.

All across America, small communities already face growing hurdles to promoting their economic growth and development. Today, many rural areas lack access to interstate or even four-lane highways, railroads or broadband telecommunications. Business development in rural areas frequently depends on the quality of their airports and the

availability of scheduled air service. For small communities, airports often provide the critical link to the national and international transportation system.

Ensuring small communities have the resources they need to preserve this vital airport infrastructure in rural areas is the purpose of our bill.

Under current formulae for distributing Federal funds, every airport that has more than 10,000 annual passenger boardings is guaranteed an entitlement grant from the FAA's AIP of at least $1 million per year. These are called ''primary'' airports. Airports with less than 10,000 annual boardings receive $150,000. Unfortunately, there are a handful of primary airports that have had their annual boardings drop below 10,000 as a result of the effects of 9/11. One of these airports is the Roswell International Air Center in my State of New Mexico.

For the passed two years, Congress has permitted these so called ''virtual primary'' airports to retain their full $1 million entitlement, even though their annual boardings had dropped below the 10,000 threshold as a direct result of 9/11. This two-year waiver was included in section 146 of the Vision 100 aviation reauthorization act. (P.L. 108–176).

Unfortunately, based on preliminary boarding data for 2004, there are still about 50 primary airports that have not yet regained their previous boarding levels. As a result, these airports will face a cut in their annual entitlement in FY2006 from $1 million to $150,000.

I ask unanimous consent that a list of these likely virtual primary airports for fiscal year 2006 be printed in the RECORD.

LIKELY VIRTUAL PRIMARY AIRPORTS FOR FY2006

Alaska—Fort Yukon, Gustavus, Haines, Iliamna, Kodiak, Metlakatla, Skagway, Merrill Field* and Manokotak*.
California—Imperial, Santa Rosa, Visalia.
Connecticut—Groton-New London.
Florida—Naples.
Georgia—Athens.
Iowa—Burlington, Fort Dodge.
Illinois—Belleville, Quincy.
Indiana—Lafayette.
Kansas—Garden City, Salina.
Kentucky—Owensboro.
Maine—Rockland*.
Massachusetts—Worcester.
Michigan—Alpena, Escanaba.
Minnesota—Grand Rapids, Hibbing.
Montana—Sidney-Richland*.
North Carolina—Hickory, Pinehurst/Southern Pines.
Nebraska—Grand Island, Kearney, Scottsbluff.
New Hampshire—Lebanon.
New Mexico—Roswell.
Ohio—Youngstown/Warren.
Oregon—Pendleton.
Pennsylvania—Altoona, Bradford, Brookville, Lancaster, and Reading*.
Rhode Island—Block Island, Westerly.
Tennessee—Jackson.
Utah—Cedar City.
Virginia—Weyers Cave.
Washington—Anacortes, Moses Lake, and Port Angeles*.
West Virginia—Clarksburg*.
Wyoming—Laramie.

*These primary airports where above 10,000 boardings in CY2003 but could lose their $1 million AIP entitlement based on the preliminary CY2004 enplanements.

List compiled from preliminary FAA data.

The good news is a number of airports that were virtual primary airports in fiscal year 2005 have seen their annual boardings increase back above 10,000 per year. However, for this handful of airports that were still below 10,000 boardings in 2004, I believe it is appropriate that they have another year to regain their status as primary airports and not suffer the loss of 85 percent of their fiscal year 2006 annual entitlement grant for airport improvement projects.

Thus, our bill provides a simple one year extension of the existing law to preserve the airports' current level of federal funding and give these mostly rural communities a little breathing room while the airline industry recovers from the effects of 9/11.

I ask unanimous consent that a letter and resolution from the City of Roswell and the text of the bill be printed in the RECORD.

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

CITY OF ROSWELL,
Roswell, NM, September 21, 2005.

Hon. JEFF BINGAMAN,
U.S. Senate,
Washington, DC.

DEAR SENATOR BINGAMAN: The purpose of this correspondence is to, on behalf of the City of Roswell, request your assistance on an extremely important matter. Your time, as well as that of your staff, particularly Dan Alpert, has been and will continue to be most appreciated.

Attached is a resolution passed by our City Council on Thursday, September 8th pertaining to the pending loss of our annual $1 mil entitlement funds. Unless there is action involving extending the passenger boarding enplanement waiver as suggested, the City will only be eligible for $150,000 to use for airport improvements beginning with the FY 06 Budget. As far as we know we are the only Airport affected in the State of New Mexico, a fact that may have been mentioned to you by Councilor Judy Stubbs when she visited with you recently.

Our request of you is that if you can influence, beginning with the Senate Commerce and Transportation Committee, an amendment to the FY 06 Budget to extend the enplanement waiver through the FY 07 Budget, we would be most grateful. Suffice is to say, the loss of almost $900,000 each year will be devastating to our Airport and our economy

As is the case every time we approach you for assistance, we are grateful for your concern and whatever assistance you feel you can provide us.

Thank you again.

Sincerely,

BILL B. OWEN,
Mayor.

RESOLUTION NO. 05–27

A RESOLUTION SUPPORTING AN EXTENSION FOR PASSENGER BOARDING ENPLANEMENTS

Whereas, annual Federal entitlements under the Airport Improvemnt Program are based on passenger boarding; and

Whereas, in the wake of 9/11, a number of airports, including the Roswell International Air Center, saw a dramatic drop in passenger boardings; and

Whereas, current Federal legislation provides airports that have over 10,000 annual boardings $1 million per year, and airports with boardings less than 10,000 annually $150,000; and

Whereas, in November 2001, the President signed P.L. 107–71 which allowed airports that had suffered declines in passenger boardings to use the greater of either the 2000 or 2001 boardings in calculating their FY2003 entitlements; and

Whereas, the Roswell International Air Center is one of over 50 airports in the United States that benefitted from P.L. 107–71, retaining its annual $1 million entitlement, even when passenger boardings dropped below 10,000; and

Whereas, Congress extended the exception for two additional years, FY2004 and FY2005 (P.L. 108–176, sec. 146); and

Whereas, Roswell International Air Center enplanements are increasing and coming close to 1O,OOO and Now, Therefore be it

Resolved, The City of Roswell seeks the continued support from the New Mexico Congressional Delegation to persuade the Senate Commerce and Transportation Committee to extend the exception through FY2007 and encourages the citizens of Roswell and Eastern New Mexico to support the local air service. Further be it

Resolved by the governing body of the City of Roswell, New Mexico, the Roswell City Council, to support whatever means and energy is necessary to extend the passenger boarding enplanement waiver through FY2007.

S. 1793

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF APPORTIONMENTS.

Section 47114(c)(1)(F) of title 49, United States Code, is amended by striking ''and 2005'' each place it appears in the heading and inserting '', 2005, and 2006''.

By Mr. DURBIN (for himself and Mr. OBAMA):

S. 1794. A bill to establish a Strategic Gasoline and Fuel Reserve; to the Committee on Energy and Natural Resources.

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. 1794

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 ''Strategic Gasoline and Fuel Reserve Act of 2005''.

SEC. 2. STRATEGIC GASOLINE AND FUEL RESERVE.

(a) IN GENERAL.—Title I of the Energy Policy and Conservation Act (42 U.S.C. 6201 et seq.) is amended—

(1) by redesignating part E (42 U.S.C. 6251 et seq.) as part F;

(2) by redesignating section 191 (42 U.S.C. 6251) as section 199; and

(3) by inserting after part D (42 U.S.C. 6250 et seq.) the following:

''PART E—STRATEGIC GASOLINE AND FUEL RESERVE

''SEC. 191. DEFINITIONS.

''In this part:

''(1) GASOLINE.—The term 'gasoline' means regular unleaded gasoline.

''(2) RESERVE.—The term 'Reserve' means the Strategic Gasoline and Fuel Reserve established under section 192(a).

''SEC. 192. ESTABLISHMENT.

''(a) IN GENERAL.—Notwithstanding any other provision of this Act, the Secretary shall establish, maintain, and operate a Strategic Gasoline and Fuel Reserve.

''(b) NOT COMPONENT OF STRATEGIC PETROLEUM RESERVE.—The Reserve is not a component of the Strategic Petroleum Reserve established under part B.

''(c) CAPACITY.—The Reserve shall contain not more than—

''(1) 40,000,000 barrels of gasoline; and

''(2) 7,500,000 barrels of jet fuel.

''(d) RESERVE SITES.—

''(1) SITING.—Not later than 1 year after the date of enactment of this Act, the Secretary shall determine not less than 3 Reserve sites, and not more than 5 Reserve sites, throughout the United States that are regionally strategic.

''(2) OPERATION.—The Reserve sites described in paragraph (1) shall be operational not later than 2 years after the date of enactment of this Act.

''(e) SECURITY.—In establishing the Reserve under this section, the Secretary shall obtain the concurrence of the Secretary of Homeland Security with respect to physical design security and operational security.

''(f) AUTHORITY.—In carrying out this part, the Secretary may—

''(1) purchase, contract for, lease, or otherwise acquire, in whole or in part, storage and related facilities and storage services;

''(2) use, lease, maintain, sell, or otherwise dispose of storage and related facilities acquired under this part;

''(3) acquire by purchase, exchange, lease, or other means gasoline and fuel for storage in the Reserve;

''(4) store gasoline and fuel in facilities not owned by the United States; and

''(5) sell, exchange, or otherwise dispose of gasoline and fuel from the Reserve, including to maintain—

''(A) the quality or quantity of the gasoline or fuel in the Reserve; or

''(B) the operational capacity of the Reserve.

''(g) FILL DATE.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall complete the process of filling the Reserve under this section by March 1, 2008.

''(2) EXTENSIONS.—The President may extend the deadline established under paragraph (1) if—

''(A) the President determines that filling the Reserve within that deadline would cause an undue economic burden on the United States; and

''(B) the President receives approval from Congress.

''SEC. 193. RELEASE OF GASOLINE AND FUEL.

''(a) IN GENERAL.—The Secretary shall release gasoline or fuel from the Reserve only if—

''(1) the President finds that there is a severe fuel supply disruption by finding that—

''(A) a regional or national supply shortage of gasoline or fuel of significant scope and duration has occurred;

''(B) a substantial increase in the price of gasoline or fuel has resulted from the shortage;

''(C) the price increase is likely to cause a significant adverse impact on the national economy; and

''(D) releasing gasoline or fuel from the Reserve would assist directly and significantly in reducing the adverse impact of the shortage; or

''(2)(A) the Governor of a State submits to the Secretary a written request for a release from the Reserve that contains a finding that—

''(i) a regional or statewide supply shortage of gasoline or fuel of significant scope and duration has occurred;

''(ii) a substantial increase in the price of gasoline or fuel has resulted from the shortage; and

''(iii) the price increase is likely to cause a significant adverse impact on the economy of the State; and

''(B) the Secretary concurs with the findings of the Governor under subparagraph (A) and determines that—

''(i) a release from the Reserve would mitigate gasoline or fuel price volatility in the State;

''(ii) a release from the Reserve would not have an adverse effect on the long-term economic viability of retail gasoline or fuel markets in the State and adjacent States; and

''(iii) a release from the Reserve would not suppress prices below long-term market trend levels.

''(b) PROCEDURE.—

''(1) RESPONSE OF SECRETARY.—The Secretary shall respond to a request submitted under subsection (a)(2) not later than 5 days after receipt of the request by—

''(A) approving the request;

''(B) denying the request; or

''(C) requesting additional supporting information.

''(2) RELEASE.—The Secretary shall establish procedures governing the release of gasoline or fuel from the Reserve in accordance with this subsection.

''(3) REQUIREMENTS.—

''(A) ELIGIBLE ENTITY.—In this paragraph, the term 'eligible entity' means an entity that is customarily engaged in the sale or distribution of gasoline or fuel.

''(B) SALE OR DISPOSAL FROM RESERVE.—The procedures established under this subsection shall provide that the Secretary may—

''(i) sell gasoline or fuel from the Reserve to an eligible entity through a competitive process; or

''(ii) enter into an exchange agreement with an eligible entity under which the Secretary receives a greater volume of gasoline or fuel as repayment from the eligible entity than the volume provided to the eligible entity.

''(c) CONTINUING EVALUATION.—The Secretary shall conduct a continuing evaluation of the drawdown and sales procedures established under this section.

''SEC. 194. REPORTS.

''(a) GASOLINE AND FUEL.—Not later than 45 days after the date of enactment of this section, the Secretary shall submit to Congress and the President a plan describing—

''(1) the acquisition of storage and related facilities or storage services for the Reserve, including the use of storage facilities not currently in use or not currently used to capacity;

''(2) the acquisition of gasoline and fuel for storage in the Reserve;

''(3) the anticipated methods of disposition of gasoline and fuel from the Reserve;

''(4) the estimated costs of establishment, maintenance, and operation of the Reserve;

''(5) efforts that the Department will take to minimize any potential need for future drawdowns from the Reserve; and

''(6) actions to ensure the quality of the gasoline and fuel in the Reserve are maintained.

''(b) NATURAL GAS AND DIESEL.—Not later than 90 days after the date of enactment of this section, the Secretary shall submit to Congress a report describing the feasibility of creating a natural gas and diesel reserve similar to the Reserve under this part.

''SEC. 195. STRATEGIC GASOLINE AND FUEL RESERVE FUND.

''(a) ESTABLISHMENT.—There is established in the Treasury of the United States a revolving fund, to be known as the 'Strategic Gasoline and Fuel Reserve Fund' (referred to in this section as the 'Fund'), consisting of—

''(1) such amounts as are appropriated to the Fund under subsection (b);

''(2) such amounts as are appropriated to the Fund under section 196; and

''(3) any interest earned on investment of amounts in the Fund under subsection (d).

''(b) TRANSFERS TO FUND.—There are appropriated to the Fund amounts equivalent to amounts collected as receipts and received in the Treasury from the sale, exchange, or other disposition of gasoline or fuel from the Reserve.

''(c) EXPENDITURES FROM FUND.—On request by the Secretary and without the need for further appropriation, the Secretary of the Treasury shall transfer from the Fund to the Secretary such amounts as the Secretary determines are necessary to carry out activities under this part, to remain available until expended.

''(d) INVESTMENT OF AMOUNTS.—

''(1) IN GENERAL.—The Secretary of the Treasury shall invest such portion of the Fund as is not, in the judgment of the Secretary of the Treasury, required to meet current withdrawals.

''(2) INTEREST-BEARING OBLIGATIONS.—Investments may be made only in interest-bearing obligations of the United States.

''(3) ACQUISITION OF OBLIGATIONS.—For the purpose of investments under paragraph (1), obligations may be acquired—

''(A) on original issue at the issue price; or

''(B) by purchase of outstanding obligations at the market price.

''(4) SALE OF OBLIGATIONS.—Any obligation acquired by the Fund may be sold by the Secretary of the Treasury at the market price.

''(5) CREDITS TO FUND.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Fund shall be credited to and form a part of the Fund.

''(e) TRANSFERS OF AMOUNTS.—

''(1) IN GENERAL.—The amounts required to be transferred to the Fund under this section shall be transferred at least monthly from the general fund of the Treasury to the Fund on the basis of estimates made by the Secretary of the Treasury.

''(2) ADJUSTMENTS.—Proper adjustment shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

''SEC. 196. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated such sums as are necessary to carry out this part, to remain available until expended.''.

SEC. 3. CONFORMING AMENDMENTS.

The table of contents for title I of the Energy Policy and Conservation Act (42 U.S.C. 6201 note) is amended by striking the matter relating to part D and inserting the following:

''PART D—NORTHEAST HOME HEATING OIL RESERVE

''Sec. 181. Establishment.
''Sec. 182. Authority.
''Sec. 183. Conditions for release; plan.
''Sec. 184. Northeast home heating oil reserve account.
''Sec. 185. Exemptions.
''Sec. 186. Authorization of appropriations.

''PART E—STRATEGIC GASOLINE AND FUEL RESERVE

''Sec. 191. Definitions.
''Sec. 192. Establishment.

By Mr. JOHNSON (for himself, Ms. CANTWELL, Mr. LEAHY, Mr. CORZINE, Mrs. MURRAY, Mr. SALAZAR, Mr. REED, and Ms. MIKULSKI):

S. 1795. A bill to amend the Social Security Act to protect Social Security cost-of-living adjustments (COLA); to the Committee on Finance.

Mr. JOHNSON. Mr. President, today I am joined by several of my colleagues in the Senate to introduce the Social Security COLA Protection Act of 2005. This legislation will provide some relief to seniors from rising Medicare premiums, and ensure that their Social Security cost-of-living-adjustments or COLAs are made available for other essential needs such as food and housing.

I first thank Senators CANTWELL, LEAHY, CORZINE, MURRAY, SALAZAR, REED and MIKULSKI in joining me in this effort. Last Congress several colleagues joined Senator Daschle and myself to introduce a similar bill. Representative HERSETH in the House has introduced the companion bill today, and I thank her as well for her leadership on this and other important issues to seniors in South Dakota.

In my home State, 1 in 6 people are Medicare beneficiaries. That represents 16 percent of our total State population. Many of these individuals live on modest fixed incomes and have to pay close attention to the checks they write and the groceries they buy every month. The seniors of my State are people that worked very hard all of their lives, as farmers, small business owners, teachers and parents. In old age, all they are hoping for is an opportunity to live out their years with a basic level of comfort and certainty.

Unfortunately, as the cost of health care continues to rise at alarming rates, it becomes more and more difficult for seniors to have a sense of security during their retirement years. According to the Kaiser Family Foundation, U.S. spending on health care was approximately $1.7 trillion in 2003, almost two and a half times the $696 billion spent in 1990. That $1.7 trillion represents over 15 percent of the gross domestic product. While spending did level off in 2004, according to an analysis by the Center for Health System Change, overall health spending growth outpaced overall economic growth by 2.6 percent in 2004.

Increases in health care costs hit the pocketbooks of every American. Recently the Centers for Medicare and Medicaid Services or CMS announced that the Medicare Part B premiums, which pay for seniors' doctor visits and other nonhospital services, will rise 13 percent in 2006. The 2006 increase will mark the third year in a row that beneficiaries will be subjected to a rise in their premiums of more than 10 percent.

These premium increases will come at the same time that many Medicare beneficiaries will start to pay an additional premium for the Part D prescription drug program. Those premiums will range, averaging from $20 to $35 a month. Both Part D and Part B premiums will be taken from a senior's Social Security check.

While seniors can expect a modest increase in their Social Security COLA every year, that increase has not kept up with the pace of increased health care costs and specifically Medicare premium costs. This is unfortunate, and does force many seniors to have to face the harsh reality every year that their fixed income is shrinking as their health costs go up. This October we should learn the Social Security COLA for 2006, and I fear that the combination of a modest increase and increased costs for participating in Medicare Part D are going to be difficult to adjust to for many seniors in South Dakota.

This is why I have introduced the Social Security COLA Protection Act of 2005, which will mandate that no more than 25 percent of a senior's COLA be absorbed by the increase in Medicare premiums. This is important legislation that will protect the financial security of many retirees in my home State and across the country. I thank all of the Members who have introduced this bill with me today and urge the rest of my colleagues to join me in this effort.

By Mrs. MURRAY (for herself, Mr. LEAHY, Mr. DAYTON, Mr. DODD, and Mr. CORZINE):

S. 1796. A bill to promote the economic security and safety of victims of domestic violence, dating violence, sexual assault, or stalking, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mrs. MURRAY. Mr. President, along with my colleagues, Senators LEAHY, DAYTON, DODD and CORZINE, I am introducing legislation that, if adopted, will protect and even save the lives of victims of domestic or sexual violence and their families. This bill, the Security and Financial Empowerment (SAFE) Act, addresses the impact of domestic and sexual violence that extends far beyond the moment the abuse occurs.

I am introducing this legislation today as a tribute to Paul and Sheila Wellstone, who were such champions for victims of domestic violence. Senator Wellstone and I first introduced this legislation together in 1998. Paul's desk was just behind me here on the Senate floor. I can still see him behind me waving his arms and making the case for people who have no voice.

Not long ago, domestic violence was considered a family problem, and many victims had nowhere to turn for help.

Today, thanks to the Violence Against Women Act (VAWA) we have made great progress in fighting these violent crimes. I worked to help pass this landmark legislation in 1994 and I am proud to be a part of reauthorizing it this year. But although VAWA has been a great success in coordinating victims' advocates, social service providers and law enforcement professionals to meet immediate challenges, there is still work to be done.

As someone who has spent my entire public life working with victims and experts to fight domestic violence, I am offering this bill based on what these courageous individuals have told me they need. Financial insecurity is a major factor in ongoing domestic violence. Too often, victims who are not economically self sufficient are forced to choose between protecting themselves and their children and keeping a roof over their heads. It is critical that we help guarantee the economic security of victims of domestic or sexual violence so that they can provide permanent safety for themselves and their families and so that they are not forced, because of economic dependence, to stay in an abusive relationship.

In order to do this, we must ensure that victims of domestic or sexual violence can seek the help they need without the fear of losing their jobs. Too many victims have been fired for missing work in order to find shelter or get a court restraining order, even after receiving permission from their employers. Today, a woman can use the Family and Medical Leave Act to care for a sick or injured spouse, but she cannot use that act to seek protection from her abuser. The SAFE Act will allow victims to take time off from work without penalty in order to make court appearances, seek legal assistance, and get help with safety planning. For too many victims, access to these essential services can mean the difference between life and death.

Unfortunately, some victims of domestic or sexual violence are forced to leave their jobs and relocate to protect themselves and their families. We must ensure the continued financial security of these victims through the use of unemployment benefits. Currently, a woman can receive unemployment benefits if she leaves her job because her husband must relocate. But if that same woman is fleeing her husband's abuse, in many States she cannot receive the same benefits. Currently, 28 States and the District of Columbia provide some type of unemployment assistance to victims of domestic or sexual violence. Our bill will ensure that assistance is available in every State, so that no woman has to make the tragic choice of risking her safety to protect her livelihood.

Moreover, victims must not be made silent by the fear of discrimination in employment and insurance. Punishing victims for circumstances beyond their control is wrong and only helps abusers in their efforts to control their victims. Denying a woman employment

because she is a victim of domestic violence robs her of the economic security she needs to escape a dangerous relationship. Making insurance coverage decisions based on a history of abuse only encourages women to lie about their victimization and avoid seeking help until it is too late. The SAFE Act prohibits discrimination in employment and insurance based on domestic or sexual violence, to ensure that victims are never punished for their abusers' crimes.

Sadly, domestic violence and poverty are inextricably linked, and many victims of domestic or sexual violence are also recipients of Temporary Aid to Needy Families (TANF). Work requirements in this program often punish victims who must take time off to protect themselves and their children. In 1996, Senator Paul Wellstone and I offered an amendment to TANF called the Family Violence Option, which allows States to adjust TANF work requirements for victims of domestic violence. The SAFE act will strengthen the Family Violence Option, in order to protect some of the most economically vulnerable victims.

Despite the great progress that has been made, domestic violence is still a serious problem in our country. Domestic violence is the leading cause of injury to women, and over 5.3 million incidents occur every year. Domestic or sexual violence also continues to have severe economic consequences, costing businesses between 3 and 5 billion dollars each year in lost productivity. The SAFE Act will help victims to escape dangerous situations and prevent abuse from occurring. This will not only protect the lives of countless victims, it will allow them to be more productive members of the economy.

I am proud of the guidance we've received from advocates in crafting this legislation. I want to thank them for their efforts and their commitment to breaking the cycle of violence. I want to particularly acknowledge the efforts of the advocates in Washington State who have provided invaluable input in drafting this legislation. The support and leadership of our communities will help us take this critical next step in passing SAFE.

For victims of domestic violence, an abusive relationship can seem like a hopeless situation. Through VAWA, we have already provided new hope to millions of these victims. The SAFE Act is the crucial next step in ending the cycle of abuse. I urge my colleagues to support this bill and provide victims and their families with the tools they need for productive, independent and most importantly, safe futures.

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. 1796

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 ''Security and Financial Empowerment Act'' or the ''SAFE Act''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Domestic violence crimes account for approximately 15 percent of total crime costs in the United States each year.

(2) Violence against women has been reported to be the leading cause of physical injury to women. Such violence has a devastating impact on women's physical and emotional health and financial security.

(3) According to a recent study by the National Institutes of Health and Centers for Disease Control and Prevention, each year there are 5,300,000 non-fatal violent victimizations committed by intimate partners against women. Female murder victims were substantially more likely than male murder victims to have been killed by an intimate partner. About ⅓ of female murder victims, and about 4 percent of male murder victims, were killed by an intimate partner.

(4) According to recent government estimates, approximately 987,400 rapes occur annually in the United States, 89 percent of the rapes perpetrated against female victims. Since 2001, rapes have actually increased by 4 percent.

(5) Approximately 10,200,000 people have been stalked at some time in their lives. Four out of every 5 stalking victims are women. Stalkers harass and terrorize their victims by spying on the victims, standing outside their places of work or homes, making unwanted phone calls, sending or leaving unwanted letters or items, or vandalizing property.

(6) Employees in the United States who have been victims of domestic violence, dating violence, sexual assault, or stalking too often suffer adverse consequences in the workplace as a result of their victimization.

(7) Victims of domestic violence, dating violence, sexual assault, and stalking are particularly vulnerable to changes in employment, pay, and benefits as a result of their victimizations, and are, therefore, in need of legal protection.

(8) The prevalence of domestic violence, dating violence, sexual assault, stalking, and other violence against women at work is dramatic. About 36,500 individuals, 80 percent of whom are women, were raped or sexually assaulted in the workplace each year from 1993 through 1999. Half of all female victims of violent workplace crimes know their attackers. Nearly 1 out of 10 violent workplace incidents are committed by partners or spouses. Women who work for State and local governments suffer a higher incidence of workplace assaults, including rapes, than women who work in the private sector.

(9) Homicide is the leading cause of death for women on the job. Husbands, boyfriends, and ex-partners commit 15 percent of workplace homicides against women.

(10) Studies indicate that between 35 and 56 percent of employed battered women surveyed were harassed at work by their abusive partners.

(11) According to a 1998 report of the Government Accountability Office, between ¼ and ½ of domestic violence victims surveyed in 3 studies reported that the victims lost a job due, at least in part, to domestic violence.

(12) Women who have experienced domestic violence or dating violence are more likely than other women to be unemployed, to suffer from health problems that can affect employability and job performance, to report lower personal income, and to rely on welfare.

(13) Abusers frequently seek to control their partners by actively interfering with their ability to work, including preventing their partners from going to work, harassing their partners at work, limiting the access of their partners to cash or transportation, and sabotaging the child care arrangements of their partners.

(14) More than ½ of women receiving welfare have been victims of domestic violence as adults and between ¼ and ⅓ reported being abused in the last year.

(15) Victims of intimate partner violence lose 8,000,000 days of paid work each year, the equivalent of over 32,000 full-time jobs and 5,600,000 days of household productivity.

(16) Sexual assault, whether occurring in or out of the workplace, can impair an employee's work performance, require time

away from work, and undermine the employee's ability to maintain a job. Almost 50 percent of sexual assault survivors lose their jobs or are forced to quit in the aftermath of the assaults.

(17) More than 35 percent of stalking victims report losing time from work due to the stalking and 7 percent never return to work.

(18)(A) According to the National Institute of Justice, crime costs an estimated $450,000,000,000 annually in medical expenses, lost earnings, social service costs, pain, suffering, and reduced quality of life for victims, which harms the Nation's productivity and drains the Nation's resources.

(B) Violent crime accounts for $426,000,000,000 per year of this amount.

(C) Rape exacts the highest costs per victim of any criminal offense, and accounts for $127,000,000,000 per year of the amount described in subparagraph (A).

(19) Violent crime results in wage losses equivalent to 1 percent of all United States earnings, and causes 3 percent of the Nation's medical spending and 14 percent of the Nation's injury-related medical spending.

(20) The Bureau of National Affairs has estimated that domestic violence costs United States employers between $3,000,000,000 and $5,000,000,000 annually in lost time and productivity. Other reports have estimated that domestic violence costs those employers between $5,800,000,000 and $13,000,000,000 annually.

(21) United States medical costs for domestic violence have been estimated to be $31,000,000,000 per year.

(22) Surveys of business executives and corporate security directors also underscore the heavy toll that workplace violence takes on women, businesses, and interstate commerce in the United States.

(23) Ninety-four percent of corporate security and safety directors at companies nationwide rank domestic violence as a high security concern.

(24) Forty-nine percent of senior executives recently surveyed said domestic violence has a harmful effect on their company's productivity, 47 percent said domestic violence negatively affects attendance, and 44 percent said domestic violence increases health care costs.

(25) Only 28 States have laws that explicitly provide unemployment insurance to domestic violence victims in certain circumstances, and none of the laws explicitly cover victims of sexual assault or stalking.

(26) Only 6 States provide domestic violence victims with leave from work to go to court, to the doctor, or to take other steps to address the domestic violence in their lives, and only Maine provides such leave to victims of sexual assault and stalking.

(27) No States prohibit employment discrimination against all victims of domestic violence, sexual assault, or stalking. Five States have limited protections against such discrimination for some victims under certain circumstances.

(28) Employees, including individuals participating in welfare to work programs, may need to take time during business hours to—

(A) obtain orders of protection;

(B) seek medical or legal assistance, counseling, or other services; or

(C) look for housing in order to escape from domestic violence.

(29) Victims of domestic violence, dating violence, sexual assault, or stalking have been subjected to discrimination by private and State employers, including discrimination motivated by stereotypic notions about women and other discrimination on the basis of sex.

(30) Domestic violence victims and third parties who help them have been subjected to discriminatory practices by health, life, disability, and property and casualty insurers, and employers who self-insure employee benefits, who have denied or canceled coverage, rejected claims, and raised rates based on domestic violence. Although some State legislatures have tried to address those practices, the scope of protection afforded by the laws adopted varies from State to State, with many failing to address the problem comprehensively. Moreover, Federal law prevents States from protecting the almost 40 percent of employees whose employers self-insure employee benefits.

(31) Existing Federal law does not explicitly—

(A) authorize victims of domestic violence, dating violence, sexual assault, or stalking to take leave from work to seek legal assistance and redress, counseling, or assistance with safety planning activities;

(B) address the eligibility of victims of domestic violence, dating violence, sexual assault, or stalking for unemployment compensation;

(C) prohibit employment discrimination against actual or perceived victims of domestic violence, dating violence, sexual assault, or stalking; or

(D) prohibit insurers and employers who self-insure employee benefits from—

(i) discriminating against domestic violence victims and those who help them in determining eligibility for coverage, rates charged, and standards for payment of claims; or

(ii) disclosing information about abuse and the location of the victims through insurance databases and other means.

SEC. 3. DEFINITIONS.

In this Act, except as otherwise expressly provided:

(1) COMMERCE.—The terms ''commerce'' and ''industry or activity affecting commerce'' have the meanings given the terms in section 101 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2611).

(2) COURSE OF CONDUCT.—The term ''course of conduct'' means a course of repeatedly maintaining a visual or physical proximity to a person or conveying verbal or written threats, including threats conveyed through electronic communications, or threats implied by conduct.

(3) DATING VIOLENCE.—The term ''dating violence'' has the meaning given the term in section 826 of the Higher Education Amendments of 1998 (20 U.S.C. 1152).

(4) DOMESTIC VIOLENCE.—The term ''domestic violence'' has the meaning given the term in section 826 of the Higher Education Amendments of 1998 (20 U.S.C. 1152).

(5) DOMESTIC VIOLENCE COALITION.—The term ''domestic violence coalition'' means a nonprofit, nongovernmental membership organization that—

(A) consists of the entities carrying out a majority of the domestic violence programs carried out within a State;

(B) collaborates and coordinates activities with Federal, State, and local entities to further the purposes of domestic violence intervention and prevention; and

(C) among other activities, provides training and technical assistance to entities carrying out domestic violence programs within a State, territory, political subdivision, or area under Federal authority.

(6) ELECTRONIC COMMUNICATIONS.—The term ''electronic communications'' includes communications via telephone (including mobile phone), computer, e-mail, video recorder, fax machine, telex, or pager.

(7) EMPLOY; STATE.—The terms ''employ'' and ''State'' have the meanings given the terms in section 3 of the Fair Labor Standards Act of 1938 (29 U.S.C. 203).

(8) EMPLOYEE.—

(A) IN GENERAL.—The term ''employee'' means any person employed by an employer. In the case of an individual employed by a public agency, such term means an individual employed as described in section 3(e)(2) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(e)(2)).

(B) BASIS.—The term includes a person employed as described in subparagraph (A) on a full- or part-time basis, for a fixed time period, on a temporary basis, pursuant to a detail, as an independent contractor, or as a participant in a work assignment as a condition of receipt of Federal or State income-based public assistance.

(9) EMPLOYER.—The term ''employer''—

(A) means any person engaged in commerce or in any industry or activity affecting commerce who employs 15 or more individuals; and

(B) includes any person acting directly or indirectly in the interest of an employer in relation to an employee, and includes a public agency that employs individuals as described in section 3(e)(2) of the Fair Labor Standards Act of 1938, but does not include any labor organization (other than when acting as an employer) or anyone acting in the capacity of officer or agent of such labor organization.

(10) EMPLOYMENT BENEFITS.—The term ''employment benefits'' means all benefits provided or made available to employees by an employer, including group life insurance, health insurance, disability insurance, sick leave, annual leave, educational benefits, and pensions, regardless of whether such benefits are provided by a practice or written policy of an employer or through an ''employee benefit plan'', as defined in section 3(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(3)).

(11) FAMILY OR HOUSEHOLD MEMBER.—The term ''family or household member'', used with respect to a person, means a spouse, former spouse, parent, son or daughter, or person residing or formerly residing in the same dwelling unit as the person.

(12) PARENT; SON OR DAUGHTER.—The terms ''parent'' and ''son or daughter'' have the meanings given the terms in section 101 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2611).

(13) PERSON.—The term ''person'' has the meaning given the term in section 3 of the Fair Labor Standards Act of 1938 (29 U.S.C. 203).

(14) PUBLIC AGENCY.—The term ''public agency'' has the meaning given the term in section 3 of the Fair Labor Standards Act of 1938 (29 U.S.C. 203).

(15) PUBLIC ASSISTANCE.—The term ''public assistance'' includes cash, food stamps, medical assistance, housing assistance, and other benefits provided on the basis of income by a public agency.

(16) REDUCED LEAVE SCHEDULE.—The term ''reduced leave schedule'' means a leave schedule that reduces the usual number of hours per workweek, or hours per workday, of an employee.

(17) REPEATEDLY.—The term ''repeatedly'' means on 2 or more occasions.

(18) SECRETARY.—The term ''Secretary'' means the Secretary of Labor.

(19) SEXUAL ASSAULT.—The term ''sexual assault'' has the meaning given the term in section 826 of the Higher Education Amendments of 1998 (20 U.S.C. 1152).

(20) SEXUAL ASSAULT COALITION.—The term ''sexual assault coalition'' means a nonprofit, nongovernmental membership organization that—

(A) consists of the entities carrying out a majority of the sexual assault programs carried out within a State;

(B) collaborates and coordinates activities with Federal, State, and local entities to further the purposes of sexual assault intervention and prevention; and

(C) among other activities, provides training and technical assistance to entities carrying out sexual assault programs within a State, territory, political subdivision, or area under Federal authority.

(21) STALKING.—The term ''stalking'' means engaging in a course of conduct directed at a specific person that would cause a reasonable person to suffer substantial emotional distress or to fear bodily injury, sexual assault, or death to the person, or the person's spouse, parent, or son or daughter, or any other person who regularly resides in the person's household, if the conduct causes the specific person to have such distress or fear.

(22) VICTIM OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING.—The term ''victim of domestic violence, dating violence, sexual assault, or stalking'' includes a person who has been a victim of domestic violence, dating violence, sexual assault, or stalking and a person whose family or household member has been a victim of domestic violence, dating violence, sexual assault, or stalking.

(23) VICTIM SERVICES ORGANIZATION.—The term ''victim services organization'' means a nonprofit, nongovernmental organization that provides assistance to victims of domestic violence, dating violence, sexual assault, or stalking, or to advocates for such victims, including a rape crisis center, an organization carrying out a domestic violence program, an organization operating a shelter or providing counseling services, or an organization providing assistance through the legal process.

TITLE I—ENTITLEMENT TO EMERGENCY LEAVE FOR ADDRESSING DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING

SEC. 101. PURPOSES.

The purposes of this title are, pursuant to the affirmative power of Congress to enact legislation under the portions of section 8 of article I of the Constitution relating to providing for the general welfare and to regulation of commerce among the several States, and under section 5 of the 14th amendment to the Constitution—

(1) to promote the national interest in reducing domestic violence, dating violence, sexual assault, and stalking by enabling victims of domestic violence, dating violence, sexual assault, or stalking to maintain the financial independence necessary to leave abusive situations, achieve safety, and minimize the physical and emotional injuries from domestic violence, dating violence, sexual assault, or stalking, and to reduce the devastating economic consequences of domestic violence, dating violence, sexual assault, or stalking to employers and employees;

(2) to promote the national interest in ensuring that victims of domestic violence, dating violence, sexual assault, or stalking can recover from and cope with the effects of domestic violence, dating violence, sexual assault, or stalking, and participate in criminal and civil justice processes, without fear of adverse economic consequences from their employers;

(3) to ensure that victims of domestic violence, dating violence, sexual assault, or stalking can recover from and cope with the effects of domestic violence, dating violence, sexual assault, or stalking, and participate in criminal and civil justice processes, without fear of adverse economic consequences with respect to public benefits;

(4) to promote the purposes of the 14th amendment by preventing sex-based discrimination and discrimination against victims of domestic violence, dating violence, sexual assault, or stalking in employment leave, by addressing the failure of existing laws to protect the employment rights of victims of domestic violence, dating violence, sexual assault, or stalking, by protecting their civil and economic rights, and by furthering the equal opportunity of women for economic self-sufficiency and employment free from discrimination;

(5) to minimize the negative impact on interstate commerce from dislocations of employees and harmful effects on productivity, employment, health care costs, and employer costs, caused by domestic violence, dating violence, sexual assault, or stalking, including intentional efforts to frustrate women's ability to participate in employment and interstate commerce;

(6) to further the goals of human rights and dignity reflected in instruments such as the Charter of the United Nations, the Universal Declaration of Human Rights, and the International Covenant on Civil and Political Rights; and

(7) to accomplish the purposes described in paragraphs (1) through (6) by—

(A) entitling employed victims of domestic violence, dating violence, sexual assault, or stalking to take leave to seek medical help, legal assistance, counseling, safety planning, and other assistance without penalty from their employers; and

(B) prohibiting employers from discriminating against actual or perceived victims of domestic violence, dating violence, sexual assault, or stalking, in a manner that accommodates the legitimate interests of employers and protects the safety of all persons in the workplace.

SEC. 102. ENTITLEMENT TO EMERGENCY LEAVE FOR ADDRESSING DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING.

(a) LEAVE REQUIREMENT.—

(1) BASIS.—An employee who is a victim of domestic violence, dating violence, sexual assault, or stalking may take leave from work to address domestic violence, dating violence, sexual assault, or stalking, by—

(A) seeking medical attention for, or recovering from, physical or psychological injuries caused by domestic violence, dating violence, sexual assault, or stalking to the employee or the employee's family or household member;

(B) obtaining services from a victim services organization for the employee or the employee's family or household member;

(C) obtaining psychological or other counseling for the employee or the employee's family or household member;

(D) participating in safety planning, temporarily or permanently relocating, or taking other actions to increase the safety of the employee or the employee's family or household member from future domestic violence, dating violence, sexual assault, or stalking or ensure economic security; or

(E) seeking legal assistance or remedies to ensure the health and safety of the employee or the employee's family or household member, including preparing for or participating in any civil or criminal legal proceeding related to or derived from domestic violence, dating violence, sexual assault, or stalking.

(2) PERIOD.—An employee may take not more than 30 days of leave, as described in paragraph (1), in any 12-month period.

(3) SCHEDULE.—Leave described in paragraph (1) may be taken intermittently or on a reduced leave schedule.

(b) NOTICE.—The employee shall provide the employer with reasonable notice of the employee's intention to take the leave, unless providing such notice is not practicable.

(c) CERTIFICATION.—

(1) IN GENERAL.—The employer may require the employee to provide certification to the employer, within a reasonable period after the employer requests the certification, that—

(A) the employee or the employee's family or household member is a victim of domestic violence, dating violence, sexual assault, or stalking; and

(B) the leave is for 1 of the purposes enumerated in subsection (a)(1).

(2) CONTENTS.—An employee may satisfy the certification requirement of paragraph (1) by providing to the employer—

(A) a sworn statement of the employee;

(B) documentation from an employee, agent, or volunteer of a victim services organization, an attorney, a member of the clergy, or a medical or other professional, from whom the employee or the employee's family or household member has sought assistance in addressing domestic violence, dating violence, sexual assault, or stalking and the effects of domestic violence, dating violence, sexual assault, or stalking;

(C) a police or court record; or

(D) other corroborating evidence.

(d) CONFIDENTIALITY.—All information provided to the employer pursuant to subsection (b) or (c), including a statement of the employee or any other documentation, record, or corroborating evidence, and the fact that the employee has requested or obtained leave pursuant to this section, shall be retained in the strictest confidence by the employer, except to the extent that disclosure is—

(1) requested or consented to by the employee in writing; or

(2) otherwise required by applicable Federal or State law.

(e) EMPLOYMENT AND BENEFITS.—

(1) RESTORATION TO POSITION.—

(A) IN GENERAL.—Except as provided in paragraph (2), any employee who takes leave under this section for the intended purpose of the leave shall be entitled, on return from such leave—

(i) to be restored by the employer to the position of employment held by the employee when the leave commenced; or

(ii) to be restored to an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment.

(B) LOSS OF BENEFITS.—The taking of leave under this section shall not result in the loss of any employment benefit accrued prior to the date on which the leave commenced.

(C) LIMITATIONS.—Nothing in this subsection shall be construed to entitle any restored employee to—

(i) the accrual of any seniority or employment benefits during any period of leave; or

(ii) any right, benefit, or position of employment other than any right, benefit, or position to which the employee would have been entitled had the employee not taken the leave.

(D) CONSTRUCTION.—Nothing in this paragraph shall be construed to prohibit an employer from requiring an employee on leave under this section to report periodically to the employer on the status and intention of the employee to return to work.

(2) EXEMPTION CONCERNING CERTAIN HIGHLY COMPENSATED EMPLOYEES.—

(A) DENIAL OF RESTORATION.—An employer may deny restoration under paragraph (1) to any employee described in subparagraph (B) if—

(i) such denial is necessary to prevent substantial and grievous economic injury to the operations of the employer;

(ii) the employer notifies the employee of the intent of the employer to deny restoration on such basis at the time the employer

determines that such injury would occur; and

(iii) in any case in which the leave has commenced, the employee elects not to return to employment after receiving such notice.

(B) AFFECTED EMPLOYEES.—An employee referred to in subparagraph (A) is a salaried employee who is among the highest paid 10 percent of the employees employed by the employer within 75 miles of the facility at which the employee is employed.

(3) MAINTENANCE OF HEALTH BENEFITS.—

(A) COVERAGE.—Except as provided in subparagraph (B), during any period that an employee takes leave under this section, the employer shall maintain coverage under any group health plan (as defined in section 5000(b)(1) of the Internal Revenue Code of 1986) for the duration of such leave at the level and under the conditions coverage would have been provided if the employee had continued in employment continuously for the duration of such leave.

(B) FAILURE TO RETURN FROM LEAVE.—The employer may recover the premium that the employer paid for maintaining coverage for the employee under such group health plan during any period of leave under this section if—

(i) the employee fails to return from leave under this section after the period of leave to which the employee is entitled has expired; and

(ii) the employee fails to return to work for a reason other than—

(I) the continuation of, recurrence of, or onset of an episode of domestic violence, dating violence, sexual assault, or stalking, that entitles the employee to leave pursuant to this section; or

(II) other circumstances beyond the control of the employee.

(C) CERTIFICATION.—

(i) ISSUANCE.—An employer may require an employee who claims that the employee is unable to return to work because of a reason described in subclause (I) or (II) of subparagraph (B)(ii) to provide, within a reasonable period after making the claim, certification to the employer that the employee is unable to return to work because of that reason.

(ii) CONTENTS.—An employee may satisfy the certification requirement of clause (i) by providing to the employer—

(I) a sworn statement of the employee;

(II) documentation from an employee, agent, or volunteer of a victim services organization, an attorney, a member of the clergy, or a medical or other professional, from whom the employee or the employee's family or household member has sought assistance in addressing domestic violence, dating violence, sexual assault, or stalking and the effects of domestic violence, dating violence, sexual assault, or stalking;

(III) a police or court record; or

(IV) other corroborating evidence.

(D) CONFIDENTIALITY.—All information provided to the employer pursuant to subparagraph (C), including a statement of the employee or any other documentation, record, or corroborating evidence, and the fact that the employee is not returning to work because of a reason described in subclause (I) or (II) of subparagraph (B)(ii), shall be retained in the strictest confidence by the employer, except to the extent that disclosure is—

(i) requested or consented to by the employee; or

(ii) otherwise required by applicable Federal or State law.

(f) PROHIBITED ACTS.—

(1) INTERFERENCE WITH RIGHTS.—

(A) EXERCISE OF RIGHTS.—It shall be unlawful for any employer to interfere with, restrain, or deny the exercise of or the attempt to exercise, any right provided under this section.

(B) EMPLOYER DISCRIMINATION.—It shall be unlawful for any employer to discharge or harass any individual, or otherwise discriminate against any individual with respect to compensation, terms, conditions, or privileges of employment of the individual (including retaliation in any form or manner) because the individual—

(i) exercised any right provided under this section; or

(ii) opposed any practice made unlawful by this section.

(C) PUBLIC AGENCY SANCTIONS.—It shall be unlawful for any public agency to deny, reduce, or terminate the benefits of, otherwise sanction, or harass any individual, or otherwise discriminate against any individual (including retaliation in any form or manner) with respect to the amount, terms, or conditions of public assistance of the individual because the individual—

(i) exercised any right provided under this section; or

(ii) opposed any practice made unlawful by this section.

(2) INTERFERENCE WITH PROCEEDINGS OR INQUIRIES.—It shall be unlawful for any person to discharge or in any other manner discriminate (as described in subparagraph (B) or (C) of paragraph (1)) against any individual because such individual—

(A) has filed any charge, or has instituted or caused to be instituted any proceeding, under or related to this section;

(B) has given, or is about to give, any information in connection with any inquiry or proceeding relating to any right provided under this section; or

(C) has testified, or is about to testify, in any inquiry or proceeding relating to any right provided under this section.

(g) ENFORCEMENT.—

(1) CIVIL ACTION BY AFFECTED INDIVIDUALS.—

(A) LIABILITY.—Any employer that violates subsection (f) shall be liable to any individual affected—

(i) for damages equal to—

(I) the amount of—

(aa) any wages, salary, employment benefits, or other compensation denied or lost to such individual by reason of the violation; or

(bb) in a case in which wages, salary, employment benefits, or other compensation has not been denied or lost to the individual, any actual monetary losses sustained by the individual as a direct result of the violation;

(II) the interest on the amount described in subclause (I) calculated at the prevailing rate; and

(III) an additional amount as liquidated damages equal to the sum of the amount described in subclause (I) and the interest described in subclause (II), except that if an employer that has violated subsection (f) proves to the satisfaction of the court that the act or omission that violated subsection (f) was in good faith and that the employer had reasonable grounds for believing that the act or omission was not a violation of subsection (f), such court may, in the discretion of the court, reduce the amount of the liability to the amount and interest determined under subclauses (I) and (II), respectively; and

(ii) for such equitable relief as may be appropriate, including employment, reinstatement, and promotion.

(B) RIGHT OF ACTION.—An action to recover the damages or equitable relief prescribed in subparagraph (A) may be maintained against any employer in any Federal or State court of competent jurisdiction by any 1 or more affected individuals for and on behalf of—

(i) the individuals; or

(ii) the individuals and other individuals similarly situated.

(C) FEES AND COSTS.—The court in such an action shall, in addition to any judgment awarded to the plaintiff, allow a reasonable attorney's fee, reasonable expert witness fees, and other costs of the action to be paid by the defendant.

(D) LIMITATIONS.—The right provided by subparagraph (B) to bring an action by or on behalf of any affected individual shall terminate—

(i) on the filing of a complaint by the Secretary in an action under paragraph (4) in which restraint is sought of any further delay in the payment of the amount described in subparagraph (A)(i) to such individual by an employer responsible under subparagraph (A) for the payment; or

(ii) on the filing of a complaint by the Secretary in an action under paragraph (2) in which a recovery is sought of the damages described in subparagraph (A)(i) owing to an affected individual by an employer liable under subparagraph (A),

unless the action described in clause (i) or (ii) is dismissed without prejudice on motion of the Secretary.

(2) ACTION BY THE SECRETARY.—

(A) ADMINISTRATIVE ACTION.—The Secretary shall receive, investigate, and attempt to resolve complaints of violations of subsection (f) in the same manner as the Secretary receives, investigates, and attempts to resolve complaints of violations of sections 6 and 7 of the Fair Labor Standards Act of 1938 (29 U.S.C. 206 and 207).

(B) CIVIL ACTION.—The Secretary may bring an action in any court of competent jurisdiction to recover the damages described in paragraph (1)(A)(i).

(C) SUMS RECOVERED.—Any sums recovered by the Secretary pursuant to subparagraph (B) shall be held in a special deposit account and shall be paid, on order of the Secretary, directly to each individual affected. Any such sums not paid to such an individual because of inability to do so within a period of 3 years shall be deposited into the Treasury of the United States as miscellaneous receipts.

(3) LIMITATION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), an action may be brought under this subsection not later than 2 years after the date of the last event constituting the alleged violation for which the action is brought.

(B) WILLFUL VIOLATION.—In the case of such action brought for a willful violation of subsection (f), such action may be brought within 3 years after the date of the last event constituting the alleged violation for which such action is brought.

(C) COMMENCEMENT.—In determining when an action is commenced by the Secretary under this subsection for the purposes of this paragraph, it shall be considered to be commenced on the date when the complaint is filed.

(4) ACTION FOR INJUNCTION BY SECRETARY.—The district courts of the United States shall have jurisdiction, for cause shown, in an action brought by the Secretary—

(A) to restrain violations of subsection (f), including the restraint of any withholding of payment of wages, salary, employment benefits, or other compensation, plus interest, found by the court to be due to affected individuals; or

(B) to award such other equitable relief as may be appropriate, including employment, reinstatement, and promotion.

(5) SOLICITOR OF LABOR.—The Solicitor of Labor may appear for and represent the Secretary on any litigation brought under this subsection.

(6) EMPLOYER LIABILITY UNDER OTHER LAWS.—Nothing in this section shall be construed to limit the liability of an employer or public agency to an individual, for harm suffered relating to the individual's experience of domestic violence, dating violence, sexual assault, or stalking, pursuant to any other Federal or State law, including a law providing for a legal remedy.

(7) LIBRARY OF CONGRESS.—Notwithstanding any other provision of this subsection, in the case of the Library of Congress, the authority of the Secretary under this subsection shall be exercised by the Librarian of Congress.

(8) CERTAIN PUBLIC AGENCY EMPLOYERS.—

(A) AGENCIES.—Notwithstanding any other provision of this subsection, in the case of a public agency that employs individuals as described in subparagraph (A) or (B) of section 3(e)(2) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(e)(2)) (other than an entity of the legislative branch of the Federal Government), subparagraph (B) shall apply.

(B) AUTHORITY.—In the case described in subparagraph (A), the powers, remedies, and procedures provided in the case of a violation of chapter 63 of title 5, United States Code, in that title to an employing agency, in chapter 12 of that title to the Merit Systems Protection Board, or in that title to any person alleging a violation of chapter 63 of that title, shall be the powers, remedies, and procedures this subsection provides in the case of a violation of subsection (f) to that agency, that Board, or any person alleging a violation of subsection (f), respectively, against an employee who is such an individual.

(9) PUBLIC AGENCIES PROVIDING PUBLIC ASSISTANCE.—Consistent with regulations prescribed under section 106(d), the President shall ensure that any public agency that violates subsection (f)(1)(C), or subsection (f)(2) by discriminating as described in subsection (f)(1)(C), shall provide to any individual who receives a less favorable amount, term, or condition of public assistance as a result of the violation—

(A)(i) the amount of any public assistance denied or lost to such individual by reason of the violation; and

(ii) the interest on the amount described in clause (i); and

(B) such equitable relief as may be appropriate.

SEC. 103. EXISTING LEAVE USABLE FOR ADDRESSING DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING.

An employee who is entitled to take paid or unpaid leave (including family, medical, sick, annual, personal, or similar leave) from employment, pursuant to State or local law, a collective bargaining agreement, or an employment benefits program or plan, may elect to substitute any period of such leave for an equivalent period of leave provided under section 102.

SEC. 104. EMERGENCY BENEFITS.

(a) IN GENERAL.—A State may use funds provided to the State under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) to provide nonrecurrent short-term emergency benefits to an individual for any period of leave the individual takes pursuant to section 102.

(b) ELIGIBILITY.—In calculating the eligibility of an individual for such emergency benefits, the State shall count only the cash available or accessible to the individual.

(c) TIMING.—

(1) APPLICATIONS.—An individual seeking emergency benefits under subsection (a) from a State shall submit an application to the State.

(2) BENEFITS.—The State shall provide benefits to an eligible applicant under paragraph (1) on an expedited basis, and not later than 7 days after the applicant submits an application under paragraph (1).

(d) CONFORMING AMENDMENT.—Section 404 of the Social Security Act (42 U.S.C. 604) is amended by adding at the end the following:

''(l) AUTHORITY TO PROVIDE EMERGENCY BENEFITS.—A State that receives a grant under section 403 may use the grant to provide nonrecurrent short-term emergency benefits, in accordance with section 104 of the Security and Financial Empowerment Act, to individuals who take leave pursuant to section 102 of that Act, without regard to whether the individuals receive assistance under the State program funded under this part.''.

SEC. 105. EFFECT ON OTHER LAWS AND EMPLOYMENT BENEFITS.

(a) MORE PROTECTIVE LAWS, AGREEMENTS, PROGRAMS, AND PLANS.—Nothing in this title shall be construed to supersede any provision of any Federal, State, or local law, collective bargaining agreement, or employment benefits program or plan that provides—

(1) greater leave benefits for victims of domestic violence, dating violence, sexual assault, or stalking than the rights established under this title; or

(2) leave benefits for a larger population of victims of domestic violence, dating violence, sexual assault, or stalking (as defined in such law, agreement, program, or plan) than the victims of domestic violence, dating violence, sexual assault, or stalking covered under this title.

(b) LESS PROTECTIVE LAWS, AGREEMENTS, PROGRAMS, AND PLANS.—The rights established for victims of domestic violence, dating violence, sexual assault, or stalking under this title shall not be diminished by any State or local law, collective bargaining agreement, or employment benefits program or plan.

SEC. 106. REGULATIONS.

(a) IN GENERAL.—Except as provided in subsections (b), (c), and (d), the Secretary shall issue regulations to carry out this title.

(b) LIBRARY OF CONGRESS.—The Librarian of Congress shall prescribe the regulations described in subsection (a) with respect to employees of the Library of Congress. The regulations prescribed under this subsection shall, to the extent appropriate, be consistent with the regulations prescribed by the Secretary under subsection (a).

(c) CERTAIN PUBLIC AGENCY EMPLOYERS.—The Office of Personnel Management shall prescribe the regulations described in subsection (a) with respect to individuals described in subparagraph (A) or (B) of section 3(e)(2) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(e)(2)) (other than an individual employed by an entity of the legislative branch of the Federal Government). The regulations prescribed under this subsection shall, to the extent appropriate, be consistent with the regulations prescribed by the Secretary under subsection (a).

(d) PUBLIC AGENCIES PROVIDING PUBLIC ASSISTANCE.—The President shall prescribe the regulations described in subsection (a) with respect to applicants for and recipients of public assistance, in the case of violations of section 102(f)(1)(C), or section 102(f)(2) due to discrimination described in section 102(f)(1)(C). The regulations prescribed under this subsection shall, to the extent appropriate, be consistent with the regulations prescribed by the Secretary under subsection (a).

SEC. 107. CONFORMING AMENDMENT.

Section 1003(a)(1) of the Rehabilitation Act Amendments of 1986 (42 U.S.C. 2000d–7(a)(1)) is amended by inserting ''title I or III of the Security and Financial Empowerment Act,'' before ''or the provisions''.

SEC. 108. EFFECTIVE DATE.

This title and the amendment made by this title take effect 180 days after the date of enactment of this Act.

TITLE II—ENTITLEMENT TO UNEMPLOYMENT COMPENSATION FOR VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING

SEC. 201. PURPOSES.

The purposes of this title are, pursuant to the affirmative power of Congress to enact legislation under the portions of section 8 of article I of the Constitution relating to laying and collecting taxes, providing for the general welfare, and regulation of commerce among the several States, and under section 5 of the 14th amendment to the Constitution—

(1) to promote the national interest in reducing domestic violence, dating violence, sexual assault, and stalking by enabling victims of domestic violence, dating violence, sexual assault, or stalking to maintain the financial independence necessary to leave abusive situations, achieve safety, and minimize the physical and emotional injuries from domestic violence, dating violence, sexual assault, or stalking, and to reduce the devastating economic consequences of domestic violence, dating violence, sexual assault, or stalking to employers and employees;

(2) to promote the national interest in ensuring that victims of domestic violence, dating violence, sexual assault, or stalking can recover from and cope with the effects of such victimization and participate in the criminal and civil justice processes without fear of adverse economic consequences;

(3) to minimize the negative impact on interstate commerce from dislocations of employees and harmful effects on productivity, loss of employment, health care costs, and employer costs, caused by domestic violence, dating violence, sexual assault, or stalking, including intentional efforts to frustrate the ability of women to participate in employment and interstate commerce;

(4) to promote the purposes of the 14th amendment to the Constitution by preventing sex-based discrimination and discrimination against victims of domestic violence, dating violence, sexual assault, or stalking in unemployment insurance, by addressing the failure of existing laws to protect the employment rights of victims of domestic violence, dating violence, sexual assault, or stalking, by protecting their civil and economic rights, and by furthering the equal opportunity of women for economic self-sufficiency and employment free from discrimination; and

(5) to accomplish the purposes described in paragraphs (1) through (4) by providing unemployment insurance to those who are separated from their employment as a result of domestic violence, dating violence, sexual assault, or stalking, in a manner that accommodates the legitimate interests of employers and protects the safety of all persons in the workplace.

SEC. 202. UNEMPLOYMENT COMPENSATION AND TRAINING PROVISIONS.

(a) UNEMPLOYMENT COMPENSATION.—Section 3304 of the Internal Revenue Code of 1986 (relating to approval of State unemployment compensation laws) is amended—

(1) in subsection (a)—

(A) in paragraph (18), by striking ''and'' at the end;

(B) by redesignating paragraph (19) as paragraph (20); and

(C) by inserting after paragraph (18) the following new paragraph:

''(19) compensation shall not be denied where an individual is separated from employment due to circumstances resulting

from the individual's experience of domestic violence, dating violence, sexual assault, or stalking, nor shall States impose additional conditions that restrict the individual's eligibility for or receipt of benefits beyond those required of other individuals who are forced to leave their jobs or are deemed to have good cause for voluntarily separating from a job in the State; and''; and

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

''(g) CONSTRUCTION.—For purposes of subsection (a)(19)—

''(1) DOCUMENTATION.—In determining eligibility for compensation due to circumstances resulting from an individual's experience of domestic violence, dating violence, sexual assault, or stalking—

''(A) States shall adopt, or have adopted, by statute, regulation, or policy a list of forms of documentation that may be presented to demonstrate eligibility; and

''(B) presentation of any one of such forms of documentation shall be sufficient to demonstrate eligibility, except that a State may require the presentation of a form of identification in addition to the written statement of claimant described in paragraph (2)(G).

''(2) LIST OF FORMS OF DOCUMENTATION.—The list referred to in paragraph (1)(A) shall include not less than 3 of the following forms of documentation:

''(A) An order of protection or other documentation issued by a court.

''(B) A police report or criminal charges documenting the domestic violence, dating violence, sexual assault, or stalking.

''(C) Documentation that the perpetrator has been convicted of the offense of domestic violence, dating violence, sexual assault, or stalking.

''(D) Medical documentation of the domestic violence, dating violence, sexual assault, or stalking.

''(E) Evidence of domestic violence, dating violence, sexual assault, or stalking from a counselor, social worker, health worker, or domestic violence shelter worker.

''(F) A written statement that the applicant or the applicant's minor child is a victim of domestic violence, dating violence, sexual assault, or stalking, provided by a social worker, member of the clergy, shelter worker, attorney at law, or other professional who has assisted the applicant in dealing with the domestic violence, dating violence, sexual assault, or stalking.

''(G) A written statement of the claimant.

''(3) DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, AND STALKING DEFINED.—The terms 'domestic violence', 'dating violence', 'sexual assault', and 'stalking' have the meanings given such terms in section 3 of the Security and Financial Empowerment Act.''.

(b) UNEMPLOYMENT COMPENSATION PERSONNEL TRAINING.—Section 303(a) of the Social Security Act (42 U.S.C. 503(a)) is amended—

(1) by redesignating paragraphs (4) through (10) as paragraphs (5) through (11), respectively; and

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

''(4) Such methods of administration as will ensure that—

''(A) applicants for unemployment compensation and individuals inquiring about such compensation are adequately notified of the provisions of subsections (a)(19) and (g) of section 3304 of the Internal Revenue Code of 1986 (relating to the availability of unemployment compensation for victims of domestic violence, dating violence, sexual assault, or stalking); and

''(B) claims reviewers and hearing personnel are adequately trained in—

''(i) the nature and dynamics of domestic violence, dating violence, sexual assault, or stalking (as such terms are defined in section 3 of the Security and Financial Empowerment Act); and

''(ii) methods of ascertaining and keeping confidential information about possible experiences of domestic violence, dating violence, sexual assault, or stalking (as so defined) to ensure that—

''(I) requests for unemployment compensation based on separations stemming from domestic violence, dating violence, sexual assault, or stalking (as so defined) are reliably screened, identified, and adjudicated; and

''(II) full confidentiality is provided for the individual's claim and submitted evidence; and''.

(c) TANF PERSONNEL TRAINING.—Section 402(a) of the Social Security Act (42 U.S.C. 602(a)) is amended by adding at the end the following new paragraph:

''(8) CERTIFICATION THAT THE STATE WILL PROVIDE INFORMATION TO VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING.—A certification by the chief officer of the State that the State has established and is enforcing standards and procedures to—

''(A) ensure that applicants for assistance under the program and individuals inquiring about such assistance are adequately notified of—

''(i) the provisions of subsections (a)(19) and (g) of section 3304 of the Internal Revenue Code of 1986 (relating to the availability of unemployment compensation for victims of domestic violence, dating violence, sexual assault, or stalking); and

''(ii) assistance made available by the State to victims of domestic violence, dating violence, sexual assault, or stalking (as such terms are defined in section 3 of the Security and Financial Empowerment Act);

''(B) ensure that case workers and other agency personnel responsible for administering the State program funded under this part are adequately trained in—

''(i) the nature and dynamics of domestic violence, dating violence, sexual assault, or stalking (as so defined);

''(ii) State standards and procedures relating to the prevention of, and assistance for individuals who experience, domestic violence, dating violence, sexual assault, or stalking (as so defined); and

''(iii) methods of ascertaining and keeping confidential information about possible experiences of domestic violence, dating violence, sexual assault, or stalking (as so defined);

''(C) if a State has elected to establish and enforce standards and procedures regarding the screening for and identification of domestic violence pursuant to paragraph (7), ensure that—

''(i) applicants for assistance under the program and individuals inquiring about such assistance are adequately notified of options available under such standards and procedures; and

''(ii) case workers and other agency personnel responsible for administering the State program funded under this part are provided with adequate training regarding such standards and procedures and options available under such standards and procedures; and

''(D) ensure that the training required under subparagraphs (B) and, if applicable, (C)(ii) is provided through a training program operated by an eligible entity (as defined in section 202(d)(2) of the Security and Financial Empowerment Act).''.

(d) DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING TRAINING GRANT PROGRAM.—

(1) GRANTS AUTHORIZED.—The Secretary of Health and Human Services (in this subsection referred to as the ''Secretary'') is authorized to award—

(A) a grant to a national victim services organization in order for such organization to—

(i) develop and disseminate a model training program (and related materials) for the training required under section 303(a)(4)(B) of the Social Security Act, as added by subsection (b), and under subparagraphs (B) and, if applicable, (C)(ii) of section 402(a)(8) of the such Act, as added by subsection (c); and

(ii) provide technical assistance with respect to such model training program; and

(B) grants to State, tribal, or local agencies in order for such agencies to contract with eligible entities to provide State, tribal, or local case workers and other State, tribal, or local agency personnel responsible for administering the temporary assistance to needy families program established under part A of title IV of the Social Security Act in a State or Indian reservation with the training required under subparagraphs (B) and, if applicable, (C)(ii) of such section 402(a)(8).

(2) ELIGIBLE ENTITY DEFINED.—For purposes of paragraph (1)(B), the term ''eligible entity'' means an entity—

(A) that is—

(i) a State or tribal domestic violence coalition or sexual assault coalition;

(ii) a State or local victim services organization with recognized expertise in the dynamics of domestic violence, dating violence, sexual assault, or stalking whose primary mission is to provide services to victims of domestic violence, dating violence, sexual assault, or stalking, such as a rape crisis center or domestic violence program; or

(iii) an organization with demonstrated expertise in State or county welfare laws and implementation of such laws and experience with disseminating information on such laws and implementation, but only if such organization will provide the required training in partnership with an entity described in clause (i) or (ii); and

(B) that—

(i) has demonstrated expertise in both domestic violence and sexual assault, such as a joint domestic violence and sexual assault coalition; or

(ii) will provide the required training in partnership with an entity described in clause (i) or (ii) of subparagraph (A) in order to comply with the dual domestic violence and sexual assault expertise requirement under clause (i).

(3) APPLICATION.—An entity seeking a grant under this subsection shall submit an application to the Secretary at such time, in such form and manner, and containing such information as the Secretary specifies.

(4) REPORTS.—

(A) REPORTS TO CONGRESS.—The Secretary shall annually submit a report to Congress on the grant program established under this subsection.

(B) REPORTS AVAILABLE TO PUBLIC.—The Secretary shall establish procedures for the dissemination to the public of each report submitted under subparagraph (A). Such procedures shall include the use of the Internet to disseminate such reports.

(5) AUTHORIZATION OF APPROPRIATIONS.—

(A) AUTHORIZATION.—There are authorized to be appropriated—

(i) $1,000,000 for fiscal year 2007 to carry out the provisions of paragraph (1)(A); and

(ii) $12,000,000 for each of fiscal years 2008 through 2010 to carry out the provisions of paragraph (1)(B).

(B) THREE-YEAR AVAILABILITY OF GRANT FUNDS.—Each recipient of a grant under this subsection shall return to the Secretary any

unused portion of such grant not later than 3 years after the date the grant was awarded, together with any earnings on such unused portion.

(C) AMOUNTS RETURNED.—Any amounts returned pursuant to subparagraph (B) shall be available without further appropriation to the Secretary for the purpose of carrying out the provisions of paragraph (1)(B).

(e) EFFECT ON EXISTING LAWS, ETC.—

(1) MORE PROTECTIVE LAWS, AGREEMENTS, PROGRAMS, AND PLANS.—Nothing in this title shall be construed to supersede any provision of any Federal, State, or local law, collective bargaining agreement, or employment benefits program or plan that provides greater unemployment insurance benefits for victims of domestic violence, dating violence, sexual assault, or stalking than the rights established under this title.

(2) LESS PROTECTIVE LAWS, AGREEMENTS, PROGRAMS, AND PLANS.—The rights established for victims of domestic violence, dating violence, sexual assault, or stalking under this title shall not be diminished by any more restrictive State or local law, collective bargaining agreement, or employment benefits program or plan.

(f) EFFECTIVE DATE.—

(1) UNEMPLOYMENT AMENDMENTS.—

(A) IN GENERAL.—Except as provided in subparagraph (B) and paragraph (2), the amendments made by this section shall apply in the case of compensation paid for weeks beginning on or after the expiration of 180 days from the date of enactment of this Act.

(B) EXTENSION OF EFFECTIVE DATE FOR STATE LAW AMENDMENT.—

(i) IN GENERAL.—If the Secretary of Labor identifies a State as requiring a change to its statutes, regulations, or policies in order to comply with the amendments made by this section (excluding the amendment made by subsection (c)), such amendments shall apply in the case of compensation paid for weeks beginning after the earlier of—

(I) the date the State changes its statutes, regulations, or policies in order to comply with such amendments; or

(II) the end of the first session of the State legislature which begins after the date of enactment of this Act or which began prior to such date and remained in session for at least 25 calendar days after such date;

except that in no case shall such amendments apply before the date that is 180 days after the date of enactment of this Act.

(ii) SESSION DEFINED.—In this subparagraph, the term ''session'' means a regular, special, budget, or other session of a State legislature.

(2) TANF AMENDMENT.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendment made by subsection (c) shall take effect on the date of enactment of this Act.

(B) EXTENSION OF EFFECTIVE DATE FOR STATE LAW AMENDMENT.—In the case of a State plan under part A of title IV of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendment made by subsection (c), the State plan shall not be regarded as failing to comply with the requirements of such amendment on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of the session is considered to be a separate regular session of the State legislature.

TITLE III—VICTIMS' EMPLOYMENT SUSTAINABILITY

SEC. 301. SHORT TITLE.

This title may be cited as the ''Victims' Employment Sustainability Act''.

SEC. 302. PURPOSES.

The purposes of this title are, pursuant to the affirmative power of Congress to enact legislation under the portions of section 8 of article I of the Constitution relating to providing for the general welfare and to regulation of commerce among the several States, and under section 5 of the 14th amendment to the Constitution—

(1) to promote the national interest in reducing domestic violence, dating violence, sexual assault, and stalking by enabling victims of domestic violence, dating violence, sexual assault, or stalking to maintain the financial independence necessary to leave abusive situations, achieve safety, and minimize the physical and emotional injuries from domestic violence, dating violence, sexual assault, or stalking, and to reduce the devastating economic consequences of domestic violence, dating violence, sexual assault, or stalking to employers and employees;

(2) to promote the national interest in ensuring that victims of domestic violence, dating violence, sexual assault, or stalking can recover from and cope with the effects of domestic violence, dating violence, sexual assault, or stalking, and participate in criminal and civil justice processes, without fear of adverse economic consequences from their employers;

(3) to ensure that victims of domestic violence, dating violence, sexual assault, or stalking can recover from and cope with the effects of domestic violence, dating violence, sexual assault, or stalking, and participate in criminal and civil justice processes, without fear of adverse economic consequences with respect to public benefits;

(4) to promote the purposes of the 14th amendment to the Constitution by preventing sex-based discrimination and discrimination against victims of domestic violence, dating violence, sexual assault, or stalking in employment, by addressing the failure of existing laws to protect the employment rights of victims of domestic violence, dating violence, sexual assault, or stalking, by protecting the civil and economic rights of victims of domestic violence, dating violence, sexual assault, or stalking, and by furthering the equal opportunity of women for economic self-sufficiency and employment free from discrimination;

(5) to minimize the negative impact on interstate commerce from dislocations of employees and harmful effects on productivity, employment, health care costs, and employer costs, caused by domestic violence, dating violence, sexual assault, or stalking, including intentional efforts to frustrate women's ability to participate in employment and interstate commerce; and

(6) to accomplish the purposes described in paragraphs (1) through (5) by prohibiting employers from discriminating against actual or perceived victims of domestic violence, dating violence, sexual assault, or stalking, in a manner that accommodates the legitimate interests of employers and protects the safety of all persons in the workplace.

SEC. 303. PROHIBITED DISCRIMINATORY ACTS.

(a) IN GENERAL.—An employer shall not fail to hire, refuse to hire, discharge, or harass any individual, or otherwise discriminate against any individual with respect to the compensation, terms, conditions, or privileges of employment of the individual (including retaliation in any form or manner), and a public agency shall not deny, reduce, or terminate the benefits of, otherwise sanction, or harass any individual, or otherwise discriminate against any individual with respect to the amount, terms, or conditions of public assistance of the individual (including retaliation in any form or manner), because—

(1) the individual involved—

(A) is or is perceived to be a victim of domestic violence, dating violence, sexual assault, or stalking;

(B) attended, participated in, prepared for, or requested leave to attend, participate in, or prepare for, a criminal or civil court proceeding relating to an incident of domestic violence, dating violence, sexual assault, or stalking of which the individual, or the family or household member of the individual, was a victim; or

(C) requested an adjustment to a job structure, workplace facility, or work requirement, including a transfer, reassignment, or modified schedule, leave, a changed telephone number or seating assignment, installation of a lock, or implementation of a safety procedure, in response to actual or threatened domestic violence, dating violence, sexual assault, or stalking, regardless of whether the request was granted; or

(2) the workplace is disrupted or threatened by the action of a person whom the individual states has committed or threatened to commit domestic violence, dating violence, sexual assault, or stalking against the individual, or the individual's family or household member.

(b) DEFINITIONS.—In this section:

(1) DISCRIMINATE.—The term ''discriminate'', used with respect to the terms, conditions, or privileges of employment or with respect to the terms or conditions of public assistance, includes not making a reasonable accommodation to the known limitations of an otherwise qualified individual—

(A) who is a victim of domestic violence, dating violence, sexual assault, or stalking;

(B) who is—

(i) an applicant or employee of the employer (including a public agency) that employs individuals as described in section 3(e)(2) of the Fair Labor Standards Act of 1938 (29 U.S.C. 603(e)(2)); or

(ii) an applicant for or recipient of public assistance from a public agency; and

(C) whose limitations resulted from circumstances relating to being a victim of domestic violence, dating violence, sexual assault, or stalking;

unless the employer or public agency can demonstrate that the accommodation would impose an undue hardship on the operation of the employer or public agency.

(2) QUALIFIED INDIVIDUAL.—The term ''qualified individual'' means—

(A) in the case of an applicant or employee described in paragraph (1)(B)(i), an individual who, with or without reasonable accommodation, can perform the essential functions of the employment position that such individual holds or desires; or

(B) in the case of an applicant or recipient described in paragraph (1)(B)(ii), an individual who, with or without reasonable accommodation, can satisfy the essential requirements of the program providing the public assistance that the individual receives or desires.

(3) REASONABLE ACCOMMODATION.—The term ''reasonable accommodation'' may include an adjustment to a job structure, workplace facility, or work requirement, including a transfer, reassignment, or modified schedule, leave, a changed telephone number or seating assignment, installation of a lock, or implementation of a safety procedure, in response to actual or threatened domestic violence, dating violence, sexual assault, or stalking.

(4) UNDUE HARDSHIP.—

(A) IN GENERAL.—The term ''undue hardship'' means an action requiring significant difficulty or expense, when considered in light of the factors set forth in subparagraph (B).

(B) FACTORS TO BE CONSIDERED.—In determining whether a reasonable accommodation would impose an undue hardship on the operation of an employer or public agency, factors to be considered include—

(i) the nature and cost of the reasonable accommodation needed under this section;

(ii) the overall financial resources of the facility involved in the provision of the reasonable accommodation, the number of persons employed at such facility, the effect on expenses and resources, or the impact otherwise of such accommodation on the operation of the facility;

(iii) the overall financial resources of the employer or public agency, the overall size of the business of an employer or public agency with respect to the number of employees of the employer or public agency, and the number, type, and location of the facilities of an employer or public agency; and

(iv) the type of operation of the employer or public agency, including the composition, structure, and functions of the workforce of the employer or public agency, the geographic separateness of the facility from the employer or public agency, and the administrative or fiscal relationship of the facility to the employer or public agency.

SEC. 304. ENFORCEMENT.

(a) CIVIL ACTION BY INDIVIDUALS.—

(1) LIABILITY.—Any employer that violates section 303 shall be liable to any individual affected for—

(A) damages equal to the amount of wages, salary, employment benefits, or other compensation denied or lost to such individual by reason of the violation, and the interest on that amount calculated at the prevailing rate;

(B) compensatory damages, including damages for future pecuniary losses, emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment or life, and other nonpecuniary losses;

(C) such punitive damages, up to 3 times the amount of actual damages sustained, as the court described in paragraph (2) shall determine to be appropriate; and

(D) such equitable relief as may be appropriate, including employment, reinstatement, and promotion.

(2) RIGHT OF ACTION.—An action to recover the damages or equitable relief prescribed in paragraph (1) may be maintained against any employer in any Federal or State court of competent jurisdiction by any 1 or more individuals described in section 303.

(b) ACTION BY DEPARTMENT OF JUSTICE.—The Attorney General may bring a civil action in any Federal or State court of competent jurisdiction to recover the damages or equitable relief described in subsection (a)(1).

(c) LIBRARY OF CONGRESS.—Notwithstanding any other provision of this section, in the case of the Library of Congress, the authority of the Secretary under this section shall be exercised by the Librarian of Congress.

(d) CERTAIN PUBLIC AGENCY EMPLOYERS.—

(1) AGENCIES.—Notwithstanding any other provision of this subsection, in the case of a public agency that employs individuals as described in subparagraph (A) or (B) of section 3(e)(2) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(e)(2)) (other than an entity of the legislative branch of the Federal Government), paragraph (2) shall apply.

(2) AUTHORITY.—In the case described in subparagraph (A), the powers, remedies, and procedures provided (in the case of a violation of section 2302(b)(1)(A) of title 5, United States Code) in title 5, United States Code, to an employing agency, the Office of Special Counsel, the Merit Systems Protection Board, or any person alleging a violation of such section 2302(b)(1)(A), shall be the powers, remedies, and procedures this section provides in the case of a violation of section 303 to that agency, that Office, that Board, or any person alleging a violation of section 303, respectively, against an employee who is such an individual.

(e) PUBLIC AGENCIES PROVIDING PUBLIC ASSISTANCE.—Consistent with regulations prescribed under section 306(d), the President shall ensure that any public agency that violates section 303(a) by taking an action prohibited under section 303(a) against any individual with respect to the amount, terms, or conditions of public assistance, shall provide to any individual who receives a less favorable amount, term, or condition of public assistance as a result of the violation—

(1)(A) the amount of any public assistance denied or lost to such individual by reason of the violation; and

(B) the interest on the amount described in clause (i) calculated at the prevailing rate; and

(2) such equitable relief as may be appropriate.

SEC. 305. ATTORNEY'S FEES.

Section 722(b) of the Revised Statutes (42 U.S.C. 1988(b)) is amended by inserting ''the Victims' Employment Sustainability Act,'' after ''title VI of the Civil Rights Act of 1964,''.

SEC. 306. REGULATIONS.

(a) IN GENERAL.—Except as provided in subsections (b), (c), and (d), the Secretary shall issue regulations to carry out this title.

(b) LIBRARY OF CONGRESS.—The Librarian of Congress shall prescribe the regulations described in subsection (a) with respect to employees of the Library of Congress. The regulations prescribed under this subsection shall, to the extent appropriate, be consistent with the regulations prescribed by the Secretary under subsection (a).

(c) CERTAIN PUBLIC AGENCY EMPLOYERS.—The Office of Personnel Management, after consultation under the Office of Special Counsel and the Merit Systems Protection Board, shall prescribe the regulations described in subsection (a) with respect to individuals described in subparagraph (A) or (B) of section 3(e)(2) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(e)(2)) (other than an individual employed by an entity of the legislative branch of the Federal Government). The regulations prescribed under this subsection shall, to the extent appropriate, be consistent with the regulations prescribed by the Secretary under subsection (a).

(d) PUBLIC AGENCIES PROVIDING PUBLIC ASSISTANCE.—The President shall prescribe the regulations described in subsection (a) with respect to applicants for and recipients of public assistance, in the case of violations of section 303(a) by taking an action prohibited under section 303(a) against any individual with respect to the amount, terms, or conditions of public assistance. The regulations prescribed under this subsection shall, to the extent appropriate, be consistent with the regulations prescribed by the Secretary under subsection (a).

TITLE IV—VICTIMS OF ABUSE INSURANCE PROTECTION

SEC. 401. SHORT TITLE.

This title may be cited as the ''Victims of Abuse Insurance Protection Act''.

SEC. 402. DEFINITIONS.

In this title:

(1) ABUSE.—The term ''abuse'' means the occurrence of 1 or more of the following acts by a current or former household or family member, intimate partner, or caretaker:

(A) Attempting to cause or causing another person bodily injury, physical harm, substantial emotional distress, or psychological trauma.

(B) Attempting to engage in or engaging in rape, sexual assault, or involuntary sexual intercourse.

(C) Engaging in a course of conduct or repeatedly committing acts toward another person, including following the person without proper authority and under circumstances that place the person in reasonable fear of bodily injury or physical harm.

(D) Subjecting another person to false imprisonment or kidnapping.

(E) Attempting to cause or causing damage to property so as to intimidate or attempt to control the behavior of another person.

(2) HEALTH CARRIER.—The term ''health carrier'' means a person that contracts or offers to contract on a risk-assuming basis to provide, deliver, arrange for, pay for, or reimburse any of the cost of health care services, including a sickness and accident insurance company, a health maintenance organization, a nonprofit hospital and health service corporation, or any other entity providing a plan of health insurance, health benefits, or health services.

(3) INSURED.—The term ''insured'' means a party named on a policy, certificate, or health benefit plan, including an individual, corporation, partnership, association, unincorporated organization, or any similar entity, as the person with legal rights to the benefits provided by the policy, certificate, or health benefit plan. For group insurance, the term includes a person who is a beneficiary covered by a group policy, certificate, or health benefit plan. For life insurance, the term refers to the person whose life is covered under an insurance policy.

(4) INSURER.—The term ''insurer'' means any person, reciprocal exchange, inter insurer, Lloyds insurer, fraternal benefit society, or other legal entity engaged in the business of insurance, including agents, brokers, adjusters, and third-party administrators. The term includes employers who provide or make available employment benefits through an employee benefit plan, as defined in section 3(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 102(3)). The term also includes health carriers, health benefit plans, and life, disability, and property and casualty insurers.

(5) POLICY.—The term ''policy'' means a contract of insurance, certificate, indemnity, suretyship, or annuity issued, proposed for issuance, or intended for issuance by an insurer, including endorsements or riders to an insurance policy or contract.

(6) SUBJECT OF ABUSE.—The term ''subject of abuse'' means—

(A) a person against whom an act of abuse has been directed;

(B) a person who has prior or current injuries, illnesses, or disorders that resulted from abuse; or

(C) a person who seeks, may have sought, or had reason to seek medical or psychological treatment for abuse, protection, court-ordered protection, or shelter from abuse.

SEC. 403. DISCRIMINATORY ACTS PROHIBITED.

(a) IN GENERAL.—No insurer may, directly or indirectly, engage in any of the following acts or practices on the basis that the applicant or insured, or any person employed by the applicant or insured or with whom the applicant or insured is known to have a relationship or association, is, has been, or may be the subject of abuse or has incurred or may incur abuse-related claims:

(1) Denying, refusing to issue, renew, or reissue, or canceling or otherwise terminating an insurance policy or health benefit plan.

(2) Restricting, excluding, or limiting insurance coverage for losses or denying a claim, except as otherwise permitted or required by State laws relating to life insurance beneficiaries.

(3) Adding a premium differential to any insurance policy or health benefit plan.

(b) PROHIBITION ON LIMITATION OF CLAIMS.—No insurer may, directly or indirectly, deny or limit payment to an insured who is a subject of abuse if the claim for payment is a result of the abuse.

(c) PROHIBITION ON TERMINATION.—

(1) IN GENERAL.—No insurer or health carrier may terminate health coverage for a subject of abuse because coverage was originally issued in the name of the abuser and the abuser has divorced, separated from, or lost custody of the subject of abuse or the abuser's coverage has terminated voluntarily or involuntarily and the subject of abuse does not qualify for an extension of coverage under part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1161 et seq.) or section 4980B of the Internal Revenue Code of 1986.

(2) PAYMENT OF PREMIUMS.—Nothing in paragraph (1) shall be construed to prohibit the insurer from requiring that the subject of abuse pay the full premium for the subject's coverage under the health plan if the requirements are applied to all insured of the health carrier.

(3) EXCEPTION.—An insurer may terminate group coverage to which this subsection applies after the continuation coverage period required by this subsection has been in force for 18 months if it offers conversion to an equivalent individual plan.

(4) CONTINUATION COVERAGE.—The continuation of health coverage required by this subsection shall be satisfied by any extension of coverage under part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1161 et seq.) or section 4980B of the Internal Revenue Code of 1986 provided to a subject of abuse and is not intended to be in addition to any extension of coverage otherwise provided for under such part 6 or section 4980B.

(d) USE OF INFORMATION.—

(1) LIMITATION.—

(A) IN GENERAL.—In order to protect the safety and privacy of subjects of abuse, no person employed by or contracting with an insurer or health benefit plan may (without the consent of the subject)—

(i) use, disclose, or transfer information relating to abuse status, acts of abuse, abuse-related medical conditions, or the applicant's or insured's status as a family member, employer, associate, or person in a relationship with a subject of abuse for any purpose unrelated to the direct provision of health care services unless such use, disclosure, or transfer is required by an order of an entity with authority to regulate insurance or an order of a court of competent jurisdiction; or

(ii) disclose or transfer information relating to an applicant's or insured's mailing address or telephone number or the mailing address and telephone number of a shelter for subjects of abuse, unless such disclosure or transfer—

(I) is required in order to provide insurance coverage; and

(II) does not have the potential to endanger the safety of a subject of abuse.

(B) RULE OF CONSTRUCTION.—Nothing in this paragraph may be construed to limit or preclude a subject of abuse from obtaining the subject's own insurance records from an insurer.

(2) AUTHORITY OF SUBJECT OF ABUSE.—A subject of abuse, at the absolute discretion of the subject of abuse, may provide evidence of abuse to an insurer for the limited purpose of facilitating treatment of an abuse-related condition or demonstrating that a condition is abuse-related. Nothing in this paragraph shall be construed as authorizing an insurer or health carrier to disregard such provided evidence.

SEC. 404. INSURANCE PROTOCOLS FOR SUBJECTS OF ABUSE.

Insurers shall develop and adhere to written policies specifying procedures to be followed by employees, contractors, producers, agents, and brokers for the purpose of protecting the safety and privacy of a subject of abuse and otherwise implementing this title when taking an application, investigating a claim, or taking any other action relating to a policy or claim involving a subject of abuse.

SEC. 405. REASONS FOR ADVERSE ACTIONS.

An insurer that takes an action that adversely affects a subject of abuse, shall advise the applicant or insured who is the subject of abuse of the specific reasons for the action in writing. For purposes of this section, reference to general underwriting practices or guidelines shall not constitute a specific reason.

SEC. 406. LIFE INSURANCE.

Nothing in this title shall be construed to prohibit a life insurer from declining to issue a life insurance policy if the applicant or prospective owner of the policy is or would be designated as a beneficiary of the policy, and if—

(1) the applicant or prospective owner of the policy lacks an insurable interest in the insured; or

(2) the applicant or prospective owner of the policy is known, on the basis of police or court records, to have committed an act of abuse against the proposed insured.

SEC. 407. SUBROGATION WITHOUT CONSENT PROHIBITED.

Subrogation of claims resulting from abuse is prohibited without the informed consent of the subject of abuse.

SEC. 408. ENFORCEMENT.

(a) FEDERAL TRADE COMMISSION.—Any act or practice prohibited by this title shall be treated as an unfair and deceptive act or practice pursuant to section 5 of the Federal Trade Commission Act (15 U.S.C. 45) and the Federal Trade Commission shall enforce this title in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of this title, including issuing a cease and desist order granting any individual relief warranted under the circumstances, including temporary, preliminary, and permanent injunctive relief and compensatory damages.

(b) PRIVATE CAUSE OF ACTION.—

(1) IN GENERAL.—An applicant or insured who believes that the applicant or insured has been adversely affected by an act or practice of an insurer in violation of this title may maintain an action against the insurer in a Federal or State court of original jurisdiction.

(2) RELIEF.—Upon proof of such conduct by a preponderance of the evidence in an action described in paragraph (1), the court may award appropriate relief, including temporary, preliminary, and permanent injunctive relief and compensatory and punitive damages, as well as the costs of suit and reasonable fees for the aggrieved individual's attorneys and expert witnesses.

(3) STATUTORY DAMAGES.—With respect to compensatory damages in an action described in paragraph (1), the aggrieved individual may elect, at any time prior to the rendering of final judgment, to recover in lieu of actual damages, an award of statutory damages in the amount of $5,000 for each violation.

SEC. 409. EFFECTIVE DATE.

This title shall apply with respect to any action taken on or after the date of enactment of this Act.

TITLE V—NATIONAL CLEARINGHOUSE AND RESOURCE CENTER ON DOMESTIC AND SEXUAL VIOLENCE IN THE WORKPLACE GRANT

SEC. 501. NATIONAL CLEARINGHOUSE AND RESOURCE CENTER ON DOMESTIC AND SEXUAL VIOLENCE IN THE WORKPLACE GRANT.

(a) AUTHORITY.—The Attorney General may award a grant in accordance with this section to a private, nonprofit entity or tribal organization that meets the requirements of subsection (b), in order to provide for the establishment and operation of a national clearinghouse and resource center to provide information and assistance to employers, labor organizations, and advocates on behalf of victims of domestic violence, dating violence, sexual assault, or stalking, to aid in their efforts to develop and implement appropriate responses to domestic violence, dating violence, sexual assault, or stalking to assist those victims.

(b) APPLICATIONS.—To be eligible to receive a grant under this section, an entity or organization shall submit an application to the Attorney General at such time, in such manner, and containing such information as the Attorney General may require, including—

(1) information that demonstrates that the applicant—

(A) has nationally recognized expertise in the area of domestic violence, dating violence, sexual assault, or stalking and a record of commitment to reducing, and quality responses to reduce, domestic violence, dating violence, sexual assault, or stalking; and

(B) will provide matching funds from non-Federal sources in an amount equal to not less than 10 percent of the total amount of the grant awarded under this section; and

(2) a plan to maximize, to the extent practicable, outreach—

(A) to employers (including private companies, and public entities such as public institutions of higher education and State and local governments) and labor organizations in developing and implementing appropriate responses to assist employees who are victims of domestic violence, dating violence, sexual assault, or stalking; and

(B) to advocates described in subsection (a), in developing and implementing appropriate responses to assist victims of domestic violence, dating violence, sexual assault, or stalking.

(c) USE OF GRANT AMOUNT.—

(1) IN GENERAL.—An entity or organization that receives a grant under this section may use the funds made available through the grant for staff salaries, travel expenses, equipment, printing, and other reasonable expenses necessary to develop, maintain, and disseminate to employers, labor organizations, and advocates described in subsection (a), information on and assistance concerning appropriate responses to assist victims of domestic violence, dating violence, sexual assault, or stalking.

(2) RESPONSES.—Responses referred to in paragraph (1) may include—

(A) providing training to promote a better understanding of appropriate assistance to victims of domestic violence, dating violence, sexual assault, or stalking;

By Mr. CORZINE (for himself, Mr. JOHNSON, Mr. LAUTENBERG, and Ms. STABENOW):

S. 1798. A bill to amend titles XI and XVIII of the Social Security Act to prohibit outbound call telemarketing to individuals eligible to receive benefits under title XVIII of such Act; to the Committee on Finance.

Mr. CORZINE. Mr. President, I rise today to introduce legislation, the Medicare Do Not Call Act, to prohibit private insurance companies from telemarketing their Medicare prescription drug and Medicare Advantage plans to Medicare beneficiaries. I am very pleased to be introducing this bill along with my colleagues, Senators JOHNSON and LAUTENBERG. I thank my colleagues for their support of this important legislation.

Beginning this Saturday, October 1, private insurance plans offering Medicare prescription drug coverage will begin marketing their products to Medicare beneficiaries.

Depending on which Medicare region they live in, beneficiaries will be confronted with selecting from as many as 20 stand-alone prescription different plans. In New Jersey, beneficiaries will choose among 17 different plans. Under current law, these plans can both send mail to and call seniors and people with disabilities who are eligible to enroll in the Medicare Part D benefit. As a result, in addition to being flooded with mail, our seniors and disabled will be flooded with phone calls.

I am extremely concerned that permitting plans to telemarket creates great potential for unscrupulous individuals and businesses to defraud this vulnerable population. Even if the plans themselves are honest brokers, it may be difficult for a senior or disabled beneficiary to distinguish between who is honest and who is not.

I am very concerned that such individuals may seize the opportunity to take advantage of this vulnerable population. Unless we act now, there will be an endless potential for fraud and identity theft within the Medicare Part D plan.

Beneficiaries are already confused about what their rights are with respect to the new prescription drug benefit. A senior who is told that she must provide her Social Security or credit card number to a telemarketer in order to obtain Medicare prescription drug coverage may feel compelled to do so, lest she forgo her opportunity to obtain prescription drug coverage.

Concerns about telemarketing fraud against seniors are very real. The Department of Justice estimates that telemarketing crooks cheat one out of six consumers every year, resulting in costs to Americans of $40 billion a year. Americans over 65, our Nation's seniors, are the primary target of these scams.

At a time when identity theft is at an all time high, the Federal government should take every precaution available to protect the American public. We should not permit government-sponsored programs, such as the Medicare prescription drug program, to engage in telemarketing. The best way to prevent such fraud from occurring is to prohibit telemarketing of any and all Medicare sponsored prescription drug products. The Medicare Do Not Call Act will do just that. My legislation imposes serious criminal penalties on unscrupulous individuals and companies that seek to defraud Medicare beneficiaries through telemarketing appeals. We must do everything we can to protect this vulnerable population.

The bottom line is that telemarketing simply is not necessary to educate seniors about their prescription drug options. My legislation permits insurance companies who are contacted by beneficiaries to discuss plan options with them. As beneficiaries talk to trusted friends and organizations and read over the literature about the different drugs plans, they can then contact plans to discuss their options further. My legislation does not stop beneficiaries from speaking to these companies; it simply prohibits these companies from making the initial 'cold call' to beneficiaries.

I deeply believe that the Federal government has a responsibility to do everything in its power to prevent telemarketing fraud. Permitting drug plans to telemarket to seniors and people with disabilities may provide a source of information to these individuals; however, because each plan wants to sell their own products, telemarketers may not provide the most objective information about a beneficiary's options.

There are better ways to educate seniors and disabled about the prescription drug benefit. The Medicare Do Not Call Act provides additional resources—$2 per Medicare beneficiary—to the State Health Insurance Counseling and Assistance Programs (SHIPs) to provide counseling and enrollment assistance services to Medicare beneficiaries. SHIPs provide valuable objective information to beneficiaries and can provide tremendous assistance in helping beneficiaries select the plan that best suits their needs.

I urge all of my colleagues to join me in supporting this legislation. By prohibiting these un-invited calls we can protect seniors and other Medicare beneficiaries from fraudulent intentions and ensure that this complicated transition within the Medicare program be as straightforward, and safe, as possible.

I ask unanimous consent 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. 1798

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Medicare Do Not Call Act''.

SEC. 2. TELEMARKETING PROHIBITED.

(a) PRESCRIPTION DRUG PLANS.—Section 1860D–4(a) of the Social Security Act (42 U.S.C. 1395w–104(a)) is amended by adding at the end the following new paragraph:

''(5) PROHIBITION ON TELEMARKETING.—

''(A) IN GENERAL.—A PDP sponsor offering a prescription drug plan shall be prohibited from conducting outbound call telemarketing (as defined in subparagraph (B)) for the purpose of soliciting enrollment into such a plan under this part.

''(B) OUTBOUND CALL TELEMARKETING DEFINED.—

''(i) IN GENERAL.—Except as provided in clause (ii), for purposes of this paragraph, the term 'outbound call telemarketing' means a telephone call initiated by a telemarketer—

''(I) to induce the purchase of goods or services; or

''(II) to solicit a charitable contribution.

''(ii) CATALOG MAILINGS NOT INCLUDED IN DEFINITION OF OUTBOUND CALL TELEMARKETING.—Such term does not include—

''(I) the mailing of a catalog; or

''(II) the receipt or return of a telephone call initiated by a customer in response to such mailing.''.

(b) MEDICARE ADVANTAGE ORGANIZATIONS.—Section 1851(h) of the Social Security Act (42 U.S.C. 1395w–21(h)) is amended by adding at the end the following new paragraph:

''(6) PROHIBITION ON TELEMARKETING.—A Medicare Advantage organization offering a Medicare Advantage plan shall be prohibited from conducting outbound call telemarketing (as defined in section 1860D–4(a)(5)(B)) for the purpose of soliciting enrollment into such a plan under this part.''.

(c) CRIMINAL PENALTIES FOR FRAUDULENT TELEMARKETING.—Section 1128B of the Social Security Act (42 U.S.C. 1320a–7b) is amended by adding at the end the following new subsection:

''(g) Whoever knowingly and willfully engages in deceptive or abusive telemarketing acts or practices (as defined in part 310.3 and part 310.4, respectively, of title 16, Code of Federal Regulations), or makes any false statement or representation of a material fact while conducting outbound call telemarketing (as defined in section 1860D–4(a)(5)(B)) with respect to a prescription drug plan offered by a PDP sponsor under part D of title XVIII, a Medicare Advantage plan offered by a Medicare Advantage organization under part C of such title, or who falsely alleges to be conducting outbound call telemarketing (as so defined) with respect to either such a plan, shall be guilty of a felony and upon conviction thereof shall be fined not more than $25,000 or imprisoned for not more than five years, or both.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this Act.

SEC. 3. INCREASED FUNDING FOR STATE HEALTH INSURANCE COUNSELING AND ASSISTANCE PROGRAMS.

(a) IN GENERAL.—There are hereby appropriated to the Secretary of Health and Human Services (in this Act referred to as the ''Secretary'') an amount equal to $2 multiplied by the total number of individuals eligible for benefits under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.). Such funds shall—

(1) be used by the Secretary to award grants to States under section 4360 of the Omnibus Budget Reconciliation Act of 1990 (42 U.S.C. 1395b–4); and

(2) remain available until expended.

(b) ALLOCATION OF GRANT FUNDS.—The Secretary shall ensure that funds appropriated under this section are allocated to States in an amount equal to the proportion of the number of residents in the State that are eligible for benefits under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) in

relation to the total number of individuals eligible for such benefits under such title.

SEC. 4. INFORMING BENEFICIARIES OF THE HHS TIPS HOT-LINE.

The Secretary shall take appropriate measures to inform individuals eligible for benefits under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) of the availability and confidentiality of the hotline maintained , by the Inspector General of the Department of Health and Human Services for the reporting of fraud, waste, and I abuse in the medicare program.

By Ms. MIKULSKI (for herself, Mr. VOINOVICH, Mr. AKAKA, Mr. BIDEN, Mr. DORGAN, Mr. DURBIN, Mr. HARKIN, Mrs. MURRAY, Mr. SARBANES, Mr. SCHUMER, and Mr. WARNER):

S. 1799. A bill to amend title II of the Social Security Act to provide that the reductions in Social Security benefits which are required in the case of spouses and surviving spouses who are also receiving certain government pensions shall be equal to the amount by which two-thirds of the total amount of the combined monthly benefit (before reduction) and monthly pension exceeds $1,200, adjusted for inflation; to the Committee on Finance.

Ms. MIKULSKI. Mr. President, I rise today to talk about an issue that is very important to me, very important to my constituents in Maryland and very important to government workers and retirees across the Nation. I am reintroducing a bill to modify a cruel rule of government that is unfair and prevents current workers from enjoying the benefits of their hard work during retirement. My bill has bipartisan support and had 29 cosponsors last year. With this strong bipartisan support, I hope that we can correct this cruel rule of government this year.

Under current law, a Social Security spousal benefit is reduced or entirely eliminated if the surviving spouse is eligible for a pension from a local, State or Federal Government job that was not covered by Social Security. This policy is known as the Government Pension Offset.

This is how the current law works. Consider a surviving spouse who retires from government service and receives a government pension of $600 a month. She also qualifies for a Social Security spousal benefit of $645 a month. Because of the Pension Offset law, which reduces her Social Security benefit by 2/3 of her government pension, her spousal benefit is reduced to $245 a month. So instead of $1,245, she will receive only $845 a month. That is $400 a month less to pay the rent, purchase a prescription medication, or buy groceries. I think that is wrong.

My bill does not repeal the government pension offset entirely, but it will allow retirees to keep more of what they deserve. It guarantees that those subject to the offset can keep at least $1,200 a month in combined retirement income. With my modification, the 2/3 offset would apply only to the combined benefit that exceeds $1,200 a month. So, in the example above, the surviving spouse would face only a $30 offset, allowing her to keep $1,215 in monthly income.

Unfortunately, the current law disproportionately affects women. Women are more likely to receive Social Security spousal benefits and to have worked in low-paying or short-term government positions while they were raising families. It is also true that women receive smaller government pensions because of their lower earnings, and rely on Social Security benefits to a greater degree. My modification will allow these women who have contributed years of important government service and family service to rely on a larger amount of retirement income.

Why do we punish people who have committed a significant portion of their lives to government service? We are talking about workers who provide some of the most important services to our community—teachers, firefighters, and many others. Some have already retired. Others are currently working and looking forward to a deserved retirement. These individuals deserve better than the reduced monthly benefits that the Pension Offset currently requires.

Government employees work hard in service to our Nation, and I work hard for them. I do not want to see them penalized simply because they have chosen to work in the public sector, rather than for a private employer, and often at lower salaries and sometimes fewer benefits. If a retired worker in the private sector received a pension, and also received a spousal Social Security benefit, they would not be subject to the Offset. I think we should be looking for ways to reward government service, not the other way around. I believe that people who work hard and play by the rules should not be penalized by arcane, legislative technicalities.

Frankly, I would like to repeal the offset altogether. But, I realize that budget considerations make that unlikely. As a compromise, I hope we can agree that retirees who have worked hard all their lives should not have this offset applied until their combined monthly benefit, both government pension and Social Security spousal benefit, exceeds $1,200.

I also strongly believe that we should ensure that retirees buying power keeps up with the cost of living. That's why I have also included a provision in this legislation to index the $1,200 amount to inflation so retirees will see their minimum benefits increase along with the cost of living.

The Social Security Administration recently estimated that enacting the provisions contained in my bill will have a minimal long-term impact on the Social Security Trust Fund—about 0.01 percent of taxable payroll.

I urge my colleagues to join me in this effort and support my legislation to modify the Government Pension Offset. 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. 1799

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Government Pension Offset Reform Act''.

SEC. 2. LIMITATION ON REDUCTIONS IN BENEFITS FOR SPOUSES AND SURVIVING SPOUSES RECEIVING GOVERNMENT PENSIONS.

(a) INSURANCE BENEFITS.—Section 202(k)(5)(A) of the Social Security Act (42 U.S.C. 402(k)(5)(A)) is amended—

(1) by inserting ''the amount (if any) by which the sum of such benefit (before reduction under this paragraph) and'' after ''two-thirds of ''; and

(2) by inserting ''exceeds the amount described in paragraph (6) for such month,'' before ''if ''.

(b) AMOUNT DESCRIBED.—Section 202(k) of the Social Security Act (42 U.S.C. 402(k)) is amended by adding at the end the following:

''(6) The amount described in this paragraph is, for months in each 12-month period beginning in December of 2005, and each succeeding calendar year, the greater of—

''(A) $1,200; or

''(B) the amount applicable for months in the preceding 12-month period, increased by the cost-of-living adjustment for such period determined for an annuity under section 8340 of title 5, United States Code (without regard to any other provision of law).''.

(c) LIMITATIONS ON REDUCTIONS IN BENEFITS.—Section 202(k) of the Social Security Act (42 U.S.C. 402(k)), as amended by subsection (b), is amended by adding at the end the following:

''(7) For any month after December 2005, in no event shall an individual receive a reduction in a benefit under paragraph (5)(A) for the month that is more than the reduction in such benefit that would have applied for such month under such paragraph as in effect on December 1, 2005.''.

SEC. 3. EFFECTIVE DATE.

The amendments made by section 2 shall apply with respect to monthly insurance benefits payable under title II of the Social Security Act for months after December 2005.

By Ms. SNOWE (for herself, Mr. ROCKEFELLER, and Mr. BUNNING):

S. 1800. A bill to amend the Internal Revenue Code of 1986 to extend the new markets tax credit; to the Committee on Finance.

Ms. SNOWE. Mr. President, today I rise to introduce legislation that would re-authorize the New Markets Tax Credit for five additional years. I'd like to thank the Senator from West Virginia, JAY ROCKEFELLER, for cosponsoring this legislation, as well as Senator JIM BUNNING. Their strong support is appreciated, and this program will help revitalize many communities all across America.

The New Markets Tax Credit was enacted in December 2000 as part of the Community Renewal Tax Relief Act and offers a seven-year, 39 percent Federal credit made through investment vehicles known as Community Development Entities (CDEs). CDEs combine private investment dollars with capital

raised through the incentive to make loans to or investments in businesses in low-income communities.

In its brief period of existence, the New Markets Tax Credit has had a tremendous success in strengthening and revitalizing communities. In Maine, Coastal Enterprises, Inc. issued a $31.5 million long-term NMTC loan to Katahdin Forest Management, which provided additional working capital for two large pulp and paper mills. These investments resulted in the direct employment of 650 people and potential jobs for another 200. The Katahdin Project has helped to diversify the area economy through the development of new, high-value wood processing enterprises and recreational tourism.

CDEs have also invested in a new child care facility on Chicago's west side, the first new supermarket and shopping center in inner-city Cleveland in 30 years and a new aerospace facility in rural Oklahoma.

All of these projects demonstrate the revitalization and strengthening of communities that the Credit is helping to make possible. In only 3 years, CDEs have raised $2 billion of capital for direct investment in economically distressed communities across the Nation. This impressive activity over a short period of time points to the need and opportunity for such investment in low-income communities.

Unfortunately, as effective as the New Markets Tax Credit has been, demand for the incentive has far exceeded supply. In fact, the average demand in the first three rounds was a staggering 10 times the amount of available credits. The Treasury Department awarded the first round of $2.5 billion in tax credits in March 2003, a second round of $3.5 billion in May 2004, and a third round worth $2 billion in May 2005.

Despite the track record of the New Markets Tax Credit and continued demand for the incentive, it will expire at the end of 2007. Congress must reauthorize this Credit to ensure investment capital continues to flow to our most disadvantaged communities. Our bill renews this valuable incentive for 5 additional years, through 2012, with an annual credit volume of $3.5 billion per year, adjusted for inflation.

It is critical that Congress act to renew the New Markets Tax Credit. It is a modest incentive that clearly works for our most vulnerable communities. I look forward to working with Finance Committee Chairman GRASSLEY to re-authorize the Credit and to ensure that it includes all areas of the country, including rural areas underserved by traditional investments.

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. 1800

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 ''New Markets Tax Credit Reauthorization Act of 2005''.

SEC. 2. EXTENSION OF NEW MARKETS TAX CREDIT.

(a) EXTENSION.—

(1) IN GENERAL.—Paragraph (1) of section 45D(f) of the Internal Revenue Code of 1986 (relating to new markets tax credit) is amended to read as follows:

''(1) IN GENERAL.—There is a new markets tax credit limitation of $3,500,000,000 for each of calendar years 2008 through 2012.''.

(2) CONFORMING AMENDMENT.—Paragraph (3) of section 45D(f) of such Code is amended by striking ''2014'' and inserting ''2019''.

(b) INFLATION ADJUSTMENT.—Subsection (f) of section 45D of such Code is amended by inserting at the end the following new paragraph:

''(4) INFLATION ADJUSTMENT.—

''(A) IN GENERAL.—In the case of any calendar year beginning after 2008, the dollar amount in paragraph (1) shall be increased by an amount equal to—

''(i) such dollar amount, multiplied by

''(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year, determined by substituting 'calendar year 2007' for 'calendar year 1992' in subparagraph (B) thereof.

''(B) ROUNDING RULE.—If a dollar amount in paragraph (1), as increased under subparagraph (A), is not a multiple of $1,000,000, such amount shall be rounded to the nearest multiple of $1,000,000.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2007.

By Mr. REED (for himself, Mr. ALLARD, Ms. COLLINS, Mr. SARBANES, Mr. BOND, Mrs. MURRAY, Mr. CHAFEE, Ms. MIKULSKI, Mr. DODD, Mr. AKAKA, Mr. SCHUMER, Mr. CORZINE, Mrs. CLINTON, and Ms. LANDRIEU):

S. 1801. A bill to amend the McKinney-Vento Homeless Assistance Act to reauthorize the Act, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Mr. REED. Mr. President, I introduce, along with Senators ALLARD, COLLINS, SARBANES, BOND, MURRAY, CHAFEE, MIKULSKI, DODD, AKAKA, SCHUMER, CORZINE, LANDRIEU, and CLINTON, the Community Partnership to End Homelessness Act of 2005 (CPEHA). This legislation would reauthorize and amend the housing titles of the McKinney-Vento Homeless Assistance Act of 1987. Specifically, our bill would realign the incentives behind the Department of Housing and Urban Development's homelessness assistance programs to accomplish the goals of preventing and ending long-term homelessness.

During the past several weeks, stark pictures of the reality faced by many in the wake of Hurricane Katrina have made more of the country aware of the day-to-day pressures faced by those who are homeless. Unfortunately, as many as 3.5 million Americans experience homelessness each year. Ten to 20 percent are homeless for long periods of time. Many of these Americans have severe disabilities. Many have worn a uniform for our country, with the Veterans Administration estimating that at least 500,000 veterans experience homelessness over the course of a year. Statistics regarding the number of children who experience homelessness are especially troubling. More than one million children experience homelessness each year; that is one in ten poor children in the United States. We have learned that children who are homeless are in poorer health, have developmental delays, and achieve less in school than children who have homes.

Many of those who are homeless have a simple problem—they cannot afford housing. Using the most recent census data, 56 percent of extremely low-income families are paying more than half their income for housing. Between 1990 and 2000, shortages of affordable housing for these families worsened in 44 of the 50 States. In 2000, it was estimated that 4.6 million units of low-income housing would need to be created in order to take care of this problem. As rents have soared and affordable housing units have disappeared from the market during the past five years, even more working Americans have been left unable to afford housing.

So why should the Federal Government work to help prevent and end homelessness? Simply put, we cannot afford not to solve this problem. Homelessness leads to untold costs, including expenses for emergency rooms, jails and shelters, foster care, detoxification, and emergency mental health treatment. It has been almost twenty years since the passage of the McKinney-Vento Homeless Assistance Act of 1987, and we have learned a lot about the problem of homelessness since then.

There is a growing consensus on ways to help communities break the cycle of repeated and prolonged homelessness. If we combine Federal dollars with the right incentives to local communities, we can end long-term homelessness. This bipartisan legislation will do just that. It will reward communities for initiatives that prevent homelessness, promote the development of permanent supportive housing, and optimize self-sufficiency.

The Community Partnership to Help End Homelessness Act of 2005 will set us on the path to meeting an important national goal. I hope my colleagues will join us in supporting this bill and other homelessness prevention efforts.

Mr. President, I ask unanimous consent that the text of the Community Partnership to Help End Homelessness Act of 2005 be printed in the RECORD.

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

S. 1801

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 ''Community Partnership to End Homelessness Act of 2005''.

SEC. 2. FINDINGS AND PURPOSE.

Section 102 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11301) is amended to read as follows:

''SEC. 102. FINDINGS AND PURPOSE.

''(a) FINDINGS.—Congress finds that—

''(1) the United States faces a crisis of individuals and families who lack basic affordable housing and appropriate shelter;

''(2) assistance from the Federal Government is an important factor in the success of efforts by State and local governments and the private sector to address the problem of homelessness in a comprehensive manner;

''(3) there are several Federal Government programs to assist persons experiencing homelessness, including programs for individuals with disabilities, veterans, children, and youth;

''(4) homeless assistance programs must be evaluated on the basis of their effectiveness in reducing homelessness, transitioning individuals and families to permanent housing and stability, and optimizing their self-sufficiency;

''(5) States and units of general local government receiving Federal block grant and other Federal grant funds must be evaluated on the basis of their effectiveness in—

''(A) implementing plans to appropriately discharge individuals to and from mainstream service systems; and

''(B) reducing barriers to participation in mainstream programs, as identified in—

''(i) a report by the Government Accountability Office entitled 'Homelessness: Coordination and Evaluation of Programs Are Essential', issued February 26, 1999; or

''(ii) a report by the Government Accountability Office entitled 'Homelessness: Barriers to Using Mainstream Programs', issued July 6, 2000;

''(6) an effective plan for reducing homelessness should provide a comprehensive housing system (including permanent housing and, as needed, transitional housing) that recognizes that, while some individuals and families experiencing homelessness attain economic viability and independence utilizing transitional housing and then permanent housing, others can reenter society directly and optimize self-sufficiency through acquiring permanent housing;

''(7) supportive housing activities include the provision of permanent housing or transitional housing, and appropriate supportive services, in an environment that can meet the short-term or long-term needs of persons experiencing homelessness as they reintegrate into mainstream society;

''(8) homeless housing and supportive services programs within a community are most effective when they are developed and operated as part of an inclusive, collaborative, locally driven homeless planning process that involves as decision makers persons experiencing homelessness, advocates for persons experiencing homelessness, service organizations, government officials, business persons, neighborhood advocates, and other community members;

''(9) homelessness should be treated as a symptom of many neighborhood, community, and system problems, whose remedies require a comprehensive approach integrating all available resources;

''(10) there are many private sector entities, particularly nonprofit organizations, that have successfully operated outcome-effective homeless programs;

''(11) Federal homeless assistance should supplement other public and private funding provided by communities for housing and supportive services for low-income households;

''(12) the Federal Government has a responsibility to establish partnerships with State and local governments and private sector entities to address comprehensively the problems of homelessness; and

''(13) the results of Federal programs targeted for persons experiencing homelessness have been positive.

''(b) PURPOSE.—It is the purpose of this Act—

''(1) to create a unified and performance-based process for allocating and administering funds under title IV;

''(2) to encourage comprehensive, collaborative local planning of housing and services programs for persons experiencing homelessness;

''(3) to focus the resources and efforts of the public and private sectors on ending and preventing homelessness;

''(4) to provide funds for programs to assist individuals and families in the transition from homelessness, and to prevent homelessness for those vulnerable to homelessness;

''(5) to consolidate the separate homeless assistance programs carried out under title IV (consisting of the supportive housing program and related innovative programs, the safe havens program, the section 8 assistance program for single-room occupancy dwellings, the shelter plus care program, and the rural homeless housing assistance program) into a single program with specific eligible activities;

''(6) to allow flexibility and creativity in re-thinking solutions to homelessness, including alternative housing strategies, outcome-effective service delivery, and the involvement of persons experiencing homelessness in decision making regarding opportunities for their long-term stability, growth, well-being, and optimum self-sufficiency; and

''(7) to ensure that multiple Federal agencies are involved in the provision of housing, health care, human services, employment, and education assistance, as appropriate for the missions of the agencies, to persons experiencing homelessness, through the funding provided for implementation of programs carried out under this Act and other programs targeted for persons experiencing homelessness, and mainstream funding, and to promote coordination among those Federal agencies, including providing funding for a United States Interagency Council on Homelessness to advance such coordination.''.

SEC. 3. UNITED STATES INTERAGENCY COUNCIL ON HOMELESSNESS.

Title II of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11311 et seq.) is amended—

(1) in section 201 (42 U.S.C. 11311), by striking the period at the end and inserting the following: ''whose mission shall be to develop and coordinate the implementation of a national strategy to prevent and end homelessness while maximizing the effectiveness of the Federal Government in contributing to an end to homelessness in the United States.'';

(2) in section 202 (42 U.S.C. 11312)—

(A) in subsection (a)—

(i) by striking ''(16)'' and inserting ''(19)''; and

(ii) by inserting after paragraph (15) the following:

''(16) The Commissioner of Social Security, or the designee of the Commissioner.

''(17) The Attorney General of the United States, or the designee of the Attorney General.

''(18) The Director of the Office of Management and Budget, or the designee of the Director.'';

(B) in subsection (c), by striking ''annually'' and inserting ''2 times each year''; and

(C) by adding at the end the following:

''(e) ADMINISTRATION.—The Assistant to the President for Domestic Policy within the Executive Office of the President shall oversee the functioning of the United States Interagency Council on Homelessness to ensure Federal interagency collaboration and program coordination to focus on preventing and ending homelessness, to increase access to mainstream programs (as identified in a report by the Government Accountability Office entitled 'Homelessness: Barriers to Using Mainstream Programs', issued July 6, 2000) by persons experiencing homelessness, to eliminate the barriers to participation in those programs, to implement a Federal plan to prevent and end homelessness, and to identify Federal resources that can be expended to prevent and end homelessness.'';

(3) in section 203(a) (42 U.S.C. 11313(a))—

(A) by redesignating paragraphs (1), (2), (3), (4), (5), (6), and (7) as paragraphs (2), (3), (4), (5), (8), (9), and (10), respectively;

(B) by inserting before paragraph (2), as redesignated by subparagraph (A), the following:

''(1) not later than 1 year after the date of enactment of the Community Partnership to End Homelessness Act of 2005, develop and submit to the President and to Congress a National Strategic Plan to End Homelessness;'';

(C) in paragraph (5), as redesignated by subparagraph (A), by striking ''at least 2, but in no case more than 5'' and inserting ''not less than 5, but in no case more than 10''; and

(D) by inserting after paragraph (5), as redesignated by subparagraph (A), the following:

''(6) encourage the creation of State Interagency Councils on Homelessness and the formulation of multi-year plans to end homelessness at State, city, and county levels;

''(7) develop mechanisms to ensure access by persons experiencing homelessness to all Federal, State, and local programs for which the persons are eligible, and to verify collaboration among entities within a community that receive Federal funding under programs targeted for persons experiencing homelessness, and other programs for which persons experiencing homelessness are eligible, including mainstream programs identified by the Government Accountability Office in the 2 reports described in section 102(a)(5)(B);''; and

(4) by striking section 208 (42 U.S.C. 11318) and inserting the following:

''SEC. 208. AUTHORIZATION OF APPROPRIATIONS.

''Of any amounts made available for any fiscal year to carry out subtitles B and C of title IV, $3,000,000 shall be allocated to the Assistant to the President for Domestic Policy within the Executive Office of the President to carry out this title.''.

SEC. 4. HOUSING ASSISTANCE GENERAL PROVISIONS.

Subtitle A of title IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11361 et seq.) is amended—

(1) by striking the subtitle heading and inserting the following:

''Subtitle A—General Provisions'';

(2)(A) by redesignating section 401 (42 U.S.C. 11361) as section 403; and

(B) by redesignating section 402 (42 U.S.C. 11362) as section 406;

(3) by inserting before section 403 (as redesignated in paragraph (2)) the following:

''SEC. 401. DEFINITIONS.

''In this title:

''(1) CHRONICALLY HOMELESS.—

''(A) IN GENERAL.—The term 'chronically homeless', used with respect to an individual or family, means an individual or family who—

''(i) is homeless;

''(ii) has been homeless continuously for at least 1 year or has been homeless on at least 4 separate occasions in the last 3 years; and

''(iii) in the case of a family, has an adult head of household with a disabling condition.

''(B) DISABLING CONDITION.—As used in this paragraph, the term 'disabling condition' means a condition that is a diagnosable substance use disorder, serious mental illness, developmental disability (as defined in section 102 of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15002)), or chronic physical illness or disability, including the co-occurrence of 2 or more of those conditions.

''(2) COLLABORATIVE APPLICANT.—

''(A) IN GENERAL.—The term 'collaborative applicant' means an entity that—

''(i) is a representative community homeless assistance planning body established or designed in accordance with section 402;

''(ii) serves as the applicant for project sponsors who jointly submit a single application for a grant under subtitle C in accordance with a collaborative process; and

''(iii) if the entity is a legal entity and is awarded such grant, receives such grant directly from the Secretary.

''(B) STATE AND LOCAL GOVERNMENTS.—Notwithstanding the requirements of subparagraph (A), the term 'collaborative applicant' includes a State or local government, or a consortium of State or local governments, engaged in activities to end homelessness.

''(3) COLLABORATIVE APPLICATION.—The term 'collaborative application' means an application for a grant under subtitle C that—

''(A) satisfies section 422 (including containing the information described in subsections (a) and (c) of section 426); and

''(B) is submitted to the Secretary by a collaborative applicant.

''(4) CONSOLIDATED PLAN.—The term 'Consolidated Plan' means a comprehensive housing affordability strategy and community development plan required in part 91 of title 24, Code of Federal Regulations.

''(5) ELIGIBLE ENTITY.—The term 'eligible entity' means, with respect to a subtitle, a public entity, a private entity, or an entity that is a combination of public and private entities, that is eligible to receive directly grant amounts under that subtitle.

''(6) GEOGRAPHIC AREA.—The term 'geographic area' means a State, metropolitan city, urban county, town, village, or other nonentitlement area, or a combination or consortia of such, in the United States, as described in section 106 of the Housing and Community Development Act of 1974 (42 U.S.C. 5306).

''(7) HOMELESS INDIVIDUAL WITH A DISABILITY.—

''(A) IN GENERAL.—The term 'homeless individual with a disability' means an individual who is homeless, as defined in section 103, and has a disability that—

''(i)(I) is expected to be long-continuing or of indefinite duration;

''(II) substantially impedes the individual's ability to live independently;

''(III) could be improved by the provision of more suitable housing conditions; and

''(IV) is a physical, mental, or emotional impairment, including an impairment caused by alcohol or drug abuse;

''(ii) is a developmental disability, as defined in section 102 of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15002); or

''(iii) is the disease of acquired immunodeficiency syndrome or any condition arising from the etiologic agency for acquired immunodeficiency syndrome.

''(B) RULE.—Nothing in clause (iii) of subparagraph (A) shall be construed to limit eligibility under clause (i) or (ii) of subparagraph (A).

''(8) LEGAL ENTITY.—The term 'legal entity' means—

''(A) an entity described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of that Code;

''(B) an instrumentality of State or local government; or

''(C) a consortium of instrumentalities of State or local governments that has constituted itself as an entity.

''(9) METROPOLITAN CITY; URBAN COUNTY; NONENTITLEMENT AREA.—The terms 'metropolitan city', 'urban county', and 'nonentitlement area' have the meanings given such terms in section 102(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)).

''(10) NEW.—The term 'new', used with respect to housing, means housing for which no assistance has been provided under this title.

''(11) OPERATING COSTS.—The term 'operating costs' means expenses incurred by a project sponsor operating—

''(A) transitional housing or permanent housing under this title with respect to—

''(i) the administration, maintenance, repair, and security of such housing;

''(ii) utilities, fuel, furnishings, and equipment for such housing; or

''(iii) conducting an assessment under section 426(c)(2); and

''(B) supportive housing, for homeless individuals with disabilities or homeless families that include such an individual, under this title with respect to—

''(i) the matters described in clauses (i), (ii), and (iii) of subparagraph (A); and

''(ii) coordination of services as needed to ensure long-term housing stability.

''(12) OUTPATIENT HEALTH SERVICES.—The term 'outpatient health services' means outpatient health care services, mental health services, and outpatient substance abuse treatment services.

''(13) PERMANENT HOUSING.—The term 'permanent housing' means community-based housing without a designated length of stay, and includes permanent supportive housing for homeless individuals with disabilities and homeless families that include such an individual who is an adult.

''(14) PERMANENT HOUSING DEVELOPMENT ACTIVITIES.—The term 'permanent housing development activities' means activities—

''(A) to construct, lease, rehabilitate, or acquire structures to provide permanent housing;

''(B) involving tenant-based and project-based flexible rental assistance for permanent housing;

''(C) described in paragraphs (1) through (4) of section 423(a) as they relate to permanent housing; or

''(D) involving the capitalization of a dedicated project account from which payments are allocated for rental assistance and operating costs of permanent housing.

''(15) PRIVATE NONPROFIT ORGANIZATION.—The term 'private nonprofit organization' means an organization—

''(A) no part of the net earnings of which inures to the benefit of any member, founder, contributor, or individual;

''(B) that has a voluntary board;

''(C) that has an accounting system, or has designated a fiscal agent in accordance with requirements established by the Secretary; and

''(D) that practices nondiscrimination in the provision of assistance.

''(16) PROJECT.—The term 'project', used with respect to activities carried out under subtitle C, means eligible activities described in section 423(a), undertaken pursuant to a specific endeavor, such as serving a particular population or providing a particular resource.

''(17) PROJECT-BASED.—The term 'project-based', used with respect to rental assistance, means assistance provided pursuant to a contract that—

''(A) is between—

''(i) a project sponsor; and

''(ii) an owner of a structure that exists as of the date the contract is entered into; and

''(B) provides that rental assistance payments shall be made to the owner and that the units in the structure shall be occupied by eligible persons for not less than the term of the contract.

''(18) PROJECT SPONSOR.—The term 'project sponsor', used with respect to proposed eligible activities, means the organization directly responsible for the proposed eligible activities.

''(19) RECIPIENT.—Except as used in subtitle B, the term 'recipient' means an eligible entity who—

''(A) submits an application for a grant under section 422 that is approved by the Secretary;

''(B) receives the grant directly from the Secretary to support approved projects described in the application; and

''(C)(i) serves as a project sponsor for the projects; or

''(ii) awards the funds to project sponsors to carry out the projects.

''(20) SECRETARY.—The term 'Secretary' means the Secretary of Housing and Urban Development.

''(21) SERIOUSLY MENTALLY ILL.—The term 'seriously mentally ill' means having a severe and persistent mental illness or emotional impairment that seriously limits a person's ability to live independently.

''(22) STATE.—Except as used in subtitle B, the term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

''(23) SUPPORTIVE HOUSING.—The term 'supportive housing' means housing that—

''(A) helps individuals experiencing homelessness and families experiencing homelessness to transition from homelessness to living in safe, decent, and affordable housing as independently as possible; and

''(B) provides supportive services and housing assistance on either a temporary or permanent basis, as determined by the identified abilities and needs of the program participants.

''(24) SUPPORTIVE SERVICES.—The term 'supportive services'—

''(A) through the end of the final determination year (as described in section 423(a)(6)(C)(iii)), means the services described in section 423(a)(6)(A), for both new projects and projects receiving renewal funding; and

''(B) after that final determination year, means the services described in section 423(a)(6)(B), as permitted under section 423(a)(6)(C), for both new projects and projects receiving renewal funding.

''(25) TENANT-BASED.—The term 'tenant-based', used with respect to rental assistance, means assistance that allows an eligible person to select a housing unit in which such person will live using rental assistance provided under subtitle C, except that if necessary to assure that the provision of supportive services to a person participating in a program is feasible, a recipient or project sponsor may require that the person live—

''(A) in a particular structure or unit for not more than the first year of the participation; and

''(B) within a particular geographic area for the full period of the participation, or the

period remaining after the period referred to in subparagraph (A).

''(26) TRANSITIONAL HOUSING.—The term 'transitional housing' means housing, the purpose of which is to facilitate the movement of individuals and families experiencing homelessness to permanent housing within 24 months or such longer period as the Secretary determines necessary.

''SEC. 402. COLLABORATIVE APPLICANTS.

''(a) ESTABLISHMENT AND DESIGNATION.—A collaborative applicant shall be established for a geographic area by the relevant parties in that geographic area, or designated for a geographic area by the Secretary in accordance with subsection (d), to lead a collaborative planning process to design and evaluate programs, policies, and practices to prevent and end homelessness.

''(b) MEMBERSHIP OF ESTABLISHED COLLABORATIVE APPLICANT.—A collaborative applicant established under subsection (a) shall be composed of persons from a particular geographic area who are—

''(1) persons who are experiencing or have experienced homelessness (with not fewer than 2 persons being individuals who are experiencing or have experienced homelessness);

''(2) persons who act as advocates for the diverse subpopulations of persons experiencing homelessness;

''(3) persons or representatives of organizations who provide assistance to the variety of individuals and families experiencing homelessness; and

''(4) relatives of individuals experiencing homelessness;

''(5) government agency officials, particularly those officials responsible for administering funding under programs targeted for persons experiencing homelessness, and other programs for which persons experiencing homelessness are eligible, including mainstream programs identified by the Government Accountability Office in the 2 reports described in section 102(a)(5)(B);

''(6) 1 or more local educational agency liaisons designated under section 722(g)(1)(J)(ii), or their designees;

''(7) members of the business community;

''(8) members of neighborhood advocacy organizations; and

''(9) members of philanthropic organizations that contribute to preventing and ending homelessness in the geographic area of the collaborative applicant.

''(c) ROTATION OF MEMBERSHIP OF ESTABLISHED OR DESIGNATED COLLABORATIVE APPLICANT.—The parties establishing or designating a collaborative applicant under subsection (a) shall ensure, to the extent practicable, that the collaborative applicant rotates its membership to ensure that representatives of all agencies, businesses, and organizations who are described in paragraphs (1) through (9) of subsection (b) and invested in developing and implementing strategies to prevent and end homelessness are able to participate as decisionmaking members of the collaborative applicant.

''(d) EXISTING PLANNING BODIES.—The Secretary may designate an entity to be a collaborative applicant if such entity—

''(1) prior to the date of enactment of the Community Partnership to End Homelessness Act of 2005, engaged in coordinated, comprehensive local homeless housing and services planning and applied for Federal funding to provide homeless assistance; and

''(2) ensures that its membership includes persons described in paragraphs (1) through (9) of subsection (b).

''(e) TAX EXEMPT ORGANIZATIONS.—An entity may be established or designated to serve as a collaborative applicant under this section without being a legal entity. If a collaborative applicant is a legal entity, the collaborative applicant may only receive funds directly from the Secretary under this title, and may only apply for funds to conduct the activities described in section 423(a)(7).

''(f) REMEDIAL ACTION.—If the Secretary finds that a collaborative applicant for a geographic area does not meet the requirements of this section, the Secretary may take remedial action to ensure fair distribution of grant amounts under subtitle C to eligible entities within that area. Such measures may include designating another body as a collaborative applicant, or permitting other eligible entities to apply directly for grants.

''(g) CONSTRUCTION.—Nothing in this section shall be construed to displace conflict of interest or government fair practices laws, or their equivalent, that govern applicants for grant amounts under subtitles B and C.

''(h) DUTIES.—A collaborative applicant shall—

''(1)(A) design a collaborative process, established jointly and complied with by its members, for evaluating, reviewing, prioritizing, awarding, and monitoring projects and applications submitted by project sponsors under subtitle C, and for evaluating the outcomes of projects for which funds are awarded under subtitle B, in such a manner as to ensure that the entities involved further the goal of preventing and ending homelessness, and optimizing self-sufficiency among individuals and families experiencing homelessness, in the geographic area involved;

''(B)(i)(I) review relevant policies and practices (in place and planned) of public and private entities in the geographic area served by the collaborative applicant to determine if the policies and practices further or impede the goal described in subparagraph (A);

''(II) in conducting the review, give priority to the review of—

''(aa) the discharge planning and service termination policies and practices of publicly funded facilities or institutions (such as health care or treatment facilities or institutions, foster care or youth facilities, or juvenile or adult correctional institutions), and entities carrying out publicly funded programs and systems of care (such as health care or treatment programs, the programs of block grants to States for temporary assistance for needy families established under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), child welfare or youth programs, or juvenile or adult correctional programs), to ensure that such a discharge or termination does not result in immediate homelessness for the persons involved;

''(bb) the access and utilization policies and practices of the entities carrying out mainstream programs identified by the Government Accountability Office in the 2 reports described in section 102(a)(5)(B), to ensure that persons experiencing homelessness are able to access and utilize the programs;

''(cc) local policies and practices relating to zoning and enforcement of local statutes, to ensure that the policies and practices allow reasonable inclusion and distribution in the geographic area of special needs populations and families with children and the facilities that serve the populations and families;

''(dd) policies and practices relating to the school selection and enrollment of homeless children and youths (as defined in section 725) to ensure that the homeless children and youths, and their parents, are able to exercise their educational rights under subtitle B of title VII; and

''(ee) local policies and practices relating to the placement of families with homeless children and youths (as so defined) in emergency or transitional shelters, to ensure that the children and youths are placed as close as possible to their school of origin in order to facilitate continuity of, and prevent disruption of, educational services; and

''(III) in conducting the review, determine the modifications and corrective actions that need to be taken, and by whom, to ensure that the relevant policies and practices do not stimulate, or prolong, homelessness in the geographic area;

''(ii) inform the appropriate entities of the determinations described in clause (i); and

''(iii) at least once every 3 years, prepare for inclusion in any application reviewed by the collaborative applicant, and submitted to the Secretary under section 422, the determinations described in clause (i), in the form of an exhibit entitled 'Assessment of Relevant Policies and Practices, and Needed Corrective Actions to End and Prevent Homelessness'; and

''(C) if the collaborative applicant designs and carries out the projects, design and carry out the projects in such a manner as to further the goal described in subparagraph (A);

''(2)(A) require, consistent with the Government Performance and Results Act of 1993 and amendments made by that Act, that recipients and project sponsors who are funded by grants received under subtitle C implement and maintain an outcome-based evaluation of their projects that measures effective and timely delivery of housing or services and whether provision of such housing or services results in preventing or ending homelessness for the persons that such recipients and project sponsors serve; and

''(B) request that States and local governments who distribute funds under subtitle B submit information and comments on the administration of activities under subtitle B, to enable the collaborative applicant to plan and design a full continuum of care for persons experiencing homelessness;

''(3) require, consistent with the Government Performance and Results Act of 1993 and amendments made by that Act, outcome-based evaluation of the homeless assistance planning process of the collaborative applicant to measure the performance of the collaborative applicant in preventing or ending the homelessness of persons in the geographic area of the collaborative applicant;

''(4) participate in the Consolidated Plan for the geographic area served by the collaborative applicant; and

''(5)(A) require each project sponsor who is funded by a grant received under subtitle C to establish such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursal of, and accounting for, Federal funds awarded to the project sponsor under subtitle C in order to ensure that all financial transactions carried out under subtitle C are conducted, and records maintained, in accordance with generally accepted accounting principles; and

''(B) arrange for an annual survey, audit, or evaluation of the financial records of each project carried out by a project sponsor funded by a grant received under subtitle C.

''(i) CONFLICT OF INTEREST.—No member of a collaborative applicant may participate in decisions of the collaborative applicant concerning the award of a grant, or provision of other financial benefits, to such member or the organization that such member represents.

''(j) HOMELESS MANAGEMENT INFORMATION SYSTEM.—

''(1) IN GENERAL.—In accordance with standards established by the Secretary, each collaborative applicant shall ensure consistent participation by project sponsors in a

community-wide homeless management information system. The collaborative applicant shall ensure the participation for purposes of collecting unduplicated counts of individuals and families experiencing homelessness, analyzing patterns of use of assistance provided under subtitles B and C for the geographic area involved, implementing an effective information and referral system, and providing information for the needs analyses and funding priorities of collaborative applicants.

''(2) FUNDS.—A collaborative applicant may apply for funds under this title to establish, continue, carry out, or ensure consistent participation by project sponsors in a homeless management information system, if the applicant is a legal entity.'';

(4) by inserting after section 403 (as redesignated in paragraph (2)) the following:

''SEC. 404. TECHNICAL ASSISTANCE.

''(a) TECHNICAL ASSISTANCE FOR PROJECT SPONSORS.—The Secretary shall make effective technical assistance available to private nonprofit organizations and other nongovernmental entities, States, metropolitan cities, urban counties, and counties that are not urban counties that are potential project sponsors, in order to implement effective planning processes for preventing and ending homelessness, to optimize self-sufficiency among individuals experiencing homelessness and to improve their capacity to become project sponsors.

''(b) TECHNICAL ASSISTANCE FOR COLLABORATIVE APPLICANTS.—The Secretary shall make effective technical assistance available to collaborative applicants to improve their ability to carry out the provisions of this title, and to design and execute outcome-effective strategies for preventing and ending homelessness in their geographic areas consistent with the provisions of this title.

''(c) RESERVATION.—The Secretary may reserve not more than 1 percent of the funds made available for any fiscal year for carrying out subtitles B and C, to make available technical assistance under subsections (a) and (b).

''SEC. 405. PERFORMANCE REPORTS AND MONITORING.

''(a) IN GENERAL.—A collaborative applicant shall submit to the Secretary an annual performance report regarding the activities carried out with grant amounts received under subtitles B and C in the geographic area served by the collaborative applicant, at such time and in such manner as the Secretary determines to be reasonable.

''(b) CONTENT.—The performance report described in subsection (a) shall—

''(1) describe the number of persons provided homelessness prevention assistance (including the number of such persons who were discharged or whose services were terminated as described in section 422(c)(1)(B)(ii)(I)(bb)), and the number of individuals and families experiencing homelessness who were provided shelter, housing, or supportive services, with the grant amounts awarded in the fiscal year prior to the fiscal year in which the report was submitted, including measurements of the number of persons experiencing homelessness who—

''(A) entered permanent housing, and the length of time such persons resided in that housing, if known;

''(B) entered transitional housing, and the length of time such persons resided in that housing, if known;

''(C) obtained or retained jobs;

''(D) increased their income, including increasing income through the receipt of government benefits;

''(E) received mental health or substance abuse treatment in an institutional setting and now receive that assistance in a less restrictive, community-based setting;

''(F) received additional education, vocational or job training, or employment assistance services;

''(G) received additional physical, mental, or emotional health care;

''(H) were children under the age of 18 during the year at issue, including the number of—

''(i) children who were not younger than 2 and not older than 4, or were infants or toddlers with disabilities (as defined in section 632 of the Individuals with Disabilities Education Act (20 U.S.C. 1432));

''(ii) children described in clause (i) who were enrolled in preschool or were receiving services under part C of such Act (20 U.S.C. 1431 et seq.);

''(iii) children who were not younger than 5 and not older than 17;

''(iv) children described in clause (iii) who are enrolled in elementary school or secondary school (as such terms are defined in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801)); and

''(v) children under the age of 18 who received child care, health care, mental health care, or supplemental educational services; and

''(I) were reunited with their families;

''(2) estimate the number of persons experiencing homelessness, including children under the age of 18, in the geographic area served by the collaborative applicant who are eligible for, but did not receive, services, housing, or other assistance through the programs funded under subtitles B and C in the prior fiscal year;

''(3) indicate the accomplishments achieved within the geographic area that involved the use of the grant amounts awarded in the prior fiscal year, regarding efforts to coordinate services and programs within the geographic area;

''(4) indicate the accomplishments achieved within the geographic area to—

''(A) increase access by persons experiencing homelessness to programs that are not targeted for persons experiencing homelessness (but for which persons experiencing homelessness are eligible), including mainstream programs identified by the Government Accountability Office in the 2 reports described in section 102(a)(5)(B); and

''(B) prevent the homelessness of persons discharged from publicly funded institutions or systems of care (such as health care facilities, child welfare or other youth facilities or systems of care, institutions or systems of care relating to the program of block grants to States for temporary assistance for needy families established under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), and juvenile or adult correctional programs and institutions);

''(5) describe how the collaborative applicant and other involved public and private entities within the geographic area will incorporate their experiences in the prior fiscal year into the programs and process that the collaborative applicant and entities will implement during the next fiscal year, including describing specific strategies to improve their performance outcomes;

''(6) assess the consistency and coordination between the programs funded under subtitles B and C in the prior fiscal year and the Consolidated Plan;

''(7) include updates to the exhibits described in section 402(h)(1)(B)(iii) that were included in applications—

''(A) submitted under section 422 by collaborative applicants; and

''(B) approved by the Secretary;

''(8) for each project sponsor funded by the collaborative applicant through a grant under subtitle C—

''(A) include a performance evaluation (which may include information from the reports described in subsection (a) and section 422(c)(1)(B)(vii)) of each project carried out by the project sponsor, based on the outcome-based evaluation measures described in section 402(h)(2)(A), the measurements described in section 423(a)(7), and the evaluation plan for the project described in section 426(b)(8) and resulting from the monitoring described in sections 402(h)(1)(A) and 426(c)(3); and

''(B) include a report, resulting from a survey, audit or evaluation conducted under section 402(h)(5)(B), detailing whether the project sponsor has carried out the recordkeeping and reporting requirements of section 402(h)(5); and

''(9) provide such other information as the Secretary finds relevant to assessing performance, including performance on success measures that are risk-adjusted to factors related to the circumstances of the population served.

''(c) WAIVER.—The Secretary may grant a waiver to any collaborative applicant that is unable to provide information required by subsection (b). Such collaborative applicant shall submit a plan to provide such information within a reasonable period of time.

''(d) MONITORING BY THE SECRETARY.—

''(1) COLLABORATIVE APPLICANTS.—Each year, the Secretary shall—

''(A) ensure that each collaborative applicant has complied with the requirements of subsection (b)(8) and section 402(h)(5);

''(B) require each collaborative applicant receiving funds under subtitle C to establish such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursal of, and accounting for, Federal funds awarded to the collaborative applicant under subtitle C in order to ensure that all financial transactions carried out under subtitle C are conducted, and records maintained, in accordance with generally accepted accounting principles; and

''(C) for a selected sample of collaborative applicants receiving funds under subtitle C—

''(i) ensure that each selected collaborative applicant has satisfactorily carried out the recordkeeping and reporting requirements of subsections (a) and (b), section 426(c)(3), and, if applicable, section 426(c)(6); and

''(ii) survey, audit, or evaluate the financial records of each selected collaborative applicant receiving funds under subtitle C to carry out section 423(a)(7)(A), using Federal auditors.

''(2) PROJECT SPONSORS.—Each year, the Secretary shall select a sample of project sponsors and shall conduct a performance evaluation of each project of each selected project sponsor funded under subtitle C, using the outcome-based evaluation measures developed by the appropriate collaborative applicant in accordance with section 402(h)(2)(A) and including the measurements described in section 423(a)(7).

''(e) ACTION BY SECRETARY.—Based on the information available to the Secretary, including information obtained pursuant to subsections (b) and (d), the Secretary may adjust, reduce, or withdraw amounts made available (or that would otherwise be made available) to collaborative applicants, or take other action as appropriate (including designating another body as a collaborative applicant, or permitting other collaborative entities to apply directly for grants under subtitle C), except that amounts already properly expended on eligible activities under this title may not be recaptured by the Secretary.''; and

(5) by inserting after section 406 (as redesignated in paragraph (2)) the following:

''SEC. 407. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to carry out title II and this title $1,600,000,000 for fiscal year 2006 and such sums as may be necessary for fiscal years 2007, 2008, 2009, and 2010.''.

SEC. 5. EMERGENCY SHELTER GRANTS PROGRAM.

Subtitle B of title IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11371 et seq.) is amended—

(1) by striking section 412 (42 U.S.C. 11372) and inserting the following:

''SEC. 412. GRANT ASSISTANCE.

''The Secretary shall make grants to States and local governments (and to private nonprofit organizations providing assistance to persons experiencing homelessness, in the case of grants made with reallocated amounts) for the purpose of carrying out activities described in section 414.

''SEC. 412A. AMOUNT AND ALLOCATION OF ASSISTANCE.

''(a) IN GENERAL.—Of the amount made available to carry out this subtitle and subtitle C for a fiscal year, the Secretary shall allocate nationally not more than 15 percent of such amount for activities described in section 414.

''(b) ALLOCATION.—An entity that receives a grant under section 412, and serves an area that includes 1 or more geographic areas (or portions of such areas) served by collaborative applicants that submit applications under subtitle C, shall allocate the funds made available through the grant to carry out activities described in section 414, in consultation with the collaborative applicants.'';

(2) in section 413(b) (42 U.S.C. 11373(b)), by striking ''amounts appropriated'' and all that follows through ''for any'' and inserting ''amounts appropriated under section 407 and made available to carry out this subtitle for any'';

(3) by striking section 414 (42 U.S.C. 11374) and inserting the following:

''SEC. 414. ELIGIBLE ACTIVITIES.

''(a) IN GENERAL.—Assistance provided under section 412 may be used for the following activities:

''(1) The renovation, major rehabilitation, or conversion of buildings to be used as emergency shelters.

''(2) The provision of essential services, including services concerned with employment, health, or education, family support services for homeless youth, alcohol or drug abuse prevention or treatment, or mental health treatment, if such essential services have not been provided by the local government during any part of the immediately preceding 12-month period, or the use of assistance under this subtitle would complement the provision of those essential services.

''(3) Maintenance, operation insurance, provision of utilities, and provision of furnishings.

''(4) Efforts to prevent homelessness, such as the provision of financial assistance to families who have received eviction notices or notices of termination of utility services, if—

''(A) the inability of such a family to make the required payments is due to a sudden reduction in income;

''(B) the assistance is necessary to avoid the eviction or termination of services;

''(C) there is a reasonable prospect that the family will be able to resume the payments within a reasonable period of time; and

''(D) funds appropriated for the assistance will not supplant funding for homelessness prevention activities from other sources (other funds made available under this Act).

''(b) LIMITATION.—Not more than 30 percent of the aggregate amount of all assistance to a State or local government under this subtitle may be used for activities under subsection (a)(4).''; and

(4) by repealing sections 417 and 418 (42 U.S.C. 11377, 11378).

SEC. 6. HOMELESS ASSISTANCE PROGRAM.

Subtitle C of title IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11381 et seq.) is amended—

(1) by striking the subtitle heading and inserting the following:

''Subtitle C—Homeless Assistance Program'';

(2) by striking sections 421 through 423 (42 U.S.C. 11381 et seq.) and inserting the following:

''SEC. 421. PURPOSES.

''The purposes of this subtitle are—

''(1) to promote the implementation of activities that can prevent vulnerable individuals and families from becoming homeless;

''(2) to promote the development of transitional and permanent housing, including low-demand housing;

''(3) to promote access to and effective utilization of mainstream programs identified by the Government Accountability Office in the 2 reports described in section 102(a)(5)(B) and programs funded with State or local resources; and

''(4) to optimize self-sufficiency among individuals experiencing homelessness.

''SEC. 422. COMMUNITY HOMELESS ASSISTANCE PROGRAM.

''(a) PROJECTS.—The Secretary shall award grants to collaborative applicants to carry out homeless assistance and prevention projects, either directly or by awarding funds to project sponsors to carry out the projects.

''(b) NOTIFICATION OF FUNDING AVAILABILITY.—The Secretary shall release a Notification of Funding Availability for grants awarded under this subtitle for a fiscal year not later than 3 months after the date of enactment of the appropriate Act making appropriations for the Department of Housing and Urban Development for the fiscal year.

''(c) APPLICATIONS.—

''(1) SUBMISSION TO THE SECRETARY.—To receive a grant under subsection (a), a collaborative applicant shall submit an application to the Secretary at such time and in such manner as the Secretary may require, and containing—

''(A) the information described in subsections (a) and (c) of section 426; and

''(B) other information that shall—

''(i) describe the establishment (or designation) and function of the collaborative applicant, including—

''(I) the nomination and selection process, including the names and affiliations of all members of the collaborative applicant; or

''(II) all meetings held by the collaborative applicant in preparing the application, including identification of those meetings that were public; and

''(III) all meetings between representatives of the collaborative applicant, and persons responsible for administering the Consolidated Plan;

''(ii) outline the range of housing and service programs available to persons experiencing homelessness or imminently at risk of experiencing homelessness and describe the unmet needs that remain in the geographic area for which the collaborative applicant seeks funding regarding—

''(I) prevention activities, including providing assistance in—

''(aa) making mortgage, rent, or utility payments; or

''(bb) accessing permanent housing and transitional housing for individuals (and families that include the individuals) who are being discharged from a publicly funded facility, program, or system of care, or whose services (from such a facility, program, or system of care) are being terminated;

''(II) outreach activities to assess the needs and conditions of persons experiencing homelessness, including significant subpopulations of such persons, including individuals with disabilities, veterans, victims of domestic violence, homeless children and youths (as defined in section 725), and chronically homeless individuals and families;

''(III) emergency shelters, including the supportive and referral services the shelters provide;

''(IV) transitional housing with appropriate supportive services to help persons experiencing homelessness who are not yet able or prepared to make the transition to permanent housing and independent living;

''(V) permanent housing to help meet the long-term needs of individuals and families experiencing homelessness; and

''(VI) needed supportive services, including services for children;

''(iii) prioritize the projects for which the collaborative applicant seeks funding according to the unmet needs in the fiscal year for which the applicant submits the application as described in clause (ii);

''(iv) identify funds from private and public sources, other than funds received under subtitles B and C, that the State, units of general local government, recipients, project sponsors, and others will use for homelessness prevention, outreach, emergency shelter, supportive services, transitional housing, and permanent housing, that will be integrated with the assistance provided under subtitles B and C;

''(v) identify funds provided by the State and units of general local government under programs targeted for persons experiencing homelessness, and other programs for which persons experiencing homelessness are eligible, including mainstream programs identified by the Government Accountability Office in the 2 reports described in section 102(a)(5)(B);

''(vi) explain—

''(I) how the collaborative applicant will meet the housing and service needs of individuals and families experiencing homelessness in the applicant's community; and

''(II) how the collaborative applicant will integrate the activities described in the application with the strategy of the State, units of general local government, and private entities in the geographic area over the next 5 years to prevent and end homelessness, including, as part of that strategy, a work plan for the applicable fiscal years;

''(vii) report on the outcome-based performance of the homeless programs within the geographic area served by the collaborative applicant that were funded under this title in the fiscal year prior to the fiscal year in which the application is submitted;

''(viii) include any relevant required agreements under subtitle C;

''(ix) contain a certification of consistency with the Consolidated Plan pursuant to section 403;

''(x) include an exhibit described in section 402(h)(1)(B)(iii) and prepared by the collaborative applicant in accordance with that section; and

''(xi) contain a certification that project sponsors for all projects for which the collaborative applicant seeks funding through the grant will establish policies and practices that are consistent with, and do not restrict the exercise of rights provided by, subtitle B of title VII, and other laws relating to the provision of educational and related services to individuals experiencing homelessness.

''(2) CONSIDERATION.—In outlining the programs and describing the needs referred to in paragraph (1)(A)(ii), the collaborative applicant shall take into account the findings and recommendations of the most recently completed annual assessments, conducted pursuant to section 2034 of title 38, United States Code, of the Department of Veterans Affairs medical centers or regional benefits offices whose service areas include the geographic area described in paragraph (1)(A)(ii).

''(3) ANNOUNCEMENT OF AWARDS.—The Secretary shall announce, within 4 months after the last date for the submission of applications described in this subsection for a fiscal year, the grants conditionally awarded under subsection (a) for that fiscal year.

''(4) OBLIGATION, DISTRIBUTION, AND UTILIZATION OF FUNDS.—

''(A) REQUIREMENTS FOR OBLIGATION.—

''(i) IN GENERAL.—Not later than 9 months after the announcement referred to in paragraph (3), each recipient of a grant announced under paragraph (3) shall, with respect to a project to be funded through such grant, meet, or cause the project sponsor to meet, all requirements for the obligation of funds for such project, including site control, matching funds, and environmental review requirements, except as provided in clause (ii).

''(ii) ACQUISITION, REHABILITATION, OR CONSTRUCTION.—Not later than 15 months after the announcement referred to in paragraph (3), each recipient or project sponsor seeking the obligation of funds for acquisition of housing, rehabilitation of housing, or construction of new housing for a grant announced under paragraph (3) shall meet all requirements for the obligation of those funds, including site control, matching funds, and environmental review requirements.

''(iii) EXTENSIONS.—At the discretion of the Secretary, and in compelling circumstances, the Secretary may extend the date by which a recipient shall meet or cause a project sponsor to meet the requirements described in clause (i) if the Secretary determines that compliance with the requirements was delayed due to factors beyond the reasonable control of the recipient or project sponsor. Such factors may include difficulties in obtaining site control for a proposed project, completing the process of obtaining secure financing for the project, or completing the technical submission requirements for the project.

''(B) OBLIGATION.—Not later than 45 days after a recipient meets or causes a project sponsor to meet the requirements described in subparagraph (A), the Secretary shall obligate the funds for the grant involved.

''(C) DISTRIBUTION.—A recipient that receives funds through such a grant—

''(i) shall distribute the funds to project sponsors (in advance of expenditures by the project sponsors); and

''(ii) shall distribute the appropriate portion of the funds to a project sponsor not later than 45 days after receiving a request for such distribution from the project sponsor.

''(D) EXPENDITURE OF FUNDS.—The Secretary may establish a date by which funds made available through a grant announced under paragraph (3) for a homeless assistance and prevention project shall be entirely expended by the recipient or project sponsors involved. The Secretary shall recapture the funds not expended by such date. The Secretary shall reallocate the funds for another homeless assistance and prevention project that meets the requirements of this subtitle to be carried out, if possible and appropriate, in the same geographic area as the area served through the original grant.

''(d) NOTIFICATION OF PRO RATA ESTIMATED NEED AMOUNTS.—

''(1) NOTICE.—The Secretary shall inform each collaborative applicant, at a time concurrent with the release of the Notice of Funding Availability for the grants, of the pro rata estimated need amount under this subtitle for the geographic area represented by the collaborative applicant.

''(2) AMOUNT.—

''(A) BASIS.—Such estimated need amount shall be based on a percentage of the total funds available, or estimated to be available, to carry out this subtitle for any fiscal year that is equal to the percentage of the total amount available for section 106 of the Housing and Community Development Act of 1974 (42 U.S.C. 5306) for the prior fiscal year that—

''(i) was allocated to all metropolitan cities and urban counties within the geographic area represented by the collaborative applicant; or

''(ii) would have been distributed to all counties within such geographic area that are not urban counties, if the 30 percent portion of the allocation to the State involved (as described in subsection (d)(1) of that section 106) for that year had been distributed among the counties that are not urban counties in the State in accordance with the formula specified in that subsection (with references in that subsection to nonentitlement areas considered to be references to those counties).

''(B) RULE.—In computing the estimated need amount, the Secretary shall adjust the estimated need amount determined pursuant to subparagraph (A) to ensure that—

''(i) 75 percent of the total funds available, or estimated to be available, to carry out this subtitle for any fiscal year are allocated to the metropolitan cities and urban counties that received a direct allocation of funds under section 413 for the prior fiscal year; and

''(ii) 25 percent of the total funds available, or estimated to be available, to carry out this subtitle for any fiscal year are allocated—

''(I) to the metropolitan cities and urban counties that did not receive a direct allocation of funds under section 413 for the prior fiscal year; and

''(II) to counties that are not urban counties.

''(C) COMBINATIONS OR CONSORTIA.—For a collaborative applicant that represents a combination or consortium of cities or counties, the estimated need amount shall be the sum of the estimated need amounts for the cities or counties represented by the collaborative applicant.

''(D) AUTHORITY OF SECRETARY.—The Secretary may increase the estimated need amount for a geographic area if necessary to provide 1 year of renewal funding for all expiring contracts entered into under this subtitle for the geographic area.

''(e) APPEALS.—

''(1) IN GENERAL.—Not later than 3 months after the date of enactment of the Community Partnership to End Homelessness Act of 2005, the Secretary shall establish a timely appeal procedure for grant amounts awarded or denied under this subtitle pursuant to an application for funding.

''(2) PROCESS.—The Secretary shall ensure that the procedure permits appeals submitted by collaborative applicants, entities carrying out homeless housing and services projects (including emergency shelters and homelessness prevention programs), homeless planning bodies not designated by the Secretary as collaborative applicants.

''(f) RENEWAL FUNDING FOR UNSUCCESSFUL APPLICANTS.—The Secretary may renew funding for a specific project previously funded under this subtitle that the Secretary determines is worthy, and was included as part of a total application that met the criteria of subsection (c), even if the application was not selected to receive grant assistance. The Secretary may renew the funding for a period of not more than 1 year, and under such conditions as the Secretary determines to be appropriate.

''SEC. 423. ELIGIBLE ACTIVITIES.

''(a) IN GENERAL.—The Secretary may award grants to qualified collaborative applicants under section 422 to carry out homeless assistance and prevention projects that consist of 1 or more of the following eligible activities:

''(1) Construction of new housing units to provide transitional or permanent housing.

''(2) Acquisition or rehabilitation of a structure to provide supportive services or to provide transitional or permanent housing, other than emergency shelter.

''(3) Leasing of property, or portions of property, not owned by the recipient or project sponsor involved, for use in providing transitional or permanent housing, or providing supportive services.

''(4) Provision of rental assistance to provide transitional or permanent housing to eligible persons. The rental assistance may include tenant-based or project-based rental assistance.

''(5) Payment of operating costs for housing units assisted under this subtitle.

''(6)(A) Through the end of the final determination year (as described in subparagraph (C)(iii)), the supportive services described in section 425(c), for both new projects and projects receiving renewal funding.

''(B) After that final determination year, for both new projects and projects receiving renewal funding, services providing job training, case management, outreach services, life skills training, housing counseling services, and other services determined by the Secretary (either at the Secretary's initiative or on the basis of adequate justification by an applicant) to be directly relevant to allowing persons experiencing homelessness to access and retain housing.

''(C)(i) Not later than 30 days after the end of the fiscal year in which the date of enactment of the Community Partnership to End Homelessness Act of 2005 occurs (referred to in this paragraph as the 'initial year'), the Government Accountability Office, after consultation with the congressional committees with jurisdiction over the services referred to in this pararaph, shall determine—

''(I) the amount of Federal funds (other than funds made available under this subtitle) that were made available to fund the supportive services described in section 425(c), other than the services described in subparagraph (B) (referred to in this paragraph as the 'outside supportive services amount') for that initial year; and

''(II) the amount of Federal funds made available under this subtitle to fund the supportive services described in section 425(c), other than the services described in subparagraph (B) (referred to in this paragraph as the 'subtitle B supportive services amount') for that initial year.

''(ii) Not later than 30 days after the end of the third full fiscal year after that date of enactment and of each subsequent fiscal year (referred to in this paragraph as the 'determination year') until the final determination year described in clause (iii), the Government Accountability Office, after consultation with the committees described in clause (i), shall—

''(I) determine the outside supportive services amount for that determination year;

''(II) calculate the increase in the outside supportive services amount, by subtracting

the outside supportive services amount for the initial year from the outside supportive services amount for that determination year;

''(III) make—

''(aa) a positive determination that the increase is greater than or equal to the subtitle B supportive services amount for the initial year; or

''(bb) a negative determination that that increase is less than that amount; and

''(IV) submit a report regarding that determination year, and containing the positive or negative determination, to the Secretary.

''(iii) On receipt of such a report regarding a determination year that contains a positive determination, the Secretary may publish a notice in the Federal Register, containing a proposed order that subparagraph (B) shall apply for subsequent fiscal years, and seeking public comment for a period of not less than 60 days. At the end of the comment period, the Secretary may issue a final order that subparagraph (B) shall apply for subsequent fiscal years. If the Secretary issues that final order, the determination year shall be considered to be the final determination year for purposes of this subparagraph.

''(iv) If the Secretary does not issue a final order under clause (iii), subparagraph (A) shall apply for the fiscal year following the determination year.

''(7)(A) In the case of a collaborative applicant that is a legal entity, payment of administrative costs related to planning, administering grand awards for, monitoring, and evaluating projects, and ensuring compliance with homeless management information system requirements described in section 402(j)(2), for which the collaborative applicant may use not more than 6 percent of the total funds made available through the grant. A project sponsor receiving funds from the collaborative applicant may use not more than an additional 5 percent of the total funds made available through the grant for such administrative costs.

''(B) For purposes of this paragraph, monitoring and evaluating shall include—

''(i) measuring the outcomes of the homeless assistance planning process of a collaborative applicant for preventing and ending homelessness;

''(ii) the effective and timely implementation of specific projects funded under this subtitle, relative to projected outcomes; and

''(iii) in the case of a housing project funded under this subtitle, compliance with appropriate standards of housing quality and habitability as determined by the Secretary.

''(8) Prevention activities (for which a collaborative applicant may use not more than 5 percent of the funds made available through the grant), including—

''(A) providing financial assistance to individuals or families who have received eviction notices, foreclosure notices, or notices of termination of utility services if, in the case of such an individual or family—

''(i) the inability of the individual or family to make the required payments is due to a sudden reduction in income;

''(ii) the assistance is necessary to avoid the eviction, foreclosure, or termination of services; and

''(iii) there is a reasonable prospect that the individual or family will be able to resume the payments within a reasonable period of time;

''(B) carrying out relocation activities (including providing security or utility deposits, rental assistance for a final month at a location, assistance with moving costs, or rental assistance for not more than 3 months) for moving into transitional or permanent housing, individuals, and families that include such individuals—

''(i) who lack housing;

''(ii) who are being discharged from a publicly funded acute care or long-term care facility, program, or system of care, or whose services (from such a facility, program, or system of care) are being terminated; and

''(iii) who have plans, developed collaboratively by the public entities involved and the individuals and families, for securing or maintaining housing after any funding provided under this subtitle is utilized; and

''(C) providing family support services that promote reunification of—

''(i) youth experiencing homelessness, with their families; and

''(ii) children or youth involved with the child welfare or juvenile justice systems, with their parents or guardians.

''(b) ELIGIBILITY FOR FUNDS FOR PREVENTION ACTIVITIES.—To be eligible to receive grant funds under section 422 to carry out the prevention activities described in subsection (a)(8), an applicant shall submit an application to the Secretary under section 422 that shall include a certification in which—

''(1) the relevant public entities in the geographic area involved certify compliance with subsection (c); and

''(2) the publicly funded institutions, facilities, and systems of care in the geographic area certify that the institutions, facilities, and systems of care will take, and fund directly, all reasonable measures to ensure that the institutions, facilities, and systems of care do not discharge individuals into homelessness.

''(c) SUPPLEMENT, NOT SUPPLANT.—Funds appropriated under section 407 and made available for prevention activities described in subsection (a)(8) shall be used to supplement and not supplant other Federal, State, and local public funds used for homelessness prevention.

''(d) USE RESTRICTIONS.—

''(1) ACQUISITION, REHABILITATION, AND NEW CONSTRUCTION.—A project that consists of activities described in paragraph (1) or (2) of subsection (a) shall be operated for the purpose specified in the application submitted for the project under section 422 for not less than 15 years.

''(2) OTHER ACTIVITIES.—A project that consists of activities described in any of paragraphs (3) through (8) of subsection (a) shall be operated for the purpose specified in the application submitted for the project under section 422 for the duration of the grant period involved.

''(3) CONVERSION.—If the recipient or project sponsor carrying out a project that provides transitional or permanent housing submits a request to the collaborative applicant involved to carry out instead a project for the direct benefit of low-income persons, and the collaborative applicant determines that the initial project is no longer needed to provide transitional or permanent housing, the collaborative applicant may recommend that the Secretary approve the project described in the request and authorize the recipient or project sponsor to carry out that project. If the collaborative applicant is the recipient or project sponsor, it shall submit such a request directly to the Secretary who shall determine if the conversion of the project is appropriate.

''(e) INCENTIVES TO CREATE NEW PERMANENT HOUSING STOCK.—

''(1) AWARDS.—

''(A) IN GENERAL.—In making grants to collaborative applicants under section 422, the Secretary shall make awards that provide the incentives described in paragraph (2) to promote the creation of new permanent housing units through the construction, or acquisition and rehabilitation, of permanent housing units, that are owned by a project sponsor or other independent entity who entered into a contract with a recipient or project sponsor, for—

''(i) chronically homeless individuals and chronically homeless families; and

''(ii) nondisabled homeless families.

''(B) LIMITATION.—In awarding funds under this subsection, the Secretary shall not award more than 10 percent of the funds for project sponsors or independent entities that propose to serve nondisabled homeless families.

''(2) ASSISTANCE.—

''(A) INDIVIDUALS WITH DISABILITIES.—A collaborative applicant that receives assistance under section 422 to implement a project that involves the construction, or acquisition and rehabilitation, of new permanent housing units described in paragraph (1), for individuals and families described in paragraph (1)(A)(i), shall also receive, as part of the grant, incentives consisting of—

''(i) funds sufficient to provide not more than 10 years of rental assistance, renewable in accordance with section 428;

''(ii) a bonus in an amount to be determined by the Secretary to carry out activities described in this section; and

''(iii) the technical assistance needed to ensure the financial viability and programmatic effectiveness of the project.

''(B) NONDISABLED HOMELESS FAMILIES.—A collaborative applicant that receives assistance under section 422 to implement a project that involves the construction, or acquisition and rehabilitation, of new permanent housing units described in paragraph (1), for nondisabled homeless families, shall also receive incentives consisting of—

''(i) a bonus in an amount to be determined by the Secretary to carry out activities described in this section; and

''(ii) the technical assistance needed to ensure the financial viability and programmatic effectiveness of the project.

''(3) ELIGIBLE APPLICANTS.—To be eligible to receive a grant under this subtitle to carry out activities to create new permanent housing stock for individuals and families described in paragraph (1), an applicant shall be a collaborative applicant as described in this subtitle, a private nonprofit or for profit organization, a public-private partnership, a public housing agency, or an instrumentality of a State or local government.

''(4) LOCATION.—To the extent practicable, a collaborative applicant that receives a grant under this subtitle to create new permanent housing stock shall ensure that the housing is located in a mixed-income environment.

''(5) DEFINITION.—In this subsection, the term 'nondisabled homeless family' means a homeless family that does not have an adult head of household with a disabling condition, as defined in section 401(1)(B).

''(f) REPAYMENT OF ASSISTANCE AND PREVENTION OF UNDUE BENEFITS.—

''(1) REPAYMENT.—If a recipient (or a project sponsor receiving funds from the recipient) receives assistance under section 422 to carry out a project that consists of activities described in paragraph (1) or (2) of subsection (a) and the project ceases to provide transitional or permanent housing—

''(A) earlier than 10 years after operation of the project begins, the Secretary shall require the recipient (or the project sponsor receiving funds from the recipient) to repay 100 percent of the assistance; or

''(B) not earlier than 10 years, but earlier than 15 years, after operation of the project begins, the Secretary shall require the recipient (or the project sponsor receiving funds from the recipient) to repay 20 percent of the assistance for each of the years in the 15-year period for which the project fails to provide that housing.

''(2) PREVENTION OF UNDUE BENEFITS.—Except as provided in paragraph (3), if any property is used for a project that receives assistance under subsection (a) and consists of activities described in paragraph (1) or (2) of subsection (a), and the sale or other disposition of the property occurs before the expiration of the 15-year period beginning on the date that operation of the project begins, the recipient (or the project sponsor receiving funds from the recipient) who received the assistance shall comply with such terms and conditions as the Secretary may prescribe to prevent the recipient (or a project sponsor receiving funds from the recipient) from unduly benefitting from such sale or disposition.

''(3) EXCEPTION.—A recipient (or a project sponsor receiving funds from the recipient) shall not be required to make the repayments, and comply with the terms and conditions, required under paragraph (1) or (2) if—

''(A) the sale or disposition of the property used for the project results in the use of the property for the direct benefit of very low-income persons; or

''(B) all of the proceeds of the sale or disposition are used to provide transitional or permanent housing meeting the requirements of this subtitle.'';

(3) in section 425 (42 U.S.C. 11385), by striking subsection (c) and inserting the following:

''(c) SERVICES.—Subject to section 423(a)(6), supportive services may include such services as—

''(1) establishing and operating a child care services program for families experiencing homelessness;

''(2) establishing and operating an employment assistance program, including providing job training;

''(3) providing outpatient health services, food, and case management;

''(4) providing assistance in obtaining permanent housing, employment counseling, and nutritional counseling;

''(5) providing outreach services, life skills training, and housing search and counseling services;

''(6) providing assistance in obtaining other Federal, State, and local assistance available for residents of supportive housing (including mental health benefits, employment counseling, and medical assistance, but not including major medical equipment);

''(7) providing legal services for purposes including requesting reconsiderations and appeals of veterans and public benefit claim denials and resolving outstanding warrants that interfere with an individual's ability to obtain and retain housing;

''(8) providing—

''(A) transportation services that facilitate an individual's ability to obtain and maintain employment;

''(B) income assistance;

''(C) health care; and

''(D) other supportive services necessary to obtain and maintain housing; and

''(9) providing other services determined by the Secretary (either at the Secretary's initiative or on the basis of adequate justification by an applicant) to be directly relevant to allowing persons experiencing homelessness to access and retain housing.'';

(4) in section 426 (42 U.S.C. 11386)—

(A) in subsection (a)—

(i) in paragraph (1), by striking ''Applications'' and all that follows through ''shall'' and inserting ''Applications for assistance under section 422 shall'';

(ii) in paragraph (2)—

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

''(B) a description of the size and characteristics of the population that would occupy housing units or receive supportive services assisted under this subtitle;''; and

(II) in subparagraph (E), by striking ''in the case of projects assisted under this title that do not receive assistance under such sections,''; and

(iii) in paragraph (3), in the last sentence, by striking ''recipient'' and inserting ''recipient (or a project sponsor receiving funds from the recipient)'';

(B) by striking subsections (b) and (c) and inserting:

''(b) SELECTION CRITERIA.—The Secretary shall award funds to collaborative applicants, and other eligible applicants that have been approved by the Secretary, by a national competition based on criteria established by the Secretary, which shall include—

''(1) the capacity of the applicant based on the past performance and management of the applicant;

''(2) if applicable, previous performance regarding homelessness prevention, housing, and services programs funded in any fiscal year prior to the date of submission of the application;

''(3) the plan by which—

''(A) access to appropriate permanent housing will be secured if the proposed project does not include permanent housing; and

''(B) access to outcome-effective supportive services will be secured for residents or consumers involved in the project who are willing to use the services;

''(4) if applicable, the extent to which an evaluation for the project will—

''(A) use periodically collected information and analysis to determine whether the project has resulted in enhanced stability and well-being of the residents or consumers served by the project;

''(B) include evaluations obtained directly from the individuals or families served by the project; and

''(C) be submitted by the project sponsors for the grant, to the collaborative applicant, for review and use in assessments, conducted by the collaborative applicant, consistent with the duty of the collaborative applicant to ensure effective outcomes that contribute to the goal of preventing and ending homelessness in the geographic area served by the collaborative applicant;

''(5) the need for the type of project proposed in the geographic area to be served and the extent to which prioritized programs meet unmet needs;

''(6) the extent to which the amount of assistance to be provided under this subtitle will be supplemented with resources from other public and private sources, including mainstream programs identified by the Government Accountability Office in the 2 reports described in section 102(a)(5)(B);

''(7) demonstrated coordination with the other Federal, State, local, private, and other entities serving individuals experiencing homelessness in the planning and operation of projects, to the extent practicable;

''(8) the extent to which the membership of the collaborative applicant involved represents the composition described in section 402(b) and the extent of membership involvement in the application process; and

''(9) such other factors as the Secretary determines to be appropriate to carry out this subtitle in an effective and efficient manner.

''(c) REQUIRED AGREEMENTS.—The Secretary may not provide assistance for a proposed project under this subtitle unless the collaborative applicant involved agrees—

''(1) to ensure the operation of the project in accordance with the provisions of this subtitle;

''(2) to conduct an ongoing assessment of access to mainstream programs referred to in subsection (b)(4);

''(3) to monitor and report to the Secretary the progress of the project;

''(4) to develop and implement procedures to ensure—

''(A) the confidentiality of records pertaining to any individual provided family violence prevention or treatment services through the project; and

''(B) that the address or location of any family violence shelter project assisted under this subtitle will not be made public, except with written authorization of the person responsible for the operation of such project;

''(5) to ensure, to the maximum extent practicable, that individuals and families experiencing homelessness are involved, through employment, provision of volunteer services, or otherwise, in constructing, rehabilitating, maintaining, and operating facilities for the project and in providing supportive services for the project;

''(6) if a collaborative applicant receives funds under subtitle C to carry out the payment of administrative costs described in section 423(a)(7), to establish such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursal of, and accounting for, such funds in order to ensure that all financial transactions carried out with such funds are conducted, and records maintained, in accordance with generally accepted accounting principles; and

''(7) to comply with such other terms and conditions as the Secretary may establish to carry out this subtitle in an effective and efficient manner.'';

(C) in subsection (d), in the first sentence, by striking ''recipient'' and inserting ''recipient or project sponsor'';

(D) by striking subsection (e);

(E) by redesignating subsections (f), (g), and (h), as subsections (e), (f), and (g), respectively;

(F) in subsection (f) (as redesignated in subparagraph (E)), in the first sentence, by striking ''recipient'' each place it appears and inserting ''recipient or project sponsor'';

(G) by striking subsection (i); and

(H) by redesignating subsection (j) as subsection (h);

(5)(A) by repealing section 429 (42 U.S.C. 11389); and

(B) by redesignating sections 427 and 428 (42 U.S.C. 11387, 11388) as sections 431 and 432, respectively; and

(6) by inserting after section 426 the following:

''SEC. 427. ALLOCATION AMOUNTS AND INCENTIVES FOR SPECIFIC ELIGIBLE ACTIVITIES.

''(a) PURPOSE.—The Secretary shall promote—

''(1) permanent housing development activities for—

''(A) homeless individuals with disabilities and homeless families that include such an individual; and

''(B) nondisabled homeless families; and

''(2) prevention activities described in section 423(a)(8).

''(b) DEFINITION.—In this section, the term 'nondisabled homeless family' means a homeless family that does not include a homeless individual with a disability.

''(c) ANNUAL PORTION OF APPROPRIATED AMOUNT AVAILABLE.—

''(1) DISABLED HOMELESS INDIVIDUALS AND FAMILIES.—

''(A) IN GENERAL.—From the amount made available to carry out this subtitle for a fiscal year, a portion equal to not less than 30 percent of the sums made available to carry

out subtitle B and this subtitle for that fiscal year shall be used for activities to develop new permanent housing, in order to help create affordable permanent housing for homeless individuals with disabilities and homeless families that include such an individual who is an adult.

''(B) CALCULATION.—In calculating the portion of the amount described in subparagraph (A) that is used for activities described in subparagraph (A), the Secretary shall not count funds made available to renew contracts for existing projects (in existence as of the date of the renewal) under section 428.

''(2) PREVENTION ACTIVITIES.—From the amount made available to carry out this subtitle for a fiscal year, a portion equal to not more than 5 percent of the sums described in paragraph (1) shall be used for prevention activities described in section 423(a)(8).

''(d) FUNDING FOR ACQUISITION, CONSTRUCTION, AND REHABILITATION OF PERMANENT OR TRANSITIONAL HOUSING.—Nothing in this Act shall be construed to establish a limit on the amount of funding that an applicant may request under this subtitle for acquisition, construction, or rehabilitation activities for the development of permanent housing or transitional housing.

''SEC. 428. RENEWAL FUNDING AND TERMS OF ASSISTANCE FOR PERMANENT HOUSING.

''(a) IN GENERAL.—Of the total amount available for use in connection with this subtitle, such sums as may be necessary shall be designated for the purpose of renewing expiring contracts for permanent housing, within the account referred to as the 'Homeless Assistance Grants Account' on the date of enactment of the Community Partnership to End Homelessness Act of 2005.

''(b) RENEWALS.—Such sums shall be available for the renewal of contracts for a 1-year term for rental assistance and housing operation costs associated with permanent housing projects funded under this subtitle, or under subtitle C or F (as in effect on the day before the date of enactment of the Community Partnership to End Homelessness Act of 2005). The Secretary shall determine whether to renew a contract for such a permanent housing project on the basis of demonstrated need for the project and the compliance of the entity carrying out the project with appropriate standards of housing quality and habitability as determined by the Secretary.

''(c) CONSTRUCTION.—Nothing in this section shall be construed as prohibiting the Secretary from renewing contracts under this subtitle in accordance with criteria set forth in a provision of this subtitle other than this section.

''SEC. 429. MATCHING FUNDING.

''(a) IN GENERAL.—A recipient of a grant (including a renewed grant) under this subtitle shall make available contributions, in cash, in an amount equal to not less than 25 percent of the Federal funds provided under the grant.

''(b) APPLICATION.—Subsection (a) shall not apply in the case of a grant for activities consisting of the payment of operating costs associated with permanent housing renewal grants described in section 428 that fund the operation of permanent housing—

''(1) for individuals or families whose incomes are 50 percent or less of the median income for an individual or family, respectively, in the geographic area involved; and

''(2) that receives no Federal or State funds from a source other than this subtitle.

''SEC. 430. APPEAL PROCEDURE.

''(a) IN GENERAL.—With respect to funding under this subtitle, if certification of consistency with the Consolidated Plan pursuant to section 403 is withheld from an applicant who has submitted an application for that certification, such applicant may appeal such decision to the Secretary.

''(b) PROCEDURE.—The Secretary shall establish a procedure to process the appeals described in subsection (a).

''(c) DETERMINATION.—Not later than 45 days after the date of receipt of an appeal described in subsection (a), the Secretary shall determine if certification was unreasonably withheld. If such certification was unreasonably withheld, the Secretary shall review such application and determine if such applicant shall receive funding under this subtitle.''.

SEC. 7. REPEALS AND CONFORMING AMENDMENTS.

(a) REPEALS.—Subtitles D, E, F, and G of title IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11391 et seq., 11401 et seq., 11403 et seq., and 11408 et seq.) are repealed.

(b) CONFORMING AMENDMENTS.—

(1) UNITED STATES INTERAGENCY COUNCIL ON HOMELESSNESS.—Section 2066(b)(3)(F) of title 38, United States Code and section 506(a) of the Public Health Service Act (42 U.S.C. 290aa–5(a)) are amended by striking ''Interagency Council on the Homeless'' and inserting ''United States Interagency Council on Homelessness''.

(2) CONSOLIDATED PLAN.—Section 403(1) of the McKinney-Vento Homeless Assistance Act, as redesignated in section 4(2), is amended—

(A) by striking ''current housing affordability strategy'' and inserting ''Consolidated Plan''; and

(B) by inserting before the comma the following: ''(referred to in that section as a 'comprehensive housing affordability strategy')''.

(3) PERSONS EXPERIENCING HOMELESSNESS.—Section 103 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11302) is amended by adding at the end the following:

''(d) PERSONS EXPERIENCING HOMELESSNESS.—References in this Act to homeless individuals (including homeless persons) or homeless groups (including the homeless) shall be considered to include, and to refer to, individuals experiencing homelessness or groups experiencing homelessness, respectively.''.

SEC. 8. EFFECTIVE DATE.

This Act shall take effect 6 months after the date of enactment of this Act.

Mr. BOND. Mr. President, I rise today to express my support for the Community Partnership to End Homeless Act of 2005. I am proud to be an original co-sponsor of this legislation because I believe that this bill will greatly assist the Nation's efforts on ending the long-standing tragedy of homelessness. I applaud the hard work of the chairman and ranking member of the Senate Banking Committee's Housing and Transportation Subcommittee, Senators ALLARD and REED for developing this important legislation.

As a former member of the Banking Committee, former chair of the VA-HUD and Independent Agencies Appropriations Subcommittee, and now the current chair of the Transportation, Treasury, the Judiciary, HUD, and Related Agencies (TTHUD) Appropriations Subcommittee, the issue of homelessness has been one of my main priorities. During my tenure on those subcommittees, I have learned a great deal about the causes of homelessness. The causes are varied ranging from the lack of affordable housing to mental or physical ailments to unforeseen economic problems.

The good news is that since the Congress first created the McKinney-Vento Homeless Assistance Act in 1987, there has been a great deal of research on homelessness and new approaches have been developed to solve homelessness. The most significant finding is the importance of permanent housing in ending homelessness. Due to this finding, I included a provision in the fiscal year 1999 VA–HUD and Independent Agencies Appropriations Act that required HUD to spend at least 30 percent of the homeless assistance grant funds on permanent housing.

Re-focusing HUD on permanent housing was something that senators on both sides of the aisle strongly and rightfully support. The 30 percent permanent housing set-aside requirement was established because HUD was not producing enough housing for homeless people. This was a problem because HUD is the only federal agency that provides permanent housing.

By 1998, just prior to the enactment of the 30 percent set-aside, only 13 percent of HUD homeless grant funds were being spent on permanent housing. Therefore, the 30 percent set-aside was created to re-balance HUD's homeless programs so that permanent housing was being provided. And, the set-aside has not hurt funding for supportive services since we have continually increased the HUD homeless account and the Administration has worked with other agencies, such as HHS and VA, to ensure that they are providing services to homeless people. In the Senate's fiscal year 2006 TTHUD bill, we have provided a $174 million increase over fiscal year 2005 for the HUD homeless account.

The focus on permanent housing was backed by sound research that demonstrated the cost-effectiveness of this approach. By focusing on permanent housing and especially those who were chronically homeless, HUD's programs became correctly focused on those most needy of this assistance, such as disabled homeless veterans. For those reasons, I am extremely pleased and supportive of the bill's provision that requires HUD to use at least 30 percent of funds for permanent housing activities. This provision is probably the most important piece of this legislation.

In addition to the permanent housing requirement, I strongly support the bill's provisions that require outcome-based performance evaluations, promote access to mainstream resources for supportive services, and consolidate HUD's competitive grant programs. I especially support the bill's efforts to encourage localities and grantees to participate and use the Homeless Management Information System (HMIS), which was initiated by Senator MIKULSKI and me in the fiscal year 2001 VA-HUD and Independent Appropriations Act. I am proud that the vast majority

of continuum-of-care grantees have implemented the HMIS. This system is absolutely critical for developing an unduplicated count of homeless people and an analysis of their patterns of use of federal assistance programs.

This is a strong bill supported by members on both sides of the aisle. I hope that the Senate and the Congress can pass important legislation because this bill will help eliminate the tragedy of homelessness. I urge my colleagues to support this bill.

By Mr. ENZI:

S. 1802. All to provide for appropriate waivers, suspensions, or exemptions from provisions of title I of the Employee Retirement Income Security Act of 1974 with respect to individual account plans affected by Hurricane Katrina or Rita; read the first time.

Mr. ENZI. Mr. President I rise to introduce the Pension Flexibility in Natural Disasters Act of 2005. The bill provides appropriate waivers, suspensions or exemptions from the provisions of title I of the Employee Retirement Income Security Act of 1974, as amended, with respect to individual account plans affected by Hurricane Katrina or Rita.

Hurricanes Katrina and Rita have brought terrible devastation in the gulf coast. Not only have so many homes in Louisiana, Mississippi, Alabama and Texas been destroyed but many businesses have been destroyed as well.

Any business that maintains a pension or retirement plan for their workers is subject to certain reporting, disclosure and fiduciary provisions of ERISA as well as being subject to the pertinent provisions of the Internal Revenue Code. ERISA sets up many requirements and deadlines that businesses simply cannot meet due to the devastation of their businesses and the destruction of all of their records.

This bill postpones reporting requirements for businesses that have been adversely affected by storms in these presidentially-declared disaster areas. It also will facilitate getting individuals access to their retirement savings in the form of hardship loans or distributions by allowing plan fiduciaries flexibility in making those distributions in view of these terrible disasters.

I hope my colleague will join me in supporting this important bill.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

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

S. 1802

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 ''Pension Flexibility in Natural Disasters Act of 2005''.

SEC. 2. AUTHORITY TO THE SECRETARY OF LABOR, SECRETARY OF THE TREASURY, AND THE PENSION BENEFIT GUARANTY CORPORATION.

The Secretary of Labor, the Secretary of the Treasury, and the Executive Director of the Pension Benefit Guaranty Corporation shall exercise their authority under section 518 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1148) and section 7508A of the Internal Revenue Code of 1986 to postpone certain deadlines by reason of the Presidentially declared disaster areas in Louisiana, Mississippi, Alabama, Texas, and elsewhere, due to the effect of Hurricane Katrina or Rita. The Secretaries and the Executive Director of the Corporation shall issue guidance as soon as is practicable to plan sponsors and participants regarding extension of deadlines and rules applicable to these extraordinary circumstances. Nothing in this section shall be construed to relieve any plan sponsor from any requirement to pay benefits or make contributions under the plan of the sponsor.

SEC. 3. AUTHORITY TO PRESCRIBE GUIDANCE BY REASON OF THE PRESIDENTIALLY DECLARED DISASTER CAUSED BY HURRICANE KATRINA OR RITA.

(a) WAIVERS, SUSPENSIONS, OR EXEMPTIONS.—In the case of any pension plan which is an individual account plan, or any participant or beneficiary, plan sponsor, administrator, fiduciary, service provider, or other person with respect to such plan, affected by Hurricane Katrina or Rita, or any service provider or other person dealing with such plan, the Secretary of Labor may, notwithstanding any provision of title I of the Employee Retirement Income Security Act of 1974, prescribe, by notice or otherwise, a waiver, suspension, or exemption from any provision of such title which is under the regulatory authority of such Secretary, or from regulations issued under any such provision, that such Secretary determines appropriate to facilitate the distribution or loan of assets from such plan to participants and beneficiaries of such plan.

(b) EXEMPTION FROM LIABILITY FOR ACTS OR OMISSIONS COVERED BY WAIVER, SUSPENSION, OR EXEMPTION.—No person shall be liable for any violation of title I of the Employee Retirement Income Security Act of 1974, or of any regulations issued under such title, based upon any act or omission covered by a waiver, suspension, or exemption issued under subsection (a) if such act or omission is in compliance with the terms of the waiver, suspension, or exemption.

(c) PLAN TERMS SUBJECT TO WAIVER, SUSPENSION, OR EXEMPTION.—Notwithstanding any provision of the plan to the contrary and to the extent provided in any waiver, suspension, or exemption issued by the Secretary of Labor pursuant to subsection (a), no plan shall be treated as failing to be operated in accordance with its terms solely as a result of acts or omissions which are consistent with such waiver, suspension, or exemption.

(d) EXPIRATION OF AUTHORITY.—This section shall apply only with respect to waivers, suspensions, or exemptions issued by the Secretary of Labor during the 1-year period following the date of the enactment of this Act.

(e) DEFINITIONS.—Terms used in this section shall have the meanings provided such terms in section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002).

SEC. 4. AUTHORITY IN THE EVENT OF PRESIDENTIALLY DECLARED DISASTER OR TERRORISTIC OR MILITARY ACTIONS.

Section 518 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1148) is amended by inserting '', under any regulation issued thereunder, or under any plan provision'' after ''under this Act''.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 260—CALLING FOR FREE AND FAIR PARLIAMENTARY ELECTIONS IN THE REPUBLIC OF AZERBAIJAN

Mr. BIDEN (for himself, Mr. MCCAIN, Mr. HAGEL, Mr. LUGAR, and Mr. BROWNBACK) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 260

Whereas the Republic of Azerbaijan is scheduled to hold elections for its parliament, the Milli Majlis, in November 2005;

Whereas Azerbaijan has enjoyed a strong relationship with the United States since its independence from the former Soviet Union in 1991;

Whereas international observers monitoring Azerbaijan's October 2003 presidential election found that the pre-election, election day, and post-election environments fell short of international standards;

Whereas the International Election Observation Mission (IEOM) in Baku, Azerbaijan, deployed by the Organization for Security and Cooperation in Europe (OSCE) and the Council of Europe, found that there were numerous instances of violence by both members of the opposition and government forces;

Whereas the international election observers also found inequality and irregularities in campaign and election conditions, including intimidation against opposition supporters, restrictions on political rallies by opposition candidates, and voting fraud;

Whereas Azerbaijan freely accepted a series of commitments on democracy, human rights, and the rule of law when that country joined the OSCE as a participating State in 1992;

Whereas, following the 2003 presidential election, the Council of Europe adopted Resolution 1358 (2004) demanding that the Government of Azerbaijan immediately implement a series of steps that included the release of political prisoners, investigation of election fraud, and the creation of public service television to allow all political parties to better communicate with the people of Azerbaijan;

Whereas, since the 2003 presidential election, the Government of Azerbaijan has taken some positive steps by releasing some political prisoners and working to create public service television;

Whereas the United States supports the promotion of democracy and transparent, free, and fair elections consistent with the commitments of Azerbaijan as a participating State of the OSCE;

Whereas the United States is working with the Government of Azerbaijan, the political opposition, civil society, the OSCE, the Council of Europe, and other countries to strengthen the electoral process of Azerbaijan through diplomatic efforts and nonpartisan assistance programs, including support for international and domestic election observers, voter education and election information initiatives, training for candidates and political parties, and training for judges and lawyers on the adjudication of election disputes;

Whereas the Government of the United States has awarded a contract to conduct exit polling throughout Azerbaijan;

Whereas a genuinely free and fair election requires that citizens be guaranteed the right and opportunity to exercise their civil and political rights, free from intimidation, undue influence, threats of political retribution, or other forms of coercion by national or local authorities or others;

Whereas a genuinely free and fair election requires government and public authorities to ensure that candidates and political parties enjoy equal treatment before the law and that government resources are not employed to the advantage of individual candidates or political parties; and

Whereas the establishment of a transparent, free and fair election process for the 2005 parliamentary elections is an important step in Azerbaijan's progress toward full integration into the democratic community of nations: Now, therefore, be it

Resolved, That the Senate—

(1) calls on the Government of the Republic of Azerbaijan to hold orderly, peaceful, and free and fair parliamentary elections in November 2005 in order to ensure the long-term growth and stability of the country;

(2) calls upon the Government of Azerbaijan to guarantee the full participation of opposition parties in the upcoming elections, including members of opposition parties arrested in the months leading up to the November 2005 parliamentary elections;

(3) calls upon the opposition parties to fully and peacefully participate in the November 2005 parliamentary elections, and calls upon the Government of Azerbaijan to create the conditions for the participation on equal grounds of all viable candidates;

(4) believes it is critical that the November 2005 parliamentary elections be viewed by the people of Azerbaijan as free and fair, and that all sides refrain from violence during the campaign, on election day, and following the election;

(5) calls upon the Government of Azerbaijan to guarantee election monitors from the Office for Democratic Institutions and Human Rights of the Organization for Security and Cooperation in Europe (OSCE), Azeri political parties, representatives of candidates, nongovernmental organizations, and other private institutions and organizations, both foreign and domestic, unimpeded access to all aspects of the election process;

(6) supports recommendations made by the Council of Europe on amendments to the Unified Election Code of Azerbaijan, specifically to ensure equitable representation of opposition and pro-government forces in all election commissions;

(7) urges the international community and domestic nongovernmental organizations to provide a sufficient number of election observers to ensure credible monitoring and reporting of the November 2005 parliamentary elections;

(8) recognizes the need for the establishment of an independent media and assurances by the Government of Azerbaijan that freedom of the press will be guaranteed; and

(9) calls upon the Government of Azerbaijan to guarantee freedom of speech and freedom of assembly.

SENATE RESOLUTION 261—EXPRESSING THE SENSE OF THE SENATE THAT THE CRISIS OF HURRICANE KATRINA SHOULD NOT BE USED TO WEAKEN, WAIVE, OR ROLL BACK FEDERAL PUBLIC HEALTH, ENVIRONMENTAL, AND ENVIRONMENTAL JUSTICE LAWS AND REGULATIONS, AND FOR OTHER PURPOSES

Mr. KERRY (for himself, Mr. DURBIN, Mr. REID, Mr. OBAMA, Mrs. BOXER, and Mr. JEFFORDS) submitted the following resolution; which was referred to the Committee on Environment and Public Works:

S. RES. 261

Whereas Hurricane Katrina made landfall in the Gulf Region on August 29, 2005, destroying property, causing massive floods, and resulting in more than $35,000,000,000 in insured property losses and over 1,000 deaths;

Whereas expeditiously rebuilding those areas affected by Hurricane Katrina and providing the victims of the storm with normalcy and relief must be the top priorities for Congress;

Whereas Secretary of Homeland Security Michael Chertoff recently commented, ''We are going to have to clean probably the greatest environmental mess we have ever seen in the country as a result of Hurricane Katrina'';

Whereas Hurricane Katrina demonstrates the connection between the health and safety of communities and the health of natural resources;

Whereas many of the hardest hit areas in New Orleans and the Gulf Coast from Hurricane Katrina were low-income and minority communities already facing decades of environmental injustices;

Whereas at least 9 major oil spills, and scores of smaller oil and hazardous substance spills, leaks, and other releases have occurred;

Whereas 60 underground storage tanks, hazardous waste storage facilities, and industrial facilities, and 5 Superfund sites in New Orleans were hit by Hurricane Katrina, yet monitoring reported to date has only been conducted at a handful of sites for a limited number of contaminants;

Whereas nearly 1,000 drinking-water systems were disabled or impaired because of power outages or structural damage, many people have been told to boil their water, and safe drinking water may not be available for the entire population for years to come;

Whereas the Environmental Protection Agency's initial water quality tests found that flood water in New Orleans contains 10 times more E. Coli bacteria than the Agency considers safe for human contact and lead concentrations that exceed drinking water standards, and the mix of contaminants poses a serious disease risk to those wading through the filthy water;

Whereas proper implementation and enforcement of Federal public health and environmental regulations are necessary to protect human health, especially among vulnerable populations, and are necessary in times of emergency to ensure that the response to a disaster does not exacerbate the initial impact;

Whereas major industrial facilities and toxic waste sites disproportionately impact low-income individuals, minorities, children, the elderly, and all underserved communities;

Whereas more than 1 in 4 Americans, including 10,000,000 children, live within 4 miles of a Superfund site, which poses serious public health issues when sites are not cleaned up adequately and in a timely manner;

Whereas the health of low-income and minority communities continues to suffer, largely because of the cumulative impact of all sources of pollution on public health in the acute impact area and the failure to consider cumulative impacts upon siting of new industrial facilities and cleanup of existing toxic communities;

Whereas the addition of poor environmental protection and enforcement to existing health vulnerabilities has only exacerbated the conditions in these communities, which often suffer from higher rates of illness and death in comparison with middle-class, suburban, and more affluent communities;

Whereas Federal public health and environmental laws provide many opportunities to address environmental risks and hazards in minority and low-income communities if applied and implemented;

Whereas Executive Order 12898 states that each Federal agency shall make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority and low-income populations;

Whereas in 2005, the Congress passed and President Bush signed into law (Public Law 109–54) language prohibiting the Environmental Protection Agency from using appropriated funds to work in contravention of Executive Order 12898 and further delay the implementation of this Order, which is critical to achieving environmental and health equity across all community lines;

Whereas environmental cleanup of affected areas must be done in an effective and timely manner to ensure the victims of Hurricane Katrina can return to their homes without enduring preventable environmental or health risks; and

Whereas weakening, waiving, and rolling back Federal public health and environmental protections would further threaten the heavily-damaged area of the Gulf Coast, negatively impact the public health of the already most-affected communities, and put public health and the environment at greater future risk at the expense of all communities: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the crisis of Hurricane Katrina and other such disasters should not be used to weaken, waive, or roll back Federal public health, environmental, and environmental justice laws and regulations;

(2) State, local, and regional authorities must retain their authority for compliance and permitting of industrial and other facilities, and their role in enforcing and implementing monitoring and cleanup regulations;

(3) testing, monitoring, cleanup, and recovery in the region hit by Hurricane Katrina and other areas of national emergency—

(A) should be completed in a manner designed to protect public health and the environment and ensure habitability of the region and mitigate against the effects of future storms; and

(B) should be carried out in compliance with Executive Order 12898; and

(4) the Federal rebuilding of communities and the economy of the Gulf Region should be a model of the integrated, diverse, and sustainable society that all people in the United States desire and deserve.

SENATE CONCURRENT RESOLUTION 55—EXPRESSING THE SENSE OF THE CONGRESS REGARDING THE CONDITIONS FOR THE UNITED STATES TO BECOME A SIGNATORY TO ANY MULTILATERAL AGREEMENT ON TRADE RESULTING FROM THE WORLD TRADE ORGANIZATION'S DOHA DEVELOPMENT AGENDA ROUND

Mr. CRAIG (for himself, Mr. ROCKEFELLER, Mr. HATCH, Mr. BAUCUS, Ms. SNOWE, Mr. BINGAMAN, Mr. CRAPO, Mrs. LINCOLN, Mr. DEWINE, Mr. REED, Mr. ALLEN, Mr. KOHL, Mr. SPECTER, Mr. LEVIN, Mr. VOINOVICH, Mr. BYRD, Mrs. DOLE, Ms. MIKULSKI, Mr. SHELBY, Ms.

COLLINS, Mr. SARBANES, Mr. GRAHAM, Mr. REID, Mr. COLEMAN, Ms. STABENOW, Mr. SANTORUM, and Mr. DURBIN) submitted the following concurrent resolution; which was referred to the Committee on Finance:

S. CON. RES. 55

Whereas members of the World Trade Organization (WTO) are currently engaged in a round of trade negotiations known as the Doha Development Agenda (Doha Round);

Whereas the Doha Round includes negotiations aimed at clarifying and improving disciplines under the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 (Antidumping Agreement) and the Agreement on Subsidies and Countervailing Measures (Subsidies Agreement);

Whereas the WTO Ministerial Declaration adopted on November 14, 2001 (WTO Paper No. WT/MIN(01)/DEC/1) specifically provides that the Doha Round negotiations are to preserve the ''basic concepts, principles and effectiveness'' of the Antidumping Agreement and the Subsidies Agreement;

Whereas in section 2102(b)(14)(A) of the Bipartisan Trade Promotion Authority Act of 2002, the Congress mandated that the principal negotiating objective of the United States with respect to trade remedy laws was to ''preserve the ability of the United States to enforce rigorously its trade laws . . . and avoid agreements that lessen the effectiveness of domestic and international disciplines on unfair trade, especially dumping and subsidies'';

Whereas the countries that have been the most persistent and egregious violators of international fair trade rules are engaged in an aggressive effort to significantly weaken the disciplines provided in the Antidumping Agreement and the Subsidies Agreement and undermine the ability of the United States to effectively enforce its trade remedy laws;

Whereas chronic violators of fair trade disciplines have put forward proposals that would substantially weaken United States trade remedy laws and practices, including mandating that unfair trade orders terminate after a set number of years even if unfair trade and injury are likely to recur, mandating that trade remedy duties reflect less than the full margin of dumping or subsidization, mandating higher de minimis levels of unfair trade, making cumulation of the effects of imports from multiple countries more difficult in unfair trade investigations, outlawing the critical practice of ''zeroing'' in antidumping investigations, mandating the weighing of causes, and mandating other provisions that make it more difficult to prove injury;

Whereas United States trade remedy laws have already been significantly weakened by numerous unjust and activist WTO dispute settlement decisions which have created new obligations to which the United States never agreed;

Whereas trade remedy laws remain a critical resource for American manufacturers, agricultural producers, and aquacultural producers in responding to closed foreign markets, subsidized imports, and other forms of unfair trade, particularly in the context of the challenges currently faced by these vital sectors of the United States economy;

Whereas the United States had a current account trade deficit of approximately $668,000,000,000 in 2004, including a trade deficit of almost $162,000,000,000 with China alone, as well as a trade deficit of $40,000,000,000 in advanced technology;

Whereas United States manufacturers have lost over 3,000,000 jobs since June 2000, and United States manufacturing employment is currently at its lowest level since 1950;

Whereas many industries critical to United States national security are at severe risk from unfair foreign competition; and

Whereas the Congress strongly believes that the proposals put forward by countries seeking to undermine trade remedy disciplines in the Doha Round would result in serious harm to the United States economy, including significant job losses and trade disadvantages: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that—

(1) the United States should not be a signatory to any agreement or protocol with respect to the Doha Development Round of the World Trade Organization negotiations, or any other bilateral or multilateral trade negotiations, that—

(A) adopts any proposal to lessen the effectiveness of domestic and international disciplines on unfair trade or safeguard provisions, including proposals—

(i) mandating that unfair trade orders terminate after a set number of years even if unfair trade and injury are likely to recur;

(ii) mandating that trade remedy duties reflect less than the full margin of dumping or subsidization;

(iii) mandating higher de minimis levels of unfair trade;

(iv) making cumulation of the effects of imports from multiple countries more difficult in unfair trade investigations;

(v) outlawing the critical practice of ''zeroing'' in antidumping investigations; or

(vi) mandating the weighing of causes or other provisions making it more difficult to prove injury in unfair trade cases; and

(B) would lessen in any manner the ability of the United States to enforce rigorously its trade laws, including the antidumping, countervailing duty, and safeguard laws;

(2) the United States trade laws and international rules appropriately serve the public interest by offsetting injurious unfair trade, and that further ''balancing modifications'' or other similar provisions are unnecessary and would add to the complexity and difficulty of achieving relief against injurious unfair trade practices; and

(3) the United States should ensure that any new agreement relating to international disciplines on unfair trade or safeguard provisions fully rectifies and corrects decisions by WTO dispute settlement panels or the Appellate Body that have unjustifiably and negatively impacted, or threaten to negatively impact, United States law or practice, including a law or practice with respect to foreign dumping or subsidization.

AMENDMENTS SUBMITTED AND PROPOSED

SA 1882. Mr. CONRAD (for himself and Mr. DORGAN) submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table.

SA 1883. Mr. CONRAD (for himself, Mr. BAUCUS, Mr. SALAZAR, Mr. ENZI, Mr. THOMAS, and Mr. BURNS) submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table.

SA 1884. Mr. THUNE submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1885. Mr. MARTINEZ submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1886. Mr. HARKIN (for himself, Mr. OBAMA, Mr. REID, Mr. KENNEDY, Mr. DURBIN, Mr. BAYH, Mr. DODD, Mr. SCHUMER, Mr. REED, Mr. BIDEN, Mr. STEVENS, and Mrs. MURRAY) proposed an amendment to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes.

SA 1887. Mr. SALAZAR submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 1888. Mr. SALAZAR (for himself, Mr. REED, and Mr. LIEBERMAN) submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 1889. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 1890. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 1891. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 1892. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 1893. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 1894. Mr. STEVENS (for Mr. GRASSLEY (for himself and Mr. BAUCUS)) proposed an amendment to the bill S. 1778, to extend medicare cost-sharing for qualifying individuals through September 2006, to extend the Temporary Assistance for Needy Families Program, transitional medical assistance under the Medicaid Program, and related programs through March 31, 2006, and for other purposes.

SA 1895. Mr. BINGAMAN (for himself and Mr. DOMENICI) submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table.

SA 1896. Mr. DAYTON submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 1897. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table.

SA 1898. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1899. Mr. AKAKA submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30 2006, and for other purposes; which was ordered to lie on the table.

SA 1900. Mr. SALAZAR submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 1901. Mr. LEAHY (for himself, Mr. BOND, Mr. TALENT, and Ms. LANDRIEU) proposed an amendment to the bill H.R. 2863, supra.

SA 1902. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table.

SA 1903. Mr. SALAZAR submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30 2006, and for other purposes; which was ordered to lie on the table.

SA 1904. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 1905. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 1906. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 1907. Mr. DEWINE submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table.

SA 1908. Mr. DURBIN (for himself, Ms. MIKULSKI, Mr. CORZINE, Mr. SALAZAR, Mrs. MURRAY, Mr. LAUTENBERG, Mr. BIDEN, Mr. NELSON of Florida, Mr. BINGAMAN, Mr. CHAFEE, and Mr. KERRY) proposed an amendment to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes.

SA 1909. Ms. SNOWE (for herself and Ms. COLLINS) submitted an amendment intended to be proposed by her to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 1910. Mr. ALEXANDER submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 1911. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 1912. Mr. BAYH submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table.

SA 1913. Mr. BAYH submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30 2006, and for other purposes; which was ordered to lie on the table.

SA 1914. Mr. NELSON, of Florida submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 1915. Mr. NELSON, of Florida submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 1916. Mr. NELSON, of Florida submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 1917. Mr. NELSON, of Florida submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 1918. Mr. NELSON, of Florida submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 1919. Mr. NELSON, of Florida submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 1920. Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 1882. Mr. CONRAD (for himself and Mr. DORGAN) submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in title IX, insert the following:

SEC. . (a) ADDITIONAL AMOUNT FOR AIRCRAFT PROCUREMENT, AIR FORCE.—The amount appropriated by this title under the heading ''AIRCRAFT PROCUREMENT, AIR FORCE'' is hereby increased by $218,500,000.

(b) AVAILABILITY OF AMOUNT.—Of the amount appropriated by this title under the heading ''AIRCRAFT PROCUREMENT, AIR FORCE'', as increased by subsection (a), $218,500,000 shall be available for purposes as follows:

(1) Procurement of Predator MQ–1 air vehicles, initial spares, and RSP kits.

(2) Procurement of Containerized Dual Control Station Launch and Recovery Elements.

(3) Procurement of a Fixed Ground Control Station.

(4) Procurement of other upgrades to Predator MQ–1 Ground Control Stations, spares, and signals intelligence packages.

(c) OFFSET.—(1) The amount appropriated by this title for the Iraq Freedom Fund is hereby reduced by $218,500,000.

(2) The reduction under paragraph (1) shall not be from amounts available for classified programs or from amounts available for the Joint IED Defeat Task Force.

(d) CONTINGENCY OPERATIONS.—The amount made available by subsection (a) is designated as making supplemental appropriations for contingency operations related to the global war on terrorism pursuant to section 402 of H. Con. Res. 95 (109th Congress).

SA 1883. Mr. CONRAD (for himself, Mr. BAUCUS, Mr. SALAZAR, Mr. ENZI, Mr. THOMAS, and Mr. BURNS) submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

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

SEC. 1073. POLICY OF THE UNITED STATES ON THE INTER-CONTINENTAL BALLISTIC MISSILE FORCE.

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

(1) Consistent with warhead levels agreed to in the Moscow Treaty, the United States is modifying the capacity of the Minuteman III intercontinental ballistic missile (ICBM) from its prior capability to carry up to 3 independent reentry vehicles (RVs) to carry as few as a single reentry vehicle, a process known as downloading.

(2) A series of Department of Defense studies of United States strategic forces, including the 2001 Nuclear Posture Review, has confirmed the continued need for 500 intercontinental ballistic missiles.

(3) In a potential nuclear crisis it is important that the nuclear weapons systems of the United States be configured so as to discourage other nations from making a first strike.

(4) The intercontinental ballistic missile force is currently being considered as part of the deliberations of the Department of Defense for the Quadrennial Defense Review.

(b) STATEMENT OF UNITED STATES POLICY.—It is the policy of the United States to continue to deploy a force of 500 intercontinental ballistic missiles, provided that unanticipated strategic developments may compel the United States to make changes to this force structure in the future.

(c) MOSCOW TREATY DEFINED.—In this section, the term ''Moscow Treaty'' means the Treaty Between the United States of America and the Russian Federation on Strategic Offensive Reductions, done at Moscow on May 24, 2002.

SA 1884. Mr. THUNE submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

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

SEC. 1044. REPORT ON USE OF SPACE RADAR FOR TOPOGRAPHICAL MAPPING FOR SCIENTIFIC AND CIVIL PURPOSES.

(a) IN GENERAL.—Not later than January 15, 2006, the Secretary of Defense shall submit to the congressional defense committees a report on the feasibility and advisability of utilizing the Space Radar for purposes of providing coastal zone and other topographical mapping information, and related information, to the scientific community and other elements of the private sector for scientific and civil purposes.

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

(1) A description and evaluation of any uses of the Space Radar for scientific or civil purposes that are identified by the Secretary for purposes of the report.

(2) A description and evaluation of any additions or modifications to the Space Radar identified by the Secretary for purposes of the report that would increase the utility of the Space Radar to the scientific community or other elements of the private sector for

scientific or civil purposes, including the utilization of additional frequencies, the development or enhancement of ground systems, and the enhancement of operations.

(3) A description of the costs of any additions or modifications identified pursuant to paragraph (2).

(4) A description and evaluation of processes to be utilized to determine the means of modifying the Space Radar in order to meet the needs of the scientific community or other elements of the private sector with respect to the use of the Space Radar for scientific or civil purposes, and a proposal for meeting the costs of such modifications.

(5) A description and evaluation of the impacts, if any, on the primary missions of the Space Radar, and on the development of the Space Radar, of the use of the Space Radar for scientific or civil purposes.

(6) A description of the process for developing requirements for the Space Radar, including the involvement of the Civil Applications Committee.

SA 1885. Mr. MARTINEZ submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

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

SEC. 330. WELFARE OF SPECIAL CATEGORY RESIDENTS AT NAVAL STATION GUANTANAMO BAY, CUBA.

(a) IN GENERAL.—The Secretary of the Navy may provide for the general welfare, including subsistence, housing, and health care, of any person at Naval Station Guantanamo Bay, Cuba, who is designated by the Secretary, not later than 90 days after the date of the enactment of this Act, as a so-called ''special category resident''.

(b) PROHIBITION ON CONSTRUCTION OF FACILITIES.—The authorization in subsection (a) shall not be construed as an authorization for the construction of new housing facilities or medical treatment facilities.

(c) CONSTRUCTION OF PRIOR USE OF FUNDS.—The provisions of chapter 13 of title 31, United States Code, are hereby deemed not to have applied to the obligation or expenditure of funds before the date of the enactment of this Act for the general welfare of persons described in subsection (a).

SA 1886. Mr HARKIN (for himself, Mr. OBAMA, Mr. REID, Mr. KENNEDY, Mr. DURBIN, Mr. BAYH, Mr. DODD, Mr. SCHUMER, Mr. REED, Mr. BIDEN, Mr. STEVENS, and Mrs. MURRAY) proposed an amendment to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; as follows:

On page , at the appropriate place at the end of Title 9, insert the following:

TITLE .

SECTION 101.

(a) From the money in the Treasury not otherwise obligated or appropriated, there are appropriated to the Centers for Disease Control and Prevention $3,913,000,000 for activities relating to the avian flu epidemic during the fiscal year ending September 30, 2006, which shall be available until expended.

(b) Of the amount appropriated under subsection (a)—

(1) $3,080,000,000 shall be for the stockpiling of antivirals and necessary medical supplies;

(2) $33,000,000 shall be for global surveillance relating to avian flu;

(3) $125,000,000 shall be to increase the national investment in domestic vaccine infrastructure including development and research;

(4) $600,000,000 shall be for additional grants to state and local public health agencies for emergency preparedness, to increase funding for emergency preparedness centers, and to expand hospital surge capacity; and

(5) $75,000,000 shall be for risk communication and outreach to providers, businesses, and to the American public.

(c) The amount appropriated under subsection (a)—

(1) is designated as an emergency requirement pursuant to section 402 of H.R. Con. Res. 95 (109th Congress); and

(2) shall remain available until expended.

(d) This title shall take effect on the date of enactment of this Act.

SA 1887. Mr. SALAZAR submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. (a) RENAMING OF DEATH GRATUITY PAYABLE FOR DEATHS OF MEMBERS OF THE ARMED FORCES.—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.

SA 1888. Mr. SALAZAR (for himself, Mr. REED, and Mr. LIEBERMAN) submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. PROVISION OF DEPARTMENT OF DEFENSE SUPPORT FOR CERTAIN PARALYMPIC SPORTING EVENTS.

Section 2564 of title 10, United States Code, is amended—

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

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

''(5) A national or international Paralympic sporting event (other than one covered by paragraph (3) or (4)) which is—

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

''(B) governed by the International Paralympic Committee; and

''(C) sanctioned by the United States Olympic Committee.''; and

(2) in subsection (d)—

(A) by inserting ''(1)'' before ''The Secretary''; and

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

''(2) Not more than $1,000,000 may be expended in any fiscal year to provide support for events specified under paragraph (5) of subsection (c).''.

SA 1889. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 220, after line 25, insert the following:

SEC. 8116. Of the amount appropriated by title IV under the heading ''RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY'', $2,000,000 may be made available for medical advanced technology for applied emergency hypothermia for advanced combat casualty life support.

SA 1890. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 220, after line 25, insert the following:

SEC. 8116. Of the amount appropriated by title IV under the heading ''RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY'', $2,000,000 may be made available for weapons and munitions advanced technology for the advanced lightweight silicon switch for the electromagnetic gun system.

SA 1891. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 220, after line 25, insert the following:

SEC. 8116. Of the amount appropriated by title IV under the heading ''RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY'', $3,000,000 may be made available for acoustic search sensors for power upgrades to Navy buoys.

SA 1892. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 220, after line 25, insert the following:

SEC. 8116. PROHIBITION ON TORTURE AND CRUEL, INHUMAN, OR DEGRADING TREATMENT OR PUNISHMENT.

(a) IN GENERAL.—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.

(b) DEFINITIONS.—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 conduct that would constitute cruel, unusual, and inhumane treatment or punishment prohibited by the fifth amendment, eighth amendment, or fourteenth amendment to the Constitution of the United States if the conduct took place in the United States.

SA 1893. Ms. LANDRIEU submitted an amendment to be proposed by her to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____.(a) IMPLEMENTATION OF IMT-2000 3G COMMUNICATIONS CAPABILITIES.—

(1) ADDITIONAL AMOUNT FOR OPERATION AND MAINTENANCE, AIR FORCE.—The amount appropriated by title II under the heading ''OPERATION AND MAINTENANCE, AIR FORCE'' is hereby increased by $10,000,000.

(2) AVAILABILITY OF AMOUNT.—Of the amount appropriated or otherwise made available by title II under the heading ''OPERATION AND MAINTENANCE, AIR FORCE'', as increased by paragraph (1), $10,000,000 may be available to the United States Northern Command for the purposes of implementing IMT–2000 3G Standards Based Communications Information Extension capabilities for the Gulf States and key entities within the Northern Command Area of Responsibility (AOR).

(b) IMPLEMENTATION OF IMT–2000 3G COMMUNICATIONS CAPABILITIES.—

(1) ADDITIONAL AMOUNT FOR OTHER PROCUREMENT, AIR FORCE.—The amount appropriated by title III under the heading ''OTHER PROCUREMENT, AIR FORCE'' is hereby increased by $20,000,000.

(2) AVAILABILITY OF AMOUNT.—Of the amount appropriated or otherwise made available by title III under the heading ''OTHER PROCUREMENT, AIR FORCE'', as increased by paragraph (1), $20,000,000 may be available to the United States Northern Command for the purposes of implementing IMT–2000 3G Standards Based Communications Information Extension capabilities for the Gulf States and key entities within the Northern Command Area of Responsibility (AOR).

(3) CONSTRUCTION OF AMOUNT.—The amount available under paragraph (2) for the purpose set forth in that paragraph is in addition to any other amounts available in this Act for that purpose.

SA 1894. Mr. STEVENS (for Mr. GRASSLEY (for himself and Mr. BAUCUS)) proposed an amendment to the bill S. 1778, to extend medicare cost-sharing for qualifying individuals through September 2006, to extend the Temporary Assistance for Needy Families Program, transitional medical assistance under the Medicaid Program, and related programs through March 31, 2006, and for other purposes; as follows:

At the end, add the following:

SEC. 4. RESTRICTION ON COVERED DRUGS UNDER THE MEDICAID AND MEDICARE PROGRAMS.

(a) EXCLUSION UNDER MEDICARE BEGINNING IN 2007.—Section 1860D–2(e)(2)(A) of the Social Security Act (42 U.S.C. 1395w–102(e)(2)(A)) is amended by inserting ''and, only with respect to 2006, other than subparagraph (K) (relating to agents when used to treat sexual or erectile dysfunction, unless such agents are used to treat a condition, other than sexual or erectile dysfunction, for which the agent has been approved by the Food and Drug Administration)'' after ''agents)''.

(b) RESTRICTION UNDER MEDICAID.—

(1) IN GENERAL.—Section 1927(d)(2) of the Social Security Act (42 U.S.C. 1396r–8(d)(2)) is amended by adding at the end the following new subparagraph:

''(K) Agents when used to treat sexual or erectile dysfunction, except that such exclusion or other restriction shall not apply in the case of such agents when used to treat a condition, other than sexual or erectile dysfunction, for which the agent has been approved by the Food and Drug Administration.''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to drugs dispensed on or after the date that is 60 days after the date of enactment of this Act.

(c) CLARIFICATION OF NO EFFECT ON DETERMINATION OF BASE EXPENDITURES.—Section 1935(c)(3)(B)(ii)(II) of the Social Security Act (42 U.S.C. 1396v(c)(3)(B)(ii)(II)) is amended by inserting '', including drugs described in subparagraph (K) of section 1927(d)(2)'' after ''1860D–2(e)''.

SA 1895. Mr. BINGAMAN (for himself and Mr. DOMENICI) submitted an amendment to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. Of the amount appropriated by title IV under the heading ''RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, AIR FORCE'', up to $3,000,000 may be used for research and development on the reliability of field programmable gate arrays for space applications.

SA 1896. Mr. DAYTON submitted an amendment to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____.(a) ADDITIONAL AMOUNT FOR OPERATION AND MAINTENANCE, DEFENSE-WIDE.—The amount appropriated by title II under the heading ''OPERATION AND MAINTENANCE, DEFENSE-WIDE'' is hereby increased by $120,000,000.

(b) AVAILABILITY FOR CHILD AND FAMILY ASSISTANCE BENEFITS.—Of the amount appropriated by title II under the heading ''OPERATION AND MAINTENANCE, DEFENSE-WIDE'', as increased by subsection (a), $120,000,000 may be available as follows:

(1) $100,000,000 may be available for childcare services for families of members of the Armed Forces.

(2) $20,000,000 may be available for family assistance centers that primarily serve members of the Armed Forces and their families.

(c) OFFSET.—

(1) IN GENERAL.—Subject to paragraph (2), the amount appropriated or otherwise made available by this Act for the Missile Defense Agency is hereby reduced by $120,000,000.

(2) LIMITATION.—The reduction in paragraph (1) shall not be derived from amounts appropriated or otherwise made available by this Act for the Missile Defense Agency and available for missile defense programs and activities of the Army.

SA 1897. Mr. SANTORUM submitted an amendment to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

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

SEC. 213. WARHEAD/GRENADE SCIENTIFIC BASED MANUFACTURING TECHNOLOGY.

(a) ADDITIONAL AMOUNT FOR RESEARCH, DEVELOPMENT, TEST, AND EVALUATION FOR THE ARMY.—The amount authorized to be appropriated by section 201(1) for research, development, test, and evaluation for the Army is hereby increased by $1,000,000.

(b) AVAILABILITY OF AMOUNT.—Of the amount authorized to be appropriated by section 201(1) for research, development, test, and evaluation for the Army, as increased by subsection (a), $1,000,000 shall be available for Weapons and Ammunition Technology (PE#602624A) for Warhead/Grenade Scientific Based Manufacturing Technology.

(c) OFFSET.—The amount authorized to be appropriated by section 301(5) for operation and maintenance, Defense-wide activities is hereby reduced by $1,000,000, with the amount of the reduction to be allocated to amounts for Information Technology Initiatives.

SA 1898. Mr. SANTORUM submitted an amendment to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes;

which was ordered to lie on the table; as follows:

On page 379, after line 22, add the following:

SEC. 3302. AUTHORIZATION FOR DISPOSAL OF TUNGSTEN ORES AND CONCENTRATES.

(a) DISPOSAL AUTHORIZED.—The President may dispose of up to 8,000,000 pounds of contained tungsten in the form of tungsten ores and concentrates from the National Defense Stockpile in fiscal year 2006.

(b) CERTAIN SALES AUTHORIZED.—The tungsten ores and concentrates disposed under subsection (a) may be sold to entities with ore conversion or tungsten carbide manufacturing or processing capabilities in the United States.

SA 1899. Mr. AKAKA submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. (a) FUNDING FOR PARTICIPATION OF VET CENTERS IN TRANSITION ASSISTANCE PROGRAMS.—Of the amounts appropriated or otherwise made available by this Act, up to $10,000,000 shall be used for the participation of Vet centers in the transition assistance programs of the Department of Defense for members of the Armed Forces.

(b) VET CENTERS DEFINED.—In this section, the term ''Vet centers'' means centers for the provision of readjustment counseling and related mental health services under section 1712A of title 38, United States Code.

SA 1900. Mr. SALAZAR submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 220, after line 25, insert the following:

SEC. 8116.(a) Notwithstanding any other provision of law, not later than 60 days after the date on which the initial obligation of funds made available in this Act for training Afghan security forces is made, the Secretary of Defense, in conjunction with the Secretary of State, shall submit to the appropriate congressional committees a report that includes the following:

(1) An assessment of whether the individuals who are providing training to Afghan security forces with assistance provided by the United States have proven records of experience in training law enforcement or security personnel.

(2) A description of the procedures of the Department of Defense and Department of State to ensure that an individual who receives such training—

(A) does not have a criminal background;

(B) is not connected to any criminal or terrorist organization, including the Taliban;

(C) is not connected to drug traffickers; and

(D) meets certain age and experience standards.

(3) A description of the procedures of the Department of Defense and Department of State that—

(A) clearly establish the standards an individual who will receive such training must meet;

(B) clearly establish the training courses that will permit the individual to meet such standards; and

(C) provide for certification of an individual who meets such standards.

(4) A description of the procedures of the Department of Defense and Department of State to ensure the coordination of such training efforts.

(5) The number of trained security personnel needed in Afghanistan, an explanation of how such number was determined, and a schedule for providing such personnel to Afghanistan.

(6) A description of the methods that will be used by the Government of Afghanistan to maintain and equip such personnel when the such training is completed.

(7) A description of how such training efforts will be coordinated with other training programs being conducted by the governments of other countries or international organizations in Afghanistan.

(b) Not less frequently than once each year the Secretary of Defense, in conjunction with the Secretary of State, shall submit a report to the appropriate congressional committees that describes the progress made to meet the goals and schedules set out in the report required by subsection (a).

(c) In this section the term ''appropriate congressional committees'' means the Committee on Appropriations, the Committee on Armed Services, and the Committee on Foreign Relations of the Senate and the Committee on Appropriations, the Committee on Armed Services, and the Committee on International Relations of the House of Representatives.

SA 1901. Mr. LEAHY (for himself, Mr. BOND, Mr. TALENT, and Ms. LANDRIEU) proposed an amendment to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; as follows:

On page 228, between lines 4 and 5, insert the following:

NATIONAL GUARD AND RESERVE EQUIPMENT

For an additional amount for ''NATIONAL GUARD AND RESERVE EQUIPMENT'', $1,300,000,000, to remain available until expended: *Provided*, That the amount available under this heading shall be available for homeland security and homeland security response equipment; *Provided further*, 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).

SA 1902. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in the bill, insert:

REPORT

SEC. . Not later than 90 days after enactment of this Act, the Secretary of Defense shall submit a report to the Committee on Armed Services and the Committee on Appropriations with the following information—

(a) Whether records of civilian casualties in Afghanistan and Iraq are kept by United States Armed Forces, and if so, how and from what sources this information is collected, where it is kept, and who is responsible for maintaining such records.

(b) Whether such records contain (1) any information relating to the circumstances under which the casualties occurred and whether they were fatalities or injuries; (2) if any condolence payment, compensation or assistance was provided to the victim or to the victim's family; and (3) any other information relating to the casualties.

SA 1903. Mr. SALAZAR submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 220, after line 25, insert the following:

SEC. 8116. APPLICATIONS FOR IMPACT AND AID PAYMENT.

Notwithstanding paragraphs (2) and (3) of section 8005(d) of Elementary and Secondary Education Act of 1965 (20 U.S.C. 7705(d)(2) and (3), the Secretary of Education shall treat as timely filed, and shall process for payment, an application under section 8002 or section 8003 of such Act (20 U.S.C. 7702, 7703) for fiscal year 2005 from a local educational agency—

(1) that, for each of the fiscal year 2000 through 2004, submitted an application by the date specified by the Secretary of Education under section 8005(c) of such Act for the fiscal year;

(2) for which a reduction of more than $1,000,000 was made under section 8005(d)(2) of such Act by the Secretary of Education as a result of the agency's failure to file a timely application under section 8002 or 8003 of such Act for fiscal year 2005; and

(3) that submits an application for fiscal year 2005 during the period beginning on February 2, 2004, and ending on the date of enactment of this Act.

SA 1904. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 222, after line 12, insert the following:

SEC. 8114. None of the funds made available in this Act may be used to procure goods or services, through a contract or subcontract (at any level) under a contract, from a Communist Chinese military company: *Provided*, That for purposes of this section, the term ''Communist Chinese military company'' has the meaning given that term in section 1237(b)(4) of the Strom Thurmond National Defense Act for Fiscal Year 1999 (Public Law 105–261; 50 U.S.C. 1701 note).

SA 1905. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

(a) AUTHORITY TO CONTINUE ALLOWANCE.—Effective as of September 30, 2005, section

1026 of division A of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005 (Public Law 109–13), is amended by striking subsections (d) and (e).

(b) CODIFICATION OF REPORTING REQUIREMENT.—Section 411h of title 37, United States Code, is amended by adding at the end the following new subsection: '(e) If the amount of travel and transportation allowances provided in a fiscal year under clause (ii) of subsection (a)(2)(B) exceeds $20,000,000, the Secretary of Defense shall submit to Congress a report specifying the total amount of travel and transportation allowances provided under such clause in such fiscal year.'.

(c) CONFORMING AMENDMENT.—Subsection (a)(2)(B)(ii) of such section, as added by section 1026 of division A of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005 (Public Law 109–13), is amended by striking 'under section 1967(c)(1)(A) of title 38'.

(d) FUNDING.—Funding shall be provided out of existing funds.

SA 1906. Mr. FEINGOLD submitted an amendment to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. PILOT PROJECT FOR CIVILIAN LINGUIST RESERVE CORPS.

(a) IN GENERAL.—The Secretary of Defense, acting through the Chairman of the National Security Education Board, shall, during the 3-year period beginning on the date of enactment of this Act, carry out a pilot program to establish a civilian linguist reserve corps, comprised of United States citizens with advanced levels of proficiency in foreign languages, who would be available, upon request from the President, to perform translation and other services or duties with respect foreign languages for the Federal Government.

(b) IMPLEMENTATION.—In establishing the Civilian Linguist Reserve Corps, the Secretary, after reviewing the findings and recommendations contained in the report required under section 325 of the Intelligence Authorization Act for Fiscal Year 2003 (Public Law 107–306; 116 Stat. 2393), shall—

(1) identify several foreign languages in which proficiency by United States citizens is critical for the national security interests of the United States and the relative importance of such proficiency in each such language;

(2) identify United States citizens with advanced levels of proficiency in each foreign language identified under paragraph (1) who would be available to perform the services and duties referred to in subsection (a);

(3) cooperate with other Federal agencies with national security responsibilities to implement a procedure for securing the performance of the services and duties referred to in subsection (a) by the citizens identified under paragraph (2); and

(4) invite individuals identified under paragraph (2) to participate in the civilian linguist reserve corps.

(c) CONTRACT AUTHORITY.—In establishing the civilian linguist reserve corps, the Secretary may enter into contracts with appropriate agencies or entities.

(d) FEASIBILITY STUDY.—During the course of the pilot program established under this section, the Secretary shall conduct a study of the best practices to be utilized in establishing the civilian linguist reserve corps, including practices regarding—

(1) administrative structure;

(2) languages that will be available;

(3) the number of language specialists needed for each language;

(4) the Federal agencies that may need language services;

(5) compensation and other operating costs;

(6) certification standards and procedures;

(7) security clearances;

(8) skill maintenance and training; and

(9) the use of private contractors to supply language specialists.

(e) REPORTS.—

(1) EVALUATION REPORTS.—

(A) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, and annually thereafter for the next 2 years, the Secretary shall submit to Congress an evaluation report on the pilot project conducted under this section.

(B) CONTENTS.—Each report under subparagraph (A) shall contain information on the operation of the pilot project, the success of the pilot project in carrying out the objectives of the establishment of a civilian linguist reserve corps, and recommendations for the continuation or expansion of the pilot project.

(2) FINAL REPORT.—Not later than 6 months after the completion of the pilot project, the Secretary shall submit to Congress a final report summarizing the lessons learned, best practices, and recommendations for full implementation of a civilian linguist reserve corps.

(f) FUNDING.—Of the amount appropriated under the heading ''Operation and Maintenance, Defense-Wide'' in title II, $3,100,000 shall be available to carry out the pilot program under this section.

SA 1907. Mr. DEWINE submitted an amendment to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 167, between lines 6 and 7, insert the following:

(c) ADDITIONAL DEATH GRATUITY.—In the case of an active duty member of the armed forces who died between October 7, 2001, and May 11, 2005, and was not eligible for an additional death gratuity under section 1478(e) of title 10, United States Code (as added by section 1013(b) of Public Law 109–13), the eligible survivors of such decedent shall receive, in addition to the death gratuity available to such survivors under section 1478(a) of such title, an additional death gratuity of $150,000 under the same conditions as provided under such section 1478(e).

SA 1908. Mr. DURBIN (for himself, Ms. MIKULSKI, Mr. CORZINE, Mr. SALAZAR, Mrs. MURRAY, Mr. LAUTENBERG, Mr. BIDEN, Mr. NELSON of Florida, Mr. BINGAMAN, Mr. CHAFEE and Mr. KERRY) proposed an amendment to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. NONREDUCTION IN PAY WHILE FEDERAL EMPLOYEE IS PERFORMING ACTIVE SERVICE IN THE UNIFORMED SERVICES OR NATIONAL GUARD.

(a) SHORT TITLE.—This section may be cited as the ''Reservists Pay Security Act of 2005''.

(b) IN GENERAL.—Subchapter IV of chapter 55 of title 5, United States Code, is amended by adding at the end the following:

''§ 5538. Nonreduction in pay while serving in the uniformed services or National Guard

''(a) An employee who is absent from a position of employment with the Federal Government in order to perform active duty in the uniformed services pursuant to a call or order to active duty under a provision of law referred to in section 101(a)(13)(B) of title 10 shall be entitled, while serving on active duty, to receive, for each pay period described in subsection (b), an amount equal to the amount by which—

''(1) the amount of basic pay which would otherwise have been payable to such employee for such pay period if such employee's civilian employment with the Government had not been interrupted by that service, exceeds (if at all)

''(2) the amount of pay and allowances which (as determined under subsection (d))—

''(A) is payable to such employee for that service; and

''(B) is allocable to such pay period.

''(b)(1) Amounts under this section shall be payable with respect to each pay period (which would otherwise apply if the employee's civilian employment had not been interrupted)—

''(A) during which such employee is entitled to reemployment rights under chapter 43 of title 38 with respect to the position from which such employee is absent (as referred to in subsection (a)); and

''(B) for which such employee does not otherwise receive basic pay (including by taking any annual, military, or other paid leave) to which such employee is entitled by virtue of such employee's civilian employment with the Government.

''(2) For purposes of this section, the period during which an employee is entitled to reemployment rights under chapter 43 of title 38—

''(A) shall be determined disregarding the provisions of section 4312(d) of title 38; and

''(B) shall include any period of time specified in section 4312(e) of title 38 within which an employee may report or apply for employment or reemployment following completion of service on active duty to which called or ordered as described in subsection (a).

''(c) Any amount payable under this section to an employee shall be paid—

''(1) by such employee's employing agency;

''(2) from the appropriation or fund which would be used to pay the employee if such employee were in a pay status; and

''(3) to the extent practicable, at the same time and in the same manner as would basic pay if such employee's civilian employment had not been interrupted.

''(d) The Office of Personnel Management shall, in consultation with Secretary of Defense, prescribe any regulations necessary to carry out the preceding provisions of this section.

''(e)(1) The head of each agency referred to in section 2302(a)(2)(C)(ii) shall, in consultation with the Office, prescribe procedures to ensure that the rights under this section apply to the employees of such agency.

''(2) The Administrator of the Federal Aviation Administration shall, in consultation with the Office, prescribe procedures to ensure that the rights under this section apply to the employees of that agency.

''(f) For purposes of this section—

''(1) the terms 'employee', 'Federal Government', and 'uniformed services' have the same respective meanings as given them in section 4303 of title 38;

''(2) the term 'employing agency', as used with respect to an employee entitled to any payments under this section, means the agency or other entity of the Government (including an agency referred to in section 2302(a)(2)(C)(ii)) with respect to which such employee has reemployment rights under chapter 43 of title 38; and

''(3) the term 'basic pay' includes any amount payable under section 5304.''.

(c) CLERICAL AMENDMENT.—The table of sections for chapter 55 of title 5, United States Code, is amended by inserting after the item relating to section 5537 the following:

''5538. Nonreduction in pay while serving in the uniformed services or National Guard.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to pay periods (as described in section 5538(b) of title 5, United States Code, as amended by this section) beginning on or after the date of enactment of this Act.

SA 1909. Ms. SNOWE (for herself and Ms. COLLINS) submitted an amendment intended to be proposed by her to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. Of the amount appropriated by title II under the heading ''OPERATION AND MAINTENANCE, NAVY'', $1,500,000 shall be available for Civilian Manpower and Personnel for a Human Resources Benefit Call Center in Machias, Maine.

SA 1910. Mr. ALEXANDER submitted an amendment to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 220, after line 25, insert the following:

SEC. 8116. (a) Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on the use of ground source heat pumps at Department of Defense facilities.

(b) The report required under subsection (a) shall include—

(1) an inventory of the number and type of Department of Defense facilities that use ground source heat pumps;

(2) an estimate of the number and type of Department of Defense facilities that will use ground source heat pumps during the following 5 years;

(3) an assessment of the applicability and cost-effectiveness of the use of ground source heat pumps at Department of Defense facilities in different geographic regions of the United States;

(4) a description of the relative applicability of ground source heat pumps for purposes of new construction at, and retrofitting of, Department of Defense facilities; and

(5) recommendations for facilitating and encouraging the increased use of ground source heat pumps at Department of Defense facilities.

SA 1911. Ms. SNOWE submitted an amendment to be proposed by her to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. Of the amount appropriated by this Act under the heading ''RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE'', $9,000,000 shall be available for the rapid mobilization of the New England Manufacturing Supply Chain Initiative to meet Department of Defense supply shortages and surge demands for parts and equipment.

SA 1912. Mr. BAYH submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

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

SEC. 114. TACTICAL WHEELED VEHICLES.

(a) ADDITIONAL AMOUNT FOR OTHER PROCUREMENT, ARMY.—

(1) IN GENERAL.—The amount authorized to be appropriated by section 101(5) for other procurement for the Army is hereby increased by $360,800,000.

(2) AVAILABILITY OF AMOUNT.—Of the amount authorized to be appropriated by section 101(5) for other procurement for the Army, as increased by paragraph (1)—

(A) $247,100,000 may be available for the procurement of armored Tactical Wheeled Vehicles to reconstitute Army Prepositioned Stocks–5, including the procurement of armored Light Tactical Vehicles (LTVs), armored Medium Tactical Vehicles (MTVs), and armored Heavy Tactical Vehicles (HTVs) for purposes of equipping one heavy brigade, one infantry brigade, and two infantry battalions; and

(B) $113,700,000 may be available for the procurement of armored Tactical Wheeled Vehicles for the Joint Readiness Training Center at Fort Polk, Louisiana, including the procurement of armored Light Tactical Vehicles, armored Medium Tactical Vehicles, and armored Heavy Tactical Vehicles for purposes of equipping one infantry brigade combat team in order to permit such vehicles to be used for the training and preparation of troops, prior to deployment, on the use of such vehicles.

(b) BALLISTICS ENGINEERING PROGRAM.—

(1) ADDITIONAL AMOUNT FOR RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, DEFENSE-WIDE.—

(A) IN GENERAL.—The amount authorized to be appropriated by section 201(4) for research, development, test, and evaluation for Defense-Wide activities is hereby increased by $5,000,000.

(B) AVAILABILITY OF AMOUNT.—Of the amount authorized to be appropriated by section 201(4) for research, development, test, and evaluation for Defense-Wide activities, as increased by subparagraph (A), $5,000,000 may be available for the implementation of the ballistics engineering program established under paragraph (2).

(2) BALLISTICS ENGINEERING PROGRAM.—

(A) ESTABLISHMENT.—The Secretary of Defense shall create a collaborative ballistics engineering program at two major research institutions.

(B) PURPOSE.—The purpose of the program established under subparagraph (A) shall be to advance knowledge and application of ballistics materials and procedures to improve the safety of land-based military vehicles, particularly from hidden improvised explosive devices, including through the training of engineers, scientists, and military personnel in ballistics materials and their use.

SA 1913. Mr. BAYH submitted an amendment to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. ENFORCEMENT AND LIABILITY FOR NONCOMPLIANCE WITH SERVICEMEMBERS CIVIL RELIEF ACT.

(a) ENFORCEMENT.—

(1) IN GENERAL.—The Servicemembers Civil Relief Act (50 U.S.C. App. 501 et seq.) is amended by adding at the end the following new title:

''TITLE VIII—ENFORCEMENT

''SEC. 801. ADMINISTRATIVE ENFORCEMENT.

''(a) ENFORCEMENT BY FEDERAL TRADE COMMISSION.—(1) Except as provided in subsections (b), (c), and (d), compliance with the provisions of this Act shall be enforced by the Federal Trade Commission in accordance with the Federal Trade Commission Act with respect to entities and persons subject to the Federal Trade Commission Act.

''(2) For the purpose of the exercise by the Commission under this subsection of its functions and powers under the Federal Trade Commission Act, a violation of any requirement or prohibition imposed by this Act shall constitute an unfair or deceptive act or practice in commerce in violation of section 5(a) of the Federal Trade Commission Act, and shall be subject to enforcement by the Commission with respect to any entity or person subject to enforcement by the Commission pursuant to this subsection, irrespective of whether such person or entity is engaged in commerce or meets any other jurisdictional tests under the Federal Trade Commission Act.

''(3) The Commission shall have such procedural, investigative, and enforcement powers, including the power to issue procedural rules in enforcing compliance with the requirements imposed by this Act and to require the filing of reports, the production of documents, and the appearance of witnesses, as though the applicable terms and conditions of the Federal Trade Commission Act were part of this Act.

''(4) Any person or entity violating any provision of this Act shall be subject to the penalties, and entitled to the privileges and immunities, provided in the Federal Trade Commission Act as though the applicable terms and provisions of the Federal Trade Commission Act were part of this Act.

''(5)(A) The Commission may commence a civil action to recover a civil penalty in a district court of the United States against any person or entity that has engaged in such violation. In such action, such person or entity shall be liable, in addition to any amounts otherwise recoverable, for a civil penalty in the amount of $5,000 to $50,000, as determined appropriate by the court for each violation.

''(B) In determining the amount of a civil penalty under subparagraph (A), the court shall take into account the degree of culpability, any history of prior such conduct,

ability to pay, effect on ability to continue to do business, and such other matters as justice may require.

''(b) ENFORCEMENT BY OTHER REGULATORY AGENCIES.—Compliance with the requirements imposed by this Act with respect to financial institutions shall be enforced under—

''(1) section 8 of the Federal Deposit Insurance Act, in the case of—

''(A) national banks, and Federal branches and Federal agencies of foreign banks, and any subsidiaries of such (except brokers, dealers, persons providing insurance, investment companies, and investment advisers) by the Office of the Comptroller of the Currency;

''(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organization operating under section 25 or 25A of the Federal Reserve Act, and bank holding companies and their nonbank subsidiaries or affiliates (except brokers, dealers, persons providing insurance, investment companies, and investment advisers) by the Board of Governors of the Federal Reserve System; and

''(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and insured State branches of foreign banks, and any subsidiaries of such entities (except brokers, dealers, persons providing insurance, investment companies, and investment advisers) by the Board of Directors of the Federal Deposit Insurance Corporation;

''(2) section 8 of the Federal Deposit Insurance Act, by the Director of the Office of Thrift Supervision, in the case of a savings association the deposits of which are insured by the Federal Deposit Insurance Corporation and any subsidiaries of such saving associations (except brokers, dealers, persons providing insurance, investment companies, and investment advisers);

''(3) the Federal Credit Union Act, by the Administrator of the National Credit Union Administration with respect to any federally insured credit union, and any subsidiaries of such an entity;

''(4) State insurance law, by the applicable State insurance authority of the State in which a person is domiciled, in the case of a person providing insurance; and

''(5) the Federal Trade Commission Act, by the Federal Trade Commission for any other financial institution or other person that is not subject to the jurisdiction of any agency or authority under paragraphs (1) through (4).

''(c) PRIVATE CAUSE OF ACTION.—A servicemember, dependent, or other person protected by a provision of this Act may commence an action in a district court of the United States, or in a State court of competent jurisdiction, to seek enforcement of the protection afforded by such provision.

''(d) CONSTRUCTION OF ENFORCEMENT.—

''(1) ENFORCEMENT BY FTC.—The enforcement of the provisions of this Act by the Federal Trade Commission pursuant to subsection (a) shall be in addition to any other enforcement of such provisions by the Department of Justice, private cause of action, or other mechanism afforded by State law.

''(2) CONSTRUCTION OF REMEDIES.—The remedies for violations of the provisions of this Act provided for under subsections (a), (b), and (c) are in addition to any other remedies for violations of such provisions under Federal or State law.''.

(2) CLERICAL AMENDMENT.—The table of contents in the first section of that Act is amended by adding at the end the following new items:

''TITLE VIII—ENFORCEMENT

''Sec. 801. Administrative enforcement.''.

(b) LIABILITY FOR NONCOMPLIANCE.—

(1) Section 301(c) of the Servicemembers Civil Relief Act (50 U.S.C. App. 531(c)) is amended by striking paragraph (2) and inserting the following new paragraphs:

''(2) CIVIL LIABILITY FOR NONCOMPLIANCE.—Any person or entity (other than a servicemember or dependent) who fails to comply with any requirement imposed by this section with respect to a servicemember or dependent is liable to such servicemember or dependent in an amount equal to the sum of—

''(A) any actual damages sustained by such servicemember or dependent as a result of the failure;

''(B) such amount of punitive damages as the court may allow;

''(C) such amount of consequential damages as the court may allow;

''(D) such additional damages as the court may allow, in an amount not less than $100 or more than $5,000 (as determined appropriate by the court), for each violation; and

''(E) in the case of any successful action to enforce liability under this section, the cost of the action together with reasonable attorneys fees as determined by the court.

''(3) ATTORNEY FEES.—On a finding by the court that an unsuccessful pleading, motion, or other paper filed in connection with an action under this section was filed in bad faith or for the purposes of harassment, the court shall award to the prevailing party attorney fees in amount that is reasonable in relation to the work expended in responding to such pleading, motion, or other paper.''.

(2) Section 302(b) of that Act (50 U.S.C. App. 532(b)) is amended by striking paragraph (2) and inserting the following new paragraphs:

''(2) CIVIL LIABILITY FOR NONCOMPLIANCE.—Any person or entity (other than a servicemember or dependent) who fails to comply with any requirement imposed by this section with respect to a servicemember or dependent is liable to such servicemember or dependent in an amount equal to the sum of—

''(A) any actual damages sustained by such servicemember or dependent as a result of the failure;

''(B) such amount of punitive damages as the court may allow;

''(C) such amount of consequential damages as the court may allow;

''(D) such additional damages as the court may allow, in an amount not less than $100 or more than $5,000 (as determined appropriate by the court), for each violation; and

''(E) in the case of any successful action to enforce liability under this section, the cost of the action together with reasonable attorneys fees as determined by the court.

''(3) ATTORNEY FEES.—On a finding by the court that an unsuccessful pleading, motion, or other paper filed in connection with an action under this section was filed in bad faith or for the purposes of harassment, the court shall award to the prevailing party attorney fees in amount that is reasonable in relation to the work expended in responding to such pleading, motion, or other paper.''.

(3) Section 303(d) of that Act (50 U.S.C. App. 533(d)) is amended by striking paragraph (2) and inserting the following new paragraphs:

''(2) CIVIL LIABILITY FOR NONCOMPLIANCE.—Any person or entity (other than a servicemember or dependent) who fails to comply with any requirement imposed by this section with respect to a servicemember or dependent is liable to such servicemember or dependent in an amount equal to the sum of—

''(A) any actual damages sustained by such servicemember or dependent as a result of the failure;

''(B) such amount of punitive damages as the court may allow;

''(C) such amount of consequential damages as the court may allow;

''(D) such additional damages as the court may allow, in an amount not less than $100 or more than $5,000 (as determined appropriate by the court), for each violation; and

''(E) in the case of any successful action to enforce liability under this section, the cost of the action together with reasonable attorneys fees as determined by the court.

''(3) ATTORNEY FEES.—On a finding by the court that an unsuccessful pleading, motion, or other paper filed in connection with an action under this section was filed in bad faith or for the purposes of harassment, the court shall award to the prevailing party attorney fees in amount that is reasonable in relation to the work expended in responding to such pleading, motion, or other paper.''.

(4) Section 305(h) of that Act (50 U.S.C. App. 535(h)) is amended by striking paragraph (2) and inserting the following new paragraphs:

''(2) CIVIL LIABILITY FOR NONCOMPLIANCE.—Any person or entity (other than a servicemember or dependent) who fails to comply with any requirement imposed by this section with respect to a servicemember or dependent is liable to such servicemember or dependent in an amount equal to the sum of—

''(A) any actual damages sustained by such servicemember or dependent as a result of the failure;

''(B) such amount of punitive damages as the court may allow;

''(C) such amount of consequential damages as the court may allow;

''(D) such additional damages as the court may allow, in an amount not less than $100 or more than $5,000 (as determined appropriate by the court), for each violation; and

''(E) in the case of any successful action to enforce liability under this section, the cost of the action together with reasonable attorneys fees as determined by the court.

''(3) ATTORNEY FEES.—On a finding by the court that an unsuccessful pleading, motion, or other paper filed in connection with an action under this section was filed in bad faith or for the purposes of harassment, the court shall award to the prevailing party attorney fees in amount that is reasonable in relation to the work expended in responding to such pleading, motion, or other paper.''.

(5) Section 306(e) of that Act (50 U.S.C. App. 536(e)) is amended by striking paragraph (2) and inserting the following new paragraphs:

''(2) CIVIL LIABILITY FOR NONCOMPLIANCE.—Any person or entity (other than a servicemember or dependent) who fails to comply with any requirement imposed by this section with respect to a servicemember or dependent is liable to such servicemember or dependent in an amount equal to the sum of—

''(A) any actual damages sustained by such servicemember or dependent as a result of the failure;

''(B) such amount of punitive damages as the court may allow;

''(C) such amount of consequential damages as the court may allow;

''(D) such additional damages as the court may allow, in an amount not less than $100 or more than $5,000 (as determined appropriate by the court), for each violation; and

''(E) in the case of any successful action to enforce liability under this section, the cost

of the action together with reasonable attorneys fees as determined by the court.

''(3) ATTORNEY FEES.—On a finding by the court that an unsuccessful pleading, motion, or other paper filed in connection with an action under this section was filed in bad faith or for the purposes of harassment, the court shall award to the prevailing party attorney fees in amount that is reasonable in relation to the work expended in responding to such pleading, motion, or other paper.''.

(6) Section 307(c) of that Act (50 U.S.C. App. 537(c)) is amended by striking paragraph (2) and inserting the following new paragraphs:

''(2) CIVIL LIABILITY FOR NONCOMPLIANCE.—Any person or entity (other than a servicemember or dependent) who fails to comply with any requirement imposed by this section with respect to a servicemember or dependent is liable to such servicemember or dependent in an amount equal to the sum of—

''(A) any actual damages sustained by such servicemember or dependent as a result of the failure;

''(B) such amount of punitive damages as the court may allow;

''(C) such amount of consequential damages as the court may allow;

''(D) such additional damages as the court may allow, in an amount not less than $100 or more than $5,000 (as determined appropriate by the court), for each violation; and

''(E) in the case of any successful action to enforce liability under this section, the cost of the action together with reasonable attorneys fees as determined by the court.

''(3) ATTORNEY FEES.—On a finding by the court that an unsuccessful pleading, motion, or other paper filed in connection with an action under this section was filed in bad faith or for the purposes of harassment, the court shall award to the prevailing party attorney fees in amount that is reasonable in relation to the work expended in responding to such pleading, motion, or other paper.''.

SEC. ___. OUTREACH TO MEMBERS OF THE ARMED FORCES AND THEIR DEPENDENTS ON THE SERVICEMEMBERS CIVIL RELIEF ACT.

(a) OUTREACH TO MEMBERS OF THE ARMED FORCES.—

(1) IN GENERAL.—The Secretary concerned shall provide to each member of the Armed Forces under the jurisdiction of the Secretary pertinent information on the rights and protections available to servicemembers and their dependents under the Servicemembers Civil Relief Act (50 U.S.C. App. 501 et seq.).

(2) TIME OF PROVISION.—Information shall be provided to a member of the Armed Forces under paragraph (1) at times as follows:

(A) During initial entry training.

(B) In the case of a member of a reserve component of the Armed Forces, during initial entry training and when the member is mobilized or otherwise individually called or ordered to active duty for a period of more than one year.

(C) At such other times as the Secretary concerned considers appropriate.

(b) OUTREACH TO DEPENDENTS.—The Secretary concerned may provide to the adult dependents of members of the Armed Forces under the jurisdiction of the Secretary pertinent information on the rights and protections available to servicemembers and their dependents under the Servicemembers Civil Relief Act.

(c) DEFINITIONS.—In this section, the terms ''dependent'' and ''Secretary concerned'' have the meanings given such terms in section 101 of the Servicemembers Civil Relief Act (50 U.S.C. App. 511).

SEC. ___. SERVICEMEMBERS RIGHTS UNDER THE HOUSING AND URBAN DEVELOPMENT ACT OF 1968.

(a) IN GENERAL.—Section 106(c)(5)(A)(ii) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(c)(5)(A)(ii)) is amended—

(1) in subclause (II), by striking ''; and'' and inserting a semicolon;

(2) in subclause (III), by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(IV) notify the homeowner by a statement or notice, written in plain English by the Secretary of Housing and Urban Development, in consultation with the Secretary of Defense and the Secretary of the Treasury, explaining the mortgage and foreclosure rights of servicemembers, and the dependents of such servicemembers, under the Servicemembers Civil Relief Act (50 U.S.C. App. 501 et seq.), including the toll-free military one source number to call if servicemembers, or the dependents of such servicemembers, require further assistance.''.

(b) NO EFFECT ON OTHER LAWS.—Nothing in this section shall relieve any person of any obligation imposed by any other Federal, State, or local law.

(c) DISCLOSURE FORM.—Not later than 150 days after the date of enactment of this Act, the Secretary of Housing and Urban Development shall issue a final disclosure form to fulfill the requirement of section 106(c)(5)(A)(ii)(IV) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(c)(5)(A)(ii)).

(d) EFFECTIVE DATE.—The amendments made under subsection (a) shall take effect 150 days after the date of enactment of this Act.

SA 1914. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

SEC. . Of the amount appropriated in title III under the heading ''OTHER PROCUREMENT, NAVY'', up to $2,000,000 may be made available for the Surface Sonar Dome Window Program.

SA 1915. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

SEC. . Of the amount appropriated in title IV under the heading ''RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE'', up to $1,000,000 may be made available for the Test Exploitation for Knowledge Discovery Toolkit.

SA 1916. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

SEC. . Of the amount appropriated in title IV under the heading ''RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY'', up to $2,000,000 may be made available for the Critical Area Protection Systems High Resolution Situational Awareness Program.

SA 1917. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

SEC. . Of the amount appropriated in title III under the heading ''OTHER PROCUREMENT, AIR FORCE'', up to $1,500,000 may be made available for the Halvorsen Loader.

SA 1918. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

SEC. . Of the amount appropriated in title III under the heading ''RESEARCH, DEFENSE, TEST AND EVALUATION, DEFENSE-WIDE'', up to $1,000,000 may be made available for the Florida Supply Chain Program.

SA 1919. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

SEC. . Of the amount appropriated in title IV under the heading ''RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY'', up to $1,000,000 may be made available for the Miami Children's Hospital Pediatric Brain Tumor and Neurological Disease Institute.

SA 1920. Mr. CHAMBLISS submitted an amendment to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 220, after line 25, add the following:

SEC. 8116. Of the amount appropriated by title II under the heading ''ENVIRONMENTAL RESTORATION, FORMERLY USED DEFENSE SITES'', $400,000 shall be made available for removal of unexploded ordnance at Camp Wheeler, Georgia.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on September 29, 2005, at 9:30 a.m., in open session to receive testimony on United States military strategy and operations in Iraq.

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. STEVENS. 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 September 29, 2005, at 11:45 a.m., to conduct a vote on the nomination of Mr. Keith E. Gottfried, of California, to be General Counsel of the U.S. Department of Housing and Urban Development; Mr. Israel Hernandez, of Texas, to be Assistant Secretary of Commerce and Director General of the U.S. and Foreign Commercial Service; Mr. Darryl W. Jackson, of the District of Columbia, to be Assistant Secretary of Commerce; Ms. Kim Kendrick, of the District of Columbia, to be Assistant Secretary of Housing and Urban Development; Mr. Franklin L. Lavin, of Ohio, to be Under Secretary of Commerce for International Trade; Mr. David H. McCormick, of Pennsylvania, to be Under Secretary of Commerce for Export Administration; Mr. Keith A. Nelson, of Texas, to be Assistant Secretary of Housing and Urban Development; Ms. Darlene F. Williams, of Texas to be Assistant Secretary of Housing and Urban Development; Mr. Emil Henry Jr., of New York, to be Assistant Secretary for Financial Institutions; and Mr. Patrick O'Brien, of Minnesota, to be Assistant Secretary for Terrorist Financing, Department of the Treasury.

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Thursday, September 29, 2005, at 10 a.m., on Communications in Disaster, in SD 562.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, September 29, 2005, at 9:30 a.m. to hold a hearing on pending treaties.

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

COMMITTEE ON THE JUDICIARY

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a markup on Thursday, September 29, 2005 at 9:30 a.m. in Senate Dirksen Office Building Room 226.

Agenda

I. Nominations

Timothy Flanigan, to be Deputy Attorney General; and Susan Neilson, to be U.S. Circuit Judge for the Sixth Circuit.

II. Bills

S. 1088, Streamlined Procedures Act of 2005; Kyl, Cornyn, Grassley, Hatch.

S. Personal Data Privacy and Security Act of 2005; Specter, Leahy, Feinstein, Feingold.

S. 751, Notification of Risk to Personal Data Act; Feinstein, Kyl.

S. 1326, Notification of Risk to Personal Data Act; Sessions.

S. 1086, A Bill to Improve the National Program to Register and Monitor Individuals Who Commit Crimes Against Children or Sex Offenses; Hatch, Biden, Schumer.

S. 956, Jetseta Gage Prevention and Deterrence of Crimes Against Children Act of 2005; Grassley, Kyl, Cornyn.

S. 1699, Stop Counterfeiting in Manufactured Goods Act; Specter, Leahy, Hatch, DeWine, Cornyn, Brownback, Feingold.

S. 1095, Protecting American Goods and Services Act of 2005; Cornyn, Leahy.

H.R. 683, Trademark Dilution Revision Act of 2005; Smith–TX.

S. 1647, Hurricane Katrina Bankruptcy Relief and Community Protection Act of 2005; Feingold, Leahy, Durbin, Kennedy, Feinstein.

S. 443, Antitrust Criminal Investigative Improvements Act of 2005; DeWine, Kohl, Leahy.

COMMITTEE ON THE JUDICIARY

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to meet to conduct a hearing on ''Judicial Nominations'' on Thursday, September 29, 2005, at 2 p.m. in the Dirksen Senate Office Building room 226.

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

COMMITTEE ON VETERANS' AFFAIRS

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet during the session of the Senate on Thursday, September 29, 2005, for a committee hearing to consider the following nominations: 1. William F. Tuerk, Under Sec for Memorial Affairs, VA 2. Robert J. Henke, Asst Sec for Management, VA 3. John M. Molino, Asst Sec of Policy and Planning, VA 4. Lisette M. Mondello, Asst Sec of Public and Intergovernmental Affairs, VA 5. George J. Opfer, Inspector General, VA

The hearing will take place in Room 418 of the Russell Senate Office Building at 10 a.m.

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

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. STEVENS. Mr. President, I ask unanimous consent that the Permanent Subcommittee on Investigations be authorized to meet on Thursday, September 29, 2005, at 9:30 a.m., for a hearing entitled ''The Defense Travel System: Boon or Boondoggle?''

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

SPECIAL COMMITTEE ON AGING

Mr. STEVENS. Mr. President, I ask unanimous consent that the Special Committee on Aging to authorized to meet Thursday, September 29, 2005 from 10 a.m. in Hart 216 for the purpose of conducting a hearing.

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

SUBCOMMITTEE ON EAST ASIAN AND PACIFIC AFFAIRS

Mr. STEVENS. Mr. President, I ask unanimous consent that the Subcommittee on East Asian and Pacific Affairs be authorized to meet during the session of the Senate on Thursday, September 29, 2005, at 2:30 p.m. to hold a hearing on U.S.-Japan Relations.

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

SUBCOMMITTEE ON FEDERAL FINANCIAL MANAGEMENT, GOVERNMENT INFORMATION, AND INTERNATIONAL SECURITY

Mr. STEVENS. Mr. President, I ask unanimous consent that the Subcommittee on Federal Financial Management, Government Information, and International Security be authorized to meet on Thursday, September 29, 2005, at 3 p.m. for a hearing regarding ''GSA II: The Procurement Process from Start to Finish.''

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

PRIVILEGE OF THE FLOOR

Mr. INOUYE. Mr. President, I ask unanimous consent that privilege of the floor be granted to Jonathan Epstein, a legislative fellow in the office of Senator BINGAMAN, during consideration of this H.R. 2863 appropriations for the Department of Defense for fiscal year 2006 and any votes thereupon.

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

Mr. INOUYE. Mr. President, I ask unanimous consent that Susan Ball be granted the privilege of the floor during consideration of the Defense appropriations bill.

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

Mr. STEVENS. Mr. President, I ask unanimous consent that privilege of the floor be granted to Mr. David Bann, a detailee with Senator GREGG's office, during consideration of the fiscal year 2006 Defense appropriations bill.

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

Mr. STEVENS. Mr. President, I ask unanimous consent that Donnie Walker, a fellow serving in Senator COCHRAN's office, be granted the privilege of the floor during the duration of the consideration of fiscal year 2006 Defense appropriations bill.

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

Mr. STEVENS. Mr. President, I ask unanimous consent that Senator MCCAIN's legislative fellow, Navy CDR Shawn Grenier, be granted the privilege of the floor during consideration of H.R. 2863.

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

Mr. DURBIN. Mr. President, on behalf of Senator KENNEDY, I ask unanimous consent that Douglas Thompson, a Navy fellow in his office, be granted floor privileges during the consideration of H.R. 2863, the fiscal year 2006 Defense appropriations bill.

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

Mr. STEVENS. Mr. President, I ask unanimous consent that Mr. Andrew Schulman, a legislative fellow on Senator DOMENICI's staff, be given floor privileges for the duration of the debate on H.R. 2863.

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

JOINT REFERRAL OF NOMINATION

Mr. FRIST. Mr. President, as in executive session, I ask unanimous consent that the nomination of Franklin L. Lavin, of Ohio, to be Under Secretary of Commerce for International Trade, be referred jointly to the Committee on Finance and Banking, Housing, and Urban Affairs.

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

MEASURE READ THE FIRST TIME—S. 1802

Mr. FRIST. I understand there is a bill at the desk. I ask for its first reading.

The PRESIDING OFFICER. The clerk will please report the bill by title.

The legislative clerk read as follows:

A bill (S. 1802) to provide for appropriate waivers, suspensions or exemptions from provisions of title I of the Employee Retirement Income Security Act of 1974, with respect to individual account plans affected by Hurricane Katrina or Rita.

Mr. FRIST. I ask for a second reading and, in order to place the bill on the calendar under the provisions of rule XIV, I object to my own request.

The PRESIDING OFFICER. Objection is heard.

ORDERS FOR FRIDAY, SEPTEMBER 30, 2005

Mr. FRIST. Mr. President. I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m. on Friday, September 30. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and there then 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.

PROGRAM

Mr. FRIST. Mr. President, tomorrow is the last day of the fiscal year. During tomorrow's session, we will need to pass the continuing resolution, which is at the desk. Tomorrow morning, we will turn to that joint resolution and we expect a rollcall vote. We hope to have that vote by 10:15 in the morning. Senators should adjust their schedules accordingly.

After we complete the continuing resolution tomorrow, we will return to the Defense appropriations bill. Senators will be able to offer amendments at that time. On Friday, we will update all Members as to next week's schedule.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. FRIST. If there is no further business to come before the Senate, I ask unanimous consent the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 8:26 p.m., adjourned until Friday, September 30, 2005 at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate September 29, 2005:

NATIONAL CREDIT UNION ADMINISTRATION

GIGI HYLAND, OF VIRGINIA, TO BE A MEMBER OF THE NATIONAL CREDIT UNION ADMINISTRATION BOARD FOR A TERM EXPIRING AUGUST 2, 2011, VICE DEBORAH MATZ, RESIGNED.

FEDERAL TRADE COMMISSION

J. THOMAS ROSCH, OF CALIFORNIA, TO BE A FEDERAL TRADE COMMISSIONER FOR THE TERM OF SEVEN YEARS FROM SEPTEMBER 26, 2005, VICE THOMAS B. LEARY, TERM EXPIRED.

UNITED NATIONS

MARGARET SPELLINGS, OF TEXAS, TO BE A REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE THIRTY-THIRD SESSION OF THE GENERAL CONFERENCE OF THE UNITED NATIONS EDUCATIONAL, SCIENTIFIC, AND CULTURAL ORGANIZATION.

THE JUDICIARY

JAMES HARDY PAYNE, OF OKLAHOMA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE TENTH CIRCUIT, VICE STEPHANIE K. SEYMOUR, RETIRED.

CONFIRMATION

Executive nomination confirmed by the Senate Thursday, September 29, 2005:

SUPREME COURT OF THE UNITED STATES

JOHN G. ROBERTS, JR., OF MARYLAND, TO BE CHIEF JUSTICE OF THE UNITED STATES.