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Senate

The Senate met at 12 noon and was called to order by the Honorable ROBERT P. CASEY, Jr., a Senator from the State of Pennsylvania.

PRAYER

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

Let us pray.

O God, who remains the same though all else fades, You don't leave us when we leave You. You are gracious and compassionate, slow to anger, and rich in love.

Thank You for Your presence in the lives of our Senators. Give them a clearer vision of the light that leads to truth. Remind them that everything is possible for those who believe. Incline their hearts to Your wisdom and love, as you keep them on the path of integrity. May they find rest and joy in spending time with You. When their hearts grow faint and weary and the night overtakes them, renew their strength and enable them to soar on eagle's wings. May the differing approaches expressed by both parties contribute to greater solutions to the problems in our world. Lord, deliver our lawmakers in times of trouble and bless them as they seek to honor You.

We pray in Your wonderful Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable ROBERT P. CASEY, Jr., led the Pledge of Allegiance, as follows:

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, October 31, 2007.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable ROBERT P. CASEY, Jr., a Senator from the State of Pennsylvania, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

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

RECOGNITION OF THE MAJORITY LEADER

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

SCHEDULE

Mr. REID. Mr. President, today the Senate will conduct a period of morning business for an hour, with the time equally divided and controlled. The majority will control the first half and the Republicans will control the final half.

Following morning business, the Senate will resume the motion to proceed to H.R. 3963, the children's health insurance legislation.

For the knowledge of all Members, we came in late today. There was a very important hearing that one of the committees had. We had been told that there would likely be a Senator who would object to the committee meeting, so we came in later so they could complete their work. I think we will still accomplish all we need to do.

I filed a cloture motion on the motion to proceed. Unless an agreement is reached, we will have a cloture vote sometime this afternoon.

We are going to start the farm bill after the CHIP legislation is completed or disposed of. That will be Monday when we will move to the farm bill.

MEASURES PLACED ON CALENDAR—S. 2264 and H.R. 2295

Mr. REID. Mr. President, I ask that the Chair direct its attention to two bills at the desk and due for a second reading.

The ACTING PRESIDENT pro tempore. The clerk will read the titles of the bills for the second time.

The assistant legislative clerk read as follows:

A bill (S. 2264) to amend the Internal Revenue Code of 1986 to extend for two years the tax-free distributions from individual retirement plans for charitable purposes.

A bill (H.R. 2295) to amend the Public Health Service Act to provide for the establishment of an Amyotrophic Lateral Sclerosis Registry.

Mr. REID. Mr. President, I now object to any further proceeding to these bills en bloc.

The ACTING PRESIDENT pro tempore. Objection is heard. The bills will be placed on the calendar.

CHILDREN'S HEALTH INSURANCE PROGRAM

Mr. REID. Mr. President, children's health is a tremendously difficult issue because children all over America need to be able to go to a doctor when they are sick or hurt. The way this body is operating now basically is that we are not going to be able to complete, it appears, our legislation. The President has vetoed the bill once. We were told that if certain changes were made, Republicans in the House would look to this legislation favorably. We did make some changes. We tightened down the legislation so it is virtually impossible for anyone who is here illegally to obtain benefits from this program. We changed that.

We also limited the legislation so parents or adults without children would be off the program in 1 year. Also, there could be no waivers for

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



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those over 300 percent of poverty. Ninety-two percent of the individuals getting benefits from the legislation are 200 percent above poverty.

We made those changes, hoping it would bring some around. After that was done and it passed the House and came over here, we were told by a number of individuals if we would hold off on this legislation, there would be an agreement reached, and I thought that was a good suggestion. As the RECORD indicates, yesterday I asked that that be the case. Obviously, that was not the case. An objection was heard and we were unable to delay the vote.

This morning, we heard something from the President that is totally different. He keeps changing the ball here. First of all, he indicated to Leader PELOSI and me that he would like to sit down and talk to us. He said that publicly in the press. After the veto vote, he said he would like to come down and talk to us. Then he said, no, I am not going to talk to you; talk to my staff. Obviously, he wasn't leveling with the American people then.

Today, he came up with a new deal. He doesn't like the way it is paid for. I guess his term of reference is that we don't pay for much around here. That is why we have these staggering deficits. But he said in the press today he didn't like the way it is paid for. Remember, we are on a pay-go program around here. Any new spending has to be paid for. This children's health program is paid for with tobacco taxes. So the goalposts keep being moved.

What are the consequences? Is it a bunch of talk by Government officials, of which I am one? It is very serious. Twenty-one States will run out of money for children's health insurance in the coming year. At least nine of those States will exhaust their allotments in March if Congress continues spending at current levels.

There is a report that came out today in the New York Times newspaper. California is adopting rules, in case that happens, to create a waiting list and remove more than a million children who are already on the rolls. These are kids. The nine states that will run out of money by March are Alaska, Georgia, Illinois, Iowa, Maine, Maryland, Massachusetts, New Jersey, and Rhode Island. This comes from a nonpartisan, nonpolitical organization, the Congressional Research Service.

So there are real consequences to what we are not doing. We are going to go ahead with the vote today and complete this legislation, as I indicated, sometime this week. If we have to work into the weekend, we will. I have alerted the Republican leader of that. If necessary, we can, of course, condense that time, but it would take consent of all the Senators.

We are, in good faith, trying to protect children—children who are already receiving the benefits of this program that was adopted 10 years ago on a bipartisan basis, led by Senators KENNEDY and HATCH. Now we are trying to

further this legislation, led by Senators BAUCUS, GRASSLEY, ROCKEFELLER and HATCH and their counterparts in the House.

I think it is a real shame that we are at the point where we are. Ten million children, if we pass this legislation, would have the benefits of this insurance. If we don't pass it, as indicated in some of the statistics I gave a minute ago, 9 States will run out of money in March and 21 States will run out next year sometime.

The program now has 5.5 million children on it. If we don't do anything by year's end, it will be down to about 3 million children. That is what I am told. If we pass our legislation—and it doesn't cost the American people any money—we would wind up having 10 million children covered. As I have indicated, most all adults will be off the program, as I have indicated to the chair and to those within the sound of my voice.

This is a good program. This doesn't take into consideration approximately 50 million people who have no health insurance, but it takes care of a few of the children—the little people—who need help when they are sick and hurt. This allows them even to go get some preventive care, which is badly needed, which will save our country a lot of money in the so-called outyears.

We are ready and willing to be reasonable, but it appears we have no alternative, based on what we did yesterday, to proceed forward and send the bill to the President again. The only thing that would come in the way of that is if the Republicans use whatever excuse they can come up with to try to satisfy the President.

As I said yesterday, in the 7 years this man has been President, he has had the strings on his puppets in the Senate. Maybe people who voted for this on more than one occasion will switch and say we don't like the way we are being treated. Remember, we have given them everything they wanted, and they could not take yes for an answer yesterday.

RECOGNITION OF THE REPUBLICAN LEADER

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

NOMINATION OF JUDGE MICHAEL B. MUKASEY

Mr. MCCONNELL. Mr. President, today marks the 40th day since the nomination of Judge Michael Mukasey to be Attorney General.

The Mukasey nomination was the culmination of a process in which the President was extremely solicitous of the views of the Democratic majority.

Let's recap. Our friends on the Democratic side of the aisle did not want the former Attorney General to continue in office and, as we all know, he resigned.

Our Democratic colleagues wanted to be consulted on whom the next Attorney General should be. Well, the administration consulted extensively with our Democratic friends.

Our Democratic colleagues did not want the former Solicitor General, Ted Olson, to be nominated. He, in my view, would have made an outstanding choice. But the administration did not nominate him.

Our Democratic colleagues said if, instead, the President "were to nominate a . . . conservative . . . like Mike Mukasey," he "would get through the Senate very, very quickly." Well, the President didn't nominate somebody like Mike Mukasey; the President nominated Mike Mukasey himself. He received widespread acclaim for taking that step.

So it is apparent the President acted in a very bipartisan fashion in reaching the decision he did to nominate Judge Mukasey.

So did our Democratic colleagues reciprocate to that act of good faith? At this point, it is kind of difficult to say they have. First, they held up the nomination for weeks before even scheduling a hearing—an action—or, more precisely, an inaction—which the Washington Post termed "irresponsible."

Then, despite the fact that Judge Mukasey testified for 2 days and answered 250 questions in the process, our Democratic colleagues asked him to answer an additional 500 written questions. By contrast, Attorney General Reno did not receive any written questions until after she was confirmed. Then it took over 2 weeks for a markup to be scheduled. I understand one now has been scheduled for next Tuesday, and I am certainly glad that has finally occurred, but it shouldn't have taken nearly this long.

Months ago our Democratic colleagues told us "this Nation needs a new Attorney General and it can't afford to wait." That was the cry on the other side: We need a new Attorney General and we can't afford to wait. Unfortunately, since then, we have been waiting and waiting and waiting. We have been waiting so long that Judge Mukasey's nomination is the longest pending Attorney General nomination in two decades.

Now the good news is that the markup has been set. We need to get Judge Mukasey's nomination to the floor for an up-or-down vote as soon as possible.

I think we have seen some unfortunate flareup of partisanship. Hopefully that will not continue and we can get Judge Mukasey to work down at the Justice Department where we all agree his services are very greatly needed.

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

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

The Senator from West Virginia.

CHILDREN'S HEALTH INSURANCE PROGRAM

Mr. ROCKEFELLER. Mr. President, yesterday the President of the United States stood on the steps of the White House and had the audacity to lecture Congress about how to do our work. It is precisely a lack of Presidential leadership, potentially a lack of policy interest, and certainly a lack of understanding of responsible Government that is getting in the way of solving our Nation's problems—the President.

This Congress inherited a growing deficit from Mr. Bush—his created deficit, not his father's; his—and Congress has committed to live by a pay-as-you-go way of spending which makes life very tough. It is the absolute height of hypocrisy to have a President who effectively frittered away, gave away, to his rich friends a \$5.6 trillion surplus and to have him lecturing the Congress about skyrocketing spending.

Did all of that go to his rich friends? No; most of it did. Some of it went to his brilliantly conceived war in Iraq which has made America a much less safe place to live, while the Taliban and others grow stronger in Afghanistan.

America needed, when he took office and especially after 9/11, to make some substantial investments in our defense and intelligence infrastructure, as well as very new and very good homeland security initiatives to respond to the September 11 attacks and ongoing threats. That spending was required for our national security.

Generally speaking around here, we take national security pretty seriously. We do on the Intelligence Committee. But that is not where the bulk of taxpayers' dollars has gone under this administration. Instead, we have given trillions of dollars away in tax cuts to millionaires and billionaires, and we are in year 5 of an astronomically expensive Iraq war with a failed strategy that is, as I said, making America less safe.

I am going to say to the President, this is not a political speech. I do not often come to the floor of the Senate to speak. I prefer to do my work in committees and in conferences. But I am fed up and outraged at what has transpired from the White House.

Meanwhile, on the home front, our domestic priorities, such as children, we have met a concrete wall of resistance. The veto of the Children's Health

Insurance Program rests with him and it rests with him, President Bush, alone.

The Democratic leader was talking about some of the falsehoods the President has used in arguing against—publicly, constantly, all the time—the Children's Health Insurance Program, none of which are true. All of those who not only created the program, as I did along with John Chafee and ORRIN HATCH, but those of us who are working on it now, in an extraordinarily bipartisan way amongst ourselves and with the House, are trying to make it work. But over all that, there is this looming understanding that no matter what we do, the President is going to veto the bill. I will get into that later.

So now the President is threatening to veto and then veto again and then veto again appropriations bills aimed at investing in other pressing domestic needs. While, at the same time he is pushing to make the tax cuts for billionaires and millionaires, that I referred to before, permanent while advocating little to nothing for hard-working, middle-class families.

Congress is keeping its promise to the working-class families in West Virginia and around the Nation. We try to put the best interests of our soldiers, our children, our veterans, and our families first, and we have done so. We are the ones who have done that. If the President thinks that vetoing bill after bill and threatening to do so, setting the tone to do so, somehow achieves his goals, it is going to make him even less relevant to the American people than he is now.

Let me comment a little bit more on his statement regarding CHIP, the Children's Health Insurance Program. It is certainly the best program since Medicaid in terms of health care and one which is working, according to all analysis, efficiently and effectively and humanely.

As we all know, after months of intense negotiations between Republicans and Democrats, Congress presented a bill to the White House that would continue the health care coverage of the 6.6 million children currently covered and add on approximately 4 million more. It would give 10 million-plus children insurance, little children who have no health insurance, and we want to tend to that problem.

It has been an entirely bipartisan process. CHUCK GRASSLEY, the honorable senior Senator from Iowa, MAX BAUCUS, the honorable senior Senator from Montana, JAY ROCKEFELLER, the honorable junior Senator from West Virginia, and ORRIN HATCH, the honorable senior Senator from Utah have worked for months, more importantly have our staffs, on a bipartisan basis, have worked for months, 7 days a week, through the night, to try to make this bill work.

The President wanted to put \$5 billion into it, which would have cut a lot of children out of health insurance. Obviously, the Democrats wanted to put

in \$50 billion into it. The Republicans wanted to put \$22 billion into it. What we did, the four of us Senators who are doing this, met every single afternoon for weeks and for months from 5 to 7 to figure out a way, arguing, walking out sometimes, negotiating, and finally coming to the figure of \$35 billion, and we were all happy. We all shook hands with pride because we knew we were doing something good for America's children. There were no politics there. It was pure negotiations in the interest of the people who don't start wars, who don't get our Nation into trouble, and who don't have any health insurance.

Congress met its responsibility. We did the right thing by our children. The President perhaps didn't understand the policy involved. I don't know. As the leader indicated, he didn't want to talk about it. But he certainly deliberately told a lot of falsehoods about the program, and the leader also discussed that situation, never mentioning that 91 percent of all children retrospectively and prospectively—the 6.6 million plus the 4 million—are at 200 percent of poverty or below—91 percent, 9 out of 10.

I see them with my eyes in West Virginia. I see them as a VISTA volunteer. I see them now as a relatively senior, though still junior, Senator because they are people. When their teeth are not fixed, their lives are changed. When their baby teeth are not fixed, don't worry about the adult teeth to follow; they are already compromised. And immunizations, EPSDT, all kinds of other health care needs.

We did the right thing by our children. The President—and it was the President who decided to veto this bill—it was the President who abdicated his moral responsibility to our children in favor of tobacco and partisan politics, or ideology. It doesn't matter, does it, if he is going to veto the bill. I just came from a meeting a half hour ago where Republicans and Democrats from the House and Senate were trying to work out a compromise, but there was this looming sense that whatever we do was going to get vetoed, so it didn't make any difference.

Ten million children—this isn't some controversial dam or earmark. This is uninsured children. Some of them had been previously uninsured and now are, and 4 million more who are uninsured. They are children. If you don't get a healthy start in life, everything is compromised—your health, your self-esteem, your prospects, your future, your life. It starts with health care.

It is the President who continues to tell these falsehoods about our bill to take attention away from the real issue. This is not about the cost of the bill, this is not about uninsured adults, this is not about illegal immigrants. This is about not wanting to give poor and low-income children and children whose parents cannot afford private insurance access to something monumental called health care.

The President said so himself in a statement which I can barely get out of

my mouth. He said to a Cleveland audience on July 10 of this year:

I mean, people have access to health care in America, after all. You just go to the emergency room.

Mr. President, you cannot understand health care, you cannot understand any of its intricacies, you cannot understand any of its broad oversweeps and ever, not even once in your life, make a statement such as that. The last time as a Senator I was in a waiting room in an emergency room with a child was about 1 or 2 years ago, and we waited 9 hours. So that statement, which is hard for me to say, alone, speaks volumes about his less than compassionate intentions.

Yesterday, the President accused Democrats in Congress of going it alone without seeking input from Republicans. There is absolutely nothing that could be further from the truth. We sought input from him, and we were turned down. We have done nothing but work with Republicans. We were working with Republicans 45 minutes ago in an hour, hour and a half long meeting—I don't know how long. I think we are meeting again this afternoon—from the House. We are trying to resolve this, all at the same time understanding that at the end of the day it is probably all going to get vetoed. But we don't care because we do care about children. It is about children. It is about children and their right to have health care, and we are in a position to do it.

I went to a high building in New York at the invitation of somebody, and I walked in and I was greeted very coldly. I sat down. I was stared at very coldly. I became moderately unhappy. So I decided to start out the conversation, which he had asked for.

I said: How much are you going to make this year?

He said: \$183 million.

But he said: If you people on the Finance Committee would do something about deferred compensation, I could make more.

Now, this put me in a real kind of quandary. I didn't want to be impolite—I did want to be impolite, but I didn't want to show it—and so I said to him: How is it that I describe something called the United States of America? How is it that I deal with income disparity? How is it that I come from your \$183 million, plus whatever it is if we did on the Finance Committee would give you more, to the fact that the average working family who pays taxes and works and has children in West Virginia has an income of \$26,600 a year? How do I get from \$26,000 a year to \$183 million-plus a year and still call this the United States of America, which is trying to resolve income disparity and treat people fairly?

I couldn't do it. The conversation was not pleasant, and I got up and walked out. I am happy to say the gentleman was fired a week later.

So we have tried to get the attention of the White House. We have tried to

engage the White House. We have tried to do it not for the sake of just simply crafting a bill, but because we have a passionate belief that goes back to 1996—a passionate belief that we are speaking on behalf of millions of American families who cannot afford something so basic as health care and that we can fix it for them for \$35 million, and that is over a period of years, but we were rebuffed. We were vetoed, and we have actually been vetoed verbally five or six times since.

CHIP is a bipartisan program. The bill passed by the Congress is a bipartisan bill. It does have strong Republican support. There were a lot of Republicans in the House who voted for their version of the bill despite very obvious arm-twisting by the White House. If there is any hope left of enacting a children's health insurance bill this year, it is because there is still a bipartisan group of Senators and Congressmen who are working to keep it together.

But if the President continues to mischaracterize our bill and engage in disinformation, then I would say to my colleagues: Enough is enough. Enough is enough. Either you are for giving kids a healthy start in life or you are not. It is that simple. Money is not the problem. Paying is the problem. Injustice is the problem. Poverty is the problem. Money is not.

Well, the President has made his choice. For him, children evidently don't really need health care. They can just go to the emergency room. It is really a poignantly horrible statement for him to have made. I don't know if he has ever been to an emergency room. I have. He is entitled to his conscience, of course, and he is entitled to his opinion. He is entitled to protecting tobacco over protecting children. That is his right. He is the President. He has the veto pen, and he can sign or veto. He chooses to veto. But let us be very clear: He will have this as his legacy.

As a nation, we have always done what is right by our most vulnerable populations, not sometimes as efficiently or as swiftly as we could, but as we could. Our seniors and our children have always been at the top of that. Now our veterans are sacred. Veterans, when they go to serve our country, are soldiers for their entire lives, and we protect them. If this President won't live up to that ideal, then it is time to get one who will.

I thank the Presiding Officer, and I yield the floor.

The PRESIDING OFFICER (Mr. MENENDEZ). The Senator from Arizona.

Mr. KYL. Might I just inquire now, would we be beginning the Republican time for morning business?

The PRESIDING OFFICER. There is still 9½ minutes remaining on the Democratic time.

Mr. KYL. I understand we have permission to proceed, and I thank the majority for that and would note that when speakers come on their side, then they would be entitled to their time.

The PRESIDING OFFICER. Without objection, the Senator from Arizona is recognized.

NOMINATION OF JUDGE MICHAEL MUKASEY

Mr. KYL. Mr. President, I wish to urge the swift confirmation of Judge Michael Mukasey as Attorney General. It has been 6 weeks now, and the Senate Judiciary Committee has not even taken up the nomination. It is past time to fill this vacancy.

There is no question this nominee is qualified to serve. I don't need to recite his qualifications. They were mentioned by many Members at Judge Mukasey's nomination hearing.

The distinguished majority leader said:

Judge Mukasey has strong professional credentials and a reputation for independence. A man who spent 18 years on the Federal bench surely understands the importance of checks and balances and knows how to say no to the President when he oversteps the Constitution.

There is no question, the Nation would be well served by Judge Mukasey's confirmation. Indeed, in recommending Judge Mukasey to serve on the Supreme Court, Senator SCHUMER noted that Judge Mukasey, and the others he recommended:

... were legally excellent, ideologically moderate, within the mainstream, and have demonstrated a commitment to the rule of law.

Surely, if a man is qualified and independent enough to be on the Supreme Court, we should have far fewer concerns when nominating him to serve the remaining time of about 1 year as Attorney General.

It seems to me that what this debate boils down to is politics. Some Members want more information about his views. I would note that he testified for 2 full days and has answered nearly 500 written questions. The initial reaction from many of my Democratic colleagues was that he was extremely forthcoming and they were pleased with his candidness. But for some Senators, apparently this is not enough. It almost seems to me as if some of my colleagues are willing to hold this nomination hostage until he gives them exactly the answers they want, even when he is unable as a legal matter to do that.

Let me explain why. Judge Mukasey has not been briefed on classified programs, and he will not be briefed on classified programs until he becomes the Attorney General, but some of my colleagues now seem to be saying he should have to make pronouncements about the legalities of those programs even when he doesn't know their details—can't know their details. How is this independent?

I would suggest this: My colleagues don't want an Attorney General who is independent; they want an Attorney General who will kowtow to their views and make pronouncements over

issues on which he is not legally allowed to opine. That is, of course, the opposite of independence.

Since the beginning of this Congress, Democratic Senators have repeatedly called for new leadership at the Department of Justice. They have said the work of the Department is too important to delay confirmation of a new Attorney General. Well, now is the time for them to act.

Before the nomination, Senator SCHUMER said:

Let me say, if the President were to nominate somebody, albeit a conservative, but somebody who put the rule of law first, someone like a Mike Mukasey, my guess is that they would get through the Senate very, very quickly.

Well, my colleague would have guessed wrong. It hasn't been quick. The Senate Judiciary Committee has not moved quickly, and this is all the worse because the average amount of time between nomination and confirmation of the last nine Attorneys General has been 21 days. Already Judge Mukasey has been pending for about twice that period of time—6 weeks—longer than any Attorney General nominee in 20 years. If these delays continue, obviously new records are sure to be broken.

The bottom line here is that President Bush has nominated a distinguished and nonpolitical candidate to be the next Attorney General. The Senate should reciprocate by using the confirmation process not to settle old scores or to politicize the nomination. Independence has to mean something. We do not want an Attorney General who refuses to give his honest legal opinions to the President, and we don't want one who is forced to make commitments to the Senate that are not grounded in facts or law.

The Department of Justice needs an Attorney General with the foresight and experience to resolve the issues the Nation's top law enforcement agency faces and to tackle the difficult challenges especially presented in a post-9/11 world. The qualities and background of Judge Michael Mukasey, combined with his extensive experience in national security and terrorism cases, commend him to serve as Attorney General in these challenging times. It is important for the Senate to move on with this important business of the Nation so that Judge Mukasey can be voted on by the Senate.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I wish to be associated with the remarks of the distinguished Senator from Arizona. I think he summed it up pretty well, but let me just make some comments myself about the Mukasey nomination.

Just when you thought it might be safe to venture back into the confirmation water, the partisan sharks rush in and push you right back onto the beach. Today is 40 days—40 days—since the Senate received the nomination of Judge Michael Mukasey to be Attorney

General of the United States, 40 days in the partisan wilderness for a man who is superbly qualified and widely respected and whose service is desperately needed.

Before addressing what is being done to Judge Mukasey, let me remind my colleagues who he is. Michael Mukasey has spent four decades serving the law and the country. He spent 16 years in private legal practice, 4 years as a Federal prosecutor, and 19 years as a Federal district court judge. He was head of the Official Corruption Unit during his service as assistant U.S. attorney and chief judge during his last 6 years as a U.S. district judge, both in the Southern District of New York.

Judge Mukasey's service in that particular jurisdiction gave him the expertise in national security issues that makes him especially qualified to lead a Justice Department that is being retooled for the war on terrorism and especially since the war on terrorism continues as we stand here on the floor. He presided over the 9-month trial of Omar Abdel Rahman and sentenced him to life in prison for the 1993 plot to blow up the World Trade Center.

When the U.S. Court of Appeals for the Second Circuit affirmed Judge Mukasey's decision, it took the unusual step of commenting on how he handled the trial. These are the appeals court's words. Judge Mukasey:

... presided with extraordinary skill and patience, assuring fairness to the prosecution and to each defendant and helpfulness to the jury. His was an outstanding achievement in the face of challenges far beyond those normally endured by a trial judge.

That was the U.S. Court of Appeals for the Second Circuit on August 16, 1999.

That is a remarkable statement. Appeals courts review district court decisions, but rarely do they comment in this manner on district court judges.

Both generally and specifically, by any reasonable or objective standard, Judge Mukasey is eminently qualified to be our next Attorney General. By the standards set by my Democratic colleagues themselves, Judge Mukasey should by now have become Attorney General Mukasey. My Democratic colleagues have repeatedly said that the Justice Department needs new leadership and needs it now. The Senator from New York, Mr. SCHUMER, whom my colleague from Arizona quoted, is a Judiciary Committee member and a serious one. He has said:

We can't afford to wait because justice is too important.

He is not alone in making that statement among the Democrats. The Democratic mantra is, justice is too important to wait; we need a new Attorney General now. My Democratic colleagues also offered criteria, offered a description of the kind of Attorney General we need right away. The chairman of the Judiciary Committee, Senator LEAHY, said:

We want the best man or woman who can run the place, restore the sense of commit-

ment and restore the sense of integrity to the Department of Justice.

The Senator from New York, Mr. SCHUMER, who knows him well, said the nominee would have to be someone of unimpeachable integrity, experience, and someone who could hit the ground running.

I respectfully say to my Democratic colleagues that Judge Mukasey fits your bill. He can run the place. He is a man of integrity and experience. He certainly can hit the ground running.

It appeared for a short, brief time that my Democratic colleagues thought so too. After a full day of testimony, Chairman LEAHY told Judge Mukasey that his answers showed his independence and his agreement that political influence has no place in law enforcement.

Mr. SCHUMER, the distinguished Senator from New York, said:

The most important qualities we need in an Attorney General right now are independence and integrity, and looking at Judge Mukasey's career and his interviews that we have all had with him, it seems clear that Judge Mukasey possesses these vital attributes.

I ask unanimous consent that these and some other quotes be printed in the RECORD following my remarks.

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

(See Exhibit 1.)

Mr. HATCH. We need a new Attorney General now. In fact, we needed him 40 days ago. Justice is too important to wait. Judge Mukasey meets the criteria. He is qualified. He is ready to lead. Then why is Judge Mukasey not already on the job leading the Justice Department to where Americans think it needs to be? Why is his nomination stalled, 40 days into the confirmation process, without even a committee vote?

It is certainly not because this is the way Attorney General nominees have been treated in the past. In my 31 years in this body, we have taken an average of 3 weeks to move an Attorney General nominee from nomination to confirmation. It has already been twice that long—40 days and counting—for Judge Mukasey, and he was only today put on the Judiciary Committee agenda for next week.

Let me rewind the confirmation clock to 1993, the last time a Democratic Senate evaluated a nominee for Attorney General. Janet Reno, the Democratic nominee, received very different treatment than this Republican nominee is receiving today. Miss Reno's nomination went through the entire confirmation process from initial receipt to final confirmation in less time than Judge Mukasey's nomination has been sitting in the Judiciary Committee since this hearing.

While the Judiciary Committee will not vote on Mukasey's nomination until at least next week, the committee did not even wait for a markup to approve the Reno nomination.

I was the ranking member on the Judiciary Committee, and I supported

then-Chairman BIDEN's request to vote on Miss Reno's nomination at the end of the hearing. I knew Janet Reno was very liberal. I knew she didn't agree with most Republican Senators. But she was qualified. She was a decent person. To be honest with you, the Senate unanimously confirmed her the very next day after the hearing, without even a markup.

While Senators gave Judge Mukasey nearly 500 written questions, after 2 days of oral testimony—500 written questions, the answers to which he already has provided, I might add—no Senators gave even a single question to Miss Reno.

What happened? Why such radically different treatment when a Democratic nominee for Attorney General comes up? It is simply because a Republican rather than a Democrat is in the White House and because we have a different approach toward matters.

Most of us believe when a President is elected, that President, he or she, should have the right to the nominees they put up, as long as they are competent and decent.

The need for new Justice Department leadership remains. Judge Mukasey's obvious qualifications are the same. What happened that his nomination is now being obstructed, slowed down, and delayed? The latest excuse is that Judge Mukasey will not state on the fly a legal conclusion for a Justice Department he has not yet led about whether the coercive interrogation technique known as waterboarding constitutes torture. He will not come to legal conclusions before he can apply appropriate legal standards to appropriate facts. I think that is a mark in his favor. He should be praised, not criticized, for taking this approach.

Rather than focusing on his refusal to answer a question that he should not answer, I want to remind my colleagues what Judge Mukasey has said on this subject. Everyone appeared pleasantly surprised when Judge Mukasey denounced torture during his hearing. He went so far as to explain how torture violates not only statutes or treaties but the United States Constitution itself.

Judge Mukasey said if waterboarding properly can be labeled torture, then it too is unconstitutional. In a letter dated yesterday, Judge Mukasey said he considers techniques such as waterboarding personally repugnant. But personal conclusions are not the same as legal conclusions. So Judge Mukasey outlined in detail the kind of analysis he would follow to decide whether such interrogation techniques constitute torture prohibited by the Constitution, or cruel, inhuman, or degrading treatment prohibited by statute and the Geneva Conventions.

I ask unanimous consent that his letter be printed in the RECORD following my remarks.

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

(See Exhibit 2.)

Mr. HATCH. Judge Mukasey wrote:

Legal questions must be answered based solely on the actual facts, circumstances and legal standards presented.

How can he possibly be criticized for making legal judgments by applying legal standards to appropriate facts? What kind of crazy, topsy-turvy confirmation process is this? My Democratic colleagues demanded over and over that, if confirmed, Judge Mukasey must exercise his own independent judgment and that he must answer legal questions on his own; that he must not base advice on political pressure. But now they criticize him for doing precisely what they told him to do. Democrats now criticize Judge Mukasey for saying he will exercise his own independent judgment and answer legal questions on his own, without basing his advice on political pressure. My Democratic colleagues cannot insist that Judge Mukasey be independent toward a Republican President but compliant toward a Democratic Senate. They cannot declare that the Constitution is not whatever President Bush says it is, but demand Judge Mukasey's agreement that the Constitution is whatever Senate Democrats say it is.

We should stop playing partisan political games with this nomination. The Justice Department is too important for this type of stuff. Judge Mukasey is eminently qualified to provide the leadership the Department needs now. His insistence that independent legal judgment rather than emotion or partisan pressure will guide him only enhances his fitness for taking the helm at the Justice Department.

Forty days into the partisan wilderness is more than enough. We should confirm Judge Michael Mukasey without further delay.

I yield the floor.

EXHIBIT 1

DEMOCRATS SAY THE JUSTICE DEPARTMENT NEEDS NEW LEADERSHIP NOW

Senator Chuck Schumer (D-NY): May 24, 2007: "This nation needs a new Attorney General, and it can't afford to wait."; August 27, 2007: "the Justice Department . . . desperately needs new leadership."

Senator Sheldon Whitehouse (D-RI): June 11, 2007: "the U.S. Department of Justice is a precious institution in our democracy . . . and we need to take some action."

DEMOCRATS PRAISE JUDGE MUKASEY

Senator Chuck Schumer (D-NY): May 22, 2007: "If the president were to nominate somebody . . . like a . . . Mike Mukasey, my guess is they would get through the Senate very, very quickly."; October 17, 2007: "The most important qualities we need in an Attorney General right now are independence and integrity. And looking at Judge Mukasey's career and his interviews that we have all had with him, it seems clear that Judge Mukasey possesses these vital attributes."; October 18, 2007: "He could get a unanimous vote out of this committee. . . . It's not a done deal yet. But he could."

Senator Pat Leahy (D-VT): October 16, 2007: "I would expect him to be confirmed."; October 17, 2007: "I appreciate [not only] the

succinctness of your answers but the clarity of them."

Senator Ben Cardin (D-MD): October 17, 2007: "I've been very impressed by the direct answers that you've given to very important questions."

EXHIBIT 2

MICHAEL B. MUKASEY

Hon. PATRICK J. LEAHY, Hon. JOSEPH R. BIDEN, Jr., Hon. DIANNE FEINSTEIN, Hon. CHARLES E. SCHUMER, Hon. BENJAMIN L. CARDIN, Hon. EDWARD M. KENNEDY, Hon. HERB KOHL, Hon. RUSSELL D. FEINGOLD, Hon. RICHARD J. DURBIN, Hon. SHELDON WHITEHOUSE,

DEAR CHAIRMAN LEAHY, SENATORS KENNEDY, BIDEN, KOHL, FEINSTEIN, FEINGOLD, SCHUMER, DURBIN, CARDIN and WHITEHOUSE: Thank you for your letter of October 23, 2007. I well understand the concerns of the Senators who signed this letter that this Country remain true to its ideals, and that includes how we treat even the most brutal terrorists in U.S. custody. I understand also the importance of the U.S. remaining a nation of laws and setting a high standard of respect for human rights. Indeed, I said at the hearing that torture violates the law and the Constitution, and the President may not authorize it as he is no less bound by constitutional restrictions than any other government official.

I was asked at the hearing and in your letter questions about the hypothetical use of certain coercive interrogation techniques. As described in your letter, these techniques seem over the line or, on a personal basis, repugnant to me, and would probably seem the same to many Americans. But hypotheticals are different from real life, and in any legal opinion the actual facts and circumstances are critical. As a judge, I tried to be objective in my decision-making and to put aside even strongly held personal beliefs when assessing a legal question because legal questions must be answered based solely on the actual facts, circumstances, and legal standards presented. A legal opinion based on hypothetical facts and circumstances may be of some limited academic appeal but has scant practical effect or value.

I have said repeatedly, and reiterate here, that no one, including a President, is above the law, and that I would leave office sooner than participate in a violation of law. If confirmed, any legal opinions I offer will reflect that I appreciate the need for the United States to remain a nation of laws and to set the highest standards. I will be mindful also of our shared obligation to ensure that our Nation has the tools it needs, within the law, to protect the American people.

Legal opinions should treat real issues. I have not been briefed on techniques used in any classified interrogation program conducted by any government agency. For me, then, there is a real issue as to whether the techniques presented and discussed at the hearing and in your letter are even part of any program of questioning detainees. Although I have not been cleared into the details of any such program, it is my understanding that some Members of Congress, including those on the intelligence committees, have been so cleared and have been briefed on the specifics of a program run by the Central Intelligence Agency ("CIA"). Those Members know the answer to the question of whether the specific techniques presented to me at the hearing and in your letter are part of the CIA's program. I do not.

I do know, however, that "waterboarding" cannot be used by the United States military because its use by the military would be a clear violation of the Detainee Treatment Act ("DTA"). That is because "water-

boarding" and certain other coercive interrogation techniques are expressly prohibited by the Army Field Manual on Intelligence Interrogation, and Congress specifically legislated in the DTA that no person in the custody or control of the Department of Defense ("DOD") or held in a DOD facility may be subject to any interrogation techniques not authorized and listed in the Manual.

In the absence of legislation expressly banning certain interrogation techniques in all circumstances, one must consider whether a particular technique complies with relevant legal standards. Below, I provide a summary of the type of analysis that I would undertake, were I presented as Attorney General with the question of whether coercive interrogation techniques, including "waterboarding" as described in your letter, would constitute torture, cruel, inhuman or degrading treatment, or a violation of Common Article 3 of the Geneva Conventions.

The statutory elements of torture are set forth in 18 U.S.C. §2340. By the terms of the statute, whether a particular technique is torture would turn principally on whether it is specifically intended to cause (a) severe physical pain or suffering, or (b) prolonged mental harm resulting from certain specified threats or acts. If, after being briefed, I determine that a particular technique satisfies the elements of section 2340, I would conclude that the technique violated the law.

I note that the Department of Justice published its interpretation of 18 U.S.C. §2340 in a December 30, 2004 memorandum to then-Deputy Attorney General James B. Comey, which superseded the memorandum of August 1, 2002 that I testified was a "mistake." I understand that the December 30, 2004 memorandum remains the Department's prevailing interpretation of section 2340. Although the December 30, 2004 memorandum to Mr. Comey does not discuss any specific techniques, it does state that "[w]hile we have identified various disagreements with the August 2002 Memorandum, we have reviewed this Office's prior opinions addressing issues involving treatment of detainees and do not believe that any of their conclusions would be different under the standards set forth in this memorandum."

Even if a particular technique did not constitute torture under 18 U.S.C. §2340, I would have to consider also whether it nevertheless would be prohibited as "cruel, inhuman or degrading treatment" as set forth in the DTA and the Military Commissions Act ("MCA")—enacted after the Department of Justice's December 30, 2004 memorandum to Mr. Comey—which extended the Convention Against Torture's prohibition on "cruel, inhuman or degrading treatment" to individuals in United States custody regardless of location or nationality. Congress specified in those statutes, as the Senate had in consenting to the ratification of the Convention Against Torture, that the Fifth, Eighth, and Fourteenth Amendments to the U.S. Constitution would control our interpretation of the phrase "cruel, inhuman or degrading treatment."

The Fifth Amendment is likely most relevant to an inquiry under the DTA and MCA into the lawfulness of an interrogation technique used against alien enemy combatants held abroad, and the Supreme Court has established the well-known "shocks the conscience" to determine whether particular government conduct is consistent with the Fifth Amendment's due process guarantees. See *County of Sacramento v. Lewis*, 523 U.S. 833, 850 (1998); *Rochin v. California*, 342 U.S. 165, 174 (1952). A legal opinion on whether any interrogation technique shocks the conscience such that it constitutes cruel, inhuman or degrading treatment requires an understanding of the relevant facts and cir-

cumstances of the technique's past or proposed use. This is the test mandated by the Supreme Court itself in *County of Sacramento v. Lewis* in which it wrote that "our concern with preserving the constitutional proportions of substantive due process demands an exact analysis of circumstances before any abuse of power is condemned as conscience shocking." 523 U.S. 833, 850 (1998) (emphasis added). As the Supreme Court has explained, a court first considers whether the conduct is "arbitrary in the constitutional sense," a test that asks whether the conduct is proportionate to the governmental interests involved. *Id.* at 847. In addition, the court must conduct an objective inquiry into whether the conduct at issue is "egregious" or "outrageous" in light of "traditional executive behavior and contemporary practices." *Id.* at 847 n.8. This inquiry requires a review of executive practice so as to determine what the United States has traditionally considered to be out of bounds, and it makes clear that there are some acts that would be prohibited regardless of the surrounding circumstances.

I would have to ensure also that any technique complies with our Nation's obligations under the Geneva Conventions, including those acts, such as murder, mutilation, rape, and cruel or inhuman treatment, that Congress has forbidden as grave breaches of Common Article 3 under the War Crimes Act. With respect to any coercive interrogation technique, the prohibition on "cruel or inhuman treatment" would be of particular relevance. That statute, similar in structure to 18 U.S.C. §2340, prohibits acts intended (a) to cause serious physical pain or suffering, or (b) serious and non-transitory mental harm resulting from certain specific threats or acts. Also, I would have to consider whether there would be a violation of the additional prohibitions imposed by Executive Order 13440, which includes a prohibition of willful and outrageous personal abuse inflicted for the purpose of humiliating and degrading the detainee.

As I testified, any discussion of coercive interrogation techniques necessarily involves a discussion of and a choice among bad alternatives. I was and remain loath to discuss and opine on any of those alternatives at this stage for the following three principal reasons: First, to repeat, I have not been made aware of the details of any interrogation program to the extent that any such program may be classified, and thus do not know what techniques may be involved in any such program that some may find analogous or comparable to the coercive techniques presented to me at the hearing and in your letter. Second, I would not want any *uninformed* statement of mine made during a confirmation process to present our own professional interrogators in the field, who must perform their duty under the most stressful conditions, or those charged with reviewing their conduct, with a perceived threat that any conduct of theirs, past or present, that was based on authorizations supported by the Department of Justice could place them in personal legal jeopardy. Third, for the reasons that I believe our intelligence community has explained in detail, I would not want any statement of mine to provide our enemies with a window into the limits or contours of any interrogation program we may have in place and thereby assist them in training to resist the techniques we actually may use.

I emphasize in closing this answer that nothing set forth above, or in my testimony, should be read as an approval of the interrogation techniques presented to me at the hearing or in your letter, or any comparable technique. Some of you told me at the hearing or in private meetings that you hoped and expected that, if confirmed, I would ex-

ercise my independent judgment when providing advice to the President, regardless of whether that advice was what the President wanted to hear. I told you that it would be irresponsible for me to do anything less. It would be no less irresponsible for me to seek confirmation by providing an uninformed legal opinion based on hypothetical facts and circumstances.

As I testified, if confirmed I will review any coercive interrogation techniques currently used by the United States Government and the legal analysis authorizing their use to assess whether such techniques comply with the law. If, after such a review, I determine that any technique is unlawful, I will not hesitate to so advise the President and will rescind or correct any legal opinion of the Department of Justice that supports use of the technique. I view this as entirely consistent with my commitment to provide independent judgment on all issues. That is my commitment and pledge to the President, to the Congress, and to the American people. Each and all should expect no less from their Attorney General.

Sincerely,

MICHAEL B. MUKASEY.

The PRESIDING OFFICER (Mr. BROWN). The Senator from Texas is recognized.

Mr. CORNYN. Mr. President, may I inquire how much more time this side of the aisle has in morning business?

The PRESIDING OFFICER. The Senator from Texas would have 12 minutes.

SCHIP

Mr. CORNYN. Mr. President, I realize today is Halloween, so millions of children all over the globe will be showing up at our homes, saying "trick or treat." Unfortunately, Congress has been up to more tricks than treats lately. I say that with a sense of irony but also a sense of great disappointment.

Almost 3 weeks ago, on October 11, I sent a letter to Senator REID, the Senate majority leader, and the Speaker of the House, Congresswoman PELOSI, urging them to work across the aisle with Republicans and Democrats to come up with a sensible compromise on the reauthorization of the State Children's Health Insurance Program.

Today, as we know, is October 31, Halloween, and we have still not been able to come up with a compromise that is reasonable and fiscally responsible which the President will sign. The families and the children in my State of Texas who are, unfortunately, put on edge and suffering some sense of anxiety wondering whether this important program will continue to serve the needs of low-income children are being unfortunately taken advantage of and disadvantaged.

Why in the world would Congress play this kind of game and make those who are the most vulnerable among us the most anxious about their future and whether they will be able to get the health care which everyone in Congress believes low-income children ought to receive?

Instead of negotiating and trying to come up with a sensible compromise,

we find the leadership in the House of Representatives rushing through a bill with little bipartisan input. Rather than trying to hammer out a meaningful compromise, we find a bill that actually costs just as much but serves fewer children and which otherwise makes minor tweaks to the legislation.

This bill clearly misses the mark and fails to reauthorize the State Children's Health Insurance Program according to the original intent of the program, which is putting low-income children first, low-income children whose families earn too much money to qualify for Medicaid—that is up to 100 percent of the poverty level—but who make up to 200 percent of the poverty level. Unfortunately, due to the inaction of the U.S. Congress, we have 700,000 low-income Texas children who qualify for Medicaid, who qualify for SCHIP, but who are currently not signed up and receiving those benefits. Instead, Congress is taking its eye off the ball and exploding this sensible program that deserves to be authorized by raising the eligibility cap to 300 percent of the poverty level but doing nothing—I reiterate—nothing to ensure that low-income children, including 700,000 low-income children in Texas, have coverage first before we grow the program to higher income levels and cover adults as well.

In fact, this legislation repeals the requirement that 95 percent of low-income children below 200 percent of the poverty level be covered first before extending coverage to children from higher income families. I do not believe this provision has the interests of the children this legislation was designed to serve put first. Instead, I think it puts partisan political interests ahead of the interests of low-income children.

All of this has come, of course, in response to the President's veto of the original SCHIP reauthorization, a proposal that failed to encourage participation among the poorest of our children, and instead expanded coverage to children of higher income families as well as adults. Rather than being an obstacle, the President's veto should be looked at as an opportunity to re-engage on a bipartisan basis to come up with a solution. It is no wonder that Congress's approval ratings are around the 11-percent range. When the people across America look to Washington to find solutions to their problems, what do they find? They find partisan posturing and precious few results.

This is an opportunity to deliver a result and to keep a promise that we, on a bipartisan basis, have made to the poorest children in our country. What should we have asked ourselves as to what we should do? While we leave our children and their families blowing in the wind, will we turn their lives into campaign promises or will we, instead, keep our word that we came here to serve the needs of the American people, and particularly the most vulnerable among us, by continuing this important program and making sure that

poor kids get health care first, before we look at growing this program to cover other more well-to-do children or perhaps even adults as are covered currently in four States.

The recent debate on SCHIP has focused too much on our political gains and not enough on the well-being of our poor children. This bill has become another political football in a game that has been raging for months, but, unlike any other game that I am familiar with, this game has only an imaginary scoreboard, the results are arbitrary, and nothing—nothing—it appears, is out of bounds.

Whenever a health care package for low-income children is delayed because some want to engage in partisan games and political posturing, you know things have gone too far.

They say the definition of insanity is doing the same thing over and over again and yet expecting different results. Well, by that definition, this is insanity. We know the original bill that was vetoed by the President was because it strayed far from the original objectives. It was not funded on a source of revenue that could be expected to pay for this radical expansion of the current program by 140 percent.

Well, we know the reasons the President vetoed that legislation. And what does the leadership in the House of Representatives decide to do? Well, they decide to essentially do the same thing again and dare the President, one more time, to veto this legislation.

It is clear this is not, by definition, good-faith negotiation and attempt, on a bipartisan basis, to solve this very real problem. Rather than give voice to those who want to find a better and more sensible solution to this problem, we will find ourselves this afternoon simply voting on another substantially flawed bill, which the President has likewise promised to veto.

Of course, when the bill returns from its short and uneventful trip to the White House, we will not fail to see the video cameras paraded out for the press conferences to talk once more about how the President and those who voted against this bill have heartlessly blocked it.

It has become a cynical ploy. Everybody gets it. Only people inside the beltway in Washington or inside this Chamber who continue to engage in partisan posturing do not get it. The American people see through it as clearly as you would expect.

The truth is no one wants to see SCHIP reauthorized more than the Members of the Congress, on a bipartisan basis. It is an enormously successful program passed with broad bipartisan support in 1997, and it should be continued. As a matter of fact, those of us who voted against the bill the President vetoed believe we should continue the program, and we should add at least \$10 billion to the original funding in order to cover more and more low-income kids.

But even more important than that, in my State of Texas, half of the unin-

sured children in Texas who are eligible for Medicaid and SCHIP under the current program are not signed up. What is Congress doing to make sure those children are reached out to, that their parents are assisted in filling out the paperwork so they can qualify for this program? Precious little. Precious little.

Congress continues to add 140 percent to the current authority under this program, to take money out of necessary outreach to reach out to the low-income kids and to explode this program into one that covers people making much more money than double the Federal level of poverty.

I will do everything in my power to ensure these children get the health care they need. The problem is, as I and many of my colleagues have pointed out numerous times, this bill does not make these children a priority. It does not make these children a priority but, rather, an afterthought.

Instead, it puts other children, many of whom already enjoy the benefits of private health insurance, in competition with these low-income children for CHIP coverage. The result is that children who most need it get crowded out in favor of children who already have private health insurance.

This bill simply does not fix the problem. It raises the eligibility for CHIP enrollment without a concerted effort to enroll those children who are currently eligible first. Additionally, this new bill does nothing to close the loopholes on income disregard. Now, that is a fancy way of saying disregarding the rules. You say the rules are one thing, but you come behind it later on and say: Well, forget some of these rules when it comes to qualifying income.

This bill is another example of that kind of gamesmanship under the title of income disregards which allows States the ability to, in effect, define a family's income by saying: We will not take into account all income. We are going to disregard some so you will qualify for this Federal Government taxpayer-paid-for benefit.

This loophole would allow States to actually exceed 300 percent of poverty level by disregarding part of the family's income.

Neither does this bill address the crowd-out effect which is expected to shift 2 million children from private coverage to government-run health care. There are a number of other problems with this bill that do nothing to eliminate the document fraud and identity theft that would allow non-citizens to qualify for the benefits under this legislation.

We can do better. We must do better. But we cannot do better as long as we continue to engage in this partisan gamesmanship and political posturing. Unfortunately, it is the low-income children, among the most vulnerable in our country, who are the ones who are left wondering: Is Congress going to act in their best interests?

Unfortunately, they have seen very little evidence so far that they are our

No. 1 priority, as they should be. Instead, partisan politics appear to be the No. 1 priority, and those children appear to be something left behind.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. MENENDEZ. Mr. President, I ask unanimous consent for the rest of the Democratic time in morning business.

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

REPUBLICAN OBSTRUCTIONISM

Mr. MENENDEZ. Mr. President, right up the street from here, right up Pennsylvania Avenue, is the White House. It is not far, a little over a mile. But what has been made abundantly clear over the past 10 months since Congress changed hands, what has been made abundantly clear is that when it comes to the priorities of the families of this Nation, when it comes to the values they hold, the distance between here and the White House is many miles.

Americans have seen for themselves what we in Congress want to do for them. They have seen some truly meaningful and landmark initiatives achieved on behalf of American families: The 9/11 Commission bill, bringing security to all our communities; the most sweeping ethics reform in a generation, extracting lobbying influence from the policies that affect all of us; the first increase in the minimum wage, the first raise for American workers in more than a decade; and the most significant college affordability package since the GI bill, because we recognize that a good education is the great equalizer.

But that is not all we are trying to do for middle-class Americans, for working Americans, for families in this country. That is the tip of the iceberg. We want to help American families by investing in security, education, and health care, and we have legislation to do that. Yes, there will be plenty more ideas, plenty more initiatives, plenty more investments in the people of this country whom we stand together to support but only to have the President and his friends in Congress block our progress.

Time after time, a majority of the Members of this body have lined up behind truly important legislation, only to have the President take out his veto pen or our Republican colleagues in the Senate strike up a filibuster.

Yesterday I saw President Bush, flanked by some of his top allies from Congress, complaining about what he claims Congress has not done this year. It takes a lot of nerve for the President to say that, when he received from this Congress landmark security legislation, landmark education legislation, landmark ethics reforms, and the first minimum wage raise in a decade. He signed them all into law, all within 10 months.

It takes a lot of nerve for President Bush to say we are wasting time, when

he, along with his allies, has refused the children's health legislation, stem cell research legislation, and legislation to change the course in Iraq.

I know it is Halloween, but the legislative graveyard for which the President is the grim reaper is not a trick or a treat. It is downright scary that the President can be so disconnected from the values and hopes of mainstream America.

Ask the American people: What would they rather us do in Washington—stand up for lifesaving research, lower energy costs, get our troops out of Iraq or kill initiative after initiative that would benefit American families? In Congress, we are going to try to give the President what we call in golf a mulligan on one of the most important investments we can make in our country, the health of our children. The first time, he vetoes it, sending the message that millions of children who have nowhere else to turn are unworthy of a strong Federal commitment.

We believe that is fundamentally wrong. The President has to choose if he is going to sign it into law or again write a big "no" on an investment in America's children. This is a President who says, no, no, no, when it comes to investing in our families, but yes, yes, yes, when it comes to more troops, more time, more money for his stay-the-course plan in Iraq.

This is a President who does not see the irony in sticking out the one hand to ask for \$200 billion for Iraq this year, while using the other hand to veto health coverage for poor American children. This is a President who has no problem with killing a child's health bill that would have been paid for with 3½ months of Iraq funding. This is a President who says: We are fighting them over there so we do not have to fight them over here, when what he means is: We are spending all our money over there, and we do not have it to spend here.

In Congress, we want a strong investment in children's health care, in stem cell research, in changing the course in Iraq. We have offered those to the President. He has rejected it. The President and his allies seem to want to stay the course in Iraq and not much else.

Well, America is going to see a lot of ghouls and goblins tonight. But what is truly scary is that the legislative grim reaper that threatens millions of families without health care insurance, the demon of oil addiction, and the specter of an endless war, are not going to be gone when we wake up. That is the reality we face. That is why we continue to challenge to change the course.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. BROWN. I ask unanimous consent to speak for no more than 5 minutes as in morning business.

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

CONSUMER PRODUCT SAFETY COMMISSION

Mr. BROWN. Mr. President, our Nation's haphazard trade policy too often allows contaminated food and dangerous toys onto our shelves and into our homes, and this administration has done little to curb the toxic tide.

Earlier this month, I asked Ohio's Ashland University chemistry Professor Jeff Weidenhamer to test 22 Halloween products for lead. Three products tested were found to contain high lead levels. Acceptable levels of lead, according to the Consumer Product Safety Commission, are 600 parts per million for adults. According to CPSC, there is no acceptable lead level for children. A Halloween Frankenstein cup that Professor Weidenhamer tested—presumably a cup that may end up in a child's mouth—contained 39,000 parts per million versus 600, which is acceptable for an adult, and zero acceptable for a child.

For more than 40 years, parents trusted that their children's toys were safe from lead. The safety net secured to help our families is being systematically dismantled, as the Presiding Officer, the Senator from North Dakota, has pointed out so well, by our Nation's failed trade policies and an apathetic administration. Forty years ago, we banned lead in paint. Now we must ban lead in toys. I am a cosponsor of legislation with Senator OBAMA that would do that.

While a ban on lead in toys is an important step, it doesn't get at the heart of the problem—our failed trade policy. Until we get tough on enforcing safety standards abroad, we won't be able to prevent contaminated products from ending up on store shelves across the country and in our homes.

Distributors seeking low-cost products stretch supply chains to China and cut costs; that is, American companies that import go to China and other countries and push them to cut costs, to cut corners, and then those products are brought back into the United States. That means lead paint in toys because it is cheaper to buy and to apply, it means too often contaminated products in our homes, and it means zero accountability.

We have not made the importers, the contractors, or the Government accountable because of cuts at the Consumer Product Safety Commission and because we have a top Commissioner there who has simply weakened that agency and abdicated responsibility. As yesterday's report highlighted, we must do more to ensure the Consumer Product Safety Commission has what it needs to do its job.

I am a cosponsor of legislation sponsored by Senator PRYOR that would reauthorize and strengthen the Consumer Product Safety Commission. Its budget is half what it was when it began in the 1970s in real dollars. The staff has dwindled over the years from 1,000, including inspectors, to 420. We must instead increase funding and staff at the Consumer Product Safety Commission. We must increase coordination between the CPSC and Customs officials. We must give the Commission the authority to examine and approve other nations' regulatory systems before imports from a country get onto our store shelves.

When we buy tens of billions of dollars of toys, tires, and other consumer products from a country that has weak environmental laws, weak food safety laws, weak consumer protection laws and, at the same time, when our companies that import from other countries push subcontractors in those countries to cut costs, this is what we end up with. That is why we must give the CPSC the authority to examine and approve other nations' regulatory systems.

Unfortunately, as imports from China and other trading nations rise and the recall of toxic products at home increases, the Bush administration continues to call for more Consumer Product Safety Commission cuts.

Yesterday, the Times reported that Chairwoman Nord of the CPSC plans to actively work to kill the Pryor legislation. That is unacceptable. This administration's apathy for policies that protect our families is at best shameful and at worst potentially deadly.

One thing I am sure of: It is time for Nancy Nord of the Consumer Product Safety Commission chair to step aside. She is the acting chairperson but, unfortunately, we have seen a lot more inaction than we have action. It is time to put a chairperson in place who is not satisfied with "we are doing the best we can." We need a chairperson who fights for the authority and the resources the Commission needs to do the job it is supposed to do.

Her response to the wave of product recalls has been, to put it charitably, underwhelming. She is fighting efforts to make more information available to the public about product hazards. She opposes protections for whistleblowers who identify shoddy products, and, most importantly, in the face of recall after recall, she has offered no plan to equip the CPSC to fulfill its role in product safety. She spends most of her time trying to make sure her agency isn't scrutinized or held accountable for doing its job. We need a permanent chairperson dedicated to doing the most important thing the CPSC is to do—protecting families and our children, not protecting corporate interests.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

CHILDREN'S HEALTH INSURANCE PROGRAM REAUTHORIZATION ACT OF 2007—MOTION TO PROCEED

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of the motion to proceed to H.R. 3963, which the clerk will report.

The legislative clerk read as follows:

A motion to proceed to the bill (H.R. 3963) to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I ask unanimous consent that the cloture vote on the motion to proceed to the children's health insurance bill, H.R. 3963, occur at 3:45 p.m. today, and that if cloture is invoked it be considered invoked as if the vote had occurred at 6:30 p.m. today and concluded at 6:50 p.m., with the time following the conclusion of morning business prior to the vote equally divided between the two leaders or their designees.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. DORGAN. Mr. President, I wish to yield to myself 30 minutes, and I also ask unanimous consent that Senator KENNEDY be yielded 30 minutes of the majority's time.

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

The Senator from North Dakota is recognized.

Mr. DORGAN. Mr. President, I am going to talk about a couple subjects this afternoon. I am going to begin, however, talking about the issue of children's health insurance.

The Children's Health Insurance Program will be the subject of the cloture vote later this afternoon, and it is a very important issue. We have a lot of children in this country who do not have health insurance coverage. Ten years ago, we put together a piece of legislation called the Children's Health Insurance Program. It has worked. It has been very successful. Millions of children who otherwise would not have had health insurance coverage now have health insurance coverage.

The President, when he campaigned for office a couple of years ago, said he supported and wanted to expand the

Children's Health Insurance Program to cover more children. The Congress, on a bipartisan basis, has now passed the Children's Health Insurance Program reauthorization that would provide additional coverage for nearly 4 million additional children in this country—3.8 million additional children, to be exact. The President vetoed it—this after he campaigned saying he supported expanding the program. In fact, not only did he veto the expansion of the program—that was done on a bipartisan basis in the Congress, and fully paid for, I might say—but he sent Congress a budget that left 21 States without enough money to continue to cover the existing kids in the program.

So this administration has it wrong. That is not just me saying it, it is a bipartisan group of Members of Congress who believe very strongly we need to do what is right to try to get health insurance to children. We should try to make sure every American has health insurance. That is very important. But it seems to me if you do not have legislation that does that, at least start with the children.

I have said before, I do not know what is in second or third or fourth place in most people's lives in terms of what is important, but I know what is in first place in the lives of most people. It is their children and their children's health. If this is not a priority, if it is not a priority at the White House—it passed the Senate with a wide margin, passed the House with a wide margin, but we did not have 67 percent of the votes in the House to override the veto—if it is not a priority at the White House, I ask what is a priority? If providing health care for an additional 3.8 million children is not a priority, what are the priorities at the White House? What is more important?

Once again, this may be unfamiliar territory to the President because this is a piece of legislation that is fully paid for, unlike much of what we get from the White House these days. I am going to talk about that in a bit. But before us here in Congress, the President has two requests. In addition to his regular budget, the President has said to us: I want another \$196 billion for the purposes of continuing the war in Iraq and Afghanistan. And he said: I want the \$196 billion declared an emergency. I do not propose we pay for it. I propose we put it all on top of the debt. That will take us to almost two-thirds of a trillion dollars the President has asked for—none of it paid for, all of it requested by the President as an emergency.

Contrast that, by the way, a \$196 billion emergency request—none of it paid for—with a bipartisan group in the Congress that says: We believe the priority is our children. We propose to cover 3.8 million additional kids with health insurance coverage, and we fully pay for it. That is a very significant departure from what we hear at the White House these days.

Now the President gasses up Air Force One, flies all over the country, and flew

down to Arkansas not many days ago and said: I am the fiscal policy President. I am going to get tough. I am vetoing bills. Interestingly, he did not veto a bill in the 6 years his party controlled both branches of Congress. He did not veto bills in the 6 years in which, in nearly every case, the appropriations coming out of the Congress exceeded his request or at least were dramatically changed from his request.

It is now, only in the shadows, the evening hours of his Presidency he decides he wants to be a fiscal policy President, tough on fiscal policy. The problem is, it is not so much what you say that matters, it is what you do that matters, and he has before us one more demonstration of the reckless fiscal policy we have seen now for some years, turning a very significant budget surplus, when he took office—and, yes, we had a budget surplus of about \$240 billion in that year—turning that into a stream of fiscal policy budget deficits, adding \$3 trillion to the Federal debt, and asking us, once again: Please give me another \$196 billion above all the regular appropriations.

By the way, even as he asks for the additional \$196 billion, he says we cannot afford providing insurance coverage for 3.8 million kids whom we fully pay for in a bipartisan bill.

I am telling you, I think the President is wrong. I admire the fact this is a bipartisan bill. We did it the right way. The President will have a second opportunity to have a bill on his desk. My hope is he will understand the good faith and goodwill of bipartisan Members of Congress who have the right priorities, saying our children come first and children's health insurance is very important.

INDIAN HEALTH CARE IMPROVEMENT ACT

Mr. President, that leads me to talk about a health insurance issue that includes the Children's Health Insurance Program but is much more than that. It is a bill that is going to come to the floor of the Senate soon, and thanks to the commitment by Senator REID, the majority leader, it is the reauthorization of the Indian Health Care Improvement Act.

It has been 8 years since Congress should have reauthorized the Indian Health Care Improvement Act—8 years—long past due, long past the time for us to have done this. The fact is, in this country we have 2 million of the first Americans—they were here greeting the folks who came to this country—American Indians, and many of them live in Third World conditions, and many of them experience health care rationing, which I think is a scandal.

It is not written much about these days, unfortunately. But there is a full-blown scandal, in my judgment, with respect to health care that is not available to American Indians—health care that was promised, health care that was committed, and health care that is our trust responsibility as a government to American Indians. We made

that commitment, and we are not keeping it.

Indian children will benefit from children's health insurance as well. But also, Indian children live—and in some cases die—with the results of the Indian health care system.

This young lady shown in this picture is a 5-year-old beautiful young girl—sparkling eyes, with a beautiful dress, dancing in the traditional Indian dress—5 years old. Her grandmother, who testified at the Crow Indian Reservation, at a hearing I headed with Senator TESTER, held this picture up. Her name is Ta'shon Rain Littlelight—5 years old.

Ta'shon died. Her grandmother brought her photograph to the hearing and held it high. She talked about her granddaughter. She said Ta'shon lived the last 3 months of her life in unmedicated pain, and died of terminal cancer. She was taken and taken and taken again to the Indian Health Service, was diagnosed with depression, and treated for depression. Ultimately, it was discovered she had terminal cancer—not depression, terminal cancer.

She was flown to Billings, MT, and then to Denver, CO, and this young 5-year-old is gone. Her grandmother asks the question: Would better health care have saved her? Should she have been diagnosed in a different manner? I don't know the answer to that. I do know this: There are too many children like Ta'shon Rain Littlelight who do not have the same health care as others have, and Ta'shon lost her life.

It is not just this beautiful little girl. This is the photograph of a young girl whose photograph I have shown my colleagues before. Her name is Avis Littlewind. Avis Littlewind is also dead—14 years old. She took her own life. Her sister took her own life. Her father died at his own hand. She was in a fetal position in bed in her bedroom for 90 days at age 14, and somehow no one quite figured out this young lady desperately needed mental health treatment. So she took her life.

I went to that Indian reservation. I talked to the school officials. I talked to Avis Littlewind's classmates. I talked to the tribal officials to try to understand: How does a 14-year-old child fall through the cracks?

Well, there was not mental health treatment available in any significant way for this young child. The people who would get her health care would have to beg and borrow a car to drive her someplace. But she is gone. This young girl apparently felt hopeless and helpless and took her own life.

The question I ask with respect to the mental health treatment she should have gotten—with respect to so many other kinds of health care that should be available to American Indians—the question I ask is: When? When will they get the health treatment they deserve?

This is a picture of a woman from the Fort Berthold Indian Reservation. I have described her situation to my col-

leagues previously as well. Suspected of having a heart attack, she was put in an ambulance and driven to a hospital—the nearest hospital off the Indian reservation. Arriving at the hospital, as they were carrying her into the hospital, transferring her to a hospital gurney, they discovered at the hospital something taped to her thigh with an ordinary piece of tape.

Here, as shown on this chart, is what was taped to this woman's thigh, as she was taken into the hospital off of a gurney, suspected of having a heart attack. What they found taped to her thigh was a letter from the Department of Health and Human Services, and it described that this woman was not going to be eligible for contract health funding because they were out of money: So if you admit this woman to your hospital, understand, you are on your own. Financially, you are on your own. We are warning you.

That is what the letter taped to this woman's thigh said. That is health care today in modern America on Indian reservations.

Now let me describe why there is an urgency to pass Indian health care legislation, to reauthorize the Act that should have been reauthorized 8 years ago.

We spend twice as much money per person on health care for Federal prisoners incarcerated in our Federal prisons as we do for American Indians, and we have a responsibility, a trust responsibility, for health care for American Indians. This is not being generous. This is meeting a promise America made to Indians. This country made the promise over and over again that we would provide for their health care. But we have not met that promise.

If you take a look at what we spend per capita for American Indians, what you will discover is, we spend half as much per person for American Indians as we do for Federal prisoners. We have a responsibility for health care for those we incarcerate. I understand. If you stick someone in a Federal prison, you have to take care of them, provide for their health care.

Why do we spend twice as much for a Federal prisoner's health care as we did for Ta'shon Rain Littlelight's or Avis Littlewind's or, in per capita expenditures, we do for American Indians? We spend \$6,700 a year, per capita, on Medicare expenditures, veterans, \$4,600; Medicaid, \$4,300; Federal prisoners, \$3,200; Indian health program; \$2,100 per capita. We have to do better than that. We have significant responsibilities, significant problems, and regrettably, full-scale health care rationing on many of America's Indian reservations, and I think it is a scandal and an outrage and we have to fix it.

Senator MURKOWSKI and I, as chairman and ranking member of the Indian Affairs Committee, have written in our committee a piece of legislation called the Indian Health Care Improvement Act. We are ready to bring that to the

floor of the Senate at last, at long last. Lives will be saved if we can pass this piece of legislation. Senator REID has given us a commitment that we will have this piece of legislation on the floor of the Senate, and when we do, I think it will be a day of some celebration for American Indians who have been promised health care and, regrettably, have not received the benefit of the promises that were made. I am not suggesting there aren't some talented men and women who work in the Indian health care system and who work in public health. I am not suggesting there aren't some very talented people out there. But I can tell horror stories that are almost unbelievable.

A woman goes to the doctor on an Indian reservation, and she has a knee that is unbelievably painful—bone on bone. It is the kind of knee that if it belonged to a Member of the Senate or one of the Senator's families, they would go and get a knee replacement. Bone on bone, unbelievably painful.

This woman is told: Wrap your knee in cabbage leaves for 4 days, and it will be fine. Well, that is not fine, and that is not medicine. That isn't what we should expect in terms of meeting our responsibilities in this country to the first Americans.

Again, I asked the grandmother of Ta'Shon Rain Littlelight if I could use her image, and I do so respectfully and I do so understanding the delicacy of it. But when the grandmother came to the hearing and held up the picture of this beautiful young girl with the sparkling eyes, and said: My granddaughter died, and here is how she died. In 3 months of unmedicated pain after her terminal cancer had not been diagnosed for months and months and months.

I think it is important for us to ask the question: Does this matter? Do we care? I hope the answer is yes, it does matter and, yes, this Congress does care and, yes, this Congress is going to meet its responsibility. I hope in the coming weeks that certainly will be the case, starting here in the Senate.

Mr. President, I yield the floor, and I make a point of order that a quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

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

The PRESIDING OFFICER. There is 13 minutes remaining.

FISCAL POLICY

Mr. DORGAN. Mr. President, I wanted to speak about the subject I referenced briefly, and that is fiscal policy and this President. It gives me no joy to come and be critical of the President's fiscal policy. But it should give the American people no joy either

to understand the consequences of a fiscal policy that turned very large budget surpluses, which took us a long time to begin to see, into very long-term Federal budget deficits and three trillion dollars of additional debt. That is a reckless fiscal policy and one that has to be fixed.

When he recently asked the Congress for an additional \$196 billion—none of it paid for, all emergency—the President said: Now we will see whether the Congress supports the troops. Well, the fact is, not all that money goes to the troops in Iraq and Afghanistan. A substantial portion of that money goes to contractors.

I wanted to go through with my colleagues some examples of what we are finding with respect to the spending of taxpayers' money for contractors. I believe I have held 17 hearings over the recent 4 years as chairman of the Policy Committee on these issues.

Let me put up a couple of charts to describe where we are headed.

This is a Congressional Budget Office estimate of October of this year. The U.S. wars in Iraq and Afghanistan could cost taxpayers a total of \$2.4 trillion by 2017 when you count the very large interest costs because this is being financed with borrowed money. Again, a President who says he is a conservative borrowing all of this money, insisting it be borrowed and not paid for, and we end up in this country paying a fortune for the war costs.

So the question is, is this money for the troops? Well, let me describe what we have. Last month, military officials said contracts worth \$6 billion to provide essential supplies to American troops in Kuwait, Iraq, and Afghanistan—including food, water, and shelter—were under review by criminal investigators. In addition, \$88 billion in contracts and programs, including those for body armor for soldiers and material for Iraqi and Afghan security forces, are being audited for financial irregularities.

Think of that: \$88 billion; \$6 billion under criminal investigation; \$88 billion, financial irregularities by these contractors.

Once again, under this President, last month the Army reported that it had 78 cases of fraud and corruption under investigation, had obtained 20 criminal indictments, and had uncovered over \$15 million in bribes.

Another \$196 billion, while those who prance around this money have a field day. It doesn't seem like conservatism to me.

Again, in August, 2 months ago, the New York Times reported:

The enormous expenditures of American and Iraqi money on the Iraq reconstruction program, at least \$40 billion over all, have been criticized for reasons that go well beyond the corruption cases that have been uncovered so far. Weak oversight, poor planning, and endless security problems have contributed to many of the program failures.

So we ante up money from the United States Congress—billions and

billions of dollars. We are going to provide health care clinics for the Iraqis. We are going to build 142 health care clinics. We hire the contractor. The money is gone, but the clinics aren't there. An Iraqi doctor—a very courageous Iraqi doctor—testified at one of my hearings. He said: I went to the Health Minister in Iraq and said: You know, we had these contracts with an American contracting company that was going to do these 142 health care clinics in Iraq. I would like to visit them. The Iraqi Health Minister said to this physician: You don't understand. Most of those are imaginary clinics.

Well, the American taxpayer got fleeced. The money is gone. The contractor got the money. The clinics don't exist.

We can't even keep track of the guns that are being sent to Iraq. We sent Iraq 185,000 AK-47s, and at this point we know where 75,000 of them are; 110,000 are gone and unaccounted for. We sent them 170,000 pistols, 90,000 of them we can't account for. Are some of these AK-47s and pistols being aimed at American troops? Of course they are. How is it that we fund with American taxpayers' money the shipment of massive quantities of weapons to Iraq and don't keep track of where they are? Again, there are 110,000 AK-47s, we don't know where they are, and 80,000 pistols, we don't know where they are. This is almost staggering incompetence, in my judgment.

Saddam Hussein is dead. He was hanged by the neck. The Iraqi people no longer have Saddam Hussein in their lives. The Iraqi people voted for their own new constitution, and they voted for a new government. All that is left for the Iraqi people is to provide for their own security. The question is, when will the Iraqi people demonstrate the will to provide for their own security?

We have trained 360,000 Iraqis in the interior forces and defense forces, soldiers and police men and women—360,000 have been trained, and they can't provide for their own defense, for their own security. Is there not a will in this country in which Saddam Hussein is gone, a new constitution, a new government exists, and they have 360,000 people trained, and that training was paid for by this country—is there not a will, then, to provide for security? If they can't, we can't. We are not going to provide security in Iraq for the next 5 or 10 years. We should not be going door to door in Baghdad in the middle of a civil war with U.S. soldiers.

But it seems to me we should reasonably ask the question: If we have trained 360,000 for security in Iraq, and they can't provide for their own security, where are they? We are now told that up to 50 percent of those we have trained are probably not on the job anymore. We don't know where they are.

I also just saw information a couple of days ago that the number of people

we are training has dropped by two-thirds. I mean, everyone talks about—including the President—the way out of Iraq is to train the Iraqis for their own security. We have trained a third of a million of them and now we have reduced the amount of training by two-thirds and now we have a surge of American soldiers going door to door in Baghdad in the middle of a civil war. I am just saying I don't think that adds up in the context of what this administration is asking of this Congress.

Between April 2003 and June of 2004, \$12 billion in U.S. currency, much of it in one-hundred-dollar bills, was dispersed by the Coalition Provisional Authority. That is us. We airlifted billions of dollars in C-130s. Some of it was shoveled out the back of pickup trucks in Baghdad. You think that doesn't attract flies and people who want to cheat and steal? It does. What happened? About \$9 billion has gone missing, unaccounted for, in a frenzy of mismanagement and greed, it is said.

ADM David Oliver, who was a senior official of the Coalition Provisional Authority was asked by a reporter about what happened to the cash that was airlifted to Baghdad. Our official said:

I have no idea. I can't tell you whether the money went to the right things or didn't. Nor do I actually think it's important.

Oh, really? You don't think it is important whether billions of dollars was used for the proper purpose?

An independent oversight agency reported this month that it could not complete an audit of a \$1.2 billion contract to train Iraqi police because records kept by the State Department and by DynCorps International, the contractor, were inaccurate and in disarray, documents not sufficient to do any kind of an audit.

The State Department paid \$43.8 million for manufacturing and temporary storage of a residential camp that has never been used. They paid \$36.4 million for weapons and equipment, including body armor, armored vehicles, and communications equipment that couldn't be accounted for.

Among the problems identified before an audit—this is a New York Times story of this month—were duplicate payments, the purchase of a never-used \$1.8 million x-ray scanner, and payments of \$387,000 to house DynCorps officials in hotels rather than other available accommodations.

My colleagues get my point. I could show 100 charts which would all show in my judgment massive, staggering incompetence and lack of oversight of these contracts.

The President says: I want \$196 billion in emergency funding, none of it paid for, and by the way, if you don't support that, you are not supporting the troops. Well, a substantial amount of this money is supporting contractors, not troops, and there is substantial evidence that there is dramatic waste, fraud, and abuse of these contracts, and no one seems to care. No

one seems to be watching the store. That goes for the Defense Department, the Secretary of State, and many others, including the White House.

Finally, when we vote on the issue of whether we should provide additional emergency funding for the President, and yes, for the troops, and also for these contractors, I am going to suggest something very different. Some things are habit forming, and one of them, it seems to me, is to ask the Congress to increase spending substantially and not pay for it. This President has done this now to the tune of two-thirds of \$1 trillion for the war in Iraq and Afghanistan.

Aside from the fact that I think it is wrong because it doesn't have the country going to war with the soldiers—it seems to me if you send soldiers to war, you also ought to ask the country to be with those soldiers, not just with their thoughts and prayers but also to pay for the cost, rather than charge it to some future generation and have the soldiers fight the battle, and then come back to our country and pay the bills for those battles.

So I have said to my colleagues, and I would say to the President, when we consider this issue of additional funding, I am going to offer this time some ways to pay for a portion of it, and I am going to give some examples. I have used many of these before, but this time, we will have a chance to vote on them. Maybe I will win, maybe I will lose, I don't know. But it seems to me we ought to do some things that are thoughtful and patriotic, even as we decide that we are going to provide support to our troops.

Let me give an example.

Let me give you an example. I have used this many times. This is a five-story white building in the Cayman Islands. A very enterprising reporter from Bloomberg named David Evans went to that building. It is on Church Street. That five-story white building is home to 12,748 corporations. They are not actually there, of course; it is legal fiction that was created by smart lawyers to give corporations an address in the Cayman Islands so they can avoid paying U.S. taxes. I have legislation that says it doesn't matter if you are living in this building, you are not going to be able to avoid taxes by doing that; if your operations are not there, you cannot attempt to "move" your operations there to avoid paying U.S. taxes. I will attempt to close that.

This is one of the most egregious. Wachovia Bank in the United States is one of the most prominent companies to do this. They purchased a sewage system in Bochum, Germany. It is not because they have a special interest in sewage systems. They don't want a sewage system. They bought it and immediately leased it back to the German city, which never lost it, and the Wachovia Bank never got it. They just had a financial transaction that gave an American bank a \$175 million tax

writeoff for the sham of buying a sewer system in Germany.

Mr. President, only a portion of this practice has been shut down. I will give my colleagues a chance to shut that down and also raise revenue to begin to pay for some of the costs of the war as well.

This one is a streetcar in Dortmund, Germany. We had First Union Bank lease streetcars there—not for the purpose of running a streetcar system; they wanted to avoid paying U.S. taxes. That is a scandal.

I will also offer a piece of legislation that will shut down the tax scam that says if you fire your workers, close your plant, and move your jobs overseas, as Huff Bicycle did, we will give you a tax cut. It is unbelievable that we provide that tax cut in this country. If you get rid of your American workers, shut down your plant, move overseas, and then ship the product back here, you get a tax deferral. Huff is now a Chinese bike company. All the workers in Ohio got fired, and the American tax system gave a reward to this company for moving to China.

We have had a chance—four times—to vote on this, and a majority in the Senate supported that tax break. One of these days, it will get closed. We will vote on that in the context of paying for some of the costs the President is asking us to pay for.

Finally, just two more.

This is, as you know, a picture of the dancing grapes from Fruit of the Loom. We have seen the television commercials. I don't know why someone would dress up as a grape and dance, but they made an imprint for Fruit of the Loom underwear before they left America. I assume they are still dancing, but I assume those who lost their jobs when Fruit of the Loom went to Mexico and other countries are not dancing. It is not that people stopped wearing underwear, but they are not making them in the United States.

Finally, the little red wagon—Radio Flyer, a Chicago company for over a century—is now made in China. It was for the same purpose: tax cuts and low wages in China. I am going to close that loophole with respect to the description I have just given of moving your company to China and getting a tax cut.

The point is, the President wants \$196 billion in emergency funding. I don't know whether the Congress will do that. When the President asks for funding in the future, saying he wants to charge this, leave office, and then somebody else can pay the bill, we in Congress ought to say that there are easy baby steps to at least begin raising some funding. I have named three of them. We can stop American companies from benefitting from buying sewage systems or streetcars in other countries, stop paying an incentive for people to move American jobs overseas, and stop allowing companies to set up sham offices on Church Street in the Cayman Islands to avoid paying U.S. taxes.

It doesn't take a giant step or a lot of courage to decide to shut down those tax scams and those wrongheaded, perverse economic incentives. Doing that will raise money and allow us to offset some of these war costs. And I hope that perhaps—I know better than to say this. I was going to say that perhaps the President will support this. But this administration opposes most of the proposals I have described that would raise funding by shutting down some of these terrible loopholes.

This issue of if the President asks the Congress for \$196 billion—which he has now done in emergency money, with none of it paid for, and says: Now we will see whether the Congress supports the troops, I want my colleagues to understand that a substantial portion of this money is not going to troops, but it is going to contractors. I think this is the most substantial waste, fraud, and abuse that has existed in the history of this country, with respect to what is going on with the contractors. That is something we should be considering or a portion of what we should consider as well as we react to the President's proposal. Who is minding the store? Who is providing real oversight? Why have we allowed this to happen? Those represent the hard questions I believe Congress has a responsibility to ask.

We all want the right thing for this country. I think we all want to be able to extract ourselves from a war in the Middle East, to be successful in the fight against terrorism, to expand opportunities with an economy that provides jobs and expand the middle class in this country. We all want to fix the health care system and provide solutions to our energy needs so that we are not so unbelievably dependent on foreign sources of energy. We all want that. I hope in the coming weeks, particularly as we end this year, we can find ways to decide to work together. There ought to be common purpose and a common set of goals for us to advance the interests of this country.

Mr. President, I yield the floor and suggest the absence of a quorum and ask unanimous consent that the time be equally charged to both sides.

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

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.

The Chair advises the Senator—no one else is on the floor—the majority has 24 minutes remaining. Senator KENNEDY had reserved 30 minutes.

Mr. DURBIN. Mr. President, I ask unanimous consent to be recognized for 10 minutes to speak as in morning business.

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

CONGRESSIONAL APPROVAL RATINGS

Mr. DURBIN. Mr. President, there are reports in the newspaper about the approval ratings of politicians and political institutions. Certainly, the President has had some problems, has had better days. His numbers are low. The numbers for Congress, in many respects, as an institution, are even lower.

Those of us who serve in the Congress are asked from time to time: What does this all mean? Why are the American people so critical of Congress, and what is it doing?

I think it reflects several points. First, the last election, which changed control of Congress from Republicans to Democrats, many people believed would be a watershed, a real change in direction. They have looked and haven't seen it, particularly when it comes to the war in Iraq. Despite our best efforts in the Democratic majority in the Senate, with only 51 out of 100 Members, we sent the President an opportunity to change the direction of his policy and start bringing American troops home. The President used his power in the Constitution to veto that legislation.

We tried over and over, with all-night sessions, long debates, a variety of amendments and have not been able to break through and come up with a solid enough, strong enough bipartisan majority to change the policies in Iraq.

It is frustrating—frustrating, I am sure, to the American people, frustrating to us in Congress, for some who voted against the war and now believe this war has no end in sight and should be ended soon in a responsible way.

I think that is an indication of one of the reasons why the disapproval numbers for Congress are what they are today.

We tried, however, when it comes to our budget and spending in the Congress, to focus resources on the needs of America. We have a chance to do that. But, unfortunately, we face another veto threat from President Bush.

Our budget that we passed includes a lot of spending that will make a big difference—more Border Patrol agents to protect America, explosives detection machines in airports, research into cancer, diabetes, heart disease, other major killers of Americans, a much stronger food safety inspection system, an issue near and dear to me, energy efficiency and renewable energy projects and tax cuts for middle-class families.

The total difference between our spending and what the President requested is \$22 billion out of a national budget that borders on passing a trillion, depending on how one counts. That is eight-tenths of 1 percent of the Federal budget, the difference between the President's request and what we are appropriating. That is less than we spend in 2 months on the war in Iraq. The money we want to spend in America is less than 2 months of the war in Iraq. It is less than half of what the

President wants to spend next year for tax breaks for the wealthiest Americans.

We have passed a lot of appropriations bills to meet long-needed, long-neglected wants of middle-class and working families. Unfortunately, the President's priorities are different. There is no clearer contrast in our priorities and the President's priorities than the issue of children's health insurance.

Senator KENNEDY has come to the floor, and I am going to yield to him in a moment. He has been a national leader, certainly a Senate leader when it comes to the issue of children's health insurance. Think about this: A great and good and prosperous Nation, America, with 300 million people, has 15 million people without health insurance.

Ten years ago, we said: Let's move forward and do something about it. A Republican Congress passed the Children's Health Insurance Program, and we managed to find coverage for 6.6 million of those kids. Now with a Democratic Congress, we want to continue the program and expand it to cover more children. So we set a goal of 10 million children. That still leaves 5 million uninsured. But 10 million would be insured over the next 5 years. The cost? An additional \$35 billion. The way we pay for it is direct: an increase in the Federal tobacco tax with proceeds going to insure children.

We believe this is sensible, keeping in mind the kids we are talking about are not the poorest kids in America. The poorest kids in America are covered by Medicaid. They get help, and I am glad they do. It says something good about our Nation. The kids who are well off, with parents in jobs that have health insurance, have no concern. How about those kids right in the middle? Mom and Dad go to work every single day and don't have the benefit of health insurance. They may make minimum wage or a little better. They don't have any benefits and the kids have no protection.

A child without health insurance is less likely to have a regular doctor, regular checkups, regular immunizations, and less likely to have detected in their early lives medical problems which, if left untreated, become very serious and very expensive.

We wanted to help those kids. So we put a bill together with the support of 18 Republican Senators, all 51 Democrats. We had 69 Senators committed to it. We sent it to the President, and he vetoed it. He said it was socialized medicine. I am not sure what that term means today. Forty years ago, it was the suggestion of too much Government.

What the President doesn't tell us, and should, is this program is not about a government health insurance program. Overwhelmingly, the health insurance for these kids will be provided by private companies that will receive some subsidies, some incentive from the Government to provide this

care with the State governments. So it is not socialism, if that is the President's concern.

Secondly, he worried about whether it is fiscally responsible. We pay for it. The President and his war of \$169 billion a year is unpaid for. He heaps it on our children and their children by adding to the national debt. We pay for this program.

Finally, this notion that somehow we are going to discourage private insurance for these kids, if the private insurance market was so anxious to cover these kids, they would have been there long ago. These kids have gone months and years without coverage. Now is the time to change it.

The President used his veto pen four times since he was elected 7 years ago—once to veto a change in the war in Iraq, two other times to veto bipartisan-passed stem cell research, and now in vetoing the Children's Health Insurance Program.

Senator REID, the majority leader, came to the floor yesterday and said: We will give you a little more time to work out our differences with the Republicans, we will have an effort at compromise. They objected to being given a little more time to work this out.

We have tried. We have had good bipartisan support for this bill. We want to bring it across the line. We want to pass a bill either the President will sign or we override his veto, and we are trying to do that.

In closing, because I see Senator KENNEDY is here and prepared to speak, it will not be long now, maybe a matter of days, before this President asks for \$196 billion for the war in Iraq. Some of us who voted against it are troubled that we continue to see the cost of this war go up in human terms, with almost 3,900 Americans killed, with tens of thousands injured, and who knows how many innocent Iraqis lost their lives, and the war continues to go on.

The good news from Iraq? Oh, they like to tell us the administration has all sorts of good news. The good news is the death rate is down. We have seen ethnic cleansing in neighborhoods and now the vacant neighborhoods where 4 million Iraqis have become refugees. These empty neighborhoods don't have as much fighting. Is that a victory? I am not sure it is.

We need to be more honest with the American people. If the President believes he can ask with a straight face for \$196 billion for the war in Iraq, if he can ask for that kind of money to help the people of Iraq, he ought to step back and sign a bill that helps the children of America.

A strong America begins at home. It begins with strong American citizens, strong families, strong neighborhoods, strong communities, and a strong Nation. The President can move us in that direction.

I hope my colleagues in the Senate this week will join us. Let's pass this

Children's Health Insurance Program. Let's send it back to the President. Let's hope, as he considers \$196 billion unpaid for his war in Iraq, he can find \$35 billion paid for the children of America.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts. The Chair advises the Senator that 15½ minutes remain.

Mr. KENNEDY. I ask if the Chair will let me know when there is 2 minutes remaining.

Mr. President, I wish to first of all thank our friend and colleague from Illinois, Senator DURBIN, for again making an excellent statement about the Nation's priorities, the priorities we have before us in terms of making a judgment about the Children's Health Insurance Program. He has spoken frequently, eloquently, and passionately about the issue. He and I are hopeful that across the country Americans are able to take a few minutes and really absorb the arguments that are made in the case that is before the Senate and also understand the judgments many of us have made on this side of the aisle—virtually all of us on this side of the aisle, and some very courageous Republicans—about what our responsibilities should be to the future of our country. It is a future that expects, that demands, and that requires us to give attention and assistance, when we can, to our children. This is the right thing to do not only from a health point of view, as has been pointed out so many times, but it also is imperative in terms of getting a handle on health care costs in the future by having a healthier generation, and, importantly, it is imperative as we are looking to the education of this generation.

We have made the case time and time again, and we are making different points this afternoon, but the fact is if a child can't see the blackboard or hear the teacher or is unable to read the assignment because they are in need of glasses, that child is not going to be able to learn, that child has a better chance of dropping out, and that child has a better chance of living a life that is not constructive, productive, or useful in so many ways. So this case has been made time and again, and it is important.

We hope, those of us who are supporting this legislation, that we will be able to garner the votes that are essential to getting this legislation into law. So I thank those who have spoken and spoken so well on this issue.

Mr. President, as I and others have mentioned, this is really an issue of priorities. Nothing points out the issue of priorities more clearly than the choice we have between investing in our children—America's children here at home, the sons and daughters of working families—and investing in the war in Iraq. This point is made frequently but can never be made enough: 41 days of conflict in Iraq at \$12 billion is 10 million children who could be in-

sured for virtually 1 year. That points to the difference in the choice. On the one hand, we have a President and administration that virtually gives open-endedness to the number of days we are going to continue to be in Iraq. Yet, when it comes to the question of these 10 million children for the year, he says: Absolutely no. There is no way. We will not permit it, we will not accept it, and we will veto any proposal that comes our way that recommends and suggests it.

The administration is quick to highlight their achievements on health care for children in Iraq, but they won't show the same commitment to the health of our own children. In Iraq, American money has renovated 52 primary care clinics and re-equipped 600 others, but in America, children are denied essential medical services in the name of fiscal discipline; in Iraq, we have provided 30 million doses of children's vaccines, but in America we are told we cannot afford basic preventive care for 10 million children.

The Web site of the U.S. Agency for International Development proudly notes the remarkable accomplishment—and I commend them for it—that they have successfully vaccinated 98 percent of all Iraqi children against measles, mumps, and rubella. If only we could do as much. If only we could do as much for our own children. According to the Centers for Disease Control, only 91 percent of American children have received the same vaccine by the recommended age. The administration should be as concerned that children growing up in Boston or Birmingham get their recommended vaccines as they are about the children in Baghdad and Basra.

The same Web site proudly notes that the USAID has improved the health of vulnerable populations in Iraq by increasing access to high-quality, community-based primary health care. That is just what we are trying to do in America with this bill. In Iraq, it is an accomplishment; in America, it is a veto.

A bipartisan majority in Congress has made a judgment too. Our judgment is that we must make room for decent health care for America's children. We must stand up to the empty rhetoric and hollow slogans of the White House and give all children in America the healthy start in life they deserve. We need to know who is for working families across America and who will stand in their way to getting quality, affordable health care.

We need to know who is for families such as the Vega family in Greenfield, MA. CHIP helps Flora Vega, a working mother, buy an extra inhaler for her 5-year-old daughter so she can have one at school and the other at home. CHIP also helped her afford a nebulizer—the small, portable device that pumps the asthma medicine into her lungs when an inhaler isn't effective. That means her daughter doesn't face sudden dangerous attacks of asthma that require her to go to an emergency room.

We need to know who is for families such as the Lewis family in Springfield, MA. I met Dedra Lewis and her daughter, Alessiana, when they came to talk about the difference CHIP has made in their lives. Alessiana has a rare eye disease that requires expensive drops every hour of each day. To take care of her daughter, Dedra had to cut back on her hours at work and lost her insurance. Without CHIP, she would be choosing between paying the mortgage for their home and paying for the medicine the child needs to keep her vision.

Family after family, from coast to coast, can tell similar stories. That is why families across America are calling on Congress to renew the promise of CHIP. The task has not been easy, but we will not be deterred or deflected. When Medicare was first proposed in the 1960s to allow the Nation's senior citizens to live their retirement years in dignity, its supporters were attacked with much the same harsh rhetoric as we hear about CHIP—it is socialized medicine, it is a Government takeover. But Congress rejected that absurd rhetoric, and hundreds of millions of senior citizens have benefited immensely ever since. America's families face real challenges—higher mortgages, soaring gas prices, the ever-increasing cost of health care, and many other burdens. They deserve real solutions, but the White House offers only hollow slogans.

Our opponents failed to stop Medicare, and they won't stop CHIP now. Medicare didn't pass on the first attempt, but its supporters came back again and again with the force of the American people behind them to ask—to demand—that Congress act. And the 1964 election made it all possible. That is just what we will do with CHIP, even if it takes the 2008 election to do it. We will keep at it until the children of America get the health care they need and deserve and that the American people are demanding.

As we have pointed out, at the time we saw this legislation developed, when it was initially proposed, it was a compromise between Republicans and Democrats. Those of us who wanted to give attention to the uninsured sons and daughters of working families recognized that we had a unique situation in America: We had resources as a result of the tobacco settlement, which provided hundreds of billions of dollars as a bonus to America, and we could decide how we were going to expend those resources. I saw in my own State of Massachusetts, the determination to use those resources to provide a health insurance program for the sons and daughters of working families.

That was a very important model that was replicated here over 10 years ago in the Senate, where we used much of the resources that were allocated to us to be able to develop the Children's Health Insurance Program. There were Republicans on that side who said: Look, we don't want to just extend

Medicaid; we want a separate program that will be resolved in the States. There were those of us on this side saying: Medicaid provides very good health assistance for children; the preventive programs are model programs, and they do an enormous amount in providing quality health care for children in a wide variety of areas and functions. No, our Republicans said, we want the States to be able to develop those; we will take guidelines, but we will let the States do it. A compromise was reached between Republicans and Democrats, and that was acceptable.

Secondly, it was determined that the States would have the ability to make judgments and decisions about deductibles and copays. We said: No, we want a standard way to make sure all working families are going to be able to acquire it. But, no, we worked out that program, and again it was a compromise. It was a judgment and decision of the sponsors of that legislation that we were going to use the private insurance companies—private insurance companies—to make sure of the delivery system. Many of us thought it would take a long time to get this program up if we went that route, but nonetheless it was a compromise. It was a compromise. Democrats and Republicans came together in this compromise program. Very important compromises were made at that time. It reflected the best judgment of the Members of the Senate and the House of Representatives, and that legislation has been an extraordinary success.

The area where it has not been successful is that we have not reached all the children out there who are eligible and should be able to receive it. If we are looking for legislation that really reflects the best of Republicans and Democrats, if we are looking for legislation that basically reflects the best in terms of our priorities, this is that legislation, and now is the time to move ahead.

We have a budget of \$2.9 trillion. The question is, Can we afford—can we afford—the few billion dollars to provide the type of health coverage in this legislation? We are not even taking the resources from the existing budget. We are saying: What is going to be the result of that, by increasing the cost per package, the 61 cents? The result of that is going to be more children are going to stop smoking. That is the result.

If you take the increase in the cost of a pack of cigarettes, we have the real opportunity to see a very important public health achievement—discouraging children, the 3,000 children who start smoking every single day, the thousand who become effectively addicted from their earliest contacts with it. We discourage them from moving down that pathway. So this is a positive health development both in terms of the resources and in terms of the outcome. Unique. Unique.

Just to finalize here, we are enacting new legislation—those of us who be-

lieve in it—to address some of the real challenges and make this a fairer and more equitable country. We have the example of the existing program in place now. It works. It works. It is successful. Parents need it, and parents want it. The only issue—the only issue, the only issue—is whether we have the willingness and the will to implement it and to make it achievable for families in this country. We are talking about those working families, those mothers who hear a sick child cry in the night and wonder whether that child is \$423 sick, because that is the average cost of going to the emergency room; those families who pray their child, who has an earache or a throat ache, will be better in the morning. How do you put a cost on that? How do you put a cost on that? Well, we recognize that as a real value, and we are not prepared to let parents make that kind of judgment call and feel that kind of pain and that kind of fear and that kind of anguish.

This legislation does the job, and it is important that we get a strong, overwhelming vote this afternoon that really reflects the good judgment of the American people, who say children should be first in this Nation. That has been a founding value of our Nation since the Pilgrims settled up in my part of the country, and I believe it is a value that is shared today. We will have an opportunity to vote on this in a short time. Hopefully, it will be accepted overwhelmingly in the Senate.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. MENENDEZ. Mr. President, what is the parliamentary situation in which the Senate finds itself at this moment?

The PRESIDING OFFICER. The time of the majority has expired. The Republicans have 59½ minutes.

Mr. MENENDEZ. Mr. President, I ask unanimous consent to speak for 10 minutes. Should a Member of the Republican side of the aisle seek the floor, I will be happy to yield at that time.

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

The Senator from New Jersey is recognized.

Mr. MENENDEZ. Mr. President, I wish to talk about the reauthorization of the Children's Health Insurance Program and why those who are opposing the bill are making this a nightmare for children. When I first came to the floor in support of the bill on July 31, I knew there were those who did not share my support, but I thought they would merely be a road bump to reauthorization. Now it seems we have a roadblock to children getting critical care they need.

How many times can you veto or vote against children receiving health care and not raise a question as to your role as a representative of the people? How many times can you veto or vote against children receiving health care and then turn around and take pictures with babies and families back in your

home State? How many times can you veto or vote against children receiving health care and then still argue that you care about the well-being of children other than your own?

I don't understand how we have gotten to this point, but let me make this very simple. The bill at its core provides health care for poor children. Yet there are those in Congress and the White House who are missing that bottom line. More important, their votes are hurting our Nation's children.

There are 9 million children in America who suffer in silence because they do not have health care; 6 million of them are eligible for the Children's Health Insurance Program or Medicaid, but they are not enrolled.

That keeps me up at night. I hope it keeps up at night others who have to cast a vote soon as well.

I want to be sure we know the families and children we are talking about. The families we seek to cover work every day at some of the toughest jobs in America—some of them jobs none of us would want to do, but they work at it every day. They work at jobs that offer no health care coverage whatsoever and they do not make enough money from their employment to afford private coverage. It is the children in these families we are trying to cover. So let's talk about the reasons why there are those who continue to vote to bar children from health care.

That is strong language, but I have had enough of sugar-coating this issue. The new bill includes substantial revisions to try to reach out to colleagues who have raised issues and directly addresses a number of the concerns they have talked about. According to the Congressional Budget Office, the new bill would continue to cover nearly 4 million uninsured children by 2012, at a cost of about \$35 billion over 5 years. That is a fraction of what we spend in Iraq. That is in addition to the over 6 million children already covered by this program.

Those opposed to this bill have been shouting about how the bill needs to cover more low-income children. Good news, the new bill would further increase our focus on covering the lowest income uninsured children. The new bill would prohibit any coverage above 300 percent of the poverty line, except for some who have already been grandfathered in. Limiting new coverage to 300 percent is a harder line than the original bill, and it is a concrete ceiling for new coverage. It also changes the financial incentives States receive to enroll more children, and it ensured we are targeting the enrollment of low-income children.

The new bill only provides these incentives to States when they enroll Medicaid-eligible children and no longer includes incentives for enrolling SCHIP children, as was in the original bill.

In fact, this new bill will cover an additional 100,000 children as compared to the original bill, for a grand total of 3.9

million children gaining coverage under the bill on which we will be voting cloture. Of these children, essentially half are Medicaid eligible. These children are the low-income children many of our colleagues are talking about. This new bill brings in 200,000 more Medicaid-eligible children than the first bill.

We have listened and we have made changes. But compromising on children's health can only go so far. The second issue I have heard, and it makes my blood boil, is the argument that undocumented immigrants would gain coverage under this bill. I know it is Halloween so we are going to scare the American people as best we can, but this is a tactic that cannot stand. Let's make it clear: Undocumented immigrants are not eligible for Medicaid and CHIP, they have never been, and nothing in this bill changes that. Nothing in this bill changes that. It is a shame there are Members who still come on the floor using that argument.

In fact, the new bill tightens citizenship requirements. States will seek to verify names and Social Security numbers but also have to verify citizenship with information from the Social Security Administration. The Social Security Administration will check the information received from the States to determine that the information matches and also check to see if the database shows that the applicant is a citizen. If they can confirm—great. We have another citizen with health care. If not, the State has to require original documents to prove citizenship. This is in no way an open door, and in no way should we allow this to continue to be used as a false reason to not give health care to children in this country.

I ask my colleagues to stop tying up this issue, trying to make children's health care an immigration debate so we can have it every night on the nightly news being about immigration. Oh, it is about immigration. It is not about immigration. It is about children's health care; children who do not have it, cannot afford it, and will not have it unless this Congress acts.

Some have also raised the question about adults. The reality is we cover some parents. This administration gave us waivers to do it because they said it is a good thing: Let's cover parents who are also in these jobs, working hard, not able to afford health care, not getting it at work—because we are getting more children involved through their parents. By the way, we happen to cover more Americans—isn't that a terrible thing? We happen to cover more Americans, of the 47 million who have no health care coverage whatsoever. It is a terrible thing.

I think it is quite a good thing. I have seen it succeed in my home State of New Jersey. We have found a strong correlation between enrollment of parents and enrollment of children.

Finally, if values match our actions, this bill needs to be supported by all Members in the House and Senate and

signed into law by the president. It is time for President Bush to stop making his fiscal conservative bones on the health care of children. It is time for the President to put away the veto pen and allow doctors to take out their stethoscopes to make our children healthier. It is time to give the children of America what the President and every Member of the Senate and Congress has, health care coverage, health care for America's most precious asset but also its most vulnerable asset—our children.

I yield the floor.

The PRESIDING OFFICER (Mr. SANDERS). The Senator from Oklahoma is recognized.

Mr. COBURN. Mr. President, I wish to spend a few minutes of time speaking about the "revised" SCHIP bill and what it means to the American people. The rhetoric associated with the bill is that we want to cover children. That is a laudable goal. But that is not what this bill is about. If that were what this bill is about, what we would be doing is having a bill on the floor that expands the current payments of \$5 billion a year to \$7 billion a year, which is what is required by the CBO to truly cover the kids whose parents make \$41,000 a year or less. That is not what this bill is about.

The bill is about having the American taxpayers, and especially the poor American taxpayers, pay \$133 billion over the next 10 years to cover families presently with insurance.

What does the Congressional Budget Office say about this bill? First of all, it spends \$400,000 more than the bill the President vetoed; it covers 500,000 fewer kids. It still maintains that 10 percent of the people in 2012 on SCHIP will be adults. It gives exemptions for the State of New Jersey—a family of five earning \$89,000 a year, they will still be covered. It creates loopholes where rural hospitals get paid the same as metropolitan hospitals, as a favor or an "earmark" to certain Members of Congress.

What it does not do is solve the problem. What is going on here? There is not anybody in America who does not think we corporately should be helping poor children with their health care. But this isn't a bill about helping poor children with their health care; otherwise, we would not be taking 1.2 million middle-income kids and putting them on SCHIP, at the same time the only increase we see on the poor kids, families making under \$40,000, is \$800,000. So what is going on? What is going on is this is a political campaign. It is a political campaign that, under the guise of helping children, what we want to do is start the march toward single-payer, government-run health care. That is OK if you believe that and you want to put that out. But this idea of, we are going to wink and nod to the American public under the name of poor children when, in fact, this bill will cover not poor children and 10 percent of the people covered will be

adults 5 years from now and we are going to take kids off their parents' insurance.

One of the things people will not talk about is in 35 States, the SCHIP program is Medicaid. Of those 35 States, over 50 percent of the doctors will not see a Medicaid child. Why is that? Because Medicaid will not pay a rate at which the doctor can pay their overhead and still see the child. So what we are going to do is we are going to take the parents' right away to choose the doctor they want for their kids, and we are not going to lower their insurance premium at all by taking the kids off—the ones who have insurance, the 1.2 million who the CBO says will come off private insurance—and then we are going to take away the parents' right to pick the doctor to care for their kid.

What this is, is moving to single-payer, government-run health care. What I would say is, if that is what we want to do, let's call it that. But that is not what we are calling this. We are claiming we want to help poor children.

President Bush got it right. Before we expand to families of \$60,000 or \$80,000 a year who have insurance and put them on a Government program, shouldn't we make sure the program we have now has enough money to cover the kids whose families make under \$41,000 a year? And shouldn't we make sure that, when we say we are giving you coverage, we are giving you coverage?

The other thing we ought to ask is: Why aren't the American people going to get value out of this? The cost in this program, to buy \$2,300 worth of insurance—and that is the highest level at which the average kids cost, the average is probably around \$1,700—why would we be spending \$4,000 in this bill to buy \$2,300 worth of insurance? The American people have to look at that and say: What is wrong with this picture?

The other side of it is we are going to get all the money, we say, by taxing tobacco. Who pays tobacco taxes? Who are the majority of people in this country who pay tobacco taxes? I will tell you who they are, they are disproportionately poor. They are disproportionately the disadvantaged. They are disproportionately those people who can least afford to pay a tax. So it is no wonder the CBO, in this evaluation of this program, said: This is the most regressive tax we have seen in years. It is going to hurt the very people we say we want to cover. Does the Senator have a question?

Mrs. McCASKILL. Will the Senator yield for a couple of questions?

Mr. COBURN. Absolutely.

Mrs. McCASKILL. You know, the Senator from Oklahoma and I agree about an awful lot when it comes to fiscal discipline, but I am having a little trouble. I am hoping he can help me with this problem I am having. I am willing to bet the Senator from Oklahoma may have been one of the Sen-

ators who said no to Medicare Part D. I am guessing. I would have to check the vote.

Mr. COBURN. I wasn't in the Senate or the Congress.

Mrs. McCASKILL. I forget the Senator is a newcomer. I would be curious. This is where I don't understand the Senator's concerns about political gamesmanship and trying to make this about the children, and so forth.

On the other hand, I am trying to figure out the President's position, and maybe the Senator can explain to me why no means testing. You know, \$170 billion and basically no way to pay for it was not a problem for the President of the United States with Medicare Part D. They were jumping up and taking credit for it then. There was absolutely no means testing, and it was much more expensive than this program.

The question is, what is the difference? Why is it that the President has a problem with this program, when Medicare Part D, with no means testing, no way to pay for it, was just fine?

Mr. COBURN. I would be remiss if I thought I could speak for the President. But I will tell you what this Senator thinks. Medicare Part D hung on the shoulders of our children \$8.3 trillion worth of unfunded liabilities.

So today we are giving prescription drugs to seniors, and we are taking away future opportunity from our kids. Had I been here, I would not have voted for Medicare Part D. In fact, I lobbied a lot of my former friends from the House to vote against Part D. That is not what we are talking about today.

What we are talking about today is, if we are going to have a program for poor children, which I support, we at least ought to cover up to 95 percent of the kids who are eligible before we expand the eligibility. That is where the \$7.8 billion over the next 5 years needs to be added to this program, and then with the caveat that says: States, you cannot go to the higher income until you cover the poor.

This is a typical example of what Washington does and America rejects all the time. We do not measure what we are doing to see if we are accomplishing things. What we do know about SCHIP is that in many places it has been a valuable lifesaving tool for the poor people in this country. But, in fact, the States have done a poor job of enrolling many of those kids.

What we also know about SCHIP is that 35 of the States put their kids on SCHIP into Medicare. Now, what does that mean? Since you get no choice of half the doctors who are out there who are eligible to care for the kids, what we have said is, we are going to give you care, but you get no choice. You get care, but you get no choice. You get no freedom when the Government helps you with who your child is going to see.

So I do not doubt that there are inconsistencies in any President's position. I can debate Medicare Part D all

day. I am with you. I am on your side. But the point is, this debate is not about helping kids. This debate is about changing the underlying structure of our health care and starting to build a Medicare from the ground up, and we have a Medicare here and merging them in the middle.

I am willing to debate that, too, but I want us to be honest about what we are debating; otherwise, we would not have a family of five in New Jersey making \$89,000 a year eligible under this program, someone who already has insurance.

So here is the question for the American people: Do you want to pay taxes to buy health insurance for 1.2 million kids, for parents who already have it, and give them a program that is subpar to what they already have with no decrease in the insurance cost to parents for the insurance they are covering now? That is the question.

And do we have a way of covering poor kids that would be better? I would propose to the Senator from Missouri that a refundable tax credit to poor children, allowing their parents to have enough money to buy a policy, which the average is truly \$1,700 per year, per kid, a refundable tax credit that gives them the freedom to choose any doctor they want, that does not put a Medicaid on their forehead, that automatically excludes 50 percent of the physicians in this country, is a far better way to do it and a more equitable way to do it.

If we did that, that would pay for itself without raising taxes anywhere because you would eliminate the cost shifting that goes on in the health care industry for the kids who do not have care today. And we will not raise taxes on the poorest of the poor because that is who is going to be paying for this.

Plus, we all know, 21 million new Americans are not going to start smoking. We all know that. But yet that is how we chose to meet the requirements of pay-go here, through a false claim that we will have enough revenue to pay for it by raising the tax on cigarettes.

So I am all for having a debate on national health care. Senator WYDEN and I and Senator BENNETT and Congressman CONYERS and myself and Senator BURR had that debate in New York this week at the New School. That is a good debate to have. But this is a slight. This is a slight about what we are doing. And the question to the American people has to be: Do you really think, if you are making \$45,000 a year or \$65,000 a year, that your taxes ought to go up to pay for somebody who is making 61,000 or less, and at the same time limit the availability of those same children to have the physician of their choice? That is what we are talking about. I believe we ought to cover poor children. I think that the SCHIP program now ought to be held accountable to cover the poor children. If we are going to pay for it, I am willing to

put the money and find offsets somewhere else to pay for it, if we do not do a tax credit.

Mrs. MCCASKILL. Mr. President, if the Senator would yield for a second, as he well knows, I voted with him. I voted with the Senator from Oklahoma to try to pull some of the earmarks out of the bill, to pull all of that money out of children's health insurance. I think he and I both agree on the goal.

The problem is, the question I wanted to ask—and he is not in a position to answer it because, unfortunately, he is not someone who was here who voted for Medicare Part D, but the inconsistency as to what I hear from the White House and what I think people in this Chamber are hearing from the Senators who voted for Medicare Part D is, every argument they are using for SCHIP is true but exponentially higher in Medicare Part D.

By the way, the only difference is in Medicare Part D the people who are making the money are the pharmaceutical companies and the insurance companies, and it is not funded and multimillionaires and billionaires get it. So it is so unfair to say that the President is taking a principled stand because if it were a principle, it would have been consistent for both SCHIP and Medicare Part D. That is the question that you are unable to answer, and I have yet to hear anybody answer that question.

Mr. COBURN. Mr. President, I reclaim my time to say the following: I think the Senator from Missouri makes a good point on consistency. I think they are finally awakened to what the American people want at the White House. I think they are finally starting to pay attention that being efficient in the Federal Government is important.

But having not been, maybe, efficient with Medicare Part D, I applaud the President for now taking a stand on something that is common sense that would say: If we are going to have a program for poor children, let's make sure it covers poor children. Let's make sure it covers poor children. Right now it does not. Right now it does not.

Rather than expand the program that is not meeting what it is supposed to do and raise taxes on the poorest of the poor, I think the President's response and the CBO's score, which is \$7.8 billion more over the next 5 years instead of \$35 billion more over the next 5 years, is a reasonable response to really cover poor children.

And what we know, by what CBO says, is that will do it. Now, let's talk about the difference in what we are going to be having the cloture vote on now versus the bill that the President just vetoed. This bill covers 400,000 less kids; it spends \$500 million more. So we are not at \$4,000 anymore, we are at about \$4,200 to buy \$2,300 worth of health insurance. It does not fix the fast lane for illegal immigrants as the authors claim. It does not fix adults on the SCHIP program.

CBO says in 2012, at least at a minimum, 10 percent of the enrollees will still be adults. It does not fix the crowdout issue. This bill will cause 2 million people to lose private insurance coverage and come in a government-run program, crowding them out of the private insurance market. Despite a fix for the problem of enrolling more higher income kids than currently eligible kids in SCHIP, the CBO still projects only 800,000 currently eligible, currently eligible SCHIP kids, will get enrolled.

But 1.2 million kids of families making more than \$60,000 will get enrolled. So for every two kids we enroll who are poor, we are going to take three kids out of the private sector. We have talked about what kids lose when they go to the Medicaid Program.

What are the other problems? In this bill are earmarks for specific hospitals to violate CMS payment rules to pay those hospitals more than what the rules say because some Congressman or Senator thinks they should not have to live within the rules. I would love to be able to tell that to people in a community in Oklahoma who just had to shut down their hospital because they could not make it under what CMS rules pay.

So what we have is about seven of those in here, where we are going to take care of the little hospitals of seven Members of Congress, but we are going to ignore all of the rest of the community hospitals in this country that are struggling under a payment system that does not pay for the care of people they are supposed to be caring for.

There is still an income disregard loophole, which means it does not matter what you said because we have a loophole that says if States want to, they do not have to follow the income guidelines. You can still enroll families making more than \$100,000 a year in the SCHIP program.

Well, that is in there by design because the desire and design of this bill is to move to single-payer, national health care.

I think the Presiding Officer sitting in the chair right now probably believes that is where we should go. I do not have any problem debating that. But the incrementalism and the real effort of this bill is to expand SCHIP to a point where Americans who have insurance are going to pay higher taxes so everybody can get covered. If you look at the mess that is trying to be created by these five or six hospitals in here right now, how are we going to solve that problem when everything is Medicare?

Some say we are going to take the profit motive out of medicine. We are going to take the profit motive out of the drug industry. We are going to have a 220,000-physician shortage in 15 areas in this country. The applications for enrollment at medical school are diving. Why are they diving? Because they cannot afford the education and then have an income to pay off their

student loan, let alone pay for housing and income to feed their kids.

How did that come about? It could have been Medicare creating that. It could have been that we were not willing to pay. What else is going to happen? Eighty percent of all innovation in health care in the world comes from this country. Eight out of every ten new ideas that are lifesaving, eight out of ten of every new treatments, eight out of ten new devices are developed in this country.

Why are they developed? Because we still have 48 percent of the health care system that is not run by some government program. And through there, there is enough risk taken, based on the reward that can be gained, to invest in capital and research to develop these lifesaving treatments.

We say we want to move SCHIP in the name of kids, but what we really want to do is to have national health care. Well, we better think about that hard and long because here are the statistics on cancer treatment in this country compared to everywhere else in the world. It does not matter what cancer you get in this country, you have a 50-percent greater chance of living 5 years than anywhere else in the world.

Why is that? Is it those big, bad pharmaceutical companies that have to spend a billion dollars just to get through the maze at FDA? Is that what it is? Is that why? I am a two-time cancer survivor. I am so thankful for the pharmaceutical industry. I would not be here without them. Two times they have developed, researched, and made drugs that have saved my life.

I do not disagree that we have some excesses in corporations in this country. But the pharmaceutical industry, with all the negatives that are out there, still leads one of the most positive responses we have ever seen in this country to solving real problems for real Americans. So we can beat them up and we can beat the President up and say Medicare Part D. I do regularly on Medicare Part D. I don't think we ought to steal from our children to have drugs paid for. But this bill steals from everybody. It also steals from the poorest. It steals from the poor, blue-collar, low-income worker who has the benefit of a lot of other programs. It says: We are going to raise your taxes because you happen to be addicted to nicotine. We are going to steal from you to pay for somebody who is making \$61,000 a year who already has insurance. Do we want to do that? Do we want to steal from the people who are working, barely getting by, so we can pay for people who already have insurance? Is that what we are doing? That is what we are doing.

I have listened to the debate. I offered some ways to change this. Senator BURR and I offered an amendment. We didn't get a vote on it. It solves through tax credits a way to insure, not go into a Medicaid program but insure with choice, so you take the stigma of Medicaid off patients' foreheads.

We offered a way that every kid could get covered. It is called a refundable tax credit. It can only be spent on health insurance or health care. But people don't want to do that. Why would those who are more progressive in thought not want to do that? Because they offered the original income tax credit. Why would they not want to do that? It is because the agenda is different than we say it is. The agenda is to start toward a nationalized, single-payer, government-run, no-choice health care system that will eliminate that 80 percent of innovation in the world made by American ingenuity, American capitalism, American idea that "I will invest some of mine to see if I can come up with an idea that will help somebody else and, by the way, I will profit from it."

What we are saying is, we don't want markets to work. We want the Government to run it. If you think about everything else we have today, everything with the exception of health care and primary and secondary education, we believe in markets. They have been very good to us. They have given us the highest standard of living of any society ever in the history of the world. They have advanced causes in terms of treatment of disease more than any advancement ever in the history of the world. What this bill is about is saying: We don't believe markets ought to apply.

Myself, RICHARD BURR, and five others have a bill called the Health Care Quality and Choice Act. It creates a tax credit for everybody to buy their health care. We treat everybody the same. Everybody gets the same amount. Everybody gets to buy a private health insurance plan. We create a market so the insurance industry doesn't steal 25 percent of the cost of that. We set up a way to create markets. The Every Child Insured Act, legislation offered by RICHARD BURR, creates a way where every kid is covered. Senator MARTINEZ and Senator VOINOVICH have a bill that covers up to 300 percent with tax credits of all the kids in the country who don't presently have health insurance. This bill isn't about covering kids. This bill is about putting the Government in control of the last 48 percent of health care. As P.J. O'Rourke says, if you think health care is expensive now, wait until it is free.

A couple other things the American people should know is that England is pouring billions of dollars into their national health care system now. Why? Because on average when you get cancer in England, up until 18 months ago, once you were diagnosed, you waited at least 12 months before treatment started. They have a goal by 2010 to get to 3 months to start your treatment. Do you know what the average length of time, insured or uninsured, in this country is from the time you have a diagnosis of cancer until you start getting treated? It is 3 weeks and 2 days. Why do you think we are doing better than they are on these things?

We are about to go into a system that destroys innovation, destroys quality. I agree, there is plenty wrong in health care. I have a bill that changes us toward prevention. I am all for working on the problems we have in health care. But the question the American people ought to ask is, do we want to tax ourselves to pay for care for kids who are already covered in the name of not doing a good job under the SCHIP bill now, and should we have the kids who need to be covered covered before we start reaching beyond those who already have care? They are not going to answer that question. Because the real debate is, the first step is to get away from your choice of choosing a doctor, your choice of what facility you will go to, your choice in getting to choose what drugs you will take and what options you will have, because the Government bureaucrats are going to decide all that for you.

If you believe that is not true, look at what Medicare is doing right now for women who have osteoporosis. They get diagnosed with a DEXA-scan. They get treatment. But because doctors in this country have ordered too many DEXA-scans, according to the bureaucracy in Washington known as the Center for Medicare Services, we have now limited physicians. You can't check to see if the medicine you are giving is working and maybe change the medicine to give them one that might be working, because a bureaucrat has decided we are doing too many tests. That is called rationing. That is why health care costs are lower around the world, because they let people die from cancer. They let people die with a broken hip. They let people die with congestive heart failure.

We don't. We value individual lives and we are willing to put the resources in for the best, longest, and best quality life. Don't be fooled about what this bill is about. This bill is the first step toward national health care. This bill fails to address the problems in SCHIP as they are today. This bill raises taxes on the poorest of the people in the country—all in the name of having a political issue in 2008 to say those people who oppose this don't care about kids. I have spent my whole life delivering babies, 4,000 of them now. That is a false claim. If you care about these kids, you will balance the budget, pay for the war by the expensive, duplicative, wasteful programs we could eliminate. We would have a balanced budget, and we wouldn't be charging the very thing we are getting ready to pass on to our kids, which is a \$300 billion deficit this year alone. Caring about kids means you will make the tough choices, that means you go against the interest groups to do what is right for the future, not what is best for the next election.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. CASEY. Mr. President, I believe on the Democratic side we may be out

of time. On the Republican side, there is time left. I ask unanimous consent to borrow some of the Republican time.

Mr. COBURN. There is no objection.

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

Mr. CASEY. I thank the Senator from Oklahoma.

I have a limited amount of time, but I want to highlight a couple of things about the State Children's Health Insurance Program legislation. All of America knows about it. We have been debating this for weeks, and we will continue. Obviously, there are differences of opinion about what to do about health care generally. I will focus on one argument that has been made against this, that somehow if the Federal Government continues the State Children's Health Insurance Program and adds funding—we had an overwhelming vote here in the Senate, and we will have that again today, a veto-proof endorsement of the program and the dollars to back it up by an increase in the cigarette tax—what has been debated back and forth is the coverage and who gets covered and who doesn't.

People across America have heard a lot about 200 percent of poverty, 300 percent of poverty. These numbers get thrown around. Two hundred percent of poverty means a family of four is making \$41,300. Most of the families covered by this program and that would continue to be covered or would be added to the coverage are in that range and below 200 percent of poverty. I want to put up a chart that walks through this in terms of a family. If we look at 32 States, we have about 32 States that set the income eligibility for the Children's Health Insurance Program at 200 percent of poverty, \$41,300. Of course, 201 percent would be 1 percentage point above that. So let's say a State doesn't allow and the Federal Government won't allow States to go above 200 percent of poverty. Here is what families are facing, getting by on \$41,507, for an example, in a rural county in Pennsylvania. If you look at a family of four with two children, take-home income is \$2,893; housing, \$726; childcare, \$1,129—even if you got a child credit, it would still be a big number; \$609 for food; \$446 for transportation; phone service, \$45; total \$2,955. That is their expenses. Then you add in the number from up top, the income level, the monthly income, the differential between the income and the expenses, you get a minus of \$62. Let's say that is off by a couple hundred dollars. Let's say those numbers are off by a few hundred dollars give or take. It doesn't matter. Because either way you cut it, if a family is faced with the basic necessities of life, not factoring in school supplies, not factoring in an emergency for a child hospitalization, not factoring in other things that families have to deal with every day, whether it is an extra rent payment or an increase in rent, whether it is a pair of shoes or sneakers for a child, none of that is

factored in there, this family is still behind at 201 percent of the poverty level.

I have been hearing for weeks from the President—we have all heard from him when he makes public pronouncements—that somehow this program is going to families who don't need it; their incomes are too high; it will go above that. Yet now you have Senate and House negotiators who have worked out an agreement where they put a ceiling at 300 percent because of objections that were raised. I don't know what more we can do. The President apparently thinks this program works. He says he supports it. His measly increase would actually lead to a reduction of the number of American children who are covered. But he says he supports the program. He says he wants to increase it. He said, when campaigning, that we should add millions more. Yet he is the roadblock in front of progress on this issue.

This illustration is right on target in terms of what a real family faces. One more point about this. Think about what it costs; even if you have a family who has coverage through their employer, that family may have to deal with a similar situation. We all know that the average monthly premium for family coverage is about \$300. In either scenario, they are up against a lot paying for children's health insurance, and this is at a fairly low income level for a family of four. That argument makes no sense.

I will conclude with one other argument. There were representations made over many weeks now by the President. He kept pointing to States such as New York and New Jersey as examples of how these numbers would get too high and the income levels would get too high. I can debate him on that point, but I will put that aside for a moment. What he didn't talk about and what some of his allies have not talked about is the fact that this isn't just about what happens to children in urban areas. We know from history, from 10 years of evidence, this program not only works generally, but it works particularly well for poor kids. It works particularly well for African-American children. We have cut that rate of uninsured a lot. It works particularly well for urban children who happen to be Hispanic. But what the President doesn't want to admit is that it also helps a lot for rural children.

Today in America one-third of all rural children—we have a lot in Pennsylvania, a lot of children who live in rural communities—get Medicaid or SCHIP. Thank God we have those programs for rural kids and for urban kids and all the rest.

I will give you two examples, and then I will conclude. Pennsylvania has a broad middle. We have a lot of smaller counties, many of them rural. To give you two examples: Clarion County and Huntingdon County—one is in the middle of Pennsylvania toward the southwest and one, Clarion, is up al-

most in the northwestern part of our State.

Under the Bush plan, if the President were to get his way, under his children's health insurance proposal, here is what would happen in Clarion County, PA. Between fiscal year 2008 and fiscal year 2012, it is estimated 146 children would lose coverage. OK. Go a couple counties away to Huntingdon County—a small rural county—and in that same time period of 2008 to 2012, 129 kids would lose their coverage.

Now, I think it is a tragedy for 1 kid or 5 kids or 10 kids to lose coverage, but now you are talking about hundreds of kids in two small counties in terms of population.

What is the comparison to the bipartisan children's health insurance proposal? Clarion County would gain 278 children, Huntingdon County would gain 247. So instead of losing about 130 to 150 in each of those small counties, we gain 250 children or more, maybe as high as 280 children.

So that is the difference. We can talk all we want about percents of income in all the States. I am looking at two counties in Pennsylvania that happen to be smaller in population and that happen to be largely rural, and I know hundreds of children who get coverage now will not get that coverage in those two counties; and hundreds of children would get coverage under the bipartisan children's health insurance legislation.

I do not know what more the Senate and the House can do on both sides of the aisle to plead with the President to go along with what the American people have told us overwhelmingly. There are a lot of things we disagree about in the Senate and across the country, but very few Americans now disagree that investing in children in the dawn of their lives is a good idea for that child, for his or her community, and for our economy long term.

So we will continue to make the case up until and through the vote today. But I think this is critically important for the children of America, all the children of America—urban, suburban, rural or any other way we classify where our children live. For their sake, and for the sake of the long-term economic future of the country, I believe the State children's health insurance legislation is urgently needed.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRASSLEY. 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. GRASSLEY. Mr. President, to quote Yogi Berra: It feels like *deja vu* all over again.

Here we are again debating the State children's health insurance bill, or SCHIP as we all know it by. I know

colleagues are tired of this issue and frustrated by the process.

I do think, though, we have an opportunity to move forward and to bring this issue to closure. I think my colleagues should be aware of many of the improvements that have been made to the bill that has passed the Senate twice. These improvements were negotiated in a bipartisan manner with the Senate and the House in order to help persuade Members who have indicated a willingness to support the SCHIP bill.

A lot has been said about who is or is not negotiating the bill. Some have been critical because they have not been part of those discussions. To them I would say: Stop trying to kill the bill if you want to be a part of the negotiations. It makes no sense to negotiate with Members who have said they are never going to vote for the bill.

So we have been trying to figure out a way to make the bill better. Here is where we are so far:

There is more of an emphasis upon poor kids. Everybody has been saying: We ought to emphasize getting kids under 200 percent of poverty into the program. We have rewritten the bill to make that more certain. It is probably still not satisfactory to some people so far, but we will continue to work on that.

Then there is the whole New York \$83,000 red herring issue, and that was in the President's veto address. But remember, it was not in our bill. But somehow somebody told the President it was in the bill, and then the President, in his veto message, referred to a reason for vetoing the bill was the \$83,000 issue with New York. That has been in the law for 10 years. What we did—so the President could not say that anymore—is we made clear this was not going to happen in any State.

Then we took care of the childless adult issue. In the original bill, you remember, we phased out childless adults covered by the SCHIP legislation, and we phased them out in that bill over a 2-year period of time. We now have that down to a 1-year period of time.

Premium assistance is strengthened. A technical clarification to the citizenship documentation provision in the bill has been made. That is not all. More work yet this morning—with Senator BAUCUS and me and some House Members—more work is underway trying to work with those who are sincerely wanting to vote for a children's health insurance bill.

We are working on a potential amendment to this bill that will go further to address putting kids under 200 percent of poverty first, strengthening the private coverage options, and further clarifying that no illegals can get onto the program.

Now, you understand, all these things are what our intention is. But somehow, through statutory language, we have not been able to make it clear enough. So we are going back and trying to make it more clear as a practical matter, maybe doing in a real

way what we intended to do that maybe when we wrote the language unintentionally was not accomplished.

Now, to the point of illegals, Members who are working to kill this bill have tried to make it seem like this bill opens the floodgates to people who are in our country illegally getting onto the health programs. To keep asserting this is as responsible as yelling "fire" in a crowded movie theater.

The latest assault is being leveled at the provision based on a bill authored by no other than Senator LUGAR. It is a provision called ExpressLane, which allows States the option—just the option—to establish income eligibility based on eligibility for other means-tested programs. "ExpressLane" is the new poster child now for those who scream "illegals" as a way to kill the bill.

I ask unanimous consent to speak for 1 more minute.

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

Mr. GRASSLEY. Mr. President, the "ExpressLane" option in the bill clearly requires a State to confirm the citizenship of applicants. I want to make that clear. The "ExpressLane" makes sure you have to be a citizen of the United States.

Since some Members clearly are not reading the bill, let me read from those provisions:

Verification of citizenship or Nationality status: The State shall satisfy the requirements of section 1902(a) (460)(B) or section 2105(c)(10), as applicable for verifications of citizenship or nationality status.

I don't know how much more clear it can be, and I hope it puts to rest a very sad mischaracterization of the bill.

To sum up, the bill before us now is an improvement on the bill that passed the Senate. It strengthens the number of provisions that Republicans have been concerned about. I hope with the amendment I am working on with Chairman BAUCUS, Senator HATCH, Senator ROCKEFELLER, and Members of both parties from the House of Representatives, that we will be able to increase the number of Republicans who vote to support this bill here in the Senate.

I support cloture in the vote just coming up and I ask my colleagues to do it so we can proceed on this bill. I urge my colleagues to vote the same way.

I yield the floor.

CLOTURE MOTION

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

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the motion to proceed to Calendar No. 450, H.R. 3963, Children's Health Insurance Program Reauthorization Act of 2007.

Max Baucus, Harry Reid, Benjamin L. Cardin, S. Whitehouse, Robert Menendez, Daniel K. Inouye, Jack Reed, Barbara Boxer, Patrick J. Leahy, Bernard Sanders, Ken Salazar, Kent Conrad, Ron Wyden, Byron L. Dorgan, Debbie Stabenow, Bill Nelson, Robert P. Casey, Jr.

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

The question is, Is it the sense of the Senate that debate on the motion to proceed to H.R. 3963 to amend title XXII of the Social Security Act to extend and improve the Children's Health Insurance Program shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Delaware (Mr. BIDEN), the Senator from Illinois (Mr. OBAMA), and the Senator from Oregon (Mr. WYDEN) are necessarily absent.

I further announce that, if present and voting, the Senator from Delaware (Mr. BIDEN) would vote "yea."

Mr. LOTT. The following Senator is necessarily absent: the Senator from Virginia (Mr. WARNER).

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

The yeas and nays resulted—yeas 62, nays 33, as follows:

[Rollcall Vote No. 401 Leg.]

YEAS—62

Akaka	Feinstein	Murray
Alexander	Grassley	Nelson (FL)
Baucus	Harkin	Nelson (NE)
Bingaman	Hatch	Pryor
Boxer	Inouye	Reed
Brown	Johnson	Reid
Byrd	Kennedy	Roberts
Cantwell	Kerry	Rockefeller
Cardin	Klobuchar	Salazar
Carper	Kohl	Sanders
Casey	Landrieu	Schumer
Clinton	Lautenberg	Smith
Coleman	Leahy	Snowe
Collins	Levin	Specter
Conrad	Lieberman	Stabenow
Corker	Lincoln	Stevens
Dodd	Lugar	Sununu
Domenici	McCaskill	Tester
Dorgan	Menendez	Webb
Durbin	Mikulski	Whitehouse
Feingold	Murkowski	

NAYS—33

Allard	Craig	Isakson
Barrasso	Crapo	Kyl
Bennett	DeMint	Lott
Bond	Dole	Martinez
Brownback	Ensign	McCain
Bunning	Enzi	McConnell
Burr	Graham	Sessions
Chambliss	Gregg	Shelby
Coburn	Hagel	Thune
Cochran	Hutchison	Vitter
Cornyn	Inhofe	Voinovich

NOT VOTING—5

Bayh	Obama	Wyden
Biden	Warner	

The PRESIDING OFFICER. On this vote, the yeas are 62, the nays are 33. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

The majority leader is recognized.

Mr. REID. Madam President, while everybody is here, there will be no

more rollcall votes today. I am going to be meeting shortly with Senator MCCONNELL to find out when the next vote will be. The next vote can only come about with a unanimous consent request. I will work with Senator MCCONNELL to see if we can come up with an easier lift than what is required under the rules.

Under the rules, we will vote at approximately 1 a.m. Friday morning on the next aspect of this procedure we have on the CHIP bill. We will visit in a short time to see if we can change that time in any way. Again, that would have to be done by unanimous consent. As we know, if any one person doesn't like it, it will not happen. Otherwise, the next vote will be likely at 1 a.m. Friday morning.

As I said, I will do everything I can to see if we can make it more convenient for the Members, as I am sure Senator MCCONNELL will. We have, on this most important issue, to make sure that the necessary parties are contacted and that everybody knows exactly what they are doing. So until further notice, the next vote will be at 1 a.m. Friday morning.

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

Mr. MCCONNELL. Reserving the right to object.

The PRESIDING OFFICER. The Senator cannot reserve the right to object.

Mr. MCCONNELL. I object.

The PRESIDING OFFICER. Objection is heard.

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

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

Mr. MCCONNELL. Madam President, the Senate is now considering what is essentially a do-over bill. The majority seems to believe that what didn't pass muster the first time and was vetoed by the President can now be successful. Well, it can't be, and my friends on the other side of the aisle know that.

The reason we have this do-over bill before us is because, I believe, this process has become more about scoring political points than making good policy. When the other Chamber passed this bill—and they rammed it through, in essentially 1 day—not only did they not pick up any votes, they actually lost one vote on the House side.

Then the majority in this body bypassed the committee process where both parties would have had a chance to strengthen the bill and brought it directly to the floor.

Last Friday, the majority filed cloture on the motion to proceed, forcing this vote today. It is the majority that wanted to vote on this do-over bill, not my side of the aisle.

The majority is also expected to fill the amendment tree to prevent Republican Senators from offering amendments and closing loopholes in the bill. All of that suggests to me that this is about politics, really, and not policy.

So the bill before us is almost like a sequel of the bill that was vetoed the last time. And like any sequel, it is even worse the second time around.

According to the Congressional Budget Office estimates, this bill actually covers 400,000 fewer children than the original SCHIP bill. Yet it costs more—a half billion dollars more.

Our friends on the other side argue that their do-over bill will serve low-income children first. But instead of requiring that low-income children be served first before expanding the program to cover those beyond 200 percent of the Federal poverty level, this bill expands the program to cover families making as much as 300 percent of the Federal poverty level.

This will repeal the requirement that the Secretary of Health and Human Services, Mike Leavitt, just recently put in place that States cover 95 percent of low-income kids before they expand.

This bill also contains an “income disregard loophole” that would allow States to ignore thousands of dollars of income when determining SCHIP eligibility. States could essentially define a family’s income at whatever level they see fit.

Democrats also argue this do-over bill will only serve children, not adults. Even that is not the case. While this legislation would phase childless adults out of the program within 1 year, parents would still be eligible.

Put it all together, and we have a bill born out of a process that is focused more on scoring political points than making good policy, and it is certainly not one I intend to support.

I urge my colleagues to re-engage in communication and consultation with this side of the aisle. Together, we can craft a bill that keeps its focus on low-income children and can actually receive a Presidential signature. That is the way to accomplish real results for the American people. We Republicans stand ready and willing to do just that.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Madam President, what is the matter before the Senate?

The PRESIDING OFFICER. The motion to proceed to the Children’s Health Insurance Program.

Mr. BYRD. I ask unanimous consent that I may speak as in morning business, and I speak out of order.

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

IRAN

Mr. BYRD. Madam President, I commend and offer my wholehearted support for the resolution that Senator DURBIN has submitted. His resolution, which I am proud to cosponsor, is a simple, clear statement of a funda-

mental constitutional principle; namely, that the Congress and only the Congress has the power to declare war. As this resolution states:

Any offensive military action taken by the United States against Iran must be explicitly approved by Congress before such action may be initiated.

The President is the Commander in Chief of the Armed Forces. But the President of the United States, although Commander in Chief of the Armed Forces, is not a dictator. The President is not an emperor. He is President, who, like all Presidents, takes an oath of fealty to the Constitution of the United States.

It is the American people—the American people—who pay the price of war in blood and in treasure. And it is the American people, through their representatives in Congress—that means us—who must give their approval—the approval of the American people—for such a momentous decision. That is the system that George Washington recognized when he presented his resignation to the Continental Congress. That is the system that the wise Framers of the Constitution created when they drafted our most basic and sacred document. That is the system that every Senator takes an oath to defend.

Today is a fitting day to discuss the issue of Iran. Today is All Hallows Eve—Halloween—a day when people don masks and costumes to frighten others. The White House has been busy unleashing its rhetorical ghosts and goblins to scare the American people with claims of an imminent nuclear threat in Iran, as they did with Iraq. But while few people doubt the desire of some in the Iranian regime to attain a nuclear bomb, there is little evidence that Iran is close to acquiring such a weapon. Fear, panic, and chest-pounding do not work well in the conduct of foreign policy. This is a time to put diplomacy to work. There is ample opportunity to coordinate with our allies to constrain Iran’s ambitions. But instead of working with our partners, the Bush administration has unveiled new unilateral sanctions against Iran. Instead of direct diplomatic negotiations with Iran, the Bush administration continues to issue ultimatums and threats.

We have been down that path already. We know where it leads. Vice President CHENEY recently threatened “serious consequences”—serious consequences—if Tehran does not acquiesce to U.S. demands—the exact phrase that he, the Vice President, used in the runup to the invasion of Iraq. The parallels are all too chilling. President Bush warned that those who wished to avoid World War III should seek to keep Iran from obtaining nuclear weapons. Secretary of Defense Gates has admitted in the press that the Pentagon has drafted plans for a military option in Iran. The President’s \$196 billion request for emergency war funding included a request for bunker buster bombs that have no immediate use in

Iraq. Taking all of this together—the bellicose rhetoric, the needlessly confrontational unilateral sanctions, the provocative stationing of U.S. warships in the region, the operational war planning, and the request for munitions that seem designed for use in Iran—these are all reasons for deep concern that this administration is once again rushing headlong into another disastrous war in the Middle East.

The Bush administration apparently believes it has the authority to wage preemptive war. It believes it can do so without prior Congressional approval. That is why the resolution of Senator RICHARD DURBIN of Illinois is so critical—namely, the White House must be reminded of the constitutional powers entrusted to the people’s branch—that is us, the House of Representatives and the Senate. I urge my colleagues to join Senator DURBIN and me on this important resolution and halt—halt—this rush to another war. Let us not make the same disastrous mistake as we did with Iraq.

Madam President, I yield the floor.

Mr. WHITEHOUSE. Madam President, may I speak for 12 minutes as in morning business?

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

ON THE NOMINATION OF MICHAEL MUKASEY

Mr. WHITEHOUSE. Madam President, the Senate is now called upon to consider President Bush’s nominee to succeed Alberto Gonzales as Attorney General of this Nation the person we must rely on to repair what has been left broken to uphold the rule of law where political loyalties once ruled and to lead the Department of Justice forward at a time of upheaval; and of urgency.

In many ways, President Bush has made a fine appointment in Judge Michael Mukasey; far better than we have come to expect in this administration. He is not a political hack. He is not a partisan ideologue. He is not an incompetent crony. We have had our share of those. No, he is a brilliant lawyer, a distinguished jurist, and by all accounts a good man.

And no one feels more keenly than do I the need for repair and recovery of the Department of Justice. In a small way, I served this Department, as a U.S. Attorney, and I feel how important this great institution is to our country; and how important an Attorney General—such as Judge Mukasey could be—to this great institution.

I wish it were so easy. But there are times in history that rear up, and become a swivel point on which our direction as a Nation can turn.

The discussion of torture in recent days has made this such a point. Suddenly, even unexpectedly, this time has come.

It calls us to think—What is it that makes this country great? Whence cometh our strength?

First, of course, is a strong economy, to pay for military and foreign aid activities; to attract the best and the brightest from around the world to our land, and to reward hard work and invention, boldness and innovation.

Now is not the time to discuss how we have traded away our heartland jobs, how our education system is failing in international competition, how a broken health care system drags us down, how an unfunded trillion dollar war and the borrowing to pay for it compromise our strength. For now, let me just recognize that a strong economy is necessary to our strength.

But a strong economy is only necessary, not sufficient. Ultimately, America is an ideal. America for centuries has been called a "shining city on a hill." We are a lamp to other nations. A great Senator on this floor said "America is not a land, it's a promise."

Torture breaks that promise; extinguishes that lamp; darkens that city.

When Judge Mukasey came before the Judiciary Committee, he was asked about torture and about one particular practice which has its roots in the Spanish Inquisition. Waterboarding involves strapping somebody in a reclining position, heels above head, putting a cloth over their face and pouring water over the cloth to create the feeling of drowning. As Senator JOHN MCCAIN, who spent years in a prison camp in North Vietnam, has said, "It is not a complicated procedure. It is torture."

The Judge Advocates General of the United States Army, Navy, Air Force and Marines have agreed that the use of simulated drowning would violate U.S. law and the laws of war. Several Judge Advocates General told Congress that waterboarding would specifically constitute torture under the Federal Anti-Torture Statute, making it a felony offense.

Judge Mukasey himself acknowledged that "these techniques seem over the line or, on a personal basis, repugnant to me." He noted that waterboarding would be in violation of the Army Field Manual.

But in our hearing last week, asked specifically whether the practice of waterboarding is constitutional, he would say no more than: "if it amounts to torture, it is not constitutional," and since then he has failed to recognize that waterboarding is clearly a form of torture, is unconstitutional, and is unconditionally wrong.

There are practical faults when America tortures. It breaks the Golden Rule—do unto others as you would have them do unto you, enshrined in the Army Field Manual with the question, if it were done to your men, would you consider it abuse?

There are practical concerns over whether torture actually works, whether it is sound, professional interrogation practice. I am not an expert, but experts seem to say it is not.

But the more important question is the one I asked earlier—whence cometh

our strength as a nation? Our strength comes from the fact that we stand for something. Our strength comes from the aspirations of millions around the globe who want to be like us, who want their country to be like ours. Our strength comes when we embody the hopes and dreams of mankind.

September 11 was a terrible catastrophe that rocked our Nation to its core. But tens of thousands of Americans, nearly 30,000 men, died in the Argonne Forest, and we did not lose our character as a nation. Are we not as strong now as then?

September 11 was a terrible catastrophe that challenged our economy, our politics, and our way of life. But Japan withstood two nuclear explosions, and it is today an economically and culturally vibrant country. Are we not made of stuff as strong as they?

September 11 was a terrible catastrophe, and it lives on as a test for our Nation. But the real catastrophe would be if we sell our birthright for a mess of pottage, if we sell our destiny as a lamp to other nations and a beacon to a suffering world, for bits of coerced intelligence.

I don't think anyone intended this nomination to turn on this issue. So many of us saw with relief an end to the ordeal of the Department of Justice, and wished this nomination to succeed.

But for whatever reason, this moment has appeared, unbidden, as a moment of decision on who we are and what we are as a nation. What path will we follow? Will we continue America's constant steady path toward the light?

Will we trust in our ideals? Will we recognize the strength that comes when men and women rise in villages and hamlets and barrios around the world and say, that is what I want my country to be like; that is the world I choose, and turn their faces toward our light?

Or, to borrow from Churchill, will we head down "the stairway which leads to a dark gulf. It is a fine broad stairway at the beginning, but after a bit the carpet ends. A little farther on there are only flagstones, and a little farther on still these break beneath your feet"? Will we join that gloomy historical line leading from the Inquisition, through the prisons of tyrant regimes, through gulags and dark cells, and through Saddam Hussein's torture chambers? Will that be the path we choose?

I hope not.

I am torn—deeply torn between this man and this moment. This is a good man, I believe. But this moment can help turn us back toward the light, and away from that dark and descending stairway. If this moment can awaken us to the strength of our ideals and principles, then, with whatever strength I have, I feel it is my duty to put my shoulder to this moment, and with whatever strength God has given me, to push toward the light.

One might argue that this makes Mr. Mukasey an innocent victim in a clash between Congress and the President—that no nominee for Attorney General will be able to satisfy Congress or the American people on the question of torture, because the President or perhaps the Vice President will not allow any nominee to draw that bright line at what we all know in our hearts and minds to be abhorrent to our Constitution and our values.

That is exactly the point. If we allow the President of the United States to prevent, to forbid, a would-be Attorney General of the United States—the most highly visible representative of our rule of law—from recognizing that bright line, we will have turned down that dark stairway. I cannot stand for that. I will oppose this nomination.

I yield the floor.

THE PRESIDING OFFICER. The Senator from Wyoming.

MR. ENZI. Madam President, it is my understanding that we are in the 30 hours of postclosure on the motion to proceed on SCHIP. Am I correct?

THE PRESIDING OFFICER. That is correct.

MR. ENZI. I thought it might be a good idea for somebody to actually talk about that. To quote from Shakespeare:

A rose by any other name would smell as sweet.

But the so-called new SCHIP plan is essentially the same as the old one, and it still stinks.

I rise today to speak about the State Children's Health Insurance Program, or what people on Capitol Hill are calling SCHIP.

SCHIP was created by a Republican Congress in 1997 to help low-income kids get health insurance. The goal of the program is to help kids who do not qualify for Medicaid but also cannot afford to get health insurance on their own, receive the care they need. This program was temporarily extended until November 16, 2007, which is coming up shortly. I am here today to speak about how important it is for Congress to work with the President to reauthorize this critical program in a way that gets every single low-income child who needs insurance insured.

If it were not for politics, this would have been solved last week. It would have been solved last month.

We have been working on this issue in the Senate for a few months now. And the longer we work on it, the more political it becomes. I worried that some Members in this Chamber have lost sight of the goal: making sure all the low-income children in this country have health care.

The press has been reporting that Members of the body have claimed that all the concerns were addressed in the last version of the bill the House voted on last week. That is not correct. The concerns were not addressed. This so-called new bill still fails to put low-income children first by gutting the administration's requirement to enroll at

least 95 percent of the kids below 200 percent of poverty before expanding the program to cover the higher income population.

This so-called new bill still expands the Children's Health Insurance Program to higher income families by using income disregards, which is clarifying certain expenses so they do not count toward income. How much are we going to let people exclude and still consider them poor?

When the House debated this bill last week, Representative DINGELL, the chairman of the Energy and Commerce Committee, participated in the colloquy with Representative BURGESS and explained how the income disregard loophole works.

What this means in plain English is, the majority party knows there is a provision in the bill that could lead to children from families earning over \$100,000 going into Government health care. This is exactly what I mean when I say we have lost focus when it comes to this bill. This program is intended to help low-income kids, not kids in families earning as much as \$100,000 a year.

The so-called new bill still allows the enrollment of adults, though the bill does transition childless adults off the SCHIP into Medicaid. Parents still receive SCHIP coverage.

The so-called new bill still removes 2 million individuals from private coverage and puts them on Government-run health care at the taxpayer's expense.

Congress needs to ensure this program is paying for health insurance for kids who do not currently have health insurance, not switching kids from private insurance to Government-run health insurance.

We need to help all Americans get health insurance, but there are better, more efficient ways than spoiling a good children's plan. I have introduced a first-class, 10-step plan that would help us achieve the goal of comprehensive health care reform for every American. Any one of those steps would improve the situation for almost all Americans. All 10 steps would improve it for every American.

But to get back to what is wrong with this new bill, the so-called new bill still expands SCHIP to illegal immigrants by weakening citizenship verification requirements. Let me repeat that. This so-called new bill still expands the SCHIP program to illegal immigrants by weakening citizenship verification requirements.

Now, the so-called new bill still is not paid for. It is relying on a budget trick to get around the budget rule. I am the only accountant in the Senate. I am sure there are others who can count. There are documents that show this information, but this so-called new bill still includes a tobacco tax increase, and the proposed tax hike is highly regressive, with much of the tax burden being shouldered by low-income taxpayers.

Now, I am not a fan of tobacco. I have spoken on this floor many times about why I am so adamantly against tobacco usage. But using a tobacco tax to pay for children's health insurance does not make sense because you have to keep the program funding level stable in the future, and that would require 22 million more smokers.

We are going to help children's health by talking 22 million more people into smoking and keeping the ones who are smoking now from quitting? It does not sound like a health care plan to me.

The so-called new bill still contains district-specific earmarks. Again, we know we have lost focus on children's health insurance when the bill contains earmarks for certain districts. Clearly, the so-called new bill has not changed that much from the previous bill. We have to put low-income kids first, and this bill does not do that.

I have cosponsored the Kids First Act, S. 2152. The bill would provide Federal funding for children in need and require the money actually be spent on children from families with lower incomes.

This bill is a good step in the direction of the compromise, and I hope the majority will see that and start working with the minority to pass something the President can sign rather than putting the kids in jeopardy by continuing to play politics.

I would be remiss if I did not mention what a great job my home State of Wyoming is doing in the way that they are administering SCHIP. Wyoming first implemented its SCHIP program, called Kid Care CHIP, in Wyoming in 1999. In 2003, Wyoming formed a public-private partnership with Blue Cross/Blue Shield of Wyoming and Delta Dental of Wyoming to provide health, vision, and dental benefits to nearly 6,000 kids in Wyoming. That is a pretty significant part of our population. Wyoming is the least populated State in the Nation.

These partnerships have made Kid Care CHIP a very successful program in Wyoming. All children enrolled in the program receive a wide range of benefits, including inpatient and outpatient hospital services, lab and x ray services, prescription drugs, mental health and substance abuse services, not to mention dental and vision services.

Families share in the cost of the children's health care by paying copayments for a portion of the care provided. These copays are capped at \$200 a year per family—not per child, per family.

Wyoming is also engaged in an outreach campaign targeted to find and enroll the additional 6,000 kids who are eligible for the Kid Care CHIP but are not enrolled. I am proud of the great job Wyoming is doing in implementing its program.

I am proud to say that even if the program were not reauthorized, Wyoming has enough money to run its program for another year because folks

there know how to budget and plan. I sure hope it does not come to that. We need to get it extended. We need to get it extended right now.

I hope Congress will be able to set the politics aside and put the kids first. We have a job to do for all the kids in the States that are not as fiscally responsible as Wyoming. They will start running out of money, so we owe it to them to work across the aisle and with the President and get a bill signed into law. I will cover this some more tomorrow when more have spoken and there are some arguments to counter.

There is a way that we can come to a compromise and arrive at a solution. In fact, some of the negotiations I was involved with last week I thought had been reached. And then when I saw the bill that was voted out by the House, I saw a little recidivism there. I thought we had done better than that. But, obviously, we had not. Obviously, we need to keep working.

I yield the floor.

The PRESIDING OFFICER (Mr. SALAZAR). The assistant majority leader is recognized.

MUKASEY NOMINATION

Mr. DURBIN. Mr. President, it is my great honor to serve in the Senate and represent my State of Illinois. It is a singular honor and responsibility.

Unlike the House of Representatives where I was honored to serve for 14 years, in the Senate we are often called on to judge people; not ideas, not bills, not expenditures, but people. I think it defines one of the fundamental differences between the House and the Senate.

So often when it comes to the President's appointments and Cabinet officials, those who serve us in public life, we have to take the measure of a person and decide whether that person is the right one for the moment, if that person has the integrity and the skill and the values to serve this great Nation.

It is a heavy burden. Sometimes I am sure I have gotten it wrong, and other times right. You are never quite sure. In this situation, as a member of the Senate Judiciary Committee, I am faced with this question about filling the vacancy after the resignation of Attorney General Alberto Gonzales.

I was not a fan of Attorney General Gonzales. I voted against his nomination. There were many reasons. I will not go through the long litany. But I did not believe he was the right person for the job. I thought his appointment to lead the Department of Justice was the appointment of a man more loyal to a President than to our Constitution and his special responsibility in our Cabinet.

But even beyond that, I was haunted, haunted by the involvement of Attorney General Gonzales in a historic decision made by the Bush administration.

America has never been the same since 9/11/2001. We can all recall exactly where we were at that moment, the

horror that came over us as we realized how many innocent Americans would lose their lives with this unprovoked terrorist attack on the United States, the grief we shared with families and friends after that loss, witnessing all of the funerals and hearing all of the sad stories.

Determined, this Congress came together in a matter of days and declared war on those responsible. Now there have been many times in my public career when I have been called on to decide whether to go to war. These are the decisions which may look easy from the outside but are never easy.

You know that when a nation goes to war, people will die. You hope it will be the enemy, but you know it will be some of our own, and innocent people as well. You find yourself tossing and turning thinking about what is the right thing to do.

When it came to the declaration of war on the Taliban and al-Qaida for what happened on 9/11, there was no tossing and turning. With resolve, the Senate unanimously voted to embark on that war, to make it clear that the United States would not tolerate what had happened on 9/11.

Of course, shortly thereafter, another challenge presented itself to the Senate when it came to the war in Iraq. I thought that was a much different issue. In fact, I thought it was an unwise policy decision to go forward. I joined 22 of my colleagues in voting against the authorization for the use of military force by President Bush.

I think history has shown that the decision to go to war in Iraq was one that was ill-fated and may go down as one of the worst decisions in the history of our Nation. But what happened in addition to those two declarations of war is also going to be written in the annals of history.

What did we do to protect America? Well, if you look back in our history, you will find that whenever we are insecure and frightened and believe we are in danger, we make a number of decisions to find security and peace of mind. Then over time we reflect on those decisions. And over time some of them do not stand the test of being consistent with our basic values.

We were debating some of those decisions even today in the Judiciary Committee. The question of warrantless wiretapping, the conflict between privacy and security. It is almost always an issue when America is at war or there is a question of our security. It is an issue today: telephone records, records of e-mail traffic, and so forth.

What right does the Government have, and under what circumstances can the Government violate the privacy of an individual in an effort to protect our Nation? That debate will continue. It is far from resolved.

But there was another debate involved after 9/11 that I did not anticipate. I did not imagine at the time, in all of my grief and all of my concern, that this administration would actu-

ally call into issue the question of how America would treat its prisoners after 9/11.

The reason it never dawned on me was the fact that for decades now the United States has been in a position of global leadership when it comes to the morally right position on the treatment of prisoners.

We have prided ourselves on our co-authorship of the Geneva Conventions, an international standard of conduct relative to the treatment of prisoners in a time of war. We have prided ourselves on our own Constitution which bars cruel and unusual punishment. We have said that a democracy, the one we revere, the one that is part of our very national being, is a civilized nation, a nation that will draw lines and live by those lines when others might not.

Other countries in the world think perhaps we get on a high horse sometimes when it comes to this. Each year the Department of State puts out a human rights scorecard on the world. We grade the world on issues such as torture, treatment of prisoners, treatment of political dissent, use of child soldiers, genocidal policies. The United States makes an announcement: These are the countries that are not living up to those standards. We stand in judgment of other nations. That is why it came as a surprise to me, as slowly the information trickled out from this White House and this administration, that the Bush administration was raising fundamental questions about whether we would change the way we treated prisoners, detainees in the so-called war on terrorism.

As we learned, some of the decisions of this administration were particularly troubling. They called the Geneva Conventions, which had guided us for almost half a century, quaint, and some referred to them as obsolete; they said that we had to do more when it came to terror. It appears at some point there was a change of heart in the administration and they backed off some of the early harsh language in the so-called Bybee memo and went on to revert to some standards closer to where our Nation had always been. The fact is, there was not only active discussion, but it appears there was active conduct involved in the treatment of prisoners far different than what we had said to the world was our standard of treatment and our standard of care.

I am old enough to recall the Vietnam war. I often say to groups I speak to in Illinois and other places that certain words bring certain images. When the words "Vietnam war" are brought to mind and I am asked of the first snapshots in my mind, the first one that presents itself is the black-and-white grainy photograph of the mayor of a South Vietnamese hamlet shooting pointblank at the head of a political prisoner. The second image is of a little girl stripped naked running down a road with her arms extended, burned from napalm. I will never get those images out of my mind.

I am afraid there are images of the war in Iraq that will stay with people for a long time as well. One of them, sadly, will be images from Abu Ghraib prison and the treatment of Iraqi prisoners. A prisoner on a stool with his head covered with a bag, his arms extended with electrodes connected; I am afraid that is an image that will be with us for a long time and in the minds of many will be an unfair characterization of America and what we are about.

That was one of the reasons why I could not vote for the nomination of Attorney General Gonzales. I knew he was complicit in these conversations, these policies, this change when it came to the issue of torture. I find it difficult to rationalize how a person whose job it is to uphold the rule of law could be party to that.

Now comes a vacancy, an opportunity to consider a successor—Judge Michael Mukasey, former Federal judge from New York, a person who has given his life to the law, an extraordinarily gifted, talented, able jurist, who left the bench for private practice. Some have described Judge Mukasey as aspiring to the role of caretaker because it is a year and a few months away from the President's end of office. But the person confirmed to fill that job has a much bigger responsibility than caretaker. He will bear a heavy burden of doing his part to restore honor and dignity to the Department of Justice.

I believe Michael Mukasey could do that if he not only brought the skills of a judge and the administrative skills that he might bring to the job, but also brought with him a clear break from Attorney General Gonzales's views on the issue of torture. It is the Attorney General's role to uphold the law and American values. Former Attorney General Gonzales failed in that role.

The late historian Arthur Schlesinger, Jr. said this about the Justice Department's legal defense of torture:

No position taken has done more damage to the American reputation in the world—ever.

That is a powerful statement from a man who made his life as a historian and close adviser to President John Kennedy and close confidant of many others at the highest levels of public life, to say that no position taken has done more damage to America's reputation in the world than this administration's position on torture.

Judge Mukasey has a distinguished record. I had hoped his background as a member of the Federal judiciary would give him the independence and integrity necessary for the job of Attorney General. On the first day of his testimony I was so relieved and refreshed; he answered questions. He didn't say "I don't know" and duck and dodge. When confronted with hard questions, such as will you be prepared to walk away from this President if asked to do something that you feel inconsistent with the Constitution and laws of the

land, he was resolute and firm in his answers. I thought maybe this is the right person. This is a man who, because of his background and station in life, doesn't need this job but would take it for public service and be willing to stand up for principle. It was so refreshing.

Then came the second day of questions. I had a chance to ask him a question toward the end of the hearing. The room was almost empty. People had come to the conclusion on the second day that it was a foregone conclusion that Judge Mukasey would be approved as the nominee by the Judiciary Committee and submitted to the Senate. I asked him late in the questioning about the issue of torture. In fact, I was specific. I went beyond the general questions of torture because the administration said clearly: We do not have a policy of torture. We don't engage in torture.

I then went to specific forms of torture, things that have been done to prisoners in detention over the centuries which are commonly regarded as torture. I asked him about waterboarding. Judge Mukasey refused to answer the question and said:

I don't know what's involved in the technique. If waterboarding is torture, torture is not constitutional.

SHELDON WHITEHOUSE of Rhode Island is my colleague. He called this response by Judge Mukasey "a massive hedge." I think Senator WHITEHOUSE was kind. For those who heard his remarks a few minutes ago, I told him it was one of the most powerful statements I had heard as a Senator in analyzing the challenge we now face on the Judiciary Committee with this nomination.

I had hoped I would have heard from Judge Mukasey words that were spoken to me and to the committee and to America by people who have given their lives to considering this difficult topic.

Retired RADM John Hutson, former Navy Judge Advocate General, testified at Judge Mukasey's confirmation hearing. He was asked about Judge Mukasey's statements and position on waterboarding. This is what he said:

Other than, perhaps the rack and thumb screws, waterboarding is the most iconic example of torture in history. It was devised, I believe, in the Spanish Inquisition. It has been repudiated for centuries. It's a little disconcerting to hear now that we are not quite sure where waterboarding fits in the scheme of things. I think we have to be very sure where it fits in the scheme of things.

Those are the words of Admiral Hutson. I was troubled by Judge Mukasey's position on waterboarding. I joined with all of my Democratic colleagues in the Judiciary Committee and sent him a letter. I wanted to give him a fair opportunity to reflect on the questions and his answers and to give us a complete statement of his views on this issue. I felt it was important and only fair to give him that chance. Last night we received his reply. To

say the least, it was disappointing. We asked Judge Mukasey a simple, straightforward question. Is waterboarding illegal? His response took four pages. In it was very little.

He said waterboarding was "on a personal basis, repugnant to me." But he refused to say whether waterboarding was illegal because "hypotheticals are different from real life" and it would depend on "the actual facts and the circumstances."

With all due respect, that is an evasive answer. Frankly, while Judge Mukasey has not been confirmed yet, that answer sounds too reminiscent of his predecessor. For the past 5 years, whenever we have asked the administration whether torture techniques such as waterboarding are illegal, they always have the same response: That is a hypothetical question, and it depends on the facts and circumstances.

Let's be clear. Waterboarding is not a hypothetical. Waterboarding or simulated drowning is a torture technique that has been used at least since the Spanish Inquisition and is used today by repressive regimes around the world. I have come to the floor, Senator MCCONNELL has come to the floor, and many others, to decry what is happening in Burma today where the military junta is not only killing innocent Burmese people in the streets but engaging in torture and detention of citizens who are only trying to speak their heart. The Burmese military has reportedly used waterboarding against democracy activists as they violently repressed demonstrations in recent weeks. Whether waterboarding is torture is certainly not a hypothetical question to these Burmese democracy activists. These are some techniques that are so clearly illegal that it doesn't depend on facts and circumstances. They should always be off limits. Would it depend on the facts and circumstances whether it is torture to pull out someone's fingernails? Do you want to know more? Would it depend on facts and circumstances whether rack-and-thumb screws are torture?

Judge Mukasey refused to say whether waterboarding is illegal, but many others have answered this question and they didn't need four pages to do it. Following World War II, the United States prosecuted Japanese military personnel as war criminals for waterboarding American servicemen. The Judge Advocates General, the highest ranking military lawyers in each of the U.S. military's four branches, told me unequivocally waterboarding is illegal.

To take one example, BG Kevin M. Sandkuhler, Staff Judge Advocate to the Commandant of the Marine Corps, stated:

Threatening a detainee with imminent death, to include drowning, is torture.

Senator JOHN MCCAIN, a Republican colleague from Arizona, who knows more than anyone on this floor about being a prisoner and being treated as a

prisoner, spoke to this issue with credibility and clarity. This is what he said of waterboarding:

In my view, to make someone believe that you are killing him by drowning is no different than holding a pistol to his head and firing a blank. I believe that it is torture, very exquisite torture.

Earlier this week Senator MCCAIN was asked about Judge Mukasey's refusal to say whether waterboarding was torture. This is how he responded:

Anyone who says they don't know if waterboarding is torture or not has no experience in the conduct of warfare and national security.

Senator JOHN WARNER, one of the authors of the Military Commissions Act, during the floor debate on the same legislation said that waterboarding is "in the category of grave breaches of Common Article 3 of the Geneva Conventions" and would be "clearly prohibited" by the Military Commissions Act.

Our own State Department has long recognized that waterboarding is torture and cruel, inhuman and degrading treatment. The State Department has repeatedly criticized other countries for using waterboarding in its annual Country Reports on Human Rights Practices.

How can we on one hand say our Secretary of State is going to look at the conduct of the world and issue a report every year and find that if they are engaged in waterboarding and the torture of prisoners, they have violated human rights, and have a nominee for Attorney General of the United States of America uncertain until he knows a little bit more about the facts and circumstances surrounding the use of waterboarding?

It is important to note that although Judge Mukasey was equivocal and evasive on the issue of waterboarding, there were other issues he was happy to volunteer strong opinions on. For example, I asked him whether he believes the Second Amendment secures an individual right to bear arms. Unlike waterboarding, which is widely condemned, this is an unsettled legal question.

The Bush administration takes the position that the Second Amendment protects an individual right to bear firearms, but that view has been rejected by most Federal appeals courts and conflicts with the holding of the U.S. Supreme Court in *United States v. Miller*. Judge Mukasey did not hesitate and ask for facts and circumstances. He said:

Based on my own study, I believe that the Second Amendment protects an individual right to keep and bear arms.

On this contentious, debated, constitutional issue about the Second Amendment, he wasted no time coming to a legal conclusion. But when it comes to the issue of waterboarding he refuses.

Every reason Judge Mukasey has offered in his letter to us for his failure to take a position on waterboarding

falls short. He says he has not been briefed on the administration's interrogation programs. Isn't it ironic, because if he were briefed, he would have refused to answer the question, saying it is classified. What I am asking about are basic principles, and he refuses to answer.

Now he argues he cannot answer the question because he has not been briefed. As we made clear in our letter, we are not asking Judge Mukasey's views of the administration's interrogation program. We are asking him for his personal opinion on waterboarding.

He also argues he cannot take a position on waterboarding because it would "provide our enemies with a window into the limits or contours of any interrogation program."

With all due respect, what does that say about us? If you would go to the Internet now and run a search on the term "waterboarding," you would find there are 18 million references to it—18 million. This is not a term shrouded in mystery. It is a term well known and well discussed across the world.

If the argument is being made by Judge Mukasey that we want to leave our enemies in doubt as to whether we engage in waterboarding, what does it say about us? If the United States does not explicitly and publicly condemn waterboarding, it is certainly more difficult to argue that enemy forces cannot use the same tactics. That has always been the gold standard. If this tactic of interrogation were applied to an American soldier, would the United States cry foul? Would we say it is torture, cruel, inhuman, and degrading?

There is no doubt in my mind we would say any American soldier subjected to waterboarding is a victim of torture. We said it after World War II, and we prosecuted those Japanese military officials responsible.

Why now in the 21st century is there any doubt in Judge Mukasey's mind? Sadly, if the Senate confirms Judge Mukasey, it will tell the world the American Attorney General has not made up his mind about a form of torture that has been repudiated for centuries.

Many of us have a vision of America after this administration. We look beyond January 20, 2009. We hope we will live in a better and safer world. We hope the next President, whoever that may be, will rebuild alliances with countries that have stood by our side through thick and thin throughout our history—countries which are now estranged by the policies of this administration.

We hope whoever the next President will be, that person will seek to restore the image of America in the world, tell people who we are, because many have such wrong and bad impressions of this great Nation. We certainly expect the next President to reestablish the values that define us: fairness and justice, clarity of purpose—a caring nation, dedicated to peace.

When the history of this war on terror and this Bush administration is

written, I am afraid many of the actions of this administration will fall into a sad and regretful category—a category that includes the suspension of habeas corpus during the Civil War, the Sedition Act of World War I, the Japanese internment camps in World War II, the Army-McCarthy hearings of the Cold War, the enemies list of the Nixon administration—overreactions by a government so consumed with the idea of security that that government lost its way when it came to our basic and fundamental values.

We cannot lose our way when it comes to the choice of the next Attorney General. As good a person as he may be, his response to this question—this basic and fundamental question on policies of the interrogation of prisoners leaves me no alternative but to oppose Judge Mukasey's nomination to be Attorney General of the United States.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, back in August, I stood right here on the Senate floor and shared the story of a little girl from my home State. I did that because I wanted to illustrate why it is our moral obligation as Americans to renew and improve the Children's Health Insurance Program, or CHIP.

Shortly afterward, the Senate approved the CHIP bill by an overwhelming margin because Senators on both sides of the aisle agreed that all children should be able to see a doctor when they are sick. They supported reauthorizing CHIP because it would reduce the number of uninsured American children by a third.

Well, President Bush vetoed it.

Now it is 3 months later, and I am frustrated and angry that I have to stand here again talking about CHIP and that we are still trying to get the White House to understand.

The supporters of this bill have agreed to a compromise. We want to make this program work. We are back with another bill now that we think meets everyone's needs. So today I come back to the floor to remind President Bush and anyone else who still questions how important it is to approve this program now—about that little girl from Yakima, WA, because it is time for the President to stop blocking her health care.

The little girl I want to tell you about is Sydney. She is 9 years old. In many ways, Sydney is like any other happy child in America. She loves to sing. She loves to dance. She does well in school. She has a lot of friends. But Sydney is different in one way. She has a life-shortening genetic condition called cystic fibrosis. It requires her to take and I quote from her a "bucketful" of medicine every day.

She has already spent weeks of her young life in the hospital hooked up to an IV of antibiotics which help her to live another day. All of that is possible because of the health care she has received as part of the CHIP program.

Her mom, Sandi DeBord, told me about Sydney because she was very frightened that CHIP might no longer be available for her daughter. She wrote to me and said:

I know for a fact that without this bit of assistance, her life would end much sooner due to the inability to afford quality health care for her.

Her life would end because she could not afford health care. What a sad note. I am here to tell the story again because, sad to say, 3 months later I cannot assure Sydney's mom that CHIP will always be there. In fact, the news has become even more worrisome.

Just today, in the New York Times, it reported that because of the President's refusal to work with Congress on this bill, several States are now planning to start dropping children from the program in order to save money. Unless something changes, California says it is going to start dropping 64,000 kids a month in January—64,000 kids a month.

A study from the Congressional Research Service found that nine States—Alaska, Georgia, Illinois, Iowa, Maine, Maryland, Massachusetts, New Jersey, and Rhode Island—are all going to run out of money by March. Twelve more States are going to run out between April and September. This is a tragedy, and it is our moral obligation to fix this. That is what we are trying to do now in the Senate.

As Sydney's story shows us, the need for the Children's Health Insurance Program is clear. It does not matter if you are a Republican child or a Democrat child or a progressive or a conservative; making sure our children get health care is the right thing to do.

When a child gets a cut that requires stitches or comes down with a fever or has an earache or any other imaginable problem, they ought to be able to get help, period. This is the United States of America. But, unfortunately, today, in this country, that is not the case. Millions of kids do not get the medicine or the care they need.

We know the ranks of our uninsured children are growing because as the cost of living rises and wages remain stagnant, more and more parents are struggling to afford any health care.

Most of us in the Senate know this. The CHIP program has had strong Republican support, and I particularly thank Senator GRASSLEY and Senator HATCH, who cosponsored the original 1997 bill, and have been working so hard with Senator BAUCUS and Senator ROCKEFELLER since.

But even with that bipartisan support in the Senate, President Bush has complained about the bill that passed. As an excuse to delay the program, he and a few Republican supporters say we have been unwilling to work with them. They say it will increase costs. I am here to say that is not the case. Despite what the President says, we listened to their concerns, and in this bill that is now before the Senate we address those concerns.

This bill we are now considering addresses the concerns we heard over and

over that children of illegal immigrants will be covered by requiring that States not only verify names and Social Security numbers, but they also check citizenship information in the Social Security Administration's database. So that issue is gone.

Secondly, it ends the coverage of childless adults by the end of 1 year. So that issue is gone.

Finally, this bill concentrates on making sure the poorest kids get covered first. So that issue is gone.

This bill also helps bridge the gap for another 3.9 million children whose parents cannot afford insurance. And this program is paid for. I want to say that again. This program is paid for.

President Bush just asked us to borrow \$196 billion for the war in Iraq and Afghanistan for this year alone. But he opposes children's health insurance, even though we found a way to pay for every penny of it for the next 5 years. The \$35 billion cost for CHIP's initiatives comes solely from a 61-cent excise tax increase on cigarettes and other tobacco products. No other programs are cut. Social Security is not raided. We are not increasing the deficit. Not only will this provide millions of children with health care, experts actually estimate it is going to get 1.7 million adults to quit smoking and prevent millions of kids from ever getting hooked. So this is good for our kids' health care now, and it is going to make a lot of kids healthier in the future.

Children's health should not be about politics. I have said this over and over. It is about making sure kids see a doctor when they need to. Kids are not Democrats; they are not Republicans. They are just kids who deserve health care.

Unfortunately, President Bush has let health care for our children get caught up in a desperate attempt to appeal to his dwindling number of supporters.

We know CHIP is the right thing to do. Americans know it is the right thing to do. More than 65 percent of them oppose President Bush's veto.

So to President Bush—and to any of our colleagues out there who still see this as a debate over politics and numbers—I want to remind you once more of a little girl who is 9 years old whose name is Sydney and the millions of other kids out there who depend on us to do the right thing.

Sydney is still fighting cystic fibrosis, and her mom is still wondering whether she will be able to take care of her in the future. I hope we can tell her that we will.

So on behalf of Sydney, on behalf of the 73,000 uninsured children in my State alone, and the more than 8 million children in this country, I thank all of my colleagues who worked so hard on this bill and supported it to this point. I urge the President to stop blocking this critical program for our kids.

Mr. President, I yield the floor.

MORNING BUSINESS

Mrs. MURRAY. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business with Senators permitted to speak therein for up to 10 minutes each.

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

PASSENGER RAIL INVESTMENT AND IMPROVEMENT ACT

Mrs. CLINTON. Mr. President, I am in support of the Passenger Rail Investment and Improvement Act of 2007.

The passage of this critical legislation is truly a great achievement. For New Yorkers, Amtrak is not just a commodity but a life source. Passenger rail is an essential element of our transportation network that provides irreplaceable capacity and mobility to New York and the Nation. For the past near 7 years, we have had to fight the administration's constant attempts to privatize and dismantle our Nation's premier passenger rail service, Amtrak. Eliminating Amtrak service would be an economic disaster and an irresponsible policy.

Today, as gas prices continue to climb and airline delays are at an all-time high, Amtrak not only provides a necessary and affordable alternative to our congested airways, it links commuters to local locations not serviced by the airline industry. The enactment of Passenger Rail Investment and Improvement Act of 2007 will end the stop-gap funding process for Amtrak and will provide the traveling public with the security of a comprehensive plan for improving our nation's passenger rail system.

No country in the world has ever developed and maintained a successful passenger railroad system without assistance from their national government. Without offering an alternative, President Bush has aimed to simply shut down passenger rail in the US.

This plan will authorize \$19.2 billion in Federal funds for Amtrak by providing \$3.2 billion over the next 6 years and will allow Amtrak to make critical repairs and improvements to its service. Funding under this legislation will allow Amtrak to implement a comprehensive plan that will enhance rail security, reduce train delays, and improve customer service. It will also provide sufficient funding and direction to bring the Northeast corridor up to a "state-of-good-repair," including vital tunnel life safety work in the Hudson River Tunnels.

In recent years, attempts by Congress to improve and modernize Amtrak's operations were stalled by the Republican-controlled House, and earlier this year the President proposed cutting \$493 million, more than 38 percent of Amtrak's operating funds. This sort of backward thinking would have severely jeopardized Amtrak's ability to serve their passenger lines in New York and throughout the Northeast.

Mr. President, in the State of New York, Amtrak operates 140 routes, employs more than 1,900 people, and has 2 of the top 10 busiest stations in their rail system. Amtrak is an integral part of our transportation infrastructure and continues to service parts of the State that need the influx of tourists, business travelers, and others. The future without Amtrak for New York would be devastating.

I am proud that the full Senate has rejected the administration's approach to Amtrak. As an original cosponsor of this legislation, I commend Senator LAUTENBERG and Senator LOTT for their leadership in steering this critically important legislation through the Senate. As an original cosponsor of this legislation, I am pleased that my Senate colleagues have voted overwhelmingly to continue to provide critical funding for Amtrak, and I look forward to this legislation being signed into law.

Mr. WHITEHOUSE. Mr. President, yesterday, the Senate made a strong and long-overdue investment in the future of public transit in Rhode Island and throughout the country. I am pleased to have cast my vote for the passage of the Passenger Rail Investment and Improvement Act of 2007 (PRIIA), which will guide the maintenance, growth, and funding of the railroad through Fiscal Year 2012.

Each year, over 12 million business and leisure travelers depend on Amtrak's Northeast Corridor service, which connects the great cities of New England and the Mid-Atlantic states. Providence is a vital link on this route, with more than half a million Amtrak passengers boarding and departing Amtrak trains in the city each year. Also on the Northeast corridor route are Kingston and Westerly, Rhode Island. Kingston is home to the University of Rhode Island, and Amtrak gives students, faculty, researchers, and visitors direct access to this thriving college town. The Westerly station provides rail service to residents of both Rhode Island and Connecticut who rely on public transportation.

Despite its importance to millions of travelers, the Northeast Corridor has fallen into a state of disrepair in recent years. The infrastructure on this route is some of the oldest in the Nation, and a revitalization plan has been necessary for some time. This new Amtrak bill includes a strategy to restore the route to good condition by September of 2012—the first capital development plan put in place since Amtrak's previous authorization expired 5 years ago—and authorizes full federal funding of necessary repairs and upgrades. The Amtrak bill also authorizes the formation of a commission to oversee the operation and maintenance of the Northeast Corridor. The commission will include Amtrak, the Federal Railroad Administration, and each state along the route. I am pleased that Rhode Island will have a voice in future planning for a resource so vital to us.

In addition to funding operations and capital improvements, the Amtrak bill also addresses the congestion experienced on so many of the system's routes. By law, Amtrak passenger trains have the right of way over private freight trains, but this preference is often ignored. The bill the Senate passed today permits the Surface Transportation Board to assess fines against non-compliant freight railroads and to distribute damages to Amtrak. Congestion has increased in recent years, especially along the Northeast Corridor, and this provision should lead to fewer and shorter delays for passengers.

Finally, let us celebrate a piece of good Rhode Island news—I have been informed that the escalators in the Providence train station, which have been broken and covered with dust since early 2005, are scheduled to be reopened and in service by the week of November 12.

I congratulate Senators FRANK LAUTENBERG of New Jersey and TRENT LOTT of Mississippi on the passage of this critical piece of legislation. I also want to recognize the contributions of Rhode Island's own Senator JACK REED, who has been a strong and constant advocate for Amtrak. The new resources and clear development plan outlined in this bill reaffirm Congress's commitment to passenger rail service in the United States.

MATTHEW SHEPARD ACT OF 2007

Mr. SMITH. Mr. President, I wish 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.

In the early hours of October 19, 2007, a 28-year-old man was shot at allegedly because of his sexual orientation. The victim and a friend left a gay bar in Midtown Atlanta, GA, for a gas station down the street at about 3 a.m. At that time, a sport utility vehicle with three men inside pulled into the gas station's parking lot. One of the vehicle's passengers was allegedly intoxicated and complaining to customers about the number of gay people at the gas station, using antigay epithets. Some of the man's behavior is caught on surveillance tapes at the station. The victim and his friend began to walk back to the bar after a short stay at the gas station and were followed by the men in the vehicle. As they walked by the bar, the man who appeared intoxicated shot at them four or five times, grazing the victim with a bullet that had ricocheted off the building. While Georgia does not have a hate crime law, the shooting is being investigated as an antigay incident.

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 Matthew Shepard 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.

FIRES OF SOUTHERN CALIFORNIA 2007

Mrs. BOXER. Mr. President, over the past 2 weeks, residents of San Bernardino, San Diego, Orange, Los Angeles, Ventura, Riverside, and Santa Barbara counties in southern California have faced some of the most horrific wildland fires in California's recorded history. At one point, as many as 1 million Californians were forced from their homes and communities by flames driven by Santa Ana winds of up to 100 miles per hour.

To date, 14 people have lost their lives, almost 3,000 structures, two-thirds of them homes, have been destroyed and more than 500,000 acres have burned. Over 100 people have been injured, some seriously. The consequences to people's lives will be long term, and we will do everything we can to bring comfort to victims and regeneration to affected communities.

Throughout these fires, which are only now being subdued, thousands of firefighters, mostly Californians, but some from other States, have been on the front lines working around the clock to defeat the fires. They have been tireless and fearless. We owe these California firefighters, and those who traveled across the country, our deepest thanks and appreciation. Whether it was saving the lives of people in the path of the flames, or making a stand to protect a neighborhood or a whole town, these brave men and women were there selflessly doing their duty. CalFire, the California National Guard, county and local fire agencies worked tirelessly to get the job done.

Thankfully, there has been no loss of firefighter lives, though several of our firefighters were injured, and to them I send my best wishes for a full recovery.

I hope that today we all can recognize our firefighters' valor and steadfastness in the face of the threat. We must also commit ourselves to standing up for their health and welfare as they face health challenges that sometimes last a lifetime. They do a very difficult job and we must do everything possible to assure they have all the support necessary so that they can continue to be there when the next threat presents itself.

SOMALIA

Mr. FEINGOLD. Mr. President, I have come to this floor many times over the years to urge increased U.S. attention and resources to Somalia. Meanwhile, the United States and the international community at large have continued to respond sporadically and

clumsily to the steady deterioration of Somalia's security, humanitarian, and political situations. In January, I said that we had only a very limited window to establish the conditions necessary for stability in Somalia and the volatile Horn of Africa region, but I fear that opportunity may soon be lost. Events over the past few days suggest that strong but inclusive leadership is needed now if Somalia is to avoid the worst descent into chaos of its tumultuous history.

This weekend saw a massive setback in Somalia's security and humanitarian situation as a fresh outbreak of fighting which aid workers describe as the worst violence in months—forced tens of thousands more Somalis from their homes in Mogadishu. Most of these people are seeking refuge in communities whose coping capacities are already at the breaking point due to the strain of providing food, water, protection, shelter, and basic services to more than 300,000 existing internally displaced persons. Some of the newly displaced have fled to areas where there is little or no access by humanitarian agencies.

Forty of these aid organizations that are operating against all odds in Somalia released a statement yesterday highlighting the dramatic deterioration of the humanitarian situation and their increasing inability to effectively respond due to security and access constraints. They are calling on the international community and all parties to the present conflict to demonstrate a commitment to protect civilians, to facilitate the delivery of aid, and to respect humanitarian space and the safety of humanitarian workers. I want to take this moment to honor the courageous individuals and their sponsoring organizations for their persistent service to the innocent civilians most affected by the ongoing instability in Somalia and to echo their appeal for concerted action to support their work and the broader objective of peace for Somalia.

Amidst this dark backdrop there is a glimmer of hope for progress. On Monday, the embattled Foreign Minister of Somalia's fragile transitional federal government, Ali Mohamed Gedi, resigned amid feverish political infighting. Since its formation 3 years ago, the TFG has suffered from a lack of public legitimacy due to its inability to effectively represent and provide security and services to the Somali people. The appointment of a new Prime Minister is likely to be the last chance for this transitional government to restore some credibility and move forward with political reconciliation. I encourage all parties to seize this opportunity for progress towards a solution to the country's deepening crisis.

In January, I warned that without concerted international and national action, Somalia could deteriorate into what it has been since the early 1990s—a haven for terrorists and warlords and a source of crippling instability in a

critical region. But as tensions between Ethiopia and Eritrea rise once again, the ongoing humanitarian needs of civilians in the Ogaden region of Ethiopia reach international attention, and the Comprehensive Peace Agreement in Sudan stands on extremely fragile ground, I fear that our failure to protect civilians, defeat extremists, and build conditions for stability in Somalia could result in an even more disastrous outcome with consequences that extend far beyond the porous borders of this besieged nation. We cannot afford to squander this chance for progress towards peace.

INAUGURAL ADDRESS OF DREW GILPIN FAUST

Mr. KENNEDY. Mr. President, it is a privilege to draw the attention of my colleagues to the inauguration earlier this month of Dr. Drew Gilpin Faust as the 28th president of Harvard University.

Unfortunately, because of my recent surgery, I was not able to attend the ceremony, but I read with great interest the eloquent and inspiring address of Dr. Faust at that ceremony.

Dr. Faust, an historian of the Civil War and former dean of the Radcliffe Institute, made history herself by becoming the first woman to serve as president of this outstanding university.

Others who spoke on this occasion included our Massachusetts Governor, Deval Patrick, historian John Hope Franklin, University of Pennsylvania president Amy Gutmann, where Dr. Faust spent much of her brilliant career, and author Tony Morrison.

Present also were three of Dr. Faust's distinguished predecessors, Derek Bok, Neil Rudenstine, and Lawrence Summers, as well as distinguished representatives of other major colleges and universities in the United States and throughout the world.

Last month, Senator DOLE, Congressman PETRI, Congressman FRANK, Congressman CAPUANO, and I had the privilege of hosting a reception in the Senate's Mansfield Room to honor and welcome Dr. Faust. A number of our colleagues attended as well, and we all look forward to working with Dr. Faust, especially on higher education issues, in the years ahead.

Dr. Faust is obviously an excellent choice by Harvard. She grew up in the Shenandoah Valley in Virginia, and attended Concord Academy in Massachusetts. After earning her BA from Bryn Mawr College, she continued her education at the University of Pennsylvania, where she earned her M.A. and Ph.D. in American civilization and served on the faculty there for 26 years, earning wide renown as a leading historian of the Civil War and the American South. In 2001 she became the first dean of the Radcliffe Institute for Advanced Study at Harvard, and was appointed as Harvard's Abraham Lincoln Professor of History.

Her scholarship has been focused on the past, but almost from the beginning she has been committed as well to solving the problems of the present and making the world a better place for the future.

As a child in Virginia, she was appalled by the racism in her own community. At the age of nine, she wrote a letter to President Eisenhower opposing segregation.

In high school, she went to Eastern Europe one summer and spent weekends volunteering in a program to help the poor. She was elected senior class president and was so widely respected that the school's new headmaster sought her advice about the school.

In her freshman year at Bryn Mawr College, she was outraged when peaceful protesters against segregation in Selma were brutally clubbed and gassed by the police—so she skipped her midterm exams to go there and join the protest.

At the University of Pennsylvania, she dedicated much of her time and energy to the cause of women in academic life. She chaired the university's Women's Studies Program, and worked skillfully to see that women candidates for the faculty were considered fully and fairly.

Through it all, Dr. Faust won well-deserved renown for her scholarship. She became one of the Nation's pre-eminent historians of the South, bringing new light to topics such as plantation agriculture and the life of southern intellectuals. Her landmark 1996 book, "Mothers of Invention," made her the first to demonstrate that women had a significant impact on the outcome of the Civil War. For that pioneering study, she received the Francis Parkman Prize for the year's best work of history.

For the past 7 years, Dr. Faust has been the "mother of invention" at the Radcliffe Institute, skillfully guiding Radcliffe's transformation into one of the Nation's foremost research centers for established and emerging scholars in all disciplines, and still maintaining its special and long-standing role in the study of women, gender and society.

As Dr. Faust has said, our shared enterprise now, as people connected to Harvard, is to make the future of this extraordinary university even more remarkable than its past. And with the distinguished leadership of Dr. Faust, there is no doubt it will be.

I still remember the old inscription on the Dexter Gate in Harvard Yard: "Enter to grow in wisdom. Depart to serve better thy country and all mankind." I am sure President Faust will give new power to these words in our day and generation.

I wish President Faust well as she assumes this extraordinary responsibility, and I believe all of us in Congress will be interested in her eloquent and inspiring address on the historic occasion of her inauguration. It is an auspicious new beginning for Harvard,

and I ask unanimous consent that her address be printed in the RECORD.

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

UNLEASHING OUR MOST AMBITIOUS IMAGININGS
(Inaugural Address of President Drew Gilpin Faust as President of Harvard University, Cambridge, Massachusetts, October 12, 2007)

I stand honored by your trust, inspired by your charge. I am grateful to the Governing Boards for their confidence, and I thank all of you for gathering in these festive rites. I am indebted to my three predecessors, sitting behind me, for joining me today. But I am grateful to them for much more—for all that they have given to Harvard and for what each of them has generously given to me—advice, wisdom, support. I am touched by the greetings from staff, faculty, students, alumni, universities, from our honorable Governor, and from the remarkable John Hope Franklin, who has both lived and written history. I am grateful to the community leaders from Boston and Cambridge who have come to welcome their new neighbor. I am a little stunned to see almost every person I am related to on earth sitting in the front rows. And I would like to offer a special greeting of my own to my teachers who are here—teachers from grade school, high school, college and graduate school—who taught me to love learning and the institutions that nurture it.

We gather for a celebration a bit different from our June traditions. Commencement is an annual rite of passage for thousands of graduates; today marks a rite of passage for the University. As at Commencement, we don robes that mark our ties to the most ancient traditions of scholarship. On this occasion, however, our procession includes not just our Harvard community, but scholars—220 of them—representing universities and colleges from across the country and around the world. I welcome and thank our visitors, for their presence reminds us that what we do here today, and what we do at Harvard every day, links us to universities and societies around the globe.

NEW BEGINNINGS

Today we mark new beginnings by gathering in solidarity; we celebrate our community and its creativity; we commit ourselves to Harvard and all it represents in a new chapter of its distinguished history. Like a congregation at a wedding, you signify by your presence a pledge of support for this marriage of a new president to a venerable institution. As our colleagues in anthropology understand so well, rituals have meanings and purposes; they are intended to arouse emotions and channel intentions. In ritual, as the poet Thomas Lynch has written, "We act out things we cannot put into words." But now my task is in fact to put some of this ceremony into words, to capture our meanings and purposes.

Inaugural speeches are a peculiar genre. They are by definition pronouncements by individuals who don't yet know what they are talking about. Or, we might more charitably dub them expressions of hope unchastened by the rod of experience.

A number of inaugural veterans—both orators and auditors—have proffered advice, including unanimous agreement that my talk must be shorter than Charles William Eliot's—which ran to about an hour and a half. Often inaugural addresses contain lists—of a new president's specific goals or programs. But lists seem too constraining when I think of what today should mean; they seem a way of limiting rather than unleashing our most ambitious imaginings, our profoundest commitments.

If this is a day to transcend the ordinary, if it is a rare moment when we gather not just as Harvard, but with a wider world of scholarship, teaching and learning, it is a time to reflect on what Harvard and institutions like it mean in this first decade of the 21st century.

Yet as I considered how to talk about higher education and the future, I found myself—historian that I am—returning to the past and, in particular, to a document I encountered in my first year of graduate school. My cousin Jack Gilpin, Class of '73, read a section of it at Memorial Church this morning. As John Winthrop sat on board the ship *Arabella* in 1630, sailing across the Atlantic to found the Massachusetts Bay Colony, he wrote a charge to his band of settlers, a charter for their new beginnings. He offered what he considered “a compass to steer by”—a “model,” but not a set of explicit orders. Winthrop instead sought to focus his followers on the broader significance of their project, on the spirit in which they should undertake their shared work. I aim to offer such a “compass” today, one for us at Harvard, and one that I hope will have meaning for all of us who care about higher education, for we are inevitably, as Winthrop urged his settlers to be, “knitt together in this work as one.”

AMERICAN HIGHER EDUCATION TODAY

American higher education in 2007 is in a state of paradox—at once celebrated and assailed. A host of popular writings from the 1980s on have charged universities with teaching too little, costing too much, coddling professors and neglecting students, embracing an “illiberalism” that has silenced open debate. A PBS special in 2005 described a “sea of mediocrity” that “places this nation at risk.” A report issued by the U.S. Department of Education last year warned of the “obsolescence” of higher education as we know it and called for federal intervention in service of the national interest.

Yet universities like Harvard and its peers, those represented by so many of you here today, are beloved by alumni who donate billions of dollars each year, are sought after by students who struggle to win admission, and, in fact, are deeply revered by the American public. In a recent survey, 93 percent of respondents considered our universities “one of [the country’s] most valuable resources.” Abroad, our universities are admired and emulated; they are arguably the American institution most respected by the rest of the world.

How do we explain these contradictions? Is American higher education in crisis, and if so, what kind? What should we as its leaders and representatives be doing about it? This ambivalence, this curious love-hate relationship, derives in no small part from our almost unbounded expectations of our colleges and universities, expectations that are at once intensely felt and poorly understood.

THE POWER OF EDUCATION

From the time of its founding, the United States has tied its national identity to the power of education. We have long turned to education to prepare our citizens for the political equality fundamental to our national self-definition. In 1779, for example, Thomas Jefferson called for a national aristocracy of talent, chosen “without regard to wealth, birth, or other accidental condition of circumstance” and “rendered by liberal education . . . able to guard the sacred deposit of rights and liberties of their fellow-citizens.” As our economy has become more complex, more tied to specialized knowledge, education has become more crucial to social and economic mobility. W.E.B. DuBois observed in 1903 that “Education and work are the levers to lift up a people.” Education makes the promise of America possible.

In the past half century, American colleges and universities have shared in a revolution, serving as both the emblem and the engine of the expansion of citizenship, equality and opportunity—to blacks, women, Jews, immigrants, and others who would have been subjected to quotas or excluded altogether in an earlier era. My presence here today—and indeed that of many others on this platform—would have been unimaginable even a few short years ago. Those who charge that universities are unable to change should take note of this transformation, of how different we are from universities even of the mid 20th century. And those who long for a lost golden age of higher education should think about the very limited population that alleged utopia actually served. College used to be restricted to a tiny elite; now it serves the many, not just the few. The proportion of the college age population enrolled in higher education today is four times what it was in 1950; twelve times what it was before the 1920s. Ours is a different and a far better world.

At institutions like Harvard and its peers, this revolution has been built on the notion that access should be based, as Jefferson urged, on talent, not circumstance. In the late 1960s, Harvard began sustained efforts to identify and attract outstanding minority students; in the 1970s, it gradually removed quotas limiting women to a quarter of the entering college class. Recently, Harvard has worked hard to send the message that the college welcomes families from across the economic spectrum. As a result we have seen in the past 3 years a 33 percent increase in students from families with incomes under \$60,000. Harvard’s dorms and Houses are the most diverse environments in which many of our students will ever live.

Yet issues of access and cost persist—for middle-class families who suffer terrifying sticker shock, and for graduate and professional students who may incur enormous debt as they pursue service careers in fields where salaries are modest. As graduate training comes to seem almost as indispensable as the baccalaureate degree for mobility and success, the cost of these programs takes on even greater importance.

The desirability and the perceived necessity of higher education have intensified the fears of many. Will I get in? Will I be able to pay? This anxiety expresses itself in both deep-seated resentment and nearly unrealizable expectations. Higher education cannot alone guarantee the mobility and equality at the heart of the American Dream. But we must fully embrace our obligation to be available and affordable. We must make sure that talented students are able to come to Harvard, that they know they are able to come, and that they know we want them here. We need to make sure that cost does not divert students from pursuing their passions and their dreams.

But American anxiety about higher education is about more than just cost. The deeper problem is a widespread lack of understanding and agreement about what universities ought to do and be. Universities are curious institutions with varied purposes that they have neither clearly articulated nor adequately justified. Resulting public confusion, at a time when higher education has come to seem an indispensable social resource, has produced a torrent of demands for greater “accountability” from colleges and universities.

UNIVERSITIES ARE ACCOUNTABLE TO THE PAST, PRESENT, AND FUTURE

Universities are indeed accountable. But we in higher education need to seize the initiative in defining what we are accountable for. We are asked to report graduation rates,

graduate school admission statistics, scores on standardized tests intended to assess the “value added” of years in college, research dollars, numbers of faculty publications. But such measures cannot themselves capture the achievements, let alone the aspirations of universities. Many of these metrics are important to know, and they shed light on particular parts of our undertaking. But our purposes are far more ambitious and our accountability thus far more difficult to explain.

Let me venture a definition. The essence of a university is that it is uniquely accountable to the past and to the future—not simply or even primarily to the present. A university is not about results in the next quarter; it is not even about who a student has become by graduation. It is about learning that molds a lifetime, learning that transmits the heritage of millennia; learning that shapes the future. A university looks both backwards and forwards in ways that must—that even ought to—conflict with a public’s immediate concerns or demands. Universities make commitments to the timeless, and these investments have yields we cannot predict and often cannot measure. Universities are stewards of living tradition—in Widener and Houghton and our 88 other libraries, in the Fogg and the Peabody, in our departments of classics, of history and of literature. We are uncomfortable with efforts to justify these endeavors by defining them as instrumental, as measurably useful to particular contemporary needs. Instead we pursue them in part “for their own sake,” because they define what has over centuries made us human, not because they can enhance our global competitiveness.

We pursue them because they offer us as individuals and as societies a depth and breadth of vision we cannot find in the inevitably myopic present. We pursue them too because just as we need food and shelter to survive, just as we need jobs and seek education to better our lot, so too we as human beings search for meaning. We strive to understand who we are, where we came from, where we are going and why. For many people, the four years of undergraduate life offer the only interlude permitted for unfettered exploration of such fundamental questions. But the search for meaning is a never-ending quest that is always interpreting, always interrupting and redefining the status quo, always looking, never content with what is found. An answer simply yields the next question. This is in fact true of all learning, of the natural and social sciences as well as the humanities, and thus of the very core of what universities are about.

By their nature, universities nurture a culture of restlessness and even unruliness. This lies at the heart of their accountability to the future. Education, research, teaching are always about change—transforming individuals as they learn, transforming the world as our inquiries alter our understanding of it, transforming societies as we see our knowledge translated into policies—policies like those being developed at Harvard to prevent unfair lending practices, or to increase affordable housing or avert nuclear proliferation—or translated into therapies, like those our researchers have designed to treat macular degeneration or to combat anthrax. The expansion of knowledge means change. But change is often uncomfortable, for it always encompasses loss as well as gain, disorientation as well as discovery. It has, as Machiavelli once wrote, no constituency. Yet in facing the future, universities must embrace the unsettling change that is fundamental to every advance in understanding.

OUR OBLIGATION TO THE FUTURE

We live in the midst of scientific developments as dramatic as those of any era since

the 17th century. Our obligation to the future demands that we take our place at the forefront of these transformations. We must organize ourselves in ways that enable us fully to engage in such exploration, as we have begun to do by creating the Broad Institute, by founding cross-school departments, by launching a School of Engineering and Applied Sciences. We must overcome barriers both within and beyond Harvard that could slow or constrain such work, and we must provide the resources and the facilities—like the new science buildings in both Cambridge and Allston—to support it. Our obligation to the future makes additional demands. Universities are, uniquely, a place of philosophers as well as scientists. It is urgent that we pose the questions of ethics and meaning that will enable us to confront the human, the social and the moral significance of our changing relationship with the natural world.

Accountability to the future requires that we leap geographic as well as intellectual boundaries. Just as we live in a time of narrowing distances between fields and disciplines, so we inhabit an increasingly transnational world in which knowledge itself is the most powerful connector. Our lives here in Cambridge and Boston cannot be separated from the future of the rest of the earth: we share the same changing climate; we contract and spread the same diseases; we participate in the same economy. We must recognize our accountability to the wider world, for, as John Winthrop warned in 1630, “we must consider that we shall be as a city upon a hill. The eyes of all people are upon us.”

HARVARD AS A SOURCE AND SYMBOL

Harvard is both a source and a symbol of the ever expanding knowledge upon which the future of the earth depends, and we must take an active and reflective role in this new geography of learning. Higher education is burgeoning around the globe in forms that are at once like and unlike our own. American universities are widely emulated, but our imitators often display limited appreciation for the principles of free inquiry and the culture of creative unruliness that defines us.

The “Veritas” in Harvard’s shield was originally intended to invoke the absolutes of divine revelation, the unassailable verities of Puritan religion. We understand it quite differently now. Truth is an aspiration, not a possession. Yet in this we—and all universities defined by the spirit of debate and free inquiry—challenge and even threaten those who would embrace unquestioned certainties. We must commit ourselves to the uncomfortable position of doubt, to the humility of always believing there is more to know, more to teach, more to understand.

The kinds of accountability I have described represent at once a privilege and a responsibility. We are able to live at Harvard in a world of intellectual freedom, of inspiring tradition, of extraordinary resources, because we are part of that curious and venerable organization known as a university. We need better to comprehend and advance its purposes—not simply to explain ourselves to an often critical public, but to hold ourselves to our own account. We must act not just as students and staff, historians and computer scientists, lawyers and physicians, linguists and sociologists, but as citizens of the university, with obligations to this commonwealth of the mind. We must regard ourselves as accountable to one another, for we constitute the institution that in turn defines our possibilities. Accountability to the future encompasses special accountability to our students, for they are our most important purpose and legacy. And we are respon-

sible not just to and for this university, Harvard, in this moment, 2007, but to the very concept of the university as it has evolved over nearly a millennium.

It is not easy to convince a nation or a world to respect, much less support, institutions committed to challenging society’s fundamental assumptions. But it is our obligation to make that case: both to explain our purposes and achieve them so well that these precious institutions survive and prosper in this new century. Harvard cannot do this alone. But all of us know that Harvard has a special role. That is why we are here; that is why it means so much to us.

Last week I was given a brown manila envelope that had been entrusted to the University Archives in 1951 by James B. Conant, Harvard’s 23rd president. He left instructions that it should be opened by the Harvard president at the outset of the next century “and not before.” I broke the seal on the mysterious package to find a remarkable letter from my predecessor. It was addressed to “My dear Sir.” Conant wrote with a sense of imminent danger. He feared an impending World War III that would make “the destruction of our cities including Cambridge quite possible.” “We all wonder,” he continued, “how the free world is going to get through the next fifty years.”

HARVARD’S FUTURE

But as he imagined Harvard’s future, Conant shifted from foreboding to faith. If the “prophets of doom” proved wrong, if there was a Harvard president alive to read his letter, Conant was confident about what the university would be. “You will receive this note and be in charge of a more prosperous and significant institution than the one over which I have the honor to preside . . . That . . . [Harvard] will maintain the traditions of academic freedom, of tolerance for heresy, I feel sure.” We must dedicate ourselves to making certain he continues to be right; we must share and sustain his faith.

Conant’s letter, like our gathering here, marks a dramatic intersection of the past with the future. This is a ceremony in which I pledge—with keys and seal and charter—my accountability to the traditions that his voice from the past invokes. And at the same time, I affirm, in compact with all of you, my accountability to and for Harvard’s future. As in Conant’s day, we face uncertainties in a world that gives us sound reason for disquiet. But we too maintain an unwavering belief in the purposes and potential of this university and in all it can do to shape how the world will look another half century from now. Let us embrace those responsibilities and possibilities; let us share them “knitt together . . . as one;” let us take up the work joyfully, for such an assignment is a privilege beyond measure.

LOSS OF SOUTH CAROLINA STUDENTS

Mr. GRAHAM. Mr. President, as we are confronted by the deep sadness of this tragic loss, may we never lose sight of the life, vitality, and youth that was suddenly taken from us on October 27, 2007, in Ocean Isle, NC. Today and in the difficult days to come, we offer our sincerest condolences to the family and friends of these seven young men and women. The University of South Carolina, Clemson University, and the State of South Carolina feel the immeasurable pain of losing seven of our most precious sons and daughters, and as the family South Carolinians are, we share

in your grief and offer our love and support.

Not only do we mourn the loss of sons and daughters, but we mourn the loss of future leaders and scholars, peacemakers and trailblazers, parents and friends. The world was vastly open to these young men and women. I ask others to find the courage and resolve to fulfill their suspended hopes and dreams, ensuring that futures overcome flames and aspirations prevail over ashes.

Though it is grief that connects us now, let it be the spirit of their lives that forever bonds our community. We should honor these students by taking up the load they left for us to carry and seeing their earthly aspirations through to their full fruition.

XV PAN AMERICAN GAMES

Mr. DODD. Mr. President, it is with great pride that I join all of Connecticut in extending congratulations to the many young athletes who competed in the 15th Pan American Games, in Rio de Janeiro, Brazil. For over half a century, these games have brought together athletes from across the Western Hemisphere. This year 5,648 athletes from 49 countries came together in Rio to compete in 38 sports.

The Pan American games, similar to the Olympics, provide us another valuable opportunity to enjoy international athletic competition undertaken for pride and the love of the sport. By participating in the 15th Pan American Games, these young Americans have had an opportunity that few of their fellow Americans ever will—to join in competition with other young people from North, Central, and South America.

I would like to commend the 14 athletes from Connecticut who competed in the games: John Ball, Andrew Bolton, Eliza Cleveland, Reilley Dampeer, Robert Merrick, Alyssa Naeher, Todd Paul, Cara Raether, Geoffrey Rathgeber, Sarah Trowbridge, Karen Scavotto, Cameron Winklevoss, Tyler Winklevoss, Bartosz Wolski. It is with great pleasure and pride that I offer further congratulations to the Connecticut athletes who brought home three gold and five silver medals and one bronze medal. Without a doubt, the nine medals won by Connecticut’s athletes contributed to America’s overall victory at the 15th Pan American Games. It is my hope that these kinds of events will further unite our hemisphere.

ADDITIONAL STATEMENTS

CELEBRATING THE CENTENNIAL OF THE WAILUKU COURTHOUSE

● Mr. AKAKA. Mr. President, this month, the county of Maui celebrated the centennial anniversary of the historic Wailuku Courthouse. Built in 1907, the Wailuku Courthouse served as

the center of the judicial system on Maui for more than 80 years. Today, it is home to Maui County's Department of the Prosecuting Attorney.

The Hawaiian Organic Act, passed by Congress in 1900, created a system of governance for the new Territory of Hawaii. County governments were established along with a territorial court system. The town of Wailuku was selected as the seat of Maui's county government, making it the logical place to construct a new courthouse and other public buildings.

The contract to build the Wailuku Courthouse, at the cost of \$23,312.40, was awarded to Angus P. McDonald in September 1907. Construction began the next month and was completed a year later. In 1909, the Honorable Judge Aluwae Noa Kupoikai became the first judge to preside over cases presented in the new Wailuku Courthouse.

As Hawaii and the county of Maui grew, so did the demand for legal services and the needs of the judiciary. In 1988, the State judicial system on Maui moved into a new building, and in 1991, plans were made to gut the courthouse. However, the county of Maui intervened and took control of the courthouse by way of a land swap with the State, saving the historic building and its interior. A \$1.8 million restoration followed, and in 1993, Maui's Department of the Prosecuting Attorney moved into the newly renovated courthouse.

The historic courthouse has served the people of Maui for 100 years. The fact that it remains as both a working government building and as an architectural treasure of Hawaii's past is the result of the efforts of the many people who are to be commended and honored as we celebrate the centennial of the Wailuku Courthouse.●

RECOGNIZING MAJOR GENERAL HARRY B. BURCHSTEAD, JR.

● Mr. GRAHAM. Mr. President, today I ask the Senate to join me in recognizing Major General Harry B. Burchstead, Jr. on the occasion of his retirement from the South Carolina Army National Guard. Since entering the United States Army as a commissioned officer through the ROTC program at Clemson University, General Burchstead has remained a dedicated serviceman for his entire career. Immediately after his graduation from Clemson, General Burchstead loyally answered his call of duty and deployed for combat service in the Vietnam War.

After leaving active duty in 1971, General Burchstead went on to pursue his law degree at the University of South Carolina. While in law school, General Burchstead continued his military service by joining the South Carolina Army National Guard in 1972. For the next thirty-five years, General Burchstead proudly served the State of South Carolina as a traditional citizen soldier through many levels of military service.

In 1997, General Burchstead was appointed to serve as the Deputy Adjutant General of South Carolina. In this capacity, he was critical in advising the Adjutant General's oversight of the South Carolina Army and Air National Guard. For six years, General Burchstead's strategic and diligent counsel was integral to the effective military operations of our state's full-time servicemen and women.

As a distinguished leader, General Burchstead was selected to command the 263rd Army Air and Missile Defense Command in 2003. In his role as Commander, General Burchstead led Joint Task Force Cobra in its execution of the Juniper-Cobra Missile Defense Exercise in Israel. Additionally, General Burchstead was successful in commanding the Joint Project Optical Windmill Air and Missile Defense Exercise in Europe, as well as the U.S.-Russian Federation Missile Defense Exercise at Fort Bliss, Texas.

A dedicated patriot, General Burchstead formally retired from the South Carolina Army National Guard on September 30th, 2007. Over his thirty-five years of service General Burchstead has amassed numerous awards and decorations including the Legion of Merit, the Bronze Star Medal with two oak leaf clusters, the Purple Heart, the U.S. Meritorious Service Medal and the Army Commendation Medal. His military career will be forever marked by his selfless devotion and sacrifice to both our country and the State of South Carolina. I wish General Burchstead the very best in his retirement and ask that the United States Senate join me in thanking him for his lifelong career of service.●

CONGRATULATING FLOTATION TECHNOLOGIES

● Ms. SNOWE. Mr. President, I wish to congratulate Flotation Technologies, an extraordinary global leader in the design and production of deepwater buoyancy products from my home State of Maine. Flotation Technologies of Biddeford recently received the Manufacturing Excellence Award from the Maine Manufacturing Extension Partnership, MEP, for "superior manufacturing practices" that have successfully propelled the firm into the international market.

Flotation Technologies creates and manufactures syntactic foam buoyancy and polyurethane elastomer products for the offshore, oceanographic, and seismic industries, as well as for the U.S. military. Founded in 1979, the enterprise has been manufacturing syntactic foam longer than any other company in business today. This year, to meet the company's rapid expansion, Flotation Technologies relocated to a 45,000-square-foot facility in the Biddeford Industrial Park. The new facility will allow Flotation Technologies to install state-of-the-art automated production equipment that will triple production capacity.

This pioneering company makes extraordinarily resilient products for extreme environments. Flotation Technologies' buoys are lowered miles below the ocean surface, where they face up to 10,000 pounds of pressure per square inch, equivalent to the weight of a truck. They are as dense as oak, yet still relatively lightweight, and the buoys can survive under the frigid polar ice in the Arctic and under the searing heat in West Africa. These high-quality products were even relied upon to help shoot the 1997 Oscar-winning blockbuster movie "Titanic."

Flotation Technologies began as a small family enterprise, primarily serving scientists engaged in oceanographic and earthquake research. In 2002, as energy prices rose sharply, interest in offshore exploration grew rapidly. Flotation Technologies' buoyancy products are crucial to support the miles of flexible piping needed to extract resources from the ocean floor. In the last few years, the company has become a major supplier of these products, and most recently, Flotation Technologies won a \$4.1 million contract to build buoyancy modules for Frontier Drilling, a Houston oil company.

Expansion into this business has been a rewarding endeavor, and Flotation Technologies is setting its sights on further growth. The firm currently employs 42 people in Maine, and they expect to add at least 10 more employees by the end of the year. Revenues are expected to hit \$10.5 million this year, and management is aiming for \$30 million in sales within 3 years. Flotation Technologies recently worked with the Maine MEP to develop a strategic business plan that dramatically improved the efficiency of its operations. The Maine MEP is part of a nationwide network of technical, manufacturing, and business specialists linked together through the U.S. Department of Commerce. By implementing the Maine MEP's streamlining techniques, the company was able to double sales for 2006.

Despite such impressive growth, Flotation Technologies has remained in the hands of a tightly-knit group of family members. Tim Cook, the current president, is the son of the company's founder, David Cook. As Tim notes, his family has "put it all on the line" for this venture for nearly 30 years. I congratulate Tim and his family on their success and wish them well in the years to come. Their dedicated entrepreneurial spirit is very much a part of what makes our Nation great, and I am proud to have them in my home State of Maine.●

MEASURES PLACED ON THE CALENDAR

The following bills were read the second time, and placed on the calendar:

H.R. 2295. An act to amend the Public Health Service Act to provide for the establishment of an Amyotrophic Lateral Sclerosis Registry.

S. 2264. A bill to amend the Internal Revenue Code of 1986 to extend for 2 years the tax-free distributions from individual retirement plans for charitable purposes.

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-3794. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Oriental Fruit Fly; Addition and Removal of Quarantined Areas in California" (Docket No. APHIS-2006-0151) received on October 26, 2007; to the Committee on Agriculture, Nutrition, and Forestry.

EC-3795. A communication from the Administrator, Risk Management Agency, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Common Crop Insurance Regulations; Fresh Market Sweet Corn Crop Insurance Provisions" (RIN0563-AC02) received on October 26, 2007; to the Committee on Agriculture, Nutrition, and Forestry.

EC-3796. A communication from the Director of Defense Research and Engineering, Department of Defense, transmitting, pursuant to law, notification of the Department's intent to fund Foreign Comparative Testing projects during fiscal year 2008; to the Committee on Armed Services.

EC-3797. A communication from the Under Secretary for Industry and Security, Department of Commerce, transmitting, pursuant to law, a report relative to the Department's intent to impose new foreign policy-based export controls on certain persons in Burma; to the Committee on Banking, Housing, and Urban Affairs.

EC-3798. A communication from the Associate Director, Office of Foreign Assets Control, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Global Terrorism Sanctions Regulations; Terrorism Sanctions Regulations; Foreign Terrorist Organizations Sanctions Regulations" (31 CFR Parts 594, 595, and 597) received on October 25, 2007; to the Committee on Banking, Housing, and Urban Affairs.

EC-3799. A communication from the Chairman, Board of Governors, Federal Reserve System, transmitting, pursuant to law, a report relative to credit availability for small businesses; to the Committee on Banking, Housing, and Urban Affairs.

EC-3800. A communication from the Principal Deputy Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting, pursuant to law, a report relative to the Department's view on the Sudan Accountability and Divestment Act; to the Committee on Banking, Housing, and Urban Affairs.

EC-3801. A communication from the General Counsel, National Credit Union Administration, transmitting, pursuant to law, the report of a rule entitled "Member Inspection of Credit Union Books, Records, and Minutes" (RIN3133-AD33) received on October 29, 2007; to the Committee on Banking, Housing, and Urban Affairs.

EC-3802. A communication from the General Counsel, National Credit Union Administration, transmitting, pursuant to law, the report of a rule entitled "Share Insurance Appeals; Clarification of Enforcement Authority of NCUA Board" (12 CFR Parts 745 and 747) received on October 29, 2007; to the Committee on Banking, Housing, and Urban Affairs.

EC-3803. A communication from the Associate Director, Office of Foreign Assets Control, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Final Rule Amending the Sudanese Sanctions Regulations to Implement Executive Order 13412" (31 CFR Part 538) received on October 26, 2007; to the Committee on Banking, Housing, and Urban Affairs.

EC-3804. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Final Flood Elevation Determinations" (72 FR 57245) received on October 26, 2007; to the Committee on Banking, Housing, and Urban Affairs.

EC-3805. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Changes in Flood Elevation Determinations" (72 FR 57241) received on October 26, 2007; to the Committee on Banking, Housing, and Urban Affairs.

EC-3806. A communication from the Chairman and President, Export-Import Bank of the United States, transmitting, pursuant to law, a report relative to a transaction involving the export of thirty Boeing 737-900ER passenger aircraft to Indonesia; to the Committee on Banking, Housing, and Urban Affairs.

EC-3807. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Suspension of Community Eligibility" (72 FR 58020) received on October 26, 2007; to the Committee on Banking, Housing, and Urban Affairs.

EC-3808. A communication from the Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, a biennial report relative to the use of federal assistance provided to the states and Interstate Marine Fisheries Commissions; to the Committee on Commerce, Science, and Transportation.

EC-3809. A communication from the Acting General Counsel, Consumer Product Safety Commission, transmitting, pursuant to law, the report of a rule entitled "Safety Standard for Automatic Residential Garage Door Operators" (RIN3041-AC42) received on October 25, 2007; to the Committee on Commerce, Science, and Transportation.

EC-3810. A communication from the Attorney, Office of Assistant General Counsel for Legislation and Regulatory Law, Department of Energy, transmitting, pursuant to law, the report of a rule entitled "Energy Conservation Program for Commercial Equipment: Distribution Transformers Energy Conservation Standards" (RIN1904-AB08) received on October 26, 2007; to the Committee on Energy and Natural Resources.

EC-3811. A communication from the Secretary of Energy, transmitting, pursuant to law, a report entitled, "The Potential Benefits of Distributed Generation and the Rate-Related Issues that May Impede its Expansion"; to the Committee on Energy and Natural Resources.

EC-3812. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Annual Pension Plan, etc., Cost-of-Living Adjustments for 2008" (Notice 2007-87) received on October 25, 2007; to the Committee on Finance.

EC-3813. A communication from the Assistant Secretary of the Army (Civil Works), transmitting, pursuant to law, an interim feasibility report and environmental impact

statement relative to several levee projects; to the Committee on Environment and Public Works.

EC-3814. A communication from the Assistant Secretary, Office of Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a rule entitled "Hague Convention on Intercountry Adoption; Intercountry Adoption Act of 2000; Consular Office Procedures in Convention Cases" (RIN1400-AC40) received on October 26, 2007; to the Committee on Foreign Relations.

EC-3815. A communication from the Deputy Assistant Secretary, Office of Legislative Affairs, Department of State, transmitting, pursuant to law, an erratum notice relative to a report on the employment of an adequate number of Americans during 2006 by the United Nations; to the Committee on Foreign Relations.

EC-3816. A communication from the Assistant Secretary, Office of Legislative Affairs, Department of State, transmitting, pursuant to law, a report relative to the Government of Cuba's compliance with several agreements made between it and the United States; to the Committee on Foreign Relations.

EC-3817. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to the Case-Zablocki Act, 1 U.S.C. 112b, as amended, the report of the texts and background statements of international agreements, other than treaties (List 2007-213-2007-220); to the Committee on Foreign Relations.

EC-3818. A communication from the Assistant Secretary, Employee Benefits Security Administration, Department of Labor, transmitting, pursuant to law, the report of a rule entitled "Default Investment Alternatives under Participant Directed Individual Account Plans" (RIN1210-AB10) received on October 25, 2007; to the Committee on Health, Education, Labor, and Pensions.

EC-3819. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Management Costs, Interim Final Rule" ((RIN1660-AA21)(FEMA-2006-0035)) received on October 25, 2007; to the Committee on Homeland Security and Governmental Affairs.

EC-3820. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 17-133, "Bank Charter Modernization Amendment Act of 2007" received on October 26, 2007; to the Committee on Homeland Security and Governmental Affairs.

EC-3821. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 17-132, "Child's Right to Nurse Human Rights Amendment Act of 2007" received on October 26, 2007; to the Committee on Homeland Security and Governmental Affairs.

EC-3822. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 17-131, "Homestead Housing Preservation Amendment Act of 2007" received on October 26, 2007; to the Committee on Homeland Security and Governmental Affairs.

EC-3823. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 17-164, "District of Columbia Free Clinic Captive Insurance Company Establishment Temporary Act of 2007" received on October 26, 2007; to the Committee on Homeland Security and Governmental Affairs.

EC-3824. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 17-165, "Energy Efficiency Standards Act of 2007" received on October 26, 2007;

to the Committee on Homeland Security and Governmental Affairs.

EC-3825. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 17-163, "Closing of a Public Alley in Square 452, S.O. 06-1034 Act of 2007" received on October 26, 2007; to the Committee on Homeland Security and Governmental Affairs.

EC-3826. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 17-162, "Quality Teacher Incentive Clarification Act of 2007" received on October 26, 2007; to the Committee on Homeland Security and Governmental Affairs.

EC-3827. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 17-134, "Closing of a Portion of 8th Street, S.E., and the Public Alley in Squares 5956 and W-5956, S.O. 05-4555, Act of 2007" received on October 26, 2007; to the Committee on Homeland Security and Governmental Affairs.

EC-3828. A communication from the Director of Legislative Affairs, Office of the Director of National Intelligence, transmitting, pursuant to law, the report of action on a nomination for the position of Principal Deputy Director of National Intelligence, received on October 25, 2007; to the Select Committee on Intelligence.

EC-3829. A communication from the White House Liaison, Office of Justice Programs, Department of Justice, transmitting, pursuant to law, the report of a vacancy and designation of an acting officer for the position of Assistant Attorney General, received on October 25, 2007; to the Committee on the Judiciary.

EC-3830. A communication from the Administrator, Small Business Administration, transmitting, pursuant to law, a report relative to the Administration's Strategic Plan for fiscal years 2008 to 2013; to the Committee on Small Business and Entrepreneurship.

EC-3831. A communication from the Assistant Secretary for Administration and Management, Office of the Chief Financial Officer, Department of Labor, transmitting, pursuant to law, the report of a nomination for the position of Chief Financial Officer, received on October 25, 2007; to the Committee on Health, Education, Labor, and Pensions.

EC-3832. A communication from the Assistant Secretary for Administration and Management, Bureau of Labor Statistics, Department of Labor, transmitting, pursuant to law, the report of a nomination and designation of an acting officer for the position of Commissioner of Labor Statistics, received on October 25, 2007; to the Committee on Health, Education, Labor, and Pensions.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. DODD, from the Committee on Banking, Housing, and Urban Affairs, without amendment:

S. 2271. An original bill to authorize State and local governments to divest assets in companies that conduct business operations in Sudan, to prohibit United States Government contracts with such companies, and for other purposes (Rept. No. 110-213).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of nominations were submitted:

By Mr. BIDEN for the Committee on Foreign Relations.

*Daniel D. Heath, of New Hampshire, to be United States Alternate Executive Director of the International Monetary Fund for a term of two years.

*Sean R. Mulvaney, of Illinois, to be an Assistant Administrator of the United States Agency for International Development.

*Patrick Francis Kennedy, of Illinois, a Career Member of the Senior Foreign Service, Class of Career Minister, to be an Under Secretary of State (Management).

*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.

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 Ms. KLOBUCHAR (for herself and Ms. MIKULSKI):

S. 2267. A bill to amend the Internal Revenue Code of 1986 to provide an income tax credit for eldercare expenses; to the Committee on Finance.

By Ms. KLOBUCHAR (for herself and Ms. MIKULSKI):

S. 2268. A bill to require issuers of long term care insurance to establish third party review processes for disputed claims; to the Committee on Health, Education, Labor, and Pensions.

By Mr. JOHNSON (for himself and Mr. THUNE):

S. 2269. A bill to reauthorize the Mni Wiconi Rural Water Supply Project; to the Committee on Energy and Natural Resources.

By Ms. STABENOW (for herself and Mr. COCHRAN):

S. 2270. A bill to include health centers in the list of entities eligible for mortgage insurance under the National Housing Act; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. DODD:

S. 2271. An original bill to authorize State and local governments to divest assets in companies that conduct business operations in Sudan, to prohibit United States Government contracts with such companies, and for other purposes; from the Committee on Banking, Housing, and Urban Affairs; placed on the calendar.

By Mr. VITTER:

S. 2272. A bill to designate the facility of the United States Postal Service known as the Southpark Station in Alexandria, Louisiana, as the John "Marty" Thiels Southpark Station, in honor and memory of Thiels, a Louisiana postal worker who was killed in the line of duty on October 4, 2007; to the Committee on Homeland Security and Governmental Affairs.

By Mr. AKAKA (by request):

S. 2273. A bill to enhance the functioning and integration of formerly homeless veterans who reside in permanent housing, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. BIDEN (for himself, Mr. GRASSLEY, Mr. DURBIN, and Mrs. FEINSTEIN):

S. 2274. A bill to amend the Controlled Substances Act to prevent the abuse of dextromethorphan, and for other purposes; to the Committee on the Judiciary.

By Mrs. FEINSTEIN:

S. 2275. A bill to prohibit the manufacture, sale, or distribution in commerce of certain

children's products and child care articles that contain phthalates, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. DODD (for himself, Mr. VOINOVICH, and Mr. WARNER):

S. 2276. A bill to enhance United States competitiveness in aeronautics, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. SMITH (for himself, Mr. KOHL, and Mrs. FEINSTEIN):

S. 2277. A bill to amend the Internal Revenue Code of 1986 to increase the limitation on the issuance of qualified veterans' mortgage bonds for Alaska, Oregon, and Wisconsin and to modify the definition of qualified veteran; to the Committee on Finance.

By Mr. DURBIN (for himself, Mr. OBAMA, and Mr. SCHUMER):

S. 2278. A bill to improve the prevention, detection, and treatment of community and healthcare-associated infections (CHAI), with a focus on antibiotic-resistant bacteria; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BIDEN (for himself and Mr. LUGAR):

S. 2279. A bill to combat international violence against women and girls; to the Committee on Foreign Relations.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. McCONNELL (for himself, Mr. REID, and Mr. BENNETT):

S. Res. 361. A resolution to permit the collection of donations in Senate buildings to be sent to United States military personnel on active duty overseas participating in or in support of Operation Iraqi Freedom, Operation Enduring Freedom, and the war on terrorism; considered and agreed to.

By Mr. HARKIN (for himself and Mr. CHAMBLISS):

S. Res. 362. A resolution recognizing 2007 as the year of the 100th Anniversary of the American Society of Agronomy; considered and agreed to.

ADDITIONAL COSPONSORS

S. 367

At the request of Mr. DORGAN, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 367, a bill to amend the Tariff Act of 1930 to prohibit the import, export, and sale of goods made with sweatshop labor, and for other purposes.

S. 450

At the request of Ms. STABENOW, her name was added as a cosponsor of S. 450, a bill to amend title XVIII of the Social Security Act to repeal the medicare outpatient rehabilitation therapy caps.

At the request of Mr. ENSIGN, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 450, supra.

S. 667

At the request of Mrs. CLINTON, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 667, a bill to expand programs of early childhood home visitation that increase school readiness, child abuse

and neglect prevention, and early identification of developmental and health delays, including potential mental health concerns, and for other purposes.

S. 694

At the request of Mrs. CLINTON, the name of the Senator from North Dakota (Mr. CONRAD) was added as a cosponsor of S. 694, a bill to direct the Secretary of Transportation to issue regulations to reduce the incidence of child injury and death occurring inside or outside of light motor vehicles, and for other purposes.

S. 714

At the request of Mr. AKAKA, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 714, a bill to amend the Animal Welfare Act to ensure that all dogs and cats used by research facilities are obtained legally.

S. 773

At the request of Mr. WARNER, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. 773, a bill to amend the Internal Revenue Code of 1986 to allow Federal civilian and military retirees to pay health insurance premiums on a pretax basis and to allow a deduction for TRICARE supplemental premiums.

S. 803

At the request of Mr. ROCKEFELLER, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 803, a bill to repeal a provision enacted to end Federal matching of State spending of child support incentive payments.

S. 887

At the request of Mrs. FEINSTEIN, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of S. 887, a bill to restore import and entry agricultural inspection functions to the Department of Agriculture.

S. 1060

At the request of Mr. BIDEN, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 1060, a bill to reauthorize the grant program for reentry of offenders into the community in the Omnibus Crime Control and Safe Streets Act of 1968, to improve reentry planning and implementation, and for other purposes.

S. 1164

At the request of Mr. CARDIN, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 1164, a bill to amend title XVIII of the Social Security Act to improve patient access to, and utilization of, the colorectal cancer screening benefit under the Medicare Program.

S. 1356

At the request of Mr. BROWN, the name of the Senator from Montana (Mr. TESTER) was added as a cosponsor of S. 1356, a bill to amend the Federal Deposit Insurance Act to establish industrial bank holding company regulation, and for other purposes.

S. 1782

At the request of Mr. FEINGOLD, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 1782, a bill to amend chapter 1 of title 9 of United States Code with respect to arbitration.

S. 1876

At the request of Mr. BIDEN, the name of the Senator from Delaware (Mr. CARPER) was added as a cosponsor of S. 1876, a bill to prohibit extraterritorial detention and rendition, except under limited circumstances, to modify the definition of "unlawful enemy combatant" for purposes of military commissions, to extend statutory habeas corpus to detainees, and for other purposes.

S. 1880

At the request of Mr. KERRY, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 1880, a bill to amend the Animal Welfare Act to prohibit dog fighting ventures.

S. 1958

At the request of Mr. CONRAD, the name of the Senator from Ohio (Mr. VOINOVICH) was added as a cosponsor of S. 1958, a bill to amend title XVIII of the Social Security Act to ensure and foster continued patient quality of care by establishing facility and patient criteria for long-term care hospitals and related improvements under the Medicare program.

S. 2050

At the request of Mr. BROWN, the name of the Senator from Rhode Island (Mr. REED) was added as a cosponsor of S. 2050, a bill to amend title II of the Social Security Act to eliminate the five-month waiting period in the disability insurance program, and for other purposes.

S. 2063

At the request of Mr. CONRAD, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of S. 2063, a bill to establish a Bipartisan Task Force for Responsible Fiscal Action, to assure the economic security of the United States, and to expand future prosperity and growth for all Americans.

S. 2119

At the request of Mr. JOHNSON, the name of the Senator from New Jersey (Mr. MENENDEZ) was added as a cosponsor of S. 2119, a bill to require the Secretary of the Treasury to mint coins in commemoration of veterans who became disabled for life while serving in the Armed Forces of the United States.

S. 2143

At the request of Mr. KOHL, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 2143, a bill to amend the Elementary and Secondary Education Act to establish a program to improve the health and education of children through grants to expand school breakfast programs, and for other purposes.

S. 2172

At the request of Mr. MCCAIN, the name of the Senator from Nevada (Mr.

ENSIGN) was added as a cosponsor of S. 2172, a bill to impose sanctions on officials of the State Peace and Development Council in Burma, to prohibit the importation of gems and hardwoods from Burma, to support democracy in Burma, and for other purposes.

S. 2213

At the request of Mr. HATCH, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 2213, a bill to amend title 18, United States Code, to improve prevention, investigation, and prosecution of cyber-crime, and for other purposes.

S. 2219

At the request of Mr. DURBIN, the names of the Senator from Rhode Island (Mr. WHITEHOUSE) and the Senator from Ohio (Mr. BROWN) were added as cosponsors of S. 2219, a bill to amend title XVIII of the Social Security Act to deliver a meaningful benefit and lower prescription drug prices under the Medicare Program.

S. 2262

At the request of Mr. DOMENICI, the name of the Senator from North Carolina (Mr. BURR) was added as a cosponsor of S. 2262, a bill to authorize the Preserve America Program and Save America's Treasures Program, and for other purposes.

S. RES. 334

At the request of Mr. LUGAR, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of S. Res. 334, a resolution expressing the sense of the Senate regarding the degradation of the Jordan River and the Dead Sea and welcoming cooperation between the peoples of Israel, Jordan, and Palestine.

S. RES. 356

At the request of Mr. DURBIN, the names of the Senator from Washington (Mrs. MURRAY) and the Senator from Rhode Island (Mr. WHITEHOUSE) were added as cosponsors of S. Res. 356, a resolution affirming that any offensive military action taken against Iran must be explicitly approved by Congress before such action may be initiated.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Ms. STABENOW (for herself and Mr. COCHRAN):

S. 2270. A bill to include health centers in the list of entities eligible for mortgage insurance under the National Housing Act; to the Committee on Banking, Housing, and Urban Affairs.

Ms. STABENOW. Mr. President, today I am pleased to introduce the Community Health Center Capital Investment Act. I also thank my colleague, Senator THAD COCHRAN of Mississippi, for joining me in sponsoring this critical legislation. Health centers in both our states are committed to serving more people, and our legislation will give them a little help to do just that.

One of our most important investments in our health-care system is

funding the Community Health Center program. According to the National Association of Community Health Centers, health centers provide comprehensive primary and preventive care to over 16 million people—including nearly 7 million uninsured—each year in more than 6,000 urban and rural communities.

One of my initial pledges when I first ran for the Senate was to increase the number of community health centers in Michigan. Since I became a Senator, there are now 15 community health centers or access points in Michigan. I am also so pleased to have had the support of so many of my colleagues in increasing funding for community health center grants. This year, 64 Senators signed the Stabenow-Bond funding request, and we were pleased that the Senate Labor-HHS-Education Appropriations bill will provide an additional \$250 million increase for community health centers. This increased funding will help reach nearly 2 million people next year.

But even as we provide assistance to community health centers for operations, we cannot forget their capital needs such as renovating older buildings, purchasing new equipment, and investing in health information technology. But in general, without specific authorization in Federal law, health centers cannot use current grant dollars for construction, modernization, or expansion of facilities.

According to NACHC, one out of three health centers currently operates in buildings that are 30 years old or older. The average cost of a facility project is estimated to be \$2.3 million. Many centers borrow funds for these purposes at rates that could be, and should be, lower.

Kim Sibilsky, the executive director of the Michigan Primary Care Association, wrote me: "The majority of Michigan's 34 community Health Center organizations were founded in the middle and late 1970s, and many of their 160 community-based sites are located in facilities that require renovation to meet the changing health care needs of their communities. More readily available renovation dollars will assist Michigan Health Centers in improving access to quality health care for Michigan residents."

One simple solution would be granting access for community health centers to use the facility assistance programs at the Department of Housing and Urban Development. If health centers were able to access HUD's loan guarantee and mortgage insurance program through the Title XI Small Medical Group Facilities Program, they would have an important tool with which to address facility concerns.

The legislation we are introducing today is a small clarification to the Title XI Program to ensure that health centers can obtain mortgage insurance under the program. But this small change will have a huge reward for our safety-net providers. It will allow them

to lower the interest rate on the money they borrow, and therefore lower the cost of the project for the center. This savings will be translated directly to increased patient care.

I ask unanimous consent that the letter of support be printed in the RECORD.

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

NATIONAL ASSOCIATION OF
COMMUNITY HEALTH CENTERS, INC.,
October 25, 2007.

Hon. DEBBIE STABENOW,
Hart Senate Office Building,
Washington, DC
Hon. THAD COCHRAN,
Dirksen Senate Office Building,
Washington, DC

DEAR SENATOR STABENOW AND SENATOR COCHRAN: On behalf of the National Association of Community Health Centers, the advocate voice for our nation's Community, Migrant, Public Housing and Homeless Health Centers and the 16 million patients they serve, I am writing to offer our strong endorsement of your bipartisan legislation the "Community Health Center Capital Investment Act."

America's Health Centers commend you for your leadership in introducing this important legislation to expand access to federal grants for capital improvements in the nation's 1,100 federally qualified health centers. As the health care home for 16 million people in more than 6,000 urban and rural locations, health centers provide high quality, comprehensive primary and preventive care for children and adults. Each year as the number of patients served at health centers continues to increase, so will the need for modernization and construction of new health center facilities.

Your proposal is a significant step forward toward improving access to primary health care across the country. A recent survey in twelve states found that nearly two-thirds of health centers need to expand or modernize their current buildings, while some areas need to construct new facilities to treat the growing number of patients in their communities. Today, health centers have limited access to federal grants for facility improvements and struggle to raise sufficient capital to meet the \$2.3 million average cost of facility projects. By ensuring that health centers have access to the Housing and Urban Development's loan guarantee and mortgage insurance program through the Title XI Small Medical Group Facilities Program, health centers will have an important tool to address these facility concerns.

We greatly applaud your legislation to ensure that the nation's health centers will be authorized to access HUD's loan guarantee and mortgage insurance programs for the construction, modernization and expansion of their facilities. Your leadership on this issue will significantly improve the health and well-being of our nation's medically underserved.

Again, thank you for your sponsorship of the "Community Health Center Capital Investment Act." America's Health Centers are proud to endorse your legislation and offer their active support in helping to secure its enactment.

Sincerely,
CRAIG A. KENNEDY, MPH,
Associate Vice President,
Federal and State Affairs.

Mr. COCHRAN. Mr. President, community health centers provide care for over 15 million patients nationwide

each year and are a critical part of our country's health care network. Many of these centers operate out of buildings that are in need of modernization or expansion. Current law limits access to federal funds to community health centers for any type of construction, modernization, or expansion. Therefore, the only funds available to community health centers for facilities are through congressionally directed spending.

We are introducing a bill today to include community health centers as eligible recipients for funding through the Department of Housing and Urban Development's Small Medical Group Facilities Program. Under this competitive program, community health centers will be able to access loan guarantees and mortgage insurance, thus giving them a tool to address their facility concerns and by doing so, better serve their patients.

I am pleased to offer this legislation that will help improve access to and quality of community health center care.

By Mr. BIDEN (for himself, Mr. GRASSLEY, Mr. DURBIN, and Mrs. Feinstein):

S. 2274. A bill to amend the Controlled Substances Act to prevent the abuse of dextromethorphan, and for other purposes; to the Committee on the Judiciary.

Mr. BIDEN. Mr. President, "Robo-tripping," ingesting large amounts of cough suppressants containing a common over-the-counter ingredient called Dextromethorphan, or "DXM," is a dangerous, potentially lethal, threat to our Nation's children. That is why today I am introducing the Dextromethorphan Abuse Reduction Act of 2007, which takes significant steps towards countering this alarming problem.

DXM is a cough suppressing ingredient found in many over-the-counter products. While DXM is safe at the recommended dosage, it can produce a hallucinogenic effect similar to that of PCP if ingested in abnormally high doses. Because many drugs containing DXM are legal and widely available over-the-counter, too many teens have the perception that they are not dangerous regardless of the amount ingested. Nothing could be further from the truth; overdosing on DXM can cause a rapid heartbeat, high blood pressure, seizures, brain damage, elevated body temperatures, and even death.

Recent studies reveal troubling rates of DXM abuse. The number of reported cases in California has increased tenfold since 1999 and experts believe that this mirrors national trends. Moreover, the Partnership for a Drug-Free America estimates that 2.4 million teens—1 in 10—got high on over-the-counter cough medicines in 2005. Children ages 9 to 17 are the fastest growing group of DXM abusers. Indeed, the latest Monitoring the Future survey revealed that

nearly 7 percent—or one in about every 14–12th graders reported abusing cough or cold medicines to get high during the past year. Mr. President, these shocking numbers speak for themselves.

To be certain, this is not the first time we have seen the abuse of over-the-counter medications. As you will recall, we spent much of the 109th Congress debating how to address the dangers posed by pseudoephedrine, which can be used to manufacture methamphetamine. We passed the Combat Methamphetamine Epidemic Act of 2005, which took the important step of moving medications containing pseudoephedrine behind the counter and closely regulating their sales. While this move was controversial at the time among those who believed it imposed an unnecessary inconvenience on law-abiding Americans, it has worked: domestic manufacture of methamphetamine has been reduced dramatically and there is no indication that people who legitimately need medicines containing pseudoephedrine are not receiving them.

My bill takes two key steps to combat the abuse of medicines containing DXM. First, it regulates bulk DXM—the powder that has not been combined with any other ingredients—by placing it in Schedule V of the Controlled Substances Act. Cough medicine with codeine is also a Schedule V substance. This gives DEA the authority to monitor and control DXM in its unfinished form. While DXM-containing commercial end-products like Robitussin and Coricidin Cough and Cold will not be scheduled, the bill requires that any would-be purchaser of a DXM-containing product be 18 years of age, a move that many grocery stores and pharmacies have already voluntarily taken.

Second, and equally important in my view, the bill infuses substantial funding into efforts to raise public awareness about the problem of prescription and over-the-counter drug abuse, and it establishes coordinated efforts to educate teens and parents about medicine abuse. I have always said that tough enforcement efforts must be coupled with equally tough prevention and treatment measures. Prevention is a key component to solving the problem of rising medicine abuse, and my bill provides robust funding for educational television advertisements, community awareness and prevention programs, and targeted grants made available to local community coalitions to develop comprehensive strategies to reverse the rise in medicine abuse in a particular community.

Senators GRASSLEY, DURBIN, and FEINSTEIN are original cosponsors of the legislation. The bill is also supported by a number of retail organizations including the National Association of Chain Drug Stores, NACDS, the Consumer Healthcare Products Association, CHPA, and the Food Marketing Institute, FMI. The Community

Anti-Drug Coalition of America, CADCA, and the Partnership for a Drug-Free America also support the bill.

I would like to thank Senators GRASSLEY, FEINSTEIN, and DURBIN for their support on this and many other important drug issues facing our country, and I hope all members of this body will join us in this effort and support this bill.

Mr. GRASSLEY. Mr. President, I am pleased to join my colleague, Senator BIDEN, in introducing the Dextromethorphan Abuse Reduction Act of 2007. As senior members of the U.S. Senate, and as chairman and co-chairman of the Senate Caucus on International Narcotics Control, we have seen firsthand how trends in drug abuse have changed over the years and we have worked to provide effective solutions to the drug problem whether the matter is foreign or domestic.

Together, we have been monitoring the recent reports in the media and in the health community detailing new and emerging trends in drug abuse among teens. The reports have established that the fastest rising area of drug abuse among teens is the abuse of prescription drugs that are available in the drug cabinets of parents, family, and friends. These reports indicate that there is also a trend among teens to abuse nonprescription cough and cold medicines that are available without a prescription, over the counter, OTC, at pharmacies and grocery stores across the country. These trends highlight a new danger to America's youth as these products are readily available and are often times perceived to be safe even if used outside their intended use. We cannot afford to ignore this trend and need to ensure that we are doing all we can to protect our kids. If we don't address this problem now, the use of prescription drugs and OTC cough and cold medicines could become more prevalent than the use of traditional illegal narcotics such as marijuana, cocaine, heroin, and methamphetamine.

To illustrate this point, the 2006 University of Michigan annual survey of U.S. adolescents found that while illicit drug use among teens is down, use and abuse of prescription drugs remains high. This includes the abuse of powerful painkillers such as OxyContin and Vicodin. Another survey by the Partnership for a Drug Free America released just last year also found similar results stating that 1 in 5 teens admitted to abusing prescription drugs.

These surveys also included new questions on nonprescription drugs. The University of Michigan survey found that nearly 1 in 14 12th grade students had used nonprescription drugs to get high. The Partnership for a Drug Free America also found that nearly 10 percent of teens have abused cold and cough medicines that contain dextromethorphan or DXM, the active ingredient in OTC cough suppressants. Taken together, these surveys are further evidence that abuse of both pre-

scription and nonprescription OTC drugs is more common than abuse of many illicit drugs. As such, it is our duty to ensure that the laws on the books are adequate to address the new trends in drug abuse.

Of particular concern to me is the abuse of medicines that are available OTC because of how prevalent these products are. Further, many parents may not know about the abuse of such products. For instance, many parents have never heard of dextromethorphan or DXM and are unaware that there is a problem with the abuse of this drug. For those unfamiliar, DXM is the main active ingredient in a number of OTC products, primarily in cough medicines. DXM is the active ingredient and is generally available in two forms, a "finished dosage form" and an "unfinished dosage form". Finished dosage form means a product contains DXM and other inactive ingredients that are approved for human use, such as cough and cold syrups and pills. Unfinished dosage form refers to the raw chemical DXM in any concentrated amount that is not in finished dosage form for consumption. Unfinished DXM is generally not available at local pharmacies and grocery stores; however, it is available over the Internet and finding its way into our communities. Because both forms, finished and unfinished, are readily available to teens, we need to ensure that reasonable controls are put in place to ensure that access to DXM is limited to those who need the products for true medicinal purposes.

So why regulate DXM at all? Aside from the increasing number of teens abusing the product, the potential dangers are cause enough. Abuse of DXM produces a hallucinogenic effect similar to that of PCP or LSD. To get this effect, teens must often ingest large quantities of DXM and given the uncertain dosage to reach this hallucinogenic effect, overdosing on the product is a real danger. If an overdose occurs, the effects can include an irregular heartbeat, elevated blood pressure, seizures, brain damage, and even death. In fact, both the Food and Drug Administration, FDA, and the Substance Abuse and Mental Health Services Administration, SAMSHA, have posted warnings about the abuse of DXM in OTC finished dosage form and the unfinished dosage powdered form that kids are obtaining over the Internet.

Because of these dangers that abuse and overdose pose, we are here today introducing legislation that will place reasonable restrictions on the sale of DXM. The Dextromethorphan Abuse Reduction Act of 2007 strikes the appropriate balance of regulating access to DXM and products that contain DXM for those under 18 years old while making sure these products remain available for those who have a legitimate medical need.

First, our legislation will regulate the sale of unfinished DXM by placing it on Schedule V of the Controlled Substances Act. This is the tier of the controlled substances list that currently

regulates other forms of cough syrup that contains codeine. As a Schedule V product, DXM will be regulated by the Drug Enforcement Administration, DEA, and will allow the Attorney General to regulate the sale of unfinished DXM over the Internet.

Second, the legislation provides civil penalties for retailers who knowingly or intentionally sell DXM in finished dosage form to an individual under the age of 18. This requirement will ensure that stores and retailers sell products containing DXM in a responsible manner. However, to ensure that retailers are not improperly fined, the bill contains an affirmative defense for those who are presented false or fraudulent identification. The bill also provides the Attorney General the authority to tier the scheduled fines to reduce the penalties for retailers who provide an effective employee training program.

Lastly, this legislation provides vital funding to three important programs for the prevention of abuse of prescription and nonprescription drugs. The legislation authorizes funding to the National Youth Anti-Drug Media Campaign for education to children under age 18 about the dangers of prescription and OTC drug abuse. I have been an outspoken critic about the National Youth Anti-Drug Media Campaign's latest efforts; however, there is a clear need for further education to parents and communities across the country about the dangers of prescription drug abuse and the abuse of nonprescription drugs such as DXM. These funds should help provide an immediate impact in informing parents of the danger that can be found in a medicine cabinet at home.

This bill also authorizes funding for the Community Anti-Drug Coalitions of America, CADCA, to provide education to children under 18 about prescription and OTC drug abuse. It also creates a small federal grant program under SAMHSA at the Department of Health and Human Services to provide communities across the country funding if they demonstrate a major prescription or OTC drug problem and have an effective strategy to deal with that problem.

This legislation is part of an ongoing effort to prevent the abuse of DXM, along with other nonprescription and prescription drugs. This legislation is supported by number of groups including the National Association of Chain Drug Stores, NACDS, the Food Marketing Institute, FMI, their member organizations, and the Community Anti-Drug Coalitions of America among others. I urge my colleagues to support this important legislation and help prevent the abuse of prescription and OTC drugs.

By Mrs. FEINSTEIN:

S. 2275. A bill to prohibit the manufacture, sale, or distribution in commerce of certain children's products and child care articles that contain phthalates, and for other purposes; to

the Committee on Commerce, Science, and Transportation.

Mrs. FEINSTEIN. Mr. President, I rise to introduce legislation to ban the use of phthalates in toys.

This legislation will ban the use of six types of phthalates in toys, which are linked to birth defects. Phthalates are plasticizing chemicals used in a variety of everyday products, including cosmetics, nail polish, paint, and shower curtains. Alarming, they are used in a variety of children's toys, such as rubber ducks, teething rings, and bath toys.

This legislation will ban the manufacture, sale or distributions of toys and childcare articles that contain more than .1 percent of DEHP, DBP, or BBP.

It will also ban the manufacture, sale, or distribution of toys and childcare articles for use by children 3 years old or younger that contain more than .1 percent of DINP, DIDP, or DnOP.

It clearly states that phthalates cannot be replaced with other dangerous chemicals identified by the Environmental Protection Agency as carcinogens, possible carcinogens, or chemicals that cause reproductive or developmental harm.

Phthalates are used in a variety of PVC, polyvinyl chloride, plastic products to make them soft and pliable. Phthalates are not chemically bonded to PVC molecules. When a child places a plastic toy with phthalates into his or her mouth, these phthalates leach out of the plastic product and into the child's system.

Phthalates are found in many common children's toys: rubber ducks, soft bath books, teething rings, and even dolls. In 2006, the San Francisco Chronicle sent 16 common children's toys to a Chicago lab for testing to see if they exceeded the .1 percent limit proposed in this legislation. The results should alarm parents everywhere. One teething ring contained a phthalate at five times the proposed limit. A rubber duck sold at Walgreens had 13 times the proposed limit of DEHP, a carcinogenic phthalate. The face of a popular doll contained double the proposed phthalate limit.

While the science is still evolving, we know that exposure to phthalates can cause serious long-term health effects. Phthalates interfere with the natural functioning of the hormone system, and can cause reproductive abnormalities, many resulting from low levels of testosterone.

In 2005, Dr. Shanna Swan of the University of Rochester School of Medicine found that pregnant women with high levels of phthalates in their urine were more likely to give birth to boys with a birth defect that is a key indicator of low testosterone levels.

Men with high phthalate levels have lower sperm counts and damaged sperm DNA.

Phthalate exposure has also been linked to premature birth and the

early onset of puberty. They may be a factor in some cancers.

Young children, whose bodies are still growing and developing, are particularly vulnerable when exposed to phthalates in the toys around them.

In the face of this troubling science, at least 14 other nations have acted to ban or restrict the use of phthalates in children's products. Examples include: the European Union's ban, upon which this legislation is modeled, has been in effect since 2006; the Argentina Ministry of Health imposed a ban in 1999; and Japan banned toys containing DEHP and DINP intended to be put in the mouth of children up to the age of 6.

My home State of California recently became the first state to ban phthalates in toys and other products intended for children. California parents will now know that the toys they give their children are not placing them at risk for serious health problems.

It is time for the rest of the country to follow the lead of California, the European Union, and other nations. Without action, the U.S. risks becoming a dumping ground for phthalate laden toys that cannot legally be sold elsewhere. American children deserve better.

Opponents of this ban will argue that we cannot safely replace phthalates, and that these replacements could place children at an even greater risk. The experience in the European Union certainly suggests otherwise.

Facing the phthalate ban, European manufacturers began to develop alternatives. Danisco, a Danish company, has introduced a phthalate alternative that has been approved for use in both the U.S. and the European Union.

Manufacturers have found ways to make safe, phthalate free toys for European Union children, and there is no reason that they should not do the same for American children.

There is much we do not know about the chemicals that surround us. Evidence is demonstrating that phthalates are posing a risk to children. I strongly believe that products not known to be safe should not be in the hands and mouths of children.

I urge my colleagues to support this legislation, and to provide all American children with the same safe toys available in Europe and California.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2275

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 "Children's Chemical Risk Reduction Act of 2007".

SEC. 2. BAN ON CERTAIN PRODUCTS CONTAINING PHTHALATES.

(a) FINDINGS.—Congress finds that—

(1) phthalates are a class of chemicals used in polyvinyl chloride (PVC) plastic to improve flexibility and in cosmetics to bind fragrance to the product and are used in many products intended for use by young children, including, teethingers, toys, and soft plastic books; and

(2) there is extensive scientific literature reporting the hormone-disrupting effects of phthalates and substantial evidence of phthalates found in humans at levels associated with adverse effects.

(b) **BANNED HAZARDOUS SUBSTANCE.**—Effective January 1, 2009, any children's product or child care article that contains a phthalate shall be treated as a banned hazardous substance under the Federal Hazardous Substances Act (15 U.S.C. 1261 et seq.) and the prohibitions contained in section 4 of such Act shall apply to such product or article.

(c) **PROHIBITION ON USE OF CERTAIN ALTERNATIVES TO PHTHALATES IN CHILDREN'S PRODUCTS AND CHILD CARE ARTICLES.**—

(1) **IN GENERAL.**—If a manufacturer modifies a children's product or child care article that contains a phthalate to comply with the ban under subsection (b), such manufacturer shall—

(A) use an alternative to phthalates that is the least toxic; and

(B) not use any of the prohibited alternatives to phthalates described in paragraph (2).

(2) **PROHIBITED ALTERNATIVES TO PHTHALATES.**—The prohibited alternatives to phthalates described in this paragraph are the following:

(A) Carcinogens rated by the Environmental Protection Agency as Group A, Group B, or Group C carcinogens.

(B) Substances described in the List of Chemicals Evaluated for Carcinogenic Potential of the Environmental Protection Agency as follows:

(i) Known to be human carcinogens.

(ii) Likely to be human carcinogens.

(iii) Suggestive of being human carcinogens.

(C) Reproductive toxicants identified by the Environmental Protection Agency that cause any of the following:

(i) Birth defects.

(ii) Reproductive harm.

(iii) Developmental harm.

(d) **DEFINITIONS.**—As used in this Act—

(1) the term “children's product” means a toy or any other product designed or intended by the manufacturer for use by a child;

(2) the term “child care article” means all products designed or intended by the manufacturer to facilitate sleep, relaxation, or the feeding of children, or to help children with sucking or teething; and

(3) the term “children's product or child care article that contains a phthalate” means—

(A) a children's product or a child care article any part of which contains any combination of di-(2-ethylhexyl) phthalate (DEHP), dibutyl phthalate (DBP), or benzyl butyl phthalate (BBP) in concentrations exceeding 0.1 percent; and

(B) a children's product or a child care article intended for use by a child less than 3 years of age that—

(i) can be placed in a child's mouth; and

(ii) (I) contains any combination of diisononyl phthalate (DINP), diisodecyl phthalate (DIDP), or di-n-octyl phthalate (DnOP), in concentrations exceeding 0.1 percent; or

(II) contains any combination of di-(2-ethylhexyl) phthalate (DEHP), dibutyl phthalate (DBP), benzyl butyl phthalate (BBP), diisononyl phthalate (DINP), diisodecyl phthalate (DIDP), or di-n-octyl

phthalate (DnOP), in concentrations exceeding 0.1 percent.

By Mr. DODD (for himself, Mr. VOINOVICH, and Mr. WARNER):

S. 2276. A bill to enhance United States competitiveness in aeronautics, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. DODD. Mr. President, I rise today to introduce the Aeronautics Competitiveness Act of 2007 with my colleagues, Senators VOINOVICH and WARNER.

Since the Wright brothers first flew at Kill Devil Hills, aeronautics has been an iconic American industry. The ability to fly is no less remarkable because it has now become commonplace; and in fact, that a flight across the country is now routine is a wonder in itself. Very few advances have had the national and global impact of the progress of aeronautics, and at the core of those advances has been a robust tradition of American ingenuity and production.

The challenges in aeronautics continue to shift. The air traffic control system is under strain, and my colleagues on the Commerce Committee have worked diligently this year to chart the path for a complete overhaul of the system. There are environmental pressures the industry has not faced before, including pressure to reduce greenhouse gas emissions. At the same time, new sectors of the business, including light jets, show the potential for astonishing growth. All of these challenges require significant technology advances, and a significant investment in research.

We find ourselves at a crossroads. The European Union has written a report entitled “European Aeronautics: A Vision for 2020.” I can summarize the vision: it is to supplant the U.S. as the global leader in aeronautics in the next 13 years. Toward that goal, the E.U. is investing about \$860 million per year at today's exchange rates in a research fund for aeronautics and “sustainable surface transport.” With the investments of individual countries, the total research spending on civil aeronautics is closer to \$4.5 billion. In contrast, this year's budget for NASA aeronautics research will be on the order of \$550 million. Aeronautics is the first “A” in NASA, but receives less than one-thirtieth of the funds.

The aeronautics industry is part of the fabric of American life, and has the highest trade surplus of any industry, at \$52 billion last year. But U.S. preeminence is far from assured. This is why I am proud to introduce a bill that will help to ensure the future competitiveness of U.S. aeronautics. It increases the authorization level for NASA aeronautics programs by 20 percent per year for the first 2 years, with a smaller increase in the third year. It creates a more transparent and inclusive process for stakeholder input into research priorities, and encourages

NASA to take selected technologies farther along from basic research towards development. And it invests in the workforce by providing for scholarships for graduate students at NASA and the FAA, and creating a program modeled on the Independent Research and Development program.

I believe the future is bright for this vital industry, and I strongly feel that we should be unwilling to cede leadership to anyone in this area, no matter how determined they may be. I urge my colleagues to support this bill to preserve the leading role of U.S. aeronautics.

By Mr. DURBIN (for himself, Mr. OBAMA, and Mr. SCHUMER):

S. 2278. A bill to improve the prevention, detection, and treatment of community and health care-associated infections (CHAI), with a focus on antibiotic-resistant bacteria; to the Committee on Health, Education, Labor, and Pensions.

Mr. DURBIN. Mr. President, we have seen an increasing amount of attention on the growing problem of community and hospital-associated methicillin-resistant staphylococcus aureus, or MRSA, infections. The CDC estimates that in 2005 in the U.S., 94,000 people developed an invasive drug-resistant staph infection. Out of 94,000 infections, researchers found that more than half were acquired in the health care system—people who had recently had surgery or were on kidney dialysis, for example. Nearly 19,000 Americans die, often needlessly, from these infections every year. This is more than the number of people who died from HIV/AIDS, homicide, emphysema, or Parkinson's.

The infections impact not only our civilian families but also our military families. CDC worked with the Army in 2003 to look at an outbreak of serious infections among soldiers. Between March and October 2003, they discovered that 145 American soldiers had been infected with another drug-resistant bacteria, *Acinetobacter baumannii-calcoaceticus* complex, or ABC. This outbreak of drug-resistant wound infections among soldiers in Iraq appears to have come from the U.S. military hospitals where they were treated, not the battlefield.

Hospitals are taking active steps to identify and control infections, but keep in mind that about half of the infections that end up being treated in a hospital were actually picked up in the community. Schools in Connecticut, Maryland, North Carolina, Ohio, Virginia, and Kentucky have had to close to help contain the spread of an infection. School officials in Mississippi, New Hampshire, and Virginia reported student deaths within the past month from bacteria, while officials in at least four other States reported cases of students being infected. Most recently, a 12-year-old in Brooklyn died from a community-acquired staph infection.

In the State of Illinois, cases of the drug-resistant staph infection closed schools in Aurora and Joliet. Other cases were confirmed in the Indian Prairie School District in the Aurora Naperville area. Two suburban Catholic elementary schools outside of Chicago were closed for heavy-duty cleaning after school leaders discovered each of the student bodies had a case of a drug-resistant staph infection.

States are taking important steps to control staph infection. The State of Illinois has taken aggressive steps to identify the infection before it grows out of control. Illinois is the first State to require testing of all high-risk hospital patients and isolation of those who carry the bacteria called MRSA. Twenty-two States have passed laws that will give their residents important information about hospital infections. Nineteen States have laws that require public reporting of infection rates.

States are actively pursuing the options that the CDC recommends for communities and hospitals to help fight the spread of drug-resistant bugs. It is time for the Federal Government to follow suit.

Today, I introduce the Community and Healthcare Associated Infections Reduction Act of 2007. This legislation builds on what hospitals are already doing and what infectious disease experts and Government agencies agree is critical to reducing the emergence of these infections.

My colleagues, Senator OBAMA and Senator SCHUMER, and I introduced this bill because we believe we have a national responsibility to improve the prevention, detection, and treatment of community and health care-associated infections. To do so, we need to tackle the problem from all sides.

We need better data to understand the problem at hand. The bill requires hospitals to report infection rates to the Federal Government, which we will then use to target high risk areas, identify hospitals that are doing a good job of controlling infections, and do a better job of communicating what we know to hospitals and health departments around the country. With better data, researchers will learn more about how to treat and, ideally, how to prevent these dangerous infections.

But, reporting is not enough. We need comprehensive infection control programs. The bill commissions an updated, comprehensive look at best practices for hospitals on infection control to provide hospitals the tools they need to best address these infections.

The bill also requires the Secretary to conduct a feasibility study on the creation of a Federal payment system to acknowledge and reward hospitals that are preventing these infections. Would this system work and is it what hospitals need? Hospital workers, doctors, and nurses do their very best to protect patients from infection. What more can be done to reward hospitals that are keeping infection rates low?

In addition, the bill addresses the growing impact of these infections—inside and outside the hospital. A new public health campaign will increase awareness in the public and educate people about reducing and preventing infections, especially in schools, locker rooms, playgrounds—the areas where we know bacteria can thrive. Finally, the bill calls for greater coordination of and greater emphasis on research at the Federal level. There are promising approaches to the control of infectious disease—for example, some investigators are looking at the use of bacteria-resistant surfaces in hospitals and other settings.

In a Nation as rich as ours, with the best health care professionals in the world, we don't expect people to come into a health care setting with a broken bone and then go home with a dangerous infection. Our health care system is safe and high quality, and I think we can only improve on that with a stronger emphasis on prevention, reporting and research. Our patients need it, our families deserve it, and everyone of us wants it.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be placed in the RECORD, as follows:

S. 2278

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 and Healthcare-Associated Infections Reduction Act of 2007".

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Effective antibiotics have transformed the practice of medicine and saved millions of lives, but the emergence and spread of antibiotic-resistant bacterial pathogens poses a significant threat to patient and public health.

(2) Although many antibiotic-resistant infections occur most frequently among individuals in hospitals and other healthcare facilities, they also affect otherwise healthy individuals in the community.

(3) According to the Centers for Disease Control and Prevention (referred to in this Act as the "CDC"), healthcare-associated infections (referred to in this Act as "HAI") are one of the top 10 leading causes of death in the United States.

(4) In American hospitals alone, HAI account for an estimated 1,700,000 infections and 99,000 associated deaths each year. In 70 percent of these deaths, the bacteria are resistant to at least one commonly used antibiotic.

(5) Dr. John Jernigan, Chief of Interventions and Evaluations at the CDC, estimates that HAI in hospitals result in up to \$27,500,000,000 in additional healthcare costs annually. The growing problem of antibiotic resistance, which affects the most common and least expensive antibiotics first, also shifts utilization toward more expensive antibiotics.

(6) Methicillin-resistant *Staphylococcus aureus* (referred to in this Act as "MRSA"), one of the most dangerous forms of antibiotic-resistant staph infections, highlights the magnitude of the problem. A recent

study by the CDC estimates that nearly 95,000 people became infected with invasive MRSA in 2005 in the United States, resulting in 19,000 deaths, more than the number who died from HIV/AIDS, Parkinson's disease, emphysema, or homicide. A vast majority (85 percent) of these infections were associated with healthcare treatment.

(7) MRSA also affects individuals outside the healthcare setting and in the community. Recent weeks have seen an increase by health and education officials in reported staph infection outbreaks, including antibiotic-resistant strains. These infections have occurred in New York, Kentucky, Virginia, Maryland, Illinois, Ohio, North Carolina, Florida, and the District of Columbia.

(8) The problem of antibiotic-resistant infections is not limited to MRSA. High levels of resistance in *enterococci*, *Klebsiella pneumoniae*, *Pseudomonas aeruginosa*, and *E. coli* have also been reported.

(9) Antibiotic-resistant infections have been discovered in troops coming back from Iraq and Afghanistan. A CDC study showed that between March and October 2003, 145 United States service members at military treatment facilities were infected or colonized with a multidrug-resistant gram-negative bacterium called *Acinetobacter baumannii*. The most likely source of this outbreak was bacteria within deployed field hospitals.

(10) Despite this significant public health threat, information on community and healthcare-associated infections (referred to in this Act as "CHAI") is incomplete and unreliable. Policymakers, healthcare providers, and individual consumers have little information about hospital infection rates, making it difficult to diagnose the scope of the problem and evaluate current infection prevention efforts, and assess potential remedies.

SEC. 3. DEFINITIONS.

In this Act:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Centers for Medicare & Medicaid Services.

(2) AHRQ.—The term "AHRQ" means the Agency for Healthcare Research and Quality.

(3) CHAI.—The term "CHAI" means community and healthcare-associated infections.

(4) DIRECTOR.—The term "Director" means the Director of the Centers for Disease Control and Prevention, unless otherwise specifically designated.

(5) HAI.—The term "HAI" means healthcare-associated infections, which are infections that patients acquire during the course of receiving treatment for other conditions within a healthcare setting.

(6) HOSPITAL.—The term "hospital" means a subsection (d) hospital (as defined in section 1886(d)(1)(B) of the Social Security Act (42 U.S.C. 1395ww(d)(1)(B))).

(7) INTERAGENCY WORKING GROUP.—The term "interagency working group" means the interagency working group on community and healthcare-associated infections established under section 9.

(8) MRSA.—The term "MRSA" means Methicillin-resistant *Staphylococcus aureus*.

(9) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

SEC. 4. COMMUNITY AND HEALTHCARE-ASSOCIATED INFECTION CONTROL PROGRAM.

(a) ESTABLISHMENT OF BEST PRACTICES GUIDELINES FOR INFECTION CONTROL.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, AHRQ in collaboration with CDC shall develop best-practices guidelines for internal infection control plans to prevent, detect, control, and treat CHAI at hospitals.

(2) REQUIREMENTS.—In carrying out paragraph (1), AHRQ shall—

(A) establish a set of best practices with supporting justification of their appropriateness and effectiveness based on nationally-recognized or evidence-based standards, which practices may include—

(i) the establishment of an infection control oversight committee; and

(ii) the establishment of measures for the prevention, detection, control, and treatment of CHAI, such as—

(I) staff training and education on CHAI prevention and control, including the monitoring and strict enforcement of hand hygiene procedures;

(II) a system to identify, designate, and manage patients known to be colonized or infected with CHAI, including diagnostic surveillance processes and policies, procedures and protocols for staff who may have had potential exposure to a patient or resident known to be colonized or infected with a CHAI, and an outreach process for notifying a receiving healthcare facility of any patient known to be colonized or infected with CHAI prior to transfer of such patient within or between facilities;

(III) the development and implementation of an infection control intervention protocol that may include active detection and isolation procedures, the alternation of the physical plan of a hospital, the appropriate use of anti-microbial agents, and other infection control precautions for general surveillance of infected or colonized patients;

(B) work in collaboration with other agencies and organizations whose area of expertise is the identification, treatment, and prevention of infectious disease;

(C) publish proposed guidelines for internal infection control plans;

(D) provide for a comment period of not less than 90 days; and

(E) establish final guidelines, taking into consideration any comment received under subparagraph (D).

(b) CONSULTATION OF BEST PRACTICES GUIDELINES.—The Administrator shall consult best practices guidelines in evaluating hospitals infection control plans as a condition of participation in the Medicare program.

(c) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there is authorized to be appropriated such sums as may be necessary for each of fiscal years 2008 through 2012.

SEC. 5. COLLECTION, REPORTING, AND COMPILATION OF COMMUNITY AND HEALTHCARE-ASSOCIATED INFECTION DATA.

(a) IN GENERAL.—Not later than 120 days after the date of enactment of this Act, hospitals shall report information about CHAI to the CDC National Healthcare Safety Network (NHSN), which shall be used by the CDC to develop a national database of infection rates in hospitals. With respect to reporting such information, the following shall apply:

(1) Hospitals shall meet data reporting standards as required by the NHSN, including timeframes, case-finding techniques, submission formats, infection definitions and other relevant terms, methodology for surveillance of infections, risk-adjustment techniques, or other specifications necessary to render the incoming data valid, consistent, compatible, and manageable.

(2) Hospitals shall submit data that allows the CDC to distinguish between—

(A) infections that are present in patients upon their admission to the hospital;

(B) infections that occur during a patient's hospital stay; and

(C) infections caused by multiple drug resistant organisms and nondrug resistant organisms.

(3) The CDC shall have the authority to make such orders, findings, rules, and regulations as necessary to ensure that hospitals accurately and timely track and report data.

(b) CONSULTATION.—The CDC shall review and revise NHSN standards as appropriate, working in consultation with the Centers for Medicare & Medicaid Services, AHRQ, and national organizations engaged in healthcare quality measurement and reporting.

(c) DATA HARMONIZATION.—The Director shall work in collaboration with the Administrator to support the harmonization of data for purposes of developing a national database of infections rates in hospitals and other purposes determined to be appropriate.

(d) DISSEMINATION OF DATA.—Not later than 1 year after the date of enactment of this Act, subject to the confidentiality of patient records, the CDC shall—

(1) make data available to interested researchers;

(2) make data available to interested State Health Departments;

(3) produce useful and accessible reports for the public to allow for comparisons of HAI rates across hospitals; and

(4) use data to assist hospitals in evaluating and formulating best practices strategies to reduce infection rates.

(e) PRIVACY OF DATA.—Notwithstanding any other provision of Federal, State, or local law, the infection data collected pursuant to this Act shall be privileged and shall not be—

(1) subject to admission as evidence or other disclosure in any Federal, State, or local civil or administrative proceeding; and

(2) subject to use in a State or local disciplinary proceeding against a hospital or provider.

(f) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there is authorized to be appropriated such sums as may be necessary for each of fiscal years 2008 through 2012.

SEC. 6. QUALITY IMPROVEMENT PAYMENT PROGRAM.

(a) PAY FOR PERFORMANCE INITIATIVES REPORT.—Not later than 90 days after the date of enactment of this Act, the Administrator shall submit to Congress a report studying the feasibility of reducing HAI rates through a Quality Improvement Payment Program.

(b) PROGRAM.—The report under subsection (a) shall consider such factors as—

(1) patient demographics, such as—

(A) the median income of patients;

(B) percentage of minority patients; and

(C) disease condition;

(2) hospital characteristics, such as—

(A) median income;

(B) population density of the hospital zip code locale;

(C) university affiliation; and

(D) hospital size as indicated by the number of beds; and

(3) other factors as determined to be appropriate by the Centers for Medicare & Medicaid Services.

(c) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there is authorized to be appropriated such sums as may be necessary for each of fiscal years 2008 through 2012.

SEC. 7. PUBLIC AWARENESS CAMPAIGN.

(a) IN GENERAL.—The Director shall award grants to States for the purpose of enabling the States to carry out public awareness campaigns to provide public education and increase awareness with respect to the issue of reducing, preventing, detecting, and controlling CHAI.

(b) REQUIREMENTS.—To be eligible for a grant under subsection (a), a State shall provide assurances to the Secretary that the State campaign to be conducted under the grant shall—

(1) provide information on the prevention and control of CHAI, including appropriate antibiotic use, causes and symptoms, and management, treatment and reduction methods, in healthcare settings and non-healthcare settings;

(2) provide information to healthcare providers and the public, including schools, non-profit organizations, and private-sector entities; and

(3) work with members of the community to promote awareness and education, including hospitals, school health centers, schools, local governments, doctors' offices, prisons, jails, and other public- and private-sector entities.

(c) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there is authorized to be appropriated such sums as may be necessary for each of fiscal years 2008 through 2012.

SEC. 8. EXPANSION AND COORDINATION OF ACTIVITIES OF THE NATIONAL INSTITUTES OF HEALTH REGARDING COMMUNITY AND HEALTHCARE-ASSOCIATED INFECTIONS.

(a) COMMUNITY AND HEALTHCARE-ASSOCIATED INFECTIONS INITIATIVE THROUGH THE NATIONAL INSTITUTES OF HEALTH.—

(1) EXPANSION AND INTENSIFICATION OF ACTIVITIES.—

(A) IN GENERAL.—The Director of National Institutes of Health (referred to in this section as the "Director"), in coordination with the directors of the other national research institutes (as appropriate), may expand and intensify programs of the National Institutes of Health with respect to research and related activities concerning CHAI.

(B) COORDINATION.—The directors referred to in paragraph (1) may jointly coordinate the programs referred to in such paragraph and consult with additional Federal officials, voluntary health associations, medical professional societies, and private entities, as appropriate.

(2) PLANNING GRANTS AND CONTRACTS FOR INNOVATIVE RESEARCH IN CHAI.—

(A) IN GENERAL.—In carrying out subsection (a)(1) the Director may award planning grants or contracts for the establishment of new research programs, or the enhancement of existing research programs, that focus on CHAI.

(B) RESEARCH.—In awarding planning grants or contracts under paragraph (1), the Director may give priority to—

(i) collaborative partnerships, which may include academic institutions, private sector entities, or nonprofit organizations with a focus on infectious disease science, medicine, public health, veterinary medicine, or other discipline impacting or influenced by emerging infectious diseases;

(ii) research on the most effective copper-based applications to stem infections in military and civilian healthcare facilities; and

(iii) research on new rapid diagnostic techniques for antibiotic-resistant bacteria.

(b) REPORT.—Not later than 6 months after the date of enactment of this Act, the Secretary, in collaboration with the Director, the Commissioner of Food and Drugs, and the Director of the National Institutes of Health, shall prepare and submit to the appropriate committees of the Congress a report that describes the obstacles to anti-infective, especially antibacterial, drug research and development. Such report shall—

(1) identify, in concurrence with infectious disease clinicians and appropriate professional associations, the infectious pathogens that are (or are likely to become) a significant threat to public health because of drug resistance or other factors;

(2) identify those incentives that may already exist through Federal programs, such as Orphan Product designation, including an

explanation of how such programs would apply to infectious diseases and in particular resistant bacterial infections;

(3) recommend strategies to publicize current incentives available to encourage anti-infective, especially antibacterial, drug research and development;

(4) recommend additional regulatory and legislative solutions to stimulate appropriate anti-infective, especially antibacterial, drug research and development;

(5) update the progress made in response to the "Public Health Action Plan to Combat Antimicrobial Resistance" to include a narrative summary of activities in addition to tables provided in existing progress reports, highlighting where gaps remain as well as obstacles to future progress; and

(6) recommend strategies to strengthen the Federal response to antimicrobial resistance, as outlined in the Action Plan, in particular additional actions needed to address remaining gaps or obstacles to progress in implementing the Plan, as well as Federal funding needs.

(c) **PUBLIC INFORMATION.**—The coordinating committee shall make readily available to the public information concerning the research, education, and other activities relating to CHAI, that are conducted or supported by the National Institutes of Health.

(d) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated such sums as may be necessary for each of fiscal years 2008 through 2012 to carry out this section.

SEC. 9. INTERAGENCY WORKING GROUP ON COMMUNITY AND HEALTHCARE-ASSOCIATED INFECTIONS.

(a) **ESTABLISHMENT.**—The Secretary, in coordination with the Administrator, shall establish an interagency working group on CHAI to consider issues relating to the reduction and prevention of these infections.

(b) **MEMBERSHIP.**—The interagency working group shall be composed of a representative from each Federal agency (appointed by the head of each such agency) that has jurisdiction over, or is affected by, CHAI including—

(1) the Centers for Medicare & Medicaid Services;

(2) the Centers for Disease Control and Prevention;

(3) the Health Resources and Services Administration;

(4) the Agency for Healthcare Research and Quality;

(5) the Food and Drug Administration;

(6) the National Institutes of Health;

(7) the Department of Agriculture;

(8) the Department of Defense;

(9) the Department of Veterans Affairs;

(10) the Environmental Protection Agency; and

(11) such other Federal agencies as determined appropriate.

(c) **DUTIES.**—The interagency working group shall—

(1) work in collaboration with the Interagency Task Force on Anti-microbial Resistance;

(2) facilitate communication and partnership on infection prevention and quality health-related projects and policies;

(3) serve as a centralized mechanism to coordinate a national effort—

(A) to discuss and evaluate evidence and knowledge on infection prevention;

(B) to determine the range of effective, feasible, and comprehensive actions to improve healthcare quality related to CHAI; and

(C) to examine and better address the growing impact of CHAI in communities throughout the United States;

(4) coordinate plans to communicate research results relating to CHAI prevention and control to enable reporting and outreach activities to produce more useful and timely information;

(5) consider and determine the feasibility of establishing an active surveillance program involving other entities (such as athletic teams or correctional facilities) for the purpose of identifying those individuals in the community that are colonized and at risk of susceptibility to and transmission of bacteria;

(6) develop an appropriate research agenda for Federal agencies;

(7) develop recommendations regarding evidence-based best practices, model programs, effective guidelines, and other strategies for promoting CHAI prevention and control;

(8) monitor Federal progress in meeting specific CHAI prevention and control promotion goals; and

(9) not later than 2 years after the date of enactment of this Act, submit to Congress a report that describes the appropriateness and effectiveness of best practices guidelines developed by the Centers for Disease Control and Prevention for infection control plans.

(d) **MEETINGS.**—

(1) **IN GENERAL.**—The interagency working group shall meet at least 6 times each year.

(2) **ANNUAL CONFERENCE.**—The Secretary shall sponsor an annual conference on CHAI prevention, detection, and control to enhance coordination and share best practices in CHAI data collection, analysis, and reporting.

(e) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 10. GOVERNMENT ACCOUNTABILITY OFFICE REPORT ON COMMUNITY AND HEALTHCARE-ASSOCIATED INFECTIONS.

Not later than 2 years after the date of enactment of the Act, the Government Accountability Office shall submit to Congress a report on the impact of this Act on—

(1) the prevalence of CHAI; and

(2) the quality and availability of data about CHAI.

SEC. 11. PREEMPTION.

Nothing in this Act shall be construed to preempt existing State laws, except to the extent that such State laws would result in the establishment of duplicative or conflicting surveillance or reporting requirements.

By Mr. BIDEN (for himself and Mr. LUGAR):

S. 2279. A bill to combat international violence against women and girls; to the Committee on Foreign Relations.

Mr. BIDEN. Mr. President, one in three women worldwide will experience gender-based violence in her lifetime. In some countries, that's true for 70 percent of women. No country is immune. From trafficking of women in Eastern Europe to "honor" killings in Jordan to rape being used as a brutal weapon of war in Darfur and the Congo, violence against women and girls crosses all borders and affects women in all social groups, religions and socio-economic classes.

Around the globe, women and girls face domestic violence, rape, forced or child marriage, so-called "honor" killings, dowry-related murder, human trafficking, and female genital mutilation. The United Nations estimates that at least 5,000 "honor" killings take place each year around the world and more than 130,000,000 girls and

young women worldwide have been subjected to genital mutilation. A 2006 United Nations Report found that at least 102 member states had no specific laws on domestic violence. The statistics are staggering.

Not surprisingly, violence against women and girls has a profound impact on the health and development of countries worldwide. Violence breeds poverty. It impedes economic development because it can prevent girls from going to school, or stop women from holding jobs or inheriting property, or shut down access to critical health care for themselves and their children. We can't eradicate poverty and disease unless we prevent and respond to the violence women face in their own homes and communities. We cannot truly empower women to become active in civic life and promote peace, prosperity and democracy unless they personally are free from fear of violence.

Violence against women is a global health crisis, not just because so many women and girls are injured and die as a result, but also because inequality and violence interfere with current efforts to combat the HIV/AIDS pandemic. Forced sex increases vulnerability to HIV/AIDS transmission, in part, because condoms are not likely to be used. In sub-Saharan Africa alone, women account for close to three-quarters of those living with HIV/AIDS between the ages 18 and 24.

The picture is grim, and can be discouraging. But the good news is that local and international organizations are working in communities around the world with courage, sensitivity and great success to help women overcome violence at home, in school and at work. But they need our help.

We've made tremendous progress in reducing violence against women here in the United States since we passed the Violence Against Women Act, VAWA, in 1994. That important work continues. But we cannot ignore the devastation wrought by violence in every corner of the globe. Now is the time to turn our attention to women in other parts of the world—women whose lives are devastated by poverty, political and civic exclusion, disease, and violence. Gender-based violence contributes to the poverty, inequality and instability that threaten peace. Addressing it isn't just moral; it is also smart.

So today, during this final week of Domestic Violence Awareness Month, I am introducing with my good friend from Indiana, Senator LUGAR, the International Violence Against Women Act. This groundbreaking, bipartisan legislation would integrate efforts to end gender-based violence into all existing, appropriate U.S. foreign assistance programs.

The International Violence Against Women Act has three main components. First, the bill reorganizes and rejuvenates the gender-related efforts of the State Department by creating one central office—the "Office for

Women's Global Initiatives'', directed by a Senate-confirmed Ambassador who reports directly to the Secretary. The Coordinator of the Office or Women's Global Initiatives, the "Coordinator'', will be charged with monitoring, coordinating, and organizing all U.S. resources, programs and aid abroad that deals with women's issues, including gender-based violence. Additionally, my bill creates a new Office of Women's Global Development at the United States Agency for International Development, also to be directed by a Senate-confirmed nominee. The Director will be responsible for addressing gender-based violence and integrating gender into U.S. government assistance programs. The Director will work closely with the Coordinator and the Secretary of State to implement the provisions of the IVAWA legislation.

Under the current organizational scheme, projects addressing violence against women, either primarily or tangentially, are spread throughout the State Department and USAID without a central inventory, game plan or leader. My bill will raise the profile of women's issues generally at the State Department, and ensure that gender-based violence programs are building on past successes, leveraging core competencies and working in conjunction with other initiatives.

Second, the International Violence Against Women Act mandates creation of a 5-year, comprehensive strategy, with coordinated programming, to prevent and respond to violence against women in 10 to 20 targeted countries. The act creates a dedicated funding stream of \$175 million a year to support programs dealing with violence against women in five areas: the criminal and civil justice system—everything from drafting laws on domestic violence, to enhancing women's access to property and inheritance rights, to reforming police practices—health care, girls' access to education and school safety, women's access to employment and financial resources, and public awareness campaigns that change social norms.

I know from my experience in Delaware that coordinating community responses in towns and cities has made all the difference in fighting domestic violence and rape. I applied those same principles of coordination and joint programming to the International Violence Against Women Act. International experts agree on the necessity of a multi-disciplinary approach that brings governments and nongovernmental organizations to the table to create sustainable infrastructure. To be clear, the International Violence Against Women Act is not asking countries to reinvent the wheel. At every step our strategy will lead to coordination of efforts to have the greatest possible impact. This type of effective, cost-efficient, gender-based violence programming already exists and is taking place in pockets all around the globe. We have the blueprints; my Act

would provide the momentum and support for a full-scale international priority.

Finally, as the recent reports from the Congo make tragically clear, in situations of humanitarian crises, conflict and post-conflict operations, women and girls are vulnerable to horrific acts of violence. Reports of refugee women being raped while collecting firewood, soldiers sexually abusing girls in exchange for token food items, or women subjected to unimaginable brutality and torture as a tactic of war are shocking in number and inhumanity. The Act requires training, reporting mechanisms and other measures for those who are working directly with or protecting refugees and other vulnerable populations. The act also requires that the State Department identify "critical outbreaks" in which violence against women and girls is being used as a weapon of intimidation and abuse in armed conflict or war, or is escalating in an environment of impunity, and to take emergency measures to respond to the outbreaks.

The issue of violence against women and girls is complex and our legislation is a bold and ambitious plan. There are limitations on the United States' power to "fix" a problem that is so widespread. We are mindful that no country has a perfect record or all the answers. Yet Congress has a long and proud history of tackling complex international problems, most recently the devastating epidemic of HIV/AIDS and the insidious crime of human trafficking.

I did not approach this legislation lightly. Over the past months, I've solicited information from every relevant office in the State Department, USAID and the Department of Justice that works on the issues of women's rights and gender-based violence abroad. I asked for input and information from the United Nations secretariat, and many of its subsidiary agencies who are working to prevent and respond to gender-based violence internationally in various capacities. And most importantly, the International Violence Against Women Act was drafted with the insight and expertise of over 100 nongovernmental organizations and 40 women's groups around the globe, including American Refugee Committee, Amnesty International, CARE, Christian Children's Fund, Family Violence Prevention Fund, Global AIDS Alliance, Human Rights Watch, Inter-Agency Gender Working Group, IGWAG, International Rescue Committee, International Justice Mission, Women's Edge Coalition, Vital Voices Global Partnership and many others. I thank all of them for their invaluable assistance and perseverance as this bill came together.

Former United Nations Secretary-General Kofi Annan said "Violence against women is perhaps the most shameful human rights violation. And it is perhaps the most pervasive. It

knows no boundaries of geography, culture or wealth. As long as it continues, we cannot claim to be making real progress towards equity, development and peace." I could not agree more. My International Violence Against Women Act marshals together, for the first time, coordinated American resources, good will and leadership to address this global issue. I believe the time is now for the U.S. to get actively engaged in the fight for women's lives and girls' futures.

Over the past 30 years, the understanding of human rights and violence against women has metamorphosed. A State's responsibility to protect women from violence has evolved—what was once seen largely as a private, family or cultural matter is now understood by the international community as a violation of basic human rights. Violence against women is a legal wrong. It cannot be excused or justified or ignored. It is an engrained social norm but one that we can dismantle over time—one woman at a time—with patience, creativity and sustained political will. The International Violence Against Women Act is the first step.

Mr. President, I ask unanimous consent that the text of the bill and a section-by-section analysis be printed in the RECORD.

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

S. 2279

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 "International Violence Against Women Act of 2007".

(b) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings.
- Sec. 3. Statement of policy.
- Sec. 4. Definitions.

TITLE I—COORDINATION AND POLICY PLANNING

- Sec. 101. Official positions and institutional changes.
- Sec. 102. Policy and programs.
- Sec. 103. Inclusion of information on violence against women and girls in human rights reports.

TITLE II—OTHER PROVISIONS

- Sec. 201. Amendments to Foreign Service Act of 1980.
- Sec. 202. Support for multilateral efforts to end violence against women and girls.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Violence against women and girls is rooted in multiple causes and takes many forms, including physical, sexual, and psychological. It affects all countries, social groups, ethnicities, religions, and socioeconomic classes and is a global health, economic development, and human rights problem of epidemic proportions.

(2) According to the World Health Organization—

(A) approximately 1 in 3 of the women in the world will experience violence in her lifetime, with rates of up to 70 percent in some countries; and

(B) 1 in 5 of the women in the world will be the victim of rape or attempted rape in her lifetime.

(3) According to the 2006 United Nations Secretary-General's report entitled Ending Violence Against Women, 102 member states have no specific laws on domestic violence.

(4) Women and girls face many different types of gender-based violence, including forced or child marriage, so-called "honor killings", dowry-related murder, human trafficking, and female genital mutilation. The United Nations estimates that at least 5,000 so-called "honor killings" take place each year around the world and that more than 130,000,000 girls and young women worldwide have been subjected to female genital mutilation.

(5) The President's Emergency Plan for AIDS Relief 2006 Report on Gender-Based Violence and HIV/AIDS reports that violence against women is a public health and development problem that significantly increases susceptibility to HIV/AIDS. A United Nations study on the global AIDS epidemic found that in sub-Saharan Africa, women who are 15 to 24 years old can be infected at rates that are up to 6 times higher than men of the same age.

(6) Recent studies in Africa indicate that between 16 and 47 percent of girls in primary and secondary school report sexual abuse or harassment by male teachers or classmates. Girls who experience sexual violence at school are also more likely to experience unintended pregnancies or become infected with sexually transmitted infections, including HIV/AIDS.

(7) Rape and sexual assault are weapons of war used to torture, intimidate, and terrorize women and communities. Amnesty International reports that women have suffered from sexual violence during conflicts in Rwanda, the former Yugoslavia, Sierra Leone, and most recently in the Democratic Republic of the Congo, where women have suffered from brutal and systematic sexual assaults.

(8) Displaced, refugee, and stateless women and girls in humanitarian emergencies, conflict settings, and natural disasters face extreme violence and threats because of power inequities, including being forced to exchange sex for food and humanitarian supplies, and being at increased risk of rape, sexual exploitation, and abuse.

(9) According to the United States Agency for International Development (USAID)—

(A) 70 percent of the 1,300,000,000 people living in poverty in the world are women and children;

(B) $\frac{1}{3}$ of the 876,000,000 illiterate adults in the world are women;

(C) $\frac{1}{3}$ of the 125,000,000 school-aged children who are not in school are girls;

(D) more than $\frac{1}{4}$ of the 27,000,000 refugees in the world are women and children; and

(E) 1,600 women die unnecessarily every day during pregnancy and childbirth.

(10) In 2003, the United Nations Special Rapporteur on Violence Against Women concluded that violence against women violates the basic human rights of women, results in "devastating consequences for women who experience it, traumatic impact on those who witness it, de-legitimization of States that fail to prevent it and the impoverishment of entire societies that tolerate it."

(11) Violence against women is an impediment to the health, opportunity, and development of women and their societies. According to an October 2006 study of the United Nations Secretary General entitled Ending Violence Against Women, "Violence against women impoverishes women, their families, communities and nations. It lowers economic production, drains resources from

public services and employers, and reduces human capital formation."

(12) The World Bank recognizes that women's health, education, and economic opportunities directly impact the development and well being of their families and their societies. A 2001 World Bank Report, entitled Engendering Development, reports that greater gender equality leads to improved nutrition, lower child mortality, less government corruption, higher productivity, and reduced HIV infection rates.

(13) Increased access to economic opportunities is crucial to the prevention of and response to domestic and sexual violence. Both microfinance-based interventions and increased asset control have been shown to reduce levels of intimate partner violence in addition to providing economic independence for survivors.

(14) Campaigns to change social norms, including community organizing, media campaigns, and efforts to engage and educate men and boys, have been shown to change attitudes that condone and tolerate violence against women and girls and reduce violence and abuse.

SEC. 3. STATEMENT OF POLICY.

It is the policy of the United States—

(1) to promote women's political, economic, educational, social, cultural, civil, and human rights and opportunities throughout the world;

(2) to condemn and combat violence against women and girls, and to promote and assist other governments in preventing and responding to such violence;

(3) to promote ending violence against women and girls around the world, whether the abuse is committed directly by a foreign government, is implicitly committed by such government through hostile laws or de jure mandates to disenfranchise women, or is committed by private actors and the government fails to address the abuse;

(4) to encourage foreign governments to enact and implement effective legal reform to combat violence against women and girls, and to encourage access to justice, true accountability for abusers, and meaningful redress and support for victims;

(5) to systematically integrate and coordinate efforts to prevent and respond to violence against women and girls into United States foreign policy and foreign assistance programs, and to expand implementation of effective practices and programs;

(6) to fully implement the comprehensive international strategy set forth in section 300G of the Foreign Assistance Act of 1961, as added by this Act, which provides assistance to eligible countries to reduce and prevent gender-based violence with coordinated efforts in the criminal justice, health, education, and economic sectors;

(7) to support and build capacity of indigenous nongovernmental organizations that are working to prevent and respond to violence against women and girls, particularly women's nongovernmental organizations, and to support and encourage United States organizations working in partnership with such nongovernmental organizations;

(8) to prevent and respond to violence against women and girls through multisectoral methods, working at individual, family, community, local, national, and international levels and incorporating service, prevention, training, and advocacy activities and economic, education, health, legal, and protective intervention services;

(9) to coordinate activities with recipient country governments, as appropriate, and with other bilateral, multilateral, nongovernmental, and private sector actors active in the relevant sector and country;

(10) to foster international and regional cooperation with an aim towards defining pre-

gional strategies, as appropriate, for preventing and responding to violence against women and girls, and exchanging data and successful strategies;

(11) to work through international organizations of which the United States is a member, including the United Nations and its specialized agencies, funds and programs to encourage, promote, and advocate for stronger efforts and policies to prevent and end violence against women and girls;

(12) to enhance training and other programs to prevent and respond to violence against women and girls in humanitarian relief, conflict, and post-conflict operations;

(13) to enhance training by United States personnel of professional foreign military and police forces and judicial officials to include specific and thorough instruction on preventing and responding to violence against women and girls;

(14) to press for the implementation of policies and practices in global peace and security efforts, including United Nations peacekeeping and policing operations, that prevent and respond to violence against women and girls and hold personnel accountable for the full implementation of these policies and practices.

SEC. 4. DEFINITIONS.

In this Act:

(1) **VIOLENCE AGAINST WOMEN AND GIRLS.**—The term "violence against women and girls"—

(A) means any act of gender-based violence against women or girls committed because of their gender that results in, or is likely to result in, physical, sexual, or psychological harm or suffering to women, including threats of such acts, coercion, or arbitrary deprivations of liberty, whether occurring in public or private life; and

(B) includes—

(i) physical, sexual, and psychological violence occurring in the family, including battering, sexual abuse of female children in the household, dowry-related violence, marital rape, female genital mutilation and other traditional practices harmful to women, non-spousal violence, and violence related to exploitation;

(ii) physical, sexual, and psychological violence occurring within the general community, including rape, sexual abuse, sexual harassment and intimidation at work, in educational institutions and elsewhere, trafficking in women, and forced prostitution; and

(iii) physical, sexual, and psychological violence perpetrated or condoned by the state, wherever it occurs.

(2) **ELIGIBLE COUNTRIES.**—The term "eligible countries" means countries that are not classified as high-income countries in the most recent edition of the World Development Report for Reconstruction and Development published by the International Bank for Reconstruction and Development.

TITLE I—COORDINATION AND POLICY PLANNING

SEC. 101. OFFICIAL POSITIONS AND INSTITUTIONAL CHANGES.

Chapter 2 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2166 et seq.) is amended by adding at the end the following:

"TITLE XIII—INTERNATIONAL PREVENTION OF VIOLENCE AGAINST WOMEN AND GIRLS

"SEC. 300A. VIOLENCE AGAINST WOMEN AND GIRLS DEFINED.

"In this title, the term 'violence against women and girls' has the meaning given that term in section 5 of the International Violence Against Women Act of 2007.

"Subtitle A—Official Positions and Institutional Changes

"SEC. 300B. OFFICE OF WOMEN'S GLOBAL INITIATIVES.

"(a) ESTABLISHMENT.—There is established in the Office of the Secretary of State in the Department of State, the Office of Women's Global Initiatives. The office shall be headed by the Coordinator of the Office of Women's Global Initiatives (referred to in this title as the 'Coordinator'), who shall be appointed by the President, by and with the advice and consent of the Senate. The Coordinator shall report directly to the Secretary and shall have the rank and status of Ambassador at Large.

"(b) PURPOSE.—The Office of Women's Global Initiatives shall be the sole office coordinating all efforts of the United States Government regarding international women's issues and is intended to replace the Office of International Women's Issues in the Office of the Under Secretary for Democracy and Global Affairs in the Department of State.

"(c) DUTIES.—The Coordinator shall have the following responsibilities:

"(1) IN GENERAL.—The Coordinator shall—

"(A) design, oversee, and coordinate activities and programs of the United States Government relating to international women's issues; and

"(B) direct United States Government resources to—

"(i) prevent and respond to violence against women and girls throughout the world; and

"(ii) develop the comprehensive international strategy described in section 300G to reduce violence against women and girls.

"(2) PRINCIPAL ADVISOR.—The Coordinator shall serve as the principal advisor to the Secretary of State regarding foreign policy matters relating to women, including violence against women and girls.

"(3) COORDINATING ROLE.—The Coordinator shall—

"(A) oversee and coordinate all resources and activities of the United States Government to combat violence against women and girls internationally, including developing strategies for the integration of efforts to prevent and respond to gender-based violence into United States assistance programs;

"(B) coordinate all policies, programs, and funding related to violence against women and girls internationally of the Department of State, including—

"(i) the Bureau of Population, Refugees, and Migration;

"(ii) the Bureau of Democracy, Human Rights, and Labor;

"(iii) the Bureau for International Narcotics and Law Enforcement Affairs;

"(iv) the Bureau of Education and Cultural Affairs;

"(v) the Bureau of Political Military Affairs;

"(vi) the Bureau of International Organizations Affairs;

"(vii) the Bureau of Economic and Business Affairs;

"(viii) the Foreign Service Institute;

"(ix) the Office of the Coordinator for Reconstruction and Stabilization;

"(x) the Office to Monitor and Combat Trafficking in Persons;

"(xi) the Office of the United States Global AIDS Coordinator; and

"(xii) all regional bureaus and offices;

"(C) coordinate all policies, programs, and funding related to violence against women and girls internationally in the Department of Justice, the Department of Labor, the Department of Health and Human Services, the Department of Defense, and the Department of Homeland Security;

"(D) coordinate all policies, programs, and funding relating to violence against women and girls internationally in the United States Agency for International Development (USAID), including the Women's Global Development Office;

"(E) monitor and evaluate all such gender-based violence programs administered by the entities listed in subparagraphs (B) through (D), as necessary;

"(F) coordinate all policies, programs, and funding of the Millennium Challenge Corporation relating to violence against women and girls internationally;

"(G) design, integrate, and, as appropriate, implement policies, programs, and activities related to women's health, education, economic development, legal reform, social norm changes, women's human rights, and protection of women in humanitarian crises, including those identified pursuant to section 300G(c); and

"(H) encourage departments listed in subparagraph (C) to create agency-specific programmatic guidelines on addressing violence against women and girls internationally and monitor implementation of those guidelines.

"(4) DIPLOMATIC REPRESENTATION.—Subject to the direction of the President and the Secretary of State, the Coordinator is authorized to represent the United States in matters relevant to violence against women and girls internationally in—

"(A) contacts with foreign governments, nongovernmental organizations, the United Nations and its specialized agencies, and other international organizations of which the United States is a member; and

"(B) multilateral conferences and meetings relevant to violence against women and girls.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated \$10,000,000 for each of fiscal years 2008 through 2012, under the heading 'Diplomatic and Consular Programs', to carry out activities under this section. Funds appropriated pursuant to this subsection shall be under the direct control of the Coordinator.

"SEC. 300C. WOMEN'S GLOBAL DEVELOPMENT OFFICE.

"(a) ESTABLISHMENT.—There is established, within the United States Agency for International Development, the Office of Women's Global Development. The Office of Women's Global Development shall be headed by the Director of Women's Global Development (referred to in this title as the 'Director'), who shall be appointed by the President, by and with the advice and consent of the Senate. The Director shall report directly to the Administrator of the United States Agency for International Development and shall consult regularly with the Coordinator of the Office of Women's Global Initiatives.

"(b) PURPOSE.—The Office of Women's Global Development shall be the sole office coordinating all efforts of the United States Agency for International Development (USAID) regarding international women's issues and is intended to replace the Office of Women in Development in USAID in existence on the date of the enactment of this title.

"(c) DUTIES.—

"(1) IN GENERAL.—The Director shall—

"(A) integrate gender into all policies, programs, and activities of the United States Agency for International Development to improve the status of women, increase opportunities for women, and support the overall development goals of United States programs and assistance;

"(B) ensure that efforts to prevent and respond to violence against women and girls are integrated into United States Government foreign assistance programs at the strategic planning and country operational plan levels; and

"(C) monitor the manner in which such activities are integrated, programmed, and implemented in each country plan.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated \$15,000,000 for each of fiscal years 2008 through 2012 to carry out activities and collaboration related to preventing and responding to gender-based violence. Funds appropriated pursuant to this subsection shall be under the direct control of the Director. Such funds are in addition to amounts otherwise available for such purposes.

"SEC. 300D. ADVISORY COMMISSION ON INTERNATIONAL VIOLENCE AGAINST WOMEN.

"(a) ESTABLISHMENT.—There is established within the Department of State an Advisory Commission on International Violence Against Women (in this section referred to as the 'Advisory Commission').

"(b) MEMBERSHIP.—

"(1) APPOINTMENT.—The Advisory Commission shall be composed of—

"(A) the Coordinator of Women's Global Initiatives, who shall serve as chair, and the Director of the Women's Global Development Office, both of whom shall serve ex officio as nonvoting members of the Advisory Commission;

"(B) 8 members appointed by the Secretary of State who are not officers or employees of the Federal Government;

"(C) 3 members appointed by the President pro tempore of the Senate on the joint recommendation of the Majority and Minority Leaders of the Senate; and

"(D) 3 members appointed by the Speaker of the House of Representatives on the joint recommendation of the Majority and Minority Leaders of the House of Representatives.

"(2) SELECTION.—Members of the Advisory Commission shall be selected from among—

"(A) distinguished individuals noted for their knowledge and experience in fields relevant to the issue of international violence against women and girls, including foreign affairs, human rights, and international law;

"(B) representatives of nongovernmental organizations and other institutions having knowledge and expertise related to violence against women and girls; and

"(C) academics representative of the various scholarly approaches to the issue of international violence against women and girls.

"(3) TIME OF APPOINTMENT.—The appointments required under paragraph (1) shall be made not later than 120 days after the date of the enactment of this title.

"(4) TERMS.—The term of each member appointed to the Advisory Commission shall be 3 years. Members shall be eligible for reappointment to a second term.

"(c) DUTIES.—The Advisory Commission shall—

"(1) annually make recommendations to the Secretary of State regarding best practices to prevent and respond to violence against women and girls internationally and the effective integration of such practices into the foreign policy of the United States, including assistance programming; and

"(2) consult with members of the United States Government and with private groups and individuals on the prevention and response to international violence against women and girls.

"(d) HEARINGS.—In carrying out this section, the Advisory Commission may conduct such hearings, sit and at such times and places, take such testimony, and receive such evidence, as the Advisory Commission considers appropriate.

"(e) FUNDING.—Members of the Advisory Commission shall be allowed travel expenses, including per diem in lieu of subsistence at rates authorized for employees of agencies

under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of duties for the Advisory Commission.

“(f) REPORT OF THE ADVISORY COMMISSION.—Not later than May 1 of each year, the Advisory Commission shall submit a report to the President, the Secretary of State, the Committee on Foreign Relations of the Senate, and the Committee on Foreign Affairs of the House of Representatives that sets forth its findings and recommendations for United States policy and programs.

“(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated \$300,000 for each of the fiscal years 2008 through 2012 to carry out this section.”.

SEC. 102. POLICY AND PROGRAMS.

Chapter 2 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2166 et seq.), as amended by section 101, is further amended by adding at the end the following:

“Subtitle B—Policy and Programs

“SEC. 300G. COMPREHENSIVE INTERNATIONAL STRATEGY TO REDUCE AND PREVENT VIOLENCE AGAINST WOMEN AND GIRLS.

“(a) DEVELOPMENT AND IMPLEMENTATION OF STRATEGY.—Not later than 1 year after the date of the enactment of this title, the President, with the assistance of the Coordinator of Women's Global Initiatives and Director of Women's Global Development, shall develop and commence implementation of a comprehensive, 5-year international strategy to prevent and respond to violence against women and girls internationally, and shall submit it to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives.

“(b) COLLABORATION.—In developing the strategy under subsection (a), the President, with the assistance of the Coordinator, shall consult with—

“(1) the Secretary of State, including the offices and bureaus listed in section 300B(b)(3)(B), other executive agencies listed in section 300B(b)(3)(C), United States aid agencies and offices as listed in section 300B(b)(3)(D), the Millennium Challenge Corporation listed in section 300B(b)(3)(E), and Interagency Task Force to Monitor and Combat Trafficking; and

“(2) nongovernmental organizations with demonstrated expertise working on violence against women and girls, women's health, or women's empowerment issues internationally.

“(c) CONTENT.—The strategy developed under subsection (a) shall—

“(1) identify between 10 and 20 eligible countries that are geographically, ethnically, and culturally diverse, and have severe levels of violence against women and girls;

“(2) describe the nature and extent of violence against women and girls in each country;

“(3) identify how and to what extent the violence against women and girls in each country is negatively affecting goals of improving the health, education, economic, democracy and civic participation, criminal justice, and internally displaced persons and refugee management sectors in such country and its region;

“(4) assess the efforts of the government in each country to prevent and respond to violence against women and girls and assess the potential capacity of each country to manage 2 or more of the gender violence-based program activities identified under subsection (d);

“(5)(A) describe the programs to be undertaken in cooperation with the governments

of each country in specific areas for progress in preventing and responding to violence against women and girls;

“(B) identify resources to help implement programs; and

“(C) encourage development of national action plans;

“(6) for each country, identify 2 or more of the program activities listed in subsection (d) and describe how the selected programs will prevent and respond to the problem of violence against women and girls, including—

“(A) increasing legal and judicial protections;

“(B) enhancing the capacity of the health sector to respond to such violence;

“(C) increasing opportunities for women and girls in education and economic development; or

“(D) promoting societal awareness and changing social norms;

“(7) include, as appropriate, strategies designed to accommodate the needs of stateless, internally displaced, refugee, or religious or ethnic minority women and girls;

“(8) project general levels of resources needed on an annual basis to achieve the stated objective in each country, taking into account activities and funding provided by other donor country governments and other multilateral institutions and leveraging private sector resources;

“(9) include potential coordination with existing programs, initiatives, and expertise on preventing and responding to violence against women and girls that exist within nongovernmental organizations, including in-country, civil society organizations, particularly women's organizations and community-based groups;

“(10) identify the Federal departments and agencies involved in the execution of the relevant program activities; and

“(11) describe the monitoring and evaluation mechanisms established for each country and how they will be used to assess overall progress in preventing and responding to violence against women and girls.

“(d) PROGRAM ACTIVITIES SUPPORTED.—Assistance provided under this section shall be used to carry out, in each of the countries identified in the strategy required pursuant to subsection (a), 2 or more of the following program activities:

“(1) Increasing legal and judicial protections by—

“(A) supporting programs that strengthen a coordinated community response to violence against women and girls, including through coordination between judges, police, prosecutors, and legal advocates to enhance prospects for perpetrator accountability;

“(B) supporting efforts and providing resources to provide training and technical assistance to police, prosecutors, forensic physicians, lawyers, corrections officers, judges, and judicial officials, and where appropriate, to nonlawyer advocates and traditional community authorities on violence against women and girls;

“(C) supporting efforts to reform and revise criminal and civil laws to prohibit violence against women and girls and create accountability for perpetrators;

“(D) enhancing the capacity of the justice sector, including keeping official records of all complaints, collecting and safeguarding evidence, systematizing and tracking data on cases of violence against women and girls, and undertaking investigations and evidence gathering expeditiously;

“(E) helping women and girls who are victims of violence gain access to the justice sector and supporting them throughout the legal process, including establishing victim and witness units for courts and promoting

support for survivor services, including hotlines and shelters;

“(F) promoting civil remedies in cases of domestic violence that—

“(i) prioritize victim safety and confidentiality and offender accountability;

“(ii) grant women and children restraining, protection, or removal orders with appropriate criminal sanctions for violations against perpetrators of violence;

“(iii) strengthen and promote women's custodial rights over children and protect children; and

“(iv) grant courts authority to provide specific relief pursuant to a restraining or removal order, including restitution, spousal maintenance, child support, payment of debt, or return or equitable distribution of property;

“(G) reducing the incidence of violence against women and girls committed by government officials by developing confidential mechanisms for reporting violence against women and girls committed by government officials and institutions and developing laws to punish the perpetrators and remove immunity from state officials;

“(H) promoting broader legal protection for women and girls against all forms of violence against women and girls, such as female infanticide and female genital mutilation, and practices that are associated with higher rates of violence against women and girls, such as child and forced marriage; and

“(I) increasing the number of women advocates trained to respond to violence against women and girls at police stations, including the creation of domestic violence units and increasing the number of women police.

“(2) Carrying out health care initiatives, including—

“(A) promoting the integration of programs to prevent and respond to violence against women and girls into existing programs addressing child survival, women's health, family planning, mental health, and HIV/AIDS prevention, care, and treatment;

“(B) training of health care providers, including traditional birth attendants, on methods to safely and confidentially assess women and girls seeking health services for intimate partner, family, and sexual violence;

“(C) developing and enforcing national and operational women's health, children's health, and HIV/AIDS policies that prevent and respond to violence against women and girls, with accompanying resources, including through cooperative efforts with ministries of health;

“(D) developing information gathering systems within the health care sector that, consistent with safety and confidentiality concerns, collect and compile data on the type of violence experienced by women and girls, access to care, age of victims, and relationship of victims to perpetrators;

“(E) working with governments to develop partnerships with civil society organizations to create referral networks systems for psychosocial, legal, economic, or other support services; and

“(F) integrating screening and assessment for gender-based violence into HIV/AIDS programming and other health programming into all country operation plans, and increasing women's access to information, strategies, and services to protect themselves from HIV/AIDS.

“(3) Conducting public awareness programs to change social norms and attitudes, including—

“(A) supporting women survivors of violence to educate their communities on the impacts of violence;

“(B) engaging men, including faith and traditional leaders;

“(C) providing funding and programmatic support for mass media social change campaigns; and

“(D) supporting community efforts to change attitudes about harmful traditional practices, including child marriage, female genital mutilation, and so-called ‘honor killings’.

“(4) Improving economic opportunities for women and girls, including—

“(A) supporting programs to help women meet their economic needs and to increase their economic opportunities, in both rural and urban areas, including through support for—

“(i) the establishment and development of businesses (micro, small, and medium-sized enterprises) through access to financial and nonfinancial services; and

“(ii) education, literacy, and numeracy programs, leadership development and job skills training, especially in nontraditional fields and expected growth sectors;

“(B) supporting programs to help increase property rights, social security, and home ownership and land tenure security for women by—

“(i) promoting equitable extension of property and inheritance rights, particularly rights to familial and marital property;

“(ii) promoting legal literacy, including among faith and traditional leaders, about women’s property rights; and

“(iii) helping women to make land claims and protecting women’s existing claims and advocating for equitable land titling and registration for women, including safeguards for women title-holders in the case of domestic violence disputes;

“(C) integrating activities to prevent and respond to violence against women and girls into existing economic opportunity programs by—

“(i) integrating education on violence against women and girls into women’s microfinance, microenterprise, and job skills training programs; and

“(ii) training providers of economic opportunity services and programs in sensitivity to violence against women and girls; and

“(D) addressing violence against women and girls in the workplace.

“(5) Improving educational opportunities for women and girls, including—

“(A) supporting efforts and providing resources to provide training for all teachers and school administrators on school-related violence, in particular increasing awareness of violence against women and girls, and to improve reporting, referral, and implementation of codes of conduct;

“(B) working to ensure the safety of girls during their travel to and from school and on school grounds;

“(C) including programs for girls and boys on the unacceptability of violence against women and girls; and

“(D) conducting national and baseline surveys to collect data on school-related violence against women and girls.

“SEC. 300H. ASSISTANCE TO REDUCE INTERNATIONAL VIOLENCE AGAINST WOMEN AND GIRLS INTERNATIONALLY.

“(a) **COORDINATING EXISTING AID PROGRAMS.**—The Coordinator of the Women’s Global Initiatives, working with the Director of the Office of Women’s Global Development, shall ensure that existing programs, contracts, grants, agreements, and foreign assistance under the Foreign Assistance Act of 1961 (22 U.S.C. 2166 et seq.), the Migration and Refugee Assistance Act of 1962 (22 U.S.C. 2601 et seq.), the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7101 et seq.), the United States Leadership Against HIV/AIDS, Tuberculosis and Malaria Act of 2003 (22 U.S.C. 7601 et seq.), the Support for East Eu-

ropean Democracy (SEED) Act of 1989 (22 U.S.C. 5401 et seq.), the FREEDOM Support Act (22 U.S.C. 5851 et seq.), and other Acts authorizing foreign assistance incorporate, as applicable, measures to prevent and respond to violence against women and girls.

“(b) **AUTHORITY.**—To implement and execute the comprehensive international strategy developed pursuant to section 300G, the President is authorized to provide assistance to nongovernmental organizations, multilateral institutions, and foreign countries for program activities described in section 300G(d).

“(c) **ALLOCATE NEW FUNDING.**—The Coordinator of the Office of Women’s Global Initiatives is authorized to allocate funds to implement and execute the comprehensive international strategy developed pursuant to section 300G.

“(d) **USE OF FUNDS.**—Any funds made available under this section to nongovernmental organizations must be designated to organizations that have demonstrated expertise regarding violence against women and girls internationally, or that are in partnership with such organizations and that have demonstrated capabilities or expertise in a particular program activity described in subsection 300G(d).

“(e) **GRANTS TO WOMEN’S NONGOVERNMENTAL ORGANIZATIONS AND COMMUNITY-BASED ORGANIZATIONS.**—Not less than 10 percent of the funds awarded in a fiscal year under this section shall be awarded to women’s nongovernmental organizations and community-based organizations.

“(f) **AWARD PROCESS.**—Funds awarded under this section shall be provided through an open, competitive, and transparent process where possible.

“(g) **CONDITIONS.**—Entities receiving funds awarded through the grant program established under this section—

“(1) should include the collection of data and the evaluation of program effectiveness;

“(2) should be responsible for developing and reporting on outcomes related to preventing and responding to violence against women and girls;

“(3) should gather input from women’s nongovernmental organizations or community-based organizations, including organizations with expertise in preventing and responding to violence against women and girls; and

“(4) shall consider the safety of women and girls as a primary concern in deciding how to design, implement, monitor, and evaluate programs.

“(h) **AUTHORIZATION OF APPROPRIATIONS.**—

“(1) **IN GENERAL.**—There is authorized to be appropriated to the Office of Women’s Global Initiatives \$175,000,000 for each of the fiscal years 2008 through 2012 to carry out this section and section 300G.

“(2) **AVAILABILITY OF FUNDS.**—Amounts appropriated pursuant to paragraph (1) shall remain available until expended.

“(3) **NONSUPPLANTATION.**—Funds authorized and appropriated under this Act shall supplement, not supplant, existing funds otherwise available for activities under this title.

“SEC. 300I. ANNUAL REPORT ON UNITED STATES EFFORTS TO END INTERNATIONAL VIOLENCE AGAINST WOMEN AND GIRLS.

“(a) **IN GENERAL.**—Not later than 1 year after the submission of the comprehensive international strategy developed under section 300G, and annually thereafter, the Secretary of State, assisted by the Coordinator of Women’s Global Initiatives, shall submit to Congress a report to be entitled the ‘Report on International Violence Against Women and Girls’.

“(b) **CONTENT.**—The report required under subsection (a) shall include the following:

“(1) The goals and objectives of the comprehensive international strategy developed under section 300G(a).

“(2) The specific criteria used to determine the effectiveness of the strategy.

“(3) A description of the coordination of all United States Government resources and international activities to prevent and respond to the problem of violence against women and girls, including—

“(A) an identification of the Federal agencies involved;

“(B) a description of the coordination between Federal agencies and departments, including those acting in the eligible countries; and

“(C) a description of the coordination with non-United States Government entities, including the governments of eligible countries, multilateral organizations and institutions, and nongovernmental organizations.

“(4) A description of the relationship between efforts to prevent and respond to violence against women and girls internationally and other United States assistance strategies in developing countries and diplomatic relationships.

“(5) A description of efforts to include gender-based violence in United States diplomatic and peacemaking initiatives.

“(6) A description of any significant efforts by bilateral and multilateral donors in support of preventing and responding to international violence against women and girls.

“(7) A description of the implementation of the agency-specific guidelines described in section 300B(d)(3)(H).

“(8) A description of the activities of, and funding provided for programs that prevent and respond to violence against women and girls in humanitarian relief, conflict and post-conflict operations, including violence perpetrated by humanitarian workers.

“(9) A description of United States training of foreign military and police forces, judicial officials, and humanitarian relief grantees to prevent and respond to violence against women and girls.

“(10) A description of data collection efforts conducted under this title.

“(11) Identification of all contractors, subcontractors, grantees, and subgrantees receiving United States funds for preventing and responding to violence against women and girls.

“(12) Recommendations related to best practices, effective strategies, and suggested improvements to enhance the impact of efforts to prevent and respond to violence against women and girls.

“(13) A description of efforts to evaluate the accountability and efficacy of the programs funded pursuant to section 300H(g).

“(14) A compilation of the descriptions on the nature and extent of violence against women and girls included in the annual Human Rights Reports required under section 116(d) of the Foreign Assistance Act of 1961, as amended by this Act.

“(15) The identification of countries or regions with critical outbreaks of violence against women and girls described in subsection 300L(h), including—

“(A) an analysis of the situations, including the factors driving the violence, the role of government, militia, rebel, or other armed forces in the violence; and

“(B) an analysis of United States and other multilateral, bilateral, or governmental efforts to prevent or respond to the violence, assist survivors, or hold the perpetrators accountable.

“(16) A description of United States resources that are being used—

“(A) to assist in efforts to prevent or respond to the critical outbreaks of violence described in section 300L(h);

“(B) assist survivors of such violence;

“(C) hold perpetrators accountable for such violence; and

“(D) encourage all parties to the armed conflict to protect women and girls from violence.

“(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of State to meet the reporting requirements under this section—

“(1) \$2,500,000 for fiscal year 2008; and

“(2) \$500,000 for each of the fiscal years 2009 through 2012.

“SEC. 300J. DATA COLLECTION.

“(a) IN GENERAL.—The Coordinator of Women’s Global Initiatives, assisted by the Administrator of the United States Agency for International Development and the Director of the Women in Development Office, shall be responsible for researching, collecting, monitoring, and evaluating data related to efforts to prevent and respond to violence against women and girls internationally.

“(b) USE OF FUNDS.—Funds made available under this section may be used for the following purposes:

“(1) To collect and analyze data on the scope and extent of all forms of violence against women and girls, including undocumented forms of violence and violence against marginalized groups. This work may include original research or analysis of existing data sets.

“(2) To help governments of countries systematically collect and analyze data on violence against women and girls, including both national surveys and data collected by service providers.

“(3) To use internationally comparable indicators, norms, and methodologies for measuring the scope, prevalence, and incidence of violence against women and girls.

“(4) To include data on violence against women and girls in national and international data collection efforts, including those administered and funded by the United States Agency for International Development, the Millennium Challenge Corporation, and the Centers for Disease Control and Prevention.

“(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated \$20,000,000 for each of the fiscal years 2008 through 2012 to carry out the activities under this section.

“SEC. 300K. ENHANCING UNITED STATES TRAINING OF FOREIGN MILITARY AND POLICE FORCES ON VIOLENCE AGAINST WOMEN AND GIRLS.

“(a) PURPOSE.—The purpose of this section is to ensure that United States programs to train foreign military and police forces and judicial officials include instruction on preventing and responding to violence against women and girls internationally.

“(b) COVERED PROGRAMS.—The programs covered under this section include—

“(1) activities authorized under the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.); and

“(2) activities under section 1206 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109-163; 119 Stat. 3456) to build the capacity of foreign military and police forces to conduct counterterrorist operations or support military and stability operations in which the United States is participating.

“(c) AUTHORIZATION.—The Secretary of State and the Secretary of Defense, in consultation with the Coordinator of Women’s Global Initiatives, shall—

“(1) incorporate training on how to prevent and respond to violence against women and girls into the basic training curricula of foreign military and police forces and judicial officials; and

“(2) ensure that United States assistance to units involved in regional or multilateral

peacekeeping operations includes training on preventing and responding to violence against women and girls internationally.

“(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated \$8,000,000 for each of the fiscal years 2008 through 2012 to carry out the activities under this section.

“SEC. 300L. ADDRESSING VIOLENCE AGAINST WOMEN AND GIRLS IN HUMANITARIAN RELIEF, PEACEKEEPING, CONFLICT, AND POST-CONFLICT OPERATIONS.

“(a) DEFINITIONS.—In this section, the term ‘Inter-Agency Standing Committee’ means the committee established in response to United Nations General Assembly Resolution 46/182 (1991).

“(b) ACTIVITIES OF THE DEPARTMENT OF STATE THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT.—The Secretary of State and the Administrator of the United States Agency for International Development shall—

“(1) in consultation with the Coordinator of Women’s Global Initiatives, provide assistance to programs that prevent and respond to violence against women and girls in all humanitarian relief, conflict, and post-conflict operations, including—

“(A) building the capacity of nongovernmental organizations to address the special protection needs of women and children affected by humanitarian, conflict, or post-conflict operations;

“(B) supporting local and international nongovernmental initiatives to prevent, detect, and report violence against women and girls;

“(C) conducting protection and security assessments for refugees and internally displaced persons in camps or in communities to improve the design and security of camps, with special emphasis on the security of women and girls;

“(D) supporting efforts to reintegrate survivors of a humanitarian relief, conflict, or post-conflict operation through education, psychosocial assistance, trauma counseling, family and community reinsertion and reunification, and medical assistance; and

“(E) providing legal services for women and girls who are victims of violence during a humanitarian relief, conflict or post-conflict operation, including the collection of evidence for war crime tribunals and advocacy for legal reform; and

“(2) require that all grantees deployed in humanitarian relief, conflict, and post-conflict operations—

“(A) comply with the Inter-Agency Standing Committee’s Six Core Principles Relating to Sexual Exploitation and Abuse;

“(B) train all humanitarian workers in preventing and responding to violence against women and girls, including in the use of mechanisms to report violence against women and girls;

“(C) conduct appropriate public outreach to make known to the host community the mechanisms to report violence against women and girls; and

“(D) promptly and appropriately respond to reports of violence against women and girls and treat survivors in accordance with best practices regarding confidentiality.

“(c) AUTHORIZATION OF APPROPRIATIONS.—

“(1) IN GENERAL.—There is authorized to be appropriated to the Department of State and the United States Agency for International Development \$40,000,000 for each of the fiscal years 2008 through 2010 for programs described in subsection (b)(1) that prevent and respond to violence against women and girls in humanitarian relief, conflict, and post-conflict operations, in addition to amounts otherwise available for such purposes.

“(2) FUNDING NOT AT EXPENSE OF OTHER HUMANITARIAN PROGRAMS.—Any amounts appro-

priated pursuant to paragraph (1) may not be provided at the expense of other humanitarian programs.

“(d) ACTIVITIES OF THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT.—The Administrator of the United States Agency for International Development, in consultation with the Coordinator of Women’s Global Initiatives, shall designate and deploy, as appropriate, protection officers as an integral part of Disaster Assistance Response Teams to ensure that programs to prevent and address violence against women and girls are integrated into humanitarian relief, conflict, and post-conflict operations.

“(e) ACTIVITIES OF THE DEPARTMENT OF STATE.—Not later than 180 days after the date of the enactment of this title, the Secretary of State shall submit a report to Congress on efforts to—

“(1) require that all private military contracting firms hired by the Department of State for humanitarian relief, conflict, and post-conflict operations—

“(A) demonstrate a commitment to expanding the number and roles of women in such operations;

“(B) train all contractors who will be deployed to humanitarian relief, conflict, or post-conflict operations in preventing and responding to violence against women and girls, including in the use of mechanisms to report violence against women and girls;

“(C) conduct appropriate public outreach to make known to the host community the mechanisms to report violence against women and girls; and

“(D) promptly and appropriately respond to reports of violence against women and girls and treat survivors in accordance with best practices regarding confidentiality; and

“(2) assist women and girls formally involved in, or associated with, fighting forces as part of any multilateral or bilateral Disarmament, Demobilization, Rehabilitation and Reintegration efforts by providing—

“(A) protection and suitable separate facilities for women and girls in demobilization and transit centers;

“(B) equitable reintegration activities and opportunities to women and girls, including access to schooling, vocational training, employment, and childcare; and

“(C) essential medical care and psychosocial support for women and girls who are victims of gender-based violence.

“(f) ACTIVITIES OF THE DEPARTMENT OF DEFENSE.—The Secretary of Defense shall—

“(1) in consultation with the Coordinator of Women’s Global Initiatives and the Director of the Office of Military Affairs of the Bureau of Democracy, Conflict and Humanitarian Assistance of the United States Agency for International Development, provide training in preventing and responding to violence against civilian women and girls to all United States military personnel, military contractors, military observers, and military police forces who will be deployed to humanitarian relief, conflict, and post-conflict operations;

“(2) in consultation with the Coordinator of Women’s Global Initiatives and the Director of the Office of Military Affairs of the Bureau of Democracy, Conflict and Humanitarian Assistance, establish mechanisms for reporting incidences of violence against civilian women and girls by United States military personnel, military contractors, military observers, and police forces participating in humanitarian relief, peacekeeping, and post-conflict operations; and

“(3) establish appropriate public outreach to notify the civilian population of the mechanisms for reporting incidences of violence against civilian women and girls by United States military personnel, military

contractors, military observers, and police forces.

“(g) ADDRESSING VIOLENCE AGAINST CIVILIAN WOMEN AND GIRLS BY UNITED NATIONS PEACEKEEPERS.—

“(1) DEPARTMENT OF STATE ACTIVITIES.—The Secretary of State shall encourage member states of the United Nations—

“(A) to support expanding the number and roles of female officers in all United Nations peacekeeping missions, whether as military forces, civilian police, or military observers; and

“(B) to routinely put forward the names of qualified female candidates for senior United Nations military and civilian management positions, particularly for overseas missions.

“(2) SENSE OF CONGRESS REGARDING ACTIONS OF UNITED NATIONS PEACEKEEPERS.—It is the sense of Congress that the Secretary-General of the United Nations should continue to strengthen the existing ability of the United Nations Department of Peacekeeping Operations and the Department of Field Support to prevent and respond to violence against women and girls by United Nations military and civilian personnel by—

“(A) requiring that troop contributing countries properly train all soldiers on the United Nations guidelines regarding appropriate conduct towards civilians, in particular those guidelines that address violence against women and girls, before participation in United Nations peacekeeping missions;

“(B) supporting the expansion of the role and number of female officers in all United Nations peacekeeping missions, whether as military forces, civilian police, or military observers;

“(C) strongly encouraging all United Nations member states to routinely put forward the names of qualified female candidates for senior United Nations military and civilian management positions, particularly for overseas missions;

“(D) ensuring appropriate mechanisms are in place for individuals to safely bring allegations of violence against women and girls to the attention of United Nations peacekeeping mission commanders and the United Nations Office of Internal Oversight;

“(E) ensuring the capability and capacity for the United Nations Office of Internal Oversight to investigate all credible allegations of violence against women and girls timely and efficiently, and in a manner that protects the whistleblower;

“(F) improving informational programs for all United Nations personnel on their responsibility to prevent violence against women and girls and not to engage in acts of violence against women and girls;

“(G) demanding that troop contributing countries—

“(i) thoroughly investigate allegations of their nationals engaging in violence against women and girls while serving on United Nations peacekeeping missions; and

“(ii) punish those found guilty of such misconduct; and

“(H) continuing to permanently exclude individuals found to have engaged in violence against women and girls as well as troop contingent commanders and civilian managerial personnel complicit in such behavior, from participating in future United Nations peacekeeping missions.

“(h) EMERGENCY MEASURES FOR CRITICAL OUTBREAKS OF VIOLENCE DURING CONFLICT OR POST-CONFLICT OPERATIONS.—

“(1) EMERGENCY RESPONSE TO CRITICAL OUTBREAKS.—The Secretary of State, in consultation with the Coordinator of Women's Global Initiatives, the Director of National Intelligence, and the Secretary of Defense, shall identify and take emergency measures to respond to critical outbreaks of violence

against women and girls in situations of armed conflict when it is determined that the violence is being used as a weapon of intimidation and abuse.

“(2) DETERMINATION.—Violence against women and girls shall be determined to be a ‘critical outbreak’ if—

“(A) a United States Government report, allied government information, or credible non-governmental or media accounts depict a widespread pattern of violence against women or girls, particularly rape and other forms of sexual abuse, that is escalating in the number of victims or brutality of attacks and that takes place in an environment of relative impunity; or

“(B) escalating violence against women or girls is part of an organized campaign by governmental or rebel forces or militias.

“(3) EMERGENCY MEASURES.—Not later than 180 days after the identification of a critical outbreak, the Secretary of State, in consultation with the Coordinator of Women's Global Initiatives, the Director of National Intelligence, and the Secretary of Defense, shall develop emergency measures to respond to the outbreak identified under paragraph (1).

“(4) CONSULTATION.—In developing emergency measures under paragraph (1), the Secretary of State, with the assistance of the Coordinator, shall consult with—

“(A) nongovernmental organizations with demonstrated expertise working on preventing and addressing systematic violence against women and girls as a weapon of intimidation and abuse in situations of conflict and war; and

“(B) international organizations, such as the United Nations and its subsidiary funds, agencies, and programs, which are preventing and addressing systematic violence against women and girls as a weapon of intimidation and abuse in situations of conflict and war.

“(5) CONTENT.—The emergency measures developed under paragraph (1) shall include a description of—

“(A) the bilateral and multilateral diplomatic efforts that the Secretary of State will take to address the critical outbreak, including—

“(i) efforts with the government in which the violence is occurring, governments of the region in which the violence is occurring, and other allied governments; and

“(ii) efforts in international fora, such as the United Nations and its subsidiary agencies, funds and programs, including in the United Nations Security Council, as appropriate; and

“(B) the efforts by the United States Government to—

“(i) protect women and girls at risk in a critical outbreak region;

“(ii) urge all parties to the armed conflict to protect women and girls; and

“(iii) facilitate the prosecution of those responsible for the violence in a critical outbreak area.

“(6) NOTICE.—The Secretary of State shall notify Congress of efforts to respond to critical outbreaks, including a description of the bilateral and multilateral diplomatic efforts of the Department of State.

“(i) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts authorized to be appropriated under subsection (c), there is authorized to be appropriated such sums as may be necessary for emergency measures, including the expansion of reporting mechanisms and programs, for each critical outbreak of violence identified under this section.”.

SEC. 103. INCLUSION OF INFORMATION ON VIOLENCE AGAINST WOMEN AND GIRLS IN HUMAN RIGHTS REPORTS.

Section 116(d) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151n(d)) is amended—

(1) in paragraph (10), by striking “; and” and inserting a semicolon;

(2) in paragraph (11)(C), by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following:

“(12) wherever applicable, the nature and extent of violence against women and girls.”.

TITLE II—OTHER PROVISIONS

SEC. 201. AMENDMENTS TO FOREIGN SERVICE ACT OF 1980.

(a) PERFORMANCE PAY.—Section 405 of the Foreign Service Act of 1980 (22 U.S.C. 3965) is amended by adding at the end the following:

“(f) PROMOTION OF HUMAN RIGHTS.—Service in the promotion of internationally recognized human rights, including preventing and responding to violence against women and girls, shall serve as a basis for the award of performance pay.”.

(b) FOREIGN SERVICE AWARDS.—Section 614 of the Foreign Service Act of 1980 (22 U.S.C. 4013) is amended by inserting “and preventing and responding to violence against women and girls” after “religion”.

(c) FOREIGN SERVICE TRAINING.—Chapter 2 of title I of the Foreign Service Act of 1980 is amended by adding at the end the following:

“SEC. 212. TRAINING FOR FOREIGN SERVICE OFFICERS.

“The Secretary of State, assisted by the Coordinator of Women's Global Initiatives, shall include, as part of the standard training provided for officers of the Service (including chiefs of mission), instruction on international violence against women and girls, including domestic and sexual violence against women and girls in humanitarian relief, conflict, and post-conflict operations.”.

SEC. 202. SUPPORT FOR MULTILATERAL EFFORTS TO END VIOLENCE AGAINST WOMEN AND GIRLS.

There is authorized to be appropriated to the International Organizations and Programs Account \$5,000,000 for each of fiscal years 2008 through 2012 to support the United Nations Development Fund for Women Trust Fund in Support of Actions to Eliminate Violence Against Women.

SECTION-BY-SECTION SUMMARY OF THE INTERNATIONAL VIOLENCE AGAINST WOMEN ACT OF 2007

Sec. 1. Short Title.

Sec. 2. Table of Contents.

Sec. 3. Findings.—This section details the magnitude of the problem of violence against women and girls in families, communities, and countries around the world.

Sec. 4. Statement of Policy.—This section states that it is U.S. policy to promote women's political, economic, educational, social, cultural, civil, and human rights and opportunities throughout the world and to prevent and respond to violence against women and girls.

Sec. 5. Definitions.—This section defines “violence against women as “any act of gender-based violence against women or girls committed because of their gender that results in, or is likely to result in, physical, sexual, or psychological harm or suffering to women, including threats of such acts, coercion, or arbitrary deprivations of liberty, whether occurring in public or private life.” (Identical to the widely-used, internationally-accepted definition.)

TITLE I: COORDINATION AND POLICY PLANNING

Sec. 101. Official Positions and Institutional Changes.—This section amends chapter 2, part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2166 et seq) by adding the following new title: “Title XIII—International

Prevention of Violence Against Women and Girls”.

Sec. 300A. Violence Against Women and Girls Defined.—“Violence against women” is defined in section 5 of the International Violence Against Women Act of 2007.

SUBTITLE A—OFFICIAL POSITIONS AND INSTITUTIONAL CHANGES

Sec. 300B. Office of Women’s Global Initiatives.—This section establishes an “Office of Women’s Global Initiatives” in the immediate office of the Secretary of State. The Coordinator of the Office of Women’s Global Initiatives (the “Coordinator”) will be appointed by the President with the advice and consent of the Senate and with the rank and status of Ambassador at Large. The Coordinator will design, oversee, and coordinate activities of the U.S. Government related to international women’s issues, including violence against women and girls, and will develop the comprehensive international strategy as provided in this bill. The Coordinator will integrate efforts to reduce violence against women into existing U.S. Government assistance programs; allocate new funding to new programs; design, integrate, and implement new programs; and monitor and evaluate all programs. This section authorizes the appropriation of \$15,000,000 for each of the fiscal years 2008–2012 to perform these office functions.

Sec. 300C. Women’s Global Development Office.—This section establishes the Office of Women’s Global Development within the United States Agency for International Development (USAID). The head of the office will be the Director of Women’s Global Development (the “Director”), who will be appointed by the President with the advice and consent of the Senate and will report directly to the Administrator. The Director will consult regularly with the Coordinator of the Office of Women’s Global Initiatives. The Director will integrate gender into USAID programs and activities and will ensure that efforts to prevent and respond to violence against women and girls are integrated into U.S. Government assistance programs. This section authorizes the appropriation of \$15,000,000 for each of the fiscal years 2008–2012 to perform these office functions.

Sec. 300D. Advisory Commission on International Violence Against Women and Girls.—This section establishes an Advisory Commission on International Violence Against Women in the Department of State. The Advisory Commission will be composed of the Coordinator of Women’s Global Initiatives, the Director of the Women’s Global Development Office, eight members appointed by the President, three members appointed by the President pro tempore of the Senate, and three members appointed by the Speaker of the House of Representatives. Members will have expertise in the issue of violence against women and girls internationally and will include representatives of nongovernmental organizations (NGOs), and academics. This section authorizes the appropriation of \$300,000 for each of fiscal years 2008–2012 to carry out the Commission’s activities.

Sec. 102. Policy and Programs.—This section adds the new subtitle: “Subtitle B—Policy and Programs”.

Sec. 300G. Comprehensive International Strategy to Reduce and Prevent Violence Against Women and Girls.—This section mandates the President, with the assistance of the Coordinator of Women’s Global Initiatives and the Director of the Women’s Global Development Office, within one year of the enactment of the Act, to submit to Congress a 5-year, comprehensive strategy to combat violence against women internationally.

The strategy will identify 10–20 low to middle income countries that have severe levels of gender-based violence. The strategy will describe the violence problems in each country and how the domestic and/or sexual violence is preventing sustainable progress in meeting humanitarian and/or development goals. The strategy will assess each country’s capacity for change and the necessary collaboration. For each country, the strategy will describe two or more new programs that will be implemented to address the gender-based violence. The strategy will explain the coordination with existing country programs, experts and organizations and will identify what U.S. government agencies will be involved for each country initiative. Finally, the strategy mandates monitoring, assessment and accountability mechanisms for each country’s programs.

As mentioned, the strategy will designate two or more programs to be implemented in each of the selected countries. This section sets forth a menu of possible, new gender-based violence program activities within five different sectors—legal reform and judicial protection, health care initiatives, public awareness campaigns, economic improvements and increasing educational opportunities.

Sec. 300H. Assistance to Reduce Violence Against Women and Girls Internationally.—This section authorizes the Coordinator to incorporate measures combating violence against women into existing acts and government legislation. It gives the Coordinator authority to provide annually \$175 million of new funding to federal agencies, NGOs, community-based organizations, foreign governments, and multilateral institutions seeking to prevent and to reduce violence against women through the activities described in the international strategy.

Sec. 300I. Annual Report on International Violence Against Women and Girls.—This section determines that, not more than one year after the enactment of this Act, the Secretary, with the assistance of the Coordinator and the Director, will submit an annual report to Congress on the U.S. progress to end international violence against women and girls. The report will incorporate the comprehensive international strategy and detail the progress of the grant programs, the collaboration with multinational organizations, the training administered to humanitarian and military forces on gender-based violence, and the status of best practices developed to address the violence. This section authorizes the appropriation of \$2,500,000 for the year 2008 and \$500,000 for each of fiscal years 2009–2012 to generate the report.

Sec. 300J. Data Collection, Research, Monitoring, and Evaluation.—This section states that the Coordinator, with the assistance of the Administrator of USAID and the Director of the Women’s Global Development Office, is responsible for researching, collecting, monitoring, and evaluating data on the effectiveness of programs designed as part of the global strategy to address violence against women and girls. Funds will be used to conduct national surveys and original research, and to monitor the effectiveness of new and existing programs. This section authorizes the appropriation of \$20,000,000 to carry out the activities listed.

Sec. 300K. Enhancing United States Training of Foreign Military and Police Forces on Violence Against Women and Girls.—This section mandates that the Secretary of State and the Secretary of Defense report to Congress on efforts to incorporate instruction on preventing and responding to violence against women and girls in all basic training curricula of foreign military and police forces and judicial officials, and that such training shall be a component of all U.S. as-

sistance to regional or multilateral peacekeeping units. Under this section, \$8,000,000 is authorized for each of fiscal years 2008–2012 to carry out such training activities.

Sec. 300L. Addressing Violence Against Women and Girls in Humanitarian Relief, Peacekeeping, Conflict, and Post-Conflict Operations.—This section increases the ability of the United States Agency for International Development, the Department of State and the Department of Defense to prevent and address violence against women and girls in humanitarian relief, peacekeeping, conflict and post-conflict operations.

Programs and grantee training.—Under this section, the Secretary of State and Administrator of USAID shall include programs to prevent and respond to violence against women and girls in all humanitarian relief, conflict, and post-conflict operations under their authority. There is authorized to be appropriated \$40,000,000 for each of fiscal years 2008–2012 to carry out such activities.

The Secretary of State and Administrator of USAID shall also require that all grantees that are deployed in such operations comply with the Inter-Agency Standing Committee Guidelines for Gender-Based Violence, and train all humanitarian workers in preventing and responding to violence against women and girls. Such training shall include the use of mechanisms to report violence against women and girls. Grantees shall be required to conduct public outreach campaigns to make known to the host community the mechanisms to report incidents of violence against women and girls, promptly respond to reports of such violence, and treat survivors confidentially.

Disaster Assistance Response Teams (DARTS).—This section also mandates that the Administrator of USAID deploy, as appropriate, protection officers as part of Disaster Assistance Response Teams (DART) to implement programs to prevent and address violence against women and girls.

State Department Report on Private Military Contractors and DDR efforts.—Under this section, the Secretary of State is required to submit a report outlining the Department’s efforts to require that all private military contracting firms hired for humanitarian relief, conflict, and post-conflict operations demonstrate a commitment to expanding the number and role of women, and train all contractors in preventing and responding to violence against women and girls, including in the use of mechanisms to report such violence.

The report shall also include information on the Department’s efforts to establish programs to assist women and girls as part of any multilateral or bilateral Disarmament, Demobilization, Rehabilitation and Reintegration [DDRR] programs.

Emergency Measures to respond to violence in Armed Conflict.—This section requires the Secretary of State to take emergency measures to identify and respond to “critical outbreaks” of violence against women and girls being used as a weapon of intimidation and abuse in situations of conflict and war, and shall notify Congress with a description, including bilateral and multilateral efforts with the government in which the violence is occurring, and governments of the surrounding region.

Department of Defense Training.—This section requires the Secretary of Defense to provide training in preventing and responding to violence against civilian women and girls to all United States military personnel and contractors who will be deployed to humanitarian relief, conflict, and post-conflict operations. The training must include mechanisms for reporting incidences of violence, as well as public outreach to make known to the civilian population the mechanisms.

Sense of the Senate Concerning U.N. Peacekeepers.—This section expresses the Sense of the Senate that the UN Secretary General should strengthen the United Nations' capability to prevent and respond to violence against civilian women and girls by United Nations Peacekeepers.

Sec. 104. Inclusion of Information on Violence Against Women and Girls in Human Rights Reports.—This section amends Section 116(d) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151n) to include a description of the nature and extent of violence against women in the Department of State's annual Human Rights Report.

TITLE II: OTHER PROVISIONS

Sec. 201. Amendments to Foreign Service Act of 1980.—This section amends Section 405 of the Foreign Service Act of 1980 (22 U.S.C. 3965) to provide that service in the promotion of human rights, including the rights of women and girls, will serve as a basis for performance pay.

Sec. 212. Training for Foreign Service Officers.—This section amends Chapter 2 of title I of the Foreign Service Act of 1980 to provide for training for foreign service officers on international violence against women.

Sec. 202. Support For Multilateral Efforts to End Violence Against Women and Girls.—This section authorizes the appropriation of \$5,000,000 for each of fiscal years 2008–2012 to the United Nations Development Fund for Women (UNIFEM) Trust Fund in Support of Actions to Eliminate Violence Against Women.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 361—TO PERMIT THE COLLECTION OF DONATIONS IN SENATE BUILDINGS TO BE SENT TO UNITED STATES MILITARY PERSONNEL ON ACTIVE DUTY OVERSEAS PARTICIPATING IN OR IN SUPPORT OF OPERATION IRAQI FREEDOM, OPERATION ENDURING FREEDOM, AND THE WAR ON TERRORISM

Mr. McCONNELL (for himself, Mr. REID, and Mr. BENNETT) submitted the following resolution; which was considered and agreed to:

S. RES. 361

Resolved,

SECTION 1. COLLECTION OF DONATIONS TO UNITED STATES MILITARY PERSONNEL.

(a) IN GENERAL.—Notwithstanding any other provision of the rules or regulations of the Senate—

(1) a Senator, officer, or employee of the Senate may collect from another Senator, officer, or employee of the Senate within Senate buildings nonmonetary donations to be sent to United States military personnel on active duty overseas participating in or in support of Operation Iraqi Freedom, Operation Enduring Freedom, and the war on terrorism; and

(2) a Senator, officer, or employee of the Senate may work with a nonprofit organization with respect to the delivery of donations that are collected as described in paragraph (1).

(b) EFFECTIVE PERIOD.—This resolution shall be in effect until December 31, 2007.

SENATE RESOLUTION 362—RECOGNIZING 2007 AS THE YEAR OF THE 100TH ANNIVERSARY OF THE AMERICAN SOCIETY OF AGRONOMY

Mr. HARKIN (for himself and Mr. CHAMBLISS) submitted the following resolution; which was considered and agreed to:

S. RES. 362

Whereas the American Society of Agronomy was founded on December 31, 1907, with Mark A. Carleton as the first President of the Society;

Whereas the American Society of Agronomy is one of the premier scientific societies in the world, as demonstrated by first-class journals, international and regional meetings, and development of a broad range of educational opportunities;

Whereas the science and scholarship of the American Society of Agronomy are mission-directed, and seek to foster exploration and application of agronomic science, with the goal of increasing and disseminating knowledge concerning the nature, use, improvement, and interrelationships of plants, soil, water, and the environment;

Whereas the American Society of Agronomy strives to obtain that goal by promoting effective research, disseminating scientific information, facilitating technology transfer, fostering high standards of education, striving to maintain high standards of ethics, promoting advancements in the agronomy profession, and cooperating with other organizations with similar objectives;

Whereas the American Society of Agronomy significantly contributes to the scientific and technical knowledge necessary to protect and sustain natural resources in the United States;

Whereas the American Society of Agronomy has a critical international role in developing sustainable agricultural management standards for the protection of land resources;

Whereas the mission of the American Society of Agronomy continues to expand, from the development of sustainable production of food, fiber, and forage, to the production of renewable energy and biobased industrial products;

Whereas the American Society of Agronomy certifies a body of professional Certified Crop Advisors and Certified Professional Agronomists who work closely with agricultural producers to develop nutrient management plans that are designed to minimize environmental risk in production agriculture;

Whereas, in industry, extension, and basic research, the American Society of Agronomy has fostered a dedicated professional and scientific community that, in 2007, includes more than 8,015 members and 13,015 certified crop advisor professionals; and

Whereas the American Society of Agronomy was the parent society that led to the formation of both the Crop Science Society of America and the Soil Science Society of America and later fostered the common overall management of these 3 related societies: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes 2007 as the 100th anniversary year of the American Society of Agronomy;

(2) commends the American Society of Agronomy for 100 years of dedicated service to advance the science and practice of agronomy; and

(3) acknowledges the promise of the American Society of Agronomy to continue to enrich the lives of all citizens, by improving stewardship of the environment, combating world hunger, and enhancing the quality of life for the next 100 years and beyond.

AMENDMENTS SUBMITTED AND PROPOSED

SA 3491. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill H.R. 3963, to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes; which was ordered to lie on the table.

SA 3492. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill H.R. 3963, supra; which was ordered to lie on the table.

SA 3493. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill H.R. 3963, supra; which was ordered to lie on the table.

SA 3494. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill H.R. 3963, supra; which was ordered to lie on the table.

SA 3495. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill H.R. 3963, supra; which was ordered to lie on the table.

SA 3496. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 3963, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 3491. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill H.R. 3963, to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE —HEALTH CARE CHOICE

SEC. 01. SHORT TITLE.

This title may be cited as "Health Care Choice Act of 2007".

SEC. 02. SPECIFICATION OF CONSTITUTIONAL AUTHORITY FOR ENACTMENT OF LAW.

This title is enacted pursuant to the power granted Congress under article I, section 8, clause 3, of the United States Constitution.

SEC. 03. FINDINGS.

Congress finds the following:

(1) The application of numerous and significant variations in State law impacts the ability of insurers to offer, and individuals to obtain, affordable individual health insurance coverage, thereby impeding commerce in individual health insurance coverage.

(2) Individual health insurance coverage is increasingly offered through the Internet, other electronic means, and by mail, all of which are inherently part of interstate commerce.

(3) In response to these issues, it is appropriate to encourage increased efficiency in the offering of individual health insurance coverage through a collaborative approach by the States in regulating this coverage.

(4) The establishment of risk-retention groups has provided a successful model for the sale of insurance across State lines, as the acts establishing those groups allow insurance to be sold in multiple States but regulated by a single State.

SEC. 04. COOPERATIVE GOVERNING OF INDIVIDUAL HEALTH INSURANCE COVERAGE.

(a) IN GENERAL.—Title XXVII of the Public Health Service Act (42 U.S.C. 300gg et seq.) is amended by adding at the end the following new part:

"PART D—COOPERATIVE GOVERNING OF INDIVIDUAL HEALTH INSURANCE COVERAGE"

"SEC. 2795. DEFINITIONS."

"In this part:

"(1) **PRIMARY STATE.**—The term 'primary State' means, with respect to individual health insurance coverage offered by a health insurance issuer, the State designated by the issuer as the State whose covered laws shall govern the health insurance issuer in the sale of such coverage under this part. An issuer, with respect to a particular policy, may only designate one such State as its primary State with respect to all such coverage it offers. Such an issuer may not change the designated primary State with respect to individual health insurance coverage once the policy is issued, except that such a change may be made upon renewal of the policy. With respect to such designated State, the issuer is deemed to be doing business in that State.

"(2) **SECONDARY STATE.**—The term 'secondary State' means, with respect to individual health insurance coverage offered by a health insurance issuer, any State that is not the primary State. In the case of a health insurance issuer that is selling a policy in, or to a resident of, a secondary State, the issuer is deemed to be doing business in that secondary State.

"(3) **HEALTH INSURANCE ISSUER.**—The term 'health insurance issuer' has the meaning given such term in section 2791(b)(2), except that such an issuer must be licensed in the primary State and be qualified to sell individual health insurance coverage in that State.

"(4) **INDIVIDUAL HEALTH INSURANCE COVERAGE.**—The term 'individual health insurance coverage' means health insurance coverage offered in the individual market, as defined in section 2791(e)(1).

"(5) **APPLICABLE STATE AUTHORITY.**—The term 'applicable State authority' means, with respect to a health insurance issuer in a State, the State insurance commissioner or official or officials designated by the State to enforce the requirements of this title for the State with respect to the issuer.

"(6) **HAZARDOUS FINANCIAL CONDITION.**—The term 'hazardous financial condition' means that, based on its present or reasonably anticipated financial condition, a health insurance issuer is unlikely to be able—

"(A) to meet obligations to policyholders with respect to known claims and reasonably anticipated claims; or

"(B) to pay other obligations in the normal course of business.

"(7) **COVERED LAWS.**—The term 'covered laws' means the laws, rules, regulations, agreements, and orders governing the insurance business pertaining to—

"(A) individual health insurance coverage issued by a health insurance issuer;

"(B) the offer, sale, and issuance of individual health insurance coverage to an individual; and

"(C) the provision to an individual in relation to individual health insurance coverage of—

"(i) health care and insurance related services;

"(ii) management, operations, and investment activities of a health insurance issuer; and

"(iii) loss control and claims administration for a health insurance issuer with respect to liability for which the issuer provides insurance.

"(8) **STATE.**—The term 'State' means only the 50 States and the District of Columbia.

"(9) **UNFAIR CLAIMS SETTLEMENT PRACTICES.**—The term 'unfair claims settlement practices' means only the following practices:

"(A) Knowingly misrepresenting to claimants and insured individuals relevant facts or policy provisions relating to coverage at issue.

"(B) Failing to acknowledge with reasonable promptness pertinent communications with respect to claims arising under policies.

"(C) Failing to adopt and implement reasonable standards for the prompt investigation and settlement of claims arising under policies.

"(D) Failing to effectuate prompt, fair, and equitable settlement of claims submitted in which liability has become reasonably clear.

"(E) Refusing to pay claims without conducting a reasonable investigation.

"(F) Failing to affirm or deny coverage of claims within a reasonable period of time after having completed an investigation related to those claims.

"(10) **FRAUD AND ABUSE.**—The term 'fraud and abuse' means an act or omission committed by a person who, knowingly and with intent to defraud, commits, or conceals any material information concerning, one or more of the following:

"(A) Presenting, causing to be presented or preparing with knowledge or belief that it will be presented to or by an insurer, a reinsurer, broker or its agent, false information as part of, in support of or concerning a fact material to one or more of the following:

"(i) An application for the issuance or renewal of an insurance policy or reinsurance contract.

"(ii) The rating of an insurance policy or reinsurance contract.

"(iii) A claim for payment or benefit pursuant to an insurance policy or reinsurance contract.

"(iv) Premiums paid on an insurance policy or reinsurance contract.

"(v) Payments made in accordance with the terms of an insurance policy or reinsurance contract.

"(vi) A document filed with the commissioner or the chief insurance regulatory official of another jurisdiction.

"(vii) The financial condition of an insurer or reinsurer.

"(viii) The formation, acquisition, merger, reconsolidation, dissolution or withdrawal from one or more lines of insurance or reinsurance in all or part of a State by an insurer or reinsurer.

"(ix) The issuance of written evidence of insurance.

"(x) The reinstatement of an insurance policy.

"(B) Solicitation or acceptance of new or renewal insurance risks on behalf of an insurer reinsurer or other person engaged in the business of insurance by a person who knows or should know that the insurer or other person responsible for the risk is insolvent at the time of the transaction.

"(C) Transaction of the business of insurance in violation of laws requiring a license, certificate of authority or other legal authority for the transaction of the business of insurance.

"(D) Attempt to commit, aiding or abetting in the commission of, or conspiracy to commit the acts or omissions specified in this paragraph.

"SEC. 2796. APPLICATION OF LAW."

"(a) **IN GENERAL.**—The covered laws of the primary State shall apply to individual health insurance coverage offered by a health insurance issuer in the primary State and in any secondary State, but only if the coverage and issuer comply with the conditions of this section with respect to the offering of coverage in any secondary State.

"(b) **EXEMPTIONS FROM COVERED LAWS IN A SECONDARY STATE.**—Except as provided in this section, a health insurance issuer with

respect to its offer, sale, renewal, and issuance of individual health insurance coverage in any secondary State is exempt from any covered laws of the secondary State (and any rules, regulations, agreements, or orders sought or issued by such State under or related to such covered laws) to the extent that such laws would—

"(1) make unlawful, or regulate, directly or indirectly, the operation of the health insurance issuer operating in the secondary State, except that any secondary State may require such an issuer—

"(A) to pay, on a nondiscriminatory basis, applicable premium and other taxes (including high risk pool assessments) which are levied on insurers and surplus lines insurers, brokers, or policyholders under the laws of the State;

"(B) to register with and designate the State insurance commissioner as its agent solely for the purpose of receiving service of legal documents or process;

"(C) to submit to an examination of its financial condition by the State insurance commissioner in any State in which the issuer is doing business to determine the issuer's financial condition, if—

"(i) the State insurance commissioner of the primary State has not done an examination within the period recommended by the National Association of Insurance Commissioners; and

"(ii) any such examination is conducted in accordance with the examiners' handbook of the National Association of Insurance Commissioners and is coordinated to avoid unjustified duplication and unjustified repetition;

"(D) to comply with a lawful order issued—

"(i) in a delinquency proceeding commenced by the State insurance commissioner if there has been a finding of financial impairment under subparagraph (C); or

"(ii) in a voluntary dissolution proceeding;

"(E) to comply with an injunction issued by a court of competent jurisdiction, upon a petition by the State insurance commissioner alleging that the issuer is in hazardous financial condition;

"(F) to participate, on a nondiscriminatory basis, in any insurance insolvency guaranty association or similar association to which a health insurance issuer in the State is required to belong;

"(G) to comply with any State law regarding fraud and abuse (as defined in section 2795(10)), except that if the State seeks an injunction regarding the conduct described in this subparagraph, such injunction must be obtained from a court of competent jurisdiction; or

"(H) to comply with any State law regarding unfair claims settlement practices (as defined in section 2795(9));

"(2) require any individual health insurance coverage issued by the issuer to be countersigned by an insurance agent or broker residing in that Secondary State; or

"(3) otherwise discriminate against the issuer issuing insurance in both the primary State and in any secondary State.

"(c) **CLEAR AND CONSPICUOUS DISCLOSURE.**—A health insurance issuer shall provide the following notice, in 12-point bold type, in any insurance coverage offered in a secondary State under this part by such a health insurance issuer and at renewal of the policy, with the 5 blank spaces therein being appropriately filled with the name of the health insurance issuer, the name of primary State, the name of the secondary State, the name of the secondary State, and the name of the secondary State, respectively, for the coverage concerned:

"This policy is issued by _____ and is governed by the laws and regulations of the State of _____, and it has met all the

laws of that State as determined by that State's Department of Insurance. This policy may be less expensive than others because it is not subject to all of the insurance laws and regulations of the State of _____, including coverage of some services or benefits mandated by the law of the State of _____. Additionally, this policy is not subject to all of the consumer protection laws or restrictions on rate changes of the State of _____. As with all insurance products, before purchasing this policy, you should carefully review the policy and determine what health care services the policy covers and what benefits it provides, including any exclusions, limitations, or conditions for such services or benefits.'

"(d) PROHIBITION ON CERTAIN RECLASSIFICATIONS AND PREMIUM INCREASES.—

"(1) IN GENERAL.—For purposes of this section, a health insurance issuer that provides individual health insurance coverage to an individual under this part in a primary or secondary State may not upon renewal—

"(A) move or reclassify the individual insured under the health insurance coverage from the class such individual is in at the time of issue of the contract based on the health-status related factors of the individual; or

"(B) increase the premiums assessed the individual for such coverage based on a health status-related factor or change of a health status-related factor or the past or prospective claim experience of the insured individual.

"(2) CONSTRUCTION.—Nothing in paragraph (1) shall be construed to prohibit a health insurance issuer—

"(A) from terminating or discontinuing coverage or a class of coverage in accordance with subsections (b) and (c) of section 2742;

"(B) from raising premium rates for all policy holders within a class based on claims experience;

"(C) from changing premiums or offering discounted premiums to individuals who engage in wellness activities at intervals prescribed by the issuer, if such premium changes or incentives—

"(i) are disclosed to the consumer in the insurance contract;

"(ii) are based on specific wellness activities that are not applicable to all individuals; and

"(iii) are not obtainable by all individuals to whom coverage is offered;

"(D) from reinstating lapsed coverage; or

"(E) from retroactively adjusting the rates charged an individual insured individual if the initial rates were set based on material misrepresentation by the individual at the time of issue.

"(e) PRIOR OFFERING OF POLICY IN PRIMARY STATE.—A health insurance issuer may not offer for sale individual health insurance coverage in a secondary State unless that coverage is currently offered for sale in the primary State.

"(f) LICENSING OF AGENTS OR BROKERS FOR HEALTH INSURANCE ISSUERS.—Any State may require that a person acting, or offering to act, as an agent or broker for a health insurance issuer with respect to the offering of individual health insurance coverage obtain a license from that State, except that a State may not impose any qualification or requirement which discriminates against a nonresident agent or broker.

"(g) DOCUMENTS FOR SUBMISSION TO STATE INSURANCE COMMISSIONER.—Each health insurance issuer issuing individual health insurance coverage in both primary and secondary States shall submit—

"(1) to the insurance commissioner of each State in which it intends to offer such coverage, before it may offer individual health insurance coverage in such State—

"(A) a copy of the plan of operation or feasibility study or any similar statement of the policy being offered and its coverage (which shall include the name of its primary State and its principal place of business);

"(B) written notice of any change in its designation of its primary State; and

"(C) written notice from the issuer of the issuer's compliance with all the laws of the primary State; and

"(2) to the insurance commissioner of each secondary State in which it offers individual health insurance coverage, a copy of the issuer's quarterly financial statement submitted to the primary State, which statement shall be certified by an independent public accountant and contain a statement of opinion on loss and loss adjustment expense reserves made by—

"(A) a member of the American Academy of Actuaries; or

"(B) a qualified loss reserve specialist.

"(h) POWER OF COURTS TO ENJOIN CONDUCT.—Nothing in this section shall be construed to affect the authority of any Federal or State court to enjoin—

"(1) the solicitation or sale of individual health insurance coverage by a health insurance issuer to any person or group who is not eligible for such insurance; or

"(2) the solicitation or sale of individual health insurance coverage by, or operation of, a health insurance issuer that is in hazardous financial condition.

"(i) STATE POWERS TO ENFORCE STATE LAWS.—

"(1) IN GENERAL.—Subject to the provisions of subsection (b)(1)(G) (relating to injunctions) and paragraph (2), nothing in this section shall be construed to affect the authority of any State to make use of any of its powers to enforce the laws of such State with respect to which a health insurance issuer is not exempt under subsection (b).

"(2) COURTS OF COMPETENT JURISDICTION.—If a State seeks an injunction regarding the conduct described in paragraphs (1) and (2) of subsection (h), such injunction must be obtained from a Federal or State court of competent jurisdiction.

"(j) STATES' AUTHORITY TO SUE.—Nothing in this section shall affect the authority of any State to bring action in any Federal or State court.

"(k) GENERALLY APPLICABLE LAWS.—Nothing in this section shall be construed to affect the applicability of State laws generally applicable to persons or corporations.

"SEC. 2797. PRIMARY STATE MUST MEET FEDERAL FLOOR BEFORE ISSUER MAY SELL INTO SECONDARY STATES.

"A health insurance issuer may not offer, sell, or issue individual health insurance coverage in a secondary State if the primary State does not meet the following requirements:

"(1) The State insurance commissioner must use a risk-based capital formula for the determination of capital and surplus requirements for all health insurance issuers.

"(2) The State must have legislation or regulations in place establishing an independent review process for individuals who are covered by individual health insurance coverage unless the issuer provides an independent review mechanism functionally equivalent (as determined by the primary State insurance commissioner or official) to that prescribed in the 'Health Carrier External Review Model Act' of the National Association of Insurance Commissioners for all individuals who purchase insurance coverage under the terms of this part.

"SEC. 2798. ENFORCEMENT.

"(a) IN GENERAL.—Subject to subsection (b), with respect to specific individual health insurance coverage the primary State for

such coverage has sole jurisdiction to enforce the primary State's covered laws in the primary State and any secondary State.

"(b) SECONDARY STATE'S AUTHORITY.—Nothing in subsection (a) shall be construed to affect the authority of a secondary State to enforce its laws as set forth in the exception specified in section 2796(b)(1).

"(c) COURT INTERPRETATION.—In reviewing action initiated by the applicable secondary State authority, the court of competent jurisdiction shall apply the covered laws of the primary State.

"(d) NOTICE OF COMPLIANCE FAILURE.—In the case of individual health insurance coverage offered in a secondary State that fails to comply with the covered laws of the primary State, the applicable State authority of the secondary State may notify the applicable State authority of the primary State."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to individual health insurance coverage offered, issued, or sold after the date of the enactment of this Act.

SEC. 05. SEVERABILITY.

If any provision of the title or the application of such provision to any person or circumstance is held to be unconstitutional, the remainder of this title and the application of the provisions of such to any other person or circumstance shall not be affected.

SA 3492. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill H.R. 3963, to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle C of title VI, add the following:

SEC. ____ . ABOVE-THE-LINE DEDUCTION FOR HEALTH INSURANCE PREMIUMS AND OUT-OF-POCKET EXPENSES.

(a) IN GENERAL.—Section 62(a) of the Internal Revenue Code of 1986 (defining adjusted gross income) is amended by inserting after paragraph (21) the following new paragraph:

"(22) HEALTH INSURANCE PAYMENTS.—

"(A) IN GENERAL.—Any amount allowable as a deduction under section 213 (determined without regard to any income limitation under subsection (a) thereof) by reason of subsection (d)(1)(D) thereof for qualified health insurance and for any deductible and other out-of-pocket expenses required to be paid under such insurance.

"(B) QUALIFIED HEALTH INSURANCE.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'qualified health insurance' means insurance which constitutes medical care as defined in section 213(d) without regard to—

"(I) paragraph (1)(C) thereof, and

"(II) so much of paragraph (1)(D) thereof as relates to qualified long-term care insurance contracts.

"(ii) EXCLUSION OF CERTAIN OTHER CONTRACTS.—Such term shall not include insurance if a substantial portion of its benefits are excepted benefits (as defined in section 9832(c))."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2007.

SEC. ____ . USE OF HEALTH SAVINGS ACCOUNTS FOR NON-GROUP HIGH DEDUCTIBLE HEALTH PLAN PREMIUMS.

(a) IN GENERAL.—Section 223(d)(2)(C) of the Internal Revenue Code of 1986 (relating to exceptions) is amended by striking "or" at the end of clause (iii), by striking the period at the end of clause (iv) and inserting " , or",

and by adding at the end the following new clause:

“(v) a high deductible health plan, other than a group health plan (as defined in section 5000(b)(1)).”.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to taxable years beginning after December 31, 2007.

SEC. ____ . CLARIFICATION OF DEFINITION OF GROUP HEALTH PLAN UNDER HIPAA.

(a) **ERISA.**—Section 733(a)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1191b(a)(1)) is amended by adding at the end the following: “Such term does not include an arrangement maintained by an employer the sole effect of which is to provide reimbursement to employees for the purchase by such employees of health insurance coverage offered in the individual market (as defined in section 2791(e)(1)) of the Public Health Service Act), notwithstanding that the employer or an employee organization negotiates the cost or benefits of the arrangement.”.

(b) **PHSA.**—Section 2791(a)(1) of the Public Health Service Act (42 U.S.C. 300gg–91(a)(1)) is amended by adding at the end the following: “Such term does not include an arrangement maintained by an employer the sole effect of which is to provide reimbursement to employees for the purchase by such employees of health insurance coverage offered in the individual market, notwithstanding that the employer or an employee organization negotiates the cost or benefits of the arrangement.”.

(c) **IRC.**—Section 9832(a) of the Internal Revenue Code of 1986 (relating to definitions) is amended by inserting before the period the following: “, except that such term does not include an arrangement maintained by an employer the sole effect of which is to provide reimbursement to employees for the purchase by such employees of health insurance coverage offered in the individual market (as defined in section 2791(e)(1)) of the Public Health Service Act), notwithstanding that the employer or an employee organization negotiates the cost or benefits of the arrangement.”.

(d) **EFFECTIVE DATE.**—The amendments made by this section shall apply to plan years beginning after December 31, 2007.

SA 3493. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill H.R. 3963, to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 114 and insert the following:

SEC. 114. DENIAL OF PAYMENTS FOR EXPENDITURES FOR CHILD HEALTH ASSISTANCE FOR CHILDREN WHOSE FAMILY INCOME EXCEEDS 300 PERCENT OF THE POVERTY LINE.

(a) **IN GENERAL.**—Section 2105(c) (42 U.S.C. 1397ee(c)) is amended by adding at the end the following new paragraph:

“(8) **DENIAL OF PAYMENTS FOR EXPENDITURES FOR CHILD HEALTH ASSISTANCE FOR CHILDREN WHOSE FAMILY INCOME EXCEEDS 300 PERCENT OF THE POVERTY LINE.**—

“(A) **IN GENERAL.**—For child health assistance furnished after the date of the enactment of this paragraph, no payment shall be made under this section for any expenditures for providing child health assistance or health benefits coverage for a targeted low-income child whose family income exceeds 300 percent of the poverty line.

“(B) **DETERMINATION OF FAMILY INCOME.**—In determining family income under this title (including in the case of a State child health

plan that provides health benefits coverage in the manner described in section 2101(a)(2)), a State shall base such determination on gross income (including amounts that would be included in gross income if they were not exempt from income taxation).”.

(b) **PROHIBITION ON WAIVER OF REQUIREMENTS.**—Section 2107(f) (42 U.S.C. 1397gg(f)), as amended by section 112(a)(2)(A), is amended by adding at the end the following new paragraph:

“(3) The Secretary may not approve a waiver, experimental, pilot, or demonstration project with respect to a State after the date of enactment of the Children's Health Insurance Program Reauthorization Act of 2007 that would waive or modify the requirements of section 2105(c)(8) (relating to denial of payments for expenditures for child health assistance for children whose family income exceeds 300 percent of the poverty line).”.

SA 3494. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill H.R. 3963, to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes; which was ordered to lie on the table; as follows:

On page 281, between lines 16 and 17, insert the following:

SEC. ____ . POINT OF ORDER AGAINST LEGISLATION THAT RESULTS IN A TAKEOVER OF HEALTH CARE COVERAGE BY THE FEDERAL GOVERNMENT.

Title III of the Congressional Budget Act of 1974 is amended by adding at the end the following new section:

“POINT OF ORDER AGAINST LEGISLATION THAT RESULTS IN A TAKEOVER OF HEALTH CARE COVERAGE BY THE FEDERAL GOVERNMENT

“SEC. 316. (a)(1) **IN GENERAL.**—It shall not be in order in the Senate to consider any bill, resolution, amendment, amendment between Houses, motion, or conference report that—

“(A) imposes Federal Government mandates that reduce the number of Americans covered by private health insurance;

“(B) mandates through Federal law that any employer contributions or private wages that currently fund private health care coverage go to a Federally-run program for health care coverage; or

“(C) displaces the number of individuals in private health care coverage through an expansion or creation of a health care system run by the Federal Government by more than 5 percent of the total number of individuals affected by the expansion or creation of any such system.

“(2) **DETERMINATIONS.**—All determinations required by this subsection shall be made by the Congressional Budget Office.

“(b) **SUPERMAJORITY WAIVER AND APPEAL.**—

“(1) **WAIVER.**—This section may be waived or suspended in the Senate only by an affirmative vote of three-fifths of the Members, duly chosen and sworn.

“(2) **APPEAL.**—An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under this section.”.

SA 3495. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill H.R. 3963, to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 613.

SA 3496. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 3963, to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes; which was ordered to lie on the table; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Children's Health Care First Act”.

SEC. 2. PROHIBITION ON FUNDING CONGRESSIONAL EARMARKS UNTIL ALL UNITED STATES CHILDREN HAVE OPTIMAL HEALTH INSURANCE.

Notwithstanding any other provision of law, the Secretary of Health and Human Services shall not allocate or make payments from any funds appropriated for congressionally directed spending items (as such term is defined for purposes of paragraph 5(d) of rule XLIV of the Standing Rules of the Senate) for fiscal year 2008 or any succeeding fiscal year until on or after the date on which the Secretary of Health and Human Services certifies to Congress that all children in the United States have optimal health insurance.

SEC. 3. TRANSFER OF EARMARK FUNDS TO SCHIP.

Notwithstanding any other provision of law, any funds appropriated to the Secretary of Health and Human Services or the Department of Health and Human Services for congressionally directed spending items (as such term is defined for purposes of paragraph 5(d) of rule XLIV of the Standing Rules of the Senate) for fiscal year 2008 or any succeeding fiscal year are hereby transferred and made available for providing allotments to States under section 2104 of the Social Security Act (42 U.S.C. 1397dd) until on or after the date described in section 2.

SEC. 4. ANNUAL REPORT ON NUMBER OF CHILDREN PROVIDED HEALTH INSURANCE THROUGH TRANSFERRED EARMARK FUNDS.

Beginning January 1, 2008, and annually thereafter until on or after the date described in section 2, the Secretary of Health and Human Services shall submit a report to Congress on the number of children who are provided child health assistance under a State child health plan under title XXI of the Social Security Act through funds transferred and made available under section 3 for providing allotments to States under section 2104 of such Act.

AUTHORITY FOR COMMITTEES TO MEET

AD HOC SUBCOMMITTEE ON DISASTER RECOVERY

Mr. DORGAN. Mr. President, I ask unanimous consent that the Ad Hoc Subcommittee on Disaster Recovery of the Committee on Homeland Security and Governmental Affairs be authorized to meet during the session of the Senate on Wednesday, October 31, 2007, at 2:30 p.m. in order to conduct a hearing entitled, “Post-Catastrophe Crisis: Addressing the Dramatic Need and Scant Availability of Mental Health Care in the Gulf Coast.”

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. DORGAN. 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 October 31, 2007, at 2:30 p.m., in order to conduct a hearing entitled "Climate Disclosure: Measuring Financial Risks and Opportunities."

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

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. DORGAN. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet during the session of the Senate on Wednesday, October 31, 2007 at 10 a.m. in room 406 of the Dirksen Senate Office Building, in order to conduct a hearing entitled, "Examination of the Licensing Process for the Yucca Mountain Repository."

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

COMMITTEE ON FOREIGN RELATIONS

Mr. DORGAN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, October 31, 2007, at 11 a.m. in order to hold a business meeting.

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

COMMITTEE ON THE JUDICIARY

Mr. DORGAN. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet, during the session of the Senate, in order to conduct a hearing entitled "FISA Amendments: How to Protect America's Security and Privacy and Preserve the Rule of Law and Government Accountability" on Wednesday, October 31, 2007. The hearing will commence at 10 a.m. in room 226 of the Dirksen Senate Office Building.

Witness list

Panel I: Kenneth L. Wainstein, Assistant Attorney General, National Security Division, U.S. Department of Justice.

Panel II: Edward Black, President and CEO, Computer & Communications Industry Association, Washington, DC; Patrick F. Philbin, Partner, Kirkland & Ellis, Washington, DC; Morton H. Halperin, Director of U.S. Advocacy, Open Society Institute, Washington, DC.

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

COMMITTEE ON VETERANS' AFFAIRS

Mr. DORGAN. Mr. President, I ask unanimous consent for the Committee on Veterans' Affairs to be authorized to meet during the session of the Senate on Wednesday, October 31, 2007, in order to conduct a hearing on the Uniformed Services Employment and Reemployment Rights Act. The Committee will meet in room SD-562 of the

Dirksen Senate Office Building, at 9:30 a.m.

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

PERMITTING COLLECTION OF DONATIONS IN SENATE BUILDINGS TO BE SENT TO MILITARY PERSONNEL

Mrs. MURRAY. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of S. Res. 361, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 361) to permit the collection of donations in Senate buildings to be sent to United States military personnel on active duty overseas participating in or in support of Operation Iraqi Freedom, Operation Enduring Freedom, and the war on terrorism.

There being no objection, the Senate proceeded to consider the resolution.

Mrs. MURRAY. Mr. President, I ask unanimous consent that the resolution be agreed to, and the motion to reconsider be laid upon the table.

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

The resolution (S. Res. 361) was agreed to, as follows:

S. RES. 361

Resolved,

SECTION 1. COLLECTION OF DONATIONS TO UNITED STATES MILITARY PERSONNEL.

(a) IN GENERAL.—Notwithstanding any other provision of the rules or regulations of the Senate—

(1) a Senator, officer, or employee of the Senate may collect from another Senator, officer, or employee of the Senate within Senate buildings nonmonetary donations to be sent to United States military personnel on active duty overseas participating in or in support of Operation Iraqi Freedom, Operation Enduring Freedom, and the war on terrorism; and

(2) a Senator, officer, or employee of the Senate may work with a nonprofit organization with respect to the delivery of donations that are collected as described in paragraph (1).

(b) EFFECTIVE PERIOD.—This resolution shall be in effect until December 31, 2007.

RECOGNIZING 2007 AS THE YEAR OF THE 100TH ANNIVERSARY OF THE AMERICAN SOCIETY OF AGRONOMY

Mrs. MURRAY. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 362, submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 362) recognizing 2007 as the year of the 100th anniversary of the American Society of Agronomy.

There being no objection, the Senate proceeded to consider the resolution.

Mrs. MURRAY. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and motions to reconsider be laid upon the table en bloc; that any statements relating thereto be printed in the RECORD.

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

The resolution (S. Res. 362) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 362

Whereas the American Society of Agronomy was founded on December 31, 1907, with Mark A. Carleton as the first President of the Society;

Whereas the American Society of Agronomy is one of the premier scientific societies in the world, as demonstrated by first-class journals, international and regional meetings, and development of a broad range of educational opportunities;

Whereas the science and scholarship of the American Society of Agronomy are mission-directed, and seek to foster exploration and application of agronomic science, with the goal of increasing and disseminating knowledge concerning the nature, use, improvement, and interrelationships of plants, soil, water, and the environment;

Whereas the American Society of Agronomy strives to obtain that goal by promoting effective research, disseminating scientific information, facilitating technology transfer, fostering high standards of education, striving to maintain high standards of ethics, promoting advancements in the agronomy profession, and cooperating with other organizations with similar objectives;

Whereas the American Society of Agronomy significantly contributes to the scientific and technical knowledge necessary to protect and sustain natural resources in the United States;

Whereas the American Society of Agronomy has a critical international role in developing sustainable agricultural management standards for the protection of land resources;

Whereas the mission of the American Society of Agronomy continues to expand, from the development of sustainable production of food, fiber, and forage, to the production of renewable energy and biobased industrial products;

Whereas the American Society of Agronomy certifies a body of professional Certified Crop Advisors and Certified Professional Agronomists who work closely with agricultural producers to develop nutrient management plans that are designed to minimize environmental risk in production agriculture;

Whereas, in industry, extension, and basic research, the American Society of Agronomy has fostered a dedicated professional and scientific community that, in 2007, includes more than 8,015 members and 13,015 certified crop advisor professionals; and

Whereas the American Society of Agronomy was the parent society that led to the formation of both the Crop Science Society of America and the Soil Science Society of America and later fostered the common overall management of these 3 related societies: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes 2007 as the 100th anniversary year of the American Society of Agronomy;

(2) commends the American Society of Agronomy for 100 years of dedicated service to advance the science and practice of agronomy; and

(3) acknowledges the promise of the American Society of Agronomy to continue to enrich the lives of all citizens, by improving stewardship of the environment, combating world hunger, and enhancing the quality of life for the next 100 years and beyond.

DESIGNATING THE DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER IN AUGUSTA, GEORGIA, AS THE "CHARLIE NORWOOD DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER"

Mrs. MURRAY. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be discharged from further consideration of H.R. 1808, and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection it is so ordered. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 1808) to designate the Department of Veterans Affairs Medical Center in Augusta, Georgia, as the "Charlie Norwood Department of Veterans Affairs Medical Center."

There being no objection, the Senate proceeded to consider the bill.

Mrs. MURRAY. Mr. President, I ask unanimous consent that the bill 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 bill (H.R. 1808) was ordered to a third reading, was read the third time, and passed.

RECOGNIZING THE NAVY SEALS MUSEUM IN FORT PIERCE, FLORIDA

Mrs. MURRAY. Mr. President, I ask unanimous consent that the Armed Services Committee be discharged from further consideration of H.R. 2779 and the Senate then proceed to its consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will state the bill by title.

The legislative clerk read as follows:

A bill (H.R. 2779) to recognize the Navy UDT-SEAL Museum in Fort Pierce, FL, as the official national museum of Navy SEALs and their predecessors.

There being no objection, the Senate proceeded to consider the bill.

Mrs. MURRAY. Mr. President, I ask unanimous consent that the bill be read the third time, passed, and the motion to reconsider be laid upon the table; that any statements relating thereto be printed in the RECORD.

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

The bill (H.R. 2779) was ordered to a third reading, was read the third time, and passed.

ORDERS FOR THURSDAY,
NOVEMBER 1, 2007

Mrs. MURRAY. Mr. President, I ask unanimous consent that when the Sen-

ate completes its business today, it stand adjourned until 10 a.m., Thursday, November 1; that on Thursday, following the prayer and the pledge, the Journal of proceedings be approved to date, the morning hour be deemed to have expired, the time for the two leaders be reserved for their use later in the day; that there then be a period of morning business for 60 minutes, with Senators permitted to speak therein for up to 10 minutes each, with the time equally divided and controlled, with Republicans controlling the first half and the majority controlling the final half; that following morning business, the Senate resume consideration of the motion to proceed to H.R. 3963, the CHIP legislation; further, that all time consumed in morning business during today's session and tomorrow, as well as the time during the adjournment, count postcloture.

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

ADJOURNMENT UNTIL 10 A.M.
TOMORROW

Mrs. MURRAY. Mr. President, if there is no further business, I ask unanimous consent that the Senate stand adjourned under the previous order.

There being no objection, the Senate, at 5:49 p.m., adjourned until Thursday, November 1, 2007, at 10 a.m.