



United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 110th CONGRESS, FIRST SESSION

Vol. 153

WASHINGTON, MONDAY, OCTOBER 22, 2007

No. 160

Senate

The Senate met at 2 p.m. and was called to order by the Honorable JIM WEBB, a Senator from the State of Virginia.

PRAYER

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

Let us pray.

Lord God Almighty, maker of Heaven and Earth, thank You for not leaving us solely to our own resources. You have provided us with the witness of nature and the testimony of sacred scriptures to lead us toward certainty. You protect us from dangers and empower us to run and not grow weary.

Strengthen our lawmakers for today's work. Lead them through these confused and troubled times to the road that fulfills Your plans. Bless them with productivity and progress for Your glory. Lord, help them learn how to better serve You by serving others. Fill this Chamber with Your presence and our Senators with supernatural power to discern and do Your will. Enable them to live out their lives in the spirit of unselfish service.

We pray in Your loving Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JIM WEBB led the Pledge of Allegiance, as follows:

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The assistant clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, October 22, 2007.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JIM WEBB, a Senator from the State of Virginia, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. WEBB 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 following the remarks of the two leaders, the Senate will conduct a period of morning business for 1 hour. The time in morning business will be equally divided and controlled between the leaders or their designees. The Senate will then resume the Labor appropriations bill.

ORDER OF PROCEDURE

I ask unanimous consent that after the morning business time has expired, whatever time Senator MCCONNELL and I may use will not be deemed to go against the morning business for other Senators.

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

Mr. REID. Mr. President, last Friday there was a 1 p.m. filing deadline for first-degree amendments to the bill. Today we should have a good idea of which amendments will be offered and will require rollcall votes. The Senate will vote today at 5:30 and there could be more than one rollcall vote. We will complete action on this bill tomorrow morning, so Members should be pre-

pared to cast a number of votes prior to the Senate recessing for the caucus luncheons on Tuesday.

I have had my staff check with the managers of the bill and their staffs, and there could be anywhere from one to five votes tonight. It is up to the managers of this bill. Senators will be advised of that at some subsequent time.

I note the absence of a quorum.

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

The assistant legislative clerk proceeded to call the roll.

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

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

CHILDREN'S HEALTH CARE AND FISA

Mr. REID. Mr. President, I am so pleased the Presiding Officer is the junior Senator from the State of Virginia. I don't believe there is a Senator during these last 9 months who has added more structure to the Iraq debate than the Senator from Virginia. I say that because today I received a call from the Director of the Office of Management and Budget, Mr. Nussle, who said: I am going to send you the rest of the supplemental appropriations bill for the war in Iraq. I said: Thank you very much.

We are now being asked to appropriate another \$200 billion for 2008 for the war in Iraq. Another \$200 billion. That is \$200 billion on top of the \$450 billion in the Defense appropriations bill. That is \$650 billion—none of it paid for. The entire war in Iraq has been paid for with borrowed money. We are borrowing money from China, India, Saudi Arabia, Japan, and Mexico to finance this war.

When we sent a bipartisan—and I mean bipartisan—children's health

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



Printed on recycled paper.

S13169

care bill to the President, it was paid for. It was bipartisan. We had some of the most conservative Members of the Senate supporting the Children's Health Initiative. Senator GRASSLEY from Iowa, Senator HATCH from Utah were the leaders, two of the leaders in moving this forward, a bill to provide health care for kids.

It was so important when this bill passed 10 years ago on a bipartisan basis, children's health. Why did it pass? Because we found there were children who did not qualify for Medicaid. The poorest of the poor get Medicaid. We found there were a number of children whose parents didn't make much money—100 percent of poverty, 200 percent of poverty. Therefore, we passed a bill for these children who had fallen through the cracks so they would be able to have some health insurance. Did it cover all children? No. But it covered a lot of the children who needed help. By the time 10 years had gone by, 6½ million children were covered.

This bipartisan, bicameral piece of legislation that passed here would provide for another 4.4 million children, for a total of 10 million children who would qualify for this program. Ninety-two percent of the children were on this program when the President vetoed it. Ninety-two percent of them were 200 percent above poverty. How much is that? It is debatable how much it is but about \$35,000. How would parents with two children pay for health insurance? The average cost of health insurance for a family of 4 is \$1,500 a month, \$18,000 a year for health insurance for their children. When they only make \$35,000 a year, half of their income would go for health insurance. There would be no money left for groceries. Also, they have to pay taxes, fuel costs, a place to live. So this is the group of people whom Congress decided to help.

What did the President and his people do? They came back and said it is a socialized medicine program. I don't know what that was supposed to mean, because the program is private insurance. The States issue the amount of money they have to health insurance companies, and the kids who are covered are privately insured there. The President is so far off base. He and his people also said one of the Congressmen from Nevada agreed with the President, and he couldn't support this because it helped illegal aliens. That is factually baseless, meaning not 1 percent of that statement is correct. In fact, in the legislation that was vetoed by the President, a child who is an immigrant would have to have been legally in the United States for 5 years before they qualified. Therefore, the program would not even cover legal immigrants, unless they have been here 5 years. It was totally paid for, unlike the Iraq war. It was all paid for.

Because of the President's hard-heartedness, in the State of Nevada, far more than 100,000 will be eliminated from the program.

The first elected job I had in the State of Nevada was for a county hospital, an indigent hospital, frankly. One of the problems we had was children who were uninsured. It is still that way. It is still that way. This is a program that would allow children who are sick or injured to go to a hospital—that hospital, the one where I was, now the University Medical Center—and the children's bills would be paid for by an insurance company. If not, those children who have no insurance come to the facility, and who pays for that? You do. I do. Everybody in this room pays for it, because their health insurance costs more money because of indigent care. Taxes are raised to take care of indigents' health care. Insurance premiums are raised to take care of all this. It affects us all. It is a very poor quality of care.

The President had the audacity to say not long ago that everybody has insurance, in effect. They can go to an emergency room if they are sick. The most inadequate care is administered in emergency rooms because it is not set up to be the family physician.

Every dime of the money for the Children's Health Initiative was paid for. It is no wonder the American people are frustrated. We have been fighting for America's priorities while the President continues investing only in his failed war strategy, and he wants us to come up with another \$200 billion and sign off on it. That is what he said today. He gave his press statement today and he said: Those people who won't sign off on this bill immediately are not for the troops in Iraq. Isn't this getting to be a little old? Pretty soon we will be approaching the sixth year of this.

This war is costing the American people three-quarters of a trillion dollars, money borrowed from other countries. This is so even as his own Pentagon leadership is now on record saying our ground forces are stretched dangerously thin because of the current Iraq strategy. GEN Casey told Congress very recently:

The Army is out of balance and the current demand for our forces exceeds the sustainable supply. We are consumed with meeting the demands of the current fight and are unable to provide ready forces as rapidly as necessary for other potential contingencies.

This is the man who is in charge of the Army, the Secretary of the Army. He takes care of the Army. He is the commander of the Army. I don't remember the title; I have lost it momentarily. But he is the guy in charge. He certainly should know. The Iraq war is leaving us less secure and unprepared to fight an effective war on terror and spawning the unexpected. And the unexpected can come at any time. That is the world in which we live. President Bush should not expect Congress to rubberstamp this latest supplemental request. We will not do that, Mr. President.

In the coming weeks, we will hold it up to the light of day and fight for the

redeployment and change in strategy that is long overdue.

I wish to comment on FISA, which has gotten so much attention. We will continue to stand up for the American people. We will continue to do the best we can to revise and improve the FISA bill. It is important that we do that. The Foreign Intelligence Surveillance Act is so important. It has been good for this country for many decades. We need to update that. We all agree it is important to improve the temporary surveillance law the President signed in August by enacting new legislation that provides strong intelligence tools to fight terrorism while protecting the privacy of law-abiding citizens. There is no contradiction between security and liberty. We can fight terrorism without compromising liberty and the values embedded in our Constitution.

Last Thursday, Senator ROCKEFELLER and the Intelligence Committee, on a bipartisan basis with Senator BOND, took a step toward improving the flawed surveillance law the President signed in August. I appreciate the hard work of Chairman ROCKEFELLER and Vice Chairman BOND and the members of the committee in seeking to address the complex issues that are at stake.

In the coming days, other Senators will examine in great detail the work of the Intelligence Committee. I am sure other Senators will weigh in with ideas for defining and improving the legislative efforts, so that all Americans can have high confidence in the effectiveness and constitutionality of our intelligence tools. In particular, the Senate Judiciary Committee has shared jurisdiction over the FISA law and is going to mark up the Intelligence Committee bill. The Judiciary Committee has an important role to make sure the final product protects the constitutionally and the legally sound basis that the Intelligence Committee sought.

Mr. President, I believe the administration has chosen again to stonewall Congress from finding the information and documents needed for Congress to properly consider this legislation. Remember, the Intelligence Committee said we are not going to deal with immunity until we look at those documents. They were able to look at the documents with nothing preconceived. They had the opportunity to look at those with no—I have talked to Senator ROCKEFELLER, and there was no agreement between the administration and the Intelligence Committee as to what would happen if they looked at those documents.

Here is why I am so disturbed. The White House said, on October 19, through their advocate, Dana Perino—the question was asked:

I'm wondering if, in general terms, you can describe those documents and perhaps lay out who else in Congress he may allow to see them?

"He" meaning the President.

Here is what she said:

The Senate Intelligence Committee . . . had showed a willingness to want to include in their legislation retroactive liability protection for companies that were alleged to have helped the United States in the days after 9/11. Because they were willing to do that, we were willing to show them some of the documents they asked to see.

Mr. President, JAY ROCKEFELLER told me within the past hour that there was no preconceived agreement at all. They wanted to see the document to find out what they should do legislatively.

She says:

But to the extent of anyone else being able to see the documents, I think we will wait and see who else is willing to include that provision in the bill.

I want the record to be very clear that the Judiciary Committee should be able to see those documents. How else can they make a judgment as to what they should do legislatively? They should not have to make some deal with the White House that "we will let you look at these, but we will write the legislation for you." That is wrong. I think it is very clear that the House committees of jurisdiction should also see those documents. It is absolutely wrong for the White House to say, I repeat, that they will let you look at these, but only if you will agree to sign this legislation or you give your approval of the legislation.

We can't do that.

On Friday, the White House Press Secretary said the key documents would be held out to the congressional committees as a prize for anyone willing to commit to a specific legislative path. That is an insult to the American people and to Congress.

I repeat in the most emphatic terms that the administration must turn over these documents to the Senate Judiciary Committee and to the relevant House committees to do their business as they must, and they must do so immediately.

We believe this administration should move forward quickly. I would like to do it before Thanksgiving. Why do I want to do that? This legislation which came out of the Intelligence Committee is good. It strengthens our national security. It provides the Intelligence Committee the tools it needs to go after foreign terrorists and other threats to the American security.

Does this mean the Judiciary Committee cannot improve the legislation? I am confident that perhaps they can. Is the Intelligence Committee's work the know-all and do-all? No. That is why we had joint referral. But it is a good piece of legislation. It gives better protection for America and increases the role of the Foreign Intelligence Surveillance Court. Two, it requires court approval to target U.S. persons overseas. Three, it explicitly prohibits targeting any person reasonably believed to be in the United States. Four, it eliminates ambiguous language on warrantless domestic searches. Five, it states the exclusive means by which electronic surveillance and interception of domestic communications may be conducted.

Also, just as important, other than those five points, it increases oversight and accountability by expanding the requirements in the semiannual report submitted to the congressional Intelligence and Judiciary Committees on intelligence collecting that is authorized by the act. It also requires the head of elements of the Intelligence Committee acting under their authority to conduct yearly audits of intelligence collection. Third, it requires the inspectors general of the Department of Justice and the Intelligence Committee to review the use of the new authority with respect to references to U.S. persons' identities and communications. And it grants limited immunity from potential liability to any telecommunications company that may have assisted the Government in the aftermath of September 11. That is why it is so vitally important that the Judiciary Committee and the respective House committees see what the Intelligence Committee saw without any preconceived arrangements by the White House. Five, it sets forth the procedures so that the Federal courts can review an attorney general certification to determine whether the electronic communication service provider acted within specific orders and in accordance with the certification as directly prescribed by statute. Finally, it sets a 6-year sunset to allow Congress to evaluate the new authority to be carried out, should any of this be changed. That is why we have joint referral, to have the Judiciary Committee take a look at this.

The Intelligence Committee has worked hard to come up with what should be the final legislation that comes to the floor. Finally, the House passes legislation, and we work it out in conference.

We want to move forward. It is important to do that. We acknowledge that. I think it is so wrong that the White House is saying: You can do this but only as we tell you how it can be written; otherwise, we are not going to show you the documents.

That is defenseless on the part of the White House.

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business until 3 p.m., with Senators permitted to speak therein for up to 10 minutes each, with the time equally divided and controlled between the two leaders or their designees.

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. LEAHY. Mr. President, I ask unanimous consent that I be able to speak for 6 minutes.

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

TRIBUTE TO THE HONORABLE JAMES L. OAKES

Mr. LEAHY. Mr. President, last week, I had a long talk with Mara Williams, the wife of former U.S. Court of Appeals Judge James Oakes. Jim, who had served as Vermont's attorney general, as our Federal district judge, and with distinction as chief judge of the Second Circuit, had died the previous weekend at the age of 83.

Mara told me how the family had been with Jim a few days before he died, and we then talked about the legacy he left.

I spoke of knowing Jim for 40 years, and how I, and my family of lifelong Democrats, had voted for him for attorney general and had hoped he might be our Governor. As it turned out, the country was far better off having him on the Second Circuit Court of Appeals, and would have been even better off had he been elevated to the Supreme Court, a position he would have held with great distinction.

We all knew of Jim's legal mind and great ability, his dedication to public service, his wonderful sense of humor, and his love for his family, but I knew him especially as a man with a great and good conscience.

Jim Oakes epitomized the role of judge as the protector of our fundamental rights. A decade ago he noted that he was a person who "still believe[d] that a federal judge can make a difference and—in cases of extreme necessity where basic rights are being infringed—should make a difference when the rest of our political structure bogs down." This appreciation for the role of judicial independence is something we must admire and remember.

We worked together when he was attorney general and I was State's attorney, and I particularly remember one very difficult and tragic murder case where we were able to forge an unprecedented use of a grand jury to bring about justice when it looked like that would not have been possible. We talked about that as recently as a couple of years ago, but then, with Jim, we could pick up a conversation from where we had left off 6 months before when we had last seen each other.

Fran Lynggaard Hansen quoted his eldest daughter, Cynthia Meketa, as saying:

He had a very high intellect, but he was never a snob. He had ups and downs in his

early life and always identified with everybody, the cashier at the bank, the guy at the market, the man working at the dump. . . . But that was who he was, kind, generous to people who needed a helping hand. He was a sentimental softie and loved to be a mentor to people, especially his law clerks, shepherding their careers along.

My good friend, Judge Garvan Murtha, said:

He was never afraid to stand up for the rights for others and to name what was wrong. He was a brilliant, caring, funny man and appreciative of people. . . . He was a very wise man. . . . In the Pentagon Papers case, he was dissenting, so he ended up on the wrong side of the Court of Appeals, but the Supreme Court ended up agreeing with him.

His daughter Betsy Oakes said:

I think everyone who loved and admired my father will want to carry on his tremendous spirit of social justice.

Mara tells me of the love all the family had for Jim—and I know the love he had for her, his three children, four stepchildren, grandchildren, and his brother.

Adam Liptak wrote of Judge Oakes in the New York Times, and I ask unanimous consent that his article be printed in the RECORD.

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

[From the New York Times, Oct. 16, 2007]

JAMES L. OAKES DIES AT 83; NIXON CHOICE FOR FEDERAL BENCH
(By Adam Liptak)

James L. Oakes, who was appointed to the federal appeals court in New York by President Richard M. Nixon and yet quickly became one of its leading liberal voices, died on Saturday in Martha's Vineyard, Mass. He was 83.

His death was reported by his wife, Mara Williams Oakes, who said it followed a brief illness.

Judge Oakes served for 36 years on the court, the United States Court of Appeals for the Second Circuit. He was its chief judge from 1988 to 1992.

Scholarly and gregarious, Judge Oakes insisted in his decisions, speeches and writings that judges should never shy away from protecting fundamental rights.

He had little patience, he wrote in a 1997 article in *The Columbia Law Review*, for politicians who attacked such rulings as improper activism. Historic moments, he added, sometimes required judges to act "when the rest of our political structure bogs down."

In this sense, he was, he wrote, "old-fashioned—fashioned from the thirties of the Great Depression, the forties of war and the Holocaust and fascism, the fifties of the cold war and McCarthyism and Little Rock, and the sixties of the civil rights movement, the assassinations and the would-be Great Society."

James Lowell Oakes was born in Springfield, Ill., on Feb. 21, 1924.

After graduating from Harvard College and Harvard Law School, Mr. Oakes served as a law clerk to Harrie B. Chase, a Vermont judge who sat on the court that Mr. Oakes would one day join.

Mr. Oakes then spent two decades practicing law and working in the state government in Vermont. In the 1960s, he served for four years in the State Senate and two as the state attorney general. President Nixon made him a federal district judge in Vermont in 1970 and elevated him to the appeals court in 1971.

But Judge Oakes was not proud of the connection. In the years after the Watergate

scandal, he used adhesive tape to cover the signatures of President Nixon and Attorney General John N. Mitchell on the judicial commission that hung in his chambers, one of his former clerks, Paul M. Smith, recalled.

Judge Oakes's name soon became synonymous in some circles with liberal jurisprudence. In 1981, he attracted the attention of a young lawyer in the Reagan administration named John G. Roberts Jr. Mr. Roberts, who is now the chief justice of the United States, told his superiors, according to *The Washington Post*, that a civil rights policy he advocated was reasonable because "even such an extreme liberal" as Judge Oakes had approved it.

The Second Circuit is based in Manhattan, and it hears appeals from New York, Connecticut and Vermont. Judge Oakes's chambers were in Brattleboro, Vt., and he visited New York to hear arguments and to confer with his colleagues. After his service as chief judge ended in 1992, he assumed senior status, a sort of semi-retirement.

Besides his wife, of Brattleboro, survivors include a brother, John D. F. Oakes of Wayne, Pa.; three children from an earlier marriage, Cynthia O. Meketa of Bonsall, Calif., Elizabeth H. Oakes of Baltimore, and James L. Oakes of Fairfield, Conn.; and six grandchildren.

In both his judicial and scholarly work, Judge Oakes advocated environmental protections, procedural rights for people accused of crimes, free speech, open government and limits on intellectual property laws.

Among the rulings he was proudest of, his law former clerks said, were a 1980 decision upholding regulations barring sex discrimination in education, a 1987 decision applying the principle of one-person-one-vote to New York City's Board of Estimate, and a 2000 decision allowing illegal immigrants to challenge deportation orders in court. All three decisions were affirmed by the Supreme Court.

Judge Oakes especially prized the Supreme Court's vindication of his 1971 dissent in the Pentagon Papers case, two of his former clerks, Kathleen M. Sullivan and William Treanor, wrote in *The New York Law Journal* in March. The majority in the Second Circuit had blocked the publication of the papers, a secret history of the Vietnam War obtained by *The New York Times*. The Supreme Court reversed that decision.

"The press should not be regarded only as a check on inefficient or dishonest government," Judge Oakes said in a 1982 lecture on the legacy of the Pentagon Papers case. "It is important that it also be viewed as a powerful vehicle for the effective functioning of a government that by definition is democratic in nature." That required, he said, a near-absolute ban on prior restraints on publication of news articles.

Justice Ruth Bader Ginsburg said in a statement yesterday that Judge Oakes was the "model of what a great judge should be—learned in the law, but ever mindful of the people law exists to service."

Judge Oakes could be prescient. He dissented from a 1979 decision endorsing the use of an anonymous jury in an organized crime trial. The decision, he said, was "without precedent in the history of Anglo-American jurisprudence" and "strikes a Vermont judge as bizarre, almost Kafka-esque."

He added, correctly, as it turned out, that other courts would follow the precedent as surely as "a flock of sea gulls follows a lobster boat."

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION APPROPRIATIONS ACT, 2008

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of H.R. 3043, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 3043) making appropriations for the Departments of Labor, Health and Human Services, and Education and related agencies for the fiscal year ending September 30, 2008, and for other purposes.

Pending:

Harkin/Specter amendment No. 3325, in the nature of a substitute.

Vitter amendment No. 3328 (to amendment No. 3325), to provide a limitation on funds with respect to preventing the importation by individuals of prescription drugs from Canada.

Dorgan amendment No. 3335 (to amendment No. 3325), to increase funding for the State Heart Disease and Stroke Prevention Program of the Centers for Disease Control and Prevention.

Dorgan amendment No. 3345 (to amendment No. 3325), to require that the Secretary of Labor report to Congress regarding jobs lost and created as a result of the North American Free Trade Agreement.

Menendez amendment No. 3347 (to amendment No. 3325), to provide funding for the activities under the Patient Navigator Outreach and Chronic Disease Prevention Act of 2005.

Ensign amendment No. 3342 (to amendment No. 3325), to prohibit the use of funds to administer Social Security benefit payments under a totalization agreement with Mexico.

Ensign amendment No. 3352 (to amendment No. 3325), to prohibit the use of funds to process claims based on illegal work for purposes of receiving Social Security benefits.

Lautenberg/Snowe amendment No. 3350 (to amendment No. 3325), to prohibit the use of funds to provide abstinence education that includes information that is medically inaccurate.

Roberts amendment No. 3365 (to amendment No. 3325), to fund the small business child care grant program.

Reed amendment No. 3360 (to amendment No. 3325), to provide funding for the trauma and emergency medical services programs administered through the Health Resources and Services Administration.

Allard amendment No. 3369 (to amendment No. 3325), to reduce the total amount appropriated to any program that is rated ineffective by the Office of Management and Budget through the Program Assessment Rating Tool (PART).

Coburn amendment No. 3358 (to amendment No. 3325), to require Congress to provide health care for all children in the U.S. before funding special interest pork projects.

Brown/Webb amendment No. 3361 (to amendment No. 3325), to provide information to schools relating to the prevention of violent events and other crisis situations.

Mr. HARKIN. Mr. President, as you stated, we are back on the Labor, Health and Human Services, Education appropriations bill. We had a good 2 days last week on it and amendments were disposed of.

We now have a whole series of pending amendments. Right now, Senator SPECTER and I have been working, our staffs have been working, to try to get these amendments cleared. That work is continuing.

As the leader said, we will have votes today starting at 5:30. We have two amendments. I ask unanimous consent that the Senate proceed to vote on these two amendments at 5:30, one following the other.

That would be the Allard amendment No. 3369, and the Dorgan amendment No. 3335, as modified by amendment No. 3445. So we would go to those two amendments in order at 5:30.

But I want to make it clear that if we do not reach an agreement on a whole host of other amendments that are pending, we could roll into a whole series of votes.

I want to read those off so people know what they are. First, there is the amendment by Senator VITTER, No. 3328, dealing with importation of drugs from Canada; there is a Dorgan amendment, No. 3345, relating to the NAFTA trade agreement; there is the Senator MENENDEZ amendment, No. 3347, providing funding for the Patient Navigator Program; an amendment by Senator ENSIGN, No. 3342, dealing with Social Security benefit payments with Mexico; there is a Senator ENSIGN amendment, No. 3352, again dealing with Social Security benefits and illegal workers; there is a Lautenberg/Snowe amendment, No. 3350, to prohibit the use of funds dealing with abstinence education; there is a Senator ROBERTS amendment, No. 3365, to fund the Small Business Child Care Grant Program; Senator REED's amendment No. 3360 providing funding for trauma in emergency medical services programs; there is a Coburn amendment, No. 3358, that would end all earmarks before every kid in America has health care; then there is the Brown-Webb amendment, No. 3361, providing information to schools relating to the prevention of violent events and other crisis situations.

So all of those amendments are pending. I mean, they are at the desk, they are pending, and can be called up.

Quite frankly, as the chairman and floor manager, if we don't reach agreement on them, it is my intention that we roll over into those votes tonight.

Again, with the concurrence of my ranking member, I ask unanimous consent that at 5:30 the Senate proceed to vote on or in relation to the Allard amendment No. 3369; then when that is disposed of, a vote on or in relation to the Dorgan amendment No. 3335, as

modified by amendment 3445; further I ask that there be a 2-minute period of time before each amendment for debate on both sides; and furthermore, I ask unanimous consent that no second-degree amendments be allowed prior to the vote on either one of those two amendments.

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

Mr. HARKIN. We will proceed to vote at 5:30 on those two amendments. Then we will have to see whether we can work out clearance on some of these other amendments so we won't have any other votes tonight. But if we don't, we will have to roll into a whole series of votes this evening. We have to do this, if we want to finish by noon tomorrow. Both leaders on Thursday made a commitment that we would finish this bill by Tuesday at noon. If we are going to do that, I see no way other than having votes tonight or getting the sides to agree on the acceptance of these amendments.

Senator SPECTER and I have agreed on a number of these amendments to get them worked out, but they are being held up in other places. I understand that. That is the privilege of any Senator. But hopefully, we can get this worked out, and we won't have to have that many amendments this evening.

With that, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I thank the distinguished chairman for the work he has done, and our staffs, bringing the bill to this posture. We are within striking distance of concluding it. As Senator HARKIN has outlined, there is a commitment to finish by noon tomorrow. The managers have been on the floor since shortly after 3, when under previous arrangement this bill was called up, and there are no other Senators present now. I know Senator HARKIN would join me in urging Senators to come to the floor. Anybody who wants to debate an amendment ought to come to the floor promptly. We will find as the hour of 5:30 approaches, Senators will come in when we are about ready to vote, when there is not any time to debate change. Senators will want to find time. Now is the time for Senators to come to the floor who want to debate.

I also supplement what Senator HARKIN said to this effect: There are a number of amendments, as the chairman has stated, that have been cleared. Some Senators have raised objections. It is their right to raise objections, but as frequently happens, once there is discussion, arrangements can be worked out to clear them. It is our view, Senator HARKIN's and mine, buttressed by staff negotiations, that these matters can be cleared. But they will take some time. We do not want to get into a situation where at 5:50 tonight after the first vote, there is lengthy consideration as to what we are going to be doing at that time. The

practice has been to have a single vote on Monday evenings at 5:30. We have two votes lined up, and we know many Senators will have other commitments, which is customary for Monday evening. But they cannot be fulfilled unless we conclude the business of the Senate, at least moving along so that we have within striking distance the prospect of concluding the bill by noon tomorrow.

Senators who have any debate or who have lodged objections to any pending amendments should come to the floor now so they can be heard. If they don't, we won't be in a position to consider their objections at a later time and still move the bill through to completion by noon tomorrow.

Mr. HARKIN. Mr. President, if my friend will yield, I concur with what Senator SPECTER said. The list of amendments I read is the list of amendments that is pending at the desk that we could call up to vote on. We could do that this evening. There is a bunch of other amendments that Senators have said they are going to offer that we have on our list but they haven't been offered yet. Senator SPECTER is absolutely right, Senators could find themselves in a crunch where there is no time left to offer these amendments by noon tomorrow. So if they want to get their amendments considered, now is a good time. They could get recognized right away.

I may have misstated something earlier in my unanimous consent request. I want to be clear that I asked unanimous consent that the Dorgan amendment 3335 be modified by 3445.

The ACTING PRESIDENT pro tempore. Without objection, the amendment is so modified.

The amendment, as modified, is as follows:

At the appropriate place in title II, insert the following:

SEC. _____. (a) In addition to amounts otherwise appropriated under this Act, there is appropriated, out of any money in the Treasury not otherwise appropriated, an additional \$3,000,000 for the Centers for Disease Control and Prevention to make grants under the State Heart Disease and Stroke Prevention Program.

(b) Amounts made available under this Act for consulting services for the Department of Labor, the Department of Health and Human Services, and the Department of Education shall be further reduced on a pro rata basis by the percentage necessary to decrease the overall amount of such spending by \$3,000,000.

The ACTING PRESIDENT pro tempore. The Senator from Pennsylvania.

Mr. SPECTER. May the record show that the only two Senators on the floor are the two managers. Again, we renew our request, anybody who has any debate they want to offer, amendments they want to offer, or objections they want to raise to any pending amendments ought to come to the floor promptly.

In the absence of any other Senator seeking recognition, I suggest the absence of a quorum.

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

The legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 3369

Mr. ALLARD. Mr. President, it is my understanding at 5:30 this evening we are going to have a vote on my amendment, the Allard amendment No. 3369. I wish to take a few moments to review with my colleagues the amendment, and then I understand before we have the vote I can briefly describe the amendment again.

The Office of Management and Budget reviews Federal spending programs with a nonpartisan analysis to determine what taxpayers are receiving as far as the value of the taxpayers' dollars is concerned. This program is called the Program Assessment Rating Tool or PART. They utilize the same procedures that business executives use frequently to determine whether their company is meeting specific goals.

In this particular instance, the Congress has directed the agencies to put in place a similar system where they set up goals and objectives and then determine through that process whether the program is "effective," "moderately effective," "adequate," "the results are not demonstrated"—they have not made the effort yet—or the last category would be "ineffective."

Well, a small percentage of programs receive an "ineffective" rating. Programs receiving this rating are not, according to OMB, using your tax dollars effectively. As they elaborate on the PART Web site at "expectmore.gov":

Ineffective programs have been unable to achieve results due to a lack of clarity regarding the program's purpose or goals, poor management, or some other significant weakness.

Now, my amendment cuts 10 percent of the funding under this bill for programs labeled "ineffective" under the OMB PART program and transfers the funding to an account previously established to pay down the national debt.

This amendment is supported and scored by the National Taxpayers Union and Citizens Against Government Waste.

We are not ending any programs or zeroing out any agencies. All we are doing is taking one dollar in ten from programs that cannot justify their effectiveness and using it to begin to address our over \$9 trillion national debt.

I understand many people have fond thoughts for some of these programs, but fond thoughts and good intentions do not equal good government. I am not one to make sweeping statements, but I think I can say with some certainty that the vote total on this amendment will stand as a rough proxy for what percentage of the Senate is committed to fiscal discipline.

So I urge my colleagues to join me in voting for this amendment. I believe it

is a commonsense amendment to a problem we need to address. We wish to make sure our taxpayer dollars are being used in a way that can be described as effective. That is the ideal situation.

Certainly those programs that are classified as "ineffective" you have to question. Even though there has been a mission drawn out that may be somewhat appealing, when you get right down into the workings of the agency and nothing much is happening to accomplish the goals and objectives the Congress had in mind at the time it passed the legislation, those particular programs rated as "ineffective" is where my particular amendment is targeted. I think this is a commonsense amendment that brings some fiscal sanity to the process. I urge my colleagues to join me in voting for the amendment when we vote on it at 5:30 this evening.

So, Mr. President, having said that, I yield the floor and suggest the absence of a quorum.

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

The legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 3391, AS MODIFIED, TO
AMENDMENT NO. 3325

Mr. CHAMBLISS. Mr. President, I ask unanimous consent to temporarily set aside the pending amendment and call up amendment 3391 and that it be modified with the changes at the desk.

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

The assistant legislative clerk read as follows:

The Senator from Georgia [Mr. CHAMBLISS] proposes an amendment numbered 3391, as modified, to amendment No. 3325.

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

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

The amendment is as follows:

At the appropriate place in title II, insert the following:

SEC. ____ The Secretary of Health and Human Services shall waive the provisions of section 1877(g) of the Social Security Act (42 U.S.C. 1395nn(g)) for Sumter Regional Hospital in Americas Georgia to provide financial support needed to maintain a medical staff and community physicians in the area: *Provided*, That the aggregate amount of such financial support to all physicians does not exceed \$750,000: *Provided further*, That all payments made under this section are made prior to June 1, 2008, and are disclosed to the Secretary not later than 30 days after such financial support is provided.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. SPECTER. Mr. President, a little over an hour ago, Senator HARKIN, the distinguished chairman of the subcommittee, and I urged Senators who wanted to debate amendments to come to the floor or Senators who had objections to pending amendments to come to the floor to utilize the time before the 5:30 vote.

The managers, Senator HARKIN and I, have been on the floor continuously since shortly after 3 p.m., when the bill was called back to the floor for consideration, and we know from practice, regrettably, that when the vote starts at 5 p.m. or 6 p.m. or about 5:45 or 10 minutes to 6, people will want floor time and have a great deal to say, and then we will be unable to accommodate all of the Senators who want to act on the bill. Senator HARKIN outlined at the outset the two votes which will begin at 5:30 and said that there was the prospect of substantial additional voting tonight, if we were unable to clarify where we stand, because of our target to conclude this bill by noon tomorrow, which is the target established by the leaders and by the managers of this bill.

So at this point, at 4:50, I would renew the request that Senators who want to debate, who want to take up any action on the bill, or want to discuss any of the pending amendments where objections have been lodged, come to the floor now while we have the time to transact that business.

Mr. President, in the absence of any other Senator on the floor seeking recognition—in fact, in the absence of any other Senator on the floor—Senator HARKIN is in the cloakroom ready to come to the floor to transact business if any Senator wants to do so, but in the absence of any such Senator, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. 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.

AMENDMENT NO. 3345

Mr. DORGAN. Mr. President, I have an amendment I have offered, and it is pending, I believe. It may well have been set aside; nonetheless, it is pending to the underlying bill. It is the simplest of amendments. It is amendment No. 3345, to be modified by amendment No. 3429, and it is a request of the Department of Labor to do a study which is fairly innocuous.

Senators BROWN, STABENOW, and CASEY and I—also, I ask unanimous consent to add Senator SANDERS as a cosponsor.

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

Mr. DORGAN. With this amendment, I am requiring the Labor Department to perform a study to determine the number and the types of jobs that were lost by the North American Free Trade Agreement. That agreement was done a long while ago, but we are now in the process of considering additional trade agreements—one with Peru, one with Panama, one with South Korea, and one with Colombia. As we bring another group of free-trade agreements—so-called free-trade agreements—to the floor of the Senate, I would like to remind our colleagues there is very little information about what has happened to previous trade agreements except that we know they didn't work out very well, and so we are going to do more of the same.

NAFTA, for example—the North American Free Trade Agreement—at the time we did it, we had a modest trade deficit with Canada. Now that has turned into a very large trade deficit with Canada. At the time we did NAFTA, we had a modest surplus, a very small surplus in trade with Mexico. Now we have turned that into a very large trade deficit with Mexico. So we are moving in exactly the wrong direction. Despite that, we still have folks who huff and puff here about the need to do more of the same.

I want there to be a study that talks about what are the types of jobs we have lost as a result of these trade agreements—how many jobs have we lost, in what sectors have we lost those jobs.

On October 4 in the Wall Street Journal, this month, the Wall Street Journal said: "Republicans grow skeptical on free trade." It was talk about Republicans, but actually the skepticism among non-Republicans is greater. It turns out the dissatisfaction with our trade strategy is bipartisan. The poll found that 59 percent of polled Republican voters agreed with the following statement:

Foreign trade has been bad for the U.S. economy, because imports from abroad have reduced demand for American-made goods, cost jobs here at home, and produced potentially unsafe products.

It is not surprising that people are concerned about this free trade strategy. Free trade is a mantra, a moniker that doesn't mean very much. I like trade. I am for plenty of trade. I come from a State that produces a lot of agricultural product, and we need to find a foreign home for more than half of what we produce, so I don't come to the floor of the Senate saying let's not trade. I say let's do trade agreements that are good for this country, not bad for this country.

We passed the North American Free Trade Agreement and we were told—by the way, this is an agreement that started under George Bush I, it was completed by President Clinton. I opposed President Clinton and George Bush I, President Bush. But we were told that if we completed NAFTA, the North American Free Trade Agree-

ment, we would have 200,000 new American jobs created in this country as a result. Two economists, Gary Clyde Hufbauer and Jeffrey Schott—Hufbauer/Schott they called the study—said, actually, 170,000 new jobs in a couple of years. The supporters of this trade agreement rounded it up to 200,000 new jobs.

Let me tell you what has happened since that time. I told you we turned a very modest trade surplus with Mexico, about \$1.5 billion, into a very large trade deficit, now somewhere around \$60 or \$70 billion a year.

We have a little program in the Labor Department that requires companies to certify jobs that are lost because the jobs went to Mexico. Then you get trade adjustment assistance for the workers. So what we know is 412,000 U.S. jobs have been certified as lost because of NAFTA under one program at the Department of Labor.

In the 10 years after NAFTA had been approved, I commissioned a study from the Congressional Research Service, and they identified the top 100 companies that laid off U.S. workers as a result of NAFTA during that first 10 years. To come up with that, they turned to the Department of Labor. They have this Trade Adjustment Assistance Program. It says these top 100 companies accounted for 201,000 jobs they certified were lost due to NAFTA. If you look at all the companies, that is 412,000 jobs.

Let's look at this list, a few of the names. We passed NAFTA—Hufbauer/Schott—all the political supporters, including those in the Senate, thumbing their suspenders, talking about what a wonderful deal this is going to be for the United States, knowing nobody who wears a blue suit in this Chamber is going to lose their job. It will be somebody else.

Let's look at what happens. Levi Strauss, 15,676 jobs lost due to NAFTA. Does that mean people aren't wearing Levis? No, you can find some. Go outside the door, you can find Levis. They are still buying them. You can find places where they are selling them, a popular American jean. Except you will not find a pair of Levis made in this country. That is gone, 15,676—that is a big number.

What about just one of them? What about one person—follow that person home from work one day, and that person had to tell their spouse: You know what, I lost my job today.

The spouse says: What happened?

I don't know, I have done a good job, I worked for them for 15 years. But they told me I lost my job. They are moving the job to Mexico.

Why?

Because I make too much money, that is why. I get paid \$6, \$8, \$10, \$11 an hour, and that is way too much money. You can hire people for much less money than that in Mexico, China, Indonesia, Bangladesh, Sri Lanka.

Kraft Foods is on this list. Kraft Foods decided they were going to move

their Fig Newton cookies to Mexico, Monterrey, Mexico. If somebody says to you someday: Let's go out for some Mexican food, go to the store and buy some Fig Newton cookies. That is Mexican food.

All those folks who made Fig Newton cookies in New Jersey, they say some of them had to shovel fig paste with a scoop shovel, but they made too much money in New Jersey. Is there a better scoop shovel in Mexico or is there somebody who will shovel that fig paste for much less money per hour? Or is there some natural fig advantage in Mexico? Probably not. It is that Kraft, similar to Levis, decided: this trade agreement gives us the opportunity to move these jobs to Mexico.

Fruit of the Loom—5,352 U.S. workers in Texas alone. Have people stopped wearing underwear? I don't think so. People still wear underwear. They just don't wear underwear made in this country. Fruit of the Loom is gone, and I suppose there are people who made a career out of Fruit of the Loom and probably enjoyed it. Maybe their neighbors kidded them a little bit: you work down at the Fruit of the Loom place. But I bet they enjoyed those careers. But they are gone because those jobs are moved in search of cheap labor.

Barbie playhouses that Mattel made in a Kentucky plant, they shifted that factory to Mexico.

The list goes on and on. You can see the list here, the corporations that certify to the Department of Labor that we moved our jobs. These companies moved the jobs as a result of the NAFTA trade agreement.

My feeling about trade agreements is this. When you sign a trade agreement with another country, it ought to be mutually beneficial to us and them. I came from a meeting 5 minutes ago about the issue of automobiles—nothing to do with trade, it had to do with CAFE standards, better gas mileage for vehicles. Somebody was talking about we are going to have Chinese cars coming into this country. We are going to see an import of cars into this country because China is ramping up a very aggressive automobile export industry, and we will very soon see small, efficient cars on the streets of this country coming from China.

Guess what. We did a trade agreement with China a while back, a bilateral agreement. Here is what we agreed to, with China, a country we have a giant trade deficit with—\$230 billion a year. We said this: China, when you sell your cars in the United States, we will impose a 2.5 percent tariff on your cars. And, by the way, we agree that when we sell U.S. cars, U.S. cars made in the United States, in China, you can impose a 25-percent tariff. So a country we have a huge trade imbalance with, the biggest in human history, we said to them: it is OK for you to impose a tariff that is 10 times higher than we would impose on bilateral automobile trade.

It doesn't make any sense. In my judgment, it undermines our country's economic interests and it undermines our country's jobs. Yet this country does that.

We are going to have, as a group of bills on the floor, Peru, Colombia, Panama, South Korea. Among that group of bills, the free trade agreements have already been done, will be South Korea. Let me mention automobiles in South Korea. Last year, they shipped us close to 700,000 cars, put them on ships and sent them to this country to be sold in America and 700,000 cars made in Korea sent here to be sold to American customers. We were able to send 5,000 American cars to South Korea. Why the imbalance, 700,000 this way, 5,000 that way? Because that is the way South Korea wants it; 99 percent of the cars on the streets in South Korea are made in South Korea and that is the way they want it. They don't want our cars sold in South Korea, they want the jobs there, they want to make the cars there and sell them there. Why would our country allow that to be the case?

This agreement that is going to be brought to the Senate, the trade agreement with South Korea, does not address that issue.

I could, and I have, spoken at great length about trade on a wide range of issues. But at some point we need to reconcile what we are doing with these agreements and we need to stop this bad habit of negotiating bad agreements for this country. We don't know who negotiates this. But the person who said to China it is OK for you to impose a 10 times higher tariff on U.S. cars than we would impose on Chinese cars, that person obviously doesn't understand whom he or she is working for. I have threatened, from time to time, that these trade negotiators should go out and negotiate—in secret, presumably, on behalf of our country, should begin to wear jerseys such as they wear in the Olympics, so occasionally they could look down and try to remember for whom they work. These trade agreements undermine this country's basic economic strength.

People say it is fine these jobs migrate.

It is not fine. A country without a strong, vibrant manufacturing base is not destined to long be a world economic power, and we have to understand that. I am not talking about protectionism or building walls, I am talking about trade, and plenty of it, but trade in circumstances where the rules are fair and where this country insists on fair rules.

I know my colleague, Senator HARKIN, the chairman of the committee, is here and perhaps is about to make a presentation. I do wish to say I have filed this amendment. It is the most innocuous. It says let's at least go back and take a snapshot of this one trade agreement, NAFTA, and find out what happened. What happened with jobs? How many did we lose? What kind?

Where from? But apparently even this is controversial.

Why? Because maybe we will learn something. Maybe we will learn that these one-way trade agreements are not in this country's interests and that we ought to be smart, shrewd, and tough negotiators, standing up for our country's economic interests, standing up for our jobs.

One final point. In a century we lifted this country's standards; expanded the middle class. We said you have to have a safe workplace. You have to have child labor laws, minimum wages, the right to organize—a whole series of rules that lifted America. Now we are saying let's compete with others and allow them to diminish those standards. I am not very interested in doing that.

I know the people who made Huffy bicycles couldn't compete for 20 or 30 cents an hour. They made \$11 in Ohio. They all lost their jobs because they couldn't compete with people who made bicycles for 20 or 30 cents an hour, so every Huffy bicycle is made in China. None are made in Ohio. I know you can't compete with that, but I don't think that should be the standard of competition because I think by its nature it diminishes economic opportunity in this country.

I am going to ask, if we can't clear this amendment, that we have a vote on this amendment. I appreciate the work the chairman of the subcommittee has done. I support his bill and am pleased to speak in favor of the bill, generally, which I have done on a previous occasion. My hope is he will support the amendment I have offered as well.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. I thank the Senator from North Dakota for always being on the side of American workers and American jobs. I assure him he will have my support on the amendment. We do not have it cleared yet. We may have to have a vote on it. But if that is so, perhaps that could be one of the votes we have tonight, if we don't get an agreement on it.

AMENDMENT NO. 3369

I wish to take the time—we will be voting at 5:30. As I said, we will be voting on the first one, which will be the Allard amendment, amendment No. 3369. I thought I would take a few minutes to talk about the amendment.

It sounds simple. You cut funds for programs that the Bush administration has concluded are ineffective, using what is called the Program Assessment Rating Tool—PART—then use these savings to reduce the debt. We are all for making sure taxpayers' dollars are spent well and responsibly, but let's take a look at what this amendment really means.

First, we have to have some background on PART, the Program Assessment Rating Tool. It is intended to help assess the management and per-

formance of individual programs. So it is not just a question of whether the program works, it also evaluates whether Congress has designed the program in a clear manner and whether Federal agencies do a good job managing the program. So programs evaluated under PART fall into one of five categories: They are effective, moderately effective, adequate, ineffective or results not determined.

The last category means there was not enough information about it to make a decision.

The Senator from Colorado, Mr. ALLARD, would only cut programs that are rated ineffective and take that money and apply it to the deficit. It sounds good. Why should you ever support an ineffective program?

First of all, let's take a look at what PART means. What is PART and how is it used? This is what the President's own budget documents say about PART:

Ratings do not result in automatic decisions about funding.

Clearly, over time, funding should be targeted to programs that can prove they achieve measurable results. In some cases, a PART rating of "ineffective" or "results not demonstrated" may suggest that greater funding is necessary to overcome identified shortcomings, while a funding decrease may be proposed for a program rated "effective" if it is not a priority or has completed its mission.

This is the President's budget. I say: Read it. It says: Sometimes if you have an "ineffective" rating, maybe you ought to have greater funding for it to overcome some shortcomings, rather than if you have an effective program that may be getting funded, maybe it should be done away with because either it is not a priority or has completed its mission.

In other words, the amendment offered by the Senator from Colorado, Mr. ALLARD, is counter to the idea behind creating the PART process. It was not intended as a club on an "ineffective" program, or it was designed to assess the impact of programs, identify steps that could be taken to improve them.

Now, that is not my only problem with this misguided amendment. I am concerned about the important programs Americans need that would be undermined by his amendment. Make no mistake about it, a vote for Senator ALLARD is a vote against the programs you see listed on this second chart. A vote for Senator ALLARD's amendment says we should undo the fiscal mess created by the Bush administration policy of tax cuts for the millionaires and the war in Iraq by reducing funding for programs that help some students prepare for college, provide unemployed low-income seniors with income, retrain workers who lose their jobs due to foreign trade.

Now, here are some of the programs that would lose 10 percent of the funding in the bill if the Allard amendment were adopted. The TRIO Upward Bound Program is funded at \$315 million in

the Senate bill. There are 900 sites throughout the country, including 8 sites and over 700 students in the State of Colorado, I say to the occupant of the chair.

Here is what the Bush budget had to say about this program. This is a quote from the Bush budget:

The program received an ineffective PART rating when assessed in 2002, in part, because the program evaluation showed that the program did not overall increase the proportion of participants who enrolled in college. However, the program was found to have a positive impact for higher risk students for whom the evaluation findings revealed that Upward Bound increased 4-year college enrollment rates. In response to this finding, the Department of Education established a priority for the 2006 competition that required projects to ensure that at least 30 percent of participants were higher risk students. Given the improved targeting, continued funding is warranted.

In other words—I better watch myself, I am saying nice things about the administration—basically what they did is they actually implemented the PART program correctly. They looked at it, they said, okay, it got an ineffective rating. Why? Well, because, they said, overall it did not show that it increased 4-year college participation.

But when they looked at the subset of the higher risk students, they said: It increased the college participation. So here is what we will do. We will require projects to ensure that at least 30 percent of the participants are higher risk students. That is how you use this tool. You do not use it as a club to get rid of it, I say to my friend from Colorado.

The President's own budget says the program is worthwhile. Look at the Perkins Career and Technical Education State Grants. It is funded at \$1.2 billion. That is last year's level. We did not increase it. Last year, the Congress reauthorized and strengthened the program, and the Senate passed it by unanimous consent. In the House of Representatives there was only one vote against it. Here is what the Bush budget said:

The Perkins Act incorporates several important changes that strengthen the program's accountability provisions and provides opportunities to improve the program's performance.

Then there is the Community Service Employment for Older Americans. We had funded it at last year's level. This provides part-time community service opportunities paid at minimum wage for unemployed low-income persons.

The Health Professions Program: Now, this is interesting. We put in \$357 million this year. The Allard amendment would cut it by \$35.7 million. This is the category that includes almost all health training in America: nurse training programs, training in primary care medicine, dentistry programs. All of these would take a cut.

Then there is trade adjustment assistance: \$888.7 million in this bill, last year's level, same thing the President requested. Again, this provides income

support and retraining services to workers who lose their jobs due to foreign trade. Approximately 120,000 Americans are eligible each year, but only about 80,000 actually receive services.

Again, if we adopt the Allard amendment for the TRIO program at an average cost of \$5,000 a student, we would cut 6,300 students out of the TRIO program.

For trade adjustment assistance, at about \$12,000 per person, that means a loss of services to 7,400 workers who have lost their jobs and want to get retrained.

For the Community Service Employment Program, \$5,932 for older workers—a modest amount every year to an older person—means a loss of support for 8,142 low-income seniors.

The Allard amendment on its face, you look at it and say: Well, he is cutting 10 percent from those programs rated ineffective. So you want to think: Well, gee, why would I support an ineffective program? No one wants to support ineffective programs. But, again, I refer to the first chart. I repeat again, you have to understand what PART is; that is, the Program Assessment Rating Tool, and how it is used. I will read again from the President's own budget.

PART ratings do not result in automatic decisions about funding.

Well, the Allard amendment would be an automatic decision about cutting 10 percent. Clearly, over time, funding should be targeted at programs that can prove they achieve measurable results. I say to my friend from Colorado, it says:

In some cases, a PART rating of "ineffective" or "results not demonstrated" may suggest that greater funding is necessary in order to overcome identified shortcomings, while a funding decrease may be proposed for a program rated "effective" if it is not a priority or has completed its mission.

So there may be effective programs that are rated as "effective" that probably ought to be cut. I am sure the administration and OMB are probably doing that, because they have either completed their mission or it is not a priority.

On the other hand, there may be some of those rated "ineffective" as mentioned in the TRIO program, rated as ineffective. When they looked at the overall score, they said: Well, it is effective if you look at higher risk students. So they carved it out and said: Thirty percent has to go to higher risk students. Then they requested the continued funding for it.

I say to my friend from Colorado, I understand his desire. Everybody wants to cut down on something that is ineffective. But I do think that if the Senator were to read and understand completely what that Program Assessment Rating Tool does, he might agree with the President's own words on his budget.

I yield the floor.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ALLARD. Mr. President, I appreciate the comments the Senator from Iowa was making. I was not elected to this body—I do not think the Senator from Iowa was either—to make easy votes. This can be a difficult vote. There are programs on there that I support, I support wholeheartedly, but I want them to be effective. How can I go back to my taxpayers in the State of Colorado and say: Well, we are spending billions of dollars on this program, but it is ineffective. It is not measuring up to the standards which most businesses would be expected to measure up to for performance, or maybe other agencies are going to measure up to for performance.

I do not know how else to get the attention of the bureaucracy except to deal with them where they pay attention. That is their pocketbooks, their budget. I think when we have an ineffective program, we are not doing our jobs as Senators if we do not figure out a way to bring accountability to the program.

Now, this is a modest attempt to try to bring some accountability. We do not eliminate any programs. We do a reduction on a few programs that are listed as "ineffective."

In the business world, they use the same process that OMB puts in place. This is not a partisan process. You know, you referred to President Bush's actions on it. It may be a Democratic President 3 years from now. He is going to be dealing with the same problems this President is dealing with, that he has programs out there that simply are not measuring up.

So let me get back to what the standard business world does. They look at a program and say: Well, look, we are spending a certain amount of money, and it is not performing. Because it is not performing, we have either got to redo the program, which is an option the Congress can look at, or we eliminate it altogether, or we create some other kind of modification that is going to make it accountable to the stockholders of that company.

The stockholders in this case are the taxpayers of the country. They are the ones putting money in this program. They are the ones who expect the program to do what it says, for what it is set up to do. This is a program that has been in place for 10 years. It is not a new program.

The agencies have had plenty of time to respond and react to this particular effort. I would credit those agencies or programs that are listed as ineffective for at least having tried to comply with the law.

There is another group there I did not address. There are those where results have not been demonstrated. They are sort of thumbing their nose at the Congress and saying: Heck, we are not even going to bother to set up any goals and objectives for our program. We are going to let it run on auto. In some cases they have a legitimate reason for doing that, but I do

think the Congress does need to look at those programs that are ineffective and make some judgments. Now, if the Senator from Iowa has a better suggestion on how we may bring accountability to the agencies, I would be glad to hear what it is.

I think a modest reduction in their budget will send a message to them that you have got to get your act in order, and then hopefully, as we go down through the years, they will begin to understand that it is the Congress that controls the purse strings, and you need to get your act in order; we need to have accountability in the program.

I think this is a commonsense amendment. It is being supported by Citizens Against Government Waste. The National Taxpayers Union is supporting it. I have sat down with groups on how it is we can bring forward effective, efficient Government.

We do not want programs out there that make all of these grandiose claims but then do not deliver. They waste taxpayers' dollars in the process. So this is what this amendment is trying to address. I ask my colleagues to support me in this effort. It is a modest amendment. It is something that I think can make a difference.

If you want the legislative branch to have a little power over the executive branch through the purse strings, this is the way to do it. Again, I ask my colleagues to join me in voting for this amendment.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, again, I listened to my friend from Colorado, but maybe the right amendment would be to go after the Program Assessment Rating Tool, because as it says: Some of the programs that are rated ineffective actually may need more money.

I will give the Senator one example. A couple of years ago, a school that I know very well here in Washington, DC, called Gallaudet University—it is the university for the deaf here in America, premier college in the world, as a matter of fact—got an “ineffective” rating. That got me pretty upset until I started looking at it, finding out why it was ineffective. Now, if we had cut their funding by 10 percent, they never would have become effective. But because we got them in, and the committee did its job—and that is what the committee's function is for; if there is something that is ineffective, that is why we have committees.

Call them up, ask them what is happening. Make them explain why it has an “ineffective,” why it was demonstrated “no results,” and then let the committee do its work. That is what we did with Gallaudet. We could have had a 10-percent cut there, and they never would have become effective. They just needed better guidance and better direction. That is what the committee structure does. That is why

we have the executive branch overseeing these things. That is the better way to approach it than this kind of sledgehammer approach.

Mr. ALLARD. If I may respond, it is not a sledgehammer approach. It is a mild little push to try to improve the program. I agree, some programs can be improved if we increase appropriations, and that is what we need to do. But maybe to get their attention, to get things moving in the right direction, maybe we need to start out with a reduction in spending. This is a commonsense program. We can argue about it. I have never been in any committees where they talked about it in this way. I think it needs to be talked about more, and that is why I am introducing the amendment.

Mr. HARKIN. That is why we have the Appropriations Committee. Yes, we do call them up, and we do look into these matters. But it is not this kind of heavyhanded approach that is going to cut programs that actually have taken steps, such as the Upward Bound Program, to be more effective.

The PRESIDING OFFICER. The hour of 5:30 having arrived, the question is on agreeing to the Allard amendment, with 2 minutes of debate equally divided on the amendment.

Mr. HARKIN. Mr. President, I have a unanimous consent request. I ask unanimous consent that I be permitted to do that at this point.

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

AMENDMENT NO. 3347, AS MODIFIED

Mr. HARKIN. Mr. President, I ask unanimous consent that in the vote sequence previously agreed to, the Dorgan amendment, No. 3335, as modified, be removed from the agreement and the Menendez amendment, No. 3347, be substituted and the amendment be modified with the text of amendment No. 3428, and that the Senate then vote in relation to the Menendez amendment, No. 3347, as modified, following the disposition of the Allard amendment, and that all other provisions of the previous order remain in effect.

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

The amendment, as modified, is as follows:

On page 79, between lines 4 and 5, insert the following:

SEC. _____. (a) In addition to any other amounts appropriated or otherwise made available under this Act, \$8,000,000 shall be available to carry out activities under the Patient Navigator Outreach and Chronic Disease Prevention Act of 2005 (Public Law 109-18).

(b) Amounts made available under this Act for consulting services for the Departments of Labor, the Department of Health and Human Services, and the Department of Education shall be further reduced on a pro rata basis by the percentage necessary to decrease the overall amount of such spending by \$8,000,000.

AMENDMENTS NOS. 3335, AS MODIFIED, 3331, 3419, 3434, 3405, AND 3411

Mr. HARKIN. I ask unanimous consent that the following amendments be considered and agreed to and the motions to reconsider be laid upon the table en bloc: Amendment No. 3335, as modified, 3331, 3419, 3434, 3405, and 3411.

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

The amendments were agreed to, as follows:

AMENDMENT NO. 3331

(Purpose: To provide that none of the funds appropriated or otherwise made available by this Act may be used to enter into a contract in an amount greater than \$5,000,000 or to award a grant in excess of such amount unless the prospective contractor or grantee makes certain certifications regarding Federal tax liability)

At the end of title V, add the following:

SEC. 521. None of the funds appropriated or otherwise made available by this Act may be used to enter into a contract in an amount greater than \$5,000,000 or to award a grant in excess of such amount unless the prospective contractor or grantee certifies in writing to the agency awarding the contract or grant that, to the best of its knowledge and belief, the contractor or grantee has filed all Federal tax returns required during the three years preceding the certification, has not been convicted of a criminal offense under the Internal Revenue Code of 1986, and has not, more than 90 days prior to certification, been notified of any unpaid Federal tax assessment for which the liability remains unsatisfied, unless the assessment is the subject of an installment agreement or offer in compromise that has been approved by the Internal Revenue Service and is not in default, or the assessment is the subject of a non-frivolous administrative or judicial proceeding.

AMENDMENT NO. 3419

(Purpose: To provide for a study to evaluate the Social Security Administration's plan to reduce the hearing backlog for disability claims at the Social Security Administration and the Social Security Administration's current and planned initiatives to improve the disability process)

At the appropriate place, insert the following:

SEC. _____. (a) The Comptroller General of the United States shall conduct a study to evaluate the Social Security Administration's plan to reduce the hearing backlog for disability claims at the Social Security Administration and the Social Security Administration's current and planned initiatives to improve the disability process, as contained in the report submitted to the Senate on September 13, 2007, pursuant to Senate Report 110-107.

(b) Not later than 5 months after the date of enactment of this Act, the Comptroller General of the United States shall submit to Congress a report on the study conducted under subsection (a), together with such recommendations as the Comptroller General determines appropriate.

AMENDMENT NO. 3434

(Purpose: To develop biodefense medical countermeasures by fully funding the Biomedical Advanced Research and Development Authority (BARDA) in a fiscally responsible manner)

On page 66, line 7, strike “\$756,556,000” and insert “\$786,556,000”.

On page 66, line 10, strike the period and insert “; and of which \$189,000,000 shall be

used to support advanced research and development of medical countermeasures, consistent with section 319L of the Public Health Service Act.”.

On page 79, between lines 4 and 5, insert the following:

SEC. _____. Notwithstanding any other provision of this Act, amounts appropriated in this Act for the administration and related expenses for the departmental management of the Department of Labor, the Department of Health and Human Services, and the Department of Education shall be reduced by a pro rata percentage required to reduce the total amount appropriated in this Act by \$30,000,000.

AMENDMENT NO. 3405

(Purpose: To provide for the Government Accountability Office to submit a report to Congress on the process for hiring and managing administrative law judges, and for other purposes)

At the appropriate place in title V, insert the following:

SEC. _____. Not later than 9 months after the date of enactment of this Act, the Government Accountability Office shall submit a report to Congress that contains an assessment of the process for hiring and managing administrative law judges and makes recommendations on ways to improve the hiring and management of administrative law judges.

AMENDMENT NO. 3411

(Purpose: To permit certain amounts to be used for grants to Federal commissions that support museum and library activities)

On page 106, line 24, insert before the period the following: “*Provided further*, That funds may be made available for grants to Federal commissions that support museum and library activities, in partnership with libraries and museums that are eligible for funding under programs carried out by the Institute of Museum and Library Services”.

Amendment No. 3335, as modified, was agreed to.

AMENDMENT NO. 3369

The PRESIDING OFFICER. The question is on agreeing to the Allard amendment, No. 3369.

Mr. HARKIN. Parliamentary inquiry: I understand there is 2 minutes, if the Senator wants it.

Mr. ALLARD. I would like to take a minute to briefly explain the amendment.

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

Mr. ALLARD. The Allard amendment is a commonsense amendment. It looks at those programs that are rated as ineffective by the Office of Management and Budget. It is a nonpartisan process. It was set up by the Congress more than 10 years ago. It is time the Congress expect some accountability in that program itself. One can look on expectmore.gov which lists the agencies that are performing and those that are not. Some of these programs are my favorite programs. I voted for them and support them. But we have to bring accountability so that when we are supporting a program, it actually does what it says it is going to do; that all the money doesn't go to the bureaucracy and none of it gets to the beneficiaries. We are trying to bring some accountability to this process. That is the reason for the amendment.

My hope is that the Senate will vote for this in strong numbers so we can send a message to agencies that they need to begin to get their act in order, those that are rated as ineffective. We need to, in the committee process, refer to this rating. Let's put them on record in committee meetings to hold them accountable for their programs.

Mr. HARKIN. Mr. President, this is a heavyhanded club approach. Already we know that sometimes programs are rated ineffective, as the President's own budget says, and actually need more funding. Some of those rated “effective” probably ought to have their funding cut. But the Senator from Colorado says we are just going to cut all these programs across the board that are rated “ineffective.”

As I pointed out, Gallaudet College in Washington, DC, probably the finest university for the deaf in the world—not probably, it is—somehow got an “ineffective” rating. They changed things. Now they have an “effective” rating. Had they been cut 10 percent, they never would have been able to get “effective” again. This is not the proper way to do things. This is something for committees to handle and for the executive branch. I know the Senator from Colorado has well-meaning intentions, but they are misdirected and misguided because the Program Assessment Rating Tool is not the kind of instrument the Senator is envisioning with his amendment.

I yield back whatever time I have. I move to table the Allard amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second. The question is on agreeing to the motion.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from New York (Mrs. CLINTON), the Senator from Connecticut (Mr. DODD), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Missouri (Mrs. MCCASKILL), and the Senator from Illinois (Mr. OBAMA) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KENNEDY), would vote “yea.”

Mr. LOTT. The following Senators are necessarily absent: the Senator from Idaho (Mr. CRAPO), the Senator from Nevada (Mr. ENSIGN), the Senator from South Carolina (Mr. GRAHAM), the Senator from Nebraska (Mr. HAGEL), and the Senator from Arizona (Mr. MCCAIN).

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

The result was announced—yeas 68, nays 21, as follows:

[Rollcall Vote No. 381 Leg.]

YEAS—68

Akaka	Durbin	Nelson (FL)
Alexander	Feingold	Nelson (NE)
Barrasso	Feinstein	Pryor
Baucus	Grassley	Reed
Bayh	Harkin	Reid
Bennett	Hatch	Roberts
Bingaman	Hutchison	Rockefeller
Bond	Inouye	Salazar
Boxer	Johnson	Sanders
Brown	Kerry	Schumer
Burr	Klobuchar	Smith
Byrd	Kohl	Snowe
Cantwell	Landrieu	Specter
Cardin	Lautenberg	Stabenow
Carper	Leahy	Stevens
Casey	Levin	Tester
Cochran	Lieberman	Thune
Coleman	Lincoln	Voinovich
Collins	Lugar	Warner
Conrad	Menendez	Webb
Dole	Mikulski	Whitehouse
Domenici	Murkowski	Wyden
Dorgan	Murray	

NAYS—21

Allard	Craig	Lott
Brownback	DeMint	Martinez
Bunning	Enzi	McConnell
Chambliss	Gregg	Sessions
Coburn	Inhofe	Shelby
Corker	Isakson	Sununu
Cornyn	Kyl	Vitter

NOT VOTING—11

Biden	Ensign	McCain
Clinton	Graham	McCaskill
Crapo	Hagel	Obama
Dodd	Kennedy	

The motion was agreed to.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. REID. Mr. President, we have one vote to follow right now. The managers have been working to finish this piece of legislation as quickly as possible. The staff has worked through a number of amendments today—in fact, a significant number of amendments. We are on a glidepath to finish this legislation by 12:30 tomorrow, so everyone is going to have to cooperate and get things done. We have a lot to do this week, but the key to getting it done is finishing this bill.

AMENDMENT NO. 3347, AS MODIFIED

The PRESIDING OFFICER. There will now be 2 minutes equally divided on the Menendez amendment, as modified.

Who yields time?

Senators will please take their conversations off the floor. The Senate is not in order. Will the Senate please come to order so we may hear the Senator from New Jersey.

The Senator from New Jersey is recognized.

Mr. MENENDEZ. Mr. President, I ask unanimous consent that Senator HUTCHISON be added as a cosponsor of my amendment.

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

Mr. MENENDEZ. Mr. President, I wanted to thank Senators HARKIN and SPECTER for their leadership on the bill and their strong support of this amendment, which is to put \$8 million in the

Patient Navigator and Chronic Disease Prevention Act. It is strongly supported by a letter that was issued by the American Cancer Society, the Leukemia Lymphoma Society, the National Association of Community Health Centers, the National Medical Association, the National Patient Advocate Foundation, and the Susan G. Komen for the Cure Foundation.

What they say in their letter sums it up in its totality. It says: Improving the health of America as a whole depends significantly on our ability to improve health outcomes for the uninsured, those who live in rural areas, minorities—

Mr. BYRD. Mr. President, may we have order in the Senate.

The PRESIDING OFFICER. The Senate is not in order. The Senator from West Virginia is correct. Will the Senators please take their conversations off the floor.

Mr. BYRD. I thank the Chair and I thank all Senators.

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

Mr. MENENDEZ. Mr. President, the American Cancer Society and all of these other organizations tell us that this amendment will help individuals who are in rural communities, minorities, and other medically underserved populations who suffer from a disproportionate burden of cancer, navigate the health care system, create more positive outcomes, save money, and save lives. That is why we urge all of our colleagues to support the amendment.

The PRESIDING OFFICER. Who yields time? Who yields time in opposition?

Mr. ALLARD. Mr. President, I yield back the remainder of the time in opposition.

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

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

The question is on agreeing to the amendment.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from New York (Mrs. CLINTON), the Senator from Connecticut (Mr. DODD), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Missouri (Mrs. MCCASKILL), and the Senator from Illinois (Mr. OBAMA) are necessarily absent.

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

Mr. LOTT. The following Senators are necessarily absent: the Senator from Idaho (Mr. CRAPO), the Senator from Nevada (Mr. ENSIGN), and the Senator from Arizona (Mr. MCCAIN).

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

The result was announced—yeas 88, nays 3, as follows:

[Rollcall Vote No. 382 Leg.]

YEAS—88

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

NAYS—3

Coburn	DeMint	Kyl
--------	--------	-----

NOT VOTING—9

Biden	Dodd	McCain
Clinton	Ensign	McCaskill
Crapo	Kennedy	Obama

The amendment (No. 3347), as modified, was agreed to.

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

The motion to lay on the table was agreed to.

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

AMENDMENTS NOS. 3432, AS MODIFIED, AND 3377, AS MODIFIED EN BLOC

Mr. HARKIN. Mr. President, I have a couple of modifications I will send to the desk. First is a modification for No. 3432 and then No. 3377.

The PRESIDING OFFICER. Without objection, the amendments are so modified.

The amendments (Nos. 3432 and 3377), as modified, are as follows:

AMENDMENT NO. 3432, AS MODIFIED

At the appropriate place in title II, insert the following:

SEC. ____ (a) In addition to other amounts made available in this title, \$3,000,000 shall be made available for trauma care activities.

(b) Amounts made available under this Act for consulting services for the Department of Labor, the Department of Health and Human Services, and the Department of Education shall be reduced on a pro rata basis by the percentage necessary to decrease the overall amount of such spending by \$6,000,000.

AMENDMENT NO. 3377, AS MODIFIED

On page 79, between lines 4 and 5, insert the following:

SEC. ____ (a) In addition to other amounts appropriated in this title to carry out title VII of the Public Health Service Act, \$2,000,000 shall be made available to carry out allied health professional programs under section 755 of such title VII, other than the Chiropractic-Medical School Demonstration Grant program, Graduate Psychology training programs, and podiatric physicians programs.

(b) Amounts made available under this Act for consulting services for the Department of Labor, the Department of Health and Human Services, and the Department of Education shall be reduced further on a pro rata basis by the percentage necessary to decrease the overall amount of such spending by \$2,000,000.

AMENDMENT NO. 3378

Mr. HARKIN. Mr. President, I call up amendment No. 3378 by Senator TESTER and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Iowa [Mr. HARKIN], for Mr. TESTER, proposes an amendment numbered 3378.

The amendment is as follows:

(Purpose: To provide additional funding for veterans employment and training for Federal management activities)

On page 28, line 10, insert before the period the following: "Provided, That \$3,000,000 shall be transferred from amounts made available in this title for salaries and expenses of the Department of Labor, to carry out Federal management activities relating to veterans employment and training".

Mr. HARKIN. Mr. President, this amendment has been agreed to on the other side.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

AMENDMENT NO. 3360 WITHDRAWN

Mr. HARKIN. Mr. President, I ask that amendment No. 3360 be withdrawn.

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

Mr. HARKIN. Mr. President, here is the situation. Everybody wants to know if there will be more votes tonight. We don't know yet. We are trying to work out amendments with the other side. We have been instructed by the leadership to finish this bill by 12:30 tomorrow. We still have a lot of amendments pending. We are trying to work them through. Depending on the progress within the next half hour or so, we will know whether we need to have more votes tonight.

There are a lot of amendments pending. If somehow we can get these offered tonight and stacked for votes tomorrow, we might be able to do that. If not, we may have to have votes further tonight. I have been instructed by my leader to continue in that vein. So I cannot say yet if we are going to have more votes tonight. It depends on how many can be accepted on both sides. We will know shortly.

I ask unanimous consent that Senator BOXER be recognized for 10 minutes to speak about the fires in California; that upon the end of her presentation, the Senator from Maryland, Mr. CARDIN, be recognized for 5 minutes for the purpose of offering an amendment; that at the end of that 5 minutes, the Senator from Louisiana, Ms. LANDRIEU, be recognized for 5 minutes to offer an amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from California.

CALIFORNIA WILDFIRES

Mrs. BOXER. Mr. President, I thank Senator HARKIN and my colleagues. Many of them have come up to Senator FEINSTEIN and myself tonight and have expressed their concern about the fires that are raging out of control in our State, home to 37 million people, very dangerous fires, kind of a perfect storm of extremely high temperatures, very low humidity, and Santa Ana winds which gust up to hurricane-type winds, sometimes as high as 50, 60 miles an hour, with the average about 35 miles an hour.

Senator FEINSTEIN and I have heavy hearts as we talk with our Governor and our mayors. They are conveying to us that this is very serious because our firefighters are at a huge disadvantage because of the unpredictability of the winds. We don't know from one moment to the next whether the fires will turn on these firefighters. Last year was a very tough year for us in California. We had some horrific experiences, and we lost firefighters. We are not going to repeat that situation. We have to make sure we save lives, that we get people out of their homes. At this point, I can say people appear to be cooperating with the authorities. The most important point is we care about each other and we save lives.

There are now more than a dozen wildfires burning, again, all being fanned by these hot Santa Ana winds, raging from as far south as the Mexican border to as far north as Los Angeles and Ventura Counties. Governor Schwarzenegger has declared a state of emergency in seven counties—Los Angeles, Orange, Riverside, San Bernardino, San Diego, Santa Barbara, and Ventura. More than 250,000 people are evacuated in San Diego County alone, where blazes have torched more than 100,000 acres. Senator FEINSTEIN and I spoke with Mayor Sanders today, and he told us that one condominium complex has burned with 400 units.

Mayor Sanders warns we have tough times ahead. There are walls of flames 100 to 200 feet high. There are fires popping up everywhere, with eight separate fires burning in that region. More than a dozen people are being treated at the UC San Diego Medical Center Regional Burn Center for smoke inhalation and burns, including four firefighters who are seriously injured. One individual we know of has lost his life in San Diego.

Our firefighters deserve our prayers, our help, and our thoughts, as do all the people in the southern California region. We have to remember that they go out there and do everything they are trained to do, and the last thing they think about is themselves. Yet and still, we have been trying for years to pass the Healthy Firefighters Act to follow these firefighters who work in these horrific situations, and some of them have absolutely no health insurance. We are trying to protect them and follow them so we can make sure

that in future years, they are not plagued from the smoke inhalation.

I wish to show a picture. I hope my colleagues will take a look at it. San Diego, this is one photo. We can see, if we look closely, the firefighters. From where they are getting any oxygen is hard to know. They are literally in the fires of hell right there.

Then in Santa Clarita, more than 25,000 acres have burned and approximately 800 homes have been evacuated. I will show another picture. We can see the fire in the hills threatening the homes. Eight hundred homes have been evacuated in this region.

Most of my colleagues have seen the reports of Malibu. More than 2,400 acres have burned. We can get a sense of what is happening there. This is a photo of a beach. This is the water, the Pacific Ocean. You cannot see in front of you the fires, the smoke, the wind blowing the sand. I was in southern California. I left this morning, and yesterday I was out in the Santa Anas.

To give my colleagues a sense of what it is like, the winds are so strong in the desert areas and in the beach areas that you can taste the grit of the sand in your mouth and feel it in your eyes and certainly in your lungs.

In Malibu, more than 2,400 acres burned. Several homes and structures have been destroyed, including the Malibu Presbyterian Church. My understanding is the church was able to remove computers and some other items they desperately needed, but that building is gone. The Pacific Coast Highway remains closed, and the evacuations continue as we speak.

Again, thousands of our brave firefighters are frantically working in conjunction with the California department of forestry and the U.S. Forest Service, the California Highway Patrol, the U.S. Border Patrol, and FEMA to contain these fires. I thank all the dedicated Federal workforce who have joined in this effort. They deserve our prayers and support as well.

People are escaping with only the clothes on their backs. Families have no time to gather anything as they flee from the inferno that engulfs everything it touches.

This is only the most recent information. As I speak, these fires rage on. The Governor says they don't expect a diminution of these Santa Ana winds until at best tomorrow afternoon, maybe Wednesday. We pray these winds stop their fierce blowing.

We need to make sure our communities have the resources they need now. California cannot fight this battle alone. I mentioned the agencies that are out there already helping. I know the equipment is being given as we speak.

The Governor has declared a disaster in seven counties, and as soon as he asks the President for a Federal declaration, I know President Bush will act swiftly. There are certain areas where we have to work together where there cannot be an inch of distance between us.

As I stand here, I look over at my friend, Senator LANDRIEU, and I see the compassion in her face because she is still working night and day, 24/7 to make sure her State is whole again. I, again, pledge to her—she knows I will be there with her every step of the way.

So these are the times when we in this Senate have to cross over party lines, and we do, to make sure we make life livable for people who have lost, in some cases, everything—everything material. Again, I want to say the most important point is we save lives.

I ask for an additional 1 minute, please.

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

Mrs. BOXER. Mr. President, this isn't just a fight to contain wildfires. This is a fight to save lives. This is a fight to save schools and homes and businesses. Again, I thank all the firefighters, the local officials, the volunteers, my own staff who is out there working. I thank the President and FEMA and all the Federal workers.

Right now we must contain these fires. Right now we must save lives. Right now we must provide shelter and hope for those displaced.

I again thank my colleagues from both sides of the aisle who have come up to me or have come up to Senator FEINSTEIN and said to us: Please let us know what we can do. We will be calling on our colleagues. We know they care very much about the 37 million people of my State, and a large proportion of them in southern California being impacted by these fires.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland.

AMENDMENT NO. 3400 TO AMENDMENT NO. 3325

Mr. CARDIN. Mr. President, I ask unanimous consent to lay aside the pending amendment so I may call up amendment No. 3400.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Maryland [Mr. CARDIN], for himself, Mr. SMITH, Mr. LIEBERMAN, and Mr. DURBIN, proposes an amendment numbered 3400 to amendment No. 3325.

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

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

The amendment is as follows:

(Purpose: To provide support to Iraqis and Afghans who arrive in the United States under the Special Immigrant Visa program)

On page 126, between lines 7 and 8, insert the following:

SEC. 521. Iraqi and Afghan aliens granted special immigrant status under section 101(a)(27) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)) shall be eligible for resettlement assistance, entitlement programs, and other benefits available to refugees admitted under section 207 of such Act (8 U.S.C. 1157) for a period not to exceed 6 months.

Mr. CARDIN. Mr. President, Senators SMITH, LIEBERMAN, DURBIN and I offer this amendment to grant Iraqi and Afghan special immigrant visa holders 6 months of eligibility for resettlement assistance when they arrive here in the United States.

The United States currently provides up to 500 special immigrant visas, SIVs, to translators from Iraq and Afghanistan. To be eligible for an SIV, an individual from either of those two countries must: (1) faithfully serve as a translator with the U.S. military or chief of mission for at least a year and (2) be recommended to the program by a general, flag officer, or chief of mission. Visas are also issued for the spouse and dependent children of the SIV applicant.

According to the Department of State, the U.S. issued 823 special immigrant visas to Iraqis this year. This included 432 visas for principal applicants and 391 visas for family members.

As a matter of course, immigrants who come to the United States through the U.S. Refugee Admissions Program, including Iraqis and Afghans, are eligible for travel loans to help them get to the United States and for resettlement assistance once they arrive here. As a matter of course, the Federal Government tries to ensure that refugees are able to make the transition to a productive life in the United States by providing preliminary housing; school enrollment; and job training assistance.

In spite of their service to our country, however, individuals from Iraq and Afghanistan who come here on Special Immigrant Visas receive no help with travel or readjustment.

The U.S. Government does not keep track of how many of the 823 Iraqis admitted into this program actually have been able to travel to the United States. Experts believe that many translators with SIVs are still trapped in the region because they cannot afford the cost of the SIV fees and the plane tickets, especially if they are bringing members of their immediate family.

Like refugees, many Iraqi and Afghan special immigrants face hardships that make it difficult to immediately adapt to their new home. Many have been forced to leave their homes and all their personal wealth in Iraq. Many have been forced to pay ransoms or have been robbed by criminals while fleeing the country. Moreover, while translators are paid well by Iraqi standards, that compensation doesn't amount to much for people trying to live in the United States.

U.S. soldiers are paying for the plane tickets of their Iraqi interpreters out of their own pockets and acting as hosts and social workers for the individuals and families they are unofficially "sponsoring" when they arrive here in the U.S. This puts a heavy strain on our soldiers attempting to make their own tough readjustment to life back home.

Special immigrant translators have no past experience obtaining work permits, Social Security numbers, bank accounts, and all the other documents and necessities of everyday life in this country. While special immigrant translators have valuable job skills, they often need further training and assistance with job placement.

So Senator SMITH and I have introduced this amendment to make these special immigrants from Iraq and Afghanistan eligible for 6 months—of resettlement assistance. They have been the eyes and ears of our military, and they have saved so many American lives. They now have a target on their back because of their service to our country, and we need to protect them by granting them safe refuge in the United States. Frankly, I don't know how we could justify doing any less for people forced to flee their homes and their country because they have been helping us. This is just for 6 months—just enough to get them on their feet.

I would note that the Congressional Budget Office, CBO, has estimated that the amendment would have no effect on direct spending under current law.

The Iraqis and Afghans admitted under the special immigrant visa program have risked their lives to serve the United States. Without the assistance my amendment offers, they may remain trapped in the region or they may face a tougher time than is necessary or right adjusting to U.S. society. My amendment is a helping hand to people who have helped us. It's a way to repay them for their service by helping them to get here and begin living safe and productive lives in America. We have a strong obligation to keep faith with the Iraqis and Afghans who have worked so bravely with us—and have often paid a terrible price for it.

I urge my colleagues to support this amendment.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana.

AMENDMENT NO. 3446 TO AMENDMENT NO. 3325

Ms. LANDRIEU. Mr. President, I send an amendment to the desk—I want to clarify it has actually been filed—amendment No. 3446.

The PRESIDING OFFICER. The amendment is at the desk.

Ms. LANDRIEU. I wish to call it up for consideration.

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

Without objection, the clerk will report the amendment without prejudice to the rights of all Senators.

The assistant legislative clerk read as follows:

The Senator from Louisiana [Ms. LANDRIEU] proposes an amendment numbered 3446 to amendment No. 3325.

Ms. LANDRIEU. I ask unanimous consent to dispense with the reading of the amendment.

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

The amendment is as follows:

On page 85, line 10, strike the colon and insert:

Provided further, That, not less than 25% of the new grants under the Elementary and Secondary School Counseling program, shall be awarded to local education agencies that demonstrate a need for additional counseling services due to the impact of a federally declared major disaster or emergency."

Ms. LANDRIEU. Mr. President, first let me say I wish to be added as a cosponsor to Senator CARDIN's amendment. I was very taken by his presentation about the responsibility that we do have, and it has been on my mind, actually, for several weeks about our allies and support staff in Afghanistan and Iraq, so I want the clerk to note that I wish to be a cosponsor to the Cardin amendment.

But I rise to speak about an amendment I am offering, and I have had some very good advice and counsel on this amendment from several members of the committee, and I will speak about the amendment as if it is modified, because Senator KENNEDY suggested I might make some changes to it.

As you may remember, last week the Senate was very helpful in reinstating one mental health program that had been cut, I think very inappropriately, and it couldn't have been at a worse time for us in the gulf coast. It was an outstanding model program. Last week the Senate adopted my amendment to reinstate a child's health program that LSU had been running for 4 years, because after Katrina and Rita hit, it was literally the only child counseling program in the metropolitan area. That has already been done.

Tonight I come to the floor to try to help again in the same area of mental health. We have crafted this amendment so that it has no impact on the underlying bill because what it does, basically, is set a competitive preference. This is not a set-aside but a competitive preference for programs within the already existing and already funded school-based mental health program. That has been well established and well run for many years.

My amendment, with the Kennedy modification, simply says that the Department should look out in the country, and if there are areas where a disaster has been declared, they would give a competitive preference to those areas and to those schools in giving out these grants for counseling.

I cannot even begin to express the heroic efforts of our schools—public schools, private schools, and parochial schools—and the things some principals, teachers, faith-based organizations, and foundations have done to help rebuild hundreds of schools that were destroyed. We found, in our disaster—and of course we are learning a lot from the lessons learned in the disasters of Katrina and Rita, but one thing I know for sure, and I don't need a survey or anybody else to tell me about it because, as you know, I have been following it pretty closely, is that

the first thing parents and a community want back, basically, is their schools.

After a whole neighborhood is destroyed, or large parts of a city, no matter how large or how small, in order to get back to normal, parents first have to get their children safe and into a school. So we noticed right after Katrina-Rita, with 300,000 children looking for a place to go to school on Monday morning, there was a great struggle underway for parents to start to stabilize their family situation by getting their children back in school. Even if the family had no home, even if the father or mother had no job, even if they couldn't locate the grandparents, they were first thinking about where can our children go to school on that Monday morning.

Imagine the children coming into schools—and I could tell you so many stories, extraordinary stories of teachers and schools and principals who opened their arms to children who came in and who had been traumatized from not only, of course, losing their own home, but some of the children swam out of water, some children, unfortunately, saw many people die in the disaster, and some had losses in their own immediate families. So I don't think I have to explain the need and the importance of mental health counseling.

That is what this bill does. Senator HARKIN has been a phenomenal supporter of this program. I think he actually helped to create it. Again, I am not asking for any new money to be added. I am not even asking for a set-aside for any of the programs in the gulf coast. I am simply saying as we look to the future to fund these programs that we give a competitive preference, if you will, for schools that find themselves in disaster areas.

Senator BOXER spoke for 10 minutes on the crisis underway in Southern California. Imagine the trauma some of these children are going to be dealing with over the next months and years trying to rebuild in those communities, or if their home was completely destroyed by fire. These disasters, by their very nature, cluster in certain communities. So you might have a group of schools where 90 percent of the children lost their homes, or a large proportion of children might have lost someone in their family in a disaster. So it makes common sense for us to be a little more sensitive to these mega disasters, and that is what my amendment does. So I offer it now. I don't know if it can be accepted by voice vote. I am happy for it to be voted on at any time. If everything else is in order, I will leave the rest to the managers.

While I am waiting on some documents in another matter, let me say a few more things about this. The funds would be divided between four grantees to leverage funds for mental health services, as I said, to the schools. The schools play a central role after a com-

munitywide traumatic event. Schools are a very important site for delivering mental health services. Schools are often best situated to recognize immediate mental disorders. School-based mental health services lead to increased academic achievement, decreased attention problems and disciplinary issues, and reduce special education referrals.

The national average, unfortunately, as we know—and I think we need more resources in this area—is 476 students for every 1 counselor. The recommended ratio in our schools is 250 to 1. So imagine in the devastated areas along the gulf coast and in other places, such as in Kansas, where Senator PAT ROBERTS experienced a great tornado disaster in a much smaller community, but it was pretty much a complete destruction of a town in Kansas; or as Senator BOXER is experiencing right now in Southern California, this amendment would look forward. Again, it would not add anything to the budget, but I think it would give us an opportunity to give some appropriate competitive preference to these children.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I wish to announce to all Senators there will be no more votes tonight. But I must say there are a lot of amendments floating around that have not been offered, and we do have some that are pending. We are working on those right now, and shortly—I hope within the next few minutes—I will be propounding a unanimous consent request that when we come in at 10 o'clock tomorrow morning we will have a list of amendments that we will be voting on.

So I say to Senators, if you have an amendment that is floating around out there, and we have a list of them, and you want it offered, I would suggest you better get over here tonight and do it, because once we start the votes in the morning at 10 o'clock—and hopefully we will reach unanimous consent with the other side on that, as I said, in a few minutes—that is going to chew up a lot of the clock. And since an agreement has been reached that we would finish by 12:30 tomorrow, that means if you have an amendment to be offered, you are going to get squeezed tomorrow morning. We may have to have one of those kind of agreements where you get 1 minute to speak, and you can offer your amendment, but it is going to be pretty hard to get an amendment in tomorrow morning.

I have to say to Senators, if you have an amendment that you feel strongly about and you want to have offered, you better get over here this evening. Because tomorrow morning the traffic is going to be pretty crowded around 10 o'clock.

Mr. President, while we wait to work out some other matters, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENTS NOS. 3427, AS MODIFIED; 3379, AS MODIFIED; 3344, AS MODIFIED; 3361 TO AMENDMENT NO. 3325 EN BLOC

Mr. HARKIN. We are making progress. I have some amendments that can be cleared. First I have to send some modifications to the desk.

I send to the desk a modification to Cornyn amendment No. 3427, a modification to another Cornyn amendment, No. 3379, and a modification to Baucus amendment No. 3344.

I now ask unanimous consent to call up amendment No. 3361 by Senator BROWN; amendment No. 3427 by Senator CORNYN, as modified; amendment No. 3379 by Senator CORNYN, as modified; and amendment No. 3344 by Senator BAUCUS, as modified, and ask for their immediate consideration.

The PRESIDING OFFICER. Without objection, the foregoing amendments are proposed en bloc, considered en bloc, and agreed to en bloc.

The amendment (No. 3361) was agreed to.

The amendments (Nos. 3427, 3379, and 3344), as modified, were agreed to, as follows:

AMENDMENT NO. 3427, AS MODIFIED

At the appropriate place in title II, insert the following:

SEC. _____. It is the sense of the Senate that a portion of the funds appropriated under this title be used for frequent hemodialysis clinical trials at the National Institute of Diabetes and Digestive and Kidney Diseases.

AMENDMENT NO. 3379, AS MODIFIED

On page 3, line 24, strike "\$125,000,000" and insert "\$150,000,000".

AMENDMENT NO. 3344, AS MODIFIED

On page 34, lines 8 and 9, strike "*Provided,*" and insert the following: ", and of which \$250,000 shall be for the Center for Asbestos Related Disease (CARD) Clinic in Libby, Montana: \$250,000: *Provided further,*".

Mr. HARKIN. Mr. President, for Mr. BAUCUS, I ask unanimous consent to have printed in the RECORD a letter dated October 17, 2007.

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

U.S. SENATE,

Washington, DC, October 17, 2007.

Hon. ROBERT C. BYRD,
Chairman, Senate Appropriations Committee,
Washington, D.C.

Hon. THAD COCHRAN,
Ranking Member, Senate Appropriations Committee,
Washington, D.C.

DEAR MR. CHAIRMAN AND RANKING MEMBER: As part of the FY 2008 appropriations process, I have submitted requests for earmarks for FY 2008 appropriations bills or reports as required by the Senate Appropriations Committees and the individual Subcommittees.

I am writing you to certify that neither I nor a family member has a pecuniary interest in the FY 2008 earmark request I submitted in an October 17, 2007 amendment to H.R. 3043, the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2008. This

is in compliance with Senate Rule XXXVII (4).

Thank you for your leadership on the Appropriations Committee. If you or your staff has any questions or concerns, please do not hesitate to contact Will Sehestedt of my staff.

With best personal regards, I am

Sincerely,

MAX BAUCUS

Mr. HARKIN. Mr. President, we have worked through four more amendments. We are still working on others. Hopefully, soon we will have a unanimous consent proposal for tomorrow morning and linking up the votes beginning at 10 o'clock.

I say to Senators, if anyone out there has an amendment, there is no one on the floor. If anyone has an amendment they want to have offered, you would be well advised to do it tonight or you may not be able to do it tomorrow.

SANTA SUSANA FIELD LABORATORY

Mrs. FEINSTEIN. Mr. President, I would like to enter into a colloquy with Senators HARKIN and SPECTER concerning my amendment to the underlying bill, amendment 3403, which would provide compensation to qualifying individuals injured in the course of employment at the Santa Susana Field Laboratory in California. This amendment mirrors legislation I introduced in July to correct longstanding injustices to these nuclear workers and their families. Because of the revenue impact of this amendment, I have chosen not to call it up at this time. However, the plight of the Santa Susana Field Laboratory employees deserves mention as we debate this important bill.

In 1999, Congress approved the Energy Employee Occupational Compensation Program to provide a \$150,000 payment and medical benefits to workers who developed serious illnesses as a result of their work for the Department of Energy. The program has been plagued by slow processing times and roundly criticized by the families struggling to receive compensation for the deaths of loved ones.

I believe it is the responsibility of Congress to expand the Special Exposure Cohort to include qualifying Santa Susana Field Laboratory employees. This would allow eligible claims to be compensated without the completion of a radiation dose reconstruction or determination of the probability of causation. I would like to ask Senator HARKIN the chairman of the Appropriations Subcommittee Labor, Health and Human Services, Education, and Related Agencies, and Senator SPECTER, the ranking member of this subcommittee, whether they agree with me that Congress should expand the Special Exposure Cohort so that the claims of qualifying individuals can be processed more efficiently?

Mr. HARKIN. I believe it is important to compensate workers who have suffered as a result of their employment with the Department of Energy, and although the Energy Employee Occupational Compensation Program pro-

vides a process for compensating these victims, this process is often far too burdensome.

Mr. SPECTER. I agree with the senior Senator from California.

Mrs. FEINSTEIN. Santa Susana Field Laboratory employees played a significant role in keeping our Nation secure during the Cold War era. For example, many of these workers were instrumental in developing our nuclear weapons program. Unfortunately, many workers were not aware of the hazards at their workplace. Remarkably, no preventative equipment like respirators, gloves, or body suits was provided to workers.

Currently, over 600 claims for compensation have been filed by Santa Susana Field Lab workers. Ninety percent of those have been denied due to a lack of documentation or their inability to prove that they meet exposure thresholds. Santa Susana Field Lab workers and their families are faced with the burden of having to reconstruct exposure scenarios that existed nearly 40 years ago, in most cases with no records or documentation.

My amendment would cut the red tape by amending section 3621 of the Energy Employee Occupational Compensation Program Act of 2000 to treat employees of Santa Susana Field Laboratory as members of the Special Exposure Cohort. Individuals would be eligible for benefits if they worked at Santa Susana Field Lab for a total of 250 days and developed a serious illness that is known to be a result of exposure to radiation or other toxins at the Lab before January 1, 2006.

Employees who contracted specified cancers from exposure to radiation would receive at least \$150,000, and employees exposed to toxic chemicals would receive \$250,000. Additionally, my amendment would allow previously denied Santa Susana Field Lab claimants under the Energy Employee Occupational Compensation Program Act of 2000 the opportunity to reapply for compensation and medical benefits.

This is a matter that this body needs to address before it is too late. Do the chairman and ranking member of the subcommittee agree?

Mr. HARKIN. I agree with the remarks of the senior Senator from California.

Mr. SPECTER. I agree.

Mrs. FEINSTEIN. I thank my colleagues for their support. It is my hope that the Senate will soon address this matter so Santa Susana Field Laboratory workers and their families can finally receive the compensation they deserve.

COPD

Mr. CRAPO. Mr. President, my distinguished friend and colleague from Arkansas, Mrs. LINCOLN, and I rise to engage our colleague from Iowa Chairman HARKIN and our colleague from Pennsylvania in a colloquy.

I would like to share with my colleagues a pressing health concern facing the American public—COPD.

Chronic obstructive pulmonary disease, or COPD, is a growing public health threat in America. It is the fourth leading cause of death in the U.S. and is a major source of serious long-term disability. COPD kills more than 120,000 Americans each year—an average of one every 4 minutes.

Despite these alarming statistics, the United States does not have a coordinated approach to tracking COPD morbidity and mortality trends, identifying people at risk for COPD and ensuring they are evaluated by their physicians, and educating the public about the causes and symptoms of COPD.

Mr. HARKIN. I thank Senator CRAPO for his remarks. I agree that COPD is an important health threat facing the American public. In part that is why Senator SPECTER and I have fought hard to increase funding for the National Institutes of Health and the Centers for Disease Control and Prevention to address COPD and other pressing public health issues. Since 2003, the year after the NIH doubling was complete, funding into research on COPD has continued to increase by \$13 million at the National Institutes of Health. The bill before us, our Senate Labor-HHS bill includes a \$4.4 million increase for the CDC to work with at least seven additional States in fiscal year 2008 on preventing heart disease and stroke. I am very proud of these increases and I thank my colleague Senator SPECTER for helping to make them possible.

Mrs. LINCOLN. I thank the chairman for his thoughtfulness and dedication and would like to recognize the leadership of my colleague from Idaho on this important issue. I share Senator CRAPO's concern that COPD is a growing and largely unrecognized health problem in America. Today more than 12 million Americans are diagnosed with COPD, and research published by the CDC suggests that an additional 12 million Americans have undiagnosed COPD. That is 12 million Americans who have a debilitating and lethal disease but don't know it.

Equally alarming is the impact COPD is having on women. For several years, COPD was largely considered a disease of men. However, in 2000, the mortality rate for women for COPD exceeded that of men. Today, COPD is an equal opportunity killer.

I too am concerned that despite these statistics, the U.S. does not have a coordinated public health strategy to address COPD. Senator CRAPO and I would like to urge the CDC to begin developing a COPD response plan.

Mr. HARKIN. I thank the Senator from Arkansas for her consideration and I assure her that I will work with her and Senator CRAPO to ensure that the CDC is responsive to their concerns.

Mr. SPECTER. I appreciate Senator LINCOLN and Senator CRAPO for continuing to advocate on this important issue. I too will work with Chairman

HARKIN to ensure CDC is responsive to this issue and begins developing a national plan to address COPD.

LOW INCOME HOME ENERGY ASSISTANCE

Mr. REED. Mr. President, I would like to engage my colleagues, Senator HARKIN and Senator SPECTER, in a colloquy on the Fiscal Year 2008 Labor, Health and Human Services, Education, and Related Agencies Appropriations bill.

I want to thank Senator HARKIN and Senator SPECTER for their work on this bill. The bill restores cuts proposed in the President's budget while balancing many important national priorities. The President's proposed budget request of \$141 billion for the programs funded by this bill is clearly inadequate and I am glad the Committee on Appropriations allocated additional funding to this bill. However, even with this additional funding, I recognize the difficult budget constraints facing the subcommittee as it tries to reverse previous funding cuts to important education, labor, and health and human service programs.

One program particularly important to working Americans families and seniors is the Low-Income Home Energy Assistance Program, or LIHEAP. I know the chairman and ranking member are strong supporters of this program. Studies have shown that energy insecurity affects the health, nutrition, and learning of children. LIHEAP provides vital assistance to families, disabled individuals, and seniors so they don't have to choose between eating and paying an energy bill. With utility shutoffs and arrears on the rise, we cannot afford to support the President's cut of \$379 million to the program. In my home State, utility shutoffs for nonpayment are at their highest level in 10 years. The State's data shows that through August, there were 20,326 shutoffs for the year. If this is not bad enough, the Energy Information Administration's Winter Outlooks estimates that the average household will spend \$891 to heat with natural gas this winter and a family heating with oil can expect to spend \$1,785 this winter. We need to increase LIHEAP funding, not cut it as proposed in the President's budget. I want to thank the chairman and ranking member for restoring funding to the Fiscal Year 2007 level, but it is my hope that in conference we will be able to raise LIHEAP funding to \$2.662 billion, the level provided in the House.

I would also like to bring another issue to your attention. The House bill contains report language that would direct the national center for public health informatics to continue to fund the establishment of a nationwide database of contact information for practicing physicians. In the event of a terrorist attack, natural disaster, or a pandemic, Federal agencies and State and local health departments could use this database to contact physicians to request their help. In my State of Rhode Island, the Rhode Island Medical

Board participated in the pilot project of this program. Based on the success of that pilot project, I support its expansion nationwide. I hope that in conference, we can keep this House report language.

Mr. HARKIN. Mr. President, I thank my colleague from Rhode Island for sharing his views with me on LIHEAP and the national center for public health informatics.

We are facing a real crisis in Iowa and across the Nation. Last year in Iowa the average LIHEAP benefit was reduced by 30 percent. With record energy costs projected for this winter, many Iowa families are worried about how they will pay their heating bills. No family should have to choose between paying an energy bill and putting food on the table for their children. For this reason I look forward to working with my colleague to increase funding for the LIHEAP program in conference.

Mr. SPECTER. Mr. President, the LIHEAP program benefits many families and seniors in Pennsylvania. It provides a vital safety net for these households so they do not have to make the choice between prescription drugs and heat, or paying a grocery bill or energy bill. I look forward to working with Chairman HARKIN and Senator REED on increasing funding for this program in conference.

GME PROGRAM

Mr. BOND. Mr. President, I wish to thank everyone for all their work in putting this bill together. I fully appreciate the significant challenges that Chairman HARKIN and Ranking Member SPECTER face in balancing spending priorities with limited resources. I want to thank them for restoring \$99 million in funding for the Children's Hospital GME program. Unfortunately, that level is still almost \$200 million below last year's level.

CHGME is a valuable investment. It made it possible for children's hospitals to sustain and expand their teaching programs without having to sacrifice their commitments to clinical care for all children and research to improve children's care. These hospitals are major safety net providers of inpatient and community-based ambulatory care for low-income children and—as most of us know—the hospitals we depend on to care for seriously and chronically ill children.

Spending has grown less than 4 percent over 5 years since the program was fully funded. Congress reauthorized the program with overwhelming bipartisan support last year and set a new funding level at \$330 million, which is based on continuing equity with Medicare GME. The House Labor-HHS appropriations bill funds the program at the \$307 million level, which I hope we can achieve in conference.

I know that both the chairman and the ranking member are strong supporters of this program, and it is my hope that we will be able to work together to secure the House number in conference.

Mrs. HUTCHISON. I join Senator BOND in his recognition of the challenges that Labor-HHS appropriations presents, and I sincerely appreciate the continued efforts of my colleagues to emphasize the importance of increased funding for CHGME. I support an increase in funding for CHGME to \$307 million, and I thank the chairman and ranking member for their support in trying to increase funding in conference.

The number of children throughout our country is rapidly increasing, and we must provide the necessary funding to train pediatricians and pediatric subspecialists at a pace that reflects the child population growth. For example, from 2000 to 2006, the number of children in my home State of Texas increased by an astounding 501,800, and the projected increase of children in Texas from 2006 to 2010 is over 346,000. CHGME funding helps provide access to pediatric medical services and ensures the needs of children are addressed with specialized health care.

CHGME is essential to ensuring that pediatricians and pediatric subspecialists in cardiology, emergency care, gastroenterology and other fields receive the necessary medical training to provide the best level of care to our children. In Texas, 60 percent of pediatric residents and 84 percent of pediatric subspecialists are trained at children's hospitals, and CHGME funding supports children's hospitals. Without this funding, we risk facing a national decline and ultimate shortage in the number of physicians that have received the specialized training to treat our smallest and youngest patients.

I support an increase in funding because CHGME strengthens each State's ability to retain pediatricians after completion of the residency program. Of the residents and fellows trained by CHGME hospitals, nearly 60 percent remain to practice in the State in which they completed their pediatric residency. In some States, this percentage is even higher.

Texas and the Nation depend heavily on children's hospitals to care for critically and seriously ill children, as well as the low-income children in their communities. Increasing CHGME funding is an investment in children's health. For these reasons, I proudly join my colleagues in emphasizing the importance of this issue, and I hope we can increase the funding for CHGME when we conference with the House of Representatives.

Mr. VOINOVICH. Mr. President, I join my colleagues in support of the Children's Hospital Graduate Medical Education Program, known by many as CHGME.

Medicare is the only provider of graduate medical education funding, but because children's hospitals care for the young not the elderly, they are unable to access funding provided by Medicare. To correct the disparity of

Federal support between adult teaching hospitals and freestanding children's teaching hospitals, Congress created the Children's Hospitals Graduate Medical Education Program in 1999.

CHGME allows our Nation's independent children's hospitals to train many of the pediatricians American children visit each day as well as almost all of the pediatric sub-specialists who care for our Nation's most fragile children. And through stabilizing pediatric education, CHGME has also advanced the patient care and research missions of some of the Nation's most trusted hospitals for children. Without this Federal assistance, these hospitals might be forced to sacrifice a part of their critical missions.

In the current fiscal year, the program is funded at \$297 million. I am proud to say that that over \$30 million of those funds—more than 10 percent of the total—has supported the training of pediatricians and pediatric specialists at six outstanding children's hospitals in Ohio. But more must be done, and I urge my colleagues to provide \$307 million for this program in fiscal year 2008.

In our country today there is a shortage in virtually every subspecialty of pediatrics. So it is noteworthy that the CHGME has led to the creation of fellowship programs to train pediatric specialists in areas of need such as pediatric endocrinology, surgical critical care, pediatric neurology, and child abuse and neglect—to name just a few.

The CHGME Program needs to be maintained as a sustainable and reliable source of funding for children's hospitals across the Nation.

Mr. SPECTER. I thank Senator BOND, Senator HUTCHISON, and Senator VOINOVICH. As I said in committee, I am committed to providing an increased level of funding for Children's Hospitals GME in conference. The children's hospitals in Pennsylvania exemplify everything they have said. They have been both regional and national leaders in centers of excellence in pediatric care and pediatric research—while meeting the needs of vulnerable and low income children across our State. Their teaching programs are an integral part of all they do—in providing services and making sure that children have the doctors they need.

My colleagues may not realize the continuing shortages in pediatric specialty care—which is centered in these institutions—or the waiting periods that all children and families face for nonemergency specialty care. CHGME has provided a cost effective and valuable program in providing enormous assistance to these children's hospitals and their ability to continue services and teaching. Most importantly, it directly benefits children's health care.

Mr. HARKIN. Children's Hospitals GME provides freestanding children's hospitals with the same support for graduate medical education that all other teaching hospitals receive through Medicare—as my colleagues

have said. In Iowa, we don't have freestanding children's hospitals—instead our children's hospitals are part of larger systems or institutions. Yet I have heard from our hospitals and pediatricians about the workforce shortages they face and how important this program is in making sure the children of my State get the best care possible. For that reason, I join Senator SPECTER in our commitment to working toward a higher level of funding for this program.

FUNDING FOR THE ORGAN DONATION AND RECOVERY ACT

Mr. DORGAN. Mr. President, I commend Chairman HARKIN and Ranking Member SPECTER for putting together a funding bill for the Departments of Labor, Health and Human Services, and Education that reflects our Nation's priorities making college more affordable, increasing our investment in medical research at the National Institutes of Health, restoring funding for critical rural health programs, and increasing our investment in a number of proven education programs.

I was pleased that the bill includes a \$2 million increase for the Division of Transplantation at the Health Resources and Services Administration to implement the Organ Donation and Recovery Act. There are currently more than 97,000 Americans on the organ transplant waiting list. Unfortunately, nearly 6,000 people on the list die every year while waiting for a transplant.

More than two-thirds of those on the waiting list suffer from end stage renal disease and are in need of a kidney transplant. The good news is that patients with end stage renal disease who require a kidney transplant no longer need to wait for a kidney from a deceased donor or from a blood relative. Advances in medical science now make it possible for friends and spouses to donate a kidney to a patient in need. The \$2 million increase provided in the bill for the Organ Donation and Recovery Act will help increase the number of donations from living donors by reimbursing travel and subsistence expenses for donors who could not otherwise afford to donate.

This modest investment will save lives. It also makes economic sense. Patients with end stage renal disease require dialysis, which is covered by Medicare. According to the Centers for Medicare and Medicaid Services, Medicare spends about \$55,000 per patient per year for dialysis. On average, patients with end stage renal disease wait four years before receiving a kidney transplant. This means that every kidney donation made from a living donor has the potential to reduce the number of people on the waiting list and save the government as much as \$220,000.

I hope the chairman and ranking member will continue to support this important program in conference and support maintaining the Senate funding level.

Mr. HARKIN. I share the Senator's support for organ donation, and I

thank my friend from North Dakota for his leadership on this issue. This program is a smart investment and one that I will work to sustain in conference. By helping pay the travel and subsistence costs of donors who could not otherwise afford to donate, we will save lives and reduce the number of people on the organ transplant waiting list.

Mr. SPECTER. I also strongly support efforts to increase the number of organ donors and will work to maintain this funding in conference.

Mr. DORGAN. I appreciate the Senators' support, and I look forward to working with them to support this program and other initiatives to increase the number of organ donors.

OBESITY

Mr. SPECTER. Mr. President, as you know, the rate of obesity, particularly in children, has reached epidemic proportions across our country. According to the Centers for Disease Control and Prevention, more than 60 percent of children between the ages of 9 and 13 do not participate in any organized physical activity outside of school hours.

Mr. HARKIN. I agree with the concerns raised by the Senator from Pennsylvania. Since the 1970s, the percentage of obesity has more than doubled for preschool children ages 2–5 years and adolescents aged 12–19 years, and more than tripled for children aged 6–11 years. As you know, I have a particular interest in fighting the obesity epidemic and have been very supportive of programs that increase physical activity and good nutrition, especially in children. The Centers for Disease Control and Prevention reported in 2000 that only 8 percent of elementary schools, 6.4 percent of middle/junior high schools and 5.8 percent of senior high schools offer daily physical education for the entire school year for students in all grades of the school.

Mr. SPECTER. The Centers for Disease Control and Prevention is doing significant work in this area, and I urge the Director to increase awareness in the area of obesity and work cooperatively with organizations that are researching, testing and developing innovative approaches to get children more physically active.

Mr. HARKIN. I agree with the recommendation from my colleague from Pennsylvania. Experts predict that the current generation of children could be the first in history to live shorter lives than their parents' generation. To fight this public health epidemic, it is going to take collaboration and partnership amongst all levels of government, community organizations, and businesses.

TEACHER QUALITY ENHANCEMENT PARTNERSHIP GRANTS

Mr. OBAMA. Mr. President, I wish to engage in a colloquy with the distinguished Senator from Iowa, Mr. HARKIN. I appreciate his efforts, as chairman of the Subcommittee on Labor, Health and Human Services, and Education, on the appropriations bill before us today. I commend his continual

efforts over the years to expand educational opportunities and to provide adequate funding and resources for all students.

The most important resource a school can offer is good teaching, which necessitates bringing more quality teachers into our classrooms, and making certain that when we recruit and prepare good teachers, we do so in a way that best ensures their success. This means providing them adequate preparation and ongoing support, especially in those pivotal first years in the classroom.

And so, I am grateful for the work of Senator HARKIN in our collaborative and bipartisan efforts on the Senate Committee on Health, Education, Labor, and Pensions, to strengthen provisions to realign the teacher enhancement partnership grants in the Higher Education Amendments with what we know works best in preparing teachers. We must recruit the best talents to become teachers, and we must work to provide adequate preparation and support, so that when talented individuals become teachers, they are successful and want to stay in the classroom. Research shows that new teachers are often less effective than teachers with even a few years of experience. But recent experience also shows that good preparation programs can accelerate the rate at which novice teachers become effective.

We must help new teachers get the preparation and mentoring they need. Teacher preparation too seldom provides the opportunity to learn under the guidance of expert mentors working in schools that effectively serve high-need students. Most new teachers lack this type of support, and so leave the profession before they experience the rewards of the profession. One effective way to provide such preparation is through teaching residency programs, which are established in partnerships among colleges or universities, school districts, and other community partners. It is essential that we provide support for such partnerships.

Even as colleges realize the effectiveness of mentoring and induction in preparing teachers, and in working with high-needs school districts to tailor programs to prepare prospective teachers for the challenges they will face, it is regrettable that the President proposed eliminating support for the partnership grants that fund these needed and innovative approaches. I commend the Senator from Iowa for working to safeguard funding at \$28.5 million, a level that ensures at least that current partnership grants can continue. But this level of funding is less than half of what was available last year, and \$11.5 million below what our colleagues in the House proposed. It is clearly inadequate for encouraging the types of partnerships, such as residencies, that are developing at several sites across the country. So I hope the Senator from Iowa can continue his efforts to make sure that teachers get the train-

ing they need, and can meet the funding level proposed by our colleagues in the House.

Mr. HARKIN. I appreciate the remarks of the Senator from Illinois, as well as his work in championing partnerships, such as teacher residencies, on the HELP Committee. I realize the importance of having a quality teacher in every classroom. I know that too many students in high-need schools, both in cities and in rural areas, are sometimes taught by inadequately prepared teachers. These teachers are asked to take on challenges that can be discouraging, or even overwhelming. And so we lose too many teachers, often before we find out how good they could become.

I thank the Senator from Illinois for recognizing what we have done to avoid the elimination of funding for these partnership programs. When this bill goes to conference, I look forward to working with my colleague from Illinois, and I will continue to try to increase the level of funding available for colleges and universities to partner, in new ways, to improve teacher preparation. Bringing more quality teachers into classrooms is a priority for me, and I agree with the Senator from Illinois that it is important to find resources to support effective programs to better prepare and to better support teachers.

Mr. SPECTER. I thank my colleagues for raising this issue, and agree to try to help support teacher preparation, using methods that are shown to be effective. We all recognize the importance of teacher quality, and I will continue to work with my colleagues on this issue.

Mr. OBAMA. I commend the work of the Senator from Iowa, and the Senator from Pennsylvania, in working to ensure that funding for education continues to be a priority. I look forward to continuing to work with them on this important issue.

CHILDHOOD LEAD POISONING PREVENTION

Mr. OBAMA. Mr. President, I wish to engage in a colloquy with the distinguished chairman from Iowa, Mr. HARKIN, and ranking member Mr. SPECTER from Pennsylvania. I appreciate their continued efforts to ensure fair allocation of funding for the health programs outlined in the bill before us. I also understand the difficulties in making these determinations. However, the recent recalls of child products have highlighted the continued threat of lead poisoning to children, and I believe that child lead poisoning prevention activities at the Centers for Disease Control would benefit dramatically from increased funding.

Lead is highly toxic, especially to young children. It can harm a child's brain, kidneys, bone marrow, and other organs. At high levels, lead can cause coma, convulsions, and death. The National Academy of Sciences has reported that comparatively low levels of lead exposure are harmful. Even low levels of lead found in blood of infants,

children, and pregnant women have been associated with impaired cognitive function, behavior difficulties, fetal organ development, and other problems. In addition, low levels of lead in children's blood can cause reduced intelligence, impaired hearing and reduced stature.

In the past 6 months, millions of products, primarily children's toys, have been recalled due to potentially harmful levels of lead. These sources of lead exposure are in addition to dangers of lead poisoning that already exist in the home from lead-based paints and lead plumbing. It is my belief that we should do more to support programs that target reduction of lead exposure and toxicity.

Towards that end, the Centers for Disease Control and Prevention through the National Center for Environmental Health has created the Childhood Lead Poisoning Prevention Program. The CLPPP plays a major role in the Federal interagency mission to eliminate childhood lead poisoning by 2010. The efforts put forth by the CLPPP include assistance in completing and implementing a Federal strategic plan to eliminate non-essential uses of lead in consumer items and to support State and local efforts to identify and treat children exposed to lead.

I thank the chairman for the increased funding this bill provides for the National Center for Environmental Health, and I hope he will work in conference to provide an increase for the CLPPP.

Mr. HARKIN. I share the concerns of my colleague from Illinois, Senator OBAMA, about lead poisoning in children. Despite the considerable progress made over the past few decades, much work remains to be done to protect our Nation's children. I am encouraged that the CDC is developing a hand-held lead screening device that will help to increase testing in underserved communities, who are especially at high risk for lead poisoning. This effort and other initiatives at CDC merit greater support and I will do my best in conference to increase funding for this important work.

Mr. SPECTER. I agree with the comments made by my distinguished colleague, Chairman HARKIN.

Mr. OBAMA. I commend the chairman and ranking member on their work and congratulate them on passage of this bill. We all agree that every child with lead poisoning is a preventable and needless tragedy, and I look forward to working with both of them to identify additional funds for the CLPPP during conference.

PUBLIC CHARTER SCHOOL FUNDING

Ms. LANDRIEU. Mr. President, I appreciate all of Chairman HARKIN's efforts in bringing this bill forward and thank him for his continued support of the Nation's public schools, including charter schools, which increase the academic achievement of our Nation's most low-income students. Unfortunately, the committee did not provide

enough funding for public charter schools.

Charter schools are public schools created by teachers, parents, and other community stakeholders to educate students of all backgrounds and educational abilities. In exchange for greater accountability for student achievement, these schools are free from many local and State regulations. This flexibility and accountability has allowed individuals with nontraditional backgrounds to create cultures that have made charter schools top academic performers often in some of the Nation's largest urban centers. Because of this unique approach to education, demand for these schools has been remarkable over the last decade. In New Orleans, charters schools have been an engine of our school systems rebirth. For the 2006-2007 school year almost 60 percent of New Orleans' public schools students were enrolled in charter schools, the largest market share of any city in the country. Charter schools are not a panacea, but they are a tremendously valuable piece of education reform, and we should be cautiously optimistic about their potential to help close the achievement gap. In my State, charter schools have come in and filled the intense need we faced following the hurricanes of 2006.

As the chairman knows, I have filed an amendment to restore funds to the Credit Enhancement Program. I understand the chairman is not in a position to be able to support that amendment at this time. Before I withdraw my amendment, I hope that the chairman will commit to support as much funding as possible for Public Charter Schools.

Mr. ALEXANDER. I join the Senior Senator from Louisiana in asking Chairman HARKIN and Senator SPECTER to provide as much funding as possible for public charter schools.

One of my last official acts as U.S. Secretary of Education in 1992 was to write a letter to every school superintendent in America urging them to create charter schools. I saw these charter schools as ways to remove burdensome rules, regulations, and overhead so that teachers could have more opportunities to use their good judgment to help children and so parents could have more choices of schools.

Today, there are over 4,000 charter schools serving more than 1.15 million students in 40 States and the District of Columbia. Over half of these schools report having waiting lists, averaging 166 students.

I am pleased that 12 charter schools have opened in Tennessee since passage of the State's charter school law in 2002. Ten of these charter schools are located in Memphis, where they enjoy critical support from local school officials, dedicated private partners, and philanthropic organizations.

Charter schools play a unique role in public education by offering students a variety of options to meet their different learning needs and styles. They

vary in specific mission and focus but not in their commitment to excellence and preparing students to succeed. In return for autonomy and freedom from burdensome regulations and policies, they accept strict accountability for academic and fiscal success. If charter schools fail to educate their students well and meet the goals of their charters, they are closed.

I expect that we will see charter schools continue to expand across the Nation as word of their success spreads. Five years ago, the President signed into law the No Child Left Behind Act, which contains several programs that support charter school development and provides school districts with the option of converting low-performing schools into charter schools.

It is my hope that the leadership of the Labor-HHS-Education appropriations subcommittee can look at every possible option, in consultation with the House, to support as much funding as possible for this worthy program.

Mr. HARKIN. Mr. President, I thank the Senators from Louisiana and Tennessee for their interest in this matter and for their request. Yes, I agree to support as much funding as possible for public charter schools.

Ms. LANDRIEU. Mr. President, I thank the chairman.

Mrs. MURRAY. Mr. President, this bill is about making sure families have access to health care and children get a good education. It supports cutting-edge research, helps build a skilled workforce, and ensures that crucial services are in reach for people who most need them. Most important, it gives Americans hope that their Government is working for them.

These programs help every family and every community. They are priorities for me. I know they are priorities back home. So I want to thank Senator HARKIN and Senator SPECTER for their leadership and important work on this bipartisan bill.

These programs should be priorities for this administration too. Unfortunately, President Bush has threatened to veto this legislation. He opposes this bill because it represents an increase over his requested budget. He says it is "irresponsible and excessive." Yet the \$9 billion increase over the President's request represents a fraction of the \$190 billion in emergency spending he wants this year for Iraq and Afghanistan. It is less than the \$10 billion he spends in Iraq in one month alone. As the President has waged war overseas, our education, job training, and health systems have been left to cope with unfunded mandates and empty promises. That—not this bill—is what is "irresponsible and excessive." This bill simply restores some of the money the President cut and takes a modest step forward after years of going in the wrong direction.

Among other things, this bill boosts American competitiveness by investing \$4.8 billion in job training and career and technical education when the

President would have cut these programs by more than \$1 billion. It adds \$1 billion to expand critical research at the National Institutes of Health, reversing years of stagnant budgets. And it strengthens education and health care by providing money for Head Start, school improvement, and community health centers.

This bill recognizes how important access to quality health care is for working families. While the President's budget neglected the uninsured and those with limited access to health care, the Senate bill invests an additional \$250 million over the President's request in the community health center program. This will help those families get medical care without having to seek it in the emergency room. We have all heard stories about how overburdened emergency rooms are by patients who seek care there because they don't have health insurance or are underinsured. But access to a doctor can prevent a child's earache from turning into a serious infection, and it can make sure a father gets screening and preventive care so that he doesn't develop a serious and expensive form of cancer.

This bill also makes investments in another critical health care concern—making sure we have enough doctors and nurses and other health care professionals. Last week, I heard about it again in roundtables I held across the State.

This bill provides \$357 million for the Health Professions and Nursing Programs to recruit and hire new health care professionals—that is \$242 million over the President's proposal. Of this, \$169 million is for nursing education. That is \$20 million over last year's level. Our nurses are the front line of care in hospitals and nursing homes. This will help address the serious nursing shortage we already face.

It is also important that we provide opportunities and encouragement for students who want to go into nursing so that we can replace these retiring caregivers and meet the increasing demand for nursing care. I applaud the committee for recognizing this looming concern, and I repeat that the time to invest in our health care system is now—before these problems become an urgent issue. We can't afford to wait.

This bill also supports our scientists and our biotech industry by funding landmark research. The President's budget would have eliminated hundreds of research grants from the National Institutes of Health—money that could lead to cures or treatments for cancer, MS, and diabetes, among other diseases. This is on top of years of inadequate funding for NIH. The Senate bill adds \$1 billion for NIH funding nationally.

This allows scientists at prestigious universities—including the University of Washington—to continue their innovative medical and biotech research. It also will provide hope for people with serious diseases—hope that they won't

have if this research is cut off because of lack of funding.

We have heard the President say that education is one of his top priorities. That is why it is so frustrating to me that he is threatening to veto this bill. I am committed to ensuring Federal funds are there to help build and improve our Nation's schools. Strong schools make strong communities. We want everyone in this country to have a promising future and a promising job—and education is how you get there.

The Senate bill supports increased funding for Pell grants that help kids afford college when they might not otherwise have had a chance to get a college degree. It increases funding for school improvement by \$500 million. It sends \$1 billion in badly needed money to help schools in low-income communities raise children's achievement levels and provide more opportunities for learning. And it reverses the President's proposed \$100 million cut to Head Start.

As a mom, a former preschool teacher, and school board president, I saw firsthand that giving kids a boost early on can pay off in the future. Reaching kids early makes them more likely to graduate and succeed. This isn't frivolous spending. The money we spend on education today will help children grow into better educated, better prepared workers.

Providing Americans with the skills they need to excel in the global economy while keeping them safe on the job are very basic needs that every working family has the right to expect from their Government. That is why I continue to be baffled by the administration's lack of commitment to workers in our Nation. With strong bipartisan support for this bill, the Senate is proud to stand with working families and support the priorities that shape their daily lives.

When I travel around my home State of Washington, employers tell me they are desperate to find workers with the skills they need to grow their businesses. And we have thousands of people on waiting lists hoping to get trained for these family-wage jobs. Yet for the last 7 years, the President has proposed hundreds of millions of dollars in cuts for job-training programs, shutting the door to millions of dislocated workers, youth and disadvantaged adults who deserve to share in the American dream.

Under his watch, worker safety on the job has also been put at risk. With OSHA's lack of enforcement, workers are unprotected. And today's miners continue to work under an administration that values voluntary compliance above safety and enforcement. This is the wrong direction for working families and the wrong priority for America.

How do we begin to solve it? Well, one thing is clear—it isn't by cutting \$1 billion dollars in job training funds at a critical time in our economic

growth, as the President has proposed, nor is it by proposing hundreds of millions of dollars in cuts to job training programs, as he has one over the last 7 years. This bill rejects the President's misguided cuts and goes to great lengths to maintain a viable workforce and training system. If we want our local businesses and our Nation to be competitive in the global economy, we must make skills training for every worker a national priority. This bill does that.

For some here in the Senate, this might be an abstract debate about Federal funding. But this debate is about real people. It is about 30 kids in a classroom and a teacher struggling to make sure they succeed. It is about hardworking parents searching for a way to get health care for their families when it isn't provided by their employers. And it is about workers who need training that will help them get a job that pays enough to support a family.

When I travel around Washington State, people tell me they want hope and change. Whether it is the war in Iraq or gas prices or access to health insurance—people feel a real weight on their shoulders. They are looking for a light at the end of the tunnel, and by vetoing these important bills—and failing to invest in the health, safety, and economic future of all Americans—the President keeps putting out that light.

Mr. President, in this bill, we are investing more than \$7 billion over last year in the future of our country. I urge all my colleagues to support this legislation on behalf of the millions of American children and families who would benefit.

And I hope the President is listening.

Mr. HARKIN. Mr. President, I ask unanimous consent that when the Senate resumes consideration of H.R. 3043 tomorrow, Senator ENZI be recognized to call up amendment No. 3437 and there be 30 minutes of debate equally divided and controlled in the usual form; that upon the use or yielding back of time, the amendment be temporarily set aside, and Senator DEMINT be recognized to call up amendment No. 3387, and there be 20 minutes of debate equally divided and controlled in the usual form; that upon the use or yielding back of time, the amendment be temporarily set aside, and the Senate then resume the Roberts amendment No. 3365, and there be 10 minutes of debate equally divided and controlled in the usual form; that upon the use or yielding back of time, the Senate resume consideration of the Coburn amendment No. 3358, and there be 20 minutes of debate equally divided and controlled prior to a vote; that upon the use or yielding back of time, the Senate return to the Enzi amendment and vote in relation to the amendment; that upon disposition of that amendment, the Senate resume the DeMint amendment and vote in relation to the amendment; that upon disposition of the DeMint amendment, the Senate

proceed to vote in relation to the Roberts amendment; that upon disposition of that amendment, the Senate proceed to vote in relation to the Coburn amendment No. 3358; that there be 2 minutes of debate prior to each vote, equally divided and controlled, with no amendments in order to any of the amendments covered in this agreement prior to the vote; and that after the first vote, the vote time be limited to 10 minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. HARKIN. So, Mr. President, this ends our business for this evening, so that when the Senate comes in tomorrow morning, we will have four amendments that will take about an hour, and then there will be four votes that will start. They will be stacked votes, and they will then take place 1 hour after we come in.

Again, I say that if we come in at 10 in the morning and this takes an hour and then we vote on four amendments, that will take us just about to the noon hour, and we are supposed to finish by 12:30. So I say again, if Senators have amendments, it looks as if they may be getting crowded out, unless they get over here in a hurry.

With that, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Ms. KLOBUCHAR). Without objection, it is so ordered.

MORNING BUSINESS

Mr. REID. Madam President, I ask unanimous consent that there now be a period of morning business with Senators allowed to speak therein for a period of up to 10 minutes each.

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

HONORING OUR ARMED FORCES

STAFF SERGEANT ERIC THOMAS DUCKWORTH

Mr. SALAZAR. Madam President, I want to take a moment to reflect on the life and service of SSG Eric Thomas Duckworth of the 759th Military Police Battalion, 89th Military Police Brigade, stationed at Fort Carson, CO. Sergeant Duckworth was killed when a bomb detonated near his vehicle as he was leading a convoy through Baghdad. He was 26 years old—a father, a son, a husband, and a proud soldier.

Sergeant Duckworth grew up in Plano, TX, an active young man with dreams of serving his country. He played baseball and football in high school and, in the time not devoted to studies and athletics, devoted himself to the ROTC. It was clear from an

early age that Eric was a leader among his peers; in ROTC he was quickly selected to a leadership role and to represent his high school at a national ROTC council.

True to his dreams, Eric joined the Army just a few days after his 1999 graduation from high school. After serving in the military, Eric aimed to find a career in law enforcement. From what his family says of him and from what I know from having worked with peace officers as Colorado's attorney general, he would have been a great fit in any police department. He was selfless, hard working, and friendly. He did his job with a smile and a laugh.

He was also an experienced and steady military police officer who was deeply committed to helping bring peace and security to a war-torn country. He was the type of American soldier who GEN Douglas MacArthur regaled in a 1962 address to West Point soldiers for their selfless sacrifices and for their unflinching devotion to the protection of our Nation. "Duty, honor, country," MacArthur told the young soldiers, "Those three hallowed words reverently dictate what you ought to be, what you can be, what you will be."

These three words have been the creed of generation after generation of American soldiers. They help us understand the courage and fortitude that allow men like Eric Duckworth to serve two tours of duty thousands of miles from his family, to live in constant peril, and to shoulder the responsibility for keeping his soldiers safe while securing a brighter future for Iraqi citizens.

Duty, honor, country. "The code which those words perpetuate," said General MacArthur, "embraces the highest moral law and will stand the test of any ethics or philosophies ever promulgated for the things that are right and its restraints are from the things that are wrong. The soldier, above all other men, is required to practice the greatest act of religious training—sacrifice . . . However hard the incidents of war may be, the soldier who is called upon to offer and to give his life for his country is the noblest development of mankind."

SSG Eric Thomas Duckworth thoroughly embodied this creed: he donned the soldier's uniform at his first opportunity, he led his men on the battlefield, and he both offered and gave his life in service to his country. His is a debt we cannot repay.

To Sergeant Duckworth's wife Sonya, to his children Michael, Madison, and Kaylynn, to his brother Andrew, and to his parents Michael and Ila, I cannot imagine the pain that you must feel. I can only hope that in time your grief will be salved by the pride you must feel for his devotion to his country and his love for his family. Eric was a man of courage, dignity, and selflessness. As he lies in rest at Arlington National Cemetery, amid the thousands of crosses of America's fallen heroes, may you know that his sac-

rifice will never be forgotten, his legacy always honored.

SERGEANT FIRST CLASS ROCKY H. HERRERA

Mr. HATCH. Madam President, I rise today to commemorate one of Utah's fallen sons, SFC Rocky H. Herrera of Salt Lake City, UT. Sergeant Herrera was a member of the 585th Pipeline Company, 864th Engineer Combat Battalion. On August 28, 2007, he lost his life through injuries received from the detonation of an improvised explosive device.

Sergeant Herrera's last act was a measure full of the love and devotion he had for his fellow soldiers. Sergeant Herrera's battalion was building a bridge when a suicide bomber drove a vehicle carrying an explosive device headed toward them. I have been reliably informed that just prior to the explosion Sergeant Herrera placed his body between the vehicle and his men to protect the lives of his beloved soldiers.

In addition to this act of bravery, Sergeant Herrera has always dedicated his life to the preservation of freedom. In 1986, Sergeant Herrera joined the Army Reserve and served as a crane operator. A decade later he proudly joined the full time force.

In addition to the two tours he served in Iraq, he was also deployed to Bosnia, South Korea, and Honduras. In each assignment he excelled and was accordingly promoted to such vital assignments as a squad leader and a drill instructor.

Recently, Sergeant Herrera's life was blessed by the birth of his granddaughter Kylie. The sergeant has left behind his wife Traci, as well as two daughters and two sons. One of Sergeant Herrera's sons, Matt, remembers his dad always spent as much time with the family as he could.

I will pray for Sergeant Herrera's family and remember their sacrifice of their husband, father, and grandfather.

SPECIALIST JASON N. MARCHAND

Mr. HATCH. Mr. President, I also rise today to pay tribute to one of Utah's fallen soldiers. SPC Jason N. Marchand was a member of the 2nd Cavalry Regiment and at the time of his death was deployed as part of a 2-week field tour north of Baghdad.

Specialist Marchand's told his family that he joined the Army to protect his family and friends. Before his deployment to Iraq, Specialist Marchand spent the previous year and a half in Germany, which his mother said he loved.

Specialist Marchand was born on April 8, 1981, in Salt Lake City, UT, to his parents Debbie Parsons and William Marchand, M.D. Specialist Marchand had a special relationship with his family. His mother stated they were open enough to share anything with one another.

Specialist Marchand leaves behind a wife and a 6-year-old daughter, Savannah. At the funeral of Specialist Marchand, Savannah said that she wanted to release some balloons for her

father. She wanted them to fly up to heaven to be with him there.

Specialist Marchand is a fine example of an honorable U.S. soldier. I am grateful for brave individuals like Specialist Marchand who give their life to create a brighter future for their family, friends, and Nation.

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

SERGEANT JASON LANTIERI

• Mr. DODD. Madam President, I rise to fulfill again my most painful obligation as Senator: to mark the life of another young Connecticut man who died in our country's service. SGT Jason Lantieri was killed this month in Iraq.

Sergeant Lantieri's life was, up to the last moment, a story of moving success. At the age of 11, he was a troubled child from a broken home, lost in the foster care system. But two caring foster parents helped to transform him: Jon and Kathy Miller, of Killingworth, who took Jason into their home and became a new mother and father to him. "We just decided to go and ask if he could become part of our family," Kathy Miller recalled. It wasn't long before Jason was succeeding in school, serving on the student council, and competing in three sports. In his obituary, the Hartford Courant called it "a life redeemed."

Sergeant Lantieri went on to earn a business degree, but, like so many energetic young men before him, signed up with the Army for a chance at travel and adventure. By all accounts, he had his wish, from Alaska to Europe to Iraq with a transportation unit in the 25th Infantry Division. Still, with all those who choose to serve in this time of war, Sergeant Lantieri knew that wearing his country's uniform meant risking his life. A video posted on his Web page shows how he confronted danger with a sardonic sense of humor: Below footage of an explosion in the desert, his caption reads, "Just another day at the office."

In a war zone, death can come in any daily routine. Its constant presence means that in war there is no routine and that is just another sacrifice soldiers make for our sake. Last week, a transportation accident crushed Jason between two vehicles. He was 25.

The two strangers he came to call Mom and Dad have a last record of his voice—a call from Iraq on their answering machine. The message is still there, and I imagine it always will be. They also have the military photos that show Jason in his uniform and beret, with a firm, unsmiling face. "I hardly recognize that person," said Kathy Miller. "That's just a little piece of Jason. It's not the whole picture of who he is."

She remembers his class-clowning, his toughness on the soccer field, and his mischievousness playing with her grandchildren—qualities that aren't in the picture.

The tragedy is that Sergeant Lantieri has lost his whole life; the

class clown and the grown foster son are dead along with the soldier. We can only answer that tragedy with grief and with gratitude, pledging to remember his rich life in its entirety.●

ADDITIONAL STATEMENTS

RETIREMENT OF JAMES A. (JIM) SHERIDAN

● Mr. CRAPO. Madam President, an Idahoan with the distinction, among other things, of being the oldest fire lookout in the Nation at age 89 retired from that important post and from the Federal Government in September. James A. "Jim" Sheridan concluded a long and dedicated career that began, at age 53, what could be called a second career in 1971, when he joined the Bureau of Land Management as a seasonal surveyor. In 1976, Jim became a fire prevention patrolman, and, at age 67, became the Mount Harrison seasonal lookout in the Sawtooth National Forest Minidoka Ranger District. Over the past 22 years, Jim has provided a fire prevention message to no fewer than 35,000 national forest visitors.

As a lifelong rancher and 36-year veteran of Government service in the second half of his life, Jim has captured the secret to staying young—that of knowing you are never too old to start something new. Jim's life is a wonderful example of the fact that success comes as the result of hard work. Idahoans who visited the Sawtooths were both safer and better educated about our rugged and beautiful natural resources as a result of Jim's dedication and efforts. I wish Jim and his family well on his retirement, and I thank him for his service to our Nation and to Idaho.●

FORT UNION NATIONAL MONUMENT

● Mr. DOMENICI. Madam President, I would like to honor and give special attention to New Mexico's Fort Union National Monument in Mora County. Located in the Mora Valley between the Santa Fe and Sangre de Cristo mountains, Fort Union established in 1851, dates back to New Mexico's territorial days, protecting the area's inhabitants and trade routes.

This year Fort Union has initiated a new effort called "The New Mexico Volunteers Living History Program." Volunteers in this program will depict the Hispanic soldiers of the 1st New Mexico Volunteers, who were enlisted and stationed at Fort Union during the Civil War. One of the current volunteers is a direct descendent of the 1st New Mexico Volunteers. With some training and drilling, Fort Union hopes to begin presenting living history programs depicting the 1st New Mexico Volunteers in early spring next year at Fort Union as well as other local venues. Fort Union has also reinstated

nighttime candlelight tours, and also hopes to provide a public venue for night sky viewing while partnering with local colleges and universities to interpret the skies, and be used as a classroom venue complementing science curriculums.

I am proud of the work being done at Fort Union to reach out to the community and provide a glimpse of our historic past. The upcoming activities at Fort Union remind us of our rich history in New Mexico, and I commend the staff at the Fort for their efforts and their hard work to further integrate the unique history of the Fort into the surrounding area and expand their role as a resource for local students and residents. I look forward to the advancement of this program in the months to come.●

HONORING EDWARD KOREN

● Mr. SANDERS. Madam President, today I acknowledge a Vermont artist who is widely recognized and widely loved, Edward Koren.

This year the Vermont Council on the Arts is bestowing its Governor's Award for Excellence in the Arts on this renowned graphic artist.

Mr. Koren carries on the long tradition of artists who publish their work in the mass media, using the techniques of drawing to comment on the lives that men and women lead. His distinguished 19th century antecedents include Honoré Daumier in France and Thomas Nast in the United States. Edward Koren is a cartoonist of the first order, having published more than 900 of his works in *The New Yorker*. His cartoons have appeared in other publications as well, ranging from *The Nation*, to the *New York Times*.

His work is remarkably distinctive, often focusing on shaggy figures engaged in everyday affairs. Their shaggy, hairy features are a personal signature; they embody the way he uses lines, the way his pen moves on paper. To see one of his cartoons on a page is to recognize it, instantly, as a "Koren," even before one knows its subject or reads the accompanying words or his name at the bottom of the cartoon.

Koren examines people in the midst of everyday life, revealing that he understands that reality consists not of something invented by movies or policy analysts but rather what we encounter every day. He is a satirist of pretension, and deftly explores the neuroses of our times. Koren is a great chronicler of what the poet Wallace Stevens called "the malady of the quotidian."

David Remnick, editor of *The New Yorker*, recently told the *Burlington Free Press* that "Ed Koren is one of the great original voices of cartooning . . . I love his work, always have."

Edward Koren's work has been widely recognized by museums as well as the media which so often publish his cartoons. His work is in the Swann Collec-

tion at the Library of Congress, and also in the permanent collections of the Fogg Museum at Harvard, the Princeton University Museum, and the Fitzwilliam Museum at Cambridge University.

Mr. Koren and his wife Curtis live in central Vermont. He long ago moved to our State for reasons he articulated recently:

I was captivated intensely by Vermont. There was a deep sense of community. I kept thinking, this is unusual in this society, this country. I had never come across this kind of closely compacted community. I was fleeing huge, giant-scaled cities without a real cohesive sense of place and connection. It turned out I was a country guy.

Not surprisingly, Mr. Koren is a captain of the Brookfield, VT, Volunteer Fire Department.

He is well deserving of the honor of receiving the Governor's Award for Excellence in the Arts.●

REMEMBERING HARRY LEE

● Mr. VITTER. Madam President, I wish to acknowledge the passing this month of Sheriff Harry Lee of Jefferson Parish, LA. Sheriff Harry Lee died of leukemia on October 1, and I would like to make a few remarks on his success and his contributions to the area.

Sheriff Harry Lee was elected in 1979, beating longtime incumbent Alwynn Cronvich and serving more than six terms until his death. He was one of the most popular, well-known politicians in the greater New Orleans area. Throughout his career, Sheriff Harry Lee devoted his life to fighting crime.

It is perhaps Sheriff Harry Lee's colorful attitude that made him so beloved. While we often disagreed on many issues, I have a great respect and admiration for what Sheriff Harry Lee accomplished in his long tenure. Harry was a wonderful, gutsy, larger-than-life figure who always did what he thought was right. Whether I was agreeing with him on crime-fighting issues or disagreeing with him over Edwin Edwards, I always knew he was leading with his passions and loyalties.

Thus, today, I rise to honor Sheriff Harry Lee that people may honor and remember him for his devotion to the State of Louisiana.●

REPORT RELATIVE TO THE ISSUANCE OF AN EXECUTIVE ORDER TO EXPAND THE SCOPE OF THE NATIONAL EMERGENCY RELATIVE TO THE GOVERNMENT OF BURMA, AS RECEIVED DURING ADJOURNMENT OF THE SENATE ON OCTOBER 19, 2007—PM 29

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs:

To the Congress of the United States:

Pursuant to the International Emergency Economic Powers Act (50 U.S.C.

1701 et seq.) (IEEPA), I hereby report that I have issued an Executive Order (the "Order") that expands the scope of the national emergency declared in Executive Order 13047 of May 20, 1997, and takes additional steps with respect to that national emergency.

In 1997, the United States put in place a prohibition on new investment in Burma in response to the Government of Burma's large-scale repression of the democratic opposition in that country. On July 28, 2003, those sanctions were expanded by steps taken in Executive Order 13310, which contained prohibitions implementing sections 3 and 4 of the Burmese Freedom and Democracy Act of 2003 (Public Law 108-61) and supplemented that Act with additional restrictions. I have now determined that the Government of Burma's continued repression of the democratic opposition in Burma, manifested most recently in the violent response to peaceful demonstrations, the commission of human rights abuses related to political repression, and engagement in public corruption, including by diverting or misusing Burmese public assets or by misusing public authority, warrant an expansion of the existing sanctions.

The order incorporates existing designation criteria set forth in Executive Order 13310, authorizing the Secretary of the Treasury, after consultation with the Secretary of State, to designate any person determined to be a senior official of the Government of Burma, the State Peace and Development Council of Burma, the Union Solidarity and Development Association of Burma, or any successor entity to any of the foregoing. The order blocks the property and interests in property in the United States of persons listed in the Annex to the order and provides additional criteria for designations of persons determined by the Secretary of the Treasury, after consultation with the Secretary of State, to be responsible for, or to have participated in, human rights abuses related to political repression in Burma; to be engaged, or to have engaged, in activities facilitating public corruption by senior officials of the Government of Burma; to have materially assisted, sponsored, or provided financial, material, logistical, or technical support for, or goods or services in support of, the Government of Burma, the State Peace and Development Council of Burma, the Union Solidarity and Development Association of Burma, any successor entity to any of the foregoing, any senior official of any of the foregoing, or any person whose property and interests in property are blocked pursuant to Executive Order 13310 or section 1(b) (i)-(v) of the order; to be owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, any person whose property and interests in property are blocked pursuant to Executive Order 13310 or section 1(b)(i)-(v) of the order; or to be a spouse or dependent child of

any person whose property and interests in property are blocked pursuant to the order or Executive Order 13310.

The order leaves in place the existing prohibitions on new investment, the exportation or reexportation to Burma of financial services, and the importation of any article that is a product of Burma, which were put into effect in Executive Order 13047 and Executive Order 13310.

I delegated to the Secretary of the Treasury, after consultation with the Secretary of State, the authority to take such actions, including the promulgation of rules and regulations, and to employ all powers granted to the President by IEEPA and section 4 of the Burmese Freedom and Democracy Act of 2003 as may be necessary to carry out the purposes of the order.

I am enclosing a copy of the Executive Order I have issued.

GEORGE W. BUSH.
THE WHITE HOUSE, October 18, 2007.

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-3713. A communication from the Secretary of the Treasury, transmitting, pursuant to law, a six-month periodic report on the national emergency with respect to the Democratic Republic of the Congo; to the Committee on Banking, Housing, and Urban Affairs.

EC-3714. A communication from the Director, Office of Protected Resources, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to Navy Operations of Surveillance Towed Array Sensor System Low Frequency Active" (RIN0648-AT80) received on October 16, 2007; to the Committee on Commerce, Science, and Transportation.

EC-3715. A communication from the Director, Office of Surface Mining, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Kentucky Regulatory Program" (Docket No. KY-251-FOR) received on October 17, 2007; to the Committee on Energy and Natural Resources.

EC-3716. A communication from the Acting Assistant Secretary for Fish, Wildlife and Parks, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for *Piperia yadonii*" (RIN1018-AU34) received on October 17, 2007; to the Committee on Environment and Public Works.

EC-3717. A communication from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled "Exemptions from Licensing, General Licenses, and Distributions of Byproduct Material: Licensing and Reporting Requirements" (RIN3150-AH41) received on October 17, 2007; to the Committee on Environment and Public Works.

EC-3718. A communication from the Assistant Director, Fisheries and Habitat Conservation, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Injurious Wildlife Species; Black Carp" (RIN1018-AG70) received on October 18,

2007; to the Committee on Environment and Public Works.

EC-3719. A communication from the Secretary of Transportation, transmitting, pursuant to law, an annual report relative to the administration of the Surface Transportation Project Delivery Pilot Program; to the Committee on Environment and Public Works.

EC-3720. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Bifenthrin; Pesticide Tolerance" (FRL No. 8151-5) received on October 18, 2007; to the Committee on Environment and Public Works.

EC-3721. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Federal Implementation Plans for the Clean Air Interstate Rule: Automatic Withdrawal Provisions" (FRL No. 8485-7) received on October 18, 2007; to the Committee on Environment and Public Works.

EC-3722. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Fenamidone; Pesticide Tolerance" (FRL No. 8152-9) received on October 18, 2007; to the Committee on Environment and Public Works.

EC-3723. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Pesticide Data Requirements; Technical Amendments" (FRL No. 8114-1) received on October 18, 2007; to the Committee on Environment and Public Works.

EC-3724. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Pesticides: Redesignation of Part 158; Technical Amendments" (FRL No. 8116-2) received on October 18, 2007; to the Committee on Environment and Public Works.

EC-3725. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Pesticides; Data Requirements for Biochemical and Microbial Pesticides" ((RIN2070-AD51)(FRL No. 8109-8)) received on October 18, 2007; to the Committee on Environment and Public Works.

EC-3726. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Pesticides; Data Requirements for Conventional Chemicals" ((RIN2070-AC12)(FRL No. 8106-5)) received on October 18, 2007; to the Committee on Environment and Public Works.

EC-3727. 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 "October-December 2007 Section 42 Bond Factor Amounts" (Rev. Rule. 2007-62) received on October 18, 2007; to the Committee on Finance.

EC-3728. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report relative to

performance improvement within the Department during fiscal year 2007; to the Committee on Health, Education, Labor, and Pensions.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LIEBERMAN, from the Committee on Homeland Security and Governmental Affairs:

Report to accompany S. 680, A bill to ensure proper oversight and accountability in Federal contracting, and for other purposes (Rept. No. 110-201).

By Mr. LIEBERMAN, from the Committee on Homeland Security and Governmental Affairs, with amendments:

H.R. 1254. A bill to amend title 44, United States Code, to require information on contributors to Presidential library fundraising organizations (Rept. No. 110-202).

By Mr. LEAHY, from the Committee on the Judiciary, with amendments:

S. 2035. A bill to maintain the free flow of information to the public by providing conditions for the federally compelled disclosure of information by certain persons connected with the news media.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. HATCH (for himself and Mr. BIDEN):

S. 2213. A bill to amend title 18, United States Code, to improve prevention, investigation, and prosecution of cybercrime, and for other purposes; to the Committee on the Judiciary.

By Mr. INHOFE:

S. 2214. A bill to establish the Federal Emergency Management Agency as an independent agency, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

By Ms. COLLINS (for herself, Mr. PRYOR, Mr. SUNUNU, Mr. JOHNSON, Mr. COLEMAN, Mr. BIDEN, Mr. THUNE, Mr. ENZI, and Mr. CARPER):

S. 2215. A bill to amend the Homeland Security Act of 2002 to establish the Protective Security Advisor Program Office; to the Committee on Homeland Security and Governmental Affairs.

By Mr. BAUCUS (for himself, Mr. CRAPO, Mr. WYDEN, Mr. SALAZAR, Ms. CANTWELL, Mr. INHOFE, Mrs. DOLE, Mr. BURR, Mr. COBURN, and Mrs. HUTCHISON):

S.J. Res. 22. A joint resolution providing for congressional disapproval under chapter 8 of title 5, United States Code, of the rule submitted by the Centers for Medicare & Medicaid Services within the Department of Health and Human Services relating to Medicare coverage for the use of erythropoiesis stimulating agents in cancer and related neoplastic conditions; to the Committee on Finance.

ADDITIONAL COSPONSORS

S. 22

At the request of Mr. WEBB, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 22, a bill to amend title 38, United States Code, to establish a program of educational

assistance for members of the Armed Forces who serve in the Armed Forces after September 11, 2001, and for other purposes.

S. 600

At the request of Mr. SMITH, the name of the Senator from Tennessee (Mr. ALEXANDER) was added as a cosponsor of S. 600, a bill to amend the Public Health Service Act to establish the School-Based Health Clinic program, and for other purposes.

S. 777

At the request of Mr. CRAIG, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 777, a bill to repeal the imposition of withholding on certain payments made to vendors by government entities.

S. 803

At the request of Mr. ROCKEFELLER, the names of the Senator from Maine (Ms. COLLINS) and the Senator from Arkansas (Mrs. LINCOLN) were added as cosponsors of S. 803, a bill to repeal a provision enacted to end Federal matching of State spending of child support incentive payments.

S. 1200

At the request of Mr. DORGAN, the names of the Senator from Massachusetts (Mr. KENNEDY) and the Senator from Oregon (Mr. SMITH) were added as cosponsors of S. 1200, a bill to amend the Indian Health Care Improvement Act to revise and extend the Act.

S. 1276

At the request of Mr. DURBIN, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of S. 1276, a bill to establish a grant program to facilitate the creation of methamphetamine precursor electronic logbook systems, and for other purposes.

S. 1332

At the request of Mr. JOHNSON, his name was added as a cosponsor of S. 1332, a bill to amend the Public Health Service Act to revise and extend projects relating to children and violence to provide access to school-based comprehensive mental health programs.

S. 1359

At the request of Mrs. MURRAY, the names of the Senator from Arkansas (Mrs. LINCOLN) and the Senator from Delaware (Mr. BIDEN) were added as cosponsors of S. 1359, a bill to amend the Public Health Service Act to enhance public and health professional awareness and understanding of lupus and to strengthen the Nation's research efforts to identify the causes and cure of lupus.

S. 1444

At the request of Mrs. CLINTON, the name of the Senator from Rhode Island (Mr. WHITEHOUSE) was added as a cosponsor of S. 1444, a bill to provide for free mailing privileges for personal correspondence and parcels sent to members of the Armed Forces serving on active duty in Iraq or Afghanistan.

S. 1465

At the request of Mr. CONRAD, the names of the Senator from Minnesota

(Mr. COLEMAN) and the Senator from North Carolina (Mr. BURR) were added as cosponsors of S. 1465, a bill to amend title XVIII of the Social Security Act to provide for coverage under the Medicare program of certain medical mobility devices approved as class III medical devices.

S. 1518

At the request of Mr. REED, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 1518, a bill to amend the McKinney-Vento Homeless Assistance Act to reauthorize the Act, and for other purposes.

S. 1661

At the request of Mr. DORGAN, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 1661, a bill to communicate United States travel policies and improve marketing and other activities designed to increase travel in the United States from abroad.

S. 1711

At the request of Mr. BIDEN, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 1711, a bill to target cocaine kingpins and address sentencing disparity between crack and powder cocaine.

S. 1729

At the request of Mr. LEAHY, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 1729, a bill to amend titles 18 and 28 of the United States Code to provide incentives for the prompt payments of debts owed to the United States and the victims of crime by imposing surcharges on unpaid judgments owed to the United States and to the victims of crime, to provide for offsets on amounts collected by the Department of Justice for Federal agencies, to increase the amount of special assessments imposed upon convicted persons, to establish an Enhanced Financial Recovery Fund to enhance, supplement, and improve the debt collection activities of the Department of Justice, to amend title 5, United States Code, to provide to assistant United States attorneys the same retirement benefits as are afforded to Federal law enforcement officers, and for authorized purposes.

S. 1730

At the request of Mr. SMITH, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 1730, a bill to amend part A of title IV of the Social Security Act, to reward States for engaging individuals with disabilities in work activities, and for other purposes.

S. 1843

At the request of Mr. KENNEDY, the name of the Senator from Vermont (Mr. SANDERS) was added as a cosponsor of S. 1843, a bill to amend title VII of the Civil Rights Act of 1964 and the Age Discrimination in Employment Act of 1967 to clarify that an unlawful

practice occurs each time compensation is paid pursuant to a discriminatory compensation decision or other practice, and for other purposes.

S. 1858

At the request of Mr. DODD, the names of the Senator from Hawaii (Mr. INOUE) and the Senator from Washington (Ms. CANTWELL) were added as cosponsors of S. 1858, a bill to amend the Public Health Service Act to establish grant programs to provide for education and outreach on newborn screening and coordinated followup care once newborn screening has been conducted, to reauthorize programs under part A of title XI of such Act, and for other purposes.

S. 1930

At the request of Mr. WYDEN, the name of the Senator from Rhode Island (Mr. WHITEHOUSE) was added as a cosponsor of S. 1930, a bill to amend the Lacey Act Amendments of 1981 to prevent illegal logging practices, and for other purposes.

S. 1944

At the request of Mr. LAUTENBERG, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 1944, a bill to provide justice for victims of state-sponsored terrorism.

S. 1954

At the request of Mr. BAUCUS, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 1954, a bill to amend title XVIII of the Social Security Act to improve access to pharmacies under part D.

S. 2042

At the request of Ms. STABENOW, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 2042, a bill to authorize the Secretary of Health and Human Services to conduct activities to rapidly advance treatments for spinal muscular atrophy, neuromuscular disease, and other pediatric diseases, and for other purposes.

S. 2166

At the request of Mr. CASEY, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 2166, a bill to provide for greater responsibility in lending and expanded cancellation of debts owed to the United States and the international financial institutions by low-income countries, and for other purposes.

S. 2172

At the request of Mr. MCCAIN, the name of the Senator from Oklahoma (Mr. INHOFE) 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. 2198

At the request of Mr. DEMINT, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of

S. 2198, a bill to require the Architect of the Capitol to permit the acknowledgment of God on flag certificates.

S. 2202

At the request of Mr. DURBIN, his name was added as a cosponsor of S. 2202, a bill to amend the Clean Air Act to increase the renewable content of gasoline, and for other purposes.

AMENDMENT NO. 3335

At the request of Mr. DORGAN, the names of the Senator from Ohio (Mr. BROWN), the Senator from Michigan (Ms. STABENOW), the Senator from Pennsylvania (Mr. CASEY) and the Senator from Vermont (Mr. SANDERS) were added as cosponsors of amendment No. 3335 proposed to H.R. 3043, a bill making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2008, and for other purposes.

AMENDMENT NO. 3347

At the request of Mr. MENENDEZ, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of amendment No. 3347 proposed to H.R. 3043, a bill making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2008, and for other purposes.

AMENDMENT NO. 3364

At the request of Mr. COLEMAN, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of amendment No. 3364 intended to be proposed to H.R. 3043, a bill making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2008, and for other purposes.

AMENDMENT NO. 3376

At the request of Mr. SMITH, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of amendment No. 3376 intended to be proposed to H.R. 3043, a bill making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2008, and for other purposes.

AMENDMENT NO. 3378

At the request of Mr. TESTER, the names of the Senator from Ohio (Mr. BROWN) and the Senator from Vermont (Mr. SANDERS) were added as cosponsors of amendment No. 3378 proposed to H.R. 3043, a bill making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2008, and for other purposes.

AMENDMENT NO. 3400

At the request of Mr. CARDIN, the names of the Senator from Connecticut (Mr. LIEBERMAN) and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of amendment No. 3400 proposed to H.R. 3043, a bill making appropriations for the Departments of

Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2008, and for other purposes.

At the request of Ms. LANDRIEU, her name was added as a cosponsor of amendment No. 3400 proposed to H.R. 3043, supra.

AMENDMENT NO. 3401

At the request of Mr. CARDIN, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of amendment No. 3401 intended to be proposed to H.R. 3043, a bill making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2008, and for other purposes.

AMENDMENT NO. 3428

At the request of Mr. MENENDEZ, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of amendment No. 3428 intended to be proposed to H.R. 3043, a bill making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2008, and for other purposes.

AMENDMENT NO. 3432

At the request of Mr. REED, the names of the Senator from Kansas (Mr. ROBERTS) and the Senator from Rhode Island (Mr. WHITEHOUSE) were added as cosponsors of amendment No. 3432 proposed to H.R. 3043, a bill making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2008, and for other purposes.

AMENDMENT NO. 3445

At the request of Mr. DORGAN, the name of the Senator from West Virginia (Mr. ROCKEFELLER) was added as a cosponsor of amendment No. 3445 intended to be proposed to H.R. 3043, a bill making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2008, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HATCH (for himself and Mr. BIDEN):

S. 2213. A bill to amend title 18, United States Code, to improve prevention, investigation, and prosecution of cyber-crime, and for other purposes; to the Committee on the Judiciary.

Mr. HATCH. Mr. President, I rise today to introduce S. 2213, the Cyber-Crime Act of 2007. I am joined in this effort by my colleague and good friend Senator BIDEN. This bipartisan legislation makes important, appropriate and necessary changes to federal law relating to computer fraud.

Continuous innovation in technology provides remarkable benefits to individuals throughout the world. In the United States, the integration of computer networks has allowed for increased efficiency of American businesses and provided greater access to

services and information for individuals. The ability of individuals and businesses to store vast amounts of data on computer networks has led to innumerable advantages including increased productivity and financial savings.

However, these same networks have proven to be prime targets for criminals seeking to utilize malicious computer code for illicit gain. Criminals are using viruses to exploit technological weaknesses in computer networks. These collections of compromised computers are called "botnets", and serve as zombie networks which can be remotely controlled by an attacker and used for numerous crimes, including identity theft and attacks on critical computer systems. Botnets can consist of hundreds of thousands of computers, and most victims are unaware their computer equipment has been compromised. An underground market has developed for these botnets, as criminals are renting these compromised networks to carry out different types of attacks. Botnets have the ability to grow exponentially and the potential damage from these networks grows accordingly.

Botnets pose a tremendous threat to our national infrastructure, economy, and security. Portions of the federal law relating to computer crime, written in a pre-Internet era, are inadequate and leave several unaddressed loopholes in our criminal code. For example, under current federal law a creator of a botnet can only be charged if the financial loss to one or more persons during one year passes a certain dollar threshold. It can be very difficult to put a price tag on the losses experienced by computer users, as it is not easy to calculate how much money an individual's time is worth in terms diverted from work or in trying to fix a malicious bot. In addition, it is possible for a criminal to create large botnets that can be utilized for future denial of service attacks and other violations, and still not violate this section of law.

In order to address this, the legislation we offer today modifies the Federal criminal code by criminalizing willful damage to 10 or more computers in any one year period. This change will allow the prosecution of criminals who covertly install malicious bots on protected computers with the purposes of making a botnet.

Also, S. 2213, will make other necessary changes to the Federal code, including expanding the definition of cyber extortion, and permit law enforcement seizure of computer equipment and other property used to perpetrate computer crimes. As well, the bill includes a directive to the U.S. Sentencing Commission to consider many highly relevant factors in its review of appropriate sentences for cyber crime.

All of the changes contemplated by this legislation, if aggressively enforced by law enforcement, will have a

positive impact on our security. In this information age, it will not take long for potential criminals to hear about the new tools available to law enforcement personnel and many will be deterred from perpetrating illegal activity over the Internet.

As criminals continue to adapt their tactics to exploit technological changes and loopholes in the law, it is imperative that Congress pass legislation that allows Federal law enforcement to maintain vigorous and tireless efforts in the investigation of cyber crime activity. I am confident that this legislation, once enacted, will provide for the tools needed to pursue those who choose to inflict such harm to our society.

By Mr. INHOFE:

S. 2214. A bill to establish the Federal Emergency Management Agency as an independent agency, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

Mr. INHOFE. Mr. President, I rise today to introduce the Federal Emergency Management Advancement Act of 2007, a bill to establish the Federal Emergency Management Agency, FEMA, as an independent agency. After a series of winter storms and summer flooding caused extensive damage in Oklahoma, the State encountered problems with FEMA as they sought disaster assistance due to the levels of bureaucracy and a lack of communication. When other natural disasters struck Oklahoma prior to the placement of FEMA under Homeland Security, the State did not encounter the same bureaucratic delays and other problems. Therefore, I support making FEMA an independent agency again in an effort to grant FEMA more autonomy by removing that added layer of bureaucracy. Additionally, after Oklahoma experienced troubles establishing an accurate incident period for the 2007 summer flooding, I have also included in my bill language stating that the administrator should give deference to State documentation when determining disaster incident periods.

Oklahoma first encountered problems with FEMA and lack of communication and information when wildfires ravaged the state in 2005 and 2006. These devastating wildfires swept through the entire state leading to declarations for Public Assistance, Individual Assistance and hazard mitigation funding. All 77 counties in the State of Oklahoma qualified for Public Assistance while all counties were also eligible to apply for the Hazard Mitigation Grant Program. These wildfires were wide spread and deadly to my State.

More recently, Oklahoma encountered severe winter storms with devastating results in January 2007. These storms led to prolonged loss of power and extensive building damage for many of my constituents. In Muskogee County alone, an estimated 16,000 power company customers experienced

loss of electricity for days at time with temperatures remaining below freezing.

This summer, Oklahoma was hit by heavy rain, tornadoes, and flooding from May through September. The State made a number of disaster declarations during these periods. While I appreciate these declarations and aid, the process it took the state to get to this point was filled with unnecessary difficulty. Oklahoma particularly struggled with FEMA on the dates of the incident periods which is why I have included language in my bill to give deference to the State's documentation regarding the dates of such incidents. It makes sense that the State would be the one to have the most accurate information available regarding the disasters and the cause.

I believe this is an extremely important bill that will free FEMA from additional levels of bureaucracy and allow it to work in a more effective manner.

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. 2214

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 "Federal Emergency Management Advancement Act of 2007" or the "FEMA Act".

TITLE I—FEDERAL EMERGENCY MANAGEMENT AGENCY

SEC. 101. DEFINITIONS.

In this title—

(1) the term "catastrophic incident" means any natural disaster, act of terrorism, or other man-made disaster that results in extraordinary levels of casualties or damage or disruption severely affecting the population (including mass evacuations), infrastructure, environment, economy, national morale, or government functions in an area;

(2) the term "Director" means the Director of the Federal Emergency Management Agency;

(3) the term "Federal coordinating officer" means a Federal coordinating officer as described in section 302 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5143);

(4) the term "interoperable" has the meaning given the term "interoperable communications" under section 7303(g)(1) of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 194(g)(1));

(5) the term "National Advisory Council" means the National Advisory Council established under section 508 of the Homeland Security Act of 2002;

(6) the term "National Incident Management System" means a system to enable effective, efficient, and collaborative incident management;

(7) the term "National Response Plan" means the National Response Plan or any successor plan prepared under section 104(b)(6);

(8) the term "Nuclear Incident Response Team" means a resource that includes—

(A) those entities of the Department of Energy that perform nuclear or radiological emergency support functions (including accident response, search response, advisory, and

technical operations functions), radiation exposure functions at the medical assistance facility known as the Radiation Emergency Assistance Center/Training Site (REAC/TS), radiological assistance functions, and related functions; and

(B) those entities of the Environmental Protection Agency that perform such support functions (including radiological emergency response functions) and related functions; and

(9) the term "tribal government" means the government of any entity described under section 2(10)(B) of the Homeland Security Act of 2002 (6 U.S.C. 101(10)(B)).

SEC. 102. ESTABLISHMENT OF AGENCY AND DIRECTOR AND DEPUTY DIRECTOR.

(a) **ESTABLISHMENT.**—The Federal Emergency Management Agency is established as an independent establishment in the executive branch as defined under section 104 of title 5, United States Code.

(b) **DIRECTOR.**—

(1) **IN GENERAL.**—The Director shall be the head of the Federal Emergency Management Agency. The Director shall be appointed by the President, by and with the advice and consent of the Senate. The Director shall report directly to the President.

(2) **QUALIFICATIONS.**—The Director shall have significant experience, knowledge, training, and expertise in the area of emergency preparedness, response, recovery, and mitigation as related to natural disasters and other national catastrophic events.

(3) **EXECUTIVE SCHEDULE POSITION.**—Section 5312 of title 5, United States Code, is amended by adding at the end the following:

"Director of the Federal Emergency Management Agency."

(4) **PRINCIPAL ADVISOR ON EMERGENCY MANAGEMENT.**—

(A) **IN GENERAL.**—The Director is the principal advisor to the President, the Homeland Security Council, and the Secretary of Homeland Security for all matters relating to emergency management in the United States.

(B) **ADVICE AND RECOMMENDATIONS.**—

(i) **IN GENERAL.**—In presenting advice with respect to any matter to the President, the Homeland Security Council, or the Secretary of Homeland Security, the Director shall, as the Director considers appropriate, inform the President, the Homeland Security Council, or the Secretary, as the case may be, of the range of emergency preparedness, protection, response, recovery, and mitigation options with respect to that matter.

(ii) **ADVICE ON REQUEST.**—The Director, as the principal advisor on emergency management, shall provide advice to the President, the Homeland Security Council, or the Secretary of Homeland Security on a particular matter when the President, the Homeland Security Council, or the Secretary requests such advice.

(iii) **RECOMMENDATIONS TO CONGRESS.**—After informing the President, the Director may make such recommendations to Congress relating to emergency management as the Director considers appropriate.

(5) **CABINET STATUS.**—The President shall designate the Administrator to serve as a member of the Cabinet in the event of natural disasters, acts of terrorism, or other man-made disasters.

(c) **DEPUTY DIRECTOR.**—

(1) **IN GENERAL.**—The Deputy Director of the Federal Emergency Management Agency shall assist the Director of the Federal Emergency Management Agency. The Deputy Director shall be appointed by the President, by and with the advice and consent of the Senate.

(2) **QUALIFICATIONS.**—The Deputy Director of the Federal Emergency Management Agency shall have significant experience,

knowledge, training, and expertise in the area of emergency preparedness, response, recovery, and mitigation as related to natural disasters and other national catastrophic events.

(3) **EXECUTIVE SCHEDULE POSITION.**—Section 5313 of title 5, United States Code, is amended—

(A) by striking the following:

"Administrator of the Federal Emergency Management Agency.";

and

(B) by adding at the end the following:

"Deputy Director of the Federal Emergency Management Agency.".

SEC. 103. MISSION.

(a) **PRIMARY MISSION.**—The primary mission of the Federal Emergency Management Agency is to reduce the loss of life and property and protect the Nation from all hazards, including natural disasters, acts of terrorism, and other man-made disasters, by leading and supporting the Nation in a risk-based, comprehensive emergency management system of preparedness, protection, response, recovery, and mitigation.

(b) **SPECIFIC ACTIVITIES.**—In support of the primary mission of the Federal Emergency Management Agency, the Director shall—

(1) lead the Nation's efforts to prepare for, protect against, respond to, recover from, and mitigate against the risk of natural disasters, acts of terrorism, and other man-made disasters, including catastrophic incidents;

(2) partner with State, local, and tribal governments and emergency response providers, with other Federal agencies, with the private sector, and with nongovernmental organizations to build a national system of emergency management that can effectively and efficiently utilize the full measure of the Nation's resources to respond to natural disasters, acts of terrorism, and other man-made disasters, including catastrophic incidents;

(3) develop a Federal response capability that, when necessary and appropriate, can act effectively and rapidly to deliver assistance essential to saving lives or protecting or preserving property or public health and safety in a natural disaster, act of terrorism, or other man-made disaster;

(4) integrate the Federal Emergency Management Agency's emergency preparedness, protection, response, recovery, and mitigation responsibilities to confront effectively the challenges of a natural disaster, act of terrorism, or other man-made disaster;

(5) develop and maintain robust Regional Offices that will work with State, local, and tribal governments, emergency response providers, and other appropriate entities to identify and address regional priorities;

(6) coordinate with the Secretary of Homeland Security, the Commandant of the Coast Guard, the Director of Customs and Border Protection, the Director of Immigration and Customs Enforcement, the National Operations Center, and other agencies and offices in the Department of Homeland Security to take full advantage of the substantial range of resources in that Department;

(7) coordinate with the Administrator of the Small Business Administration, the Chief of Engineers of the United States Army Corps of Engineers, and the Secretary of Housing and Urban Development to take full advantage of the resources of those departments and agencies;

(8) provide funding, training, exercises, technical assistance, planning, and other assistance to build tribal, local, State, regional, and national capabilities (including communications capabilities), necessary to respond to a natural disaster, act of terrorism, or other man-made disaster; and

(9) develop and coordinate the implementation of a risk-based, all-hazards strategy for preparedness that builds those common capabilities necessary to respond to natural disasters, acts of terrorism, and other man-made disasters while also building the unique capabilities necessary to respond to specific types of incidents that pose the greatest risk to our Nation.

SEC. 104. AUTHORITY AND RESPONSIBILITIES.

(a) **IN GENERAL.**—The Director shall provide Federal leadership necessary to prepare for, protect against, respond to, recover from, or mitigate against a natural disaster, act of terrorism, or other man-made disaster, including—

(1) helping to ensure the effectiveness of emergency response providers to terrorist attacks, major disasters, and other emergencies;

(2) with respect to the Nuclear Incident Response Team, regardless of whether it is operating as an organizational unit of the Department of Homeland Security, and in consultation with the Secretary of Homeland Security—

(A) establishing standards and certifying when those standards have been met;

(B) conducting joint and other exercises and training and evaluating performance; and

(C) providing funds to the Department of Energy and the Environmental Protection Agency, as appropriate, for homeland security planning, exercises and training, and equipment;

(3) providing the Federal Government's response to terrorist attacks and major disasters, including—

(A) managing such response;

(B) directing the Domestic Emergency Support Team, the National Disaster Medical System, and, in consultation with the Secretary of Homeland Security, the Nuclear Incident Response Team (when that team is operating as an organizational unit of the Department of Homeland Security);

(C) overseeing the Metropolitan Medical Response System; and

(D) coordinating other Federal response resources, including requiring deployment of the Strategic National Stockpile, in the event of a terrorist attack or major disaster;

(4) aiding the recovery from terrorist attacks and major disasters;

(5) building a comprehensive national incident management system with Federal, State, and local government personnel, agencies, and authorities, to respond to such attacks and disasters;

(6) consolidating existing Federal Government emergency response plans into a single, coordinated national response plan;

(7) helping ensure the acquisition of operable and interoperable communications capabilities by Federal, State, local, and tribal governments and emergency response providers;

(8) assisting the President in carrying out the functions under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) and carrying out all functions and authorities given to the Director under that Act;

(9) carrying out the mission of the Federal Emergency Management Agency to reduce the loss of life and property and protect the Nation from all hazards by leading and supporting the Nation in a risk-based, comprehensive emergency management system of—

(A) mitigation, by taking sustained actions to reduce or eliminate long-term risks to people and property from hazards and their effects;

(B) preparedness, by planning, training, and building the emergency management

profession to prepare effectively for, mitigate against, respond to, and recover from any hazard;

(C) response, by conducting emergency operations to save lives and property through positioning emergency equipment, personnel, and supplies, through evacuating potential victims, through providing food, water, shelter, and medical care to those in need, and through restoring critical public services; and

(D) recovery, by rebuilding communities so individuals, businesses, and governments can function on their own, return to normal life, and protect against future hazards;

(10) increasing efficiencies, by coordinating efforts relating to preparedness, protection, response, recovery, and mitigation;

(11) helping to ensure the effectiveness of emergency response providers in responding to a natural disaster, act of terrorism, or other man-made disaster;

(12) supervising grant programs administered by the Federal Emergency Management Agency;

(13) administering and ensuring the implementation of the National Response Plan, including coordinating and ensuring the readiness of each emergency support function under the National Response Plan;

(14) coordinating with the National Advisory Council;

(15) preparing and implementing the plans and programs of the Federal Government for—

- (A) continuity of operations;
- (B) continuity of government; and
- (C) continuity of plans;

(16) minimizing, to the extent practicable, overlapping planning and reporting requirements applicable to State, local, and tribal governments and the private sector;

(17) maintaining and operating within the Federal Emergency Management Agency the National Response Coordination Center or its successor;

(18) developing a national emergency management system that is capable of preparing for, protecting against, responding to, recovering from, and mitigating against catastrophic incidents;

(19) assisting the President in carrying out the functions under the national preparedness goal and the national preparedness system and carrying out all functions and authorities of the Director under the national preparedness System;

(20) carrying out all authorities of the Federal Emergency Management Agency; and

(21) otherwise carrying out the mission of the Federal Emergency Management Agency as described in section 103.

(b) **ALL-HAZARDS APPROACH.**—In carrying out the responsibilities under this section, the Director shall coordinate the implementation of a risk-based, all-hazards strategy that builds those common capabilities necessary to prepare for, protect against, respond to, recover from, or mitigate against natural disasters, acts of terrorism, and other man-made disasters, while also building the unique capabilities necessary to prepare for, protect against, respond to, recover from, or mitigate against the risks of specific types of incidents that pose the greatest risk to the Nation.

(c) **CONFLICT OF AUTHORITIES.**—If the Director determines that there is a conflict between any authority of the Director under this Act, the amendments made by this Act, or the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) and any authority of another Federal officer, the Director shall request that the President make such determinations as may be necessary regarding such authorities.

SEC. 105. REGIONAL OFFICES.

(a) **IN GENERAL.**—There are in the Federal Emergency Management Agency 10 regional offices, as identified by the Director.

(b) **MANAGEMENT OF REGIONAL OFFICES.**—

(1) **REGIONAL ADMINISTRATOR.**—Each Regional Office shall be headed by a Regional Administrator who shall be appointed by the Director, after consulting with State, local, and tribal government officials in the region. Each Regional Administrator shall report directly to the Director and be in the Senior Executive Service.

(2) **QUALIFICATIONS.**—

(A) **IN GENERAL.**—Each Regional Administrator shall be appointed from among individuals who have a demonstrated ability in and knowledge of emergency management and homeland security.

(B) **CONSIDERATIONS.**—In selecting a Regional Administrator for a Regional Office, the Director shall consider the familiarity of an individual with the geographical area and demographic characteristics of the population served by such Regional Office.

(c) **RESPONSIBILITIES.**—

(1) **IN GENERAL.**—The Regional Administrator shall work in partnership with State, local, and tribal governments, emergency managers, emergency response providers, medical providers, the private sector, nongovernmental organizations, multijurisdictional councils of governments, and regional planning commissions and organizations in the geographical area served by the Regional Office to carry out the responsibilities of a Regional Administrator under this section.

(2) **RESPONSIBILITIES.**—The responsibilities of a Regional Administrator include—

(A) ensuring effective, coordinated, and integrated regional preparedness, protection, response, recovery, and mitigation activities and programs for natural disasters, acts of terrorism, and other man-made disasters (including planning, training, exercises, and professional development);

(B) assisting in the development of regional capabilities needed for a national catastrophic response system;

(C) coordinating the establishment of effective regional operable and interoperable emergency communications capabilities;

(D) staffing and overseeing 1 or more strike teams within the region under subsection (f), to serve as the focal point of the Federal Government's initial response efforts for natural disasters, acts of terrorism, and other man-made disasters within that region, and otherwise building Federal response capabilities to respond to natural disasters, acts of terrorism, and other man-made disasters within that region;

(E) designating an individual responsible for the development of strategic and operational regional plans in support of the National Response Plan;

(F) fostering the development of mutual aid and other cooperative agreements;

(G) identifying critical gaps in regional capabilities to respond to populations with special needs;

(H) maintaining and operating a Regional Response Coordination Center or its successor; and

(I) performing such other duties relating to such responsibilities as the Director may require.

(3) **TRAINING AND EXERCISE REQUIREMENTS.**—

(A) **TRAINING.**—The Director shall require each Regional Administrator to undergo specific training periodically to complement the qualifications of the Regional Administrator. Such training, as appropriate, shall include training with respect to the National Incident Management System, the National

Response Plan, and such other subjects as determined by the Director.

(B) **EXERCISES.**—The Director shall require each Regional Administrator to participate as appropriate in regional and national exercises.

(d) **AREA OFFICES.**—The Director shall establish Area Offices as components in the appropriate Regional Office, as determined appropriate by the Director.

(e) **REGIONAL ADVISORY COUNCIL.**—

(1) **ESTABLISHMENT.**—Each Regional Administrator shall establish a Regional Advisory Council.

(2) **NOMINATIONS.**—A State, local, or tribal government located within the geographic area served by the Regional Office may nominate officials, including Adjutants General and emergency managers, to serve as members of the Regional Advisory Council for that region.

(3) **RESPONSIBILITIES.**—Each Regional Advisory Council shall—

(A) advise the Regional Administrator on emergency management issues specific to that region;

(B) identify any geographic, demographic, or other characteristics peculiar to any State, local, or tribal government within the region that might make preparedness, protection, response, recovery, or mitigation more complicated or difficult; and

(C) advise the Regional Administrator of any weaknesses or deficiencies in preparedness, protection, response, recovery, and mitigation for any State, local, and tribal government within the region of which the Regional Advisory Council is aware.

(f) **REGIONAL OFFICE STRIKE TEAMS.**—

(1) **IN GENERAL.**—In coordination with other relevant Federal agencies, each Regional Administrator shall oversee multi-agency strike teams authorized under section 303 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5144) that shall consist of—

(A) a designated Federal coordinating officer;

(B) personnel trained in incident management;

(C) public affairs, response and recovery, and communications support personnel;

(D) a defense coordinating officer;

(E) liaisons to other Federal agencies;

(F) such other personnel as the Director or Regional Administrator determines appropriate; and

(G) individuals from the agencies with primary responsibility for each of the emergency support functions in the National Response Plan.

(2) **OTHER DUTIES.**—The duties of an individual assigned to a Regional Office strike team from another relevant agency when such individual is not functioning as a member of the strike team shall be consistent with the emergency preparedness activities of the agency that employs such individual.

(3) **LOCATION OF MEMBERS.**—The members of each Regional Office strike team, including representatives from agencies other than the Department, shall be based primarily within the region that corresponds to that strike team.

(4) **COORDINATION.**—Each Regional Office strike team shall coordinate the training and exercises of that strike team with the State, local, and tribal governments and private sector and nongovernmental entities which the strike team shall support when a natural disaster, act of terrorism, or other man-made disaster occurs.

(5) **PREPAREDNESS.**—Each Regional Office strike team shall be trained as a unit on a regular basis and equipped and staffed to be well prepared to respond to natural disasters, acts of terrorism, and other man-made disasters, including catastrophic incidents.

(6) **AUTHORITIES.**—If the Director determines that statutory authority is inadequate for the preparedness and deployment of individuals in strike teams under this subsection, the Director shall report to Congress regarding the additional statutory authorities that the Director determines are necessary.

SEC. 106. NATIONAL RESPONSE PLAN.

(a) **IN GENERAL.**—The Director shall—

(1) in consultation with other Federal departments and agencies and the National Advisory Council, ensure ongoing management and maintenance of the National Incident Management System, the National Response Plan, and any successor to such system or plan; and

(2) periodically review and report to Congress on the integration of Federal authorities to ensure effective response to address response responsibilities and capabilities in the event of a catastrophic incident.

(b) **CHAIN OF COMMAND.**—

(1) **IN GENERAL.**—The Director, in consultation with the Secretary of Homeland Security, shall ensure that the National Response Plan provides for a clear chain of command to lead and coordinate the Federal response to any natural disaster, act of terrorism, or other man-made disaster.

(2) **DIRECTOR OF THE FEDERAL EMERGENCY MANAGEMENT AGENCY.**—The chain of the command specified in the National Response Plan shall—

(A) provide for a role for the Director consistent with the role of the Director under this Act and the amendments made by this Act; and

(B) provide for a role for the Federal Coordinating Officer consistent with the responsibilities under section 302(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5143(b)).

(3) **PRINCIPAL FEDERAL OFFICIAL.**—The Principal Federal Official (or the successor thereto) shall not—

(A) direct or replace the incident command structure established at the incident; or

(B) have directive authority over the Senior Federal Law Enforcement Official, Federal Coordinating Officer, or other Federal and State officials.

SEC. 107. CREDENTIALING AND TYPING.

The Director shall enter into a memorandum of understanding with the administrators of the Emergency Management Assistance Compact, State, local, and tribal governments, and organizations that represent emergency response providers, to collaborate on developing standards for deployment capabilities, including credentialing of personnel and typing of resources likely needed to respond to natural disasters, acts of terrorism, and other man-made disasters.

SEC. 108. FEDERAL AND STATE COOPERATION FOR DISASTER INCIDENT PERIODS.

In determining the duration of a major disaster or emergency (as those terms are defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122)) or other incident, and in establishing the period for public or individual assistance or other disaster relief assistance for which a State or local government or individual may be eligible, the Director shall defer to weather reports and other substantiating documentation submitted by a State.

SEC. 109. NATIONAL OPERATIONS CENTER.

(a) **DEFINITION.**—In this section, the term “situational awareness” means information gathered from a variety of sources that, when communicated to emergency managers and decision makers, can form the basis for incident management decisionmaking.

(b) **ESTABLISHMENT.**—The National Operations Center is the principal operations cen-

ter for the Federal Emergency Management Agency and shall—

(1) provide situational awareness and a common operating picture for the entire Federal Government, and for State, local, and tribal governments as appropriate, in the event of a natural disaster, act of terrorism, or other man-made disaster; and

(2) ensure that critical terrorism and disaster-related information reaches government decision-makers.

SEC. 110. GRANT PROGRAMS.

(a) **IN GENERAL.**—Title XX of the Homeland Security Act of 2002 (6 U.S.C. 601 et seq.) is amended—

(1) in section 2001—

(A) in paragraph (1)—

(i) in the paragraph heading, by striking “ADMINISTRATOR” and inserting “DIRECTOR”; and

(ii) by striking “Administrator” each place that term appears and inserting “Director”;

(B) in paragraph (4)(A)(iv), by striking “Secretary” and inserting “Director”; and

(C) in paragraph (12), by striking “Secretary” each place that term appears and inserting “Director”;

(2) in section 2002(a), by striking “The Secretary, through the Administrator,” and inserting “The Director”; and

(3) in section 2003—

(A) by striking “Administrator” each place that term appears and inserting “Director”; and

(B) by striking “Department” each place that term appears and inserting “Federal Emergency Management Agency”; and

(4) in section 2004, by striking “Administrator” each place that term appears and inserting “Director”; and

(5) in section 2005—

(A) by striking “Administrator” each place that term appears and inserting “Director”; and

(B) by striking “Department” each place that term appears and inserting “Federal Emergency Management Agency”; and

(6) in section 2006, by striking “Administrator” each place that term appears and inserting “Director”; and

(7) in section 2007—

(A) by striking “Administrator” each place that term appears and inserting “Director”; and

(B) in subsection (a)(1)(E), by striking “Department” and inserting “Federal Emergency Management Agency”; and

(8) in 2008, by striking “Administrator” each place that term appears and inserting “Director”; and

(9) in section 2021—

(A) in subsection (a), by striking “Administrator” and inserting “Director”; and

(B) in subsection (c)(1), by striking “(acting through the Administrator)” and inserting “, the Director”; and

(C) by striking “Department” each place that term appears and inserting “Federal Emergency Management Agency”; and

(10) in section 2022—

(A) by striking “Administrator” each place that term appears and inserting “Director”; and

(B) by striking “Department” each place that term appears and inserting “Federal Emergency Management Agency”; and

(C) in subsection (a)(3)(F), in the subparagraph heading, by striking “ADMINISTRATOR” and inserting “DIRECTOR”; and

(D) in subsection (c), in the subsection heading, by striking “ADMINISTRATOR” and inserting “DIRECTOR”.

(b) **OTHER GRANT PROGRAMS.**—

(1) **EMERGENCY MANAGEMENT PERFORMANCE GRANT PROGRAM.**—Section 662 of the Post-Katrina Emergency Management Reform Act of 2006 (6 U.S.C. 762) is amended by striking “Administrator” each place that term appears and inserting “Director”.

(2) **INTEROPERABLE EMERGENCY COMMUNICATIONS GRANT PROGRAM.**—Section 1809 of the Homeland Security Act of 2002 (6 U.S.C. 579) is amended—

(A) in subsection (a), by striking “Secretary” and inserting “Director of the Federal Emergency Management Agency”; and

(B) in subsection (b), by striking “Director for Emergency Communications” and inserting “Director of the Federal Emergency Management Agency”; and

(C) by amending paragraph (1) of subsection (c) to read as follows:

“(1) **IN GENERAL.**—The Director of the Federal Emergency Management Agency shall administer the Interoperable Emergency Communications Grant Program.”; and

(D) by striking “Administrator” each place that term appears and inserting “Director of the Federal Emergency Management Agency”.

SEC. 111. MODEL STANDARDS AND GUIDELINES; GUIDANCE AND RECOMMENDATIONS; VOLUNTARY PRIVATE SECTOR PREPAREDNESS.

Title V of the Homeland Security Act of 2002 (6 U.S.C. 311 et seq.) is amended—

(1) in section 522, by striking “Administrator” each place that term appears and inserting “Director of the Federal Emergency Management Agency”; and

(2) in section 523—

(A) by striking “Administrator” each place that term appears and inserting “Director of the Federal Emergency Management Agency”; and

(B) in subsection (b)(2), by striking “Secretary” and inserting “Director of the Federal Emergency Management Agency”; and

(3) in section 524—

(A) by amending subsection (a) to read as follows:

“(a) **ESTABLISHMENT.**—The Administrator (hereinafter referred to in this section as the ‘designated officer’) shall establish and implement the voluntary private sector preparedness accreditation and certification program in accordance with this section.”; and

(B) by amending subsection (b)(2)(E)(ii)(I) to read as follows:

“(I) private sector related programs of the Department; and”.

SEC. 112. TECHNICAL AND CONFORMING AMENDMENTS.

(a) **IN GENERAL.**—Title V of the Homeland Security Act of 2002 (6 U.S.C. 311 et seq.) is amended—

(1) in section 501, by striking all after “In this title” and inserting “the term ‘tribal government’ means the government of any entity described under section 2(10)(B).”;

(2) by striking sections 503 through 507, 510, and 515;

(3) in section 508—

(A) by striking “Administrator” each place that term appears and inserting “Director of Federal Emergency Management Agency”; and

(B) in subsection (b)(2), by striking “Department” and inserting “Federal Emergency Management Agency”; and

(C) in subsection (c)—

(i) in paragraph (1), by inserting “in consultation with the Secretary,” before “and shall, to the extent practicable”; and

(ii) in paragraph (3), by inserting “, in consultation with the Secretary,” before “shall designate”;

(4) in section 509—

(A) in subsection (a), by striking “Agency” and inserting “Department”; and

(B) by striking subsection (c);

(5) in section 512(c), by striking “Administrator” each place that term appears and inserting “Secretary”; and

(6) in section 513—

(A) by striking “Administrator” each place that term appears and inserting “Secretary”; and

(B) in subsection (b)(2), by striking “Agency” and inserting “Department”; and

(7) in section 514—

(A) by striking subsection (a); and

(B) redesignating subsections (b) and (c) as subsections (a) and (b), respectively.

(b) TABLE OF CONTENTS.—The table of contents for the Homeland Security Act of 2002 (6 U.S.C. 101) is amended by striking the items relating to sections 503 through 507, 510, and 515.

SEC. 113. RULE OF CONSTRUCTION.

Nothing in this Act shall be construed to detract from the Department of Homeland Security’s primary mission to secure the homeland from terrorist attacks.

TITLE II—TRANSFER AND SAVINGS PROVISIONS

SEC. 201. DEFINITIONS.

In this title, unless otherwise provided or indicated by the context—

(1) the term “Federal agency” has the meaning given to the term “agency” by section 551(1) of title 5, United States Code;

(2) the term “function” means any duty, obligation, power, authority, responsibility, right, privilege, activity, or program; and

(3) the term “office” includes any office, administration, agency, institute, unit, organizational entity, or component thereof.

SEC. 202. TRANSFER OF FUNCTIONS.

There are transferred to the Federal Emergency Management Agency established under section 101 of this Act all functions which the Director of the Federal Emergency Management Agency of the Department of Homeland Security exercised before the date of the enactment of this title, including all the functions described under section 505 of the Homeland Security Act of 2002 (before the repeal of that section under section 104 of this Act).

SEC. 203. PERSONNEL PROVISIONS.

(a) APPOINTMENTS.—The Director of the Federal Emergency Management Agency may appoint and fix the compensation of such officers and employees, including investigators, attorneys, and administrative law judges, as may be necessary to carry out the respective functions transferred under this title. Except as otherwise provided by law, such officers and employees shall be appointed in accordance with the civil service laws and their compensation fixed in accordance with title 5, United States Code.

(b) EXPERTS AND CONSULTANTS.—The Director of the Federal Emergency Management Agency may obtain the services of experts and consultants in accordance with section 3109 of title 5, United States Code, and compensate such experts and consultants for each day (including traveltime) at rates not in excess of the rate of pay for level IV of the Executive Schedule under section 5315 of such title. The Director of the Federal Emergency Management Agency may pay experts and consultants who are serving away from their homes or regular place of business, travel expenses and per diem in lieu of subsistence at rates authorized by sections 5702 and 5703 of such title for persons in Government service employed intermittently.

SEC. 204. DELEGATION AND ASSIGNMENT.

Except where otherwise expressly prohibited by law or otherwise provided by this title, the Director of the Federal Emergency Management Agency may delegate any of the functions transferred to the Director of the Federal Emergency Management Agency by this title and any function transferred or granted to such Director after the effective date of this title to such officers and employees of the Federal Emergency Management

Agency as the Director may designate, and may authorize successive redelegations of such functions as may be necessary or appropriate. No delegation of functions by the Director of the Federal Emergency Management Agency under this section or under any other provision of this title shall relieve such Director of responsibility for the administration of such functions.

SEC. 205. REORGANIZATION.

The Director of the Federal Emergency Management Agency is authorized to allocate or reallocate any function transferred under section 202 among the officers of the Federal Emergency Management Agency, and to establish, consolidate, alter, or discontinue such organizational entities in the Federal Emergency Management Agency as may be necessary or appropriate.

SEC. 206. RULES.

The Director of the Federal Emergency Management Agency is authorized to prescribe, in accordance with the provisions of chapters 5 and 6 of title 5, United States Code, such rules and regulations as the Director determines necessary or appropriate to administer and manage the functions of the Federal Emergency Management Agency.

SEC. 207. TRANSFER AND ALLOCATIONS OF APPROPRIATIONS AND PERSONNEL.

Except as otherwise provided in this title, the personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, used, held, arising from, available to, or to be made available in connection with the functions transferred by this title, subject to section 1531 of title 31, United States Code, shall be transferred to the Federal Emergency Management Agency. Unexpended funds transferred pursuant to this section shall be used only for the purposes for which the funds were originally authorized and appropriated.

SEC. 208. INCIDENTAL TRANSFERS.

The Director of the Office of Management and Budget, at such time or times as the Director shall provide, is authorized to make such determinations as may be necessary with regard to the functions transferred by this title, and to make such additional incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with such functions, as may be necessary to carry out the provisions of this title. The Director of the Office of Management and Budget shall provide for the termination of the affairs of all entities terminated by this title and for such further measures and dispositions as may be necessary to effectuate the purposes of this title.

SEC. 209. EFFECT ON PERSONNEL.

(a) IN GENERAL.—Except as otherwise provided by this title, the transfer pursuant to this title of full-time personnel (except special Government employees) and part-time personnel holding permanent positions shall not cause any such employee to be separated or reduced in grade or compensation for one year after the date of transfer of such employee under this title.

(b) EXECUTIVE SCHEDULE POSITIONS.—Except as otherwise provided in this title, any person who, on the day preceding the effective date of this title, held a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5, United States Code, and who, without a break in service, is appointed in the Federal Emergency Management Agency to a position having duties comparable to the duties

performed immediately preceding such appointment shall continue to be compensated in such new position at not less than the rate provided for such previous position, for the duration of the service of such person in such new position.

SEC. 210. SAVINGS PROVISIONS.

(a) CONTINUING EFFECT OF LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits, agreements, grants, contracts, certificates, licenses, registrations, privileges, and other administrative actions—

(1) which have been issued, made, granted, or allowed to become effective by the President, any Federal agency or official thereof, or by a court of competent jurisdiction, in the performance of functions which are transferred under this title, and

(2) which are in effect at the time this title takes effect, or were final before the effective date of this title and are to become effective on or after the effective date of this title,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Director of the Federal Emergency Management Agency or other authorized official, a court of competent jurisdiction, or by operation of law.

(b) PROCEEDINGS NOT AFFECTED.—The provisions of this title shall not affect any proceedings, including notices of proposed rulemaking, or any application for any license, permit, certificate, or financial assistance pending before the Federal Emergency Management Agency at the time this title takes effect, with respect to functions transferred by this title but such proceedings and applications shall continue. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this title had not been enacted, and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this title had not been enacted.

(c) SUITS NOT AFFECTED.—The provisions of this title shall not affect suits commenced before the effective date of this title, and in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this title had not been enacted.

(d) NONABATEMENT OF ACTIONS.—No suit, action, or other proceeding commenced by or against the Federal Emergency Management Agency, or by or against any individual in the official capacity of such individual as an officer of the Federal Emergency Management Agency, shall abate by reason of the enactment of this title.

(e) ADMINISTRATIVE ACTIONS RELATING TO PROMULGATION OF REGULATIONS.—Any administrative action relating to the preparation or promulgation of a regulation by the Federal Emergency Management Agency relating to a function transferred under this title may be continued by the Federal Emergency Management Agency with the same effect as if this title had not been enacted.

SEC. 211. SEPARABILITY.

If a provision of this title or its application to any person or circumstance is held invalid, neither the remainder of this title nor the application of the provision to other persons or circumstances shall be affected.

SEC. 212. TRANSITION.

The Director of the Federal Emergency Management Agency is authorized to utilize—

(1) the services of such officers, employees, and other personnel of the Federal Emergency Management Agency with respect to functions transferred by this title; and

(2) funds appropriated to such functions for such period of time as may reasonably be needed to facilitate the orderly implementation of this title.

SEC. 213. REFERENCES.

Any reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or pertaining to a department, agency, or office from which a function is transferred by this title—

(1) to the head of such department, agency, or office is deemed to refer to the head of the department, agency, or office to which such function is transferred; or

(2) to such department, agency, or office is deemed to refer to the department, agency, or office to which such function is transferred.

SEC. 214. ADDITIONAL CONFORMING AMENDMENTS.

(a) **RECOMMENDED LEGISLATION.**—After consultation with the appropriate committees of the Congress and the Director of the Office of Management and Budget, the Director of the Federal Emergency Management Agency shall prepare and submit to Congress recommended legislation containing technical and conforming amendments to reflect the changes made by this Act.

(b) **SUBMISSION TO CONGRESS.**—Not later than 6 months after the effective date of this title, the Director of the Federal Emergency Management Agency shall submit the recommended legislation referred to under subsection (a).

By Ms. COLLINS (for herself, Mr. PRYOR, Mr. SUNUNU, Mr. JOHNSON, Mr. COLEMAN, Mr. BIDEN, Mr. THUNE, Mr. ENZI, and Mr. CARPER):

S. 2215. A bill to amend the Homeland Security Act of 2002 to establish the Protective Security Advisor Program Office; to the Committee on Homeland Security and Governmental Affairs.

Ms. COLLINS. Mr. President. I rise to introduce a bill that would formally establish and enhance the Protective Security Advisor Program Office within the Department of Homeland Security.

The PSA program, which operates under the DHS Office of Infrastructure Protection, has proven its worth on many occasions. For example, when the Interstate 35-W bridge in Minneapolis collapsed in August of this year, PSAs provided valuable support to the Minnesota Department of Public Safety, providing assessments of infrastructure impacts relating to emergency services, postal and shipping operations, public transit, fuel deliveries, public utilities, and rail operations.

DHS has deployed more than 70 PSAs in major metropolitan areas around the country. These are skilled and savvy people, averaging more than 20 years of law-enforcement, military, or counter-terror experience. They regularly interact and develop working relationships with Government agencies at all levels and with private-sector en-

ties, and they can be among the first on the scene when disaster strikes.

Critical infrastructure is not, however, confined to large urban areas. Yet, 10 States—Delaware, Idaho, Maine, Montana, New Hampshire, North Dakota, Rhode Island, South Dakota, Vermont, and Wyoming—do not have a resident PSA dedicated to serving the interests and protecting the citizens of those States.

The bill I introduce today will enhance our national preparedness, response capability, and security by providing a minimum Protective Security Advisor presence in every State, while preserving the risk-based principle that provides extra coverage in areas of dense population or concentrated critical infrastructure.

The bill will also enhance the PSA program by providing for 10 supervisory PSAs for regional coordination and management, and by authorizing additional PSAs at DHS headquarters. These headquarters PSAs will help manage participation in training and exercises, PSA training and certification programs, and day-to-day operations that help our Nation prevent, respond to, and limit the consequences of terrorist attacks and natural disasters.

This bill also will advance the goals of the National Infrastructure Protection Plan. It will promote governmental and private-sector efforts to assess risks to and vulnerabilities of critical infrastructure, help stakeholders share information and coordinate activities, assist with multi-jurisdictional planning, and provide counsel to any designated Principal Federal Official when a joint field office must be established.

State emergency managers recognize the importance of this legislation. The Maine Emergency Management Agency has already provided a letter of support. Its bipartisan list of cosponsors—Senators PRYOR, SUNUNU, JOHNSON, COLEMAN, BIDEN, THUNE, ENZI, and CARPER—includes three other members of the Senate Homeland Security Committee. These facts attest to the bill's merit.

Mr. President, 300 million Americans live in a society that depends on a complex and tightly interrelated network of critical infrastructure and services including food supply, finance, energy, sanitation, transport, and communications.

The DHS Protective Security Advisors have demonstrated that they are a critical element of our homeland-security defenses. This bill will expand their numbers, extend their coverage, strengthen their organization, and make all of us safer.

I urge my colleagues to support this measure.

By Mr. BAUCUS (for himself, Mr. CRAPO, Mr. WYDEN, Mr. SALAZAR, Ms. CANTWELL, Mr. INHOFE, Mrs. DOLE, Mr. BURR, Mr. COBURN, and Mrs. HUTCHISON):

S.J. Res. 22. A joint resolution providing for congressional disapproval under chapter 8 of title 5, United States Code, of the rule submitted by the Centers for Medicare & Medicaid Services within the Department of Health and Human Services relating to Medicare coverage for the use of erythropoiesis stimulating agents in cancer and related neoplastic conditions; to the Committee on Finance.

Mr. BAUCUS. Mr. President, today I am introducing a joint resolution to disapprove of the Medicare National Coverage Decision on cancer care announced by the Centers for Medicare & Medicaid Services on July 30, 2007. I am taking this action out of concern for America's seniors who are afflicted with cancer, a terrible disease that affects thousands of Medicare beneficiaries each year.

At the outset, I want to make very clear that Congress should not wantonly second-guess the scientific processes at CMS. The National Coverage Decision process is a very important component of the agency's governance of the Medicare program and its mission to protect the safety of beneficiaries. The agency makes several National Coverage Decisions each year that are implemented without any congressional involvement. Several more coverage determinations are made by regional Medicare carriers at the local level. When scientific evidence supports doing so, CMS clearly has authority to limit Medicare coverage for drugs and other medical products and services to an extent less than the Food and Drug Administration label would otherwise allow. In fact, I am working on a proposal that may provide more clinical evidence to guide CMS in making these decisions.

There are some rare occasions, however, when CMS makes a decision that intrudes on the clinical judgment of doctors without the support of scientific evidence, prompting virtually unanimous opposition from the clinicians who treat the patients whose care is at stake. In these cases, I believe that Congress not only may but must intervene. This National Coverage Decision regarding the use of erythropoiesis-stimulating agents, or ESAs, for Medicare beneficiaries with cancer and cancer-related conditions is precisely such an instance.

Mr. President, when a cancer patient receives an ESA, the goal is not to manage a person's hemoglobin back to the level of a healthy, non-anemic person. That is because there can be health risks associated with raising the hemoglobin to such a level through ESA use. The FDA label makes it clear that patients may only be administered enough of an ESA to avoid a transfusion, and that ESAs should never be used to bring a patient's hemoglobin level above 12 grams per deciliter. So there can be risks when a patient does not get enough of an ESA, including severe anemia and the need for blood transfusions. And there are

risks when a patient gets too much of an ESA. The FDA label establishes parameters to guard against under-utilization and over-utilization of these products.

Now let us compare the FDA label with the National Coverage Decision announced by CMS. The National Coverage Decision limits ESA treatment to hemoglobin levels less than 10 grams per deciliter. This cap fails to recognize the natural fluctuations in a patient's hemoglobin. This cap is simply incongruous with the FDA label, which recommends that patients should not be treated over 12. I should note that the FDA label was recently changed, with the addition of new "black box" warnings and recent safety information. If the FDA believes that scientific evidence warrants changing the label yet again, then clearly Medicare should not cover treatments that are not consistent with that new label.

Furthermore, there are other aspects of the CMS National Coverage Decision that are contrary to accepted standards of care and scientific evidence. CMS imposed 4-week dose limitations that are not based on the clinical needs of patients. The FDA labels allow ESAs to be administered three times a week, every week, every 2 weeks, or every 3 weeks. Also, for patients who are slow to respond to ESAs or do not respond, CMS has created a one-time dose escalation rule of 25 percent of the initial ESA dose. This limitation is contrary to FDA-approved dosing instructions. For instance, the FDA approved labeling allows doubling the dose for some regimens.

Mr. President, over the past months, I have seen an outpouring of concern with this National Coverage Decision by patients, providers, and the professional scientific community for many reasons. The American Society of Clinical Oncology, the world's leading professional organization representing physicians of all oncology subspecialties who care for cancer patients, wrote this to CMS:

Under the new CMS policy, a patient's hemoglobin could repeatedly fall below 10 following termination of coverage at the end of 4-week periods. This consequence would be inconsistent with the FDA-approved labeling, which, as noted above, states that ESA dosing should be titrated to the individual patient to maintain the hemoglobin level. . . . We strongly urge CMS to reconsider these restrictions in light of the concerns detailed above.

The current NCD does not allow for interpretation consistent with clinical practice, national guidelines, or the FDA-approved labels in this area. This reopening [of the National Coverage Decision] should occur as soon as possible to avoid continued confusion and uncertainty [for] both physicians and patients. Until these issues are clarified, we also strongly recommend that CMS delay the effective date for the entire NCD.

The American Society of Hematology, the leading clinical authority on disorders affecting the blood, bone marrow, and the immunologic, hemostatic, and vascular systems, has stated:

Consequently, the clinical scenario that is problematic is when a patient's hemoglobin goes above 10 g/dL after 4 weeks of treatment because the physician would then need to discontinue the ESA treatment entirely. This is of concern because some patients might then drop below 10 g/dL justifying a renewal of the ESA treatment and leading to a 'roller coaster' of treatment potentially involving stopping and starting ESA treatment several times. This is extremely difficult for both the patient and the physician.

The Leukemia and Lymphoma Society wrote this in a recent letter to CMS:

As a reimbursement authority, CMS and the Medicare program it administers should be guided by science and data in order to achieve the best result for cancer patients. Accordingly, CMS should defer to the expertise of FDA and of the academic scientists who contribute to the ASCO/ASH guidelines.

Additionally, I share the concerns of many in the oncology community who worry about exposing seniors to the avoidable safety risks of blood transfusions, as well as the effect of this policy on our nation's blood supply. It has been clearly documented that certain areas of the country are already at risk of running out of their blood supply or have ongoing shortages. Some areas have 24 hours worth of blood left before they completely run out. According to the 2006 Nationwide Blood Collection and Utilization Survey, the number of transfusions of red blood cells in 2004 was nearly equivalent to the number of units collected. This policy, which patients are already telling us are forcing them into transfusion units, could put in jeopardy a U.S. blood supply that is already fragile and stretched thin.

The American Red Cross has indicated in their guidelines that transfusions are not appropriate for chemotherapy patients when alternative treatments are available:

Red blood cells should not be used to treat anemia that can be corrected with a non-transfusion therapy such as iron or recombinant erythropoietin.

To my great concern, the CMS National Coverage Decision responds to this vital issue with the following:

The concern about the adequacy of the nation's blood supply is not a relevant factor for consideration in this national coverage determination. Our focus is whether the use of ESA is reasonable and necessary to treat a particular illness.

The sole purpose for using ESAs, as stated on the FDA label, is to avoid a blood transfusion. But CMS has decided that this issue is not relevant to a decision regarding the coverage of ESAs. Well, I can guarantee you that it is important to the patients who will now be forced to seek transfusions as a result of CMS' shortsighted decision.

Congress continues to demonstrate that it shares the concerns of patients and the clinical community about the new CMS policy and the detrimental effect that it could have on patient care. Earlier this summer, prior to the CMS issuance of the final National Coverage Decision, 52 Senators and 235 Members of the House of Representatives wrote to CMS expressing an over-

whelmingly bipartisan, bicameral concern with the CMS policy. CMS, however, ignored these concerns and issued a final National Coverage Decision on July 30 that was even more onerous than the one proposed.

On September 4, the Senate sent a strong message of dissatisfaction when we passed S. Res. 305, without one Senator objecting. S. Res. 305 called on CMS to immediately reconsider the National Coverage Decision. But CMS has refused to reopen the National Coverage Decision and work with the clinical community to develop an appropriate patient-centered policy that is consistent with scientific evidence.

Because CMS has repeatedly ignored our concerns, we now are forced to take legislative action that compels CMS to change this flawed policy. That is why today I am asking my Colleagues to support this resolution of disapproval.

Let me tell you what this resolution does not do. This resolution does not replace the medical judgment of CMS or the FDA with that of Congress. This resolution does not ignore the safety concerns of ESAs used when a patient's hemoglobins are above the FDA label. Finally, this resolution does not reject the notion of any National Coverage Decision related to ESAs. This resolution simply asks CMS to go back to the drawing board. It compels CMS to work with the oncology community—the experts and clinicians and patients—to come up with a policy that is based on scientific evidence and that the community can support, or at least understand. That is why I ask my Colleagues to join me in supporting this important legislation.

Mr. President, I ask unanimous consent that the text of the joint resolution be printed in the RECORD.

There being no objection, the text of the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 22

Whereas the Centers for Medicare & Medicaid Services issued a final Medicare national coverage determination on the use of erythropoiesis stimulating agents in cancer and related neoplastic conditions (CAG-000383N) on July 30, 2007;

Whereas the Centers for Medicare & Medicaid Services submitted to the Congress a copy of the national coverage determination rule, a detailed description of the rule, and the proposed effective date of the rule;

Whereas 52 Senators and 235 Members of the House of Representatives, representing bipartisan majorities in both chambers, have written to the Centers for Medicare & Medicaid Services expressing significant concerns with the proposed national coverage determination on the use of erythropoiesis stimulating agents in cancer and related neoplastic conditions, issued on May 14, 2007;

Whereas the leading national medical organization representing physicians who treat patients with cancer has noted that the national coverage determination's hemoglobin level restriction is inconsistent with both the FDA-approved labeling and national guidelines and that its dosing and titration regimen restrictions are inconsistent with established studies, the FDA label, and clinical guidelines and, therefore, has formally

requested that the Centers for Medicare & Medicaid Services reconsider these restrictions;

Whereas the leading national medical organization representing physicians who treat patients with disorders affecting the blood and bone marrow, the Nation's leading health care services network dedicated exclusively to cancer treatment and research, and other national, nonprofit organizations dedicated to improving patient access to care have expressed similar concerns regarding the national coverage determination and have called for its reconsideration; and

Whereas despite the strong concerns of the oncology and hematology community, the Centers for Medicare & Medicaid Services has failed to take any action: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Congress disapproves the rule (CAG-000383N) submitted by the Centers for Medicare & Medicaid Services within the Department of Health and Human Services relating to Medicare coverage for the use of erythropoiesis stimulating agents in cancer and related neoplastic conditions, and such rule shall have no force or effect.

AMENDMENTS SUBMITTED AND PROPOSED

SA 3447. Mr. SMITH (for himself and Mr. BIDEN) submitted an amendment intended to be proposed by him to the bill H.R. 3043, making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2008, and for other purposes; which was ordered to lie on the table.

SA 3448. Mr. SMITH (for himself and Mrs. LINCOLN) submitted an amendment intended to be proposed to amendment SA 3325 proposed by Mr. HARKIN (for himself and Mr. SPECTER) to the bill H.R. 3043, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 3447. Mr. SMITH (for himself and Mr. BIDEN) submitted an amendment intended to be proposed by him to the bill H.R. 3043, making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2008, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in title II, insert the following:

SEC. ____ (a) Notwithstanding any other provision of this Act, there shall be made available under this Act a total of \$7,500,000 for the National Violent Death Reporting System within the Centers for Disease Control and Prevention.

(b) Amounts made available under this Act for travel and administrative expenses for the Department of Labor, the Department of Health and Human Services, and the Department of Education shall be further reduced on a pro rata basis by the percentage necessary to decrease the overall amount of such spending by \$7,500,000.

SA 3448. Mr. SMITH (for himself and Mrs. LINCOLN) submitted an amendment intended to be proposed to amendment SA 3325 proposed by Mr. HARKIN (for himself and Mr. SPECTER)

to the bill H.R. 3043, making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2008, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title II, add the following:

SEC. ____ (a) The amount made available under the heading "AGING SERVICES PROGRAMS" under the heading "ADMINISTRATION ON AGING" in this title shall be increased by \$10,000,000 of which—

(1) \$5,000,000 shall be used to carry out part B of title III of the Older Americans Act of 1965 (42 U.S.C. 3030d) for fiscal year 2008 (for supportive services and senior centers to allow area agencies on aging to account for projected growth in the population of older individuals, and inflation);

(2) \$2,000,000 shall be used to carry out part C of title III of such Act (42 U.S.C. 3030d-21 et seq.) for fiscal year 2008 (for congregate and home-delivered nutrition services to help account for increased gas and food costs); and

(3) \$3,000,000 shall be used to carry out part E of title III of such Act (42 U.S.C. 3030s et seq.) for fiscal year 2008 (for the National Family Caregiver Support Program to fund the program at the level authorized for that program under that Act (42 U.S.C. 3001 et seq.)).

(b)(1) The 3 amounts described in paragraph (2) shall be reduced on a pro rata basis, to achieve a total reduction of \$10,000,000.

(2) The amounts referred to in paragraph (1) are—

(A) the amount made available under the heading "SALARIES AND EXPENSES" under the heading "DEPARTMENTAL MANAGEMENT" in title I, for administration or travel expenses;

(B) the amount made available under the heading "GENERAL DEPARTMENTAL MANAGEMENT" under the heading "OFFICE OF THE SECRETARY" in this title, for administration or travel expenses; and

(C) the amount made available under the heading "PROGRAM ADMINISTRATION" under the heading "DEPARTMENTAL MANAGEMENT" in title III, for administration or travel expenses.

PRIVILEGES OF THE FLOOR

Mr. HARKIN. Mr. President, I ask unanimous consent that Caitlin Parton of my staff be granted floor privileges for the duration of today's session.

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

DEVELOPMENT, RELIEF, AND EDUCATION FOR ALIEN MINORS ACT OF 2007—MOTION TO PROCEED

CLOTURE MOTION

Mr. REID. Madam President, I was going to ask unanimous consent that the Senate proceed to the consideration of S. 2205 at a time to be determined, but I am advised that there would be a Republican objection. Therefore, I will not ask that unanimous consent. In view of that objection that would have been lodged, I now move to proceed to Calendar No. 431, S. 2205, the DREAM Act, and I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the motion to proceed to Calendar No. 431, S. 2205, DREAM Act.

Richard J. Durbin, Robert Menendez, Daniel K. Inouye, Robert P. Casey, Jr., Joe Lieberman, Patty Murray, Jeff Bingaman, Jack Reed, Patrick Leahy, Charles Schumer, Daniel K. Akaka, Frank R. Lautenberg, Benjamin L. Cardin, John Kerry, S. Whitehouse, Barbara Boxer, Harry Reid.

Mr. REID. Madam President, I ask unanimous consent that the mandatory quorum be waived.

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

Mr. REID. Madam President, I withdraw the motion.

The PRESIDING OFFICER. The motion is withdrawn.

DEVELOPMENT, RELIEF, AND EDUCATION FOR ALIEN MINORS ACT OF 2007

Mr. LEAHY. Madam President, I am pleased that the Senate will have an opportunity to consider and adopt the DREAM Act. I have, again, cosponsored Senator DURBIN's initiative along with Senators LUGAR and HAGEL and urge all Senators to join us in proceeding to consideration of S.2205, the latest version of the Development, Relief, and Education for Alien Minors Act.

The DREAM Act was first introduced in 2001, during the 107th Congress. The Judiciary Committee favorably reported the bill with bipartisan support in 2002 and, again, in 2003 during the 108th Congress. When the Senate Judiciary Committee took up comprehensive immigration reform in 2006 during the 109th Congress, the DREAM Act was adopted by voice vote as an amendment to the comprehensive immigration reform bill reported by the Judiciary Committee, and it was included in the comprehensive immigration reform measure that the Senate ultimately passed in 2006. Senator DURBIN worked hard to have the DREAM Act included in the bill the Senate took up this past summer. I hope the spirit of bipartisanship that has been evident throughout this bill's history in the Senate can carry it to final passage this year.

The bill sets the right tone and policy. It seeks to enhance educational opportunities for thousands of young people who wish to enter college, but who are prevented from doing so due to circumstances over which they have little control. We should send the clear signal that the Senate majority is committed to doing what it can to move positive immigration reforms forward. It makes good sense to invest in our future by enhancing educational opportunities for our Nation's young people.

Children brought to the United States by their parents or guardians

occupy a unique position in our society. They are technically illegal in status, but the Supreme Court has determined that these children are not responsible for the actions of their parents for purposes of elementary and secondary public education, recognizing that we disserve ourselves when we discriminate against them. The DREAM Act builds upon the rationale underlying the Supreme Court's decision in *Plyler v. Doe* in the interest of strengthening our Nation's future. It builds upon the American dream.

Upon graduation from high school, thousands of talented young people find themselves without the legal status to obtain aid to attend college. The DREAM Act would give currently undocumented eligible young people the conditional legal status they need to allow them to obtain assistance to attend college or to join our military and eventually to obtain permanent legal residency and citizenship. Those who would benefit from the DREAM Act are young people we should be encouraging to follow their dreams. The status quo, in which our policies create barriers to advancement for so many young people who yearn to achieve and contribute, works to the disadvantage of the United States. Rather than barring young people from entering the American mainstream, we should strengthen our Nation's future through increased participation in higher education and in the military.

As the Senate prepares to take up the DREAM Act, I hope that those who opposed comprehensive immigration reform will pause to consider the very real benefits the DREAM Act will

bring. Let the Senate do the right thing, endorse the DREAM Act and reinforce the American dream for all.

ORDER FOR STAR PRINT—S. 2201

Mr. REID. Madam President, I ask unanimous consent that S. 2201 be star printed with the changes that are at the desk.

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

APPOINTMENTS

The PRESIDING OFFICER. The Chair, on behalf of the President pro tempore, pursuant to Public Law 99-498, reappoints the following individual as a member of the Advisory Committee on Student Financial Assistance: Clare Cotton of Massachusetts.

The Chair, on behalf of the President pro tempore, upon the recommendation of the Republican Leader, pursuant to Public Law 105-292, as amended by Public Law 106-55, and as further amended by Public Law 107-228, appoints the following individual to the United States Commission on International Religious Freedom: Dr. Richard D. Land of Tennessee, for a term of two years.

ORDERS FOR TUESDAY, OCTOBER 23, 2007

Mr. REID. Madam President, I ask unanimous consent that when the Senate completes its business today, it stand adjourned until 10 a.m., Tuesday, October 23; that on Tuesday, 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 use later in the day, and the Senate resume consideration of H.R. 3043, as provided for under the previous order; that on Tuesday the Senate recess from 12:30 to 2:15 p.m. for the respective party conferences.

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

PROGRAM

Mr. REID. Madam President, we have said we would finish the bill by 12:30 tomorrow. That may be difficult to do. I am disappointed, but I know everybody is working in good faith. I accept the distinguished Republican leader at his word that the bill will be completed sometime tomorrow afternoon. We are making progress. We have a number of things going forward.

The Republican leader knows what I am going to do as soon as we finish the Labor-HHS bill—appoint conferees, and it will go to conference, and we will bring that back as quickly as we can. He knows what I am moving to after that bill is finished.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. REID. Madam 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 8:21 p.m., adjourned until Tuesday, October 23, 2007, at 10 a.m.