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## Senate

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

### PRAYER

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

Let us pray.

O God, whose spirit searches all things and whose love bears all things, arise and lift up Your hand as we wait patiently for You. Give Your light, O God, and take away our darkness. Put a new song on our lips for we put our trust in You. Place Your precepts in our minds that we will delight to do Your will. Withhold not Your tender mercies from us, for Your loving-kindness keeps us alive.

Bless the Members of this body. Give them patience and cheerful endurance. Place peace in their hearts and serenity in their minds. Inspire them with an increased understanding of the scope of their task as Your servants.

Stretch forth Your right hand to help and defend us all. Encourage us to seek new depths of dedication.

We pray in Your wonderful Name. Amen.

### PLEDGE OF ALLEGIANCE

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

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

### RESERVATION OF LEADER TIME

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

### RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

### SCHEDULE

Mr. FRIST. Mr. President, we will begin consideration of the Labor-HHS conference report directly, with Senator HARKIN controlling the first 90 minutes. At the conclusion of that time we will return to the PATRIOT

### NOTICE

If the 109th Congress, 1st Session, adjourns sine die on or before December 20, 2005, a final issue of the Congressional Record for the 109th Congress, 1st Session, will be published on Friday, December 30, 2005, in order to permit Members to revise and extend their remarks.

All material for insertion must be signed by the Member and delivered to the respective offices of the Official Reporters of Debates (Room HT-60 or S-123 of the Capitol), Monday through Friday, between the hours of 10:00 a.m. and 3:00 p.m. through Thursday, December 29. The final issue will be dated Friday, December 30, 2005, and will be delivered on Tuesday, January 3, 2006. Both offices will be closed Monday, December 26, 2005.

None of the material printed in the final issue of the Congressional Record may contain subject matter, or relate to any event that occurred after the sine die date.

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By order of the Joint Committee on Printing.

TRENT LOTT, *Chairman*.

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



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Act conference and have a period of debate for the next 2 hours. We will recess at approximately 12:30 until 2:15, for a weekly policy luncheon.

At 2:15 we will have another block of time equally divided until 3:30. At 3:30 we have a stack of rollcall votes ordered on the remaining four motions to instruct conferees relative to the spending reduction bill. Those will be the first votes of the day. After that fourth vote, conferees will be named to that reconciliation measure. We will likely schedule additional votes in that 3:30 sequence and we will announce those votes as they are ordered.

I will have more to say on schedule as we proceed over the course of the day, both for the remainder of the day, this evening, this week, and possibly this weekend.

In the meantime, I will continue to remind Senators and ask that they do remain available over the course of the day and keep their schedules flexible for these votes.

I yield.

#### DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2006—CONFERENCE REPORT

The PRESIDENT pro tempore. Under the previous order, the Senate will proceed to the consideration of the conference report to accompany H.R. 3010, which the clerk will report.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3010) "making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 2006, and for other purposes," having met, have agreed that the House recede from its disagreement to the amendment of the Senate, and agree to the same with an amendment, and the Senate agree to the same, signed by a majority of the conferees on the part of both houses.

(The conference report is printed in the House proceedings of the RECORD of December 14, 2005.)

The PRESIDENT pro tempore. Under the previous order, there will be 90 minutes under the control of the Senator from Iowa, Mr. HARKIN.

Who yields time?

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

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

The legislative clerk proceeded to call the roll.

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

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

Mr. HARKIN. Mr. President, under the rule, I have 90 minutes—some of it has already been used up in the quorum call—to speak on the Labor, Health and Human Services, Education, and

Related Agencies appropriations bill that is now before the Senate.

I again ask any Senator who wants to come over and speak on this time to try to be here before 10:30. I would be glad to yield time to Senators who want to come over and talk about this bill and why this bill should not be passed.

At this time of the year when we are seeing all the festive holiday decorations, Christmas trees, all the lights around, there is a certain mood about Christmas. It is a mood of being generous and understanding that it is the season for giving. It is the season for thinking about those who may be less fortunate than ourselves. It is also the time of the year when most families of means get together and think about their giving, how they are going to support charities or charitable giving toward the end of the year. It is true in churches all over the country and many nonprofit organizations. This is the time of year when people decide to give money to the churches, to everything, the Salvation Army, to all kinds of nonprofits. It is the time of the year when we remember "A Christmas Carol" by Charles Dickens, the wonderful stories about "A Christmas Carol" played in high school plays and theaters all over the country every year at this time.

Charles Dickens "A Christmas Carol," the story of Ebenezer Scrooge. "Bah humbug," remember that? That is his familiar saying about Christmas, "bah humbug"—this tight man, ungenerous, miserly, stingy, with no feelings of compassion whatsoever to those less fortunate.

We all know what happened in "A Christmas Carol." He is visited by the ghosts of Christmas past and the Christmas future. He then begins to see clearly that who he has been and what he has stood for is wrong.

The wonderful thing about Charles Dickens and "A Christmas Carol" is, at the end, Scrooge becomes compassionate and generous and changes his ways.

It is a wonderful story for this time of the year. If only life in Congress imitated that, if only Congress could follow the example of Ebenezer Scrooge in the final act of the play. I am sorry to say, in terms of the appropriations bill before us, the bill that funds those things that lift people up, that help the poorest in our society these days, to reach down, to give everyone hope, and try to make our society a little bit more fair and more just—that is what is in this bill. That is what this bill is about. But, sad to say, in this bill, as it is before us, Ebenezer Scrooge—the first Ebenezer Scrooge, the one before he changed in the final act—is in this bill. Scrooge reigns in this bill.

My friend and distinguished senior member of the Appropriations Committee, the Senator from Hawaii, DAN INOUE, once said of the Defense appropriations bill that it defends America. The Labor, Health and Human Serv-

ices, and Education bill, he said, is the bill that defines America. I have thought about that over the years. He said that a long time ago. I have thought about that over the years, as I have been chairman of the subcommittee and ranking member, and chairman and ranking member. Both Senator SPECTER and I have changed places on this subcommittee now I think going back over 15 years. I have thought about that, that this is really the bill that defines America.

So how do we want to define America? As the haves with the beautiful Christmas tree, with all the lights, nice cars, warm clothes, good food, who send their kids to the best schools, live in the best neighborhoods? That is America? That is it, that is America? And then down below we have people barely scraping to get by, who don't know how they are going to pay the heating bills in the winter, the elderly, disabled, the poor, those who want to get job training, they have lost their job, but they want to work and are looking for job training assistance; families with meager means who want their kids to get a head start in life so they want to send their kids to a Head Start Program so that their kids, too, will have a decent shot at the American dream; or families who are low income and have poor schools to go to and so they want to at least have good teachers and good facilities and good programs and textbooks and things for their kids so that their kids, too, can get up on that ladder of success; or families who live in low-income areas who have no health care insurance, have no health care, and the only thing they have to go to is the community health center for their health needs, and that is there for them.

I don't know. What kind of America do we want? Do we want an America where at least at this time of the year we think generously? In this beautiful country that we have, all of the riches that we have, can we not find it in our hearts to pass an appropriations bill that at least, at least, does not back down from where we were before? You would think that would sort of be the minimum. You would think at least at this time of the year we would say, well, we are not going to do any more for low-income people, but we are not going to cut them back any more either. You would sort of think that would be the bottom line.

Sad to say, of all of the appropriations bills that this Congress has passed this year, this is the only appropriations bill that is cut below last year's level. This bill, the one that funds education and health, the one that reaches down to help low-income people, this is the one that is cut, the only one, the only one that is cut.

Please, someone explain this to me. Interior appropriations, Transportation appropriations, Agriculture appropriations, Military Construction and Veterans, Foreign Operations, Commerce-State-Justice appropriations, Homeland Security, Energy and

Water appropriations, Legislative Branch appropriations—all above last year's level. Labor, Health and Human Services, and Education? Cut below last year's level.

Ten days before Christmas, Congress is poised to deliver a cruel blow to the most disadvantaged members of our society. Sadly, unlike in the Dickens tale, there is no sign of remorse, no nagging conscience, no change of heart at the end of the day.

This bill that we passed—and here I want to just, again, pay my respects and my esteem for our distinguished chairman, Senator SPECTER. He had a tough job. We worked it out. We passed a good bill, a decent bill in the Senate. I think it was unanimous, if I am not mistaken—I am sorry, it was 97 to 3. Well, that is almost unanimous, 97 votes. Both sides voted for the bill that Senator SPECTER crafted and that we worked together on. But then it went to conference, and the House came in and insisted on their position. Again, I just remind Senators and others that what happened is that it came out of conference—I didn't sign the conference report. Many of us would not sign the conference report because of these massive cuts. The bill went to the House last month, and the House rejected it. Then they reappointed conferees, as we did, and we met in conference on Monday evening, this last Monday evening, 3 days ago, for 44 minutes—44 minutes, with very little debate. The gavel was pounded, and we adjourned subject to the call of the Chair. Of course, the Chair never called us back, the Chair being the House Member. The House ran the conference this year. So they never called us back.

Now they jiggled a few things around, I guess, dealing with rural health—I will have more to say about that in a second—to get the votes in the House. Well, the House passed this bill yesterday by two votes. I think it was 215 to 213, if I am not mistaken. Two votes. A very contentious bill, two votes. Now we have it before the Senate. That is sort of the history.

Now it is up to us whether we are going to step back and say: No, we will not accept this bill. We will not accept cuts to these vital programs that I am about to go through here. But we will at least go on a continuing resolution until January. In January, when we come back, maybe there will be a little bit of change of heart and we can do a little better on this bill.

This appropriations bill, as I said, funds things such as the Head Start Program, community health centers, special education, job training, programs that help the neediest in our communities. As I said, most people who are watching today would probably expect these programs to get an increase this year because we know the poverty rate has gone up in this country, or at least you would expect that we would not cut it below last year's level. As I said, this is the only appropriations bill cut below last year's

level, and that is about \$1.4 billion less than last year. This bill cuts education for the first time in a decade, the first time since 1996 has education been cut. No Child Left Behind, all of us here, I am sure, hear a lot about that when we go back to our States, the comments about No Child Left Behind. The biggest complaint about No Child Left Behind is that they are not getting the money by which to meet the mandate. In other words, it is like an unfunded mandate on our schools.

Now, I voted for No Child Left Behind. I was at the table when we met with President Bush in 2001 to get this bill through. At that time, it was agreed upon—at least I thought it was agreed upon—that we would have a funding stream to meet the mandate.

The President agreed to that. His people agreed to it. The President himself agreed to that. Yet we are now \$13 billion less than what we said we were going to be at 3, 4 years ago. So it is no surprise that people in our communities are upset about No Child Left Behind. They are being told to do certain things, but they are not being funded to do them.

Well, here we are. We are cutting it again in this bill with a 3-percent cut, so there will be \$780 million this year less than last year. That now puts us at \$13.1 billion below the authorized level. It leaves 120,000 children behind.

Now, what do I say about that? That is title I. In my opening comments, I mentioned the fact that people who live in low-income areas and go to schools that do not have a lot of money need help. They need what we call title I services, the low-income children. It is \$9.9 billion below the authorized level. That means that title I services to 120,000 children, who are currently eligible to receive them, will not receive them next year. Think about that: 120,000 children who are now eligible for title I services in our public schools will no longer receive those services next year.

What is the American dream for those kids? What about it? What about the American dream for them? And because of the programs we had in the past—Head Start, title I, all the other programs—we have been able to get kids of low income through secondary school. Now they want to go to college. Well, back in the 1960s we passed a program called the Pell grants, after our distinguished Senator, Claiborne Pell. It was grants to low-income students so they, too, could go to college.

Under this bill, the maximum Pell grant award is frozen for the fourth year in a row. For the fourth year in a row, we have frozen Pell grants. That means the purchasing power of a Pell grant today is about one-fifth of what it was 20 years ago. So if you are low income, and you want to go to college, it would be better if you had gotten it 20 years ago because your Pell grant would have gotten you a lot further then. Today it is worth about one-fifth of what it was then.

And special education: 28 years ago, this Congress passed the Individuals with Disabilities Education Act to meet a constitutional requirement that we had to provide equal and appropriate education for children with disabilities—a constitutional mandate. At the time we passed that, we said our goal was to have the Federal Government provide at least 40 percent of the additional cost of educating kids with disabilities. That was our goal: We would provide 40 percent of that additional cost to our local school districts. That was 27 years ago.

Last year, we had reached 18 percent. In other words, by last year, the Federal Government was providing 18 percent of the additional cost of special education. Under this bill, you would think we would be going forward to 40 percent. This bill goes backward. We are now at 17 percent. We are going in the wrong direction.

How many times have we voted on this floor to fully fund special education? We keep voting to have special education fully funded. We have all these meaningless votes. When it comes down to paying for it, we are going in the wrong direction. We are going in the wrong direction, down to 17 percent this year.

Well, that is the story in education. The story in education is very simple. If you come from a well-to-do family, and you live in a good neighborhood, and you have great schools and high property taxes, don't worry, the American dream is there for you. But if you live in a low-income area, with low property values, low property taxes, you have poor schools, tough luck, you were not born to the right parents. Tough luck. That is what this bill is saying to you. That is education.

Look at health. Look at the health programs. What do we do about health? Again, if you are a Member of the Senate or the Congress, work for the Federal Government, you have a nice Federal Employees Health Benefits plan—like all of us do—and you do not worry about it. We have great coverage. I often think many times those of us who serve in the Senate and the House probably think: Well, probably everybody lives like we do. Everybody makes \$150,000 a year. You have a couple of houses, drive nice cars, wear nice clothes. We send our kids to great schools.

Well, I don't know, if I am not mistaken, as to the population of the Senate, out of 100 Senators, I think—what is it—80 now are multimillionaires? There is nothing wrong with that. There is nothing wrong with having money and achieving the American dream and having nicer clothes, a nicer car, a nicer house. There is nothing wrong with that. That is a big part of the American dream. But it seems to me that those of us who have been blessed with good health and good fortune, and who have sort of made it to the top of that ladder, it is incumbent of us that we leave the ladder down for

others to climb, too, not pull it up behind us. And there are Senators and Congressmen in this body and in the House who are well to do, who have been blessed with good fortune, who understand the necessity of leaving the ladder down, and who fight constantly to make sure we meet our obligations as a Congress to reach down and help those less fortunate than ourselves.

Nowhere is this more true than in health. Nowhere is this more true than in health. We have tried over the years, since we cannot get a national health insurance program passed, to at least sort of block and tackle, if you will, to fill in the gaps, to help make sure people of low income can get at least some access to decent health care.

One of the most important of those is the community health centers. President Bush himself said at one time that his goal was to have a community health center—it was a State of the Union Message. I was there. President Bush said his goal was to have a community health center in every poor community by 2008, and we all rose and applauded. I believe in community health centers. Obviously, the President does, too. But where is the President? Where is he? Because in this bill not one new community health center will be authorized for next year—not one. Not one will be built in the United States.

Health professions. We want to recruit qualified health professionals to serve in parts of the country. It is slashed by \$185 million.

National Institutes of Health: 355 new research grants will be cut. It is the smallest percentage increase in NIH. Actually, it is level funded. It is less than 1 percent, so you might as well say NIH has been level funded. This is the first time since 1970—35 years—that NIH has not received an increase.

Rural health programs: cut by \$137 million. Now, you know there was some talk when this bill came back out of conference that they “fixed” the rural health problem. Not true. Not true. Not true. Rural health programs are cut by \$137 million and nine vital health programs—trauma care, rural emergency medical services, health education training centers, healthy community access programs, geriatric education centers—are closed.

This one I think deserves a little bit more discussion, the geriatric education centers. We know our society is aging. We know geriatric care is a kind of a specialty. We want health professionals trained in geriatric care so the elderly among us will be healthier, will have better diets and nutrition, will have better exercise, and will have more sociability.

We know when you do those modest things, you keep the elderly out of nursing homes, you keep them out of the doctors’ offices, you cut down on Medicare and Medicaid.

Well, here is a map that shows States that will lose geriatric centers. All the

stars are geriatric care centers that are going to be closed. Two weeks before the 78 million baby boomers in this country begin to turn 60—that is next month, January—we are going to close all these centers. In Iowa, we have a center at the University of Iowa School of Medicine that trains doctors, osteopaths, nurses, dentists, chiropractors. There is a big need. Iowa has the highest percentage of citizens over the age of 85—the highest of any State in the Nation. This bill eliminates the geriatric center at the University of Iowa. So that is education.

Let’s look at labor. We know that people are unemployed and they want to be retrained. The Department of Labor is cut in this bill by \$430 million, the biggest cut ever made to the Department of Labor—the biggest ever, at a time when we keep hearing stories about how China is training all these engineers and scientists and doing all this stuff. We need to get people retrained, and this bill cuts adult job training and youth job training. Adult job training is cut and youth job training is cut. I guess we are telling people that you may have had a job and that job has ended, but you may want to get into the new economy. Do it on your own. You are not going to get any help.

People cannot do that. They are broke and out of work, and they have kids and families. Rather than advancing, they will go out and find some job that will at least put bread on the table, when they could be getting job training that would allow a better job and higher income in the future. This slashes employment services by \$89 million—an 11-percent cut in employment services.

What are employment services? They are to help people get employed, to get a job. Yet we are cutting it, even though we know the rate of unemployment has gone up. I don’t know how anybody can justify this, especially at this time of the year.

Let’s take one more look at LIHEAP, the Low Income Heating Energy Assistance Program. This bill provides no additional funding for LIHEAP. We know that fuel costs are skyrocketing. In Iowa, natural gas prices are up 40 percent from last year. Hawkeye Area Community Assistance in southeast Iowa reports that LIHEAP funds are likely to run out in mid January, one of the coldest months of the year in my State. This bill fails to keep up with this overwhelming need.

I was in Iowa a couple weeks ago and I met with some people who applied for and are eligible for LIHEAP. I remember one individual who is disabled and lives by herself. Her monthly cost for fuel has gone up about 50 percent for what she pays every month. I think she qualifies for \$232 in LIHEAP funding. I mentioned that to somebody after I met with these people. I mentioned I had this meeting and this one woman who was disabled lived by herself and she qualified for \$232 in energy assistance to pay her heating bills. One of

the individuals in the group I talked to said, “That ought to pay her monthly bill.” I said, “Wait a second, that \$232 is for the year.” They thought it was for the month. I said that is for the year—October, November, December, January, February, March, and probably April. That is \$232 for 6 or 7 months. “I didn’t realize that,” she said, “I thought it was for the month.” I said, “No, that is for the whole year.”

Yet we are cutting back on that. We are not providing enough money to take into account the increased price of propane and heating oil and natural gas prices. I have heard: Don’t worry, Harkin, we will come back in January and, if we need to, we will pass a supplemental or something at that time.

Don’t hold your breath. What about the people who are out there who don’t know how to pay their heating bills, who need to get propane delivered, especially in rural communities such as where I live? We have propane tanks. I have a propane tank outside of my house. You call up the company to come fill it. Well, all right, you have to pay the bill. If you have not paid the previous month’s bill, you are not going to get it delivered. Unlike natural gas where they cannot cut you off, they can cut you off of propane.

So we are going to come back and do this in January or February. Yet we will let anxiety rise, let people worry about it. I can tell you right now, in my State of Iowa, there are people living on the edge. They have food stamps, they are getting LIHEAP, many are disabled, and many are elderly. They are thinking, I know that next month is going to be cold—in January and February. Maybe I should not buy the drugs I need now because I will need that money next month. Maybe I will cut back a little bit on some of the food I have been buying or I will cut back on some of the things I want to do in order to have the money for the heating bills. That is what is happening now. There is anxiety out there. We are saying: That is okay, be anxious; we will come back in January or February and fix it.

Is that any way to treat people? Put yourself in that position. What if you didn’t know whether you could pay your heating bill next month? What if you didn’t know whether you were going to be able to pay? They say don’t worry about it, we will come back in January and February and we will fix it.

When we passed a continuing resolution at the end of September, I took the floor to beg my colleagues to reject this part of the continuing resolution that would cut the community services block grants by 50 percent. Well, we didn’t get that done. Then it was put on the DOD bill, and they told us we will take care of that. The funding for community services block grants goes out to help programs such as Head Start and LIHEAP. In other words, if you are going to apply for LIHEAP, you usually go to some agency—an

area agency on aging or you go through one of these community action agencies. They help you with the paperwork and do the necessary things to show that you qualify. If you don't have that, chances are you probably would not qualify.

In our continuing resolution, we cut that by 50 percent. We are told we will take care of it, we will fix it. But that was in September. We have gone through October, November, and December—3 months—and the community services block grant is still cut by 50 percent. They say we will take care of LIHEAP, too. When? In March, April or May?

So whether it is health, human services, education, medical research at NIH—no matter what it is in this bill—what can I say; it is awful. This bill is awful. It is not something we ought to hold our heads up and be proud about. We ought to be ashamed of this, ashamed that we cannot find it in ourselves to meet the needs of the poorest people in our country, the neediest.

This bill ought to be rejected, and we should go to an honest continuing resolution, not one that cuts programs but one that at least keeps last year's level. If we want to, then we will come back and fix it again next year. But this bill is not deserving of our support. It sends the wrong—I don't want to say it sends the wrong message, that is not it; it doesn't do the right thing. It doesn't do what a generous, compassionate nation ought to do for its neediest citizens.

Mr. President, I see my distinguished colleague, Senator KENNEDY, is on the floor. Again, I yield the floor to him. There has been no one who has fought harder for these programs in education and health and human services for all of his adult life, no one who has spoken more passionately and forthrightly about the obligation we have as public servants to meet the needs of our neediest citizens than Senator KENNEDY.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I join with those on our side and I think most Americans in commending the Senator from Iowa, Mr. HARKIN, for his steadfastness and determination to make sure we are a fairer country, a country that is going to offer better opportunities for many of those who have been left out and left behind.

I listened carefully to his excellent presentation earlier in outlining the choices, the alternatives for the American people presented in this particular legislative proposal. Once again, he has made the convincing case that we can, as Americans, do a great deal better in terms of those who have been left behind. With this recommendation that has come back from the conference which represents basically the Republican priorities, there are going to be millions and millions of Americans who are going to have a dimmer Christmas time this particular year.

There is an extraordinary irony that we are within 9 days of Christmas Eve when families will gather around the Christmas tree, exchange gifts, will attend church services, and think about the spirit of Christmas. When they realize what their representatives have done in Congress, they know they will have a dimmer Christmas with fewer opportunities for their children and their parents and for the lives of working families in this country.

I thank the Senator from Iowa for his excellent presentation and for the continued battle for decency in our country.

As the Senator from Iowa has pointed out, this is an issue of choices for our Nation. Budgets are an issue of choices and priorities. He mentioned that during his presentation, and he has repeated the areas where we are going to see further reductions that are going to make it more difficult for families in this country.

But you can't get away from the major fact, that a judgment and a decision has been made by the majority for a tax giveaway, effectively, to the wealthiest individuals in this country of \$95 billion. Someone has to pay for it. The judgment that has been made by the majority party is that it is going to be the neediest members of our society who are going to have their belts tightened over this period of time. Nothing illustrates it better or more effectively than this chart illustrating where the House bill leaves tax cuts for the wealthy individuals under the Christmas tree but leaves middle-class families out in the cold. Families with incomes over \$1 million will receive \$32,000, and those families with incomes under \$100,000 will receive \$29. And people can say, Is that what this legislation is all about? Why in the world are you doing that?

We just listened to the Senator from Iowa talk about all these cuts. What does that have to do with tax cuts? The fact is, if you are going to provide \$32,000 in tax incentives to families making over \$1 million in income and only \$29 for families making under \$100,000 in income, you not only have the issue of fairness if you are going to go for the \$95 billion—it is grossly unfair in the distribution—but then you have to ask, How are we going to pay for all of that? The Senator has done a very comprehensive job in presenting that issue.

I will take a couple of areas. We have gone through these at other times with the Senator from Iowa—and I commend him—in the health area, the neighborhood health centers, the training of personnel, all the range of public health programs. What I would like to do this morning is take a look at where we are with education funding.

This chart shows where we have been in 1997, 1998, 1999, 2000, 2001, 2002. Look what has been happening in the last 4 years, and this Republican bill contains a \$59 million cut in education programs. Look at America's priorities

as reflected in education. One can say money doesn't solve everything. It doesn't, but it is a clear reflection of a nation's priorities. This chart is backed up with budget figures. I have the budget items right here that reflect all of this. They indicate that this is what we are saying to Americans on the issues of education.

In my State, we have made some important progress in education. We have made some important progress. Quite frankly, we put in place in our State a number of the reforms that were eventually put into No Child Left Behind—smaller classes and better trained teachers. In the NAEP test, which is the national education test, Massachusetts scored higher than all other states in reading, and tied for first in the Nation in math. In Boston, we saw a 19 point increase in the number of Hispanic students proficient on the math test, and a 10 point increase for African American students. These are the first major breakthroughs in the history of our country in these disparities. We are beginning to see progress because we have been investing in children.

Not anymore. Here is where we are going: Right back to the good old bad days in terms of a nation's priorities in education.

Today, we will have an opportunity, on the issue of education, to reaffirm what we did in the Senate. That was a bipartisan effort that produced a decent bill. We met our obligations under what they call reconciliation and the budget items. In a bipartisan way, led by our chairman, Senator ENZI, and with the assistance of Republicans and Democrats, what did we do? We—in our committee and on the floor—virtually unanimously in our committee increased the maximum need based aid to Pell-eligible students to \$4,500. Before that, we haven't been able to increase the maximum Pell grant. We have been flat on these Pell grants. These affect the neediest students. There are 400,000 students who won't go to colleges, who are academically qualified to go to colleges, because they can't afford the dramatic increase in the cost of tuition.

The Senate did something about it. We increased these grants to \$4,500, and we gave an additional boost to those students in their junior and senior years who are going to be studying math and science. Why math and science? Because as all of us understand, if we are going to have an innovative economy, we are going to have to invest in the degrees that are going to permit us to have an innovative economy. That is necessary not only because we need an invigorated economy, but we need strengthened national security and defense. We were able to do this in the Senate.

What has the House of Representatives done? The House of Representatives has raised the interest rate caps for students to 8.25 percent.

At that rate, the typical borrower will pay as much as \$2,600 more on

loans. They raise the origination fees on direct loans in the short term, which will cost the typical borrower \$400; they impose a new 1-percent fee on all students who consolidate their loans. It is going to cost students, parents, and families thousands of dollars more to attend or to send their children to college. That is where the House of Representatives goes—increasing the cost of college for working families who are already struggling. That is why we believe it is so important that our negotiators hold firm to the provisions in the Senate bill. We meet our responsibilities, and we provide the kind of help which is so necessary for students in this country. That is what our bill does.

We will have a chance to vote on our motion to instruct conferees this afternoon. We do not always have a chance to offer amendments or motions to instruct conferees on every subject matter but we will in terms of the issues on education and higher education.

I want to mention one other item that the good Senator from Iowa has spoken to because I think it is enormously important to our fellow Americans. Here is the cover of *Nature Magazine*, publisher of the original human genome paper. The Senator from Iowa was visionary in ensuring that NIH was going to move forward in giving the support for the mapping of the human genome.

With the mapping of the human genome, we have seen all kinds of possibilities in terms of health care and medical breakthroughs. We have seen medical breakthroughs in the historic diseases that have affected every family across America, including all of us in the Senate and the House of Representatives. We have seen breakthroughs addressing the problems of Alzheimer's, the problems of Parkinson's disease, the problems of cancer, the problems of diabetes.

We have begun to see enormous progress that is being made. We are at the tip of the cusp. That is because we have had bipartisan cooperation. The Senate was working together, as we have in education. We worked together, Democrats and Republicans, all during period from the late 90's through 2002 to try to get investment in breakthrough research. Just about every scientist who has appeared before the Senate's Committee on Appropriations says this is the life science century. The possibility of achieving breakthroughs that benefit every family in America are virtually unlimited if we invest the resources.

Does anyone think that is what this administration is doing? No. They say, let us give \$95 billion more in tax breaks to the wealthiest, and let us cut all of that potential right off at the knees. That is what they have done. That is what is before us. That is why the Senator from Iowa has said that this is an unacceptable budget. Do not take our word for it. Look at the budget, the choices that have been made. If

one goes back, at least in my State, and talks with families, they will probably be talking to you now about the Medicare D Program and how they are going to deal with the confusion. But underneath it all, when it comes to the end of the conversation, they will say: What are the possibilities of getting some real breakthroughs? My father has Alzheimer's, my uncle has Parkinson's disease, what are the real chances of doing something about these diseases? We have to take care of them. We love our family members, what are the possibilities of finding breakthrough treatments to save them?

Every scientist and every researcher was moving along on this. We thought we had an agreement to consider the stem cell legislation, another area on which the Senator from Iowa has been a leader. We thought we had an agreement by the leaders that we were going to bring this up. The House of Representatives has acted on it. My State of Massachusetts has acted on it. Other States have acted on it. What is wrong with the Senate? They say, we have to take more time to pass more tax giveaways to the wealthiest individuals, we cannot afford to take the time to do the stem cell research. No, sir, we cannot do that. I say, this is the priority. That is why the Senator from Iowa is as worked up as he is.

This is the reality of the NIH budget. Dr. Landis, who is the Director of the National Institute on Neurological Disorders and Stroke, says:

If we are to fund new programs, we will have to stop funding old programs. For every young investigator, a senior investigator will be unfunded. For every senior investigator who's refunded, it means a junior investigator won't be.

Mr. HARKIN. Will the Senator yield on that?

Mr. KENNEDY. Yes.

Mr. HARKIN. I appreciate the Senator pointing this out because yesterday a big story broke in the newspapers from NIH. A lot of times people ask what happened with the human genome project, what is it leading to, mapping of the entire human genome. A couple of years ago, I paid my first visit to Cold Spring Harbor Laboratory in New York, Long Island. It is run by James Watson, who is one of the co-discoverers of the structure of DNA. What they had embarked upon at that time was the beginning of mapping the genes of all of the cancers known to humans. It was a small project. It was funded and it went along. Yesterday, a story broke that Dr. Zerhouni, the distinguished and very capable head of the National Institutes of Health, announced that the National Institutes of Health was embarking upon a program to map and sequence the genome of every known cancer. They are going to go out and take cells of every cancer, take the DNA out, and map it. They think that it is going to take about 10 years to do. It will cost about \$1 billion to \$1.5 billion.

Is it worthy? Of course. These are the bullets we will have to really get at

cancer. It is phenomenal in its concept and what it is going to do.

Here is the problem, as the Senator from Massachusetts pointed out. We do not give them any extra money to do it. That means if they are going to embark on this, they are going to have to take money out of other research on Parkinson's disease, Alzheimer's disease, and everything else.

Yesterday, I asked Dr. Zerhouni: Where is this money coming from? Already we are cutting down and cutting back on the number of grants that are being awarded, and now with this appropriations bill that we have, it is going to get even worse.

I say to my friend from Massachusetts, when we embarked on mapping and sequencing the human genome back in 1991 when I was chairman, we did not take money from some other place. We came to the Congress and said this is important, let us do it, let us fund it and we did it, and we paid for it.

Now, with this tremendous news yesterday that came out about mapping, sequencing the genomes of all known cancers, we are now cutting the funding basically for NIH. So I say to my friend from Massachusetts, what he pointed out, that is what we are confronting. We are confronting cutting back in other needed research to do this or maybe we will not do this after all. That is the dilemma we face. That is the position that this appropriations bill puts us in. I thank the Senator from Massachusetts for pointing that out.

Mr. KENNEDY. I welcome that very important statement. What we are seeing from the research community is not only the progress that is being made in basic research, but the acceleration of breakthroughs through the use of advanced engineering and computers to fast track this kind of research.

This chart reinforces the point that the good Senator has made. Four out of five new ideas will be rejected in fiscal year 2006. This chart states that 79 percent of grant applications to NIH will be rejected. This will be the highest percent of grant rejections in decades. In these grants lie the possibilities of life saving treatments and cures. When we are talking about the grants, as the Senator knows, we are talking about serious grants. These are not grants submitted by someone off the street saying: Listen, give me some dough, I think I think I have an idea. These grants have been researched, examined, and tested. They are the best, in the opinions of the scientists in that particular area, and are worthy of further progress. The opportunities for meaningful progress are in these projects. Eighty percent of those grants are being rejected. Why? Because we want \$95 billion to go to the wealthiest individuals in this country. This is who is paying for the budget cut, this right here—the 80 percent of scientists whose grants will be rejected. With the budget squeeze and those few hundreds of

millions of dollars saved, we will be able to provide the additional tax breaks, giveaways to the wealthiest individuals.

Finally, I want to bring up the subject on which the Senator from Iowa has been the leader. I want to talk about the dangers of avian flu and the dangers of the pandemic. I have listened to the Senator make the persuasive case for our Nation that avian flu is a danger. I have listened to him stop this Senate and say: Look, we have to take action on this flu legislation. We have to provide the resources to deal with this challenge we are facing.

I know this chart is difficult to read, but it is a time line going back to 1990. It lists all the warnings from June, 1992 through today. We see the warnings all the way back 1992:

Policymakers must realize and understand the potential magnitude of a pandemic.

Here's the warning in Hong Kong, 1997.

Here it is in the GAO report:

Federal and State influenza plans do not address key issues surrounding the purchase and distribution of vaccines and antivirals.

Here it is from the World Health Organization:

Authorities must understand the potential impact and threats of pandemic influenza.

Here it is in Vietnam. Here is the December 2003 outbreak in Korea.

The Senator rightfully challenged this body to say we have to do something about the pandemic threat. And we responded. I had the opportunity to be at NIH when the President of the United States made his commitment to this deal with \$7.8 billion. What happened? The money that had been requested by the President, the money that had been put into the budget by the Senator from Iowa was struck out. The President requested it. The Senate went on record. We have the warnings. We have been told about this. Secretary Leavitt has spoken passionately about this issue. Former Secretary Thompson has spoken out about this issue. But we are still falling behind on pandemic preparedness.

This chart is familiar to the Senator from Iowa but is one I think we need constant reminding of. Japan had their comprehensive flu plan in October of 1997; Canada, February '04; Czech Republic, '04; Hong Kong, '05; Britain, '05. We have gone through their plans and they are extensive. The United States released our plan November of '05, and it is incomplete.

Do we think in this budget we are giving the assurances to the American people that we are going to be leaders, able to deal with a possible pandemic? Absolutely not.

I share the real frustration of the Senator. He had mentioned earlier the problems they were going to have in terms of heating oil. Under current funding, families in Massachusetts will receive LIHEAP assistance that is effectively enough for only one tank of oil. Basically, low-income and middle-

income working families use two to four tanks over the course of the winter, two to four tanks. They will have one tank under current funding levels.

I think of the number of people, primarily women, who are waiting to go back to work. There are some women who want to go to work, but they do not have the childcare to take care of their child so they can go to work. In Massachusetts, 13,000 children are on waiting lists for childcare slots. Most of these mothers have the opportunities to go to work, but they can't without childcare assistance. I think that is a long, difficult wait for so many of these families who are constantly challenged to protect their child while going out and working and providing for their family. They are constantly facing that every morning they wake up. Do you think we are helping them? Oh, no, we are adding more burdens to them. There will be fewer slots, under this particular proposal, for those families.

I think of the 160,000 people who are unemployed in my State and the 72,000 jobs that are out there waiting for people to be able to receive. The only thing that is missing is the training programs, to train part of the 160,000, train 72,000 so they can get those jobs. Do you think that is in this legislation so these families will be able to participate in their community, make even a greater contribution to their community, plus pay taxes? Oh, no. We are cutting back on that funding. There are further cutbacks on the training programs.

We are cutting back or eliminating the dropout prevention programs. We are cutting back on the afterschool programs. The list goes on. The point has been made very eloquently by the Senator from Iowa. As the Senator from Iowa has pointed out and as I mentioned, this day is about choices in the Senate. It is about choices—whether, on the one hand, we think in our national interest it is more important to give the \$95 billion in tax giveaways to the wealthiest individuals in this country. It is not even a fair plan. If you were for a tax program that was going to be fair, at least you could make that case, I would think, and hold your head up. This is \$95 billion, and the \$32,000 to every family earning over the \$1 million and \$29 to every family earning under \$100,000—that is not even fair, if you thought that was the Nation's priority, paid for by the most vulnerable people in our society.

I do not want to hear a lot from the other side talking about the Christmas spirit. We have seen how the Christmas spirit is reflected in real terms in their votes on these issues here. It is not going to be a happy one.

In our motion to instruct on higher education, which we will address in the afternoon, the following Senators have indicated support. There are others that have contacted me about it as well. Senator HARKIN and Senator DURBIN, Senator DODD, Senator REID, Sen-

ator LIEBERMAN, Senator KERRY, Senator REED of Rhode Island, Senator CORZINE, Senator CLINTON, and I will add others as the day goes on.

I thank my colleague and friend from Iowa for his excellent presentation, for his review of all these issues and questions, and for posing the vital issue for the American people, almost at the time of Christmas Eve. He has summarized it. There is no one more knowledgeable or understanding, or anyone who has been a more forceful advocate of all of these causes, than the Senator from Iowa. I thank him for his energy and persuasiveness and his presentation.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Ms. MURKOWSKI). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. HARKIN. Madam President, parliamentary inquiry: How much time do I have remaining?

The PRESIDING OFFICER. Eleven and one-half minutes.

Mr. HARKIN. Madam President, I don't know if any others want to come over. That is why I asked for 90 minutes to point out how bad the bill is.

Looking at all the various programs that were cut, Senator KENNEDY did an outstanding job of going over how devastating some of these cuts are going to be in terms of health, education, and medical research. Going through a big bill like this, sometimes your eyes kind of glaze over some of the important aspects that people do not bring to the forefront.

But there is one other cut in this bill that people ought to know about. All the staff who are watching, the Senators who are watching, you ought to know about this cut. It is the maternal and child health block grant being cut by 3 percent. The real per-capita purchasing power is now 20 percent below what it was in 2002. What is the maternal and child health block grant? It helps low-income mothers get preventive health services and medical treatment for children who have disabilities and other special needs.

One of the best things we have ever done here to help low-income families have healthy babies and to make sure those babies get the best start in life is the Maternal and Child Health Block Grant Program, which goes out to the States, and it is cut by 3 percent.

Please justify that. When you vote later today on whether to accept this appropriations bill, please justify just that one thing: how you are going to justify cutting the Maternal and Child Health Block Grant Program.

As bad as this bill is, every time I look at it, I ask: Can it get any worse? The answer to that is, yes. It is going to get worse. Here is why.



This bill had a \$1.4 billion cut. We have just gone over all of the things that are cut in this bill—the Maternal and Child Health Block Grant Program, to education, to medical research—all vital in defining the kind of country we are. Can it get worse? Yes. Here is what is going to happen. Hang on.

Tomorrow or Saturday or sometime, we will be voting on a Department of Defense appropriations bill. That Department of Defense appropriations bill will have a bunch of things in it that do not deal with the Department of Defense. By the way, it will also have in it a 1-percent across-the-board cut. We are already told it is in there—a 1-percent across-the-board cut.

All of the cuts we have talked about—Maternal and Child Health Care Block Grant Programs, title I funding, special education, geriatric training centers, and NIH—all of that is going to get an additional 1-percent cut.

The way that works out is, the \$1.4 billion cut in this bill is going to be a \$2.8 billion cut. It will double it.

As bad as this bill is now with the \$1.4 billion cut, by the time we are through here tomorrow and voting on a 1-percent across-the-board cut, it will be twice as bad—a \$2.8 billion cut in this bill.

That is because this bill is about \$140 billion. You take a 1-percent across-the-board cut, that is \$1.4 billion. So get ready. That is why this bill should not be passed in its present form because there is going to be that 1-percent across-the-board cut. It is going to double.

The Senator from Massachusetts mentioned the avian flu bill. We put money in here for the avian flu. I offered an amendment on DOD appropriations back in September. In December, the chairman of the Appropriations Committee said that is not the proper place for it, that it ought to be on the Labor-Health and Human Services bill. I agreed with him. But we didn't know if we were going to have a bill. So it was put on the DOD bill.

Later on when we got this bill before us, we added \$8 billion to get us prepared to fight perhaps the biggest flu pandemic the world has ever seen, one that could kill hundreds of thousands of our fellow citizens, one that could hospitalize up to 90 million people in this country. We put \$8 billion in this bill. Guess what. Look at the bill. It is not in there. It is all gone, all taken out.

They say they are going to put some more in the Department of Defense bill. We haven't seen it yet. But they took it out of this bill.

It is going to get worse. Today is December 15. By the way, it is also the anniversary of the adoption of the Bill of Rights to our Constitution. I hope it is not too much of a leap to ask on this anniversary of the Bill of Rights: What about the rights of poor people? What about the rights of low-income people? What about the rights of our people to

be protected from the pandemic flu? What about the rights of our citizens to decent health care, the rights of our citizens to a decent education, no matter where they live or the circumstances of their birth? Should the quality of your education be decided by geography, where you live? What about our rights? This bill before us speaks to rights, human rights, the basic rights of an American citizen to decent health, housing, education, a shot at the American dream. So on this December 15, 10 days before Christmas, the anniversary of the adoption of our Bill of Rights, throughout much of the world it is a season of giving, but here in Congress with this bill it is a season of taking away education programs, taking away job training, taking away home heating assistance, taking away rural health programs, taking away maternal and child health care.

But what it really takes away is hope. It takes away hope from people, hope for a better life, hope for a better shot at the American dream, hope that their children will have it a little bit better than what they have had.

I remember when then-Governor Bush was running for President in 2000. He had a saying at that time—I haven't heard it lately, but he had a saying that the Government can't give hope to people. Well, I beg to differ. Government can give hope to people. It depends on who is running the Government as to who is getting the hope. As the Senator from Massachusetts just pointed out, we have a huge tax bill, more tax breaks for the wealthiest in our society. If you are making over \$1 million a year, you have a lot of hope. You are going to get about \$32,000 in your Christmas stocking. Thirty-two thousand, you are just going to get it, a nice tax giveaway for the most affluent in our society. A lot of hope has been given to them by this Government.

But if you are low income, if you live in small rural America, if you are elderly, if you are disabled, if you need the help of the Government to lift you up and to give you some hope for a better life, you don't get hope. It is taken away from you.

So what we are saying to low-income families who are working, trying to pay their bills, trying to scrape by, trying to keep their families together, trying to raise their kids, I guess what we are saying is, Merry Christmas, hang your stocking, and Congress is going to put a lump of coal in that stocking for you. That is what you get.

I don't understand how anyone can vote for this bill, especially at this time of the year. I hope our conscience would come to the fore. We all know the wonderful story from Dr. Seuss. We recall reading it to our kids, "The Grinch Who Stole Christmas." This bill is a bill only the Grinch could love. No funding for avian flu, lowest increase in NIH funding in 35 years, cuts education funding as No Child Left Behind requirements are going up, no increase

in college aid, cuts job training. I could have added a lot more—as I said, cuts in maternal and child health care, cuts in geriatric training, cuts in Head Start.

Well, if you like the Grinch, I suggest you might want to vote for this bill. But we need to reject it and insist that the leadership provide enough funding to write an acceptable bill. They have the power to do it. We did it in the Senate. I repeat, under the leadership of Senator SPECTER, on a bipartisan basis, we passed a bill here 97 to 3. We can do it. If only the President of the United States just said to the House leadership, We want the Senate bill, we want what the Senate did to be fair and just to all our citizens, we would have this. We would have it. That House of Representatives, they will do whatever the President tells them to do. And if he had waded in there and said, Look, we don't accept this, we will have the Senate-passed version, that is what we would have. We would all vote for it and hold our heads up high and say we did the right thing for the citizens of our country. Yes, leadership has the power to do it. They have the White House, the House, and the Senate.

What is stopping them from giving us a decent bill? As I said, we did it here. We did it on a bipartisan basis in the Senate. But if we pass this bill now, this conference report, and give this very cruel rush—well, we have to get out of here. We have to go home for Christmas. We have to pass the bill. No, we don't. No, we don't. What we need to do is to say no, go back to the drawing board, get us a bill that is acceptable, and if we have to go on a continuing resolution for a month until we come back, or 2 months, until February, we have done that before. We would be better off going on a real continuing resolution, I say to my friends in the Senate. We would be better off than accepting this bill and putting the pressure on the White House and the House to come back with a better bill.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. HARKIN. That is really the essence of it, Madam President. We need a better bill. We should not vote for this one.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. I share the concerns and frustrations expressed by the distinguished ranking member of this subcommittee, Senator HARKIN, and I believe he will agree with me that this bill, the bill that the Senate passed was structured as well as we could have structured it, given the allocation which we had.

Mr. HARKIN. I just said so, yes.

Mr. SPECTER. My question to the Senator from Iowa would be, on this conference report, where I have already said publicly in the conference that I thought it was grossly inadequate, \$5 billion under last year on health, which is our No. 1 capital asset in this country, and education, which is a major



capital asset—health so we can function, education to prepare us for the future, and job training in the Department of Labor, I would ask him if—and I have said publicly that I intend to vote against this bill as a protest unless my vote is needed. And I know that is unusual for the chairman of the subcommittee to take that position. But I believe that Senator HARKIN and the subcommittee and full Senate and I have done what we can on a bill subject to limitations that we have. I would ask the Senator from Iowa if there is anything more we could do given the restrictions as to allocation of what we were facing?

Mr. HARKIN. First, I say to my friend, and he is a dear friend of mine—we have exchanged chairmanships on this committee going back over 15 years—as I said earlier in the Chamber, and I say again, the bill that our chairman, Senator SPECTER, put together and that we brought out on the Senate floor, we worked it. Our staff worked it. We got a 97-to-3 vote, I say to my friend. The bill that the Chairman brought to the floor we passed 97 to 3. It was a good bill. We always want to do more, but given the restrictions, that was a good bill. That is the bill we ought to have before us now. The problem is that the House wouldn't go along with it. But that doesn't mean that we have to go along with it.

I appreciate the position the chairman is in. I have been in that position, too, in the past. I appreciate the difficult position he is in. But I want the record to be clear that this chairman brought out a good bill, a bill that was passed 97 to 3 by the Senate. I point out that this chairman fought very hard for our priorities and for health funding. I don't want anyone to mistake what I am saying. But I am just saying that the House and I have to say the White House, maybe through inaction or not being involved, let it happen and are now confronting us with this conference report that is totally inadequate. That is totally inadequate.

I might add to my friend from Pennsylvania that what we are facing now is the result of a bad budget. That is what it is. We have a bad budget forced on us. This is sort of the end result of that. But even with that bad budget, we came out with a decent bill. I say to my friend from Pennsylvania, I only wish the White House had been actively involved in this conference and came down and told the House leadership: We want nothing less than what the Senate did.

If we had that, we would have had a bill out here that would pass 97 to 3 again. It might even pass unanimously.

So I say to my friend from Pennsylvania, we can do better than this. I say to my friend, I do not enjoy voting against this bill. I do not enjoy it. I do not enjoy not signing the conference report. But we can do better. We do not have to accept this. We can go on a continuing resolution, a real continuing resolution, and say to the

White House and the House: No, we need to do better than this.

That is why I say to my friend from Pennsylvania—I have the greatest respect and admiration for him, as he knows, and he has fought hard for us—sometimes at the end of the day you have to say no, we are not going to accept it. So that is our position and that is my position on this bill.

I say to my friend from Pennsylvania, I know he has other things he has to work on today on different legislation and everything, but we have to send a signal to the House and the White House that this is unacceptable. I say to my friend, I thank him for his leadership and for bringing out a good bill here in the Senate, something we were proud of and voted for. I was proud to work with Senator SPECTER on that bill. I am sorry the House and, yes, I say the White House—they should have been involved in this—are now confronting us with a bill that is unacceptable.

I thank my chairman.

Mrs. MURRAY. Madam President, to keep America strong, we need to keep our families and communities strong. That is why I am very concerned about the fiscal year 2006 Labor, HHS and Education appropriations bill.

The Senate is scheduled to take up the final conference agreement on this bill, and it is bad news for the American people. This bill is filled with the wrong priorities for our country.

If we pass this bill as a result, it will tear apart what is left of America's health care safety net and provide fewer investments in education and workforce training.

Instead of investing here at home—in our people, our children, and our communities—this bill will move us in the wrong direction and will undermine America's strength.

If we can rebuild schools and hospitals in Iraq out of emergency funding, why can't we provide the resources our own communities need here at home?

We know that rebuilding safe and stable communities in Iraq requires investments in education, training, and health care. And the same is true in communities across America.

If we want to be strong here at home, we need to invest here at home, but this falls far short of what we need.

That is really a disappointment because this bill is the most direct tool we have each year to improve the health and education of the American people.

More than any other appropriations bill, the Labor-HHS bill directly impacts almost every family and every community. This is a bill that funds all of the Federal commitment on education. It provides funding for our investment in biomedical research. It funds all of the Older Americans Act programs. And it provides the funding to retrain our workers to succeed in a very competitive global economy.

This is an important bill and it should be used to invest in America,

but instead—this bill cuts funding by \$540 million from last year's level. When we add in the Medicare administrative funds, the total cut soars to \$1.4 billion.

That means we are moving in the wrong direction—and families are going to feel the impact in health care, education and job training.

Let me start with health care.

This bill cuts total health care funding by \$466 million. It cuts programs that help the uninsured get health care, efforts like community health centers, the maternal child health block grant; health professions training, rural health, and CDC disease prevention programs.

This bill also moves us in the wrong direction on disease research. We can all be proud of the National Institutes of Health. It is the leading source of biomedical research into deadly diseases like cancer, MS, Parkinson's, ALS, heart disease, and AIDS. But this bill provides the NIH with the smallest increase since 1970. It would move us backward in our fight against cancer and other terminal illnesses. How can we expect to be able to find vaccines for new global pandemics when we are cutting our investment in critical research?

This conference report will also make it harder for uninsured families to see a doctor. Specifically, this bill eliminates the Health Community Access Program, which I have fought to protect for many years now.

This is a program that helps our local communities to coordinate care for the uninsured and provide integrated health care services for vulnerable families.

I have seen the Community Access Program at work in my home State of Washington, and I know it is making a tremendous difference.

These are the very programs we should be investing in today. The HCAP program was authorized with broad bipartisan support in 2002. But this bill would eliminate this successful community-based model for helping the uninsured.

Not only is this bill bad news for health care, it also moves us in the wrong direction on education.

This bill represents the smallest increase in education in a decade. Today, schools are facing increasing requirements under No Child Left Behind. Today, family are facing rising college tuitions. Today is no time to short-change education. We know the burdens on our local community are growing.

In the coming year, school districts will face higher academic standards, and they will have to meet new requirements for highly qualified teachers. That means they need more help. But the conference reports cuts funding for the No Child Left Behind Act by 3 percent.

Funding in the conference report is \$13.1 billion below the authorized funding level.

This bill also marks the first time in 10 years that the Federal Government will slide backward on its commitment to students with disabilities. The Federal share of special education costs would drop from 18.6 percent in fiscal year 2005 to a flat 18 percent in fiscal year 2006.

Every time we cut back our investment in special education, we are putting a higher burden on local school districts, children, and their families.

In addition, funding for disadvantaged students-through title I—will receive its smallest increase in 8 years. In fact, the funding level in this bill is \$9.9 billion less than what Congress and President Bush committed to provide. The bill would leave behind 3.1 million students who could be fully served by title I if the program were funded at the committed level.

Many students are feeling the impact of higher tuition. This year, tuition and fees grew by 7.1 percent at 4-year public universities. But the conference report fails to increase the maximum Pell grant award for the fourth year in a row.

It also fails to increase funding supplemental educational opportunity grants, the Work-Study Programs, and the LEAP Program, which supports State need-based aid.

In addition, the conference report also fails to increase funding for GEAR UP and the TRIO Programs, which help disadvantaged students complete high school ready to enter and succeed in college.

This bill also moves us in the wrong direction on helping America's workers.

We hear a great deal about economic recovery and building a strong economy. Yet this conference report will cut adult job training by \$31 million. It will cut youth training by \$36 million. These programs serve over 420,000 people nationwide. How can we hope to strengthen our economy and help those who lost manufacturing jobs if we are reducing our investment in job training?

All of the tools we need to build a strong economy—and a strong America—are on the chopping block in the Conference Reports.

Worst of all, this is not the end.

We know that there will likely be an across-the-board cut in all discretionary programs, including those funded in the Labor, HHS and Education appropriations bill.

That means even more families will lose access to affordable health care, more children and schools will go without the resources they need to meet the Federal mandates of the No Child Left Behind Act, and more workers will see the American dream slip away when their plant closes.

This is not the right message to send to our families and communities.

Let's show them that we want to make America strong again and that we are willing to invest here at home.

I urge my colleagues to reject this conference report and force the Repub-

lican leadership to invest in making America stronger.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Madam President, there is time available on the bill, the Labor, Health and Human Services, and Education bill, for those who wish to speak in favor of it. If any of my colleagues wish to do so, I invite them to come to the floor at this time. If there are no speakers in favor of the bill on our time, I intend to utilize this time for a discussion on the PATRIOT Act, which has a very limited amount of time to debate and discuss these issues. But I renew my statement. If anybody wants to speak in favor of the bill, they should come to the floor at this time and we will find time for them to speak.

#### USA PATRIOT AND TERRORISM PREVENTION REAUTHORIZATION ACT OF 2005—CONFERENCE REPORT

The PRESIDING OFFICER. The order on the floor at this time is to go to the conference report to the PATRIOT Act. So under the previous order, the Senate will resume consideration of the conference report to accompany H.R. 3199, which the clerk will report.

The Senator from Pennsylvania.

Mr. SPECTER. Madam President, parliamentary inquiry: I understood Senator HARKIN had an hour and a half on Labor-HHS and that I would have half an hour on Labor-HHS, and we would then go to the conference report on the PATRIOT Act.

The PRESIDING OFFICER. The time of the Senator from Pennsylvania is preserved, but it is contemplated that time will be used later in the day.

Mr. SPECTER. Reserved, but later?

The PRESIDING OFFICER. Correct.

Mr. SPECTER. May I inquire when later, Madam President?

The PRESIDING OFFICER. At a time to be determined by leadership.

Mr. SPECTER. Will it be in advance of the 3:30 vote on the Labor-HHS bill?

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Madam President, while this discussion is going on, if I could also make a parliamentary inquiry.

Once we begin on the PATRIOT Act, is it my understanding the distinguished senior Senator from Pennsylvania is in control of an hour and the Senator from Vermont is in control of an hour?

The PRESIDING OFFICER. The Senator is correct. There will be 2 hours equally divided between the two leaders or their designees.

Mr. LEAHY. Thank you. I appreciate that, Madam President.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Madam President, parliamentary inquiry: We are now proceeding for 2 hours on the PATRIOT Act, as the distinguished senior Sen-

ator from Vermont has said, with 1 hour under his control and 1 hour under my control?

The PRESIDING OFFICER. That is correct.

The clerk will now report.

The assistant legislative clerk read as follows:

Conference report to accompany H.R. 3199, an act to extend and modify authorities needed to combat terrorism, and for other purposes.

The PRESIDING OFFICER. Under the previous order, there will now be 2 hours equally divided between the two leaders or their designees.

The Senator from Pennsylvania.

Mr. SPECTER. Madam President, I encourage anyone who has issues of concern to come to the floor at this time so we may consider them. This is a very complicated Act. We have had some debate already. On Monday, I spoke at some length to describe the Act. On Tuesday, Senator FEINGOLD and I had an extended discussion on the act. I talked to other of my colleagues who have raised questions about it, specifically the Senators who have favored a filibuster. And anybody who has an issue which they wish to raise, I would invite them to come to the floor so we can take up their concerns one by one. It will be illuminating, I think, to other Senators to hear what we are doing on these issues.

At the outset, I will address some issues which have already been raised. One contention has been raised by one Senator on a change in the Senate bill to the conference report on challenging efforts to obtain documents under section 215. The conference report permits the recipient of a 215 order to "challenge the legality of that order by filing a petition [with the Foreign Intelligence Surveillance Court]." That provision omits a phrase from the Senate bill which says that they may "challenge the legality of that order, including any prohibition on disclosure, by filing a petition with the Foreign Intelligence Surveillance Court." And the provision is illuminated on, including any prohibition on disclosure.

Now, one Senator has contended that limits the challenge on disclosure, on the so-called gag order, which is not true. Under the conference report, under section 215, you may challenge the order, and that includes challenging a gag order on nondisclosure.

This phrase "including any prohibition on disclosure" was stricken by the conferees, and I believe, on a fair representation, on agreement by the distinguished ranking member and me. He is, of course, free to speak for himself. But the reason it was stricken—whether it was with Senator LEAHY's concurrence or not—was we did not want to limit the grounds for the court on reviewing the order.

If you say there is a specification on prohibition of disclosure, it may raise the inference that is the reason the court would challenge legality. But there is no limitation on the challenge

to legality. That would enable the petitioner to challenge legality on disclosure or for any other reason. So the opportunity to stop a gag order is preserved under the conference report.

A second contention which has been raised is that the conference report, on section 215, should not have gone beyond the three criteria for establishing a foreign power. In a closed-door briefing, the Government presented persuasive reasons to have latitude for the court to authorize an order for other tangible things, records, where there was a terrorism investigation and there was good reason to believe these other tangible records were important for that terrorism investigation.

That was not in the Senate bill, but that was a provision that was insisted upon and pressed for by the House, and I thought it was within the realm of reason, and we included it. But the protection of civil liberties is present in the conference report because the court has to find that it is a justifiable request on a terrorism investigation and important to that terrorism investigation.

I have already gone into some detail on the protections in the bill for delayed notice provisions, so-called sneak and peek, where the Senate bill had a 7-day requirement, the House bill had 180 days, and we compromised at 30 days. The Ninth Circuit said that 7 days was presumptively reasonable. The Fourth Circuit has set the time at 45 days. In putting in a 7-day notice, we were not unaware of the fact that was a good negotiating position from which to start. The House made a concession of 150 days, going from 180 to 30. We made a concession of 30 days.

Bear in mind, on the delayed notice, that is where there is a surreptitious, secret search. There has to be justification to get a search warrant to have a delayed notice, and it has to be shown to the satisfaction of the judge that if there was not that delay, the investigation would be impeded.

Bear in mind, for those listening, the traditional safeguard on civil liberty is to interpose an impartial magistrate between the police, law enforcement, and the citizen, so that when you have a delayed notice provision on a showing of cause, that it would impede the investigation if that were not the case.

We have already gone over in some detail in the RECORD the tightening of the provisions on roving wiretaps, where you have to identify the person involved and show that individual is likely to seek to evade the wiretap as a justification.

A key provision we added on the Senate side was the sunset provision, where the Senate bill was a 4-year provision, and the House bill was 10 years. The House wanted to compromise at 7, and we held fast. We had assistance from the White House. The President was personally notified about this. The Vice President participated. We got that 4-year sunset, which is vital, so there will be a review of all of these provisions within the 4-year period.

Bear in mind that the sunset applies to the three controversial provisions in the PATRIOT Act. It does not apply to the national security letters because the national security letters were not authorized by the PATRIOT Act. They have been in existence for decades.

Now I come to a key consideration under the national security letters, where some have objected to the conclusive presumption, where there is a certification as provided for in the conference report by ranking officials that nondisclosure is required because disclosure would hinder national security or would hinder diplomatic negotiations. I have discussed this in the past, but it is worth repeating. The Senate bill that was adopted unanimously, 18 to 0, in committee, and without consent on the Senate floor, had the provision which is virtually identical to the conference report. The Senate bill provides that in reviewing a nondisclosure requirement:

The certification by the Government that disclosure may endanger the national security of the United States or interfere with diplomatic relations shall be treated as conclusive unless the court finds that the certification was made in bad faith.

That language is carried over in identical form in the conference report, with the addition that the conference report is more protective of civil liberties because the certification cannot be made by just anybody in the Government; it has to be made by a ranking official, such as the Attorney General or Deputy or head of the FBI.

Again, let me invite those who have questions on the bill to come to the Chamber so we can have a discussion. If anybody has challenged any of the provisions, I invite them to come and state their concerns. I believe it is in the interest of the consideration by the Senate that we consider the bill in detail so that the Members can understand it and we can deal with specific objections that anyone has.

How much time remains of the hour in the morning session?

The PRESIDING OFFICER. Four minutes 25 seconds remains.

Mr. SPECTER. I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. Madam President, I should note while the distinguished chairman, the senior Senator from Pennsylvania, is on the floor, that nobody has worked more diligently or with more of an effort to reach out to both Republicans and Democrats than he has, and to the other body. In many ways, he has a thankless job, because he is committed, as I am, to having the best antiterrorist legislation this country can have. He is committed, as I am, to having the best tools for law enforcement. He is committed, as I am, to making sure our liberties as a people are protected.

I am concerned that in the process—not through the fault of the distinguished chairman—many wished to raise further issues involving our lib-

erties, and people were excluded. That is why we are running into a somewhat contentious issue as to whether this conference report should go forward.

Earlier this week, I spoke about how the world changed on September 11, 2001. Nearly 3,000 lives were lost on American soil. In the aftermath of the attacks, Congress moved to quickly pass antiterrorism legislation. The fires were still smoldering at Ground Zero when the PATRIOT Act became law on October 30, 2001, just 6 weeks after that horrible day. I know how hard we worked. I was chairman of the Judiciary Committee when we moved that legislation through.

Security and liberty are always in tension in our free society, and especially so in the wake of the attacks of 9/11. The American people today and the next generation of American citizens depend on their elected representatives to strike the right balance. Preventing the needless erosion of liberty and privacy requires constant vigilance and vision from those whom the people have entrusted with writing the laws. It is the 100 men and women in this body who have to protect the rights and liberties of 290 million Americans.

I see the distinguished Senator from New Hampshire on the floor, Mr. SUNUNU. He made reference yesterday to one of my favorite quotes from one of our Founding Fathers, Benjamin Franklin, in which he reminded Americans that those who give up their liberties for security deserve neither, and I might say in the long run get neither.

I negotiated many provisions of the PATRIOT Act and am gratified to have been able to add some checks and balances that were not contained in the initial proposal. But as I said at the time, the PATRIOT Act was not the final bill that I or any of the sponsors on either side of the aisle would have written if compromise had been unnecessary.

In reviewing the PATRIOT Act this year, Congress once again tried to strike the right balance between the security and the liberty that is the birthright of every American. The public expects and deserves that we will diligently fight to achieve that balance. But regrettably, the PATRIOT Act reauthorization bill that is now before the Senate does not accomplish the goal of balance. The bipartisan Senate bill which the Senate Judiciary Committee, under the leadership of the distinguished Senator from Pennsylvania, and then the Senate adopted unanimously—unanimously, Madam President—reached a better balance. Even that, because it was a matter of compromise, was not a perfect bill. None of us thought it was, and we knew there were matters others insisted be added which we hoped to be improved in conference.

But the Senate bill, such as the PATRIOT Act itself, was a legislative compromise achieved through good-faith, bipartisan negotiations. Chairman SPECTER and I were able to

achieve a good enough bipartisan compromise that we were able to gain the support of all the Republicans and all the Democrats serving on the Judiciary Committee, including Senators who sponsored the SAFE Act. As a result of that bipartisan compromise and bipartisan effort, it passed unanimously in the Senate last July.

Then the Senate leadership very responsibly moved promptly to appoint conferees. But, unfortunately, the other body did not act as swiftly, and we lost several months that could have been used to seek common ground between the two versions of the bill. The House delayed appointing conferees for several months. They pushed us up against the December 31 deadline from the sunsets in the PATRIOT Act.

In fact, it was only last month that the House finally acted to name conferees, and then the conference met only once and that was for opening statements. There was never a working meeting of the conference in which positions were debated and the conferees were able to offer improvements and vote on them. There was no opportunity to debate this conference report at a public meeting of conferees, and no opportunity to offer improving amendments for consideration by the House-Senate conference and votes.

Instead—and this is most regrettable—there came a point where Democratic conferees were shut out of the process. Key negotiations took place only among Republican conferees and the administration, especially the Department of Justice. The earlier informal bipartisan discussions of which I had been involved had been promising. Republicans and Democrats were working to come together, and a good deal of progress was being made.

Much of what is good about the conference report that is before us is owed to those discussions. I can't help but think what a better bill we would have on the floor today had we not been locked out of those discussions.

I thank Chairman SENSENBRENNER for acknowledging this week that we came to those discussions with good ideas for accountability, for sunshine, for increased oversight, for judicial review, and for better standards by which to measure the authorities being considered for the Government. Tentative agreements were also being reached on removing a number of extraneous provisions, particularly from the House-passed bill.

The House version of the bill was loaded with extras, many of which had no connection to fighting terrorism. These provisions were tacked onto the bill as floor amendments, with little or no debate. Some raised very serious concerns. For example, the original House bill made significant procedural changes to Federal death penalty laws, including the opportunity for Federal prosecutors to convene a new jury and effectively get a do-over whenever they fail to persuade a jury to impose a death sentence. Can you imagine what

this is saying? A jury comes back and says we cannot agree to give this person the death penalty. One of the greatest things about our jurisprudence system is our jury system. They come back and the prosecutor says: We don't like that; throw them out, bring in a new jury; let's do it over; let's keep doing it over until we get the result the Government wants. This and other provisions were dropped or substantially modified during the early days of bipartisan meetings.

No one will be surprised to hear that after Democrats were excluded, the negotiations took a turn and resulted in a one-sided conference report. The media reported in banner headlines on November 17 that Congress had arrived at a deal on the PATRIOT Act; it is all over, we are finished. A tad premature. In fact, our first draft conference report was widely criticized by Members of Congress in both parties and across the political spectrum. Among the Republican Senate conferees, there was not the minimum support needed.

Since that time, I have continued to work with other Senate conferees to push for improvements. I also reached out to the White House. I was concerned because the administration had gone along with having us excluded and basically stopping the good progress we were making. But I spent time with them; I reached out to them. And I had many discussions with Chairman SPECTER. The chairman and I have joked on occasion that we spend more time talking with each other, more telephone calls back and forth to each other than anybody else. I say that as a compliment to Senator SPECTER because, as chairman, he has worked to include Republicans and Democrats in all these matters. I especially commend the other Senate Democratic conferees—Senators KENNEDY, ROCKEFELLER, and LEVIN. They have been constructive throughout the process.

Since November 17, when it was reported that this process had been concluded, our efforts led to significant improvements in the conference report. We succeeded in making this a better bill than the earlier one being insisted upon before Thanksgiving. The current bill contains 4-year sunsets, not 7 or 10-year sunsets. It no longer contains a provision that would have made it a crime to merely disclose the receipt of a national security letter. The ban against talking to a lawyer without first notifying the Government in connection with the receipt of a national security letter was modified. Imagine that, it basically said you can't talk to a lawyer before you check in with your Government first. We produced some improvements and better balance, and for that, Americans will be better protected.

I believe that there is still more that we can do and should do before finalizing this important measure. There are more improvements that we can make and, I believe, would have made in an open, bipartisan conference.

There are more assurances we can include in the law so that the American people can have greater confidence in the law, how it will be utilized and how Congress and the courts will ensure their rights are protected.

This week, along with Senator SUNUNU, Senator CRAIG, Senator MURKOWSKI, Senator HAGEL and others, I cosponsored a bill to provide a short-term extension of the expiring PATRIOT Act provisions so that we can continue working to make additional improvements to the law. I was disappointed to hear that some are saying that unless this conference report is passed in this form, they would stand by to allow the PATRIOT Act provisions like that regarding sharing of important information with our intelligence community to expire. Those of us working to improve the bill are not taking that position. We want the best bill we can achieve and the greater protection of Americans' civil liberties.

In an editorial just yesterday, USA Today chided the Bush administration and its allies in Congress for "resist[ing] calls for more meaningful protection against invasion of privacy and abuse of civil liberties." It supported the proposal that Senator SUNUNU and I have advanced to extend the PATRIOT Act for 3 months to allow more time to fix what is wrong.

I am encouraged that an FBI spokesman is now endorsing the improvements we have been able to achieve over the last month and which the administration had initially opposed. I know that together we can do better.

I did not sign the conference report in its current form. I understand that on Wednesday more than 200 Members of the House, both Republicans and Democrats, voted to recommit this conference report and continue working to improve it. I have spoken to Senators on both sides of the aisle who would like to see us work out a better bill and stronger protections for the American people. I agree and will continue working to achieve that. I believe that the approach Chairman SPECTER and I took of working together in a bipartisan manner is the better approach. I think that had we followed through with that approach we would have reached a better balanced bill and the American people would have more confidence in it.

It is not just the provisions of the law itself, but the way they are administered and enforced and the perception of the American people that matter. Let me give an example. As librarians and others across the country raised concerns about the use of the business records subpoena authority in the PATRIOT Act, Attorney General Ashcroft could have defused the situation from the outset. Instead he was secretive and scared the American people. He would not work with or share information with the Congress. He claimed variously that the provision had not been used with libraries but then obfuscated when asked whether national security

letters were being used in connection with library records. He then classified even the number of subpoenas served upon libraries. When that number was later unclassified, is there any wonder that people remained concerned?

He could and should have worked with Congress to develop better standards and review and oversight. This could have been done administratively or with a legislative correction. Instead, he hoarded the information, raised suspicions and attacked anyone who raised questions about how government power was being used.

I want to express my appreciation, in particular to Chairman SPECTER, but also to Chairman SENSENBRENNER. I do not question their motivation. I respect them. Together they have worked with us to correct several of the problems and concerns about earlier drafts of this conference report. As I have noted, Chairman SPECTER did speak with me and we had many, many discussions about these issues throughout this process. I appreciate his efforts. I regret that we were not able to achieve more of what we had achieved—both the bipartisan process and some of the specifics of the Senate-passed bill.

Both Chairman SENSENBRENNER and Chairman SPECTER share my interest in congressional oversight, and the conference report is a better bill because of it. Throughout the early informal, bicameral discussions and earlier during the Senate's bipartisan consideration of this matter, I advanced several "sunshine" provisions to facilitate oversight and ensure some measure of public accountability for how the government uses its powers. The conference report contains most of these proposals, including public reporting and comprehensive audits on the use of two controversial PATRIOT Act provisions—both business record subpoenas and national security letters.

In addition to sunshine provisions, I proposed that we retain the sunset mechanism that worked so well in the original PATRIOT Act. Back in the fall of 2001, Republican House Majority Leader Dick Armey and I insisted on 4-year sunsets for certain PATRIOT Act powers with great potential to affect the civil liberties of Americans. Those sunsets contributed greatly to congressional oversight. The fact that they were included is the reason we are going through this important review and renewal process now.

This year, I proposed and the Senate agreed to 4-year sunsets on three key provisions. The House initially approved 10-year sunsets on two provisions. With steadfastness and hard work on the part of Senate conferees, we were able to achieve the 4-year sunsets that were in the Senate bill. I commend, as well, Representative CONYERS and the House for passing an instruction to the House conferees to abide by the 4-year sunsets. Despite strong majority support in both bodies for 4-year sunsets and even after the House had voted to instruct its con-

ferees, it took weeks to persuade Republican leaders in the House and the administration to accept this common-sense measure.

The enhanced oversight provisions and 4-year sunsets are positive features of the conference report to be sure, but many problems remain. Let me touch briefly on some of the flaws in this conference report that are still troubling to Senators from both sides of the aisle and to those concerned about civil liberties advocates from both the right and the left.

I will start with the conference report's treatment of section 215 of the PATRIOT Act, the so-called library provision. Under Section 215, the government can obtain a secret order that compels access to sensitive records of American citizens, potentially library records, and also imposes a permanent gag order on the recipient.

Before passage of the PATRIOT Act, there were two significant limitations on the FBI's power to seize business records. First, it could be used only for a few discrete categories of travel records, such as records held by hotels, motels, and vehicle rental facilities. Second, the legal standard for obtaining the order was demanding. The Government had to present specific and articulable facts giving reason to believe that the subject of the investigation was a foreign power or an agent of a foreign power.

The PATRIOT Act did away with these limitations. It both expanded what the FBI may obtain with a section 215 order and it lowered the standard for obtaining it. Under current law, the government need only assert that something—anything—is sought for an authorized investigation to protect against terrorism or espionage, and the judge will order its production. Under this provision, what counts as an authorized investigation is within the discretion of the executive branch.

The Senate, in its reauthorization bill, rightly reestablished a significant check on this power. Under the Senate bill, relevance to an authorized investigation is not enough; the government must also show some connection between the records sought and a suspected terrorist or spy. This is a fundamental protection that would not hamstring the government, but would do much to prevent overreaching in government surveillance. Unfortunately, it was stripped out in conference.

The conference report is deficient with respect to section 215 in two other respects. First, unlike the Senate bill, the conference report does not permit the recipient of a section 215 order to challenge its automatic, permanent gag order. Courts have held that similar restrictions violate the first amendment. Contrary to what has been suggested this morning, I fought to keep the Senate language on this point, to make sure that a section 215 gag order could be challenged in court. I thought it had been accepted at one point during the early, bipartisan negotiations.

It was removed from the working draft when the bipartisanship ended and Democratic conferees were shut out.

Second, the conference report allows the Government to use secret evidence to oppose a judicial challenge to a section 215 order. At the Government's request, the court must review any Government submission in secret, regardless of whether it contains classified material. This has the potential to turn an adversarial process into a kangaroo court, and will at a minimum make it extremely difficult for the recipient of a section 215 order to obtain meaningful judicial review that comports with due process. I proposed that we at least allow for limited disclosure, with appropriate security protections, if necessary for the court to make an accurate determination. Again, this modest attempt to allow for meaningful judicial review was tentatively accepted during early bicameral discussions, only to be stripped out when the administration stepped in.

The conference report also falls short on its treatment of National Security Letters, or NSLs. These are, in effect, a form of secret administrative subpoena. They are documents issued by FBI agents without the approval of a judge, grand jury, or prosecutor. They allow the agents to obtain certain types of sensitive information about innocent Americans simply by certifying its relevance to a terrorism or espionage investigation. Like section 215 orders, NSLs come with a permanent gag. The recipient of an NSL is prohibited from telling anyone that he has been served.

Proponents of this conference report have made much of the fact that it creates an explicit right to challenge an NSL in court. But even under current law, NSLs can be, and have been, successfully challenged. Indeed, in recent litigation, the Government has taken the position that NSL recipients have an implied right to judicial review. Making this right explicit makes sense, but it does not, in itself, offer significant protection.

That is particularly so given the one-sided procedures set forth in the conference report, which do not allow meaningful judicial review of NSLs' gag order. The conference report requires a court to accept as conclusive the Government's assertion that the gag is needed, unless the court finds the Government is acting in bad faith. This raises serious first amendment and due process concerns. I cannot understand why anyone would insist on provisions that tie the hands of Federal judges and further reduce our confidence in the use of these tools. Yet, despite strong opposition to this provision from the right and the left sides of the political spectrum, House Republicans refused to strip it out.

In an editorial this week, the Washington Post noted the conference report's deficiencies with respect to section 215 orders and NSLs, but called them "not unsolvable," adding "it's

hard to believe the government is today getting much data through uses of these powers that would be forbidden were they written more accurately."

Alternatively, Democratic conferees proposed a 4-year sunset on the NSL authority. While a sunset is no substitute for substantive improvement, it would at least have ensured that Congress would revisit this issue in depth. We would have had an opportunity, then, to study how these judicial review procedures worked in practice. Again, House Republicans rejected this path to bipartisan compromise.

The conference report's treatment of the PATRIOT Act's so-called sneak and peek provision is another area of concern. Section 213 of the PATRIOT Act authorized the Government to carry out secret searches in ordinary criminal investigations. Armed with a section 213 search warrant, FBI agents may enter and search a home or office and not tell anyone about it until weeks or months later.

It is interesting to recall that 4 years ago, the House Judiciary Committee took one look at the administration's original proposal for sneak and peek authority and dropped it entirely from its version of the legislation. As chairman of the Senate Judiciary Committee, I was able to make some significant improvements in the Administration's proposal, but problems remained. In particular, Section 213 says that notice may be delayed for "a reasonable period," a flexible standard that has been used to justify delays of a year or more. Pre-PATRIOT Act case law stated that the appropriate period of delay was no more than 7 days.

The Senate voted to replace the "reasonable period" standard with a basic 7-day rule, while permitting the Government to obtain additional 90-day extensions of the delay. The conference report sets a 30-day rule for the initial delay, more than three times what the Senate, and pre-PATRIOT Act courts, deemed appropriate. The shorter period would better protect fourth amendment rights without in any way impeding legitimate Government investigations. The availability of additional 90-day extensions means that a shorter initial time frame should not be a hardship on the Government.

This conference report also is loaded with extraneous provisions that have nothing to do with the expiring PATRIOT Act authorities, or even with terrorism.

I am particularly concerned that the conference report modifies habeas corpus law, a highly controversial move that is wholly improper to consider in this context. The changes to habeas added here at the insistence of a small number of Republican conferees have nothing to do with terrorism or even more general tools of federal enforcement. These changes were not included in the PATRIOT Act reauthorization bill of either the House or the Senate. They were added late in the conference process, after all Democratic conferees

were shut out of discussions. They received no serious consideration by either body's Judiciary Committee, and have been strongly opposed by the U.S. Judicial Conference and others. And yet these modifications could have very serious consequences—possibly unintended consequences—in habeas cases that are already pending in California and other States.

The conference report includes a version of the Combat Methamphetamine Epidemic Act of 2005, a bill that, like the habeas provisions, is extraneous to the PATRIOT Act reauthorization. The version in the conference report contains troubling provisions that I wish could have been debated fully before we were forced to vote on them in this context. A portion of the bill lowers the threshold of the amount of money or drugs necessary for a defendant to qualify as a "kingpin" and to therefore be subject to a mandatory life sentence. This is an excessively harsh sentence for a pool of people who are not truly drug kingpins. No one has sympathy for producers and dealers of methamphetamines, but the punishment must fit the crime, and in these cases, mandatory life is disproportionate.

During early negotiations on the conference report, I fought to strike title II of the House bill, which included provisions that vastly expanded the Federal death penalty and removed important protections for the criminally accused. I already noted one particularly problematic provision, which allowed Federal prosecutors a "do-over" whenever they failed to persuade a jury to impose a death sentence. Another provision was designed to carve out a category of homicides that would be eligible for capital punishment despite the fact that the defendant did not himself kill, intend to kill, or knowingly create a grave risk of death. Yet another provision would have substantially narrowed the jury's power to consider, as a reason not to impose the death penalty, the fact that other equally guilty offenders in the same case were escaping such punishment. These extraneous and ill-considered provisions were ultimately dropped from the conference report, for which we should all be grateful.

House Republicans did, however, insist on keeping other death penalty provisions in the conference report. The most objectionable of these will revive a small group of pending death penalty prosecutions for aircraft hijacking murders committed in the 1970s and 1980s. Specifically, it is designed to overrule the district court decision in *United States v. Safarini*, which struck the death penalty for a 1986 hijacking offense on the grounds that the Federal Death Penalty Procedures Act of 1994 could not be retroactively applied to a pre-1994 crime, at least absent clear congressional intent to do so.

To my knowledge, Congress has never enacted death penalty legislation

intended to allow the execution of a tiny number of known offenders for crimes they are alleged to have committed from one to three decades previously. Whether the Government can ultimately persuade the courts that this does not violate the letter of the *Ex Post Facto* and Bill of Attainder clauses, it certainly violates their spirit. It is telling that the Department of Justice, in its testimony before the House Judiciary Committee, strongly recommended adding in a severability clause, in case this provision was ultimately held invalid by a court of law. I share the Department's skepticism regarding the constitutionality of this wrong-headed provision, and deeply regret its inclusion in the conference report.

The reauthorization of the PATRIOT Act must have the confidence of the American people. I believe what we passed in the Senate would have the confidence of the American people. This conference report would not.

Congress should not rush ahead to enact flawed legislation to meet a deadline that is within our power to extend. We owe it to the American people to get this right.

The bipartisan bill I introduced with Senator SUNUNU and others to provide a three-month extension for the expiring provisions of the original PATRIOT Act will give us the time to achieve the best bill for all Americans.

This is a vital debate. It should be. These are vital issues to all Americans. If a brief extension is needed to produce a better bill that would better serve all of our citizens then by all means, let us take that time.

We should not finalize the conference report on the PATRIOT Act without fully addressing the privacy and civil liberties concerns that remain in the conference report. It is our job in Congress to work as hard as it takes to protect both the security and the freedoms of the people we represent.

A nation built on freedom, as America is, can do better, and if we work together, we will do better.

Mr. President, I yield to the distinguished senior Senator from California 5 minutes.

The PRESIDING OFFICER (Mr. ENSIGN). The Senator is recognized.

Mrs. FEINSTEIN. Mr. President, I thank the ranking member very much. I would like to make a brief statement. I am not sure I can do it in 5 minutes. I may have to ask unanimous consent for a little additional time.

Today the Senate is taking up the conference report to accompany the PATRIOT Act. I am the original Democratic cosponsor of the unanimously passed Senate bill, as well as cosponsor of the Combat Meth Epidemic Act and the Port Security Crimes Act, both of which are incorporated in the conference report. Thus, it is only after careful consideration that I have determined to vote against cloture tomorrow, and I would like to take a moment to explain why.



I fear that it is going to be a very divisive and partisan vote tomorrow. The USA PATRIOT Act has been a valuable tool in our effort to combat terror, but it has also become a divisive point of contention between Democrats and Republicans and, as a result, doesn't have the broad support of the American people. Thus, it is extremely important that every effort be made to reach an accommodation before debate becomes contentious and even more partisan.

Outside the beltway, the USA PATRIOT Act has come to be terribly misunderstood. Many believe it is related to Guantanamo Bay and the detention of prisoners. Others believe it authorizes torture or the secret arrest of Americans. It does none of these things.

At the same time, some have irresponsibly sought to characterize anyone who seeks to improve or criticize the law as somehow playing into the hands of the terrorists. They have implied that the USA PATRIOT Act will expire in its entirety on December 31, and we will be left with no defense against terrorist acts. This, too, is untrue.

What is true is that when it comes to national security, it is so important to build consensus. Our efforts to combat terror in general, and the authorities in the PATRIOT Act specifically, are diminished in effectiveness if they are not seen by most Americans as the product of bipartisan effort in Washington.

I believe our Nation's safety requires this body to reach compromise on this bill.

That is why, when Senator SPECTER asked me to join him in introducing the Senate bill, I agreed. I want to say something. Senator SPECTER has been a wonderful chair of the Senate Judiciary Committee. He listens, he is open, he is smart, he is legally pristine, and he has been a fine leader for the committee.

I believed Senator SPECTER, working with Senator LEAHY and the members of the Judiciary Committee, would be able to build consensus, to reach compromise, and deliver legislation that the American people could be confident represented bipartisan agreement, not politics.

My confidence in Senators SPECTER and LEAHY and my colleagues on the committee was well placed. In July, the committee unanimously reported the bill favorably, and shortly thereafter the Senate, again unanimously, passed the bill.

Having a USA PATRIOT Act reauthorization bill, supported by Senators CORNYN and SCHUMER, KYL and FEINGOLD, HATCH, KENNEDY, and every single Member of this body gave me great comfort, and I believe was an important step toward healing the divisive partisanship that has come to be associated with the bill.

Unfortunately, that spirit seems to have ended. The conference report process, instead of bringing unity, ap-

pears to have had the opposite result: dividing my colleagues by failing to adequately take into account differing views on elements of the bill. The simple result is that in the next day we are likely to divide into two camps.

In the end, of course, we will extend the PATRIOT Act's expiring provisions in some form because despite the rhetoric, nobody doubts that the provisions will be extended. What is at issue is whether and to what extent modifications are made.

What will be lost is the much needed sense that the PATRIOT Act represents a broad consensus. That may be more important than the specific details of provisions and issues. I believe it is. The bottom line is that having a consensus bill is of paramount importance. So I rise today because I still believe—

The PRESIDING OFFICER. The Senator's time has expired.

Mr. LEAHY. Mr. President, I ask the Senator from California how much more time she requires.

Mrs. FEINSTEIN. May I have 5 minutes more, please.

Mr. LEAHY. Mr. President, I yield 5 additional minutes to the Senator from California.

Mrs. FEINSTEIN. I thank the Senator from Vermont.

Yesterday, I urged Majority Leader FRIST to work as hard as he can to bring people back to the table before the vote. The day before, I urged Attorney General Gonzales to work with Senators LEAHY and SPECTER toward the same end. I have said the same thing to Senators SPECTER and LEAHY personally, and today I renew this request.

Press reports today quote insiders saying that efforts to reach compromise have been abandoned. Some seem to believe that a filibuster fight would be an opportunity to force Democrats into bad votes, thus securing partisan advantage in upcoming elections.

Others seem to believe that the American people can be tricked into thinking that Members such as Senators CRAIG, SUNUNU, MURKOWSKI, HAGEL, OBAMA, DURBIN, FEINGOLD, SALAZAR, and KERRY, all of whom signed a moving letter yesterday explaining why they would vote against cloture, are somehow helping terrorists. Still others, counting the votes, think the opportunity to embarrass the administration is too good to miss.

I reject these positions. Instead, I ask respectfully that we get back to work.

I strongly urge my colleagues to carefully read the letter sent by this group of Senators. While I do not agree with every one of their points, the key issues they raise have merit and should be addressed.

The most important of the issues they raise involve section 215—the so-called library provision—and provisions governing judicial review, particularly of national security letters. I believe on these two issues, as well as

some of the others, continued good-faith negotiation will result in solving the problems in a way that will be acceptable to a vast majority of this body and will not in any way diminish the ability of our law enforcement and intelligence organizations to do their job.

Congress has a long and honorable tradition of putting aside party politics when it comes to national security. We were able to do that in the Senate with this bill. So it is critical that this approach be carried forward to the end.

I believe the unanimously passed Senate bill represents that compromise. And while I understand that some accommodations must be made to the House, these cannot be so great as to destroy the consensus in the Senate that we have built.

I know that Senator SPECTER and Senator LEAHY have worked long and hard. I also know that Senator LEAHY made some compromises to vote for the Senate bill that passed this body unanimously. I asked Senator SPECTER and Senator LEAHY to please try once again to achieve the compromise that we had when the Senate bill passed this body unanimously.

I believe national security deserves no less, and I believe the distinguished leadership of the Judiciary Committee, Senator SPECTER and Senator LEAHY, can achieve this if given the opportunity and if the leadership puts its clout behind bringing the House on board as well.

Absent that, I will vote for the Sununu legislation to provide an element of time. I also ask that the meth bill, as well as the port security bill, be added to his legislation. I thank the ranking member and the chairman and I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, while the Senator from California is on the floor, I want to thank her for the complimentary comments, and I want to thank her for being a very productive and constructive member to the Judiciary Committee not only this year while I have been chairman but for many years. She and I had a 30-minute conversation yesterday by phone, after working hours, talking about these issues. If there are any specific points that trouble the Senator from California, I would be glad to discuss them with her, not only to try to deal with any issue she has, but I find that is a good method for acquainting all the Senators with what is at issue in the bill.

I note there were no specific issues raised, and I am not asking that specific issues be raised. I heard what the Senator from California said, and I agree with her about the point of consensus. Senator LEAHY and I have established a superb relationship, with bipartisanship, which has made the committee function this year, I think, very successfully. I do not think anyone could fault our efforts to come to terms. We just could not do it with the



House of Representatives, in a bicameral system, as to what we could accomplish.

I congratulate Chairman SENSENBRENNER for going the extra mile. But if we could just run it through the Senate without a bicameral legislature, it would be a little different. Then we would have the Senate bill.

But there is one thing I would disagree with the Senator from California about—when she says we are going to have a bill. We may not have a bill. The majority leader has said he is not going to go along with the 3-month extension. There is a real issue as to whether the House will take up a 3-month extension. We face many situations in the closing days of the Congress where the House finishes its work and departs. We have taken a lot of House bills where we had no choice, when they were gone. But we may well not have a 3-month extension, and this bill may well expire. That is an alternative which has to be considered by every Senator. I believe there are some Senators who would say they will take the responsibility for having the bill expire, the act expire. Some will take that.

If cloture is not invoked and somebody says, Arlen Specter, go back and work on it some more, I will salute and I will be a good soldier and I will go back and work on it some more. But there are going to have to be a lot of moving parts coming into place before there is going to be an extension beyond December 31. I think people ought to consider that.

When the majority leader says he is not for it—if he will not take it up, there will be none. Even if he does take it up and even if we pass it, which we might not—if it is not taken up by the House, there will be none. So I believe we have to consider the alternative that there will not be a bill if this bill is not passed. That brings me back to my point about the specific objections.

I see Senator SUNUNU in the Chamber, and I am anxious to have a colloquy with him, if he is willing to do so. But I just wanted to thank the Senator from California and raise those considerations.

Mrs. FEINSTEIN. I wonder, Mr. President, if you will allow me a brief response to the chairman and manager of the bill.

Mr. SPECTER. May I suggest it be on the time of Senator LEAHY.

Mrs. FEINSTEIN. I don't want to take Senator LEAHY's time.

Mr. LEAHY. How much time is remaining to the Senator from Vermont?

The PRESIDING OFFICER. The Senator from Vermont has 38 minutes. The Senator from Pennsylvania has 45 minutes.

Mr. LEAHY. And the last colloquy with the Senator from Pennsylvania—

The PRESIDING OFFICER. It was on the time of the Senator from Pennsylvania.

Mr. LEAHY. I yield to the Senator from California.

Mrs. FEINSTEIN. I very much appreciate the conversation we had last night, where I tried to share this view. I thank the Senator for listening.

It seems to me, and Senator LEAHY will certainly correct me if I am wrong, that the crux of the problem revolves around two sections of the bill. It seems to me there is more than one way to solve that problem. I just think if the two of you got together, and the chairman of the Judiciary Committee of the House, that there might be consensus reached. I believe the rest of the bill certainly can go into play. I do not see any problems with those, on my part. But I think Senator LEAHY, who has participated in this—let me say another thing.

I believe there is a real problem in these conferences where people get shut out at certain points. It is counterproductive. I would urge that not happen in the future because when it does, I believe it conditions, negatively, the entire remainder of the conference.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, on my time, if the Senator from California would identify the two sections she is concerned with, I would appreciate it.

Mrs. FEINSTEIN. It is the national security letters and section 215.

Mr. SPECTER. I thank the Senator from California and yield the floor.

Mr. LEAHY. Mr. President, I also thank the Senator from California for her involvement. Nobody wants to kill the PATRIOT Act by this action. I know our distinguished majority leader has said he would oppose the extension. We will see what happens in that vote. Many of us say we will oppose things, and they happen. I am talking about the 3-month extension. Even if the other body has left, they always leave back a couple of people who can do things by unanimous consent.

The Senator from New Hampshire is in the Chamber. How much time does he wish?

Mr. SUNUNU. May I have 4 minutes to touch on a few points?

Mr. LEAHY. I yield 4 minutes to the Senator from New Hampshire.

The PRESIDING OFFICER. The Senator is recognized.

Mr. SUNUNU. Let me begin by addressing a concern that was just raised. It was suggested that if cloture is not invoked tomorrow that there might not be a 3-month extension and the expiring provisions of the PATRIOT Act, which are now law, would effectively be killed. Why would there not be a some short-term extension of the PATRIOT Act of 3 months or 6 months? It would be because some Member of Congress—I hope no one in the Chamber at the moment—but some Member of the House or Senate thinks that we will be better off without a PATRIOT Act, rather than with a 3-month extension.

I suggest, No. 1, that is absolutely irresponsible, and, No. 2, that anyone who would make that argument is sug-

gesting that the President, Chairman SPECTER, and the ranking member, Senator LEAHY, are insincere in their suggestion that the tools provided to law enforcement under the PATRIOT Act are extremely important tools that law enforcement genuinely needs.

Anyone who would be willing to oppose a temporary extension and prevent some elements of the PATRIOT Act to remain in force is either behaving irresponsibly or they are arguing—and it may be a heartfelt belief on that person's part that current law actually is not as important as they had previously suggested. I believe everyone can decide for themselves what they think the likely option, the almost certain option would be if cloture is not invoked.

With regard to the substantive concerns, there are many. But let me first address the issue of the national security letters. Under the conference report, there is no meaningful judicial review of a national security letter or its accompanying gag order because the threshold that has to be met by an individual or a business served with a national security letter is a showing of bad faith on the part of the Federal Government. You will never win that argument in court. You will never be able to meet that high a threshold. Therefore, even in the most egregious cases, you will never overturn the national security letter or its accompanying gag order.

The suggestion that this concern is moot because similar language was in the Senate-passed version is irrelevant because that Senate-passed version also included a real standard on Section 215 subpoenas, which required the individual to be connected to a terrorist or spy; it included a judicial review of the gag order associated with a 215 order; and it included a 7-day notification period for delayed notice, or sneak and peak search warrants. All of this, which again, we approved in the Senate package, has been scrapped.

When we saw the Senate bill, many of us were not happy with that national security letter language. But in that bill we had other substantial gains for civil liberty protections, and those have been left at the doorstep by this conference report. To come back and say to us now that our concerns about national security letters do not count because they were part of some previous compromise that is no longer before us avoids the substantive concerns we have raised.

There are other problematic provisions that were put into the bill in conference that were not part of the Senate bill. Under the conference report, you have to tell the FBI if you want to challenge a national security letter or 215. That means you have to tell the FBI you have hired an attorney and you have to tell the FBI the name of the attorney.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. SUNUNU. I ask for 1 additional minute.

Mr. LEAHY. I yield an additional minute.

Mr. SUNUNU. I am not a lawyer. I am an engineer by training. But I know of no other provision in law where that is required. Even if it is required in a few very limited cases in law, I believe this will provide a chilling effect on our right to counsel. I believe such a requirement is an unnecessary limitation on our civil liberties.

I have one final point about the arguments made by the administration and by some here in the Senate. The suggestion was made that changes do not need to be made because there has been no evidence of abuse of the existing law. We do not seek to insert protections for civil liberties in law because we do not trust a particular person. The Framers enacted the fourth amendment to the Constitution, not because they didn't trust George Washington but because they wanted to protect these freedoms in perpetuity.

I yield the remainder of my time.

The PRESIDING OFFICER. The time of the Senator has expired.

The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, the Senator from New Hampshire is wrong on what this law provides. When he picks up the national security letter and says it may be challenged only on the bad faith requirement, he is wrong. There may be a challenge and the national security letter may be quashed under the express terms of the conference report if it is unreasonable or oppressive. The national security letter was not created by the PATRIOT Act, but we took this occasion to put civil liberty safeguards in this bill on the national security letter by eliminating the prohibition against consulting with a lawyer. Today, if you get a national security letter, you can't talk to a lawyer.

The conference report gives an explicit right to talk to a lawyer. There had been a provision that before you talked to a lawyer you had to tell the FBI who the lawyer was. Senator LEAHY raised an objection to that point, and he was right, and it was corrected. Yet if the FBI asks you who your lawyer is, then you have to tell them. But you don't have to go to the FBI first and disclose who your lawyer is.

But there are significant changes in the conference report beyond the bad-faith issue that the Senator from New Hampshire talks about, and we ought to recognize that. But this conference report goes a long way to protect civil liberties by specifically saying you can go to a lawyer and get it quashed for certain reasons.

As to the bad-faith requirement, the Senator from New Hampshire skims lightly over the fact that the Senate bill was even tougher than the conference report by going on to other sections. That is obscuring the issue. Take up the bad-faith requirement. I already read it a couple of times, this morning

and on Monday and on Tuesday. But the Senate language was identical.

But the conference report is more protective of civil liberties because, while the Senate bill said the Government had to certify anybody in the Government, the conference report requires a ranking official.

But the Senator from New Hampshire then skips over to the 7-day requirement on notification.

There is already a protection of civil rights because the court has to make a finding that the delayed notice is important to the investigation, or will hinder the investigation.

To have the Fourth Circuit saying "45 days" when you have the current law saying "reasonable," which could be anything, as a bargaining matter, we come with the Senate report at 7 and the House is at 180. We compromised at 30, and I think that is not unacceptable. Is it what ARLEN SPECTER would like, or what Senator SUNUNU would like?

But when the Senator from New Hampshire talks about getting an agreement where the House and Senate disagrees and you have an impasse, you don't have a bill.

Chairman SENSENBRENNER went the extra mile. Is he going to go further? That is a big question? If there is an impasse, there is no bill.

To repeat, if cloture is not invoked, we don't have a bill, and I will go back to work. I will go back to the drawing board, and I will try to get a bill. But that doesn't say that there will be a bill when the majority leader has said he is not going to take up an extension and you have to get agreement from the House.

On the section 215 provision, the conference report does give additional leeway beyond the three-pronged test. But we still have judicial review which you do not have today; and that is the traditional way of interposing the impartial magistrate between the citizen, on the one hand, and the law enforcement officers on the other. There have to be many hurdles gone through to get a terrorism investigation authorized. It is only a terrorism investigation where the court can allow the latitude to get somebody's records where it is important to the investigation.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SUNUNU. Mr. President, I ask to be yielded 1½ minutes.

Mr. LEAHY. I yield 2 minutes.

The PRESIDING OFFICER. The Senator is recognized.

Mr. SUNUNU. Mr. President, I want to be courteous to my colleagues who wish also to speak, so I will briefly address a couple of the points raised.

First, I never suggested that the ability, allowed under the conference report, to hire a lawyer to challenge an NSL is an improvement. I am for that. I don't know that is some great show of benevolence on the part of the Federal Government that now for the first time

you will actually be allowed to contact a lawyer if you are served with a national security letter. So I appreciate that. But this is about much more than that simple fact.

Judicial review is important. But to have a meaningful judicial review you have to have at least a threshold, that the recipient of a NSL may actually be able to achieve. I suggest that the showing of oppressive or abusive behavior by the Federal Government, the showing of bad faith, is simply too high a threshold to make that judicial review process meaningful.

Finally, I come back to the suggestion that if this bill fails on cloture, we will not have a bill, and portions of the PATRIOT Act and the lone wolf provision will expire. I do not take that to mean that the Senator from Pennsylvania will not support a 3-month extension. I hope and I believe that he would in such an event. I hope and I believe that the House would support such an extension of the expiring provisions because having them remain in place on a short term basis of 3 months or 6 months, is much more important than having these provisions expire.

If those who do not agree with my opposition to cloture on the conference report really think they will have no bill, then obviously their arguments that the PATRIOT Act is a very important piece of legislation don't have credibility.

I yield the floor.

Mr. SPECTER. Mr. President, when the Senator from New Hampshire talks about a high bar for upsetting a national security letter, he overlooks the provision that you can quash, if it is unreasonable.

If the judge finds it is unreasonable, is that too high a bar?

Mr. SUNUNU. Mr. President, I will address the question and the concern. I think the threshold is too high. But I would prefer that time be provided to others—there are a number of others on the floor—who support my position and oppose cloture.

Mr. SPECTER. On my time, I redirect the question to the Senator from New Hampshire who says the bar is too high.

Is it a high bar to quash a national security letter, if a court finds it is unreasonable?

Mr. SUNUNU. Mr. President, that is not the only basis on which these will be reviewed. The national security letter and the gag order require showing of bad faith on the part of the Government. I believe that standard as written in the conference report will prove to be too great of a threshold for individuals or businesses to have any reasonable chance of meeting. We have had 30,000 national security letters issued. To the best of my knowledge, none of them have been overturned. I think we owe the public a clear, reasonable, and pragmatic standard in order for those to be overturned. I do not believe this conference report includes such a standard.

Mr. SPECTER. Mr. President, the Senator from New Hampshire is mixing apples and oranges. When he talks about bad faith, he is talking about disclosure. When he talks about a motion to quash a national security letter for its being unreasonable, it may be quashed on that ground alone.

I am not going to ask the question again. I asked it twice. On neither occasion was there an answer that it was too high a bar to quash a national security letter if it is unreasonable. I will let my colleagues decide that who are voting on this.

If the court has latitude to quash the national security letter because it is unreasonable, this is a fair standard.

When the Senator from New Hampshire—if I could have his attention before he leaves—talks about 30,000 national security letters, I already said on the floor that is the Washington Post. But that is not accurate. I have invited my colleagues, and I will not ask the Senator from New Hampshire if he has sought a classified briefing. But I can't tell you what the answer to that is. Although I have asked the Department of Justice to release information to show the Washington Post statement of 30,000 is out of line and not accurate, I ask my colleagues not to vote on this bill based on what they read in the Washington Post.

Where you have a contested issue—and I put this before the Senate on Monday—go to the Department of Justice, they will give you a classified briefing and tell you what the facts are. Don't vote on this bill by what you read in the Washington Post.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, one concern I have is, the Senator from New Hampshire is correct, you have an extraordinarily high bar in trying to overturn a gag order. It is extraordinarily high and raises in my mind some significant first amendment questions.

As to the 30,000, it is difficult to get an answer to this because the Justice Department has been remarkably tightlipped. They have not answered questions. Many times in the normal course of oversight they would not answer the questions. I don't know how many of my letters that have gone down there have been unanswered on these issues. It is extremely difficult to get an accurate and complete answer from this Department of Justice. That is one of the reasons we are so concerned.

I might say, the idea that we have to have a classified briefing which can't be questioned and is totally in the hands of the Department of Justice is one of the things that concerns Americans in the PATRIOT Act.

I yield 1 minute to the distinguished Senator from Wisconsin and 4 minutes to the distinguished Senator from Oregon.

Mr. FEINGOLD. Mr. President, the point the chairman was discussing with

the Senator from New Hampshire, it is the Senator from Pennsylvania who is mixing apples and oranges on the NSL requests.

Let me point out these proceedings where you are supposed to challenge an NSL—they are in secret. They are in secret. The person challenging the NSL cannot see what the Government is arguing. So it is all well and good to say there is review of the NSL, but the challenge is not done in a fair proceeding. It is the chairman mixing apples and oranges.

This is the second time the chairman has urged me to get a classified briefing. I did and it did not change my view of the underlying points being made, whether the Washington Post was completely accurate or not. I had that briefing and I tell you I didn't have the same reaction the Senator had.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. On my time, what apples and oranges am I mixing, I ask Senator FEINGOLD?

Mr. FEINGOLD. By not acknowledging the difference of the kinds of proceedings that take place with regard to an NSL and normal criminal proceedings. Those are different kinds of proceedings.

Mr. SPECTER. Of course they are different.

Mr. FEINGOLD. That makes a difference on how one regards the ability to challenge.

And the secrecy, the person challenging the NSL cannot even see what the Government has. That is very different than a normal criminal proceeding.

Mr. SPECTER. Mr. President, I think the Senator from Wisconsin does not know the difference between an apple and an orange. This is not a criminal proceeding. If you have a criminal proceeding and a search warrant, you go into a court with a motion to quash and you put on witnesses, although some of those may be in camera.

I was a district attorney for 8 years and there are occasions where they are in camera. If there are national security issues involved, they are consistently in camera on a variety of procedures.

To say that I am mixing apples and oranges when you compare this to a criminal proceeding simply indicates the Senator from Wisconsin does not know the definition of an apple.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon is recognized for 4 minutes.

Mr. WYDEN. I have enormous respect for Chairman SPECTER and Senator LEAHY, and will say what is so troubling about this particular period: Virtually every single day, almost every day, we see another report about the administration trying to skew the bounds between fighting terrorism ferociously and protecting the civil liberties of the people of our country.

The front page of the paper today: Secret Pentagon databases are kept. Essentially, the administration, when somebody digs it up, finds out that all of this is being done—again in secret.

As I have said many times, the two concepts—security and civil liberties—are not mutually exclusive, and when crafting legislation, they be approached in tandem. In fact, it is my view that the promotion of American security and the protection of Americans' rights and freedoms should be mutually reinforcing principles. If one goal is abandoned for the other, or one goal carries less importance than the other, then a new solution must be found.

A new solution is certainly needed in this case. The PATRIOT Act conference report reflects the wholesale rejection of this two-pronged approach and relegates civil liberties to second class status.

The conference report strips out those Senate provisions that helped ensure good Congressional oversight. It limits the ability of law-abiding Americans to defend themselves from possible PATRIOT Act abuses. These changes do not make the PATRIOT Act a more effective tool for fighting terrorism; ultimately, they leave Americans more vulnerable to violations of privacy and the PATRIOT Act more susceptible to abuse.

I am not going to go through the whole bill, but would like to highlight one issue in particular that Oregonians have raised with me—National Security Letters. National Security Letters authorize the FBI, without judicial approval, to obtain Americans' sensitive information.

Senator SPECTER has enormous technical legal skills, and I am very concerned about the national security letters, as well. I sit on the Intelligence Committee. Of course we cannot get into any aspect of what goes on in those debates, but it seems to me any way you parse the legal language with respect to the conference report and the national security letters, it is not balanced. It is, once again, skewed against the rights of the individual.

The Washington Post recently reported that the FBI is using National Security Letters to go on fishing expeditions, and the FBI issued at least 30,000 NSLs in the last year alone. In these fishing expeditions, the FBI reportedly casts a wide net, gathering personal information on innocent Americans.

The Post article describes the experience of George Christian of Connecticut. Mr. Christian manages digital records for three dozen Connecticut libraries and reportedly received an NSL seeking "all subscriber information, billing information and access logs of any person" who used a specific computer at a certain library branch. The FBI reportedly instructed Mr. Christian that he could never talk to anyone about the request. In spite of this apparent gag order, he decided to challenge the NSL. The court files are

sealed, but the Post reported that the judge described the basis for the NSL as laughably vague.

With the FBI issuing at least 30,000 NSLs a year, how many other Americans like Mr. Christian are out there? How many Americans have had personal information turned over to the federal government—who they've called, where they've traveled, what they've bought—because someone didn't have the time or the money to fight an unreasonable NSL? Who is going to have access to all the information the FBI has reportedly gathered that may now be in vast government databases? If any one NSL can be used to gather information on thousands or even tens of thousands of Americans, one can only guess how many Americans have already been affected by these fishing expeditions.

As pointed out in the Post article, the FBI acknowledged from the beginning that the NSL was an incredible power that had to be used judiciously. As one FBI employee stated in a 2001 memo sent to all 56 field offices:

NSLs are powerful investigative tools, in that they can compel the production of substantial amounts of relevant information . . . However, they must be used judiciously.

Thirty thousand NSLs a year doesn't sound judicious to me. And 30,000 NSLs a year shouldn't sound judicious to the citizens of Oregon.

The reporting on NSLs cries out for proper congressional oversight to ensure that abuse of NSL powers does not occur. For starters, Americans must be armed with the necessary tools to challenge unreasonable National Security Letters. But the conference report further inhibits the ability of Americans to challenge NSLs.

More specifically, the conference report requires an NSL recipient who consults with an attorney to give the name of the attorney to the FBI. Talk about a chilling effect on the right to counsel! I am not aware of a provision like this existing in any other area of law.

For instance, the conference report imposes criminal penalties on an NSL recipient who speaks out in violation of an NSL gag order. So even if the NSL recipient believes that the letter is unconstitutional and that his rights have been violated, he could go to jail for 5 years.

It is provisions in the conference report like these, which expand the federal government's powers and make it more difficult for ordinary Americans and Congress to challenge abuses of that power, that give me serious pause. And there are not just one or two of them. Look in the sections concerning requests for business and library records, roving wiretaps, sneak and peak searches, and of course NSLs: there is a recurring pattern here and it is very disturbing.

There are those who claim that there have been no abuses of the PATRIOT Act. With all due respect, that is, at best, disingenuous. At least two courts

have held that the FBI used its NSL power in an unconstitutional manner.

And remember, we are talking about powers that include gag rules—so how many others are out there challenging PATRIOT Act activities in silence?

There are those who will say, "I haven't done anything wrong and I have no problem with the government doing what needs to be done to fight terror—if they end up with my personal information, but don't use it against me, so be it."

I wonder how that innocent person would feel if the FBI were watching over his shoulder as he surfed the Internet, standing by his side and noting whom he calls and when, or standing next to him at the cash register as he pays for a anniversary gift for his wife. Because I'll bet he wouldn't be ok with this. And while technology has made surveillance less obvious, this is exactly what some of the more controversial PATRIOT Act powers allow the government to do with only the vaguest of reasons and little or no oversight.

The obligation to demonstrate that the government is not abusing an individual's rights should not be on the shoulders of that individual. That burden should be squarely on the government's shoulders. The 9-11 Commission endorsed this notion, recommending that "the burden of proof for retaining a particular governmental power should be on the executive . . ."

With respect to the overall bill, in our part of the world we are terribly concerned about what is going on with methamphetamine. Senator SMITH and I have worked very closely on a bipartisan basis with our colleagues to get a good anti-meth program. The administration comes along at the 11th hour and politicizes this meth issue at a time when we could pass it with a 100-0 vote.

As a cosponsor of the Combat Meth Act, I intend to continue to fight for the passage of the meth bill but not as a part of this badly flawed legislation. And while my decision was made more difficult by the fact that legislation addressing the meth crisis was included in the conference report, I will be opposing the conference report and opposing cloture.

I want it understood I am anxious to work with my colleagues on a bipartisan basis, but given this particular climate and the need to constantly keep the teeter-totter balance—fighting terrorism aggressively, protecting the civil liberties of our country—it seems to me we have to be very judicious with respect to how tools such as the national security letter are being used. Any way you cut it, my colleagues, I don't see that taking place.

So more time is needed to make the necessary corrections to the conference report to ensure that the PATRIOT Act Reauthorization promotes Americans' security and protects their rights and freedoms. The Senate should not be coerced into accepting a piece of legisla-

tion that allows the Federal Government to reach, unchecked, further into the personal life of every American, with fewer means of appeal and less oversight.

I therefore urge my colleagues to support the proposal submitted by Senator LEAHY and Senator SUNUNU extending the expiring provisions of the PATRIOT Act for 3 months. I ask unanimous consent that my statement be printed in the RECORD.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, without getting into methamphetamine, where we have accommodated the interests of the Senator from Oregon and other Senators by putting them on this bill because it is a measure which ought to proceed, let me ask the Senator from Oregon, when he complains about the national security letters, I ask whether the conference report is not a big step over existing law? National security letters have been in existence for decades.

Mr. WYDEN. National security letters—

Mr. SPECTER. Mr. President, I have the floor. I have not propounded the question yet.

National security letters have been in existence for decades. While we take up the PATRIOT Act, we have used this occasion to add protections so that whereas today they are secret, we have explicitly provided the right to consult with a lawyer. I don't disagree there ought to be that right without providing it explicitly. Somebody ought to be able to go to a lawyer, but if they get a national security letter today, they are betwixt and between.

Originally, this legislation had a requirement you had to tell the FBI who the lawyer was. The FBI wanted that provision because there are some lawyers who have been alleged to be involved in collusion with the terrorist organizations. As I said earlier, Senator LEAHY objected to that and I agreed that you ought to be able to hire your own lawyer. If the FBI asks, okay, it is a fair request and you can tell them.

Then we provided you can quash those national security letters if they are unreasonable. If you go to a judge and you say, this is unreasonable, now the standard of reasonableness is all over the law, what a reasonable man would do. Is that too high of a bar? There is judicial review.

You come to the point of disclosure where you have the issue as to whether disclosure will impede the investigation. All through the law, there are limitations on disclosure where there is a legitimate law enforcement concern about not impeding an investigation. The determination as to whether you have a national security issue or are impeding diplomatic relations is a pretty touchy subject. We passed a Senate bill with a provision that on national security letters—until now there has been no challenge possible at all.

We put statutory challenges in our Senate bill, and renewing a nondisclosure requirement, the certification by the Government—anybody in the Government, no delineation as to who—“that disclosure may endanger the national security of the U.S. or interfere with diplomatic relations shall be treated as conclusive unless the court finds the certification was made in bad faith.” That is a pretty tough standard. But that was the Senate bill. Then in the conference report, we kept it. The Senator from Oregon was one of 100 Senators who did not object to the PATRIOT Act being passed by unanimous consent. But in the conference report we said let's do a little more here. Before you have a certification, let's make sure it is somebody who has a lot of responsibility—the attorney general, Director of the FBI, deputy attorney general, et cetera.

My question to the Senator from Oregon is this: Aren't those at least somewhat meritorious in protecting civil liberties? Should we have gotten in conference—in a tough conference where Chairman SENSENBRENNER, head of the House Judiciary Committee, went the extra mile—should this bill go down? Should this bill be filibustered because of that provision?

Mr. WYDEN. As my friend knows, I think virtually everything the Senator from Pennsylvania does is meritorious. I am troubled, though, about where we are with the national security letters. Yes, they existed for years, but they were greatly expanded with the PATRIOT Act. We know that. I am also concerned as we consider this kind of legal language that there will be a chilling effect on the exercise of the right to counsel, and I get that again without being able to go into the details because of my examination of the issue. I am not going to debate the Senator's good-faith efforts; they have always been to try to strike a balance. But I am concerned that something that even the Government—the executive branch admits this is a tool that should be used carefully, at a time, as I said, when you open the morning newspaper and every day you see another effort to not strike this balance. I think we ought to stay at this national security letter issue and deal with concerns raised here with respect to secrecy and exercise of right to counsel.

My good friend from Pennsylvania and I have worked together on so many issues, and I want him to know of my desire to do it and my respect for his ability to get into some of these technical questions in a fashion that is almost unparalleled.

Mr. SPECTER. I want to call my colleagues' attention to the fact that we received a letter from nine Senators yesterday who are opposed to the PATRIOT Act. We have a detailed reply which is now being circulated. Again, I ask my colleagues to deal with the specifics. Anybody who has any concerns about any specific provisions, come to

the floor and we are prepared to discuss them and see if we can satisfy those concerns. Beyond that, I will inform our colleagues as to what this bill is all about so there will be as much information as possible before the vote.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. LEAHY. Mr. President, I ask how much time remains for the distinguished Senator from Pennsylvania and how much time does the Senator from Vermont have following the discussion the Senators from Pennsylvania and Oregon had?

The PRESIDING OFFICER. The Senator from Vermont has 24 minutes; the Senator from Pennsylvania has 28 minutes.

Mr. LEAHY. I suggest the absence of a quorum with the time charged equally to both sides.

Mr. SPECTER. I object. I don't want any time lost on the quorum call.

Mr. LEAHY. I withdraw that request and I yield the floor.

Mr. SPECTER. Mr. President, we don't have a whole lot of time to debate this bill. The Senator from Vermont is right. He and I are due at a meeting on asbestos. The Senator and I are due on many important meetings. I invite anybody who has a question or a doubt about this bill to come to the floor and raise their concerns. If not, I will join my colleague in suggesting the absence of a quorum so we can step across the hall to a meeting.

Mr. LEAHY. Mr. President, I see the Senator from Colorado on the floor. I understand he wishes to speak on this. I ask the Senator how much time would he require?

Mr. SALAZAR. Approximately 10 minutes.

Mr. LEAHY. I yield 10 minutes to the Senator from Colorado.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. SALAZAR. Mr. President, I rise today to discuss the PATRIOT Act conference report currently before the Senate.

I start by beginning to make absolutely clear my commitment to law enforcement and our fight against terrorism. I served as Attorney General for the State of Colorado for 6 years, and I am intimately familiar with the specific needs of law enforcement in the fight against terrorism and with the paramount importance of police work in this area. The peace officer's badge I carried with me was a constant reminder of the dedication, performance, and sacrifice that our men and women in law enforcement make every day as they work to keep us safe. At the end of the day, we will keep America safe when the 800,000 men and women who work in local, Federal, and State law enforcement are able to do their jobs and have the tools with which to do their jobs.

Accordingly, I wholeheartedly support extending all of the law enforcement powers provided by the USA PA-

TRIO Act. On September 11, 2001, the magnitude of the terrorist threat was something that galvanized the Nation, and it is imperative that we give law enforcement officers the tools they need to investigate and prosecute terrorists within our borders so that we never face another attack like the ones we saw 4 years ago.

While I strongly support measures that allow for the greater information sharing, it is worth noting that as the 9/11 Commission determined, even without the powers of the PATRIOT Act it was well within the reach of law enforcement to prevent the September 11 terrorist attacks. We knew al-Qaida was operating within our borders. We knew suspected terrorists were in flight schools in America learning how to fly planes. As the Presidential Daily Brief of August 2001 clearly showed, we knew of the possibility that Osama bin Laden was determined to strike our Nation with airplanes.

We had the information to prevent those attacks. Yet we failed to protect the homeland. As my colleagues know, the key goal of the PATRIOT Act was to lower the “wall” between our law enforcement and intelligence agencies that too often prevented the necessary sharing of information among them. That wall is real and existing; it is a legal wall and a cultural wall that is present even today. That wall was recently alluded to in the report card by the 9/11 Commission. That wall exists because in our history of intelligence gathering, every agency has operated within its own silo.

There was very ineffective information sharing about the bad guys laterally across the Federal Government agencies. That wall also exists with the failure to share information between the Federal Government and State and local law enforcement.

We must do more to break down that wall as we move to a more coherent and integrated approach to go after the bad guys. To the extent the conference report before us breaks down that wall of communication and continues to provide the tools to law enforcement to fight the war on terror, its provisions are positive, and I support them.

In addition, there are a number of other provisions in the conference report that are not related to the PATRIOT Act that are also deserving of the support of the Senate. For example, it contains provisions of the Combat Meth Act which I helped introduce at the beginning of this session. This legislation would place restrictions on the sale of products that contain the primary ingredients in methamphetamine to make it harder for criminals to produce the drug in the first place. The conference report also contains provisions to strengthen port security and combat terrorist financing.

Without question, the legislation before us contains provisions that are worthy of support, but I am disappointed about the bill's failure to adequately protect the civil liberties of Americans.

Today, December 15, 2005, marks the 214th anniversary of the ratification of the Bill of Rights in 1791. Among the freedoms enshrined in the Constitution is the fourth amendment's guarantee that the right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures shall not be violated. Let me state that again because that is what is at stake in this debate. The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures shall not be violated.

It is ironic that we are now considering passing legislation that would greatly undermine that principle. Instead, we should take this occasion to reflect on the importance of the liberties guaranteed to all of us by that document and to understand that we can give law enforcement officers the tools they need to fight terrorists without sacrificing our constitutional rights and freedoms.

I have worked very hard with my colleagues to achieve that goal. Earlier this year, I joined with five colleagues from both sides of the aisle in introducing the SAFE Act. I am proud of the leadership and courage shown by Senators CRAIG, DURBIN, SUNUNU, FEINGOLD, and MURKOWSKI. That legislation, the SAFE Act, would have extended all of the expiring sections of the PATRIOT Act. It would also have placed reasonable limitations on the way those powers are used to protect America's fundamental freedoms.

As the Senate began its work on the process of reauthorizing the PATRIOT Act, I continued to work closely with the SAFE Act sponsors to incorporate our commonsense proposal into the Senate reauthorization bill. Although the legislation reported out of the Senate Judiciary and Intelligence Committees was not perfect, it took important steps to protect the freedom of innocent Americans and passed the full Senate with unanimous support from among the Republican, Democratic, and Independent membership of this body.

That is why my colleagues and I fought so hard to see that the conference committee remained true to the Senate-passed bill. Unfortunately, when the details of the draft conference report were released in the week before Thanksgiving, it became clear that the conferees had retreated from the modest civil liberties protections included in the Senate bill.

My colleagues and I renewed our request that the civil liberties concerns be addressed. We did not ask for all the provisions of the SAFE Act. We did not even ask for all the provisions in the Senate legislation. Although we could have easily put this issue behind us now if the House had taken up and passed the bill we unanimously adopted in this Chamber, we simply asked the conferees to make modest changes to a handful of critical provisions. Yet those changes were not made.

Let me review what some of the remaining concerns are with respect to the conference report.

First, section 215. One of the most controversial provisions of the PATRIOT Act is section 215. Section 215 allows the Government to go to a secret court to obtain financial, library, medical, travel, and a whole host of other kinds of records that fall under the extremely vague definition of "any tangible thing." The conference report would also impose an automatic permanent gag order preventing the holder of those records from revealing information about the request. It would not permit the recipient to challenge the gag order.

To be clear on that point, in order to obtain a search order under section 215, all the Government has to do is to go to a secret court, the secret FISA court, and claim that the order is relevant to an ongoing terrorist investigation, an application that the court has no discretion, no authority whatsoever to reject. It simply has to do what the Government asks it to do.

The legal standard of relevance is extremely low. "Relevant evidence" is a very low threshold that can provide no protection to the civil liberties we are trying to protect.

In contrast, the Senate bill would have restored a clear and specific standard of individualized suspicion, meaning that the Government would have to show that the records in question are linked to a suspected terrorist or an agent of a foreign power. In addition, the Senate bill would give the recipient of a FISA order the right to challenge the gag order and to receive meaningful judicial review of that order.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. SALAZAR. Mr. President, I ask unanimous consent for another 3 minutes.

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

Mr. SALAZAR. Mr. President, another controversial provision of the PATRIOT Act is section 505, which authorizes the use of national security letters. National security letters are requests for certain specific categories of information, including financial records, business dealings, and telephone and e-mail records.

Under the conference report, NSLs can be issued without the prior approval of a judge and can be authorized by any of several dozen FBI field offices. The Washington Post recently reported that the Government now issues 30,000 NSLs a year—100 times more than historic norms. I respect and honor my friends and the leadership in the Federal Bureau of Investigation with whom I have worked for many years, but when we start issuing 30,000 NSLs a year, we ought to make sure there is some oversight with respect to how those NSLs are issued.

As with section 215, the conference report does not allow meaningful judi-

cial review of an NSL's gag order. Because the Government does not need a judge's approval to send an NSL, meaningful judicial review of a gag order is a critical safeguard and is simply missing in the conference report.

I wish to finally spend just a second speaking about the sneak-and-peek searches under section 213. My colleagues and I expressed concern about the sneak-and-peek searches where the target of the search is not identified or notified for a period of several days or even weeks.

Prior to the enactment of the PATRIOT Act, law enforcement could delay notification of a search warrant in certain limited cases. The PATRIOT Act significantly lowered the standard for delayed notification, allowing sneak-and-peek searches in any case where "immediate notification of the warrant may have an adverse result." The conference report before us is not much better, as it allows the Government to wait up to 30 days to notify the target of a property search.

I believe we can do better, and I believe the proposal which has been introduced on a bipartisan basis to allow us an additional 90 days to try to work through some of these issues on the PATRIOT Act could, in fact, result in the kind of PATRIOT Act that receives a unanimous vote of the Senate.

In my own State, liberal and conservative newspapers have said that this Senate has an obligation to protect the constitutional liberties of Americans.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. SALAZAR. I ask unanimous consent for 30 additional seconds.

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

Mr. SALAZAR. The Rocky Mountain News said last month that we in the Senate should hang tough because fundamental freedoms of America are at stake.

The Colorado Springs Gazette, a very conservative newspaper, said those insisting on added protections for civil liberties and stricter sunset provisions are doing the right thing by holding their ground.

The Denver Post editorial said: We support a bipartisan effort to block final passage unless safeguards are re-instated.

I believe the Senate can do better in helping us move forward in the fight against terror, giving law enforcement the tools they need in that ongoing battle, and at the same time assuring that we are protecting the cherished freedoms of our democracy enshrined in our Constitution and the Bill of Rights.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, with all due respect, I think we do not need any newspaper editorials to tell the Senate to hang tough or to tell Senators to hang tough or to tell this Senator to hang tough. I think we have hung tough, mighty tough.



Let me take up the specifics about what the Senator from Colorado has had to say.

Mr. FEINGOLD. Mr. President, we have many speakers on our side, and I just want to be clear that this time is charged to the Senator from Pennsylvania.

The PRESIDING OFFICER. The Senator is in control of the time.

Mr. SPECTER. There is no doubt about that. I sought recognition, and it is on my time. There is no doubt about that at all.

Mr. FEINGOLD. I just wanted to clarify that.

Mr. SPECTER. The interruption of the Senator from Wisconsin can be charged on his time.

As to section 215, the Senator from Colorado is wrong. The conference report provides that there may be a "challenge to the legality of the order by filing a petition with the FISA court," and that petition can take up the gag order.

When he talks about the standards, there are the three criteria from the Senate bill, but there is an additional provision that the judge, judicial review on a terrorism investigation which has been authorized by going through quite a number of hurdles, those records are important for a terrorism investigation. If the Senator is talking about library records, it has to be the Director of the FBI or the Assistant Director, or the number-three man. They cannot be delegated. So there are really safeguards and protections for civil liberties in this bill. We hung tough and we got them.

When the Senator from Colorado talks about the conference report on delayed notice, so-called sneak and peak, not much better, I will let my colleagues evaluate whether the Senator from Colorado is right or the Senator from Pennsylvania is right. Currently, under the PATRIOT Act, the only limitation is a reasonable period of time, which can be anything. The Senate bill came in at 7 days. The House bill came in at 180 days. The Fourth Circuit has said that 45 days is a reasonable period of time.

Bear in mind that these delayed notice warrants are not issued unless the impartial judicial official standing between the citizen and the law enforcement officer, the judicial official, is satisfied that there ought to be a delay. If there is a customary search-and-seizure warrant which goes out, the target knows they have been served, but these are surreptitious. These are secret. There has to be a showing that the investigation will be harmed. When we put in 7 days, we were not unaware that there would be negotiations and that the House came in at 180 days. I think we had a pretty good result from the Senate's point of view to concede 23 days and the House conceded 150 days.

So if the Senator from Colorado thinks that is "not much better," I will rely on my colleagues to decide

whether the Senate bill is not a whole lot better as a result of what we did.

When he talks about the national security letters, I made this point several times on the floor, but perhaps the Senator from Colorado has not heard it because he continues to assert the Washington Post story. There have been briefings available, as I said earlier, and the Senator from Colorado can get one from the Department of Justice, that 30,000 figure is wrong. I cannot say what it is because it is classified, and I have asked the Department of Justice to make it an unclassified disclosure, which they have not done so far. I ask the Senator from Colorado, and I ask all of my colleagues, not to vote on this bill based on what they read in the Washington Post. If they have some concerns, come to the floor and we will find time to listen to their concerns and we will see if we can satisfy them, and certainly in that process inform other Senators as to what this bill is all about.

I think we have come to grips with the concerns which the Senator from Colorado has articulated.

Mr. SALAZAR. Mr. President—

Mr. SPECTER. I have the floor, Mr. President—on the national security letters. We have put in safeguards. The national security letter can be quashed if it is unreasonable. The conference report has set the Senate standard for the conclusive presumption, and I think we have been cognizant of civil rights.

I take second place to no one—I know the Senator from Colorado's record as an attorney general and a protector of civil rights, and I have great respect for it, but I take second place to no one in my tenure in the Senate on protecting civil rights, and I think this bill does that.

I yield the floor.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. SALAZAR. Mr. President, a point of inquiry: May I respond to the Senator from Pennsylvania on his time for 30 seconds?

Mr. SPECTER. No, the Senator may not respond on my time.

The PRESIDING OFFICER. The Senator from Pennsylvania does not yield.

Mr. SPECTER. Thirty seconds?

The PRESIDING OFFICER. Thirty seconds.

Mr. SPECTER. Go ahead, on my time.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. SALAZAR. Mr. President, first and foremost, I want to say that I have the utmost respect for the Senator from Pennsylvania as a leader and mentor of all of us. Second, I disagree with his conclusions with respect to the protections for civil liberties because when there is a secret court and the leadership of the FBI essentially in charge of giving those protections to these kinds of provisions in the PATRIOT Act, it is not going to the point where we need to go to protect our civil liberties.

I yield the floor and I thank my good friend and colleague from Pennsylvania.

Mr. SPECTER. One more point before I yield to the Senator from Arizona. It is a secret court because they are discussing national security matters. National security matters are always classified. We are briefed in Senate 407 all the time. We go to a secret room where there are classified materials. There is nothing unusual about that.

I yield 10 minutes to the Senator from Arizona.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, I do want to agree with one thing my colleague from Colorado said just a moment ago. He said the fundamental freedoms of Americans are at stake. I agree with that. But they are not threatened by the U.S. Government. They are threatened by foreign terrorists who struck us on September 11 and who have continued to threaten us since that time.

There was much criticism of our Government as a result of our failure to prevent that attack on September 11, particularly when the 9/11 Commission reported that there were some things that could have been done that just might at least theoretically have prevented that attack. We quickly acted in the Congress to put in place the legal mechanisms to enable our law enforcement and intelligence people to begin protecting the American people. What we found was that there were a lot of loopholes in our laws that needed to be filled in order to give our law enforcement and intelligence people the weapons, the tools, the support that they needed to protect us.

We did that with the PATRIOT Act. However, because of concerns that possibly some of these authorities could be abused, we said we are going to sunset them so that we have to come back and reconsider what we did, and that is what we are all about here now.

As a result of significant debate in this body and in the other body, we each passed different versions of a reauthorization of the PATRIOT Act, and since then accommodated those differences in what is called a conference committee. We are now considering that compromise between the House and Senate versions in a compromised conference committee report. Those of us who helped to write the original PATRIOT Act and were very anxious to get these authorities in place believe that in some respects we have gone too far. We have leaned over too far backward to those who are so afraid that somehow somebody's freedom might be stepped on in this country, that they have not enabled us to fight the terrorists that are the real enemy. They have not given us the tools we need. But in order to get the conference committee resolved and get the bill on the floor here, we agreed to sign the report and have this debate.

Now we find there are people on the other side who insist on having it all



their way. Every single thing they want has to occur or else they are going to filibuster the bill. What does that mean? It means they are going to talk it to death, refuse to allow us to have a final vote on it, with the result that the PATRIOT Act is gone on December 31.

They say: We will agree to extend it for a little while. That is no answer. We have a process. We have gone through the process. It has been very difficult. It has been long. It has been hard. We have gotten a product that is the result of compromise. That is the way we work in the Senate and in the House and in this country, and that compromise has to be voted on, yes or no. If you don't like it, then vote no.

Here is what I suggest. We are at war. We have to be responsible and serious about what we do. I will say it right now, if the filibuster results in this act ceasing to exist, if there is no more PATRIOT Act next year and an attack occurs in this country and it could have been prevented by the provisions of the PATRIOT Act, then everyone who votes to support a filibuster will have to answer for that attack.

There were some things we could have done in the past. I would like to refer to what they are because, from the 9/11 Commission, we know that some of the things we put in the PATRIOT Act might prevent an attack in the future, some of the very things that are being criticized by those who are suggesting they might filibuster. Let me give just a little bit of the detail.

We now know that one of the things that stood in the way of a successful investigation was the previous law, gaps in our terrorism law that prevented the FBI from doing certain things—in particular, to exploit leads that related to al-Qaida.

We came tantalizingly close to substantially disrupting or even stopping this terrorist plot. The investigation to which I refer involved a person by the name of Khalid Al Mihdhar. He was one of the eventual suicide hijackers of American Airlines flight 77, which crashed into the Pentagon, killing 58 passengers and crew and 125 people on the ground. An account of the pre-September 11 investigation of Mihdhar is provided in the 9/11 Commission's staff statement No. 10. Here is what that statement says:

During the summer of 2001 a CIA agent asked an FBI official \* \* \* to review all of the materials from an Al Qaeda meeting in Kuala Lumpur, Malaysia one more time. \* \* \* The FBI official began her work on July 24, of 2001. That day she found the cable reporting that Khalid Al Mihdhar had a visa to the United States. A week later she found the cable reporting that Mihdhar's visa application—what was later discovered to be his first application—listed New York as his destination. \* \* \* The FBI official grasped the significance of this information.

The FBI official and an FBI analyst working the case promptly met with an INS representative at FBI Headquarters. On August 22 INS told them that Mihdhar had entered the United States on January 15, 2000, and

again on July 4, 2001. \* \* \* The FBI agents decided that if Mihdhar was in the United States, he should be found.

At this point, the investigation of Khalid Al Mihdhar came up against the infamous legal "wall" that separated criminal and intelligence investigations at the time. That is a wall, by the way, which will be re-erected if this filibuster succeeds and the PATRIOT Act falls. That wall, everyone agrees, had to come down. The Joint Inquiry Report of the House and Senate Intelligence Committees describes what happened next:

Even in late August 2001, when the CIA told the FBI, State, INS, and Customs that Khalid al-Mihdhar, Nawaf al-Hazmi, and two other "Bin Laden-related individuals" were in the United States, FBI Headquarters refused to accede to the New York field office recommendation that a criminal investigation be opened, which might allow greater resources to be dedicated to the search for the future hijackers. \* \* \* FBI attorneys took the position that criminal investigators "cannot" be involved and that criminal information discovered in the intelligence case would be "passed over the wall" according to proper procedures. An agent in the FBI's New York field office responded by e-mail, saying: "Whatever has happened to this, someday someone will die and, wall or not, the public will not understand why we were not more effective in throwing every resource we had at certain problems."

You would think we would have learned the lesson of 9/11. If the filibuster succeeds, those who vote for the filibuster will be voting to allow this wall to be reerected. The very wall that we tore down with the PATRIOT Act so the FBI and CIA could talk to each other, the very wall that might have, had we torn it down before 9/11—that wall might have prevented us from discovering two of the key people involved in 9/11, and had we stopped them from getting on the airplane, we might have stopped at least one of the attacks of 9/11.

Whatever has happened to this, someday, someone will die, and wall or not, the public will not understand why we were not more effective in throwing every resource we had at certain problems.

Unfortunately, this grim prediction turned out to be true; almost 3,000 people died.

We then acted to make sure it would never happen again. Now there are people threatening to filibuster the PATRIOT Act, which will go out of existence on December 31 if the filibuster succeeds, and people will wonder how it is that this wall was resurrected after the experience we had.

Here is what the 9/11 Commission said about the effect of the wall between the criminal and intelligence investigations with respect to the investigation of Khalid al Mihdhar:

Many witnesses have suggested that even if Mihdhar had been found, there was nothing the agents could have done except to follow him onto the planes. We believe this is incorrect. Both Hazmi and Mihdhar have been held for immigration violations or as material witnesses in the Cole bombing case. Investigation or interrogation of these individuals, and their travel and financial activi-

ties, also may have yielded evidence of connections to other participants in the 9/11 plot. In any case, the opportunity did not arise.

As we know, Mr. President, the PATRIOT Act dismantled this legal wall between intelligence and criminal investigations. It was enacted too late to prevent 9/11, but it will prevent future acts of terrorism unless we allow it to expire.

I would like to talk about another key investigation prior to September 11. I will probably have to get just about 5 more minutes of time. Before I do, let me make just this one point about those who say we do not have to let it expire, we could just extend it for another 3 months or so.

Why do they say that? Because they think they can get some more concessions. The House of Representatives is done making concessions, and I agree with them. I would say the concessions already made could go too far, could hamper our law enforcement capability of catching terrorists or infiltrating their organizations or finding evidence to implicate them in crimes. Nonetheless, that time is passed. There is no more conference committee to go back to. We have reached all of the compromises, and not everybody can get everything they want. I certainly have not gotten everything I want. But I understand that at a certain point, the people of the United States have to pull together and act in a unified way to ensure that we have a law in place that will help us fight this war on terrorism.

I think it is extraordinarily selfish to say we have to have our way or no way, let the Act expire. Oh, we will maybe let it go for another 3 months. What kind of uncertainty does that create? Three months, using one set of procedures and not knowing what the law is going to be.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. KYL. I ask the Senator from Pennsylvania how much more time he can yield me?

Mr. SPECTER. We have only 10 minutes left. Senator CORNYN wants to speak. I need to engage Senator CRAIG in a dialog.

Mr. KYL. I will not ask for any more time, then, except to say at a later time I will tell the story of Zacarias Moussaoui and how the PATRIOT Act helps to resolve the situation we couldn't resolve with Zacarias Moussaoui, either, and had we done that, he may not have been involved in the 9/11 activities.

The PRESIDING OFFICER. Who yields time?

Mr. LEAHY. How much time do I have remaining, Mr. President?

The PRESIDING OFFICER. The Senator from Vermont has 8 minutes 22 seconds. The Senator from Pennsylvania has 9½ minutes.

Mr. LEAHY. I yield my remaining time to the Senator from Idaho.

Mr. CRAIG. I thank my colleague from Vermont for yielding. I am glad I

have been able to follow my colleague, my friend and associate from Arizona, and to say to him: Senator, you are wrong.

You are just flat wrong—that this Senate or this Congress is going to allow the PATRIOT Act to expire.

I find it fascinating, if not almost humorous, that I am on the floor defending the position of JON KYL and my chairman, ARLEN SPECTER, who brought a bill to the floor which brought unanimity to the Senate; that they accepted, that the House rejected, in part; and that they are now saying we should not revisit it again. It is a phenomenally unique responsibility.

Folks, when we are dealing with civil liberties, you don't compromise them, and you don't let the bad guys win.

The Senate of the United States and the Congress and this President will not let the bad guys win. But we are sure not going to compromise civil liberties.

How do you do it? The check and balance that has always been within the law is what we strive for today.

When I began to become involved in the PATRIOT Act, looking at its reauthorization, I knew it would be an uphill battle. I knew it would be an uphill battle because Americans have grown to be frightened. But now they have grown to be emboldened when they recognized that some of their freedoms were and are at risk.

I began to work, as did some of my colleagues. And out of that, knowing it must be reauthorized, we produced a piece of legislation.

I must say Chairman SPECTER took us seriously. I am pleased he did. The Judiciary Committee took us seriously. I am glad they did. Out of that commitment came a work product of which all of us were very proud. And it passed the Senate unanimously.

I think those charges are simply untrue, that somehow we wanted to destroy the act or that we wanted it to expire and go away. I know the rest of the country doesn't believe us anymore in that sense because they now understand the importance of the balance we are striving to create.

I also find it very unique that we are talking about and focusing on a very small part of the PATRIOT Act itself. It is not sweeping change we are proposing. It is not sweeping change we hope to achieve by opposing cloture and asking the House to reconsider the work we have done. Is it an impossible task and is it a leap too far? Not at all.

Look at the House vote yesterday. Two hundred and twenty four voted for the conference report we are now considering. That isn't the important vote, fellow Senators. The important vote was the 202 who agreed that we ought to agree with the Senate on what they had accomplished. That is simply 13 short of a majority in the House. Rarely—and we know that, those of us who have been around a while—do you ever get the House to agree with the Senate as much as the House agrees with the Senate on this issue.

I am very confident, if the Senate revision of the PATRIOT Act and the reauthorization provision we provided, which passed the Senate unanimously, had been on the floor of the House yesterday and that had been the document being voted on, the vote would not have been 224; it would have been 240 or 250 or possibly 300. It is very possible that they would have been able to achieve that kind of broader support. Why? For all of my colleagues who have joined the debate today, and this is why I think the issues we are talking about are so important.

If we had wanted to kill the PATRIOT Act, we would not have gone as far as we have to work with the chairman and the ranking member of the Judiciary Committee to fine-tune it and to make sure those safeguards are in place.

Americans clearly understand we are at war. That does not need to be restated on the floor of this Senate. Blood has been spilled on our soil, and we know that.

We recognize the very important task at hand, and the authority we have given our security organizations and our intelligence and law enforcement organizations in this area.

But it is incumbent upon me, and it is incumbent upon all of us, to make sure that we don't gray or in some way make it easier for free citizens to have their rights violated, either by accident or if by a rogue investigator who found he or she could use the privilege granted here to somehow leverage a situation of a free citizen. And that is not what we are about.

There is so much to be said here, and my time is very limited.

I ask unanimous consent that the "Dear Colleague" letter that many of us sent out yesterday to our colleagues that breaks down part by part what we have done be printed in the RECORD.

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

U.S. SENATE,

Washington, DC, December 14, 2005.

DEAR COLLEAGUE: Prior to the Thanksgiving recess, several Senators expressed strong opposition to the draft Patriot Act reauthorization conference report that was circulated by the conferees. We were gratified that Congress did not attempt to rush through a flawed conference report at that time, and we hoped the conferees would make significant improvements to the conference report before we returned to session this month.

We write to express our grave disappointment that the conference committee has made so few changes to the conference report since then. And now, in the last week of the session, the Senate is being asked to reauthorize the Patriot Act without adequate opportunity for debate. If the conference report comes to the Senate in the same form that it was filed in the House last week, we will oppose cloture on the conference report. We urge you to do the same.

As you know, the Senate version of the bill, passed by unanimous consent in July, was itself a compromise that resulted from intense negotiations by Senators from all sides of the partisan and ideological divides.

That bill did not contain many Patriot Act reforms that we support, but it took important steps to protect the freedoms of innocent Americans while also ensuring that the government has the power it needs to investigate potential terrorists and terrorist activity. Although the conference report contains some positive provisions, it unfortunately still retreats too far from the bipartisan consensus reached in the Senate. It fails to make some vitally important reforms and in some areas actually makes the law worse.

Last week, Chairman Specter circulated a Dear Colleague suggesting the conference report as drafted addresses the concerns raised about potential civil liberties abuses. We credit Chairman Specter for improving the conference report. However, the most important substantive reforms from the Senate bill were excluded from the conference report. The original cosponsors of the SAFE Act (Senators CRAIG, DURBIN, SUNUNU, FEINGOLD, MURKOWSKI, SALAZAR) identified several items before Thanksgiving as problematic and indicated they would not support the conference report unless additional changes were made in those areas. Those issues were not adequately addressed. They include the following:

The conference report would allow the government to obtain library, medical and gun records and other sensitive personal information under Section 215 of the Patriot Act on a mere showing that those records are relevant to an authorized intelligence investigation. As business groups like the U.S. Chamber of Commerce have argued, this would allow government fishing expeditions targeting innocent Americans. We believe the government should be required to convince a judge that the records they are seeking have some connection to a suspected terrorist or spy, as the three-part standard in the Senate bill would mandate.

Some conferees argue that the language in the conference report would permit the government to use the "relevance" standard only in limited, extraordinary circumstances, and that the Senate bill's three-part standard would continue to apply in most circumstances. To the contrary, the conference report never requires the government to demonstrate that the individual whose records are sought is connected to a terrorist or spy; rather, it permits the "relevance" standard to be used in every case.

It has also been asserted that the government should not be required to abide by the three-part Senate standard because the Department of Justice demonstrated in a classified setting that "circumstances may exist in which an individual may not be known to a foreign power or be a recognized terrorist but may nevertheless be crucial to an authorized terrorism investigation." We are convinced, however, that the three-part standard provides the necessary flexibility in such circumstances. Indeed, the government need only show that the records they seek are relevant to the activities of a suspected terrorist or spy, a very low burden to meet, but one that will protect innocent Americans from unnecessary surveillance and ensure that government scrutiny is based on individualized suspicion, a fundamental principle of our legal system.

Unlike the Senate bill, the conference report does not permit the recipient of a Section 215 order to challenge its automatic, permanent gag order. Courts have held that similar restrictions violate the First Amendment. While some have asserted that the FISA court's review of a government application for a Section 215 order is equivalent to judicial review of the accompanying gag order, the FISA court is not permitted to make an individualized decision about

whether to impose a gag order when it issues a Section 215 order. It is required by statute to include a gag order in every Section 215 order; the gag order is automatic and permanent in every case. The recipient of a Section 215 order is entitled to, but does not receive, meaningful judicial review of the gag order.

The conference report does not sunset the National Security Letter (NSL) authority. In light of recent revelations about possible abuses of NSLs, which were reported after the Senate passed its reauthorization bill, the NSL provision should sunset no more than four years so that Congress will have an opportunity to review the use of this power.

The conference report does not permit meaningful judicial review an NSL's order. It requires the court to accept as conclusive the government's assertion that a gag order should not be lifted, unless the court determines the government is acting in bad faith. As a result, the judicial review provisions do not create a meaningful right to review that comports with due process.

The conference report does not retain the Senate protections for "sneak and peek" search warrants, as Chairman Specter's letter suggests. The conference report requires the government to notify the target of a "sneak and peek" search within 30 days after the search, rather than within seven days as the Senate bill provides and as pre-Patriot Act judicial decisions required. That seven-day period was the safeguard included in the Senate sneak and peek provision. The conference should include a presumption that notice will be provided within a significantly shorter period in order to better protect Fourth Amendment rights. The availability of additional 90-day extensions means that a shorter initial time frame will ensure timely judicial oversight of this highly intrusive technique but not create undue hardship on the government.

While the issues discussed above are the core concerns about the conference report that the original cosponsors SAFE Act asked to be modified, they are not the only problems that we see with the conference report. There are a number of other areas where we believe the conference report falls short.

#### "LIBRARY RECORDS" PROVISION (SECTION 215)

Unlike the Senate bill, the conference report requires a person who receives a Section 215 order to notify the FBI if he consults with an attorney and to identify the attorney to the FBI. This will have a significant chilling effect on the right to counsel. There is no such requirement any other area of law.

The conference report would give the government unilateral authority to keep all its evidence secret from a recipient who is challenging a 215 order, regardless of whether the evidence is classified. This will make it very difficult for the recipient of a Section 215 order to obtain meaningful judicial review that comports with due process.

Under the conference report, the target of a Section 215 order never receives notice that the government has obtained his sensitive personal information and never has an opportunity to challenge the use of this information in a trial or other proceeding. All other FISA authorities (wiretaps, physical searches, pen registers, and trap and trace devices) require such notice and opportunity to challenge.

#### NATIONAL SECURITY LETTERS (SECTION 505)

The conference report would allow the government to issue NSLs for certain types of sensitive personal information simply by certifying that the information is sought for a terrorism or espionage investigation. This would allow government fishing expeditions targeting innocent Americans. As business

groups have argued, the government should be required to certify that the person whose records are sought has some connection to a suspected terrorist or spy.

Unlike the Senate bill, the conference report requires a person who receives an NSL to notify the FBI if he consults with an attorney and to identify the attorney to the FBI. This will have a significant chilling effect on the right to counsel. There is no such requirement in any other area of law.

Unlike the Senate bill, the conference report for the first time imposes criminal penalties on an NSL recipient who speaks out in violation of an NSL gag order, even if the NSL recipient believes his rights have been violated.

The conference report for the first time gives the government the power to go to court to enforce an NSL, effectively converting an NSL into an administrative subpoena. An NSL recipient could now potentially be held in contempt of court and subjected to serious criminal penalties. The government has not demonstrated a need for NSLs to be court enforceable and has not given any examples of individuals failing to comply with NSLs.

The conference report would give the government unilateral authority to keep all its evidence secret from a recipient is challenging an NSL, regardless of whether the evidence is classified. This will make it very difficult for an NSL recipient to obtain meaningful judicial review that comports with due process.

As with Section 215, the conference report fails to require notice to the target of an NSL if the government seeks to use the records obtained from the NSL in a subsequent proceeding, and fails to give the target an opportunity to challenge the use of those records.

#### "SNEAK AND PEEK" SEARCHES (SECTION 213)

The conference report does not eliminate the catch-all provision that allows sneak and peek searches any time that notice to a subject would "seriously jeopardize" an investigation. This exception could arguably apply in almost every case.

#### ROVING WIRETAPS (SECTION 206)

The conference report does not include meaningful checks on "John Doe" roving wiretaps, a sweeping power never authorized in any context by Congress before the Patriot Act. A John Doe roving wiretap does not identify the person or the phone to be wiretapped. Unlike the Senate bill, the conference report does not require that a roving wiretap include sufficient information to describe the specific person to be wiretapped with particularity.

The conference report does not require the government to determine whether the target of a roving intelligence wiretap is present before beginning surveillance. An ascertainment requirement, as has long applied to roving criminal wiretaps, is needed to protect innocent Americans from unnecessary surveillance, especially when a public phone or computer is wiretapped.

#### PEN REGISTERS AND TRAP AND TRACE DEVICES (SECTION 214 AND 216)

The conference report retains the Patriot Act's expansion of the pen/trap authority to electronic communications, including e-mail and Internet. In light of the vast amount of sensitive electronic information that the government can now access with pen/traps, modest safeguards should be added to the pen/trap power to protect innocent Americans, but the conference report does not do so.

#### DOMESTIC TERRORISM DEFINITION (SECTION 802)

The conference report retains the Patriot Act's overboard definition of domestic ter-

rorism, which could include acts of civil disobedience by political organizations. While civic disobedience is and should be illegal, it is not necessarily terrorism. This could have a significant chilling effect on legitimate political activity that is protected by the first Amendment.

It is not too late to remedy the problems with the conference report and pass a reauthorization package that we can all support. The House could take up and pass the bill the Senate adopted by unanimous consent in July, or, if the additional modest but critical improvements to the conference report that the original cosponsors of the SAFE Act laid out prior to Thanksgiving are made, we believe the conference report can easily and quickly pass both the House and the Senate this month.

We appreciate that since Thanksgiving, the conferees agreed to include four-year sunsets of three controversial provisions rather than seven-year sunsets. But we should not just make permanent or, in the case three provisions, extend for another four years the most controversial provisions of the Patriot Act. The sunsets this year provide our best opportunity to make the meaningful changes to the Patriot Act that the American public has demanded. Now is the time to fix these provisions.

We urge you to join us in opposing cloture on the conference report, and in supporting our call for the conferees to make additional improvements. We still have the opportunity to pass a good reauthorization bill this year. But to do so, we must stop this conference report, which falls short of the meaningful reforms that need to be made. We must ensure that when we do reauthorize the Patriot Act, we do it right. We still can—and must—make sure that our laws give law enforcement agents the tools they need while providing safeguards to protect the constitutional rights of all Americans.

Sincerely,

Larry E. Craig, John E. Sununu, Lisa Murkowski, Chuck Hagel, Barack Obama, Dick Durbin, Russ Feingold, Ken Salazar, John F. Kerry.

Mr. CRAIG. Mr. President, let me, for a moment, touch on something I think is important. This issue has spread beyond these walls and beyond this building.

The Idaho Legislature, my legislature in Idaho, by a resolution, a house joint memorial and a senate joint memorial to the Congress, asked that we support the SAFE Act. The SAFE Act was the passage of amendments that the Senate Judiciary Committee incorporated within our version of the reauthorization of the PATRIOT Act that passed this body unanimously.

From the beginning, those of us who have concerns about PATRIOT have had an uphill battle. Practically before the ink was dry on our bill—and certainly well before any committee had reviewed it—we faced a veto recommendation. Before they even read our reform proposals, some of PATRIOT's defenders charged us with wanting to repeal the law and do away with all the tools it provided law enforcement to protect our country against terrorism.

Those charges were not true when we began, and they're not true today. We are not trying to undo PATRIOT. If some Senators still believe that, well, the rest of the country does not.

Most of PATRIOT isn't even at issue today—just a small part of the law is up for renewal. Of that small part, we are only focusing on a few controversial and very important provisions. And even for those few provisions in the small part of the law up for renewal, we are asking for modest checks and balances, not repeal. And we have even been flexible about what shape those reforms should take. We introduced the SAFE Act, offering one way to “fix” what we saw as problems, but in the end, we accepted a Senate Judiciary Committee bill that took a couple of different approaches.

Here is an interesting reaction: When we are dealing with constitutional freedoms, just a little can make all the difference. Some are saying that we are asking for so little, we should just drop it altogether. Our point is that it would take very little to close the gap and provide the assurances we are seeking. Our ask is very do-able. The conference on this bill was squeezed into the very end of the year; changes were being made in the conference agreement even up to the day of its filing. We believe a limited timeframe would allow further discussion and an opportunity to get beyond whatever political issues are in the way. Some of us have even introduced legislation that would extend the expiring provisions of PATRIOT for 3 months, for this purpose.

Furthermore, it's worth emphasizing that our concerns are not about insignificant or technical issues—they relate to what happens when innocent Americans come within the sphere of surveillance in antiterrorism investigations.

Regardless of what Americans think about the PATRIOT Act's effectiveness, they also care about preserving their freedom within the fight against terrorism.

Let me read the resolution passed by the Idaho State Legislature earlier this year on the subject:

A JOINT MEMORIAL TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, AND TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES

We, your Memorialists, the House of Representatives and the Senate of the State of Idaho assembled in the First Regular Session of the Fifty-eighth Idaho Legislature, do hereby respectfully represent that:

Whereas, citizens of the state of Idaho strongly believe that basic civil liberties must be preserved and protected, even as we seek to guard against terrorist and other threats to the national security; and

Whereas, there are some principles of our democracy which are so fundamental to the rights of citizenship that they must be preserved to guard the very liberties we seek to protect; and

Whereas, legislation known as the SAFE Act has been introduced in the Congress of the United States to adopt amendments to the Patriot Act which would address some of the most problematic provisions of the Act; and

Whereas, the SAFE Act amends the Patriot Act to modify the provision regarding

the roving wiretaps to require that the identity of the target be given and that the suspect be present during the time when surveillance is conducted; and

Whereas, the SAFE Act revises provisions governing search warrants to limit the circumstances when the delay of notice may be exercised and to require reports to the Congress when delays of notice are used; and

Whereas, the SAFE Act requires specific and articulable facts be given before business records are subject to investigation by the Federal Bureau of Investigation; and

Whereas, the SAFE Act provides that libraries shall not be treated as communication providers subject to providing information and transaction record of the library patrons; and

Whereas, it is appropriate that the Legislature of the State of Idaho, on behalf of the citizens of Idaho, express support of the efforts of Senator Larry Craig to adopt the SAFE Act, and encourage the full support of the Idaho congressional delegation.

Now, therefore, be it *Resolved by the members of the first Regular Session of the Fifty-eighth Idaho Legislature, the House of Representatives and the Senate concurring therein.* That the Idaho Legislature endorses the efforts to amend the Patriot Act to assure that it works well to protect our security but that it does not unnecessarily compromise essential liberties of the citizens of the United States. We urge the congressional delegation representing the State of Idaho in the Congress of the United States to support legislation introduced by Senator Larry Craig, known as the SAFE Act.

This is just one of hundreds of such statements issued by states, cities, and communities across the Nation on this subject.

I have actually heard colleagues saying that because there have been no publicly reported abuses of PATRIOT Act powers, there is no justification for changing the law. Since when do we have to wait for the Constitution to be breached to take action? Since when do the American people have to justify demanding checks and balances that will make sure there can be no such abuses? Since when did it become the American people's burden of proof to support protecting their civil liberties?

I thought the government worked for the people, and not the other way around

We are not the ones who should have to be justifying a call for checks and balances. It's up to the government to prove those checks and balances are not workable and not in the best interests of the Nation.

Now, we have heard a lot about the civil liberties protections that have been included in this conference report. I stand second to none in giving credit to our Judiciary Committee chairman, ARLEN SPECTER, for achieving these reforms. I well know the opposition he was up against, and I am very pleased he was able to persuade conferees—as he persuaded some in this body—that we can have both: protection of the privacy and civil liberties of innocent citizens, and aggressive fighting against terrorism.

It is worth noting that even those of our colleagues who opposed our original SAFE Act proposals ended up supporting the Senate bill that contained

civil liberties reforms. Today these same colleagues are praising the conference report's provisions along those lines—and my message to them is: why not go just a little further toward the Senate's version in some of these areas? You voted for them once before—why not again?

That's how much confidence I have in Chairman SPECTER—that with this additional expression of support from the Senate, he will be able to make a few last—but important—improvements.

The other body voted yesterday on the PATRIOT Act conference report, and a motion to reject that report and instead accept the entire Senate-passed version was narrowly defeated, 202–224. This is a remarkable vote. The U.S. House is a body of 435 Members. 215 is the majority, they were 13 short of passing the Senate bill, the very reform I am asking for today. But those of us seeking more time for negotiations aren't asking that the entire conference report be defeated; we aren't asking for the House to swallow the entire Senate bill. Instead, we have identified a few areas where we believe improvements could and should be made, and I think the House vote shows these changes would be welcomed by a substantial number in that body.

To those of my colleagues who are telling us to “quit while we're ahead,” I say: where would we be if they had stopped at the First Amendment of the bill of Rights? Should they have quit while they were ahead, and forgotten about those other nine amendments?

These are important issues. Let's allow a little more time for the process to work, and respond to the concerns that our citizens have expressed.

1. The changes we are seeking:

The conference report that we are voting on would allow the government to obtain library, medical and gun records and other sensitive personal information under Section 215 of the PATRIOT Act on a mere showing that those records are relevant to an authorized intelligence investigation. As business groups like the U.S. Chamber of Commerce have argued, this would allow government fishing expeditions targeting innocent Americans. We believe the government should be required to convince a judge that the records they are seeking have some connection to a suspected terrorist or spy, as the three-part standard in the Senate bill would mandate.

Some conferees argue that the language in the conference report would permit the government to use the “relevance” standard only in limited, extraordinary circumstances, and that the Senate bill's three-part standard would continue to apply in most circumstances. To the contrary, the conference report never requires the government to demonstrate that the individual whose records are sought is connected to a terrorist or spy; rather, it permits the “relevance” standard to be used in every case.

It has also been asserted that the government should not be required to

abide by the three-part Senate standard because the Department of Justice demonstrated in a classified setting that "circumstances may exist in which an individual may not be known to a foreign power or be a recognized terrorist but may nevertheless be crucial to an authorized terrorism investigation." We are convinced, however, that the three-part standard provides the necessary flexibility in such circumstances. Indeed, the government need only show that the records they seek are relevant to the activities of a suspected terrorist or spy, a very low burden to meet, but one that will protect innocent Americans from unnecessary surveillance and ensure that government scrutiny is based on individualized suspicion, a fundamental principle of our legal system.

Unlike the Senate bill, the conference report does not permit the recipient of a Section 215 order to challenge its automatic, permanent gag order. Courts have held that similar restrictions violate the First Amendment. While some have asserted that the FISA court's review of a government application for a Section 215 order is equivalent to judicial review of the accompanying gag order, the FISA court is not permitted to make an individualized decision about whether to impose a gag order when it issues a Section 215 order. It is required by statute to include a gag order in every Section 215 order; the gag order is automatic and permanent in every case. The recipient of a Section 215 order is entitled, but does not receive, meaningful judicial review of the gag order.

The conference report does not sunset the National Security Letter, NSL, authority. In light of recent revelations about possible abuses of NSLs, which were reported after the Senate passed its reauthorization bill, the NSL provision should sunset in no more than four years so that Congress will have an opportunity to review the use of this power.

The conference report does not permit meaningful judicial review of an NSL's gag order. It requires the court to accept as conclusive the government's assertion that a gag order should not be lifted, unless the court determines the government is acting in bad faith. As a result, the judicial review provisions do not create a meaningful right to review that comports with due process.

The conference report does not retain the Senate protections for "sneak and peek" search warrants, as Chairman SPECTER's letter suggests. The conference report requires the government to notify the target of a "sneak and peek" search within 30 days after the search, rather than within 7 days, as the Senate bill provides and as pre-PATRIOT Act judicial decisions required. That 7-day period was the key safeguard included in the Senate sneak and peek provision. The conference report should include a presumption that no-

tice will be provided within a significantly shorter period in order to better protect Fourth Amendment rights. The availability of additional 90-day extensions means that a shorter initial time frame will ensure timely judicial oversight of this highly intrusive technique but not create undue hardship on the government.

Unlike the Senate bill, the conference report requires a person who receives an NSL to notify the FBI if he consults with an attorney and to identify the attorney to the FBI. This will have a significant chilling effect on the right to counsel. There is no such requirement in any other area of law.

Unlike the Senate bill, the conference report for the first time imposes criminal penalties on an NSL recipient who speaks out in violation of an NSL gag order, even if the NSL recipient believes his rights have been violated.

The conference report for the first time gives the government the power to go to court to enforce an NSL, effectively converting an NSL into an administrative subpoena. An NSL recipient could now potentially be held in contempt of court and subjected to serious criminal penalties. The government has not demonstrated a need for NSLs to be court enforceable and has not given any examples of individuals failing to comply with NSLs.

The conference report would give the government unilateral authority to keep all its evidence secret from a recipient who is challenging an NSL, regardless of whether the evidence is classified. This will make it very difficult for an NSL recipient to obtain meaningful judicial review that comports with due process.

As with Section 215, the conference report fails to require notice to the target of an NSL if the government seeks to use the records obtained from the NSL in a subsequent proceeding, and fails to give the target an opportunity to challenge the use of those records.

The conference report does not eliminate the catch-all provision that allows sneak and peek searches any time that notice to a subject would "seriously jeopardize" an investigation. This exception could arguably apply in almost every case.

Many of my colleagues say the PATRIOT Act is just giving law enforcement powers in terrorism investigation what they already have in drug investigation.

Well not here. The conference report does not include meaningful checks on "John Doe" roving wiretaps, a sweeping power never authorized in any context by Congress before the PATRIOT Act. A John Doe roving wiretap does not identify the person or the phone to be wiretapped. Unlike the Senate bill, the conference report does not require that a roving wiretap include sufficient information to describe the specific person to be wiretapped with particularity.

The conference report does not require the government to determine

whether the target of a roving intelligence wiretap is present before beginning surveillance. An ascertainment requirement, as has long applied to roving criminal wiretaps, is needed to protect innocent Americans from unnecessary surveillance, especially when a public phone or computer is wiretapped. Yes, new technology is challenging but should not allow our privacy rights to be swept away.

The conference report retains the PATRIOT Act's expansion of the pen/trap authority to electronic communications, including e-mail and Internet. In light of the vast amount of sensitive electronic information that the government can now access with pen/traps, modest safeguards should be added to the pen/trap power to protect innocent Americans, but the conference report does not do so.

The conference report retains the PATRIOT Act's overbroad definition of domestic terrorism, which could include acts of civil disobedience by political organizations. While civil disobedience is and should be illegal, it is not necessarily terrorism. This could have a significant chilling effect on legitimate political activity that is protected by the First Amendment.

While the issues discussed above are the core concerns about the conference report that the original cosponsors of the SAFE Act asked to be modified, they are not the only problems that we see with the conference report. There are a number of other areas where we believe the conference report falls short.

Unlike the Senate bill, the conference report requires a person who receives a Section 215 order to notify the FBI if he consults with an attorney and to identify the attorney to the FBI. This will have a significant chilling effect on the right to counsel. There is no such requirement in any other area of law.

The conference report would give the government unilateral authority to keep all its evidence secret from a recipient who is challenging a 215 order, regardless of whether the evidence is classified. This will make it very difficult for the recipient of a Section 215 order to obtain meaningful judicial review that comports with due process.

Under the conference report, the target of a Section 215 order never receives notice that the government has obtained his sensitive personal information and never has an opportunity to challenge the use of this information in a trial or other proceeding. All other FISA authorities—wiretaps, physical searches, pen registers, and trap and trace devices—require such notice and opportunity to challenge.

The conference report would allow the government to issue NSLs for certain types of sensitive personal information simply by certifying that the information is sought for a terrorism or espionage investigation. This would allow government fishing expeditions

targeting innocent Americans. As business groups have argued, the government should be required to certify that the person whose records are sought has some connection to a suspected terrorist or spy.

Again, what is important is to understand and plead with our colleagues—that how you negotiate is through power and leverage, not to give up and walk away. I am not going to suggest that the chairman did that at all. He and I dialogued many times over the course of the last 2 weeks as to what we might do to gain greater position, to gain the Senate position with the House.

My compliments to him for the successes that are in the conference report because there are some. But my frustration is that what we did in the Senate in this very important instance has not been adhered to. Those safeguards have not been put in place to the extent that we had asked. And I believe it is reasonable and right to say: No, let us live for 3 more months with the current law while we attempt to achieve even greater protection for the private citizens of this country but most importantly recognize that the law enforcement community needs that time to ask permission and to show that they have very real reason to believe that somebody is involved.

I think it has been a very excellent debate which has gone on on the floor of the Senate. But there is a reality check. That reality check is a vote on the conference report, and I ask my colleagues to vote against cloture so that we can reenter this debate one more time with the House to make sure we get it right so that the first amendment and the fourth amendment are not, in some way, in jeopardy.

I yield the floor.

Mr. SPECTER. Mr. President, I have worked very closely with the distinguished Senator from Idaho, as he noted, on this matter, with lots of discussions and lots of dialog. He and I worked together on the Ruby Ridge investigation, as Senator LEAHY was involved on the other side of the aisle. That was a high watermark of congressional oversight protection of the individual rights.

I have a long history with Senator CRAIG and agree with him that you don't compromise on civil liberties. What you do with civil liberties is you protect them.

But I submit to my colleague from Idaho that we have protected.

I ask him: He starts off with the delayed notice. The pejorative term is "sneak and peek." Delayed notice is when the law enforcement official shows the judge, the impartial arbiter between the citizen and law enforcement, that there are reasons to have delayed notice.

Ordinarily, you have a search-and-seizure warrant. The target knows that right away.

The current bill provides for "reasonable period of time," which could mean

anything. Some have gone for enormous periods of time. The House came in at 180 days and the Senate came in at 7 days. We were not unaware in picking 7 days we were starting a negotiating track. We were not going to have our entire way. The Fourth Circuit said 45 days is presumptively reasonable and we ended up with 30.

I ask my colleague from Idaho, is it a compromise of civil liberties to have a 30-day notice period where you change the existing law from what is reasonable—which means anything—and the House comes down 150 days and we go up 30 days; is that a compromise?

Mr. CRAIG. I know my chairman thinks that is a success. First, we have broken and entered a private citizen's home without telling them. Does it take 30 days for law enforcement to determine that what they have found is so valuable that they cannot tell the citizen they have broken into their home? Why not 7 days? And then go to a judge and prove your worth with the evidence you have established by that "break-in"—because that is what you have done. My home is my sanctuary. We have said, yes, we are going to let you break and enter, sneak and peek, but we are going to make sure it is very limited.

So I don't view 30 days as a compromise. Seven days. You were right to begin with. You are wrong now.

Mr. SPECTER. You cannot take all my time.

I will ask another question but may make the argument—

Mr. CRAIG. If the Senator will yield, I will be kinder.

The PRESIDING OFFICER. The Senator from Pennsylvania has the floor.

Mr. SPECTER. No, no.

Mr. CRAIG. All right.

Mr. SPECTER. All of this effort to get the floor and I will yield right away? Absolutely not.

The point of the time is not to show what they have gotten is valuable. The time is in order to enable them to conduct an investigation. They got the order initially because they showed a judge, an impartial magistrate, that there was a reason to think if the target knew, it would impede the investigation.

I will let my 98 colleagues evaluate whether that is a compromise on civil liberties.

The letter which the Senator from Idaho refers to, which was filed yesterday and printed in the RECORD, I have already put the reply into the RECORD, which we circulated today. In that letter, the assertion made that the Foreign Intelligence Surveillance Court is not permitted to make an individualized decision about whether to impose a gag order when it issues a section 215 order is incorrect. That is not right. The statute provides there may be a petition to have the court review the 215 order and the Foreign Intelligence Surveillance Court has the authority at that point to say there will be no gag order.

When the Senator from Idaho puts in his letter that they want a sunset on the national security letter, I point out to him the PATRIOT Act does not establish the national security letter. That has been in existence for decades.

Mr. CRAIG. It is broadening of the application, not the establishment.

Mr. SPECTER. Regular order, Mr. President.

The PRESIDING OFFICER. The Senator from Pennsylvania has the floor.

Mr. SPECTER. The PATRIOT Act does not establish the national security letter. But the PATRIOT Act was used as a vehicle for extending civil rights, which the Senator from Idaho is concerned about. He is a civil libertarian and so am I. When he introduced the so-called SAFE Act to cut back on the PATRIOT Act, and he came to me and asked, Would you cosponsor it, I immediately said yes. But when we structured the PATRIOT Act, we took a look at the national security letters and we said, this is an occasion where we ought to rein in the national security letter. And we did so by saying the recipient did not have to keep quiet—which you have to do under existing law—but you could go to a lawyer. I don't think you ought to have to have legislative authority to go to a lawyer. But we made no bones about it. We were not going to leave that to chance, and we said you can go to a lawyer. Then that lawyer could go to court and quash the national security letter if it is unreasonable.

The standard of "reasonable" is all over the law. It is what a reasonable person would do. It controls tort law, accidents, reasonable personal negligence, it controls antitrust law, reasonable restraints. The court has plenary authority, full authority to quash the national security letter if it is unreasonable.

Now, when you come to the point about disclosure, you are dealing with some pretty tough stuff. You are dealing with national security. The Senate bill that went through without objection by anyone, including the Senator from Idaho, has a provision that there is a conclusive presumption if the Government certifies that it will impede national security or harm foreign relations. But in the conference report, in part because Senator CRAIG was vigilant in talking to us about the conference report, we said, that is not enough. It ought to be on the Government, some law enforcement officer in the field. We put in the requirement it had to be the Attorney General or Deputy Attorney General, head of the FBI, or Assistant Attorney General—all positions which are confirmed by the Senate, so they are ranking positions.

We saw to it that the national security letter was reined in. We also saw to it that the wiretaps were reined in. Then we had the big argument about the sunset. I almost had a feeling in one long telephone conversation with Senator CRAIG about 10 days ago that if we got a 4-year sunset, which was a



golden prize—the House wanted 10 years and the Senate had 4 years; the House wanted the compromise on 7, halfway between; we said no, we are not going to do that. This was a matter of great importance to many Senators, especially to Senator CRAIG. So we can review all of this and we can have oversight. I almost thought if we got 4 years, we would get Senator CRAIG. He is nodding in the negative.

Mr. CRAIG. It was third on my list.

Mr. SPECTER. We did not get Senator CRAIG.

Mr. President, when the six Senators wrote a letter with a lot of concerns, we responded with a seven-page letter. When yesterday we received a letter with nine Senators, we responded with an eight-page letter which the staff has worked on. We have had extraordinary staff working on all sides. This goes for my staff, this goes for Senator LEAHY's staff. The Judiciary Committee has not had any time off. We had an August recess for the Senate but not for the Senate Judiciary Committee.

The PRESIDING OFFICER. The time of the Senator is expired.

Mr. SPECTER. In that event, I stop.

#### RECESS

The PRESIDING OFFICER. Under the previous order, the Senate will stand in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 12:47 p.m., recessed until 2:15 p.m., and reassembled when called to order by the Presiding Officer (Mr. THOMAS).

The PRESIDING OFFICER. Under the previous order, the time from 2:15 until 3:30 shall be equally divided between the two leaders or their designees.

Mr. BAUCUS. I thank the Chair.

(The remarks of Mr. BAUCUS pertaining to the introduction of S. 2107 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. BAUCUS. Mr. President, I thank the Senators from Oklahoma and Idaho for their courtesy. There were three of us scheduled to speak at the same time. Obviously, that is very difficult to do. These two Senators graciously allowed me to go ahead. I thank them both.

The PRESIDING OFFICER (Mr. THUNE). The Senator from Oklahoma.

#### LABOR-HHS APPROPRIATIONS CONFERENCE REPORT

Mr. COBURN. Mr. President, I wish to spend a few minutes of my time talking about the Labor-HHS bill and a lot of the comments we have heard in the Chamber over the last couple days as to what we are and are not doing. I thought the American public should have a good perspective about what has happened in terms of the growth of this department since the fiscal year 1998 started.

This is a tight budget. I commend those who are in charge of it. It is a

vast improvement over what we have done in other years. There is no question there are some unmet needs that can be claimed out of this appropriations bill. That is the time we face in our country. The Federal Government cannot meet every need.

In regard to history, Health and Human Services from 1998 to 2005, over that 8-year period, in real dollars has increased at over 10 percent per year. It has actually increased over 13 percent per year, but we have had inflation of 3 percent. So what we have seen is an actual doubling of the size of that component of the Federal Government from September 30 of 1997 to today. It has doubled in size. Education is the same. Actually, education more than doubled in size, net of inflation. That is in terms of real dollars. So when we hear the words that we can't do what we are doing, I would have our fellow colleagues look down the road a little bit. This is just a taste of what we are going to be facing if we don't start making the choices based on priority.

I tell you, we are on an unsustainable path even with this bill. We cannot meet those needs that need to be met if we continue to not prioritize in the functioning of the Federal Government.

Again, I take seriously the claim that we would take away food stamps from people who have no other source of nutrition. But I also take seriously the claim and the knowledge reported by the Department of Agriculture and the Food Stamp Program that last year they paid out \$1.6 billion in food stamps to people who were ineligible, who had other sources of income. And yet they continued to spend \$1.6 billion.

Why is all this important? It is important because this last year, ending September 30, we spent \$538 billion more in that fiscal year than we took in. So the debate has to be in the context of what are we doing to our children and our grandchildren. We have to make a measured balance about how we make these decisions.

The decision of trimming programs that are not effective and doing the hard oversight—the real thing that is lacking is us doing the work of oversight. We have opportunities lost when we don't put money into those programs that are more effective and take money from those programs that are less effective.

The debate is centered about us and our constitutional duties to do oversight but also in terms of the future and what kind of heritage and legacy in terms of debt are we going to leave to our children.

Overall, the Congress has done a good job with this bill. There are still tons of waste in this bill. This bill totaled has \$602 billion worth of spending in it.

I have one last comment, and that is there is \$55 billion for the new Medicare Part D Program, of which only 1 out of every 15 people who are eligible for that program is a new person who

would not have had drugs. So we are going to pay for 14 people who had insurance or other coverage to cover one additional person. And none of that money is paid for. That \$55 billion is coming from our grandchildren.

This is a program on which I did not have an opportunity to vote. I would have voted against it. I also didn't have an opportunity to attach it to a supplemental, which I would have offered, to eliminate or freeze this program because our children and our grandchildren absolutely cannot afford it. It is \$8.7 trillion between now and 2050 that we are going to put into this brandnew program that is starting today that helps 1 in 15. It helps 1 in 15 who need it. And yet we are saying it is OK for our children to pay that bill.

I commend Senator SPECTER on his hard work on the bill. This is the first time in years that the hard choices have been made. I remind our colleagues that as we face the future with Social Security, Medicare, and Medicaid and a war and natural disasters, hard choices is what we are here for. Yes, as Senator KENNEDY said today, we do need to be concerned about those who can't take care of themselves, but I put forward to my colleagues that with \$600 billion—that is \$20,000 per man, woman, and child in this country—we ought to be able to take care of them.

I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAPO. I thank the Chair.

(The remarks of Mr. CRAPO and Mr. THOMAS pertaining to the introduction of S. 2110 are printed in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Senator from Washington.

#### SPENDING CUTS

Mrs. MURRAY. Mr. President, I have traveled throughout my home State of Washington throughout the past month. A lot of people have told me time and time again they want our country to be strong again, and to be strong we need to invest right here at home, in our people, in our infrastructure, and in our communities. But today the Republican leadership is trying to push us in the wrong direction by cutting those critical investments. Republicans today are attempting to interpose an across-the-board spending cut that will hurt our families, it will hurt our local communities, and it will even jeopardize the housing and safety of the American people.

I am speaking out today to explain how those misguided cuts will affect housing for vulnerable families and the safety of every American who plans to fly this holiday season.

I thank Senator BYRD for his tremendous leadership and his speaking out about this misguided Republican plan.



As the ranking member of the Appropriations Subcommittee on Transportation, Treasury, the Judiciary, Housing and Urban Development, and related agencies, I am here today to tell my colleagues that an additional 1-percent to 2-percent cut across the board will not be harmless. It will chip away at the Federal safety net that protects our vulnerable neighbors, and it will undermine the safety of our commercial aviation system.

Before I turn to those details, I want to make a broader point about priorities. There is something very wrong with the idea behind these broad, across-the-board cuts. Here is what the leadership in the Republican Party is saying with these cuts: When we need to rebuild in Iraq, we will pay for it out of the Treasury. But when we need to rebuild American cities such as New Orleans and Biloxi, we can only do it on the backs of vulnerable Americans. We can only do it by cutting other priorities at home.

That is the wrong message. It is the wrong priority, and America can do better than that. That Republican idea should offend every American taxpayer who believes that the first and greatest responsibility of our Federal Government should be the well-being of our own people. Nonetheless, that is the position of the Republican leadership in this Congress. As a result, we are now being told that, if we want to help the victims of Hurricane Katrina, we have to cut every Federal program across the board, no matter how much those cuts will hurt our safety, our economy, or our security.

Some Senators may try to suggest that a small cut will not have a big impact. I can tell you, as a member of the Appropriations Committee, that is not the case. Let me talk about some of the specific ways these cuts will undermine American families in areas such as transportation and housing and in aviation. I know those areas well because I have worked on them as the ranking member on the Transportation and Treasury and HUD committee.

First of all, these cuts will mean less progress in reducing highway congestion. We will lose more than \$720 million in highway construction funds, and with that 34,000 good-paying jobs. Americans will waste more time in traffic, businesses will lose productivity, and our economy will suffer.

Second, those proposed Republican cuts will make life harder for the victims of Hurricane Katrina and for the vulnerable families throughout our country. Hurricane Katrina revealed the harsh truth about poverty in America in 2005. Many people lost what little they had. There are still thousands of victims of that hurricane who are without adequate housing. Some of them are living in tents. Some are still in hotels, wondering when they are going to be thrown out. Others are doubled up with their relatives. And still others have been dispersed all across the country, wondering how they are going

to pay for housing when they are earning no income. Neither FEMA nor HUD have done an adequate job addressing the critical housing needs of these Americans.

So here we are trying to address those needs with a supplemental appropriations bill, and Republican leadership is saying if you want to help these Katrina victims, you have to cut housing assistance for other vulnerable families. I think that is the wrong way, to say the only way we will help the victims of Hurricane Katrina is by taking housing away from other needy families. Those cuts would mean that more than 35,000 families will lose the help in housing that they get today through HUD's tenant-based housing assistance program.

Those cuts also threaten to eliminate transitional housing for 1,200 homeless citizens. Think about it. Cutting housing for the homeless, taking help away from 35,000 vulnerable families right before the holidays—that does not reflect my values and that does not reflect my priorities.

In the immediate aftermath of Hurricane Katrina, public housing agencies across America opened their doors and sought to make emergency housing available to the citizens who had to evacuate New Orleans. I saw it even in my home State where housing agencies worked hard, thousands of miles away from the gulf coast, to help these families. Most of those housing agencies already had long waiting lists of low-income families waiting for a unit or for a voucher. By accommodating those Hurricane Katrina victims, those housing agencies effectively pushed their own local citizens further down that very long waiting list.

We should not now make it worse by eliminating vouchers for 35,000 families in order to pay for the additional aid for the Katrina victims. We must not come to the aid of victims of Hurricane Katrina by creating still other victims around the country through these misguided cuts.

These cuts will hurt jobs and transportation. They will hurt the homeless and other families who are living on the brink. And these cuts will affect the safety of our air travel in this country.

I addressed the Senate on this issue of aviation safety on October 6, and I did so because I thought it was critical that all Senators understand the relationship between the funding levels we provide to the FAA and the ability of that agency to ensure that the American people are safe when they board an aircraft.

The holidays are upon us. Thousands of American families are going to board planes shortly to gather with their families across America. When they do, they have the right to expect that we in Congress are doing everything in our power to ensure that they will continue to benefit from the safest aviation system in the world.

Yet the reality is that the FAA is facing an unprecedented budget chal-

lenge in adequately staffing its air traffic control facilities with fully trained professionals. And the agency is also challenged when it comes to deploying an adequate number of fully trained aviation safety inspectors to oversee the safety practices of our Nation's airlines.

As I explained back on October 6, over the last few years our national aviation enterprise, airlines, airports, and the FAA, have been under an unprecedented amount of financial pressure. We now have no fewer than six airlines in bankruptcy, and that number could grow.

In the interest of cutting costs, airlines have been cutting back on staff, renouncing their pension plans, and outsourcing an increased percentage of their aircraft maintenance.

I know many Senators like me who travel home every weekend have noticed those changes in the services the airlines offer. Staffing is leaner than ever, and flight delays and mechanical problems are on the rise.

Airlines are now contracting out their aircraft maintenance work to third parties, including, my colleagues should know, many overseas vendors who are known as foreign repair stations.

Let me say that again.

Aircraft maintenance work is being contracted out to overseas vendors who are known as foreign repair stations.

In the past, airlines maintained their planes with experienced veteran unionized mechanics. Today, they outsource more than 50 percent of their maintenance work to independent operators. Airlines, such as Northwest, send some of their aircraft as far as Singapore and Hong Kong for heavy maintenance. We have one major carrier, JetBlue, that sends a large portion of its all-airbus fleet to be maintained in El Salvador, Central America. That is where those planes have mechanics that work on them. America West Airlines, now merged with U.S. Airways, does the same thing. This outsourced work needs adequate oversight, and it needs inspection if the American people are going to be safe.

How has the FAA responded to this growing threat to aviation safety? Because of across-the-board cuts in the prior appropriations bills, the FAA has actually downsized its safety workforce by more than 300 personnel, including more than 230 inspectors. That is right. We have gotten rid of more than 230 inspectors, the very professionals who are charged with ensuring that maintenance operations are meeting adequate safety standards.

That was not the intent of the transportation appropriations subcommittee in either the House or the Senate. Indeed, just last year the Transportation appropriations bill provided every penny the President requested for the FAA's safety office. But the FAA still had to drop the number of inspectors because of the across-the-board cut that was imposed by the Republican leadership.

It also resulted from the fact that Congress granted all civilian Federal employees a higher pay raise than the Bush administration asked for, but none of the appropriations subcommittees were given adequate funding allocations to fully fund those pay raises.

Now we know the FAA's inspection efforts are falling short. We have troubling reports today from the Department of Transportation's Inspector General, from the Government Accountability Office, and the National Transportation Safety Board.

Yet despite all those dangers, the FAA had to go ahead and decrease the number of FAA safety inspectors dramatically last year because of those across-the-board cuts. No one can stand up today and say that an across-the-board cut has no impact.

Let us fast-forward to right now, this year. I am very proud to say that the House and Senate Appropriations Committees have worked to address this safety vulnerability. Both committees provided increased funds over and above the levels requested by the Bush administration to bring the number of safety inspectors back to reasonable levels.

In the fiscal year 2006 Transportation-Treasury-HUD appropriations bill that the President signed a few weeks ago, we provided \$8 million dollars to boost employment in the FAA safety office by 119 inspectors. That is not going to restore all of the safety inspectors that we lost last year. But it will move staffing in this critical function in the right direction.

But if Congress enacts an across-the-board cut, it will completely eliminate all of the progress we just made in ensuring safety in our skies.

An across-the-board cut that threatens to be included in the final appropriations bill this year could cut the FAA's operations account by over \$160 million and then put the FAA's budgetary situation right back where it was. That will require downsizing of the FAA inspector workforce while the critical workload continues to grow.

The situation is almost identical when it comes to the FAA's efforts to avoid the continued attrition in the ranks of our air traffic controllers. It is estimated that 73 percent of the FAA's air traffic controllers will be eligible to retire over the next decade.

In the fiscal year 2006 Transportation appropriations bill just signed into law, we provided almost \$25 million to hire an additional 1,250 air traffic controllers. That funding is essential in order to replace the over 650 air traffic controllers who are expected to retire over the course of the next year and to build that workforce back up so we can handle retirements in the future.

Another across-the-board cut this year will completely nullify our effort to hire an adequate number of air traffic controllers. Such a cut will put America's flying public at great risk.

As I said, those across-the-board cuts have a meaningful impact, and they

recklessly eliminate initiatives that are critical to the safety of American citizens.

If Senators don't want to take my word for it, they need to listen to the word's of George Bush's FAA Administrator, Marion Blakey. I have had several discussions with her about this topic in the last few weeks. She recently sent me a letter. I will read a portion of it. It says:

Over the past two years, we experienced a net loss of 1,000 controllers and 231 safety inspectors. I don't believe Congress intended that to happen, but that has been the impact of unfunded pay raises.

I am concerned it is going to happen again if Congress adopts an across-the-board reduction in the final bill.

Mr. President, I ask unanimous consent that the letter I received from the Bush administration's FAA Administrator, Marion Blakey, be printed in the RECORD.

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

FEDERAL AVIATION ADMINISTRATION,

DEAR SENATOR MURRAY: Before you complete work on the TTHUD bill, I would like to speak to you about the FAA's budget. Last fiscal year we significantly reduced costs, including contracting our Flight Service Stations and eliminating more than 400 non-safety jobs. Unfortunately, these efforts were not enough to cover our shortfall. Over the past two years, we experienced a net loss of 1,000 controllers and 231 safety inspectors. I don't believe Congress intended that to happen, but that has been the impact of unfunded pay raises and rescissions.

I am concerned it is going to happen again if Congress adopts an across-the-board reduction in the final bill.

MARION BLAKEY,  
Administrator.

Mrs. MURRAY. Mr. President, in conclusion, I want to implore my colleagues to heed the warning of the FAA Administrator and me. We have to reject this absurd and reckless policy.

If we can declare an emergency under the Budget Act and provide the funding necessary to rebuild Iraq without offsets, then surely we can do the same when it comes to rebuilding Mississippi and Louisiana.

We certainly should not be cutting essential services to all Americans across the country, especially low-income Americans, for the purpose of funding the needs of the victims of Hurricane Katrina. Those cuts will simply create another wave of victims.

As I just outlined, it will put the well being of Americans at risk.

The PRESIDING OFFICER. The Senator from Illinois.

#### PATRIOT ACT

Mr. OBAMA. Mr. President, 4 years ago, following the most devastating attack in our history, this Senate passed the USA PATRIOT Act in order to give our Nation's law enforcement the tools they needed to track down terrorists who plot and lurk within our own borders and all over the world; terrorists who, right now, are looking to exploit

weaknesses in our laws and our security to carry out attacks that may be even deadlier than those that took place on September 11.

We all agree we need legislation to make it harder for suspected terrorists to go undetected in this country. And we all agree that we needed to make it harder for them to organize and strategize and get flight licenses and sneak across our borders. Americans everywhere wanted to do that.

Soon after the PATRIOT Act passed, a few years before I even arrived in the Senate, I began hearing concerns from people of every background and political leaning that this law, the very purpose of which was to protect us, was also threatening to violate some of the rights and freedoms we hold most dear; that it does not just provide law enforcement the powers it needed to keep us safe but powers it did not need to invade our privacy without cause or suspicion.

Now, in Washington, this issue has tended to generate into the typical either/or debate: Either we protect our people from terror or we protect our most cherished principles. I suggest this is a false choice. It asks too little of us and it assumes too little about America.

That is why, as it has come to time to reauthorize the USA PATRIOT Act, we have been working in a bipartisan way to do both, to show the American people we can track down terrorists without trampling on our civil liberties, to show the American people that the Federal Government will only issue warrants and execute searches because it needs to do so, not because it can do so.

What we have been trying to achieve under the leadership of a bipartisan group of Senators is some accountability in this process to get answers and see evidence where there is suspicion.

Several weeks ago, these efforts bore fruit. The Judiciary Committee and the Senate managed to pass a piece of bipartisan legislation that, while I cannot say is perfect, was able to address some of the most serious problems in the existing law. Unfortunately, that strong bipartisan legislation has been tossed aside in conference. Instead, we have been forced to consider a piece of rushed legislation that fails to address the concerns of Members of both parties as well as the American people.

This is legislation that puts our own Justice Department above the law. When national security letters are issued, they allow Federal agents to conduct any search on any American, no matter how extensive, how wide ranging, without ever going before a judge to prove the search is necessary. All that is needed is a signoff from a local FBI agent. That is it.

Once a business or a person receives notification they will be searched, they are prohibited from telling anyone about it and they are even prohibited from challenging this automatic gag

order in court. Even though judges have already found that similar restrictions violate the first amendment, this conference report disregards the case law and the right to challenge the gag order.

If you do decide to consult an attorney for legal advice, hold on; you will have to tell the FBI you have done so. Think about that: You want to talk to a lawyer about whether your actions are going to be causing you to get into trouble, you have to tell the FBI that you are consulting a lawyer. This is unheard of. There is no such requirement in any other area of the law. I see no reason why it is justified here.

If someone wants to know why their own Government has decided to go on a fishing expedition through every personal record or private document, through the library books you read, the phone calls you have made, the e-mails you have sent, this legislation gives people no rights to appeal the need for such a search in a court of law. No judge will hear your plea; no jury will hear your case. This is plain wrong. There are Republican Senators as well as Democratic Senators who recognize it is plain wrong.

Giving law enforcement the tools they need to investigate suspicious activities is one thing and it is the right thing. But doing it without any real oversight seriously jeopardizes the rights of all Americans and the ideals America stands for.

Supporters of this conference report have argued we should hold our noses and support this legislation because it is not going to get any better. That is not a good argument. We can do better. We have time to do better. It does not convince me I should support this report. We owe it to the Nation, we owe it to those who fought for our civil liberties, we owe it to the future and our children to make sure we craft the kind of legislation that would make us proud, not legislation we would settle for because we are in a rush. We do not have to settle for a PATRIOT Act that sacrifices our liberties or our safety. We can have one that secures both.

There have been proposals on both sides of the aisle and in both Houses of Congress to extend the PATRIOT Act for 3 months so we can reach an agreement on this bill that is well thought through. I support these efforts and will oppose cloture on what I consider to be this unacceptable conference report.

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

The PRESIDING OFFICER (Mr. COLEMAN). The clerk will call the roll. The legislative clerk proceeded to call the roll.

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

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

#### DEFICIT REDUCTION ACT OF 2005

The PRESIDING OFFICER. Under the previous order, the hour of 3:30 p.m.

having arrived, the Senate will resume consideration of the House message accompanying S. 1932. The clerk will report.

The bill clerk read as follows:

A bill (S. 1932) to provide for reconciliation pursuant to section 202(a) of the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95).

Pending:

DeWine motion to instruct conferees to insist that any conference report shall not include the provisions contained in section 8701 of the House amendment relating to the repeal of section 754 of the Tariff Act of 1930.

Kohl motion to instruct conferees to insist that any conference report shall not include any of the provisions in the House amendment that reduce funding for the child support program established under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.), and to insist that the conference report shall not include any restrictions on the ability of States to use Federal child support incentive payments for child support program expenditures that are eligible for Federal matching payments.

Kennedy motion to instruct conferees to insist that the Senate provisions increasing need-based financial aid in the bill, S. 1932, which were fully offset by savings in the bill, S. 1932, be included in the final conference report and that the House provisions in the bill, H.R. 4241, that impose new fees and costs on students in school and in repayment be rejected in the final conference report.

Reed motion to instruct conferees to insist on a provision that makes available \$2,920,000,000 for the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.), in addition to the \$2,183,000,000 made available for such act in the Departments of Labor, Health, and Human Services, and Education, and Related Agencies Appropriations Act, 2006.

Mr. GREGG. Mr. President, I ask unanimous consent that it be deemed that the yeas and nays have been ordered on the next four items which are set for votes.

The PRESIDING OFFICER. Without objection, it is in order to request the yeas and nays en bloc.

Mr. GREGG. I ask for the yeas and nays en bloc.

Mr. DEWINE. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. DEWINE. What is the request?

Mr. GREGG. The point of the request is to allow the yeas and nays on each item and that they be voted on serially.

Mr. DEWINE. I withdraw my reservation.

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

Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered en bloc.

Mr. GREGG. Mr. President, I ask unanimous consent that after the first vote, the subsequent votes be 10 minutes in duration.

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

#### MOTION TO INSTRUCT CONFEREES

The PRESIDING OFFICER. Who yields time on the first motion? The Senator from Ohio.

Mr. DEWINE. Mr. President, I urge my colleagues to vote yes on this motion to instruct the conferees to support something that 72 Senators have already supported in letters they have signed in the past, 72 Members of this body, and I have the list for anyone who would like to see it when they come to the Chamber.

This is to support a bill that is currently law, the Continued Dumping and Subsidy Offset Act. It is a bill that has helped companies in 48 States across this country. More importantly, it has helped workers in 48 States across this country. It has helped employers who create additional jobs. The idea is to compensate companies that have been victimized by illegal foreign dumping in this country. Instead of giving money to the Treasury, it goes to these companies, and these companies have the right then to reinvest and create jobs.

Some people have argued this is some sort of special interest. I ask Members of the Senate, when in the world did it become a special interest to protect American jobs?

This is a proven way to fight back against illegal trade. It is a proven way to protect American jobs. I urge a "yes" vote.

Mr. BYRD. Mr. President, I wish to join my Republican colleagues, Senator DEWINE, Senator SPECTER, and Senator CRAIG, all of whom have already spoken so eloquently in support of a motion introduced by Senator DEWINE yesterday to instruct conferees on the budget bill to strike an ill-conceived House provision that would repeal the Continued Dumping and Subsidy Offset Act, also known as CDSOA.

To repeal or abandon this trade law would be a travesty. The Continued Dumping and Subsidy Offset Act was enacted to save American manufacturing and our agricultural producers from wave after wave of unfairly dumped foreign imports.

CDSOA remains one of the most successful trade programs ever enacted. It maintains America's corporate competitiveness; it enables small and medium-sized businesses—and family-owned businesses—to invest in their futures. It keeps American workers employed, so they can receive health and pension benefits. This law is about American jobs. As Senator DEWINE said yesterday, this law is not about rewarding special interests: It is about keeping American jobs.

Five years ago, a bipartisan majority of the Senate approved our amendment to give U.S. companies injured by unfair trade the ability to invest in their factories and workers with funds collected by the Customs Service from unfairly traded imports. I particularly appreciate the continued strong support that Senator DEWINE and many of our colleagues on the other side of the aisle continue to express in support of this law. In fact, three-fourths of the Senate has publicly pledged support for the law.

Before this law was enacted, the Customs Service imposed antidumping and countervailing duties on dumped and unfairly subsidized imports—to make foreign exporters stop dumping and charge a fair price. Despite Customs' efforts, unfair foreign traders refused to trade fairly. Instead, they continued to dump—year after year. And the prices of the dumped foreign imports from China, Canada, the European Union, Japan, and other countries continued to unfairly undercut the prices of American-made products sold here in the United States.

Faced with eroding U.S. market share, American producers struggled to stay afloat, unable to invest in new plants or equipment or to meet their payrolls. This was particularly true for small businesses and many of our Nation's family farmers, ranchers, and aquacultural producers. Even today, valiant producers of shrimp and crawfish continue to suffer from having endured a double whammy: unending unfair trade and Hurricane Katrina.

CDSOA was enacted to restore conditions of fair trade, so that jobs that should stay in the United States are not sent overseas or "outsourced" as the result of unfair competition. Under the law, each year, Customs distributes duties collected from unfair imports to those American companies and workers who can prove that they have been materially injured by unfair trade.

While the amounts distributed under the program are not large from a budget perspective—approximately \$226 million for fiscal year 2005—the law is critically important to American companies and workers who continue to work hard to stay in business, even when foreign producers refuse to stop dumping. American companies that rightfully receive distributions under the law include producers of crawfish, garlic, furniture, honey, lumber, wheat, shrimp, catfish, semiconductor chips, bearings, mushrooms, crawfish, pasta, steel, raspberries, cement, and a long list of others—all of which deserve to be reimbursed under the law for having suffered the negative effects of bringing successful trade cases against illegally traded imports year after year after year.

There was a claim on the Senate floor earlier this week that CDSOA claims may be fraudulent. That shows a basic misunderstanding of the law. To receive reimbursement under the law, companies must certify, in writing, that they have made qualifying expenditures in their workers and facilities. CDSOA reimburses them for those expenditures. And Customs may verify any claim submitted to make certain that a request for reimbursement is valid. So there are very careful safeguards in place under the law to be certain that funds are distributed fairly, honestly, and legally.

Critics of the Continued Dumping and Subsidy Offset Act also argue that the WTO has ruled against the law, so we should abandon it. But the WTO was

wrong in opposing it. The WTO was overzealous in ruling against the law; it overreached. The WTO decision against this trade authority was technically beyond the scope of the WTO's legal mandate. The WTO incorrectly read into international agreements a prohibition against our law that was never agreed to by any U.S. trade negotiator. The WTO has no legal basis to request that the United States repeal this law.

Nearly 800 American companies and workers in nearly every State of the Nation receive distributions under its provisions. It is critical to family-owned businesses, like Warwood Tools in Wheeling, WV, and to Wheeling-Pittsburgh Steel, and to Mittal Steel's facilities in Weirton, WV. It is equally important to the thousands of steelworkers in Ohio, Pennsylvania, and elsewhere across the Nation. They, and all hard-working Americans, deserve to continue to receive these funds so long as foreign traders keep dumping. If our trading partners don't like this trade law, I have only two words for them: stop dumping.

In the fiscal year 2004 and 2005 Consolidated Appropriations Acts—and, now, in the fiscal year 2006 Commerce, Justice, Science, and Related Agencies Appropriations Act—both Houses of Congress included language that directs the administration to negotiate a solution to the WTO dispute concerning this law. In fact, the conference report on the CJS bill that contains this language was approved by the Senate on November 16 by an overwhelming vote of 94 to 5.

Pursuant to these congressional directives, the administration last year put this trade law on the table in the Doha Round of trade negotiations, and the USTR even told our trading partners that it agrees it is "beyond question that countries have the sovereign right to distribute duties as they deem appropriate."

Even if the WTO disagrees with the law, any retaliation by other countries against us is negligible—equal to only a few hours of trade among a few of our trading partners.

Currently, the United States and other nations are seeking to complete negotiations in the Doha Round of international trade talks by the end of 2006. Now is not the time to weaken the hand of our trade negotiators by attempting to repeal one of our Nation's most prominent and effective trade laws.

In fact, now is the time to do more to hold foreign unfair traders accountable, not less.

I urge my colleagues in the Senate to join me in support of this motion to instruct the conferees to strike from the budget reconciliation bill any provision that would repeal this critical trade law.

The PRESIDING OFFICER. Who yields time?

Mr. GREGG. Mr. President, this proposal is a motion to instruct which has

no binding effect and, thus, I assume Members are just going to vote the way they feel like voting.

I will point out this: No. 1, the effect of this motion, if it had a binding effect, would be to take \$3 billion away from the Federal Treasury and give it to specific companies in violation of a WTO ruling. It may have made sense at one time, but since the WTO ruling, it makes no sense. Because of that ruling, other companies are now being penalized inappropriately because we continue to assess this fine.

No. 2, it is very hard for me to understand why, in a bill that is supposed to be reducing the deficit, we would want to increase the deficit by passing this type of instruction. Therefore, I oppose the motion to instruct.

I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the motion. The yeas and nays have been ordered. The clerk will call the roll.

The Legislative Clerk called the roll.

Mr. MCCONNELL. The following Senators were necessarily absent: the Senator from Georgia (Mr. CHAMBLISS), the Senator from South Carolina (Mr. GRAHAM), the Senator from Pennsylvania (Mr. SANTORUM), the Senator from Georgia (Mr. ISAKSON), and the Senator from Louisiana (Mr. VITTER).

Further, if present and voting, the Senator from Pennsylvania (Mr. SANTORUM) would have voted "yea."

Mr. DURBIN. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from California (Mrs. BOXER), the Senator from Washington (Ms. CANTWELL), and the Senator from Connecticut (Mr. DODD) are necessarily absent.

I further announce that, if present and voting, the Senator from California (Mrs. BOXER), would vote "aye."

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

The result was announced—yeas 71, nays 20, as follows:

[Rollcall Vote No. 354 Leg.]

#### YEAS—71

Akaka	Domenici	Murray
Allen	Dorgan	Nelson (FL)
Baucus	Durbin	Nelson (NE)
Bayh	Enzi	Obama
Bennett	Feingold	Pryor
Bingaman	Feinstein	Reed
Bunning	Harkin	Reid
Burns	Hatch	Rockefeller
Burr	Hutchinson	Salazar
Byrd	Inouye	Sarbanes
Carper	Jeffords	Schumer
Clinton	Johnson	Sessions
Coburn	Kennedy	Shelby
Cochran	Kerry	Smith
Coleman	Kohl	Snowe
Collins	Landrieu	Specter
Conrad	Lautenberg	Stabenow
Cornyn	Leahy	Stevens
Corzine	Levin	Talent
Craig	Lieberman	Thune
Crapo	Lincoln	Voinovich
Dayton	Lott	Warner
DeWine	Martinez	Wyden
Dole	Mikulski	

#### NAYS—20

Alexander	Bond	Chafee
Allard	Brownback	DeMint

Ensign	Inhofe	Murkowski
Frist	Kyl	Roberts
Grassley	Lugar	Sununu
Gregg	McCain	Thomas
Hagel	McConnell	

## NOT VOTING—9

Biden	Chambliss	Isakson
Boxer	Dodd	Santorum
Cantwell	Graham	Vitter

The motion was agreed to.

## CHANGE OF VOTE

Mr. ROBERTS. Mr. President, on rollcall vote 354, I voted "yea." It was my intention to vote "nay." Therefore, I ask unanimous consent that I be permitted to change my vote since it will not affect the outcome.

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

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

• Mr. VITTER. Mr. President, I ask that the RECORD show that I would have voted "aye" on rollcall vote 354, the DeWine motion to instruct conferees on S. 1932. I continue to support the Continued Dumping and Subsidy Offset Act, and I agree that its repeal should not be included in the conference report. •

Mr. SANTORUM. Mr. President, I regret that I was unable to vote this afternoon on the DeWine motion to instruct conferees with respect to S. 1932, the deficit reduction bill.

The DeWine motion to instruct conferees was crafted with the goal of preventing Senate conferees to S. 1932 from agreeing with the House provision that repeals the Continued Dumping and Subsidy Offset Act of 2000 (CDSOA) during conference deliberations. Despite widespread support for this provision of law, the House companion bill repeals CDSOA. I have been a supporter of CDSOA since it was first crafted by Senator MIKE DEWINE of Ohio.

Mr. President, I ask that the RECORD reflect that, had I been here, I would have voted in favor of Senator DEWINE's motion to instruct conferees to not repeal CDSOA during conference deliberations on S. 1932.

I ask unanimous consent that my letter of November 29, 2005, to the Honorable CHARLES GRASSLEY, Chairman, Committee on Finance, on the need to maintain CDSOA, be printed in the RECORD.

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

DEAR CHAIRMAN GRASSLEY: I write today concerning a provision contained in H.R. 4241, the House-passed savings reconciliation bill, that repeals the Continued Dumping and Subsidy Offset Act of 2000 [P.L. 106-387]. The Senate companion bill, S. 1932, does not include this repeal. I am optimistic that the Senate will not concur with the House action during conference deliberations on this bill. Please know that I was a cosponsor of the free-standing bill introduced by Senator MIKE DEWINE that was the blueprint for this amendment.

Over two years ago, the World Trade Organization (WTO) ruled that the Byrd Amendment is inconsistent with the United States' WTO obligations. The WTO has since authorized eight WTO members to retaliate against

the United States. Canada, the European Union, Japan and Mexico have imposed about \$115 million in retaliation on U.S. exports after the United States failed to meet a December 2003 WTO deadline for repealing the act.

However, in H.R. 2673, the Fiscal Year 2004 Consolidated Appropriations Act, Congress included a provision that directs the Bush Administration to immediately initiate WTO negotiations to recognize the ability of WTO members to distribute monies collected from antidumping and countervailing duties, and to provide regular reports on such negotiations.

Earlier this year, 25 Republican Senators wrote to Majority Leader Frist urging that the Senate not agree to any provisions that would repeal CDSOA. Prior to that letter, over 70 Senators wrote to President Bush expressing the view that U.S. negotiators needed to re-engage WTO members and to continue to push for maintaining CDSOA. It was the view of these Members that U.S. trade laws are designed to insure a level playing field for U.S. industries and their workers that are being harmed by unfair trade.

As you may recall, the Bush administration stated in its November 2002 appeal "[T]he Panel in this case has created obligations that do not exist in the WTO Agreements cited. The errors committed are serious and many about a statute which, in the end, creates a payment program that is not challenged as a subsidy."

With this in mind, I urge you to oppose efforts to repeal CDSOA during House-Senate conference negotiations on H.R. 4241 and S. 1932, the spending reconciliation bills.

Thank you for your kind consideration of this request.

Sincerely,

RICK SANTORUM,  
*United States Senate.*

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

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

The motion to lay on the table was agreed to.

## MOTION TO INSTRUCT CONFEREES

Mr. GREGG. Mr. President, what is the regular order?

The PRESIDING OFFICER (Mr. CHAFEE). There is 2 minutes evenly divided.

Mr. GREGG. Is that on the Kohl proposal?

The PRESIDING OFFICER. That is correct.

Mr. KOHL. Mr. President, I call up my motion, which is at the desk, to reject the \$16 billion cut to the child support program which is in the House bill but which is not in the Senate bill. The House position will result in \$24 billion in child support payments going uncollected, and would impact families in every single State. The child support program is a proven success and it has won high praise in the President's 2006 budget for providing a \$4 return on every dollar invested in the program.

The House conference report is opposed by a wide range of interests, including the National Governors' Association and the National Conference of State Legislatures. I strongly urge my colleagues to join me in sending a message to the conferees that the Senate will not support cutting benefits for over 17 million children.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. The motion of the Senator from Wisconsin is not binding so I am sure they will vote as they please. It is well-intentioned and I agree with the concept. However, there are issues within the child support questions which should be subject to conference and which, if you read the motion literally and which if it had any binding effect, would undermine our capacity to have flexibility in conference.

Specifically, for example, under the law today, you can use Federal money and make the State match, so what is happening is States are taking Federal money, and instead of using their State dollars to match, they are using Federal money to get more Federal money. That makes no sense at all.

The House has corrected this program. This language would undermine that. I hope we do not support the motion to instruct. The conference will do a good job on this. It does not need this instruction.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. The following Senators were necessarily absent: the Senator from Georgia (Mr. CHAMBLISS), the Senator from South Carolina (Mr. GRAHAM), the Senator from Georgia (Mr. ISAKSON), the Senator from Pennsylvania (Mr. SANTORUM), and the Senator from Louisiana (Mr. VITTER).

Mr. DURBIN. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from California (Mrs. BOXER), the Senator from Washington (Ms. CANTWELL), and the Senator from Connecticut (Mr. DODD) are necessarily absent.

I further announce that, if present and voting, the Senator from California (Mrs. BOXER) would vote "yea."

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

The result was announced—yeas 75, nays 16, as follows:

[Rollcall Vote No. 355 Leg.]

## YEAS—75

Akaka	Enzi	Murray
Alexander	Feingold	Nelson (FL)
Baucus	Feinstein	Nelson (NE)
Bayh	Frist	Obama
Bennett	Grassley	Pryor
Bingaman	Harkin	Reed
Burns	Hatch	Reid
Byrd	Hutchison	Roberts
Carper	Inouye	Rockefeller
Chafee	Jeffords	Salazar
Clinton	Johnson	Sarbanes
Coburn	Kennedy	Schumer
Coleman	Kerry	Sessions
Collins	Kohl	Shelby
Conrad	Kyl	Smith
Cornyn	Landrieu	Snowe
Corzine	Lautenberg	Specter
Craig	Leahy	Stabenow
Crapo	Levin	Stevens
Dayton	Lieberman	Talent
DeWine	Lincoln	Thomas
Dole	Lugar	Thune
Domenici	McCain	Voinovich
Dorgan	Mikulski	Warner
Durbin	Murkowski	Wyden

## NAYS—16

Allard	Cochran	Lott
Allen	DeMint	Martinez
Bond	Ensign	McConnell
Brownback	Gregg	Sununu
Bunning	Hagel	
Burr	Inhofe	

## NOT VOTING—9

Biden	Chambliss	Isakson
Boxer	Dodd	Santorum
Cantwell	Graham	Vitter

The motion was agreed to.

## MOTION TO INSTRUCT CONFEREES

The PRESIDING OFFICER. There is now 2 minutes equally divided prior to a vote in relation to the motion to instruct offered by Senator KENNEDY.

Mr. KENNEDY. Mr. President, I will just take 30 seconds because the other 30 seconds will be taken by the chairman of the HELP Committee. All this motion does is insist that the student aid program—which provides \$8 billion more for Pell eligible students—that passed out of our committee, virtually unanimously, will be affirmed in the conference. Effectively, we are taking what was the bipartisan agreement in our committee under the leadership of Senator ENZI and instructing the conferees to support that position.

Many of our colleagues have voiced their public support for this motion, including Senators DURBIN, HARKIN, DODD, REID, LIEBERMAN, KERRY, REED, CORZINE, CLINTON, and LAUTENBERG.

If you are for American competitiveness in the global economy, you will vote for this motion.

If you are for a strong national security, you will vote for this motion.

If you are for opportunity for every American, you will vote for this motion.

I urge my colleagues to join me in doing what is right for American families, especially at Christmas, and send a strong message that students need our help now.

I yield 30 seconds to the Senator from Wyoming.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Mr. President, I concur with what the Senator from Massachusetts just said. As the body will remember, the Health, Education, Labor, and Pensions Committee had the heaviest lifting in the savings bill, and we met that requirement. We met that requirement while we provided for some grants for both low-income and people who would major in math and science and some special languages.

I would appreciate the support of this body on this instruction. I have been negotiating with the House for 5 full days, and this is one of the issues that is still up. This instruction would help us in that negotiation. I would appreciate the support.

Mr. DURBIN. Mr. President, I rise today to urge my colleagues to support Senator KENNEDY's motion to instruct conferees. The motion instructs Senate conferees to insist on preserving the Senate provisions that increase need-based financial aid in S. 1932. Forty years ago, President Johnson sought to

increase accessibility to education by signing into law the Higher Education Act of 1965. In President Johnson's words, "To thousands of young men and women, this [Act] means the path of knowledge is open to all that have the determination to walk it . . . a high school senior anywhere in this great land of ours can apply to any college or any university in any of the 50 States and not be turned away because his family is poor."

Access to higher education has long been and remains a great American goal. The good news is that the number of students enrolling in institutions of higher education has nearly doubled over the past 35 years—from 8.5 million in 1970 to approximately 16 million in 2005. The bad news is that, despite the importance of a college education in the 21st century, so many millions of young adults never make it to college. Sadly, many fail to make it to college due to financial constraints.

Never has higher education played such a critical role in closing the gap between the haves and the have-nots. Over the course of their lifetime, college graduates earn over \$1 million more than those without college degrees. Today, 6 out of every 10 jobs require some postsecondary education and training. By 2010, the number of jobs requiring advanced skills will grow at twice the rate of those requiring only basic skills.

In addition to the individual benefits of earning a college degree, investing in and producing more college-educated Americans is vital to our Nation's growth. Economists estimate that the increases in the education level of the U.S. labor force between 1915 and 1999 directly resulted in at least 23 percent of the overall growth in U.S. productivity.

Unfortunately, the cost of a college education is far out of reach for many American students and is hitting poor families the hardest—not just those from poverty-stricken areas but those who come from family farms and those who may be new immigrants. According to the College Board, the inflation-adjusted, real increase in tuition, fees, and room and board at public colleges over the last 5 years has been 2 percent. At 4-year private schools, the same costs have increased by 17 percent.

Federal financial assistance is simply not keeping pace with rising college costs. In the 1970s, the maximum Pell grant for low-income and working class families covered about 40 percent of the average cost of attending a 4-year college. Now it only covers about 15 percent. Smart, hardworking kids from low-income backgrounds deserve a chance to go as far as their talents will take them. According to Postsecondary Education Opportunity, a higher education research group, the percentage of the Nation's poorest students who earned a bachelor's degree by age 24 increased only from 7.1 percent in 1975 to 8.6 percent 2003. The students left be-

hind represent a huge untapped resource for our country.

Recently, many reports have sounded the alarm that America is losing its edge as the world's technological innovator to countries such as China and India. These countries are moving from being the world's supplier of low-wage, high-labor work to becoming the world's technological leaders by investing in their talent pool. In recent years, Americans have felt the effects of the impact of education as newly educated workers from China and India compete for prime jobs once held in the United States. According to the National Academies, in 2004, China graduated 600,000 engineers and India 350,000, while the United States produced only 70,000 engineers. To keep America's edge, we must recognize the value of investing in higher education and provide our young adults with the assistance they need so that they can compete in the global economy.

The Senate provisions included in S. 1932 that increase need-based financial aid—Pell grants and new need-based aid programs such as ProGap and SMART grants—will help many deserving students reach their educational potential. In contrast, the House fails to seize an opportunity to expand Pell grants and other need-based aid. Instead, the House bill includes provisions that would make college more expensive for families. These provisions include: No. 1, a temporary increase in origination fees for direct loan borrowers; No. 2, repeal of a scheduled reduction in the maximum student loan interest rate—from 8.25 percent to 6.8 percent for students and from 9 percent to 7.9 percent for parents; No. 3, imposing a new 1 percent borrower origination fee that will make it more expensive to consolidate loans; and No. 4, requiring lenders to charge student and parent borrowers a 1 percent insurance fee on student loans.

By insisting on the Senate provisions, we will boost need-based aid and in turn help the United States maintain its competitive edge. But most importantly, we will be a step closer to living up to the promise that President Johnson made to America's youth 40 years ago: providing access to higher education for those determined to realize the American dream.

The PRESIDING OFFICER. Who yields time?

Mr. GREGG. We yield back the remainder of the time.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the motion.

The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. MCCONNELL. The following Senators were necessarily absent: the Senator from Georgia (Mr. CHAMBLISS), the Senator from South Carolina (Mr. GRAHAM), the Senator from Georgia (Mr. ISAKSON), the Senator from Pennsylvania (Mr. SANTORUM), and the Senator from Louisiana (Mr. VITTER).



Mr. DURBIN. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from California (Mrs. BOXER), the Senator from Washington (Ms. CANTWELL), and the Senator from Connecticut (Mr. DODD) are necessarily absent.

I further announce that, if present and voting, the Senator from California (Mrs. BOXER) would vote "aye".

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

The result was announced—yeas 83, nays 8, as follows:

[Rollcall Vote No. 356 Leg.]

#### YEAS—83

Akaka	Durbin	Mikulski
Alexander	Ensign	Murkowski
Allard	Enzi	Murray
Allen	Feingold	Nelson (FL)
Baucus	Feinstein	Nelson (NE)
Bayh	Frist	Obama
Bennett	Grassley	Pryor
Bingaman	Harkin	Reed
Brownback	Hatch	Reid
Bunning	Hutchison	Roberts
Burns	Inouye	Rockefeller
Byrd	Jeffords	Salazar
Carper	Johnson	Sarbanes
Chafee	Kennedy	Schumer
Clinton	Kerry	Sessions
Cochran	Kohl	Shelby
Coleman	Kyl	Smith
Collins	Landrieu	Snowe
Conrad	Lautenberg	Specter
Cornyn	Leahy	Stabenow
Corzine	Levin	Stevens
Craig	Lieberman	Talent
Crapo	Lincoln	Thomas
Dayton	Lott	Thune
DeWine	Lugar	Voinovich
Dole	Martinez	Warner
Domenici	McCain	Wyden
Dorgan	McConnell	

#### NAYS—8

Bond	DeMint	Inhofe
Burr	Gregg	Sununu
Coburn	Hagel	

#### NOT VOTING—9

Biden	Chambliss	Isakson
Boxer	Dodd	Santorum
Cantwell	Graham	Vitter

The motion was agreed to.

Mr. GREGG. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

#### MOTION TO INSTRUCT CONFEREES

THE PRESIDING OFFICER. Under the previous order, there is 2 minutes equally divided on the Reed motion to instruct conferees. The Senator from Rhode Island.

Mr. REED. Mr. President, I offer this motion along with my colleague, Senator COLLINS from Maine. I will shortly yield to her the last 30 seconds. I also offer it on behalf of myself and other Senators, including Senator LAUTENBERG.

The reality is very clear to so many poor families in this country. Energy prices are rising, temperatures are falling, and they are going to be in a very vulnerable and very disadvantaged position. This amendment would add \$2.9 billion in additional funding for LIHEAP. It would bring it up to the authorized level of \$5.1 billion.

We have considered this proposal in various procedural means four times. A

majority of the Senate has always supported it. I hope it continues to do so.

I yield my remaining time to Senator COLLINS.

THE PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I urge my colleagues to support this motion to instruct the conferees to add \$2.9 billion for the LIHEAP program. The time is growing late. In northern Maine, the high temperature earlier this week—the high temperature—was 12 degrees. Let's act now to avert a real crisis for low-income families across this country.

Ms. SNOWE. Mr. President, I rise today for one very simple reason—to ask for the support of my colleagues for the Reed-Collins-Kennedy-Snowe motion to instruct the conferees to S. 1932, to add \$2.92 billion for the Low Income Home Energy Assistant Program, or LIHEAP. This funding, along with the expected \$2.18 billion in fiscal year 2006 appropriations, will confirm the commitment we made just this past July and bring LIHEAP up to the level of \$5.1 billion we authorized in the 2005 Energy bill.

In the Nation's colder States such as Maine, the days are relentlessly marching toward winter, the clock is ticking as the thermometer edges ever downward and it would be unconscionable for Congress to adjourn for the year without providing critical, additional assistance for LIHEAP at a time when home heating oil prices have been predicted to increase by up to 44 percent this coming winter.

There should be no mistake—this is an emergency and a crisis that is no longer an impending crisis as I have been saying for months—it is now here. I feel very strongly that it would be an abrogation of our responsibility to stand by and allow more and more of our elderly on fixed incomes and low-income people, including children, to suffer because of a lack of heat.

This past week, it was reported to one of my Maine offices that two elderly people—who have already used up their entire LIHEAP allotment for a winter that has not yet officially arrived—were admitted to the hospital with hypothermia. In one of the households, the residence was so cold the water in the toilet bowl was frozen. It has been said that a society is judged by how it treats its most vulnerable citizens. What a failing grade we would get for LIHEAP. The fact is, countless Americans don't have room in their budget for such a surge in home heating prices—but surely, in looking at our national priorities, we can find room in our budget to help Americans stay warm this winter.

It does not take a crystal ball to predict the dire consequences when home heating oil in Maine has risen to \$2.59 per gallon, up 66 cents from a year ago, kerosene prices average \$2.72 a gallon, 52 cents higher than this time last year, and propane is at \$2.20 per gallon, 17 cents higher than last year. Some

projections have a gallon of heating oil reaching \$3.00 later in the winter.

So understandably, we are hearing the mounting concern "how will I pay for home heating oil when it's already almost 30 percent more than last year, and I struggled to make ends meet then?" "How will I afford to pay half again as much for natural gas?" People need to know now that they can count on us—U.S. Congress—for assistance, not the most disruptive country leader in the Western Hemisphere who comes bearing gifts of discounted oil to our communities and States. This country should take care of its own.

Home heating oil in my State is a necessity of life—so much so that 73 percent of households in a recent survey reported they would cut back on, and even go without, other necessities such as food, prescription drugs, and mortgage and rent payments. Churches, food pantries, and local service organizations are all hearing the cry and sensing the growing need.

Because of the supply disruptions caused by the Gulf hurricanes at a time when prices were already spiraling up, prices have been driven even higher and are directly affecting low-income Mainers and how they will be able to pay for their home heating oil, propane and kerosene this winter. A recent Wall Street Journal quoted Jo-Ann Choate, who heads up Maine's LIHEAP program. Ms. Choate said, "This year we've got a very good chance of running out." Eighty-four percent of the applicants for the LIHEAP program in the State use oil heat. Over 46,000 applied for and received State LIHEAP funds last winter. Each household received \$480, which covered the cost of 275 gallons of heating oil.

The problem this winter is that the same \$480 will buy only 172 gallons, which a household will use up in the first 3 to 4 weeks in Maine. What will these people do to stay warm for the four or five months left of winter? The water pipes will freeze and then break, damaging homes. People will start using their stoves to get heat. The Mortgage Bankers Association expects that the steep energy costs could increase the number of missed payments and lost homes beginning later this year. My State is anticipating at least 48,000 applicants this winter, so there will be less money distributed to each household unless we can obtain higher funding for the LIHEAP program.

Ms. Choate says that Maine plans to focus on the elderly, disabled, and families with small children, and is studying how to move others to heated shelters. This is why our efforts are so very important. And it isn't just Maine. It is happening in all of the Nation's cold weather States. Quite simply, without increased funding, we are forcing the managers of State LIHEAP programs to make a Solomon's choice as to who gets served.

The facts are that LIHEAP is projected to help 5 million households nationwide this winter. But that is only



about one-sixth of households across the country that actually can qualify for the assistance. So this is a perennial fight we wage even when prices aren't as high as today. And now, that battle becomes all the more pivotal.

I Thank Senators REED and COLLINS for their leadership on this motion to instruct the conferees for increased LIHEAP funding, and I am proud to stand shoulder to shoulder with them to secure what is, in essence, literally life-or-death funding for our most vulnerable Americans. The cold weather won't wait—and neither should we when it comes to helping citizens survive through the coming winter.

I thank the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, let's remember what this amendment does in the context of the LIHEAP issue. This amendment will add \$2.9 billion to the national debt and pass that debt on to our children in order to pay for energy costs which are being incurred today.

The correct way to do this is the way we proposed in the Senate, as Republicans, which is to pay for it. That is what we will do in the conference. There is already \$1 billion additional money for LIHEAP in the conference, and it will probably go up. The difference between those dollars and what is being proposed in this amendment is we actually pay for it.

It is inappropriate to go to this number, which is a 130-percent increase in the LIHEAP program, when spending on oil is estimated to go up by 28 to 30 percent or maybe even 40 percent. Increasing the program by 130 percent when the oil costs are going up 30 to 40 percent is inconsistent on its face.

It is especially inconsistent when one is taking that bill and giving it to one's children and their children's children so they end up paying for today's oil costs rather than their oil costs 2 or 3 years from today or two or three generations.

The PRESIDING OFFICER. The Senator's time has expired.

The yeas and nays were previously ordered.

The question is on agreeing to the motion.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. The following Senators were necessarily absent: the Senator from Georgia (Mr. CHAMBLISS), the Senator from South Carolina (Mr. GRAHAM), the Senator from Georgia (Mr. ISAKSON), the Senator from Pennsylvania (Mr. SANTORUM), and the Senator from Louisiana (Mr. VITTER).

Mr. DURBIN. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from California (Mrs. BOXER), the Senator from Washington (Ms. CANTWELL), and the Senator from Connecticut (Mr. DODD) are necessarily absent.

I further announce that, if present and voting, the Senator from California (Mrs. BOXER) would vote "aye."

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

The result was announced—yeas 63, nays 28, as follows:

[Rollcall Vote No. 357 Leg.]

#### YEAS—63

Akaka	Feingold	Murray
Baucus	Feinstein	Nelson (FL)
Bayh	Grassley	Obama
Bingaman	Harkin	Pryor
Burns	Inouye	Reed
Burr	Jeffords	Reid
Byrd	Johnson	Rockefeller
Carper	Kennedy	Salazar
Chafee	Kerry	Sarbanes
Clinton	Kohl	Schumer
Coleman	Landrieu	Smith
Collins	Lautenberg	Snowe
Conrad	Leahy	Specter
Corzine	Levin	Stabenow
Crapo	Lieberman	Stevens
Dayton	Lincoln	Sununu
DeWine	Lugar	Talent
Dole	Martinez	Thune
Domenici	McCain	Voinovich
Dorgan	Mikulski	Warner
Durbin	Murkowski	Wyden

#### NAYS—28

Alexander	Craig	Kyl
Allard	DeMint	Lott
Allen	Ensign	McConnell
Bennett	Enzi	Nelson (NE)
Bond	Frist	Roberts
Brownback	Gregg	Sessions
Bunning	Hagel	Shelby
Coburn	Hatch	Thomas
Cochran	Hutchison	
Cornyn	Inhofe	

#### NOT VOTING—9

Biden	Chambliss	Isakson
Boxer	Dodd	Santorum
Cantwell	Graham	Vitter

The motion was agreed to.

• Mr. SANTORUM. Mr. President, I regret that I was unable to vote this afternoon on the Reed motion to instruct conferees with respect to S. 1932, the deficit reduction bill.

The LIHEAP program is of critical importance to Pennsylvania. My State routinely faces very harsh winters. Now that the cold weather is here and bills must be paid, I believe we must act to provide additional funding for this program. My record shows that I have been a consistent LIHEAP supporter, and I am hopeful that an increase will be promptly approved.

Mr. President, I ask that the RECORD reflect that, had I been here, I would have voted in favor of Senator REED's motion to instruct.

Mr. GREGG. 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.

Under the previous order, the Presiding Officer appoints Mr. GREGG, Mr. DOMENICI, Mr. GRASSLEY, Mr. ENZI, Mr. ALLARD, Mr. SESSIONS, Mr. STEVENS, Mr. SHELBY, Mr. SPECTER, Mr. CHAMBLISS, Mr. MCCONNELL, Mr. CONRAD, Mrs. MURRAY, Mr. HARKIN, Mr. SARBANES, Mr. INOUE, Mr. BINGAMAN, Mr. BAUCUS, Mr. KENNEDY, and Mr. LEAHY conferees on the part of the Senate.

#### ORDER OF PROCEDURE

Mr. GREGG. Mr. President, I ask unanimous consent that the Senator

from Massachusetts be recognized at this point for 10 minutes, and after the Senator from Massachusetts has completed his time, the majority leader be recognized.

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

The Senator from Massachusetts.

Mr. KERRY. Mr. President, I thank the Senator from New Hampshire.

#### SBA RESPONSE TO HURRICANES IN GULF STATES

Mr. KERRY. Mr. President, obviously somewhere in the next few days—we don't know when yet—we are going to be wrapping up our business here, and that will mark the end of the first session of the 109th Congress. Before we leave, Members on both sides of the aisle are very concerned that we will not have provided the assistance to the small businesses in the Gulf States region that they desperately need in order to recover from the effects of Hurricanes Katrina and Rita.

The effect is that literally hundreds of thousands of small businesses are in desperate need of assistance throughout that region. Without the jobs those small businesses provide, the economy of the gulf coast is going to have a much harder time coming back.

Since Hurricanes Katrina and Rita hit the gulf coast, regrettably—this has been commented on again by Senators on both sides of the aisle; it is not a partisan issue—there has been a stunningly slow response by the Administration to provide relief to small businesses.

The administration has now sent up three pieces of emergency legislation—three supplemental emergency spending bills worth more than \$62 billion—and yet we have not adopted any direct relief for small businesses.

The latest supplemental request asks for \$471 million in additional funding for SBA disaster loans and the SBA Inspector General. But, frankly, giving more money to the disaster loan program doesn't address small business needs. It's too narrow in scope and is not delivering relief with urgency.

Senator LOTT has talked about the problems—Senator COCHRAN has too—and there is a recognition that you have a lot of small businesses that can't wait till their disaster loans are processed or disbursed. They need access to capital immediately.

It is a matter of record now, commented on in many national journals, that the SBA has done a completely inadequate job—abysmal may be a better word—of getting disaster loan funds into the hands of small businesses in the gulf region.

It is not because of the lack of funds or the lack of employees. The SBA has enough funding to grant \$1.4 billion in disaster loans, and \$249 million for administration and staff. The staffing has been increased from some 800 employees to 4,000 employees.

As of Monday of this week, almost 39,000 small businesses had applied for

SBA disaster loans. Yet with all of these resources, both personnel and money, only 9,200 loans have been actually processed, which is 25 percent, and only 2,600, which is 7 percent, had actually been approved. Only 240 had actually seen a disbursement of money.

In addition, as of last week, the SBA had handed out only 10 of its new gulf opportunity loans the administration's answer to the business community's call for bridge loans.

We were assured by the SBA Administrator several weeks ago in a bipartisan committee hearing that those loans were on track, that they would respond rapidly, that they had enough people in place, that they were going to get the money out, and, indeed, here we are with the same record that was the incentive to have that hearing in the first place.

These loans, I might add, have an interest rate of as much as 13.5 percent. Why would we be providing a 13.5 percent loan to people who have been hit when you are trying to do it as a matter of disaster response? Frankly, that is beyond me.

The program has generated irate complaints from the very people whom it has been set up to try to help. One small business owner who called my office referred to the SBA and FEMA as "blackwater mercenaries." They feel set upon, not helped. We are not going to help the small businesses down there until we pass comprehensive small business assistance.

Senators LOTT and COCHRAN have stated that the pace of reconstruction in their home State of Mississippi and the other Gulf States is "unacceptable."

Despite the assertion of the administration that the Nation's "small business sector is vibrant," Senator LOTT has said that the slow pace of approving disaster loans "is preventing small businesses from coming back and jobs from returning or being created. Not unexpectedly, the unemployment rates in the two largest coastal counties, Harrison and Jackson, are more than quadruple the national average."

Senator LOTT is absolutely correct, and we need to do something about it.

So far, the best efforts of the Senate have been stymied. One bill passed 96-0 in the Senate during consideration of CJS. That was dropped in conference. Another bipartisan bill, S. 1807, the Small Business Hurricane Relief and Reconstruction Act, has been blocked by the White House since September 30. That is almost 2½ months.

Small business owners such as Dr. Edward Lang and Dr. Angela Lang, who rushed to complete their disaster loan application in the weeks following the hurricane, believing that assistance was going to be there, have been told that everything was going to be done to help people recover. They have gone months now without hearing any response from the SBA whatsoever.

In the immediate aftermath of the storm, their small but successful podiatry

office based out of New Orleans was deluged with 5 feet of water.

With their savings all but gone, and the ever-shrinking list of patients, all of whom have been displaced by the storm, the Langs are in dire need of assistance. They want to stay there. They want to rebuild their business there. It is essential to New Orleans that people who make that choice are empowered to be able to do so.

Despite repeated offers from out-of-state hospitals, they are sticking by their plan to try to rebuild in the city they love and the place they want to work. But the cold shoulder they received from the SBA is a virtual death sentence for their livelihood. They are just one example of countless other gulf coast businesses that have been ignored by the very governmental agencies that exist to serve them. On its face, that is unacceptable.

The request that has been put forward by the Small Business Committee for \$720 million is a little more than 1 percent of the \$62 billion the administration has requested for Katrina relief. This legislation is a very small cost compared to the total amount of money the Government is putting in, but an enormous return for the small businesses that need it.

Once again, we are seeing a situation where big business is able to walk away with most of the funding while the vast majority of the job base is in small business, and they are not getting the assistance they need.

What our bill does is to authorize \$450 million for the impacted States to provide immediate assistance to small businesses struggling to get on their feet. It authorizes additional funding for SBA's partners—such as the small business development centers that are out in the field trying to provide business counseling to the many people and to the owners who are trying to determine what comes next.

There are too many businesses on the verge of bankruptcy in the hurricanes' wake. Since the goal shared in a bipartisan way by all of the Senate and the House is to try to get those businesses to be leveraged as best as possible, to be able to return as soon as possible, and each small business that returns helps the other small businesses to be able to return, all of those things will make a difference. Tax breaks will help. But the fact is, tax breaks are not enough because tax breaks do not make an impact until you file your taxes. They have nothing to do with the assistance one needs now to be able to have cash in the pocket, to be able to survive the gap. Small businesses need that additional relief, access to capital, immediate and longer-term.

Our bill also addresses the Administration's failure to contract with small businesses to rebuild the region. The New York Times reported more than 80 percent of FEMA contracts alone were awarded on the no-bid limited competition basis. This bill we have introduced—Senator SNOWE, myself, and

other members of the committee—encourages greater competition by implementing a 30-percent goal for prime contracts and a 40-percent subcontracting goal. With billions of dollars being allocated to relief and reconstruction, it is important to demand fair competition. We need to ensure that America's small businesses are not left behind.

The citizens of the gulf region are courageously and desperately trying to rebuild their communities. The empty promises of several weeks ago, "we will do what it takes, we will stay as long as it takes," are ringing in their ears. Frankly, they are wondering where the actions are to back that up.

According to Mike Allen of Time magazine, one Presidential adviser is quoted as saying recently:

Katrina has fallen so far off the radar screen you can't even find it.

We need to find it. We need to put small businesses back on the radar screen. We need to follow through on the commitments to the victims of these devastating hurricanes. We need to ensure that we do not leave the citizens of the Gulf States behind.

There is bipartisan support to do this. The Senate passed this legislation previously. My hope is before we decide to go home, we will do what is necessary for the citizens who have been so badly impacted in the Gulf State region get the relief they have told us they need.

I yield back the remainder of my time.

The PRESIDING OFFICER. The majority leader.

#### UNANIMOUS CONSENT REQUEST— H.R. 2520

Mr. FRIST. Mr. President, over the next few moments I will be addressing an issue that affects potentially thousands of people today who are without therapy or who have debilitating diseases, and then begin a brief discussion on what is called the cord blood bill.

The bill, broadly supported in a bipartisan way, has widespread support in the Senate, as well as in the House of Representatives.

As my colleagues know, we plan to take up and debate the policy and issues related to Federal support and oversight for embryonic stem cell research early next year.

And I look forward to what I know will be a full debate on the science and ethics surrounding this important research.

Today, I ask consent to move forward with bipartisan legislation to encourage a technology that is producing cures and saving lives now.

This legislation is needed now.

Every day, patients young and old die waiting for transplants of hematopoietic cells because they can't find a suitable match.

Diseases like leukemia, sickle cell anemia, and as many as 70 other blood and genetic diseases have been helped or cured by Cord blood transplants.

Cord blood is a healthy byproduct of normal pregnancies, and is harvested from the placenta after the baby is safely delivered.

The placental byproducts yield blood cells that are genetically immature, but have the remarkable ability to help recreate blood cells in patients who have diseases that traditionally have only helped through bone marrow transplants.

This bill provides for the creation of a public inventory of 150,000 units of cord blood which is estimated to provide well matched transplants for 80-90 percent of the population in need.

These are units that can be available in days, not months, with a success rate in patients as high as 80-90 percent, as compared with 40-50 percent with traditional bone marrow transplants.

Because the cells are initially less mature and more pliable there is less chance of rejection, and therefore fewer complications.

In fact, over 7,000 cord blood transplants have been successfully done here in this country, and around the world.

Leukemia is a devastating blood disease that has been treated by traditional bone marrow transplants.

Unfortunately, although there is a large group of potential bone marrow donors in the United States and Europe, testing, harvesting and transplanting bone marrow cells can take often months, with less dependable success.

Although this is important technology, cord blood transplants may provide an alternative that has already shown to be faster, safer, and potentially reach a larger group of patients affected with leukemia.

Nonmalignant blood conditions such as Sickle cell and Fanconi's anemia are also devastating to those affected by the disease.

Sickle cell anemia affects as many as 50,000 African Americans, while many more are carriers of the disease. Although very few unrelated cord blood transplants have occurred, the success has been staggering—Sickle cell anemia can be cured.

Krabbe's disease is a genetic disease that affects only 1 in 100,000, but as many as 1 in 125 Americans are carriers of the genetic deficiency.

To date more than a dozen patients have had a cord blood transplant and have been cured of the disease.

Passage of this bill is especially important for minorities. For example, African American patients have the lowest success rate in getting a transplant from an unrelated bone marrow donor.

A long time member of my staff, Cornell Wedge, experienced this first hand. His brother, Robert Wedge Sr., was diagnosed with leukemia and in spite of sibling typing and numerous bone marrow drives aimed at increasing minority donation, his brother passed away still waiting for a match.

While tragic, this is not uncommon.

It can take months to properly screen, match, test and retest potential donors of traditional bone marrow transplant recipients.

Once we establish and collect a national cord blood inventory, we can significantly increase the chance of every individual in need to obtain a nit for transplantation. Furthermore, because of the relative immaturity of cord blood, rejection of the transplants are fewer and less severe.

I want to thank my colleagues, Senators HATCH, BURR, ENSIGN, BROWNBACK, DODD and REED for spearheading the effort to produce a bipartisan bill with broad support.

The House of Representatives passed H.R. 2520 with overwhelming bipartisan support.

Furthermore, Chairman ENZI and others in the Senate have worked in a bipartisan manner to achieve the compromise language represented in the bill as reported out of committee.

I'm told the House will move quickly on this bill as soon as the Senate completes action.

There is no question that this issue enjoys broad bipartisan support in the Senate.

We have a responsibility to authorize this program and provide appropriate guidance regarding the establishment of the program.

I will let my colleagues discuss the specifics of the legislation, but I must ask, how can we deny any longer the many patients waiting today to find that match?

Indeed, the patients don't understand.

This is literally a matter of life and death.

Proverbs 27:3 says "Do not withhold good from those who deserve it when it is in your power to act." It is within our power to act." And I hope we do.

We have a responsibility in this body to authorize this program and provide appropriate guidance so we can establish this program and get it up and running. There may be several of my colleagues who want to comment on the specifics of the program.

I will ask consent at this point and hope that we do get agreement and then further comments can be made.

I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 256, H.R. 2520, the cord blood bill. I ask unanimous consent that the amendment at the desk be agreed to, the bill, as amended, be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

The Senator from Iowa.

Mr. HARKIN. Mr. President, reserving the right to object, I want to first pay my respects to Senator FRIST and his leadership. He has been a leader in this area. He knows it well. We served on the same committee together when

our leader came here to the Senate. I also commend Senator FRIST for his leadership on the stem cell issue, a very courageous stand.

I want to make it very clear that I support the cord blood bill. I am a co-sponsor of it. What's more, I joined with Senator SPECTER 2 years ago to create the National Cord Blood Stem Cell Bank Program, and as our leader said, we included \$10 million for that purpose in the fiscal year 2004 Labor-Health and Human Services appropriations bill. We have been funding that program ever since. When I say I want this bill to pass, I have a record to back that up.

But I have said for months that we should consider the cord blood bill at the same time that we take up H.R. 810, the Stem Cell Research Enhancement Act. That is what the House of Representatives did. On May 24, the House approved both bills. We have been waiting in the Senate to do the same thing. Senator SPECTER and I, along with Senators HATCH, FEINSTEIN, KENNEDY, and SMITH all agree. Let's have up-or-down votes on cord blood and H.R. 810, as the House did. The House did them together. Then we can send them to the President.

We keep hearing that we want to bring up H.R. 810. In fact, I pay my respects to the leader for his very courageous speech. On July 29, our leader said he would vote for the bill. But we just can't seem to bring it up on the Senate floor. Members keep coming up with new bills to try to confuse things. They want to vote on 5 or 6 or 7 bills, some of which have nothing to do with stem cells or cord blood. I understand there is a lot of pressure on Senators to take up the cord blood bill before the end of the year. I have no problem with that, but under one condition—that we also take up H.R. 810.

I reserve the right to object. I ask the leader if he would modify his request to include H.R. 810 in his amendment at the desk.

The PRESIDING OFFICER. Does the Senator so modify his request?

Mr. FRIST. Mr. President, reserving the right to object to the request for a modification, all of these issues are critically important to promoting the health and welfare of patients as we look to the future, especially with embryonic stem cells, diseases that occur today. But it is going to take some while to have the research fully developed to be able to apply it. I believe it has huge promise, as I have said on this floor many times. The reason I feel strongly about separating the bills now is that bill is contentious in the sense that it is going to take a lot of debate. This is the embryonic stem cell bill that my distinguished colleague from Iowa refers to. It is going to take some time that I will give on the floor of the Senate early in the year and have committed to do so because of its importance. It is important to address that in order for that research to be amplified. Much of that research needs to be

amplified for cures that may occur 5 or 10 years down the road.

The reason I feel strongly, since there is probably unanimous consent on the substance of this bill, that we should move ahead is that we can benefit people who are dying today from diseases such as Fanconi's anemia, diseases such as a whole range of leukemias, childhood leukemia especially, where cord blood is so particularly powerful, diseases such as Krabbes, a pretty rare disease for which there is no treatment today except for the therapy that is applied in terms of cord blood. The reason I think we can justify, and should justify, separating these bills is that we all agree on the substance. It is a good bill. The leadership of Senator HARKIN and Senator SPECTER have brought us to the point that funding has begun. But now is the time to make this registry available nationwide.

The one problem with cord blood today is that it is powerful. It is more powerful than a regular bone marrow transplant, but the quantity that you get out of the placental byproducts has to be accumulated. You need to accumulate it from several different sources. But you do have to have a degree of genetic matching. Therefore, the only way to take advantage of it is to have a national registry where you can go to a computer and see where it is all over the country. Then you pull it together to treat a child who is dying from leukemia today. Therefore, action on this bill will save lives, literally.

We always exaggerate. A lot of people exaggerate the politics about saving lives in a lot of legislation we do. But I do believe that by establishing the registry and the communications network, which has not been done in spite of the funding, we can have a dramatic impact.

Since we have the House bill, we have the bill that we are requesting today, and I have assurances that the House will deal with it before we leave in the next 48 hours, we literally can pass a bill that we all agree upon.

There are a number of other bills. One is the embryonic stem cell bill. But there is an alternative therapy bill. There are a whole range of bills that are very important that we need to take up that are going to take several days on the floor to look at ethical and scientific issues. We are committed to doing that in the early part of the year. This is an important topic, and that is why I will object to the modification because I believe the embryonic stem cell does deserve more thought than we can possibly give it in the next 48 hours.

The PRESIDING OFFICER. Is there objection to the unanimous consent request of the majority leader?

The Senator from Kansas.

Mr. BROWNBACK. Reserving the right to object, I want to enter into this discussion. I deeply appreciate the majority leader bringing the issue up. I

appreciate the comments of my colleague from Iowa. He and I have been around this debate for some time. I personally want to bring up a human cloning ban. That is something I have had in the mill for 4 years. Each session we are getting close. I think it ought to be included right now and moved forward. Yet I recognize it has some contentiousness to it, as does my colleague from Iowa raising the embryonic stem cell issue. It has a contentious debate on it. I have objections, as a number of my colleagues do, to the use of young human life for research purposes.

The reason that we should go forward with this type of proposal the leader is putting forward is there is nobody opposed to cord blood research in the entire 100 Members here. Everybody supports cord blood research. It is real cures today. I have two pictures of people who are being treated right now, have been treated. This is Keone, sickle cell anemia, cord blood cured. Another one, the next one, Krabbes disease, 3-year-old, cured, cord blood. The problem is, we don't have a big registry of it around the country. So it is a real hit and miss. Some people are lucky enough to find it; others don't and die today.

With embryonic stem cell research, the researchers who are the most supportive of it are looking at decades before we have cures. We are researching on it today.

We can cure more kids such as Erik Haines today or more will die if we don't take up what the majority leader is asking for us to do, a bill for which there is unanimous support. There is not a single person who does not support a cord blood registry and getting the banking of it up so more people can live today.

So I hope my colleagues will look at this and say they don't object. The Senator from Iowa supports the bill; he is one of the sponsors. Let's let this one through, and next year I would love to have a debate on embryonic stem cell research. I would love to debate that and have a debate about cloning. Let's do that and let's have this robust discussion where we don't have agreement.

But here we can save lives today. I am not going to object. I would, though, ask that the majority leader's proffer be accepted so we can save some lives today.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Further reserving the right to object, and I will object, with all due deference to my friend from Kansas, and he is my friend, these two need to be together as they were in the House. I keep hearing about we will bring this up and debate stem cells. I didn't come prepared with pictures. I can show you pictures of people dying today because they could use stem cell transplants right now. My friend from Kansas says decades. No. It will be decades if we keep diddling around and not

doing anything. I hear that we will bring it up and debate it. I have heard that for half a year.

Unless the majority leader can give us a date certain—give us a date—hopefully before May 24, 2006—if the majority leader can give us a date before then when we will bring up H.R. 810—if they want to bring up these other bills, fine, as separate bills, not as amendments to H.R. 810; bring them up separately and we will debate and vote on them, fine. I have no problem with that. But unless the majority leader can give us a date certain and not more of this “maybe we will debate it sometime in the future,” I will object. I reserve the right to object and I ask the majority leader, can he give us a date certain by which the Senate will take up H.R. 810 as a freestanding bill without amendments? If they want to bring up other bills, the cloning bill, that is fine, too—not as an amendment to H.R. 810, but as a separate bill. I ask the majority leader, can he give us a date certain by which this Senate will set aside time to bring up H.R. 810 as a freestanding bill without amendment, debate it, and vote it up or down?

Mr. FRIST. Mr. President, the case, I think, to be made is whether we can address this particular bill, where 100 percent of the body is for it. It will save lives today and tomorrow. There is a whole range of bills. We have the embryonic stem cell bill and we heard about the cloning bill. There is the alternative embryonic stem cell bill. We have about six or seven bills which I have tried to bring to the floor under a unanimous consent request objected to by the other side, where we bring each of these bills separately, freestanding, to the floor. That has been objected to by the other side of the aisle. Since that time, I have committed that we will be addressing these bills early next year. I cannot give a specific date. I cannot even tell people what we will be voting on tomorrow morning in this body, given our schedule. But the commitment is to address these issues in the early part of next year.

If we don't pass this now, people will be suffering who are waiting for transplants if they cannot find a suitable match. Yet if we were to pass this bill with this registry, the registry will put together a public inventory of 150,000. One person waiting for a transplant that is lifesaving for otherwise untreatable diseases or treatable by a traditional bone marrow transplant—we will have 150,000 units then in a registry where you go to a computer and get a match and that transplant can take place. You can match as many as 80 or 90 percent of the people who are waiting today if we had this registry. The neat thing is that these units are available not within months but days. For transplants, people usually have to wait months, but this is the sort of thing where once you have the registry, you wait not months but days to get the transplant.

One last point is that with these cord blood transplants, outcome is better

than with the traditional bone marrow transplants with more mature cells. Cord blood cells are less mature and less pliable than the more adult cells for traditional bone marrow transplants.

With that, I am disappointed that we have heard this objection tonight.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. ENZI. Mr. President, I echo the disappointment of the leader and will make a couple comments on the debate we have already had. I know it is not in the leader's power to bring up a bill that is unamendable. It is possible for the leader—and the leader has made speeches in support of having the embryonic stem cell—to bring up a bill, but when it comes before the body, it can be amended any number of ways. So it is not possible for any leader to be able to give the guarantee that has been asked for today.

Another important part of this debate is that we don't just have the 100 Senators in this body agreeing that this is important, necessary, and immediate legislation; we also have the House agreeing that this is important, necessary, and immediate legislation. This is something for saving lives now. This isn't a big thing to go into the research area. This is treatment that is readily available.

We have preconference this bill already with the House, so it is not a matter of debate or discord between the House and the Senate. I am noticing at this time of the year that there is quite bit of that. There are more fights between the House and Senate than between the Republicans and Democrats. I hope we can get all of the debate resolved that we have before us. This is one that ought to only take a few minutes, and it could be done yet today and to the President for signature tomorrow because of the preconference we have done. That is unusual for a bill. If any one of the stem cell bills were able to be even unanimous consented within this body, we would be able to take it up as we have a number of bills, such as the pension bill, which was not easy. To have one come up with absolutely an up-or-down vote isn't going to happen around here.

I know we were looking forward to the debate. We expected it. Then a little thing called Katrina happened. The time we would have been debating that, we were debating lives in a little different manner, trying to come up with solutions. We still have some of those outstanding. Time for debate here is a very precious thing, particularly as we are winding up a session. I appreciate the leader saying he would definitely bring it up early next year. I know that is about as strong a commitment as anybody can make around this body.

While we are on this bill, I want to express my support for its passage, and I want to particularly commend Senator HATCH for his work on it. In fact,

the base bill we worked with was Senator HATCH's bill. He brought a lot of us along with him on getting an understanding of what this does and what it could do, and he not only had the experience with the bill he submitted, but has been working on this in various stages for years. He has a tremendous body of knowledge he was willing to share and able to share. That is what brought everybody into the picture. He worked with Senators BURR, ENSIGN, DODD, and REED to develop the HELP Committee product that now also the House can support. I appreciate his efforts, as well as the others within the HELP Committee, to reach this delicate compromise.

I also thank my colleagues who were critical to legislation, which would be Senators KENNEDY, BROWNBACK, KYL, and others. They played a significant role. Given that this is a preconference agreement with the House, I appreciate the work of Representative C.W. BILL YOUNG and Chris John, Chairman JOE BARTON, and others in the House who have worked with us to help develop this language, to take the contentiousness out, to get it to the point where it is now. One of the unfortunate things with preconference and unanimous consent is that without the wild debate on things, the media normally doesn't pick up when something significant happens around here.

This is one of those issues that is so critical, and we need to get it to the people who need it now. We ought not have a contentious debate just for the sake of getting the word out that we have done it. This is something the media ought to latch onto, if it gets completed, and help us get the word out that it has been done and get it into place.

The compromise we passed out of the HELP Committee in June recognizes the valuable contributions made by stem cells from both bone marrow and cord blood. This legislation establishes a sibling cord blood program in which qualified cord blood banks have the option of providing free collection and storage of cord blood units for families with an ill child or parent who could be treated with a cord blood transplant. In this way, we can ensure that sick children have the best possible chance to receive a closely matched transplant while still emphasizing the availability of private cord blood bank donations.

To make it easier for patients to have access to cord blood and bone marrow, this legislation also requires cord blood and bone marrow programs to collaborate in providing patient advocacy and case management services to patients. In this manner, patients can have access to single point of access to determine the best option for their transplant.

Additionally, this critical bill requires the Food and Drug Administration to provide a report on its progress in developing licensure requirements for cord blood units, given that such requirements will help improve the

quality of units provided to patients nationwide.

Finally, I wish to mention a new outcomes database included within the legislation which provides the opportunity for the Health Resources and Services Administration and other researchers to examine the clinical benefit of a variety of these therapeutic products, including bone marrow and cord blood.

All of these critical changes will help improve the quality of care patients receive each day.

This week, I read about a little boy who benefited from a cord blood transplant. This little boy was born in December 1999.

Mr. HARKIN. Mr. President, regular order.

The PRESIDING OFFICER (Mr. CHAFEE). Regular order has been called for. Does the Senator object?

Mr. HARKIN. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard. The Senator from Wyoming.

Mr. ENZI. Mr. President, thank you for the opportunity to continue. I know there are others who want to speak on this briefly, too.

I read about this boy who was born in December 1999. At age 1, he was diagnosed with a disease causing progressive damage to the brain and adrenal glands. Left untreated, it would lead to his eventual death. For this little boy, an unrelated cord blood or bone marrow transplant was the only known cure for his disease.

When he was just 2 years old, because of the disease progression, he received a cord blood transplant. Two years post-transplant, he is doing extremely well. He is a healthy, normal little boy. If you met him, you never would guess what he had been through and what awaited him without this transplant.

It is for this little boy and others that we are focusing on this critical legislation right now. Like others, I do think that it is important for us to discuss the broader issues of stem cells on the Senate floor. However, it is neither the time nor the place for such a debate. But we can help people now by passing this legislation which has broad bipartisan support. You can't get more bipartisan than 100 percent. So I urge my colleagues not to hold up this critical legislation until that other debate occurs. I urge my colleagues to think of this little boy and other little boys and adults and people in between who would benefit from cord blood or bone marrow transplants.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I am hopeful that my dear friend and colleague from Iowa, Senator HARKIN, will withdraw his objection. I think everybody in this body knows it was only after years of study—a very sincere study—that I came out for embryonic stem cell research, as well as cord blood stem cell research.

I mention to my colleague from Iowa that the majority leader, even though he was against embryonic stem cell research, has had the courage to come out for it. Upon reflection and study, he has as great a desire to pass embryonic stem cell research as I do. So when we get down that road of being able to help the living with these tremendous maladies we have, it may be the final answer to health care costs as well. But we have to start now.

There is a difference. This bill is the cord blood research bill. I do not know one person in this whole body who is against it. Not one. I don't know one person in the House of Representatives who is against it. Not one. And by the way, we have preconference this bill. It is very difficult to preconference bills. But virtually everybody realizes that if we can pass the cord blood bill, we will go way down the road of being able to help people with these serious problems, especially these young children, as mentioned by our distinguished chairman, Senator ENZI.

I am grateful for all of the people he mentioned in his illustrious remarks. There have been a lot of people who have worked on this issue. I think we should take the majority leader's word as a supporter of embryonic stem cell research that he will bring that bill up for a debate. There are others who also want to debate their particular points of view with regard to embryonic stem cell research, but virtually everybody is for cord blood research.

I believe we should give unanimous consent to immediately call up and adopt H.R. 2520, the Stem Cell Therapeutic and Research Act. We should pass this bill immediately. Patients cannot afford to wait until next year, their families cannot afford to wait until next year, and we in the Congress cannot afford to wait until next year.

Passage of this legislation offers us a rare opportunity to make a difference in the lives of those who either have a serious illness or have a family member who suffers from a serious illness. I don't think we should let this opportunity pass. This is the season of the year when we try to put others before ourselves.

As everyone knows, I have been working on this issue for 3 solid years and, in fact, with my original cosponsors—Senators BROWNBACK, DODD, and SPECTER—introduced the first bill on this issue in the 108th Congress. I am pleased that I have introduced legislation with Senators DODD, BURR, ENSIGN, and REED to put aside our differences and let this legislation pass once and for all. It is the right thing to do because it is in the best interest of my fellow citizens.

My goal, which I share with the other sponsors of this bill, is to create the best possible system to provide patients, clinicians, and families with access to these lifesaving treatments. I believe H.R. 2520 does this by ensuring that the number of bone marrow donors and cord blood units available for

transplant and research increases in the near future.

The integrated system will include not only the international bone marrow donor registry but also a network of qualified cord blood banks which will collect, test, and preserve cord blood stem cells. In addition, the system will educate and recruit donors, facilitate the rapid matching of donors and recipients, and quickly make such cells available for transplant centers for stem cell transplantation. The establishment of a national infrastructure for transplant material will help save the lives of many critically ill Americans.

We need to be sure that our Nation can meet the needs of patients and physicians by providing a strong future for both bone marrow and cord blood transplantation in this country.

My personal goal is to ensure that the amount of transplant material available for patient care and research continues to increase in the coming years. The only way that goal may be accomplished is through strong Federal support. It is the only way.

I look forward to working with my colleagues and doing everything possible to provide transplant patients with the best possible options by ensuring a strong future for bone marrow and cord blood transplantation in this country.

Mr. President, this is a good bill. I hope my colleague from Iowa will think this over because this puts us down the road of being able to get on top of some of the most innovative and important and remarkable health care processes this country and any country has ever seen.

If we do not pass this bill in this timeframe and it gets mixed up in the whole panoply of embryonic stem cell research, it could take at least another year, maybe 2 years, before we get even cord blood legislation passed by Congress. Why should patients have to wait another year or 2 for such a life-saving bill to pass the Congress?

There are many illnesses where cord blood transplantation and research have already made the difference in people's lives.

I think I have made my point, and I urge my colleagues to pass this bill as quickly as possible.

It is apparent we are not going to be able to do the cord blood research because of objection, but I hope that my colleague will reconsider and allow this to happen before the week is out. I know my colleague from Iowa is very sincere. He has been one of the leaders on stem cell research in this country, and he certainly has a right to do whatever he wants, but I am thinking of the thousands, if not millions, of people who could benefit from this research if we get it going with Federal Government help at this time.

Mr. HATCH. Mr. President, I rise today in strong support of the USA PATRIOT Improvement and Reauthorization Act. This bill gives our national

security and law enforcement communities, including the FBI, the tools they need to fight the war against terrorism, while at the same time adding new provisions to protect the civil liberties and privacy that all Americans rightfully expect and cherish.

The first responsibility of our national government is to protect the citizens of our country from foreign threats.

My fellow citizens of Utah and all of my fellow Americans expect that the Federal Government will help protect them against terrorist attacks but to do so in a fashion that does not open the lives of ordinary, law-abiding Americans to unjustified government intrusion. The PATRIOT Act protects our citizens by helping to keep us physically safe and protects our essential civil liberties.

The PATRIOT Act Conference report before us makes permanent 14 of the 16 expiring PATRIOT Act provisions, all of which have proven extremely useful over the last 4 years in preventing and prosecuting terrorism. Sometimes lost in the often charged political debate over the PATRIOT Act is the fact that there is broad, in fact almost universal, political consensus that each and every one of the major elements of the PATRIOT Act is essential to protecting the American public.

One hard and true measure of this reality is that there is wide agreement that 14 of the 16 expiring provisions in the PATRIOT Act ought to be made permanent. That is what this bill does. Another measure is that no major component of the PATRIOT Act is being repealed nor, to my knowledge, is anyone making any serious effort to repeal any major component of the PATRIOT Act. There is a simple reason for this simple fact. Overall, the PATRIOT Act is operating well and has not been abused. The PATRIOT Act is necessary to help protect the American public from terrorists.

The bill before us renews, for a 4-year period, the remaining 2 of the 16 expiring provisions of the PATRIOT Act that are not made permanent in this bill. Frankly, many of us think that these two provisions, section 206—the roving wiretaps, and section 215—the business records section, also ought to be made permanent. I know of no serious expert in counterterrorism or law enforcement who is calling for the repeal of either of these two important provisions or who believes that they will not be renewed again in 4 years. The fact is that the main reason that these two provisions have not been made permanent is not because they are fundamentally deficient. The reason is that there is an understandable concern shared by virtually everyone that there ought to be vigilant congressional oversight in the area of counterterrorism generally, and the PATRIOT Act specifically. Adopting these two sunset provision merely ensures that Congress will do what it is doing already—conducting consistent



and careful oversight of the PATRIOT Act.

I welcome this scrutiny and debate. We need to stay on top of how this important counterterrorism law is being implemented and enforced. We need, as we have done in this bill, make any necessary refinements that will improve the PATRIOT Act. I think the record is clear that Congress has not shirked its duty when it comes to conducting vigorous oversight of the PATRIOT Act. I understand that this year alone Congress has held some 23 hearings on various elements of the PATRIOT Act and that Department of Justice officials have testified at 18 of these hearings.

The Senate Judiciary Committee has held literally dozens of hearings on elements of the PATRIOT Act since it passed it 2001. During the 108th Congress, when I chaired the Judiciary Committee, we held some 30 hearings that touched on aspects of the PATRIOT Act.

Under Senator SPECTER's capable leadership, the Judiciary Committee held an additional series of more than a half dozen hearings this year that focused on the PATRIOT Act and that does not even count confirmation hearings for senior Department of Justice officials, such as the Attorney General, at which there have been a substantial number of questions related to the PATRIOT Act.

This House Judiciary Committee has held a similar comprehensive set of hearings on the PATRIOT Act.

We have heard from all the major critics of the PATRIOT Act. I think that the bill before us today shows that we have listened to, and where appropriate, have responded to the legitimate concerns of the critics. Frankly, in a number of areas I think we have bent over backwards to address concerns that were more hypothetical than real. To put a point on it, as Attorney General Gonzales says in his Washington Post op-ed published yesterday:

During this important debate, Republicans and Democrats have discovered that concerns raised about the [PATRIOT's] act's impact on civil liberties, while sincere, were unfounded. There have been no verified civil liberties abuses in the 4 years of the [PATRIOT] Act's existence.

That is a good record by any measure. As with any complex piece of legislation, we should not be surprised that if one day some administrative official, intentionally or otherwise, does abuse their discretion under the statute. Unfortunately, that is only human nature. But just because someone applies the law in an abusive fashion, it does not follow that the law needs to be repealed.

I think it is a testament to the professionalism to the men and women of the FBI—led by its able Director Bob Mueller—and other law enforcement agencies that, to date, there have been no documented cases of PATRIOT Act abuse. Let me just say that many crit-

ics of the act have tried their best to make the facts match their critiques but have failed to marshal any definitive evidence.

We should all understand that the chief reason for the bill's inclusion of a 4-year sunset of two provisions acts chiefly as a belt and suspenders approach to help ensure that Congress will continue our extremely active oversight of the PATRIOT Act. In fact, the House bill contained a 10-year sunset renewal period for the two provisions that will not be made permanent.

While it would have been possible to compromise somewhere between the 4-year Senate renewal time period and the 10-year House sunset period, the conference report—which no Democrat signed—contained the lower Senate number of 4 years.

It always leaves you a little empty when you make a major compromise and your colleagues pushing for particular provisions still do not sign onto the compromise package. Whatever happened to compromise around here? The PATRIOT Act reauthorization has been through several drafts as the conference process has taken place. I do not necessarily support every change that we have made but I have always believed that compromise is part of the process of legislation.

I think that a fair reading of the record reveals that in the grand scheme of things the issues that have generated the remaining disagreement on the PATRIOT Act are relatively minor issues. No one is talking about repealing any major part of the PATRIOT Act although some of the outside groups would have you believe that the PATRIOT Act is somehow un-American and a threat to civil liberties.

Hogwash. I support the efforts of our law enforcement and intelligence officials in combating terrorism. They continue to fight terrorists who would wreak havoc and death on America. It seems to me, and many others, that we should at least give law enforcement the same tools to investigate and stop terrorists that we give to combat mail fraud or internet pornography and organized crime. Now that the shock and pain of 9/11 has begun to fade, I hope we do not go backwards in our efforts to prevent terrorism. We should not make it tougher for our law enforcement and intelligence officers to obtain and share information critical to investigate terrorists than we allow for common criminals.

Let me specifically address four provisions of the PATRIOT Act that are often misunderstood at best, and sometimes outright misrepresented by many in this debate. First, section 206—this is the multipoint or roving wiretap provision. Section 206 is an essential provision that addresses the terrorists' use of evolving technology by allowing law enforcement to obtain a wiretap order that covers the communications of a specific individual even when that person—whose name we

may not know—changes telephones and locations to evade interception. We live in a day of relatively cheap and disposable cell phones, a reality that terrorists make use of each day to avoid detection.

The PATRIOT Act reauthorization bill requires a full description of a specific target in both the application and the court order, even if the target individual's actual identity is unknown. The act also requires the specific facts be alleged and documented that show how the target's actions may thwart surveillance efforts. Additionally, the act requires the FBI to notify the court within 10 days after beginning surveillance of any new phone. This notice must include the facts and circumstances that justify the FBI's belief that each new phone is being used, or is about to be used, by the target.

Second, section 213 of the PATRIOT Act covers delayed notice search warrants. This may be the most misrepresented provision of the PATRIOT Act in recent years. Its critics sometimes refer to it pejoratively as the sneak and peak provision. They suggest that it somehow gives the FBI carte blanche to rummage through each American home without ever telling the target individual what is being searched and why. That is simply not true.

Delayed notification search warrants always involve judicial review. In fact, delayed notification search warrants are a creature of judicial creation and first appeared about 20 years ago when judges agreed that there were some occasions when the interests of justice made it prudent not to tip-off suspected criminals that their premises were about to be searched.

Former Deputy Attorney General Jim Comey, a distinguished career federal prosecutor, explained at a PATRIOT Act field hearing held in Salt Lake City last year that he was personally involved in several investigations of suspected drug dealers in which judges agreed to allow the FBI to secretly search for drugs before effectuating arrest warrants in order to be able to bring to justice the greatest number of those involved in the drug ring.

In the same way that we have used the judicially created and sanctioned delayed notification search warrants to bring drug dealers to justice for over 20 years, I am certain that we want to continue to bring this same technique to bear against suspected terrorists so we can stop or catch the most senior members of a terrorist cell and to give us the best chance to understand who is involved, and what they are plotting to do against us.

Let me repeat again. Under this bill, delayed notification warrants always require a judge to find that delayed notification is justified.

And what was the big flap over this greatly debated provision?

Not, as some would have it, whether this was an un-American trampling of rights. No, the debate among conferees

was whether the initial period for the duration of this special type of search warrant would be 7 days, which was in the Senate bill, or 180 days, which was in the House bill.

Stop the presses, the conference report contains a decidedly un-shocking, 30-day compromise time period. And more important than the presumptive 30-day period contained in the final bill is the fact that a judge can effectively make the 30 days either shorter or longer depending on the facts and circumstances of the application before the court.

The bill permits extensions of the delay period, but only upon an updated showing of the need for further delay. Also, it limits any extensions to 90 days or less, unless the facts of the case justify a longer delay. Moreover, the bill also adds new public reporting on the use of delayed notice warrants.

Despite all of the exaggerated hoopla over the so-called sneak and peek provision, I am aware of no member of Congress that has taken the position that delayed notification search warrants should be eliminated and I am certainly aware of no information that this provision has ever been abused in the relatively few times it has been exercised under the PATRIOT Act during the last 4 years.

If it is constitutional and effective to use delayed notification warrants against drug dealers and child pornographers—which it is—I am all for using this tool against suspected terrorists—and that is what this bill continues to allow.

I doubt many Americans would be for a policy that would mandate that the FBI to knock on the door and tell every suspected member of al-Qaida that,

Hi, we are here from the FBI and we would like to see if you are making a dirty bomb in your basement and please don't tell your housemates and associates that we have been here searching your home.

Delayed notification warrants are here to stay and will and should be used when circumstances justify as determined by a judge.

Third, section 215. Section 215 is often misleadingly called by its critics as the library records provision. Given the great amount of discussion this provision has engendered, I would like to first note for the record that before this authorization bill that the word library was nowhere to be found in this provision.

I love libraries. I love books. I have nothing but the greatest respect for librarians and patrons of libraries. Nobody in Congress would ever sit by and allow the Federal Government to undertake fishing expeditions to find out who is reading what in libraries.

At the same time, I do not think anyone wants libraries to become safe havens for terrorist research and other terrorist activities such as electronic mail communications with computers paid for by American taxpayers.

Under the new compromise bill, the law for the first time now does refer to

libraries—but only in the most bend over backward sense that it allows a very limited, select group of senior government officials, consisting of the FBI Director, the Deputy FBI Director and the Executive Assistant Director for National Security to authorize the FBI to seek a court order under the Foreign Intelligence Surveillance Act for relevant library, book sales, firearms sales, tax return, educational or medical records.

This authority may not be further delegated to anyone else in the FBI. Obviously, this was a compromise that was made in response to the great concerns that many voiced about library and other sensitive personal records. I can live with this compromise but since there was not one documented case of abuse of this provision under existing law, I just hope we have not unintentionally created a bottleneck in the system by requiring the personal involvement of the senior-most FBI officials when local FBI agents might need to act as quick as possible.

There is a good argument to allow this authority to be delegated down further. I, for one, am uncertain why each of our 78 Senate-confirmed U.S. attorneys and each of the 56 career FBI Special Agents-in-Charge of local FBI Field Offices should not have this discretion. We entrust them with broad responsibility to protect us from a wide range of crimes each and every day and there seems no reason why we should not trust them to recommend which applications for business records should be brought before a judge.

I would remind my colleagues that one of the ways the Unibomber, Ted Kaczynski, was caught was through a garden-variety search of library records. I am aware of no complaints that the Unibomber was apprehended and I hope that no one takes the position that illicit users of libraries such as the Unibomber should be informed that, by the way, Mr. Kaczynski, the FBI was in last week comparing your withdrawal records with the Unibomber's written Manifesto and we thought you would be interested that they were asking about where you lived.

Section 215, the business records section allows the FBI to seek court orders—and let me repeat that—to seek court orders—to obtain business records from third parties in intelligence and terrorism cases.

The revisions in the law requires applications for orders for business records to include a statement of facts showing reasonable grounds to believe that the things sought are relevant to an authorized investigation to protect against terrorism or espionage.

Prior to this change there was no explicit relevance standard. Because of concerns that were raised, the relevance standard has now been codified. The administration supported this change. I support this change. Some, including my friend from New Hampshire, Senator SUNUNU, claim that the

relevance standard contained in the bill is too broad.

Let us put this issue in perspective. The relevance standard has been used for years in the issuance of grand jury subpoenas. All across the country, dozens of these subpoenas are issued under the general relevance standard each and every day. For example, grand jury investigations routinely are conducted in conjunction with records—business records relevant to the case at hand.

As a matter of fact, in many criminal law contexts, including health care fraud and sexual exploitation cases, federal investigators—without prior judicial review—can issue what are called administrative subpoenas for relevant documents.

I believe that there are over 300 Federal statutes that contain the type administrative subpoena authority that is not included in either the current PATRIOT Act or in the reauthorization bill.

In some ways it is more difficult for the Federal Government to investigate suspected terrorists than it is to investigate Medicare fraud.

Leaving aside the wisdom of not allowing administrative subpoena authority for terrorism investigations, I think it is fair to say that the revision of section 215 that now contains an explicit relevance test is strictly in the mainstream of American criminal law.

It is not a new concept to have to go before a judge and convince him or her that the Government needs certain relevant records, such as hotel or car rental bills, to investigate potential criminal activity.

If the judge does not think it is a bona fide investigation and is just a fishing expedition, the judge can deny the request.

The revised version of the PATRIOT Act section 215 requires the Government to certify that the business records sought are relevant to an authorized investigation to obtain information not concerning a U.S. citizen or to protect against international terrorism or clandestine intelligence activities.

Further, the revision to section 215 creates a three-part test that presumes such information is relevant if it pertains to:

- (1) a foreign power or an agent of a foreign power;
- (2) the activities of a suspected agent of a foreign power under investigation; or
- (3) an individual in contact with, or known to, a suspected agent of a foreign power under investigation.

Some have argued that this three part test is not strong enough or can be circumvented but the judges serving on the Foreign Intelligence Surveillance Court are neither potted plants nor is there any reason to believe that they will rubberstamp any application that is placed before them.

The new language includes additional procedural protections for section 215 orders including:

(1) The explicit right for recipients to consult legal counsel and to seek judicial review;

(2) The requirement that a senior FBI official approve requests for certain sensitive documents, such as library records;

(3) The use of minimization procedures to limit the retention and prohibit the dissemination of information concerning U.S. persons;

(4) Audits by the DOJ inspector general; and

(5) Enhanced reporting to Congress and the public on section 215 activities.

These are important protections, not all of which I believe are 100 percent necessary, but all of which I will support in the spirit of compromise.

Judicial review and approval is still required for every application for business records under section 215. All of these new provisions are intended to act to further safeguard against any potential abuse. Some during this debate have claimed that the new, explicit relevance standard on section 215 will allow the Government to sweep up the records of many innocent Americans.

We all share the concern about the Government getting too big for its britches. None of us would want to be on the wrong end of a misguided Federal investigation in which some overzealous bureaucrat with seemingly unlimited resources acted in an arbitrary and unfair way that could destroy our family's reputation and life savings. But that is not what the PATRIOT Act sanctions.

There is certainly no evidence that this is how the business records section of the PATRIOT Act has acted during the last 4 years.

Americans are right to have a healthy skepticism of government. A large part of what our job as Senators in Washington is to watch over Government agencies like the FBI and IRS.

Nobody wants Big Brother looking at our neighbor's personal financial, medical or library records without a very good reason. And that is exactly what the new protections that we have added to section 215 are intended to do—help make sure that when the Government investigators want to examine business records, they have a very good reason for looking at the records.

Let me repeat once again, the very same type of relevance standard that is being put into place in section 215 of the PATRIOT Act has long been the law of the land when grand juries routinely subpoena records in connection with many, many types of criminal investigations.

Again, these requests will not be in the hands of some rogue Federal agent—or an abusive grand jury—judges must decide on the issuance of a business records order under section 215.

We added additional congressional and public reporting provisions to help us in our oversight function. Additional audits by DOJ's inspector gen-

eral will also act to check potential abuses.

Moreover, the Conference report requires the Justice Department to promulgate minimization procedures for every section 215 business record order that will direct the FBI not to retain or disseminate documents that are obtained incidentally.

The other day my friend, the junior Senator from New Hampshire, suggested that section 215, as amended, will place an undue burden on those entities required to produce records. I do not believe this and neither should you.

The conference report before us says that no section 215 order can be issued for material that would be beyond the scope of a grand jury subpoena, and since a grand jury subpoena can be quashed if it is unreasonable or oppressive, any section 215 application can be set aside or modified if it is unreasonable or oppressive.

In addition, the conference report expressly allows the recipient of a section 215 order to challenge an order and permits the judge to set aside any order found unlawful.

There are well-developed legal tests that can guide the courts to decide when these requests are, and are not, relevant. As well, judges are well equipped to know when these requests are, and are not, reasonable and will rule accordingly.

Fourth, finally, let me address the issue of National Security Letters or NSLs. National Security Letters allow the FBI to obtain certain third-party materials in intelligence cases. The bill before us adds further protections in this area. For example, the bill makes clear that recipients of such letter are free to disclose the receipt of this letter to their legal counsel.

I guess we can only hope that suspected terrorists do not share the same attorney and a whole terrorist cell will not be tipped off.

The bill provides further clarification that these requests may be challenged in court.

The bill makes clear that reviewing courts may modify or set aside the request if compliance would be unreasonable, oppressive, or otherwise unlawful.

The conference report language also permits judicial review of the non-disclosure requirement that attaches with NSLs.

The revised PATRIOT Act bill fosters congressional oversight by requiring the DOJ inspector general to conduct audits of the FBI's use of National Security Letters.

As well, the conference report adds annual public reporting on NSLs. Some are suddenly now loudly complaining in the last few weeks that the standard for obtaining an NSL—which is a showing of relevance—is too low.

Where were the complaints about this standard before now?

National Security Letter and the standards and practices that apply to them predate the original PATRIOT

Act which passed in the fall of 2001 in the aftermath of the September 11 attacks.

The Senate bill—which was approved unanimously by the Judiciary Committee and by the full Senate by unanimous consent—did not make any changes in the standards for the issuance of National Security Letters. Nor did the House bill.

What is going on here?

It sounds a little like a case of, even if it ain't broke, let's fix it.

Yet in the spirit of mutual respect and compromise, I am not opposed trying to improve what is already working well, particularly if changes are important to many both inside and outside of the Congress. That is what has been done with respect to NSLs during the House-Senate Conference process.

As has been referred to repeatedly in this debate, part of the concern stems from a series of articles that appeared in *The Washington Post* that reports that some 30,000 of these letters have been issued in recent years.

As Senator SPECTER and others have pointed out, the Department of Justice is prepared to give any member a classified briefing that sets the record straight on this topic.

There is scant, if any, evidence that NSLs have been abused.

NSLs can only be used to obtain a very limited range of documents—mostly financial and communications records. They cannot, as some have alleged during this debate, be used to acquire medical records.

I said before and will repeat again that the conference document expressly allows a recipient of a National Security Letter request to challenge the request in court and have it set aside or modified if a judge determines it is unreasonable.

You would not know this from the way that some are describing this provision during this debate.

In fact, the conference report vehicle is actually more protective of civil liberties than the provision in the Senate bill, which was approved by unanimous consent earlier this year.

Specifically, the compromise language before us today requires a set of senior officials, including the Attorney General, Deputy Attorney General, Assistant Attorney General, or FBI Director to certify that disclosure will harm national security or diplomatic relations.

The Senate-passed bill gave that level of deference whenever any unspecified government officials made that certification. By confining the authority to issue NSLs to the most senior officers in DOJ and the FBI, the conference report helps ensure that it will be used with appropriate discretion.

Some are criticizing the so-called gag order provisions of the NSL procedures that forbid public disclosure of ongoing national security investigations involving NSLs.

But do we really want to let our sworn terrorist enemies know precisely

what communication and financial records that we are examining in our attempts to thwart future terrorist attacks?

I think not. Nor do I think the American public wants a system that inordinately tips our hand to our enemies.

At the end of the day, I think that the compromises made with respect to NSLs in this bill should be recognized as a good faith effort to strengthen the rights of those who have legitimate challenges to the reasonableness of the governmental request for information.

In the spirit of compromise and in recognition that many citizens have expressed concerns about this bill and are just now focusing on the long-standing NSL procedures, I think it appropriate to make these accommodations so long as we do not unduly burden legitimate law enforcement needs and longstanding practices.

Let me summarize my position on the PATRIOT Act.

I support the Conference report revisions to the PATRIOT Act, although I do not favor each and every particular change.

I urge my colleagues to vote yes on cloture and yes on final passage.

I congratulate the House of Representatives for its leadership in passing this bill yesterday with a bipartisan vote.

I commend my friend, Chairman JIM SENSENBRENNER, for his leadership of this conference committee.

I commend my friend, Senator SPECTER, for his leadership in working overtime to achieve a broad bipartisan consensus on this bill.

I want also commend all of my fellow conferees, including all of those Democratic conferees who did not sign the conference report.

These are important issues and I understand and respect that many in Congress and the American public comes to this debate from different perspectives. I do not question anyone's patriotism just because they are raising questions and concerns about this revised version of the PATRIOT Act. I might question their wisdom and judgment as pertaining to this particular bill but never the ism.

I hope that it comes time to vote that my colleagues will recognize that this is a good, compromise bill.

I understand that not everyone will agree with every jot and tittle of this bill—I certainly do not.

On balance the PATRIOT Act has worked well and we have every reason to believe that these changes will make the PATRIOT Act work even better.

This bill is good for Americans and bad news for the terrorists.

That is the way it should be.

I strongly disagree with those who would filibuster the motion to proceed to this conference report.

Let this body have the same up and down vote that the House held on Wednesday.

A three-month extension just shows the American public that this body cannot even do one of those rare and

unusual must-do pieces of legislation in a timely fashion.

As well, no doubt some political pundits will likely interpret a 3-month punt on the PATRIOT Act as a short-term political defeat for the administration.

But this is a double edged sword: The American public will not be pleased if, after they have had the time and opportunity to reflect on the facts, they come to the conclusion that failure to accomplish a comprehensive renewal and strengthening of the PATRIOT Act before the end of this year is interpreted by our enemies as somehow inviting or even enabling further terrorist attacks on U.S. soil.

The Senate should vote to send this bill to President Bush's desk.

I ask unanimous consent that a letter to the Senate and House of Representatives from the board of directors of the 9/11 Families for a Secure America be printed in the RECORD.

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

9/11 FAMILIES FOR A  
SECURE AMERICA,

*Staten Island, NY December 14, 2005.*

To the United States Senate and House of Representatives:

The members of 9/11 Families for a Secure America ask you to vote "yes" on the conference report to HR 3199, the Reauthorization of the Patriot Act.

Our families understand that an important reason the 9/11 mass murderers were able to "succeed" in their conspiracy was the existence of "the wall" that blocked information sharing between law enforcement and the intelligence community. The Patriot Act removed that "wall" temporarily and it is important to now remove it forever so that the next 9/11 killers are not aided by the laws of our own country.

The Conference Report addresses many of the objections expressed by some Members to HR 3199 as passed by the House, and is a most reasonable compromise. It is quite apparent that the remaining objections, expressed by a few Members, are based upon theoretical possibilities for abuse of civil liberties. However, the four year history of the Patriot Act has shown what the Washington Post calls "little evidence of abuse, and considerable evidence that the law has facilitated needed cooperation."

Thus, the objections of the opponents of HR 3199 are simply illusions. In contrast, it is not an illusion that nineteen foreign terrorists took advantage of our government's refusal to give its law enforcement and intelligence officers the logical and obvious tools needed to catch the conspirators prior to September 11, 2001. The result was the murder of our parents, spouses, children and friends. We are convinced that the reality of 9/11 outweighs the minor, hypothetical objections that have been raised.

Some Members may think the final version of HR 3199 not quite perfect, but defeat of the Patriot Reauthorization means freedom of operation for terrorists and more needless deaths of innocent Americans. We think that concern for the safety of this country demands that these Members compromise and accept something that may be a little less than what they view as perfection. Please vote "yes" on the conference report to HR 3199.

Sincerely,

The Board of Directors, 9/11 Families for a Secure America:

Bruce DeCell, Sergeant, NYPD (retired), father in law of Mark Petrocelli, age 29.

Bill Doyle, father of Joseph, age 24, WTC North Tower.

Lynn Faulkner, husband of Lynn, WTC South Tower.

Peter & Jan Gadiel, parents of James, age 23, WTC, North Tower 103rd floor.

Grace Godshalk, mother of William R. Godshalk, age 35, WTC South Tower 89th floor.

Joan Molinaro, mother of Firefighter Carl Molinaro.

Will Sekzer, detective Sergeant (retired), NYPD, father of Jason Sekzer, age 31, WTC North Tower 105th floor.

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

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

### WAR IN IRAQ

Mr. THUNE. Mr. President, I rise today to speak briefly about the progress on the war in Iraq and, importantly, the well-being and morale of our troops in the field.

Last week, the State of South Dakota lost two of its sons in Iraq, SSG Daniel Cuka, 27, from Yankton, SD, and SFC Richard Shield, 40, from Tabor, SD. Both served in the 147th Field Artillery of the South Dakota National Guard and were killed by improvised explosive devices while riding in their humvees.

They were assigned the mission of assisting in the training of Iraqi police. Three other members of their battery were also wounded. South Dakota is now in the process of grieving for and honoring these two brave men who answered the call of duty.

One week after this tragic loss, an historic event occurred today in Iraq that gives particular meaning and value to the lives and sacrifice of these two men. Today Iraq held a national election to fill parliamentary seats and it appears that there was a massive turnout of voters from each of the major ethnic and religious groups, including from the Sunni population that only a few months ago rejected any participation in the political process.

This election is only the latest in a series of milestones giving testimony to the great progress that has already been made in our effort to transform this country into a true democracy. Granted, it will be a long road to the kind of democracy we have in this country. But it was a long and bumpy road in our own journey. The fact that this Iraqi election occurred at all, is amazing considering where the people of Iraq were 5 years ago, without freedom to determine their future and under the heel of Saddam Hussein's tyranny.

Despite the naysayers in this country, optimism among Iraqis is becoming infectious. Of course, optimism and support for what we are doing has always been prevalent among our troops. Thanks to them and the sacrifices they are making, we are on the cusp of delivering something very special into the hands of the Iraqi people—the ability to shape and control their own lives, lives free from the tyranny of dictators, free from radical Islamic intimidation, and free from hopelessness.

Let us dispell the fiction that America is not making progress in Iraq, right here and right now. Under United States training and guidance, 97 Iraqi battalions are now conducting security operations throughout Iraq. In July of last year, there were only 5 Iraqi battalions equipped and trained to fight.

Currently, 33 battalions have assumed their own areas of operation. Last year at this time, the Iraqi security forces did not have control over any areas of operation. Iraqi border police are now manning 170 border compounds and 22 ports of entry. Over 75,000 Iraqi policemen are patrolling Iraqi cities. In the last election in January, 130,000 Iraqi security forces successfully protected polling sites all over the country and inspired a wave of pride throughout the country and a sharp increase in recruitment. We anticipate that in the election that occurred today, over 225,000 Iraqi security forces provided security to the polling places.

In the January election almost a year ago, 8.5 million Iraqis turned out to vote, defying terrorists threats. In the October referendum, 10 million voters turned out. We expect significantly greater numbers in this election, including from the Sunni population whose Mullahs are now encouraging their people to get out and vote after opposing their participation in previous elections. Progress is clearly being made. To say otherwise is simply inaccurate and demoralizing to our troops in Iraq who are risking their lives to achieve these great milestones.

I would like to read a portion of an email sent to me by the mother of a South Dakota soldier stationed in Iraq.

Dear John, I am a commissioner in Corson County, McIntosh, SD. I also, happen to be a mother of 2 children in the Army. My son is now in Iraq, stationed at Ar Ramadi—not a very nice place right now! The purpose of this email is to ask you to pass on to Congress the fact that all their back stabbing and finger pointing is very devastating to the families of the sons and daughters now in Iraq. If they think they are representing the families by doing what they are doing on the Hill and in the press they are sadly mistaken. I don't want my son to be where he is, but anyone with any kind of sense knows that we cannot just pick up and desert the Iraqi's at this point. . . . Please, Please get this message out that this is not what the parents, husbands, wives, and families need to hear from our leaders. We have enough worry every waking moment knowing our kids are in harms way. We don't need the politicians using our loved ones in order for them to further their political future.

The two fallen soldiers who are being honored today at a memorial service in South Dakota gave their lives for a cause greater than themselves. Those family members they left behind deserve to know their sacrifices were not in vain.

We will win this war and Iraq will be a free independent democracy. When our work is finished, Iraq will provide a vision and a clear path for other countries in the Middle East to follow toward freedom and democracy. As Americans, we cannot leave the Iraqi people with anything less.

I ask unanimous consent that a written statement honoring and paying tribute to Sergeants Cuka and Schild, two American heroes, be printed in the RECORD.

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

Mr. President, South Dakota has paid a heavy price in the effort to make Iraq a functioning democracy and the world a safer place. To date, fifteen South Dakota soldiers have made the ultimate sacrifice in Afghanistan and Iraq, nine of whom died from hostile fire. About 85 percent of South Dakota's National Guard members have been mobilized. Earlier this month, two brave soldiers from my state paid the ultimate price, and three more were wounded. I rise today to give voice to the tremendous sympathy all South Dakota citizens have for the families and friends of each of the courageous soldiers our state has lost and this month, specifically, Army Sgt. 1st Class Richard Schild and Army Staff Sgt. Daniel M. Cuka. On December 4th these two soldiers of the South Dakota National Guard were killed by roadside bombs in Iraq as they went about the dangerous and critically important mission of training the Iraqi Police Force in one of Baghdad's police districts. They have made the ultimate sacrifice in service to our nation, and we as a nation will be forever in their debt.

The soldiers of Battery C of the 147th Field Artillery unit arrived in Baghdad only very recently, and have already been exposed to the horror of war, and the deaths of some of their friends. South Dakota has a very small population, Mr. President, and word of the deaths of our citizen soldiers fighting the war on terror has hit us very hard. I am proud of our state's outpouring of support during this time of great personal tragedy for the loved ones Sgt. Schild and Sgt. Cuka have left behind. I know the communities of Yankton and Tabor will miss them very much.

The lives of these two soldiers are emblematic of the many citizen soldiers currently serving in Iraq. Sgt. Cuka graduated from Yankton High School in 1996 and married his wife Melissa in 2000. They had two young children, Abby, who is 5 years old, and Alex, who is 2. Sgt. Cuka led an active life, and dedicated his life to serving and protecting the public. Apart from serving nearly ten years in the National Guard, he served with Yankton Area Search and Rescue, and his unit has retired his call number, the highest honor it can bestow. He worked for Wilson Trailers in Yankton, and still found time to attend classes at Mount Marty College.

Sgt. Schild was the office manager of Bon Homme Yankton Electric Cooperative. He and his wife Kay also have two young children. He was serving in Iraq along with his brother, Brooks. After graduating from Mount Marty College, he joined the National Guard. It is clear that Sgt. Schild was highly

dedicated to doing his duty, and had a strong sense of community. Even though events in the Middle East made it seem likely he would be called to active duty, Sgt. Schild still re-enlisted. Even while he was in Iraq, Sgt. Schild was still concerned about his community being without power due to a severe winter storm late last month. In fact, the National Guard helped to mitigate the effects of that storm. It is humbling to be able to represent a community that has people like Sgt. Schild and Sgt. Cuka.

The human toll during wartime always gives us pause to reflect on what we are fighting for in the war on terror. Throughout America's history, we have faced determined enemies on the battlefield, and we have been victorious. In this war, we face a determined enemy that lurks in the shadows, far from anything that can be characterized as a battlefield. Sgt. Schild and Sgt. Cuka fell to an enemy that could not face them on the battlefield.

The challenges faced by our soldiers in Iraq are far more complicated and delicate than the challenges of a traditional battlefield. While our soldiers make every possible effort to avoid civilian casualties, they face an enemy that hides among civilians, and an enemy that rejoices in maximizing civilian casualties. Sgt. Schild and Sgt. Cuka died while helping the vast majority of peaceful Iraqi citizens develop the means to protect themselves, build a democracy, and enforce the law. They were part of an effort to make the world a safer and freer place for us and for future generations of Americans.

When I think on the deaths of Sgt. Schild and Sgt. Cuka, and indeed all of the deaths of our soldiers in the war on terror, I am reminded of a passage of Scripture that says "Greater love hath no man than this, that a man lay down his life for his friends." To the families of Sgt. Schild and Sgt. Cuka, please know that all South Dakotans have lifted you up in our hearts, and that you are in our thoughts and prayers. If there is anything we can do for you, we will do it. I hope it may provide some small measure of comfort to you to know that Sgt. Schild and Sgt. Cuka have laid down their lives for their friends, and we are forever grateful.

Mr. THUNE. What they gave to the State of South Dakota, to this great country and to the people of Iraq should never be forgotten.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

#### MORNING BUSINESS

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

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

#### IRAQI VOTE FOR FREEDOM

Mr. FRIST. Mr. President, today marks a proud and momentous day in Iraq's history. Today, on December 15,

2005, 15 million registered voters will go to the polls to choose their first permanently elected government in modern Iraqi history. Along with them, Iraqis from all around the world will cast their votes for freedom, for Iraq's future—including Iraqi Kurds in my home town of Nashville, Tennessee.

As it so happens, Nashville is home to the largest Kurdish population in the United States of approximately 8,000 Iraqi expats. This past January, over 3,000 of our Kurdish neighbors voted in the historic January 30 elections which put Iraq on the road to independent, democratic self-rule. Tennessee election organizers predict that the turnout for today's vote will be double that number.

Iraqis from all around the region are converging on Nashville to cast their votes in solidarity with their brothers and sisters of their native land.

Susan Dakak, whose family moved from Baghdad to Tennessee 27 years ago, tells the Chattanooga Times Free Press, "This is a dream come true. I never thought in my life that Iraq would get to where it is politically."

Susan and her husband, Janan, plan to travel from Knoxville to Nashville, and they plan to bring their 9-year-old son with them to witness the personal and historic moment of casting their ballots as free citizens. And as Susan understands, her vote is not just for her birth country, but for her adopted country, as well.

Susan and Janan's votes, along with the millions of Iraqis voting today, are critical to helping defeat the terrorists and vanquishing their violent aspirations.

As Susan explains:

This will be the beginning of the end of all of the violence. The new Iraqi government will know that it will be their responsibility to clear the terrorists out of the country.

In the short run, today's broad participation will further isolate the terrorists and constructively engage Iraqis across ethnic and sectarian lines. And in the long run, a peaceful, united, stable and secure democracy in the heart of the Middle East will expose the brittle and intolerable tyranny of the terrorist enemy. And it is precisely this outcome that our terrorist enemies fear.

Early in the conflict, a letter from Al Zarqawi was intercepted by coalition forces. In it, he wrote that a free and prosperous Iraq would reject his vision of a medieval, fundamentalist state. He recognized that if Iraqis became accustomed to self-determination and self-rule, they would refuse to submit to a tyrant and they would reject his extreme interpretation of Islam.

Furthermore, Iraq would become a model for the entire Middle East region, driving out extremism and heralding in moderation and peace. Al Zarqawi understands the power of freedom. That is why he is bent on its destruction. But as this remarkable year of steady progress has proven, he cannot and will not succeed. The desire of

freedom is too strong and its logic is too irreducible.

Democracy is on the march and today 15 million Iraqis are heading to the polls. Once again, they are showing the world their extraordinary courage and determination to join the modern, free world.

America pledges to stand with the Iraqi people in that worthy effort as they strive to secure the blessings of liberty.

As Tahir Hussain, president of the Nashville Kurdish Forum, told a Tennessee paper on this week:

We say that everybody should have a voice in Iraq, and everybody should be equal. And today is the day.

#### SENATOR EUGENE MCCARTHY: A GREAT AMERICAN HAS PASSED AWAY

Mr. BYRD. Mr. President, in my book, "Child of the Appalachian Coal Fields," I discussed the Senate class of 1958. That class, which included 15 Democrats and 3 Republicans, constituted the largest turnover over in Senate history, and from that class of Senators came a number of Senate leaders and Presidential candidates. Most important, I pointed out, while elected during the Eisenhower administration, the class of 1958 "tackled some of the greatest foreign and domestic problems ever to face the Nation, and they played critical roles in enacting the Great Society programs and ending the war in Vietnam."

One of the most remarkable members of that remarkable class was Senator Eugene McCarthy of Minnesota, who passed away this weekend. He played critical roles both in enacting the Great Society programs and ending the war in Vietnam.

It was my privilege and my pleasure to serve with Eugene McCarthy in the U.S. House of Representatives and here in the Senate as members of the class of 1958.

While serving together, I came to appreciate that Senator McCarthy was a truly gifted and talented person with an extraordinary background. He was, without question, one of the more unusual Members to sit in this chamber. He was a poet, professor, philosopher, and author, and had been a military intelligence official during World War II and a semiprofessional baseball player.

In the Senate, as throughout his life, Senator McCarthy did not hesitate to go his own way. He did not hesitate to stomp out of a Senate hearing, and he was willing to espouse unpopular views. But he always did so with an open heart, an open mind, and deep sincerity and dedication. Therefore, even when I disagreed with him, which was quite often in those early years, my respect for him continued to increase.

And I developed a deep appreciation for his abilities, his wit, his warm personality, and his strong determination to make ours a better country. One of his first assignments in the Senate was

chairing the Select Committee on Unemployment, which helped focus national attention on the problems of joblessness and poverty throughout the country. By holding hearings in Beckley, Welch, Fayetteville, and Wheeling, WV, as well as other economically distressed regions of the country, the Select Committee helped undermine the false claims of the so-called Republican prosperity of the 1950s, and, as a result, helped provide the ground work for the Great Society legislation that came a few years later.

As I said earlier, it was members of the class of 1958 who also helped to end the war in Vietnam. Although all of us had voted for the Tonkin Gulf Resolution, many of us came to regret it. Senator McCarthy, to his great credit, was one of the first to speak out against the war. He did so by announcing his break with the Johnson administration, and running against the President for the Democratic presidential nomination. "The Administration," he said, "seems to have set no limit to the price which it is willing to pay for a military victory."

No one expected much from McCarthy's challenge. He was a little-known Senator taking on President Johnson, who at the time, seemed all powerful.

But, as most of us know, in the 1968 New Hampshire Democratic primary, Senator McCarthy stunned the Nation and shocked the political world. His near victory helped to drive President Johnson out of the Presidential race. That contest showed how unpopular the war was. It focused attention on, despite the administration's claims to the contrary, just how disastrous its policies were in Southeast Asia. It brought home to the American people an issue that was dividing the country and costing billions of dollars and thousands of American lives. Furthermore, Senator McCarthy's campaign helped embolden a generation of young Democratic Party activists.

When Senator McCarthy announced that he would be leaving the Senate in 1970, I was one Senator who approached him and tried to change his mind. When I was unsuccessful, I came to the Senate Floor to pay tribute to him. Senator McCarthy, I said, "has made his mark upon our party, he has made his mark upon our country, and he has made an indelible mark upon the hearts of all in the Senate who are privileged to call him friend." I said, "he proves the truth of that verse of Scripture that states, 'He that hath friends must show himself friendly.'"

I have never wavered in those opinions that I expressed 35 years ago. In fact, our friendship became stronger, as did my admiration of him.

Mr. President, our country has lost a good and talented man, and a great American. I will miss my friend. Our country needs more men like him.

God give us men!  
A time like this demands strong minds,  
great hearts, true faith, and ready hands.



Men whom the lust of office does not kill;  
 Men whom the spoils of office cannot buy;  
 Men who possess opinions and a will;  
 Men who have honor; men who will not lie.  
 Men who can stand before a demagogue  
 And brave his treacherous flatteries without  
 winking.

Tall men, sun-crowned;  
 Who live above the fog,  
 In public duty and in private thinking.  
 For while the rabble with its thumbworn  
 creeds,

It's large professions and its little deeds,  
 mingles in selfish strife,  
 Lo! Freedom weeps!  
 Wrong rules the land and waiting justice  
 sleeps.

God give us men!

Men who serve not for selfish booty;  
 But real men, courageous, who flinch not at  
 duty.

Men of dependable character;  
 Men of sterling worth;  
 Then wrongs will be redressed, and right will  
 rule the earth.

God Give us men!

### WEAK-KNEED BUDGET TRICKS

Mr. BYRD. Mr. President, before we adjourn, the Congress will be asked to vote on an across-the-board cut for every agency and program in the Federal Government. The Congressional majorities have put this Nation on an irresponsible fiscal path, one that promises years of record-breaking red ink, inflationary pressures, and multiplying Federal debts. Instead of making tough choices on spending priorities, or perhaps limiting the massive tax breaks going to Nation's richest citizens, or finding ways to lessen the burden of the war in Iraq on the American citizens, the Republican Congressional leadership is expected to take the expedient route of an across-the-board funding cut.

This may not seem like a big deal. What's 1 or 2 percent? But to the families across this country, that 1 or 2 percent can mean a world of difference, especially when it is coupled with the freeze in services that has already been applied to Federal initiatives.

Take, for an example, community health centers which provide basic health care for some of our most isolated citizens. This arbitrary Republican plan would mean that 55 clinics would be shuttered, and 73,000 Americans would see their health care held hostage by budget games. A 2 percent cut in the Food and Drug Administration budget would force unacceptable delays in the amount of time that it takes to approve new lifesaving drug and medical devices.

At a time when the Congress is considering tax cuts for the wealthy, after a 2 percent cut, food packages for 65,922 elderly participants would vanish. A 2 percent cut in the WIC program would reduce the number of meals for 175,234 economically struggling women, infants, and children. More than 35,000 families would lose access to safe and affordable housing. Under this Congressional leadership, the rich get richer, while tens of thousands of poor and the

elderly have to struggle for food and shelter.

The House has passed four tax cut bills, totaling \$95 billion, and the Senate has passed tax cuts which add up to \$58 billion. The vast majority of these tax cuts are aimed at improving the economic portfolios of the wealthiest Americans at the expense of those Americans who are barely scraping by. At the same time that this Congress is pushing forward with unwise tax cuts, these across-the-board cuts would weaken further the Nation's crumbling infrastructure and rob the economy of new jobs. In fact, a \$720 million cut in highway construction, as put forward under the Republican blueprint, would slash more than 34,200 construction jobs from our economy. How many headlines about companies cutting payrolls by the tens of thousands will it take before this Congress stands up and puts the American people first? American families deserve to know that the safety net is not filled with holes. But instead of offering assurances, this Republican plan only serves to jeopardize the future of many Americans.

Children in school districts with a high median income would also suffer. These school districts, which receive title I funding, would have to scramble to fill a \$257 million reduction. That kind of cut would hamstring the education of more than 200,000 students around the country. At the same time, special education funding would drop by \$214 million, and the number of children in Head Start would be cut by 19,000. Cutting the funds for classroom education may achieve short-term fiscal goals for the Republican majority, but it creates long-term problems for the Nation's future.

Don't care about the classrooms? Think that school districts can absorb this cut with higher property taxes? Then what about our veterans? Each day, new veterans come home from the wars in Iraq and Afghanistan. They join our proud men and women who have served in World War One and World War Two, in Korea, in Vietnam, in the first Gulf War, and in so many places around the world. These men and women have made us proud. Many of these 21st century veterans have specialized health care needs. The battlefields of today are inflicting wounds unlike those experienced by the soldiers, sailors, airmen, and Marines of past wars. Veterans' health care is a responsibility that we must never shirk.

But what do these veterans get in return for their service? More budget cuts from this Congressional majority. The GOP plan means cuts in treatment for approximately 236,000 patients. It means that 1.4 million outpatient visits would disappear. Waiting lists would likely rise by about 176,000 veterans. In addition, the VA will not be able to expand specialty and mental health services at existing sites as planned.

But the short-sighted effects of this Republican cut to America's working families, classrooms, and veterans are only one aspect of backwards priorities of this Republican funding plan. Just this week, the President reiterated his effort to protect the American people from future terrorist attacks. But how much safer will the American people be if the Republican blueprint for budget cuts is signed into law? How much safer will the Nation be with 800 fewer FBI agents?

Similar cuts would face the Drug Enforcement Agency. Under this Republican scheme, the DEA would be forced to cut its planned force by 200 agents. The President and his team have stated that drug profits contribute to terrorism. Does anyone think that it is a good idea to cut more than 200 agents from the DEA?

Border Security would be cut by \$96.5 million. As a result, 200 of the promised new border agents would go unhired. Detention and removal efforts for illegal aliens would be sliced by \$20 million. All of us know that the U.S.-Mexico border already is terribly porous. But, instead of investing in new agents and tightening security on our borders, this Republican effort would undermine our effort to secure our borders.

What about our airport security? That is not immune from these Republican budget games. The Transportation Security Administration, which is responsible for the screening of passengers at our airports, would also be targeted for stiff reductions. As a result of this misguided GOP blueprint, more than 1,000 TSA screeners would lose their jobs. This is on top of the 2,000 person reduction in screeners already approved by this Congress. At the same time, funding for explosive detection equipment for baggage and passengers would be decreased by \$12 million. And safety in the skies would be placed at risk.

We all watched the Coast Guard perform marvelously after Hurricane Katrina devastated Mississippi and Louisiana. But rather than reinforcing the Coast Guard's ability in future disasters, the 2 percent rollback would reduce cutter patrol hours by at least 10,000 hours and aircraft hours by at least 2,000 hours. And military recruiting would be reduced by 60 percent—or 1,158 Coast Guard personnel.

I urge my colleagues to think again about this fiscal foolishness. Think about what it means for our children and for the safety of our families. Think about what it means for our veterans and for our security.

The American people elect Members of Congress to lead, to make tough choices, and to place the best interests of the Nation at the forefront of our work. This across-the-board cut is not leadership, and it is not in the best interests of the Nation.

### DEFENSE AUTHORIZATION ACT

Ms. SNOWE. Mr. President, as chair of the Senate Committee on Small

Business and Entrepreneurship, I rise in support of amendment No. 2529 which was unanimously adopted into S. 1042, the National Defense Authorization Act for fiscal year 2006. This amendment will restore much needed transparency in the small business contract goaling program administered by the Small Business Administration, promote international competitiveness of our Nation's small businesses, and ensure fair access of small businesses to Federal prime contracts and subcontracts for performance overseas.

Currently, many small contractors play a critical role in maintaining a strong domestic defense industrial base and supporting the Global War on Terror. Yet many of these small firms face serious obstacles obtaining prime contracts and subcontracts to perform internationally the work they are already performing so ably domestically. Simply put, this amendment would clarify that the Small Business Act applies to Federal overseas contracts.

In the 2001 report, "Small Business: More Transparency Needed in Prime Contract Goaling Program," the Government Accountability Office criticized the Small Business Administration, SBA, the Department of Defense, DOD, and other agencies for excluding contracts from the calculations of small business contracting achievements toward the statutory goals established in the Small Business Act based on tenuous rationales. On its face, the Small Business Act applies to all Federal procurements, including all overseas contracts. However, recently there has been some resistance to implementing the Small Business Act as written. Some agencies, like the Department of Defense, go as far as to exempt all overseas-related contracts from the act. Others, such as the Department of State, exempt contracts for performance abroad if they are also awarded abroad but not if they awarded domestically. As a result, prime contracting and subcontracting requirements of the Small Business Act are rendered unenforceable with regard to many military and reconstruction projects, and fair access for small businesses is seriously diminished.

Based on fiscal year 2000 dollars, the GAO found that approximately \$8.4 billion in overseas defense contracts were excluded from counting toward the Federal Government's small business performance. Under the Small Business Act, \$1.93 billion of these contracts should have been awarded to small businesses. The SBA's and the DOD's rationale for excluding overseas contracts was that small firms have little chance of competing for these contracts in the first place.

The excuse given by the SBA and other agencies to the GAO in 2001 did not hold then, and it surely does not hold now. With an expanded Federal presence in recent years, the dollar volume of overseas contracts has been steadily increasing, and small firms have been playing a substantial part in

supporting Federal operations abroad. Indeed, every major contract for the reconstruction for the reconstruction of Iraq funded by the \$18.4 billion in 2003 emergency supplemental appropriations has a minimum 10 percent requirement for small business subcontracting and a 23-percent subcontracting goal. Our experience with Iraq reconstruction proves that American small businesses are capable to perform overseas even in the most dire circumstances.

Congress clearly meant what it said in the Small Business Act that procurement goals must be calculated against "total purchases" of the Federal Government. My amendment reaffirms congressional policy that the Small Business Act applies to all contracts and subcontracts regardless of geographic place of award or performance. This amendment directs Federal agency heads with jurisdiction over acquisitions to ensure that all contracts and subcontracts, regardless of geography, are covered by the Small Business Act. Under my amendment, agencies will be able to give due note and recognition to the specific requirements and procedures of any other Federal statute or treaty, such as the provisions governing foreign military sales, which may exempt any Federal prime contract or subcontract from the application of the Small Business Act in whole or in part.

I urge my colleagues to help keep America's defense industrial base and America's global competitiveness strong by supporting fair access to prime contracts and subcontracts by our small businesses.

Mr. President, as chair of the Senate Committee on Small Business and Entrepreneurship, I rise today in support of my amendment No. 2530 to S. 1042, the National Defense Authorization Act for fiscal year 2006, to promote fair access to multiple-award contracts. I am pleased that this amendment was adopted unanimously, and I urge my colleagues to support it in conference. Since the enactment of the Federal Acquisition Streamlining Act, FASA, in 1994, Federal agencies are increasingly relying on contracts and acquisition services offered by other agencies, specifically, the General Services Administration's Multiple Award Schedule/Federal Supply Schedule contracts, MAS/FSS, Government-wide acquisition contracts, GWACs, and multi-agency contracts, MACs, to purchase goods and services. These contracting mechanisms were authorized by Congress in the belief that they would encourage the Government to buy commercially available products and services and would open the Federal contracting market to businesses, especially small businesses, which have previously focused only on the private, commercial markets. Essentially, these indefinite-delivery, indefinite-quantity contracts are framework agreements on prices and other terms for any future sales to the Govern-

ment. In the procurement community, these contracts are popularly known as "hunting licenses" because they permit preapproved contract holders to secure Government work with very limited competition as a result of direct marketing to Federal agencies. Federal contracting officials can place task orders against these contracts with their preferred, preapproved vendors. This amendment is a modest response to numerous complaints from representatives of small businesses and small business trade associations that the actual process for receiving task orders under multiple award contracts, such as the Federal Supply Schedules and multiagency contracts, tends to be biased in favor of large businesses and experienced Government contractors.

Small business representatives testified before my committee that they invest time, effort, and resources to negotiate multiple award and multi-agency contracts with the GSA or with another executive agent managing a Government-wide acquisition contract or a multiagency contract. Consultants have been known to charge small firms as much as \$25,000 for guiding them through dense, time-consuming paperwork required to receive Government preapproval for one such contract. However, there are serious concerns that small firms do not reap commensurate benefits in the form of task orders. For instance, in recent proceedings before the White House Acquisition Advisory Panel, a representative of the General Services Administration, GSA, indicated that total Multiple Award Schedule/Federal Supply Schedule sales reached \$31.1 billion in fiscal year 2004. GSA further indicated that small businesses hold 79.6 percent of total MAS/FSS contracts, but account only for 37.1 percent of sales dollars. At first glance, this level of small business participation is commendable. It exceeds the statutory Government-wide goal of awarding 23 percent of Federal contract dollars to small businesses. However, the significant disparity between these numbers confirms the complaints of small businesses about the barriers they have been facing in Federal indefinite-delivery, indefinite-quantity contracts. I look forward to working with the GSA, the Small Business Administration, and other agencies towards a greater parity between small business participation in the Schedule program itself and their share of contract dollars awarded through this program.

In the acquisition world, there is a perception that contracting officers routinely persist in limiting upcoming task order opportunities to a maximum of three companies on any particular GSA Schedule instead of the three-company minimum as required by law. This situation is a recurring subject of bid protest decisions. In addition, many multiple-award contract holders do not receive a fair notice of upcoming task orders.

Earlier this year, an article in the *Veterans Business Journal* asked

"What Happened to Public Law 108-183?" This law, codified in the Small Business Act, created the contracting preference for small businesses owned by service-disabled veterans. The article pointed out that many service-disabled veterans feel frustrated at the multiple-award contract regulations which undermine the weight of the congressionally established preference and preclude disabled veterans from obtaining set-aside multiple-award acquisitions.

The Senate Committee on Small Business and Entrepreneurship has attempted to mitigate many of these problems. Back in 1994, the Federal Acquisition Streamlining Act included a change to the Small Business Act that created an exclusive reservation for small businesses consisting of all contracts valued at more than \$2,500 but not more than \$100,000. Federal agencies attempted to exempt themselves from this provision by regulation. In response, I inserted corrective language in S. 1375, the 50th Anniversary Small Business Administration Reauthorization Act. This act, passed unanimously by the Senate during the 108th Congress, included a provision to ensure that task orders on multiple award schedules and multiagency contracts valued at more than \$2,500 but not more than \$100,000 are reserved for small businesses.

This amendment builds on my prior efforts by establishing a congressional policy that each agency's orders placed under multiple awards contracts must meet statutory small business goals. To facilitate this policy, the amendment authorizes Federal agencies using defense contracting authorities to conduct small business set-aside competitions in the context of multiple-award contracts. My amendment also directs the SBA administrator to provide to my committee a comprehensive report on participation of small businesses in multiple-award contracting.

The measures adopted by the Senate through this amendment are only some of many steps and initiatives which my committee has been pursuing to increase the access of multiple-award contracts to small businesses. I hope that my colleagues will join me in supporting these efforts.

Mr. President; as chair of Senate Committee on Small Business and Entrepreneurship, I rise today to address a bipartisan amendment to S. 1042, the National Defense Authorization Act for fiscal year 2006 from the Senate Committee on Small Business and Entrepreneurship concerning much needed improvements to the Small Business Innovation Research, SBIR, Program and the Small Business Technology Transfer, STTR, Program. Amendment No. 2531 is based on my original amendments S.A. 1536 and S.A. 1537 and builds on language reported by the Senate Armed Services Committee and on legislative initiatives proposed by the Small Business Committee's ranking member, Senator KERRY. I would like

to commend Senator KERRY, as well as Senators WARNER and LEVIN, the leaders of the Senate Armed Services Committee, for their bipartisan cooperation on the important subject of accelerating innovation and procurement of innovative technologies by the Federal Government. I also want to thank Dr. Charles Wessner and others at the National Academy of Sciences who have worked on a congressionally authorized study of the SBIR program, the Small Business Technology Council, the Association for Manufacturing Technology, and numerous representatives of Federal agencies, small businesses, and representatives of large prime contractors for the insights into the work of the SBIR and the STTR programs which they have provided to my committee over the years.

Today, the Federal Government spends approximately \$2.3 billion on phase I and phase II awards for the SBIR and the STTR programs, with \$2.2 billion spent through the SBIR awards to small businesses. The Department of Defense is the major participant in this program, accounting for approximately \$1.1 billion in SBIR spending and approximately \$50 million in STTR spending. These funds provide a substantial stimulus to the American innovation system, and it is the task of this Congress to ensure that these funds are wisely spent. A key part of this effort is strengthening the existing science and research requirements for the small business research and development programs. This amendment directs the Department of Defense to base its SBIR and STTR research and development priorities on the Department's most current Joint Warfighting Science and Technology Plan, the Defense Technology Area Plan and the Basic Research Plan and to solicit input from program management officials.

In addition to the phase I and phase II awards, the Department of Defense awarded over \$456 million in phase III contracts in fiscal year 2004. But the need for innovative technologies in our defense procurement is far greater. The SBIR and the STTR authorities enable contracting officers to quickly buy high-tech products and services for our warfighters. Unfortunately, the commercialization rate from research and development to product acquisition has been hampered by poor commercialization planning and increasing SBIR program administration costs. Since 1998, Congress and the Department of Defense have sought to increase commercialization but without much progress. To address this problem, my amendment authorizes a Commercialization Pilot Program at the Department of Defense and component military departments. Under this program, the Secretary of Defense and the military Secretaries would be required to identify SBIR programs with potential for accelerated transition into the acquisition process. The amendment authorizes the use of one percent of SBIR

phase I and phase II funds for administrative expenses of this pilot. Congress will be kept abreast of this pilot through detailed evaluative reports.

As cochair of the Senate Task Force on Manufacturing, I have been concerned about the deteriorating manufacturing base of our Nation and especially the impact of this trend on the defense industrial base. To stem this decline, President George W. Bush signed Executive Order 13329, Encouraging Innovation in Manufacturing, in February 2004. This order directs Federal agencies which participate in the Small Business Innovation Research Program and the Small Business Technology Transfer Program to give "high priority" to manufacturing-related research and development projects to the extent permitted by law. The amendment incorporates this Executive order into law and directs the Small Business Administration and all other relevant agencies to fully implement its tenets.

Finally, the amendment will expand the ability of Federal agencies and prime contractors to use phase II and phase III awards under SBIR and STTR for testing and evaluation of innovative technologies developed by small businesses for use in technical or weapons systems. Insertion of SBIR or STTR technologies into large, integrated systems is often not possible without significant testing efforts. By clarifying that either phase II or phase III may be used for these purposes, the amendment will provide additional incentives to agency program managers and to large systems integrators to commercialize the fruits of the SBIR and the STTR research.

Our Nation's small businesses are also our Nation's innovators. They secure approximately 13 times more patents than large businesses. I urge this Congress to support in conference my measure for keeping America secure in war and in competitive internationally.

#### ANTI-SEMITIC STATEMENTS BY THE PRESIDENT OF IRAN

Mr. SMITH. Mr. President, I rise today to register my outrage against a series of vehemently anti-Semitic comments made by Iranian President Mahmoud Ahmadinejad. These remarks, all of them vile and baseless, should be condemned by the Senate. Let me describe some of these remarks for the RECORD.

At a conference in Tehran on October 26, President Ahmadinejad said, "Israel must be wiped off the map . . . The Islamic world will not let its historic enemy live in its heartland."

Then, on December 8, he continued his assault, saying "Some European countries insist on saying that Hitler killed millions of innocent Jews in furnaces . . . Although we don't accept this claim . . . If the Europeans are honest they should give some of their provinces in Europe—like in Germany,

Austria or other countries—to the Zionists and the Zionists can establish their state in Europe.”

And, just yesterday, President Ahmadinejad claimed that “They have fabricated a legend under the name ‘Massacre of the Jews’, and they hold it higher than God himself, religion itself and the prophets themselves”

Mr. President, I do not even know where to begin. Insidious rhetoric such as this is designed to do nothing other than stir hatred and incite hostility.

I have walked the grounds at Auschwitz. I have seen the crematoria. To claim that one of the greatest tragedies in the history of humanity is merely a fabrication to advance a political agenda is simply beyond the pale. But what is worse is that these comments are not isolated. They are a part of persistent, state-sponsored anti-Semitism that is now commonplace in the administration of President Ahmadinejad.

On the eve of the elections in Iraq, one of the greatest democratic milestones in the history of the modern Middle East, I hope that we can work to move past this gross intolerance on the part of the Iranian President.

#### FREE GUN LOCKS FROM PROJECT CHILDSAFE

Mr. LEVIN. Mr. President, tragedies involving children and guns continue to repeat themselves with alarming frequency around the country. According to local police, at least five Detroit children have been accidentally shot and killed this year alone. Just last week a three year old boy in Detroit nearly lost his life when he accidentally shot himself in the chest with his father's gun.

Following that shooting, Detroit police spokesman James Tate said, “It appears this could have been prevented if a gun lock was on and the gun was secured. It's unfortunate that we end up responding to these types of scenes when there are free gun locks readily available around the city.”

One source of free gun locks is Project ChildSafe, the Nation's largest firearm safety education program. This program has provided more than 35 million “firearm safety kits” to gun owners around the country, including more than 517,500 in Michigan this year. Each firearm safety kit includes a free gun lock and materials to educate firearms owners about safe gun storage practices.

Free gun locks from Project ChildSafe are available year round through many local police departments. According to Project ChildSafe, if a local law enforcement agency does not have safety kits available for residents who request them, that agency may contact their governor's office to receive a supply. In addition, Project ChildSafe representatives attend a number of major public events including State fairs, sportsmen's festivals, and community safety days to dis-

tribute firearm safety kits. More information on safe gun storage practices and how to acquire a free gun lock can be found on the Project ChildSafe website at [www.projectchildsafe.org](http://www.projectchildsafe.org).

The Project ChildSafe website also includes information concerning a number of safe gun storage practices to reduce the risk of unintentional shooting. In addition to using a gun lock, Project ChildSafe suggests locking up ammunition in a location separate from the firearm. Statistics show this additional precaution can have a dramatic impact on the risk of unintentional shooting. A study published earlier this year in the Journal of the American Medical Association found that the risk of unintentional shooting or suicide by minors using a gun is reduced by as much as 61 percent when ammunition in the home is locked up. Simply storing ammunition separately from the gun reduces such occurrences by more than 50 percent.

Common sense alone tells us that safe firearms storage practices, including the use of gun locks, reduces the risk of accidental shootings. I hope that firearms owners in Michigan and around the country join those who have already chosen to take advantage of the free gun locks and educational materials provided by Project ChildSafe so that fewer children are killed and seriously injured in accidental shootings.

#### ELECTIONS IN IRAQ

Mr. KENNEDY. Mr. President, all Americans are inspired by the way the Iraqi people once again demonstrated their courage, dedication, and resilience by going to the polls to place their future—and the future of their country—squarely on the side of democracy.

Every American salutes our men and women in uniform who are serving so ably under enormously difficult circumstances, and whose dedication and sacrifice have made today's elections possible. More than 2,100 of America's finest soldiers have made the ultimate sacrifice in Iraq and we owe them and their loved ones an immense debt of gratitude. We all hope that successful elections will give the Iraqi people new confidence that a brighter future lies ahead.

Successful elections can and should be the turning point we've been waiting so long for, when our troops can begin to come home. As our Ambassador to Iraq, Zalmay Khalizad, said today, because the training of the Iraqi security forces is proceeding, “some draw down can begin in the aftermath of the elections.”

An open-ended commitment of America's military forces does not serve America's interest and it does not serve Iraq's interest either. If America want a new Iraqi government to succeed, we need to let Iraqis take responsibility for their own future.

#### MONTREAL CLIMATE CHANGE NEGOTIATIONS

Mr. JEFFORDS. Mr. President, one of the most important issues facing mankind is the problem of human-induced climate change. The broad consensus within the scientific community is that global warming has begun, is largely the result of human activity, and is accelerating.

Global warming will result in more extreme weather, increased flooding and drought, disruption of agricultural and water systems, threats to human health and loss of sensitive species and ecosystems. We must take action now to minimize these effects, for the sake of our children, our grandchildren, and future generations.

Over the last 2 weeks, 189 countries met in Montreal to discuss the important issue of global climate change. These countries met in a spirit of cooperation and in hopes of agreeing on the next steps for reducing harmful emissions of greenhouse gases. These countries, including the United States, have all already agreed, under the United Nations Framework Convention on Climate Change, to take steps to “prevent dangerous anthropogenic interference with the climate system.” These past 2 weeks were a test of their resolve.

Unfortunately the United States, led by the Bush administration delegation, attempted to slow, stall, and block the progress of these talks. This is unconscionable, given that the United States is the largest single emitter of greenhouse gases. Fortunately the U.S. negotiators' efforts were not completely successful, and an agreement was reached to have additional talks commencing next year. Although that is a small step and not nearly enough, it is vastly preferable to the outcome this administration wanted, which amounts to no action at all.

In advance of the Montreal meetings, I joined with 23 other Senators in sending a letter to President Bush, reminding the administration of its legal obligation to participate in the Montreal talks. Unfortunately, but perhaps not surprisingly, the administration disregarded this obligation.

A decision to block further discussions on missions reduction commitments cannot be viewed as consistent with the obligations of the United States under the treaty.

While the U.S. has refused to ratify the Kyoto Protocol despite the fact that 157 nations have become parties, actions to block those countries from moving forward with additional commitments under that Protocol is also inconsistent with the U.S. Framework Treaty obligations.

In our letter to the President, we noted that just this year the Senate, by a vote of 53-44, approved a resolution calling for mandatory limits on greenhouse gases within the United States. We wrote this letter and distributed it to interested parties at the negotiations to ensure that other countries

understand that not everyone in the United States agrees with the Bush plan for prolonged inaction.

To this end, members of my staff traveled to Montreal and met with representatives and negotiators from other countries. They also met with public interest groups, business groups, and others interested in taking positive action on climate change. They witnessed firsthand how the Bush administration worked very hard to dissuade other countries from agreeing to even discuss further commitments. This is not the position that our Nation should be taking. We should be leading the way on climate change, not burying our head in the sand.

From the outset, even before they left Washington, the administration's delegation insisted that any discussion of future commitments was "a non-starter" and that any discussion about future commitments prior to 2012, which marks the end of the first set of Kyoto commitments, was premature. They continued at the conference to make this point to all parties. And when the rest of the world decided to engage in actual negotiations about discussions of further commitments under both the Framework Convention and the Kyoto Protocol, the U.S. stated bluntly that such discussions were unacceptable and pointedly walked away from the negotiating table.

The good news is that the rest of the world stayed at that table and talked throughout the night and into the next morning, reaching agreement on a set of decisions for further discussions. And when those decisions were brought into the light of day, and it became apparent that the United States would have to state its opposition publicly, before all 189 countries, the U.S. was forced to agree to return to the negotiating table and to allow talks to continue next year.

This means that 157 countries have agreed to discuss additional commitments under the Kyoto Protocol, even without the U.S. as a party, and that 189 countries, including the U.S., have agreed to look at the issue of further steps under the Framework Convention. Despite arguments to the contrary, cooperative international agreements to reduce greenhouse gas emissions remain a reality, and slow, but significant, progress is taking place to strengthen those commitments.

The overwhelming majority of Americans support taking some form of action on climate change. A recent poll by the Program on International Policy Attitudes, sponsored by the Center for International and Security Studies at the University of Maryland, found that 86 percent of Americans think that President Bush should act to limit greenhouse gases in the U.S. if the G8 countries are willing to act to reduce such gases. All the G8 countries except the U.S. are signatories to the Kyoto treaty and therefore have already committed to such action.

In addition, the study found that 73 percent of Americans believe that the

U.S. should participate in the Kyoto treaty. Finally, the study found that 83 percent of Americans favor "legislation requiring large companies to reduce greenhouse gas emissions to 2000 levels by 2010 and to 1990 levels by 2020." Thus, in one way or another, more than 80 percent of Americans favor taking real action on climate change. The current administration is completely out of step with the American public on this issue.

States, regions and even localities are taking on climate change related commitments. Nine Northeastern and Mid-Atlantic States are working together through the Regional Greenhouse Gas Initiative, RGGI, to develop a cap-and-trade system for carbon dioxide, CO<sub>2</sub>, emissions from power plants. On June 1, 2005, California Governor Arnold Schwarzenegger signed an executive order setting greenhouse gas emissions targets for the State. The order directs State officials to develop plans that would reduce California's greenhouse gas emissions to 2000 emissions levels by 2010 and 1990 levels by 2020. The U.S. Conference of Mayors adopted an agreement, sponsored by Seattle Mayor Greg Nickels, to reduce greenhouse gas emissions to levels that mirror the Kyoto Protocol limits. California has also adopted a greenhouse gas emission standard for automobiles, and a number of States, including Vermont, have followed suit and adopted the same standards. These actions confirm that there is widespread political desire and motivation to take action within the United States to reduce greenhouse gas emissions.

I have sponsored legislation to reduce greenhouse gas emissions from powerplants, which are a large source of carbon dioxide, a principal greenhouse gas. My bill, S. 150, the Clean Power Act, would reduce greenhouse gas emissions to 1990 levels by 2010. This would be a very important first step by the United States towards combating global warming that would show the rest of the world that we are serious about doing our part. Congress needs to act to provide a mandate and undisputed authority to this and future administration negotiators.

I am both discouraged and heartened by the outcome of the talks in Montreal. Those of us who care about stopping climate change did everything we could to help aid these talks, and despite the Bush administration resistance, the international dialogue on climate change will continue.

But a dialogue is not nearly enough, and the consequences of additional delay are dire. The U.S. has been and remains the largest emitter of greenhouse gases. It has a responsibility to its own people and to the people of the world to be a leader on this issue. Thus far, it has been anything but a leader and these talks highlighted that fact.

I look forward to the day when I can once again be proud of the United States role in these talks, when we can enter these negotiations having done

our part. I believe that is what we agreed to in 1992, when the Senate ratified the climate treaty and it is high time we live up to our obligation.

#### ANWR

Mr. FEINGOLD. Mr. President, over the past year, and on more occasions than I'd like to remember, I have talked about the abuse of process that proponents of drilling in the Arctic Refuge have resorted to in their attempts to pass an unpopular and misguided measure. Sadly, the Senate faces the very same issue today. Let me unequivocally state that talk of attaching an extraneous and obviously controversial provision regarding the Arctic National Wildlife Refuge to the Department of Defense appropriations conference report—a provision that was not included in either the House or Senate version of the bill—is flat out irresponsible and should be rejected.

This last-ditch effort to attach the Arctic Refuge drilling provision to the Department of Defense appropriations bill—or any other bill that is a "must pass" before we adjourn for the year—really reflects poorly on this body. And, what does it mean for greater mischief down the line? That whenever we can't move an unpopular proposal through the regular legislative process, there's no need to worry: you just attach it to an important funding bill? Is this the precedent that we, members of both parties, want to set? I sincerely hope not.

Let me be very clear: I would prefer to be talking about setting a new path for our country's energy policy—a path that reduces our use of fossil fuels while favoring renewable sources of energy. Unfortunately, some of my colleagues are dead set on looking to the past, instead of to the future, for our sources of energy and are even willing to go so far as to use the bill that funds our men and women in uniform as a vehicle for their controversial measure. I am deeply disappointed by this latest move.

I strongly urge any of my colleagues who are currently trying to add language to the Defense appropriations bill, or any other bill we need to consider in the coming days, that would open up the Arctic Refuge to oil and gas development, to reconsider those efforts. Continuing down that path, the path of circumventing established legislative processes to move measures that can't pass on their own merits, is an irresponsible abuse of the rules under which we operate that should be rejected out of hand.

#### DR. CYNTHIA MAUNG

Mr. OBAMA. Mr. President, I rise today to call attention to the heroic efforts of Dr. Cynthia Maung and her Mae Tao clinic to provide hope on the border of Thailand and Burma. Dr. Maung, herself a Burmese refugee, has dedicated her life to helping those fleeing political and economic turmoil in

Burma. Few Burmese refugees are granted official refugee status in Thailand, making it almost impossible to obtain healthcare, employment or education.

On the outskirts of the town of Mae Sot, Dr. Maung started a makeshift facility to treat her malaria stricken fellow refugees as they began crossing by the thousands into Thailand, following the Burmese junta's brutal crackdown on the democracy movement in 1988. Mae Tao is now a thriving clinic treating around 70,000 people a year. From providing maternity care and family planning to treating infectious diseases and fitting landmine victims with prosthetics, the Mae Tao clinic represents hope, safety and a brighter future for some of the most vulnerable people in the world. This is a mission we should do everything we can to support.

Dr. Maung's tireless efforts have not stopped with the Burmese refugee population in Thailand, as she trains medical teams to deliver health services to remote villages in Burma. Unable to return to her homeland, Dr. Maung continues to be a fearless advocate for democracy and justice for the people of Burma—on both sides of the border.

We can and must do more to support this courageous woman, and her work to ensure that the refugee population in Thailand is granted basic rights, including healthcare and education, for all.

#### ADDITIONAL STATEMENTS

##### A NEWSPAPER FAMILY FOR 30 YEARS

• Mr. CRAPO. Mr. President, keeping a community connected and informed is one of the most important functions of a local paper. In Cottonwood, ID, this job has been attended to with care and expertise by Pat Wherry and her late husband Bob for the past 30 years. In 1975, Pat and Bob took the helm of the Cottonwood Chronicle and Bob, until his death, and Pat have been serving the community of Cottonwood through their hard work and diligence ever since. Their two sons are involved in the businesses as well, each currently holding positions as editors, one at the Chronicle and the other at the Lewis County Herald. Bob passed away in 1996, but Pat has stayed with the paper, working hours that as many involved in small papers know far exceed 40 hours per week.

The Cottonwood Chronicle is one of the oldest papers in Idaho, first wearing the banner of the "Cottonwood Reporter" in 1892. It has been the Cottonwood Chronicle since around 1910. At one time, the Wherry family also owned both the Valley News in Meridian and the Lewis County Herald in Nez Perce, but later sold the Valley News. They have devoted their time, resources and energy to keeping the people in these communities educated and involved. Editors of small papers

especially serve many functions—they are the source of news and schedules of events. They are the keepers of community opinion and concerns. Pat especially is a strong and proud advocate for Cottonwood and I always appreciate her information she shares about the exciting things happening in this growing community. I congratulate Pat and her sons Greg and Steve and wish them well as they continue in their good work.●

#### APPRECIATION FOR THE WORK OF LYNN ROSENTHAL

• Mr. CRAPO. Mr. President, today I recognize outgoing executive director of the National Network to End Domestic Violence, Lynn Rosenthal. Lynn began at NNEDV in 2000, when I had the wonderful opportunity to become acquainted with her. Since that time, she has worked tirelessly on behalf of victims of domestic violence nationwide. In the course of the past 5 years, she has educated me and other Members of Congress about the high incidence and terrible consequences of domestic violence in the United States and has been instrumental in my becoming ever-increasingly involved in advocating for victims of this terrible crime.

Lynn began her work in her home State of Florida where her leadership and character earned her the Florida Governor's Peace at Home Award. After working in domestic violence advocacy on a regional level, she went on to become the director of the Florida Coalition Against Domestic Violence before serving as the executive director of NNEDV.

Lynn has devoted her life to advocating for safe and nurturing communities and promoting equality. With dignity, poise, and energetic conviction, as executive director of NNEDV, Lynn has been an invaluable voice of education on domestic violence issues for Members of Congress. She speaks for those who cannot speak for themselves, those imprisoned in their homes, victims of cruelty with no way out and no hope. Her work on the Violence Against Women Act has kept it a powerful policy tool to address the injustices that so many women, children, and men face in their own homes. I am honored to have had the opportunity to work with such an incredible woman, and I wish her the very best as she goes to work on economic justice issues back in Florida.●

#### CONGRATULATING GRAND VALLEY STATE UNIVERSITY ON DIVISION II NATIONAL CHAMPIONSHIP

• Mr. LEVIN. Mr. President, it gives me great pride to congratulate the Grand Valley State University football team on winning the Division II National Championship. This is the Lakers' third championship in the past 4 years, and it crowns a perfect 13-to-0 season. I particularly salute the

Lakers' coach, Chuck Martin, who is in his second season with the team.

The Lakers' championship victory came in a game that was thrilling to the end. After finishing the first half down 14-to-7, the Lakers fought back against Northwest Missouri State. A stunning 82-yard scoring drive in the fourth quarter gave the Lakers their first lead of the game with just over 4 minutes left to play. Northwest Missouri mounted an impressive drive of its own, but the Lakers' defense stopped the Bearcats at the 4-yard line as time expired. In this stirring finish, the Lakers showed the skill and poise of true national champions.

Grand Valley is now one of only three schools, including North Dakota State and North Alabama, that have won three or more Division II National Championships in football. And the seniors on the Laker team have tied the NCAA record for the most wins in a 4-year period.

Winning is becoming a tradition at Grand Valley. The volleyball team recently won the Division II championship. The water polo team won a national club title in November. And Mandi Long-Zemba recently won the Division II individual cross-country title as the cross-country team placed second overall.

Congratulations to all of the magnificent athletes at Grand Valley State University on a tremendous year, and best of luck for continued success. Go Lakers.●

#### TRIBUTE TO CARMEN MCCORMICK

• Mrs. LINCOLN. Mr. President, I rise today to honor the life of Carmen McCormick. She was a brave young woman, beloved by her family and friends, who dedicated her life to the nation she loved through honorable service in the U.S. Navy.

Gunner's Mate First Class McCormick enlisted in the Navy in April of 1999 and completed her basic training at the Recruit Training Command in Great Lakes, IL. Upon completion of basic training, she attended Gunner's Mate "A" school, and later continued her technical training at the Naval Training Center in San Diego. Ultimately, her duty led her to the Mayport Naval Station in Jacksonville, FL.

To those who served beside her, McCormick was a tremendous asset as a talented technician and recognized expert in all aspects of ordnance handling, but she was also a trusted leader and a friend whom they came to know and love.

Tragically, she was involved in a serious automobile accident on the night of November 11, 2005. Her shipmates joined her at the hospital shortly after the accident and later joined her family in a constant vigil by her bedside, and throughout the hospital, until the moment she passed away on November 13. She would have been 26 years old next month.



Although Carmen may no longer be with us, I pray that her friends and family have found some sense of solace knowing that she was not alone at the end of her life's journey but was surrounded by loved ones who sought to comfort her with their presence and their prayers. I would like to share the family's appreciation for the U.S. Navy officials who helped everyone through the difficult issues that arose from Carmen's end-of-life care. She had devoted herself to service and looked forward to a promising career in the Navy, and in her final moments they did everything they could to ensure she was treated with the honor and respect she deserved.

Of particular assistance and comfort to the family were Carmen's commanding officer, LCDR Tim Sullivan, as well as Senior Chief Joseph Adamo, LT Tim Johnson, CAPT Charles King, and ADM Annette Brown. Their compassion and understanding made a tragic situation a little more bearable.

My thoughts and prayers go out to the friends and family of Carmen McCormick, particularly her parents, Michael Flanigan and Leslie Santa Maria. Although her time with us was far too short, her spirit and her love will remain in our hearts forever.●

#### CONTRIBUTIONS OF THE SAN LUIS VALLEY

● Mr. SALAZAR. Mr. President, I today recognize the extraordinary contributions of the San Luis Valley, in my home State of Colorado, to our national heritage and to the history of the West.

As a native son of the San Luis Valley, I know how hard the peoples of the region have fought to protect their traditions, their language, their art and architecture, and the stories of their ancestors. They have fought to protect treasured ranchlands, sand dunes, waterways, and mountain peaks. And they have fought to protect a rural way of life that cherishes family, faith, and hard work.

To support the stewardship efforts of the valley's peoples, and to ensure that the national treasures of the region are preserved for generations to come, I have introduced legislation to create the Sangre de Cristo National Heritage Area in the San Luis Valley.

This legislation will direct the National Park Service to assist citizens, organizations, and local governments in Alamosa, Costilla, and Conejos Counties in developing a management plan to guide the continued stewardship of the region's cultural and natural resources. Though this bill provides local communities assistance from the Federal Government, I am proud that the National Heritage Area Program rewards a consensual, locally driven approach to management rather than a top-down, federally dominated approach.

This bill provides economic assistance to a region that has paid an eco-

nomic price for preserving its rural way of life. The towns of San Luis and Antonito, among the oldest settlements in Colorado, have successfully preserved their moradas, placitas, historic churches, religious celebrations, and historic festivals, yet the counties they are in, Conejos and Costilla, are two of the four poorest in America. This bill helps these communities leverage their cultural capital to spur economic development by providing up to \$10 million to rebuild historic structures, develop interpretive exhibits, and attract tourism.

The cultural and historic value of the Sangre de Cristo National Heritage Area is immeasurable. Since people first settled in the San Luis Valley over 11,000 years ago, the region has been home to Ute, Navajo, Tiwa, Tewa, Kiowa, Hispano, and Anglo peoples, among others. The cultures, lifestyles, and cosmologies of the valley's settlers have converged, conflicted, and coalesced through the centuries, and have left an unmistakable imprint on the peoples who inhabit the Valley today. The region was dubbed "The Land of the Blue Sky People" in honor of the Utes, the oldest continuous residents of what is now Colorado, and is the home of Mount Blanca or Sisnaajini, the sacred mountain that, according to folklore, marks the eastern boundary of the Navajo world. Seventeenth century Spanish, still spoken by about 35 percent of the population of the Sangre de Cristo region, testifies to the strong influence of Hispano settlers, while the narrow gauge rails of the Rio Grande Railroad recall America's era of westward expansion.

In addition to its remarkable historical landmarks and cultural treasures, the San Luis Valley's natural wonders attract visitors from around the world. The valley is home to 3 National Wildlife Refuges, 15 State Wildlife Refuges, a National Forest, 2 National Forest Wilderness Areas, and the Great Sand Dunes National Park and Preserve. These public lands, and thousands of acres of private lands in between, are home to a rich array of plants and animals, from the pika of the alpine tundra to the pronghorn of the prairie and the sandhill cranes among the dunes.

This legislation will help protect these crown jewels of the American landscape by supporting a local, consensus-based approach to land management. Because the best management policies come through cooperation, not coercion, this bill maintains strong protections for private property owners. The Federal funds in this bill cannot be used to purchase private property and the management plan cannot restrict the rights of property owners on their own lands.

For generations the peoples of the San Luis Valley have worked hard to be good stewards of their land and water. They have worked hard to preserve their culture and a rural way of life. And they have worked hard to create this National Heritage Area.

They are looking for our help now to protect a place so central to Colorado peoples, so emblematic of the Western landscape, and so much at the core of the American experience.

Let us honor the contributions of the San Luis Valley to our Nation's heritage by designating the Sangre de Cristo National Heritage Area.●

#### U.S. MILITARY PERSONNEL SERVING IN IRAQ

● Mr. SANTORUM. Mr. President, today is a historic day for the people of Iraq as they go to the polls to freely elect a permanent 275-member Iraqi National Assembly. It is important to remember that these elections in Iraq would not have been possible without the bravery and sacrifice of the U.S. Armed Forces who have served and are currently serving in Iraq helping to provide the Iraqi people with the freedom and democracy that they deserve.

Our service members who are serving in Iraq are promoting democracy, restoring and repairing public services, working to prevent terror attack, and destroying the insurgency in a country that hasn't known freedom in decades.

As we focus on the meaning of Thursday's election in Iraq, it is important to realize the extraordinary bravery exhibited by our service members.

One unit in particular, the 4th Civil Affairs Group, CAG, U.S. Marine Corps Reserve, based in Washington, DC was deployed to Iraq during the January 30, 2005 elections of a temporary Iraqi National Assembly. These marines, many of whom are from my State of Pennsylvania, helped to promote democracy, restore and repair public services to the Iraqi people, and prevent terror attacks by insurgents. This particular unit played an active role in the election day operations in January by setting up polling locations and participating in security patrols to protect voters and voting sites and was an integral part in the United States' battle for Fallujah. Also during its deployment, the 4th CAG worked to install new electricity transformers in the Iraqi city of Ramadi, the capital city of the al Anbar Province, also known as one of the most dangerous cities in Iraq. And I would be remiss if I failed to mention that the deputy commander of this unit of brave marines was William Reynolds, now proudly serving as Senator Specter's chief of staff.

One marine in particular from that unit, CPL William Cahir, has written about his experiences in Iraq. Corporal Cahir, originally from State College PA, was a journalist before September 11, 2001. After seeing the horrific terrorist attacks that occurred in our country on that day, Bill Cahir felt compelled to serve our country and joined the Marine Corps. As part of the 4th CAG of the Marine Corps Reserve, Corporal Cahir was deployed to Iraq.

During his deployment to Iraq, Corporal Cahir, along with other members of the 4th CAG, helped to establish a

Civil Military Operations Center in Ramadi. On election day in January in Iraq, Corporal Cahir and the 4th CAG were responsible for protecting a polling site in Ramadi.

Having returned from his deployment to Iraq, Corporal Cahir has since returned to his civilian job. As a journalist, Bill Cahir covers a multitude of stories but has since focused many of those stories on his own personal experiences in Iraq and the experiences of other service members.

In one article he wrote for *The Express-Times*, a newspaper from Easton, PA, Mr. Cahir told the story of two service members—COL James T. Anthony, a marine reservist from Nazareth, PA, and LTC Stanley B. Smith, Jr., an Army officer with the Army's 98th Division, Institutional Training. Both service members were on their way to Camp Taji in Baghdad to begin their deployments to Iraq.

In his article, Bill Cahir documented the sentiments of these two service members during their deployments. Colonel Anthony had recounted his observations of the training of Iraqi soldiers, "U.S. Marines, soldiers and sailors, along with their commanders, 'did a fantastic job really pushing the ball forward when it comes to training Iraqi security forces, not just in terms of numbers but in terms of efficiency and effectiveness.'"

Lieutenant Colonel Smith also recounted his experiences in Iraq when he said, "I am able to feel a sense of pride in accomplishment here in seeing real results in the form of construction that has been completed as planned and Iraqi units operating with installations that contribute to mission readiness."

Mr. President, these stories from our soldiers are just a few more examples of the success in Iraq that our troops are contributing to. Each and every one of our service members has contributed to the promotion of democracy, the security, and the rebuilding of Iraq.

I applaud the marines of the 4th Civil Affairs Group and all of the service members who are serving or who have served our Nation in Iraq. The bravery that they have displayed and the progress they have made in Iraq is remarkable, and it needs to be told.●

#### AIMEE'S LAW

● Mr. SANTORUM. Mr. President, H.R. 3402, the Department of Justice Appropriations Authorization Act, includes "technical changes" to legislation known as "Aimee's Law." I am dismayed that the Department of Justice has waited until now to take the adequate steps to implement this legislation. I sponsored this legislation in the Senate, which was signed into law by President Clinton in October 2000. The law was to be implemented in 2002. I believe that 3 years is more than adequate time to implement this critical protection for my constituents.

Aimee's Law is named after Aimee Willard, a college senior from suburban Philadelphia who was brutally raped and murdered by a convicted murderer who was released early in Nevada and crossed State lines to kill again in Pennsylvania. Aimee's mother, Gail, became a tireless advocate to prevent such unnecessary tragedies from happening to other families, culminating in the passage of Aimee's Law in the U.S. Senate by an 81-to-17 margin and its final inclusion in H.R. 3244, the Victims of Trafficking and Violence Protection Act conference report, which also included the Violence Against Women Act Reauthorization, Pub. L. 106-386. Aimee's Law is narrowly tailored to address the heinous crimes of murder, rape, and child molestation.

The law is designed to protect the residents of one State from the negligence of another State. The law assists States which recognize that the primary responsibility of State and local governments is to maintain public safety. Sexual predators have the highest rate of recidivism of any category of violent crime. The law simply provides that States where a subsequent similar violent crime occurs because of an early release will be reimbursed for the prosecution and incarceration costs through a reduction of future Federal funds from the allocation of the State where the original violent crime and conviction occurred.

I wish to state for the record that I will not object to the "technical changes" of Aimee's Law in H.R. 3402 as the Department of Justice assures me that the law will be implemented within six months. While I think that it is unacceptable that it has taken this long to take the appropriate steps to implement this law, I am hopeful that Aimee's Law will finally and effectively be implemented in the very near future so other families do not suffer the same fate as the Williards.●

#### TRIBUTE TO DICK FORD

● Mr. TALENT. Mr. Present, today I rise to honor the accomplishments of Dick Ford, one of the most respected broadcast journalists in the St. Louis area. After more than 50 years of media service around the country, Mr. Ford will be retiring today, December 15, 2005. He will be greatly missed by viewers in the St. Louis area and in the field of journalism as a whole.

After receiving a bachelor of science degree in political science from the University of Pittsburgh and serving on active duty aboard an aircraft carrier in the Mediterranean, Dick began his professional career in 1951 and went on to work in a number of States as a reporter, news director, and anchor.

After having established himself as a prominent journalist, Mr. Ford came to the St. Louis area where he began working at KSDK-TV. In July 1992, he joined KTVI Fox 2, from which he will retire.

In his distinguished career, Mr. Ford has been honored with the prestigious

Emmy Award, among other recognitions of his journalistic talent and integrity.

The many hallmarks of his career include a training mission in an F-4 Phantom jet, live reports from Rome when Sister Philippine Duchesne was canonized, reports on a nuclear submarine and from the flight deck of an aircraft carrier and travels to Saudi Arabia to report on Desert Storm.

In addition to his passion for journalism, Dick Ford is a committed father and husband. He is also passionate about the community of St. Louis. Mr. Ford currently works with the USO and the St. Patrick's Day Parade Committee, among other St. Louis area organizations.

In his work, both as a journalist and a community leader, Dick has won the respect of his colleagues and viewers alike. I have appreciated very much Dick's dedication and professionalism. He sought more than just the story—he wanted to get the story right. In his interviews with me, he never hesitated to ask the tough questions, but he was always fair about it.

Dick, congratulations on your many contributions to the great State of Missouri and your tremendously successful career.●

#### TRIBUTE TO TERRY R. LITTLE

● Mr. WARNER. Mr. President, I come to the floor today to recognize the service of an outstanding leader and public servant. After more than 38 years of combined military and civil service, Mr. Terry R. Little will soon retire from the Department of Defense, DOD, and move into private life.

Mr. Little is one of the most seasoned weapons acquisition program managers in the DOD. He has over 24 years of program management leadership in seven major weapon acquisition programs including two highly classified missile programs, the AIM-9X Short Range Air-to-Air Missile, the Joint Direct Attack Munition, the Small Diameter Bomb, the Joint Air-to-Surface Stand-off Missile, and the Kinetic Energy Interceptor Program. Each of these weapon systems has delivered, or promises to provide, unparalleled advancements in capability at affordable costs for the defense of our Nation. His creative ingenuity, tenacious organizational drive, and superior personal leadership directly enabled these advancements.

Mr. Little is currently the Executive Director of the Missile Defense Agency, MDA. In this capacity, he is responsible for acquisition, personnel, and administrative policy. His intellectual commitment for excellence and genuine concern for people have aided immeasurably to the day-to-day operation of the Agency. His professional achievements are numerous, impressive, and reflect his dedication and commitment for achieving the highest standards of professionalism and integrity in the service of the United States.

Terry Little has devoted his adult life to improving the DOD acquisition process. He has inspired teamwork and efficiency in many venues, and he has trained the next generation of acquisition managers to continue his legacy. For these and his many other contributions, Americans owe Mr. Little a debt of gratitude for a lifetime of selfless service and for his profound contributions to our Nation and our security. Those of us in the Senate will miss his leadership and contributions. We wish him and his family all the best in the years ahead.●

#### MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

#### EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the Committee on the Judiciary.

(The nominations received today are printed at the end of the Senate proceedings.)

#### REPORT RELATIVE TO THE EXPORT OF ACCELEROMETERS TO THE PEOPLE'S REPUBLIC OF CHINA'S MINISTRY OF RAILWAYS—PM 33

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 Foreign Relations:

*To the Congress of the United States:*

In accordance with the provisions of section 1512 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105-261), I hereby certify that the export of 36 accelerometers to the People's Republic of China's Ministry of Railways, for use in a railroad track geometry measuring system, is not detrimental to the U.S. space launch industry, and that the material and equipment, including any indirect technical benefit that could be derived from such export, will not measurably improve the missile or space launch capabilities of the People's Republic of China.

GEORGE W. BUSH.

THE WHITE HOUSE, December 14, 2005.

#### MESSAGES FROM THE HOUSE

At 9:02 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House disagree to the amendment of the Senate to the bill (H.R. 2863) making appropriations for the Department of Defense for the fiscal year ending September 30, 2006,

and for other purposes, and agree to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints the following members as the managers of the conference on the part of the House: Mr. YOUNG of Florida, Mr. HOBSON, Mr. BONILLA, Mr. FRELINGHUYSEN, Mr. TIAHRT, Mr. WICKER, Mr. KINGSTON, Ms. GRANGER, Mr. WALSH, Mr. ADERHOLT, Mr. LEWIS of California, Mr. MURTHA, Mr. DICKS, Mr. SABO, Mr. VISCLOSKY, Mr. MORAN of Virginia, Ms. KAPTUR, Mr. EDWARDS, and Mr. OBEY.

At 11:46 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills and joint resolution, in which it requests the concurrence of the Senate:

H.R. 972. An act to authorize appropriations for fiscal years 2006 and 2007 for the Trafficking Victims Protection Act of 2000, and for other purposes.

H.R. 2892. An act to amend section 255 of the National Housing Act to remove the limitation on the number of reverse mortgages that may be insured under the FHA mortgage insurance program for such mortgages.

H.R. 3508. An act to authorize improvements in the operation of the government of the District of Columbia, and for other purposes.

H.R. 4436. An act to provide certain authorities for the Department of State, and for other purposes.

H.R. 4473. An act to reauthorize and amend the Commodity Exchange Act to promote legal certainty, enhance competition, and reduce systemic risk in markets for futures and over-the-counter derivatives, and for other purposes.

H.R. 4508. An act to commend the outstanding efforts in response to Hurricane Katrina by members and employees of the Coast Guard, to provide temporary relief to certain persons affected by such hurricane with respect to certain laws administered by the Coast Guard, and for other purposes.

H.J. Res. 38. Joint resolution recognizing Commodore John Barry as the first flag officer of the United States Navy.

The message also announced that the House has passed the following bill, without amendment:

S. 335. An act to reauthorize the Congressional Award Act.

The message further announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 238. Concurrent resolution honoring the victims of the Cambodian genocide that took place from April 1975 to January 1979.

H. Con. Res. 252. Concurrent resolution expressing the sense of Congress that the Government of the United States should support democracy, the rule of law, and human rights in the Republic of Nicaragua and work cooperatively with regional and international organizations to bolster Nicaraguan efforts to establish the requisite conditions for free, fair, transparent, and inclusive presidential and legislative elections in 2006.

#### ENROLLED BILLS SIGNED

At 4:47 p.m., a message from the House of Representatives, delivered by

Ms. Niland, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

S. 335. An act to reauthorize the Congressional Award Act.

H.R. 327. An act to allow binding arbitration clauses to be included in all contracts affecting land within the Gila River Indian Community Reservation.

The enrolled bills were signed subsequently by the President pro tempore (Mr. STEVENS).

#### MEASURES READ THE FIRST TIME

The following bill was read the first time:

H.R. 2892. An act to amend section 255 of the National Housing Act to remove the limitation on the number of reverse mortgages that may be insured under the FHA mortgage insurance program for such mortgages.

#### ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, December 15, 2005, she had presented to the President of the United States the following enrolled bill:

S. 1047. An act to require the Secretary of the Treasury to mint coins in commemoration of each of the Nation's past Presidents and their spouses, respectively, to improve circulation of the \$1 coin, to create a new bullion coin, and for other purposes.

#### EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC-4833. A communication from the Principal Deputy Associate Administrator, Federal Energy Regulatory Commission, transmitting pursuant to law, the report of a rule entitled "Repeal of the Public Utility Holding Company Act of 1935 and Enactment of the Public Utility Holding Company Act of 2005" received on December 2, 2005; to the Committee on Energy and Natural Resources.

EC-4834. A communication from the Chairman, Federal Energy Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled "Repeal of the Public Utility Holding Company Act of 1935 and Enactment of the Public Utility Holding Company Act of 2005" received on December 12, 2005; to the Committee on Energy and Natural Resources.

EC-4835. A communication from the Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior, transmitting, a draft of proposed legislation to amend Act of August 21, 1935 to extend the authorization for the National Park System Advisory Board and for other purposes; to the Committee on Energy and Natural Resources.

EC-4836. A communication from the Chairman, Federal Energy Regulatory Commission, transmitting, pursuant to law, the report entitled "Repeal of the Public Utility Holding Company Act of 1935 and Enactment of the Public Utility Holding Company Act of 2005"; to the Committee on Energy and Natural Resources.

EC-4837. A communication from the Chief, Regulations Management, Office of Regulation Policy and Management, Department of

Veterans Affairs, transmitting, pursuant to law, the report of a rule entitled "Medical: Advance Health Care Planning" (RIN2900-AJ28) received on December 8, 2005; to the Committee on Veterans' Affairs.

EC-4838. A communication from the Director of Regulations Management, Veterans Benefits Administration, Department of Veterans Affairs, transmitting, pursuant to law, the report of a rule entitled "Dependency and Idemnity Compensation: Surviving Spouse's Rate; Payments Based on Veteran's Entitlement to Compensation for Service-Connected Disability Rated Totally Disabling for Specified Periods Prior to Death" (RIN2900-AKL86) received on December 8, 2005; to the Committee on Veterans' Affairs.

EC-4839. A communication from the Regulatory Specialist, Office of the Comptroller of the Currency, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Fair Credit Reporting Medical Information Regulations (Part 41)" (RIN1557-AC85) received on December 5, 2005; to the Committee on Banking, Housing, and Urban Affairs.

EC-4840. A communication from the Secretary of the Treasury, transmitting, pursuant to the National Emergencies Act, the periodic report on the national emergency with respect to Burma that was declared in Executive Order 13047 of May 20, 1997; to the Committee on Banking, Housing, and Urban Affairs.

EC-4841. A communication from the Secretary of the Treasury, transmitting, pursuant to the National Emergencies Act, a report on the national emergency with respect to the Development Fund for Iraq that was declared in Executive Order 13303 of May 22, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC-4842. A communication from the Counsel for Legislation and Regulations, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled "Release in the Public Use Database of Certain Mortgage Data and Annual Housing Activities Report Information of the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation" (RIN2501-AD09) received on December 5, 2005; to the Committee on Banking, Housing, and Urban Affairs.

EC-4843. A communication from the Secretary, Office of the Chief Accountant, Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule entitled "Commission Guidance Regarding Accounting for Sales of Vaccines and Bioterror Countermeasures to the Federal Government for Placement into the Pediatric Vaccine Stockpile or the Strategic National Stockpile" (RIN3235-AJ49) received on December 6, 2005; to the Committee on Banking, Housing, and Urban Affairs.

EC-4844. A communication from the Counsel for Legislation and Regulations, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled "Manufactured Home Construction and Safety Standards" (RIN2502-AI12) received on December 6, 2005; to the Committee on Banking, Housing, and Urban Affairs.

EC-4845. A communication from the Director, Office of Legislative Affairs, Federal Deposit Insurance Corporation, transmitting, pursuant to law, the report of a rule entitled "One-Year Post-Employment Restriction for Senior Examiners" (RIN3064-AC92) received on December 6, 2005; to the Committee on Banking, Housing, and Urban Affairs.

EC-4846. A communication from the Director, Office of Legislative Affairs, Federal Deposit Insurance Corporation, transmitting, pursuant to law, the report of a rule entitled "Fair Credit Reporting Medical Information

Regulations" (RIN3064-AC81) received on December 6, 2005; to the Committee on Banking, Housing, and Urban Affairs.

EC-4847. A communication from the Assistant Secretary for Management and Chief Financial Officer, Department of the Treasury, transmitting, pursuant to law, the Fiscal Year 2004 Report on Acquisitions From Entities That Manufacture Articles, Materials, or Supplies Outside of the United States; to the Committee on Banking, Housing, and Urban Affairs.

EC-4848. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Flag Smut; Importation of Wheat and Related Products" (Doc. No. 02-058-3) received on December 5, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC-4849. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Bovine Spongiform Encephalopathy; Minimal-Risk Regions and Importation of Commodities; Unsealing of Means of Conveyance and Transloading of Products" (Doc. No. 03-080-8) received on December 5, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC-4850. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Importation of Whole Cuts of Boneless Beef From Japan" (Doc. No. 05-004-2) received on December 5, 2005 to the Committee on Agriculture, Nutrition, and Forestry.

EC-4851. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Importation of Fruits and Vegetables" (Doc. No. 03-048-2) received on December 5, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC-4852. A communication from the Administrator, Food and Nutrition Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Marketing and Sale of Fluid Milk in Schools" received on December 5, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC-4853. A communication from the Under Secretary, Food, Nutrition, and Consumer Services, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Food Stamp Program, Reauthorization: Electronic Benefit Transfer and Retail Food Stores Provisions of the Food Stamp Reauthorization Act of 2002"; to the Committee on Agriculture, Nutrition, and Forestry.

EC-4854. A communication from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Acetic Acid; Pesticide Tolerance" (FRL7753-4) received on December 12, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC-4855. A communication from the Administrator, Housing and Community Facilities Programs, Department of Agriculture and Rural Development, transmitting, pursuant to law, the report of a rule entitled "Direct Single Family Housing Loans and Grants" (RIN0575-AC54) received on December 12, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC-4856. A communication from the Regulatory Analyst, Grain Inspection, Packers

and Stockyards Administration, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Export Inspection and Weighing Waiver for High Quality Specialty Grains Transported in Containers" (RIN0580-AA87) received on December 12, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC-4857. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Notice: Section 901(l) Exception for Back to Back Computer Software Licensing Arrangements" (Notice 2005-90) received on December 5, 2005; to the Committee on Finance.

EC-4858. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Employee Relocation Costs" (Rev. Rul. 2005-74) received on December 5, 2005; to the Committee on Finance.

EC-4859. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Timing of Adoption of Plan Amendments as a Result of Section 415" (Notice 2005-87) received on December 5, 2005; to the Committee on Finance.

EC-4860. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Extension of Operational Date in Rev. Proc. 2005-23" (Rev. Proc. 2005-76) received on December 5, 2005; to the Committee on Finance.

EC-4861. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Annual Pension Plan, etc., Cost-of-Living Adjustments for 2006" (Notice 2005-75) received on December 5, 2005; to the Committee on Finance.

EC-4862. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Health Savings Account Eligibility During a Cafeteria Plan Grace Period" (Notice 2005-86) received on December 5, 2005; to the Committee on Finance.

EC-4863. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Amendment to Withholding Foreign Partnership and Withholding Foreign Trust Agreements" (Rev. Proc. 2005-77) received on December 5, 2005; to the Committee on Finance.

EC-4864. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "2006 Annual Covered Compensation Table" (Rev. Rul. 2005-72) received on December 5, 2005; to the Committee on Finance.

EC-4865. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Information Reporting Relating to Taxable Stock Transactions" ((RIN1545-BF18)(TD9230)) received on December 6, 2005; to the Committee on Finance.

EC-4866. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the

report of a rule entitled "2006 Standard Mileage Rates" (Rev. Proc. 2005-78) received on December 6, 2005; to the Committee on Finance.

EC-4867. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Timing of Adoption of Plan Amendments on Retroactive Annuity Starting Date" (Notice 2005-95) received on December 6, 2005; to the Committee on Finance.

EC-4868. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Sections 101 and 103 of Hurricane Katrina Emergency Relief Statute—Distributions, Loans, Recontributions" (Notice 2005-92) received on December 6, 2005; to the Committee on Finance.

EC-4869. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Guidance on Passive Foreign Investment Company (PFIC) Purging Elections" ((RIN1545-BD33)(TD9232)) received on December 12, 2005; to the Committee on Finance.

EC-4870. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Guidance on Passive Foreign Investment Company (PFIC) Purging Elections" ((RIN1545-BC49)(TD9231)) received on December 12, 2005; to the Committee on Finance.

EC-4871. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Request for Public Comments on Possible Changes to Rev. Proc. 2002-9" (Notice 2005-97) received on December 12, 2005; to the Committee on Finance.

EC-4872. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Guidance on Valuation of Stock-Based Compensation for Purposes of Qualified Cost Sharing Arrangements" (Notice 2005-99) received on December 12, 2005; to the Committee on Finance.

EC-4873. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Suspension of Employer and Payer Reporting and Wage Withholding Requirements with Respect to Deferrals of Compensation under Section 409A for Calendar Year 2005; No Assertion of Penalties Against Service Providers in Certain Circumstances" (Notice 2005-94) received on December 12, 2005; to the Committee on Finance.

EC-4874. A communication from the Assistant Inspector General Communications and Congressional Liaison, Department of Defense, transmitting, pursuant to law, an audit report on the Defense Authorization Act for Fiscal Year 2005; to the Committee on Armed Services.

EC-4875. A communication from the Under Secretary of Defense, Acquisition, Technology, and Logistics, transmitting, pursuant to law, a report concerning the Space Based Infrared System; to the Committee on Armed Services.

EC-4876. A communication from the Under Secretary of Defense, Personnel and Readiness, transmitting, pursuant to law, a General Officer Frocking Request; to the Committee on Armed Services.

EC-4877. A communication from the Executive Director, U.S.-China Commission, transmitting, pursuant to law, a report on the national security implications of the U.S.-China relationship; to the Committee on Armed Services.

EC-4878. A communication from the Under Secretary of State for Political Affairs, transmitting, pursuant to law, a report relating to post-liberation Iraq; to the Committee on Foreign Relations.

EC-4879. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, the report of the texts and background statements of international agreements, other than treaties; to the Committee on Foreign Relations.

EC-4880. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of \$100,000,000 or more to Singapore; to the Committee on Foreign Relations.

EC-4881. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of \$100,000,000 or more to Austria, Canada, France, Switzerland and the United Kingdom; to the Committee on Foreign Relations.

EC-4882. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed manufacturing license agreement for the manufacture of significant military equipment abroad to the United Kingdom and Sweden; to the Committee on Foreign Relations.

EC-4883. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of \$50,000,000 or more to the Republic of Korea; to the Committee on Foreign Relations.

EC-4884. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed manufacturing license agreement for the manufacture of significant military equipment abroad and the export of defense articles or defense services in the amount of \$100,000,000 or more to United Kingdom; to the Committee on Foreign Relations.

EC-4885. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, the Report on the Fiscal Year 2005 Benjamin A. Gilman International Scholarship Program; to the Committee on Foreign Relations.

EC-4886. A communication from the Executive Secretary and Chief of Staff, United States Agency for International Development, transmitting, pursuant to law, the designation of acting officer for the position of Assistant Administrator, Bureau for Europe and Eurasia; to the Committee on Foreign Relations.

EC-4887. A communication from the Assistant Secretary of the Army (Civil Works), Department of Defense, transmitting, pursuant to law, a report relative to the Louisiana Coastal Area, Louisiana, Ecosystem Restoration Program; to the Committee on Environment and Public Works.

EC-4888. A communication from the Assistant Secretary of the Army (Civil Works), Department of Defense, transmitting, pursuant to law, a report recommending authorization of the Napa River Salt Marsh Restoration Project, California for the purposes of ecosystem restoration and recreation; to the Committee on Environment and Public Works.

EC-4889. A communication from the Assistant Secretary of the Army (Civil Works), Department of Defense, transmitting, pursuant to law a report relative to the flood damage reduction project for the Turkey Creek Basin, Kansas and Missouri; to the Committee on Environment and Public Works.

EC-4890. 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 "2-ethoxyethanol, 2-ethoxyethanol acetate, 2-methoxyethanol, and 2-methoxyethanol acetate; Significant New Use Rule" (FRL7740-7) received on December 5, 2005; to the Committee on Environment and Public Works.

EC-4891. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; New Jersey Architectural Coatings Rule" (FRL7999-8) received on December 5, 2005; to the Committee on Environment and Public Works.

EC-4892. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plan; Indiana" (FRL7999-3) received on December 5, 2005; to the Committee on Environment and Public Works.

EC-4893. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; California; Carbon Monoxide Maintenance Plan Update for Ten Planning Areas; Motor Vehicle Emissions Budgets; Technical Correction" (FRL8002-4) received on December 5, 2005; to the Committee on Environment and Public Works.

EC-4894. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; CO; PM10 Designation of Areas for Air Quality Planning Purposes, Lamar; State Implementation Plan Correction" (FRL8004-9) received on December 6, 2005; to the Committee on Environment and Public Works.

EC-4895. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; Texas; Revisions to Regulations for Control of Air Pollution by Permits for New Construction or Modification" (FRL8005-9) received on December 6, 2005; to the Committee on Environment and Public Works.

EC-4896. 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

"Control of Air Pollution from New Motor Vehicles and New Motor Vehicle Engines: Technical Amendments to Evaporative Emissions Regulations, Dynamometer Regulations, and Vehicle Labeling" (FRL8004-7) received on December 6, 2005; to the Committee on Environment and Public Works.

EC-4897. 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 "Control of Air Pollution From New Motor Vehicles and New Motor Vehicle Engines; Modification of Federal On-board Diagnostic Regulations for: Light-Duty Vehicles, Light-Duty Trucks, Medium Duty Passenger Vehicles, Complete Heavy Duty Vehicles and Engines Intended for Use in Heavy Duty Vehicles Weighing 14,000 Pounds GVWR or Less" (FRL8005-4) received on December 6, 2005; to the Committee on Environment and Public Works.

EC-4898. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "National Emission Standards for Hazardous Air Pollutants; Delegation of Authority to Oklahoma Department of Environmental Quality" (FRL8006-7) received on December 6, 2005; to the Committee on Environment and Public Works.

EC-4899. 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 "New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants; Delegation of Authority to Albuquerque-Bernalillo County Air Quality Control Board" (FRL8006-2) received on December 6, 2005; to the Committee on Environment and Public Works.

EC-4900. 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 "Regulation of Fuels and Fuel Additives: Modifications to Standards and Requirements for Reformulated and Conventional Gasoline Including Butane Blenders and At-test Engagements" (FRL8006-5) received on December 6, 2005; to the Committee on Environment and Public Works.

EC-4901. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Standards and Performance for New Stationary Sources and Emission Guidelines for Existing Sources: Other Solid Waste Incineration Units" (FRL8005-5) received on December 6, 2005; to the Committee on Environment and Public Works.

EC-4902. A communication from the 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 California Tiger Salamander, Sonoma District Population Segment; Final Rule" (RIN1018-AU23) received on December 6, 2005; to the Committee on Environment and Public Works.

EC-4903. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; Texas; Memoranda of Understanding between Texas Department of

Transportation and the Texas Commission on Environmental Quality" (FRL8007-5) received on December 12, 2005; to the Committee on Environment and Public Works.

EC-4904. 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 "Exemption of Certain Area Sources from Title V Operating Permit Programs" (FRL8008-5) received on December 12, 2005; to the Committee on Environment and Public Works.

EC-4905. 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 "Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards for the Iron and Steel Manufacturing Point Source Category" (FRL8007-8) received on December 12, 2005; to the Committee on Environment and Public Works.

EC-4906. 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 "Protection of Stratospheric Ozone: Process for Exempting Critical Uses of Methyl Bromide for the 2005 Supplemental Request" (FRL8007-9) received on December 12, 2005; to the Committee on Environment and Public Works.

EC-4907. A communication from the Deputy Director, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Inclusion of Alligator Snapping Turtle (*Macrochelys* [= *Macrochelys*] *temminckii*) and All Species of Map Turtle (*Graptemys* spp.) in Appendix III to the Convention on International Trade in Endangered Species of Wild Fauna and Flora" (RIN1018-AF69) received on December 12, 2005; to the Committee on Environment and Public Works.

EC-4908. A communication from the Assistant Attorney General, Department of Justice, transmitting, pursuant to law, a status report on the Bureau of Prisons' compliance with the Revitalization Act's privatization requirements; to the Committee on the Judiciary.

EC-4909. A communication from the Assistant Attorney General, Department of Justice, transmitting, a draft of proposed legislation on improving restitution for victims of crimes; to the Committee on the Judiciary.

EC-4910. A communication from the National President, American Gold Star Mothers, transmitting, pursuant to law, the independent auditors report for 2004 and 2005; to the Committee on the Judiciary.

EC-4911. A communication from the Office of General Counsel, Federal Bureau of Prisons, Department of Justice, transmitting, pursuant to law, the report of a rule entitled "Bureau of Prisons Central Office, Regional Offices, Institutions, and Staff Training Centers: Removal of Addresses From Rules" (RIN1220-AB36) received on December 5, 2005; to the Committee on the Judiciary.

EC-4912. A communication from the Rules Administrator, Office of General Counsel, Federal Bureau of Prisons, Department of Justice, transmitting, pursuant to law, the report of a rule entitled "Good Conduct Time: Aliens With Confirmed Orders of Deportation, Exclusion, or Removal" (RIN1220-AB12) received on December 5, 2005; to the Committee on the Judiciary.

EC-4913. A communication from the Office of General Counsel, Federal Bureau of Prisons, Department of Justice, transmitting,

pursuant to law, the report of a rule entitled "Civil Contempt of Court Commitments: Revision To Accommodate Commitments Under the D.C. Code" (RIN1220-AB13) received on December 5, 2005; to the Committee on the Judiciary.

EC-4914. A communication from the Deputy Assistant Attorney General, Department of Justice, transmitting, pursuant to law, the report of a rule entitled "Procedures to Promote Compliance with Crime Victims' Rights Obligations" (RIN1105-AB11) received on December 6, 2005; to the Committee on the Judiciary.

EC-4915. A communication from the Director, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, transmitting, pursuant to law, the report of a rule entitled "Santa Rita Hills Viticultural Area Name Abbreviation to Sta. Rita Hills" (RIN1513-AA50) received on December 2, 2005; to the Committee on the Judiciary.

EC-4916. A communication from the Director, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, transmitting, pursuant to law, the report of a rule entitled "Establishment of the Texoma Viticultural Area" (RIN1513-AA77) received on December 12, 2005; to the Committee on the Judiciary.

EC-4917. A communication from the Director, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, transmitting, pursuant to law, the report of a rule entitled "Establishment of the Ramonal Valley Viticultural Area" (RIN1513-AA94) received on December 12, 2005; to the Committee on the Judiciary.

EC-4918. A communication from the Director, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, transmitting, pursuant to law, the report of a rule entitled "Establishment of the Wahluke Slope Viticultural Area" (RIN1513-AB01) received on December 12, 2005; to the Committee on the Judiciary.

EC-4919. A communication from the Assistant Attorney General for Administration, Justice Management Division, Department of Justice, transmitting, pursuant to law, the report of a rule entitled "Terrorist Screening Records System" received on December 12, 2005; to the Committee on the Judiciary.

EC-4920. A communication from the Acting Director, Mine Safety and Health Administration, Department of Labor, transmitting, pursuant to law, the report of a rule entitled "Fees for Testing, Evaluation and Approval of Mining Products" (RIN1219-AB38) received on December 5, 2005; to the Committee on Health, Education, Labor, and Pensions.

EC-4921. A communication from the Deputy Executive Director, Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the report of a rule entitled "Benefits Payable in Terminated Single-Employer Plans; Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing and Paying Benefits" received on December 6, 2005; to the Committee on Health, Education, Labor, and Pensions.

EC-4922. A communication from the Deputy Assistant Secretary for Federal Contract Compliance, Department of Labor, transmitting, pursuant to law, the report of a rule entitled "Affirmative Action and Non-discrimination Obligations of Contractors and Subcontractors Regarding Protected Veterans" (RIN1215-AB24) received on December 6, 2005; to the Committee on Health, Education, Labor, and Pensions.

EC-4923. A communication from the Administrator, Employment and Training Administration, Department of Labor, transmitting, pursuant to law, the report of a rule entitled "Labor Condition Applications and



Requirements for Employers Using Non-immigrants on H-1B Visas in Specialty Occupations and as Fashion Models and Labor Attestation Requirements for Employers Using Nonimmigrants on H-1B1 Visas in Specialty Occupations; Filing Procedures; Final Rule" (RIN1205-AB39) received on December 12, 2005; to the Committee on Health, Education, Labor, and Pensions.

EC-4924. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the annual report on the implementation of the Age Discrimination Act for Fiscal Year 2004; to the Committee on Health, Education, Labor, and Pensions.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. COCHRAN, from the Committee on Appropriations:

Special Report entitled "Further Revised Allocation to Subcommittees of Budget Totals From the Concurrent Resolution for Fiscal Year 2006." (Rept. No. 109-207).

By Mr. MCCAIN, from the Committee on Indian Affairs, without amendment:

S. 1312. A bill to amend a provision relating to employees of the United States assigned to, or employed by, an Indian tribe, and for other purposes (Rept. No. 109-208).

By Ms. COLLINS, from the Committee on Homeland Security and Governmental Affairs:

Report to accompany S. 572, A bill to amend the Homeland Security Act of 2002 to give additional biosecurity responsibilities to the Department of Homeland Security (Rept. No. 109-209).

## EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. STEVENS for the Committee on Commerce, Science, and Transportation, \*Coast Guard nomination of Capt. Michael R. Seward to be Rear Admiral (Lower Half).

By Ms. COLLINS for the Committee on Homeland Security and Governmental Affairs:

\*Mary M. Rose, of North Carolina, to be a Member of the Merit Systems Protection Board for the term of seven years expiring March 1, 2011.

\*George W. Foresman, of Virginia, to be Under Secretary for Preparedness, Department of Homeland Security.

\*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

By Mr. COLEMAN:

S. 2105. A bill to amend the Internal Revenue Code of 1986 to modify the credit for nonbusiness energy property so that the amount of the credit is determined based on the amount of energy savings achieved by the taxpayer; to the Committee on Finance.

By Mrs. FEINSTEIN:

S. 2106. A bill to amend the Reclamation Wastewater and Groundwater Study and Fa-

cilities Act to authorize the Secretary of the Interior to participate in the Prado Basin Natural Treatment System Project, to authorize the Secretary to carry out a program to assist agencies in projects to construct regional brine lines in California, to authorize the Secretary to participate in the Lower Chino Dairy Area desalination demonstration and reclamation project, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BAUCUS:

S. 2107. A bill to provide additional appropriations for the Low-Income Home Energy Assistance Act of 1981 for fiscal year 2006 and to amend the Internal Revenue Code of 1986 to provide a refundable tax credit for residential energy cost assistance, and for other purposes; to the Committee on Finance.

By Mr. CRAPO (for himself and Mr. CRAIG):

S. 2108. A bill to ensure general aviation aircraft access to Federal land and to the airspace over Federal land; to the Committee on Energy and Natural Resources.

By Mr. ENSIGN (for himself, Mr.

LIEBERMAN, Mr. LUGAR, Mr. DEWINE, Mr. ALLEN, Mr. BINGAMAN, Mr. ALEXANDER, Mr. CHAMBLISS, Mr. BAYH, Mr. NELSON of Florida, Mr. KOHL, Mr. CORNYN, Mr. ISAKSON, Mr. SMITH, Mr. LEAHY, and Mr. NELSON of Nebraska):

S. 2109. A bill to provide national innovation initiative; to the Committee on Finance.

By Mr. CRAPO (for himself, Mrs. LINCOLN, Mr. THOMAS, and Mr. ALLARD):

S. 2110. A bill to amend the Endangered Species Act of 1973 to enhance the role of States in the recovery of endangered species and threatened species, to implement a species conservation recovery system, to establish certain recovery programs, to provide Federal financial assistance and a system of incentives to promote the recovery of species, and for other purposes; to the Committee on Finance.

By Mr. BAYH:

S. 2111. A bill to amend the Internal Revenue Code of 1986 to provide a credit for small business employee training expenses, to increase the exclusion of capital gains from small business stocks to extend expensing for small businesses, and for other purposes; to the Committee on Finance.

By Mr. HARKIN:

S. 2112. A bill to provide for the establishment of programs and activities to increase influenza vaccination rates through the provision of free vaccines; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DEMINT:

S. 2113. A bill to promote the widespread availability of communications services and the integrity of communication facilities, and to encourage investment in communication networks; to the Committee on Commerce, Science, and Transportation.

By Mr. TALENT:

S. 2114. A bill to establish the Confluence National Heritage Corridor in the States of Missouri and Illinois, and for other purposes; to the Committee on Energy and Natural Resources.

By Ms. STABENOW (for herself, Mr. SMITH, Mr. LAUTENBERG, Mrs. MURRAY, Mr. MCCAIN, Mr. COLEMAN, and Mr. DAYTON):

S. 2115. A bill to amend the Public Health Service Act to improve provisions relating to Parkinson's disease research; to the Committee on Health, Education, Labor, and Pensions.

By Mr. LOTT:

S. 2116. A bill to transfer jurisdiction of certain real property to the Supreme Court; considered and passed.

By Mr. INHOFE:

S. 2117. A bill to clarify the circumstances under which a person born in the United

States is subject to the jurisdiction of the United States, to provide for criminal penalties for forging Federal documents, to establish a National Border Neighborhood Watch Program, and for other purposes; to the Committee on the Judiciary.

By Mr. SUNUNU (for himself, Mrs. FEINSTEIN, Mr. CRAIG, Mr. OBAMA, Ms. MURKOWSKI, Mr. HAGEL, and Mrs. CLINTON):

S. 2118. A bill to amend the USA PATRIOT Act to extend the sunset of certain provisions of the Act and the lone wolf provision of the Intelligence Reform and Terrorism Prevention Act of 2004 to March 31, 2006 and to combat methamphetamine abuse; to the Committee on the Judiciary.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. FRIST (for himself, Mr. REID,

Mr. KOHL, Mr. FEINGOLD, Mr. AKAKA, Mr. ALEXANDER, Mr. ALLARD, Mr. ALLEN, Mr. BAUCUS, Mr. BAYH, Mr. BENNETT, Mr. BIDEN, Mr. BINGAMAN, Mr. BOND, Mrs. BOXER, Mr. BROWNBACK, Mr. BUNNING, Mr. BURNS, Mr. BURR, Mr. BYRD, Ms. CANTWELL, Mr. CARPER, Mr. CHAFEE, Mr. CHAMBLISS, Mrs. CLINTON, Mr. COBURN, Mr. COCHRAN, Mr. COLEMAN, Ms. COLLINS, Mr. CONRAD, Mr. CORNYN, Mr. CORZINE, Mr. CRAIG, Mr. CRAPO, Mr. DAYTON, Mr. DEMINT, Mr. DEWINE, Mr. DODD, Mrs. DOLE, Mr. DOMENICI, Mr. DORGAN, Mr. DURBIN, Mr. ENSIGN, Mr. ENZI, Mrs. FEINSTEIN, Mr. GRAHAM, Mr. GRASSLEY, Mr. GREGG, Mr. HAGEL, Mr. HARKIN, Mr. HATCH, Mrs. HUTCHISON, Mr. INHOFE, Mr. INOUE, Mr. ISAKSON, Mr. JEFFORDS, Mr. JOHNSON, Mr. KENNEDY, Mr. KERRY, Mr. KYL, Ms. LANDRIEU, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, Mrs. LINCOLN, Mr. LOTT, Mr. LUGAR, Mr. MARTINEZ, Mr. MCCAIN, Mr. MCCONNELL, Ms. MIKULSKI, Ms. MURKOWSKI, Mrs. MURRAY, Mr. NELSON of Florida, Mr. NELSON of Nebraska, Mr. OBAMA, Mr. PRYOR, Mr. REED, Mr. ROBERTS, Mr. ROCKEFELLER, Mr. SALAZAR, Mr. SANTORUM, Mr. SARBANES, Mr. SCHUMER, Mr. SESSIONS, Mr. SHELBY, Mr. SMITH, Ms. SNOWE, Mr. SPECTER, Ms. STABENOW, Mr. STEVENS, Mr. SUNUNU, Mr. TALENT, Mr. THOMAS, Mr. THUNE, Mr. VITTER, Mr. VOINOVICH, Mr. WARNER, and Mr. WYDEN):

S. Res. 334. A resolution relative to the death of William Proxmire, former United States Senator from the State of Wisconsin considered and agreed to.

By Mr. MCCAIN (for himself, Mr. BIDEN, and Mr. LIEBERMAN):

S. Con. Res. 70. A resolution urging the Government of the Russian Federation to withdraw the first draft of the proposed legislation as passed in its first reading in the State Duma that would have the effect of severely restricting the establishment, operations, and activities of domestic, international, and foreign nongovernmental organizations in the Russian Federation, or to modify the proposed legislation to entirely remove these restrictions; to the Committee on Foreign Relations.

By Mr. AKAKA (for himself, Mr. INOUE, and Mr. SALAZAR):

S. Con. Res. 71. A concurrent resolution expressing the sense of Congress that States

should require candidates for driver's licenses to demonstrate an ability to exercise greatly increased caution when driving in the proximity of a potentially visually impaired individual; to the Committee on Commerce, Science, and Transportation.

#### ADDITIONAL COSPONSORS

S. 103

At the request of Mr. TALENT, the name of the Senator from Nevada (Mr. ENSIGN) was added as a cosponsor of S. 103, a bill to respond to the illegal production, distribution, and use of methamphetamine in the United States, and for other purposes.

S. 267

At the request of Mr. CRAIG, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 267, a bill to reauthorize the Secure Rural Schools and Community Self-Determination Act of 2000, and for other purposes.

S. 382

At the request of Mr. ENSIGN, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 382, a bill to amend title 18, United States Code, to strengthen prohibitions against animal fighting, and for other purposes.

S. 424

At the request of Mr. BOND, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of S. 424, a bill to amend the Public Health Service Act to provide for arthritis research and public health, and for other purposes.

S. 438

At the request of Mr. ENSIGN, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. 438, a bill to amend title XVIII of the Social Security Act to repeal the medicare outpatient rehabilitation therapy caps.

S. 627

At the request of Mr. HATCH, the name of the Senator from Texas (Mr. CORNYN) was added as a cosponsor of S. 627, a bill to amend the Internal Revenue Code of 1986 to permanently extend the research credit, to increase the rates of the alternative incremental credit, and to provide an alternative simplified credit for qualified research expenses.

S. 635

At the request of Mr. SANTORUM, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 635, a bill to amend title XVIII of the Social Security Act to improve the benefits under the medicare program for beneficiaries with kidney disease, and for other purposes.

S. 716

At the request of Mr. AKAKA, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 716, a bill to amend title 38, United States Code, to enhance services provided by vet centers, to clarify and improve the provision of bereave-

ment counseling by the Department of Veterans Affairs, and for other purposes.

S. 737

At the request of Mr. DURBIN, the name of the Senator from Vermont (Mr. JEFFORDS) was added as a cosponsor of S. 737, a bill to amend the USA PATRIOT Act to place reasonable limitations on the use of surveillance and the issuance of search warrants, and for other purposes.

S. 842

At the request of Mr. KENNEDY, the name of the Senator from Wisconsin (Mr. KOHL) was added as a cosponsor of S. 842, a bill to amend the National Labor Relations Act to establish an efficient system to enable employees to form, join, or assist labor organizations, to provide for mandatory injunctions for unfair labor practices during organizing efforts, and for other purposes.

S. 914

At the request of Mr. ALLARD, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 914, a bill to amend the Public Health Service Act to establish a competitive grant program to build capacity in veterinary medical education and expand the workforce of veterinarians engaged in public health practice and biomedical research.

S. 1014

At the request of Ms. SNOWE, the name of the Senator from Missouri (Mr. TALENT) was added as a cosponsor of S. 1014, a bill to provide additional relief for small business owners ordered to active duty as members of reserve components of the Armed Forces, and for other purposes.

S. 1139

At the request of Mr. SANTORUM, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. 1139, a bill to amend the Animal Welfare Act to strengthen the ability of the Secretary of Agriculture to regulate the pet industry.

S. 1272

At the request of Mr. NELSON of Nebraska, the names of the Senator from Rhode Island (Mr. CHAFEE), the Senator from Montana (Mr. BURNS), the Senator from North Dakota (Mr. CONRAD) and the Senator from Missouri (Mr. BOND) were added as cosponsors of S. 1272, a bill to amend title 46, United States Code, and title II of the Social Security Act to provide benefits to certain individuals who served in the United States merchant marine (including the Army Transport Service and the Naval Transport Service) during World War II.

S. 1312

At the request of Mr. MCCAIN, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 1312, a bill to amend a provision relating to employees of the United States assigned to, or employed by, an Indian tribe, and for other purposes.

S. 1321

At the request of Mr. SANTORUM, the names of the Senator from Utah (Mr. HATCH) and the Senator from Idaho (Mr. CRAIG) were added as cosponsors of S. 1321, a bill to amend the Internal Revenue Code of 1986 to repeal the excise tax on telephone and other communications.

S. 1349

At the request of Mr. SMITH, the name of the Senator from Rhode Island (Mr. CHAFEE) was added as a cosponsor of S. 1349, a bill to promote deployment of competitive video services, eliminate redundant and unnecessary regulation, and further the development of next generation broadband networks.

S. 1479

At the request of Mrs. BOXER, her name was added as a cosponsor of S. 1479, a bill to provide for the expansion of Federal efforts concerning the prevention, education, treatment, and research activities related to Lyme and other tick-borne diseases, including the establishment of a Tick-Borne Diseases Advisory Committee.

S. 1608

At the request of Mr. SMITH, the names of the Senator from North Dakota (Mr. DORGAN), the Senator from Montana (Mr. BURNS) and the Senator from Arkansas (Mr. PRYOR) were added as cosponsors of S. 1608, a bill to enhance Federal Trade Commission enforcement against illegal spam, spyware, and cross-border fraud and deception, and for other purposes.

S. 1779

At the request of Mr. AKAKA, the names of the Senator from Rhode Island (Mr. CHAFEE), the Senator from Maryland (Mr. SARBANES), the Senator from Maine (Ms. SNOWE) and the Senator from Pennsylvania (Mr. SPECTER) were added as cosponsors of S. 1779, a bill to amend the Humane Methods of Livestock Slaughter Act of 1958 to ensure the humane slaughter of non-ambulatory livestock, and for other purposes.

S. 1791

At the request of Mr. SMITH, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of S. 1791, a bill to amend the Internal Revenue Code of 1986 to allow a deduction for qualified timber gains.

S. 1800

At the request of Ms. SNOWE, the names of the Senator from Oregon (Mr. WYDEN), the Senator from South Dakota (Mr. JOHNSON) and the Senator from Maine (Ms. COLLINS) were added as cosponsors of S. 1800, a bill to amend the Internal Revenue Code of 1986 to extend the new markets tax credit.

S. 1881

At the request of Mrs. FEINSTEIN, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 1881, a bill to require the Secretary of the Treasury to mint coins in commemoration of the Old Mint at San Francisco otherwise known as the

“Granite Lady”, and for other purposes.

S. 1916

At the request of Mr. HAGEL, the names of the Senator from Illinois (Mr. OBAMA) and the Senator from Florida (Mr. MARTINEZ) were added as cosponsors of S. 1916, a bill to strengthen national security and United States borders, and for other purposes.

S. 1917

At the request of Mr. HAGEL, the names of the Senator from Illinois (Mr. OBAMA) and the Senator from Florida (Mr. MARTINEZ) were added as cosponsors of S. 1917, a bill to require employers to verify the employment eligibility of their employees, and for other purposes.

S. 1934

At the request of Mr. SPECTER, the name of the Senator from North Carolina (Mrs. DOLE) was added as a cosponsor of S. 1934, a bill to reauthorize the grant program of the Department of Justice for reentry of offenders into the community, to establish a task force on Federal programs and activities relating to the reentry of offenders into the community, and for other purposes.

S. 1974

At the request of Mr. NELSON of Florida, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 1974, a bill to provide States with the resources needed to rid our schools of performance-enhancing drug use.

S. 2038

At the request of Mr. BURNS, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 2038, a bill to amend the Agricultural Marketing Act of 1946 to restore the original deadline for mandatory country of origin.

S. 2079

At the request of Mr. SMITH, the name of the Senator from Idaho (Mr. CRAIG) was added as a cosponsor of S. 2079, a bill to improve the ability of the Secretary of Agriculture and the Secretary of the Interior to promptly implement recovery treatments in response to catastrophic events affecting the natural resources of Forest Service land and Bureau of Land Management Land, respectively, to support the recovery of non-Federal land damaged by catastrophic events, to assist impacted communities, to revitalize Forest Service experimental forests, and for other purposes.

S. 2081

At the request of Mr. COCHRAN, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of S. 2081, a bill to improve the safety of all-terrain vehicles in the United States, and for other purposes.

S. 2082

At the request of Mr. LEAHY, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 2082, a bill to amend the

USA PATRIOT Act to extend the sunset of certain provisions of that Act and the lone wolf provision of the Intelligence Reform and Terrorism Prevention Act of 2004 to March 31, 2006.

At the request of Mr. SUNUNU, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 2082, *supra*.

S. 2088

At the request of Mr. ALLARD, the name of the Senator from Louisiana (Mr. VITTER) was added as a cosponsor of S. 2088, a bill to assist low-income families, displaced from their residences in the States of Alabama, Louisiana, and Mississippi as a result of Hurricane Katrina, by establishing within the Department of Housing and Urban Development a homesteading initiative that offers displaced low-income families the opportunity to purchase a home owned by the Federal Government, and for other purposes.

S. 2096

At the request of Mr. COLEMAN, the names of the Senator from Nebraska (Mr. HAGEL) and the Senator from Wisconsin (Mr. FEINGOLD) were added as cosponsors of S. 2096, a bill to amend the Torture Victims Relief Act of 1998 to authorize appropriations to provide assistance for domestic and foreign programs and centers for the treatment of victims of torture, and for other purposes.

S. CON. RES. 16

At the request of Mr. BINGAMAN, the name of the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. Con. Res. 16, a concurrent resolution conveying the sympathy of Congress to the families of the young women murdered in the State of Chihuahua, Mexico, and encouraging increased United States involvement in bringing an end to these crimes.

S. CON. RES. 54

At the request of Mr. SCHUMER, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. Con. Res. 54, a concurrent resolution expressing the sense of Congress regarding a commemorative postage stamp honoring Jasper Francis Cropsey, the famous Staten Island-born 19th Century Hudson River Painter.

S. CON. RES. 65

At the request of Mr. OBAMA, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. Con. Res. 65, a concurrent resolution recognizing the benefits and importance of Federally-qualified health centers and their Medicaid prospective payment system.

S. RES. 320

At the request of Mr. ENSIGN, the names of the Senator from Rhode Island (Mr. CHAFEE), the Senator from Wisconsin (Mr. KOHL), the Senator from New Jersey (Mr. LAUTENBERG), the Senator from Michigan (Mr. LEVIN), the Senator from Rhode Island (Mr. REED), the Senator from Minnesota (Mr. COLEMAN) and the Senator from Maryland (Ms. MIKULSKI) were

added as cosponsors of S. Res. 320, a resolution calling the President to ensure that the foreign policy of the United States reflects appropriate understanding and sensitivity concerning issues related to human rights, ethnic cleansing, and genocide documented in the United States record relating to the Armenian Genocide.

AMENDMENT NO. 2646

At the request of Ms. MURKOWSKI, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of amendment No. 2646 intended to be proposed to S. 2020, an original bill to provide for reconciliation pursuant to section 202(b) of the concurrent resolution on the budget for fiscal year 2006.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mrs. FEINSTEIN:

S. 2106. A bill to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the Prado Basin Natural Treatment System Project, to authorize the Secretary to carry out a program to assist agencies in projects to construct regional brine lines in California, to authorize the Secretary to participate in the Lower Chino Dairy Area desalination demonstration and reclamation project, and for other purposes; to the Committee on Energy and Natural Resources.

Mrs. FEINSTEIN. Mr. President, I rise today to introduce the Santa Ana River Water Supply Enhancement Act of 2005.

This legislation authorizes Federal assistance through Title XVI for projects developed by local communities to reduce their dependence on water from the Colorado River. It helps California develop safer and more reliable water supplies.

Congressman GARY MILLER along with Congressmen CALVERT, DREIER, ROYCE, COX and ROHRBACHER introduced similar legislation in the House. Their bill passed the House in October.

The projects in this bill will increase the region's water supply by 200,000 acre-feet annually and are prototypes for providing water supplies to new communities throughout the arid Western States.

The Orange County Water District's Groundwater Replenishment System is an innovative approach to reuse water resources within one of the most populated counties in the Nation. Seventy-two thousand acre feet of reclaimed water will be produced annually for indirect potable use. This is enough water to meet the needs of more than 300,000 people each year. This bill authorizes \$51.8 million for the groundwater replenishment system, just 10 percent of the actual cost of the project.

Another project in the bill expands desalination facilities in the Chino Basin, providing a fourfold increase in the ability to desalinate groundwater

supplies. The Chino Basin groundwater desalters will be the primary drinking water supply for 40,000 new homes in Riverside and San Bernardino Counties.

This legislation also authorizes \$40 million to construct regional brine sewer lines that will enable our communities to safely dispose of the brine generated from the "desalted" groundwater supplies.

In order to naturally treat the regions water and remove contamination from the Santa Anna River, I am also seeking Federal support for the construction of wetlands. This concept holds the promise of efficiently improving the quality of our groundwater supplies without costly control technologies.

The creation of a Center for Technological Advancement of Membrane Technology will foster research efforts to improve membrane design and testing. Research conducted at this facility will help develop technologies to increase the stability of our water supply.

I believe the ever-growing demand for water throughout Southern California can be satisfied through local supplies. Regional watershed plans, coordinating water use throughout multiple jurisdictions, are a critical tool to reach this goal. All of the projects in this legislation were developed on a regional basis and the Federal cost share of each project is less than 20 percent.

I am pleased to introduce this legislation as it holds the key to providing a roadmap for other communities' efforts to meet the challenges posed by a scarce potable water supply.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2106

*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 "Santa Ana River Water Supply Enhancement Act of 2005".

#### SEC. 2. PRADO BASIN NATURAL TREATMENT SYSTEM PROJECT.

(a) IN GENERAL.—The Reclamation Water and Groundwater Study and Facilities Act (Public Law 102-575, title XVI; 43 U.S.C. 390h et seq.) is amended by adding at the end the following:

##### "SEC. 1636. PRADO BASIN NATURAL TREATMENT SYSTEM PROJECT.

"(a) IN GENERAL.—The Secretary, in cooperation with the Orange County Water District, shall participate in the planning, design, and construction of natural treatment systems and wetlands for the flows of the Santa Ana River, California, and its tributaries into the Prado Basin.

"(b) COST SHARING.—The Federal share of the cost of the project described in subsection (a) shall not exceed 25 percent of the total cost of the project.

"(c) LIMITATION.—Funds provided by the Secretary shall not be used for the operation and maintenance of the project described in subsection (a).

"(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$20,000,000.

"(e) SUNSET OF AUTHORITY.—This section shall have no effect after the date that is 10 years after the date of the enactment of this section."

(b) CONFORMING AMENDMENT.—The table of sections in section 2 of Public Law 102-575 is further amended by inserting after the item relating to section 1634 the following:

"Sec. 1636. Prado Basin Natural Treatment System Project".

#### SEC. 3. REGIONAL BRINE LINES.

(a) IN GENERAL.—The Reclamation Water and Groundwater Study and Facilities Act (Public Law 102-575, title XVI; 43 U.S.C. 390h et seq.) is further amended by adding at the end the following:

##### "SEC. 1637. REGIONAL BRINE LINES.

"(a) SOUTHERN CALIFORNIA.—The Secretary, under Federal reclamation laws and in cooperation with units of local government, may assist agencies in projects to construct regional brine lines to export the salinity imported from the Colorado River to the Pacific Ocean as identified in—

"(1) the Salinity Management Study prepared by the Bureau of Reclamation and the Metropolitan Water District of Southern California; and

"(2) the Southern California Comprehensive Water Reclamation and Reuse Study prepared by the Bureau of Reclamation.

"(b) AGREEMENTS AND REGULATIONS.—The Secretary may enter into such agreements and promulgate such regulations as are necessary to carry out this section.

"(c) COST SHARING.—The Federal share of the cost of a project to construct regional brine lines described in subsection (a) shall not exceed—

"(1) 25 percent of the total cost of the project; or

"(2) \$40,000,000.

"(d) LIMITATION.—Funds provided by the Secretary shall not be used for operation or maintenance of any project described in subsection (a).

"(e) SUNSET OF AUTHORITY.—This section shall have no effect after the date that is 10 years after the date of the enactment of this section."

(b) CONFORMING AMENDMENT.—The table of sections in section 2 of Public Law 102-575 is further amended by inserting after the item relating to section 1635 the following:

"Sec. 1637. Regional brine lines".

#### SEC. 4. LOWER CHINO DAIRY AREA DESALINATION DEMONSTRATION AND RECLAMATION PROJECT.

(a) IN GENERAL.—The Reclamation Water and Groundwater Study and Facilities Act (Public Law 102-575, title XVI; 43 U.S.C. 390h et seq.) is further amended by adding at the end the following:

##### "SEC. 1638. LOWER CHINO DAIRY AREA DESALINATION DEMONSTRATION AND RECLAMATION PROJECT.

"(a) IN GENERAL.—The Secretary, in cooperation with the Chino Basin Watermaster, the Inland Empire Utilities Agency, and the Santa Ana Watershed Project Authority and acting under the Federal reclamation laws, shall participate in the design, planning, and construction of the Lower Chino Dairy Area desalination demonstration and reclamation project.

"(b) COST SHARING.—The Federal share of the cost of the project described in subsection (a) shall not exceed—

"(1) 25 percent of the total cost of the project; or

"(2) \$50,000,000.

"(c) LIMITATION.—Funds provided by the Secretary shall not be used for operation or maintenance of the project described in subsection (a).

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

"(e) SUNSET OF AUTHORITY.—This section shall have no effect after the date that is 10 years after the date of the enactment of this section."

(b) CONFORMING AMENDMENT.—The table of sections in section 2 of Public Law 102-575 is further amended by inserting after the item relating to section 1636 the following:

"Sec. 1638. Lower Chino dairy area desalination demonstration and reclamation project".

#### SEC. 5. CEILING INCREASE ON FEDERAL SHARE OF WATER RECLAMATION PROJECT.

Section 1631(d) of the Reclamation Water and Groundwater Study and Facilities Act (43 U.S.C. 390h-13(d)) is amended—

(1) in paragraph (1) by striking "paragraph (2)" and inserting "paragraphs (2) and (3)"; and

(2) by adding at the end the following new paragraph:

"(3) The Federal share of the costs of the project authorized by section 1624 shall not exceed the following:

"(A) \$22,000,000 for fiscal year 2007.

"(B) \$24,200,000 for fiscal year 2008.

"(C) \$26,620,000 for fiscal year 2009.

"(D) \$29,282,000 for fiscal year 2010.

"(E) \$32,210,200 for fiscal year 2011.

"(F) \$35,431,220 for fiscal year 2012.

"(G) \$38,974,342 for fiscal year 2013.

"(H) \$42,871,776 for fiscal year 2014.

"(I) \$47,158,953 for fiscal year 2015.

"(J) \$51,874,849 for fiscal year 2016."

#### SEC. 6. CENTER FOR TECHNOLOGICAL ADVANCEMENT OF MEMBRANE TECHNOLOGY AND EDUCATION.

(a) IN GENERAL.—The Secretary of the Interior shall establish at the Orange County Water District located in Orange County, California, a center for the expressed purposes of providing—

(1) assistance in the development and advancement of membrane technologies; and

(2) educational support in the advancement of public understanding and acceptance of membrane produced water supplies.

(b) MANAGEMENT OF CENTER.—

(1) CONTRACTS.—In establishing the center, the Secretary shall enter into contracts with the Orange County Water District for purposes of managing such center.

(2) PLAN.—Not later than 90 days after the date of enactment of this section, the Secretary, in consultation with the Orange County Water District, shall jointly prepare a plan, updated annually, identifying the goals and objectives of the center.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to carry out subsections (a) and (b), \$2,000,000, for each of fiscal years 2006 through 2011. Such sums shall remain available until expended.

(d) REPORT.—Not later than one year after the date of enactment of this section and annually thereafter, the Secretary, in consultation with the Orange County Water District, shall provide a report to Congress on the status of the center and its accomplishments.

(e) SUNSET OF AUTHORITY.—This section shall have no effect after the date that is 10 years after the date of the enactment of this section.

By Mr. BAUCUS:

S. 2107. A bill to provide additional appropriations for the Low-Income Home Energy Assistance Act of 1981 for fiscal year 2006 and to amend the Internal Revenue Code of 1986 to provide a refundable tax credit for residential energy cost assistance, and for other purposes; to the Committee on Finance.

Mr. BAUCUS. Mr. President, today I am introducing legislation to help families bear the dramatic increase in cost for home heating bills this winter.

The bill, the Household Energy and Taxpayer Assistance Act of 2005, appropriates enough money to fully fund the Low Income Energy Assistance Program at its authorized level and provides for a tax credit up to \$300 per family to offset home heating bills.

I cannot overstate the urgency of this legislation. This week, natural gas prices hit record highs. On the New York Mercantile Exchange, January futures rose to \$15.78 per million BTUs. Prices have more than doubled since last year.

What does that mean for the consumer?

The Energy Information Administration predicts that the average household heating with natural gas this winter will pay \$281 more for fuel this winter than they did last winter. That is a 38 percent increase. Households using home heating oil can expect to pay \$255 more, and propane users could see a \$167 increase.

Those heating with electricity will likely see a \$46 increase in the cost to heat a home.

The bill that I am proposing includes two proposals that Congress should enact immediately to mitigate these price spikes for households.

First and foremost, my legislation fully funds the Federal Low Income Home Energy Assistance Program, or LIHEAP. Despite projections for astronomical energy costs, the conference agreement for the Labor, HHS, Education appropriations bill funds this essential home heating program at less than 50 percent of its authorized level.

And today the Senate will be considering that conference report. The current funding level for LIHEAP is unacceptable. As energy prices continue to skyrocket, we should not be short-changing this vital program.

In recent years, a growing need for help with home heating bills has consistently outstripped available funding, which has remained flat.

That is why Congress responded by increasing the authorization for the program to \$5.1 billion in the recently enacted energy bill. But Congress hasn't appropriated anywhere near as much for this program as it could.

Current appropriations legislation provides only about \$2.2 billion in 2006.

My bill would appropriate an additional \$2.9 billion for the LIHEAP program. Funding for heating assistance in my home State of Montana would be at least \$35 million, about \$20 million more than last year.

Montanans and other hard-working families should not have to choose between their home energy bills and affording other basic necessities.

Energy is a basic need, and without LIHEAP assistance, many Montanans wouldn't be able to heat their homes. That's why I'm working to help ease the burden of high heating costs.

In addition, this bill establishes a temporary tax credit to help all taxpayers to defray a portion of their heating bills this winter. That means families can add up their home energy bills, and when tax time comes around they can get 20 percent of that expense back, for heating fuel or utility costs. That credit will provide as much as \$200 for an individual or \$300 for a family.

The credit is also refundable. Low-income Americans who don't owe any Federal income taxes would still get that rebate against their heating bills.

Americans can't wait until spring for this assistance.

In its current edition, U.S. News & World Report introduces us to Mervalene Eastman, an unemployed woman on the Crow Indian Reservation. Month-to-month, \$100 jumps in her heating bills last year put her behind in her bills. Medical problems forced her to leave her job as an emergency dispatcher, and then she lost natural gas service.

Things are so tough she sometimes needed to use her electric oven for heat, especially on cold nights. I am deeply troubled by the thought that more Americans will go without heat this winter. I am concerned families will face a choice between food on their table or heat during the night. They should not have to make that decision. We should pass this legislation and give millions of families an early present this holiday.

Now is the time to act, and I urge my colleagues to join me helping to provide this much needed relief.

By Mr. ENSIGN (for himself, Mr. LIEBERMAN, Mr. LUGAR, Mr. DEWINE, Mr. ALLEN, Mr. BINGAMAN, Mr. ALEXANDER, Mr. CHAMBLISS, Mr. BAYH, Mr. NELSON of Florida, Mr. KOHL, Mr. CORNYN, Mr. ISAKSON, Mr. SMITH, Mr. LEAHY, and Mr. NELSON of Nebraska):

S. 2109. A bill to provide national innovation initiative; to the Committee on Finance.

Mr. ENSIGN. Mr. President, I rise today to discuss important new innovation legislation that will address concerns about our country and our ability to compete in the global marketplace. Today, Senator LIEBERMAN and I introduced the National Innovation bill with bipartisan support from Senator LUGAR, Senator DEWINE, Senator BINGAMAN, Senator ALLEN, Senator ALEXANDER, Senator CHAMBLISS, Senator BAYH, Senator BILL NELSON, Senator KOHL, Senator CORNYN, Senator ISAKSON, Senator BEN NELSON, Senator LEAHY and Senator SMITH as original cosponsors. We encourage all of our colleagues to join us in this important effort.

Today the World is becoming dramatically more interconnected and competitive. In order to remain globally competitive, the United States must continue to lead the world's inno-

vation. Innovation fosters the new ideas, technologies, and processes that lead to better jobs, higher wages, and a higher standard of living.

Unfortunately, in the disciplines that foster innovation in the 21st Century—science, technology, engineering, and mathematics—America is steadily losing its global edge:

The trouble signs are numerous:

Less than 6 percent of high school seniors plan to pursue engineering degrees, down from 36 percent from a decade ago.

In 2000, only 17 percent of undergraduate degrees earned in the United States were in the hard sciences.

In the same year 56 percent of China's undergraduate degrees were in the hard sciences.

Next year, China will likely produce six times the number of engineers that we will graduate in the United States.

We must address these long-term competitive challenges to America's economic vitality and national security now or risk losing our essential leadership position on innovation. The National Innovation Act will help America meet these interconnected challenges by addressing three primary areas of importance to maintaining and improving United States' innovation in the 21st Century: 1. increasing research investment 2. increasing science and technology talent, and 3. developing an innovation infrastructure.

I am a fiscal conservative, and current Federal budget constraints will require prioritization of spending. New programs must be funded through existing funds or through identifiable funding offsets whenever possible. I look forward to working with Senator LIEBERMAN and the other cosponsors in this effort.

Increased support of basic research through should be a national priority.

Our bill would increase the national commitment to basic research by nearly doubling research funding for the National Science Foundation (NSF) by FY 2011. The National Science Foundation plays a critical role in underwriting basic research at colleges, universities, and other institutions throughout our nation.

NSF supported basic research in chemistry, physics, nanotechnology, and semiconductor manufacturing has brought about some of the most significant innovations of the last 20 years. For example, the World Wide Web, magnetic resonance imaging and fiber optics technology all emerged through basic research projects that received NSF funding.

Because our nation's long-term future economic strength depends in large part on the support we give to basic research projects now, the National Innovation bill also establishes the Innovation Acceleration Grants Program, which encourages Federal agencies funding research in science, technology, engineering, and mathematics to allocate at least 3 percent of

their Research and Development (R&D) budgets to grants directed toward high-risk frontier research.

Three percent of overall R&D budgets from federal agencies may not seem like a lot, but this is an important starting point. Although our bill does not specifically require it, I encourage federal agencies engaged in R&D to dedicate an even greater percentage of their budgets to basic research.

Along with strategic investment in the innovation economy, the Federal Government also needs to examine various barriers that impede innovation in the United States.

Our bill instructs the National Academy of Sciences to study factors such as tort litigation that may impede American businesses from engaging in innovation risk-taking and provide recommendations on how best to address these issues. Litigation, taxation, and the substantial costs of regulatory compliance impact innovation and need to be addressed.

Innovation must be a major priority as the United States looks to retain and strengthen its economic leadership and national security in the 21st Century. The National Innovation Act will help ensure that the Federal Government does exactly that by increasing research investment, increasing science and technology talent, and developing an innovation infrastructure.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2109

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

#### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “National Innovation Act of 2005”.

(b) TABLE OF CONTENTS.—

The table of contents for this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings and purposes.
- Sec. 3. Definitions.

#### TITLE I—INNOVATION PROMOTION

- Sec. 101. President’s Council on Innovation.
- Sec. 102. Innovation acceleration grants.
- Sec. 103. A national commitment to basic research.
- Sec. 104. Regional economic development.
- Sec. 105. Development of advanced manufacturing systems.
- Sec. 106. Study on service science.

#### TITLE II—MODERNIZATION OF SCIENCE, EDUCATION, AND HEALTHCARE PROGRAMS

##### Subtitle A—Science and Education

- Sec. 201. Graduate fellowships and graduate traineeships.
- Sec. 202. Professional science master’s degree programs.
- Sec. 203. Increased support for science education through the National Science Foundation.
- Sec. 204. Innovation-based experiential learning.

##### Subtitle B—21st Century Healthcare System

- Sec. 211. Sense of Congress regarding 21st century healthcare system.

#### TITLE III—INCENTIVES FOR ENCOURAGING INNOVATION

##### Subtitle A—Research Credits

- Sec. 301. Permanent extension of research credit.
- Sec. 302. Increase in rates of alternative incremental credit.
- Sec. 303. Alternative simplified credit for qualified research expenses.

##### Subtitle B—Health and Education

- Sec. 311. Study and report on catastrophic healthcare.
- Sec. 312. Lifelong learning accounts.

##### Subtitle C—Savings and Investments

- Sec. 321. Regulations relating to private foundation support of innovations in economic development.
- Sec. 322. Advisory group regarding valuation of intangibles.

#### TITLE IV—DEPARTMENT OF DEFENSE MATTERS

##### Subtitle A—Defense Research and Education

- Sec. 401. Revitalization of frontier and multidisciplinary research.
- Sec. 402. Enhancement of education.

##### Subtitle B—Defense Advanced Manufacturing

- Sec. 411. Manufacturing research and development.
- Sec. 412. Transition of transformational manufacturing processes and technologies to the defense manufacturing base.
- Sec. 413. Manufacturing technology strategies.
- Sec. 414. Planning for adoption of strategic innovation.
- Sec. 415. Report.
- Sec. 416. Authorization of appropriations.

#### TITLE V—JUDICIARY AND OTHER MATTERS

- Sec. 501. Sense of Congress on retaining high-tech talent in the United States.
- Sec. 502. Study on barriers to innovation.
- Sec. 503. Sense of Congress on patent reform.

#### SEC. 2. FINDINGS AND PURPOSES.

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

(1) The United States is the most innovative Nation in the world. Since our Nation’s founding, exploration, opportunity, and discovery have remained essential to fulfilling our Nation’s strategic economic and political objectives.

(2) In the 21st century, a well-educated and trained workforce, investment in research and development, and a regulatory and physical infrastructure that supports innovators are essential to ensuring that the United States continues to lead the global economy on innovation.

(3) America’s future economic and national security will largely depend on the creativity and commitment of our Nation to unleash its innovation capacity.

(4) The world has become dramatically more interconnected and competitive. Cutting edge research, world-class education, and highly skilled labor pools are no longer within the sole purview of the United States.

(5) The United States investment in basic research is currently insufficient to meet the challenges we face.

(6) Federal support for basic research in the physical sciences has consistently lagged behind that given to the life sciences in recent years.

(7) Traditional measurements of innovation capacity focused solely on inputs, such as research and development spending, number of patents and value of physical infrastructure. The traditional measurements are

necessary but are not sufficient metrics for innovation in the 21st century’s knowledge economy.

(8) Current Federal budget constraints require prioritization of spending and new programs must be funded through existing funds or through identifiable funding offsets whenever possible.

(9) A national, private sector-led, and government supported plan is required if the United States is to adequately respond to the challenges of increased global competition and take advantage of the opportunities this changing global dynamic presents.

(b) PURPOSES.—The purposes of this Act are to—

(1) make innovation a fundamental economic priority for the United States;

(2) create the most fertile policy environment for innovation to occur;

(3) develop greater numbers of American scientists, mathematicians, and engineers;

(4) enhance the quality of math and science education at all levels;

(5) increase the Federal Government’s investment in basic research, especially in the physical sciences;

(6) direct greater funding toward multidisciplinary and frontier research where tomorrow’s innovations are most likely to occur;

(7) secure a strong advanced manufacturing base in the United States to ensure that as innovations occur, America is poised to reap the benefits via the creation of new jobs and investment; and

(8) examine both the incentives for, and barriers to, innovation to better understand what additional policy changes are warranted.

#### SEC. 3. DEFINITIONS.

In this Act:

(1) CONGRESSIONAL DEFENSE COMMITTEES.—The term “congressional defense committees” has the meaning given that term in section 101(a)(16) of title 10, United States Code.

(2) DEFENSE MANUFACTURING BASE.—The term “defense manufacturing base” includes any supplier of the Department of Defense, including a supplier of raw materials.

(3) EXECUTIVE AGENCY.—The term “Executive agency” has the meaning given that term in section 105 of title 5, United States Code.

(4) EXTENDED PRODUCTION ENTERPRISE.—The term “extended production enterprise” means a system in which key entities in the manufacturing chain, including entities engaged in product design and development, manufacturing, sourcing, distribution, and user entities, are linked together through information technology and other means to promote efficiency and productivity.

(5) INNOVATION.—The term “innovation” means the intersection of invention and insight leading to the creation of social and economic value, including through efforts meeting fundamental technology challenges and involving multidisciplinary work and a high degree of novelty.

(6) MANUFACTURING EXTENSION PARTNERSHIP PROGRAM.—The term “Manufacturing Extension Partnership Program” means the Manufacturing Extension Partnership Program of the Department of Commerce.

(7) MANUFACTURING TECHNOLOGY PROGRAM.—The term “Manufacturing Technology Program” means the Manufacturing Technology Program under section 2521 of title 10, United States Code.

(8) PROFESSIONAL SCIENCE MASTERS PROGRAM.—The term “professional science masters program” means a graduate degree program in science and mathematics that extends science training to strategic planning and business management and focuses on



multidisciplinary specialties such as business and information technology (IT), biology and IT (bioinformatics), and computational chemistry.

(9) **REGIONAL INNOVATION HOT SPOTS DEFINED.**—The term “regional innovation hot spots” means regions that are defined by a high degree of innovation and the availability of talent, investment, and infrastructure necessary to create and sustain such innovation.

(10) **SERVICE SCIENCE.**—The term “service science” means curriculums, research programs, and training regimens, including service sciences, management, and engineering (SSME) programs, that exist or that are being developed to teach individuals to apply technology, organizational process management, and industry-specific knowledge to solve complex problems.

(11) **SMALL BUSINESS INNOVATION RESEARCH PROGRAM.**—The term “Small Business Innovation Research Program” has the meaning given that term in section 2500(11) of title 10, United States Code.

(12) **SMALL BUSINESS TECHNOLOGY TRANSFER PROGRAM.**—The term “Small Business Technology Transfer Program” has the meaning given that term in section 2500(12) of title 10, United States Code.

(13) **SSME.**—The term “SSME” means the discipline known as service sciences, management, and engineering that—

(A) applies scientific, engineering and management disciplines to tasks that one organization performs beneficially for others, generally as part of the services sector of the economy; and

(B) integrates computer science, operations research, industrial engineering, business strategy, management sciences, and social and legal sciences, in order to encourage innovation in how organizations create value for customers and shareholders that could not be achieved through such disciplines working in isolation.

## TITLE I—INNOVATION PROMOTION

### SEC. 101. PRESIDENT'S COUNCIL ON INNOVATION.

(a) **IN GENERAL.**—The President shall establish a President's Council on Innovation (in this section referred to as the “Council”).

(b) **DUTIES.**—The Council's duties shall include—

(1) monitoring implementation of legislative proposals and initiatives for promoting innovation, including policies related to research funding, taxation, immigration, trade, and education that are proposed in this and other Acts;

(2) in consultation with the Director of the Office of Management and Budget, developing a process for using metrics to assess the impact of existing and proposed policies and rules that affect innovation capabilities in the United States;

(3) identifying opportunities and making recommendations for the heads of executive agencies to improve innovation, monitoring, and reporting on the implementation of such recommendations;

(4) developing metrics for measuring the progress of the Federal Government with respect to improving conditions for innovation, including through talent development, investment, and infrastructure improvements; and

(5) submitting an annual report to the President and Congress on such progress.

(c) **MEMBERSHIP AND COORDINATION.**—

(1) **MEMBERSHIP.**—The Council shall be composed of the Secretary or head of each of the following:

- (A) The Department of Commerce.
- (B) The Department of Defense.
- (C) The Department of Education.
- (D) The Department of Energy.

(E) The Department of Health and Human Services.

(F) The Department of Homeland Security.

(G) The Department of Labor.

(H) The Department of the Treasury.

(I) The National Aeronautics and Space Administration.

(J) The Securities and Exchange Commission.

(K) The National Science Foundation.

(L) The Office of the United States Trade Representative.

(M) The Office of Management and Budget.

(N) The Office of Science and Technology Policy.

(2) **CHAIRPERSON.**—The Secretary of Commerce shall serve as chairperson of the Council.

(3) **COORDINATION.**—The chairperson of the Council shall ensure appropriate coordination between the Council and the National Economic Council and the National Security Council.

(d) **DEVELOPMENT OF INNOVATION AGENDA.**—

(1) **IN GENERAL.**—The Council shall develop a comprehensive agenda for strengthening the innovation capabilities of the Federal Government and State governments, academia, and the private sector in the United States.

(2) **CONSULTATION.**—The comprehensive agenda required by paragraph (1) shall be developed in consultation with appropriate representatives of the private sector, scientific organizations, and academic organizations.

### SEC. 102. INNOVATION ACCELERATION GRANTS.

(a) **GRANT PROGRAM.**—The President shall establish a grant program, to be known as the “Innovation Acceleration Grants Program”, to support and promote innovation in the United States. Priority in the awarding of grants shall be given to projects that meet fundamental technology challenges and that involve multidisciplinary work and a high degree of novelty.

(b) **AWARDING OF GRANTS THROUGH DEPARTMENTS AND AGENCIES.**—

(1) **FUNDING GOALS.**—The President shall ensure that it is the goal of each Executive agency that finances research in science, mathematics, engineering, and technology to allocate at least 3 percent of the agency's total annual research and development budget to funding grants under the Innovation Acceleration Grants Program.

(2) **ADMINISTRATION.**—

(A) **IN GENERAL.**—Each head of an Executive agency awarding grants under paragraph (1) shall submit a plan for implementing the grant program within such Executive agency to the Director of the Office of Science and Technology Policy and the Director of the Office of Management and Budget. The implementation plan shall be submitted not later than 90 days after the date of enactment of this Act. The implementation plan may incorporate existing initiatives of the Executive agencies that promote research in innovation as described in subsection (a).

(B) **REQUIRED METRICS.**—The head of each Executive agency submitting an implementation plan pursuant to this section shall include metrics upon which grant funding decisions will be made and metrics for assessing the success of the grants awarded.

(C) **GRANT DURATION AND RENEWALS.**—

(i) **IN GENERAL.**—Any grants issued by an Executive agency under this section shall be for a period not to exceed 3 years.

(ii) **EVALUATION.**—Not later than 90 days prior to the expiration of a grant issued under this section, the Executive agency that approved the grant shall complete an evaluation of the effectiveness of the grant based on the metrics established pursuant to

subparagraph (B). In its evaluation, the Executive agency shall consider the extent to which the program funded by the grant met the goals of quality improvement and job creation.

(iii) **PUBLICATION OF REVIEW.**—The Executive agency shall publish and make available to the public the review of each grant approved pursuant to this section.

(iv) **FAILURE TO MEET METRICS.**—Any grant that the Executive agency awarding the grant determines has failed to satisfy any of the metrics developed pursuant to subparagraph (B), shall not be eligible for a renewal.

(v) **RENEWAL.**—A grant issued under this section that satisfies all of the metrics developed pursuant to subparagraph (B), may be renewed once for a period not to exceed 3 years. Additional renewals may be considered only if the head of the Executive agency makes a specific finding that the program being funded involves a significant technology advance that requires a longer timeframe to complete critical research, and the research satisfies all the metrics developed pursuant to subparagraph (B).

### SEC. 103. A NATIONAL COMMITMENT TO BASIC RESEARCH.

(a) **PLAN FOR INCREASED RESEARCH.**—Not later than 180 days after the date of the enactment of this Act, the Director of the National Science Foundation shall submit to Congress a comprehensive, multiyear plan that describes how the funds authorized in subsection (b) shall be used. Such plan shall be developed with a focus on utilizing basic research in physical science and engineering to optimize the United States economy as a global competitor and leader in productive innovation.

(b) **INCREASED FUNDING FOR NATIONAL SCIENCE FOUNDATION.**—There are authorized to be appropriated to the National Science Foundation for the purpose of doubling research funding the following amounts:

- (1) \$6,440,000,000 for fiscal year 2007.
- (2) \$7,280,000,000 for fiscal year 2008.
- (3) \$8,120,000,000 for fiscal year 2009.
- (4) \$8,960,000,000 for fiscal year 2010.
- (5) \$9,800,000,000 for fiscal year 2011.

(c) **RECOMMENDATIONS FOR RESEARCH AND DEVELOPMENT FUNDING.**—Not later than 1 year after the date of the enactment of this Act, the Director of the Office of Science and Technology Policy shall evaluate and, as appropriate, submit to Congress recommendations for an increase in funding for research and development in physical sciences and engineering in consultation with agencies and departments of the United States with significant research and development budgets.

### SEC. 104. REGIONAL ECONOMIC DEVELOPMENT.

(a) **DEVELOPMENT OF FUNDING STRATEGY.**—

(1) **IN GENERAL.**—The Assistant Secretary for Economic Development of the Department of Commerce shall review Federal programs that support local economic development and prepare and implement a strategy to focus funding on initiatives that improve the ability of communities to participate successfully in the modern economy through innovation. In preparing the strategy, priority should be given to projects that—

(A) emphasize private sector cooperation with State and local governments and nonprofit organizations focused on regional economic development as the means of achieving specific objectives related to the support and promotion of innovation; and

(B) are the most successful in meeting the metrics established under subsection (b).

(2) **COORDINATION.**—The Assistant Secretary shall coordinate the development and implementation of the strategy with the activities carried out by the Under Secretary for Technology under subsection (d).

(b) **EVALUATION OF PROGRAMS.**—The Assistant Secretary for Economic Development of

the Department of Commerce shall develop metrics to measure the success of Federal programs in supporting and promoting innovation at the local community level while minimizing bureaucracy and overhead expenses.

(c) **PROMOTION OF ECONOMIC DEVELOPMENT OPPORTUNITIES.**—The Assistant Secretary for Economic Development of the Department of Commerce should work with organizations focused on economic development to highlight opportunities for such organizations to serve local communities through grants focused on economic development and investment in companies pursuing innovation.

(d) **REGIONAL INNOVATION HOT SPOTS.**—

(1) **PROMOTION OF REGIONAL INNOVATION HOT SPOTS.**—The Under Secretary for Technology of the Department of Commerce shall coordinate activities focused on promoting innovation through the development of regional innovation hot spots.

(2) **GUIDE TO DEVELOPING SUCCESSFUL REGIONAL INNOVATION HOT SPOTS.**—

(A) **IN GENERAL.**—Not later than 1 year after the date of enactment of this Act, the Secretary of Commerce, in consultation with representatives of regional innovation hot spots, shall publish a report, to be titled the “Guide to Developing Successful Regional Innovation Hot Spots”, that examines successful regional innovation hot spots and includes recommendations for establishing and fostering regional innovation hot spots.

(B) **CONTENT.**—The report required under subparagraph (A) shall—

(i) include information on the evaluation of human capital;

(ii) include information on the role of sponsoring institutions, such as universities, nonprofit organizations, and laboratories, in establishing and fostering regional innovation hot spots;

(iii) include information on the role of State and local government leaders, leaders in the research and business communities, and community organizations in establishing and fostering regional innovation hot spots;

(iv) discuss the importance of collaboration by public and private sector leaders;

(v) identify sources of funding for these activities within Federal, State, and local governments and the private sector; and

(vi) include recommendations for developing strategic plans to stimulate innovation, including recommendations relating to knowledge transfer and commercialization, the support of regional entrepreneurship and increased innovation within existing regional firms, and the linking of primary institutions engaged in the innovation process.

(3) **REGIONAL INNOVATION HOT SPOT METRICS.**—

(A) **DEVELOPMENT OF METRICS.**—In conjunction with publishing the report required under paragraph (2), the Secretary of Commerce shall develop the following sets of metrics:

(i) Metrics to be considered for identifying potential regional innovation hot spots (in this subsection referred to as “identifying metrics”).

(ii) Metrics to be considered for evaluating the impact and effectiveness of established regional innovation hot spots (in this subsection referred to as “evaluation metrics”).

(B) **USE OF METRICS.**—The Under Secretary of Commerce for Technology shall use the identifying metrics to conduct biannual assessments of potential regional clusters and shall use the evaluation metrics to assess the impact and effectiveness of established regional innovation hot spots in improving the regional economy and regional job market. The Under Secretary shall also assess the cost effectiveness of operating within each regional hot spot. The Under Secretary

shall report the biannual assessments to Congress.

#### **SEC. 105. DEVELOPMENT OF ADVANCED MANUFACTURING SYSTEMS.**

(a) **RESEARCH AND DEVELOPMENT.**—The Director of the National Institute of Standards and Technology shall support research and development in collaboration with entities and organizations from the industrial sector to supplement and support work in the private sector on advanced manufacturing systems designed to increase productivity and efficiency and to create competitive advantages for United States businesses. These research and development activities should focus on the following activities:

(1) Supporting industry efforts to develop innovative, state-of-the-art manufacturing processes, advanced technologies through interoperable standards, and related concepts, including—

(A) advanced distributed and desktop manufacturing linked to and made compatible with the extended production enterprise system described in paragraph (2);

(B) non-contact quality inspection processes linked to and made compatible with the extended production enterprise system;

(C) small lot manufacturing processes that are—

(i) as cost-effective as mass production processes; and

(ii) linked to and compatible with the extended production enterprise system; and

(D) the use of state-of-the-art materials and processes at the nanotechnological level.

(2) Supporting industry efforts to develop an extended production enterprise system that integrates key entities, including entities engaged in product design and development, manufacturing, sourcing, distribution, and user entities, including through the development of—

(A) interoperable software and standards designed to maximize the compatibility of the design, modeling, and manufacturing stages of the manufacturing process; and

(B) supply chain software.

(b) **COORDINATION OF ACTIVITIES.**—The Director of the National Institute of Standards and Technology shall coordinate activities under subsection (a) with activities under—

(1) the Small Business Innovation Research Program;

(2) the Small Business Technology Transfer Program; and

(3) the Manufacturing Technology Program of the Department of Defense.

(c) **TESTING.**—The Director of the National Institute of Standards and Technology shall support the work of entities and organizations from the industrial sector in developing prototypes and testing areas for testing and refining, in actual production conditions, the processes, technologies, and extended production enterprise system described in subsection (a)(2) in order to maximize productivity gains and cost efficiencies.

(d) **DEVELOPMENT OF STANDARDS.**—The Director of the National Institute of Standards and Technology, in coordination with entities and organizations from the industrial sector and the Manufacturing Technology Program, shall support standards to be used as manufacturing performance criteria to accelerate the adoption of improvements and innovative processes and protocols developed under subsection (a).

(e) **PILOT TEST BEDS OF EXCELLENCE.**—

(1) **ESTABLISHMENT.**—The Director of the National Institute of Standards and Technology shall, in collaboration with entities and organizations from the industrial sector, support not more than 3 pilot test beds of excellence in manufacturing fields important to advanced technologies developed under subsection (a), such as nanotechnology, to be used by the public and private sector. The

test beds of excellence shall focus on production development, particularly the invention, prototyping, and engineering development stages of the manufacturing process.

(2) **COMPETITION.**—The Secretary of Commerce shall conduct a competition to select the pilot test beds of excellence based on criteria and metrics established by the Secretary prior to the competition.

(3) **FUNDING.**—The Secretary of Commerce may provide the pilot test beds of excellence selected pursuant to the competition set forth in paragraph (2) with an appropriate level of funding if and only if the following conditions are satisfied:

(A) No more than 1/3 of the funding of each test bed of excellence is provided by the Federal Government.

(B) At least 1/3 of the cost of each test bed of excellence is provided by participants from the private sector.

(C) At least 1/3 of the cost of each test bed of excellence is provided by State or local governments.

(4) **REVIEW OF FUNDED TEST BEDS.**—Within 3 years of the start of Federal funding for any test bed of excellence pursuant to this section, the Secretary of Commerce shall use the metrics established pursuant to paragraph (2) and any additional review metrics that the Secretary determines appropriate to assess the performance of the federally funded test beds of excellence. Any test bed of excellence that fails to satisfy any of the performance metrics will be ineligible for additional Federal funding.

(5) **SUNSET PROVISION.**—Federal funding of any test bed of excellence shall cease 5 years after the date of enactment of this Act.

(f) **MANUFACTURING EXTENSION PARTNERSHIP FOCUS ON INNOVATION.**—The Director of the National Institute of Standards and Technology shall ensure that the Manufacturing Extension Partnership program develops a focus on innovation, including through technology diffusion, supply and distribution chain integration, and the dissemination of the processes, technologies, and extended production enterprise systems developed under this section.

(g) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Department of Commerce for the purpose of carrying out activities under this section the following amounts:

- (1) \$20,000,000 for fiscal year 2007.
- (2) \$40,000,000 for fiscal year 2008.
- (3) \$60,000,000 for fiscal year 2009.
- (4) \$80,000,000 for fiscal year 2010.
- (5) \$100,000,000 for fiscal year 2011.

#### **SEC. 106. STUDY ON SERVICE SCIENCE.**

(a) **SENSE OF CONGRESS.**—It is the sense of Congress that, in order to strengthen the competitiveness of United States enterprises and institutions and to prepare the people of the United States for high-wage, high-skill employment, the Federal Government should better understand and respond strategically to the emerging vocation and learning discipline known as service science.

(b) **STUDY.**—Not later than 270 days after the date of the enactment of this Act, the Director of the National Science Foundation shall conduct a study and report to Congress regarding how the Federal Government should support, through research, education, and training, the new discipline of service science.

(c) **OUTSIDE RESOURCES.**—In conducting the study under subsection (b), the Director of the National Science Foundation shall consult with leaders from 2- and 4-year institutions of higher education, as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001), leaders from corporations, and other relevant parties.

## TITLE II—MODERNIZATION OF SCIENCE, EDUCATION, AND HEALTHCARE PROGRAMS

### Subtitle A—Science and Education

#### SEC. 201. GRADUATE FELLOWSHIPS AND GRADUATE TRAINEESHIPS.

(a) GRADUATE RESEARCH FELLOWSHIP PROGRAM.—

(1) IN GENERAL.—During the 5-year period beginning on the date of the enactment of this Act, the Director of the National Science Foundation shall expand the Graduate Research Fellowship Program of the Foundation so that an additional 1250 fellowships are awarded to United States citizens under such Program during such period.

(2) EXTENSION OF FELLOWSHIP PERIOD.—The Director of the National Science Foundation is authorized to award fellowships under the Graduate Research Fellowship Program for a period of 5 years, subject to funds being made available for such purpose.

(3) AUTHORIZATION OF APPROPRIATIONS.—In addition to any other amounts authorized to be appropriated, there are authorized to be appropriated \$34,000,000 for each of the fiscal years 2007 through 2011 to provide an additional 250 fellowships under the Graduate Research Fellowship Program during each such fiscal year.

(b) INTEGRATIVE GRADUATE EDUCATION AND RESEARCH TRAINEESHIP PROGRAM.—

(1) IN GENERAL.—During the 5-year period beginning on the date of the enactment of this Act, the Director of the National Science Foundation shall expand the Integrative Graduate Education and Research Traineeship program of the Foundation so that an additional 1,250 United States citizens are awarded grants under such program during such period.

(2) AUTHORIZATION OF APPROPRIATIONS.—In addition to any other amounts authorized to be appropriated, there are authorized to be appropriated \$57,000,000 for each of the fiscal years 2007 through 2011 to provide grants to an additional 250 individuals under the Integrative Graduate Education and Research Traineeship program during each such fiscal year.

#### SEC. 202. PROFESSIONAL SCIENCE MASTER'S DEGREE PROGRAMS.

(a) DEFINITION OF INSTITUTION OF HIGHER EDUCATION.—In this section, the term “institution of higher education” has the meaning given the term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).

(b) CLEARINGHOUSE.—

(1) DEVELOPMENT.—From amounts appropriated under subsection (d), the Director of the National Science Foundation shall establish a clearinghouse, in collaboration with 4-year institutions of higher learning, industries, and Federal agencies that employ science-trained personnel, to share program elements used in successful professional science master's degree programs.

(2) AVAILABILITY.—The Director of the National Science Foundation shall make the clearinghouse of program elements developed under paragraph (1) available to institutions of higher education that are developing professional science master's degree programs.

(c) PILOT PROGRAMS.—

(1) PROGRAM AUTHORIZED.—From amounts appropriated under subsection (d), the Director of the National Science Foundation shall award grants for pilot programs to 4-year institutions of higher education to facilitate the institutions' creation or improvement of professional science master's degree programs.

(2) APPLICATION.—A 4-year institution of higher education desiring a grant under this section shall submit an application at such time, in such manner, and accompanied by

such information as the Director of the National Science Foundation may require. The application shall include—

(A) a description of the professional science master's degree program that the institution of higher education will implement;

(B) the amount of funding from non-Federal sources, including from private industries, that the institution of higher education shall use to support the professional master's degree program; and

(C) an assurance that the institution of higher education shall encourage students in the professional science master's degree program to apply for all forms of Federal assistance available to such students, including applicable graduate fellowships and student financial assistance under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.).

(3) PREFERENCE FOR ALTERNATIVE FUNDING SOURCES.—The Director of the National Science Foundation shall give preference in making awards to 4-year institutions of higher education seeking Federal funding to support pilot professional science master's degree programs, to those applicants that secure more than ½ of the funding for such professional science master's degree programs from sources other than the Federal Government.

(4) NUMBER OF GRANTS; TIME PERIOD OF GRANTS.—

(A) NUMBER OF GRANTS.—Subject to the availability of appropriated funds, the Director of the National Science Foundation shall award grants under paragraph (1) to a maximum of 200 4-year institutions of higher education.

(B) TIME PERIOD OF GRANTS.—Grants awarded under this section shall be for one 3-year term. Grants may be renewed only once for a maximum of 2 additional years.

(5) EVALUATION AND REPORTS.—

(A) DEVELOPMENT OF PERFORMANCE BENCHMARKS.—Prior to the start of the grant program, the National Science Foundation, in collaboration with 4-year institutions of higher education, shall develop performance benchmarks to evaluate the pilot programs assisted by grants under this section.

(B) EVALUATION.—For each year of the grant period, the Director of the National Science Foundation, in consultation with 4-year institutions of higher education, industry, and Federal agencies that employ science-trained personnel, shall complete an evaluation of each pilot program assisted by grants under this section. Any pilot program that fails to satisfy the performance benchmarks developed under subparagraph (A) shall not be eligible for further funding.

(C) REPORT.—Not later than 180 days after the completion of an evaluation described in subparagraph (A), the Director of the National Science Foundation, in consultation with industries and Federal agencies that employ science-trained personnel, shall submit a report to Congress that includes—

(i) the results of the evaluation described in subparagraph (A); and

(ii) recommendations for administrative and legislative action that could optimize the effectiveness of the pilot programs, as the Director determines to be appropriate.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section \$20,000,000 for fiscal year 2007 and such sums as may be necessary for each succeeding fiscal year.

#### SEC. 203. INCREASED SUPPORT FOR SCIENCE EDUCATION THROUGH THE NATIONAL SCIENCE FOUNDATION.

There are authorized to be appropriated to carry out the science, mathematics, engineering, and technology talent expansion program under section 8(7) of the National

Science Foundation Authorization Act of 2002 (Public Law 107-368, 116 Stat. 3042) the following amounts:

- (1) For fiscal year 2007, \$35,000,000.
- (2) For fiscal year 2008, \$50,000,000.
- (3) For fiscal year 2009, \$100,000,000.
- (4) For fiscal year 2010, \$150,000,000.

#### SEC. 204. INNOVATION-BASED EXPERIENTIAL LEARNING.

(a) PILOT PROGRAM.—

(1) PROGRAM AUTHORIZED.—The Director of the National Science Foundation shall award grants to local educational agencies to enable the local educational agencies to implement innovation-based experiential learning in a total of 500 secondary schools and 500 elementary or middle schools in the United States.

(2) APPLICATION.—A local educational agency desiring a grant under this section shall submit an application at such time, in such manner, and accompanied by such information as the Director of the National Science Foundation may require.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section \$10,000,000 for fiscal year 2007 and \$20,000,000 for each of the fiscal years 2008 and 2009.

### Subtitle B—21st Century Healthcare System

#### SEC. 211. SENSE OF CONGRESS REGARDING 21ST CENTURY HEALTHCARE SYSTEM.

(a) SENSE OF CONGRESS.—It is the sense of Congress that, in order to improve the United States healthcare system for the 21st century, the Federal Government should encourage the widespread adoption of interoperable health information technology by—

(1) facilitating the creation of standards for interoperable electronic reporting of healthcare data; and

(2) after such standards have been created, each Federal agency or department that collects data for the purposes described in subsection (b) should collect such data in a manner that is consistent with such standards.

(b) PURPOSES DESCRIBED.—The purposes described in this subsection include quality reporting, surveillance, epidemiology, adverse event reporting, research, or for other purposes determined appropriate by the Secretary of Health and Human Services.

## TITLE III—INCENTIVES FOR ENCOURAGING INNOVATION

### Subtitle A—Research Credits

#### SEC. 301. PERMANENT EXTENSION OF RESEARCH CREDIT.

(a) IN GENERAL.—Section 41 of the Internal Revenue Code of 1986 (relating to credit for increasing research activities) is amended by striking subsection (h).

(b) CONFORMING AMENDMENT.—Section 45C(b)(1) of the Internal Revenue Code of 1986 is amended by striking subparagraph (D).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after the date of the enactment of this Act.

#### SEC. 302. INCREASE IN RATES OF ALTERNATIVE INCREMENTAL CREDIT.

(a) IN GENERAL.—Subparagraph (A) of section 41(c)(4) of the Internal Revenue Code of 1986 (relating to election of alternative incremental credit) is amended—

(1) by striking “2.65 percent” and inserting “3 percent”;

(2) by striking “3.2 percent” and inserting “4 percent”;

(3) by striking “3.75 percent” and inserting “5 percent”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

**SEC. 303. ALTERNATIVE SIMPLIFIED CREDIT FOR QUALIFIED RESEARCH EXPENSES.**

(a) IN GENERAL.—Subsection (c) of section 41 of the Internal Revenue Code of 1986 (relating to base amount) is amended by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively, and by inserting after paragraph (4) the following new paragraph:

“(5) ELECTION OF ALTERNATIVE SIMPLIFIED CREDIT.—

“(A) IN GENERAL.—At the election of the taxpayer, the credit determined under subsection (a)(1) shall be equal to 12 percent of so much of the qualified research expenses for the taxable year as exceeds 50 percent of the average qualified research expenses for the 3 taxable years preceding the taxable year for which the credit is being determined.

“(B) SPECIAL RULE IN CASE OF NO QUALIFIED RESEARCH EXPENSES IN ANY OF 3 PRECEDING TAXABLE YEARS.—

“(i) TAXPAYERS TO WHICH SUBPARAGRAPH APPLIES.—The credit under this paragraph shall be determined under this subparagraph if the taxpayer has no qualified research expenses in any 1 of the 3 taxable years preceding the taxable year for which the credit is being determined.

“(ii) CREDIT RATE.—The credit determined under this subparagraph shall be equal to 6 percent of the qualified research expenses for the taxable year.

“(C) ELECTION.—An election under this paragraph shall apply to the taxable year for which made and all succeeding taxable years unless revoked with the consent of the Secretary. An election under this paragraph may not be made for any taxable year to which an election under paragraph (4) applies.”.

(b) COORDINATION WITH ELECTION OF ALTERNATIVE INCREMENTAL CREDIT.—

(1) IN GENERAL.—Section 41(c)(4)(B) of the Internal Revenue Code of 1986 (relating to election) is amended by adding at the end the following: “An election under this paragraph may not be made for any taxable year to which an election under paragraph (5) applies.”.

(2) TRANSITION RULE.—In the case of an election under section 41(c)(4) of the Internal Revenue Code of 1986 which applies to the taxable year which includes the date of the enactment of this Act, such election shall be treated as revoked with the consent of the Secretary of the Treasury if the taxpayer makes an election under section 41(c)(5) of such Code (as added by subsection (a)) for such year.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

**Subtitle B—Health and Education****SEC. 311. STUDY AND REPORT ON CATASTROPHIC HEALTHCARE.**

(a) STUDY.—The Secretary of Health and Human Services and the Secretary of Labor (in this subsection referred to as the “Secretaries”) jointly shall conduct a study to explore methods for managing costs associated with catastrophic healthcare events and costs associated with chronic disease. The Secretaries shall work with healthcare providers, pharmaceutical manufacturers, large and small employers, health plans, and other interested private and public sector entities to develop a consensus regarding potential innovative approaches for reducing the financial risks presented by such health problems and improving such outcomes. The study shall consider, among other factors, the role that best practices, health information technology, evidence-based medicine, quality incentives, and comparative clinical

effectiveness research can play in improving quality, value, and efficiency throughout the United States healthcare system.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretaries shall submit a report to Congress on the results of the study conducted under subsection (a), together with such recommendations for administrative and legislative action as the Secretaries determine to be appropriate.

**SEC. 312. LIFELONG LEARNING ACCOUNTS.**

(a) STUDY.—The Secretary of the Treasury, in collaboration with the Secretary of Labor and the Secretary of Education, shall conduct a study with recommendations for establishing lifelong learning accounts which would be exempt from taxation under the Internal Revenue Code of 1986 and from which funds could only be used for educational or training purposes. Such study shall consider whether individuals should be allowed to transfer to such an account, without incurring tax liability or penalties, funds which are—

(1) held in accounts established under a plan described in section 401(k), 403(b), or 457 of the Internal Revenue Code of 1986; and

(2) held in a qualified tuition program under section 529 of such Code.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary of the Treasury shall submit to Congress a report on the study conducted under subsection (a).

**Subtitle C—Savings and Investments****SEC. 321. REGULATIONS RELATING TO PRIVATE FOUNDATION SUPPORT OF INNOVATIONS IN ECONOMIC DEVELOPMENT.**

The Secretary of the Treasury or the Secretary's delegate shall as soon as practicable issue regulations under subchapter A of chapter 42 of the Internal Revenue Code of 1986 (relating to excise taxes on private foundations) which—

(1) clearly identify when distributions by private foundations for purposes of stimulating economic development will be treated as made for an exempt purpose described in section 170(c)(2)(B) of such Code; and

(2) clarify the circumstances under which private foundations may make program-related investments described in section 4944(c) of such Code in start-up ventures.

**SEC. 322. ADVISORY GROUP REGARDING VALUATION OF INTANGIBLES.**

(a) ESTABLISHMENT.—The Secretary of the Treasury shall establish an advisory group consisting of representatives of the public and private investment sector. The advisory group shall include representatives from the Department of Commerce, the Securities and Exchange Commission, the Commodity Futures Trading Commission, the Board of Governors of the Federal Reserve System, the New York Stock Exchange, the National Association of Securities Dealers Automatic Quotation System, and significant industry sectors.

(b) DUTIES.—The advisory group established under subsection (a) shall—

(1) examine and make recommendations of best practices for valuation of intangibles in order to—

(A) provide investors with an improved method for assessing the impact intangibles have on the accuracy of a company's financial picture; and

(B) support industry trade associations in efforts to adopt guidelines for intangibles appropriate to particular industry sections; and

(2) submit to the Secretary of the Treasury a recommendation regarding whether a litigation safe harbor should be established for those companies that make good faith estimates regarding the value of intangibles

under the best practice standards developed under paragraph (1).

(c) RESEARCH NETWORK.—The Secretary of Commerce shall establish a research network of industry and academic expertise to study metrics and solutions for intangible disclosure, and provide such research results to the advisory group.

(d) ACCOUNTING STANDARDS.—The Secretary of the Treasury and the advisory group shall encourage the Financial Accounting Standards Board to reinstate its project on disclosure of information about intangible assets not recognized in financial statements and to move expeditiously toward issuance of a statement of financial accounting standards concerning valuation and disclosure of key intangible assets.

(e) REPORT.—Not later than 2 years after the date of the enactment of this Act, the advisory group shall submit to the Secretary of the Treasury the results of the examination under subsection (b)(1) and the recommendation under subsection (b)(2).

**TITLE IV—DEPARTMENT OF DEFENSE MATTERS****Subtitle A—Defense Research and Education****SEC. 401. REVITALIZATION OF FRONTIER AND MULTIDISCIPLINARY RESEARCH.**

It shall be the goal of the Department of Defense to allocate at least 3 percent of the total Department of Defense budget to science and technology. Of this amount, it shall be the goal of the Department of Defense to allocate at least 20 percent to basic research.

**SEC. 402. ENHANCEMENT OF EDUCATION.**

(a) SCIENCE, MATHEMATICS, AND RESEARCH FOR TRANSFORMATION (SMART) SCHOLARSHIPS.—

(1) EXTENSION OF PROGRAM.—Section 1105(a)(2) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108-375; 118 Stat. 2074; 10 U.S.C. 2192 note) is amended by striking “for three years beginning on the date of the enactment of this Act” and inserting “through September 30, 2011”.

(2) EXPANSION OF PROGRAM.—The Secretary of Defense shall, utilizing amounts authorized to be appropriated by paragraph (3), increase the number of participants in the Science, Mathematics, and Research for Transformation (SMART) Defense Scholarship Pilot Program under section 1105 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 in each of fiscal years 2007 through 2011—

(A) by an additional 160 participants pursuing doctoral degrees in each such fiscal year; and

(B) by an additional 60 participants pursuing masters degrees in each such fiscal year.

(3) AUTHORIZATION OF APPROPRIATIONS.—There is hereby authorized to be appropriated to the Department of Defense for each of fiscal years 2007 through 2011 the amount of \$41,300,000 for purposes of carrying out this subsection, of which—

(A) \$36,000,000 shall be available in each such fiscal year for additional participants in the Science, Mathematics, and Research for Transformation (SMART) Defense Scholarship Pilot Program who are pursuing doctoral degrees under paragraph (2)(A); and

(A) \$5,300,000 shall be available in each such fiscal year for additional participants in the Science, Mathematics, and Research for Transformation (SMART) Defense Scholarship Pilot Program who are pursuing masters degrees under paragraph (2)(B).

(b) NATIONAL DEFENSE SCIENCE AND ENGINEERING GRADUATE FELLOWSHIPS.—

(1) **EXPANSION OF PROGRAM.**—The Secretary of Defense shall, utilizing amounts authorized to be appropriated by paragraph (2), increase the number of participants in the National Defense Science and Engineering Graduate (NDSEG) fellowship program in each of fiscal years 2007 through 2011 by an additional 200 participants in each such fiscal year.

(2) **AUTHORIZATION OF APPROPRIATIONS.**—There is hereby authorized to be appropriated to the Department of Defense for each of fiscal years 2007 through 2011 the amount of \$45,000,000 for purposes of carrying out this subsection.

(c) **INSTITUTION-BASED TRAINEESHIPS.**—

(1) **PROGRAM REQUIRED.**—The Secretary of Defense shall, utilizing amounts authorized to be appropriated by paragraph (4), carry out a program to award, on a competitive basis, traineeships to undergraduate and graduate students at institutions of higher education in order to permit such students to pursue studies in areas of importance to the Department of Defense in mathematics, science, or engineering in settings or programs that provide such students exposure to multidisciplinary studies, innovation-oriented studies, and academic, private-sector, or government laboratories and research. It shall be the goal of the traineeship program for a trainee to work for the Department of Defense for 10 years after completing his or her degree.

(2) **PARTICIPANTS.**—In each of fiscal years 2007 through 2011, the number of participants in the program required by paragraph (1) shall be as follows:

(A) Not more than 30 participants pursuing doctoral degrees.

(B) Not more than 30 participants pursuing masters degrees.

(C) Not more than 20 participants pursuing undergraduate degrees.

(3) **ANNUAL REPORTS.**—Not later than November 30 each year, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the carrying out of the program required by paragraph (1) during the preceding fiscal year. The report shall describe the participants, and the studies pursued by such participants, in the program during the fiscal year covered by the report, and shall include an assessment of the benefits of the program to the Department of Defense.

(4) **AUTHORIZATION OF APPROPRIATIONS.**—There is hereby authorized to be appropriated to the Department of Defense for each of fiscal years 2007 through 2011 the amount of \$11,100,000 for purposes of carrying out the program required by this subsection, of which—

(A) \$7,000,000 shall be available in each such fiscal year for participants in the program who are pursuing doctoral degrees under paragraph (2)(A);

(B) \$2,600,000 shall be available in each such fiscal year for participants in the program who are pursuing masters degrees under paragraph (2)(B); and

(C) \$1,500,000 shall be available in each such fiscal year for participants in the program who are pursuing undergraduate degrees under paragraph (2)(C).

#### **Subtitle B—Defense Advanced Manufacturing** **SEC. 411. MANUFACTURING RESEARCH AND DEVELOPMENT.**

(a) **IDENTIFICATION OF ENHANCED PROCESSES AND TECHNOLOGIES.**—The Under Secretary of Defense for Acquisition, Technology, and Logistics, acting through the Director of Defense Research and Engineering, shall identify advanced manufacturing processes and technologies whose utilization will achieve significant productivity and efficiency gains in the defense manufacturing base.

(b) **RESEARCH AND DEVELOPMENT.**—The Under Secretary shall undertake research and development on processes and technologies identified under subsection (a) that addresses, in particular—

(1) innovative manufacturing processes and advanced technologies; and

(2) the creation of extended production enterprises using information technology and new business models.

(c) **DEFENSE PRIORITIES.**—In undertaking research and development under subsection (b), the Under Secretary shall consider defense priorities established in the most current Joint Warfighting Science and Technology Plan.

#### **SEC. 412. TRANSITION OF TRANSFORMATIONAL MANUFACTURING PROCESSES AND TECHNOLOGIES TO THE DEFENSE MANUFACTURING BASE.**

(a) **ACCELERATION OF TRANSITION FROM SCIENCE AND TECHNOLOGY.**—

(1) **IN GENERAL.**—The Under Secretary of Defense for Acquisition, Technology, and Logistics shall undertake appropriate actions to accelerate the transition of transformational manufacturing technologies and processes (including processes and technologies identified under section 411) from the research stage to utilization by manufacturers in the defense manufacturing base.

(2) **EXECUTION.**—The actions undertaken under paragraph (1) shall include a memorandum of understanding among the Director of Defense Research and Engineering, other appropriate elements of the Department of Defense, and the Joint Defense Manufacturing Technology Panel to accelerate the transition of technologies and processes as described in that paragraph.

(b) **PROTOTYPES AND TEST BEDS.**—

(1) **IN GENERAL.**—The Under Secretary shall, utilizing the Manufacturing Technology Program, undertake the development of prototypes and test beds to promote the purposes of this section.

(2) **COORDINATION OF ACTIVITIES.**—The Under Secretary shall coordinate activities under this subsection with activities under the Small Business Innovation Research Program and the Small Business Technology Transfer Program.

(c) **DEVELOPMENT OF IMPROVEMENT PROCESSES.**—The Under Secretary shall, in consultation with persons and organizations in the defense manufacturing base, develop and implement a program to continuously identify and utilize improvements and innovative processes in appropriate defense acquisition programs and by manufacturers in the defense manufacturing base.

(d) **DIFFUSION OF ENHANCEMENTS INTO DEFENSE MANUFACTURING BASE.**—The Under Secretary shall ensure the utilization in industry of enhancements in productivity and efficiency identified by reason of activities under this subtitle through the following:

(1) Research and development activities under the Manufacturing Technology Program, including the establishment of public-private partnerships.

(2) Outreach through the Manufacturing Extension Partnership Program under memoranda of agreement, cooperative programs, and other appropriate arrangements.

(3) Coordination with activities under such other current programs for the dissemination of manufacturing technology as the Under Secretary considers appropriate.

(4) Identification of incentives for contractors in the defense manufacturing base to incorporate and utilize manufacturing enhancements in manufacturing activities.

#### **SEC. 413. MANUFACTURING TECHNOLOGY STRATEGIES.**

(a) **IN GENERAL.**—The Under Secretary of Defense for Acquisition, Technology, and Logistics may—

(1) identify an area of technology where the development of industry-prepared roadmaps for new manufacturing and technology processes applicable to defense manufacturing requirements would be beneficial to the Department of Defense; and

(2) establish a task force, and act in cooperation with the private sector, to map the strategy for the development of manufacturing processes and technologies needed to support technology development in the area identified under paragraph (1).

(b) **COMMENCEMENT OF ROADMAPING.**—The Under Secretary shall commence any roadmaping identified pursuant to subsection (a)(1) not later than January 2007.

#### **SEC. 414. PLANNING FOR ADOPTION OF STRATEGIC INNOVATION.**

(a) **IN GENERAL.**—The Secretary of Defense, acting through the Under Secretary of Defense for Acquisition, Technology, and Logistics, shall ensure that each contract of a value of \$50,000,000 or more under a technology or logistics program of the Department of Defense includes requirements for planning by the contractor under such contract for the adoption of innovative technologies under such contract.

(b) **PARTICULAR REQUIREMENTS.**—The requirements included in a contract under subsection (a) shall include—

(1) requirements for plans for the identification, monitoring, and transition to the utilization under such contract of applicable emerging technologies from the private sector;

(2) requirements for plans for the identification, monitoring, and development under such contract of emerging research initiatives in academia; and

(3) a requirement to submit to the Under Secretary on an annual basis a report on the implementation of the planning carried out pursuant to the requirements included in such contract.

#### **SEC. 415. REPORT.**

(a) **IN GENERAL.**—Not later than December 31, 2008, the Under Secretary of Defense for Acquisition, Technology, and Logistics shall submit to the congressional defense committees a report on the actions undertaken by the Under Secretary under this subtitle during fiscal year 2007.

(b) **ELEMENTS.**—The report under subsection (a) shall include—

(1) a comprehensive description of the actions undertaken under this subtitle during fiscal year 2007;

(2) an assessment of effectiveness of such actions in enhancing research and development on manufacturing technologies and processes, and the implementation of such technologies and processes within the defense manufacturing base; and

(3) such recommendations as the Under Secretary considers appropriate for additional actions to be undertaken in order to increase the effectiveness of the actions undertaken under this subtitle in enhancing manufacturing activities within the defense manufacturing base.

#### **SEC. 416. AUTHORIZATION OF APPROPRIATIONS.**

Funds are hereby authorized to be appropriated for the Department of Defense for purposes of carrying out this subtitle for fiscal years as follows:

(1) For fiscal year 2007, \$20,000,000.

(2) For fiscal year 2008, \$40,000,000.

(3) For fiscal year 2009, \$60,000,000.

(4) For fiscal year 2010, \$80,000,000.

(5) For fiscal year 2011, \$100,000,000.

#### **TITLE V—JUDICIARY AND OTHER MATTERS**

#### **SEC. 501. SENSE OF CONGRESS ON RETAINING HIGH TECH TALENT IN THE UNITED STATES.**

It is the sense of Congress that comprehensive immigration reform should ensure that

the United States retains foreign-born high-tech talent educated in the United States and remains the leader in innovation and technological development in an emerging global marketplace. Such comprehensive reform should ensure—

(1) that the United States continues to retain foreign nationals who have received master's or higher degrees in the sciences, technology, engineering or mathematics from United States institutions of higher education under either—

(A) the H-1B visa program; or

(B) as employment-based immigrants;

(2) that the United States must take a forward looking approach with respect to any limitations on the H-1B visa program; and

(3) that immigration reform should also include systematic improvements to the Government's technology infrastructure in order to eliminate delays in processing immigration proceedings, including employment-based visa applications.

#### SEC. 502. STUDY ON BARRIERS TO INNOVATION.

(a) IN GENERAL.—The National Academy of Sciences shall conduct and complete a study to identify, and to review methods to mitigate, new forms of risk for businesses beyond conventional operational and financial risk that affect the ability to innovate, including studying and reviewing—

(1) incentive and compensation structures that could effectively encourage long-term value creation and innovation;

(2) methods of voluntary and supplemental disclosure by industry of intellectual capital, innovation performance, and indicators of future valuation;

(3) means by which government could work with industry to enhance the legal and regulatory framework to encourage the disclosures described in paragraph (2);

(4) practices that may be significant deterrents to United States businesses engaging in innovation risk-taking compared to foreign competitors, including tort litigation, the nature and extent of any resulting defensive management practices, and recommendations on practices to restore innovation risk-taking and to overcome defensive practices;

(5) means by which industry, trade associations, and universities could collaborate to support research on management practices and methodologies for assessing the value and risks of longer term innovation strategies; and

(6) means to encourage new, open, and collaborative dialogue between industry associations, regulatory authorities, management, shareholders, and other concerned interests to encourage appropriate approaches to innovation risk-taking.

(b) REPORT REQUIRED.—The National Academy of Sciences shall, not later than 1 year after the date of enactment of this Act, submit to Congress a report on the study conducted under subsection (a).

(c) AUTHORIZATIONS OF APPROPRIATIONS.—There are authorized to be appropriated to the National Academy of Sciences \$1,000,000 for fiscal year 2007 for the purpose of carrying out the study required under this section.

#### SEC. 503. SENSE OF CONGRESS ON PATENT REFORM.

It is the sense of Congress that—

(1) to bolster the United States economy and strengthen innovators in the United States, the patent system should be reformed to enhance the quality of patents, to leverage patent databases as innovation tools, and to create best practices for global collaborative standard setting; and

(2) to achieve the objectives described in paragraph (1), the Federal Government should—

(A) fully fund the Patent and Trademark Office and enable the Office to direct its fees to fund process improvements;

(B) improve compliance with existing patenting requirements and create incentives for improved search and disclosure of prior art;

(C) create new standards for searchability of patent applications and new patents;

(D) establish a fair and balanced post-grant patent review procedure for future patents and patent applications;

(E) invest in retroactively creating searchable keywords for a subset of the most highly cited historical patents;

(F) secure reciprocal access to foreign patent databases; and

(G) set best practices and processes for standards bodies to align incentives for collaborative standard setting, and to encourage broad participation.

Mr. LIEBERMAN. Mr. President, today I rise with my colleague Senator ENSIGN to introduce the National Innovation Act, S. 2105. This Act is about building a new century of progress and prosperity for our Nation by spurring a new wave of American innovation—better known around the world as “American ingenuity.”

Our Nation was founded by innovators. Washington, Jefferson, Franklin and many of our other Founding Fathers not only created a new republic, but in their spare time were inveterate experimenters and inventors, as well, who believed that innovation would be important to the growth and security of their new nation.

The generations that followed took up the call. Whitney, Bell, Edison, Fulton, Morse, Ford, Colt, the Wrights—I don't even have to say their first names and you know who they are and what they did.

Now we face a new century with new challenges—a global age where competition can come as easily from across an ocean as from across the street. We got a wake up call earlier this week about how tough the challenge is when it was announced that China had overtaken the United States as the world's largest exporter of high-tech products. According to statistics released by the Organization for Economic Cooperation and Development (OECD), China shipped \$180 billion worth of such goods worldwide last year, exceeding U.S. exports valued at \$149 billion. Even more significant, however, is the fact that the historical paradigm, one that has fueled much of our economic growth in the technology sector in this country, is quickly changing. China now imports far fewer components for tech goods, choosing instead to produce them itself. The OECD noted that between 2000 and 2004, the U.S. and EU shares of China's total imports in such components dropped from 27 to 12 percent. Instead of relying solely on its lower labor and production costs to assemble high-tech goods from components produced in places like the United States and Europe, China increasingly does it all itself now. Chinese scientists now develop many of the newest technologies. Their engineers now design the latest cutting-

edge products, and their factories continue to assemble and spit out the goods, all the while steadily lowering costs. Many of the people involved are educated here or in Europe, though even that is changing, in part due to our restrictive immigration policies and technology transfer rules. If this continues unabated, the highest-end and best-paying jobs, key to the innovation-driven economy, could be found in Shanghai and not in American tech centers.

In May of 2004, I released a White Paper on the topic of outsourcing. When I issued that White Paper, I stated that the first thing we should do was to stop blaming others and face the hard facts ourselves. Since that time, there are even more hard facts we need to face, including the statistics I just mentioned, all of which point to the urgent need for action if the American economy is going to adapt to the fundamental changes and growing competition in the global economy. Forrester Research Inc., a Cambridge, MA research firm that has been studying this issue, has estimated that by 2015, 3.3 million high-tech and service industry jobs will move overseas. Deloitte Consulting has estimated that approximately 2 million jobs in the financial services sector, which signifies nearly 15 percent of the industry's total, could move overseas in the next five years. But even more importantly, we are not just losing jobs. I fear we are beginning to lose critical pieces of our innovation infrastructure, and with them, our competitive edge in the global marketplace. What we always believed was our nation's ultimate competitive advantage—our high-end R&D and technological prowess—is increasingly under siege. I said in 2004, the outsourcing of jobs is just the tip of an economic iceberg that America is sailing towards. If the most recent statistics tell us anything, it's that we are even closer to that iceberg than ever before.

Luckily, these developments have not gone unnoticed. Earlier this year, the Council on Competitiveness—drawing on the insights of many experts from industry and academia, and led by Sam Palmisano of IBM and Wayne Clough of Georgia Tech University—circulated a report with detailed recommendations on how to reinvigorate our innovation economy. The National Innovation Act, which Senator ENSIGN and I are introducing today, is based on the Council's recommendations. This is a strongly bipartisan bill, cosponsored by 16 of our colleagues in the Senate. Further, this bill is wholeheartedly supported by members of the business and academic communities in this country, many of whom are eager to see a reinvigoration of American ingenuity. A few examples of these supportive statements include the following: George Scalise, President, Semiconductor Industry Association: “U.S. leadership in technology has been the cornerstone of America's



strategies for driving economic growth and ensuring national security. U.S. leadership is being challenged as never before. The National Innovation Act of 2005 addresses a number of the most critical issues involving technology leadership, especially those related to federal support for basic research. . . . We are especially pleased to support a bipartisan approach to ensuring U.S. technology leadership. The issues at stake—national security and our standard of living in the 21st century—are far too important to become entangled in partisan politics.”

Nicholas M. Donofrio, Executive Vice President, IBM Corporation: “IBM applauds the introduction of the National Innovation Act of 2005 . . . Innovation underpins American economic growth and national security. In today’s era of global opportunity and change, the rewards flow to those who innovate and turn disruptive shifts to their advantage. America has a long, proud history of recognizing when change is required and rising to the challenge. We are at such an inflection point today. The National Innovation Act of 2005 will create synergies among America’s academic, business and government communities to ensure the future growth of the United States. I urge all Senators to support this legislation.”

Deborah L. Wince-Smith, President, Council on Competitiveness: “On behalf of the Council’s 180 CEOs, university presidents and labor leaders, I applaud the Senators’ efforts and desire to ensure the United States remains the most competitive economic power in the world. We must, as a nation, innovate to compete and to prosper. This legislation is a critical step forward towards that goal.”

Dave McCurdy, CEO, Electronic Industries Association: “EIA is thrilled by today’s introduction of the National Innovation Act of 2005 (NIA), which includes so many measures that can help the U.S. remain an economic leader in the global high-tech economy. It is an ambitious piece of legislation that spans the policy spectrum, but with the commitment and support of policymakers from both sides of the aisle, we hope to see these important provisions quickly begin to take effect and fuel the U.S. innovation engine.”

John J. Castellani, President, Business Roundtable: “On behalf of Business Roundtable, an association of 160 chief executive officers of America’s leading companies, I applaud Senator Ensign and Senator Lieberman for their leadership on this critical issue. Maintaining our competitive edge in today’s world economy is a top priority of the business community, and the National Innovation Act of 2005 is an important step in the right direction.”

The list of organizations and companies that have already endorsed this bill includes many of the major players in the field, companies and organizations working to keep America at the cutting edge of technology development, including the following: American Chemical Society, American Mathematical Society, ASTRA (Alliance for Science & Technology Research in America), Athena Alliance,

Bell South, Business Roundtable, Center for Accelerating Innovation, Computing Research Association, Council on Competitiveness, Council of Scientific Society Presidents, Electronic Industries Alliance, Federation of American Scientists, IBM, IEEE-USA, Progressive Policy Institute, Semiconductor Industry Association, SEMI North America, and TechNet. In addition, many academic institutions and organizations support our bill because they recognize the importance of expanding education in science, math, and engineering. We have received strong indications of support from the academic community, including the Association of American Universities (AAU), the Council of Graduate Schools (CGS) and Georgia Institute of Technology.

While I won’t describe every provision of this far-reaching bill today, a section-by-section summary accompanies this statement in the RECORD, I will say that the National Innovation Act addresses three broad categories—talent, investment, and infrastructure—all of which are key to America’s regaining our competitive position among our trading partners.

Number one, Talent: Innovation requires the incubation of curious minds. That means we absolutely must educate and train our science and engineering talent base that is essential to our continued global economic leadership.

The number of jobs that require technical training is increasing at five times the rate of other occupations. To encourage more students to enter these technical professions, our legislation increases Federal support for graduate fellowships and trainee programs in science, math, and engineering by more than \$800 million over 5 years. Specifically, the legislation expands the National Science Foundation’s (NSF) Graduate Research Fellowship Program by 1,250 fellowships and extends the length of each fellowship from 3 to 5 years. These fellowships are portable fellowships which afford students the greatest flexibility in choosing graduate programs that fit their needs and interests. The legislation also expands the NSF Integrated Graduate Education and Research Traineeship (IGERT) program by 1,250 new traineeships. In the IGERT program, grants are awarded to universities to develop cross-disciplinary training programs for students in areas including science, math, engineering, and policy.

The legislation also expands upon existing Department of Defense efforts and creates new programs in order to encourage more students to enter the fields of science, math, and engineering. Specifically, provisions are included to expand the Defense Department Science, Mathematics, and Research for Transformation (SMART) scholarship program by \$41.3 million per year over five years and to expand the National Defense Science and Engineering Graduate Fellowship program by \$45 million per year over five years. A new competitive traineeship program, which will initially include 80 students, is created to provide inter-

disciplinary training in science and engineering to students who are encouraged to work for at least ten years in the Department of Defense after graduation.

This legislation also supports new and existing Professional Science Master’s degree programs. These Master’s programs typically try to provide cross-disciplinary training within the science, math, and engineering disciplines, and also to couple traditional technical disciplines with business, entrepreneurial, and business law training. Graduates of these programs will comprise a cadre of technical professionals with broad skills in both business and science that will give our industry an edge.

If we are to develop talent at the graduate levels, we must also emphasize science, math, and engineering at the K-12 and undergraduate levels. The results from the International Student Assessment of 2003 showed that U.S. 15-year-olds performed below the international average in math and science literacy. In order to bolster our highly-skilled science and engineering workforce, we must improve performance in our elementary, middle, and high schools.

Recognizing that new approaches must be realized, this legislation establishes a grant program of \$10 million in 2007 and \$20 million in 2008 and 2009 to help primary and secondary schools develop new experientially-based teaching techniques in math and science. It further addresses the issue of improving talent in scientific disciplines by expanding the existing Technology Talent program to the scope originally intended. The Technology Talent program provides competitive grants to undergraduate universities to develop new methods of increasing the number of students earning degrees in science, math, and engineering. It is essential that we increase the number of college graduates with the skills to contribute to the science and technology workforce, yet this program has never been fully funded.

Number two, Investment: Great ideas need research money if they are to move from imagination to market. But, federal R&D spending as a percentage of GDP has been in steady decline since the mid-1960s. It is less than half of what it was then. This bill bolsters the mission of the National Science Foundation (NSF) by more than doubling its research budget from \$4.8 billion in 2004 to nearly \$10 billion in 2011. Support for NSF is essential as it funds the full range of scientific disciplines and it encourages multidisciplinary approaches to problem solving. When it was created in 1950, Congress envisioned NSF as one of the primary catalysts for research “to promote the progress of science; to advance the national health, prosperity, and welfare; [and] to secure the national defense.” In order for NSF to continue to meet our tremendous needs in all these areas, which notably remain as vital today as they did back then, it needs more funding. At the same time, we must recognize that we, as a country,

face difficult choices in how we allocate our resources. Hard choices may have to be made, but we cannot avoid the reality that an investment such as the increase in NSF's research budget that our bill calls for today, is absolutely necessary if we are to generate the talent base we need to remain competitive. It is my belief that this investment will pay vast dividends in the long run for the American people and for the American economy. I also believe we will pay dearly if this investment is not made soon.

Congress is making steady progress toward finding reasonable ways to accommodate the needs of our five major research agencies. Our bill concentrates on two agencies: we double the authorization for NSF and we ask the Department of Defense (DOD) to spend 3 percent of its budget on science and technology, DOD's 6.1, 6.2, and 6.3, programs consistent with Defense Science Board recommendations. The research budget for life sciences at the National Institutes of Health (NIH) has been doubled in recent years and this legislation attempts to bring research in the physical sciences up to the same high level of funding. A major increase for NASA science research is now under consideration in conference and the Congress passed a significant increase in the authorization for Energy Department Science research as part of the energy bill this summer. So, our bill addresses the remaining top R&D agencies—NSF and DOD.

Our bill also creates an "Innovation Acceleration Grants" program to stimulate high-risk research by urging federal research agencies to allocate at least 3 percent of their current R&D budget to breakthrough research—the kind of research that gave us fiber optics, the Internet and countless other technologies relied on every day in this country and around the world. We anticipate this funding would be used for "grand challenges," for what is sometimes referred to as "connected" or "translational" research, which moves from fundamental discoveries through the development and procurement stages. We also anticipate that agencies would step outside the peer review approach, which can be too cautious, and empower talented program managers to drive novel and promising ideas forward. While it doesn't mandate that these agencies spend at least 3 percent of their budgets on high-risk frontier research projects, this provision sets a realistic and reasonable strategic goal. It is our hope and expectation that agencies will view the 3 percent allocation as a starting point and will take the initiative to expand from there. The Innovation Acceleration Grants program is designed to be a streamlined mechanism to support those grants that are making progress and not support those that are floundering. The program has built-in and specially-designed metrics to ensure that granting agencies closely monitor the projects they support, renewing

those with strong performance and phasing out those that don't show enough real promise for the types of cutting-edge advancements that are truly innovative. It is important that it is designed in this manner because a cautious approach to these issues cannot work. In order to face the challenge, we need to take risks and be patient. However, in an environment of increasingly tight fiscal pressures, we also must recognize that risk taking can, and often does, lead to dead ends. While many high-risk projects may fail, those that succeed can bring tremendous benefit. The urgency of the threats we face today warrants a balanced approach. We must continue to encourage the groundbreaking experimentation, tinkering and longer-term outlook that made this country great. But we also must continue to take stock of our progress and make sure we are heading toward the ultimate goal of reestablishing the foundational elements of our tremendous successes over the last 50 years, and more.

Switching gears briefly, I think it is also important to note that the government cannot do this alone. The private sector in this country needs to continue to lead the charge. Private sector investment in research in this country, after a sharp rise in the 90's, has been eroding in recent years in part because companies have moved some R&D operations outside the United States. About \$17 billion a year in R&D now flows overseas to nations like China and India. And as that research money leaves our shores, the high-skilled 21st century jobs we need to compete sail away with them.

Our bill tries to help stem the tide by making the current Research and Experimentation (R&E) tax credit permanent and extending it to a greater number of enterprises; the same provision that appears in the Invest in America Act of 2005, sponsored by Senators HATCH and BAUCUS with 44 bipartisan cosponsors. These two Senators deserve the credit on this. We are simply trying to emphasize their efforts. Making the credit permanent allows our private entrepreneurial spirit to continue to drive the economic growth of this great nation and at the same time ensures that other countries like China do not lure away our talent and investment, and ultimately the innovation that comes from them. It gives our companies a powerful and reliable long-term incentive to include domestic R&D as a significant component of their strategic plans. Since the original enactment of the research credit in 1981, a public-private partnership has developed, through which the federal government has worked with businesses of all sizes to ensure that research expenditures continue to be made here in the United States. The reward has been the creation of many innovative technologies, well-paying jobs, and an increased growth rate in our economy. The importance of this effort cannot be understated.

At the same time that firms are investing more money in R&D, they must improve their ability to manage the technological innovations that result from this research. The emerging area of "service science" refers to both research and training regimens that are now starting to develop and to teach individuals how to apply technology to solving complex problems in the service and industrial sector. Eighty percent of our economy is service-based, yet we do very little R&D in this area. We now face intense service competition from countries like India, taking advantage of global IT systems. If we don't improve our services productivity, increasingly we won't be able to compete. This legislation asks the Director of the National Science Foundation to conduct a study for Congress on how the federal government should best support service science through research, education, and training.

Number three, Infrastructure: Once we have helped assure the education foundation to give people the basic skills they need to use their creativity, and the resources they need to support their experimentation, we must then reinvent and transform our manufacturing processes and technologies so that we can secure the gains from the fruits of all this labor. In this era of tough international competition, if we don't manufacture the goods we innovate here in the U.S., we will forfeit our global economic leadership and our children's prosperity to other nations who can. To help facilitate this important goal, our legislation takes several steps.

First, the bill authorizes creates federally-funded and complementary advanced manufacturing programs at the Departments of Commerce and Defense. The development and implementation of state-of-the-art advanced manufacturing systems does not happen overnight, nor can it be done alone. The goal of this new program is to, again, establish a public-private R&D partnership which enables risk taking and creativity to generate new processes and technologies. These new processes and technologies will give us the productivity breakthroughs we need to maintain our manufacturing competitiveness. I continue to believe in the spirit of American ingenuity—if given the chance and the tools to succeed, we will. This legislation also creates the Test Beds of Excellence program, which is designed test and refine these new processes and technologies in a real manufacturing setting once they have been developed. Then, we ask the Manufacturing Extension Program to help disseminate this new innovative knowledge throughout to manufacturing base, including to the many small and mid-sized companies that will be key to our growth. The Test Beds program is a competitive one and, as in the case of the Innovation Acceleration Grants program and other important features of this legislation, it

is designed to self-scrutinize and adapt to the constantly changing needs of our manufacturing sector.

In addition to the effort at the Department of Commerce, our bill asks the Department of Defense to work with the private sector to identify and accelerate the transition of advanced manufacturing technologies and processes that will enable us to maintain our technological edge on the battlefield. The Department of Defense relies on innovation, and the bill seeks to expand the Department's traditional manufacturing sector work in this area. An additional motivating factor within the Department of Defense is the inherent security risk associated with using certain overseas suppliers. American manufacturing must remain competitive in order to meet the needs of our military in a timely fashion.

These steps will go a long way toward revitalizing our manufacturing system into a system that is seamlessly integrated with our other efforts to boost American innovation through education and research.

Our bill goes further, recognizing that innovation fundamentally occurs not at the national level, but at the local and regional levels. Certainly there are many lessons to be learned from the rise of Silicon Valley and other similar regions that have sprung up all over this country as centers for high-tech growth. Our competitors, China, India, Israel and many others, have already begun to emulate the success we have achieved in this way. These clusters have developed in areas of the country where educational and research institutions, together with creative elements of the private sector, have partnered to create an environment conducive to innovation. Our bill encourages the development of more regional clusters ("hot spots") of technology innovation throughout the United States. These hot spots spur growth in local economies and also contribute to progress on a national scale. We don't try to impose these from above, from the national level. These must start at the local level to work. But, the federal government can help local communities identify successful models and the right metrics. The Secretary of Commerce will publish a "Guide to Developing Successful Regional Innovation Hot Spots" in order to share successful strategies in the formation and development of regional clusters.

Finally, it is imperative that the executive branch take a strong role in leading and coordinating the broad initiative outlined in this legislation. To help guide progress in all three of the important areas I have outlined, this bill creates a President's Council on Innovation. The goal of the President's Council is to develop a comprehensive national innovation agenda and coordinate all federal efforts related to this agenda. In consultation with the Office of Management and Budget, this Council would develop and use metrics to

assess the impact of existing and proposed laws that affect innovation in the United States. In addition, the Council would help to coordinate the various federal efforts that must be spread among many agencies that support innovation, and it would submit an annual report to the President and to the Congress on how the Federal Government can best support innovation. This effort cries out for much better coordination and collaboration than exist now. Why the White House? These issues must be addressed at the highest levels and in a decisive and organized way to achieve success.

The National Innovation Act is organized into five titles, intentionally reflecting the Senate committees of jurisdiction in the subject areas of each title. Title I, "Innovation Promotion" falls within the purview of the Commerce Committee. Title II, dealing with science, education and healthcare programs, covers subjects within the jurisdiction of the Health Education Labor and Pensions Committee. Title III, providing tax incentives to promote innovation, comes within the Finance Committee jurisdiction. Title IV covers Department of Defense programs and would fall within the Armed Services Committee jurisdiction. Title V, which touches on immigration, patent reform, and possible barriers to innovation, would be within the Judiciary Committee purview. The issues of immigration, health care information technology, and patent reform are reflected in this bill as Sense of Congress provisions, because we recognize that the committees of jurisdiction are already working on and moving in these areas and we don't want to get in their way. However, the bill cites these moving issues to mark the importance of considering how legislation on these issues may affect our economy's ability to remain competitive. The provision for an objective National Academy study on barriers to innovation would allow Congress to understand how legal and numerous other structural aspects of the U.S. economy may affect our ability to be innovative.

From the 18th century Franklin stove to the 20th century personal computer, the United States has long been the leader in the technology and innovation that created jobs, wealth, and an ever-increasing standard of living for our people. We call it American ingenuity. It's time to take that native ingenuity and build a new century of progress for America.

I ask unanimous consent that a section-by-section analysis of the National Innovation Act, a short summary of the legislation, and statements of support for this legislation be printed in the RECORD.

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

# NATIONAL INNOVATION ACT OF 2005 SECTION-BY-SECTION ANALYSIS

## TITLE I—INNOVATION PROMOTION

### *Sec. 101. President's Council on Innovation*

The President shall create a Council on Innovation comprised of heads of various executive agencies including Commerce, Defense, Education, Energy, and others. The Council, which will be chaired by the Secretary of Commerce, will have oversight over legislative proposals and executive branch initiatives for promoting innovation. Specifically, the Council will develop a process for using metrics to evaluate existing and proposed innovation policies and make recommendations to heads of executive agencies on improvements to innovation policies. In addition, the Council shall develop a comprehensive agenda for strengthening innovation among the Federal Government, states, academia, and the private sector. The Council will submit an annual report to the President and the Congress on its activities.

### *Sec. 102. Innovation Acceleration Grants*

The President will establish the "Innovation Acceleration Grants Program" to promote and accelerate innovation in the United States. Each executive agency that currently funds research and development (R&D) in science, mathematics, engineering, and technology shall have a goal to commit at least 3% of its existing annual R&D budget to this program. Each such executive agency will also submit detailed plans for the implementation and evaluation of the program within the agency. The plans shall include metrics upon which grant funding decisions will be made and upon which the success of the grants awarded will be assessed. Grants shall be issued for a maximum period of three years (with possibility of renewal for another three years) and shall be awarded to projects that propose a novel approach to address fundamental technological challenges. The agency head may grant further renewals to programs requiring an extended timeframe to complete critical research to the extent they satisfy metrics developed to ensure their ongoing usefulness. Granting agencies are responsible for evaluation of all projects sponsored and for publishing such reviews.

### *Sec. 103. A national commitment to basic research*

Authorizations are provided to nearly double NSF research funding from Fiscal Year 2007 through Fiscal Year 2011. Within 180 days of enactment, the Director of the National Science Foundation shall submit to Congress a detailed plan for the use of these funds. The plan shall focus on means by which basic research in science and engineering will optimize the United States economy for global competition and leadership in productive innovation. In addition, within one year of enactment, the director of the Office of Science and Technology Policy shall evaluate funding needs for R&D in physical sciences and engineering in consultation with the relevant agencies and departments. As appropriate, recommendations for increases in such funding should be submitted to Congress.

### *Sec. 104. Regional economic development*

The Assistant Secretary for Economic Development of the Department of Commerce shall review federal programs that support local economic development and devise a strategy to foster innovation within communities. The Assistant Secretary is directed to develop metrics to evaluate existing programs and, consistent with the strategy to foster innovation in local communities, focus funding on projects that satisfy the metrics developed and that best emphasize

cooperation between the public and private sector to promote innovation.

In addition, within 1 year of enactment, the Secretary of Commerce shall publish a "Guide to Developing Successful Regional Innovation Hot Spots." The Guide shall be compiled by the Secretary of Commerce in consultation with representatives of successful regional innovation hot spots to identify features of such hot spots and recommend mechanisms for forming new successful regional collaborations. The Department of Commerce will also be responsible for developing metrics to evaluate the efficacy of the regional innovation hot spots and for providing Congress with a biannual assessment of such programs. The Undersecretary for Technology of the Department of Commerce shall coordinate this review of hot spots.

*Sec. 105. Development of advanced manufacturing systems*

The Director of the National Institute of Standards and Technology (NIST) shall support R&D efforts in the industrial sector to develop innovative, state-of-the-art manufacturing practices. Targeted activities include improving advanced distributed and desktop manufacturing capabilities, developing small lot manufacturing processes that are compatible with extended production systems, and applying nanotechnology to manufacturing. The Director of NIST shall coordinate these activities with activities under the Small Business Innovation Research Program, the Small Business Technology Transfer Program, and DoD's Manufacturing Technology Program.

The NIST Director will support the development of prototypes for new technologies, the testing of these prototypes, and the adoption of standards to accelerate the applicability of these new technologies. NIST will hold a competition to select up to 3 Pilot Test Beds of Excellence to execute these tasks. The Federal Government will provide no more than 1/3 of the funding for each Test Bed. Private sector participants and corresponding state or local governments must each provide at least 1/3 of the funding for each Test Bed. All Test Beds are subject to review and none will receive federal funds for longer than five years.

The NIST Director shall ensure that the Manufacturing Extension Partnership (MEP) develops a focus on innovation.

The bill would authorize a total of \$300 million between FY 2007 and FY 2011 to execute the programs in section 105.

*Sec. 106. Study on service science*

"Service science" refers to training regimens that are being developed to teach individuals how to apply technology to solving complex problems in the industrial sector. It is the sense of the Congress that the Federal Government should develop a better understanding of service science as a learning discipline in order to strengthen the competitiveness of U.S. institutions and enterprises. The Director of the National Science Foundation (NSF) shall conduct a study for Congress on how the Federal Government should best support service science through research, education and training. During the course of this study, the Director will consult with leaders from institutions of higher education and from the private sector.

**TITLE II—MODERNIZATION OF SCIENCE, EDUCATION, AND HEALTHCARE PROGRAMS**

**Subtitle A—Science and Education**

*Sec. 201. Graduate fellowships and graduate traineeships*

This section authorizes funding for fellowship and traineeship programs that encourage students to pursue graduate studies in the sciences, technology, engineering and

mathematics. The Director of NSF will expand the agency's Graduate Research Fellowship Program by 250 fellowships per year and extend the length of each fellowship to five years. The bill authorizes \$34 million/year for FY 2007–FY 2011 to support these additional fellowships. In addition, funding in the amount of \$57 million/year is authorized for a similar expansion of the Integrated Graduate Education and Research Traineeship program by 250 new traineeships per year over five years.

*Sec. 202. Professional Science Master's Degree programs*

This section encourages universities to develop Professional Science Master's Degree Programs as a means of increasing the number of highly skilled graduates entering the science and technology workforce. The Director of NSF shall establish a clearinghouse in collaboration with institutions of higher learning, industries, and Federal agencies in order to document successful program elements used in existing Professional Science Master's Degree Programs. The clearinghouse will provide an essential database of information for emerging programs.

In addition, the Director of NSF will grant awards to 4-year institutions of higher education for the creation or improvement of Professional Science Master's Degree Programs. Funds may be awarded to a maximum of 200 institutions for a three year term (with possibility of renewal for 2 additional years), and preference will be given to applicants that are able to secure more than 2/3 of their funding from sources outside the Federal Government. NSF will develop performance benchmarks and will report to Congress within 180 days of this process with an evaluation of all funded programs. The bill authorizes \$20 million for FY 2007 and such sums as may be necessary to carry out the programs established in Section 202 for each succeeding fiscal year.

*Sec. 203. Increased support for science education through the National Science Foundation*

This section supports an increased commitment to science education through the Science, Mathematics, Engineering, and Technology Talent expansion program authorized under section 8(7) of the National Science Foundation Authorization Act of 2002. The Tech Talent expansion program encourages American universities to increase the number of graduates with degrees in mathematics and science. The bill authorizes \$335 million from Fiscal Year 2007 to Fiscal Year 2010 for continued support of this program.

*Sec. 204. Innovation-based experiential learning*

The Director of NSF shall award grants to local educational agencies to implement innovation-based experiential learning in 500 secondary schools and 500 elementary or middle schools. Funds are authorized at levels of \$10 million for Fiscal Year 2007 and at \$20 million/year for Fiscal Year 2008 and Fiscal Year 2009.

**Subtitle B—21st Century Healthcare System**

*Sec. 211. Sense of the Congress regarding 21st Century Healthcare System*

It is the sense of the Congress that the Federal Government should encourage the adoption of interoperable health information technology by facilitating the creation of standards for activities such as quality reporting, surveillance, epidemiology, or adverse event reporting. Federal agencies or departments performing such activities are urged to collect data in a manner consistent with devised standards.

**TITLE III—INCENTIVES FOR ENCOURAGING INNOVATION**

**Subtitle A—Research Credits**

*Sec. 301. Permanent extension of research credit*

This provision makes the research credit set forth in Section 41(a) of the Internal Revenue Code permanent. The credit, originally enacted in 1981, has been extended 11 times and is scheduled to expire on December 31, 2005. The permanent tax credit should allow companies to engage more easily in long-term research projects.

*Sec. 302. Increase in rates of alternative incremental credit*

This section modifies the means for calculation of the elective alternative incremental research credit to increase the rates applicable to such an election. The bill restores the rates to range between 3% and 5%.

*Sec. 303. Alternative simplified credit for qualified research expenses*

This section creates a new elective alternative simplified credit for qualified research expenses to increase the number of companies that can benefit from the incentive. Taxpayers will be able to elect a new alternative simplified credit equal to 12% of qualified research expenses for the taxable year in excess of 50% of the average qualified research expenses for the 3 prior taxable years.

Firms may only select one of the two alternative credits described in sections 302 and 303.

The language in this subtitle is identical to the provisions of S. 627 introduced by Senators Hatch and Baucus.

**Subtitle B—Health and Education**

*Sec. 311. Study and report on catastrophic healthcare*

This provision requires the Secretary of Health and Human Services and the Secretary of Labor to jointly conduct a study and submit a report to Congress regarding costs associated with catastrophic healthcare events and chronic disease. The goal of the study is to develop innovative public and private sector approaches for dealing with such events and the report should discuss approaches and recommendations for administrative and legislative action to minimize the financial risks associated with these events.

*Sec. 312. Lifelong learning accounts*

This provision requires the Secretary of the Treasury, in collaboration with the Secretaries of Labor and Education, to conduct a study and submit a report to Congress regarding the potential establishment of lifelong learning accounts to be used for education or training purposes, and which would be exempt from personal income taxation. The study should include analysis and recommendations regarding whether individuals should be allowed to transfer funds in certain existing retirement or education-related accounts into a lifelong learning account without incurring tax liability or other penalties.

**Subtitle C—Savings and Investments**

*Sec. 321. Regulations relating to private foundation support of innovations in economic development*

This provision requires the Secretary of the Treasury to issue regulations that clearly identify when distributions by private foundations for purposes of economic development will be treated as charitable contributions pursuant to the Internal Revenue Code. This provision also requires the Secretary of the Treasury to issue regulations to clarify the circumstances under which foundations may make investments in start-up ventures without triggering the five percent excise tax applicable to investments

which jeopardize the carrying out of any of the Foundation's exempt purposes.

*Sec. 322. Advisory group regarding valuation of intangibles*

This provision requires the Secretary of the Treasury to establish an advisory group to examine issues related to proper valuation of intangible assets, including R&D, business processes and software, brand enhancement, and employee training. The advisory group consists of representatives from the Department of Commerce, the Securities and Exchange Commission, the Commodity Futures Trading Commission, the Board of Governors of the Federal Reserve System, the New York Stock Exchange, the National Association of Securities Dealers Automatic Quotation System and other significant industry sectors. Based on its research, as well as communications with industry and academic experts, the advisory group is required to submit a report to the Secretary of the Treasury within 24 months of enactment, including discussion of best practices for valuation of intangibles and metrics or other solutions for disclosure of intangibles.

**TITLE IV—DEPARTMENT OF DEFENSE MATTERS**

**Subtitle A—Defense Research and Education**

*Sec. 401. Revitalization of frontier and multidisciplinary research*

U.S. Government investment in frontier and multidisciplinary research is key to the further application and development of innovative technologies. This section establishes as a goal that the Department of Defense allocate at least 3% of its total budget toward science and technology research. This provision also urges the allocation of at least 20 percent of this amount toward basic research in such fields.

*Sec. 402. Enhancement of education*

This section extends the Department of Defense's Science, Mathematics, and Research for Transformation (SMART) Scholarships program through September 30, 2011, and authorizes \$41.3 million/year over 5 years for the SMART program to support additional participants pursuing doctoral degrees and master's degrees in relevant fields. This section also authorizes \$45 million/year over 5 years to be appropriated to the Department of Defense through 2011 to support the expansion of the National Defense Science and Engineering Graduate Fellowship program to additional participants.

This section also authorizes the creation of a new Department of Defense competitive traineeship program for students in the areas of mathematics, science, and engineering with specific focus on innovation-oriented studies, multidisciplinary studies and laboratory research. This section authorizes \$11.1 million/year over 5 years to sponsor up to 30 doctoral candidates, 30 master's candidates, and 20 undergraduates under this program. Program graduates will be encouraged to work for at least 10 years for the Department of Defense. The Secretary of Defense shall submit an annual report to the House and Senate Armed Services Committees describing the work done by all sponsored students and the benefit of this work to the Department of Defense.

**Subtitle B—Defense Advanced Manufacturing**

*Sec. 411. Manufacturing research and development*

This section requires the Under Secretary of Defense for Acquisition, Technology, and Logistics to identify innovative manufacturing processes and advanced technologies that could enhance the efficiency and productivity of the defense manufacturing base. Once identified, the Under Secretary is fur-

ther required to commission research and development of such innovative processes and technologies, and is encouraged to make use of information technology and new business models in the development of extended production enterprises. The Under Secretary shall consider defense priorities established in the most recent Joint Warfighting Science and Technology Plan when undertaking the aforementioned research and development.

*Sec. 412. Transition of transformational manufacturing processes and technologies to the defense manufacturing base*

This section requires the Under Secretary of Defense for Acquisition, Technology, and Logistics to take certain actions, including the execution of a memorandum of understanding among appropriate elements in the Department of Defense, to accelerate the transition by manufacturers in the defense manufacturing base to transformational manufacturing processes and technologies, including processes and technologies identified or created pursuant to Section 411. The Under Secretary is also required to utilize the existing Manufacturing Technology Program to develop prototypes and test beds for such processes and technologies, and to implement a program for the defense manufacturing base to continuously identify and utilize improvements in such processes and technologies. In order to ensure increases in productivity and efficiency, the Under Secretary will promote research and development under the Manufacturing Technology Program and outreach through the Manufacturing Extension Partnership Program.

*Sec. 413. Manufacturing technology strategies*

The Under Secretary of Defense for Acquisition, Technology, and Logistics is authorized to identify and investigate innovative areas of technology that could be beneficial to the Department of Defense in carrying out its defense manufacturing requirements. Once identified, the Under Secretary may establish a task force with the private sector to map a strategy for the development of such technologies and related manufacturing processes. The roadmapping process shall begin no later than January, 2007.

*Sec. 414. Planning for adoption of strategic innovation*

This section requires the Secretary of Defense to ensure that contracts valued at \$50,000,000 or more under a technology or logistics program at the Department of Defense include requirements for planning by the contractor under such contract for the adoption of innovative technologies under that contract. Specifically, contracts must include requirements directed toward identifying and implementing innovative technologies developed in the private sector or academia. Further, such contractors must also report annually on the implementation of such technologies.

*Sec. 415. Report*

This section requires the Under Secretary to submit a report to Congress describing all activities taken pursuant to this Subtitle during Fiscal Year 2007. The report should include an assessment of the effectiveness of each action taken in enhancing the research and development of innovative technologies and processes in the defense manufacturing area, as well as any recommendations for additional actions to be taken consistent with the requirements of this Subtitle.

*Sec. 416. Authorization of appropriations*

This section authorizes \$300,000,000 of funding between Fiscal Year 2007 and Fiscal Year 2011 to the Department of Defense for the purposes of carrying out this subtitle.

**TITLE V—JUDICIARY AND OTHER MATTERS**

*Sec. 501. Sense of the Congress on retaining American-educated high tech talent in the United States*

This section states that it is the sense of Congress that U.S. immigration laws should be reformed to accommodate the need to retain in the United States those foreign nationals graduating from U.S. universities with master's or higher degrees in the sciences, technology, engineering or mathematics.

*Sec. 502. Study on barriers to innovation*

This section requires the National Academy of Sciences to conduct a study to identify forms of risk that create potential barriers to private sector innovation. The study is intended to support research on the long-term value of innovation to the business community and to identify means to mitigate legal or practical risks presently associated with such innovation activities. This section authorizes \$1,000,000 for the purposes of carrying out this study and requires the National Academy to submit a report to Congress on its findings within one year of enactment.

*Sec. 503. Sense of the Congress on patent reform*

It is the sense of the Congress that the United States patent law system should be reformed to enhance the quality of patents, to leverage patent databases as innovation tools, and to create best practices for global collaborative standard-setting. This section further states that the Federal Government should fully fund the Patent and Trademark Office, improve compliance with existing patenting requirements, establish a fair post-grant patent review procedure, and secure reciprocal access to foreign patent databases.

**SUMMARY OF THE "NATIONAL INNOVATION ACT OF 2005"**

This legislation responds to the recommendations contained in the National Innovation Initiative Report published by the Council on Competitiveness. In responding to the report, this legislation focuses on three primary areas of importance to maintaining and improving United States' innovation in the 21st Century: (1) research investment, (2) increasing science and technology talent, and (3) developing an innovation infrastructure. This bill: Establishes the President's Council on Innovation to develop a comprehensive agenda to promote innovation in the public and private sectors. In consultation with the Office of Management and Budget, this Council would develop and use metrics to assess the impact of existing and proposed laws that affect innovation in the United States. In addition, the Council would help to coordinate the various federal efforts that support innovation, and use metrics to assess the performance of the federal innovation programs located in different administrative agencies, and submit an annual report to the President and to the Congress on how the Federal Government can best support innovation.

**RESEARCH INVESTMENT**

Establishes the Innovation Acceleration Grants Program which encourages federal agencies funding research in science and technology to allocate 3% of their Research and Development (R&D) budgets to grants directed toward high-risk frontier research. Although this provision sets 3% of R&D budgets as a strategic goal for allocation to high-risk frontier research projects, it does not mandate that the agencies spend at least 3% of their budgets in this manner. All grants provided to this program will be assessed with metrics and no grants will be renewed unless the agency distributing the

grant determines that all metrics have been satisfied.

Increases the national commitment to basic research by nearly doubling research funding for the National Science Foundation (NSF) by FY 2011.

Makes permanent the Research and Experimentation (R&E) tax credit with modifications expanding eligibility for incentives to a greater number of firms.

#### SCIENCE AND TECHNOLOGY TALENT

Expands existing educational programs in the physical sciences and engineering by increasing funding for NSF graduate research fellowship programs as well as Department of Defense science and engineering scholarship programs. These fellowships provide an incentive for more American students to pursue post-graduate degrees in the sciences, technology, engineering, or mathematics.

Authorizes the Department of Defense to create a competitive traineeship program for undergraduate and graduate students in defense science and engineering that focuses on multidisciplinary learning and innovation-oriented studies.

Authorizes funding for new and existing Professional Science Master's Degree Programs to increase the number of qualified scientists and engineers entering the workforce.

#### INNOVATION INFRASTRUCTURE

Authorizes the Department of Commerce to promote the development and implementation of state-of-the-art advanced manufacturing systems and to support up to three Pilot Test Beds of Excellence for such systems. The Secretary of Commerce will conduct a competition to select the Pilot Test Beds based on objective criteria and metrics.

Encourages the development of regional clusters ("hot spots") of technology innovation throughout the United States.

Empowers the Department of Defense to identify and accelerate the transition of advanced manufacturing technologies and processes that will improve productivity of the defense manufacturing base.

#### MAJOR ORGANIZATIONS SUPPORT THE NIA

"U.S. leadership in technology has been the cornerstone of America's strategies for driving economic growth and ensuring national security. U.S. leadership is being challenged as never before. The National Innovation Act of 2005 addresses a number of the most critical issues involving technology leadership, especially those related to federal support for basic research. . . . We are especially pleased to support a bipartisan approach to ensuring U.S. technology leadership. The issues at stake—national security and our standard of living in the 21st century—are far too important to become entangled in partisan politics."—George Scalise, President, Semiconductor Industry Association.

"Nothing can do more for the U.S. economy and to help ensure America's global competitiveness than an enhanced focus on innovation and research by the public and private sectors. Senators Ensign and Lieberman are to be commended for bringing bi-partisan leadership to this most critical legislation designed to assure the United States' continued leadership in innovation in the 21st Century."—F. Duane Ackerman, Chairman and Chief Executive Officer—BellSouth Corporation and Chairman of the Council on Competitiveness.

"On behalf of the Council's 180 CEOs, university presidents and labor leaders, I applaud the Senators' efforts and desire to ensure the United States remains the most competitive economic power in the world. We must, as a nation, innovate to compete

and to prosper. This legislation is a critical step forward towards that goal."—Deborah L. Winice-Smith, President, Council on Competitiveness.

"America's constant advance on 'endless frontier' of scientific discovery and engineering innovation has paid enormous dividends for generations. But there is no room for complacency in a world where ideas spread around the globe at the speed of light. The National Innovation Act of 2005 ensures that America will continue to focus on the future by supporting essential investments in high risk research and education—investments that will pay dividends far into the future."—Henry Kelly, President of the Federation of American Scientists.

"In response to new competitive threats in the 1980s, Congress enacted important legislation to help American companies successfully meet that challenge. Twenty years later, as America once again faces competitiveness challenges, the National Innovation Act of 2005 proposes critically important policies and programs to foster innovation and help American companies and workers prosper in the new global economy of the 21st century."—Dr. Robert Atkinson, Vice President, Progressive Policy Institute, Washington, DC.

"IBM applauds the introduction of the National Innovation Act of 2005 . . . Innovation underpins American economic growth and national security. In today's era of global opportunity and change, the rewards flow to those who innovate and turn disruptive shifts to their advantage. America has a long, proud history of recognizing when change is required and rising to the challenge. We are at such an inflection point today. The National Innovation Act of 2005 will create synergies among America's academic, business and government communities to ensure the future growth of the United States. I urge all Senators to support this legislation."—Nicholas M. Donofrio, Executive Vice President, IBM Corporation.

"The new bipartisan Innovation Bill represents an important, multifaceted strategic and systemic approach to one of the most important problem sets facing the long term American future."—Martin Apple, President, Council of Scientific Society Presidents.

"EIA is thrilled by today's introduction of the National Innovation Act of 2005 (NIA), which includes so many measures that can help the U.S. remain an economic leader in the global high-tech economy. It is an ambitious piece of legislation that spans the policy spectrum, but with the commitment and support of policymakers from both sides of the aisle, we hope to see these important provisions quickly begin to take effect and fuel the U.S. innovation engine."—Dave McCurdy, CEO, Electronic Industries Association.

"We are writing to express our support for the National Innovation Act of 2005. Athena Alliance is research institute focused on understanding the emerging Information, Innovation and Intangibles (I-Cubed) Economy . . . The United States faces a critical challenge in coping with this new I-Cubed Economy. Athena Alliance believes that the National Innovation Act of 2005 is a step forward in addressing this challenge."—Richard Cohon, Chairman; Kenan Jarboe, President; Athena Alliance.

"The U.S. government is an important partner in fostering innovation, but together we must do more. The country is facing great competitive challenges and now is the time to demonstrate real leadership. The National Innovation Act lays out a solid plan and I urge the Congress to support it."—Victoria Hadfield, President of SEMI North America.

"I truly believe that our nation's future economic and technological leadership are at

risk if we do not act soon to strengthen American competitiveness. Senators Ensign and Lieberman are leading the way by proposing comprehensive legislation that will substantially increase our commitment to basic research, take decisive steps to grow the S&T talent pool, and provide meaningful incentives to encourage innovation."—Dr. Ann Nalley, President of the American Chemical Society.

"IEEE-USA applauds Senators John Ensign and Joseph Lieberman and their staff for their tireless efforts in crafting legislation designed to enhance and preserve U.S. competitiveness and innovation. This bill represents a huge step forward in promoting policies that will sustain U.S. technological leadership and encourage the development of the skilled, creative and competitive workforce critical for U.S. prosperity . . . We urge Congress to deal with this legislation expeditiously."—Gerard A. Alphonse, President, IEEE-USA.

"ASTRA, The Alliance for Science & Technology Research in America, strongly supports the National Innovation Initiative and the National Innovation Act of 2005. ASTRA's Board of Directors has identified enactment of the National Innovation Act of 2005 as its top legislative priority for 2006. In many ways, The Act represents the culmination of nearly five years of concerted effort by ASTRA and its members to raise this issue to a national level of discussion and we are very gratified by this initiative."—Robert S. Boege, Executive Director, ASTRA.

"There is no more important public policy priority than creating an environment in which innovation will flourish and fuel continued U.S. economic growth and global leadership. The National Innovation Act embodies this goal and rightly calls for our nation to focus our attention on the critical areas of research and development, economic incentives and investments in education in order to maintain our edge. TechNet applauds Senators Ensign and Lieberman on this important measure that will help America remain the global technology and scientific leader."—Lezlee Westine, President and CEO of TechNet.

"The National Innovation Act of 2005 . . . is a significant bi-partisan response to the challenges the U.S. faces in the hypercompetitive, networked global economy . . . The legislation is properly aimed at reversing adverse trends in research and human capital by augmenting funding for multidisciplinary research, accelerating innovation in manufacturing and the service sectors and investing more resources in the next generation scientists, engineers, workers and entrepreneurs."—Egils Milbergs, President, Center for Accelerating Innovation.

TECHNET,  
December 14, 2005.

Hon. JOHN ENSIGN,  
U.S. Senate,  
Washington, DC.

Hon. JOSEPH LIEBERMAN,  
U.S. Senate,  
Washington, DC.

DEAR SENATORS ENSIGN AND LIEBERMAN: As TechNet members and chief executives of the Nation's leading technology companies, we are writing to express our strong support for the National Innovation Act (NIA) of 2005. We commend your leadership in developing the NIA and look forward to working with you to support enactment of this important legislation.

Our Nation has reached a critical juncture unprecedented in our history. While our Nation continues to be the world's leader in many technological and scientific discoveries and breakthroughs, other nations are



working to create their own innovation infrastructure. These efforts range from tax incentives to attract new research and development to increased investments in math and science education. In short, with so many countries recognizing R&D's economic development potential, the U.S. can no longer take its current leading position for granted, nor accept the status quo as sufficient to stay competitive.

Not surprisingly, these were the same observations and conclusions reached by those leaders in business and academia who came together to produce *Innovate America*, the National Innovation Initiative Report, which was released this year by the Council on Competitiveness. This report produced a series of recommendations that collectively represent landmarks on a roadmap leading toward a nation better equipped and educated to both innovate and compete in a global economy.

We are pleased to see a substantial number of these recommendations embodied in the NIA. Your legislation clearly recognizes that changes are needed in a wide range of areas: reforms in tax policy; federal investments in elementary and secondary education; scholarship and grant availability for university graduate and undergraduate students; federal research priorities; intellectual property protection; and critical areas in our innovation infrastructure, including health care and our armed forces.

The depth and diversity of the issues covered in the NIA demonstrate the complexity and the enormity of the fundamental challenge that confronts us: the economic security and competitiveness of our Nation.

We stand ready to work with you to move this important legislation forward and thank you for your shared commitment to the Nation's future innovative capacity and capability.

Sincerely,

Jim Barksdale, Partner, Barksdale Management Corporation, Co-Founder, TechNet; John Chambers, President & CEO, Cisco Systems, Inc., Co-Founder, TechNet; John Doerr, Partner, Kleiner Perkins Caufield & Byers, Co-Founder, TechNet; James Breyer, Managing Partner, Accel Partners; Ronald Conway, Founder & General Partner, Angel Investors, LP; Carol Bartz, Chairman, President & CEO, Autodesk, Inc.; Jesse Devitt, Managing Director, Borealis Ventures; Henry Samueli, Chairman & CTO, Broadcom Corporation; Gary Lauer, Chairman & CEO, eHealthInsurance; Craig R. Barrett, Chairman, Intel Corporation; Brian Keane, President & CEO, Keane, Inc.; Ralph Folz, CEO, Molecular, Inc.; Safra Catz, President & CFO, Oracle Corporation; Phillip Dunkelberger, President & CEO, PGP Corporation; Norman S. Wolfe, President & CEO, Quantum Leaders, Inc.; Lezlee Westine, President & CEO, TechNet; Nancy Heinen, Sr. Vice President & General Counsel, Apple; Tod Loofbourrow, President & CEO, Authoria; Dwight W. Decker, Chairman & CEO, Conexant Systems, Inc.; Donald B. Means, Founder & Principal, Digital Village Associates; Meg Whitman, President & CEO, eBay Inc.; Christopher Greene, President & CEO, Greene Engineers; Brad Smith, Sr. Vice President & General Counsel, Microsoft Corporation; Raouf Y. Halim, CEO, Mindspeed Technologies, Inc.; Harry W. Kellogg, Jr., Vice Chairman, Silicon Valley Bank; Chuck Moran, President & CEO, SkillSoft; Robert Farnsworth, CEO, Sonnet Technologies, Inc.; John S. Chen, Chairman, President & CEO, Sybase, Inc.; John Thompson, Chairman & CEO, Symantec Corporation; Aart de Geus, Chairman and CEO,

Synopsys, Inc.; Willem Roelandts, CEO, Xilinx; Robin L. Curle, President, CEO & Chairman, Zebra Imaging, Inc.

[From the Association of American Universities]

#### STATEMENT ON THE NATIONAL INNOVATION ACT OF 2005

The Association of American Universities applauds Senators Ensign and Lieberman for their introduction of the National Innovation Act of 2005. This legislation responds directly to the outstanding set of recommendations made by the Council on Competitiveness for much needed improvements in our Nation's ability to innovate and compete globally.

The Council's report, like subsequent reports by the National Academies and a host of business and academic organizations, makes a powerful case that the Nation's ability to compete effectively in the 21st century is under serious threat. That threat is posed largely by continuing underinvestment in fundamental research and our growing weakness in producing scientists, engineers, and others with the technological skills needed for the workforce of the future.

The proposals contained in the National Innovation Act represent a critical step toward strengthening the Nation's innovation infrastructure for the 21st century. Among other things, the measure would create a Presidential Council on Innovation, authorize doubling research funding at the National Science Foundation by FY 2011, expand graduate fellowships and traineeships, and encourage federal research agencies to devote three percent of their research and development budgets to "high-risk frontier research."

The legislation not only addresses the Council's recommendations but also reflects what has become a consensus among the nation's business and academic communities concerning actions we must take to ensure our future global competitiveness and our national security. It is the hope of AAU and the 60 leading U.S. research universities that comprise its membership that Congress will begin acting on these proposals at the earliest possible date.

COUNCIL OF GRADUATE SCHOOLS,

Washington, DC, December 14, 2005.

Hon. JOSEPH LIEBERMAN,

Hart SOB,

Washington, DC.

DEAR SENATOR LIEBERMAN: I am writing to commend you for supporting U.S. competitiveness, innovation, and research and development through the introduction of the National Innovation Act. The Council of Graduate Schools (CGS) and its 450 plus member institutions are very grateful for your leadership in addressing the important issue of strengthening American competitiveness and for your recognition of the role of graduate education in this process.

We are especially supportive of the National Innovation Act's provisions related to science and technology talent and the strong emphasis on graduate education contained in Sections 201, 202, 203 and 402 of the bill. We are specifically supportive of the following provisions:

Increased funding for the NSF Graduate Research Fellowship and Integrative Graduate Education and Research Traineeship program;

Authorization of funds for new and existing Professional Science Master's Degree programs to increase the number of qualified scientists and engineers entering the workforce and;

Authorization of a competitive traineeship program for undergraduate and graduate students in defense science and engineering focusing on multidisciplinary learning and innovation-oriented studies, and extension of

the SMART program supporting additional participants pursuing doctoral and master's degrees in key fields.

Supporting graduate education is critical to achieving the highly skilled workforce needed for the U.S. to compete effectively in the 21st century global economy. Thank you for your leadership in this important policy matter. The Council of Graduate Schools looks forward to working with you to implement this important legislation.

Sincerely,

DEBRA W. STEWART.

By Mr. CRAPO (for himself, Mrs. LINCOLN, Mr. THOMAS, and Mr. ALLARD):

S. 2110. A bill to amend the Endangered Species Act of 1973 to enhance the role of States in the recovery of endangered species and threatened species, to implement a species conservation recovery system, to establish certain recovery programs, to provide Federal financial assistance and a system of incentives to promote the recovery of species, and for other purposes; to the Committee on Finance.

Mr. CRAPO. Mr. President, I rise today to introduce the Collaboration for the Recovery of the Endangered Species Act, or CRESA. Over the years, this body and the Nation as a whole have fiercely debated the merits of the Endangered Species Act. But there is one fundamental concept on which we all agree—saving endangered species is essential.

We have 30 years of experience with the laws that govern species management. We know the original intent. We have witnessed the strengths of the Act and its capability and commitment to save species from extinction. We know about the endless litigation. We have seen disappointingly few species recover. We have lost farms and valuable ranch land, putting families out of business. Ironically, the biggest losers are the very species we are attempting to recover.

However, we have also seen amazing things happen in Idaho, in Arkansas, Wyoming and in California to name just a few. We have seen landowners, conservationists, local, state and Federal agencies come together, figure out a workable plan and set about to do the business of recovering species. These plans are tried and true—they work, and they need to have the strength of the law behind them.

Some ask why the Endangered Species Act needs to be improved. The answer is short—we must apply lessons learned, the most important one being that collaboration works. Collaboration allows the process to move forward. By its very nature, litigation sets one group against another—making them rivals, not partners. Too often we work against each other, rather than with and for each other. We need to encourage what works in order to create the results we all want.

The next logical step and what is needed now is a way to facilitate the

ESA in its methods of promoting ongoing species recovery—something that requires collaboration by all—from the marble halls of Federal agencies here in Washington to rangeland in rural Idaho and forests of Arkansas. So, too, in every other state. This is not just a Western problem; the entire country is searching for effective ways to accomplish the goals of the ESA. The good news is that many of these valuable partnerships are in place, functioning very effectively all across our country.

Take one example from my home State of Idaho, that of sage grouse recovery. Landowners and conservation groups came together to establish strong conservation programs that respected landowners' rights and satisfied environmental concerns. This collaborative, cooperative effort, utilizing the wisdom of those who live and work on the land, the expertise of specialists and those with knowledge of government rules and regulations, has been a magnificently successful alternative to the perils and dead end road of litigation.

Collaboration means more voices. More voices mean more solutions. More solutions mean more options. More options create the best solutions and also bring ownership by all members of the group. Applying this method to species recovery and the ESA means that more people will become involved and concerned about recovering species, especially those who bear the direct burden of compliance with the law. More voices means greater innovation in the field of species recovery. Collaboration decreases conflict, and conflict, as we in this body know all too well, usually puts us nowhere.

Collaboration works. Our bill codifies these proven solutions to protect them from the dead-end often found in litigation.

Why do we need to make a change? It is time to build on lessons learned with regard to species recovery, and our bill will put these lessons into concrete, effective action.

CRESA accomplishes the goal of species recovery by building on the successes of the ESA and by applying valuable lessons learned over the past 3 decades.

It promotes species restoration and recovery by rewarding landowners for their recovery efforts. Private property rights are guaranteed to us by our laws. Cost burdens can be onerous, and landowners should be rewarded for recovery efforts under the Endangered Species Act.

Laws must first positively reinforce public values and penalize only as a last resort. We have had it backward for many years and littered in the wake of this travesty are lost family farms and ranches. The old adage about the danger of burning bridges is relevant here: much of the action driven by existing ESA rules and regulations burns bridges—bridges that left intact could bring species across the chasm of extinction to recovery.

CRESA also promotes flexibility. One lesson learned in the course of creating and implementing the successful species management partnerships that I have mentioned today is that it is vital to work at the point of recovery—on the ground, as we tend to say. Working at the point of recovery realizes the benefits of fine-tuning individual solutions to meet specific challenges, but with the greater and broader goal of species recovery. This is flexibility and it cannot be achieved 2,500 miles from where a species needs restoration. It is on the ground that our resources should be applied.

CRESA promotes a freedom of process which encourages flexibility. I cannot emphasize how many times I have spoken with Idaho farmers and ranchers who tell me that, "that solution might work in the halls of Congress—it doesn't work here on my land." It is ludicrous to believe that one-size-fits-all in the arena of species recovery. No two species, topography, environment or human natural resource use are the same, not even in the same county. There are multiple considerations that must be addressed in a cooperative, collaborative manner in order to achieve any kind of effectiveness.

Private property rights are not the enemy of conservation. Rather, the law can encourage landowners to involve themselves in the process. Landowners have a great deal of respect for species. Many of them are the first ones to tell you about the bear they caught sight of in the dim light of evening or the early morning grazing of deer in their fields. If landowners, especially ranchers and farmers, didn't like animals, they likely wouldn't do what they do. It doesn't make sense.

In the same way, environmentalists don't hate people. They, too, live on land somewhere, and many use the products that large landowners produce for our country: meat, wood, leather, and mining products, to name a few. Put in that perspective, it is obvious that working against one another is futile and counterproductive for people and species. We have innovative solutions that work for both species and people, and we need laws that facilitate this critical flexibility.

It is time to come together, sit down at the table and get down to the real matter at hand. We have to, in the words of a good friend who knows this issue well, "concentrate on problem-solving rather than ideologies." While there are great ideological divides on this issue, the ideas for how to solve conservation challenges are not polarized. There is a consensus that there are conservation solutions that can benefit people and species.

We have a tremendous responsibility with regard to our valuable natural resources. Growing up and living in Idaho, I cannot fully convey to those who have never seen it the absolute wonder of my State's wildlife and land. It is farfetched to imagine that I or anyone else who lives and works this

breathhtaking setting would want to destroy it. Clearly, this is not just an Idaho issue. There are endangered species and wonderful lands in all 50 States and landowners nationwide are instrumental to solving the challenge of species recovery and restoration.

The Collaboration for the Recovery of Endangered Species Act facilitates this tried and true method of species recovery—species recovery not just for today or next week or next year, but for our children and grandchildren. I look forward to this bipartisan, progressive approach to species recovery and encourage all of my colleagues to give very careful consideration to this important legislation that we are introducing today.

I yield the floor.

Mr. THOMAS. Mr. President, I join with my friend from Idaho as a cosponsor to this bill on endangered species. He and I and others have worked on this for a good long time. Both of us have been on the Committee on Environment and Public Works. We are no longer there, but we started working there. We certainly are excited about the opportunity to bring to the floor some ideas that would deal with this whole notion of endangered species.

As the Senator has mentioned, all of us support the idea of continuing to have a program to protect endangered species. That concept is a good one. All of us support that. What we are talking about is a program that would be modernized and reorganized to be able to do that in a more efficient way.

We have good evidence that the program as it is, is not working. In a very simple way, what we have had is nearly 1,500 species listed. We have had less than a dozen delisted or put back where we want them. The emphasis has been on the listing, the emphasis has been on lawsuits, and the emphasis has been on disagreements. We should do what we can do to bring together the people who are interested. Whether they are environmentalists, whether they are landowners, whether they are naturalists, whatever, we all have the notion that we want to continue to make this program work, and we believe we have some ways to make it work better.

As was mentioned, the law is about 30 years old, so it is time to be updated. I agree with the Senator from Oklahoma, we need to review programs as time goes by. What we have learned as they have been in operation is we can make them much more effective.

There are two things that concern me. One is that there needs to be a substantial amount and a necessary amount of scientific data and science required for the listing. We have had some experience in Wyoming with having species listed, and it turns out they were not endangered at all. They were not identified properly and, therefore, we went through all of this debate and all of this discussion only to discover that they were not, in fact, endangered species. So we need to have more

science and get into what is necessary to identify an animal or a plant as an endangered species.

Second, the other challenge is to have a plan for recovery, to have a plan for getting cooperation between the landowners and the users and all the people who are interested in a way to lead us to recovery.

One of our latest experiences in Wyoming and in the western part of the country where we are has been with grizzly bears. Grizzly bears were listed, nearly 20 years ago, as endangered species. The numbers that were set forth in the plan for recovery were reached 15 years ago, and we are just now in the process of actually having the recovery and the delisting take place. So we have really lost sight of the goals of recovering species.

This is bipartisan language. We will have supporters from both sides of the aisle, and there is also an Endangered Species Revision Act that passed in the House. So we will have an opportunity when this is passed to come together with the House program to put together something that will be amenable and acceptable to both the House and Senate. It is bipartisan legislation, as indeed it should be.

I am sure we will have hearings, as we should, because there is a lot of interest in this issue. As the Senator pointed out, you have them on the east coast and you have them on the west coast and the situations are different. This bipartisan language would require recovery goals to be published at the time the species is listed. So there is a plan, and we do not go through this endless proposition. It would make it easier to delist them as soon as recovery goals are met, and that should be the purpose of the program.

It increases the State's role. This is very important. Many on the side of animals as opposed to plants, you have Fish and Wildlife Service, you have Park Service, you have Forest Service, you have State game and fish, you have State land agencies, so there needs to be a good deal of cooperation.

There also, of course, needs to be involvement with landowners who are impacted and affected by the plan for listing and the existence of those critics. So that needs to be there.

We need to provide incentives for working together. Much of this can be done without a lot of rules and regulations. The sage grouse was mentioned. There is a good deal of progress being made there in the private sector with groups coming together. We can do that.

I will not take any more time. I look forward to working with my colleagues. It is going to be in the Finance Committee. We hope we can have hearings soon and get this bill on the floor, work with the House, and be able to have a successful program put into place so we can continue to protect endangered species.

By Mr. BAYH:

S. 2111. A bill to amend the Internal Revenue Code of 1986 to provide a credit for small business employee training expenses, to increase the exclusion of capital gains from small business stocks, to extend expensing for small businesses, and for other purposes; to the Committee on Finance.

Mr. BAYH. Mr. President, I rise today to introduce the Small Business Growth Initiative of 2005, which is critical to expanding opportunities for our small businesses to excel in the U.S. economy and compete with larger businesses at home and abroad. Our Nation's competitiveness hinges on our ability to cultivate the entrepreneurial spirit and provide a policy environment that helps our Nation's job creators start or expand small businesses. Since I joined the Small Business Committee in 2003, I have redoubled my efforts to help small businesses, and this bill represents my latest ideas and work to provide additional assistance to the small business community.

In my home State of Indiana, small businesses employ nearly 1.3 million Hoosiers and make up 97.5 percent of all Indiana companies. Nationwide, small businesses have created between 60 and 80 percent of net new jobs over the last decade. Despite this success, small businesses are confronted with unique challenges. To understand what small business owners must overcome to build a successful enterprise, one need only know that one-third of small businesses fail in the first 2 years, and about half fail in the first 4 years. To help more small businesses succeed, my bill is designed to help small businesses train their employees, increase access to capital, encourage long-term investments in new technologies and equipment, expand opportunities to conduct research and development for the Federal Government, and finally, offer employee retirement plans.

The global economy requires that successful small businesses continually update workers' skills to remain competitive. To meet this requirement, the first section of the bill provides a \$1,000 tax credit for training costs per employee for up to five employees. This tax credit can be used for employees to, among other activities, obtain a new job certification, attend a community college course, or attend a 1-day seminar. Statistics indicate that the U.S. faces a growing skills gap in its workforce. With technology playing a critical role in the economy, it is vital that we continually educate workers so that they are able to meet the challenges of new and innovative tasks. Companies are often reluctant to invest in worker training due to the fear that workers will take their new training to new jobs. This tax credit reduces the cost to the employer and provides much-needed support for employers to develop a skilled workforce.

Access to capital is critical for emerging small businesses as they seek to innovate, create jobs, and create wealth. The second provision in this

bill provides a significant incentive to individuals and companies to invest in emerging small businesses, thereby increasing the amount of capital available to small businesses. Specifically, this bill provides a zero capital gains rate for long-term individual and corporate investments in small business stock. A 2004 report by the Council on Competitiveness highlighted small businesses' difficulty in trying to access venture capital. The study found: "Recently, (the funding gap) has been widening as Venture Capital firms are shifting investments to focus on more mature firms with larger capital needs. Entrepreneurs report difficulty in raising money between \$2 million and \$5 million."

The third section of my bill extends a critical incentive that small businesses have used to invest in new technologies, expand their operations, and most important, create jobs. Under current law, small businesses can expense—rather than depreciate—up to \$100,000 in new qualifying machinery or equipment in each year through 2007. My bill extends this tax provision through the end of 2010. This will allow small businesses to enjoy a 5-year planning horizon for new investment. It is difficult for small businesses to make significant investments when the tax code is riddled with "here today, gone tomorrow" provisions. This provision will provide tax savings to small businesses and reduce the amount of time that small businesses would otherwise be forced to spend complying with complex depreciation rules.

The fourth section of my bill would expand research and development opportunities for small businesses by increasing the amount of federal R&D opportunities available through the Small Business Innovation Research Program, SBIR, and the Small Business Technology Transfer Program, STTR. Small businesses produce 13 to 14 times more patents per employee than large firms. Small business patents are twice as likely as large firm patents to be among the 1 percent most cited patents. These programs are critical to expand opportunities for small businesses to enter the Federal marketplace and in so doing, develop new products that can be commercialized and create new jobs. They play a major role in helping the government advance cutting-edge research. According to the Small Business Administration, approximately 1 in 4 SBIR projects will result in the sale of new commercial products or processes.

The fifth and final section of my bill is designed to help small businesses offer employee retirement plans. Too many workers at small companies do not have the opportunity to contribute to their retirement security. Only 31 percent of small businesses with 10 to 24 employees provide retirement plans to their employees. By comparison, 72 percent of large firms with 1,000 or more employees provide retirement plan options to their employees. As we

consider ways to help small businesses grow and be competitive, it is important to provide incentives that allow them to recruit and retain qualified employees and better compete with larger businesses at home and abroad that provide retirement plans for their employees.

The problem for small businesses stems, in part, from the administrative costs of starting a retirement plan. To address this problem, my bill doubles the existing tax credit to offset start-up costs associated with setting up new retirement plans. Under this bill, small companies would be eligible to take a 50 percent credit on the first \$2,000 in approved costs incurred in each of the first 3 years of a qualified pension plan's existence.

In conclusion, small businesses are the engine of our economy and we need to focus attention on advancing policies that help small businesses grow and prosper. I look forward to working with my colleagues on these and other proposals to help our Nation's entrepreneurs continue to lead the world in innovation and compete effectively with large companies both here and abroad in the global economy.

By Ms. STABENOW (for herself, Mr. SMITH, Mr. LAUTENBERG, Mrs. MURRAY, Mr. MCCAIN, Mr. COLEMAN, and Mr. DAYTON):

S. 2115. A bill to amend the Public Health Service Act to improve provisions relating to Parkinson's disease research; to the Committee on Health, Education, Labor, and Pensions.

Ms. STABENOW. Mr. President, today I rise to introduce the Morris K. Udall Parkinson's Disease Research Act Amendments of 2005. I am pleased to be joined in this endeavor by my colleague, Senator SMITH, who co-chairs the Senate Parkinson's Caucus with me, as well as Senators Murray, Lautenberg, McCain, and Coleman as co-sponsors.

Monday, December 12, marked the anniversary of the death of Mo Udall of Arizona, an amazing congressman and champion of the environment who passed away from Parkinson's in 1998. In recognition of Congressman UDALL, Senators Wellstone and MCCAIN introduced the Morris K. Udall Parkinson's Research Act of 1997, which expanded basic and clinical research by establishing Udall Centers of Excellence around the nation to further scientific advances against Parkinson's.

In the United States, an estimated 60,000 new cases are diagnosed each year, joining the 1.5 million Americans who currently have Parkinson's disease. I know first-hand the anguish that a family goes through when a loved one is struck with this horrible disease as my grandmother had Parkinson's.

Top scientists say that Parkinson's is one of the first neurological diseases that could be cured but only if the resources are there. The legislation I am introducing today will help give sci-

entists the tools they need by building on the original Parkinson's Research Act. The Udall Act Amendments Act does not call for additional spending. Rather, my bill makes targeted, process-oriented changes to maximize the federal dollars already spent on Parkinson's research.

I am also pleased to have the support of the entire Parkinson's patient community, including the Parkinson's Action Network, Michael J. Fox Foundation for Parkinson's Research, Parkinson's Disease Foundation, National Parkinson Foundation, Parkinson Alliance, and American Parkinson Disease Association.

Additionally, I am pleased to have the support of Henry Ford Health System. Michigan universities and research institutions are leading the Nation in cutting-edge research into health care, and Henry Ford is doing amazing work in Parkinson's research and epidemiology. The William T. Gossett Parkinson's Disease Center at Henry Ford provides comprehensive, experienced, and individualized diagnostic and therapeutic services to patients with Parkinson's disease and other movement disorders. State-of-the-art clinical programs are provided at Henry Ford Hospital, the Henry Ford Medical Center in West Bloomfield, and the Allen Park Neurology Center.

I ask unanimous consent that the text of the bill and the support letters be printed in the RECORD.

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

S. 2115

*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 "Morris K. Udall Parkinson's Disease Research Act Amendments of 2005".

#### SEC. 2. MORRIS K. UDALL PARKINSON'S DISEASE RESEARCH ACT OF 1997.

(a) FINDINGS.—Subsection (b) of section 603 of the Morris K. Udall Parkinson's Disease Research Act of 1977 (42 U.S.C. 284f note) is amended by striking paragraph (1) and inserting the following:

"(1) FINDING.—Congress finds that, to take full advantage of the tremendous potential for finding a cure or effective treatment, the Federal investment in Parkinson's must be expanded, as well as the coordination strengthened among the National Institutes of Health research institutes."

(b) PUBLIC HEALTH SERVICE ACT.—Section 409B of the Public Health Service Act (42 U.S.C. 284f) is amended—

(1) in subsection (b), by striking paragraph (2) and inserting the following:

"(2) CONFERENCE.—

"(A) IN GENERAL.—The Director of NIH shall convene a coordinating and planning conference every 2 years with relevant institutes and non-governmental organizations to conduct a thorough investigation of all Parkinson's research that is funded in whole or in part by the National Institutes of Health and to identify shortcomings and opportunities for more effective treatments and a cure for Parkinson's disease. The Director shall report to Congress on the coordination among the institutes in carrying out such research.

"(B) RESEARCH INVESTMENT PLAN.—

"(i) IN GENERAL.—The results of each conference convened under subparagraph (A) shall be included in a research investment plan that provides for measurable results with the goals of better treatments and a cure for Parkinson's disease being the determining factors in the allocation of Parkinson's disease research dollars. The plan shall include an outline of the manner in which to fully utilize the Udall Center program to ensure the continuation of a particular focus on translational research, including a clinical component.

"(ii) BUDGET AND IMPLEMENTATION STRATEGY.—The plan submitted under clause (i) shall include a budget (that includes both programmatic and dollar line items) and implementation strategy (that incorporates the use of special initiatives such as Requests for Applications, Program Announcements with set-asides or similar directed research mechanisms) together with results to be reported back to Congress. The budget shall include

"(C) SUBMISSIONS TO CONGRESS.—The plan under subparagraph (B) (including the budget and implementation strategy) and the expected results of plan implementation shall be submitted to Congress not later than 3 months after the conference is convened under subparagraph (A). Reports on the outcomes of the plan, including actual spending and actual results, shall be submitted to Congress on an annual basis.

"(D) FUNDING.—The Secretary shall ensure that adequate funding is available under this section to carry out the activities described in the investment plan under subparagraph (B).";

(2) in subsection (c)—

(A) in paragraph (1)—

(i) by striking "not more than 10"; and

(ii) by adding at the end the following:

"The Director shall ensure that an additional center shall be funded under this paragraph to serve as the coordinating center to coordinate the activities conducted by each of the centers funded under this paragraph to further focus and manage the interdisciplinary efforts of such centers.";

(B) in paragraph (2)(A)(ii), by striking "conduct basic and clinical research" and inserting "in carrying out research, ensure that a significant clinical component is provided for in addition to ongoing basic research"; and

(C) by adding at the end the following:

"(5) REVIEW PROCESS.—The Director of NIH shall establish a review process with respect to applications received for grants under paragraph (1). Such process shall provide for the evaluation of applicants in a manner that recognizes the unique aspects of the clinical, coordination, and multidisciplinary components of the applicants.";

(3) in subsection (d)—

(A) by striking "is authorized to establish a grant program" and inserting "shall award grants"; and

(B) by inserting before the period at the end the following: "and shall be awarded in a manner consistent with the research investment plan under subsection (b)(2)(B)"; and

(4) by striking subsection (e) and inserting the following:

"(e) REPORT.—The Director of NIH, in consultation with the Director of the Centers for Disease Control and Prevention, shall conduct an investigation, and prepare and submit to the appropriate committees of Congress a report, on the incidence of Parkinson's disease, including age, occupation, and geographic population clusters, and related environmental factors relating to such disease.

“(f) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of carrying out this section, section 301, and this title with respect to research focused on Parkinson’s disease, there are authorized to be appropriated not to exceed such sums as may be necessary for each of fiscal years 2007 through 2012.”.

HENRY FORD HEALTH SYSTEM,

*Detroit, MI, December 12, 2005.*

Re Morris K. Udall Parkinson’s Disease Research Act Amendments of 2005.

Hon. DEBBIE STABENOW,  
U.S. Senate,  
Washington, DC.

DEAR SENATOR STABENOW: The Henry Ford Health System strongly supports your legislation which would reauthorize the Morris K. Udall Parkinson’s Disease Research Centers and allow an expansion of this important research to other states, including Michigan.

The Henry Ford Health System has been engaged in significant Parkinson’s Disease research for many years, with published research on linkages between Parkinson’s Disease and occupational exposure to lead, copper and agricultural pesticides, as well as life-style going back to 1993. The etiology of Parkinson’s Disease is considered to have a strong environmental component, but relatively few studies have investigated the potential association between occupation and the disease. The HFHS research is enriched by our strong clinical and research programs in Neurology, Biostatistics, and Research Epidemiology at the HFHS Health Sciences Center, as well as our formal affiliation with Wayne State University and the National Institute of Environmental Health Sciences Center in Molecular and Cellular Toxicology with Human Applications at WSU.

Henry Ford Health System provides healthcare to more than 1 million patients, including approximately 25% of residents in the greater Southeast Michigan region, as well as many patients from virtually every state in the nation. Patients are drawn to Henry Ford Health System because of important advancements in diagnostics and treatment that may not be readily available elsewhere. Because of our ability to combine research with our strong clinical programs, HFHS offers an ideal setting for the kinds of changes called for in this legislation. We believe the intent to focus more of the National Institutes of Health Parkinson’s dollars on translational research and therapies will bring a strong return on investment and lead to better treatments for more than one million Americans fighting Parkinson’s disease.

Thank you for your leadership on this important health care issue. We appreciate your dedication and support for funding the research that can eventually lead to a cure for Parkinson’s Disease. We look forward to working with you on this legislation and offer our assistance in achieving the positive changes called for in the Udall Act Amendments.

Sincerely,

NANCY M. SCHLICHTING,  
*President & CEO.*

PARKINSON’S ACTION NETWORK,  
*Washington, DC, November 1, 2005.*

Hon. DEBBIE STABENOW,  
U.S. Senate,  
Washington, DC.  
Hon. GORDON SMITH,  
U.S. Senate,  
Washington, DC.

DEAR SENATOR STABENOW AND SENATOR SMITH: The Parkinson’s community strongly supports your legislation, the Morris K. Udall Parkinson’s Disease Research Act Amendments of 2005.

Recognizing the need to accelerate the pace of Parkinson’s disease research, Congress passed the Morris K. Udall Parkinson’s Research Act of 1997 (Udall Act) and it was signed into law. The Udall Act Amendments builds on the historic 1997 Udall Act to strengthen and focus critical Parkinson’s disease research.

Your legislation will ensure that NIH-funded research will hasten discovery of better treatments and a cure for Parkinson’s disease. We believe the positive changes called for in the Udall Act Amendments will require the NIH to focus more of its Parkinson’s dollars on translational research and therapies, recognize the unique aspects of the Udall Centers, and give us a stronger understanding of who is impacted by this devastating disease and why. We are confident that the Udall Act Amendments will ensure that federally-funded Parkinson’s disease research brings the strongest return on investment possible and will ultimately lead to better treatments and a cure for the more than one million Americans fighting Parkinson’s disease.

The Parkinson’s community applauds your legislation and looks forward to working with you to ease the burden and find a cure for Parkinson’s disease. We thank you for your leadership and dedicated efforts on behalf of the entire Parkinson’s community.

Sincerely,

JOEL GERSTEL,  
*American Parkinson  
Disease Association.*

AMY COMSTOCK,  
*Parkinson’s Action  
Network.*

DEBI BROOKS,  
*The Michael J. Fox  
Foundation for Par-  
kinson’s Research.*

JOSE GARCIA-PEDROSA,  
*National Parkinson  
Foundation.*

ROBIN ELLIOTT,  
*Parkinson’s Disease  
Foundation.*

CAROL WALTON,  
*The Parkinson Alli-  
ance.*

#### SUBMITTED RESOLUTIONS

#### SENATE RESOLUTION 334—RELATIVE TO THE DEATH OF WILLIAM PROXMIRE, FORMER UNITED STATES SENATOR FROM THE STATE OF WISCONSIN

Mr. FRIST (for himself, Mr. REID, Mr. KOHL, Mr. FEINGOLD, Mr. AKAKA, Mr. ALEXANDER, Mr. ALLARD, Mr. ALLEN, Mr. BAUCUS, Mr. BAYH, Mr. BENNETT, Mr. BIDEN, Mr. BINGAMAN, Mr. BOND, Mrs. BOXER, Mr. BROWNBACK, Mr. BUNNING, Mr. BURNS, Mr. BURR, Mr. BYRD, Ms. CANTWELL, Mr. CARPER, Mr. CHAFEE, Mr. CHAMBLISS, Mrs. CLINTON, Mr. COBURN, Mr. COCHRAN, Mr. COLEMAN, Ms. COLLINS, Mr. CONRAD, Mr. CORNYN, Mr. CORZINE, Mr. CRAIG, Mr. CRAPO, Mr. DAYTON, Mr. DEMINT, Mr. DEWINE, Mr. DODD, Mrs. DOLE, Mr. DOMENICI, Mr. DORGAN, Mr. DURBIN, Mr. ENSIGN, Mr. ENZI, Mrs. FEINSTEIN, Mr. GRAHAM, Mr. GRASSLEY, Mr. GREGG, Mr. HAGEL, Mr. HARKIN, Mr. HATCH, Mrs. HUTCHISON, Mr. INHOFE, Mr. INOUE, Mr. ISAKSON, Mr. JEFFORDS, Mr. JOHNSON, Mr. KENNEDY, Mr. KERRY, Mr. KYL, Ms. LANDRIEU, Mr. LAUTEN-

BERG, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, Mrs. LINCOLN, Mr. LOTT, Mr. LUGAR, Mr. MARTINEZ, Mr. MCCAIN, Mr. MCCONNELL, Ms. MIKULSKI, Ms. MURKOWSKI, Mrs. MURRAY, Mr. NELSON of Florida, Mr. NELSON of Nebraska, Mr. OBAMA, Mr. PRYOR, Mr. REED, Mr. ROBERTS, Mr. ROCKEFELLER, Mr. SALAZAR, Mr. SANTORUM, Mr. SARBANES, Mr. SCHUMER, Mr. SESSIONS, Mr. SHELBY, Mr. SMITH, Ms. SNOWE, Mr. SPECTER, Ms. STABENOW, Mr. STEVENS, Mr. SUNUNU, Mr. TALENT, Mr. THOMAS, Mr. THUNE, Mr. VITTER, Mr. VOINOVICH, Mr. WARNER, and Mr. WYDEN) submitted the following resolution; which was considered and agreed to:

S. RES. 334

Whereas William Proxmire served in the Military Intelligence Service of the United States Army from 1941 to 1946;

Whereas William Proxmire served the people of Wisconsin with distinction from 1957 to 1989 in the United States Senate;

Whereas William Proxmire served the Senate as Chairman of the Committee on Banking, Housing, and Urban Affairs in the ninety-fourth to ninety-sixth and one hundredth Congresses;

Whereas William Proxmire held the longest unbroken record for rollcall votes in the Senate;

Whereas William Proxmire tirelessly fought government waste, issuing monthly “Golden Fleece” awards beginning in 1975 for the “biggest or most ridiculous or most ironic example of government waste;”

Whereas William Proxmire worked endlessly to eradicate the world of genocide, culminating in the ratification by the Senate of an international treaty outlawing genocide;

*Resolved*, That the Senate has heard with profound sorrow and deep regret the announcement of the death of the Honorable William Proxmire, former member of the United States Senate.

*Resolved*, That the Secretary of the Senate communicate these resolutions to the House of Representatives and transmit an enrolled copy thereof to the family of the deceased.

*Resolved*, That when the Senate adjourns today, it stand adjourned as a further mark of respect to the memory of the Honorable William Proxmire.

#### SENATE CONCURRENT RESOLUTION 70—URGING THE GOVERNMENT OF THE RUSSIAN FEDERATION TO WITHDRAW THE FIRST DRAFT OF THE PROPOSED LEGISLATION AS PASSED IN ITS FIRST READING THE STATE DUMA THAT WOULD HAVE THE EFFECT OF SEVERELY RESTRICTING THE ESTABLISHMENT, OPERATIONS, AND ACTIVITIES OF DOMESTIC, INTERNATIONAL, AND FOREIGN NON-GOVERNMENTAL ORGANIZATIONS IN THE RUSSIAN FEDERATION, OR TO MODIFY THE PROPOSED LEGISLATION TO ENTIRELY REMOVE THESE RESTRICTIONS

Mr. MCCAIN (for himself, Mr. BIDEN, and Mr. LIEBERMAN) submitted the following concurrent resolution, which was referred to the Committee on Foreign Relations:

## S. CON. RES. 70

Whereas Russian Federation President Putin has stated that “modern Russia’s greatest achievement is the democratic process (and) the achievements of our civil society”;

Whereas the unobstructed establishment and free and autonomous operations and activities of nongovernmental organizations and a robust civil society free from excessive government control are central and indispensable elements of a democratic society;

Whereas the free and autonomous operations of nongovernmental organizations in any society necessarily encompass activities, including political activities, that may be contrary to government policies;

Whereas domestic, international, and foreign nongovernmental organizations are crucial in assisting the Russian Federation and the Russian people in tackling the many challenges they face, including in such areas as education, infectious diseases, and the establishment of a flourishing democracy;

Whereas the Government of the Russian Federation has proposed legislation that would have the effect of severely restricting the establishment, operations, and activities of domestic, international, and foreign nongovernmental organizations in the Russian Federation, including erecting unprecedented barriers to foreign assistance;

Whereas the State Duma of the Russian Federation is considering the first draft of such legislation;

Whereas the restrictions in the first draft of this legislation would impose disabling restraints on the establishment, operations, and activities of nongovernmental organizations and on civil society throughout the Russian Federation, regardless of the stated intent of the Government of the Russian Federation;

Whereas the stated concerns of the Government of the Russian Federation regarding the use of nongovernmental organizations by foreign interests and intelligence agencies to undermine the Government of the Russian Federation and the security of the Russian Federation as a whole can be fully addressed without imposing disabling restraints on nongovernmental organizations and on civil society;

Whereas there is active debate underway in the Russian Federation over concerns regarding such restrictions on nongovernmental organizations;

Whereas the State Duma and the Federation Council of the Federal Assembly play a central role in the system of checks and balances that are prerequisites for a democracy;

Whereas the first draft of the proposed legislation has already passed its first reading in the State Duma;

Whereas President Putin has indicated his desire for changes in the first draft that would “correspond more closely to the principles according to which civil society functions”; and

Whereas Russia’s destiny and the interests of her people lie in her assumption of her rightful place as a full and equal member of the international community of democracies: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring), That Congress—*

(1) urges the Government of the Russian Federation to withdraw the first draft of the proposed legislation that would have the effect of severely restricting the establishment, operations, and activities of domestic, international, and foreign nongovernmental organizations in the Russian Federation, or to modify the proposed legislation to entirely remove these restrictions; and

(2) in the event that the first draft of the proposed legislation is not withdrawn, urges

the State Duma and the Federation Council of the Federal Assembly to modify the legislation to ensure the unobstructed establishment and free and autonomous operations and activities of such nongovernmental organizations in accordance with the practices universally adopted by democracies, including the provisions regarding foreign assistance.

# SENATE CONCURRENT RESOLUTION 71—EXPRESSING THE SENSE OF CONGRESS THAT STATES SHOULD REQUIRE CANDIDATES FOR DRIVER’S LICENSES TO DEMONSTRATE AN ABILITY TO EXERCISE GREATLY INCREASED CAUTION WHEN DRIVING IN THE PROXIMITY OF A POTENTIALLY VISUALLY IMPAIRED INDIVIDUAL

Mr. AKAKA (for himself, Mr. INOUE, and Mr. SALAZAR) submitted the following concurrent resolution; which was referred to the Committee on Commerce, Science, and Transportation:

## S. CON. RES. 71

Whereas many people in the United States who are blind or otherwise visually impaired have the ability to travel throughout their communities without assistance;

Whereas visually impaired individuals encounter hazards that a pedestrian with average vision could easily avoid, many of which involve crossing streets and roadways;

Whereas the white cane and guide dog should be generally recognized as aids to mobility for visually impaired individuals;

Whereas many States do not require candidates for driver’s licenses to associate the use of the white cane or guide dog with potentially visually impaired individuals; and

Whereas visually impaired individuals have had their white canes and guide dogs run over by motor vehicles, have been struck by the side view mirrors of motor vehicles, and have suffered serious personal injury and death as the result of being hit by motor vehicles: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that each State should require any candidate for a driver’s license in such State to demonstrate, as a condition of obtaining a driver’s license, an ability to associate the use of the white cane and guide dog with visually impaired individuals and to exercise greatly increased caution when driving in proximity to a potentially visually impaired individual.*

## AMENDMENTS SUBMITTED AND PROPOSED

SA 2677. Mr. MCCONNELL (for Mr. STEVENS) proposed an amendment to the bill S. 1390, to reauthorize the Coral Reef Conservation Act of 2000, and for other purposes.

SA 2678. Mr. MCCONNELL (for Mr. STEVENS) proposed an amendment to the bill S. 1390, supra.

SA 2679. Mr. MCCONNELL (for Mr. AKAKA) proposed an amendment to the concurrent resolution H. Con. Res. 218, recognizing the centennial of sustained immigration from the Philippines to the United States and acknowledging the contributions of our Filipino-American community to our country over the last century.

## TEXT OF AMENDMENTS

SA 2677. Mr. MCCONNELL (for Mr. STEVENS) proposed an amendment to

the bill S. 1390, to reauthorize the Coral Reef Conservation Act of 2000, and for other purposes; as follows:

On page 3, beginning in line 24, strike “impacts or other physical damage to coral reefs, including” and insert “impacts, derelict fishing gear, vessel anchors and anchor chains, or”.

SA 2678. Mr. MCCONNELL (for Mr. STEVENS) proposed an amendment to the bill S. 1390, to reauthorize the Coral Reef Conservation Act of 2000, and for other purposes; as follows:

On page 4, strike lines 14 through 19, and insert the following:

“(2) leverage resources of other agencies.”.

SA 2679. Mr. MCCONNELL (for Mr. AKAKA) proposed an amendment to the concurrent resolution H. Con. Res. 218, recognizing the centennial of sustained immigration from the Philippines to the United States and acknowledging the contributions of our Filipino-American community to our country over the last century; as follows:

Beginning in page 4, line 8, strike “requests that the President issue a proclamation calling on” and insert “urges”.

## AUTHORITY FOR COMMITTEES TO MEET

### COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. SPECTER. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Thursday, December 15, 2005, at 10 a.m. on pending committee business.

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

### COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. SPECTER. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet on Thursday, December 15, 2005, at 10 a.m., for a hearing titled, “Hurricane Katrina: Who’s In Charge of the New Orleans Levees?”.

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

### COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. SPECTER. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to hold an off-the-floor markup during the session on Thursday, December 15, 2005, to consider the nominations of George W. Foresman to be Under Secretary for Preparedness, U.S. Department of Homeland Security, and Mary M. Rose to be Member, Merit Systems Protection Board.

## Agenda

### Nominations

(1) George W. Foresman to be Under Secretary for Preparedness, U.S. Department of Homeland Security.

(2) Mary M. Rose to be Member, Merit Systems Protection Board.



*Post Office Naming Bills*

(1) S. 1445, a bill to designate the facility of the U.S. Postal Service located at 520 Colorado Avenue in Arriba, CO, as the "William H. Emery Post Office."

(2) S. 1792/H.R. 3770, a bill to designate the facility of the U.S. Postal Service located at 205 West Washington Street in Knox, IN, as the "Grant W. Green Post Office Building."

(3) S. 1820, a bill to designate the facility of the U.S. Postal Service located at 6110 East 51st Place in Tulsa, OK, as the "Dewey F. Bartlett Post Office."

(4) S. 2036, a bill to designate the facility of the U.S. Postal Service located at 320 High Street in Clinton, MA, as the "Raymond J. Salmon Post Office."

(5) S. 2064, a bill to designate the facility of the U.S. Postal Service located at 122 South Bill Street in Francesville, IN, as the "Malcolm Melville 'Mac' Lawrence Post Office."

(6) S. 2089, a bill to designate the facility of the U.S. Postal Service located at 1271 North King Street in Honolulu, Oahu, HI, as the "Hiram L. Fong Post Office Building."

(7) H.R. 2113, a bill to designate the facility of the U.S. Postal Service located at 2000 McDonough Street in Joliet, IL, as the "John F. Whiteside Joliet Post Office Building."

(8) H.R. 2346, a bill to designate the facility of the U.S. Postal Service located at 105 NW Railroad Avenue in Hammond, LA, as the "John J. Hainkel, Jr. Post Office Building."

(9) H.R. 2413, a bill to designate the facility of the U.S. Postal Service located at 1202 1st Street in Humble, TX, as the "Lillian McKay Post Office Building."

(10) H.R. 2630, a bill to designate the facility of the U.S. Postal Service located at 1927 Sangamon Avenue in Springfield, IL, as the "J.M. Dietrich Northeast Annex."

(11) H.R. 2894, a bill to designate the facility of the U.S. Postal Service located at 102 South Walters Avenue in Hodgenville, KY, as the "Abraham Lincoln Birthplace Post Office Building."

(12) H.R. 3256, a bill to designate the facility of the U.S. Postal Service located at 3038 West Liberty Avenue in Pittsburgh, PA, as the "Congressman James Grove Fulton Memorial Post Office Building."

(13) H.R. 3368, a bill to designate the facility of the U.S. Postal Service located at 6483 Lincoln Street in Gagetown, MI, as the "Gagetown Veterans Memorial Post Office."

(14) H.R. 3439, a bill to designate the facility of the U.S. Postal Service located at 201 North 3rd Street in Smithfield, NC, as the "Ava Gardner Post Office."

(15) H.R. 3548, a bill to designate the facility of the U.S. Postal Service located on Franklin Avenue in Pearl River, NY, as the "Heinz Ahlmeyer, Jr. Post Office Building."

(16) H.R. 3703, a bill to designate the facility of the U.S. Postal Service lo-

cated at 8501 Philatelic Drive in Spring Hill, FL, as the "Staff Sergeant Michael Schafer Post Office."

(17) H.R. 3825, a bill to designate the facility of the U.S. Postal Service located at 770 Trumbull Drive in Pittsburgh, PA, as the "Clayton J. Smith Memorial Post Office."

(18) H.R. 3830, a bill to designate the facility of the U.S. Postal Service located at 130 East Marion Avenue in Punta Gorda, FL, as the "U.S. Cleveland Post Office Building."

(19) H.R. 4053, a bill to designate the facility of the U.S. Postal Service located at 545 North Rimsdale Avenue in Covina, CA, as the "Lillian Kinkella Keil Post Office."

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

## SELECT COMMITTEE ON INTELLIGENCE

Mr. SPECTER. Mr. President, I ask unanimous consent at the Select Committee on Intelligence be authorized to meet during the session of the Senate on December 15, 2005, at 2:30 p.m., to hold a closed meeting.

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

## PRIVILEGES OF THE FLOOR

Mr. HATCH. Mr. President, I ask unanimous consent that privilege of the floor be granted to Katie Winthrop, a detailee from the Bureau of Land Management serving on my staff, for the remainder of this session.

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

## RELATIVE TO THE DEATH OF FORMER SENATOR WILLIAM PROXMIRE

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 334, submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 334) relative to the death of William Proxmire, former United States Senator from the State of Wisconsin.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. It is with deep sadness that I note the passing of the distinguished public servant, Wisconsin's own William Proxmire.

William Proxmire was a man of fierce iconoclasm, robust physical energy, and strong moral fiber. During his 32 years of service in the Senate, he proved himself a friend to consumers everywhere and a steadfast enemy of Government wastefulness.

Born in Lake Forest, IL, as Edward William Proxmire, Senator Proxmire dropped his given first name as a youth to emulate his childhood hero, the cowboy William Hart.

Following an education at Yale and Harvard Universities, he returned to

the Midwest where he worked as a newspaper reporter, a farm implement dealer, a printer, and a radio announcer. He won a seat in the Wisconsin State Assembly in 1950, followed by three unsuccessful attempts to become Governor. Finally, in a special election, he won a seat in the U.S. Senate.

Senator Proxmire was an arch opponent of profligate spending. Every month, he would name his Golden Fleece Award to the latest boondoggle on the Government books. He uncovered Government efforts to subsidize surfing, study the body shapes of female airline flight attendants, and investigate the mechanics of why people fall in love.

In 22 years, he never missed a single vote, setting the record which stands to this day for having cast the most consecutive rollcall votes in the Senate.

Between 1967 and 1986, the Senator came to the floor each day to call upon his colleagues to ratify the Convention for the Prevention and Punishment of the Crime of Genocide. Finally, in 1986, after years of tenacious advocacy, the Senate acted and approved the convention.

Senator Proxmire became so popular with the people of Wisconsin that the last two times he stood for elections, he refused to accept any campaign contributions. Aside from filing fees, his main campaign expenses, the Washington Post reported, ended up being envelopes—for returning contributions that citizens sent in anyway.

Even as he aged, he stood by a sturdy regime of clean living: 100 pushups after waking up, long daily runs, a healthy diet, and early bedtimes.

Senator Proxmire was proud of the liberal, progressive politics he learned growing up in Wisconsin. But he also clung to a steadfast desire to protect the American taxpayer. His chaperone eagle eye on the Government budget earned him the admiration of many on the political right. Even today, he remains a hero to many in the tax reform movement.

William Proxmire proved himself an able public servant to the people of Wisconsin, the American taxpayer, and, indeed, the American public at large.

On behalf of my colleagues, I extend my deepest sympathies to the Senator's wife Ellen and the entire Proxmire family.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements related thereto be printed in the RECORD, without intervening action or debate.

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

The resolution (S. Res. 334) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 334

Whereas William Proxmire served in the Military Intelligence Service of the United States Army from 1941 to 1946;

Whereas William Proxmire served the people of Wisconsin with distinction from 1957 to 1989 in the United States Senate;

Whereas William Proxmire served the Senate as Chairman of the Committee on Banking, Housing, and Urban Affairs in the ninety-fourth to ninety-sixth and one hundredth Congresses;

Whereas William Proxmire held the long-est unbroken record for roll call votes in the Senate;

Whereas William Proxmire tirelessly fought government waste, issuing monthly "Golden Fleece" awards beginning in 1975 for the "biggest or most ridiculous or most ironic example of government waste;"

Whereas William Proxmire worked endlessly to eradicate the world of genocide, culminating in the ratification by the Senate of an international treaty outlawing genocide;

*Resolved*, That the Senate has heard with profound sorrow and deep regret the announcement of the death of the Honorable William Proxmire, former member of the United States Senate.

*Resolved*, That the Secretary of the Senate communicate these resolutions to the House of Representatives and transmit an enrolled copy thereof to the family of the deceased.

*Resolved*, That when the Senate adjourns today, it stand adjourned as a further mark of respect to the memory of the Honorable William Proxmire.

## TRANSFERRING PROPERTY TO THE SUPREME COURT

Mr. MCCONNELL. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of S. 2116 introduced earlier today.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 2116) to transfer jurisdiction of certain real property to the Supreme Court.

There being no objection, the Senate proceeded to consider the bill.

Mr. MCCONNELL. I ask unanimous consent the bill be read the third time and passed, the motion to reconsider be laid upon the table, and any statements related to the bill be printed in the RECORD.

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

The bill (S. 2116) was read the third time and passed, as follows:

S. 2116

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

### SECTION 1. TRANSFER OF JURISDICTION OVER CERTAIN REAL PROPERTY TO THE SUPREME COURT.

(a) **SHORT TITLE.**—This section may be cited as the "Supreme Court Grounds Transfer Act of 2005".

(b) **TRANSFER OF JURISDICTION.**—

(1) **IN GENERAL.**—Jurisdiction over the parcel of Federal real property described under paragraph (2) (over which jurisdiction was transferred to the Architect of the Capitol under section 514(b)(2)(B)(i) of the Omnibus Parks and Public Lands Management Act of 1996 (40 U.S.C. 5102 note; Public Law 104-333;

110 Stat. 4165)) is transferred to the Supreme Court of the United States, without consideration.

(2) **PARCEL.**—The parcel of Federal real property referred to under paragraph (1) is that portion of the triangle of Federal land in Reservation No. 204 in the District of Columbia under the jurisdiction of the Architect of the Capitol, including any contiguous sidewalks, bound by Constitution Avenue, N.E., on the north, the branch of Maryland Avenue, N.E., running in a northeast direction on the west, the major portion of Maryland Avenue, N.E., on the south, and 2nd Street, N.E., on the east, including the contiguous sidewalks.

(c) **MISCELLANEOUS.**—

(1) **COMPLIANCE WITH OTHER LAWS.**—Compliance with this section shall be deemed to satisfy the requirements of all laws otherwise applicable to transfers of jurisdiction over parcels of Federal real property.

(2) **INCLUSION IN SUPREME COURT GROUNDS.**—Section 6101(b)(2) of title 40, United States Code, is amended by inserting before the period "and that parcel transferred under the Supreme Court Grounds Transfer Act of 2005".

(3) **UNITED STATES CAPITOL GROUNDS.**—

(A) **DEFINITION.**—Section 5102 of title 40, United States Code, is amended to exclude within the definition of the United States Capitol Grounds the parcel of Federal real property described in subsection (b)(2).

(B) **JURISDICTION OF CAPITOL POLICE.**—The United States Capitol Police shall not have jurisdiction over the parcel of Federal real property described in subsection (b)(2) by reason of such parcel formerly being part of the United States Capitol Grounds.

(4) **RECORDING OF MAP OF SUPREME COURT GROUNDS.**—The Architect of the Capitol shall record with the Office of the Surveyor of the District of Columbia a map showing areas comprising the grounds of the Supreme Court of the United States that reflects—

(A) the legal boundaries described under section 6101(b)(1) of title 40, United States Code; and

(B) any portion of the United States Capitol Grounds as described under section 5102 of title 40, United States Code, which is contiguous to the boundaries or property described under subparagraph (A) of this paragraph.

(d) **EFFECTIVE DATE.**—This Act shall apply to fiscal year 2006 and each fiscal year thereafter.

## CORAL REEF CONSERVATION AMENDMENTS ACT OF 2005

Mr. MCCONNELL. I ask unanimous consent the Senate proceed to the immediate consideration of Calendar No. 294, S. 1390.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1390) to reauthorize the Coral Reef Conservation Act of 2000, and for other purposes.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Commerce, Science, and Transportation, with amendments.

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

S. 1390

*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 "Coral Reef Conservation Amendments Act of 2005".

### SEC. 2. EXPANSION OF CORAL REEF CONSERVATION PROGRAM.

(a) **PROJECT DIVERSITY.**—Section 204(d) of the Coral Reef Conservation Act of 2000 (16 U.S.C. 6403(d)) is amended—

(1) by striking "GEOGRAPHIC AND BIOLOGICAL" in the heading and inserting "PROJECT"; and

(2) by striking "40 percent" in paragraph (2) and inserting "30 percent"; and

(3) by striking paragraph (3) and inserting the following:

"(3) Remaining funds shall be awarded for—

"(A) projects (with priority given to community-based local action strategies) that address emerging priorities or threats, including international and territorial priorities, or threats identified by the Administrator in consultation with the Coral Reef Task Force; and

"(B) other appropriate projects, as determined by the Administrator, including monitoring and assessment, research, pollution reduction, education, and technical support."

(b) **APPROVAL CRITERIA.**—Section 204(g) of that Act (16 U.S.C. 6403(g)) is amended—

(1) by striking "or" after the semicolon in paragraph (9);

(2) by redesignating paragraph (10) as paragraph (12); and

(2) by striking paragraph (10); and

(3) by inserting after paragraph (9) the following:

"(10) promoting activities designed to minimize the likelihood of vessel impacts on coral reefs, particularly those activities described in section 210(b), including the promotion of ecologically sound navigation and anchorages near coral reefs; or

"(11) promoting and assisting entities to work with local communities, and all appropriate governmental and nongovernmental organizations, to support community-based planning and management initiatives for the protection of coral reef [systems; or]." systems."

### SEC. 3. EMERGENCY RESPONSE.

Section 206 of the Coral Reef Conservation Act of 2000 (16 U.S.C. [6404] 6405) is amended to read as follows:

#### "SEC. 206. EMERGENCY RESPONSE ACTIONS.

"(a) **IN GENERAL.**—The Administrator may undertake or authorize action necessary to prevent or minimize the destruction or loss of, or injury to, coral reefs or coral reef ecosystems from vessel impacts or other physical damage to coral reefs, including damage from unforeseen or disaster-related circumstances.

"(b) **ACTIONS AUTHORIZED.**—Action authorized by subsection (a) includes vessel removal and emergency restabilization of the vessel and any impacted coral reef.

"(c) **PARTNERING WITH OTHER FEDERAL AGENCIES.**—When possible, action by the Administrator under this section should—

"(1) be conducted in partnership with other Federal agencies, including the United States Coast Guard, the Federal Emergency Management Agency, the U.S. Army Corps of Engineers, and the Department of the Interior; and

"(2) leverage resources of such other agencies, including funding or assistance authorized under other Federal laws, such as the Oil Pollution Act of 1990, the Comprehensive Environmental Response, Compensation, and Liability Act, and the Federal Water Pollution Control Act."

### SEC. 4. NATIONAL PROGRAM.

Section 207(b) of the Coral Reef Conservation Act of 2000 (16 U.S.C. 6406) is amended—

(1) by striking “and” after the semicolon in paragraph (3);

(2) by striking “partners.” in paragraph (4) and inserting “partners; and”; and

(3) by adding at the end the following:

“(5) activities designed to minimize the likelihood of vessel impacts or other physical damage to coral reefs, including those activities [described] identified in section 210(b).”.

#### SEC. 5. REPORT TO CONGRESS.

(a) IN GENERAL.—Section 208 of the Coral Reef Conservation Act of 2000 (16 U.S.C. 6407) is amended to read as follows:

#### “SEC. 208. REPORT TO CONGRESS.

“Not later than March 1, 2007, and every 3 years thereafter, the Administrator shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Resources of the House of Representatives a report describing all activities undertaken to implement the strategy, including—

“(1) a description of the funds obligated by each participating Federal agency to advance coral reef conservation during each of the 3 fiscal years next preceding the fiscal year in which the report is submitted;

“(2) a description of Federal interagency and cooperative efforts with States and United States territories to prevent or address overharvesting, coastal runoff, or other anthropogenic impacts on coral reefs, including projects undertaken with the Department of Interior, Department of Agriculture, the Environmental Protection Agency, and the United States Army Corps of Engineers;

“(3) a summary of the information contained in the vessel grounding inventory established under section 210, including additional authorization or funding, needed for response and removal of such vessels;”

“(4) a description of Federal disaster response actions taken pursuant to the National Response Plan to address damage to coral reefs and coral reef ecosystems; and

“(5) an assessment of the condition of United States coral reefs, accomplishments under this Act, and the effectiveness of management actions to address threats to coral reefs.”.

(b) CLERICAL AMENDMENT.—The table of contents for the Coral Reef Conservation Act of 2000 (16 U.S.C. 6401 et seq.) is amended by striking the item relating to section 208 and inserting the following:

“208. Report to Congress.”.

#### SEC. 6. FUND; GRANTS; GROUNDING INVENTORY; COORDINATION.

(a) IN GENERAL.—The Coral Reef Conservation Act of 2000 (16 U.S.C. 6401 et seq.) is amended—

(1) by striking “organization solely” and all that follows in section 205(a) (16 U.S.C. 6404(a)) and inserting “organization—

“(1) to support partnerships between the public and private sectors that further the purposes of this Act and are consistent with the national coral reef strategy under section 203; and

“(2) to address emergency response actions under section 206.”;

(2) by adding at the end of section 205(b) 16 U.S.C. 6404(b)) “The organization is encouraged to solicit funding and in-kind services from the private sector, including non-governmental organizations, for emergency response actions under section 206 and for activities to prevent damage to coral reefs, including activities described in section 210(b)(2).”;

(3) by striking “the grant program” in section 205(c) (16 U.S.C. 6404(c)) and inserting “any grant program or emergency response action”;

(4) by redesignating sections 209 and 210 as sections 212 and 213, respectively; and

(5) by inserting after section 208 the following:

#### “SEC. 209. COMMUNITY-BASED PLANNING GRANTS.

“(a) IN GENERAL.—The Administrator may make grants to entities who have received grants under section 204(c) to provide additional funds to such entities to work with local communities and through appropriate Federal and State entities to prepare and implement plans for the increased protection of coral reef areas identified by the community and [the best scientific information available] *scientific experts* as high priorities for focused attention. The plans shall—

“(1) support attainment of 1 or more of the criteria described in section 204(g);

“(2) be developed at the community level;

“(3) utilize watershed-based approaches;

“(4) provide for coordination with Federal and State experts and managers; and

“(5) build upon local approaches or models, including traditional or island-based resource management concepts.

“(b) TERMS AND CONDITIONS.—The provisions of subsections (b), (d), (f), and (h) of section 204 apply to grants under subsection (a), except that, for the purpose of applying section 204(b)(1) to grants under this section, “[25 percent] 75 percent” shall be substituted for “50 percent”.

#### “SEC. 210. VESSEL GROUNDING INVENTORY.

“(a) IN GENERAL.—The Administrator may maintain an inventory of all vessel grounding incidents involving coral reef resources, including a description of—

“(1) the impacts to such resources;

“(2) vessel and ownership information, if available;

“(3) the estimated cost of removal, mitigation, or restoration;

“(4) the response action taken by the owner, the Administrator, the Commandant of the Coast Guard, or other Federal or State agency representatives;

“(5) the status of the response action, including the dates of vessel removal and mitigation or restoration and any actions taken to prevent future grounding incidents; and

“(6) recommendations for additional navigational aids or other mechanisms for preventing future grounding incidents.

“(b) IDENTIFICATION OF AT-RISK REEFS.—The Administrator may—

“(1) use information from any inventory maintained under subsection (a) or any other available information source to identify coral reef areas outside designated National Marine Sanctuaries that have a high incidence of vessel impacts, including groundings and anchor damage; and

“(2) identify appropriate measures, including action by other agencies, to reduce the likelihood of such impacts.

#### “SEC. 211. REGIONAL COORDINATION.

“The Administrator shall work in coordination and collaboration with other Federal agencies, States, and United States territorial governments to implement the strategies developed under section 203, including regional and local strategies, to address multiple threats to coral reefs and coral reef ecosystems such as coastal runoff, vessel impacts, and overharvesting.”.

(b) CLERICAL AMENDMENT.—The table of contents for the Coral Reef Conservation Act of 2000 (16 U.S.C. 6401 et seq.) is amended—

(1) by redesignating the items relating to sections 208 through 211 as relating to sections 211 through 214; and

(2) by inserting the following after the item relating to section 207:

“209. Community-based planning grants.

“210. Vessel grounding inventory.

“211. Regional coordination.”.

#### SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

Section 212 of the Coral Reef Conservation Act of 2000 (formerly 16 U.S.C. 6408), as redesignated by section 6, is amended—

(1) by striking “\$16,000,000 for each of fiscal years 2001, 2002, 2003, and 2004,” in subsection (a) and inserting “\$30,000,000 for fiscal year 2006, \$32,000,000 for fiscal year 2007, \$34,000,000 for fiscal year 2008, and \$35,000,000 for each of fiscal years 2009 through 2012, of which no less than 30 percent per year (for each of fiscal years 2006 through 2012) shall be used for the grant program under section 204 and up to 10 percent per year shall be used for the Fund established under section 205.”;

(2) by striking “\$1,000,000” in subsection (b) and inserting “\$2,000,000”; and

(3) by striking subsection (c) and inserting the following:

“(c) COMMUNITY-BASED PLANNING GRANTS.—There is authorized to be appropriated to the Administrator to carry out section 209 the sum of \$8,000,000 for fiscal years 2007 through 2012, such sum to remain available until expended.”; and

(4) by striking subsection (d).

Mr. MCCONNELL. Mr. President, I ask unanimous consent the amendments at the desk be agreed to, the committee-reported amendments, as amended, if amended, be agreed to, the bill, as amended, be read the third time and passed, the motion to reconsider be laid upon the table, and any statements relating to the bill be printed in the RECORD.

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

The amendments (Nos. 2677 and 2678) were agreed to, as follows:

#### AMENDMENT NO. 2678

(Purpose: To strike references to certain laws)

On page 4, strike lines 14 through 19, and insert the following:

“(2) leverage resources of other agencies.”.

#### AMENDMENT NO. 2677

(Purpose: To make it clear that damage from derelict fishing gear and vessel anchors and anchor chains warrants emergency response action)

On page 3, beginning in line 24, strike “impacts or other physical damage to coral reefs, including” and insert “impacts, derelict fishing gear, vessel anchors and anchor chains, or”.

The committee amendments were agreed to.

The bill (S. 1390), as amended, was read the third time, and passed as follows:

S. 1390

*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 “Coral Reef Conservation Amendments Act of 2005”.

#### SEC. 2. EXPANSION OF CORAL REEF CONSERVATION PROGRAM.

(a) PROJECT DIVERSITY.—Section 204(d) of the Coral Reef Conservation Act of 2000 (16 U.S.C. 6403(d)) is amended—

(1) by striking “GEOGRAPHIC AND BIOLOGICAL” in the heading and inserting “PROJECT”; and

(2) by striking paragraph (3) and inserting the following:

“(3) Remaining funds shall be awarded for—

“(A) projects (with priority given to community-based local action strategies) that

address emerging priorities or threats, including international and territorial priorities, or threats identified by the Administrator in consultation with the Coral Reef Task Force; and

“(B) other appropriate projects, as determined by the Administrator, including monitoring and assessment, research, pollution reduction, education, and technical support.”.

(b) APPROVAL CRITERIA.—Section 204(g) of that Act (16 U.S.C. 6403(g)) is amended—

(1) by striking “or” after the semicolon in paragraph (9);

(2) by striking paragraph (10); and

(3) by inserting after paragraph (9) the following:

“(10) promoting activities designed to minimize the likelihood of vessel impacts on coral reefs, particularly those activities described in section 210(b), including the promotion of ecologically sound navigation and anchorages near coral reefs; or

“(11) promoting and assisting entities to work with local communities, and all appropriate governmental and nongovernmental organizations, to support community-based planning and management initiatives for the protection of coral reef systems.”.

#### SEC. 3. EMERGENCY RESPONSE.

Section 206 of the Coral Reef Conservation Act of 2000 (16 U.S.C. 6405) is amended to read as follows:

##### “SEC. 206. EMERGENCY RESPONSE ACTIONS.

“(a) IN GENERAL.—The Administrator may undertake or authorize action necessary to prevent or minimize the destruction or loss of, or injury to, coral reefs or coral reef ecosystems from vessel impacts, derelict fishing gear, vessel anchors and anchor chains, or damage from unforeseen or disaster-related circumstances.

“(b) ACTIONS AUTHORIZED.—Action authorized by subsection (a) includes vessel removal and emergency restabilization of the vessel and any impacted coral reef.

“(c) PARTNERING WITH OTHER FEDERAL AGENCIES.—When possible, action by the Administrator under this section should—

“(1) be conducted in partnership with other Federal agencies, including the United States Coast Guard, the Federal Emergency Management Agency, the U.S. Army Corps of Engineers, and the Department of the Interior; and

“(2) leverage resources of other agencies.”.

#### SEC. 4. NATIONAL PROGRAM.

Section 207(b) of the Coral Reef Conservation Act of 2000 (16 U.S.C. 6406) is amended—

(1) by striking “and” after the semicolon in paragraph (3);

(2) by striking “partners.” in paragraph (4) and inserting “partners; and”; and

(3) by adding at the end the following:

“(5) activities designed to minimize the likelihood of vessel impacts or other physical damage to coral reefs, including those activities identified in section 210(b).”.

#### SEC. 5. REPORT TO CONGRESS.

(a) IN GENERAL.—Section 208 of the Coral Reef Conservation Act of 2000 (16 U.S.C. 6407) is amended to read as follows:

##### “SEC. 208. REPORT TO CONGRESS.

“Not later than March 1, 2007, and every 3 years thereafter, the Administrator shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Resources of the House of Representatives a report describing all activities undertaken to implement the strategy, including—

“(1) a description of the funds obligated by each participating Federal agency to advance coral reef conservation during each of the 3 fiscal years next preceding the fiscal year in which the report is submitted;

“(2) a description of Federal interagency and cooperative efforts with States and United States territories to prevent or address overharvesting, coastal runoff, or other anthropogenic impacts on coral reefs, including projects undertaken with the Department of Interior, Department of Agriculture, the Environmental Protection Agency, and the United States Army Corps of Engineers;

“(3) a summary of the information contained in the vessel grounding inventory established under section 210, including additional authorization or funding, needed for response and removal of such vessels;”

“(4) a description of Federal disaster response actions taken pursuant to the National Response Plan to address damage to coral reefs and coral reef ecosystems; and

“(5) an assessment of the condition of United States coral reefs, accomplishments under this Act, and the effectiveness of management actions to address threats to coral reefs.”.

(b) CLERICAL AMENDMENT.—The table of contents for the Coral Reef Conservation Act of 2000 (16 U.S.C. 6401 et seq.) is amended by striking the item relating to section 208 and inserting the following:

“208. Report to Congress.”.

#### SEC. 6. FUND; GRANTS; GROUNDING INVENTORY; COORDINATION.

(a) IN GENERAL.—The Coral Reef Conservation Act of 2000 (16 U.S.C. 6401 et seq.) is amended—

(1) by striking “organization solely” and all that follows in section 205(a) (16 U.S.C. 6404(a)) and inserting “organization—

“(1) to support partnerships between the public and private sectors that further the purposes of this Act and are consistent with the national coral reef strategy under section 203; and

“(2) to address emergency response actions under section 206.”;

(2) by adding at the end of section 205(b) 16 U.S.C. 6404(b)) “The organization is encouraged to solicit funding and in-kind services from the private sector, including nongovernmental organizations, for emergency response actions under section 206 and for activities to prevent damage to coral reefs, including activities described in section 210(b)(2).”;

(3) by striking “the grant program” in section 205(c) (16 U.S.C. 6404(c)) and inserting “any grant program or emergency response action”;

(4) by redesignating sections 209 and 210 as sections 212 and 213, respectively; and

(5) by inserting after section 208 the following:

##### “SEC. 209. COMMUNITY-BASED PLANNING GRANTS.

“(a) IN GENERAL.—The Administrator may make grants to entities who have received grants under section 204(c) to provide additional funds to such entities to work with local communities and through appropriate Federal and State entities to prepare and implement plans for the increased protection of coral reef areas identified by the community and scientific experts as high priorities for focused attention. The plans shall—

“(1) support attainment of 1 or more of the criteria described in section 204(g);

“(2) be developed at the community level;

“(3) utilize watershed-based approaches;

“(4) provide for coordination with Federal and State experts and managers; and

“(5) build upon local approaches or models, including traditional or island-based resource management concepts.

“(b) TERMS AND CONDITIONS.—The provisions of subsections (b), (d), (f), and (h) of section 204 apply to grants under subsection (a), except that, for the purpose of applying section 204(b)(1) to grants under this section,

‘75 percent’ shall be substituted for ‘50 percent’.

#### “SEC. 210. VESSEL GROUNDING INVENTORY.

“(a) IN GENERAL.—The Administrator may maintain an inventory of all vessel grounding incidents involving coral reef resources, including a description of—

“(1) the impacts to such resources;

“(2) vessel and ownership information, if available;

“(3) the estimated cost of removal, mitigation, or restoration;

“(4) the response action taken by the owner, the Administrator, the Commandant of the Coast Guard, or other Federal or State agency representatives;

“(5) the status of the response action, including the dates of vessel removal and mitigation or restoration and any actions taken to prevent future grounding incidents; and

“(6) recommendations for additional navigational aids or other mechanisms for preventing future grounding incidents.

“(b) IDENTIFICATION OF AT-RISK REEFS.—The Administrator may—

“(1) use information from any inventory maintained under subsection (a) or any other available information source to identify coral reef areas outside designated National Marine Sanctuaries that have a high incidence of vessel impacts, including groundings and anchor damage; and

“(2) identify appropriate measures, including action by other agencies, to reduce the likelihood of such impacts.

#### “SEC. 211. REGIONAL COORDINATION.

“The Administrator shall work in coordination and collaboration with other Federal agencies, States, and United States territorial governments to implement the strategies developed under section 203, including regional and local strategies, to address multiple threats to coral reefs and coral reef ecosystems such as coastal runoff, vessel impacts, and overharvesting.”.

(b) CLERICAL AMENDMENT.—The table of contents for the Coral Reef Conservation Act of 2000 (16 U.S.C. 6401 et seq.) is amended—

(1) by redesignating the items relating to sections 208 through 211 as relating to sections 211 through 214; and

(2) by inserting the following after the item relating to section 207:

“209. Community-based planning grants.

“210. Vessel grounding inventory.

“211. Regional coordination.”.

#### SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

Section 212 of the Coral Reef Conservation Act of 2000 (formerly 16 U.S.C. 6408), as redesignated by section 6, is amended—

(1) by striking “\$16,000,000 for each of fiscal years 2001, 2002, 2003, and 2004,” in subsection (a) and inserting “\$30,000,000 for fiscal year 2006, \$32,000,000 for fiscal year 2007, \$34,000,000 for fiscal year 2008, and \$35,000,000 for each of fiscal years 2009 through 2012, of which no less than 30 percent per year (for each of fiscal years 2006 through 2012) shall be used for the grant program under section 204 and up to 10 percent per year shall be used for the Fund established under section 205.”;

(2) by striking “\$1,000,000” in subsection (b) and inserting “\$2,000,000”; and

(3) by striking subsection (c) and inserting the following:

“(c) COMMUNITY-BASED PLANNING GRANTS.—There is authorized to be appropriated to the Administrator to carry out section 209 the sum of \$8,000,000 for fiscal years 2007 through 2012, such sum to remain available until expended.”; and

(4) by striking subsection (d).

PROVIDING AUTHORITIES FOR THE  
DEPARTMENT OF STATE

Mr. McCONNELL. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of H.R. 4436, which was received from the House.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 4436) to provide certain authorities for the Department of State, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. McCONNELL. I ask unanimous consent the bill be read the third time and passed, the motion to reconsider be laid upon the table, and any statements related to the bill be printed in the RECORD.

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

The bill (H.R. 4436) was read the third time and passed.

CENTENNIAL OF SUSTAINED IMMI-  
GRATION FROM THE PHIL-  
IPPINES TO THE UNITED STATES

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H. Con. Res. 218, which is at the desk.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The assistant legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 218) recognizing the centennial of sustained immigration from the Philippines to the United States and acknowledging the contributions of our Filipino-American community to our country over the last century.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. McCONNELL. I ask unanimous consent that an Akaka amendment at the desk be agreed to, the concurrent resolution, as amended, be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and any statements relating to the concurrent resolution be printed in the RECORD.

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

The amendment (No. 2679) was agreed to, as follows:

Beginning on page 4, line 8, strike "requests that the President issue a proclamation calling on" and insert "urges".

The concurrent resolution (H. Con. Res. 218), as amended, was agreed to.

The preamble was agreed to.

MEASURE READ THE FIRST  
TIME—H.R. 2892

Mr. McCONNELL. Mr. President, I understand there is a bill at the desk. I ask for its first reading.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 2892) to amend section 255 of the National Housing Act to remove the limitation on the number of reverse mortgages that may be insured under the FHA mortgage insurance program for such mortgages.

Mr. McCONNELL. I now ask for its second reading and, in order to place the bill on the calendar under the provisions of rule XIV, I object to my own request.

The PRESIDING OFFICER. Objection is heard. The bill will be read again on the next legislative day.

ORDER TO SUBMIT TRIBUTES

Mr. McCONNELL. Mr. President, I ask unanimous consent that Senators be permitted to submit tributes to Senator (Governor-elect) CORZINE for the RECORD until December 29, 2005, and that they be printed as a Senate document.

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

PREDISASTER MITIGATION PRO-  
GRAM REAUTHORIZATION ACT  
OF 2005

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be discharged from further consideration of H.R. 4324, and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will state the bill by title.

The legislative clerk read as follows:

A bill (H.R. 4324) to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to reauthorize the predisaster mitigation program, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the bill be read the third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the measure be printed in the RECORD.

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

The bill (H.R. 4324) was read the third time and passed.

ORDERS FOR FRIDAY, DECEMBER  
16, 2005

Mr. McCONNELL. Mr. President, I ask unanimous consent that when the

Senate completes its business today, it adjourn until 9:30 a.m. on tomorrow, Friday, December 16. I further ask that following the prayer and the pledge the morning hour be deemed to have expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and the Senate then proceed to a period of morning business for up to 30 minutes, with the Democrats in control of the first 15 minutes and the majority controlling the second 15 minutes.

I further ask that the Senate then resume consideration of the conference report to accompany H.R. 3199, the PATRIOT Act, and there then be 60 minutes of debate equally divided between the majority and the minority, followed by a vote on a motion to invoke cloture on the conference report.

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

PROGRAM

Mr. McCONNELL. Tomorrow morning at approximately 11 o'clock, the Senate will have a cloture vote on the PATRIOT Act conference report. Senators should anticipate additional votes during tomorrow's session as we work through these last must-do items for this session. Executive items will also be considered as we work to complete action before breaking for the Christmas holidays. We will likely be in session through the weekend.

I thank Senators for their patience and hard work to get through the final stretch of activity for this session of the 109th Congress.

ADJOURNMENT UNTIL 9:30 A.M.  
TOMORROW

Mr. McCONNELL. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order and as a further mark of respect to Senator William Proxmire.

There being no objection, the Senate, at 7:54 p.m., adjourned until Friday, December 16, 2005, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate December 15, 2005:

THE JUDICIARY

STEPHEN G. LARSON, OF CALIFORNIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE CENTRAL DISTRICT OF CALIFORNIA, VICE ROBERT J. TIMLIN, RETIRED.

DEPARTMENT OF JUSTICE

TERRANCE P. FLYNN, OF NEW YORK, TO BE UNITED STATES ATTORNEY FOR THE WESTERN DISTRICT OF NEW YORK FOR THE TERM OF FOUR YEARS, VICE MICHAEL A. BATTLE, RESIGNED.