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Senate

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

The PRESIDING OFFICER. Today's prayer will be offered by our guest Chaplain, Pastor Rickey Blythe, from the First Baptist Church of Flora, in Flora, MS.

PRAYER

The guest Chaplain offered the following prayer:

Our Father in Heaven, Thou Who art loving, compassionate, merciful, patient, and gracious to forgive, we desire to acknowledge You in all our ways, that You may direct our steps. Especially do we need You in the great moments of life. Graciously regard these Your servants. We acknowledge that ''righteousness exalteth a nation, but sin is a reproach to any people.'' May we desire character more than reputation, truth more than expediency, and honesty more than vanity. Help us to be the good Samaritan ready to help all in need regardless of race, face, or place. We pray that we may learn the peace that comes with forgiving and the strength we gain in loving. Let righteousness, justice, and mercy be carried along on the current of Thy love, mercy, and truth.

The men and women of this august body of elected officials carry a tremendous responsibility, and the sense of that responsibility is with them every day. We ask on their behalf that You would strengthen each one as they faithfully serve this great Republic in which we live. It has been a long week for most, and still there is more work to do. Grant unto these our Senators that they may find joy in the task. As the unseen guest of all these proceedings, may You light their way. At the end of the day, grant that we may live not in despair but, rather, in a desire for a better America, which will be brought to fruition not by our words but by our deeds.

We ask it in the Name of the Prince of Peace. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JOHN E. SUNUNU led the Pledge of Allegiance, as follows:

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, July 21, 2005.

To the Senate:

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

TED STEVENS,
President pro tempore.

Mr. SUNUNU thereupon assumed the Chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

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

SCHEDULE

Mr. FRIST. Mr. President, this morning, we will have 60 minutes of debate prior to the cloture vote on the nomination of Thomas Dorr to be Under Secretary of Agriculture for Rural Development. This is a nomination we have tried to clear for quite some time but were unable to do so because of an objection on the other side of the aisle. On Tuesday, I filed a cloture motion so we could bring this nomination to a vote. I do hope we can invoke cloture and subsequently vote affirmatively, with an up-or-down vote, on the President's nomination.

Once cloture is invoked and we are able to vote on the Dorr nomination—once we complete that—we will resume debate on the Defense authorization bill. Chairman WARNER and Senator LEVIN were on the Senate floor yesterday to consider amendments. There is one amendment pending at this point in time. I understand the other side is looking at that amendment. It is an amendment relating to armored personnel carriers. We will schedule that for a vote sometime early today, I hope.

We will be considering additional amendments over the course of today. We, of course, will be voting over the course of the afternoon on the Department of Defense authorization bill. We do need to make substantial progress on the bill this week. Therefore, we do ask Senators to come forward with their amendments.

75TH ANNIVERSARY OF THE DEPARTMENT OF VETERANS AFFAIRS

Mr. FRIST. Mr. President, today marks the 75th anniversary of the Department of Veterans Affairs.

On July 21, 1930, by Executive order, President Herbert Hoover consolidated our veterans programs into a new Federal agency. In the decades since, the Department has grown to become the second largest Federal agency. In 1989, its director was elevated to a Cabinet-level position. Today, the agency serves more than 25 million American military veterans.

The Department of Veterans Affairs offers the most comprehensive veterans assistance programs of any country in the world. Since the very first

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

settlers, America has provided for our veterans. Way back in 1636, the Pilgrims of Plymouth County agreed that members of the colony would support soldiers disabled in the battles with the Pequot Indians. One hundred forty years later, the Continental Congress moved to provide pensions for soldiers disabled by the War for Independence.

In the following decades, Congress enacted many more measures to support our retired service men and women. On June 22, 1944, Congress passed the GI bill, one of the most significant pieces of legislation in our country's history. Initially, the proposal to provide educational assistance to our vets was met with controversy. But after successful lobbying by the American Legion, the GI bill was passed unanimously in both Houses. It is now considered one of the most influential pieces of legislation enacted since the Homestead Act.

The GI bill has not only opened the door to higher education for millions of Americans, it has transformed America from a society of renters to a society of homeowners. It is the Veterans Affairs Department that has so successfully overseen this tremendous achievement.

An area of special interest to me is veterans health. Before coming to the Senate, I spent at least a portion of every week serving our veterans, through surgery, in the operating rooms in veterans hospitals, whether it was the veterans hospital in Nashville, TN, or when I was on the west coast. But literally every week, over the period of my entire professional career in medicine, I was serving veterans in a hospital, performing heart surgery and lung surgery and removing cancers from their chests.

The VA hospitals in particular have been successful in streamlining their health information technologies. As we reach out today, focusing on our overall health care system—our health care sector, I should say; we don't have a real health care system in this country—we are looking to the Veterans' Administration and their now over 20 years of experience of health information sharing throughout a system, hospital to hospital and hospital to physician's office.

A study published in the New England Journal of Medicine found that for a discrete set of measures, VA patients were in better health and received more recommended treatments as compared to Medicare patients treated on a fee-for-service basis.

According to the VA's own medical professionals, a computer system called VISTA is the key to their success. Sanford Garfunkel, the director of the VA Medical Center in Washington, DC, says:

> I'm proud of what we do here but it isn't that we have more resources. The difference is information.

I applaud the VA hospitals for their innovation and for their commitment. I had the opportunity, before coming to the Senate, to see it firsthand in the patients I took care of in our VA hospitals. Each day, the physicians and nurses in these hospitals are advancing that mission of the Veterans Affairs agency to—in the words of Abraham Lincoln—''care for him who has borne the battle, and for his widow and his orphan.''

It is in that spirit that I pledge to our Nation's veterans to pass legislation prior to the August recess to ensure that the veterans health care system has the resources necessary to care for those who have stood in harm's way for us.

Tonight, the VA Diamond Jubilee celebrations will be kicked off with an event at the DAR Constitution Hall here in Washington, DC. In the following weeks and months, our Nation's veterans, their families, and grateful communities will come together in celebrations all over the country to honor the deep contributions of our service men and women.

Thank you to the VA and to our women and men of the Armed Forces, including the new generation of veterans coming back from Afghanistan and Iraq. America owes you a great debt of gratitude, and we intend to—and will—continue that long and proud tradition of providing for our soldiers even after they have left the battlefield.

ORDER OF BUSINESS

Mr. FRIST. Mr. President, another way to honor our veterans is to honor the men and women currently serving in our military. Yesterday, we did begin the Defense authorization bill. I do urge my colleagues to come to the Senate floor now, this morning, with their amendments. We must do so now in order to complete this bill. We will consider the legislation amendment by amendment, in an orderly way. It is my intention, in consultation with the bill manager, to file cloture on this bill in short order. That should send a strong signal that now is the time for people to come to the Chamber with their amendments.

I also plan to offer an amendment to the Defense authorization bill to preserve our longstanding relationship between the Department of Defense and the Boy Scouts of America. This legislation is necessary—it is unfortunate it is necessary, but it is necessary—to press back on the lawsuits that seek to sever the ties between our military, which has hosted the Boy Scout Jamboree on its bases, and the Boy Scouts of America.

America's youth can learn so much from the men and women in uniform today: love of country, commitment to values, sacrifice for others. It is simply wrongheaded to conclude that Pentagon support of the Boy Scouts of America violates the establishment clause. It is time to return some common sense to the courts.

On Monday, July 25, thousands of Scouts from all around the country will begin arriving at Fort AP Hill. Let's protect that relationship. We have an opportunity to do so. It is time for us to act.

We will also be considering gun liability legislation before we leave. Given the profusion of litigation, the Department of Defense faces the very real prospect of outsourcing sidearms for our soldiers to foreign manufacturers. Let me repeat, given the amount, the profusion of litigation, the Department of Defense faces the real prospect of having to outsource sidearms for our soldiers to foreign manufacturers.

The Baretta Corporation, for instance, makes the standard sidearm for the U.S. Armed Forces. They have the long-term contracts to supply these pistols to our forces in Iraq. Recently, the company had this to say:

> The decision of the D.C. Court of Appeals . . . has the likelihood of bankrupting, not only Baretta U.S.A., but every maker of semiautomatic pistols and rifles since 1991.

Without this legislation, it is possible the American manufacturers of legal firearms will be faced with the real prospect of going out of business, ending a critical source of supply for our Armed Forces, our police, and our citizens.

The legislation prohibits one narrow category of lawsuits: suits against the firearms industry for damages resulting from the criminal or unlawful misuse of a firearm or ammunition by a third party.

Over two dozen lawsuits have been filed on a variety of theories, all seeking the same politically motivated goal: putting our industry out of business. This is wrong.

These frivolous suits threaten a domestic industry that is critical to our national defense, jeopardize hundreds of thousands of jobs, and put at risk law-abiding citizens who have guns for recreational use.

Many support this legislation, including the Fraternal Order of Police. I am hopeful, with the cooperation of Members, we can complete all action on this legislation before the recess.

Mr. President, I yield the floor.

RESERVATION OF LEADER TIME

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

EXECUTIVE SESSION

NOMINATION OF THOMAS C. DORR TO BE UNDER SECRETARY OF AGRICULTURE FOR RURAL DEVELOPMENT—Resumed

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to executive session for the consideration of Calendar No. 101, which the clerk will report.

The legislative clerk read the nomination of Thomas C. Dorr, of Iowa, to be Under Secretary of Agriculture for Rural Development.

The ACTING PRESIDENT pro tempore. Under the previous order, there will be 1 hour for debate, with the time equally divided between the majority leader or his designee and the Senator from Iowa, Mr. HARKIN, or his designee.

The majority leader is recognized.

HEALTH INFORMATION TECHNOLOGY

Mr. FRIST. Mr. President, on leader time—the managers will be coming to the floor—one final thought.

I am pleased to report that we are making progress on an issue which I mentioned in my previous remarks on information technology. We are working together in a strongly bipartisan way to improve our health care system, to get rid of waste and abuse and ultimately save lives and improve quality by promoting and making it easy to use the protected electronic health record. Yesterday, the Health, Education, Labor, and Pensions Committee reported out the Wired for Health Care Quality Act that was introduced by myself, and Senators ENZI, KENNEDY, and CLINTON. The four of us have been working together aggressively with the HELP Committee.

Soon, at the urging of Congress, the administration will make the Veterans' Administration's Electronic Health Record System, called VISTA, available to health care providers free of charge. Making that system available will be hugely beneficial, with tens of thousands of physicians who treat seniors being able to harness the power of having this electronic health record. It will improve the quality of care, the efficiency of care that they provide. It will ultimately pull down cost, and it will get rid of waste within the system.

There is much more to be done. That is why I look to rapidly move the HELP-reported bill that will hopefully be before us soon, the Wired for Health Care Quality Act. It also will protect patient privacy and promote secure exchange of lifesaving health information. It will allow for the rapid adoption of standards that will allow health information technology systems to communicate, one with the other. It will allow us to seamlessly integrate the health information technology standards. It will reduce waste and inefficiency and put patients back at the heart of the health care system.

Mr. President, the managers are in the Chamber. I yield the floor.

The PRESIDING OFFICER (Mr. ISAKSON). The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I yield myself such time as I might consume.

I rise in support of Tom Dorr, the President's nominee for Under Secretary of Rural Development at USDA.

Tom is a fourth generation ''dirt under the fingernails'' family farmer. He has also been a small businessman and understands the demands and challenges of doing business in rural America.

Tom Dorr is a family man, having been married to Ann for 35 years. They have a son and a married daughter and a beautiful granddaughter, all who live in Iowa.

Tom is a community leader, having served as the chairman of the board for the Heartland Care Center, a cooperative care center in Marcus.

Tom was instrumental in starting the Iowa Corn Growers Association and served in various leadership roles before moving on to leadership at the National Corn Growers Association.

Tom served on the board of the Chicago Federal Reserve and has also served on the Iowa Board of Regents, which is truly one of the most prestigious jobs in our State, a position now held by the wife of my Senate partner from Iowa, TOM HARKIN. Mrs. Harkin serves on that prestigious body.

Tom's leadership ability has been demonstrated and utilized to the benefit of his community and our State time and time again.

Tom has dedicated a good portion of his life to serving Iowa's rural population and improving Iowa's rural economy.

Tom Dorr has the financial expertise and business savvy required to run an organization as large and complicated as USDA's Rural Development.

Rural Development is basically a large bank, with a loan portfolio of almost $90 billion. That is as big as Wells Fargo or Chase Manhattan and bigger than most of the banks in America. This agency has 7,000 employees located in over 800 offices across the country.

Not just any person can move from the farm and smoothly take over an organization of this size. But Tom Dorr did exactly that. Tom Dorr ran Rural Development as the Under Secretary for 16 months—from August 2002 until December 2003.

Because of Tom's recess appointment, we have the unique opportunity to examine his track record.

I have heard from many people at USDA about Tom Dorr's accomplishments. This news doesn't come only from other political appointees, it also comes from career staff and groups who originally had concerns.

Folks tell me about his leadership, his vision, his intellect and most importantly, his commitment to rural America. When I hear of comments like this from his peers and those who worked with him, I take particular note.

Let me describe a few of Tom's accomplishments while he was the Under Secretary for Rural Development:

No. 1, he expedited the release of $762 million of water and wastewater infrastructure funds provided in the 2002 farm bill in just 3 months.

No. 2, he led the effort to complete the rulemaking process in order that the $1.5 billion broadband program could begin taking applications this year. He believes that if Americans are to live locally and compete globally, that it is as imperative to wire the country for technology access as it was to provide electricity nationwide 60 years ago.

No. 3, in order to facilitate the review of $37 million in value-added development grants, he creatively used private sector resources to expedite the process.

No. 4, in order to deliver the financial grants authorized through the Delta Regional Authority, he helped develop and get signed a memorandum of understanding between Rural Development and the Delta Regional Authority. This will allow Rural Development to assist in delivering joint projects at no added cost to the Delta Regional Authority.

No. 5, he facilitated the development of a memorandum of understanding, signed by Secretaries Veneman and Martinez, between the Department of Agriculture and the Department of Housing and Urban Development, that is focused on better serving housing and infrastructure needs.

No. 6, he has developed a series of initiatives with HUD that will allow Rural Development to more cost effectively meet the housing needs of rural America. These have allowed USDA to provide greater access for rural American housing, but especially minorities living in rural America in fulfillment of the President's housing initiative.

No. 7, he has initiated a review of the Multi-family Housing Program. This includes the hiring of an outside contractor to conduct a comprehensive property assessment to evaluate the physical condition, market position, and operational status of the more than 17,000 properties USDA has financed, all while determining how best to meet the needs of low-income citizens throughout rural America.

No. 8, he has initiated a major outreach program to insure that USDA's Rural Development programs are more easily made available to all qualified individuals, communities, and organizations. This marketing and branding initiative has also played an important role in changing the attitude of employees to concentrate on customer service and proactive outreach, with emphasis on reaching out to minorities.

Although this is an incomplete list of his accomplishments, it is easy to see that as Under Secretary, Tom Dorr did a great job in the short 15 months he served at Rural Development.

Clearly, I support Tom and believe he is the right person for the job, but let me read a few comments from the folks that worked with Tom when he was Under Secretary.

First is the Mortgage Bankers Association, a much respected national organization in the banking industry:

> We support Mr. Dorr's nomination as Under Secretary for Rural Development because we have found him to be an engaged leader with a true commitment to the housing and community development needs of rural America—Jonathan L. Kempner, President/CEO.

This organization certainly is able to recognize if someone has the ability to

understand the financial issues and have the skills needed to run USDA Rural Development.

The next quote is from the Council for Affordable and Rural Housing, a very respected organization serving the housing industry.

On behalf of our members throughout the country, we are writing to you today in support of the nomination of Thomas C. Dorr to be the Under Secretary for Rural Development . . . There is a need for strong leadership and determination to forge long-term solutions to preserving this important investment in rural housing—Robert Rice, Jr., President, Council for Affordable and Rural Housing.

I have many more letters, probably 50 or more, from organizations all across the country asking us to confirm Mr. Dorr. In addition, I have a letter signed by many of the leading national agricultural organizations such as the National Corn Growers Association and American Farm Bureau Federation.

There is another issue that I feel compelled to address today. During the 2002 hearing and in the floor debate in the Senate, concerns were expressed regarding Tom's position on minority issues. I would like to reference letters for the record this morning that should alleviate any lingering concerns.

These letters are from minority organization leaders expressing their support for Tom Dorr's confirmation.

The first letter is from the Federation of Southern Cooperatives. You may recall that they had a representative testify against Mr. Dorr at the 2002 Hearing. I will read a quote from their executive director, Ralph Page:

I am personally endorsing Tom Dorr's nomination because of his deep interest in rural development. He has made several visits to the communities within the Federation's network and has a great understanding of the needs of rural poor communities. He is the man for the job

Here is another one:

Mr. Dorr [has] made great accomplishments in the position and has earned the trust from rural Americans to carry out this mission—Dexter L. Davis, President, Northeast Louisiana Black Farmers and Landowners Associations.

Here is another one:

I met Mr. Dorr in Washington, DC, when he was serving as the acting Under Secretary for Rural Development and was impressed with his passion for small farmers. Quite frankly, when I first met Tom, I was not expecting him to be particularly supportive of our needs. But over the years that we have worked together, I have found him to be a great ally and a tireless fighter for the causes that we both support—Calvin R. King Sr., President/CEO, Arkansas Land and Farm Development Corporation.

Here is another one:

We hold Mr. Dorr as a valuable asset to our organization and its future. He is one of the individuals that has played a major role in bridging the gap between the small limited resource and minority producers for our organization and the USDA—Fernando Burkett, Black Farmers & Agriculturalists Association, Arkansas Chapter.

I have many more letters that I could read, but I think it is easy to understand the point. Thankfully, these organizations were concerned enough to come forward after they had a chance to get to know and work with Tom.

In addition, I also want to read portions of a letter to Mr. Dorr by Dr. Dennis Keeney, the former head of the Leopold Center at Iowa State University. Many of you will recall Dr. Keeney was asked to testify against Mr. Dorr in 2002:

I write to apologize for appearing at your hearing in 2002. It was something I should have said no to right off, but did not. Then it sort of drug on and I had to go through with the appearance or lose face. That still did not make it right. . . . It was during the reading of this book (The Natural, the Misunderstood Presidency of Bill Clinton) that I realized that I had become part of the mudslinging and character assassination. This is not the type of legacy I would like to leave. You have been misunderstood, and made a poster child for big agriculture. I am sure that has not particularly bothered you. But, I have not been proud of my little part in helping paint that picture—Dr. Dennis Keeney, Emeritus Professor, Iowa State University, in a letter to Tom Dorr, June 25, 2003.

I thank Dr. Keeney for sharing this letter and for setting the record straight.

In closing, I ask my colleagues to set aside the politics of the past and concentrate on the real issues affecting rural America and what Tom Dorr would do if confirmed for this important job at USDA.

We have neglected our duty by going 4 years without having a confirmed Under Secretary for Rural Development at USDA. We have had four different individuals serving in the Under Secretary position, and none of them were confirmed by the Senate. That is not a good way to run a business, or a large and complicated agency as important to our States as USDA Rural Development.

Tom has been under a microscope since his original nomination and everyone who has looked in the lense has offered glowing praise for his work and accomplishments.

Thankfully, we do not need to speculate about whether Tom would do a good job or not, Tom has already demonstrated he has done and will likely continue to do a great job for rural America in the role of Rural Development Under Secretary.

How often do we actually get to judge a nominee by their proficiency in the job? Tom is a sure thing. Rural America is regaining its economic, social and cultural momentum. It would be a shame to deprive it of leadership at this critical juncture.

We have a unique second chance today. I hope we will set aside our differences and do what is best for our rural citizens, our States, and our country.

The PRESIDING OFFICER. Who yields time?

Mr. GRASSLEY. The Senator is asking to speak on the nomination?

Mr. THOMAS. Yes.

Mr. GRASSLEY. I yield 2 minutes to the Senator from Wyoming.

Mr. THOMAS. Mr. President, I simply wanted to rise to give my endorsement to Tom Dorr, who has been nominated for Under Secretary for Rural Development. This agency is important to States such as Wyoming. We have had some experience working with Mr. Dorr and we are pleased with that.

Many of the groups from my State have endorsed him, including the Cattleman's Association, the American Farm Bureau, the Farm Council, and so on. I hope we will give the consideration and approval this gentleman continues to deserve in this area. He has done a great job. I hope he will have a chance to continue.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa, Mr. HARKIN, is recognized.

Mr. HARKIN. Mr. President, parliamentary inquiry: What is the parliamentary situation we face right now?

The PRESIDING OFFICER. Sixty minutes equally divided between the junior and senior Senators from Iowa, followed by a cloture vote. The Senator from Iowa has 30 minutes.

Mr. HARKIN. Mr. President, the nomination of Thomas C. Dorr for the position of Under Secretary of Agriculture for Rural Development has been controversial from the outset. It has generated a great deal of concern and opposition and very serious questions. The controversy concern, and questions have continued from Mr. Dorr's nomination in the 107th Congress, to a recess appointment, to his renomination in the 108th Congress, and his renomination this year.

I regret very much that so many problems have arisen regarding the nomination of a fellow Iowan. As any of us would feel, it is a matter of pride for me when somebody from my State is nominated for a high position in our Federal Government, regardless of party. This is the first time in my 20 years in the Senate that I have opposed a nomination of a fellow Iowan. Through the Reagan years, the first Bush years, it didn't matter. Regardless of party or about philosophy. Some were a lot more conservative than I am, and I never opposed one of them.

Like most Senators, I believe the President should receive a good deal of deference regarding nominations to Cabinet and sub-Cabinet positions. However, our Constitution doesn't make us a rubberstamp. We have a responsibility to review nominees—not to decide whether the nominee would be our first choice but whether the nominee at least meets certain standards for the job.

As a member of the Committee on Agriculture, Nutrition, and Forestry, I have a serious responsibility concerning nominations. I have worked with Chairman CHAMBLISS, former chairmen Senators COCHRAN and LUGAR, to move nominees through the Agriculture Committee and through the floor fairly and expeditiously. I

have done so both as chairman and as ranking member. That has been true for nominees of both parties.

This is not a minor nomination. The Under Secretary for Rural Development is critically important to family-size farms and ranches and to smaller communities all across America. The responsibilities include helping build water and wastewater facilities; financing decent, affordable housing; supporting electric power and rural businesses, such as cooperatives. They also include promoting community development and helping to boost economic growth, creating jobs, and improving the quality of life in rural America.

Given those responsibilities, one of this nominee's first controversies arose when Mr. Dorr's position on agriculture was reported in the New York Times of May 4, 1998. He proposed replacing the present-day version of the family farm with 225,000-acre mega farms, consisting of three computer-linked pods. Well, with the average Iowa farm at about 350 acres, this vision certainly was radical, to say the least.

On another occasion, at a 1999 conference at Iowa State University, Mr. Dorr criticized the State of Iowa for failing to move aggressively toward very large vertically integrated hog production facilities. The record also shows Mr. Dorr verbally attacking the ISU extension service and harassing the Director of the ISU Leopold Center for Sustainable Agriculture. I ask, is this really the attitude and the vision for agriculture and rural communities that the Under Secretary for rural development ought to bring to the job?

The person in that position must also be responsive and sensitive to the demands of serving America's very diverse rural citizens and communities. That requirement cannot be overemphasized in a department that has been plagued with civil rights abuses of both employees and clients.

Here is what Mr. Dorr had to say about ethnic and religious diversity at the Iowa State University conference:

I know this is not at all the correct environment to say this, but I think you have to perhaps go out and look at what you perceive are the three most successful rural economic environments in this State. And you will notice when you get to looking at them that they are not particularly diverse, at least not ethnically diverse. They are very diverse in their economic growth, but they have been very focused and nondiverse in their ethnic background and their religious background, and there is something there, obviously, that has enabled them to succeed and to succeed very well.

Should we have as Under Secretary of Rural Development someone who lacks the judgment to avoid uttering such intentionally provocative and divisive remarks? How does this sort of insensitivity serve the urgent need to reverse USDA's poor civil rights record?

Let me also point to a letter Mr. Dorr sent me in October of 1999 to complain about charges on his telephone bill for the national access fee and the Federal universal service fee. Now, the proceeds from these relatively modest fees go to help provide telephone service and Internet service to rural communities, hospitals, and schools—including, I might add, Mr. Dorr's hometown, Marcus, IA, school district. It strikes me as very odd that Mr. Dorr would have the responsibility for helping rural communities obtain telecommunications services and technology when he was so vehemently opposed to a program that serves that very purpose.

Here is what he said about the national access fee and the Federal universal access fee:

With these kind of taxation and subsidy games, you collectively are responsible for turning Iowa into a State of peasants, totally dependent on your largesse. But should you decide to take a few side trips through the Iowa countryside, you will see an inordinate number of homes surrounded by 5 to 10 cars. The homes generally have a value of less than $10,000. This just confirms my ''10 car $10,000 home'' theory. The more you try to help, the more you hinder. The results are everywhere.

Those were Tom Dorr's own words in writing to me. Time and again, we gave Mr. Dorr the opportunity to explain this, but he could not explain this broad attack against help to rural communities.

In fact, it seems clear that Mr. Dorr was degrading the very people, the very rural communities he is nominated to serve at USDA. He was making light of lower income Americans in rural communities who are struggling to make a living and get ahead and declaring that it is counterproductive to try to help them.

When he appeared before our committee, I asked him about it, and he could not explain it. So I asked Mr. Dorr: Mr. Dorr, have you ever gotten any Government help? He did not respond.

I said: Did you ever get a guaranteed student loan when you went to college? He admitted that he had.

I asked him if he had received any Government-backed loans for farming operations?

Yes.

Had he ever gotten any farm payments from the Federal Government for his farming operations?

Yes, he had.

I listed a number of ways in which the Federal Government had helped him. And I asked rather rhetorically if it hindered him.

It seems to me Mr. Dorr was quite willing for the Federal Government to help him get ahead, but if the Federal Government is going to help someone of low income, living in a rural area who is in poverty, he says, no, if you help them, you just hinder them. Is this the kind of person we want in charge of rural development—I think to do any job well one has to believe in its value—if the very purposes of USDA's rural development programs are anathema to the beliefs and the philosophy of Mr. Dorr?

Furthermore, the nominee's record shows that he prefers to provoke, bruise, and offend rather than to seek cooperation and common ground. This simply is not an acceptable approach for the U.S. official in charge of rural development.

As with any nominee, the Senate has a responsibility also to examine Mr. Dorr's financial background and dealings. Former Secretary Veneman put it perfectly when she wrote to me:

Any person who serves this Nation should live by the highest of standards.

So let us see whether Mr. Dorr meets the standards articulated by Secretary Veneman on behalf of the administration.

Mr. Dorr was the self-described president and chief executive officer of Dorr's Pine Grove Farm Company, of which he and his wife were the sole shareholders. In that position, as president and CEO, Mr. Dorr created an exceedingly complex web of farming business arrangements. This chart illustrates all of the various farming operations in which Mr. Dorr was involved.

Mostly you will hear about a couple of trusts: the Melvin Dorr trust and the Harold Dorr trust. There are also Seven Sons, there is the Iotex Farm Company, there is Ned Harpenau, Diamond D Bar. There is a complex web of different operations.

His operations included land in two trusts set up in 1977, one by his father, Melvin Dorr, and one by his uncle, Harold Dorr. For a time, Tom Dorr, through his company, Dorr's Pine Grove Farm, farmed the land held by the trusts under 50–50 crop share leases, with half of the crop proceeds and half of the farm benefits going to Tom Dorr's Pine Grove Farm and half going to the trust.

Then, beginning in 1988, Mr. Dorr filed new documents with USDA indicating that each trust had a 100-percent share of the crop proceeds and were entitled to receive 100 percent of the program benefits.

Tom Dorr, acting through Dorr's Pine Grove Farm, still farmed the land as before, but he claimed the arrangement had become ''a custom farming arrangement.''

At some point, one of the trust beneficiaries, Mr. Dorr's brother, Paul Dorr, began to question why the custom farming fees were so high and out of line with other custom farming fees in that area. Paul Dorr taped a telephone conversation with Tom Dorr that corroborated his suspicions that Tom Dorr was engaged in misrepresentation.

Paul Dorr contacted the Farm Service Agency and persisted in his request for an investigation. Finally, in the spring of 1996, the Farm Service Agency conducted a review of the Melvin G. Dorr irrevocable family trust. The Farm Service Agency found that the forms filed and signed by Thomas C. Dorr for the 1993, 1994, and 1995 crop years misrepresented the facts, and the trust was required to pay $16,638 to USDA. That is just one—that is, the

Melvin G. Dorr trust had to repay that amount. That is the result of an investigation in 1996.

In the fall of 2001, after Mr. Dorr had been nominated for this position, the USDA Office of Inspector General conducted a further review of Mr. Dorr's affairs. The OIG asked the Farm Service Agency to review the Harold E. Dorr irrevocable family trust. Once again, that trust then was found to be in violation of program rules because of the misrepresentation on USDA forms signed by Thomas Dorr. So now that trust had to pay USDA $17,152 in benefits and interest for what was paid out to them in 1994 and 1995. So a total of $33,782 was paid back by the two trusts.

USDA investigations determined that for the years examined, the forms signed by Tom Dorr misrepresented the trusts' shares in the crop proceeds. They found, in reality, the land in both of those trusts was farmed on a 50–50 crop share basis, it was not custom farming. The trusts, therefore, were not eligible for the 100-percent share of the program benefits they had received because Tom Dorr had misrepresented the actual farming arrangement.

The records show that Mr. Dorr knowingly carried on a crop share lease arrangement between his farm, Pine Grove Farm, and each of the trusts, even as he represented to the Farm Service Agency that it was custom farming, not crop share leases.

How do we know this? We know this because in a telephone conversation that Mr. Paul Dorr taped, and which I played for the committee in the hearing this spring, Tom Dorr is on that tape, in his own words, admitting that the so-called custom farming arrangement was, in fact, a crop share. And here is the transcript. This is a partial transcript of that conversation.

Paul Dorr:

It, this was all done that way in an effort to . . .

Tom Dorr interrupts him and said:

. . . avoid the $50,000 payment limitation to Pine Grove Farms . . .

Mr. Dorr's operation.

Paul Dorr:

And . . . to, it is to your benefit to your other crop acres . . .

Tom Dorr:

. . . that's right. . . .

Tom Dorr filed that way in order to avoid the $50,000 payment limitation, and he knew full well what he was doing.

This is the payment limits connection. Part of the farm program payments for land in these two trusts should have been paid directly to Tom Dorr's Pine Grove Farm under what was actually a crop share arrangement. Those payments would have counted toward Mr. Dorr's payment limitation. Instead, Mr. Dorr misrepresented to USDA the operation; therefore, the money was funneled through the trusts and not counted against Mr. Dorr's payment limitation.

Indeed, the Farm Service Agency review of Dorr's Pine Grove Farm Company found that Mr. Dorr's misrepresentations in signing up the trust land in the farm program ''had the potential to result in Pine Grove Farm receiving benefits indirectly that would exceed the maximum payment limitation.''

Federal law provides criminal penalties for knowingly making false statements for the purpose of obtaining farm program payments. So the USDA Office of Inspector General referred the Dorr matter to the U.S. attorney for the Northern District of Iowa.

In February of 2002, that office declined criminal prosecution and any affirmative civil enforcement due to the fact that the statute of limitations had run.

I have a copy of that letter. I ask unanimous consent to print the letter in the RECORD.

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

U.S. DEPARTMENT OF JUSTICE, ATTORNEY, NORTHERN DISTRICT OF IOWA,

February 7, 2002.

Re Thomas C. Dorr, Marcus, Iowa PS–0301–616.

DALLAS L. HAYDEN,
U.S. Department of Agriculture, Great Plains Region, 5799 Broadmoor, Suite 700, Mission, KS.

DEAR MR. HAYDEN: After reviewing the Investigative report dated September 26, 2001, regarding the above subject and our telephone discussion of this date, we are, declining criminal prosecution and any affirmative civil enforcement due to statute of limitation issues.

Sincerely,

CHARLES W. LARSON, SR.,
United States Attorney.
JUDITH A. WHETSTINE,
Assistant United States Attorney.

Mr. HARKIN. Mr. President, that is the letter from the U.S. Attorney's Office saying they were not moving ahead because the statute of limitations had run and they could not do anything—not that they had found Mr. Dorr innocent, but the statute of limitations had run.

Mr. Dorr's arrangement with these two trusts was only part, as I pointed out, of his extensive farming operations. Based on the seriousness of the violations involved, it was our responsibility to exercise due diligence regarding other parts of Mr. Dorr's complex farming arrangements and to take at least a look at earlier years that had not been involved in these investigations.

Again, whatever the Farm Service Agency or the Office of Inspector General did or did not pursue, that is not the end of the matter. We have the responsibility to look into this because fraud is fraud, and it is serious.

Shortly after the March 2002 nomination, Senator DAYTON, a member of our committee, wrote a letter asking for other information on the other financial entities with which Mr. Dorr was involved in 1988 to 1995. We never heard back. So I wrote to Secretary Veneman on May 17 and on June 6, 2002, seeking a response to the committee's questions. We finally received a response to the letter and some materials, dated June 27, 2002.

I ask unanimous consent to have these letters from Senator DAYTON and me, along with the transcript of the audiotape printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, March 21, 2002.

Hon. TOM HARKIN,
Chairman on Agriculture, Nutrition, and Forestry, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I write to express my very serious concerns regarding the nomination of Mr. Thomas C. Dorr for the post of the U.S. Department of Agriculture's Under Secretary for Rural Development. As you know, on the morning of his March 6th hearing before your Committee, The Des Moines Register published an investigative story that Mr. Dorr had been forced to repay the USDA's Farm Service Agency almost $ 17,000 for improper payments between 1983 and 1995. The news article also cited passages from a taped telephone conversation in 1995, reportedly between Mr. Dorr and his brother, in which Mr. Dorr stated that he was intentionally deceiving FSA's predecessor agency, the Agricultural Stabilization and Conservation Service, about his farming operation's financial arrangements with a family trust of which he was a trustee with the sole power of attorney.

In this taped conversation, Mr. Dorr informed his brother that he had certified it to be a ''custom fee'' arrangement, when, in fact, it was a ''crop share'' arrangement. The reason he did so was, he said, ''To quite frankly avoid minimum payment limitations.''

When his brother asked whether this reporting was legal, Mr. Dorr replied, ''I have no idea if its. . . I have no idea. I suspect if they'd audit and if somebody decided to come in and take a look at this thing, they could probably, if they really wanted to, raise hell with us . . .

''. . . Uh, that custom fee is actually not the custom fee. That's crop rental income to me. That's my share of the income. . . .''

According to The Des Moines Register, the ASCS received a complaint about this financial arrangement and subsequently received a copy of the reported tape. After their investigation of the financial arrangement with M.G. Dorr Irrevocable Family Trust for the years 1993–1995, the ASCS reportedly determined that it was a crop share arrangement, rather than a custom fee arrangement, which Mr. Dorr, acting with power of attorney for the trust had certified to be the case.

However, Mr. Dorr himself directly contradicts his certification in the taped conversation with his brother. In his own words, Mr. Dorr knowingly and intentionally misrepresented this farming arrangement in order, as he said, ''to quite frankly avoid minimum payment limitations.''

During my questioning of Mr. Dorr at the hearing, he contradicted his own reported statements during the taped conversation. He contended that the arrangement with the trust was a custom fee, rather than a crop share arrangement. At one point, he stated, ''There was not a filing that we were a custom fee operation or anything like that.'' This assertion is at variance with his reported certifications annually to ASCS attesting to a custom fee arrangement. I subsequently noted that the M.G. Dorr Irrevocable Family Trust was originally established and

operated and farmed in a contract share arrangement, until 1987 or 1988, when Mr. Dorr changed the report to a custom fee arrangement. Mr. Dorr responded, ''That is correct, and that was at the request of my uncle. I did not initiate that.''

When I asked him about the determination by FSA that the Trust was ''in violation of shares'' in 1993, 1994, and 1995, Mr. Dorr replied, ''Well, Senator, I would simply reiterate that the county committee originally reviewed this, decided there was, in fact, no violation of shares. Then, ultimately, it was taken to the state committee by someone, I do not know who, when they determined—frankly, I view this matter, $17,000, it is not a huge sum of money, and I look at it, to some extent, as a tax audit.''

I replied, ''Mr. Dorr, I look at it differently. I look at it, and I think any farmer in Minnesota who deals with these programs would look at it for what you, yourself, in these tapes said it was: a clearly intended attempt to violate, to circumvent, or to evade these payment limitations.''

I continued, ''I cannot imagine that somebody could be put in place of administering this agency, which is responsible for all of these programs, somebody who has devoted himself to try to circumvent the very regulations and laws which were set up just for this reason, and where you, yourself, knowingly falsified statements and documents that were submitted to the Federal Government, attesting to an arrangement that you, yourself were saying at the time did not exist, that a different arrangement existed. That is how I view it, sir.''

For some inexplicable reason, FSA reviewed only one trust for only the years 1993 through 1995. In his testimony, Mr. Dorr stated that there were actually seven different entities established by Dorr family members to own and operate approximately 2,200 acres of farmland in Iowa. During my questioning, he acknowledged that his farming operation had ''the same arrangement'' with the Harold Dorr Trust. Evidently, there are other trusts or entities, perhaps even more than seven, for which there have been no financial audits. Even the arrangement with the trust which was found to be in violation during three years was not further audited for the preceding years, since Mr. Dorr himself reportedly changed the certification from a crop share to a custom fee arrangement.

Reportedly, an end of the year review (EOYR) was initiated regarding Mr. Dorr's own farming operation. However, there is evidently no record of that review being completed, nor is there any report thereof.

Based upon this very incomplete review, and given the definite and disturbing discrepancies cited in the one and only review to date, I believe very strongly, and I ask you, Mr. Chairman, that the Committee not vote on Mr. Dorr's nomination until all of these other financial entities and their financial transactions involving either the receipt of or the disbursement of federal payments through USDA programs have been reviewed during the years in question, approximately 1988 through 1995. I believe that a further review is necessary to ascertain that all these financial arrangements which were supposedly revised after the FSA determination, did in fact occur, and they have operated properly thereafter.

Regardless of these particular findings, Mr. Chairman, I remain deeply troubled by this nomination. However, I will reserve my final judgment until this important information is made known to me and to the other Members of this Committee.

Thank you in advance for your consideration of my request.

Sincerely,

MARK DAYTON.

TRANSCRIPT OF AUDIO TAPE PROVIDED UPON REQUEST FROM THE IOWA STATE FSA OFFICE, IDENTIFIED AS: COPY OF TAPE LABELED ''EXCERPTS FROM CONVERSATION BETWEEN TOM DORR AND PAUL DORR 6/14/95''

The parties are identified as Person 1 (assumed to be Paul Dorr) and Person 2 (assumed to be Tom Dorr).

The following are excerpts from a telephone conversation that was recorded on June 14, 1995, occurring between Tom Dorr and Paul Dorr.

PERSON 1: I, I guess I'd like to know as a beneficiary what . . . you know, I know, I understand your desire to keep this all out fr. . ., in the government's eyes, um, but I still think there should be some sort of explanation as to how these, you know exactly how this percentage, allocation is broken out, how its, how its applied each year.

PERSON 2: 50/50. I charge the Trust their half of the inputs, not the machine work. And I charge the, I charge the, I take that back, the only machine charge, the machine charge that I have charged always is $12.50 an acre for combining. That was an arrangement that was entered into when dad and Harold were still alive because of the high cost of combines.

PERSON 1: Yeah . . .

PERSON 2: Beside from that, uh, I take that back, and they also, and we have always charged the landlords a nickel a bushel to haul the grain into the elevator.

PERSON 1: Um Hmm . . .

PERSON 2: Beside those two machine charges everything is done on a 50/50 normal crop share basis, it always has. And, and, and frequently, quite frankly, I've, I've kicked stuff in, or, you know, if there is a split that isn't quite equal I always try to err on the side of the, on the side of the Trust. So, that's, that's the way its been, that's the way it always has been and that's the way these numbers will all resolve themselves if somebody wants to sit down and go through them that way;

PERSON 1: It, this was all done that way in an effort to . . .

PERSON 2: . . . avoid the $50,000 payment limitation to Pine Grove Farms.

PERSON 1: And . . . to, it is to your benefit to your other crop acres . . .

PERSON 2: . . . that's right . . .

PERSON 1: . . . that, that um, this arrangement is set up in, in such a fashion?

PERSON 2: That's correct.

PERSON 1: Uh, do we, as a Trust, um, have any risk if the government ever audits such an arrangement? Or, was it done your saying back when it was legal? Is it still legal?

PERSON 2: I have no idea if its legal. No one has ever called me on it. I've done it this way. I've clearly kept track of all paper work this way. And, uh . . .

PERSON 1: I, I understand how it works, now . . .

PERSON 2: I have no idea. I suspect if they would audit, and, and somebody would decide to come in and take a look at this thing, they could, they could probably if they really wanted to, raise hell with us. Yep, you're absolutely right. Uh, and I'm trying to find out where I've overcharged at.

PERSON 1: Well, I, I don't know what the extension service includes in their, in their, um, uh, estimated figure on, on machinery expense.

PERSON 2: That, that, that figure, I mean if you look at that figure, and I believe, and I'd have to go back and find it, but I know that I discussed this with the trustees and I'm fairly certain that its in one of your annual reports. Uh, that custom fee actually is not a custom fee. That's crop rental income to me. That's my share of the income. I mean if you just sat down and, and, and . . . (5 second pause with music in background) excuse me . . .

PERSON 1: That's ok.

PERSON 2: Uh, what actually happened there was way back in, uh, perhaps even 89, but no, no that was in 90 because that doesn't show up until then. Either 90 or 91, uh, I refiled the way the farm, the Trust land both for the Melvin Dorr Trust and the, the uh, Harold Dorr Trust are operated with the ASCS to, quite frankly, avoid minimum payment limitations. OK?

PERSON 1: Right.

PERSON 2: And I basically told the ASCS and reregistered those two operations such that they are, uh, singularly farm operations on their own, OK?

PERSON 1: OK.

PERSON 2: And I custom farm it. Alright, so how are you going to custom farm it? The reason I did it was, was to eliminate any potential, uh, when I could still do it at that point, of, of the government not liking the way I was doing it. I knew what was coming. I anticipated it the same as I did with proven corn yields way back in the 70's when I began to prove our yields and got basis and the proven yields up. I transferred these out when it was still legal and legitimate to do so and basically they stand alone. Now, obviously I'm not going to go out here and operate all this ground and provide all this management expertise singularly, uh, for the purpose of, of, of doing it on a $60 an acre custom fee basis. Subsequently, what's happened is, the farm, I mean the, the family Trust pays all of its expenses and then we reimburse it and it sells all the income, and it sells all the crop, and it reimburses us with the 50/50 split basis.

PERSON 1: I, I, I remember vaguely something being discussed about that, I'll have to go back to the file . . .

PERSON 2: . . . that's exactly what's going on (unintelligible) . . . those custom fees the way they are . . .

PERSON 1: . . . and then to determine, um, that, that was, again if that was in writing to us beneficiaries, I guess I missed that and I'll, I'll look for that again. Um . . .

PERSON 2: Even if it wasn't I know that that was clearly discussed with the trustees. The beneficiaries really had nothing to do with it.

PERSON 1: OK, well, well, I appreciate your correcting me on the interest and, uh, allocating those incomes to those different years. That does make a difference with that income. I think the custom fees, uh, when I took a look at that one, and I, you know, I just started looking at this in the last 6 weeks. When I took a look at that last figure, uh, and looking back in the file, it may not hurt for you to remind everybody, um, maybe even in the annual report. . . .

PERSON 2: I don't, I don't, really want to tell everybody, not because I'm trying to hide the custom work fees from anybody, but because I don't want to make any bigger deal out of it than I have to, relative to everybody knowing about it, including the government.

End of recording.

U.S. SENATE, COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY,

Washington, DC, May 17, 2002.

Hon. ANN M. VENEMAN,
Secretary of Agriculture,
Washington, DC.

DEAR SECRETARY VENEMAN: Thank you for your phone call yesterday. To follow up on one of the matters we discussed, I appreciate your understanding that, given the intense work required by the farm bill conference, the Committee has not had the opportunity to take further formal action on the nomination of Thomas Dorr to the position of Under

Secretary of Agriculture for Rural Development.

I certainly appreciate your interest in having an Under Secretary for Rural Development confirmed. However, as you recall there were substantial questions raised at Mr. Dorr's nomination hearing and in later correspondence that will need to be answered before proceeding further.

To my knowledge no response has been provided to the questions in Senator Dayton's letter dated March 21, 2002. If that is indeed the case, I would appreciate your sending to Senator Dayton and to the Committee answers to the questions raised in his letter. Although you and Mr. Dorr were copied on the original letter you will find a copy of Senator Dayton's letter attached for your information. An expeditious response to Senator Dayton's request will greatly assist the Committee in completing its consideration of the nomination.

Thank you in advance for your time and attention to this matter.

Sincerely yours,

TOM HARKIN,
Chairman.

U.S. SENATE, COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY,
Washington, DC, June 6, 2002.

Hon. ANN M. VENEMAN,
Secretary of Agriculture,
Washington, DC.

DEAR SECRETARY VENEMAN: Thank you for your letter dated May 28, 2002 regarding the nomination of Tom Dorr as Under Secretary of Agriculture for Rural Development. With the hope of moving this matter to resolution, I would like to clarify relevant facts and the status of responses to the Committee's questions.

To recap what is established, for many years, Mr. Dorr, operating through Dorr's Pine Grove Farms (of which he was sole owner), conducted farming operations on land held by the Melvin Dorr Trust and the Harold Dorr Trust. In some of the earlier years, the arrangements were represented to USDA by Mr. Dorr as crop share leases but at some later point he represented them as involving custom farming by Dorr of the trusts' land.

The Farm Service Agency (FSA) conducted a year-end review on the Melvin Dorr Trust for the years 1994 and 1995 in calendar year 1996. In 2001 the FSA conducted a year-end review on the Harold Dorr Trust for 1994 and 1995. In both reviews, it was concluded that the arrangement between Mr. Dorr's Pine Grove Farms and each of the trusts ''was a crop share arrangement, not the custom farming arrangement it was represented to be.'' The trusts were required to repay some $17,000 in farm program payments that they had improperly received for those years because of the ''erroneous representation'' to USDA by Mr. Dorr, who also served as a trustee of each of the trusts.

The conclusion that the arrangements were crop share leases rather than custom farming is supported by information before FSA and now before the Committee. For example, the payment to Dorr, through Dorr's Pine Grove Farms, was similar to amounts that would have been received through a crop share arrangement and far above normal and usual custom farming fees. In addition, in a tape recorded telephone conversation, Mr. Dorr said, ''Besides those two machine charges [combining and hauling grain to the elevator], everything else is done on a 50–50 normal crop-share basis.'' He also said, ''that custom fee is not a custom fee. That's crop rental income to me. That's my share of the income.'' Regarding the reason the arrangements were set up in this manner and represented to USDA as custom farming, Mr. Dorr said it was to ''avoid a 50,000-dollar payment limitation to Pine Grove Farms.'' At another point Mr. Dorr said, ''I, we filed the way the farm, the trust land, both for the Melvin Dorr Trust and the Harold Dorr Trust are operated with the ASCS, to quite frankly avoid minimum [sic] payment limitations. OK?'' Evidently, these arrangements and representations to USDA would direct farm program payments through the trusts that would have otherwise normally under a crop share arrangement gone directly to Mr. Dorr through Dorr's Pine Grove Farms. As to Mr. Dorr's understanding of the propriety of the arrangements and representations, he said, ''I suspect if they'd audit, and if somebody decided to come in and take a look at this thing, they could probably, if they really wanted to, raise hell with us.''

Because of the evidence of misrepresentation to FSA in connection with the effort to avoid payment limitations, the Committee was and is keenly interested in determining whether there may be other instances in which Mr. Dorr may have misrepresented farming arrangements in connection with seeking to avoid farm program payment limitations. Questions were asked at the nomination hearing, but unanswered questions remained. My letter dated May 17, 2002 and Senator Dayton's letter dated March 21, 2002 attempt to make clear that the Committee is interested in having the FSA conduct a year-end review of the Harold and Melvin Dorr Trusts for each of the years 1988 through 1993.

In your letter of May 28, you assert that the Office of Inspector General (OIG) has concluded that the Committee has received all the information it is requesting and that the Inspector General indicated that a ''full and thorough investigation has been conducted regarding the matters pertaining to Mr. Dorr . . .'' In fact, the memorandum from the Acting Inspector General that you attached does not support your assertion but instead contradicts it. The Inspector General's memorandum clearly delineates what OIG had investigated and what it had not. It had not investigated the years 1988–1992, and gave no indication that the Committee had been provided the information on these years it is seeking. Likewise, the memorandum makes clear that OIG has investigated only the matters referred to it and that it had not conducted a thorough investigation of all the matters relating to Mr. Dorr. I would encourage you to discuss this matter further with the Acting Inspector General.

Thus, the Committee continues to seek information about the period 1988 through 1992, during which time our understanding is that the arrangements were also represented to USDA to be custom farming and not crop share. We would also like to know if in fact the trusts have repaid the funds required by the year-end reviews already conducted as noted above.

It is true that the United States Attorney for the Northern District of Iowa declined to prosecute Mr. Dorr upon referral from the OIG, but it is the Committee's understanding that the statute of limitations had run in any case. Avoiding criminal prosecution, however, is only the most minimal and insufficient criterion for confirming an individual to a position as important as that of Under Secretary of Agriculture for Rural Development. Surely, nominees must be held to a higher standard.

Consistent with my earlier statements, I do intend to move forward on Mr. Dorr's nomination, but for the Committee to do so—in conformity with its obligations and responsibilities—it must receive the information it reasonably requires and has requested to evaluate the qualifications and fitness of the nominee to serve in this important position.

Thank you for your attention to this request.

Sincerely yours,

TOM HARKIN,
Chairman.

Mr. HARKIN. But critical questions remained unanswered. The materials provided late in June showed that over $70,000 in farm program payments had been received by the two trusts that were prior to that, from 1988 to 1992. So what turned up were some new questions.

If, in fact, Mr. Dorr had misrepresented his farming operations and he had been caught and the trusts had to pay back money for 3 of those years, what about the 5 years prior to that?

So I wrote a letter on July 24, 2002, and asked for the record on all these other operations from 1988 through 1992. That was Wednesday. Thursday, Friday, Saturday, Sunday—on Monday, I received a letter back from Secretary Veneman, dated July 29, in which basically she said that this issue has gone on too long, that we need to move this nominee. She did not say they did not have the records. She basically said it is time to move this nominee ahead.

Mr. President, I ask unanimous consent that my letter of July 24, 2002, the questions I submitted and the response of the Secretary of Agriculture on July 29, 2002, be printed in the RECORD.

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

U.S. SENATE, COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY,
Washington, DC, July 24, 2002.

Re nomination of Thomas C. Dorr

Hon. ANN M. VENEMAN,
Secretary of Agriculture, Department of Agriculture, Jamie L. Whitten Building, Washington, DC.

DEAR SECRETARY VENEMAN: Committee staff has reviewed certain information provided concerning the Melvin G. Dorr Irrevocable Family Trust and the Harold E. Dorr Irrevocable Family Trust and the Department's response that the information necessary to conduct a review of the farming arrangements for the 1988 through 1992 crop years is no longer available. Committee staff has also reviewed the information provided to the Committee regarding the end-of-year review for the 1994 and 1995 crop years for Dorr's Pine Grove Farm Company. To examine the Committee's concerns adequately, I respectfully request that the Department provide the additional information requested below:

1. Please provide the Committee with copies of all documents considered by the end-of-year review committee regarding Dorr's Pine Grove Farm Company for the 1994 and 1995 crop years.

2. Please provide the Committee with crop shares per CCC–477 for each of the crop years from 1988 through 1992 by farm number for each of the following entities or individuals: Dorr's Pine Grove Farm Company; PGF Seeds, Inc.; Thomas C. Dorr; Melvin G. Dorr Irrevocable Family Trust; Harold E. Dorr Irrevocable Family Trust; Melvin G. Dorr Irrevocable Trust; Harold E. Dorr Irrevocable Trust; Melvin G. Dorr; Harold E. Dorr; Belva Dorr; Dorr, Inc.; Ioxtex Farm Company; Seven Sons; Austin Properties; Diamond D

Bar, Ltd.; Charles Dorr; Philip Dorr; Lawrence Garvin; Ned Harpenau; Richard Tolzin; Arlene Lanigan; and Paul Polson.

3. Please provide the Committee with a list of all farm program payments by crop year to each of the above entities or individuals for the crop years 1988 through 1992.

4. Please provide the Committee with copies of all CCC–478 and CCC–502 forms for Dorr's Pine Grove Farm Company for crop years 1996 through 2001.

Attached are five additional questions for the nominee. They are submitted for the record as a continuation of his nomination hearing, and thus Mr. Dorr should answer under oath.

Consistent with my earlier statements, for the Committee to move forward with this nomination, it must receive the information it reasonably requires and has requested to evaluate the qualifications and fitness of the nominee to serve in this important position.

Thank you for your attention to this request.

Sincerely,

TOM HARKIN,
Chairman.

QUESTIONS SUBMITTED BY SENATOR HARKIN

THOMAS C. DORR

Question: In a letter dated May 8, 1996, you were informed that your farming operation, Dorr's Pine Grove Farm Co., had been selected for a 1995 farm program payment limitation and payment eligibility end-of-year review. You were informed that the farming operation would be reviewed to determine whether the farming operation was carried out in 1995 as represented on the CCC–502, Farm Operating Plan for Payment Eligibility Review. You were asked to provide documents and information and were further informed that if you failed to provide the requested information within 30 days of the date of the letter that you would be determined not ''actively engaged in farming for the 1995 crop year.'' In a letter dated June 1, 1996, you requested a 30-day extension of the initial deadline citing weather and family concerns. In a letter dated June 7, 1996, Michael W. Houston the County Executive Director informed you that the Cherokee County Committee approved your request to July 8, 1996 to provide additional information requested by the End of Year Review Committee. The only further information with regard to this end-of-year review is a handwritten note in the file that reads: ''Rec'd phone call from T. Dorr on 8–3–96 at home. Dorr plans on completing requested info., but needs more time. MWH'' Please explain in detail what information and documentation you provided the county committee, when you provided the requested information, and your recollection of how this matter was resolved.

Question: According to Farm Service Agency records, for most farming operations in which Dorr's Pine Grove Farm Co., claimed a crop share, that share was roughly 50 percent, ranging from 44.77 percent to 51 percent. However for farm number 2571, Dorr's Pine Grove Farm Co. claimed a 23.6 percent share in 1998 and 1999 and a 33.38 percent share in 2000 and 2001. Please explain in detail why the crop share for farm number 2571 deviated so greatly from the customary crop share. Please provide the Committee with documentation, such as crop insurance records, to corroborate the crop shares as stated on the CCC–478 for the 1998, 1999, 2000 and 2001 crop years.

Question: Please explain in detail the process you went through to change the custom farming arrangements between Dorr's Pine Grove Farm Co. and the Melvin G. Dorr Irrevocable Family Trust and the Harold E. Dorr Irrevocable Family Trust to a 50/50 crop share.

Question: Please describe the fanning arrangement between Dorr's Pine Grove Farm Co. and each of the following entities and individuals for each of the 1988 through 1992 crop years; e.g., whether any land owned by the entity or individual was leased by Dorr's Pine Grove Farm Co. or whether Dorr's Pine Grove Farm Co. provided custom farming services for an entity or individual. For each lease arrangement state the total number of cropland acres leased and the terms of the lease, i.e. whether cash rental, or if crop share the crop share percentage. For each custom farming arrangement state the custom farming services provided and the fees paid to Dorr's Pine Grove Farm Co. in total and on a per acre basis.

PGF Seeds, Inc.;Thomas C. Dorr;Melvin G. Dorr Irrevocable Family Trust;Harold E. Dorr Irrevocable Family Trust;Melvin G. Dorr Irrevocable Trust;Harold E. Dorr Irrevocable Trust;Melvin G. Dorr;Harold E. Dorr;Belva Dorr;Dorr, Inc.;Ioxtex Farm Company;Seven Sons;Austin Properties;Diamond D Bar;Charles Dorr;Philip Dorr;Lawrence Garvin;Ned Harpenau;Richard Tolzin;Arlene Lanigan; andPaul Polson.

Question: Please list all other entities and individuals not included in the previous question with which Dorr's Pine Grove Farm Co. had a farming arrangement for any of the 1988 through 1992 crop years. For each entity and individual listed describe the farming arrangement; e.g., whether land owned by the entity or individual was leased by Dorr's Pine Grove Farm Co. or whether Dorr's Pine Grove Farm Co. provided custom farming services for the listed entity or individual. For each lease arrangement state the total number of cropland acres leased and the terms of the lease, i.e. whether cash rental, or if crop share the crop share percentage. For each custom farming arrangement state the custom farming services provided and the fees paid to Dorr's Pine Grove Farm Co. in total and on a per acre basis.

THE SECRETARY OF AGRICULTURE,
Washington, DC, July 29, 2002.

Hon. TOM HARKIN,
Chairman, Senate Committee on Agriculture, Nutrition & Forestry, Senate Hart Building, Washington, DC.

DEAR MR. CHAIRMAN: I am responding to your letter of Wednesday, July 24, 2002, regarding your request for a new, extensive review of records regarding Tom Dorr, the President's nominee to be USDA's Under Secretary for Rural Development.

This Department has complied with all your previous requests. We have done so in a timely and responsive manner. We complied when your request was expanded to include family members for which Tom Dorr has no control. Now, you have requested USDA to provide not only additional information on Mr. Dorr, his family members, but your inquiries have expanded to include extensive information from deceased and elderly Iowans.

Mr. Chairman, I urge you to move forward on the nomination of Tom Dorr by requesting the full Committee to vote on his confirmation. For more than 450 days we have acted in good faith in providing the Committee every bit of information requested.

Additionally, the Department has scoured through its own records, going back nearly fifteen years, at your request. We have done this not once, but on several occasions to cooperate with the Committee. And, we even did so after the Office of Inspector General, the independent investigative arm of the government, concluded that, ''we have investigated the matters referred to OIG concerning Mr. Dorr fully and consider this case to be closed . . . there is no new evidence to warrant reexamination nor the need to open a new investigation.''

Mr. Chairman, rural development programs are critical to communities throughout America and to your home state of Iowa. We are working diligently to implement a new farm bill that strengthens these programs, however, this task has become even more difficult without the leadership at the helm of this agency.

As well, each time a new request comes from you and your staff, we have to take valuable time and resources away from our already overwhelmed Iowa Farm Service Agency staff who have been working tirelessly on farm bill implementation, and trying to serve Iowa farmers and ranchers, who need their help for program administration.

This latest demand of the Iowa FSA office requests an investigation into 22 separate farm entities, data from hundreds of forms dating back nearly fifteen years, and even information from Iowa citizens who are deceased. Quite frankly, from what the staff in Iowa reports, it could take several months to compile this latest request, and drain a great deal of time, resources and effort away from farm bill implementation and constituent services in your state.

Chairman Harkin, I certainly appreciate the work of the Committee on our other nominees, but am very concerned as to the process involved with Mr. Dorr, particularly as he has received bipartisan support from members on the Committee.

During the past year, Mr. Dorr and his family have weathered this extensive and exhaustive process. He has done everything asked of the Committee and has discontinued active farming and sold all his farm equipment. Mr. Dorr has been through an extensive hearing process, answered every question asked of him, and in good faith provided financial information, as requested.

I understand the need for any Senate Committee to receive and request information about nominees. Any person who serves this nation should live by the highest of standards. It is my belief that Mr. Dorr has demonstrated his ability to serve and to lead. And, throughout this process of hearings and inquiries, he remains a strong candidate for this position.

Mr. Chairman, again, this is a massive request of information and I feel you have held Mr. Dorr, a fellow Iowan, to a different standard. The Committee for the past year has sought, and received a plethora of information regarding this nominee and I urge you to allow Members to consider what has been provided in moving Mr. Dorr's nomination to the full Committee for a vote.

The best course of action is to proceed forward, take a stand, and make a decision on this nomination. The Department, as well as Mr. Dorr, has fully cooperated through this long and extensive process. I would hope, with all due respect, that you would allow Mr. Dorr and his family, the opportunity to have a Committee vote on his nomination. Mr. Dorr, as a proud Iowa native, is ready, able and capable of serving this Department and this nation.

Sincerely,

ANN M. VENEMAN.

U.S. SENATE, COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY,
Washington, DC July 29, 2002.

Hon. ANN M. VENEMAN,
Secretary of Agriculture, Jamie L. Whitten Building, Washington, DC.

DEAR SECRETARY VENEMAN: As you said in your letter today, ''Any person who serves this nation should live by the highest of standards.''

I could not agree more. For months this Committee has sought without success to obtain crucial information dealing with very serious farm program payment issues involving the nominee Thomas C. Dorr and the Farm Service Agency. The response from the nominee and from the Department of Agriculture has been slow, grudging and minimal. There has been no ''plethora'' of information provided to the Committee.

Shortly after the nomination hearing, Senator Dayton's letter of March 21, 2002 asked for information on the various financial entities with which Mr. Dorr was involved from 1988 through 1995. I wrote you on May 17 and June 6 seeking a response to the Committee's questions. Your letter of June 27 and attached materials left critical questions unanswered and, in fact, raised further questions about farm program payments and Mr. Dorr's farming arrangements that are the basis for the Committee's most recent request.

Based on what has been provided, it is known that the nominee was closely involved in misrepresentations to USDA which after investigation led to the required repayment of substantial amounts of farm program payments. Initially, the sum involved was some $17,000, but as the Committee looked further into the matter, it was made aware that another amount of some $17,000 was required to be repaid. Furthermore, information provided to the Committee late in June shows that some $65,000 in payments (not counting potential penalties and interest) were received under the same circumstances that led to the required repayment of the two $17,000 amounts.

The nominee was the self-described Chief Executive Officer of Dorr's Pine Grove Farms, Inc. In that position he created an exceedingly complex and convoluted web of farming business arrangements. The purposes for these various arrangements is not altogether clear, but according to the nominee himself in the case of two Dorr family trusts the purpose was to avoid the farm program payment limitation for Dorr's Pine Grove Farms, Inc. It was the misrepresentations to USDA of the nature of these arrangements that led to the required repayment of farm program benefits. The matter was referred to the United States Attorney for possible criminal prosecution, but it is my understanding that the statute of limitations had run.

Recent corporate disclosures have underscored the obligation of corporate officers to play by the rules. Just like any other CEO, Mr. Dorr had responsibilities, not the least of which was that of fair and honest dealing with the Department of Agriculture regarding farm program payments. As a nominee, he also has responsibilities, chiefly to respond fully and honestly to questions that bear directly on his fitness to serve in a high position of honor and trust in the federal government. This nominee would do well to follow the advice given to other CEO's in awkward positions: come clean and lay all the cards on the table.

Ordinarily, a nominee would be eager to cooperate fully and provide the necessary information to clear up legitimate questions. The responsibility is the nominee's. It is not the responsibility of the Committee to issue subpoenas and pursue litigation-type discovery to get to the bottom of valid questions about a nominee. However, instead of cooperation, this Committee has only seen delay, unresponsiveness and now outright refusal regarding this nomination. The length of time it has taken to consider this nomination lies squarely at the doorstep of the nominee and the Department.

After much effort by the Committee to obtain answers to serious and legitimate questions, it is now clear that neither the nominee nor the Department intends to cooperate further with the Committee. Therefore the Committee will have to make a decision based on the troubling and inadequate information it has. I intend to bring the nomination before the Committee on Thursday to consider whether this nominee in his dealings with USDA and with this Committee does indeed ''meet the highest standards.''

Sincerely,

TOM HARKIN,
Chairman.

Mr. HARKIN. Mr. President, what I am saying is, let's try to boil this down. Thomas Dorr, in 1988, went into his local USDA office and refiled his farming operations. He said: No longer am I crop sharing with the trusts, I am custom farming. That meant that more money would go to the trusts and that payments to those trusts would not count against his farming operations payment limitations.

In 1995, his brother taped this conversation. He went to the Farm Service Agency. They investigated and found, indeed, that Thomas Dorr had misrepresented his operations, and the family trusts had to pay back nearly $17,000 in 1996.

Then after he got the nomination, a further investigation ensued and found the other family trust also had to pay back over $17,000. This was in 2001. Well, this is only for the years 1993 through 1995. So the family trusts paid $33,782. However, I asked about those other years, the years prior to 1993: 1988, 1989, 1990, 1991, and 1992; give us the records for all of these different operations. That is what the Department of Agriculture would not give us. They would not give us those records.

So we know that the farm payments to one of the trusts from 1988 to 1992 were $35,377. We also know that payments to another trust from 1993 were $35,025. What I am saying is if in fact Thomas Dorr's operations were the same during those earlier years as they were in 1994, 1995, and 1996, for which the family trusts had to pay back the money, Mr. Dorr's family may owe as much as $104,184 to the Federal Government rather than the 30-some-thousand dollars the trusts had to pay back earlier. We do not know for certain. Because I have never seen the records. I have asked repeatedly for the Department to make those records clear.

Again, my bottom line on this nominee, No. 1, this is an important position. No. 2, he falsified his documents to the U.S. Department of Agriculture in order to obtain money. His family had to pay some of it back. We cannot get the records from the Department of Agriculture to see what may be owed for the years before, and yet we are being asked to confirm this individual as Under Secretary for Rural Development.

As I said, I take no pleasure in opposing this nominee. I have never before opposed an Iowan for any position. This has nothing to do with ideology. It has nothing to do with that. I have supported many conservatives from Iowa for positions in the Federal Government. My bottom line is, someone who knowingly misrepresented the truth to the Federal Government to obtain money, who was caught at it, which had to be paid back, who by his own words on tape said he did it to avoid farm payment limitations, I do not think that person ought to receive an under secretary's position in the Department of Agriculture.

What message does it send to farmers? Go out and defraud the Government, just be careful and do not get caught. What a terrible situation.

I have no problem with any farmer arranging his or her farming operation to get maximum payments within the law from the Government. There is nothing wrong with that. But that is not what he did. He knowingly filed false documents with the Government. That is what is wrong. That is why someone such as that does not deserve to be under secretary.

Mr. DAYTON. Will the Senator yield for a question?

Mr. HARKIN. I yield to the Senator from Minnesota.

Mr. DAYTON. First, I want to commend the Senator for his integrity and his courage in standing up. I know, as the Senator said, this is an unpleasant matter and that is why I wanted to bring to light, having served with the distinguished Senator, now ranking member but then chairman of the Senate Agriculture Committee, is my recollection correct that this matter was brought to light in a front-page story expose by the leading newspaper in Iowa? This was not a matter that was a partisan trying to find information about somebody, this was brought forth by the newspaper itself?

Mr. HARKIN. The Senator is right. The Des Moines Register did expose this story. At that time they had the tape of the telephone conversation. That is how it came to light at that time. It was based on that and then based upon the investigations at that time in 1996.

Then in 2001, after he got nominated, the OIG went further and found further discrepancies in 1994, and 1995, for which the other family trust had to pay back more money. Well, when 2001 goes into 2002, that is when they referred it to the U.S. Attorney's Office for prosecution. The U.S. Attorney, as I said, wrote a one page declaratory letter saying the statute of limitations has passed.

That is when everything was dropped. After that, we began to ask more questions in 2002, and as the Senator from Minnesota referred to, I wrote a letter to the Secretary asking for these records. I followed up with a letter in July further asking for these records, and we have never to this date received those records of the prior years to see what his filings were like and how much money had been paid in those previous years based on misrepresentations.

Mr. DAYTON. Would the Senator yield for another question?

Mr. HARKIN. I would be delighted to yield for a question.

Mr. DAYTON. During the time the Senator referenced, I believe the Senator was the chairman of the Senate Agriculture Committee. It was the responsibility of the administration to perform the due diligence necessary to investigate all of the relevant factors, the background of this gentleman, Mr. Dorr, but especially it was then the responsibility of the oversight committee of the Senate, the Agriculture Committee, of which the Senator was chairman, to look into these matters. I again commend the Senator for taking on that responsibility as the chairman of the committee and doing it so forthrightly.

Mr. HARKIN. I thank my friend from Minnesota for his great work on the Agriculture Committee and for again trying to bring to light what went on with this whole matter. Again, I say to my friend from Minnesota, I take no delight in this. I have never before opposed an Iowan and I do not take any joy in this, either. But some things rise above party, some things rise above our own feelings about our State and our pride in our own State. I think this rises above that. This rises to the level of saying whether someone with that kind of background deserves to be Under Secretary for Rural Development.

How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 15 seconds.

Mr. HARKIN. I reserve the remainder of my time and yield the floor.

Mr. KOHL. Mr. President, our colleagues from Iowa, Mr. Dorr's home State, have laid out very divergent views and analysis of the nominee's background and temperament. I will not expand on those, as this body has already spent considerable time and energy on this topic.

Rural America is changing a great deal. Changes in immigration, employment patterns, technology, health care, and the economy are continually reshaping the contours of rural America. The challenges are many and the Under Secretary for Rural Development can have considerable impact on those challenges. It is a position that demands foresight, judgment, and willingness to embrace change creatively.

I will not be endorsing the Dorr nomination. But I recognize the President's authority to make such nominations. And as the ranking member of the Senate Subcommittee on Agriculture Appropriations, I stand ready to work constructively with him on issues of mutual concern.

Mr. BOND. Mr. President, I rise in strong support of Tom Dorr to be confirmed as Under Secretary for USDA Rural Development. He is a product of rural America from the greater northern-Missouri area often referred to as Iowa. He is a farmer, a businessman, and a tireless innovator who understands and holds true to the values that embody the very essence of life in rural America. Having had the privilege to meet with Mr. Dorr on several occasions, I have been impressed with his mind, his insight, his leadership, his passion, and his vision which is critical to the future of rural communities in Missouri and throughout the nation.

Mr. Dorr has lead USDA Rural Development's renewable energy efforts, from increasing value-added agricultural ventures to ensuring that our farmers, ranchers and rural businesses have access to capital needed to improve their energy efficiency and create new energy systems. He understands it is an effective way for utilizing our Nation's natural resources, and it is critical for the security of our country.

Most importantly, Tom Dorr has worked to build coalitions amongst Government agencies to share their expertise and resources to bring to the table a wider array of Government resources that can ensure that our Nation's renewable energy needs are met. We need his continued focus and leadership.

Tom Dorr has come to my home state of Missouri and met with community leaders and seen first hand how USDA Rural Development investments are making a difference. He has listened to our leaders, and he will use that insight to help him direct future rural development activities. Mr. Dorr understands that rural development doesn't happen in Washington, it happens in the community and he understands that the future innovative thinking.

With this confirmation process, he will never have to prove his patience and determination in any other way. I believe he is the creative and active force that is needed to ensure that rural America anticipates and seizes the opportunities of a rapidly-evolving future and I urge his approval.

Mr. FEINGOLD. Mr. President, I rise today to speak on the nomination of Thomas C. Dorr to be Under Secretary for Rural Development and a member of the Commodity Credit Corporation board at the Department of Agriculture, USDA. The position at USDA to which Mr. Dorr has been nominated is highly influential in the continued development of rural America, holding the unique responsibility of coordinating Federal assistance to rural areas of the Nation.

Many people, when they think of rural America, may think of small towns, miles of rivers and streams, and perhaps farm fields. But rural Wisconsin is also characterized by communities in need of firefighting equipment, seniors who need access to affordable healthcare services, and low-income families in need of a home. The U.S. Department of Agriculture's Rural Development programs and services can help individuals, families, and communities address these and other concerns, which is why the office of Under Secretary for Rural Development is so important.

I have deep concerns regarding Mr. Dorr's comments and opinions about the future of rural America, particularly in light of his nomination to this important post. I disagree with Mr. Dorr's promotion of large corporate farms and his vision of the future of agriculture. Nevertheless, when it comes to confirming presidential nominees for positions advising the President, I will act in accordance with what I feel is the proper constitutional role of the Senate. I believe that the Senate should allow a President to appoint people to advise him who share his philosophy and principles. My approach to judicial nominations, of course, is different—nominees for lifetime positions in the judicial branch warrant particularly close scrutiny.

My objections to this nomination are not simply based on the nominee's views, however. I also have strong reservations about Mr. Dorr's public comments on issues of race and ethnicity and I am troubled by Mr. Dorr's apparent and admitted abuse of the Government's farm programs. While I acknowledge Mr. Dorr's recent apology, his insensitive remarks and ethical record are not compatible with the important position to which he has been nominated, and I will oppose his nomination.

Mr. INHOFE. Mr. President, today I rise to support the nomination of Tom Dorr for Under Secretary for Rural Development in the Department of Agriculture.

Thomas Dorr, with his powerful vision for rural America, with his proven leadership as Under Secretary, and with the trust that so many have placed on him, is more than qualified to be confirmed by the Senate.

Let me provide a little background information on this nomination process since President Bush took office in 2001. On March 22, 2001, President Bush announced his intention to nominate Tom Dorr to serve as the Under Secretary of Rural Development. During that year, three nomination hearings were scheduled and then canceled; finally, during the August 2002 recess, the President appointed Mr. Dorr as Undersecretary.

During Mr. Dorr's tenure as Under Secretary, it has been his leadership and dedication that led to the long list of improvements that increased economic opportunity and improved the quality of life in rural America.

He tackled the very complicated and difficult problems involved in the Multi-Family Housing Program that, according to the one congressional staff member, ''were ignored by all previous Under Secretaries''—he believes all rural citizens deserve safe and secure housing.

Dorr initiated an aggressive marketing program to extend the outreach of USDA Rural Development programs to more deserving rural Americans and qualified organizations, especially minorities.

Also while he served as Under Secretary, Mr. Dorr supported the use of

renewable energy, which led to millions of dollars in grants to develop renewable energy sources; Mr. Dorr boosted the morale of USDA Rural Development employees; Mr. Dorr aided in the development of community water/wastewater infrastructure—and the list goes on.

After his temporary position as Under Secretary, Tom Dorr has completely resurfaced USDA Rural Development. This is a result of his vision for USDA Rural Development. During his term, Mr. Dorr changed USDA Rural Development from being the lender of last resort to one where employees aggressively seek out investments to make in people and organizations that will fulfill its mission.

On June 18, 2003, the Agriculture Committee recommended Mr. Dorr to the Senate on a bi-partisan vote of 14–7. On December 19, 2003 the full Senate failed to break Senator HARKIN's hold on the nomination by a vote of 57–39, six Democrats and fifty-one Republicans. Since the attempted cloture, President Bush again nominated Tom Dorr in January of this year, only for Mr. Dorr to meet more of the same from the Senate.

One Senator has held up the confirmation since April 30, 2001, and after President Bush has nominated a qualified candidate for this position three times, we still have yet to see an up or down vote. Despite the fact that Tom Dorr has proven his leadership as Under Secretary, some have still insisted on using the politics of obstruction and partisanship to keep Mr. Dorr from receiving confirmation in this Senate.

For my State of Oklahoma, the strong leadership of Thomas Dorr resulted in an increase of millions of dollars in rural development.

Mr. Dorr's leadership for Rural Development included an aggressive outreach program to rural residents in need of assistance and an innovative effort to leverage more appropriated dollars into program dollars. In fact, Rural Development receives from Congress annual budget authority of about $1.9 billion, and they turn it into $15 billion in program dollars. This includes the administrative money for the agency. In other words, Rural Development takes 12 cents and turns it into a dollar of assistance for rural economic development efforts, which is a level of efficiency difficult to find in most Federal agencies. During his term, Mr. Dorr encouraged the increased use of guaranteed loan programs versus grants to achieve this efficiency as well as very strict tracking of loan servicing.

In other words, Rural Development ''invests'' its dollars expecting a return on investment, rather than just throwing money at communities and hope they fix themselves.

I have seen many of these projects first hand in Oklahoma, from revolving loan funds to business incubators to new water systems. Loans matched with grants with realistic expectations from Rural Development partners is what I see as I tour rural Oklahoma. It takes visionary leadership to achieve this, and for a short time in 2002 and 2003, Mr. Dorr provided this leadership. It is still needed in this important agency.

What Mr. Dorr's vision has meant for Oklahoma is an increase in funding assistance. Oklahoma's Program Level in the past 4 years has gone from $193 million to $322 million. Business Programs have increased 500 percent, Housing Programs have doubled, and all of this is attributable to the outreach efforts encouraged by Mr. Dorr as well as the leveraging efforts he has put in place to allow each Federal dollar to go further.

Mr. Dorr has also made several visits to Oklahoma providing technical assistance on ethanol production, which may lead to the development of our first ethanol plant in our State. He has also met with our Rural Health Care Providers in Oklahoma to help bridge the gap between rural health needs and resources available from Rural Development.

Mr. Dorr is supported by many of our rural advocacy groups in Oklahoma as exemplified by the following quotes:

Ernest Holloway, President of Langston University Oklahoma's 1890 College:

Langston University has a direct stake in improving economic opportunities in rural Oklahoma . . . It is critical that we have strong and creative leadership at the Department of Agriculture in the Rural Development Mission Area. We strongly support Thomas C. Dorr for the position of Under Secretary for Rural Development.

Ray Wulf, President of Oklahoma Farmers Union, that includes 48 percent of the membership of the National Farmers Union:

. . . (Mr. Dorr) visited our state office here in Oklahoma City. During that meeting we had a very fruitful discussion relative to rural development and the creation of ethanol and oilseed opportunities within the state. He shared several rural development experiences within his own home state and demonstrated his expertise relative to those projects . . . we can see the value in having Mr. Dorr's expertise and experiences put to work on behalf of rural America. We trust that you will equally find such favor with Tom Dorr when he is considered for confirmation by the United States Senate.

Jeramy Rich, Director of Public Policy for the Oklahoma Farm Bureau:

Mr. Dorr has proven that he has the passion, skill and experience to lead the USDA's Rural Development efforts. Mr. Dorr has been a leading advocate for the value-added and sustainable agriculture that has benefited small family farmers and offered them an opportunity to remain competitive. In addition, he has pushed the Department to provide more creative outreach to minorities in order to ensure their full participation in USDA Rural Development program . . . Our members need Tom Dorr's leadership at USDA Rural Development.

Mr. Dorr also has the strong support of Oklahoma's Rural Development State Director, Brent Kisling:

The fact that the President continues to stand by Mr. Dorr since 2001 is a true testimony to the confidence he has in the abilities of Thomas C. Dorr.

With all of the confidence that has been placed on Tom Dorr and with the incredible results that Mr. Dorr has delivered, I believe that he is capable of doing the job that rural America deserves.

The nomination process is supposed to be one of bipartisanship, where the Senate is given the opportunity to evaluate the credentials and to assess the competence of the nominee. Instead, this process has been skewed and perverted by Senator HARKIN and others that stand only for obstruction.

To some, it seems that the confirmation of Thomas Dorr has been a small, unimportant matter. To the agriculture industry, to the people of my State of Oklahoma, and to the people of rural America, this confirmation is not a small matter.

I ask unanimous consent that my remarks be inserted into the CONGRESSIONAL RECORD.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. CHAMBLISS. Mr. President, I suggest the absence of a quorum and ask unanimous consent that no time be charged against either side.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. CHAMBLISS. Mr. President, the Senate Agriculture Committee has held two exhaustive hearings on the nomination of Tom Dorr to be Under Secretary of Rural Development. One of those hearings was held under the previous chairman's direction and a subsequent hearing was held earlier this year during my tenure as chairman, from which two issues were raised. The issues have been thoroughly explained by the Senator from Iowa in his previous comments, and based upon the two significant—and I do not want to minimize them—concerns the Senator from Iowa has, we have made a presentation. When I say ''we,'' the Senator from Delaware, Mr. CARPER, has been invaluable in helping us work through this process. Over the past 24 hours we have had conversations with Mr. Dorr and based upon those conversations, we have a letter in hand dated today to me as chairman of the committee, in which Mr. Dorr basically acknowledges a statement he made in 1999 that raised concerns of some people. He has rendered a public apology regarding the comments he made.

He further says in this statement: Regarding farm program payment issues, what I did was wrong. I regret I did it. If I had to do it over, I would not have filed my farming operations as I

did with the Farm Service Agency. I hope other farmers learn from what I did.

I ask unanimous consent that this letter be printed in the RECORD.

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

JULY 21, 2005.

Hon. SAXBY CHAMBLISS,

Chairman, Senate Committee on Agriculture, Nutrition and Forestry, Russell Building, Washington, DC.

DEAR CHAIRMAN CHAMBLISS: Regarding the Senate's consideration of my nomination to be Under Secretary of Agriculture for Rural Development, it is apparent there are concerns I should address.

First, I want to address a statement I made about diversity at a meeting at Iowa State University in December of 1999. The comment was not intended to be hurtful, I now realize that to many people it has been, and for this I apologize. I have been brought up to respect all people and my track record at USDA supports this belief. I have worked hard all my life to heal diversity issues and offer equal opportunities to all with whom I've been associated. I have been particularly involved in addressing these issues while serving at the Department.

Regarding farm program payment issues, what I did was wrong. I regret that I did it. If I had to do it over, I would not have filed my farming operations as I did with the Farm Service Agency. I hope that other farmers learn from what I did.

Thank you for your counsel and continued support of my nomination.

Sincerely,

THOMAS C. DORR.

Mr. CHAMBLISS. Mr. President, I say to the Senator from Iowa that he has been very diligent in his pursuit of this. As someone who has been integrally involved in American agriculture for almost 40 years, I appreciate his diligence because we need to make sure that people who are in the administration at the U.S. Department of Agriculture are respected and that they are the types of individuals who we need in these positions.

I know Mr. Dorr. I have seen Mr. Dorr in action, so to speak, in his position that he has been in for the last 4½ years. He is well respected across the country in the agriculture community because of the great work he has done. He is qualified for this position and I am going to support his nomination.

Before I yield 5 minutes to Senator HARKIN, which I will do, I would be happy to yield to my friend from Delaware for any comments he wishes to make.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. CARPER. Mr. President, I convey to Senator CHAMBLISS my respect and regards for the way he has handled himself in these negotiations over the last 24 hours. Senator HARKIN has done us all a favor. What he has done is reminded us when people make a mistake—and we all make mistakes. God knows I do—we ought to be willing to acknowledge that. There are serious mistakes, as I think Mr. Dorr has made with respect to his comments about diversity and minorities, and things Mr. Dorr has done with respect to his own farming operation regarding minimum payments. He made serious mistakes. There was a period of time when it looked as though he wasn't willing to acknowledge those mistakes, at least to do so in the public forum. If someone makes mistakes of this magnitude, it doesn't mean they are forever denied the opportunity for public service. What it means is when their name comes before this Senate for confirmation for a senior position, in this case in the Department of Agriculture, that person should be held accountable for their mistakes. They should be willing to acknowledge their mistakes and they should be willing, essentially, to ask for forgiveness for those mistakes.

It is not always an easy thing to do. Mr. Dorr has made that acknowledgment. He said, I was wrong; what I did was wrong and I hope others learn from my mistakes.

It now falls to Senator HARKIN who, as we all know, has fought hard against this nomination, as to whether to accept this letter from Mr. Dorr for us to move forward to the actual vote on the nomination.

I want to say to TOM HARKIN, thank you for the way you handled yourself in the course of this debate over the last 4 years, for the important role you have played, and for your willingness to allow this nomination to come to a vote today.

With that having been said, I yield my time and thank the Senator from Georgia.

Mr. CHAMBLISS. Mr. President, I again thank the Senator from Delaware for his terrific work on this and other issues. Without his assistance this compromise would not have come together.

Mr. President, I ask unanimous consent, first of all, that Senator HARKIN be given 5 minutes following my comments.

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

Mr. CHAMBLISS. Second, I ask unanimous consent that the pending cloture motion be vitiated, provided further that upon the use or yielding back of the remaining debate time, the Senate proceed to a vote on the nomination. I further ask consent that following that vote the Senate proceed to an immediate vote on Calendar No. 102, the nomination of Thomas Dorr to be a member of the Board of Directors of the Commodity Credit Corporation and that the vote be by voice; provided further that, following that vote, the President be immediately notified of the Senate's action and the Senate then resume legislative session.

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

The Senator from Iowa is recognized for 5 minutes.

Mr. HARKIN. Mr. President, I ask unanimous consent for 2 additional minutes which I want to yield to the Senator from Minnesota.

The PRESIDING OFFICER. Is there objection to granting an additional 2 minutes to the Senator from Minnesota?

Hearing none, the Senator from Iowa is recognized for 5 minutes, to be followed by the Senator from Minnesota.

Mr. HARKIN. First, let me pay my respects and express my gratitude to my chairman and friend, Senator CHAMBLISS. We have worked together on all matters of agriculture. He is a great chairman of our Agriculture Committee and I mean that most sincerely. He has given me and my staff every opportunity to work not just on this issue but all the other issues in agriculture. He has been most accommodating of every request I have ever asked. I could not have asked for more in terms of pursuing interests on the Agriculture Committee. I publicly thank Chairman CHAMBLISS for being a great chairman and being a great agricultural leader. I appreciate that very much.

I appreciate his leadership on this issue also. When you get into these kinds of things, it is never a happy situation for anyone on these kinds of matters. But we all have our responsibilities. As I said, the chairman has been right in allowing these investigations and allowing this matter to move forward in an open and transparent matter. Again, for that I am very deeply grateful.

I thank my friend from Delaware for his diligence in looking into this and again, for, as we say, trying to move the ball down the field, as you might say. I want to make it clear for the record that all we are talking about here is vitiating the cloture vote. I also want to make it clear this letter is a letter in which finally Mr. Dorr says:

> Regarding farm program payment issues, what I did was wrong. I regret that I did it. If I had it to do over, I would not have filed my farming operations as I did with the Farm Service Agency. I hope that other farmers learn from what I did.

That is the first time Mr. Dorr has ever said what he did was wrong and I am glad he finally owned up to it. But, again, let's not get carried away. This letter doesn't make Mr. Dorr pure as the driven snow. Frankly, I still have concerns that we have never gotten the records from the Department of Agriculture on the previous years. But with a sense of accommodation and comity here in the Senate, I have agreed, working with Senator CHAMBLISS and others, to move this ahead. I will not object. I did not object to the unanimous consent on vitiating the cloture vote.

I want to be very clear, however, that I still cannot in good conscience vote for the nominee. I will not support the nominee for this position. But I will not pursue any further extended debate on the nominee.

Sometimes people have deathbed conversions. The problem is sometimes the patient recovers. I hope this is not just one of those deathbed conversions on the part of Mr. Dorr. As the ranking member of the Agriculture Committee,

I will be checking very carefully on how he carries out his responsibilities if in fact he wins the vote. I don't even know if that is a foregone conclusion. I assume it is, if all of the other party vote to confirm. I don't know. But if he does take this position, I can assure you we will be carefully looking at how he carries out his responsibilities at the Department of Agriculture. We may still want to take a look at those earlier records.

I want to make it clear, I still do not think Mr. Dorr meets the standards, the highest standards, as Secretary Veneman said, for this position, but at least with this admission that what he did was wrong, that he has apologized for the statements he made on diversity, I believe that is at least enough for us to get past the cloture vote and to move to an up-or-down vote on this nominee.

With that, again, in the spirit of comity and trying to move this ball ahead, we will do that. I thank Chairman CHAMBLISS for all of his work and his efforts in this regard.

I will yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. DAYTON. Mr. President, I express my admiration to the Senator from Iowa for his willingness to make this accommodation. Those watching, who wonder whether we do act in the spirit of bipartisan cooperation, can note this as one of those instances. I share, however, the concern of the Senator about the timing of this admission by Mr. Dorr.

The first hearing of the Senate Agriculture Committee on the original nomination was, I believe, in March of 2002. That is over 3 years ago. If Mr. Dorr had made this kind of acknowledgment in this letter back then, this matter would have been resolved some time ago. Instead, the committee records will show during that time, and I believe at the subsequent hearing—which I did not attend but I believe the record shows happened earlier this year—he said exactly the opposite. He denied any culpability, he denied doing anything wrong, he denied any responsibility for anything that might have occurred inadvertently. This is a direct contradiction of that and it does occur, as the Senator noted, at the very last instant before this matter was going to be voted for cloture—and I think it is seriously in doubt whether cloture would have been invoked, in which case that nomination would have been in limbo as it was previously, which led to a recess appointment.

I also, with reluctance but out of necessity, will vote against this nominee. Again, I commend the Senator from Iowa, but I think in this matter this is a highly suspect maneuver at the very last instant.

I yield the floor.

The PRESIDING OFFICER. All time is yielded back.

Mr. GRASSLEY. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is, Will the Senate advise and consent to the nomination of Thomas C. Dorr, of Iowa, to be Under Secretary of Agriculture for Rural Development.

The clerk will call the roll.

The assistant legislative clerk called the roll.

The result was announced—yeas 62, nays 38, as follows:

[Rollcall Vote No. 198 Ex.]

YEAS—62

Akaka	Dole	McConnell
Alexander	Domenici	Murkowski
Allard	Ensign	Nelson (NE)
Allen	Enzi	Pryor
Bennett	Frist	Roberts
Bond	Graham	Salazar
Brownback	Grassley	Santorum
Bunning	Gregg	Sessions
Burns	Hagel	Shelby
Burr	Hatch	Smith
Chafee	Hutchison	Snowe
Chambliss	Inhofe	Specter
Coburn	Inouye	Stevens
Cochran	Isakson	Sununu
Coleman	Kyl	Talent
Collins	Lieberman	Thomas
Cornyn	Lincoln	Thune
Craig	Lott	Vitter
Crapo	Lugar	Voinovich
DeMint	Martinez	Warner
DeWine	McCain	

NAYS—38

Baucus	Dorgan	Levin
Bayh	Durbin	Mikulski
Biden	Feingold	Murray
Bingaman	Feinstein	Nelson (FL)
Boxer	Harkin	Obama
Byrd	Jeffords	Reed
Cantwell	Johnson	Reid
Carper	Kennedy	Rockefeller
Clinton	Kerry	Sarbanes
Conrad	Kohl	Schumer
Corzine	Landrieu	Stabenow
Dayton	Lautenberg	Wyden
Dodd	Leahy	

The nomination was confirmed.

Mr. WARNER. 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.

NOMINATION OF THOMAS C. DORR TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE COMMODITY CREDIT CORPORATION

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Thomas C. Dorr, of Iowa, to be a Member of the Board of Directors of the Commodity Credit Corporation?

The nomination was confirmed.

The PRESIDING OFFICER (Mr. ENSIGN). Under the previous order, the President will be immediately notified of the Senate's action.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will resume legislative session.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2006—Resumed

The PRESIDING OFFICER. The clerk will report the pending business.

The legislative clerk read as follows:

A bill (S. 1042) to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

Pending:

Warner Amendment No. 1314, to increase amounts available for the procurement of wheeled vehicles for the Army and the Marine Corps and for armor for such vehicles.

The PRESIDING OFFICER. The pending question is the Warner amendment.

Mr. WARNER. Mr. President, I see the distinguished majority leader. My understanding is he wishes to lay down an amendment, for which I am grateful. We would be happy to lay aside the pending amendment.

I yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Mr. President, I ask unanimous consent that the pending amendment be laid aside.

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

AMENDMENT NO. 1342

Mr. FRIST. Mr. President, I send an amendment to the desk. Also, I send to the desk a list of cosponsors of the amendment, and I ask unanimous consent they be added as such.

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

The legislative clerk read as follows:

The Senator from Tennessee [Mr. FRIST], for himself, and others, proposes an amendment numbered 1342.

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

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

The amendment is as follows:

(Purpose: To support certain youth organizations, including the Boy Scouts of America and Girl Scouts of America, and for other purposes)

At the end of subtitle G of title X, insert the following:

SEC. 1073. SUPPORT FOR YOUTH ORGANIZATIONS.

(a) SHORT TITLE.—This Act may be cited as the ''Support Our Scouts Act of 2005''.

(b) SUPPORT FOR YOUTH ORGANIZATIONS.—

(1) DEFINITIONS.—In this subsection—

(A) the term ''Federal agency'' means each department, agency, instrumentality, or other entity of the United States Government; and

(B) the term ''youth organization''—

(i) means any organization that is designated by the President as an organization that is primarily intended to—

(I) serve individuals under the age of 21 years;

(II) provide training in citizenship, leadership, physical fitness, service to community, and teamwork; and

(III) promote the development of character and ethical and moral values; and

(ii) shall include—

(I) the Boy Scouts of America;

(II) the Girl Scouts of the United States of America;

(III) the Boys Clubs of America;

(IV) the Girls Clubs of America;

(V) the Young Men's Christian Association;

(VI) the Young Women's Christian Association;

(VII) the Civil Air Patrol;

(VIII) the United States Olympic Committee;

(IX) the Special Olympics;

(X) Campfire USA;

(XI) the Young Marines;

(XII) the Naval Sea Cadets Corps;

(XIII) 4-H Clubs;

(XIV) the Police Athletic League;

(XV) Big Brothers—Big Sisters of America; and

(XVI) National Guard Youth Challenge.

(2) IN GENERAL.—

(A) SUPPORT FOR YOUTH ORGANIZATIONS.—No Federal law (including any rule, regulation, directive, instruction, or order) shall be construed to limit any Federal agency from providing any form of support for a youth organization (including the Boy Scouts of America or any group officially affiliated with the Boy Scouts of America) that would result in that Federal agency providing less support to that youth organization (or any similar organization chartered under the chapter of title 36, United States Code, relating to that youth organization) than was provided during the preceding fiscal year.

(B) TYPES OF SUPPORT.—Support described under this paragraph shall include—

(i) holding meetings, camping events, or other activities on Federal property;

(ii) hosting any official event of such organization;

(iii) loaning equipment; and

(iv) providing personnel services and logistical support.

(c) SUPPORT FOR SCOUT JAMBOREES.—

(1) FINDINGS.—Congress makes the following findings:

(A) Section 8 of article I of the Constitution of the United States commits exclusively to Congress the powers to raise and support armies, provide and maintain a Navy, and make rules for the government and regulation of the land and naval forces.

(B) Under those powers conferred by section 8 of article I of the Constitution of the United States to provide, support, and maintain the Armed Forces, it lies within the discretion of Congress to provide opportunities to train the Armed Forces.

(C) The primary purpose of the Armed Forces is to defend our national security and prepare for combat should the need arise.

(D) One of the most critical elements in defending the Nation and preparing for combat is training in conditions that simulate the preparation, logistics, and leadership required for defense and combat.

(E) Support for youth organization events simulates the preparation, logistics, and leadership required for defending our national security and preparing for combat.

(F) For example, Boy Scouts of America's National Scout Jamboree is a unique training event for the Armed Forces, as it requires the construction, maintenance, and disassembly of a ''tent city'' capable of supporting tens of thousands of people for a week or longer. Camporees at the United States Military Academy for Girl Scouts and Boy Scouts provide similar training opportunities on a smaller scale.

(2) SUPPORT.—Section 2554 of title 10, United States Code, is amended by adding at the end the following:

''(i)(1) The Secretary of Defense shall provide at least the same level of support under this section for a national or world Boy Scout Jamboree as was provided under this section for the preceding national or world Boy Scout Jamboree.

''(2) The Secretary of Defense may waive paragraph (1), if the Secretary—

''(A) determines that providing the support subject to paragraph (1) would be detrimental to the national security of the United States; and

''(B) reports such a determination to the Congress in a timely manner, and before such support is not provided.''.

(d) EQUAL ACCESS FOR YOUTH ORGANIZATIONS.—Section 109 of the Housing and Community Development Act of 1974 (42 U.S.C. 5309) is amended—

(1) in the first sentence of subsection (b) by inserting ''or (e)'' after ''subsection (a)''; and

(2) by adding at the end the following:

''(e) EQUAL ACCESS.—

''(1) DEFINITION.—In this subsection, the term 'youth organization' means any organization described under part B of subtitle II of title 36, United States Code, that is intended to serve individuals under the age of 21 years.

''(2) IN GENERAL.—No State or unit of general local government that has a designated open forum, limited public forum, or nonpublic forum and that is a recipient of assistance under this chapter shall deny equal access or a fair opportunity to meet to, or discriminate against, any youth organization, including the Boy Scouts of America or any group officially affiliated with the Boy Scouts of America, that wishes to conduct a meeting or otherwise participate in that designated open forum, limited public forum, or nonpublic forum.''.

Mr. FRIST. Mr. President, this amendment deals with an issue I have been working on with a number of Senators for a long period of time, many months. It deals with an organization I have been involved with for my entire life—myself and my three boys. The organization is the Boy Scouts of America.

I am proud to offer the Support Our Scouts Act of 2005 as an amendment to the Defense authorization bill. This legislation will ensure that the Defense Department will continue to provide the Scouts the type of support it has provided in the past, including jamborees on bases.

Pentagon support for Scouts is currently authorized in U.S. law.

This bill also ensures Scouts have equal access to public facilities, forums, and programs that are open to a variety of other youth organizations and community organizations. Boy Scouts, like other nonprofit youth organizations, depend on the ability to use public facilities and to participate in these programs and forums. Why am I offering this legislation? Since the Supreme Court decided Boy Scouts of America v. Dale, Boy Scouts of America's relationships with government at all levels have been the target of multiple lawsuits.

The Federal Government has been defending a lawsuit brought by the ACLU aimed at severing the ties between Boy Scouts and the Departments of Defense and HUD. The ACLU of Illinois claims that Defense Department sponsorship violates the first amendment because the Scouts are a religious organization. This is a red herring.

The Scouts are a youth organization that is committed to developing qualities, such as patriotism, integrity, loyalty, honesty, and other values, in our Nation's boys and young men. Part of that development is asking them to acknowledge a higher authority regardless of denomination.

We do this every day in the Senate when we open the Senate floor each morning, when we take our oaths of office, when our young men and women enlist in the Armed Forces—and the list goes on. Such acknowledgement and respect is an integral part of our culture, our values, and our traditions.

A decision was recently reached in this case. A U.S. district court in Chicago ruled that Pentagon support of the Scouts violates the establishment clause and, therefore, the Defense Department is prohibited from providing support to the Scouts at future jamborees.

The timing of this ruling simply could not be worse. On Monday, July 25, thousands of Scouts from around the country will be arriving at Fort AP Hill, close by, in Virginia. The event will draw 40,000 Scouts and their leaders and many more proud families, moms and dads.

This latest ruling is part of a series of attempts to undermine Scouting's interaction with government in America at all levels. The effect of these attempts of exclusion at the Federal, State, and local levels could be far-reaching. Already, it has had a chilling effect on government relationships with Scouts, and it is the greatest legal challenge facing Boy Scouts today.

The Support Our Scouts Act of 2005 addresses these issues. To begin with, my amendment makes clear that the Congress regards the Boy Scouts to be a youth organization that should be treated the same as other national youth organizations.

Second, this bill asserts the view of the Congress that Pentagon support to the Scouts at their jamborees, as well as similar support to other youth organizations, is important to the training of our Armed Forces. It contributes to—it does not detract from—their readiness.

Third, my amendment removes any doubt that Federal agencies may welcome Scouts to hold meetings, go camping on Federal property, or hold Scouting events in public forums at any level.

The Scout bill has been discussed with the Defense Department. While it includes language that establishes baseline Pentagon support for Scouting activities, it also offers the Secretary of Defense some flexibility in its application.

Since 1910, Boy Scout membership has totaled more than 110 million young Americans. Today, more than 3.2 million young people and 1.2 million adults are members of the Boy Scouts and are dedicated to fulfilling the Boy Scouts' mission. This unique American institution is committed to preparing

our youth for the future by instilling in them such values as honesty, integrity, and character. Through exposure to the outdoors, hard work, and the virtues of civic duty, the Boy Scouts has developed millions of Americans into superb citizens and future leaders.

Today, there are more than 40 Members of the Senate and more than 150 Members of the House of Representatives who have been directly involved in Scouting. I was a Boy Scout. As I mentioned, my three boys, Harrison, Jonathan, and Bryan, all were Scouts as well. Scouting is a great American tradition that has been shared by countless families over many decades.

I believe this amendment will receive broad, bipartisan support in both the Senate and the House. I believe we will pass it this year. It currently has over 50 cosponsors in this body. I encourage others to come and cosponsor this bill and to come to the floor and speak on behalf of our Scouts.

I encourage Scout supporters—indeed, all Americans—to contact their Senators and Representatives and ask them to support the Support Our Scouts Act of 2005. I do urge all my Senate colleagues to vote for the young boys and girls who are following in the worthy Scouting tradition. A vote for this amendment will be a vote for them.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I commend the distinguished majority leader, and I associate myself with his remarks and this report.

I just looked at one thing, and the staff advised me that the terms ''Boy Scouts'' and ''Girl Scouts'' embrace what is known as the Cub Scouts. I want to make sure my understanding is correct that was the intention of our distinguished leader, because a lot of families are very active in those organizations.

Mr. FRIST. Mr. President, I say to the Senator, indeed it is, Mr. Chairman. The Cub Scouts badges and uniform is one I wore and, indeed, my three boys wore, Harrison, Jonathan, and Bryan. It is that introduction to Scouts that most of us first experience. Indeed, it is.

Mr. WARNER. Mr. President, I thank our distinguished leader. I, too, have had a very modest career in the Scouts. I was sort of attenuated when I left and joined the Navy in World War II. So I never attained any special recognition. But I must say that the training that was given to me helped me enormously in my early training in the military because first you learned discipline, then you learned regimentation. You learned the concept of sharing with others, the need to work with your fellow Scouts. It is a magnificent organization. I am so glad you have done this.

I also must say I have attended the rally in Virginia to which you referred. I will never forget waiting, as one of the several speakers. I was a most inconsequential speaker because a world-famous baseball player attended. As far as the eye could see, there were clouds of dust. They looked like the Roman legions marching in. Tens of thousands of Scouts assembled at this rally, all carrying their banners, and the parents were all seated under the trees watching this rally. It was a spectacle to behold. It was a marvelous experience.

So again, Mr. President, I encourage other Senators to join our distinguished leader in support of this legislation.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. ALEXANDER. Mr. President, I am an original cosponsor of Senator FRIST's legislation, which we call the Save Our Scouts Act of 2005. I will take a minute to say to my colleagues why I think the bill is important and why I am glad to be an original cosponsor. I grew up in Maryville, TN, at the edge of the Great Smoky Mountains National Park—then a town of about 15,000. Every Monday night, all year long, as soon as I was 11 years old, we went down to the new Providence Presbyterian Church at 7 p.m. for a meeting of Troop 88 of the Boy Scouts of America. There wasn't a lot of nonsense. It started at 7 and was over at 8. Our primary goal was to get organized for outdoor activities. At least once a month—sometimes twice a month—we were away from the church and were very active. Most often, we went into the Great Smoky Mountains National Park. Sometimes we went down the road to the Cherokee National Forest.

I can remember on several occasions when we went to the Oak Ridge National Laboratory, which was a source of great wonderment to us that close to the end of World War II. Sometimes we went to Knoxville to the Tennessee Valley Authority, another government agency known worldwide. We learned from that. I can remember several times we went to the Air Force base, another Federal installation. There are a lot of State and local government places we would go in Troop 88. Sometimes we met at West Side Elementary School or Maryville High School. Sometimes we went to the courthouse. I remember seeing a great attorney, Ray Jenkins, waving a bloody wrench in his hand trying to convict a murderer as a special prosecutor in a family dispute. I was cowering behind the jury box watching this great lawyer carry on. We were there in a public building. Sometimes we camped in the city parks. Sometimes we went to the State parks.

My point is that all of these places we went in Troop 88, whether it was the Great Smoky Mountains National Park, or any of the others I mentioned, those are public places. Ever since the Supreme Court made its decision in the Boy Scouts of America v. Dale case, the relationship of the Boy Scouts of America with government at all levels has been the target of multiple lawsuits. That is not just the case for boys growing up in Maryville, TN.

For the last 25 years, our family has gone up to Ely, MN, on the Canadian border. It is a million acres of territory that you have to take a canoe into. It is very restricted wilderness area. It is the center of one of the Boy Scouts' most important adventure outdoor programs. Whether they are there in the winter, when it is 20 below, or in July, when there are a lot of mosquitos, these young men learn to take care of themselves outdoors.

Every year for as long as I can remember, the Boy Scouts have looked forward to going to the jamborees, which are often held on Federal property. It is often a highlight in the lives of these young men. They look forward to it for several years. The adult scoutmasters go with them.

Mr. President, it makes no sense whatsoever to restrict, in any way, the Boy Scouts from using national parks, national forests, the Oak Ridge National Laboratory, Air Force bases, State parks, and city parks.

What do the Boy Scouts do? I tell you what it did for me. It tried to build some character. I can still say the words: Trustworthy, loyal, helpful, friendly, courteous, kind. There are 12 of them. I did not always live up to them, but they were taught to me.

The Boy Scouts taught me about my country. I earned my God and Country award before I got my Eagle Scout. It taught me about this country and what it means to be an American. It taught me to love the great American outdoors, which I have always kept and imparted to my children because we spent almost every weekend in the Great Smoky Mountains National Park or Cherokee National Forest.

I don't want the young men of the day and their volunteer leaders to be kept out of the Great Smokies and the TVA and the schools and the city parks. I don't want those volunteer leaders, who are small business people in Maryville, TN, who work at the Alcoa plant—they don't have the money or time to go to court to argue with people about whether those young boys have a right to go there.

This is a very important piece of legislation. In this country today, most people would say, when looking at our children, there is nothing they need more than mentors, and the Boy Scouts, just like the Girl Scouts, provide that. Look at our schools today. Our worst score of high school seniors is in U.S. history. At least in the Boy Scouts you learn something about the principles that unite us as Americans.

Our outdoors are under constant threat. In the Boy Scouts of America, we are constantly building tens of thousands of young men who love the outdoors, know how to take care of it, have an environmental ethic and use that for the rest of their lives.

I am glad we have a majority leader who is a Boy Scout. I am glad we have more than half the Senate who are cosponsors of this legislation. I hope the result of this legislation will remove

any doubt that Federal agencies may welcome Boy Scouts to hold meetings and go camping on Federal property, just as we did. And it says to State and local governments that in denying equal access to the public venues to scouts, they will risk some of their Federal funds if they continue to do that.

The Boy Scouts of America is one of the preeminent valuable organizations in this country, and I am proud to be an original cosponsor of the Support Our Scouts Act of 2005.

I yield the floor.

Mr. WARNER. Mr. President, I wish to thank our distinguished colleague from Tennessee. I listened carefully to his remarks. It did evoke memories of this humble Senator when I had a rather inauspicious career in the Boy Scouts. Nevertheless, they did a lot more for me than I did for them.

I remember the jamborees. I can remember very well on our first encampment filling a tick bag full of barn straw which we used for a mattress. I was greatly impressed with that.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, let me also join Senator FRIST in this legislation. I believe it is very significant. I spoke last April on the Senate floor on behalf of this issue, and I am proud to do so again with this amendment.

Sadly, since my previous speech, there has been a recent Federal court ruling against the Pentagon's support for the National Boy Scout Jamboree, which occurs every 4 years and attracts about 40,000 people. It will be taking place on July 25.

In her decision, a Federal judge in Chicago ruled that a statute permitting the military to lend support for the National Scout Jamboree violates the establishment clause of the Constitution.

In short, the judge ruled that Pentagon funding is unconstitutional because the Boy Scouts are a religious organization as it requires Scouts to affirm a belief in God. I will speak more on this later.

However, it is clear to me that for more than 90 years, the Boy Scouts have benefited our youth and helped produce some of the best and brightest leaders in our country. I believe we must reaffirm our support for the vital work they have done and continue to do. Like many of my friends here, I was a Boy Scout many years ago.

As a result of the great work they do, I was pleased to be an original cosponsor of S. 642, the Support Our Scouts Act of 2005, as well as this amendment.

I had at one time considered introducing my own bill on this very important matter. However, I was so pleased with the substance of this bill that I was proud to add my name as a cosponsor, and I again thank Senator FRIST for his efforts on this issue.

As you may know, this bill, and now this amendment, address efforts by some groups to prevent Federal agencies from supporting our Scouts. This bill would remove any doubts that Federal agencies can welcome Scouts and the great work they do.

Sadly, as the following excerpt from a July 20, 2005, Wall Street Journal editorial demonstrates, these great organizations have come under attack. The column from this respected publication explains that:

> Because the Scouts require members to ''privately exercise their religious faith as directed by their families and religious advisors,'' the ACLU petitioned the court to declare the organization ''theistic'' and ''pervasively sectarian.'' Judge Blanche Manning didn't go quite that far last month, but she did rule it an overtly religious association because it ''excludes atheists and agnostics from membership.'' She ordered the Army to expel the next Jamboree from Fort A.P. Hill in 2010, by which time we trust the Seventh Circuit Court of Appeals will have overturned her decision.

I hope this unfortunate decision is overturned as well.

As Senator FRIST has said, this legislation will specifically ensure that the Department of Defense can and will continue to provide the Scouts the type of support it has provided in the past. Moreover, the Scouts would be permitted equal access to public facilities, forums, and programs that are open to a variety of other youth or community organizations.

It is enormously regrettable to me that the Scouts have come under attack from aggressive liberal groups blatantly pushing their own social agendas and become the target of lawsuits by organizations that are more concerned with pushing these liberal agendas than sincerely helping our youth.

Rather than protecting our religious freedoms, these groups are clearly bent on discriminating against any organization that has faith as one of its tenets.

Thus, today, the Federal Government continues to defend the lawsuit aimed at severing traditional ties between the Boy Scouts and the Departments of Defense and Housing and Urban Development.

What is more, Scouts have been excluded by certain State and local governments from utilizing public facilities, forums and programs, which are open to other groups.

It is certainly disappointing and, frankly frustrating that we have reached a point where groups such as the ACLU are far more interested in tearing down great institutions like the Boy Scouts than helping foster character and values in our young men. I am tired of these tactics. It is very disturbing to me that these groups unabashedly attack organizations, regardless of the good they do or the support they have from the vast majority of Americans, simply to further their own subjective social agendas.

I, for one, am saddened that the Boy Scouts of America has been the most recent target of these frivolous lawsuits. I reject any arguments that the Boy Scouts is anything but one of the greatest programs for character development and values-based leadership training in America today.

We should seek to aid, not impede, groups that promote values such as duty to God and country, faith and family, and public service and sacrifice, which are deeply ingrained in the oath of every Scout. To fail to support such values would allow the very fabric of America, which has brought us to this great place in history, to be destroyed.

Today, with more than 3.2 million youth members, and more than 1.2 million adult volunteers, we can certainly say that the Boy Scouts of America has positively impacted the lives of generations of boys, preparing them to be men of great character and values. Remarkably, Boy Scout membership since 1910 totals more than 110 million.

I am proud to report that in Oklahoma we have a total youth participation of nearly 75,000 boys; and in Oklahoma City alone, we have about 7,000 adult volunteers.

These young men have helped serve communities all over our State with programs such as Helping Hands for Heroes, a program where Scouts help military families whose loved ones are serving overseas. These young men have cut grass, cleaned homes, taken out the garbage, and walked dogs. What a great service for our soldiers, sailors, airmen, and marines and their families. Our Boy Scouts have also served as ushers and first-aid responders at the University of Oklahoma football games for more than 50 years.

Notably, Scouts in my State have also shared a long and proud history of cooperation and partnership with military installations in Oklahoma. Furthermore, events, such as the National Jamboree, allow an opportunity to expose large numbers of young Americans to our great military in a time when fewer and fewer receive such exposure. I believe this is a very good thing, and I will fight to see that it continues.

Given all this, I hope my colleagues will join me in defending this organization and others like it. We must not be afraid to support our youth and organizations like the Boy Scouts that support them.

As the Wall Street Journal editorial that I mentioned previously argued:

> The values the Scouts embody are vital to the national good and in need today, more than ever.

I agree and am proud to rise in support today and always for this great cause.

Mr. President, I yield the floor.

• Mr. ALLARD. Mr. President, I rise today in support of the Boy Scouts of America and the Support Our Scouts Act of 2005 amendment being offered by majority leader Frist.

I support the Boy Scouts of America and its goals. I was fortunate to be able to have most of the same experiences and training offered by the Boy Scouts

as I grew up. My boyhood on a ranch in Walden, CO, offered me the chance to develop the outdoor skills and nature appreciation that are so much a part of Scouting. As a child I also learned much about patriotism, community service, religion, political involvement and civic responsibility—the intellectual development stressed by the Boy Scouts. As a veterinarian I often served as an advisor to the Scouts on a variety of issues relating to animal care and health. Americans all over our Nation contribute and are touched by this great organization.

On July 25 through August 3, Boy Scouts from all over the Nation will gather at Fort A.P. Hill in Virginia for their National Scout Jamboree. This opportunity is time to celebrate scouting and the strong ideals it instills in it's youth.

Boy Scouts of America, like other nonprofit youth organizations, depend on the use of these public facilities for various programs and forums. Boy Scouts of America have had a long and positive relationship with the Departments of Defense and Housing and Urban Development. This relationship has fostered responsible fun and adventure to the more than 3 million boys and 1 million adult volunteers around the country.

However, since the U.S. Supreme Court decided Boy Scouts of America, BSA v. Dale, the Boy Scout's relationships with Government has been the target of frivolous lawsuits. Currently, State and local Governments are actively excluding Boy Scouts from using public facilities, forums, and programs. These are resources that are available to a variety of other youth or community organizations. Today access by the Scouts has been unfairly limited because of the Boy Scout's unwavering acknowledgment of God.

As we fight to prevent court involvement from changing our founding documents and other symbols of our national heritage we must also support and protect the heritage of Boy Scouts of America. Citizenship, service, and leadership are important values on which the Boy Scouts of America was built. The ability of the Boy Scouts to instill young people with values and ethical character must remain intact for future generations. The Boy Scouts of America is a permanent fixture in our culture and no court ruling can or should attempt to diminish their rights to equal access.

This amendment's mission is to ensure that the Boy Scouts are treated equally. I feel the Boy Scouts have been unfairly singled out. It is important to guarantee their right to equal access of public facilities, forums, and programs so that the Boy Scout of America can continue to serve America's communities and families for a better tomorrow.

Please join me in supporting the Boy Scouts of America and majority leader Frist's Support Our Scouts amendment to the Defense Appropriations bill.●

Mr. ENZI. Mr. President, I rise in support of amendment No. 1342, the Support Our Scouts Act, offered by my distinguished colleague from Tennessee, Senator FRIST. The amendment was intended to be simple and straightforward in its purpose, to ensure the Department of Defense can continue to support youth organizations, including the Boy Scouts of America, without fear of frivolous lawsuits. The dollars that are being spent on litigation ought to be spent on programs for the youth. Every time we see a group like the Boy Scouts, that will teach character and take care of the community, we ought to do everything we can to promote it.

This Saturday, over 40,000 Boy Scouts from around the Nation will meet at Fort A.P. Hill in Virginia for the National Scout Jamboree. This event provides a unique opportunity for the military and civilian communities to help our young men gain a greater understanding of patriotism, comradeship, and self-confidence.

Since the first jamboree was held at the base of the Washington Monument in 1937, more than 600,000 Scouts and leaders have participated in the national events. I attended the jamboree at Valley Forge in 1957.

Boy Scouts has been a part of my education. I am an Eagle Scout. I am pleased to say my son was in Scouts. He is an Eagle Scout. Boy Scouts is an education. It is an education in possibilities for careers. I can think of no substitution for the 6 million boys in Scouts and the millions who have preceded them. There are dozens on both sides of the aisle who have been Boy Scouts. I say it is part of my education because each of the badges that is earned, each of the merit badges that is earned, is an education. I tell schoolkids as I go across my State and across my country that even though at times I took courses or merit badges or programs that I didn't see where I would ever have a use for them, by now I have had a use for them and wish I had paid more attention at the time I was doing it.

I always liked a merit badge pamphlet on my desk called ''Entrepreneurship.'' It is the hardest Boy Scout badge to earn. It is one of the most important ones. I believe small business is the future of our country. Boy Scouts promote small business through their internship merit badge. Why would it be the toughest to get? Not only do you have to figure out a plan, devise a business plan, figure how to finance it, but the final requirement for the badge is to start a business.

I could go on and on through the list of merit badges required in order to get an Eagle badge. There are millions of boys in this country who are doing that and will be doing that. They do need places to meet. They are being discriminated against. They are being told they cannot use military facilities, even for their national jamborees.

These jamborees have become a great American tradition for our young people, and Fort A.P. Hill has been made the permanent site of the gatherings. But now the courts are trying to say that this is unconstitutional.

It isn't just military facilities; it is Federal facilities. A couple of years ago, we had an opportunity to debate this again on floor, and it had to do with the Smithsonian.

Some Boy Scouts requested they be able to do the Eagle Scout Court of Honor at the National Zoo and were denied. Why? The determination by the legal staff of the Smithsonian that Scouts discriminate because of their support for and encouragement for the spiritual life of their members. Specifically, they embrace the concept that the universe was created by a supreme being, although we surely point out Scouts do not endorse or require a single belief or any particular faith's God. The mere fact they asked you to believe in and try to foster a relationship with a supreme being who created the universe was enough to disqualify them.

I read that portion of the letter twice. I had just visited the National Archives and read the original document signed by our Founding Fathers. It is a good thing they hadn't asked to sign the Declaration of Independence at the National Zoo.

This happens in the schools across the country. Other requests have been denied. They were also told they were not relevant to the National Zoo.

That is kind of a fascinating experiment in words. I did look to see what other sorts of things had been done there and found they had a Washington Singers musical concert, and the Washington premiers for both the ''Lion King'' and ''Batman.'' Clearly, relevance was not a determining factor in those decisions.

But the Boy Scouts have done some particular things in conservation that are important, in conservation tied in with the zoo. In fact, the founder of the National Zoo was Dr. William Hornaday. He is one of the people who was involved in some of the special conservation movements and has one of the conservation badges of Scouts named after him.

If the situations did not arise, this amendment would not come up. But they do.

In 2001, I worked with Senator Helms to pass a similar amendment requiring that the Boy Scouts are treated fairly, as any other organization, in their efforts to hold meetings on public school property. This amendment clarified the difference between support and discrimination, and it has been successful in preventing future unnecessary lawsuits. The Frist amendment is similar to the Helms amendment and will help prevent future confusion.

Again and again, the Scouts have had to use the courts to assure that they were not discriminated against. I am pretty sure everybody in America recognizes if you have to use the courts to get your rights to use school buildings,

military bases, or other facilities, it costs money. It costs time. This amendment eliminates that cost and eliminates that time, to allow all nationally recognized youth organizations to have the same rights.

The legal system is very important in the country but it has some interesting repercussions. Our system of lawsuits, which sometimes are called the legal lottery of this country, allow people who think they have been harmed to try to point out who harmed them and get money for doing that. It has had some difficulties for the Boy Scouts.

I remember when my son was in the Scouts their annual fundraiser was selling Christmas trees. One of the requirements when they were selling Christmas trees was that the boys selling trees at the lot had to be accompanied by two adults not from the same family.

I did not understand why we needed all of this adult supervision. It seemed as if one adult helping out at the lot would be sufficient. The answer was, they have been sued because if there was only one adult there and that adult could be accused of abusing the boys. Two adults provided some assurance that a lawsuit would not happen.

The interesting thing is, it was just me and my son at the lot and we still had to have another adult in order to keep the Boy Scouts from being sued.

They run into some of the same difficulties with car caravans.

So the legal system of this country has put them in the position where they are doing some of the things that they are doing. The legal system of the country has caused some of the discrimination that is done.

It is something we need to correct. This discussion of the Frist amendment is timely. U.S. District Judge Blanche Manning recently ruled that the Pentagon could no longer spend Government money to ready Fort A.P. Hill for the National Boy Scout Jamboree. The Frist amendment would assure that our free speech protections would also apply to the Boy Scouts of America.

The Boy Scouts of America is one of the oldest and largest youth organizations in the United States and the world today. The organization teaches its members to do their duty to God, to love their country, and serve their fellow citizens. The Boy Scouts have formed the minds and hearts of millions of Americans and prepared these boys and young men for the challenges they are sure to face the rest of their lives. It is an essential part of Americana. I urge my colleagues to join me in defending the Boy Scouts from constitutional discrimination by supporting the Helms amendment.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, we have no objection that I know of to this amendment. It does not purport to limit the jurisdiction of a Federal court in determining what the Constitution means. So we do not have any objection to it.

The PRESIDING OFFICER. Is there further debate on the amendment?

The Senator from Virginia.

AMENDMENT NO. 1314

Mr. WARNER. Mr. President, in consultation with the majority leader and the distinguished Senator from Michigan, as to the amendment by Senator FRIST, I ask unanimous consent that the amendment be laid aside and that we return to my amendment No. 1314.

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

Mr. WARNER. On that matter, it is contemplated now that we will have a vote in relation to the Warner amendment regarding the wheeled motor vehicles, armored, today at 12:30.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, we very strongly support the Warner amendment. I ask unanimous consent that I be listed as a cosponsor of the Warner amendment.

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

Mr. LEVIN. Mr. President, we understand there will be no second-degree amendments to the Warner amendment now.

I also ask unanimous consent that Senator KENNEDY be listed as a cosponsor.

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

Mr. LEVIN. Mr. President, we are checking on Senator BAYH right now.

Mr. WARNER. I think it is important. Senator BAYH has been very active on this issue.

AMENDMENT NO. 1314, AS MODIFIED

Mr. President, I send to the desk a modification to my amendment in the nature of a technical modification. I believe it has been examined by the other side. This modification identifies an offset of $445.4 million from the Iraqi Freedom Fund for this amendment.

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

The amendment, as modified, is as follows:

On page 303, strike line 3 and all that follows through page 304, line 24, and insert the following:

(3) For other procurement $376,700,000.

(b) AVAILABILITY OF CERTAIN AMOUNTS.—

(1) AVAILABILITY.—Of the amount authorized to be appropriated by subsection (a)(3), $225,000,000 shall be available for purposes as follows:

(A) Procurement of up-armored high mobility multipurpose wheeled vehicles (UAHs).

(B) Procurement of wheeled vehicle add-on armor protection, including armor for M1151/M1152 high mobility multipurpose wheeled vehicles.

(C) Procurement of M1151/M1152 high mobility multipurpose wheeled vehicles.

(2) ALLOCATION OF FUNDS.—

(A) IN GENERAL.—Subject to subparagraph (B), the Secretary of the Army shall allocate the manner in which amounts available under paragraph (1) shall be available for the purposes specified in that paragraph.

(B) LIMITATION.—Amounts available under paragraph (1) may not be allocated under subparagraph (A) until the Secretary certifies to the congressional defense committees that the Army has a validated requirement for procurement for a purpose specified in paragraph (1) based on a statement of urgent needs from a commander of a combatant command.

(C) REPORTS.—Not later than 15 days after an allocation of funds is made under subparagraph (A), the Secretary shall submit to the congressional defense committees a report describing such allocation of funds.

SEC. 1404. NAVY AND MARINE CORPS PROCUREMENT.

(a) NAVY.—Funds are hereby authorized to be appropriated for fiscal year 2006 for the procurement accounts of the Navy in amounts as follows:

(1) For aircraft, $183,800,000.

(2) For weapons, including missiles and torpedoes, $165,500,000.

(3) For other procurement, $30,800,000.

(b) MARINE CORPS.—Funds are hereby authorized to be appropriated for fiscal year 2006 for the procurement account for the Marine Corps in the amount of $429,600,000.

(c) NAVY AND MARINE CORPS AMMUNITION.—Funds are hereby authorized to be appropriated for fiscal year 2006 for the procurement account for ammunition for the Navy and the Marine Corps in the amount of $104,500,000.

(d) AVAILABILITY OF CERTAIN AMOUNTS.—

(1) AVAILABILITY.—Of the amount authorized to be appropriated by subsection (b), $340,400,000 shall be available for purposes as follows:

(A) Procurement of up-armored high mobility multipurpose wheeled vehicles (UAHs).

(B) Procurement of wheeled vehicle add-on armor protection, including armor for M1151/M1152 high mobility multipurpose wheeled vehicles.

(C) Procurement of M1151/M1152 high mobility multipurpose wheeled vehicles.

(2) ALLOCATION OF FUNDS.—

(A) IN GENERAL.—Subject to subparagraph (B), the Secretary of the Navy shall allocate the manner in which amounts available under paragraph (1) shall be available for the purposes specified in that paragraph.

(B) LIMITATION.—Amounts available under paragraph (1) may not be allocated under subparagraph (A) until the Secretary certifies to the congressional defense committees that the Marine Corps has a validated requirement for procurement for a purpose specified in paragraph (1) based on a statement of urgent needs from a commander of a combatant command.

(C) REPORTS.—Not later than 15 days after an allocation of funds is made under subparagraph (A), the Secretary shall submit to the congressional defense committees a report describing such allocation of funds.

SEC. 1404A. REDUCTION IN AUTHORIZATION OF APPROPRIATION FOR IRAQ FREEDOM FUND.

The amount authorized to be appropriated for fiscal year 2006 for the Iraq Freedom Fund is the amount specified by section 1409(a) of this Act, reduced by $445,400,000.

Mr. WARNER. Mr. President, I ask unanimous consent that Senator DEWINE and Senator COLLINS be added as cosponsors to the amendment.

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

Mr. WARNER. Mr. President, this amendment was debated yesterday. I see other Senators seeking recognition. From my perspective, the debate has been satisfied, unless there are other Senators.

Has the Chair ruled on the vote at 12:30? I ask unanimous consent that the vote in relation to the Warner amendment No. 1314 regarding wheeled vehicle armor occur today at 12:30 with no second-degree amendments in order prior to the vote.

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

The Senator from Oregon.

Mr. WYDEN. Mr. President, I had approached the chairman to ask if I could speak for a few minutes as in morning business and if it would be possible at this time for me to speak for up to 10 minutes as in morning business.

Mr. WARNER. I bring to the Senator's attention, we did have that discussion. I didn't, at the time, recognize the imminence of the vote. I see a colleague who does have an amendment in relation to the bill. Therefore, I am hesitant to grant UC to go off the bill. Could I inquire of the Senator from Oklahoma?

Mr. INHOFE. I respond to the distinguished chairman that I do have three amendments that are prepared and I am ready to bring them up and get them into the system. I also have two UC requests. If I could be recognized for that purpose, I would appreciate that.

Mr. WARNER. Mr. President, are there other colleagues who wish to address the Defense bill? Hopefully, we can accommodate our colleague from Oregon. Let's determine, procedurally, the order in which matters in relation to this bill should be brought up.

Ms. COLLINS. Mr. President, I inform the distinguished chairman that I was seeking 8 minutes to speak on the underlying bill.

Mr. WARNER. I thank the Senator from Maine.

Mr. ALEXANDER. Mr. President, I inform the chairman I would like to speak for 4 minutes on the Boy Scout amendment discussed, if time is available after other Senators speak on the underlying bill.

Mr. WARNER. I thank the distinguished Senator from Tennessee. I bring to his attention that that measure has been laid aside. It doesn't preclude his speaking to it, but we will see what we can do.

I ask my colleagues on this side, the Senator from Oregon, do you want 10 minutes or 8 minutes?

Mr. WYDEN. If the chairman could allow that, I would be appreciative.

Mr. WARNER. I wonder if the distinguished Senator from Oklahoma could proceed, followed by the Senator from Maine, and then prior to the vote, if you desire to do it before 12:30?

Mr. WYDEN. If that is at all possible. Perhaps I will ask unanimous consent to speak for up to 10 minutes after the vote; would that be acceptable?

Mr. WARNER. I would like to ask my colleague, the Senator from Michigan, to concur in that UC, that following the vote, the Senator from Oregon be recognized for a period of not to exceed 10 minutes, and we will go off the bill for that purpose.

Mr. WYDEN. I thank the chairman.

Mr. LEVIN. We appreciate that.

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

Mr. LEVIN. I wonder if we could lock in an additional speaker. I ask unanimous consent that immediately prior to the vote on the Warner amendment at 12:30, Senator KENNEDY be recognized for 5 minutes at 12:25.

The PRESIDING OFFICER. Is there objection?

Mr. ALEXANDER. Reserving the right to object, I would like to be in the queue before 12:30.

Mr. WARNER. I assure you that you will have 5 minutes in that period of time. If the Senator from Oklahoma could present his amendments, followed by the Senator from Maine, the Senator from Tennessee, and then Senator KENNEDY.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I am afraid I didn't hear that request. Are the speakers that have been identified speaking on the pending amendment?

Mr. WARNER. Not the pending. In other words, I desire not to go off the bill to accommodate our friend from Oregon. He has now been accommodated. We are looking at a period of roughly 40 minutes to be allocated among three Senators who wish to speak to matters in relation to this bill and reserving at 12:25 that Senator KENNEDY be recognized for a period of 5 minutes.

Mr. LEVIN. I ask unanimous consent that we add to that request that Senator LAUTENBERG then be recognized to offer an amendment immediately after the speakers who have been identified.

Mr. WARNER. Mr. President, we will do our very best to at least introduce an amendment at that time.

The PRESIDING OFFICER. Is there objection to Senator LAUTENBERG being added at the end of the three previous speakers?

Mr. WARNER. Might I inquire as to the amount of time the distinguished Senator from New Jersey might wish?

Mr. LAUTENBERG. I would like a half-hour evenly divided on the amendment. We have 50 minutes left before a vote. If I might say, could our distinguished colleague be accommodated immediately after the vote, following the Senator from Oregon?

Why don't I just lay it down and take a couple minutes to talk about it.

Mr. WARNER. Five minutes then.

Mr. LEVIN. He would just lay down an amendment prior to Senator KENNEDY speaking and then he would pick up after the vote.

Mr. WARNER. I have no objection.

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

The Senator from Oklahoma is recognized.

Mr. INHOFE. Mr. President, first, I thank the distinguished chairman of the Senate Armed Services Committee for allowing me to offer these amendments. I will stay within a timeframe that will allow other speakers under the UC to be heard. I have three amendments I will be bringing up.

I first ask unanimous consent that Senator COLLINS be added as a cosponsor to amendment No. 1312 and that Senator KYL be added as a cosponsor to amendment No. 1313.

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

AMENDMENT NO. 1311

Mr. INHOFE. Mr. President, is it necessary to set aside the pending amendment for me to offer my amendment?

The PRESIDING OFFICER. That is correct.

Mr. INHOFE. I ask unanimous consent that the pending amendment be set aside, and I send an amendment to the desk, No. 1311, and ask for its immediate consideration.

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

The clerk will report.

The legislative clerk read as follows:

The Senator from Oklahoma [Mr. INHOFE] proposes an amendment numbered 1311.

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

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

The amendment is as follows:

(Purpose: To protect the economic and energy security of the United States)

At the appropriate place, insert the following:

ECONOMIC AND ENERGY SECURITY

SEC. __. Section 721 of the Defense Production Act of 1950 (50 U.S.C. App. 2170) is amended—

(1) in subsection (b)—

(A) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(B) by striking ''The President'' and inserting ''(1) IN GENERAL.—The President'';

(C) by inserting '', including national economic and energy security,'' after ''national security'';

(D) by adding at the end the following new paragraph:

''(2) NOTICE AND WAIT REQUIREMENT.—

''(A) NOTIFICATION OF APPROVAL.—The President shall notify the appropriate congressional committees of each approval of any proposed merger, acquisition, or takeover that is investigated under paragraph (1).

''(B) JOINT RESOLUTION OBJECTING TO TRANSACTION.—

''(i) DELAY PENDING CONSIDERATION OF RESOLUTION.—A transaction described in subparagraph (A) may not be consummated until 10 legislative days after the President provides the notice required under such subparagraph. If a joint resolution objecting to the proposed transaction is introduced in either House of Congress by the chairman of one of the appropriate congressional committees during such period, the transaction may not be consummated until 30 legislative days after such resolution.

''(ii) DISAPPROVAL UPON PASSAGE OF RESOLUTION.—If a joint resolution introduced under clause (i) is agreed to by both Houses of Congress, the transaction may not be consummated.'';

(E) in paragraph (1)(B) (as so designated by this paragraph), by striking ''shall'';

(2) in subsection (d), by striking ''subsection (d)'' and inserting ''subsection (e)'';

(3) in subsection (e), by striking ''subsection (c)'' and inserting ''subsection (d)'';

(4) in subsection (f)(3), by inserting '', including national economic and energy security,'' after ''national security'';

(5) in subsection (g)—

(A) by striking ''REPORT TO THE CONGRESS'' in the heading and inserting ''REPORTS TO CONGRESS'';

(B) by striking ''The President'' and inserting the following: ''(1) REPORTS ON DETERMINATIONS.—The President'';

(C) by adding at the end the following new paragraph:

''(2) REPORTS ON CONSIDERED TRANSACTIONS.—

''(A) IN GENERAL.—The President or the President's designee shall transmit to the appropriate congressional committees on a monthly basis a report containing a detailed summary and analysis of each transaction the consideration of which was completed by the Committee on Foreign Acquisitions Affecting National Security since the most recent report.

''(B) CONTENT.—Each report submitted under subparagraph (A) shall include—

''(i) a description of all of the elements of each transaction; and

''(ii) a description of the standards and criteria used by the Committee to assess the impact of each transaction on national security.

''(C) FORM.—The reports submitted under subparagraph (A) shall be submitted in both classified and unclassified form, and company proprietary information shall be appropriately protected.''; and

(D) by striking ''of this Act'';

(6) in subsection (k)—

(A) by striking ''QUADRENNIAL'' in the heading and inserting ''ANNUAL''; and

(B) in paragraph (1)—

(i) by striking ''upon the expiration of every 4 years'' and inserting ''annually'';

(ii) in subparagraph (A), by striking ''; and'' and inserting a semicolon;

(iii) in subparagraph (B), by striking the period at the end and inserting ''; and''; and

(iv) by adding at the end the following new subparagraph:

''(C) evaluates the cumulative effect on national security of foreign investment in the United States.''; and

(7) by adding at the end the following new subsections:

''(l) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term 'appropriate congressional committees' means—

''(1) the Committee on Banking, Housing, and Urban Affairs, the Committee on Armed Services, the Select Committee on Intelligence, and the Committee on Appropriations of the Senate; and

''(2) the Committee on Financial Services, the Committee on Armed Services, the Permanent Select Committee on Intelligence, and the Committee on Appropriations of the House of Representatives.

''(m) DESIGNEE.—Notwithstanding any other provision of law, the designee of the President for purposes of this section shall be known as the 'Committee on Foreign Acquisitions Affecting National Security', and such committee shall be chaired by the Secretary of Defense.''.

Mr. INHOFE. Mr. President, as a practical and timely step toward addressing problems with China, I am introducing amendment No. 1311. This amendment addresses the review process of foreign acquisitions in the U.S. The review of controversial buys, such as the CNOOC, currently falls to the Committee on Foreign Investment in the United States, CFIUS. I will state this simply: CFIUS has not demonstrated an appropriate conception of U.S. national security. I understand that Representatives HYDE, HUNTER and MANZULLO expressed similar views in a January letter to Treasury Secretary John Snow, the chairman of CFIUS. Of more than 1,500 cases of foreign investments or acquisitions in the U.S., CFIUS has investigated only 24. And only one resulted in actually stopping the transaction. This lone disapproval, in February 1990, occurred with respect to a transaction that had already taken place—it took President George H.W. Bush to stop the transaction and safeguard our national security.

Another example of CFIUS falling short is with Magnequench International Incorporated. In 1995 Chinese corporations bought GM's Magnequench, a supplier of rare earth metals used in the guidance systems of smart bombs. Over 12 years, the company has been moved piecemeal to mainland China, leaving the U.S. with no domestic supplier of neodymium, a critical component of rare-earth magnets. CFIUS approved this transfer. The United States now buys rare earth metals, which are essential for precision-guided munitions, from one single country—China.

Some experts believe that China's economic policy is a purposeful attempt to undermine the U.S. industrial base and likewise, the defense industrial base. Perhaps it is hard to believe that China's economic manipulation is such a threat to our Nation. In response, I would like to read from the book ''Unrestricted Warfare'', written by two PLA, People's Liberation Army, senior Colonels:

> Military threats are already no longer the major factors affecting national security . . . traditional factors are increasingly becoming more intertwined with grabbing resources contending for markets, controlling capital, trade sanctions and other economic factors.

I have outlined in my earlier speeches how China is a clear threat. I believe it is. But I also believe that this threat can be addressed and allow a healthy, mutual growth for both our countries. The CFIUS process is at the heart of this issue. Chairman of the US-China Economic and Security Review Commission, Dick D'Amato, stated this morning that the CFIUS process is ''broken.'' This amendment is a step toward fixing the problems, enabling the foreign review to carry out its function and truly protect our national security.

First, it clearly charges the commission with measuring energy and economic security as fundamental aspects of national security.

Second, it brings congressional oversight into the foreign investment review process. After a 10-day review period, an oversight committee chairman can extend the review period to 30 days. Congress then has the option to pass a resolution of disapproval and thus stop an acquisition harmful to our country.

Third, the amendment calls for a report on the security implications of transactions on a monthly basis. There will also be a yearly report to the proper congressional committees that will review the cumulative effect of our sales with China.

The amendment also changes the name of the review mechanism to reflect the national security focus that it should be emphasizing. The new name would be Committee on Foreign Acquisitions Affecting National Security, or CFAANS. Further, the designated chairman of the process would become the Secretary of Defense, also reflecting the security focus that the process should be based on.

The foreign investment review process is vital to providing for U.S. security, particularly in relation to countries such as China. However, it is in need of attention and changes no less drastic than I have suggested here.

We are going to have to do something about the performance of this organization. To do it, we will have to change the structure. I am going to be recommending that the chairman of CFIUS no longer be the Secretary of the Treasury but be the Secretary of Defense, since they deal with very critical national security issues.

AMENDMENT NO. 1312

Mr. INHOFE. Mr. President, I ask unanimous consent that the pending amendment be set aside, and I send amendment No. 1312 to the desk and ask for its immediate consideration.

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

The clerk will report.

The legislative clerk read as follows:

The Senator from Oklahoma [Mr. INHOFE], for himself and Ms. COLLINS, proposes an amendment numbered 1312.

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

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

The amendment is as follows:

(Purpose: To express the sense of Congress that the President should take immediate steps to establish a plan to implement the recommendations of the 2004 Report to Congress of the United States-China Economic and Security Review Commission)

At the end of title XII, insert the following:

SEC. 1205. THE UNITED STATES-CHINA ECONOMIC AND SECURITY REVIEW COMMISSION.

(a) FINDINGS.—Congress finds the following:

(1) The 2004 Report to Congress of the United States-China Economic and Security Review Commission states that—

(A) China's State-Owned Enterprises (SOEs) lack adequate disclosure standards, which creates the potential for United States investors to unwittingly contribute to enterprises that are involved in activities harmful to United States security interests;

(B) United States influence and vital long-term interests in Asia are being challenged by China's robust regional economic engagement and diplomacy;

(C) the assistance of China and North Korea to global ballistic missile proliferation is extensive and ongoing;

(D) China's transfers of technology and components for weapons of mass destruction (WMD) and their delivery systems to countries of concern, including countries that support acts of international terrorism, has helped create a new tier of countries with the capability to produce WMD and ballistic missiles;

(E) the removal of the European Union arms embargo against China that is currently under consideration in the European Union would accelerate weapons modernization and dramatically enhance Chinese military capabilities;

(F) China's recent actions toward Taiwan call into question China's commitments to a peaceful resolution;

(G) China is developing a leading-edge military with the objective of intimidating Taiwan and deterring United States involvement in the Strait, and China's qualitative and quantitative military advancements have already resulted in a dramatic shift in the cross-Strait military balance toward China; and

(H) China's growing energy needs are driving China into bilateral arrangements that undermine multilateral efforts to stabilize oil supplies and prices, and in some cases may involve dangerous weapons transfers.

(2) On March 14, 2005, the National People's Congress approved a law that would authorize the use of force if Taiwan formally declares independence.

(b) SENSE OF CONGRESS.—

(1) PLAN.—The President is strongly urged to take immediate steps to establish a plan to implement the recommendations contained in the 2004 Report to Congress of the United States-China Economic and Security Review Commission in order to correct the negative implications that a number of current trends in United States-China relations have for United States long-term economic and national security interests.

(2) CONTENTS.—Such a plan should contain the following:

(A) Actions to address China's policy of undervaluing its currency, including—

(i) encouraging China to provide for a substantial upward revaluation of the Chinese yuan against the United States dollar;

(ii) allowing the yuan to float against a trade-weighted basket of currencies; and

(iii) concurrently encouraging United States trading partners with similar interests to join in these efforts.

(B) Actions to make better use of the World Trade Organization (WTO) dispute settlement mechanism and applicable United States trade laws to redress China's unfair trade practices, including China's exchange rate manipulation, denial of trading and distribution rights, lack of intellectual property rights protection, objectionable labor standards, subsidization of exports, and forced technology transfers as a condition of doing business. The United States Trade Representative should consult with our trading partners regarding any trade dispute with China.

(C) Actions to encourage United States diplomatic efforts to identify and pursue initiatives to revitalize United States engagement with China's Asian neighbors. The initiatives should have a regional focus and complement bilateral efforts. The Asia-Pacific Economic Cooperation forum (APEC) offers a ready mechanism for pursuit of such initiatives.

(D) Actions by the administration to hold China accountable for proliferation of prohibited technologies and to secure China's agreement to renew efforts to curtail North Korea's commercial export of ballistic missiles.

(E) Actions to encourage the creation of a new United Nations framework for monitoring the proliferation of WMD and their delivery systems in conformance with member nations' obligations under the Nuclear Non-Proliferation Treaty, the Biological Weapons Convention, and the Chemical Weapons Convention. The new monitoring body should be delegated authority to apply sanctions to countries violating these treaties in a timely manner, or, alternatively, should be required to report all violations in a timely manner to the Security Council for discussion and sanctions.

(F) Actions by the administration to conduct a fresh assessment of the ''One China'' policy, given the changing realities in China and Taiwan. This should include a review of—

(i) the policy's successes, failures, and continued viability;

(ii) whether changes may be needed in the way the United States Government coordinates its defense assistance to Taiwan, including the need for an enhanced operating relationship between United States and Taiwan defense officials and the establishment of a United States-Taiwan hotline for dealing with crisis situations;

(iii) how United States policy can better support Taiwan's breaking out of the international economic isolation that China seeks to impose on it and whether this issue should be higher on the agenda in United States-China relations; and

(iv) economic and trade policy measures that could help ameliorate Taiwan's marginalization in the Asian regional economy, including policy measures such as enhanced United States-Taiwan bilateral trade arrangements that would include protections for labor rights, the environment, and other important United States interests.

(G) Actions by the Secretaries of State and Energy to consult with the International Energy Agency with the objective of upgrading the current loose experience-sharing arrangement, whereby China engages in some limited exchanges with the organization, to a more structured arrangement whereby China would be obligated to develop a meaningful strategic oil reserve, and coordinate release of stocks in supply-disruption crises or speculator-driven price spikes.

(H) Actions by the administration to develop and publish a coordinated, comprehensive national policy and strategy designed to meet China's challenge to maintaining United States scientific and technological leadership and competitiveness in the same way the administration is presently required to develop and publish a national security strategy.

(I) Actions to revise the law governing the Committee on Foreign Investment in the United States (CFIUS), including expanding the definition of national security to include the potential impact on national economic security as a criterion to be reviewed, and transferring the chairmanship of CFIUS from the Secretary of the Treasury to a more appropriate executive branch agency.

(J) Actions by the President and the Secretaries of State and Defense to press strongly their European Union counterparts to maintain the EU arms embargo on China.

(K) Actions by the administration to restrict foreign defense contractors, who sell sensitive military use technology or weapons systems to China, from participating in United States defense-related cooperative research, development, and production programs. Actions by the administration may be targeted to cover only those technology areas involved in the transfer of military use technology or weapons systems to China. The administration should provide a comprehensive annual report to the appropriate committees of Congress on the nature and scope of foreign military sales to China, particularly sales by Russia and Israel.

(L) Any additional actions outlined in the 2004 Report to Congress of the United States-China Economic and Security Review Commission that affect the economic or national security of the United States.

Mr. INHOFE. In October of 2000, Congress established the United States-China Security Economic Review Commission to act as a bipartisan authority on how our relationship with China affects our economy and industrial base and China's military and weapons proliferation. I have read these recommendations. I have given four 1-hour speeches on the floor of the Senate concerning the recommendations. I think it is appropriate that we have those recommendations incorporated into the Defense authorization bill under consideration at this time. My amendment 1312 puts these recommendations into place that I have spoken on before in the Senate Chamber.

As I said, in October of 2000 Congress established the U.S.-China Security Economic Review Commission to act as the bipartisan authority on how our relationship with China affects our economy, industrial base, China's military and weapons proliferation, and our influence in Asia. For the past 5 years the commission has been holding hearings and issuing annual reports to evaluate ''the national security implications of the bilateral trade and economic relationship between the United States and the People's Republic of China.'' Their job is to provide us in Congress with the necessary information to make decisions about this complex situation. However, I fear their reports have gone largely unnoticed.

In the most recent report, dated June 2004, the commission makes this alarming opening statement:

> Based on our analysis to date, as documented in detail in our Report, the Commission believes that a number of the current trends in U.S.-China relations have negative implications for our long-term economic and national security interests, and therefore that U.S. policies in these areas are in need of urgent attention and course corrections.

As their report and recent news headlines show, China has continued on an alarming course of expansion, in some aspects threatening U.S. national security. I have found the recommendations in the commission's 2004 Report objective, necessary, and urgent, and I am introducing an amendment to express our support for these viable steps. This amendment expresses the sense of the Senate that: China should revaluate its manipulated currency level and allow it to float against other currencies. In the Treasury Department's recent Report to Congress, China's monetary policies are described as ''highly distortionary and pose a risk to China's economy, its trading partners, and global economic growth.''

Appropriate steps ought to be taken through the World Trade Organization

to hold China accountable for its dubious trade practices. Major problem issues such as intellectual property rights have yet to be addressed.

The U.S. should revitalize engagement in the Asian region, broadening our interaction with organizations like ASEAN. Our lack of influence has been demonstrated by the Shanghai Cooperation Organization recently demanding that we set a pullout deadline in Afghanistan.

The administration ought to hold China accountable for proliferating prohibited technologies. Chinese companies such as CPMIEC or NORINCO have been sanctioned frequently and yet the Chinese government refuses to enforce their own nonproliferation agreements.

The U.N. should monitor nuclear/biological/chemical treaties and either enforce these agreements or report them to the Security Council. The U.S.-China Commission has found that China has undercut the U.N. many areas, undermining what pressure we've tried to apply on problematic states such as Sudan or Zimbabwe.

The administration ought to review the effectiveness of the ''One China'' policy in relation to Taiwan to reflect the dynamic nature of the situation.

Various energy agencies should encourage China to develop a strategic oil reserve so as to avoid a disastrous oil crisis if availability should become volatile.

The administration should develop and publish a national strategy to maintain U.S. scientific and technological leadership in regards to China's rapid growth in these fields.

The Committee on Foreign Investment in the United States, CFIUS, should include national economic security as a criterion for evaluation and the chairmanship to be transferred to a more appropriate chair, allowing for increased security precautions.

The administration should continue in its pressure on the EU to maintain its arms embargo on China.

Penalties should be placed on foreign contractors who sell sensitive military use technology or weapons systems to China from benefiting from U.S. defense-related research, development and production programs. The administration should also provide a report to Congress on the scope foreign military sales to China.

And finally, we should provide a broad consensus in support of the Commission 2004 Report's recommendations.

The U.S.-China Economic and Security Review Commission have done an outstanding job providing us with a clear picture of a very complex and serious situation. Unless our relationship with China is backed up with strong action they will never take us seriously. We will certainly see more violations of proliferation treaties. They will continue to manipulate regional and global trade through currency undervaluation and other unhealthy practices. They will develop unreliable oil sources and energy alliances with countries that threaten international stability. They will continue to escalate the situation over Taiwan, raising the stakes in a game neither country can win. In today's world we see how the unpaid bills of the past come back to haunt us in full; ignoring these problems is unacceptable. As the China Commission states,

We need to use our substantial leverage to develop an architecture that will help avoid conflict, attempt to build cooperative practices and institutions, and advance both countries' long-term interests. The United States cannot lose sight of these important goals, and must configure its policies toward China to help make them materialize . . . If we falter in the use of our economic and political influence now to effect positive change in China, we will have squandered an historic opportunity.

The U.S.-China Commission was created to give us in Congress a clear picture about what is going on—they have done their job. Now let's do ours.

AMENDMENT NO. 1313

Mr. INHOFE. Mr. President, I ask unanimous consent that the pending amendment be set aside for the purposes of consideration of amendment No. 1313 which I send to the desk.

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

The clerk will report.

The legislative clerk read as follows:

The Senator from Oklahoma [Mr. INHOFE], for himself and Mr. KYL, proposes an amendment numbered 1313.

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

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

The amendment is as follows:

(Purpose: To require an annual report on the use of United States funds with respect to the activities and management of the International Committee of the Red Cross)

At the end of title XII, add the following:

SEC. 1205. ANNUAL REPORT ON THE INTERNATIONAL COMMITTEE ON THE RED CROSS.

(a) ANNUAL REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act, and annually thereafter, the Secretary of State shall, with the concurrence of the Secretary of Defense and the Attorney General, submit to Congress the activities and management of the International Committee of the Red Cross (ICRC) meeting the requirements set forth in subsection (b).

(b) ELEMENTS OF REPORTS.—(1) Each report under subsection (a) shall include, for the one-year period ending on the date of such report, the following:

(A) A description of the financial contributions of the United States, and of any other country, to the International Committee of the Red Cross.

(B) A detailed description of the allocations of the funds available to the International Committee of the Red Cross to international relief activities and international humanitarian law activities as defined by the International Committee.

(C) A description of how United States contributions to the International Committee of the Red Cross are allocated to the activities described in subparagraph (B) and to other activities.

(D) The nationality of each Assembly member, Assembly Council member, and Directorate member of the International Committee of the Red Cross, and the annual salary of each.

(E) A description of any activities of the International Committee of the Red Cross to determine the status of United States prisoners of war (POWs) or missing in action (MIAs) who remain unaccounted for.

(F) A description of the efforts of the International Committee of the Red Cross to assist United States prisoners of war.

(G) A description of any expression of concern by the Department of State, or any other department or agency of the Executive Branch, that the International Committee of the Red Cross, or any organization or employee of the International Committee, exceeded the mandate of the International Committee, violated established principles or practices of the International Committee, interpreted differently from the United States any international law or treaty to which the United States is a state-party, or engaged in advocacy work that exceeded the mandate of the International Committee.

(2) The first report under subsection (a) shall include, in addition to the matters specified in paragraph (1) the following:

(A) The matters specified in subparagraphs (A) and (G) of paragraph (1) for the period beginning on January 1, 1990, and ending on the date of the enactment of this Act.

(B) The matters specified in subparagraph (E) of paragraph (1) for the period beginning on January 1, 1947, and ending on the date of the enactment of this Act.

(C) The matters specified in subparagraph (F) of paragraph (1) during each of the Korean conflict, the Vietnam era, and the Persian Gulf War.

(c) DEFINITIONS.—In this section, the terms ''Korean conflict'', ''Vietnam era'', and ''Persian Gulf War'' have the meaning given such terms in section 101 of title 38, United States Code.

Mr. INHOFE. Mr. President, this is a very simple amendment. We have talked about some of the problems that have existed with the ICRC, the International Committee on the Red Cross. I would like to make sure people understand we are not talking about the American Red Cross. There have been problems that have come up. My first concern is for the American troops. The ICRC has been around since 1863 and has been there for American soldiers, sailors, airmen, and Marines through two world wars. I thank them for that good work they did. Likewise, I thank all Americans for their military service to America. I did have occasion to be in the Army. That was one of the best things that happened in my life.

In my continuing preeminent concern for American troops, however, I am compelled to note some concerns and pose some questions about the drift in focus of the ICRC. In spite of some of the things that have been very good that they have done in the past, there have been some very serious problems. I think they need to be called to the attention of the Senate and be made a part of this bill.

Specifically, the ICRC has engaged in efforts to reinterpret and expand international law so as to afford terrorists and insurgents the same rights and privileges as military personnel of

states party to the Geneva Convention. They have advocated, lobbied for arms control, issues that are not within the organization's mandate, and inaccurately and unfairly accused the United States of not adhering to the Geneva Conventions when the ICRC itself has demonstrated reluctance to ensure that the Geneva Convention protections are afforded U.S. prisoners of war.

Neither the American Red Cross nor any other national Red Cross or Red Crescent Society is consulted by the ICRC or is in any way involved in the ICRC's policy decisions and statements. The Government has remained the ICRC's single largest contributor since its founding in 1990. The Government has provided more than $1.5 billion in funding for the ICRC. Congress should request from the administration and the GAO an examination of how the ICRC spends the U.S. taxpayers' dollars to determine whether the entire annual U.S. contribution to the ICRC headquarters—in other words, the ICRC operations—is advancing American interests.

Additionally, Congress should request that the State, Defense, and Justice Departments jointly certify that the ICRC's operations and performance have been in full accord with its Geneva Conventions mandate. The administration strongly advocates for full transparency of all ICRC documents relating to the organization's core and noncore activities and the administration argues for a change in the ICRC statute so as to allow non-Swiss officials to be a part of the organization and directing bodies of the ICRC.

Indeed, I fear that the ICRC may be harming the morale of our American troops by unjustified allegations that detainees and prisoners are not being properly treated.

For example, an ICRC official visited Camp Bucca, a theater internment facility for enemy prisoners of war that is, as of January 2005, being operated by the 18th Military Police Brigade and Task Force 134, near Umm Qasr in southern Iraq. As of late January 2005, the facility had a holding capacity of 6,000 prisoners but only held 5,000. These prisoners were being supervised by 1,200 Army MPs and Air Force Airmen.

According to the Wall Street Journal, citing a Defense Department source, the ICRC official told U.S. authorities, ''you people are no better than and no different than the Nazi concentration camp guards.''

The ICRC and the State Department have confirmed that this ICRC official is now transferred from the Iraq assignment in the wake of her comment. Such a comment is obviously damaging to the morale of our American troops and offended the soldiers and airmen present.

The Senate Armed Services Committee has now held 13 hearings on the topic of prisoner treatment.

Sometimes we get bogged down in all the detail and we forget about the overall picture, the big picture. And I'm shocked when I found, only last Tuesday, from the Pentagon's report, that after 3 years and 24,000 interrogations, there were only three acts of violation of the approved interrogation techniques authorized by Field Manual 3452 and DOD guidelines.

The small infractions found were found by our own government, corrected and now reported. In all the cases no further incidents occurred. We have nothing to be ashamed of. What other country attacked as we were would exercise the same degree of self-criticism and restraint.

Most, if not all, of these incidents are at least a year old. I'm very impressed with the way the military, the FBI, and other agencies have conducted themselves. The report shows me that an incredible amount of restraint and discipline was present at Gitmo.

Having heard a lot about the Field Manual 3452, I asked, ''Are the DOD guidelines, as currently published in that manual, appropriate to allow interrogators to get valuable information, intelligence information, while not crossing the line from interrogation to abuse?'' The answer from Gen. Bantz J. Craddock, Commander of U.S. Southern Command was, ''I think, because that manual was written for enemy prisoners of war, we have a translation problem, in that enemy prisoners are to be treated in accordance with the Geneva Conventions—that doesn't apply. That's why the recommendation was made and I affirmed it. We need a further look here on this new phenomenon of enemy combatants. It's different, and we're trying to use, I think, a manual that was written for one reason in another environment.''

Lt. Gen. Randall M. Schmidt, the senior investigating officer said, ''Sir, I agree. It's critical that we come to grips with not hanging on a Cold War relic of Field Manual 3452, which addressed an entirely different population. If we are, in fact, going to get intelligence to stay ahead of this type of threat, we need to understand what else we can do and still stay in our lane of humane treatment.''

Brig. Gen. John T. Furlow, the investigating officer, stated, ''Sir, in echoing that, F.M. 3452 was originally written in 1987, further updated and refined in 1992, which is dealing with the Geneva question as well as an ordered battle enemy, not the enemy that we're facing currently. I'm aware that Fort Huachuca's currently in a rewrite of the next 3452, and it's in a draft form right now.''

It is clear that our military has humane treatment placed at the forefront of their concerns.

At the same time I want to ask, ''What other country would freely discuss interrogation techniques used against high-value intelligence detainees during a time of war when suicide bombers are killing our fellow citizens?

Why would we freely explain the limitations placed on our interrogators, when we know that our enemy trains his terrorists in methods to defeat our interrogations?

We're handing them new information on how to train future terrorists. What damage are we doing to our war effort by parading these relatively minor infractions before the press and the world again and again and again while our soldiers risk their lives daily and are given no mercy by the enemy?

Our enemies exploit everything we do and everything we say. Al-Zarqawi, the other day, said to his followers, quote, ''The Americans are living their worst days in Iraq now. Even Members of Congress have announced that the u.S. is losing the war in Iraq.''

Let us stop demoralizing our troops. I say let us support our troops in their continuing humane treatment of the detainees at Gitmo.

While we have done more than enough examining of ourselves, I believe it is fair to pose some questions to others as well.

In this amendment, I am requesting, with my cosponsors, simply a report to the Congress about activities of the ICRC.

In the past 15 years the United States has provided more than $1.5 billion dollars in funding to the ICRC. I would like to ask for some accountability for the use of this money and a modicum of oversight. For example, I think it is fair to ask:

''How is our money being spent?''

''What are the activities of the ICRC to determine the status of American POW's/MIA's unaccounted for since World War II?''

''What are the efforts of the ICRC to assist American POW's held in captivity during the Korean War, Vietnam War, and any subsequent conflicts?''

''Has the ICRC exceeded its mandate, violated established practices or principles, or engaged in advocacy work that exceeds the ICRC's mandate as provided for under the Geneva Conventions?''

Please join with me in supporting this simple, fair request for such a report.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, the Senator's amendment will be considered on the floor in due time. But I assume that at least two of the amendments involve another committee, the Banking Committee, other than the Armed Services Committee; would I be correct in that?

Mr. INHOFE. I am aware that only one affects the Banking Committee. The national security ramifications of the performance and the functions of CFIUS are far greater than any banking function. I would be happy to deal with the chairman of the Banking Committee and talk about the proper jurisdiction.

Mr. WARNER. I thank the Senator. As to the other two amendments, is it his judgment that they are solely within the jurisdiction?

Mr. INHOFE. That is my judgment.

Mr. WARNER. I accept that.

Mr. LEVIN. I wonder if the good Senator will also share the amendment with the chairman and the ranking member in the Banking Committee, both.

Mr. INHOFE. Yes, that is a fair request.

Mr. WARNER. Mr. President, at this time I believe our colleague from Maine has an amendment.

The PRESIDING OFFICER (Mr. GRAHAM). The Senator from Maine is recognized.

Ms. COLLINS. Mr. President, I rise today in strong support of the National Defense Authorization Act of 2006. This legislation authorizes critical programs for our soldiers, sailors, airmen, and marines serving our country around the world—programs such as those that provide vital protective gear, military pay raises, and increased bonuses and benefits, and the advanced weapons systems on which our troops rely.

Let me thank and recognize the extraordinary efforts of our chairman of the committee and the ranking member for putting together an excellent bill. I commend Senator WARNER and Senator LEVIN also for their strong commitment to our Armed Forces, to making sure that our military's needs are met.

This legislation authorizes $9.1 billion for essential shipbuilding priorities, and it includes a provision to prohibit the use of funds by the Navy to conduct a ''one shipyard winner-take-all'' acquisition strategy to procure the next generation of destroyers, the DD(X). Not only does this legislation fully fund the President's request for the DD(X) program, but it also provides an additional $50 million for advanced procurement of the second ship in the DD(X) class at General Dynamic's Bath Iron Works in my home State of Maine. I am, understandably, very proud of the fine work and the many contributions of the skilled shipbuilders at Bath Iron Works to our Nation's defense.

The high priorities placed on shipbuilding in the Senate version of the Defense authorization bill stand in stark contrast to the House version of the Defense authorization. The House bill, unwisely and regrettably, slashes funding for the DD(X) program, in contrast to the President's budget. Moreover, it actually rescinds funding for the DD(X) that was provided last year.

Just this week, in testimony before a House Armed Services Subcommittee, the Chief of Naval Operations testified that the Navy must have the next generation destroyer, the DD(X). Admiral Clark, in what is undoubtedly one of his final, if not the final, appearances as Chief of Naval Operations before his retirement, stated before the subcommittee:

For the record, I am unequivocally in full support of the DD(X) program. . . . The failure to build a next-generation capability comes at the peril of the sons and daughters of America's future Navy.

In response to the House addition of $2.5 billion to the shipbuilding budget to buy two additional DDG *Arleigh Burke*-class destroyers in fiscal year 2006, the CNO clearly stated, ''I have enough DDGs.'' It is essential that we proceed with the DD(X) destroyer program.

The DD(X) will have high-tech capabilities that do not currently exist on the Navy's surface combatant ships. These capabilities include far greater offensive and precise firepower; advanced stealth technologies, numerous engineering and technological innovations that allow for a reduced crew size; and sophisticated, advanced weapons systems, such as a new electromagnetic rail gun.

Unfortunately, instability and dramatic changes have held back the progress on the DD(X) program. Initially, the Pentagon planned to build 12 DD(X)s over 7 years. To meet budget constraints, the Department slashed funding and now proposes to build only five DD(X)s over 7 years, even though the Chief of Naval Operations has repeatedly stated on the record before the Armed Services Committee, in both Chambers, that the warfighting requirements remain unchanged and dictate the need for the greater number—12 DD(X)s.

We have heard a lot about the cost growth in the DD(X) program and, indeed, the increase in the anticipated cost of constructing these vital destroyers is troubling to us all. But, ironically, one of the primary drivers of cost growth in shipbuilding is instability. This lack of predictability in shipbuilding funding only increases the cost to our Nation's shipbuilders because they cannot effectively and efficiently plan their workload. And, of course, ultimately, it increases the cost to the American taxpayer.

The Congress and the administration should be trying to minimize shipbuilding costs by ensuring a predictable, steadier, year-to-year level of funding. Regrettably, that has not been done.

Mr. President, the key to controlling the price of ships is to minimize fluctuations in the shipbuilding account. It is crucial that we not only have the most capable fleet but also a sufficient number of ships—and I add, shipbuilders—to meet our national security requirements. Avoiding budget spikes affords more than ships; it provides stability in Naval ship procurement planning and offers a steady workload at our shipyards.

When budget requests change so dramatically from year to year, even when the military requirement stays the same, shipbuilders cannot plan effectively, and the cost of individual ships is driven upward. The national security of our country is best served by a competitive shipbuilding industrial base, and this legislation before us today fully supports our Nation's highly skilled shipbuilding employees.

This important legislation also provides much-needed funds for other national priorities. It includes an important provision that builds upon my work and the work of other committee members last year and this year to authorize an increase in the death gratuity payable to the survivors of our military who have paid the ultimate price. It also authorizes an increase in the Servicemembers' Group Life Insurance benefit. Surely, that is the least we can do for our brave service men and women.

This bill also improves care of our military by recommending a provision that would strengthen and extend health care coverage under TRICARE Prime for the children of an Active-Duty service member who dies while on active duty.

This authorization bill is good for our Navy, good for our men and women in uniform who are serving our country all around the world, and I am pleased to offer my full support.

I yield the floor.

Mr. WARNER. Mr. President, I ask unanimous consent that Senators CANTWELL and SNOWE be added as cosponsors to the amendment of the Senator from Virginia.

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

Mr. WARNER. Mr. President, I want to make certain the Senator from Virginia is added as a cosponsor to the Frist amendment now pending at the desk.

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

Mr. WARNER. The distinguished Senator from Massachusetts, I believe, under the UC is about to address the Senate.

The PRESIDING OFFICER. Under the unanimous consent agreement, the Senator from New Jersey is to be recognized next, is my understanding.

Mr. WARNER. Mr. President, can we have a clarification?

Mr. KENNEDY. I understand my friend from New Jersey has a unanimous consent request to make. I will be glad to yield.

AMENDMENT NO. 1351

Mr. LAUTENBERG. I thank the Senator from Massachusetts.

I send an amendment to the desk.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside.

Mr. LAUTENBERG. Mr. President, I understand I will be able to have some time after the vote to discuss the amendment.

Mr. WARNER. Mr. President, that is very clear. The Senator from New Jersey seeks up to how much time?

Mr. LAUTENBERG. If I can have 15 minutes.

Mr. WARNER. Can we enter into a time agreement equally divided?

Mr. LAUTENBERG. If we have time equally divided, then I ask the Senator from Virginia to allow a half hour equally divided.

Mr. WARNER. Mr. President, I think we will have to enter into that agreement later, but I will work toward that goal.

Mr. LAUTENBERG. With no second degrees possible.

I yield the floor.

Mr. WARNER. Is the amendment of the Senator from New Jersey now at the desk?

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Jersey [Mr. LAUTENBERG], for himself, Mr. CORZINE, Mrs. CLINTON, and Mr. FEINGOLD, proposes an amendment numbered 1351.

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

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

The amendment is as follows:

(Purpose: To stop corporations from financing terrorism)

At the end of the bill, add the following:

TITLE XXXIV—FINANCING OF TERRORISM

SEC. 3401. SHORT TITLE.

This title may be cited as the ''Stop Business with Terrorists Act of 2005''.

SEC. 3402. DEFINITIONS.

In this title:

(1) CONTROL IN FACT.—The term ''control in fact'', with respect to a corporation or other legal entity, includes—

(A) in the case of—

(i) a corporation, ownership or control (by vote or value) of at least 50 percent of the capital structure of the corporation; and

(ii) any other kind of legal entity, ownership or control of interests representing at least 50 percent of the capital structure of the entity; or

(B) control of the day-to-day operations of a corporation or entity.

(2) PERSON SUBJECT TO THE JURISDICTION OF THE UNITED STATES.—The term ''person subject to the jurisdiction of the United States'' means—

(A) an individual, wherever located, who is a citizen or resident of the United States;

(B) a person actually within the United States;

(C) a corporation, partnership, association, or other organization or entity organized under the laws of the United States, or of any State, territory, possession, or district of the United States;

(D) a corporation, partnership, association, or other organization, wherever organized or doing business, that is owned or controlled in fact by a person or entity described in subparagraph (A) or (C); and

(E) a successor, subunit, or subsidiary of an entity described in subparagraph (C) or (D).

(3) FOREIGN PERSON.—The term ''foreign person'' means—

(A) an individual who is an alien;

(B) a corporation, partnership, association, or any other organization or entity that is organized under the laws of a foreign country or has its principal place of business in a foreign country;

(C) a foreign governmental entity operating as a business enterprise; and

(D) a successor, subunit, or subsidiary of an entity described in subparagraph (B) or (C).

SEC. 3403. CLARIFICATION OF SANCTIONS.

(a) PROHIBITIONS ON ENGAGING IN TRANSACTIONS WITH FOREIGN PERSONS.—

(1) IN GENERAL.—In the case of a person subject to the jurisdiction of the United States that is prohibited as described in subsection (b) from engaging in a transaction with a foreign person, that prohibition shall also apply to—

(A) each subsidiary and affiliate, wherever organized or doing business, of the person prohibited from engaging in such a transaction; and

(B) any other entity, wherever organized or doing business, that is controlled in fact by that person.

(2) PROHIBITION ON CONTROL.—A person subject to the jurisdiction of the United States that is prohibited as described in subsection (b) from engaging in a transaction with a foreign person shall also be prohibited from controlling in fact any foreign person that is engaged in such a transaction whether or not that foreign person is subject to the jurisdiction of the United States.

(b) IEEPA SANCTIONS.—Subsection (a) applies in any case in which—

(1) the President takes action under the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) or the Trading with the Enemy Act (50 U.S.C. App.) to prohibit a person subject to the jurisdiction of the United States from engaging in a transaction with a foreign person; or

(2) the Secretary of State has determined that the government of a country that has jurisdiction over a foreign person has repeatedly provided support for acts of international terrorism under section 6(j) of the Export Administration Act of 1979 (as in effect pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.)), or any other provision of law, and because of that determination a person subject to the jurisdiction of the United States is prohibited from engaging in transactions with that foreign person.

(c) CESSATION OF APPLICABILITY BY DIVESTITURE OR TERMINATION OF BUSINESS.—

(1) IN GENERAL.—In any case in which the President has taken action described in subsection (b) and such action is in effect on the date of enactment of this Act, the provisions of this section shall not apply to a person subject of the jurisdiction of the United States if such person divests or terminates its business with the government or person identified by such action within 1 year after the date of enactment of this Act.

(2) ACTIONS AFTER DATE OF ENACTMENT.—In any case in which the President takes action described in subsection (b) on or after the date of enactment of this Act, the provisions of this section shall not apply to a person subject to the jurisdiction of the United States if such person divests or terminates its business with the government or person identified by such action within 1 year after the date of such action.

(d) PUBLICATION IN FEDERAL REGISTER.—Not later than 90 days after the date of enactment of this Act, the President shall publish in the Federal Register a list of persons with respect to whom there is in effect a sanction described in subsection (b) and shall publish notice of any change to that list in a timely manner.

SEC. 3404. NOTIFICATION OF CONGRESS OF TERMINATION OF INVESTIGATION BY OFFICE OF FOREIGN ASSETS CONTROL.

(a) REQUIREMENT FOR NOTIFICATION.—The Office of Federal Procurement Policy Act (41 U.S.C. 403 et seq.) is amended by adding at the end the following new section:

''SEC. 42. NOTIFICATION OF CONGRESS OF TERMINATION OF INVESTIGATION BY OFFICE OF FOREIGN ASSETS CONTROL.

''The Director of the Office of Foreign Assets Control shall notify Congress upon the termination of any investigation by the Office of Foreign Assets Control of the Department of the Treasury if any sanction is imposed by the Director of such office as a result of the investigation.''.

(b) CLERICAL AMENDMENT.—The table of contents in subsection (b) of such Act is amended by adding at the end the following new item:

''Sec. 42. Notification of Congress of termination of investigation by Office of Foreign Assets Control.''.

SEC. 3405. ANNUAL REPORTING.

(a) SENSE OF CONGRESS.—It is the sense of the Congress that investors and the public should be informed of activities engaged in by a person that may threaten the national security, foreign policy, or economy of the United States, so that investors and the public can use the information in their investment decisions.

(b) REGULATIONS.—

(1) IN GENERAL.—Not later than 120 days after the date of enactment of this Act, the Securities and Exchange Commission shall issue regulations that require any person subject to the annual reporting requirements of section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m) to disclose in that person's annual reports—

(A) any ownership stake of at least 10 percent (or less if the Commission deems appropriate) in a foreign person that is engaging in a transaction prohibited under section 3403(a) of this title or that would be prohibited if such person were a person subject to the jurisdiction of the United States; and

(B) the nature and value of any such transaction.

(2) PERSON DESCRIBED.—A person described in this section is an issuer of securities, as that term is defined in section 3 of the Securities Exchange Act of 1934 (15 U.S.C. 78c), that is subject to the jurisdiction of the United Sates and to the annual reporting requirements of section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m).

Mr. WARNER. Mr. President, I ask that the amendment now be laid aside for purposes under the UC agreement so that the Senator from Massachusetts may address the Senate, I believe for 5 minutes.

The PRESIDING OFFICER. The Senator is recognized for 5 minutes.

AMENDMENT NO. 1314

Mr. KENNEDY. Mr. President, I am delighted to join our chairman of the Armed Services Committee and others in cosponsoring the chairman's amendment. I commend him for his impressive leadership in bringing it before the Senate as one of the first amendments on this extremely important bill.

The amendment increases funding by $340 million for the Marine Corps and $105 for the Army for more and better armored vehicles for our troops in Iraq.

This issue has been divisive for far too long. All of us support our troops. We obviously want to do all we can to see that they have proper equipment, vehicles, and everything else they need to protect their lives and carry out their missions.

More than 400 troops have already died in military vehicles vulnerable to roadside bombs, grenades, and other notorious improvised explosive devices.

Many of us have visited soldiers and marines at Walter Reed and Bethesda

and seen the tragic consequences of inadequate armor. We want to ensure that parents grieving at Arlington National Cemetery no longer ask, ''Why weren't more armored humvees available?''

It is scandalous that the administration has kept sending them into battle year after year in Iraq without adequate equipment. It is scandalous that desperate parents and spouses here at home have had to resort to Wal-Mart to try to buy armor and mail it to their loved ones in Iraq to protect them on the front lines. Secretary Rumsfeld has rarely been more humiliated than on his visit to Iraq, when a soldier had the courage to ask him why the troops had to scavenge scrap metal on the streets to protect themselves. The cheer that roared out from troops when he asked that question said it all.

We have been trying to make sure the Army and Marine Corps has had the right amount of funding for vehicles for over 2 years. Last year, we tried to get additional funding in committee and faced resistance, but ultimately added money to the supplemental.

This past spring, we were successful in getting the Army $213 million for uparmored humvees. That amendment was adopted, but it was a very narrow vote.

The Marine Corps leadership clearly understated the amount and types of ground equipment it needs. In April, we were told in a hearing that based on what they knew from their operational commanders, the Marine Corps had met all of the humvee requirements for this year, which was 398 uparmored humvees.

Less than a month later, the Inspector General of the Marine Corps conducted a readiness assessment of the their ground equipment in Iraq. One of the key findings was that the requirement for additional upamored humvees would continue to grow. Based on that report and other factors, the Marine Corps reversed itself and testified the need was almost triple the original amount.

The inspector general's teams inspected many humvees in Iraq that had been damaged by mines and other explosive devices. In nearly every case, they found that the cabin was well protected despite significant damage to the engine compartment wheels.

The inspector general also found that even with recommended changes, including replacing damaged vehicles, the war will continue to take a toll on the marines' equipment. Nearly all of its fighting gear is ready for combat this year, they found but it would drop to less than two-thirds by the middle of 2008. It has taken far too long to solve this problem. We have to make sure we solve it now, once and for all. We can't keep hoping the problem will somehow go away.

We have been told for months that the Army's shortage of uparmored humvees was a thing of the past. In a letter last October, General Abizaid said:

> The fiscal year 2004 Supplemental Request will permit the services to rapidly resolve many of the equipment issues you mentioned to include the procurement of . . . humvees.

The Army could have and should have moved much more quickly to correct the problem. As retired General Paul Kern, who headed the Army Materiel Command until last November, said:

> It took too long to materialize.

He said:

> In retrospect, if I had it to do all over, I would have just started building uparmored humvees. The most efficient way would have been to build a single production line and feed everything into it.

In April, GAO released a report that clearly identifies the struggles the Pentagon has faced. In August 2003, only 51 uparmored humvees were being produced a month. It took the industrial base a year and a half to work up to making 400 a month. Now the Army says they can now get delivery of 550 a month. The question is, Why did it take so long? Why did we go to war without the proper equipment? Why didn't we fix it sooner, before so many troops have died?

We need to get ahead of this problem. It is a tragedy for which our soldiers are still paying the price for this delay. As Pentagon acquisition chief Michael Wynne testified to Congress a year ago:

> It's a sad story to report to you, but had we known then what we know now, we would probably have gotten another source involved. Every day, our soldiers are killed or wounded in Iraq by IEDs, RPGs, small-arms fire. Too many of these attacks are on humvees that are not uparmored, . . . We are directing that all measures to provide protection to our soldiers be placed on a top priority, most highly urgent, 24/7 basis.

But 24/7 didn't happen even then until January this year. The plant had capacity that the Pentagon never consistently used, as the plant's general manager has said.

The delay was unconscionable. Without this amendment, the production rate of uparmored humvees could drop off again later this year. That is the extraordinary thing. We need to guarantee that we are doing everything possible to get the protection to our troops as soon as possible. We owe it to them, to their families here at home and to the American people.

We have an opportunity now to end this frustration once and for all. Our soldiers and marines deserve the very best, and it is our job in Congress to make sure the Department of Defense is finally getting it right. Too many have died because of these needless delays, but hopefully, this will be solved by what we do in this bill.

The amendment contributes significantly to this goal, and I urge my colleagues to support it.

Mr. WARNER. I will be happy to share my brief time for remarks with my colleague. The Senator has joined our bill and I appreciate him expressing confidence in this amendment of the Senator from Virginia. I commend the Senator from Massachusetts, Mr. KENNEDY, the Senator from Indiana, Mr. BAYH, and many others who worked in this area of the up-armoring of our military vehicles. But I must take issue with the Senator's observations that in any way the Department of Defense is open to criticism because it has been a constantly evolving requirements issue before the combatant commanders.

When we look at this record in a careful manner, we will see that the Department has responded very quickly to the communication from the combatant commanders to adjust through the military departments, primarily the Department of Army, the procurement of the necessary equipment.

This Senator from Virginia and others are very conscious of the IED problem. I just visited Quantico and looked at their research and development facilities dealing with the IED question. Our committee periodically, at least every 60 to 90 days, has the general in charge of the overall responsibility of IEDs in the Department to brief us on what are his needs and are they fully met financially and in every other way.

I frankly think the record shows that the Department of Defense is doing its very best for a quickly evolving and changing set of facts requiring the addition of up-armored vehicles.

Mr. President, is the amendment the pending business for the purpose of a vote at 12:30?

The PRESIDING OFFICER. It will be at 12:30.

The Senator from Michigan.

Mr. WARNER. I yield the floor.

Mr. LEVIN. Mr. President, let me also commend the Senator from Massachusetts and the Senator from Indiana. They have been stalwarts in terms of urging we address this armor question.

Our service men and women continue to die and suffer grievous wounds in Iraq and Afghanistan, and by far the major casualty producer is the roadside bomb or mine—what the military calls an improvised explosive device or IED. The services are working to counter that threat through a variety of means—better intelligence, innovative tactics, techniques and procedures, the use of jamming devices, and of course, adding armor to Army and Marine Corps HMMWVs and other trucks. On my recent visit to Iraq, met with the Marines in Fallujah and viewed and discussed the various levels of armor protection on their HMMWVs and the new armor package for their heavy truck.

The armor issue is both a good news and a bad news story. The good news is that in just over 2 years, the Army and Marine Corps have gone from only a few hundred armored trucks to nearly 40,000 and 6,000 respectively. Many people have worked night and day to make that happen, and we commend and thank them for doing so. Congress has

consistently provided all the funding requested and, in several instances, has provided funding ahead of any request. In fact, the fiscal year 2005 Defense emergency supplemental added $1.2 billion for various force protection equipment, most notably for uparmored HMMWVs and add-on armor for HMMWVs and other trucks. As of last month, all known requirements for truck armor for Iraq and Afghanistan were funded, and the Army and Marine Corps were on track to complete those requirements for HMMWVs by July and September respectively, and for other trucks by December of next year.

The bad news is that military commanders have been slow to recognize the growing threat to thin-skinned HMMWVs and other trucks in Iraq and Afghanistan and determined requirements for armored trucks slowly and incrementally. For instance, in May of 2004, my staff sent me a memo which said:

The current Central Command requirement for [up-armored HMMWVs in Iraq and Afghanistan is 4454. This appears to be an ever-increasing number over the last year, having been increased from 253 to 1233 to 1407 to 2957 to 3142 to 4149 to 4388, and finally to 4454. We have no confidence that it will not be increased again in the future.''

That was a prescient statement because over the next year, the requirement for uparmored HMMWVs continued to increase—to 10,079 for the Army and 498 for the Marine Corps. The story was similar for the requirements to armor other Army and Marine Corps trucks. These incremental increases in requirements have led to inefficient acquisition and unnecessary delays in getting armored trucks for our troops.

It has also caused a lot of confusion and some fingerpointing, particularly between the Army and the Marine Corps on the one hand O'Gara Hess, the company which produces the uparmored HMMWV, On the other. A recent New York Times article reported that ''in January, when it [referring to the Army] asked O'Gara to name its price for the design rights for the armor, the company balked and suggested instead that the rights be placed in escrow for the Army to grab should the company ever fail to perform.'' With respect to the Marine Corps' uparmored HMMWV requirement, the same article further reported that, ''asked why the Marine Corps is still waiting for the 498 humvees it ordered last year, O'Gara acknowledged that it told the Marines it was backed up with Army orders, and has only begun filling the Marines' request this month. But the company says the Marine Corps never asked it to rush.''

I questioned the Army Chief of Staff and the Commandant of the Marine Corps on these issues in a hearing on June 30. I asked the Army Chief of Staff for an answer for the record as to whether or not it was true that the Army sought to purchase the design rights so that we could produce the uparmored HMMWVs a lot more quickly and that the company balked. I also asked the Commandant of the Marine Corps for an answer for the record as to whether the Marine Corps ever asked O'Gara to rush its order for uparmored HMMWVs. Just this morning, I received a formal response from the Army on the design rights. The Marine Corps has informally asserted that it did ask the company for accelerated production.

In its defense, Armor Holdings, the parent company of O'Gara Hess, has said that at the time of the Marine Corps' inquiry in September of 2004 relating to potential production of additional uparmored HMMWVs, the company indicated its interest in and its ability to produce those vehicles, and that as soon as the order was actually placed by the Marines in February 2005, it began to work on and has already begun to deliver those vehicles. What is still unclear is whether the Marine Corps ever coordinated a request for accelerated production through the Army's Tank Automotive and Armaments Command which handles all of the contract actions for upamored HMMWVs, and if it did, why the company was not issued a contract to increase the production rate over and above the increase from 450 to 550 a month that the Army requested in December of 2004.

With respect to the technical data package, TDP—the ''design rights'' discussed in the New York Times article—the Army says it requested, for informational purposes only, that O'Gara Hess submit a cost proposal for procurement of the technical data package in order to obtain a price for a TDP complete enough for any firm to manufacture the current uparmored HMMWV. The company has argued that the TDP was developed by Armor Holdings, with its own money, under its own initiative; that a formal request was never made by the Army to purchase that TDP as required under Federal Acquisition Regulations; that the company responded to an informal e-mail inquiry to that effect in January 2005 by offering to place the TDP in escrow and in so doing, allow the Army instant access to the design information if the company ever failed to meet the Army's request. In the company's view, it saw no logic to the inquiry because it had met or exceeded every production requirement and schedule, was ready and willing to produce more, and consequently there was no need for the Army to obtain alternative production sources.

What is not clear is why the Army would request the rights to the TDP for the uparmored HMMWV in January 2005, since already contracted for a the uparmored HMMWVs it planned to procure in fiscal year 2006—the last year that it intends to procure uparmored HMMWVs as it moves to implement its long-term armor strategy of procuring removable armor kits. I am expecting further information from the Army and the Marine Corps soon to clear up these matters.

This illustrates the continued confusion surrounding uparmored HMMWVs that has frustrated so many of us in Congress.

Given this background, and in light of the uncertainty as to whether requirements would continue to increase, the Senate Armed Services Committee, in the markup of the fiscal year 2006 authorization bill, added $120 million for the Army to continue to procure uparmored HMMWVs or add-on armor for HMMWVs and other trucks, even though the known requirements for Iraq and Afghanistan had been met with fiscal year 2005 emergency supplemental funding.

Now, however, it appears that the requirements have once again changed. Central Command is currently considering a request from the Southern European Task Force commander for additional uparmored HMMWVs for Afghanistan. And the Marine Corps has decided to upgrade and ''pure-fleet'' all 2,814 Marine Corps HMMWVs in the CENTCOM area of operations to the uparmored HMMWV configuration. Based on current, on-hand quantities, the Marine Corps could be short 1,826 uparmored HMMWVs.

To compound the potential problem, the Army plans to end all production of the uparmored HMMWV as it ramps up the production of a new HMMWV model with a heavier chassis that is ready to accept an integrated, bolt-on/off armor kit. However, the fiscal year 2006 President's budget only funds 90 of these vehicles with the armor kit. This would not appear to be a prudent approach, given the history to date of ever increasing requirements for truck armor.

The pending amendment would do two things: it would add $340 million to fund the 1,826 shortfall in the newest Marine Corps requirement for uparmored HMMWVs, and it would add $225 million to the Army for truck armor, an increase from the $120 million currently in the authorization bill. That is enough for the Army to procure the add-on armor kits for the 4,037 M1152 HMMWVs that will currently be fielded without armor in fiscal year 2006. With this funding and these additional armor kits, by the end fiscal year 2006 the Army will have fielded 16,768 HMMWVs with the highest—Level 1—armor protection.

I whole-heartedly support this amendment and urge my colleagues to do likewise. I also urge the Department of Defense to thoroughly review Army and Marine Corps long-term truck armor strategies and ensure that all requirements are identified in a timely manner, and that sufficient funding is requested in a timely manner so that we can ensure our troops get the equipment they need and deserve as quickly as possible.

Mr. President, to reiterate, lack of armor for our troops has been truly one of the most discouraging elements of the Iraq war. Partly it is because of what the Senator from Virginia said.

There has been a change in requirements along the way. Partly it has been administrative failures along the way inside the Department.

Listen to a New York Times article that has a conflict between the Army and Marines on the one hand and our producer, O'Gara Hess, on the other hand. The New York Times article says:

> In January, when the Army asked O'Gara to name its price for the design rights for the Army, the company balked and suggested instead that the rights be placed in escrow for the Army to grab should the company ever fail to perform.

So we have the Army asking the manufacturer how much would it cost to buy the design rights so we could have a second line, so we could have a second source, we are short of armor. And the Army says they never got the answer. The producer says it was never asked formally. In the meantime, men and women are dying in Iraq because of that kind of confusion.

So, yes, the requirements have changed, but there have also been administrative failures as well.

Then the Marines say they asked the company to rush the orders. The company denies it ever got the request to rush the orders.

Yes, the chairman is right, there have been changes in the requirements, the numbers needed, but I am afraid the Senator from Massachusetts is also right, that there have been some true failures and incompetence in the administration of the armor program. The differences in the conflicts that exist between the stories told by the Army and Marines on the one hand and the company that produces the humvees on the other, it seems to me, are evidence of those failures.

Mr. KENNEDY. Will the Senator yield for 30 seconds?

Mr. LEVIN. I will be happy to yield.

Mr. KENNEDY. I know the time has run out. I want to mention the family of Mr. Hart, from Dracut, MA, who lost a son in Iraq. I remember seeing the letter that his son wrote that said: Unless we get an up-armored, I am not going to last very long. And 30 days later he was killed. Mr. Hart has been tireless in trying to make sure other service men and women in Iraq receive the kind of protection they need. I have to mention his name associated with the increase in the protection for American servicemen because here is an individual who has made an extraordinary difference for our service men and women.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I think the vote is scheduled for 12:30. I ask unanimous consent to proceed for 1 additional minute.

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

Mr. LEVIN. Mr. President, I wholeheartedly support this amendment. I commend our chairman for it and urge our colleagues to support the amendment. In addition to that, I hope the Department of Defense will thoroughly review the Army and Marine Corps long-term truck armor strategies so we can identify requirements in a timely manner, sufficient funding be requested in a timely manner so we can assure our troops that they will get the equipment they need and deserve in time to meet the threat.

I know this Congress, under this chairman's leadership, has over and over again told the Defense Department: We will give you every dollar you need. There are no financial constraints when it comes to supporting our troops.

We have told them that over and over again. It should not be necessary to add this money, but it is. I wholeheartedly support it, and I thank the chairman for his leadership.

I ask unanimous consent that Senator BAYH of Indiana, who I know is trying to get to the floor to support this amendment because of his leadership in this area, be added as a cosponsor of the amendment.

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

The Senator from Virginia.

Mr. WARNER. I believe the vote is in order at this time.

The PRESIDING OFFICER. That is correct. All time has expired.

The question is on agreeing to amendment No. 1314, as modified.

Mr. WARNER. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

The result was announced—yeas 100, nays 0, as follows:

[Rollcall Vote No. 199 Leg.]

YEAS—100

Akaka	Dole	McCain
Alexander	Domenici	McConnell
Allard	Dorgan	Mikulski
Allen	Durbin	Murkowski
Baucus	Ensign	Murray
Bayh	Enzi	Nelson (FL)
Bennett	Feingold	Nelson (NE)
Biden	Feinstein	Obama
Bingaman	Frist	Pryor
Bond	Graham	Reed
Boxer	Grassley	Reid
Brownback	Gregg	Roberts
Bunning	Hagel	Rockefeller
Burns	Harkin	Salazar
Burr	Hatch	Santorum
Byrd	Hutchison	Sarbanes
Cantwell	Inhofe	Schumer
Carper	Inouye	Sessions
Chafee	Isakson	Shelby
Chambliss	Jeffords	Smith
Clinton	Johnson	Snowe
Coburn	Kennedy	Specter
Cochran	Kerry	Stabenow
Coleman	Kohl	Stevens
Collins	Kyl	Sununu
Conrad	Landrieu	Talent
Cornyn	Lautenberg	Thomas
Corzine	Leahy	Thune
Craig	Levin	Vitter
Crapo	Lieberman	Voinovich
Dayton	Lincoln	Warner
DeMint	Lott	Wyden
DeWine	Lugar	
Dodd	Martinez	

The amendment (No. 1314), as modified, was agreed to.

Mr. WARNER. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. WARNER. Before the Senator from Oregon addresses the Senate, I wish to speak for 2 minutes and thank colleagues for their strong support of this amendment. We do not often get 100 votes. It was not put up here in mind that there would be 100 votes. It is very reassuring to send this strong messages to our Armed Forces and indeed throughout the world that the Senate stands behind those measures which will strengthen our ability to fight terrorism in the world.

At this point in time in the struggle against terrorism, not only with our country but the coalition of nations, the type of weapons being employed, while basic in nature, are lethal in nature, and it requires the modification of our military equipment. This amendment provides the funds to do it.

I thank my colleagues, and I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

JUDGE JOHN G. ROBERTS

Mr. WYDEN. Mr. President, in this Congress, no issue has riveted the attention of the American people like the heart-wrenching circumstances of the late Terri Schiavo. No issue has generated more public debate, more heated controversy, or more passion than that tragedy. On the eve of the Easter recess, I blocked the effort in this Senate to dictate from the Senate a specific medical treatment in that end-of-life tragedy.

I did that for two major reasons. First, I believe that under the Constitution, the Founding Fathers intended for our citizens and their families to have the privacy to decide these types of matters. Second, under the Constitution, to the extent government has a defined role in medical practice, it is a matter for the States and certainly not a subject that should prompt Federal intrusion and meddling.

In my opinion, the events that unfolded in the Senate over Terri Schiavo need to be remembered as the Senate begins the consideration of the nomination of Judge John Roberts to serve as an Associate Justice of the United States Supreme Court.

It is important for the Senate to reflect on those events because while the Court ultimately did not take up the Schiavo case, it was not for lack of effort on the part of those who read the Constitution very differently than the intent of the Founding Fathers and longstanding legal precedent prescribe.

I have come to the Senate today because I believe there will be many more end-of-life cases presented to the U.S. Supreme Court. Current demographic trends, the advancement of medical technologies, and certainly the

passions this issue has generated ensure that the Court will be confronted again and again with end-of-life issues.

Therefore, in my opinion, the Senate—under the advice and consent clause—has an obligation to inquire into how Judge Roberts sees end-of-life issues in the context of the Constitution.

I don't believe in litmus tests for Federal judges, but I intend to weigh carefully Judge Roberts' judicial temperament in this regard.

Moreover, I have a longstanding policy, begun first with our legendary Senator, Mark Hatfield, and continued with my good friend, Senator GORDON SMITH, that I will work in a bipartisan way to select Federal judges from our State for the President's consideration. Repeatedly, Oregon judges have been confirmed with whom I have disagreed on a number of issues and with whom Senator GORDON SMITH has disagreed on a number of issues. I have put the ''no litmus test'' policy to work often here in the Senate. I want to make clear that I hold to that principle today, but I will follow Judge Roberts' views on end-of-life issues carefully as his nomination is considered.

My statement today is also not an attempt to tease out a preview of how Judge Roberts might rule on end-of-life cases that come before the Court. I do believe, however, that the Senate would be derelict, given the importance of this issue, not to ask the nominee questions that will shed light on how he interprets the Constitution as it relates to end-of-life medical care.

End-of-life health care presents American families with immensely difficult choices. In a country of 290 million people, our citizens approach these choices in dramatically different ways. Their judgments about end-of-life care often blend religion, ethics, quality-of-life concerns, and moral principles together and as the Senate found out this spring, these judgments are considered extraordinarily personal and are passionately held.

What the Senate learned last spring in the Schiavo case is that the American people want what the Constitution envisioned as their right—just to be left alone. Privacy law is complicated, and surely Senators have differing interpretations about the meaning of legal precedent in this area but the American people spoke loudly last spring that they considered the congressional action to mandate a specific medical treatment for Terri Schiavo to be a gross overreach. I said at the time that I agreed. I do not believe the Constitution should be stretched so as to crowd the steps of the Congress with families seeking settlement of their differences about end-of-life medical care. However, the U.S. Supreme Court is another matter. That body will most definitely see more such end-of-life appeals. That is why the views of Judge Roberts on this issue are so important.

Even as the Constitution envisioned a wide berth for individuals to decide these private matters, it also provides parameters if there is to be any government involvement at all. Those parameters are guided by the 10th amendment to our Constitution. The 10th amendment stipulates that the powers not delegated to the United States—the Federal Government—by the Constitution are reserved for the States. Historically and correctly, that includes the determination of medical practice within a State's own borders. There are few medical practice decisions more wrenching than those at the end of life.

Once again, in the Schiavo case, the Congress sought to overstep its constitutional bounds. What I want to know is whether Judge Roberts is similarly inclined to stretch our Constitution or whether he will consider end-of-life issues with respect for our hallowed Constitution and the doctrine of stare decisis.

Finally, as we approach these issues, I make clear that I do not intend to prejudge the outcome of the confirmation process, but ask only that the Senate weigh carefully these important issues and that questions about end-of-life care be posed to the nominee.

I look forward to learning about the nominee's views, not just on end-of-life care, but on a variety of other critical matters and look forward to the Judiciary Committee beginning its thorough and careful evaluation in the days ahead. I have tried to make bipartisanship a hallmark of my service in the Senate. I certainly intend to use that approach as the Senate goes forward and considers the nomination of Judge Roberts.

I yield the floor.

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

AMENDMENT NO. 1351

Mr. LAUTENBERG. Mr. President, I have an amendment at the desk. This amendment shuts down a source of revenue that flows to terrorists and rogue regimes that threaten our security.

President Bush has made the statement that money is the lifeblood of terrorist operations. He could not be more right. Amazingly, some of our corporations are providing revenue to terrorists by doing business with these rogue regimes. My amendment is simple. It closes a loophole in the law that allows this to happen, that allows American companies to do business with enemies of ours. This will cut off a major source of revenue for terrorists. What we need to do is to starve these terrorists at the source. By using this loophole, some of our companies are feeding terrorism by doing business with Iran, which funds Hamas, Hezbollah, as well as the Islamic Jihad.

I want to remind my colleagues that it was Iran that funded the 1983 terrorist act in Beirut that killed 241 United States Marines—241 Marines killed by Iranian terror—and yet we are currently allowing United States corporations to provide revenues to the Iranian Government. It has to stop.

So how do U.S. companies get around terrorist sanctions laws? Because we have those laws that are supposed to prevent contact and opportunity for those nations that support terrorism. The process is simple. These companies run the Iranian operations out of a foreign subsidiary.

I have a chart here that shows the route that is taken to get these funds to these companies that do business with Iran. The U.S. corporation sets up a subsidiary, sets up a foreign subsidiary. They do business directly with Iran. And again, support for Hezbollah and Hamas is common knowledge with Iran.

Our sanctions laws prohibit United States companies from doing business with Iran, but the law contains a loophole. It enables an American company, a U.S. company's foreign subsidiaries, to do business prohibited by the parent. As long as this loophole is in place, our sanctions laws have no teeth. My amendment would close this loophole once and for all. It would say foreign subsidiaries controlled by a U.S. parent, American parent, would have to follow U.S. sanctions laws—pretty simple.

The Iranian Government's links to terrorism are, as you know, Mr. President, substantial. In addition to the 241 Marines who were brutally murdered in their sleep in 1983 in Beirut, Iranian-backed terrorists killed innocent civilians in Israel.

A constituent of mine, Sarah Duker, 22 years old, from the town of Teaneck, NJ, was riding a bus in Jerusalem. The bus was blown up in 1996 by Hamas, and Hamas receives funding support from the Iranian Government. We were able to create an opportunity for American citizens to bring action against Iran, and they did that, and there was a resolution of significant proportion that holds Iran responsible and has them owing substantial sums of money to the victim's family. We also have to worry, however, about providing revenue to Iran because of its well-known desire—we see it now. It worries us all. We have all kinds of conversations about what we do as Iran tries to build a nuclear bomb and other weapons of mass destruction. Well, we don't want to help them, we don't want to help provide revenues, opportunities for them to continue this crazy pursuit.

The 911 Commission, which established the intelligence organization reform, concluded in their report, and I quote:

> Preventing the proliferation of WMD warrants a maximum effort.

Everybody in our country shares that view. Allowing American companies to provide revenue to rogue WMD programs is clearly not part of a maximum effort.

Some think this is an isolated problem, but it is not. A report by the Center for Security Policy says there is a large number of companies doing business with Iran and other sponsors of terror. Think about it. Here we have

130,000, 140,000 of our best young people over there fighting to bring democracy to Iraq while Iran is funding terrorist activities, people who come in there and help those who would kill our troops. The terror they fund has killed hundreds of Americans. Iran continues to seek to develop nuclear weapons, and yet American companies are utilizing a loophole in the law in order to do business with the Iranian Government. It is wrong but not yet illegal. And we want to make it illegal. This amendment would change that.

It is inexcusable for American companies to engage in any business practice that provides revenues to terrorists, and we have to stop it. Here we have a clear view of what happens. We have a chance to stop it with this amendment. I urge my colleagues to support the amendment and close the terror funding loophole.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, on our side we will at an appropriate time interject our opposition to this amendment. We have just gotten the amendment, and it requires some further study. So until such time as I get some additional material, I will have to defer my statement in opposition.

Mr. LAUTENBERG. I hope my distinguished colleague and friend from Virginia, without having a chance to do the examination he would like, has not suggested opposition even though there hasn't been time for a thorough review.

I know the distinguished chairman of the Armed Services Committee very well, and we have visited sites of war, and he, like I, served in World War II, and we are veterans. I hope I could encourage the Senator from Virginia and colleagues across the aisle to join us to shut down this loophole that permits American companies to do business indirectly through sham corporations and to earn profits as there are attempts to kill our young people. I hope the distinguished manager of the bill would give us a chance to talk about the amendment and not register opposition before having a chance to study it.

Mr. WARNER. Mr. President, as I said, in due course I will have further to say. But again it comes down to separation of powers between the executive and legislative branches, and given those situations—and I respect my good friend's evaluation of the tragedy associated with people in those lands and the potential for some dollars being funded toward that purpose. But the President has to look at this situation constantly, every day, 365 days a year. Situations change. And for the Congress to lay on a blanket prohibition on Presidential power to exercise his discretion of where and when and how to disrupt the flow of dollars, as pointed out by my colleague from New Jersey, we are very much hesitant to do that. So at the appropriate time I will have further to say about this amendment.

Mr. LAUTENBERG. I thank the Senator from Virginia.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I commend our colleague from New Jersey for this amendment. It is ironic—the person who is presiding at this moment will understand this reference—that when it comes to Cuba, the sanctions not only apply to companies that would deal with Cuba under our law but also apply to their subsidiaries. And yet when it comes to the subsidiaries of companies that are dealing with terrorism, which have sanctions against them for different reasons, we don't cover the subsidiaries. So with Cuba, the subsidiaries are covered when it comes to sanctions, but when it comes to dealing with states that are on a terrorist list where the President of the United States decides to exercise his discretion to impose sanctions against a country and where companies are not thereby allowed to do business with that country, we don't cover the subsidiaries of the corporations, only the corporations themselves.

It is not only a loophole which has been pointed out by my friend from New Jersey, but it is a very inconsistent treatment. What the Senator from New Jersey is saying is let's do the same for the subsidiaries of corporations that deal with terrorist states and terrorist organizations and groups as we cover subsidiaries that deal with Cuba. I thank him for pointing out the loophole. If we are going to be serious about our war on terrorism, we have to be serious about providing sanctions against states that support terrorism. We have to be serious about telling American companies they cannot deal with those states or with those entities, and that we are truly serious. We have to also tell companies when we say you may not deal with terrorist states, you may not do business with terrorist states when the President so determines, that we are also applying this to your subsidiaries as well.

So it is an important amendment. We had a vote on a very similar amendment I believe a year ago or so. It almost passed this body. I think it came within one vote, and I hope that, given what we have seen in the last year, we can only reinforce the point which the Senator from New Jersey made in his amendment previously, that we can pick up the additional votes this time and pass this very important amendment. I commend him on it.

Mr. LAUTENBERG. I thank the Senator from Michigan.

The question is why we would want to protect the opportunity for an American company to help fund terrorists directly and indirectly, those who want to kill our people. If you ask the average person who are the worst enemies America has, they would, I am sure, list Iran, North Korea, among those that would develop weapons of mass destruction, and we don't even want there to be the slightest opportunity for cash to flow into their development of a weapons program based on the fact that an American company is helping to fund the development of those weapons.

Heaven knows what we are fighting in Iraq is a battle not against a uniformed army, organized military, but against insurgents, terrorists, and all one has to do is look at the death toll and see it continuing to mount. We care mostly about Americans, but we also don't like to see what happens in Iraq to infants and families. These terrorists bring their violence into the country, ripping limbs off. I don't want to get too detailed, but the horror that is brought from these insurgent attacks is beyond description. And to permit—by the way, I will say this—encourage American companies to do business with Iran is outrageous. In the war the Senator from Virginia and I were in, anybody who did business with the enemy would be pilloried, called traitors. And here, because it is a loophole, there is a roundabout way of getting these funds over there, we are saying, no, no, we don't want to interrupt that process.

I hope my colleagues on both sides will say no to this practice, and shut it down. The last thing we want to do in this room is abet and help companies that do business in Iran because the profit is not worth it. There is no way those profits can be enjoyed by shareholders, by employees, anyone.

I thank the Senator from Virginia, and I thank my friend from Virginia for being so patient in listening.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, it is always a pleasure to hear my old friend and colleague in the Senate of so many years. At the appropriate time I and others will put forth our case on this issue.

Mr. President, I ask unanimous consent that the Lautenberg amendment be laid aside and that time be granted to our distinguished colleague and very valued member of the committee, the Senator from Rhode Island, Mr. REED.

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

The Senator from Rhode Island is recognized.

Mr. WARNER. Mr. President, will the Senator kindly yield so I can inform the Senate of the desire on behalf of this side of the aisle?

Mr. REED. Yes.

Mr. WARNER. I will wait to propound the unanimous consent request until the other side responds. I am going to ask unanimous consent—but I will wait until we get a response from the other side—that a vote on or in relation to the Frist amendment No. 1342, regarding supporting our Boy Scouts, and others, occur at 2:15 today, with no second-degree amendments in order prior to the vote; provided further that there be 2 minutes equally divided for debate prior to the vote. So I

say there is the strong likelihood that request will be granted.

I thank the Senator for his courtesy.

Mr. REED. Mr. President, I thank the chairman.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. Mr. President, let me begin by commending Chairman WARNER and Senator LEVIN for the way they have brought this bill to the floor. It is a collaborative effort, a collegial effort which has brought to the floor a very good bill, which we hope can be improved by the amendment process. But we begin, I think, in a position of great strength and great unified support for our military forces across the globe, these young and women who make us so proud and do so much to protect our country.

I would like to step back for a moment and try to have an assessment in the context of our deliberations today with respect to the Defense authorization bill. It has been 28 months since the war in Iraq began. It has been 26 months since President Bush declared ''mission accomplished'' onboard the deck of the USS Abraham Lincoln. And it has been almost 13 months since the sovereignty of Iraq was handed over from the Coalition Provisional Authority to the people of Iraq.

It is time, I think, for an assessment. It is time for an assessment in the context of our deliberations today with respect to this very important legislation governing the conduct of our military forces around the globe.

In October 2002, I was one of 23 Members of this body who voted against the congressional authorization to use force against Iraq. Regardless of how we voted that day, on this day we are united in support of our forces in the field. We have to give them what they need to do the job they were called upon to perform.

Back in October 2002, I was not convinced there were weapons of mass destruction that could be used effectively by the Iraqis. I was also concerned that our stay in Iraq would not be tranquil, that we would not be greeted as liberators, but we would literally be sucked into a swirling vortex of ethnic and sectarian rivalries, of ancient feuds, of economic problems, of infrastructure problems, which I think should have provided us a more cautionary view of our preemptive attack.

Again, despite our forebodings then, our mission now is to be sure we provide the resources necessary for our soldiers and sailors and marines and airmen and airwomen to carry the day for us.

What we have seen since that day, in my view, has been a series of mistakes and errors by the administration in carrying out their policies, and also an inability to recognize some of these mistake and to take effective corrective action. I think this inability to recognize what has gone wrong—to admit it and to correct it—still acts to interfere with the successful implementation of our objectives in Iraq.

One of the most glaring and most obvious aspects of our runup to the war in Iraq is the fact that the American people were told one thing and in reality it turned out to be something quite different. The administration argued that Iraq posed an imminent threat to the Nation, which we all know today is simply not true, and some of us then believed was not true.

In his State of the Union to the American people in January 2003, the President talked about Saddam Hussein seeking significant quantities of uranium from Africa.

Those assertions proved unsubstantiated. In his address to the U.N. Security Council, Secretary of State Powell claimed Iraq had seven mobile biological agent factories. That, too, proved to be inaccurate.

In a February 2003 statement, President Bush stated:

> Senior members of Iraqi intelligence and al Qaeda have met at least eight times since the early 1990s. Iraq has sent bomb-making and document forgery experts to work with al Qaeda. Iraq has also provided al Qaeda with chemical and biological weapons training.

Again, these assertions have not been substantiated in the intervening days. Many leaders in the administration stated that Iraq attempted to buy high-strength aluminum tubes suitable for nuclear weapons production. These assertions also proved to be without major substantiation.

Based on these statements by our Nation's leaders, the majority of the Congress and the American people supported our operations in Iraq in October 2002. But it was not long until these misstatements became clearer to the American public.

The CIA sent two memos to the White House 3 months before the State of the Union Address expressing doubts about Iraq's attempt to buy yellowcake from Niger.

In 2002, the CIA produced a report that found inconclusive evidence of links between Iraq and al-Qaida and was convinced that Saddam Hussein never provided chemical or biological weapons to terrorist networks.

Experts at the Department of Energy long disputed the assertion that the aluminum tubes were suitable for nuclear weapons production.

The administration's use and misuse of prewar intelligence has caused an upheaval in the intelligence community and made Congress, the American people, and the world community skeptical of actions with Iraq and other countries of concern.

I believe this mistake will take years to overcome. What it has done, I think, is provide a sense of skepticism in the American public about the justifications for our operations in Iraq. This skepticism has slowly been eating away, as reflected in the polls, the view of the American public as to the usefulness of our operations in Iraq. Once again, what is heartening is the fact that this skepticism has not translated into anything other than unconditional support for our American soldiers and military personnel. That is critical to what they do and critical to what we should be encouraging here.

We are now engaged in this war. People are skeptical and critical of the premises advanced by the administration. But we must, in fact, stay until the job is done, until a satisfactory outcome is achieved.

The military phase of Operation Iraqi Freedom was brilliantly executed and a great success. It shows the extraordinary preponderance of military power we can wield in a conventional conflict where we are sending task forces of tanks and mechanized infantry against other conventional military forces.

Perhaps, however, the most important part of the operation was not defeating the enemy in the field but winning the peace in Iraq. That larger task has not gone as well as we all had hoped. One reason is because we did not plan for operations after our conventional success. According to an article in the Philadelphia Inquirer, when a lieutenant colonel briefed war planners and intelligence officials in March 2003 on the administration's plans for Iraq, the slide for the rebuilding operation, or phase 4–C, as the military denotes it, read ''To Be Provided.'' We went in with a plan to defeat the military force in Iraq but no plan to occupy and reconstruct the country.

What makes this lack of a plan worse is that the experts knew and told the Pentagon what to expect. The same Philadelphia Inquirer article states there was a ''foot high stack of material'' discussing the probability of stiff resistance in Iraq. A former senior intelligence official said:

> It was disseminated. And ignored.

There was ample planning done but not used. We have had, as all military forces, contingency plans dating back many years for possible operations in Iraq, including occupation operations. They were ignored. There was a feeling—an erroneous feeling—we would be greeted as liberators, that it would be basically a parade, rather than the struggle we have seen today.

The results are clear as to this lack of planning. The insurgency today is robust, and it continues to inflict damage not only against American military personnel but also against Iraqis who are struggling to develop a democratic country.

In May there were about 700 attacks against American forces using IEDs, the highest number since the invasion of Iraq in 2003. The surge in attacks has coincided with the appearance of significant advancement in bomb design. This is not only a robust insurgency, it is a very adaptable insurgency. They are learning as they fight, and that makes them a formidable foe.

Improvised explosive devices now account for about 70 percent of American casualties in Iraq. Recent U.S. intelligence estimates put the insurgents'

strength at somewhere between 12,000 and 20,000. I would note that in May 2003, insurgent strength was estimated to be about 3,000 persons. So this is not the last gasp of the insurgency. This is an insurgency that has momentum, has personnel, and increasingly has technical sophistication.

As of today, July 21, 1,771 American soldiers have been killed, and 13,189 have been wounded. I say American soldiers. I will use that as a shorthand for valiant marines, Navy personnel, Air Force personnel, because every service has suffered in Iraq.

One of the reasons the insurgency may be stronger is because most of the 300-mile border with Syria remains unguarded because of a lack of sufficient troops, allowing insurgents and foreign fighters to freely move back and forth between the countries. This insurgency is also allowed to move freely within the country because there are insufficient troops to break insurgent strongholds.

We have seen operations, very successful operations, such as the tremendously valiant and skillful operations of marines reducing the number of insurgents in Fallujah. But then at the end of the day, or days later, Marine forces withdraw or pull back, and Fallujah again is a source of at least incipient resistance to the central Government of Iraq.

In addition, these insurgents continue to have ample ammunition because it is estimated that even today approximately 25 percent of the hundreds of munitions dumps have not yet been fully secured. I was amazed, in my first trip to Iraq—one of five I have taken—to be up in the area of operations of the 4th Infantry Division with General Odierno, and also at the time with General Petraeus, then the commander of the 101st, when they pointed out there were hundreds and hundreds and hundreds of ammunition dumps unsecured by any military personnel, international, American, or Iraqi.

If you want to know where all this ammunition and explosives are coming from, well, it was there. It was stolen. It was diverted. It was hidden away. And now it is being used against our soldiers.

To me, that is a glaring example of why we should have had more troops on the ground at the beginning and, indeed, more troops on the ground today. But that was not done.

Perhaps the most well-known consequence of undermanning is the abuses at Abu Ghraib. It was a prison out of control, and one primary reason was the lack of U.S. military personnel. In 3 weeks, the population of this prison rose from 700 prisoners to 7,000. Yet the number of Army personnel guarding these prisoners remained at 90 personnel.

As former CPA Administrator Paul Bremer stated in October 5, 2004:

> The single most important change, the one thing that would have improved the situation, would have been having more troops in Iraq at the beginning of the war and throughout.

Subsequently, he might have modified or somehow explained this comment, but I think that is an accurate assessment. On October 5, 2004, that was his assessment. Today, months after President Bush declared the end of major combat operations and predicted that troop levels would be at 105,000, over 138,000 troops are still stationed in Iraq and are likely to be there for some time. I would argue that that, in fact, is not sufficient force. When we cannot secure the borders, when we cannot secure ammunition dumps, when we cannot do many things that are central to stability in Iraq, then we need more forces on the ground.

One of the more frustrating aspects of the administration's unwillingness to adjust troop levels was that Congress was ready and willing to help. You can't have additional forces on the ground in Iraq unless you have additional forces in the Army and the Marine Corps, our land forces. Senator HAGEL and I first raised concerns about this issue in October 2003. We offered an amendment to the fiscal year 2004 emergency supplemental to raise the end strength of the Active-duty Army by 10,000. The amendment was passed by this body, but it was dropped in conference, primarily because of the opposition of the administration. Then again in 2004, Senator HAGEL and I offered an amendment to the fiscal year 2005 Defense authorization bill which was passed by concerned Senators by a vote of 94 to 3. This amendment raised Army end strength by 20,000 personnel and the Marines' end strength by 3,000.

However, the President's budget request this year did not acknowledge these end-strength increases. We will therefore try again. The bill which we are presently considering authorizes an end strength of 522,400 personnel for the active Army, 40,000 more than the President requested, and 178,000 active personnel for the Marines, 3,000 more than requested. I hope, in fact, we might be able to augment even these end-strength numbers.

In addition, I hope we can finally pay for these increased regular soldiers not through supplemental appropriations but in the regular budget itself. We are deluding ourselves to think that we can live for the 5 or 10 years we will have a significant engagement in Iraq—and that is roughly along the lines of even admissions by the Department of Defense—unless we are prepared to have not a temporary fix to the end strength but a permanent fix, paid for through the budget and not through supplementals.

One other aspect, in addition to the notion of end strength and the number of personnel on active duty, is how do we recruit and retain these soldiers to maintain overall end strength. This issue is of acute concern because unless we are able to attract new soldiers and Marines and unless we are able to retain the seasoned veterans, we will no longer have the kind of force we need.

When Senator HAGEL and I first offered our amendment in October 2003 to increase end strength, there was a headline which said quite a bit. Its words were, ''Another Banner Military Recruiting and Retention Year.'' Back in 2003, we could attract soldiers, Marines to the service, much more so than today. That was the time period to act. Not only was the need obvious, but the means to obtain objective, willing recruits were also much more evident.

Since the administration has refused to raise the numbers of troops overall—and the number of troops in particular in Iraq—the Army has been worn down by repeated deployments and a persistent insurgency. Now, ironically, even if we raise end-strength numbers, it is going to be very difficult for the Army to recruit these new soldiers. The Army missed its February through March 2005 recruiting goals. In June, the Army recruited 6,157 soldiers, 507 over their goal. However, the June 2005 goal was 1,000 fewer soldiers than the preceding year. One might think that the goalposts were moved.

As of June 30, the Army recruited 47,121 new soldiers in the year 2005, but that is just 86 percent of its goal. General Schoomaker, Chief of Staff, said the Army will be hard pressed to reach its goal of 80,000 Active-Duty recruits by the end of the fiscal year in September.

Despite the improvement in June, the Army has only 3 months left to recruit soldiers; that is, it will have to recruit on an average of 11,000 soldiers a month, which is a target way beyond the expectation of anyone. The June numbers were also not anywhere near the 8,086 recruits the Army brought in during January. This recruiting problem is persistent, and it is causing extreme difficulty.

These are Active-Duty recruits. The Army National Guard also has its challenges in recruiting. The Army National Guard is the cornerstone of U.S. forces in Iraq. I am extraordinarily proud of my Rhode Island Guard men and women. They have served with great distinction. During the first days of the war, the 115th and the 119th military police companies and the 118th military police battalion were in the thick of the fight in Fallujah and Baghdad. Since that time, we have had our field artillery unit, the 103rd field artillery unit, deployed. We have had a reconnaissance unit, the 173rd, deployed. The 126th aviation battalion, the Blackhawk battalion, has been deployed. They have done a magnificent job. The Army National Guard, however, is also seeing the effects of this operation and the strains are showing.

The Guard missed its recruiting goal for at least the ninth straight month in June. They are nearly 19,000 soldiers below authorized strength. The Army Guard was seeking 5,032 new soldiers in June, but signed up roughly 4,300. It is more than 10,000 soldiers behind its

year-to-date goal of almost 45,000 recruits, and it has missed its recruiting target during at least 17 of the last 18 months. Lieutenant General Blum, Chief of the National Guard Bureau, said it is unlikely that the Guard will achieve its recruiting goal for fiscal year 2005, which ends September 30.

Today our Army is one Army. It is not an active force with reservists in the background. A significant percentage of the forces today in Iraq are National Guard men and women. We cannot continue to operate our Army, not only to respond to Iraq but to other contingencies, if we do not have a fully staffed National Guard and Reserves.

Looking at the Army Reserve, the story is the same. So far this year, the Army Reserve has only been able to recruit 11,891 soldiers. Their target is roughly 16,000. At this point, they are about 26 percent short of their goal.

One Army recruiting official noted that since March, the Army has canceled 15 basic training classes for the infantry at Fort Benning because it did not have the soldiers, 220 to 230 of them for each those classes. Now they will begin processing smaller classes of about 180 to 190.

Complementing the recruiting effort, of course, is the retention effort. Retention is a ''good news'' story. Retention rates are high. But they won't address certain key personnel vacancies which are being discovered within the military.

From October 1 to June 30, the Army reenlisted about 53,000 soldiers, 6 percent ahead of its goal. At that pace, the Army would finish this fiscal year with 3,800 troops ahead of the targeted 64,000. However, that still is a 12,000-troop shortfall when you look at the recruiting and retention numbers together.

One method the Army is using to maintain retention levels is the so-called stop-loss procedure, where someone who might be able to leave the service at the end of enlistment, if their unit is notified to go to Iraq, they cannot leave during that notification period and during that deployment period. That adds to retention a bit, but it is not something that, over time, year in and year out, can be sustained.

So we have a situation now where our Army is deeply stressed, and this stress is demonstrated very clearly in recruitment, very clearly in making end-strength numbers which we are trying to increase.

The Army is also trying to deal with this issue of recruitment and retention by looking at their standards. One of the dangers—and it hasn't become manifest yet but it certainly has been in previous conflicts—is that there is a huge effort or tension, if you will, to reduce standards in order to get people to come in. I don't think that has happened yet, but that is looming over the horizon. I think we have to be conscious in this body to look carefully at the numbers, not just in terms of how many soldiers enlisted but also that we are continuing to maintain adequate quality within the forces. I think we are, but I am afraid that continued pressure on the forces will force military personnel to begin to look at ways they can attract forces by weakening the criteria.

We are in a situation where we have to be very conscious of the stress that is on the Army, and we also have to do more to support the Army, particularly in recruiting and retaining. The Congressional Research Service has determined that approximately 50 new incentives have been signed into law since the United States invaded Iraq. These are positive tools to enhance recruitment and retention. But while these incentives are needed, we must acknowledge the cost the Government is paying is a significant sum. We must pay that sum, but we must recognize that this is an expensive proposition of recruiting volunteers in a time of war.

The other aspect that we should be concerned about is the fact that we have seen a situation in Iraq where now we are discovering shortages of key personnel, complaints that the soldiers in the field, the units in the field, were not fully resourced, had inadequate training, again, most demonstrably the Abu Ghraib situation where the lack of resources and training were singled out. What we have found though is that, going back, no one seemed to be complaining—at least to us—about these lack of resources.

One fear I have is that there essentially has been a chilling effect by Secretary Rumsfeld with respect to advice flowing from the field into the Pentagon and to him. The most notorious example of this might be the treatment of General Shinseki, as we all recall. He was asked—he did not volunteer—about the size of the force needed in Iraq. And he said something on the order of several hundred thousand soldiers. He was immediately castigated by the Secretary, who said his estimate was far from the mark. Secretary Wolfowitz called the estimate outlandish, and then, in his few remaining days in the Army, General Shinseki felt shunned by the civilian leadership of the Pentagon. In fact, General Shinseki's observation was more accurate than any of the plans being advanced by the Secretary of Defense.

This aspect of criticizing professional officers who come forward publicly at our request and give their professional opinion does not create the kind of environment that is conducive to bringing forward advice and to recognizing problems and to providing the kind of leadership which is necessary.

It wasn't just limited to General Shinseki. The former Secretary of the Army, Secretary Thomas White, defended the Army on several occasions, disagreed with the Secretary. He was, for all intents and purposes, cashiered. That sends a bad signal, and it has a chilling effect. We are living with that chilling effect today, unfortunately.

Then again, as I mentioned, as we look at Abu Ghraib, that is one of most serious issues we face here, this lack of resources, the lack of training. All of that was not apparently diagnosed and reported in adequate ways so it could be corrected in a timely way. We have seen how this incident has caused tremendous implications in the Islamic world. It has questioned our conduct. It has set us up for criticism, and it has been—in terms I used with Secretary Rumsfeld when he appeared before us—a disaster for us. Still, I don't think we have fully accounted for what happened. I don't think we adequately understand how techniques that were developed for use at Guantanamo, which was deemed by the President to be not under the legal control of the Geneva Convention, how those techniques might relate to Iraq which, according to the President, was fully subject to the Geneva Conventions. How did those techniques move from one area to another area? It wasn't simply five or six individual soldiers; it was something more than that. We have had several snapshots. We have had 12 reports, but they have looked at various pieces. I don't think we have a comprehensive view of what happened.

More importantly, I think we have yet to be able to step back and determine, in a careful and thoughtful way, what the rule should be. As I talk to senior officers, one of their demands is: Give us clear rules. Give us the policy. And that policy has to be produced not in the secretive corridors of the Pentagon but here—and perhaps not here, directly in the Congress, but through a commission that we can adopt that will look at what happened, put all the pieces together and then recommend what changes we must make so that we can conduct this war on terror without sacrificing our principle dedication to international laws and also without putting our troops in danger. Because unfortunately what we do, even if it is the aberrant acts of a few soldiers, could easily be emulated by others when our soldiers fall into their hands. That would be terrible.

Now, there is another aspect of the problem. We can win a military victory in Iraq, but unless we restore the country economically and help them develop a viable political process, we will not succeed. The reconstruction activities to date have been sadly lacking and lagging. We have approximately $18.1 billion committed to the effort, but these dollars have not been spent well or wisely. Most of the money is going to what they call ''security premiums'' because of the instability in Iraq.

My colleagues, including Senator LAUTENBERG, were talking about some of the aspects of what appears to be excessive billing by our contractors. And, of course, more and more attention is being paid to the issue of corruption and bribery within the context of the Iraqi economy. All of this suggests that we have a long way to go before we can demonstrate to the Iraqi people those palpable benefits which I believe

can help them and force their allegiance to their government more quickly.

One of the areas of concern is oil production. There were those in Washington, before the invasion, who said that within a few months we will be pumping oil and it will be a profit center, it will pay for the whole war, and we don't have to worry about anything. We are not nearly paying for this war with the proceeds of Iraqi oil production.

The goal was to export a certain number, and we are falling short of that number of barrels per day. Iraqi oil revenue will be $5 billion to $6 billion short this year. That revenue pays for many things—subsidies for petroleum in Iraq, food, civil service, and it pays for infrastructure. Who is going to make up that shortfall? If we leave in a situation when the Iraqis cannot generate enough money to pay their own budget, what is going to happen to that country?

So we have huge economic problems. Another manifestation of the economic problems of the Iraqi Government is electricity. It is the key to stability. There are places in Baghdad today that are enjoying fewer hours of electricity than they did under Saddam Hussein. As a result, there are brownouts and blackouts. It is a direct reminder to the people that things are not going so well. We need to get that situation in order.

Now, as General Abizaid pointed out:

> Military forces, at the end of the day, only provide the shield behind which politics takes place.
>
> Providing politics that are open, transparent, and legitimate, we have been trying to do that.

There has been established a process to draft a constitution. We hope by August 15, 2005, a draft is presented to the nation and can be voted on by October 15. If the constitution is approved, a permanent government can be elected by December 15 and take office by December 31, the end of this year. But it is a very difficult process. If you look at the headlines today, Sunni members of the parliamentary commission are at least temporarily boycotting it because of fears for their safety. There are suggestions that some provisions of the constitution would be difficult for us to support—they are heavily allied with Islamic law, or they don't provide for a robust secular sector in Iraq.

For all these reasons, we still have a long way to go in the political process and the economic process that will provide us the final means to leave the country, to take out significant military forces.

There is one other aspect of the political process and of the economic process, and that is the role not of our military forces but of our State Department personnel. One of the things that struck me when I was in Iraq last Easter was the comment by soldiers in the field that they needed more State Department support, not in Baghdad but in the field—Fallujah, Mosul, and those towns—to carry out the reconstruction, provide political advice, and be the confidants and advisers of Iraqi civilian officials. The sad story is that we don't have enough State Department personnel outside of Baghdad to do these jobs.

In Baghdad, the State Department authorized 899 positions but has only filled 665. The State Department has then authorized 169 for the rest of the country—in fact, I suggested that the level should be higher—but only 105 of those have been filled. Iraq is short about 298 needed State Department personnel. These are the people who are doing what is so critical at this juncture—providing political mentoring, providing technical assistance, providing those resources that complement military operations. Without them, military operations would not ultimately be successful.

There are several reasons for this situation with the State Department. First, the tour for State Department personnel in Iraq is not 3 years, but 6 months or a year, so State is running through people at a very rapid rate.

There is a general shortage of midlevel officers for the State Department worldwide, and those are the officers who would be placed outside Baghdad. They have the experience and expertise to operate independently. The problem is opening up too many new posts. We have situations in which new nations evolved. They have to be supported by State Department personnel.

Secretary Powell did a great job in engaging new personnel to come to the State Department, but these are entry level personnel, and the midlevel, key midlevel personnel are inadequate in terms of numbers, not in terms of skills or talents—certainly not that—but in terms of numbers.

There is another obvious reason. It is very dangerous to be outside the green zone in Iraq. All of these State Department personnel need to be protected, and that is slowing down their ability to deploy into the field.

I understand also there are incentives being considered by the State Department to get more people there. However, unless we have a robust complement of AID officials, State Department experts to help support our military efforts, we will not be able to obtain a satisfactory resolution in Iraq. I hope we can do more to do that.

This is a very perilous time in Iraq. Just this week, a Shi'a leader stated that Iraq was slipping into civil war. If it does, then we will have a terrible burden with our forces deployed in the midst of a civil war. Some others have said there has been an incipient civil war for months now and one of a more major characteristic ready to break out. We do need to respond to these issues.

There is another policy impact with respect to Iraq, and that is the impact on its other worldwide missions, like our ability to maintain our successes in Afghanistan and keep open all options with regards to North Korea and Iran.

The war in Iraq also has tremendous impact on our economy. We are a great power, and that is a function of several components. One is military power, but also economic power. If we are not able to support and afford these efforts over the 5 years, 10 years, or more this global war on terror is going to take place—and all observers see this as a generational struggle, not an episodic one—then we are not going to have the economic staying power.

Frankly, our economy is performing in a fitful fashion. We have a huge fiscal deficit that is draining our ability to fund needed programs—not just military programs but domestic programs also. We have a huge current accounts deficit which, again, will come home one day when those foreigners who are lending us money will ask for the money back with interest. These economic forces will, I think, not support indefinitely the kind of expenditures we need to protect ourselves.

So along with reforming and strengthening our military, we have to reform and strengthen our fiscal policies in the United States. We cannot continue to spend in supplementals billions of dollars a year. We have to recognize that and we have to take steps, and we have to ultimately pay for this war.

It seems to me in this context illogical, if not absurd, to advancing huge additional tax cuts at a time when we are struggling to conduct a war. If that had been our attitude in World War II, we never would have succeeded. We would have been bankrupt before 1945. At that time, we responded, as we have in every major conflict. We asked all Americans to share the sacrifice, not just those in uniform, but those on the homefront, those who can help pay for the war, as well as those who are fighting the war.

Yet today we are advancing two, in my mind, almost contradictory proposals. We are going to stay the course in Iraq, we are going to take a generation, if necessary, to defeat global terror, we are going to do it not only with military resources, but we are going to have to mobilize resources of the world to change the social and political dynamics of countries across the globe, particularly Islamic countries—all that very expensive—but, of course, we are going to cut taxes dramatically. We have to decide in a very significant way whether we can afford this dramatic contradiction. I don't think we can.

We have a great deal to do in the next few days with respect to this legislation. I think it is important to get on with it. I hope not only do we stay the course in Iraq, but we stay the course on this legislation. The majority leader has suggested he is prepared to leave this bill in midcourse to turn to legislation with respect to gun liability immunity. That would, in my

view, be moving from the national interest to one very special self-interest, the self-interest of the gun lobby.

We have soldiers in the field. We have sailors, marines, air men and women who are risking their lives. I think they would like us to finish our job before moving on to something else. I hope we don't move off this bill. Stay the course on this legislation. We will have amendments, debate them, hopefully we will adopt those to improve the bill, and then we will send, I hope, to conference a good piece of legislation of which we can be proud and, more importantly, that can assist our soldiers, sailors, marines, and air men and women in the field.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I thank the Senator for his comments. Senator REED is an esteemed member of the committee.

I assure the Senator, I have been in consultation with our leadership and presumably the Senator's leadership about this bill. We brought it up with the understanding that there may be matters that require the attention of the Senate, at which time we do not do anything but put it aside for a brief period of time and then bring it up again. This is my 27th time I have had the privilege of being engaged in one level or another the managing of the Defense bill. I can recall one time it took us 4½ weeks to get it through. But it was a leadership decision and the managers of our bill recognize from time to time we have to accede.

I am not here to try and prejudge what legislation may or may not be brought up, but I assure the Senator, I am in total support of the leader making those decisions.

Mr. REED. Mr. President, if I may respond, I appreciate not only the leadership of the chairman, but also his incredible commitment to our military forces. My point is very simple. I think we should finish this bill. We have waited weeks to go on it. But I also point out that if other matters come before the Senate, as Senators we have the full right to use all of the procedures, we have the right to debate. I would hate to be in a situation—and I hope that is not the case—where if we attempt, let's say, next week to engage in extensive and productive debate about a particular issue, we are not reminded that we are holding up the Defense authorization bill; that no one will suggest our ability to debate an issue which, frankly, is on the agenda not through our desires but others', would somehow be interpreted as slowing down our ability to respond to the needs of our soldiers, sailors, marines, air men and women.

I am on record saying I would like to see us finishing this bill without interruption, but if there is an interruption, then this Senate and our colleagues have to have the right to fully debate any measure that comes before the floor, and I don't think we should be—and maybe I am anticipating something that will not evolve—be put in the position of being hurried off the floor because the Defense bill has to come back.

We have the bill before us now. I think we should stick to the bill.

Mr. WARNER. Mr. President, I thank my colleague. If the Senator participated in many of these bills before—for example, tonight, I am not being entirely popular with a number of individuals because I am requesting of the leadership the right to go on into the night with votes, as late as we can possibly go, and then tomorrow morning have more votes and continue tomorrow. After the votes, presumably, if they are scheduled in the morning, it may well be we will continue on the bill with some understanding among Members that the votes we desire, as a consequence of the other work on Friday, will be held on Monday some time.

I assure the Senator from Rhode Island, I am working as hard as I can to get this bill passed. I thank the Senator for his cooperation.

Mr. REED. I thank the Senator.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

UNANIMOUS-CONSENT REQUEST

Mr. WARNER. Mr. President, in concurrence with my distinguished ranking member, I advise the Senate that we will have a vote on amendment No. 1342, regarding supporting the Boy Scouts, occurring at 2:30, with no second-degree amendments in order prior to the vote; provided further, there be 2 minutes of debate equally divided before the vote.

Mr. LEVIN. Reserving the right to object, and I will not object, I understand that is a delay being requested from 2:15 to 2:30, so that everybody can understand.

Mr. WARNER. That is correct.

Mr. DURBIN. Reserving the right to object, is the Senator from Virginia prepared to discuss the Frist amendment? I am reading it for the first time. There is a section I would like to ask him about.

Mr. WARNER. I am prepared to discuss it.

Mr. DURBIN. Reserving the right to object, I call the attention of the Senator to page 3. If the underlying purpose of this amendment is to allow the Boy Scouts of America, or similar organizations, to have their annual jamboree—which I understand they use military facilities and continue to do so, and I have no objection to that. Could I ask the chairman of this committee to please read with me on page 3, starting with line 16, the paragraph that follows, and ask him if he would explain this to me. As I read it, it says:

> No Federal law shall be construed to limit any Federal agency from providing any form of support for a youth organization that would result in that agency providing less support to that youth organization than was provided during the preceding fiscal year.

As I read that, the Appropriations Committee could not appropriate less money for a youth organization next year than they did this year if we pass this permanent law. Is that how the Senator from Virginia reads it?

Mr. WARNER. Mr. President, I thank my colleague for raising this question. The distinguished Senator from Michigan discussed it with me earlier. You have read it and you have interpreted it correctly. It is to sustain the level of funding and activities that have been historically provided by the several agencies and departments of the Government heretofore.

Mr. DURBIN. I further ask—I have no objection to the Boy Scouts gathering at a jamboree or using the facilities. I have no objection to the appropriation of money for that purpose. But are we truly saying that you could never, ever reduce the amount of money that was given to them?

Mr. WARNER. I say to my good friend, that is the way the bill reads, and there 60-some cosponsors who, presumably, have addressed that. I brought it to the attention of the staff of the leader a short time ago and indicated this, asking do I have a clear understanding, and the Senator has recited the understanding that I have.

Mr. LEVIN. Will the Senator from Illinois yield for a question?

Mr. DURBIN. Yes.

Mr. LEVIN. I read this the same as the Senator from Illinois. It is not just that there be no possibility ever of any agency reducing any funding that goes to the Boy Scouts, which is the purported purpose of this, but it is any youth organization because it says any form of support for a youth organization. That means any youth organization, including the Boy Scouts. As I read this, it would make it impossible for any youth organization, no matter how bad it was managing its books, no matter what there might be in terms of fraud and abuse—we are talking about every single youth organization that gets funding from the Federal Government, no matter what the reduction in the number of members of that youth organization is, you could not reduce, apparently, a grant from a Federal agency to any youth organization. I think that goes way beyond the stated purpose of this amendment, which is to protect the Boy Scouts, which I agree with and understand and support.

Mr. WARNER. Mr. President, if I may say to my colleagues, in no way does this bind the Appropriations Committee to exercise such discretion as it may so desire in that level of funding. If it was brought to their attention that there was malfeasance or inappropriate expenditures at some point in

any program, they are perfectly within their authority to limit or eliminate the funding altogether.

Mr. LEVIN. My reference was to any Federal agency, which means any grant agency, not just Appropriations, which the Senator from Illinois referred to, but any Federal agency, which means any agency that makes any grant to any youth organization cannot reduce that grant, no matter what the reason is, next year. That is the way I read this. It is so overly broad, it ought to be modified or stricken or something.

I think all of us want to support the Boy Scouts and their jamboree, using the facilities or the support of the Secretary of Defense and the armed services, as they have done before, but this is way broader than that.

Mr. WARNER. Mr. President, this issue was raised and the legal counsel drew this up. I must say, you raise a point, but I am sure if there are any improprieties associated with these programs, the appropriators have full authority to curtail or eliminate the funding.

Mr. DURBIN. If I may say, I know the Senator has a pending unanimous-consent request. I would like to amend that request to allow language to be added to amend this particular section stating that if you have a youth organization that is guilty of wasting or stealing Federal funds, that youth organization is not automatically going to receive the same amount of funds in the next year. That is malfeasance at its worst and a waste of taxpayer dollars. I am sure the Senator from Virginia and the Senator from Michigan and I don't want to be party to that.

If I may reserve the right to offer a second-degree amendment to that section, I would be happy to allow the unanimous-consent agreement.

Mr. WARNER. Mr. President, what I suggest in the parliamentary situation is that I withdraw the unanimous-consent request at this time. In the interval, until we raise the question to vote again, the Senator presumably will engage with the leader's office regarding these concerns. So I withdraw the request at this time rather than amend it.

The PRESIDING OFFICER. The request is withdrawn.

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

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

Mr. WARNER. Mr. President, the amendment—we call it generically the Boy Scout amendment—offered by the distinguished majority leader is being looked at in the full expectation that it can be resolved and voted on at an appropriate time this afternoon. For the moment, I believe the distinguished Senator from South Carolina and the Senator from New York have an amendment, and I think we should proceed with that debate.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I wonder if we could reach a time agreement on this amendment to give everybody an idea as to time. We are hoping it will be accepted. It is a terrific amendment. I am wondering if the chairman might consider a time limit.

Mr. WARNER. Yes. I thank my colleague. In view of the fact that there is a strong indication by myself and my distinguished ranking member that it be accepted, can we reach a time agreement?

Mr. GRAHAM. Is 20 minutes OK?

Mr. WARNER. Equally divided between yourself and the Senator from New York? Then I think 10 minutes for Senator LEVIN—let us assume that we can do it in 30 minutes.

Mr. GRAHAM. Let us make it 30 minutes so that we can get everybody in, equally divided. I believe Senator LEAHY wants to speak on it.

Mr. LEVIN. Is Senator LEAHY a supporter or opponent of the amendment?

Mr. GRAHAM. Supporter.

Mr. LEVIN. I do not know of any opposition.

Mr. GRAHAM. That would be great.

Mr. WARNER. I ask unanimous consent that the time agreement for the amendment offered by the Senator from South Carolina and the Senator from New York be 45 minutes, 30 minutes to the proponents, and 15 minutes reserved to the managers.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

AMENDMENT NO. 1363

Mr. GRAHAM. I send an amendment to the desk.

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

The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. GRAHAM], for himself, Mrs. CLINTON, Mr. LEAHY, Mr. LAUTENBERG, Mr. DEWINE, Mr. KERRY, Mr. PRYOR, Mr. REID, Mr. COLEMAN, Mr. DAYTON, Mr. ALLEN, Ms. CANTWELL, and Ms. MURKOWSKI proposes an amendment numbered 1363.

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

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

The amendment is as follows:

(Purpose: To expand the eligibility of members of the Selected Reserve under the TRICARE program)

At the end of subtitle A of title VII, add the following:

SEC. 705. EXPANDED ELIGIBILITY OF MEMBERS OF THE SELECTED RESERVE UNDER THE TRICARE PROGRAM.

(a) GENERAL ELIGIBILITY.—Subsection (a) of section 1076d of title 10, United States Code, is amended—

(1) by striking ''(a) ELIGIBILITY.—A member'' and inserting ''(a) ELIGIBILITY.—(1) Except as provided in paragraph (2), a member'';

(2) by striking ''after the member completes'' and all that follows through ''one or more whole years following such date''; and

(3) by adding at the end the following new paragraph:

''(2) Paragraph (1) does not apply to a member who is enrolled, or is eligible to enroll, in a health benefits plan under chapter 89 of title 5.''.

(b) CONDITION FOR TERMINATION OF ELIGIBILITY.—Subsection (b) of such section is amended by striking ''(b) PERIOD OF COVERAGE.—(1) TRICARE Standard'' and all that follows through ''(3) Eligibility'' and inserting ''(b) TERMINATION OF ELIGIBILITY UPON TERMINATION OF SERVICE.—Eligibility''.

(c) CONFORMING AMENDMENTS.—

(1) Such section is further amended—

(A) by striking subsection (e); and

(B) by redesignating subsection (g) as subsection (e) and transferring such subsection within such section so as to appear following subsection (d).

(2) The heading for such section is amended to read as follows:

''§ 1076d. TRICARE program: TRICARE Standard coverage for members of the Selected Reserve''.

(d) REPEAL OF OBSOLETE PROVISION.—Section 1076b of title 10, United States Code, is repealed.

(e) CLERICAL AMENDMENTS.—The table of sections at the beginning of chapter 55 of title 10, United States Code, is amended—

(1) by striking the item relating to section 1076b; and

(2) by striking the item relating to section 1076d and inserting the following:

''1076d. TRICARE program: TRICARE Standard coverage for members of the Selected Reserve.''.

(f) SAVINGS PROVISION.—Enrollments in TRICARE Standard that are in effect on the day before the date of the enactment of this Act under section 1076d of title 10, United States Code, as in effect on such day, shall be continued until terminated after such day under such section 1076d as amended by this section.

Mr. GRAHAM. Mr. President, I will try to keep this very short. This amendment is not new to the body. This is something that I have been working on with Senator CLINTON and other Members for a very long time. It deals with providing the Guard and Reserves eligibility for military health care.

As a setting or a background, of all the people who work for the Federal Government, surely our Guard and Reserves are in that category. Not only do they work for the Federal Government, sometimes on a very full-time basis, they are getting shot at on behalf of the Federal Government and all of us who enjoy our freedom. Temporary and part-time employees who work in our Senate offices are eligible for Federal health care. They have to pay a premium, but they are eligible. Of all the people who deal with the Federal Government and come to the Federal Government when they are needed, the Guard and Reserve, they are ineligible for any form of Federal Government health care. Twenty-five percent of the Guard and Reserve are uninsured in the private sector. About one in five who have been called to active duty from the Guard and Reserve have health care problems that prevent them from going to the fight immediately.

So this amendment will allow them to enroll in TRICARE, the military health care network for Active-Duty

people and retirees. Under our legislation, the Guard and Reserve can sign up to be a member of TRICARE and have health care available for them and their families. They have to pay a premium. This is not free. This is modeled after what Federal employees have to do working in a traditional role with the Federal Government. So they have to pay for it, but it is a deal for family members of the Guard and Reserves that I think helps us in three areas: retention, recruiting, and readiness.

Under the bill that we are about to pass, every Guard and Reserve member will be eligible for an annual physical to make sure they are healthy and they are maintaining their physical status so they can go to the fight.

What happens if someone has a physical and they have no health care? To me, it is absurd that we would allow this important part of our military force's health care needs to go unaddressed, and it showed up in the war. We have had problems getting people into the fight because of health care problems. If we want to recruit and retain, the best thing we can do as a nation is to tell Guard and Reserve members and their families, if they will stay in, we are going to provide a benefit to them and their families that they do not have today that will make life better.

I ask unanimous consent that a USA Today article entitled ''Army Finds Troop Morale Problems in Iraq,'' be printed in the RECORD.

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

[From the USA Today]

ARMY FINDS TROOP MORALE PROBLEMS IN IRAQ

(By Paul Leavitt)

A majority of U.S. soldiers in Iraq say morale is low, according to an Army report that finds psychological stress is weighing particularly heavily on National Guard and Reserve troops.

The report said 54% of soldiers rated their units' morale as low or very low. The comparable figure in an Army survey in the fall of 2003 was 72%.

Soldiers' mental health improved from the early months of the insurgency, and the number of suicides in Iraq and Kuwait declined from 24 in 2003 to nine last year, the report said. The assessment is from a team of mental health specialists the Army sent to Iraq and Kuwait last summer.

The report said 13% of soldiers in the most recent study screened positive for a mental health problem, compared with 18% a year earlier. Symptoms of acute or post-traumatic stress remained the top mental health problem, affecting at least 10% of all soldiers checked in the latest survey.

In the anonymous survey, 17% of soldiers said they had experienced moderate or severe stress or problems with alcohol, emotions or their families. That compares with 23% a year earlier.

National Guard and Reserve soldiers who serve in transportation and support units suffered more than others from depression, anxiety and other indications of acute psychological stress, the report said. These soldiers have often been targets of the insurgents' lethal ambushes and roadside bombs.

Mr. GRAHAM. This is a survey. It states: A majority of U.S. soldiers in Iraq say morale is low, according to an Army report that finds psychological stress is weighing particularly heavily on National Guard and Reserve troops.

The last paragraph states: National Guard and Reserve soldiers who serve in transportation support units suffered more than others from depression, anxiety, and other indications of acute psychological stress, the report stated. These soldiers have often been targets of the insurgents' lethal ambushes and roadside bombs.

Last month and the month before last were the most deadly for the Guard and Reserve since the war started. The role of the Guard is up, not down. It is more lethal than it used to be, and families are being stressed.

What we did last year, thanks to Chairman WARNER, was a good start. We provided relief for Guard and Reserve members who had been called to active duty since September 11, and their families. If you were called to active duty for 90 days since September 11 to now, you were eligible for TRICARE for 1 year. If you served in Iraq for a year, you would get 4 years of TRICARE. The problem is, some people are going to the fight voluntarily and don't meet that criteria. Two-thirds of the air crews in the Guard and Reserve have already served 2 years in some capacity involuntarily. They keep going to the fight voluntarily and their service doesn't count toward TRICARE eligibility.

The bottom line is we have improved the amendment. We need to reform it even more. We have reduced the amount of reservists eligible to join this program to the selected Reserves. Since I am in the indefinite Reserve status as a reservist, I am not eligible for this, nor should I be. But if you are a selected Reserve under our amendment, you are eligible for TRICARE. We have reduced the number of reservists eligible. We have reduced the amount of premiums the Reserve and Guard member would have to pay. We have reduced it from $7.1 billion to $3.8 billion over 5 years. We have made it more fiscally sound.

But the bottom line is for me, you cannot help these families enough, and $3.8 billion over 5 years is the least we can do. What does it cost to have the Guard and Reserve not ready and not fit to go to the fight? What does it cost to have about 20 percent of your force unable to go to the fight because of health care problems? This is the best use of the money we could possibly spend. There is all kinds of waste in the Pentagon that would more than pay for this, and our recruiting numbers for the Guard and Reserve are not going to be met this year because the Guard and Reserve is not a part-time job any longer. It is a real quick ticket to Iraq and Afghanistan.

The people who are in the Guard and Reserves are helping us win this war just as much as their Active-Duty counterparts, who are doing a tremendous job. Their families don't have to worry about health care problems; guardsmen and reservists do.

I have statements from the National Governors Association, the National Guard Association of the United States, the Military Officers Association of America, the Fleet Reserve Association, the Reserve Enlisted Association, and the Air Force Sergeants Association that I would like to submit for the RECORD, saying directly to the Congress:

This is a good benefit. If you will enact it, it would improve the quality of life for our Guard and Reserve members and their families. It will help recruiting and retention, and it is needed.

I ask unanimous consent to have those letters printed in the RECORD.

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

NATIONAL GOVERNORS ASSOCIATION,
Washington, DC, March 17, 2005.

Hon. LINDSEY O. GRAHAM,
U.S. Senate,
Washington, DC.

Hon. HILLARY RODHAM CLINTON,
U.S. Senate,
Washington, DC.

DEAR SENATOR GRAHAM AND SENATOR CLINTON: The nation's Governors join with you in your bipartisan legislative efforts to improve healthcare benefits for members of the National Guard and Reserves by allowing them to enroll in TRICARE, the military healthcare system. We believe ''The Guard and Reserve Readiness and Retention Act of 2005,'' will improve readiness and enhance recruitment and retention.

The men and women in our National Guard and Reserves are playing an increasingly integral role in military operations domestically and around the world. Their overall activity level has increased from relatively modest annual duty days in the 1970s to the current integration, making up approximately 40 percent of the current troop force in Iraq. Surely these patriotic men and women deserve support for complete health benefits for themselves and their families.

As our nation makes more demands on the National Guard and Reserve, we must make every effort to keep their health benefits commensurate with their service. We encourage your colleagues to support this legislation, which will allow our National Guard and Reservist members and their families the opportunity to participate in the TRICARE program.

As Commanders-in-Chief of our nation's National Guard forces, we look forward to working closely with you and other Members of Congress to ensure that this legislation passes during the first session of the 109th Congress.

Sincerely,

GOVERNOR DIRK KEMPTHORNE,
Idaho, Lead Governor on the National Guard.

GOVERNOR MICHAEL F. EASLEY,
North Carolina, Lead Governor on the National Guard.

NATIONAL GUARD ASSOCIATION
OF THE UNITED STATES,
Washington, DC, July 21, 2005.

Hon. LINDSEY GRAHAM,
U.S. Senator,
Washington, DC.

DEAR SENATOR GRAHAM: I write today to express this association's strong support for expanded TRICARE coverage for Guardsmen and Reservists as included in the Graham/Clinton amendment to the FY06 defense authorization bill. The National Guard Association of the United States appreciates the long-standing support from both sides of the Senate aisle for equity in Guard and Reserve health care coverage and believe your amendment reflects our collective commitment to that coverage.

Whether a member of the Guard is attending monthly drill or in combat in Iraq, that man or woman should have access to this coverage. As the war on te1Tor continues, the line between Guard member and active duty member has become indistinguishable. The Secretary of Defense, has said repeatedly, ''the War on Terror could not be fought without the National Guard''. Battles would not be won, peace would not be kept and sorties would not be flown without these soldiers and airmen.

Over the past two years, the Senate has included a provision in the defense authorization bill allowing a member of the National Guard or Reserve, regardless of status, to participate in the TRICARE medical program on a contributory basis. This year, the United States Senate has another opportunity to give TRICARE access to any member of the National Guard who wishes to use TRICARE as their primary health care provider, even when not in a mobilized status.

The National Guard Association of the United States urges the United States Senate to adopt the Graham/Clinton amendment and allow all members of the National Guard and their families access to TRICARE coverage on a cost-share basis, regardless of duty status.

Sincerely,

STEPHEN M. KOPER,
Brigadier General, USAF, (Ret.),
President.

MILITARY OFFICERS
ASSOCIATION OF AMERICA,
Alexandria, VA, July 15, 2005.

Hon. LINDSEY GRAHAM,
U.S. Senate,
Washington, DC.

DEAR SENATOR GRAHAM: On behalf of the nearly 370,000 members of the Military Officers Association of America (MOAA), I am writing to express our deepest gratitude for your leadership in securing needed legislation for America's servicemembers. Your planned amendment to S 1082 that would authorize permanent, fee-based TRICARE eligibility for all members of the Selected Reserve is one of MOAA's top legislative priorities for 2005.

Extending permanent cost-share access to TRICARE for all Selected Reserve members will help demonstrate Congress's and the nation's commitment to ensuring fair treatment for the citizen soldiers and their families who are sacrificing so much to protect America.

A few weeks ago, during a Fox News Channel interview, I was asked what might be done to address Guard and Reserve health care access problems being reported in the media. I said the most important action right now is your legislative fix to offer these families permanent and continuous health care coverage, and that all Americans should ask their legislators to support your effort.

In the meantime, MOAA has sent letters to all members of the Senate requesting their vote in favor of your amendment.

MOAA is extremely grateful for all of your support on this and other issues, and we pledge to work with you to do all we can to secure your amendment's inclusion in the FY2006 Defense Authorization Act.

Sincerely,

NORBERT R. RYAN,
President.

FLEET RESERVE ASSOCIATION,
Alexandria, VA, May 31, 2005.

Hon. LINDSEY O. GRAHAM,
U.S. Senate,
Washington, DC.

DEAR SENATOR GRAHAM: The Fleet Reserve Association (FRA) is pleased to offer its support for your amendment to S. 1082 that would authorize permanent, fee-based Tricare eligibility for all members of the Selected Reserve. This will be a major improvement to the temporary eligibility authorized by the U.S. Congress last year.

FRA believes strongly that your amendment is the right way to go. The Nation can ill afford to mobilize its reserve forces in the war against terrorism, place them in an indefinite period of active service then, offer them a health care plan that does not encourage participation.

Recruiting and the retention of members of the Reserve forces is becoming an increased challenge. The availability of enrolling in a permanent health care plan that embraces the family with comfort and assured assistance, not only provides the reservist with ease of mind particu lady if he or she is immediately ordered to or serving in a hazardous duty zone.

FRA is assured that extending permanent cost-share to Tricare for all selected Reserve members will help demonstrate Congress's and the nation's commitment to protecting the interests of our citizen soldiers, airmen, sailors, Coast Guardsmen, and Marines who are sacrificing so much to protect the United States and it citizens.

FRA encourages your colleagues to support your amendment.

Sincerely,

JOSEPH L. BARNES,
National Executive Secretary.

RESERVE ENLISTED ASSOCIATION,
Washington, DC, July 20, 2005.

Senator LINDSEY GRAHAM,
U.S. Senate, Washington DC.

DEAR SENATOR GRAHAM, I am writing on behalf of the Reserve Enlisted Association supporting all Reserve enlisted members. We are advocates for the enlisted men and women of the United States Military Reserve Components in support of National Security and Homeland Defense, with emphasis on the readiness, training, and quality of life issues affecting their welfare and that of their families and survivors.

REA supports the Graham/Clinton amendment to provide TRICARE for all participating Reserve Component members. This amendment ensures continuity of healthcare for the Reserve Component member and their family. Currently it is difficult to assess the health and mobilization readiness of Guard and Reserve members because their medical records are scattered between their civilian providers, their unit of attachment, their mobilization unit, and their temporary duty location. This same continuity of care would be extended to our families which we anticipate will affect recruiting and retention efforts.

We are dedicated to making our nation stronger and our military more prepared and look forward to working together towards these goals. Your continued support of the Reserve Components is appreciated.

Sincerely,

LANI BURNETT,
Chief Master Sergeant (Ret), USAFR,
REA Executive Director.

AIR FORCE SERGEANTS ASSOCIATION,
Temple Hills, MD, February 26, 2005.

Hon. LINDSEY GRAHAM,
U.S. Senate, Washington, DC.

DEAR SENATOR GRAHAM, on behalf of the 132,000 members of the Air Force Sergeants Association, thank you for introducing S. 337, the ''Guard and Reserve Readiness and Retention Act of 2005.'' This bill would provide a realistic formula allowing members of the National Guard and Reserve to receive retirement pay based upon years of service. Importantly, it would allow members that qualify to receive retirement benefits prior to age 60. As you know, the Guard and Reserve are the only federal entities that do not receive retirement pay at the time their service is complete. This bill would help correct this injustice encountered by many of our members.

We also applaud the provision to improve the healthcare benefits for the members in the Guard and Reserve by allowing them the option of enrolling in TRICARE on a monthly premium basis, regardless of their activation status. These two initiatives would go far to improve the morale, readiness, and retention of our valuable reserve forces.

Senator Graham, we appreciate your leadership and dedication to America's servicemembers and their families. We support you on this legislation and look forward to working with you during the 109th Congress.

Sincerely,

RICHARD M. DEAN,
Excutive Director.

Mr. GRAHAM. We are building on what we did last year. This fight is going to go on for a long time in Iraq and Afghanistan. We can't leave too soon. The idea of having a smaller involvement by Guard and Reserves is an intriguing idea, but it is not going to happen anytime soon either. This benefit will help immeasurably the quality of life of guardsmen and reservists, take stress off of them and their families, and it is the least we can do as a nation who are being defended by part-time soldiers who are really full in every capacity and die in every bit the same numbers, if not greater, than their Active-Duty counterparts.

I will yield the floor to Senator CLINTON, who has been with us every step of the way. We have made a great deal of progress. We are not going to stop until this provision becomes law.

To my friends in the House, the House Armed Services Committee passed this provision with six Republicans joining with the Democratic side of the aisle to get it out of the committee and, through some maneuvering on the floor, this provision helping the Guard and Reserve families was taken out of the bill. There has been one vote after another in the House where over 350 people have supported the concept.

To my friends in the House, I appreciate all you have done to help the troops, but we are going to fight over this issue. This is not going away. We are not quitting until we get it right for the Guard and Reserves.

I yield the floor to Senator CLINTON.

The PRESIDING OFFICER. The Senator from New York.

Mrs. CLINTON. Mr. President, I join my colleague from South Carolina. He has been a tireless advocate for this legislation, and his passion about the need to take care of our Guard and Reserve members is unmatched. It has been an honor for me to work with him on this important legislation.

Over 2 years ago, Senator GRAHAM and I went over to the Reserve Officers Association building to announce the first version of this legislation. As he has just pointed out, we made some progress on expanding access to TRICARE in the last Congress, but not nearly enough. So our work is not done and we come, once again, to the floor of the Senate urging our colleagues, on a bipartisan basis, to support giving this important benefit to Guard and Reserve members and their families.

Our amendment allows Guard and Reserve members the option of enrolling full time in TRICARE. They do not have to take this option. It is voluntary. But TRICARE is the family health insurance coverage offered to Active-Duty military personnel. The change would offer health care stability to families who lose coverage under employers' plans when a family member is called to active duty, or to families—and we have so many of them in the Guard and Reserve—who do not have health insurance to begin with.

So, really, this amendment offers basic fairness to Guard and Reserve members and their families. We have seen firsthand, those of us who have been to Iraq and Afghanistan—as I have been with my colleague, the Senator from South Carolina—the heroism and incredible dedication that Guard and Reserve members have when they are called up to serve our country. They are serving with honor and distinction, and we need to reward and recognize that.

Senator GRAHAM and I first started talking about this more than 2 years ago because in our respective States, we heard the same stories. I heard throughout New York about the hardship being imposed on Guard and Reserve members and their families, not because they didn't want to serve their country—indeed, they were eager to go and do whatever they could to protect and defend our interests—but because they didn't have health insurance. Twenty-five percent of our Guard and Reserve members do not, and when they showed up after being activated, 20 percent of them were found not ready to be deployed.

We are talking about the three R's: recruitment, retention, and readiness. Since September 11, our Reserve and National Guard members have been called to duty with increasing frequency. In New York, we have about 35,000 members of the Guard and Reserves. I have seen, in so many different settings, their eagerness to do their job. But I have also heard from them and their family members about the hardship of not having access to health care. I think the broad support that we have engendered for this amendment, from the National Guard Association, the Reserve Officers Association, the Military Officers Association, really speaks for itself.

It is important to note that this amendment is responding to a real need. This is not a theoretical exercise. We know that lacking health insurance has been a tremendous burden for Guard and Reserve members and their families, and we in our armed services have paid a price because of that lack of insurance in the readiness we should expect from our members.

Mr. President, I am honored to join my colleague in this long fight that we have waged. I hope we will be able to make significant progress and have this amendment accepted and send a loud and clear message to Guard and Reserve members and their families that we indeed not only appreciate and honor their work, we are going to do something very tangible to make it easier for them and their families to bear these burdens.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. GRAHAM. I would like to acknowledge what Senator CLINTON has done on behalf of this amendment. Without her, I don't think we would be as far as we are. She has been terrific. To Senator WARNER, you and your staff have been terrific to do what we did last year.

How much time do I have remaining?

The PRESIDING OFFICER. The Senator from South Carolina has 7 minutes left.

Mr. GRAHAM. Mr. President, I ask unanimous consent to have 15 minutes more because, what I would like to do is give Senator COLEMAN 4 minutes, Senator LEAHY wants 4 minutes, and Senator ALLEN wants 4 minutes. I am not good at math—whatever we need to get that done.

Mr. WARNER. Mr. President, clarification: Did 7 go to 15? Which is fine. You have 15 minutes, now, total, under your control.

Mr. GRAHAM. Thank you, Mr. Chairman, for all our assistance. I now recognize Senator COLEMAN and yield him 4 minutes.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. COLEMAN. Mr. President, it gives me great pleasure to speak in support of the amendment offered by my good friend, Senator GRAHAM, who has been relentless in his determination to secure a fair deal for our Nation's reservists.

Our Nation's citizen soldiers are an integral part of the military. They have been called upon to make big sacrifices, sacrifices many didn't imagine when they signed up. Yet time and time again, they have answered the call. Today, the National Guard and Reserve are on the front line of the war on terror. They are on the front line in Iraq and Afghanistan. I say proudly that Minnesota's Army National Guard leads the Nation in recruiting and retention. We want to continue with that high honor. It is something in which we take great pride.

But I can tell you that, in my conversations with Guard and Reserve members around my State, the strains of mobilization are beginning to have an effect. With the demands now being placed on the Guard and Reserve, we are going to have to step up our support in order to sustain the manpower we need for the future.

What I hear from reservists in my State consistently is that given the rising cost of health care, the option of enrolling in TRICARE is perhaps the most important thing we can do to help them and their families.

Thanks to the tireless efforts of my good friend, Senator GRAHAM, we have made good progress in opening up access to TRICARE. But this option ought to be available to all reservists. Every member of the Guard and Reserve has signed up for the same risks, and they all made the same commitment to defend our country.

This amendment is fundamentally about two things: The first is fairness—fairness for people facing the same dangers as their Active-Duty counterparts. In today's world, any new reservist can almost count on being called to be there fighting in the war in Iraq and Afghanistan. So in a sense, it is not that much different from signing up for active duty to begin with. If reservists know they are going to be putting themselves on the front lines just like an Active-Duty soldier, we should be giving them the same benefits.

The second is national security. Our country needs a robust National Guard and Reserve. We need them to be relevant, which means part of military engagements overseas. In order to keep this invaluable cadre of citizen soldiers, the least we can do is offer them the same health care as we offer Active-Duty troops.

The poet, John Milton, said: ''They also serve, who only stand and wait.'' There is not a lot of standing around for today's reservists, but their value to the Nation is incredible.

The key to every endeavor, whether it is military, economic, or personal, is using your resources wisely. The fact that the military planners of the United States have a reserve force of such quality, spirit, and readiness is our crucial advantage. As such, they deserve every honor and support we give our active military. By protecting this vital asset, we accelerate the march of freedom around the world.

I am pleased to support my colleague, Senator GRAHAM, once again, and I urge my colleagues to support this amendment.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. GRAHAM. I yield 4 minutes to Senator LEAHY, who has been chairman

of the Guard caucus, and who has championed this legislation. I am honored to have him as a partner.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I thank the distinguished Senator for his kind words. I do rise in support of the Graham-Clinton-DeWine-Leahy amendment.

We have said it makes all members of the National Guard and Reserve eligible to participate in the military's TRICARE program on a cost-share basis. Basically, we are saying if the Guard and Reserve is out there doing the work of the regular Army—and they are, as we all know, increasingly, all the time—then they should have some of the same benefits, especially medical benefits.

Our amendment goes to the readiness of our Reserve Forces. It is certainly an important recruiting tool.

Few issues we are going to debate during consideration of this bill—when we talked about readiness—could be as important as this issue. The National Guard is making a spectacular contribution to the Nation's defense. Everybody would acknowledge that it would be impossible to fight the wars in Iraq and Afghanistan without the National Guard. Our military reserves are carrying out all kinds of tasks, from combat support to aerial convoy escort missions. When I talk with the commanders in the field they tell me they don't know which ones are the Guard, which ones are the regular forces. They are all doing the same thing.

One difference is the National Guard has to also continue to provide a ready force in case of natural disasters or another attack here at home. In the war on terrorism, the National Guard and Reserve are a 21st century fighting force. But they are doing it with the last century's health insurance. We want to bring it up to date. We want to make sure that those who are fighting our wars, those who are defending our Nation, are treated alike. That is all it is. We just want to make sure they are treated the same.

Many members of our Guard and Reserve did not have access to affordable health insurance when they were on civilian status, and then in a moment's notice they may be called to answer the time-honored call to duty. The GAO, the Government Accountability Office, reported in 2002 that at least 20 percent of the members of the Guard and Reserve did not have health insurance—20 percent of the members of the Guard and Reserve did not have health insurance. That means that there are members of the Guard and Reserve who potentially are not as healthy as we want them to be when we ask them to deploy.

Last year, we enacted a partial version of this amendment. It became known as the TRICARE Reserve Select Program. The program ties eligibility for gaining access to TRICARE—on a cost-share basis—to service on active duty in a contingency. That was a step forward. TRICARE was an important step forward, but it doesn't address the health insurance needs before deployment. It doesn't address the broader question of readiness of the force.

This amendment opens eligibility to any member of the Select Reserve. As long as a reservist stands ready for deployment, he or she will be able to participate in the program. It offers real, practical, meaningful health to citizen soldiers, sailors, airmen, and marines. It also is going to provide a meaningful recruitment incentive for the Guard and Reserve. As we all know, they are struggling to meet recruiting goals.

I am honored to be the cochair of the Senate National Guard Caucus. As cochair, I believe that few defense personnel reforms are as needed, as demonstrably needed and overdue as this health insurance initiative for Guard and Reserve. It has been a high priority of each of the members of our bipartisan coalition. Republicans and Democrats alike agree the Guard and Reserve deserve to have available health insurance the same as all others.

Mr. President, I yield myself 2 minutes from the time allotted to the Senator from Michigan.

Mr. WARNER. No objection.

Mr. LEAHY. Mr. President, the GAO study commission exposed and confirmed these glaring deficiencies. In this GAO study, I said it appears to me we are sending our Guard and Reserve out to fight alongside our regular forces, but they are doing it without the health insurance protection our regular forces have. Well, the GAO study said exactly what I thought was happening was happening. So it has been heartening to work with my fellow Senators in remedying these problems. I will continue to press forward until a full TRICARE program for the Guard and Reserve is in place.

I will close with this. We are going to ask our Guard and Reserve to do the same duties, face the same dangers, stand in harm's way in the same way as our regular forces, and they ought to be treated the same when it comes to medical care. It is a matter of readiness, it is a matter of honesty, but most importantly it is a matter of simple justice.

I yield the floor.

Mr. WARNER. Mr. President, I am happy to yield to the Senator from South Carolina for the lineup of speakers.

Mr. GRAHAM. I would like to yield 4 minutes to the Senator from Virginia, who was one of the original founders of this whole idea, fighting before this became popular, and he has been a terrific advocate for the Guard and Reserve. I yield 4 minutes.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. ALLEN. I thank the Chair. I thank my good friend and colleague, Senator GRAHAM, for his tremendous leadership on Guard and Reserve matters. Of course, he is the only active member of the Guard and Reserve in this body, and so he understands what families and Guard members are facing.

My experience goes back to the days when I was Governor and saw how important our Virginia Guard troops were when there were times of floods and hurricanes and natural disasters. I also remember visiting many of our Guard troops in Bosnia who had been sent over there. I remember welcoming back some of our Virginia Air Guard who were flying in the no-fly zone in Iraq.

As Senator COLEMAN said earlier in this debate, and all of us recognize, the Guard and Reserve are being called up more frequently and for greater duration than ever before. In fact, when I was in Iraq back in mid-February, there were some Guard troops I was meeting with at Balad, and four or five of them actually had been in Bosnia. They said: We remember when you were in Bosnia to visit as Governor. In reality, the Guard and Reserve troops who are being called upon so much in this war on terror are generally, compared to the Active Forces, older and therefore more likely to be married and more likely to have children.

So if we are going to retain and recruit Guard members and reservists, we are going to need to show proper reasonable appreciation. We need to address the pay-gap problem. On average, when they get activated, they loose $368 a month, and Senator LANDRIEU, Senator GRAHAM, and several of us are working on this issue.

This measure on health benefits means a great deal to the Guard members and their families. We did make some progress last year, but nevertheless it wasn't as much—the passage of this measure was 75 to 25—as we thought it would be, and Senator GRAHAM, like the rest of us, is not going to be deterred. We are going to keep fighting, and it is a fight that is worth fighting because it is important to show proper appreciation with fair expansion of health care benefits which are so important for Guard and Reserve families. This, in my view, will help retain and recruit Guard members. I trust my colleagues will again stand strongly with our Guard and Reserve troops and our families and pass this very reasonable, logical legislation to provide health care coverage to all the members of our Guard and Reserve.

I thank the Chair. I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. GRAHAM. At this time, Mr. Chairman, if I may, I yield to Senator THUNE, one of our newest members, 3 minutes. He has been a strong advocate of this legislation.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. THUNE. Mr. President, I also compliment the Senator from South Carolina for his leadership on this issue, and also the Senator from New

York. I know they have worked together on this, but I will say that one of the first issues that the Senator from South Carolina talked to me about when I first arrived in the Senate was this very issue. It is important for a lot of reasons, important in my State of South Dakota because we have a number of people who have been called up. Over 1,700 of our National Guard men and women have served in the deployments to Iraq and Afghanistan, and as I have traveled my State and attended many of the events as they have been deactivated and come home, I looked into the eyes of their children and their loved ones and assured those people that the job they are doing is important to freedom's cause, that the work they are doing is important in bringing freedom and democracy to places such as Iraq and Afghanistan and thereby also making our country more safe and secure.

It is important that we put in place the appreciation for the good work that our guardsmen and reservists are doing and important that we recognize that by offering them access to affordable health care. This legislation is important because we do have a challenge as we go forward with the continuing duration of the deployments, with the need to call up our Guard and Reserve on a more frequent basis, to ensure that we put the incentives in place so that we can recruit and retain the men and women who continue to fill those very important roles.

And so I am happy to cosponsor this amendment to offer my support to the Senator from South Carolina and to urge our colleagues on the floor of the Senate to support this important legislation, to send a strong, clear message to the men and women who are serving our country in the Guard and Reserve that we support them. This is no longer a 1-weekend-a-month, 2-weeks-a-year deployment. That is a thing of the past. The longer deployments and the heightened responsibilities are taking an unforeseen toll on the families and members of the Guard and Reserve. If Congress is going to call on our Reserves to do more, we have a responsibility to provide them with more. By offering TRICARE to Guard and Reserve, we are helping to mitigate the effects of the burden we are asking Guard and Reserve to shoulder in the war on terror. No soldier should be deployed to fight for his country only to have his thoughts consumed by the welfare of his family.

So I thank Senator GRAHAM for his leadership on this issue. I encourage my colleagues to support this amendment.

Mr. President, I yield the remainder of my time.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. GRAHAM. Mr. President, how much time do I have?

The PRESIDING OFFICER. Two minutes 30 seconds.

Mr. GRAHAM. I thank the Chair. Thanks to all Senators, and thanks to the Guard and Reserve because we need them the most.

One of the problems that Guard and Reserve families have to face is the lack of continuity of health care. If you are called back to duty, you have health care. Once you are released from active duty, with its health care program, you go back into the civilian health care network. That means you have to change hospitals and doctors. If you are experiencing a pregnancy, that means your hospitals may change, the doctors may change because you bounce from one health care network to the other.

This bill would provide a health care home for guardsmen and reservists, taking stress off their families if they choose to join. They never have to worry about bouncing from one doctor to one hospital to the next. They would have a continuing network. The Guard and Reserve have to pay a premium, unlike their Active-Duty counterpart. It is not a free benefit. I think this is a fair compromise. At the end of the day, this will help the Guard and Reserve.

I am proud of what we have done. I thank the chairman for his willingness to work with us. Time will tell how we will do this, but I am optimistic Congress is going to rise to the occasion to help these men and women who risk their lives to protect our freedom.

Mr. KERRY. Mr. President, earlier this year I introduced legislation to strengthen our military and enact a ''Military Family Bill of Rights.'' One piece of that bigger agenda is providing TRICARE eligibility to members of the National Guard and Reserve. Today I have the pleasure of cosponsoring an amendment that would expand the eligibility for TRICARE to members of the Selected Reserve. While this amendment is only a start towards better policies for Americans in uniform and their families, it is also an important step in supporting our troops.

''Supporting the troops'' means paying attention to the needs of our troops in the field and at home; understanding their lives both as warriors fighting for the defense of their country and as parents, brothers and sisters, sons, and daughters struggling for the prosperity and happiness of their families.

As many as one in five members of the National Guard and Reserves don't have health insurance. That is bad policy and bad for our national security. When units are mobilized, they count on all their personnel. But when a member of the National Guard or Reserve is mobilized, and unit members fail physicals due to previously undiagnosed or uncorrected health conditions because that servicemember lacked health insurance, it disrupts unit cohesion and affects unit readiness.

Under current practice, members of the National Guard and their families are eligible for TRICARE only when mobilized and, in some cases, upon their return from Active Duty. For some, that means they lack continuity of care, having to switch healthcare providers whenever their loved one is mobilized or returns home. This lack of continuity is particularly difficult for individuals with special health care needs, such as pregnant spouses or young children.

When we think of supporting our troops, we must remember that we also have to support families. Investing in military families isn't just an act of compassion, it is a smart investment in America's military. Good commanders know that while you may recruit an individual soldier or marine, you ''retain'' a family. Nearly 50 percent of America's servicemembers are married today. If we want to retain our most experienced servicemembers, especially the noncommissioned officers that are the backbone of the Army and Marine Corps, we have to keep faith with their families. If we don't, and those experienced, enlisted leaders begin to leave, America will have a broken, ''hollow'' military.

Thus, TRICARE for members of the Select Reserve is not simply a new ''benefit'' but an issue affecting mission readiness. With our military forces stretched as thin as they are due to the conflicts in Iraq and Afghanistan, we need to rely on the Reserves to an even greater extent than in the past. Indeed, at a time when the Guard and Reserve face growing problems in recruiting and retention, extending TRICARE coverage also has the potential to be a great recruiting tool.

We have a sacred obligation to keep faith with the men and women of the American military and their families—whether they are on Active Duty, in the National Guard or Reserves, or veterans. Today's amendment is an important step.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. The distinguished ranking member and myself are prepared to accept this amendment. But I want to talk just a bit about the importance of what these two Senators, primarily the Senator from South Carolina and the Senator from New York, have done. This is a very significant piece of legislation. We laid the foundation last year and had some incremental improvement, but this really carries the ball the balance of the field and scores a touchdown in behalf of the men and women in the Armed Forces and Reserve.

As the Senator from South Carolina has pointed out, this is not a free benefit. There is going to be, I say to both of my colleagues, the Senator from New York and the Senator from South Carolina, a reasonable fee.

But if I could bring back a little personal experience, in 1950, I was a member of the Marine Corps Reserve, having come up from the enlisted ranks and gotten my commission. The Korean war sprung on us totally without anticipation. I remember at the time

Truman was in office, and Louie Johnson was basically the Secretary of Defense who disbanded the military. Suddenly we had to do a rapid turnaround, and we had nowhere to go but to call up the Reserves. I was just a young bachelor then. I was happy to go, but when I was in my first training command in the fall of 1950 at Quantico in the first special basic class, why, over half the class was married and had to leave their families and everything and quickly return. Most of us had been in World War II and gotten our commissions.

I simply point out that is another hidden element to this; that is, when you are maintaining voluntarily the status of being in the Select Reserve, you are subject to call at a late hour of the night to pack your bags, leave your family, leave your job, and go. And if you look, there are 1,142,000 members of the total Reserve, and the Select Reserve is only 700,000. I mean, it is a significant number, but it is that group of 700,000 that is subject to call on very short notice. And that is ever present. It sometimes requires a problem with the employer, to maintain that status knowing that valuable employee could leave on less than 30 days' notice and the employer has to seek another to fill the post, and so forth. So there is much to be said about staying in.

I recall when I got back from Korea, I was finished my obligated military service and could have cashiered out, but I stayed in the Reserves another 10 or 11 years, to my recollection—I think it was 12 years. There were certain benefits that were an inducement to stay in and, frankly, I enjoyed it enormously. I don't have a military career of great consequence. I am certainly grateful for the opportunity to serve, and I think this is a marvelous thing.

I would like to be listed as a cosponsor, as my distinguished colleague from Michigan likewise, and we salute the two Senators who pioneered this approach.

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

Mr. WARNER. In the beginning we had to look at the dollars and the figures and balance it out.

As the Senator said, fight on. And we will be there, and each of these Members will be by our side. I hope Members can walk out of that conference some day with a sense of satisfaction and accomplishment.

I urge adoption of the pending amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1363) was agreed to.

Mr. WARNER. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. WARNER. I thank our colleagues.

We are open for further amendments. The Boy Scout amendment is being reviewed. The Lautenberg amendment is, likewise, being reviewed on our side. It will take the managers a few moments to advise the Senate as to what the next matter will be.

Therefore, I suggest the absence of a quorum.

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

The bill clerk proceeded to call the roll.

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

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

Mr. WARNER. Mr. President, the Senator from Nevada has consulted with the managers of the bill and desires to address the Senate in the context of several amendments. We thank the Senator very much for his participation.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. ENSIGN. Mr. President, I ask unanimous consent that the pending amendment be laid aside.

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

AMENDMENT NO. 1374

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

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Nevada [Mr. ENSIGN] proposes an amendment numbered 1374.

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

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

The amendment is as follows:

(Purpose: To require a report on the use of riot control agents)

On page 296, after line 19, insert the following:

SEC. 1205. REPORT ON USE OF RIOT CONTROL AGENTS.

(a) STATEMENT OF POLICY.—It remains the longstanding policy of the United States, as provided in Executive Order 11850 (40 Fed Reg 16187) and affirmed by the Senate in the resolution of ratification of the Chemical Weapons Convention, that riot control agents are not chemical weapons but are legitimate, legal, and non-lethal alternatives to the use of lethal force that may be employed by members of the Armed Forces in combat and in other situations for defensive purposes to save lives, particularly for those illustrative purposes cited specifically in Executive Order 11850.

(b) REPORT REQUIRED.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, and annually thereafter, the President shall submit to Congress a report on the use of riot control agents.

(2) CONTENT.—The reports required under paragraph (1) shall include—

(A) a listing of international and multilateral forums that occurred in the preceding 12 months at which—

(i) the United States was represented; and

(ii) the issues of the Chemical Weapons Convention, riot control agents, or non-lethal weapons were raised or discussed;

(B) with regard to the forums described in subparagraph (A), a listing of those events at which the attending United States representatives publicly and fully articulated the United States policy with regard to riot control agents, as outlined and in accordance with Executive Order 11850, the Senate resolution of ratification to the Chemical Weapons Convention, and the statement of policy set forth in subsection (a);

(C) a description of efforts by the United States Government to promote adoption by other states-parties to the Chemical Weapons Convention of the United States policy and position on the use of riot control agents in combat;

(D) the legal interpretation of the Department of Justice with regard to the current legal availability and viability of Executive Order 11850, to include the rationale as to why Executive Order 11850 remains permissible under United States law;

(E) a description of the availability of riot control agents, and the means to deploy them, to members of the Armed Forces deployed in Iraq;

(F) a description of the doctrinal publications, training, and other resources available to members of the Armed Forces on an annual basis with regard to the tactical employment of riot control agents in combat; and

(G) a description of cases in which riot control agents were employed, or requested to be employed, during combat operations in Iraq since March, 2003.

(3) FORM.—The reports required under paragraph (1) shall be submitted in unclassified form, but may include a classified annex.

(c) DEFINITIONS.—In this section—

(1) the term ''Chemical Weapons Convention'' means the Convention on the Prohibitions of Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, with annexes, done at Paris, January 13, 1993, and entered into force April 29, 1997 (T. Doc. 103–21); and

(2) the term ''resolution of ratification of the Chemical Weapons Convention'' means Senate Resolution 75, 105th Congress, agreed to April 24, 1997, advising and consenting to the ratification of the Chemical Weapons Convention.

Mr. ENSIGN. Mr. President, I ask unanimous consent that the pending amendment be laid aside.

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

AMENDMENT NO. 1375

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

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Nevada [Mr. ENSIGN] proposes an amendment numbered 1375.

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

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

The amendment is as follows:

(Purpose: To require a report on the costs incurred by the Department of Defense in implementing or supporting resolutions of the United Nations Security Council)

On page 286, between lines 7 and 8, insert the following:

SEC. 1073. REPORT ON COSTS TO CARRY OUT UNITED NATIONS RESOLUTIONS.

(a) ASSIGNMENT AUTHORITY OF SECRETARY OF DEFENSE.—The Secretary of Defense shall submit, on a quarterly basis, a report to the

congressional defense committees, the Committee on Foreign Relations of the Senate, and the Committee on International Relations of the House of Representatives that sets forth all costs (including incremental costs) incurred by the Department of Defense during the preceding quarter in implementing or supporting any resolution adopted by the United Nations Security Council, including any such resolution calling for international sanctions, international peacekeeping operations, or humanitarian missions undertaken by the Department of Defense. Each such quarterly report shall include an aggregate of all such Department of Defense costs by operation or mission.

(b) COSTS FOR TRAINING FOREIGN TROOPS.—The Secretary of Defense shall detail in the quarterly reports all costs (including incremental costs) incurred in training foreign troops for United Nations peacekeeping duties.

(c) CREDIT AND COMPENSATION.—The Secretary of Defense shall detail in the quarterly reports all efforts made to seek credit against past United Nations expenditures and all efforts made to seek compensation from the United Nations for costs incurred by the Department of Defense in implementing and supporting United Nations activities.

Mr. ENSIGN. Mr. President, I thank both managers of the bill for their indulgence. I look forward to speaking on the amendments later, but I appreciate the ability to lay them down at this time.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, at this time my distinguished colleague has a matter which he would like to bring to the attention of the Senate.

The PRESIDING OFFICER. The Senator from Michigan.

AMENDMENT NO. 1376

Mr. LEVIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

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

The bill clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for himself and Mr. KERRY, proposes an amendment numbered 1376.

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

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

The amendment is as follows:

(Purpose: To enhance and extend the increase in the amount of the death gratuity)

On page 159, strike line 20 and all that follows through page 161, line 9, and insert the following:

SEC. 641. ENHANCEMENT OF DEATH GRATUITY AND ENHANCEMENT OF LIFE INSURANCE BENEFITS FOR CERTAIN COMBAT RELATED DEATHS.

(a) INCREASED AMOUNT OF DEATH GRATUITY.—

(1) INCREASED AMOUNT.—Section 1478(a) of title 10, United States Code, is amended by striking ''$12,000'' and inserting ''$100,000''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall take effect on October 7, 2001, and shall apply with respect to deaths occurring on or after that date.

(3) COORDINATION WITH OTHER ENHANCEMENTS.—If the date of the enactment of this Act occurs before October 1, 2005—

(A) effective as of such date of enactment, the amendments made to section 1478 of title 10, United States Code, by the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005 (Public Law 109–13) are repealed; and

(B) effective immediately before the execution of the amendment made by paragraph (1), the provisions of section 1478 of title 10, United States Code, as in effect on the date before the date of the enactment of the Act referred to in subparagraph (A), shall be revived.

Mr. LEVIN. Mr. President, the provisions in the fiscal year 2005 emergency supplemental appropriations bill increase the military death gratuity from $12,400 to $100,000. The bill before us continues that increase in the gratuity. The provisions, however, do not cover all people on active duty. It only covers people who are killed in combat. Our military leaders strongly, and I believe unanimously—our uniformed leaders—believe the death of a military person who is on active duty should be covered equally whether that person was killed in combat or on his way to a training exercise.

They have testified in front of our committee very forcefully that they believe the benefit which we have provided, the so-called military death gratuity of $100,000—now as we provide in the bill to be made permanent—should be applied equally to all persons on active duty.

The case of Marine LTC Richard Wersel, Jr., who had a fatal heart attack while exercising 1 week after returning from his second tour of duty in Iraq, perhaps says it all. This was an active-duty marine. He had just come back from an extremely difficult and stressful deployment. He had multiple deployments over 30 months. He had been training indigenous troops to fight drug traffickers. As well, he had two tours of duty in Iraq. But as his wife put it: Those multiple deployments were the silent bullet that took her husband's life.

Under current law, the death gratuity which would go to the wife and family would only be $12,400. Had the heart attack occurred while in Iraq, the death gratuity would have been $100,000. In either case, Colonel Wersel was serving his Nation, as he did very well throughout his life. He was on active duty. The fact that he died a week after returning from a second, stressful tour in Iraq should not cause his surviving spouse to receive such a significantly smaller death gratuity.

This is what the Assistant Commandant of the Marine Corps told the Armed Services Committee at a hearing on military death benefits. He said:

I think we need to understand before we put any distinctions on the great service of these wonderful young men and women who wear this cloth forward into combat, training to go to combat or in tsunami relief, they are all performing magnificently. I think we have to be very cautious in drawing distinctions.

At another hearing, I asked General Myers, the Chairman of the Joint Chiefs, for his views on whether the military death gratuity should be the same for all members who die on active duty. His answer was:

I think a death gratuity that applies to all servicemembers is preferable to one that's targeted just to those that might be in a combat zone.

He said:

When you join the military, you join the military. You go where they send you. And it's happenstance that you're in a combat zone or you're at home. And I think we have in the past held to treating people universally, for the most part, and consistently. And that's how I come down on that.

That is what General Myers said.

The Presiding Officer well knows this because he has to deal with these losses regularly back home in Minnesota. He pointed out earlier today how many Reserve folks he has in Minnesota whom he supports.

No benefit—no benefit—can replace the loss of life of a soldier, sailor, airman, or marine who gives his or her life in service to our country. Every survivor would choose to have the servicemember alive and healthy rather than any compensation our Government could provide. But that does not mean our benefits should not be full and generous and consistent; it is just a recognition that we cannot place a monetary value on a life given in service to our Nation.

There is much more to be said about this issue. But, again, the testimony of our senior uniformed military leaders, it seems to me, is the most compelling testimony, in addition to the actual, tragic situations we have, such as the one I read about a moment ago.

So I offer this amendment. Many of us have supported this amendment. There have been many members of our committee and many Members of the Senate who are not on the committee who I know very strongly support a $100,000 death gratuity for all active-duty military deaths, not just those who die in combat-related activity.

Mr. KERRY. Mr. President, I am happy to join the Senator from Michigan in sponsoring this amendment. Earlier this year, we offered an identical amendment to the fiscal year 2005 Emergency Supplemental Appropriation Act, which passed the Senate with 75 votes but was inexcusably dropped in conference. We need to rectify that wrong because the death gratuity system created last spring, despite good intentions, sells short people who deserve better: our soldiers and military.

The issue is simple: when it comes to our men and women in uniform, how do you draw the line between one death in one circumstance and another death in another circumstance? I don't believe you can. The existing law relies on the combat related special compensation legislation to determine which personnel who die outside of combat zones receive the increased death gratuity. It may seem sufficient, but it is not.

Consider the case of Vivianne Wersel. Her husband, LTC Richard M. Wersel,

U.S. Marine Corps, served 20 years and 6 months in the Marine Corps. His last overseas assignment was with the Multinational Forces Iraq in Baghdad. He served there as the plans chief for the Civil Military Operations Directorate. In February of this year, just a week after returning home, Lieutenant Colonel Wersel suffered a fatal heart attack lifting weights in the gym at Camp Lejeune, NC.

If he had died 1 week earlier lifting weights in Iraq, his family would have been eligible for the increased benefits. Because he died in the United States, his sacrifice isn't properly honored, and his family is left to a greater struggle.

This is what the uniformed leaders of the American military were talking about when they testified before the Senate Armed Services Committee earlier this year. It is time we listened to them. Let me remind my colleagues what they said:

GEN Michael T. Moseley, U.S. Air Force, said:

I believe a death is a death and our servicemen and women should be represented that way.

GEN Richard A. Cody, U.S. Army, said:

It is about service to this country and I think we need to be very, very careful about making this $100,000 decision based upon what type of action. I would rather err on the side of covering all deaths than try to make the distinction.

And ADM John B. Nathman, U.S. Navy, said:

This has been about . . . how do we take care of the survivors, the families, and the children. They can't make a distinction; I don't believe we should either.

Vivianne Wersel certainly doesn't make that distinction. She and her husband have two wonderful children. They have lived on 10 bases in the last 15 years living the proud but challenging life of a Marine family. They have made sacrifices for this country throughout Colonel Wersel's career—supporting him in his missions wherever that took him. They have missed their father for a long time not simply since his death. They deserve better from us, who they sacrificed to protect.

For the survivors of our Nation's fallen heroes, much of life remains, and though no one can ever put a price on a lost loved one, we must be generous in helping them put their lives back together. Current law doesn't work. We can change it. I urge my colleagues to support this amendment.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I wish to be made a cosponsor of this amendment.

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

Mr. WARNER. Mr. President, I recall very vividly the testimony we received from the whole group of the Joint Chiefs of Staff led by General Myers. General Myers was very strong on this point. You mentioned General Pace. Indeed, he was a leader on it. But, across the board, our chiefs stepped up.

I say to the Senator, it is important this be done. We accept the amendment and are ready to move when you are ready to move.

The PRESIDING OFFICER. Is there further debate?

If not, without objection, the amendment is agreed to.

The amendment (No. 1376) was agreed to.

Mr. LEVIN. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. WARNER. Mr. President, momentarily we will have another matter to be brought to the floor. We are making progress. At the moment, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. WARNER. I thank our distinguished colleague from Maine, who is going to address a very important subject.

The PRESIDING OFFICER. The Senator from Maine.

AMENDMENT NO. 1377 TO AMENDMENT NO. 1351

Ms. COLLINS. Mr. President, I ask unanimous consent that the pending amendment be set aside.

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

Ms. COLLINS. I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Maine [Ms. COLLINS] proposes an amendment numbered 1377 to amendment No. 1351.

Ms. COLLINS. I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To ensure that certain persons do not evade or avoid the prohibitions imposed under the International Emergency Economic Powers Act, and for other purposes)

In lieu of the matter proposed to be inserted, insert the following:

SEC. ___. PROHIBITION ON ENGAGING IN CERTAIN TRANSACTIONS.

(a) APPLICATION OF IEEPA PROHIBITIONS TO THOSE ATTEMPTING TO EVADE OR AVOID THE PROHIBITIONS.—Section 206 of the International Emergency Economic Powers Act (50 U.S.C. 1705) is amended to read as follows:

''PENALTIES

''SEC. 206. (a) It shall be unlawful for—

''(1) a person to violate or attempt to violate any license, order, regulation, or prohibition issued under this title;

''(2) a person subject to the jurisdiction of the United States to take any action to evade or avoid, or attempt to evade or avoid, a license, order, regulation, or prohibition issued this title; or

''(3) a person subject to the jurisdiction of the United States to approve, facilitate, or provide financing for any action, regardless of who initiates or completes the action, if it would be unlawful for such person to initiate or complete the action.

''(b) A civil penalty of not to exceed $250,000 may be imposed on any person who commits an unlawful act described in paragraph (1), (2), or (3) of subsection (a).

''(c) A person who willfully commits, or willfully attempts to commit, an unlawful act described in paragraph (1), (2), or (3) of subsection (a) shall, upon conviction, be fined not more than $500,000, or a natural person, may be imprisoned not more than 10 years, or both; and any officer, director, or agent of any person who knowingly participates, or attempts to participate, in such unlawful act may be punished by a like fine, imprisonment, or both.''.

(b) PRODUCTION OF RECORDS.—Section 203(a)(2) of the International Emergency Economic Powers Act (50 U.S.C. 1702(a)(2)) is amended to read as follows:

''(2) In exercising the authorities granted by paragraph (1), the President may require any person to keep a full record of, and to furnish under oath, in the form of reports, testimony, answers to questions, or otherwise, complete information relative to any act or transaction referred to in paragraph (1), either before, during, or after the completion thereof, or relative to any interest in foreign property, or relative to any property in which any foreign country or any national thereof has or has had any interest, or as may be otherwise necessary to enforce the provisions of such paragraph. The President may require by subpoena or otherwise the production under oath by any person of all such information, reports, testimony, or answers to questions, as well as the production of any required books of accounts, records, contracts, letters, memoranda, or other papers, in the custody or control of any person. The subpoena or other requirement, in the case of contumacy or refusal to obey, shall be enforceable by order of any appropriate United States district court.''.

(c) CLARIFICATION OF JURISDICTION TO ADDRESS IEEPA VIOLATIONS.—Section 203 of the International Emergency Economic Powers Act (50 U.S.C. 1702) is further amended by adding at the end the following:

''(d) The district courts of the United States shall have jurisdiction to issue such process described in subsection (a)(2) as may be necessary and proper in the premises to enforce the provisions of this title.''.

Ms. COLLINS. Mr. President, I rise to offer a second-degree amendment to the amendment offered by the distinguished Senator from New Jersey, Mr. LAUTENBERG. While I take a slightly different approach than my colleague from New Jersey, I wish to be clear that my intent is very similar to his; that is, to close loopholes in current U.S. law that allow U.S. firms to do business in terrorist nations or nations that are known to sponsor terrorism and are under U.S. sanctions.

Denying business investment to states that finance or otherwise support terrorist activities, such as Syria, Iran, or Sudan, is critical to the war on terrorism. The United States has had sanctions in place on the Iranian Government for a long time and for good reasons. These sanctions prohibit U.S. citizens and U.S. corporations from

doing business in Iran, a nation known as a state sponsor of terrorism. I fully support the use of these sanctions to deny terrorist states funding and investment from American companies.

Currently, U.S. sanctions provisions in the International Emergency Economic Powers Act prohibit U.S. companies from conducting business with nations that are listed on the terrorist sponsor list. The law does not specifically bar foreign subsidiaries of American companies from doing business with terrorist-supporting nations, as long as these subsidiaries are considered truly independent of the parent company.

There have, however, been reports that some U.S. companies have exploited this exception in the law by creating foreign subsidiaries of U.S. companies in order to do business with such nations. The allegations are that these foreign subsidiaries are formed and incorporated overseas for the specific purpose of bypassing U.S. sanctions laws that prohibit American corporations from doing business with terrorist-sponsoring nations such as Syria and Iran. There is no doubt that this practice cannot be allowed to continue.

I supported Senator LAUTENBERG's amendment last year because it was the only proposal before us to deal with this very real problem. The Senator from New Jersey has been very eloquent in speaking about this exploitation of the exceptions in the current sanctions laws. The examples that we have heard, where American firms simply create new shell corporations to execute transactions that they themselves are prohibited from engaging in, are truly outrageous. Clearly, the law does need to be tightened. But we need to be careful about how we go about addressing this problem. I have long felt that while the Senator from New Jersey is correct in his intentions, the specific language of his amendment needs improvement.

We have worked very closely—my staff and I—during the past 6 months, with the administration to draft a proposal that closes the loophole without overreaching. We must draft this measure in a manner that gets at these egregious cases that are so outrageous without overstepping the traditional legal notions of jurisdiction. Otherwise, we may find ourselves harming the war on terror rather than helping.

Some truly independent foreign subsidiaries are incorporated under the laws of the country in which they do business and are subject to that country's laws, to that legal jurisdiction. There is a great deal of difference between a corporation set up in a day, without any real employees or assets, and one that has been in existence for many years and that gets purchased, in part, by a U.S. firm. That foreign company may even be an American firm with a controlling interest in that foreign company, but under the law, it is still considered to be a foreign corporation.

Senator LAUTENBERG's proposal requires foreign subsidiaries and their parents to obey both U.S. and applicable foreign law at the same time, even if they are in conflict. Not only does this complicate our relations with other countries, it also puts U.S. subsidiaries of foreign parent companies in danger of being subjected to other nations' laws in retaliation. It also raises all sorts of questions when there are conflicts in the two sets of laws. At a time when we are seeking the maximum active foreign cooperation possible in the global war against terrorism, exerting U.S. law over all foreign companies owned or controlled by U.S. firms and their foreign operations seems to be an imprudent and excessive move. The administration agrees.

Rather than simply declaring many foreign entities subject to U.S. law regardless of their particular situation, my amendment would take four strong steps to improve U.S. sanctions laws—specifically, the International Emergency Economic Powers Act—without raising the concerns that come forth if we take the approach recommended by Senator LAUTENBERG.

First, my amendment would prohibit any action by a U.S. firm that would avoid or evade U.S. sanctions. This would clearly prohibit the creation of a new shell company for the purposes of evading U.S. sanctions, a situation that has occurred and that we need to prevent.

Second, my amendment would prohibit American firms from ''approving, facilitating or financing'' actions that would violate U.S. sanctions laws if undertaken by a U.S. firm. This would prohibit any involvement by a U.S. parent firm with an existing subsidiary that was engaged in a transaction that violated the International Emergency Economic Powers Act. In order to comply with the law, the U.S. parent firm would need to be totally passive in any transaction. But if the American firm is, in fact, approving the actions of that foreign subsidiary that is doing business in a prohibited country or facilitating it in any way—that is a pretty broad word—or financing those prohibited actions, that would be a violation of our law.

Third, my amendment would increase the maximum penalties per violation under the act from $10,000 to $250,000 for a civil violation and from $50,000 to $500,000. For companies who think that the risk of getting caught is worth it, they will need to think again because now the penalties are sufficient that they have real bite.

Finally, our amendment would provide explicit subpoena authority to obtain records related to transactions covered by the act. Right now, there has been a difficulty in enforcing the sanctions in terms of getting the information that is needed. This would provide subpoena power.

Specifically, by increasing penalties and providing for explicit subpoena authority, I believe my amendment results in a much stronger sanctions regime but without invoking many of the concerns that have been voiced with regard to Senator LAUTENBERG's amendment.

Again, I want to make clear that I think the goals of the Senator from New Jersey and myself are very similar. The question is how to craft a solution that addresses the problem without overreaching and without causing the possibility of a foreign country retaliating against the American subsidiaries of that country's firm.

I believe that my amendment is the right approach to this critical problem. It will make clear that U.S. corporations cannot circumvent U.S. law. They cannot set up phony shell corporations for the purpose of evading the law. They can't direct a foreign subsidiary to do what they are prohibited from doing under our laws. It will also greatly strengthen and improve the enforcement of the law through the increase in penalties and by vesting subpoena power. At the same time, my approach is carefully crafted to avoid unintended consequences that will harm our relations with our international allies.

I encourage my colleagues to support this balanced approach.

I ask for the yeas and nays on the Collins amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from New Jersey.

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

I ask unanimous consent to withdraw the amendment I have just sent to the desk.

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

The assistant Democratic leader.

Mr. DURBIN. Mr. President, if I might, through the Chair, address the chairman of the committee. I have an amendment which I would like to offer, but I don't want to step into a process or a queue that is already established. I am not going to call up the amendment at this moment. I merely want to speak to it and offer it and put it on the list of amendments to be considered at a later time.

Mr. WARNER. Mr. President, we would like to accommodate the Senator. My only inquiry is, we now have on the floor the two principals on this important measure. If you wish, for a few minutes, to lay down an amendment, I am sure we could do that. I would like to have this important debate resumed.

Mr. DURBIN. I would say to the chairman, that is exactly what I would like to do.

I ask unanimous consent that these two pending amendments be set aside strictly for the purpose of introducing an amendment and speaking no more than, say, 10 minutes and then, at that

point, I ask that we return to the pending order of business, the Lautenberg amendment and the Collins amendment.

Mr. WARNER. I have no objection.

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

AMENDMENT NO. 1379

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

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Illinois [Mr. DURBIN] proposes an amendment numbered 1379.

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

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

The amendment is as follows:

(Purpose: To require certain dietary supplement manufacturers to report certain serious adverse events)

At the end of subtitle C of title III, add the following:

SEC. 330. REPORTING OF SERIOUS ADVERSE HEALTH EVENTS.

(a) IN GENERAL.—The Secretary of Defense may not permit a dietary supplement containing a stimulant to be sold on a military installation or in a commissary store, exchange store, or other store under chapter 147 of title 10, United States Code, unless the manufacturer of such dietary supplement submits any report of a serious adverse health event associated with such dietary supplement to the Secretary of Health and Human Services, who shall make such reports available to the Surgeon Generals of the Armed Forces.

(b) EFFECT OF SECTION.—Notwithstanding section 201(ff)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(ff)(2)) and subsection (c)(3) of this section, this section shall not apply to a dietary supplement that is intended to be consumed in liquid form if the only stimulant contained in such supplement is caffeine.

(c) DEFINITIONS.—In this section:

(1) DIETARY SUPPLEMENT.—The term ''dietary supplement'' has the same meaning given the term in section 201(ff) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(ff)).

(2) SERIOUS ADVERSE HEALTH EVENT.—The term ''serious adverse health event'' means an adverse event that may reasonably be suspected to be associated with the use of a dietary supplement in a human, without regard to whether the event is known to be causally related to the dietary supplement, that—

(A) results in—

(i) death;

(ii) a life-threatening experience;

(iii) inpatient hospitalization or prolongation of an existing hospitalization;

(iv) a persistent or significant disability or incapacity; or

(v) a congenital anomaly or birth defect; or

(B) requires, based on reasonable medical judgment, medical or surgical intervention to prevent an outcome described in subparagraph (A).

(3) STIMULANT.—The term ''stimulant'' means a dietary ingredient that has a stimulant effect on the cardiovascular system or the central nervous system of a human by any means, including—

(A) speeding metabolism;

(B) increasing heart rate;

(C) constricting blood vessels; or

(D) causing the body to release adrenaline.

Mr. DURBIN. Mr. President, this is the Department of Defense authorization bill, and included in here are funds for those base exchanges where members of the Armed Forces and their families go to buy the necessities of life. They turn there for groceries, pharmaceuticals, and other needs for their families. The purpose of this amendment is to make sure that the products sold at these base exchanges across the United States and around the world are safe for the military and the families who use the base exchanges.

I am particularly concerned about dietary supplements. Military personnel are under tremendous pressure to be physically fit. The conditions under which they work and train are harsh and demanding. A supplement product can be attractive because it is marketed for performance enhancement and weight loss. My amendment seeks to ensure that these so-called health products sold at military stores are monitored for safety.

At the outset, I want to say I have no quarrel with dietary supplements like vitamins. I woke up this morning and, like millions of Americans, took my vitamins in the hope that I will live forever. I think that should be my right and my choice. I don't believe I should need a prescription for vitamin C or multivitamins.

What is at issue are the dietary supplements that cross the line. Instead of providing nutritional assistance, many of them make health claims that, frankly, they cannot live up to. Finding many of these products on a military base is easy. A 2004 report on dietary supplements notes that a newly deployed U.S. Air Force base had eight different dietary supplements stocked on the shelves that were marketed for weightlifting and energy enhancements 5 months after it opened. Six of these products contain the stimulant ephedra.

Most dietary supplements are safe and healthy, but there is a growing concern about categories of dietary supplements that are being taken by innocent people who think they are good and, in fact, they are not.

The Navy released a list of serious problems related to dietary supplements recently. They included health events such as death, rapid heart rate, shortness of breath, severe chest pain, and becoming increasingly delusional. These are from over-the-counter dietary supplements.

Unfortunately, most of the time these events are never reported. In other words, the laws that govern prescription drugs and many over-the-counter drugs do not apply to dietary supplements.

Let me show you a chart that I think illustrates that quite well. Here are different categories of things you might buy at your drugstore. You might buy prescription drugs through your doctor or over-the-counter medications, such as cough medicine, or you might buy dietary supplements. Metabolife is a popular version. The question is: Are they all safe? The obvious answer is: Not by a long shot. Prescription drugs are safety tested before being sold. Over-the-counter medications are safety tested. Dietary supplements are not. Does anybody test them to make sure that the claims on some of them—for example, the claims that this is going to help with my cough or that this is going to give me energy—has anybody tested these to make sure they are effective for what they claim? Yes, when it comes to prescription drugs, they are tested for efficacy before they are sold; yes, for over-the-counter medications; but no, for dietary supplements, the claims are not tested ahead of time. How about individual doses? If a doctor tells you to take four tablets during the course of a day, how well can you trust the dosage on the package to reflect what the doctor recommended? Well, when it comes to prescription drugs, the FDA says, yes, we test the dosage. It is the same with over-the-counter medications. When it comes to these dietary supplements, vitamins, nutritional supplements, there is no individual dosage control.

They have been fighting over this for almost 10 years. Finally, if something goes wrong with a prescription drug—if you take it and you get sick and you report it to the company that made the drug, do they have to tell the Federal Government? Absolutely, when it comes to prescription drugs. How about in the case of over-the-counter drugs? You bet. If you get sick and call the maker of one of the drugs, they are required by law to tell the FDA, and if it reaches a certain point, they can be taken from the market. How about dietary supplements? What if you take one, such as yellow jackets that contains ephedra and you call the company and tell them you got sick, do they have a legal requirement to report that to the Government? No. There is no legal requirement, even if you are dealing with a situation where a dietary supplement has killed a person.

That troubles me. I don't believe we should have any dietary supplements being sold across America—certainly not at our military base exchanges—that is sold in a situation where, if there is adverse health consequence—death, stroke, heart attack, serious health consequences—the manufacturer doesn't have to report it to the Government.

That is basically what this amendment says: If you want to sell a supplement containing a stimulant on a military base, be prepared to report adverse events to the Federal Government. If you will not tell us, the Federal Government, when people are dying or are seriously ill because of your dietary supplement, you should not be selling them at the exchanges.

Let me say a word about ephedra. It received a lot of headlines.

Mr. President, for the purpose of those who were following my statement ever so closely and might have been interrupted and lost their train of thought, let me return to that for a moment and tell you what I am doing.

This amendment says you cannot sell dietary supplements containing stimulants at military stores and base exchanges, unless the maker of the dietary supplement agrees, under law, to notify the Government if there are adverse events when somebody takes the supplement. In other words, if you take a nutritional or dietary supplement and suffer a heart attack or a stroke or someone dies and it is reported to the manufacturer, this would require that the manufacturer notify the Government.

Has that ever happened? Sadly, it has. The military bases took ephedra off the shelves at the end of 2002 because, between 1997 and 2001, at least 30 active American military duty personnel died after taking ephedra. After 7 years of effort, the FDA banned ephedra in 2004. The industry went to court and fought it—even though 150 Americans had died from this dietary supplement—and they won. In a court in Utah, they determined that the Federal law, the Dietary Supplement Health Education Act, DSHEA, didn't have the teeth to stop the sale of ephedra as a dietary nutritional supplement. So today this tells the story.

Nutrition centers, such as this one in the photo, in Cincinnati, OH, are proclaiming ''ephedra is back.'' It certainly is. A member of my staff decided to order 30 pills containing 200 milligrams each of ephedra over the Internet from a post office box in Boonville, MO. You can pick it up everywhere, even though it continues to be dangerous.

Why should we expose the men and women in our military to supplements that have already taken the lives of at least 30 of our military personnel and threatened scores of others? This amendment says we will not. Unless you, as a manufacturer, are prepared to report adverse events to the Federal Government, you cannot sell these products on military bases.

In case people are wondering whether this little effort against ephedra is my personal idea, ephedra, such as I am holding it here, has already been banned for sale in Canada. As I am holding it here, it has been banned for sale in many local jurisdictions. The American Medical Association has said it is a dangerous supplement. We have seen sports activities—one after the other—ban the use of ephedra. A Baltimore Orioles pitcher died last year after taking it in an attempt to lose weight. In my area of Lincoln, IL, in central Illinois, a great young man, 16 years old, went to the local gas station—Sean Riggins was his name—to buy some dietary supplement pills to get ready for a high school football game. By the next morning, he was dead from a heart attack.

I do not want to see that happen again. I certainly want to spare our military personnel from having to face that.

I tried to move this amendment last year. Others came to the floor and said: We can work this out. It never happened. The industry did nothing. We have achieved nothing. We have to put this protection in the law for our military personnel.

I close by asking unanimous consent that Senator FEINSTEIN's name be added as a cosponsor.

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

Mr. DURBIN. Mr. President, I also ask unanimous consent that letters of support be printed in the RECORD.

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

LETTERS OF SUPPORT

My name is Kevin Riggins from Lincoln, IL. and I would like to tell you my story. On Sep. 3, 2002, my wife and I lost our son, 16 year old, Sean Riggins to a heart attack brought on by the use of ephedra. Sean was a healthy, active student athlete with no health problems overt or latent. Sean played football, wrestled, and was a ''Black Belt'' in Tae Kwon Do, and while he excelled in each sport, he and his teammates strived for more. To ''enhance'' their performance in football they began taking dietary supplements containing ephedra. Because of the current FDA rules concerning dietary supplements, or more precisely the lack thereof, my son lost his life.

As you may or may not know, dietary supplement companies fall under the Dietary Supplement Health and Education Act (DSHEA) and NOT under the Food, Drug and Cosmetics Act. Under DSHEA, supplement companies do not need a license to manufacture these products, nor do they require a medical or science professional to formulate and create said products. As a result, there are numerous companies that are owned and run by persons with no more than a high school diploma, in fact, I know of at least 3 owners that have State and Federal convictions for a variety of offenses including drug possession and distribution. Imagine a high school graduate convicted felon formulating the mixtures and dosages for these products.

There are no good manufacturing processes set in place for these companies, which means that dosage requirements and contents are irrelevant due to the lack of standardization.

There are no requirements for adverse event reporting to the FDA. If a supplement company receives a report that their product injured someone, the company can and in certain cases has thrown the AER away.

These are but a small sample of the problems with this industry and that is why I support any and all efforts to reign in these lawless companies.

As an honorably discharged decorated veteran, I applaud requiring adverse event reports turned in by military members to be reported to the FDA. Our soldiers, sailors and airmen deserve this protection. They put themselves on the line and tell our enemies ''you will not pass'', and for that we must accord them every protection.

If I sound somewhat bitter, I am. If I sound driven and committed to reigning in these types of corporations, I am. I lost my son. You cannot know that pain, that emptiness, that hole in your soul when you lose a child unless you have been there, and I pray that none of you ever have to experience that. Please, help our service men and women, my brothers and sisters in arms. Pass this amendment. Let them know that somebody gives a damn. Let me know somebody gives a damn. Let Sean know.

Thank you.

KEVIN S. RIGGINS.

My name is Debbie Riggins. My son, Sean, died of a heart attack almost 3 years ago at age 16 due to ephedra. That day changed my life forever. I still struggle with the memory of that day; the moment I saw the life drift from the eyes of my only child. As Sean started high school, he thought of what he might want to do with his life. He considered a life in the armed services. He never got that chance. He was robbed of the chance to do many things.

Now it's time for the military to set an example to the private sector; a chance to show the Nation that it truly cares about the health and welfare of its troops. We are asking the military to track and report adverse event reports of their troops. Since the pharmaceutical companies have been so lax and unprofessional in their reporting practices, many events are either being diagnosed incorrectly or being swept under the rug. The military should be an example for the rest of the Nation. The armed services is a more controlled environment and would thus be a more consistent reporting base reflecting truer figures and facts.

It's already a tragedy when a family is informed that their loved one has been killed in action but to later discover that it was from an uncontrolled herbal supplement while they were deployed is even worse. It's ''chemical warfare meets friendly fire''.

Protect the service men and women as they protect us.

DEBBIE RIGGINS.

From: Hilary Spitz
Sent: Tuesday, July 19, 2005, 10:02 p.m.

On March 16, 2000, our lives forever changed. My daughter, Hilary Spitz had worked midnights as a deputy sheriff for Coles County. When she got home, we went shopping. I dropped her off at home and left to go sign documents at the school board office. My husband worked midnights also. They both closed their respective doors. Soon after I arrived, Dr. Berg received a call for me. I was told my daughter was in trouble at home and an ambulance had been called. My husband had heard our dogs barking and went to check on them. They were scratching at Hilary's door and he could hear a horrible wailing sound coming from her room. He burst in and found her lying on the floor in a very violent seizure. He could not get her to respond and quickly dialed 911. He physically had to lay across her to keep her from hurting herself. Her feet were bleeding from kicking the bed and dresser. When I arrived home, I could hear her from the doorway. No one knew what was wrong. When I arrived at the hospital, I was met at the door by a nurse and told they were doing everything they could for her and I could not go in. Soon after my family arrived, we convinced them to let me in, maybe I could talk to her. By that time, she was still unresponsive and uncontrollable. No amount of medicine would calm her down. They did all kinds of tests and eventually transferred her to Carle Clinic. Her seizure lasted 13½ hours. It was eventually determined that this was caused by an herbal diet supplement that contained ephredra. She had taken 5 pills in 10 days. That wasn't even the amount that was suggested to take. She was in a coma for 7 days. When she woke up, she had no idea what had happened. Since that time, she has

had other health issues that have come up, but cannot be linked directly to the ephedra seizure, but it seems strange that they happened after that. But, since the seizure and the hypoxic aftereffects, she is unable to work. She suffers from depression, anxiety, sleeplessness, agitation, and sever memory dysfunction. I am so grateful that she is here with me. I wish she did not have the symptoms, but I am content that she is alive. We continually live with her problems and continually have to be with her. She was afraid to go to sleep for a long time and had the light on in the bedroom closet. Hilary lives with us and we help raise her 7 year old daughter. If there is anything that we can do to keep this horrible product off the market, we would be happy to discuss this with you. We want to prevent anyone else from going through this. Unfortunately, most people do not survive this. Hilary is one of the lucky ones. It is just too bad that she had to go through this.

Thank You, Michelle Skinlo.

CENTER FOR SCIENCE
IN THE PUBLIC INTEREST,
July 21, 2005.

Hon. RICHARD J. DURBIN,
U.S. Senate, Washington, DC.

DEAR SENATOR DURBIN: The Center for Science in the Public Interest (CSPI) wishes to commend you for introducing an amendment to S. 1042 that would require manufacturers who sell on military bases dietary supplements containing stimulants to submit to the Food and Drug Administration (FDA) reports of serious adverse health reactions relating to such products. Serious reactions include death, life-threatening conditions, hospitalization, persistent disability or incapacity, and pregnancy-related effects.

Members of the armed forces are particularly at risk from potentially harmful stimulants that are promoted for weight loss and performance enhancement. Such claims ''are enticing to soldiers [and other members of the armed forces] who are trying to meet or maintain weight standards, improve physical fitness test scores, or be competitive in specialized unit requirements.''

Between 1997 and 2001, 30 active duty personnel died after taking ephedra, the most widely used stimulant at that time. As a result, the Marine Corps banned the sale of dietary supplements containing ephedrine alkaloids at its commissaries more than two years before FDA's nationwide ban became effective on April 12, 2004. The other members of the Armed Forces implemented their own bans soon thereafter. Although replacements for ephedra, such as bitter orange, usnic acid and aristolochic acid appear to present similar risks, it may take years before FDA has amassed the data necessary to ban or otherwise restrict the sale of these and other stimulants. We, therefore, believe that, in the interim, military personnel should be protected.

Passage of this amendment will also provide FDA with sorely needed data to support restrictions on the sale of harmful supplements. In July 2000, the General Accounting Office concluded that:

''Once products reach consumers, FDA lacks an effective system to track and analyze instances of adverse effects. Until it has one, consumers face increased risks because the nature, magnitude and significance of safety problems related to consuming dietary supplements and functional foods will remain unknown.''

Similarly, a report by the Office of Inspector General (IG) of the Department of Health and Human Services, Adverse Event Reporting for Dietary Supplements: An Inadequate Safety Valve, concludes that ''FDA receives less than 1 percent of all adverse events associated with dietary supplements'' under its voluntary reporting system. This under-reporting is particularly problematic because, as the IG explained, dietary supplements do not undergo premarket approval for safety and efficacy, and the adverse event reporting system is the FDA's primary means for identifying safety problems. The IG, therefore, recommended that manufacturers be required to report serious adverse health reactions to the FDA.

The most recent report by the National Academy of Sciences Institute of Medicine underscores the necessity of passing such legislation. As the report explained, ''[e]ven though they are natural products, herbs contain biological and chemical properties that may lead to rare, acute or chronic adverse effects.'' Therefore, the IOM recommended that Congress strengthen ''consumer protection against all potential hazards'' and called for legislation to require that a manufacturer or distributor report to the FDA in a timely manner any serious event associated with the use of its marketed product of which the manufacturer or distributor is aware. Adverse event reports are an essential source of ''signals'' that there may be a safety concern warranting further examination.

While we believe the FDA should be given new authority to ensure that all supplements are safe before they are sold regardless of whether they are sold at military installations, and to promptly remove unsafe products from the market, the measures in this bill are an important first step towards evaluating the safety of dietary supplements now on the market. We, therefore, believe that the legislation should be enacted.

Sincerely,

BRUCE SILVERGLADE,
Director of Legal Affairs.
ILENE RINGEL HELLER,
Senior Staff Attorney.

AMERICAN OSTEOPATHIC ASSOCIATION,
Washington, DC, July 20, 2005.

Hon. RICHARD DURBIN,
Democratic Whip, U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR DURBIN: As President of the American Osteopathic Association (AOA), I am pleased to inform you of our support for the ''Make Our Armed Forces Safe and Healthy (MASH) Act.'' We appreciate your willingness to offer this provision as an amendment to the ''Fiscal Year 2006 Department of Defense Appropriations Act'' (H.R. 2863). The AOA and the 54,000 osteopathic physicians it represents, extends its gratitude to you for introducing this important amendment.

The AOA continues to evaluate the impact of increased use of dietary supplements and other ''natural'' products upon the patients we serve. Over the past ten years we have seen a steady increase in utilization of dietary supplements by consumers. As a result, we are increasingly concerned about the unregulated manner in which many of these products are produced, marketed, and sold.

As evidenced by a 1999 study conducted by the U.S. Army Research Institute for Environmental Medicine, the use of dietary supplements is a significant health care issue for American soldiers. A similar study conducted by the Department of the Navy found that overall seventy-three percent of personnel reported a history of supplement use, with the number as high as eighty nine percent of Marines reported using supplements. These studies demonstrate the prevalence of these products among our men and women in uniform.

The AOA believes that it would be beneficial for consumers and physicians to have an increased understanding of the potential serious side effects of dietary supplements. All too often patients fail to inform their physician when they use one or more of these products. This leads to potential interactions with prescribed medications and may obscure an accurate diagnosis of an underlying condition or disease. The physical rigors of the military place soldiers at an even greater risk of harm caused by dietary supplements that have not been properly monitored.

The AOA supports the ability of the Food and Drug Administration (FDA) to monitor dietary supplements. Your amendment would take a significant step in ensuring the FDA, and ultimately military personnel, physicians, and the general public, become more knowledgeable with regard to possible serious side effects of certain dietary supplements. By requiring that the FDA receive serious adverse event reports for dietary supplements sold on military installations, a significant gap in knowledge about these products and their effect on a person's health would be closed.

On behalf of my fellow osteopathic physicians, I pledge our support for your efforts to promote the health of American soldiers by confronting the issue of dietary supplements and the health of our armed services. Please do not hesitate to call upon the AOA or our members for assistance on this or other health care issues.

Sincerely,

PHILIP SHETTLE, D.O.,
President.

CONSUMERS UNION,
July 21, 2005.

Hon. RICHARD DURBIN,
U.S. Senate, Washington, DC.

DEAR SENATOR DURBIN: Consumers Union, publisher of Consumer Reports magazine supports your ''Make our Armed Forces Healthy (''MASH'') amendment to the FY 2006 Department of Defense Authorization bill. Your amendment would require manufacturers that sell dietary supplements containing stimulants on military installations to file reports of all serious adverse events relating to the products (including death, a life-threatening condition, hospitalization, persistent disability or incapacity, or birth defects) with the FDA.

Many members of the military invest a lot of time and attention in their physical fitness. In addition to physical training, some have turned to dietary supplements—including those containing stimulants—believing they may increase their performance. Unfortunately, use of such stimulants too often results in harm. Prior to its action banning this ingredient from herbal supplements on February 11, 2004, the FDA had received at least 16,961 adverse event reports relating to ephedra supplements, including reports of heart attacks, strokes, seizures and fatalities. Consumer Reports, however, continues to strongly urge people to avoid all weight-loss and energy-boosting supplements, including those that are now touted as ''ephedra-free.''

As reported in the January 2004 issue of Consumer Reports, herbal supplements that are labeled 'ephedra-free' are not necessarily safer than ephedra. Many include similar central nervous stimulants, such as synephrine-containing bitter orange (citrus aurantium) that not only are structurally similar to ephedrine, but also affect the body in similar ways. Because there is no required pre-market safety evaluation for those products, consumers have no assurance that the problems experienced by ephedra users will not continue with a switch to ephedra-free products.

We therefore commend you for crafting this amendment that will better ensure that the military—and the broader public—is informed about the potential harms that can

result from the use of these products. Thank you again for your sponsorship.

Sincerely,

JANELL MAYO DUNCAN,
Legislative and Regulatory Counsel.

Mr. DURBIN. Mr. President, I report to my colleagues that my amendment has been endorsed by the American Medical Association, the American Dietetic Association, the American Osteopathic Association, Consumers Union, Center for Science in the Public Interest, the American Society for Clinical Pharmacology & Therapeutics, as well as two individuals, Michelle Skinlo of Mattoon, IL, mother of 31-year-old Hillary Spitz, who had a seizure in 2000 and continues to suffer long-term debilitation because of ephedra, and Kevin Riggins of Lincoln, IL, father of 16-year-old Sean Riggins, a high school football player who died after taking ephedra. The tragedy of these families does not need to be replicated, certainly on the military bases, across America.

I urge my colleagues support my amendment.

Pursuant to my earlier request, I ask the amendment be set aside and we return to the regular business.

The PRESIDING OFFICER. That is the regular order.

Mr. WARNER. Mr. President, I very much need to accommodate Senators on both sides of the aisle with a short unanimous consent request.

Mr. DURBIN. I am happy to yield for that purpose.

Mr. WARNER. This is a matter the ranking member and I have worked on.

I ask unanimous consent that between the hours of 4:30 and 6:30 tonight the amendment by Mr. LUGAR be brought up with 1 hour on each side, with the hour in opposition under the control of Mr. KYL, with a rollcall vote immediately following.

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

Mr. LEVIN. Mr. President, to clarify that, regardless of what is pending, at 4:30, we will move to the Lugar amendment, and we will vote on that amendment at 6:30, and then return to whatever the pending matters are.

Mr. WARNER. I thank the Senator. There are no second degrees.

Mr. LEVIN. Right.

Mrs. HUTCHISON. Mr. President, parliamentary inquiry:

I wanted to make time for the Hutchison-Nelson amendment to come after Senator DURBIN and before the 4:30 amendment.

Mr. WARNER. Mr. President, I want to engage the Senator from Maine and the Senator from New Jersey. We have a unanimous consent request from our colleague from Texas. Would the Senator from Texas repeat that for the Senator from Maine.

Mrs. HUTCHISON. Mr. President, I was under the impression that Senator NELSON and I would be able to offer our sense-of-the-Senate amendment following Senator DURBIN.

Mr. WARNER. Would the Senator from Maine advise the chairman as to when you would resume your debate with the Senator from New Jersey?

Ms. COLLINS. Mr. President, I have offered a second-degree amendment. I have asked for the yeas and nays on it. I believe that the floor staff is trying to set up the vote on the alternative approaches. It may well be appropriate for the Senator from Texas to go ahead while we are considering those things.

Mr. WARNER. I thank our colleague.

Mr. LEVIN. Reserving the right to object, we have a lot of amendments now that have been set aside. If the Senator from Texas is asking that she could introduce a sense-of-the-Senate amendment and put it in order and then it be set aside immediately and taken up at a later time, I will have no objection. Because other amendments are waiting to be disposed of, I could not agree that her amendment come ahead of other amendments.

Mrs. HUTCHISON. Whatever is the pleasure of the chairman and ranking member.

Mr. WARNER. I ask the Chair to restate the unanimous consent request which we are ready to accede to on both sides.

The PRESIDING OFFICER. Consent has been granted for 2 hours of debate on the Lugar amendment.

Mr. WARNER. Yes. The Senator from Texas can state her request.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that Senator NELSON and I be able to offer our amendment following Senator DURBIN and before Senator LUGAR's amendment is considered.

Mr. LEVIN. Reserving the right to object, my understanding of the request is that immediately following Senator DURBIN, the Senators from Texas and Florida will be recognized simply to introduce a sense-of-the-Senate amendment, which would then be set aside, and then we would move at 4:30 as previously authorized, and any time remaining between the time they offer and set aside that amendment would then go to the Senator from Maine and the Senator from New Jersey to continue their debate.

The PRESIDING OFFICER. Is there objection to the request? Without objection, it is so ordered.

The Senator from Texas.

AMENDMENT NO. 1357

Mrs. HUTCHISON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Texas [Mrs. HUTCHISON], for herself and Mr. NELSON of Florida, proposes an amendment numbered 1357.

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

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

The amendment is as follows:

(Purpose: To express the sense of the Senate with regard to manned space flight)

At the appropriate place, insert the following:

SEC. ——. SENSE OF THE SENATE REGARDING MANNED SPACE FLIGHT.

(a) FINDINGS.—The Congress finds that—

(1) human spaceflight preeminence allows the United States to project leadership around the world and forms an important component of United States national security;

(2) continued development of human spaceflight in low-Earth orbit, on the Moon, and beyond adds to the overall national strategic posture;

(3) human spaceflight enables continued stewardship of the region between the earth and the Moon—an area that is critical and of growing national and international security relevance;

(4) human spaceflight provides unprecedented opportunities for the United States to lead peaceful and productive international relationships with the world community in support of United States security and geopolitical objectives;

(5) a growing number of nations are pursuing human spaceflight and space-related capabilities, including China and India;

(6) past investments in human spaceflight capabilities represent a national resource that can be built upon and leveraged for a broad range of purposes, including national and economic security; and

(7) the industrial base and capabilities represented by the Space Transportation System provide a critical dissimilar launch capability for the nation.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that it is in the national security interest of the United States to maintain uninterrupted preeminence in human spaceflight.

Mrs. HUTCHISON. Mr. President, I rise today with my colleague, Senator NELSON of Florida, to offer an amendment expressing the sense of the Senate regarding the critical nature of human spaceflight to America's national security.

The day after the scheduled space shuttle launch was canceled last week, there were two news items that were largely overlooked by many who were focused on what might have caused the sensor failure which was the basis for stopping the countdown to launch.

One of these was an announcement by the Chinese space agency that they planned to launch their second manned spaceflight in October aboard their Shenzhou spacecraft. The other was the announcement by the Russian space agency that they were initiating full-scale development of their clipper space vehicle, a small shuttle-like space vehicle capable of taking several people into orbit, a sort of winged supplement to their existing Soyuz launch vehicles.

Whether these announcements were calculated to remind the world that the space shuttle and the United States do not represent the only avenue by which humans can fly to space is debatable. My purpose in mentioning them, however, is to remind my colleagues that space is not the exclusive province of the United States, that there is increasing interest among technically advanced nations of the world in developing and maintaining the ability to conduct human spaceflight missions. Not all of those nations share the same values and

principles as our country, and they may not have the same motivations for advancing their independent capability for human spaceflight.

Space represents the new modern definition of the high ground that has historically been a significant factor in defense strategy. Virtually all of our military actions in recent years have made dramatic use of space-based assets in conducting those important operations in the course of pursuing national security and foreign policy. Satellite targeting, surveillance and intelligence gathering, use of radio frequencies and communications all result from our ability to explore in space.

In recent years, we have witnessed a growing entrepreneurial interest in developing access to space for humans and cargo. We recently passed out of the Commerce Committee a NASA reauthorization bill which will provide guidance for our space program at a critical time, a time when we have multiple demands on limited resources.

During our consideration of this bill and during hearings, it became clear that we must think of manned spaceflight in terms of national security, as well as science and exploration. For these reasons, I believe it is important that in the context of this Defense authorization bill, we express the sense of the Senate that we recognize the important and vital role of human spaceflight in the furtherance of our national security interests, and that we reaffirm our commitment to retaining our Nation's leadership role in the growing international human spaceflight community of nations.

Great nations discover and explore. Great nations cross oceans, settle frontiers, renew their heritage and spirits, and create greater freedom and opportunity for the world. Great nations must also remain on the front edge of technologically advanced programs to maintain their security edge.

Today we recognize one such program. We have an international outpost in space. We are on a path to establish a permanent presence on the Moon. Let us stand united to recognize the inexorable link and importance of human spaceflight in our national security.

I hope my colleagues will support this important statement that says keeping our dominance in space is a matter of national security for our country.

The PRESIDING OFFICER. The Senator from Florida.

Mr. NELSON of Florida. Mr. President, I join with my colleague, the distinguished Senator from Texas, who serves as the Chair of our Science and Space Subcommittee and of which I have the privilege of being the ranking member. The timing of this amendment is propitious because the problem on the shuttle has been found and the count will start shortly. Next Tuesday morning at 10:39 a.m., if all goes as well as we certainly hope, we will see the space shuttle launch into the Florida sky after having been down for 2½ years after the mistakes that should not have been made that took down *Columbia*, and that 18 years earlier had taken down *Challenger*.

We have a new leader, Michael Griffith, and he is doing a good job. I can tell you that the team is ready and they have scrubbed this orbiter and this stack as it has never been scrubbed before. Even though spaceflight is risky business, they are ready to go. It is an acceptable risk because of the benefits we gather from it.

What this amendment does—and I want to say a word about our two colleagues who lead our Armed Services Committee who I think will accept this amendment—it simply says: It is the sense of the Senate that it is in the national interest of the United States to maintain uninterrupted preeminence in human spaceflight.

Why? Why are we saying that? Because we could be in a posture that if the space shuttle is shut down in 2010, which is the timeline, and if we did not soon thereafter come with a new vehicle to have human access to space, the new what is called the crew exploration vehicle, which will be a follow-on—it may be in part a derivative of the shuttle stack vehicle, but it will be more like a capsule harkening back to the old days where you have a blunt end that has an ablative heat shield that will burn off in the fiery heat of reentry—that if we don't watch out and we have a hiatus between when we shut down the space shuttle and when the new vehicle flies, one originally that was planned by NASA to be 4 years, which meant it was going to be 6, 7, or 8 years, then we don't have an American vehicle to get into space.

If that is not bad enough, who knows what the geopolitics of planet Earth is going to be in the years 2011 to 2018. We may find that those vehicles we rely on to get today, for example, to the space station, when we are down with the American vehicle, may be aligned with somebody else. That is why we want to make sure we have that other vehicle ready about the time we shut down the space shuttle so we will have human access to this international space station and reap the benefits, once it is fully constructed, of all the experimentation and the processing of materials we can uniquely do in the microgravity of Earth's orbit.

That is the importance, in this Senator's mind, of this resolution.

Before I turn back to my colleague, I want to say a word about our leadership on the Armed Services Committee, and I want the Senator from Virginia to hear this. I want him to know what a great example he and the Senator from Michigan set for the rest of us in the way these two Senators work together so problems that could be so thorny are usually ironed out, especially in dealing with such matters of great importance to our country, such as the defense interests of our country.

The way they have worked this is nothing short of miraculous. I would call them Merlin the Magicians. I thank them for the leadership they have shown us.

I associate myself with remarks made earlier on the TRICARE amendment for the Guard and Reserves. So often my colleagues have heard me speak with such great pride about the Florida National Guard. They were first into Iraq. They were in Iraq before the war started because they were in there with the special operations troops. For us to give them the health care through TRICARE is exceptionally important.

I yield the floor.

Mrs. HUTCHISON. Mr. President, I thank the distinguished Senator from Florida. I am the Chair and he the ranking member on the Commerce Subcommittee on Space and Science. I so appreciate the opportunity to express this sense-of-the-Senate amendment. I hope my colleagues will support it because I do believe that human spaceflight is as much a part of our national security as anything we do. We see the preeminence we have in our military because of precision-guided missiles, because of the ability to execute surveillance and intelligence gathering to an extent we never have been able to before we explored space and were able to put satellites there.

The idea that we would consider a hiatus in our opportunities to put humans in space is one that is unacceptable to me and to my ranking member. We hope the sense-of-the-Senate amendment will be adopted to acknowledge and assure that space exploration is shown to be a part of our national security interests. It is essential that we not, in any way, ever let our eye get off that ball, that we must have dominance in space if we are going to keep our preeminence in national defense.

I thank the Chair.

Mr. NELSON of Florida. Mr. President, may I just make one further comment? It is interesting at the very time we are talking about space, we have America's true national hero on the Senate floor, a former colleague of the Senate, John Glenn, who blazed the trail for everybody. When he climbed on that Atlas rocket, he knew there was a 20-percent chance that it was going to blow up. Yet that is the kind of risk that he took so that all of us in America that followed could have these wonderful benefits.

I want to note the presence on the floor of former Senator Glenn.

(Applause.)

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, first let me say how delighted that I know I am—I know every Member who is on the floor now is, and every Member would be if they were on the floor—just taking a look at a dear friend and a former colleague of ours who just walked on the floor. When John Glenn

is in our presence, it lifts all of us. The way he lifted up this Nation, he still provides a great lift to each and every one of us. And his beloved wife and our beloved friend, Annie, does the same when she is at his side. So it is great to see former Senator Glenn again.

I also want to thank Senator NELSON for his remarks. I must say we are blessed—and I know Senator WARNER feels the same way I do—that the members of our committee work so well together, but we are particularly blessed when we have members such as BILL NELSON of Florida who fight for so many issues not just for Florida but for the Nation.

He mentioned TRICARE. He has been on that issue as long as anybody I can remember. As it happened, we passed that perhaps when he was not even on the Senate floor today, but I know he has been a strong supporter and his advocacy has made all the difference.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I join my colleague in thanking former Senator Glenn for coming back and joining the longstanding tradition of the Senate, and a proper one. A former Senator is always welcome back on the floor. There is the desk at which he sat these many years, and as a member of the Senate Armed Services Committee.

I never heard about the blowup thing before, but I can say I have seen the Senator sit in that chair and blow up this place many times in his long distinguished career and fight for the things in which he believed. We send the best to you, dear friend, and your lovely wife Annie, and wish you well. Return many times.

Mr. LEVIN. If the chairman would yield, there is an issue on the floor today, in addition to the pending sense-of-the-Senate resolution about keeping men in space. We have a pending amendment that is going to be offered by Senator LUGAR that has to do with nonproliferation, Nunn-Lugar, trying to make it possible for us to see if we cannot reduce the threat of proliferation of weapons of mass destruction. I think the Member of the Senate who probably pioneered in the effort to prevent proliferation of weapons of mass destruction was John Glenn, who happens to be on the Senate floor at this particular moment. Senator LUGAR is now here. Under our UC, he will be offering his amendment. But the effort of Senator LUGAR to try to control weapons of mass destruction, to lock them up, to make sure that there are no loose nukes, that Senator Nunn and so many others joined in, was actually a subject which was very close to the heart and very much on the lips of John Glenn when he was here as a Senator.

Mr. WARNER. Mr. President, at this point in time under the UC, there is 2 hours equally divided between the distinguished Senator from Indiana, Mr. LUGAR, and Mr. KYL, who will soon be on the floor, and myself.

I would say to Senator LUGAR, I find myself in a bit of an awkward position at this time in opposition because I remember the breakfast that Sam Nunn had in the Armed Services Committee office when the first concept of Nunn-Lugar was adopted and how grateful all of us are for the Senator's continued service in these many years ensuing to make this very important program effective not only for this country, the citizens of Russia, and the former Soviet Union but also the world. I thank the Senator from Indiana.

AMENDMENT NO. 1380

The PRESIDING OFFICER. Under the previous order, the Senator from Indiana is recognized to offer an amendment.

Mr. LUGAR. Mr. President, I thank my distinguished friend, JOHN WARNER, for his very thoughtful comments about the origin of the program and the initial bipartisan breakfast of Senators that in the latter stages of the 1991 session made possible the cooperative threat reduction legislation.

I am honored that Senator John Glenn and Annie are likewise witnessing the program today, along with our distinguished colleagues, Senator WARNER and Senator LEVIN, who have meant so much to all of us in formulating the defense policy.

I send an amendment to the desk on behalf of myself, Senators LEVIN, OBAMA, LOTT, JEFFORDS, NELSON of Florida, VOINOVICH, DODD, LEAHY, NELSON of Nebraska, MURKOWSKI, KENNEDY, CHAFEE, COLLINS, ALEXANDER, ALLEN, SALAZAR, HAGEL, DEWINE, REED, DORGAN, MIKULSKI, BIDEN, STABENOW, BINGAMAN, AKAKA, and LAUTENBERG, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Indiana [Mr. LUGAR], for himself, Mr. LEVIN, Mr. DOMENICI, Mr. OBAMA, Mr. JEFFORDS, Mr. NELSON of Florida, Mr. VOINOVICH, Mr. DODD, Mr. LEAHY, Mr. NELSON of Nebraska, Ms. MURKOWSKI, Mr. KENNEDY, Mr. CHAFEE, Ms. COLLINS, Mr. ALEXANDER, Mr. ALLEN, Mr. SALAZAR, Mr. HAGEL, Mr. DEWINE, Mr. REED, Mr. DORGAN, Mrs. CLINTON, Ms. MIKULSKI, Mr. BIDEN, Ms. STABENOW, Mr. BINGAMAN, Mr. AKAKA, Mr. LAUTENBERG, Mrs. FEINSTEIN, and Mr. ENZI, proposes an amendment numbered 1380.

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

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

The amendment is as follows:

(Purpose: To improve authorities to address urgent nonproliferation crises and United States nonproliferation operations)

On page 302, between lines 2 and 3, insert the following:

SEC. 1306. REMOVAL OF CERTAIN RESTRICTIONS ON PROVISION OF COOPERATIVE THREAT REDUCTION ASSISTANCE.

(a) REPEAL OF RESTRICTIONS.—

(1) SOVIET NUCLEAR THREAT REDUCTION ACT OF 1991.—Section 211(b) of the Soviet Nuclear Threat Reduction Act of 1991 (title II of Public Law 102–228; 22 U.S.C. 2551 note) is repealed.

(2) COOPERATIVE THREAT REDUCTION ACT OF 1993.—Section 1203(d) of the Cooperative Threat Reduction Act of 1993 (title XII of Public Law 103–160; 22 U.S.C. 5952(d)) is repealed.

(3) RUSSIAN CHEMICAL WEAPONS DESTRUCTION FACILITIES.—Section 1305 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 22 U.S.C. 5952 note) is repealed.

(b) INAPPLICABILITY OF OTHER RESTRICTIONS.—

Section 502 of the Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992 (Public Law 102–511; 106 Stat. 3338; 22 U.S.C. 5852) shall not apply to any Cooperative Threat Reduction program.

Mr. LUGAR. Mr. President, I likewise would like to ask that Senator FEINSTEIN and Senator ENZI be added as cosponsors of the amendment.

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

Mr. LUGAR. Mr. President, my amendment is based upon S. 313, the Nunn-Lugar Cooperative Threat Reduction Act of 2005, which I first offered in November 2004 and reintroduced this January. It is focused on facilitating implementation of the program and removing some of the self-imposed restrictions that complicate or delay the destruction of weapons of mass destruction. By self-imposed, I mean restrictions imposed by our Government on our programs which bring about delay, sometimes very severe delay, at a time that we take seriously the war on terrorism, and the need, as a matter of fact, to bring under control materials and weapons of mass destruction as rapidly and as certainly as possible.

In essence, I am going to argue in various forms during the next few minutes that the United States of America, contrary to almost all common sense, imposes upon itself the need to examine year by year specifically Russian cooperation, Russian money, whether moneys are fungible; that is, moneys that are spent by the United States to work with Russians to destroy weapons of mass destruction in Russia and elsewhere, whether we are, in fact, serious about this.

If we came to a conclusion that for some reason the Russians had not spent precisely the amount of money that we think they ought to spend, does any Senator believe we at that point should stop taking warheads off of missiles, should stop trying to get control of weapons of mass destruction in the chemical and biological areas? Of course not. We have constructed for 14 years an extraordinary situation in which from time to time Senators, some of whom had come new to the floor, were not here during the end of the Cold War or any of the Cold War for that matter, and said simply: We are suspicious of Russians. We are not sure we ought to be helping them at all. Why should they not destroy 40,000 metric tons of chemical weapons? Why should they not pay for it? They made their bed. Let them sleep in it. In essence, if they do not destroy it, that is their problem.

Long ago, as Senator WARNER pointed out, we found it was our problem. The 13,300 nuclear warheads were aimed at us, sometimes 10 warheads to a missile—multiple reentry vehicles they were called. That is the problem. We thought, as a matter of fact, for our safety, after a half century, it was useful to work with Russians who came to visit with Senator Nunn and with me and who asked for our help. They said: We have a problem in Russia, but you have a problem, too. Those warheads are aimed at your cities and they are still up there on the missiles, and the tactical warheads are still out there, and privateers as the Red Army breaks up could cart them off on flat bed trucks to Iran, Iraq, Libya, wherever there is a market for them.

As a matter of fact, the Wall Street Journal helpfully published an article about how one could take a missile out on a flat bed truck. So this was not rocket science. Even at that time people were still putting on stipulations.

Why does that matter? It matters because at the beginning of each new budget year the President of the United States and various agencies involved have to go through thousands of bureaucratic hours examining all of the stipulations that have been added by some Member of the House or Senate over the years to try to divine whether there has been proper compliance.

At the end of the day, the law now states—and in fairness, the Senate Armed Services Committee has provided—that there will be a permanent waiver authority.

After all of these thousands of hours of bureaucratic hassling, the President can finally say: Listen, we are in a war on terror. Let's get on with it. But, apparently, the President would be hardpressed to do that before going through all the machinations.

I am just saying, it is time to take seriously weapons of mass destruction, materials of mass destruction. It is time to get over the thought that somehow or another the Russians may or may not be cooperative because the fact is, it is our program, cooperation with the Russians, that has brought about at this point some remarkable results.

Let me recite some of those results. During the last 14 years, the Nunn-Lugar program has deactivated or destroyed 6,624 nuclear warheads; 580 ICBMs; 477 ICBM silos; 21 ICBM mobile missile launchers; 147 bombers—these were the transcontinental bombers that could have carried nuclear weapons across the oceans to us, and they have been destroyed—789 nuclear air-to-surface missiles; 420 submarine missile launchers; 546 submarine launched missiles; 28 nuclear submarines; 194 nuclear test tunnels.

Perhaps most importantly, Ukraine, Belarus, and Kazakhstan, who emerged from the former Soviet Union situation as the third, fourth, and eighth largest nuclear weapons powers in the world, all three are now free as a result of the cooperative threat reduction program, the so-called Nunn-Lugar program, of nuclear weapons.

This did not happen easily. In each of the years in which these destructive efforts with regard to the former Soviet ICBMs and cruise missiles and what have you came about, there had to be competitive bidding conducted by the Department of Defense. In every year, this was delayed because, once again, each of the stipulations added by a Senator or Member of the House had to be examined and had to be met.

In some years, in the early parts of the program, waivers were not available; waivers never occurred. The fiscal year ran out and nothing happened in many programs. I find it incomprehensible why, at this particular point in history, after 14 years of this experience, there are still Members who would argue we still should go through the thousands of hours of bureaucratic hassles every year, even if there is a Presidential waiver at the end of the trail that says: Call it off. Let's get on with the war on terror.

It seems to be almost a theological bent of some Members, who I suspect have a feeling that anything involving Russians or recipients of weapons of mass destruction or materials requires a whole lot of examination before we take the active steps to work with them to destroy the material.

In any event, I commend the chairman of the Armed Services Committee, my friend, Senator WARNER, and the ranking member, Senator LEVIN, for the important legislative efforts they have made. They have been steadfast in their support of the program throughout the years. They played critical roles in the success of the program. This year they have brought to the floor a bill that contains full funding for Nunn-Lugar programs, some $415 million. They also embraced one of the most important elements of my earlier bill, S. 313, namely the transfer of authority from the President to the Secretary of Defense for approval of Nunn-Lugar projects outside the former Soviet Union.

In 2003, Congress authorized the President to use up to $50 million in Nunn-Lugar funds for operations outside the former Soviet Union. The legislation requires the President to certify that the utilization of the Nunn-Lugar funds outside the former Soviet Union will address a dangerous proliferation threat or achieve a longstanding nonproliferation opportunity in a short period of time.

President Bush used this authority to authorize the destruction of 16 tons of chemical weapons in Albania. Let me say the Albanian experience is instructive, not only because good results occurred, but the very circumstances require the Senate, it seems to me, to focus on the world in which we live. Word came to officers in the Pentagon, in the Cooperative Threat Reduction Program, from authorities in Albania last year, 2004, that weapons of mass destruction were in Albania, specifically chemical weapons of mass destruction. This was a surprise to our authorities, quite apart from Members of this body. I was privileged to accompany members of our Armed Forces and members of the Albanian Armed Forces on a trip into the mountains outside of Tirana, the capital city of Albania. Up in the mountains we came upon canisters. We saw a number of them. As a matter of fact, by the time the compilation was completed, 16 tons of chemical weapons, nerve gas, were discovered in Albania.

We had a program, because we had adopted it a short time before, in which we knew that $50 million might be allocated outside the former Soviet Union. Obviously we were going to need that program. But the dilemma immediately was that a number of signoffs was required. Members will recall we were in an election year in 2004. We were able to get signatures ultimately from the Secretary of State. It was very difficult for people at the White House to accumulate the papers and requirements for President Bush to sign off, but eventually he did. But nevertheless, it was roughly a 60-day period from time of discovery.

In this particular instance, a $20 million program of neutralization will eventually take care of that risk, and it is a very substantial one. But my point is it will not be the last one.

I commend the Armed Services Committee for recognizing the need for expedited review and decisionmaking when it comes to these emergency situations. This may be an instance in the war against terror in which we had success, and we had success beyond that. While we were up in the mountains, the Albanian soldiers took us by sheds in which there were 79 Manpad missiles. As part of the good will of that expedition, they agreed to destroy those in September of 2004, and they did so.

Furthermore, as another feature, the next day when we were out of the mountains, in the office of the Minister of Defense of Albania, he talked about his plans for a military academy, a modest beginning at least of training of young officers, with one of the skills to be required a facility in the English language. In essence, they wanted to continue talking to us and continue working with us so there would be fewer and fewer surprises.

I would contend in the war against terror we are going to have many surprises and we better have very rapid responses. I thank the drafters of the legislation we are considering today for their consideration of this.

Let me say the problem of the overall situation in Russia remains as confounding as before. It is a peculiar thought that some of the programs of the Cooperative Reduction Program that occur in the Department of State and Department of Energy do not have these stipulations. They are literally a hangover from the first Nunn-Lugar

debates in 1981—people suspicious of Russia, still suspicious of Russia, and believing, because they are exercising their suspicions of the Russians, that somehow this has something to do with destruction of weapons of mass destruction. We have to get over that and that is the purpose of this debate today, to try to get on and try to understand the world in which we live, including Russia.

The question finally is, what national security benefit do these so-called certification requirements provide the American people? Do these conditions I would advocate terminating make it easier or harder to eliminate weapons of mass destruction in Russia—or elsewhere, for that matter? Do the conditions make it more likely or less likely that weapons are going to be eliminated? It would be hard to argue logically that putting more and more conditions upon action help us in destroying weapons and materials of mass destruction. They obviously hinder us. In some years they stopped us for months. We did this to ourselves. We continue to do it to ourselves, year after year.

Congress imposed an additional six conditions on construction of the chemical weapons destruction program at Shchuch'ye, after imposing all of the other conditions with regard to nuclear weapons in Russia. These conditions include, No. 1, full and accurate Russian declaration on the size of its chemical weapons stockpile. Experts have argued for 14 years over whether Russia has specifically 40,000 metric tons of chemical weapons or something more or less, and we will be arguing about it every year so long as we have a stipulation that we have to have this argument. Some will claim that Russia has never made a full declaration of all of it. But, nevertheless, it is not a good reason for stopping the program, because we are dissatisfied with whether the Russians have come clean on every pound—or ton, for that matter—when there are 40,000 metric tons we know of that need to be destroyed.

No. 2, every year we have to talk about allocation by Russia of at least $25 million—its equivalent in Russian currency—to chemical weapons elimination. We also argue about whether Russia has developed a practical plan for destroying the stockpile of nerve agents and whether enactment of a law by Russia that provides for elimination of all nerve agents at a single site is valid.

We have been arguing about the single site problem for quite a while. We have at this point, I suspect, a general summation that probably chemical weapons will be destroyed at three sites. I simply point these things out because in order each year to start up the program, all of these arguments must go back through the bureaucracy. Somebody must certify that the Russians have, in fact, appropriated $25 million, that they have made a full declaration—40,000 metric tons or more; that we wish they would do it all in one place, and we are still arguing with them over that.

In essence, what is the alternative? Let us say that for some reason someone contends at the time Russians have 41,000 tons. Is this a good reason to delay any destruction, any further security in our benefit? Not at all. That is the essence of what we are talking about today—stipulations that long ago were obsolete, were, if not a figment of someone's imagination on the floor of the Senate, a deliberate, provocative act to get an argument going with the Russians that could never in fact be consummated. I suggest that some have said, well, at worst the certification process is simply an annoyance; that by this time in history we go through the process every year and the predictable arguments are made, the thousands of hours are spent, reports are filed, they are bumped up from one desk to the next, and then ultimately at the end of the trail the President waives the whole business and we get on with the program.

While well-intentioned, these conditions, in my judgment, seriously delay and complicate constructive efforts to destroy weapons of mass destruction.

I get back to this again. If the No. 1 security threat facing our country is weapons of mass destruction, the security of those weapons, the destruction of those weapons, we cannot permit delays in our response.

I was interested last year, as I know you were, Mr. President, in a very vigorous debate between President George Bush and our colleague, Senator JOHN KERRY of Massachusetts. But one thing on which the President and Senator KERRY agreed was that the No. 1 national threat was what we are talking about today: weapons of mass destruction, proliferation of those into the hands of terrorists. They agreed this is the essence of what all of our defense business is about, ultimately. All I am suggesting is, given the urgency of this, the illogic of delaying, deliberately delaying on our part, bureaucratically, year after year, even if finally, as I say, at the end of the day we give the President the right to waive the whole thing and say, enough of this, get on with it—we must finally come to grips, and this amendment does, and that is what the argument is about today—to eliminate these barriers that are self-imposed and that I believe are destructive to our national security.

Let me make a point. In 2002—to get the facts—the Bush administration withheld certification for Russia because of the concerns about chemical and biological weapons arenas. President Bush recognized the predicament. The President said, How can we get out of this predicament? And he requested waiver authority for the congressionally imposed conditions. While awaiting a temporary waiver to be authorized in law, the new Nunn-Lugar projects were stalled, and no new contracts could be finalized from April 16, 2002, to August 9, 2002. This delay—and this is just 3 years ago—caused numerous disarmament projects in Russia to be put on hold, including, specifically, installation of security enhancements at 10 nuclear weapons storage sites, initiation of the dismantlement of two strategic missile submarines, 30 submarine launched ballistic missiles, and initiation of the dismantlement of the SS–24 rail mobile and the SS–25 road mobile ICBMs and launchers—all of these deliberately delayed by us. We did this ourselves. This is what these restrictions are about. Clearly, these projects were in our national security interest at the beginning of April and August when we finally got on with it. But they were delayed because of self-imposed conditions and the bureaucratic redtape that we have continually perpetrated year after year after year.

The second period of delays began when the fiscal year started, October 1, 2002—back into it all over again—with the expiration of the temporary waiver that lasted only until September 30, 2002. Again, U.S. national security suffered with the postponement of critical dismantlement of security activities for some 6 additional weeks until the Congress acted.

Unfortunately, the events of 2002, although they are fairly recent, are reminiscent of what occurred in the years prior to that. They are the rule. In some years, as a matter of fact, Nunn-Lugar funds were not available for expenditure until more than half of the fiscal year had passed and weapons of mass destruction slated for dismantlement awaited the U.S. bureaucratic process. This means the program during those times was denied funds for large portions of the year. The bureaucracy continued to generate reams of paper and yet ultimately produced an outcome that was never in doubt; namely, that it is in the national security interest of our country to destroy weapons of mass destruction in Russia and elsewhere.

Let me say, finally, Mr. President, this certification consumes not only hundreds of man-hours in the Defense Department but in the State Department, in the intelligence community, and the energy community. Obviously the time could better be spent tackling the problems of proliferation where, in fact, the materials are—where are the Albanias of the future; identifying the next A.Q. Kahn in Pakistan and that network, locating hidden stocks of chemical and biological weapons, as many of us have attempted to do.

Mr. President, let me add as a personal thought, it is apparent, I suspect, with the urgency with which I approach this that I take it seriously, and I do, and I think a majority of Senators do. I plan to visit Russia again in August, as I have each year for the last 14. I plan to visit Ukraine. I hope to go to Azerbaijan. I hope to go to other countries that I think might develop

during those trips. It has been my experience that while in Russia, Russians came to me and asked would I like to visit Sevmash, Sevmash being where the Typhoon submarines are. No American has been invited to Sevmash. There have been no invitations to anyone to destroy six Typhoon submarines. I said: Of course, I would like to go to Sevmash. And I did go to Sevmash. Russians took pictures of submarines, including one of me standing in front of a large Typhoon, and in due course they sent the pictures to me. I must say, this was the best view that our authorities had had of a Typhoon in some time.

Now, the fact is, it is cooperative threat reduction. There was no particular reason for the Typhoons to come into play at that particular moment, nor for other submarine programs on other occasions. But the nature of the dialog, in fact, if there is engagement, has been to bring about revelations and finally additional cooperation.

I make that point because the gist of all these controls is a supposition that the Russians will be uncooperative, that they will hide what they have, and in some cases they have. On another occasion, I tried to get into a bioweapons situation and was denied that access. They told us the Air Force plane could take off, but it would not be able to land. In due course they changed their minds but not totally, and I took this up with the Defense Minister in Moscow. He admitted bureaucracy in Russia sometimes creates problems for him and for Russians who want to be cooperative.

I mention these situations anecdotally because as far as I am concerned there is a hands-on operation. This is something personal. I have been there, I have seen, I have worked, and this is why, perhaps, I become so infuriated with people who are determined, bureaucratically, to block it, year after year to delay it, until finally out of exasperation, we have adopted waivers so that somehow we can get on with our own national security.

But this is the debate today. Those who want to get rid of the bureaucracy and the stipulations will vote in favor of the Lugar amendment, and those who want to keep all of this can vote against it, and we will have an up-or-down vote because this is a critical national security objective. I cannot put it more directly or more simply.

The delays have given on occasion, if there were those in Russia who wished to hide whatever they have, an opportunity simply to blame the United States for slow program implementation as we took the spotlight off of failure on the other side with our friends in Russia. Therefore, Mr. President, I am hopeful that this amendment will have very strong support. I am grateful for Senators who have, in fact, cosponsored the amendment as well as the original bill.

I would conclude by indicating that during my talk today, Senators ROCKEFELLER, MCCAIN, BENNETT, LAUTENBERG, MURRAY, and SCHUMER have all asked to be added as cosponsors. I thank each of these Senators for their cosponsorship.

I ask unanimous consent to have printed in the RECORD a letter from Secretary Rice, and this follows direct questioning of the Secretary during her confirmation about her support of this very objective we are talking about today. And she does support what I want to do.

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

THE SECRETARY OF STATE,
Washington, June 3, 2005.

Hon. RICHARD G. LUGAR,
Committee on Foreign Relations, U.S. Senate.

MR. CHAIRMAN: I am writing in response to your March 28 letter urging support for legislation that would repeal the Cooperative Threat Reduction (CTR) certification requirements.

During my confirmation hearings, I stated that flexibility in administering these extremely important programs would be most welcome, and that the Administration supports legislation to remove the certification requirements for provision of CTR assistance. The Administration believes that these programs are extremely important to U.S. national security and to building a cooperative security relationship with Russia and the other states in Eurasia.

As a former student of the Soviet Union and of the Soviet military, I can think of nothing more important than proceeding with the safe dismantlement of the Soviet arsenal, securing nuclear weapons facilities, and destroying their chemical weapons. We will continue to press the Russians to provide greater accountability for their chemical weapons and for increased transparency of their biological weapons program.

The Administration is also willing to consider other alternatives to achieve flexibility in administering these programs. One possible alternative is included in the April 7, 2005, Defense Department transmittal to Congress of its national defense authorization bill and would renew permanently the authority under which existing certification requirements may be waived.

I greatly appreciate the leadership you have shown on these important issues and look forward to working with you on these programs.

Sincerely,

CONDOLEEZZA RICE.

Mr. LUGAR. Finally, I will submit additional letters that have come from other officials of our Government, from the National Security Council and the Department of Defense.

Mr. President, I yield the floor and reserve the remainder of my time.

The PRESIDING OFFICER (Mr. CORNYN). The Senator from Virginia.

Mr. WARNER. I wish to commend my very dear and longtime friend, Senator LUGAR—as I said, I was here when this program was initiated—and our esteemed former colleague, Sam Nunn, for their vision and work in this very valuable program.

Through the Cooperative Threat Reduction Program the United States has, since 1991, been providing assistance to states of the former Soviet Union to help them eliminate and safeguard weapons of mass destruction and related infrastructure materials. These programs helped to eliminate large Cold War stockpiles and dangerous weapons that were no longer needed. Today, this program is an important element in the continuance of our strategy to keep weapons of mass destruction and the know-how from falling into hands antithetical to the interests of those who are trying to fight terrorism and preserve freedom.

When Congress first authorized the Cooperative Threat Reduction Program, an important element of the authorizing legislation was the inclusion of certain conditions that must be met before a country could receive CTR assistance from the United States.

I was a key author of the Cooperative Threat Reduction Act of 1993, which reauthorized the original Nunn-Lugar program. I was a strong advocate of including the requirement that, for each recipient nation of CTR funds, the President certify that the recipient nation is committed to:

making substantial investment of its resources for dismantling or destroying its WMD;

foregoing any military modernization program that exceeds legitimate defense requirements and foregoing the replacement of destroyed WMD;

foregoing any use in new nuclear weapons of fissionable or other components of destroyed nuclear weapons;

facilitating U.S. verification of any weapons destruction carried out through the CTR program;

complying with all relevant arms control agreements; and

observing internationally recognized human rights, including the protection of minorities.

I believe these conditions remain as relevant and important today as they were in 1993. They provide the Congress and the public relevant information about the countries that are to receive taxpayer-funded assistance for eliminating and safeguarding weapons of mass destruction. The conditions help provide us confidence that U.S. tax dollars will be well spent in countries that are committed to right-sizing their militaries, complying with arms control agreements, providing transparency regarding how CTR assistance is used, and respecting human rights.

These certification requirements do not impede the provision of CTR assistance. For several years now, Congress has provided the President with waiver authority so that even if one or more of the certifications cannot be made for a particular country, the President may provide CTR assistance to that country if he certifies it is in the national interest to do so.

The current waiver authority will expire in September 2005. That is why in this bill we have included a provision that would make permanent the President's authority to waive, on an annual basis, the conditions on provision of CTR assistance when he judges it is in the national security interest to do so.

This provision for permanent waiver authority for the CTR programs that is

in our bill is what was submitted in the President's budget request to Congress. Only subsequently, on June 3, 2005, Secretary Rice wrote to Senator LUGAR stating that the Administration supports legislation to remove the certification requirements for provision of CTR assistance. Her letter went on to state that the administration is also willing to consider alternatives including the OMB-cleared legislative request from the Department of Defense for a provision to renew permanently the authority under which existing certification requirements may be waived. So the administration does not oppose the existing congressionally-mandated certification requirements, so long as there remains a waiver provision.

Senator LUGAR's amendment would also repeal the conditions Congress placed on the provision of CTR assistance to Russia for chemical demilitarization activities. Those conditions were established in the FY 2000 National Defense Authorization Act. They required the Secretary of Defense to certify that Russia has:

provided a full and accurate accounting of its chemical weapons stockpile;

demonstrated a commitment to commit $25 million annually to chemical weapons elimination;

developed a practical plan for destroying its stockpile of nerve agents;

agreed to destroy or convert two existing chemical weapons production facilities; and

demonstrated a commitment from the international community to fund and build infrastructure needed to support and operate the chemical weapons destruction facility in Russia.

For several years the Congress decided not to support the provision of CTR assistance for chemical weapons destruction in Russia. It was precisely the inclusion of these conditions in the authorizing language that persuaded the Congress to resume U.S. CTR assistance for this important endeavor. These conditions relevant to the chemical weapons destruction program in Russia also have a waiver provision, so that the assistance can continue in the absence of certification if the President deems it in the national interest.

I feel strongly that the eligibility requirements and conditions for CTR assistance are entirely appropriate and should not be repealed. They remain an important element in assuring the American taxpayer that CTR dollars are being expended wisely and that the underlying aims of the CTR program are in fact being embraced by the recipient countries. This is essential to maintaining strong public support for CTR.

The waiver authority ensures that even in cases where a country does not meet all the eligibility requirements, the President has the authority to provide CTR assistance if it is in the national security interest to do so.

I urge my colleagues not to support Senator LUGAR's amendment to repeal the conditions and eligibility requirements for the CTR program. We all share the goal of supporting programs like CTR that can help keep dangerous WMD, and technology and know how, from slipping out of the countries of the former Soviet Union. I continue to believe that the certification requirements are useful in helping to maintain public confidence in the CTR program.

I say to my good friend, when we initiated these criteria, it was done because the American public never fully quite understood how we could require their tax dollars, which were so badly needed for schools and medical needs and innumerable requirements in this country, be given to countries which ostensibly, if they wanted to squeeze their own budgets, might well obtain the funds to do it by themselves. But I think it was right for this country to step forward. In the history of this country beginning, really, with the Marshall Plan, we have gone to the aid of other nations, and we have been the beneficiaries, as I stated in my opening remarks, of the success to date of the Nunn-Lugar program. But still it seems to me that we have an obligation on behalf of the American taxpayers who continue to willingly give their dollars to this important program to have in place certain criteria that must be met in order for those dollars to leave our shores and go abroad.

Now, this year, in consultation with Senator LUGAR and the Department of State, we put in this bill the permanent waiver authority for the President. And that was important. I think that cuts down on some of the administrative problems and the time delays. But the fundamental and compelling reason to have these criteria remain is for this institution, the Congress of the United States, together with the executive branch, to monitor expenditure of these funds and to have that leverage to get reciprocal actions and assurances from those countries to which our taxpayers' dollars go.

Mr. President, at this time I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. WARNER. Mr. President, the time I put under the control of the Senator from Arizona, Mr. KYL.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, it is with reluctance that I urge that Senator LUGAR's amendment be defeated. I say with reluctance because the spirit with which he offers this amendment is in keeping with his original concept, along with Senator Nunn, for providing assistance from the United States to countries with weapons we want to see eliminated, dismantled; primarily at that time the Soviet Union, now Russia. Through the program which was adopted which bears his name, Senator LUGAR has helped not only to ensure the continued support for the program, but on a personal basis I am aware he has traveled frequently to these countries and personally participated in what he calls the hands-on implementation of the program, and in his case it has literally been hands on. So not only has he helped to sponsor the legislation, seen to it it is implemented every year, expressed frustration when delays have occurred—I have heard him do that—but he has also gone to these countries and helped to see to it that it is carried out in the proper way.

It is therefore understandable when he expresses frustration at the fact that in the past the bureaucracy of the United States—and I am sure there are other reasons for this, too—has resulted in delays in making available funding for the program to be carried out in an expeditious way. We have all seen that in different kinds of programs, but it must be especially frustrating in this particular case.

It was at least partially in response to that that the committee has offered a solution which is embodied in the bill which grants a permanent waiver authority for the President so that this problem of the past need no longer be a problem. In other words, the conditions that have been established that Senator WARNER referred to, conditions for making the funds available for the dismantling of these weapons, can and have been waived. They can be waived and they have been waived. There is that authority in the law. But we go a step further in this bill by granting that permanent waiver authority for the President so that he doesn't have to rely anymore upon this slow-working bureaucracy to get the reports prepared, to answer the questions of whether the Russians have been cooperating fully, and all the other requirements which I will allude to in a minute. That is no longer a requirement.

To some extent, I say with all due respect, this amendment is a solution in search of a problem. Whatever problem existed in the past, it should not exist in the future. In fact, the letter referred to from Secretary Rice notes that one alternative to the solution, and the problem that was discussed by Senator LUGAR, is included in the April 7, 2005 defense transportation transmittal to Congress of the National Defense authorization bill and would renew permanently the authority under which existing certification requirements may be waived. That is precisely what was included in the bill. I suspect all Members support that.

The question is, Why do we need to go the step further and remove what have been very important conditions to the granting of this money? There are two reasons for these conditions, but before I discuss them, let me state what they are so everyone knows what we are talking about. The first set of these were actually instituted at least partially as a result of Senator WARNER's work in the authorizing legislation to make sure that the American taxpayers knew that the money we would be spending on this dismantlement would, in fact, be spent wisely. It

is, in fact, a justification for the expenditure of taxpayer funds.

But the conditions go further than that. What they do is tell a country such as Russia, for example, that we care about what they are doing; that, for example, we would not want to use our money to dismantle one of their weapons if they are going to turn right around and use their money and build a replacement. No one would want that to occur. That would not make any sense. That is one of the conditions, and it lets the Russians and others know that if they expect U.S. taxpayer assistance, they have to do their part as well. That is only reasonable.

Here are the conditions: that the President certify that the recipient nation is committed to making substantial investment of its resources for dismantling or destroying WMD. It should not be a one-way street. It should not be just the obligation of the United States to help other countries dismantle their weapons.

Second, forgoing any military modernization program that exceeds legitimate defense requirements and forgoing a replacement of destroyed WMD. That is what I referred to before. We would not want to be using taxpayer dollars to help Russia, for example, dismantle an aged weapons system, for example, only to see it use its money to replace that system with one that is even more robust and more threatening. That, obviously, is simply aiding the Russians in modernizing their forces. Obviously, that is not what this program is about.

Three, forgoing any use of nuclear weapons of fissionable or other components of destroyed nuclear weapons. This is a key component in what Senator LUGAR intended, and I am sure he agrees with this concept that we do not want them taking fissionable material out of the weapons we are destroying and putting them into a new weapon. That defeats the entire purpose of the destruction program.

Four, facilitating U.S. verification of any weapons destruction carried out in the CTR Program. Obviously, if we are spending our money on dismantling these weapons, we have a right to at least do some checking to see whether it was done. When we set out to do the job, did it in fact get accomplished?

I know from stories I have heard or reports I have read that the Russians—the Soviets before them—had an entirely different concept of how this might work. They have whole cities devoted to their weapons complex. One of their ideas was that U.S. money should be used to provide assistance to the people in those cities who were dismantling their primary means of making a living; we should provide them other ways of making a living and relieve the suffering they might occasion as a result of not having a job building these weapons anymore. That represented the difference of opinion about how our taxpayer dollars should be used and how the Russians saw it at the time.

Another condition: complying with all relevant arms control agreements. Now, that ought to be a pretty minimal and bottom-line requirement. If we are going to be doing business with a country and providing taxpayer dollars to dismantle weapons, we want to make sure they comply with the agreements they have signed on arms control.

Finally, observing internationally recognized human rights, including the protection of minorities. This is not directly related to the subject of the CTR, but it is something we have all agreed is an important goal that the United States has and a way for us to remind these countries that they need to be paying attention to this kind of issue as well as the dismantlement issue.

These conditions are useful to continue to apply pressure to a country such as Russia to do the right thing, to provide assurance to the American taxpayer that our money is being spent appropriately, and also to provide Congress with the kind of information we need to ensure our continued support for the program. And they do, in fact, provide us that confidence.

There has always been a waiver authority, and the President has exercised that waiver authority because, as Senator LUGAR noted in the past, there have been delays in getting the certifications—that the Russians have met these requirements, for example—delays which have created problems in getting the resources to the country in time to do the dismantlement that was planned. So the President exercised that waiver authority.

The current problem is that the waiver authority will expire in September of this year. That is one of the reasons we need to get this bill passed, so the waiver authority that is granted in the bill—now permanent authority that does not expire—will be the President's to exercise in the future. That will largely obviate the problem that has been discussed.

The problem is not the conditions. The conditions are perfectly appropriate. Every Member would agree that there is nothing wrong with the goals of these conditions. The problem is in the implementation of the statute. That has apparently taken longer than it should have in certain cases. It has resulted in people being able to delay the program and perhaps not intentionally but at least unintentionally delaying the program because the conditions have to be certified. That is why the waiver has had to be used in order to get around the problem.

As I said, when Secretary Rice responded to Senator LUGAR's letter, she noted that one of the alternative solutions to the one proposed by Senator LUGAR was this permanent waiver authority, which is what we have included in this bill.

There is also a second very important aspect of this. We were having a hard time in using the CTR assistance for chemical weapons destruction in Russia. It was precisely because of that that conditions were specifically inserted into the law, and I will get the citation in a moment. But specifically, we added requirements for the CTR assistance to the elimination of the chemical weapons, and this program added conditions, and I will note for the record what those conditions are; it added these conditions so that we could actually begin providing assistance to add to the nuclear assistance the elimination or destruction of the chemical weapons so that program could go forward in Russia as well.

The eligibility requirements, the conditions for CTR assistance, certainly no one would argue are inappropriate or should be repealed. It simply is a question of whether they have been administered in a way that has facilitated the implementation of the statute.

From my point, I think they do remain an important element in assuring the American taxpayer that our dollars are being expended wisely here as well. They are also important to maintain strong public support for the program.

Again, I said that it is with reluctance I oppose the amendment because of all the work Senator LUGAR has done. No one is more keen to ensure that this program can work in the future than Senator LUGAR. However, I also think we would probably all have to agree that the conditions themselves are totally appropriate conditions; that with the exception of human rights, they all pertain to the effectuation of the program itself; that they do serve the purpose of ensuring that countries such as Russia understand they have some obligations, and also providing information to Congress that permit us from year to year to continue to support the program. It is not the conditions themselves that are the problem; it has been the implementation of the program. And in the past, apparently, this has been a problem.

The waiver authority has solved these problems but on a temporary basis. From now on, the President will have permanent waiver authority if we pass this bill. I believe that should be a solution to the problem that would be agreeable to all.

Now, there may be some who want to go further and eliminate these conditions as well. I don't think that is necessary to make it work, and I do think there would be a downside for the reasons I have articulated.

That is why I oppose the amendment, and I hope that the committee's mark, the bill we have before us, will be sustained when there is a vote on this amendment.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, let me respond directly. I do oppose the conditions. The purpose of my amendment is to eliminate the conditions. The reason I want to eliminate the conditions, and the Senator from Arizona has simply

illustrated that in his recitation of them—for example, No. 5, complying with all relevant arms control agreements. That is a work of art every year for people to fathom whether the Russians have complied with every one of those agreements. The question is, What if we decide they have not? Is this, then, the reason we stop destroying Russian warheads, missiles, submarines? Just stop cold because we say the Russians, in our judgment—and there is usually a debate among those in the Pentagon about this—have not got it quite right?

Even more, No. 6, observing internationally recognized human rights, including the protection of minorities, I am not certain that almost any Senate or administration official has ever come to a conclusion that the Russians have been observing all internationally recognized human rights for 14 years. Yet someone is still arguing we ought to leave that on the statute books as a reason the bureaucrats in our country ponder about the human rights conditions in Russia for as many weeks and so forth until the President says: We have had enough, I waive it, let's get on.

To suggest that it is extreme to leave these situations on the books, it seems to me, is not at all logical given our own activity and the fact that we are fighting a war on terror. This is not simply a grant of inconsequential effort with regard to our security, it is the whole ball game.

Or condition No. 4, facilitating U.S. verification of weapons destruction carried out under the program. As a rule, we have had pretty good fortune with the CTR people following through precisely what has occurred but not in all instances. If you go to Russia and you visit with our people on the ground, they will give you instances immediately in which they are having trouble with Russian friends who do not want to let them see what has occurred. Then we all argue, as military and civilians, with our Russian friends that we really do need to see these situations. We are on the ground and we have tried to work it out. But back here, to make an evaluation that we have not seen all of it and therefore we stop the music makes no sense at all at this point in history.

On the conditions on the chemical business, they were not at all helpful, to say the least. It is an ongoing process of getting something done still, trying to get the international community's money into it, trying to get the Russians over the threshold as the Duma. This is hard work but back here not so hard to say we want to evaluate, Are the Russians making a substantial investment? Well, what is substantial? Sometimes people have put a figure on it—$25 million, I mentioned in my speech. That was another stipulation. An allocation of $25 million, someone came up with here. I am not sure how we know; we are not able to audit the books.

We can make some judgments as to whether a substantial effort is being made, but let's take the other case: The Russians make no attempt. They say, We are bankrupt, and they were in the early years of the program. Is that a reason why we do nothing, then? Do we just stop the music and say, You are not making a reasonable allocation?

The old argument used to be called fungibility, the thought that somehow if U.S. taxpayer money got into Russia and we worked to destroy nuclear warheads, take them off the missile and so forth, the Russians would not have to spend money doing that and therefore they would spend it on something else of a nefarious nature. I am not sure that many persons in the Russian military ever were excited about taking the warheads off of the missiles, about destroying the missiles, about destroying all the submarines, destroying the transcontinental bombers. I don't think there was a wave of enthusiasm, people in the streets demanding that their government do these things.

The fact is that cooperative threat reduction, as the Russian generals told Sam Nunn, is something that is our problem, but it is your problem because you folks in the United States have the contractors, you have the money, you have the organization. These are not funds donated in a United Way project to Russia. They are funds largely spent with American contractors, American experts, American people who take their time and at some risk to themselves have gone to Russia, and now to other places, to dismantle dangerous weapons and try to corral dangerous material in the benefit of all of us.

Because in another forum we would be having the speech: What happens if al-Qaida gets their hands on even a few pounds of fissionable material? What would have happened if even a small weapon had been on a plane that went into the World Trade Center? Then we have briefings from experts that show concentric circles of death and destruction, of hundreds of thousands of Americans losing their lives. That is the issue.

Anyone who is delaying this has to give some better reason for it than at some point a Member of the House or Senate thought it might be a good idea to ask the Russians what they are doing. Of course, that is a good idea. Those of us who have been visiting with the Russians ask it all the time and, as a matter of fact, have a very tough-minded attitude, which they appreciate because they have the same feeling for us.

But I am saying we have come to a time in which we have to understand it is not useful to require that before Nunn-Lugar funds are spent each year there be a symposium on how human rights are going in Russia and, therefore, at the end of the day the President waives it and says: OK, not so good, but, after all, American security is still what I am after as Commander in Chief.

Let me reiterate. I think it is important to clean the books, to get on with a program in which we understand, as Americans, we want to work with Russians to destroy weapons of mass destruction every year without delay. If the $415 million that is in this bill is appropriated, ultimately—and I hope it will be—we want to be able to spend that from October 1 onward. As has been pointed out, the waiver authority, even as it is, dies September 30. What happens if for some reason there is a conference hassle on the Department of Defense appropriations bill apart from the authorization bill? Certainly that happens in the body, and with the other body, from time to time. And when it has happened before, the music stopped. We did it to ourselves. We cannot afford to continue doing that.

Mr. President, I yield time to my distinguished colleague, the ranking member of the Armed Services Committee, Senator LEVIN.

The PRESIDING OFFICER (Mr. WARNER). The Senator from Michigan.

Mr. LEVIN. Mr. President, first, I thank the Senator from Indiana for his intrepid, persistent, and determined, bulldogged leadership to try to address the greatest threat this country faces which is the presence of a weapon of mass destruction in the hands of a terrorist or terrorist state. We are told over and over again—one commission after another tells us—the greatest threat this Nation faces would be a chemical, biological, or nuclear weapon in the hands of a terrorist or terrorist state—''loose nukes,'' as they are sometimes called.

Yet, in the wonderful program we have called Nunn-Lugar, we have impediments to the prompt spending of our money in order to secure or destroy the weapons that threaten us. Why, in Heaven's name, we would put any impediment in the way of addressing the greatest threat that faces this country absolutely mystifies me.

We have six conditions that have to be certified to annually by the President before this money can be spent to protect our Nation. Let me take one of them. One of the conditions that has to be addressed and met in a report is the President certify annually that each country is meeting the following condition—one of the six—that the country is foregoing any military modernization program that exceeds the legitimate defense requirements of that country.

Now, why, in Heaven's name, we want to have some agency's employee spending time looking at whether Kazakhstan or Uzbekistan or, yes, Russia, in their entire military budget is spending any money on any weapons system that, in our judgment, they do not need—and if we cannot certify that, we cannot protect ourselves against destroying the weapon of mass destruction that exists in Kazakhstan or Uzbekistan—why would we want to tie our hands that way in order to address the greatest threat that faces us? It is absolutely mysterious to me.

The great Senator from Indiana—I do not know if he went through each one of these conditions. I know he went through some of them. And I am not even sure how we could certify that Russia has forgone every single military modernization program that exceeds their legitimate defense needs. How could anyone certify that? Go through the entire Russian defense budget and look at every single modernization program? I am not even sure it is public. I am not sure ours are. I know ours are not all public, by the way. We have classified programs. But the way the law reads, we have to get the Presidential certification that there is no Russian modernization program that exceeds their legitimate defense needs.

We have to do that with every country—Uzbekistan, Kazakhstan, Ukraine, Georgia, Azerbaijan, Albania—before we can secure or destroy weapons, material, weapons of mass destruction, biological weapons, chemical weapons, nuclear material that threatens us? We have to write these endless reports, trying to certify that those conditions are met?

We are cutting off our nose to spite our face. What we are doing here is, instead of trying to secure material or destroy material, we end up securing reports, producing reports. How many of us have read those reports, by the way? I am not sure how many have been filed because they have to be waived every year if they are not written. But how many of us would look through a report on every modernization program—if we could figure it out—that Kazakhstan has before we destroy material that threatens us that might exist in that country?

Now, these impediments to protecting our people against the greatest threat we face actually make no sense anymore. We ought to get rid of them instead of requiring an annual certification, involving people writing these certifications, writing these reports rather than effectively spending our resources in order to protect the American people.

We say we have to be able to certify that Russia has accurately declared the size of its chemical weapons stockpile. We cannot certify that, verify it, because there is a great dispute over verification between ourselves and Russia. They want to come in to certain places we do not want them to come in, so they cannot verify certain things, because we are not giving them access. We are not perfectly transparent in terms of our own chemical production facility, for legitimate reasons. But there is a dispute on transparency between us and Russia.

So that dispute, which is a legitimate dispute, which has not been resolved yet—despite, let's assume, good-faith efforts on both sides—the presence of that dispute means we cannot or the President cannot make a certification that Russia has accurately declared the size of a chemical weapons stockpile because we cannot get the verification agreed to, again, because we will not provide access to our own facility. That stops us from defending our people against chemical weapons.

What is the goal here? Reports or security? If we can get our hands on chemical weapons or biological weapons or nuclear material or missiles and destroy them, why wouldn't we want to grab that opportunity? Why would we want to put impediments in the way and require reports or certifications to be made?

By the way, I think it is great if the reports can be made. I have no problem with it, either. Senator LUGAR mentioned, we raise these issues all the time. But we should not attach these as conditions to our taking action which is in our own interest. Churning away at reports when it is in our national security to eliminate weapons of mass destruction does not make sense to me. We have this process requiring hundreds of man-hours of work by the State Department, the intelligence community, the Pentagon, as well as other departments and agencies. That time could be better spent tackling the proliferation threats that face our country.

We should be spending all of our energies on interdicting WMD shipments, all of our energies at identifying the next A.Q. Khan, all of our energies on locating hidden stocks of chemical and biological weapons. Instead, we have nonproliferation experts spending time compiling reports and assembling certifications and waiver determinations.

By the way, the majority of those reports is repetitive. They have already filed reports in other formats. Yet we continue to require that.

The President does not have to spend any of this money. If the Executive decides they have questions and they are not going to spend money, for whatever legitimate reason, fine. But we should not add to their burdens. And we should not jeopardize the security of this Nation by putting barriers in the way of taking action to secure or destroy the most threatening material we face—chemical, biological, or nuclear material.

I very strongly support the efforts of our good friend from Indiana, who has been such a leader here. When Sam Nunn was here, it was Nunn-Lugar. No one could take Sam Nunn's place. Senator LUGAR, with the support of many of us, including, may I say, our chairman, the Presiding Officer—who has supported the amount of money for Nunn-Lugar—without the support of the chairman of the committee, who is now presiding over the Senate, we would not be able to get that amount of money we have in this authorization. By the way, we are going to try to increase that somewhat during the debate on this bill.

But that amount of money, which is requested, I believe, by the administration, would not be there but for the Senator from Indiana, but for the chairman of our committee, and but for the support many of us on the Armed Services Committee have to address this absolutely most dangerous threat this Nation faces.

I commend the Senator from Indiana, and I am proud to be a cosponsor of his amendment.

I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

The Senator from Indiana.

Mr. LUGAR. Mr. President, may I inquire how much time is on either side to be utilized?

The PRESIDING OFFICER. The Senator from Indiana has 5½ minutes remaining.

Mr. LUGAR. Mr. President, let me take a moment to thank the distinguished Senator from Michigan for his very strong words and, likewise, to echo his commendation of you, as I do at this moment in this debate.

Very clearly, each one of us has attempted to do our best in this area. I am proud to have pictures of all of us in my office, standing in front of missiles and explosives and all the elements that have marked 14 remarkable years.

This entire program is counterintuitive. Those who looked at the half century that preceded 1991, the breakup of the former Soviet Union, would say: Here we are, two superpowers. A number of estimates were wrong on all sides about the economy of Russia, maybe the economy of our country or the relative strengths we had at that time. It was not until several years later that we knew there were 13,300 warheads on those missiles. We had estimates of that, but we now know that. We know exactly how many have been taken off and how many are still to be taken off, and how many missiles remain as vehicles, and how many submarines remain. This is remarkable. This is a degree of cooperation that is very substantial.

There are some elements that we still do not know. I would claim that our Russian friends have been in denial on a good number of the biological programs, while they would say they were not weapons programs. They were something else dealing with livestock or other elements. We have had differences, and I would say there are still four situations in Russia in which none of us have had access. Therefore, those who argue that there is no good reason to raise questions of the Russians argue well. But my logic at the end of the day, even if the Russians have not been forthcoming on these four biological situations on which I have sought access, physically asked to go and may some day be admitted, if for some reason they may find it useful to admit me, that is not a good reason to delay for one week or one month or any time the movement of the moneys, the programs, the contractors, the American spirit that is working with a number of Russians in this window of history that was miraculously opened.

I hope it will be open for a long time. I hope the cooperation with Russia will continue so that we do have, together, access, and so do other partners in the G8, in the so-called ''10 plus 10 over 10'' program. It is because we will need more time. We need to make certain that we do not make mistakes, certainly the ones we can avoid. I am suggesting today that we can avoid mistakes—and by eliminating these conditions, we will at least remove one of them—and that we have then an opportunity to continue to be forthcoming with the Russians in asking them to work with us in their own interest.

Finally, when I was in vaults in which there are nuclear warheads lying almost akin to bodies in a morgue, I noted little tablets at the top of these which had Russian inscriptions. I asked: What is on those? They said: This tells when the weapon was built. It gives a service record. These weapons are not inert sporting guns' ammunition sitting on a shelf. They require servicing. There is a chemical mixture going on there that, without proper care, can lead to dire results. We don't know, nor do the Russians, what the results are.

Therefore, down on the tab there is an estimate of the efficacy of the weapon; that is, how long the warhead probably would work if it were taken out of the vault and put back on a missile. Then you have even a stranger estimate, and that is when it might become dangerous; that is an event, a nuclear event in Russia with dastardly results for Russians.

This is one reason why this is not totally counterintuitive. If you still have thousands of these weapons in warhead form, you want to make certain you have a partner who has some money and some expertise, and you try to make sure you use that money on the oldest ones first before you work out what is going to happen historically, something none of us have thus far had the horror to find out.

This is serious business. We all take it that way. I appreciate the spirit of the debate.

I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. LEVIN. Mr. President, I think Senator LUGAR controls all of the time on his side. I wonder if he might yield 4 minutes to the Senator from Rhode Island. I don't know how long the Senator from Texas was going to speak.

The PRESIDING OFFICER. The time in opposition is under the control of the Senator from Arizona. But in his absence, the Senator from Texas is in control of the time and has the authority to grant the time.

Mr. CORNYN. Mr. President, I have no objection to the Senator from Rhode Island addressing the Senate.

Mr. LEVIN. This would be on Senator LUGAR's time.

The PRESIDING OFFICER. The Chair understands the allocation of the time.

GUN INDUSTRY IMMUNITY

Mr. REED. Mr. President, let me thank Senator LUGAR for his commendable amendment and thank Senator CORNYN for allowing me to proceed. I would like to speak to the possible procedural posture we will be in next week.

We are now on the Defense authorization bill, which is critical to providing resources to our service men and women who are engaged today, as we speak, in a global war on terror. But tomorrow the majority leader intends to file a cloture petition on the motion to proceed to the gun industry immunity bill. That means on Tuesday morning we will have a cloture vote, and the vote will present a stark choice for all Senators. We can stay on the Defense bill and finish our work on behalf of our soldiers, sailors, air men and women, or we can leave the Defense bill for an undetermined period of time and move to a special interest bill to give legal immunity to the gun industry.

If the Senate invokes cloture on the motion to proceed to the gun industry bill next Tuesday, we will be on that motion for the next 30 hours. On Wednesday, when that time runs out, the majority leader would then file another cloture petition on the bill itself. The Senate would then spend the next 2 days on the immunity bill, and we would have another cloture vote Friday. If the Senate invoked cloture on the bill next Friday, we could face another 30 hours on the gun immunity bill, pushing final passage until at least next Saturday and potentially delaying passage of the Defense authorization bill until after the August recess.

We face a situation where the majority is asking Senators to delay consideration of a bill to support our troops, possibly for up to a month, so that we can take up a bill to give a special interest gift to the gun industry.

Senator FRIST said this morning that lawsuits against gun manufacturers like Beretta are the reason to take up this measure because they provide small arms to the U.S. Army and the Department of Defense. First, Beretta is a privately held corporation owned by an Italian parent. There is no obligation for them to disclose their finances. But their competitors, Sturm Ruger and Smith & Wesson, continue to assure their shareholders in SEC filings that this litigation is not having an adverse material effect on their financial position. So I don't know how much credence we can give to that.

I believe we should stay on this bill, finish our obligation to our service men and women, and then at some other time, take up this bill because such a bill about immunity requires extensive debate. That is a requirement that many Senators will not forgo.

I urge the majority leader to reconsider his proposal. I thank the Senator from Texas and yield the floor.

The PRESIDING OFFICER (Mr. LUGAR). The Senator from Texas.

Mr. CORNYN. Mr. President, with some reluctance, I rise to oppose the amendment of the distinguished occupant of the chair, the senior Senator from Indiana. But I feel a certain obligation, as the chairman of the Emerging Threats and Capabilities Subcommittee, out of which this particular portion of the bill emanated, to explain the reasons why the bill contains these conditions that I believe are important and which I will explain and which have existed in the bill as it has been passed by the Congress since its inception.

The question that I would pose is, what has changed? What has changed that now would lead this body to eliminate these important criteria that have existed in the bill for lo these many years? I think it is important, as a general matter, that there be some sort of reciprocal obligation on the part of Russia for receiving more than $400 million in American taxpayer money, potentially. I know there has been discretion added to make sure that WMD located in other countries can now be addressed by this Cooperative Threat Reduction Program. That is a good thing. But certainly, while I appreciate the argument that regardless of whether or not Russia complies with the conditions that are required to be monitored under this Cooperative Threat Reduction Program, I still do not believe that it is the best stewardship of the American taxpayers' moneys for us to say: We don't care whether Russia complies with their reciprocal obligations or not, and we are going to give the money away anyway, albeit for a good purpose.

On balance, I am not persuaded that the burden to change the system, as it has been since 1991, has been met, and I believe that we should retain some way to monitor the progress of Russia, the recipient of these funds, on these important criteria that have been set out in the bill.

Of course, the Cooperative Threat Reduction Program has long been providing assistance to states of the former Soviet Union to help eliminate and safeguard weapons of mass destruction and related infrastructure materials. These programs helped to eliminate large Cold War stockpiles of dangerous weapons that are no longer needed. Today, of course, this is an important element of our strategy to keep weapons of mass destruction and know-how from falling into the hands of terrorists. That is the reason why I applaud the senior Senator from Indiana for his leadership in this important effort.

When Congress first authorized the Cooperative Threat Reduction Program, an important element of the authorizing legislation was the inclusion of the conditions which now this amendment seeks to eliminate. These conditions must be met before a country can receive Cooperative Threat Reduction assistance from the United States. These conditions were retained

in the Cooperative Threat Reduction Act of 1993 which reauthorized the original Nunn-Lugar program. That act included the requirement that for each recipient nation of Cooperative Threat Reduction funds, the President certify that the recipient nation is committed to the following goals:

One, to making substantial investment of its resources for dismantling or destroying its weapons of mass destruction; two, forgoing any military modernization program that exceeds legitimate defense requirements and forgoing the replacement of destroyed weapons of mass destruction; three, forgoing any use in new nuclear weapons of fissionable or other components of destroyed nuclear weapons; facilitating U.S. verification of any weapons destruction carried out under the Cooperative Threat Reduction Program; complying with all relevant arms control agreements; and observing internationally recognized human rights, including the protection of minorities.

I would certainly agree with the distinguished senior Senator from Indiana that some of these are vague standards. For example, as he pointed out, complying with all relevant arms control agreements or observing internationally recognized human rights, including the protection of minorities. But the fact that they are somewhat general—some might say somewhat vague—does not mean that they are unimportant. One of the important roles played by these criteria is that there be some effort on the part of the Government to ascertain whether, in fact, the old Soviet Union is, in fact, exercising good faith as part of the Cooperative Threat Reduction Program. If, in fact, ultimately the President decides, as authorized by this bill, to ultimately waive the noncompliance of those criteria in the interest of our national security, at least Congress and the Nation know that some assessment has been made of the old Soviet Union's compliance with these criteria.

I think we would all agree that the information that is collected and scrutinized is important in the interest of our national security and in the interest of knowing that we have met our responsibility to see that American tax dollars are spent as wisely and efficiently as possible.

These conditions remain as relevant and as important today as they were in 1993. They provide Congress and the public relevant information about the countries that have received taxpayer-funded assistance for this program. The conditions also help provide us confidence that U.S. tax dollars will be well spent in countries that are committed to right-sizing their militaries, complying with arms control agreements, providing transparency with regard to Cooperative Threat Reduction assistance, and respecting human rights. I do not understand how one could argue that these conditions are unimportant or irrelevant to our national security or that we ought to simply blind ourselves to the recipient nation's compliance with these criteria in the interest of pursuing our ultimate goal.

The truth is, we all agree in the ultimate goal of this important program. But this provides us additional checks and balances and information that is relevant, significant, and which I think demonstrates that we are being good stewards of the American taxpayer dollar while we pursue a safer and more secure world.

These certification requirements do not impede the provision of cooperative threat reduction assistance. For years now, the Congress provided the President with waiver authority, so that even if one or more of the certifications cannot be made for a particular country, the President may provide these funds if it is in our national interest to do so, and that is appropriate.

One of the things this bill does is to make that temporary waiver authority that had been conferred upon the President permanent, to provide the kinds of flexibility that Secretary Rice said the President and the administration wanted when it came to this program in her letter of June 3, 2005, which has been previously referenced.

This provision for permanent waiver authority for cooperative threat reduction programs in the bill provides the flexibility needed. It also provides us the way to deal in a responsible fashion with the countries that compose the former Soviet Union. I remember, of course, the famous words of President Reagan when talking about negotiating with the Soviet Union, where he said, ''trust, but verify.'' What these criteria do in this cooperative threat reduction program is allow us to not just trust but also to verify that these countries that were once the old Soviet Union are worthy of our trust by allowing us to verify their good faith compliance with this program.

The amendment of the senior Senator from Indiana would also repeal conditions Congress placed on the provision of financial assistance to Russia for chemical demilitarization activity. These conditions were established in the fiscal year 2000 National Defense Authorization Act. They required the Secretary of Defense to certify that Russia has provided a full and accurate accounting of its chemical weapons stockpile; demonstrated a commitment of $25 million annually to chemical weapons elimination; developed a practical plan for destroying its stockpile of nerve agents; agree to destroy or convert two existing chemical weapons production facilities; finally, a commitment from the international community to fund and build infrastructure needed to support and operate the chemicals weapons destruction facility in Russia.

Here again, these provisions would be effectively repealed by this amendment which is proposed today by the distinguished Senator from Indiana. They do not represent an impediment to the accomplishment of the chemical demilitarization program because they may be likewise waived in the end if the President deems that waiver in our national interest. But no one, it seems to me, could in good faith argue that these criteria are unimportant or irrelevant.

Indeed, each of these criteria demonstrate the reciprocal good faith and responsibility of the recipient nations in accomplishing chemical demilitarization, a goal that is the subject of an international treaty that this country is a party to and one that is certainly in our national interest to see accomplished.

For several years, Congress decided not to support the provision of cooperative threat reduction assistance for chemical weapons destruction in Russia. It was precisely the inclusion of these conditions in the authorizing language that persuaded Congress to resume assistance under the chemical threat—the Cooperative Threat Reduction Program for this important effort of chemical demilitarization.

These conditions relevant to the chemical weapons destruction program in Russia also have a waiver provision, so that the assistance, as I mentioned a moment ago, can continue in the absence of certification if, in the end, the President deems it in the national interest. The eligibility requirements and conditions for assistance are entirely appropriate.

Mr. President, I believe the burden of proof on those who would repeal it has not been met. They remain an important element in assuring that the American taxpayer is being well served and that the money is being spent appropriately and wisely on the underlying aims of the Cooperative Threat Reduction Program that we all agree are a good thing. This assurance to the American taxpayer and to the American people that their money is being well spent is essential to maintaining strong public support for this important program.

The waiver authority ensures that even in cases where a country doesn't meet all eligibility requirements, the President has the flexibility to provide this assistance if it is in the national security interest to do so. This is all, in the end, that the administration, through Secretary Rice's letter, has requested. So we have accomplished that goal already, even before this amendment has been proposed.

Mr. President, I urge my colleagues not to support this amendment that would repeal the conditions and the eligibility requirements under the Cooperative Threat Reduction Program. We all share the goal of supporting programs like this that can help keep dangerous weapons of mass destruction and technology and know-how from slipping out of the countries that used to be the old Soviet Union.

I continue to believe that certification requirements are useful in helping to maintain public confidence in

this important program, and I urge my colleagues to vote against the amendment.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. LUGAR. Mr. President, the distinguished Senator from Texas has yielded to me a minute of time, and I deeply appreciate that, so that I have an opportunity to add as cosponsors to my amendment Senators CONRAD, BOXER, and DURBIN.

Earlier, I mentioned the letters from Secretary Rice and, likewise, one from the 9/11 Commission, in which the Commission summarized that we believe that S. 313—the genesis of my amendment—is an important step forward in protecting the United States in catastrophic circumstances.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. LUGAR. Mr. President, I ask unanimous consent that Senator SARBANES be added as a cosponsor to the amendment.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. WARNER. Mr. President, I ask the indulgence of all Senators. We are about to vote, but I ask that we give consideration, at this point in time, to an amendment that will be offered by the Senator from South Dakota.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Dakota is recognized.

Mr. THUNE. Mr. President, is there an amendment pending?

The PRESIDING OFFICER. There is.

Mr. THUNE. I ask unanimous consent that the pending amendment be set aside.

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

AMENDMENT NO. 1389

Mr. THUNE. Mr. President, I have an amendment that I send to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Dakota [Mr. THUNE] for himself, Mr. LIEBERMAN, Ms. SNOWE, Mr. LAUTENBERG, Mr. JOHNSON, Mr. DODD, Ms. COLLINS, Mr. CORZINE, Mr. BINGAMAN, and Mr. DOMENICI, proposes amendment numbered 1389.

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

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

The amendment is as follows:

(Purpose: To postpone the 2005 round of defense base closure and realignment)

On page 371, between lines 8 and 9, insert the following:

SEC. 2887. POSTPONEMENT OF 2005 ROUND OF DEFENSE BASE CLOSURE AND REALIGNMENT.

The Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) is amended—

(1) by adding at the end the following:

''SEC. 2915. POSTPONEMENT OF 2005 ROUND OF DEFENSE BASE CLOSURE AND REALIGNMENT.

''(a) IN GENERAL.—Notwithstanding any other provision of this part, the round of defense base closure and realignment otherwise scheduled to occur under this part in 2005 by reasons of sections 2912, 2913, and 2914 shall occur instead in the year following the year in which the last of the actions described in subsection (b) occurs (in this section referred to as the 'postponed closure round year').

''(b) ACTIONS REQUIRED BEFORE BASE CLOSURE ROUND.—(1) The actions referred to in subsection (a) are the following actions:

''(A) The complete analysis, consideration, and, where appropriate, implementation by the Secretary of Defense of the recommendations of the Commission on Review of Overseas Military Facility Structure of the United States.

''(B) The return from deployment in the Iraq theater of operations of substantially all (as determined by the Secretary of Defense) major combat units and assets of the Armed Forces.

''(C) The receipt by the Committees on Armed Services of the Senate and the House of Representatives of the report on the quadrennial defense review required to be submitted in 2006 by the Secretary of Defense under section 118(d) of title 10, United States Code.

''(D) The complete development and implementation by the Secretary of Defense and the Secretary of Homeland Security of the National Maritime Security Strategy.

''(E) The complete development and implementation by the Secretary of Defense of the Homeland Defense and Civil Support directive.

''(F) The receipt by the Committees on Armed Services of the Senate and the House of Representatives of a report submitted by the Secretary of Defense that assesses military installation needs taking into account—

''(i) relevant factors identified through the recommendations of the Commission on Review of Overseas Military Facility Structure of the United States;

''(ii) the return of the major combat units and assets described in subparagraph (B);

''(iii) relevant factors identified in the report on the 2005 quadrennial defense review;

''(iv) the National Maritime Security Strategy; and

''(v) the Homeland Defense and Civil Support directive.

''(2) The report required under subparagraph (F) of paragraph (1) shall be submitted not later than one year after the occurrence of the last action described in subparagraphs (A) through (E) of such paragraph.

''(c) ADMINISTRATION.—For purposes of sections 2912, 2913, and 2914, each date in a year that is specified in such sections shall be deemed to be the same date in the postponed closure round year, and each reference to a fiscal year in such sections shall be deemed to be a reference to the fiscal year that is the number of years after the original fiscal year that is equal to the number of years that the postponed closure round year is after 2005.''; and

(2) in section 2904(b)(1)—

(A) in subparagraph (A), by striking ''the date on which the President transmits such report'' and inserting ''the date by which the President is required to transmit such report''; and

(B) in subparagraph (B), by striking ''such report is transmitted'' and inserting ''such report is required to be transmitted''.

Mr. THUNE. Mr. President, I ask that the amendment be set aside.

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

Mr. THUNE. Mr. President, this amendment to S. 1042 that would delay implementation of the 2005 round of the Defense Base Closure and Realignment. This amendment does not seek to nullify the Department of Defense recommendations, nor does it seek to halt the work of the BRAC Commission now well underway. Nor do I seek to block the presentation of the BRAC Commission's final recommendations to the President. To the contrary, I believe the BRAC commission to be an integral and indispensable check on this process and I value their analysis and demonstrated independence.

The amendment would essentially extend the congressional review period for any final recommendations approved by the President until certain conditions are first met. This proposed suspension of the ''45 day'' review period would thus delay ''implementation'' by the Department of Defense until one year following the last condition is met. These conditions center on certain events that are anticipated to occur and which have potentially large or unforeseen implications for our military force structure. Therefore, implementation of any final BRAC recommendations should not occur until both the DoD and Congress have had a chance to fully study the effects such events will have on our basing requirements. I will say more about those conditions in a moment.

But first, I want to make my position perfectly clear. I do not oppose the BRAC process. The underlying purpose of BRAC, as written by this body, is not only good for our armed forces, it is good for the American taxpayer. We all want to eliminate waste and reduce redundancy in the government. But when Congress modified the Base Realignment and Closure law in December 2001, to make way for the 2005 round of base closings, it failed to envision this country involved in a protracted war involving stretched manpower resources, ever-evolving threats and the burden of large overseas rotational deployments of both troops and

equipment. I do, therefore, question the timing of this round of BRAC.

The amendment identifies several principal actions that must occur before final implementation of the 2005 BRAC recommendations. First, there must be a complete analysis and consideration of the recommendations of the Commission on Review of Overseas Military Structures. The overseas base commission has itself called upon the Department of Defense to ''slow down and take a breath.'' It cautions that we should not move forward on basing decisions without knowing exactly where units will be returned, and if those installations are prepared or equipped to support units returning from garrisons in Europe, consisting of approximately 70,000 personnel.

Second, BRAC should not occur while this country is engaged in a major war and rotational deployments are still ongoing. We have seen enough disruption of both military and civilian institutions due to the logistical strain brought about by these constant rotations of units and personnel to Iraq and Afghanistan without, at the same time, initiating numerous base closures and the multiple transfer of units and missions from base to base. This is simply too much to ask of our military, our communities and the families of our servicemen and women, who are already stretched and overtaxed. Frankly, our efforts right now must be devoted to winning the global war on terrorism, not packing up and moving units around the country.

Our amendment would delay implementation of BRAC until the Secretary of Defense determines that substantially all major combat units and assets have been returned from deployment in the Iraq theater of operations, whenever that might occur.

Third, it seems counterintuitive and completely out of logical sequence to attempt to review or implement the BRAC recommendations without having the benefit of studying the Quadrennial Defense Review, due in 2006, and its long-term planning recommendations. Therefore, the amendment requires that Congress receive the QDR and have an opportunity to study its planning recommendations as one of the conditions before implementing BRAC 2005.

Fourth and Fifth: BRAC should not go forward until the implementation and development by the Secretaries of Defense and Homeland Security of the National Maritime Security Strategy; and the completion and implementation of the Secretary of Defense's Homeland Defense and Civil Support Directive—only now being drafted. These two planning strategies should be key considerations before beginning any BRAC process.

Finally, once all these conditions have been met, the Secretary of Defense must submit to Congress, not later than one year after the occurrence of the last of these conditions, a report that assesses the relevant factors and recommendations identified by the Commission on Review of Overseas Base Structure; the return of our thousands of troops deployed in overseas garrisons that will return to domestic bases because of either overseas base reduction or the end of our deployments in the war; and, any relevant factors identified by the QDR that would impact, modify, negate or open to reconsideration any of the recommendations submitted by the Secretary of Defense for BRAC 2005.

This proposed delay only seems logical and fair. There is no need to rush into decisions, that in a few years from now, could turn out to be colossal mistakes. We can't afford to go back and rebuild installations or relocate high-cost support infrastructure at various points in this country once those installations have been closed or stripped of their valuable capacity to support critical missions.

Frankly, some of the recommendations made by the Department of Defense seem more driven by internal zeal to cut costs, than by sound military judgment. Several recommendations involving the consolidation of high value military air and naval assets at single locations seem to violate one of the most basic tenets of national security—that of ensuring strategic redundancy. Yes, the Cold War may no longer be a factor in military basing requirements, but after 9/11 is there any question in anybody's mind whether the threat to our country or our military installations has diminished—particularly as rogue countries and terrorist groups continue their quest for weapons of mass destruction?

The GAO, in its report of July 1, 2005, has even questioned whether this BRAC will achieve the savings that DoD contends it can achieve. GAO calculates the upfront investment costs of implementing this BRAC to be $24 billion and reveals that DoD's estimated savings of $50 billion NPV over 20 years is largely illusory—incorrectly claiming 47 percent of the savings from military personnel that are not eliminated at all from the services, but only transferred to different installations.

There are many questions I and many of my colleagues have about the wisdom of the timing of this BRAC round and the prudence of some of its recommendations and I will return to the floor to speak to many of these as this amendment is considered. Again, I am not opposed to the BRAC process. But I do question whether this is the right time to begin a new round of domestic base closures and massive relocations of manpower and equipment.

I, therefore, offer this amendment today and call upon my colleagues to join us in this debate and support its passage.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I thank the Senator for bringing this amendment. There are some very distinguished cosponsors. It would be my expectation to reply to the Senator in brief tonight following this vote because I think some record should be made today. The Senator made his statement on the side of the proponents, and I need time within which to evaluate since I have just received this document, but I will be prepared, following this vote, to make some reply, and I hope that my colleague would likewise.

Mr. LEVIN. Would the chairman yield?

Mr. WARNER. Yes.

Mr. LEVIN. Now, I assume this amendment will be laid aside similar to other pending amendments.

Mr. THUNE. That is correct.

Mr. LEVIN. I assume that in addition to the debate taking place tonight on this amendment, it could also take place tomorrow, along with a number of other amendments which at least will be debated tomorrow. I hope this might be one of those amendments that could be debated tomorrow, in addition to the comments that the chairman would make.

Mr. WARNER. The Senator is correct. Given the importance of this amendment and the interest in this amendment, I wish to lay down some parameters tonight about my concerns.

Mr. LEVIN. I join in those concerns, and I agree that there should be some response tonight.

Mr. WARNER. Would the Senator be available for further debate tomorrow?

Mr. THUNE. If that is the chairman's wish, we could make that arrangement.

Mr. WARNER. Perhaps we can discuss it.

AMENDMENTS NOS. 1390 THROUGH 1400, EN BLOC

Mr. WARNER. I ask unanimous consent that the vote be delayed for a few minutes because we have a series of amendments at the desk which have been cleared by myself and the distinguished Senator from Michigan. I ask unanimous consent that the Senate consider these amendments en bloc, that the amendments be agreed to and the motions to reconsider be laid upon the table.

I ask that any statements relating to any of these individual amendments be printed in the RECORD.

Mr. LEVIN. We have no objection and support that.

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

The amendments were agreed to, as follows:

AMENDMENT NO. 1390

(Purpose: To increase the authorized number of Defense Intelligence Senior Executive Service employees)

At the end of title XI, add the following:

SEC. 1106. INCREASE IN AUTHORIZED NUMBER OF DEFENSE INTELLIGENCE SENIOR EXECUTIVE SERVICE EMPLOYEES.

Section 1606(a) of title 10, United States Code, is amended by striking ''544'' and inserting ''the following:

''(1) In fiscal year 2005, 544.

''(2) In fiscal year 2006, 619.

''(3) In fiscal years after fiscal year 2006, 694.''.

AMENDMENT NO. 1391

(Purpose: To provide for cooperative agreements with tribal organizations relating to the disposal of lethal chemical agents and munitions)

On page 378, between lines 10 and 11, insert the following:

SEC. 3___. CLARIFICATION OF COOPERATIVE AGREEMENT AUTHORITY UNDER CHEMICAL DEMILITARIZATION PROGRAM.

(a) IN GENERAL.—Section 1412(c)(4) of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521(c)(4)), is amended—

(1) by inserting ''(A)'' after ''(4)'';

(2) in the first sentence—

(A) by inserting ''and tribal organizations'' after ''State and local governments''; and

(B) by inserting ''and tribal organizations'' after ''those governments'';

(3) in the third sentence—

(A) by striking ''Additionally, the Secretary'' and inserting the following:

''(B) Additionally, the Secretary''; and

(B) by inserting ''and tribal organizations'' after ''State and local governments''; and

(4) by adding at the end the following:

''(C) In this paragraph, the term 'tribal organization' has the meaning given the term in section 4(*l*) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(*l*)).''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a)—

(1) take effect on December 5, 1991; and

(2) apply to any cooperative agreement entered into on or after that date.

AMENDMENT NO. 1392

(Purpose: To provide for the provision by the White House Communications Agency of audiovisual support services on a nonreimbursable basis)

At the end of subtitle A of title IX, add the following:

SEC. 903. PROVISION OF AUDIOVISUAL SUPPORT SERVICES BY THE WHITE HOUSE COMMUNICATIONS AGENCY.

(a) PROVISION ON NONREIMBURSABLE BASIS.—Section 912 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2623; 10 U.S.C. 111 note) is amended—

(1) in subsection (a)—

(A) in the subsection caption, by inserting ''AND AUDIOVISUAL SUPPORT SERVICES'' after ''TELECOMMUNICATIONS SUPPORT''; and

(B) by inserting ''and audiovisual support services'' after ''provision of telecommunications support''; and

(2) in subsection (b), by inserting ''and audiovisual'' after ''other than telecommunications''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 1, 2005, and shall apply with respect to the provision of audiovisual support services by the White House Communications Agency in fiscal years beginning on or after that date.

AMENDMENT NO. 1393

(Purpose: To establish the United States Military Cancer Institute)

At the end of subtitle C of title IX, add the following:

SEC. 924. UNITED STATES MILITARY CANCER INSTITUTE.

(a) ESTABLISHMENT.—Chapter 104 of title 10, United States Code, is amended by adding at the end the following new section:

''§ 2117. United States Military Cancer Institute

''(a) ESTABLISHMENT.—(1) There is a United States Military Cancer Institute in the University. The Director of the United States Military Cancer Institute is the head of the Institute.

''(2) The Institute is composed of clinical and basic scientists in the Department of Defense who have an expertise in research, patient care, and education relating to oncology and who meet applicable criteria for participation in the Institute.

''(3) The components of the Institute include military treatment and research facilities that meet applicable criteria and are designated as affiliates of the Institute.

''(b) RESEARCH.—(1) The Director of the United States Military Cancer Institute shall carry out research studies on the following:

''(A) The epidemiological features of cancer, including assessments of the carcinogenic effect of genetic and environmental factors, and of disparities in health, inherent or common among populations of various ethnic origins.

''(B) The prevention and early detection of cancer.

''(C) Basic, translational, and clinical investigation matters relating to the matters described in subparagraphs (A) and (B).

''(2) The research studies under paragraph (1) shall include complementary research on oncologic nursing.

''(c) COLLABORATIVE RESEARCH.—The Director of the United States Military Cancer Institute shall carry out the research studies under subsection (b) in collaboration with other cancer research organizations and entities selected by the Institute for purposes of the research studies.

''(d) ANNUAL REPORT.—(1) Promptly after the end of each fiscal year, the Director of the United States Military Cancer Institute shall submit to the President of the University a report on the results of the research studies carried out under subsection (b).

''(2) Not later than 60 days after receiving the annual report under paragraph (1), the President of the University shall transmit such report to the Secretary of Defense and to Congress.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

''2117. United States Military Cancer Institute.''.

AMENDMENT NO. 1394

(Purpose: To make available, with an offset, an additional $1,000,000 for research, development, test, and evaluation, Army, for the Telemedicine and Advanced Technology Research Center)

At the end of subtitle B of title II, add the following:

SEC. 213. TELEMEDICINE AND ADVANCED TECHNOLOGY RESEARCH CENTER.

(a) ADDITIONAL AMOUNT FOR RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY.—The amount authorized to be appropriated by section 201(1) for research, development, test, and evaluation for the Army is hereby increased by $1,000,000.

(b) AVAILABILITY OF AMOUNT.—Of the amount authorized to be appropriated by section 201(1) for research, development, test, and evaluation for the Army, as increased by subsection (a), $1,000,000 may be available for Medical Advanced Technology (PE #603002A) for the Telemedicine and Advanced Technology Research Center.

(c) OFFSET.—The amount authorized to be appropriated by section 101(4) for procurement of ammunition for the Army is hereby reduced by $1,000,000, with the amount of the reduction to be allocated to amounts available for Ammunition Production Base Support, Production Base Support for the Missile Recycling Center (MRC).

AMENDMENT NO. 1395

(Purpose: To make available, with an offset, $5,000,000 for research, development, test, and evaluation, Navy, for the design, development, and test of improvements to the towed array handler)

At the end of subtitle B of title II, add the following:

SEC. 213. TOWED ARRAY HANDLER.

(a) AVAILABILITY OF AMOUNT.—Of the amount authorized to be appropriated by section 201(2) for research, development, test, and evaluation for the Navy, the amount available for Program Element 0604503N for the design, development, and test of improvements to the towed array handler is hereby increased by $5,000,000 in order to increase the reliability of the towed array and the towed array handler by capitalizing on ongoing testing and evaluation of such systems.

(b) OFFSET.—Of the amount authorized to be appropriated by section 201(2) for research, development, test, and evaluation for the Navy, the amount available for Program Element 0604558N for new design for the Virginia Class submarine for the large aperture bow array is hereby reduced by $5,000,000.

AMENDMENT NO. 1396

(Purpose: To authorize $5,500,000 for military construction for the Army for the construction of a rotary wing landing pad at Fort Wainwright, Alaska, and to provide an offset of $8,000,000 by canceling a military construction project for the construction of an F-15E flight simulator facility at Elmendorf Air Force Base, Alaska)

On page 310, in the table following line 16, strike ''$39,160,000'' in the amount column of the item relating to Fort Wainwright, Alaska, and insert ''$44,660,000''.

On page 311, in the table preceding line 1, strike the amount identified as the total in the amount column and insert ''$2,000,622,000''.

On page 313, line 4, strike ''$2,966,642,000'' and insert ''$2,972,142,000''.

On page 313, line 7, strike ''$1,007,222,000'' and insert ''$1,012,722,000''.

On page 326, in the table following line 4, strike ''$92,820,000'' in the amount column of the item relating to Elmendorf Air Force Base, Alaska, and insert ''$84,820,000''.

On page 326, in the table following line 4, strike the amount identified as the total in the amount column and insert ''$1,040,106,000''.

On page 329, line 8, strike ''$3,116,982,000'' and insert ''$3,008,982,000''.

On page 329, line 11, strike ''$923,106,000'' and insert ''$915,106,000''.

AMENDMENT NO. 1397

(Purpose: To reduce funds for an Army Aviation Support Facility for the Army National Guard at New Castle, Delaware, and to modify other military construction authorizations)

On page 326, in the table following line 4, strike the item relating to Los Angeles Air Force Base, California.

On page 326, in the table following line 4, strike ''$6,800,000'' in the amount column of the item relating to Fairchild Air Force Base, Washington, and insert ''$8,200,000''.

On page 326, in the table following line 4, strike the amount identified as the total in the amount column and insert ''$1,047,006,000''.

On page 329, line 8, strike ''$3,116,982,000'' and insert ''$3,115,882,000''.

On page 329, line 11, strike ''$923,106,000'' and insert ''$922,006,000''.

On page 336, line 22, strike ''$464,680,000'' and insert ''$445,100,000''.

On page 337, line 2, strike ''$245,861,000'' and insert ''$264,061,000''.

On page 337, between lines 4 and 5, insert the following:

SEC. 2602. SPECIFIC AUTHORIZED ARMY NATIONAL GUARD CONSTRUCTION PROJECTS.

(a) CAMP ROBERTS, CALIFORNIA.—Of the amount authorized to be appropriated for the Department of the Army for the Army National Guard of the United States under section 2601(1)(A)—

(1) $1,500,000 is available for the construction of an urban combat course at Camp Roberts, California; and

(2) $1,500,000 is available for the addition or alteration of a field maintenance shop at Fort Dodge, Iowa.

SEC. 2603. CONSTRUCTION OF FACILITIES, NEW CASTLE COUNTY AIRPORT AIR GUARD BASE, DELAWARE.

Of the amount authorized to be appropriated for the Department of the Air Force for the Air National Guard of the United States under section 2601(3)(A)—

(1) $1,400,000 is available for the construction of a security forces facility at New Castle County Airport Air Guard Base, Delaware; and

(2) $1,500,000 is available for the construction of a medical training facility at New Castle County Airport Air Guard Base, Delaware.

AMENDMENT NO. 1398

(Purpose: Relating to the LHA Replacement Ship)

On page 18, beginning on line 20, strike ''and advance construction'' and insert ''advance construction, detail design, and construction''.

On page 19, beginning on line 10, strike ''fiscal year 2007'' and insert ''fiscal year 2006''

On page 19, between lines 18 and 19, insert the following:

(e) FUNDING AS INCREMENT OF FULL FUNDING.—The amounts available under subsections (a) and (b) for the LHA Replacement ship are the first increments of funding for the full funding of the LHA Replacement (LHA(R)) ship program.

AMENDMENT NO. 1399

(Purpose: To provide for the transfer of the Battleship U.S.S. Iowa (BB–61))

Strike section 1021 and insert the following:

SEC. 1021. TRANSFER OF BATTLESHIPS.

(a) TRANSFER OF BATTLESHIP WISCONSIN.—The Secretary of the Navy is authorized—

(1) to strike the Battleship U.S.S. WISCONSIN (BB–64) from the Naval Vessel Register; and

(2) subject to section 7306 of title 10, United States Code, to transfer the vessel by gift or otherwise provided that the Secretary requires, as a condition of transfer, that the transferee locate the vessel in the Commonwealth of Virginia.

(b) TRANSFER OF BATTLESHIP IOWA.—The Secretary of the Navy is authorized—

(1) to strike the Battleship U.S.S. IOWA (BB–61) from the Naval Vessel Register; and

(2) subject to section 7306 of title 10, United States Code, to transfer the vessel by gift or otherwise provided that the Secretary requires, as a condition of transfer, that the transferee locate the vessel in the State of California.

(c) INAPPLICABILITY OF NOTICE AND WAIT REQUIREMENT.—Notwithstanding any provision of subsection (a) or (b), section 7306(d) of title 10, United States Code, shall not apply to the transfer authorized by subsection (a) or the transfer authorized by subsection (b).

(d) REPEAL OF SUPERSEDED REQUIREMENTS AND AUTHORITIES.—

(1) Section 1011 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 421) is repealed.

(2) Section 1011 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 112 Stat. 2118) is repealed.

AMENDMENT NO. 1400

(Purpose: To improve the management of the Armed Forces Retirement Home)

At the end of subtitle D of title VI, add the following:

SEC. 642. IMPROVEMENT OF MANAGEMENT OF ARMED FORCES RETIREMENT HOME.

(a) REDESIGNATION OF CHIEF OPERATING OFFICER AS CHIEF EXECUTIVE OFFICER.—

(1) IN GENERAL.—Section 1515 of the Armed Forces Retirement Home Act of 1991 (24 U.S.C. 415) is amended—

(A) by striking ''Chief Operating Officer'' each place it appears and inserting ''Chief Executive Officer''; and

(B) in subsection (e)(1), by striking ''Chief Operating Officer's'' and inserting ''Chief Executive Officer's''.

(2) CONFORMING AMENDMENTS.—Such Act is further amended by striking ''Chief Operating Officer'' each place it appears in a provision as follows and inserting ''Chief Executive Officer'':

(A) In section 1511 (24 U.S.C. 411).
(B) In section 1512 (24 U.S.C. 412).
(C) In section 1513(a) (24 U.S.C. 413(a)).
(D) In section 1514(c)(1) (24 U.S.C. 414(c)(1)).
(E) In section 1516(b) (24 U.S.C. 416(b)).
(F) In section 1517 (24 U.S.C. 417).
(G) In section 1518(c) (24 U.S.C. 418(c)).
(H) In section 1519(c) (24 U.S.C. 419(c)).
(I) In section 1521(a) (24 U.S.C. 421(a)).
(J) In section 1522 (24 U.S.C. 422).
(K) In section 1523(b) (24 U.S.C. 423(b)).
(L) In section 1531 (24 U.S.C. 431).

(3) CLERICAL AMENDMENTS.—(A) The heading of section 1515 of such Act is amended to read as follows:

''SEC. 1515. CHIEF EXECUTIVE OFFICER.''.

(B) The table of contents for such Act is amended by striking the item relating to section 1515 and inserting the following new item:

''Sec. 1515. Chief Executive Officer.''.

(4) REFERENCES.—Any reference in any law, regulation, document, record, or other paper of the United States to the Chief Operating Officer of the Armed Forces Retirement Home shall be considered to be a reference to the Chief Executive Officer of the Armed Forces Retirement Home.

(b) PHYSICIANS AND DENTISTS FOR EACH RETIREMENT HOME FACILITY.—Section 1513 of such Act (24 U.S.C. 413) is amended—

(1) in subsection (a), by striking ''subsection (b)'' and inserting ''subsections (b), (c), and (d)''; and

(2) by adding at the end the following new subsection:

''(c) PHYSICIANS AND DENTISTS FOR EACH RETIREMENT HOME FACILITY.—(1) In providing for the health care needs of residents under subsection (c), the Retirement Home shall have in attendance at each facility of the Retirement Home, during the daily business hours of such facility, a physician and a dentist, each of whom shall have skills and experience suited to residents of such facility.

''(2) In providing for the health care needs of residents, the Retirement shall also have available to residents of each facility of the Retirement Home, on an on-call basis during hours other than the daily business hours of such facility, a physician and a dentist each of whom have skills and experience suited to residents of such facility.

''(3) In this subsection, the term 'daily business hours' means the hours between 9 o'clock ante meridian and 5 o'clock post meridian, local time, on each of Monday through Friday.''.

(c) TRANSPORTATION TO MEDICAL CARE OUTSIDE RETIREMENT HOME FACILITIES.—Section 1513 of such Act is further amended—

(1) in the third sentence of subsection (b), by inserting '', except as provided in subsection (d),'' after ''shall not''; and

(2) by adding at the end the following new subsection:

''(d) TRANSPORTATION TO MEDICAL CARE OUTSIDE RETIREMENT HOME FACILITIES.—The Retirement Home shall provide to any resident of a facility of the Retirement Home, upon request of such resident, transportation to any medical facility located not more than 30 miles from such facility for the provision of medical care to such resident. The Retirement Home may not collect a fee from a resident for transportation provided under this subsection.''.

(d) MILITARY DIRECTOR FOR EACH RETIREMENT HOME.—Section 1517(b)(1) of such Act (24 U.S.C. 417(b)(1)) is amended by striking ''a civilian with experience as a continuing care retirement community professional or''.

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

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

The motion to lay on the table was agreed to.

Mr. BIDEN. Mr. President, for over 3 years, we have heard that our most important national security priority is to ''keep the world's deadliest weapons out of the hands of the world's most dangerous people.'' One of the best ways to do that is to secure the world's stocks of fissile material and to destroy such material that is no longer needed for the nuclear weapons programs of the five accepted nuclear weapons states.

The Cooperative Threat Reduction program, also known as the Nunn-Lugar program, is an important mechanism for achieving this vital objective.

For over a dozen years, Nunn-Lugar has funded the destruction of Russian long-range ballistic missiles, nuclear warheads, and chemical weapons, as well as improved security for Russia's nuclear and chemical weapons. This program has furthered Russian compliance with bilateral and multilateral arms control treaties, and it has done so with great transparency. In short, Nunn-Lugar has been a consistent contributor to our national security.

Experts report, however, that since 9/11, the pace of Nunn-Lugar activities has fallen off. Fewer arms are being destroyed and there has been a major delay in activities due to disagreements with Russia over access to activities and liability protection for contractors associated with the program.

Another major impediment to Nunn-Lugar activities has been the need either to meet onerous certification requirements or to prepare an annual report justifying Presidential waivers of those certification requirements. This is a needless waste of resources.

Worse yet, the certification and waiver requirements often lead to gaps of several months in the flow of funds to Nunn-Lugar projects. Those projects are not undertaken out of the goodness of our hearts; rather, they are designed

to improve our national security by lessening the risk that rogues or terrorists will acquire weapons of mass destruction.

So, what is the point of requiring onerous certifications or waiver reports? The only effect of those requirements is to slow the process of improving our national security.

The truth is that the certification requirements were imposed by people who questioned the wisdom of Nunn-Lugar in the first place. And I cannot believe that anybody could doubt the usefulness of Nunn-Lugar today, given its proven record of achieving U.S. objectives.

If we are serious, then, about ''keeping the world's deadliest weapons out of the hands of the world's most dangerous people,'' the time has come to pursue that goal more efficiently.

In particular, the time has come to stop putting roadblocks in the way of the Nunn-Lugar program, as we use that program to secure and destroy weapons of mass destruction that might otherwise fall into ''most dangerous'' hands.

The Lugar-Levin amendment will clear a major roadblock from the path to national security. I urge all my colleagues to support it.

Mr. WARNER. Mr. President, at this time, I yield to the Senator from Indiana.

Mr. LUGAR. I ask unanimous consent that Senators LANDRIEU, SUNUNU, BAYH, SMITH, and CARPER be added as cosponsors to my amendment.

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

The question is on agreeing to the Lugar amendment.

Mr. WARNER. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays are ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. The following Senators were necessarily absent: the Senator from Mississippi (Mr. COCHRAN) and the Senator from Tennessee (Mr. FRIST).

Mr. DURBIN. I announce that the Senator from California (Mrs. BOXER) is necessarily absent.

I further announce that, if present and voting, the Senator from California (Mrs. BOXER), would vote ''yea.''

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

The result was announced—yeas 78, nays 19, as follows:

[Rollcall Vote No. 200 Leg.]

YEAS—78

Akaka	Bingaman	Chafee
Alexander	Bond	Clinton
Allen	Brownback	Coburn
Baucus	Burns	Coleman
Bayh	Byrd	Collins
Bennett	Cantwell	Conrad
Biden	Carper	Corzine
Craig	Johnson	Nelson (NE)
Crapo	Kennedy	Obama
Dayton	Kerry	Pryor
DeWine	Kohl	Reed
Dodd	Landrieu	Reid
Domenici	Lautenberg	Rockefeller
Dorgan	Leahy	Salazar
Durbin	Levin	Sarbanes
Enzi	Lieberman	Schumer
Feingold	Lincoln	Smith
Feinstein	Lott	Snowe
Graham	Lugar	Specter
Gregg	Martinez	Stabenow
Hagel	McCain	Stevens
Harkin	McConnell	Sununu
Hatch	Mikulski	Thomas
Hutchison	Murkowski	Thune
Inouye	Murray	Voinovich
Jeffords	Nelson (FL)	Wyden

NAYS—19

Allard	Ensign	Sessions
Bunning	Grassley	Shelby
Burr	Inhofe	Talent
Chambliss	Isakson	Vitter
Cornyn	Kyl	Warner
DeMint	Roberts	
Dole	Santorum	

NOT VOTING—3

Boxer	Cochran	Frist

The amendment (No. 1380) was agreed to.

Mr. WARNER. I move to reconsider the vote and lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Now, Mr. President, while we will not have further rollcall votes tonight, it is the intention of the managers to continue tonight to first clear package of amendments that we have, and then there may well be a lot of other Senators who want to discuss their amendments.

The Senate will come in tomorrow at such hour as specified by the leadership and there will be filed a cloture motion. Following that, the managers will entertain further amendments and have debate on those amendments. So we have made some progress. We still have a goal to complete this bill as early as we can next week, working with our leadership. But we will need the cooperation of Senators.

I again thank the Senator from South Dakota for bringing forth this very important amendment on BRAC. There remains a very important amendment by the distinguished Senator from Michigan and Mr. ROCKEFELLER and others. Perhaps the Senator from Michigan could give us some timetable as to when the Senate could expect to have an opportunity to debate that amendment.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, we are attempting to find a time for that amendment which fits not just the Senate schedule but a very important personal need, which I think the Senator from Virginia is aware of, of one of the cosponsors. We do have many amendments that we are going to be offered tomorrow. Apparently there is no plan for votes tomorrow; is that the Senator's understanding?

Mr. WARNER. Mr. President, my understanding is there will not be votes tomorrow.

Mr. LEVIN. Although there will be no votes tomorrow, we nonetheless are making an effort on this side, and I hope the chairman will do the same on his side, to have people debate amendments, lay down amendments, set them aside so we can vote on them next week. We are doing that on this side.

The idea that a cloture motion is filed on this bill, to me, is inappropriate. There is no filibuster of this bill. Everybody wants to handle amendments as quickly as possible to this bill, and the idea that there is a cloture motion filed on a bill where we are making progress, where people are offering amendments, and we are disposing of them, to me is inconsistent with what we have done as a body and should be doing as a body.

The PRESIDING OFFICER. The minority leader.

Mr. REID. Mr. President, to the two managers of this bill, I have said before and I say again, we could not have better managers. They do things on a bipartisan basis. This is an important bill. I have from this floor on other occasions this year talked about the need to go to this bill. I still believe that. I think it is important that we do this bill before we go home for the August recess. To think that yesterday was opening statements—I think it was yesterday, was is not? Yes. Today is Thursday. No votes tonight, no votes tomorrow, vote at 5 o'clock on Monday night—that is no way to legislate. To think that cloture will be invoked on this bill, we are here working with substantive amendments. We are not trying to slow things down, to stall things. I am a supporter of the legislation that the leader wants to bring up—not to jeopardize this bill. It is simply not fair.

I went to Walter Reed Monday. I saw lying in those beds men who are disfigured; their lives have changed forever. It is hard to get out of my mind's eye a young man there just turned 21 years old, blind in one eye, can't hear except a little bit out of one ear. I talked to another man lying there in bed; he was blown through the top of a Striker headfirst, which indicates how his head was injured. He is going to lose a leg.

We have to finish this bill. That is what we need to do. We have spent as much as 5 weeks on this bill. Should we not be able to spend 5 days on it? We have had 1 day to legislate on it. As the distinguished ranking member of the committee had indicated, we have lined up amendments for tomorrow, substantive amendments that relate to the subject matter of this legislation. We are ready to vote on them. Monday we will have people here ready to offer amendments. I think it is so unfair to people whom I visited at Walter Reed to not finish this bill and to invoke cloture on it.

So we are faced with this proposition. We have basically had 1 day. Cloture,

we will have a vote on it Monday. We have 1 day where we have votes. And the votes we had today, we didn't need to have most of them. Two of them were 100 to zero, or however many Senators we have here today. They passed unanimously. We agreed not to have votes. ''Yes, we want to have rollcall votes on them.'' Is it just to eat up time? My Democratic Senators are going to be asked Tuesday morning to vote for invocation of cloture on the Defense bill after they have had 1 day of debate, so the hue and cry will be from the majority, the Democrats are holding up the Defense bill. I want the RECORD to be spread with the fact that the Democrats are not holding up anything on this bill. We wanted to move to it months ago. It has been more than 2 months reported out of committee.

Everyone knows here how I like the trains to run on time. I like this place to be an orderly body to try to get things done. But this is not the way to get things done. I am terribly disappointed. I have expressed this personally to the majority leader. I told him what I was going to come to the floor and say. But he is also going to have criticism from others.

Moving off this, we have other things he has already indicated he would do: No. 1, the Native Hawaiian bill that the Senators from Hawaii have been waiting on for years to do. He has agreed, he has given us his word that we would move to that this time. When is that going to take place?

So I am terribly disappointed. I am terribly disappointed that we are in a situation where we are going to move off this bill. I don't know what legislation we could do that would be more important than the safety and security and to give proper resources to the men and women fighting all over this world in addition to giving them a pay raise.

Mr. President, I hope people will reconsider.

Mr. DORGAN. Will the Senator yield for a question?

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I wish to respond to our distinguished minority leader. I accept full responsibility for the timing and the management of this bill and making the decision that there would be no more votes tonight. My leader has entrusted me with that power, and I have so exercised it. I regret that it appears to the minority leader, a very valued and dear colleague in this Chamber, that it is not a proper course of action, but I accept that. We have a difference of opinion.

The fact that we will not have votes tonight will not deter my distinguished colleague and me as managers from continuing to work through amendments. We will both be here throughout tomorrow. We could stack a number of amendments which could be addressed on the afternoon of Monday at such time as the two leaders determine it would be appropriate.

As to the matter of cloture, again I accept full responsibility. This is the 27th Armed Services bill I have been privileged to be involved in. I believe that historically cloture is needed, particularly in the last week when colleagues, understandably, on both sides of the aisle have many matters of great interest to them and they desire to exercise their rights to amend this bill and otherwise to get a decision by the Senate as a body.

So I accept the responsibility. Whether we go ahead and as the cloture ripens we go forward, that is a matter I will work on with my leader in consultation. And if there is such progress made on a list of amendments that remain, I would wish to take into consideration the possibility we might not vote on it. But I feel I have to have that in place to efficiently work and manage this bill in the interim period between now and Tuesday morning.

But bottom line, I accept the responsibility. It is not that of the distinguished majority leader.

THE PRESIDING OFFICER. The Democratic leader.

Mr. REID. Through the Chair to the distinguished southern gentleman—he really is—the mere fact that we don't have votes tonight is the least of my worries. I do say that we do more than 1 day. I would say to the two managers of the bill, based on what the distinguished chairman of the committee has said, from what I have heard, if we all lay down a number of amendments, the Senator would be satisfied that we have done enough on the bill that he would not have to seek the invocation of cloture. I don't like that. I think this is one of the bills where people should be able to offer amendments that they want to, not only on this subject but others.

But I hope by tomorrow when the majority leader returns, we can have a better understanding of what is expected of the minority. We understand we are the minority, but we are a powerful minority and we have rights, as the distinguished Senator from Virginia knows.

So again, I hope the two managers of the bill would follow the suggestion of the distinguished Senator from Virginia as to what we need to do to make you feel late in the session that we have done what needs to be done where cloture does not have to be filed.

Mr. DORGAN. Will the Senator yield?

Mr. REID. I am happy to yield.

Mr. DORGAN. Mr. President, I am curious; my sense is that in years past, we have on occasion had the Defense authorization bill on the Senate floor for some significant length of time. The reason for that is this bill is a very large bill, it has significant policy questions engrained in it, and some are very controversial.

I observe, as did my colleague from Nevada, I have great admiration for the Senator from Virginia. He provides real leadership, as does the Senator from Michigan. I do hope we will not have cloture filed on this bill.

I am going to debate an amendment that will be offered in the morning. I will offer an amendment around lunchtime tomorrow, a separate amendment. I am sure many of our colleagues have amendments they wish to offer. I hope the opportunity for full debate will be available because this area is so critically important.

If I might take another moment, the amendment tomorrow deals with, as I understand it, the earth-penetrating bunker buster nuclear weapon, the amendment I will offer with respect to the development of a Truman-type commission to deal with contracting abuses—waste, fraud, and abuse, massive abuses which I will describe tomorrow. These are important issues. These are not small issues. They are big issues that require and demand significant debate and consideration.

I hope we will take the time we need as a Senate to sink our teeth into this bill, to improve on the wonderful work that has been done by the chairman and the ranking member. I hope we can avoid cloture. I do not believe it is necessary. I hope we will work through next week and finish a Defense authorization bill that we can all be proud of, that will strengthen and advance this country's efforts.

Mr. REID. I appreciate very much the statement of the Senator from North Dakota.

Let me say one additional thing. If a cloture motion is filed on this tomorrow, I have tentatively called a Democrat caucus for 5:45 Monday night. I personally am going to ask my members to not invoke cloture. We are doing a disservice to the people of this country and the men and women in the military to not have the opportunity to try to improve this bill. There are so many things that are left undone, some of which have been named this evening, that I believe we would be remiss if we did not fully debate this bill.

I say to my friend from Virginia—again, we are friends, and I say this in the most underlined and underscored fashion—it is not fair. We basically have spent today on the bill. We know what has happened around here in recent years. Fridays and Mondays, not much happens. We will try to change that. We just have not had an opportunity to spend any time on this bill. I have not been here 27 years, but I have been here 23 years. These Defense bills take a long time—certainly more than 2 or 3 days. It is so unfair.

As I have indicated to those within the sound of my voice, I understand the distinguished majority leader has a lot to do. The Senator from Virginia is the wrong person to direct this to. We wasted so much time on these five judges—I don't know how many weeks, but we have been in session 94 days, and we have spent 31 days on judges. That pretty much says it all.

Mr. KENNEDY. Will the Senator yield?

Mr. REID. I am happy to yield.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. As I remember, we spent 2 weeks of the Senate's time on the bankruptcy legislation, which is basically special interest for the credit card companies, and we spent 2 weeks on class action, which is special interest legislation. That is 4 weeks. We are asked now to spend less than a week debating the authorization for the fighting men and women after we spent 2 weeks for the credit card companies and 2 weeks for class action that will benefit special interests. And now we will be asked in less than 2 or 3 days to snuff off and silence debate on the issues affecting the men and women of this country on the first line of defense?

Mr. REID. I respond to my friend, add to that the 2 weeks and 2 weeks, add 31 legislative days on judges, and understand that wound up being five people, three of whom are now judges, two of whom are not. As I understand it, we have more than 400,000 men and women in the military, not counting Guard and Reserve. They are entitled to as much time as we spent on bankruptcy, as much time as we spent on class action, and certainly as much as we spent on five people, every one of whom had a job. They were not jobless.

There are more than 400,000 men and women, some of whom are out here in a hospital, in a bed because they cannot walk—at that hospital alone, there are more than 300 men and women who have lost limbs—and they deserve more than 2 or 3 days of Senate time.

Mr. DURBIN. Will the Senator yield?

Mr. REID. I am happy to yield.

Mr. DURBIN. It is my understanding if we go through this with the motion for cloture, it is the hope that we would spend the rest of next week finishing this bill? Is that the game plan?

Mr. REID. If cloture is invoked on the underlying bill—certainly people know the procedure around here better than I, but if cloture is invoked Tuesday morning, say 11 o'clock, add 30 hours to that, and that is when we would be finished.

Mr. DURBIN. And there would still be amendments? I ask through the Chair, Members could still offer amendments?

Mr. REID. During the 30 hours. Technically, you can.

Mr. DURBIN. Germane amendments.

Mr. REID. Make sure that people understand this: The mere fact that there are amendments that are valid postcloture does not mean they will allow a vote on them.

Mr. DURBIN. We have all learned that bitter lesson.

Let me ask the Senator. It is not a carefully guarded secret that part of the reason they want to move this bill off the Senate is so they can bring to the floor the National Rifle Association bill on gun manufacturers' liability before we leave for the August recess. So it is not just a matter of cloture to move the DOD bill, the Department of Defense bill, it is to make room and time for the National Rifle Association, another special interest group, so that they have more days to deliberate their bill than we may spend on this bill.

Mr. REID. Let me say to the distinguished Senator from Illinois in response to the question, the majority leader has the right to pull this bill. He can do that. He does not need to get cloture. Even though I would not be happy with doing that, he could go ahead anytime he wants to move off this bill and move to anything he wants to do because they have more votes than we have. He could do that. But at least if he did that, we could have an opportunity to complete this bill in an orderly fashion, not cut off debate willy-nilly.

So the answer to my distinguished friend's question is yes, but what it appears the majority wants to do is blame the minority for not allowing the Defense bill to go forward, and it has nothing to do with us. He has the right, today, to move off this and move on to gun liability, native Hawaiians, estate tax, flag burning, and all the other threats we have had around here.

Mr. DURBIN. Another question to the Senator from Nevada, and I think I know the answer: Is there anything more important than finishing the Department of Defense authorization bill in an orderly fashion when a nation is at war and men and women are risking their lives, as the Senator from Nevada noted?

Mr. REID. I say to my distinguished friend, we completed the Homeland Security appropriations bill last week. That was a pretty important bill because it protects our Nation. If we are not so inclined to help the men and women who have signed up to represent us and defend this country, this is not a good sign for this Senate. Therefore, I truly believe there is nothing more important that we could be doing in this Senate than finishing this bill in an orderly fashion. To think we will have one normal voting day on this—that is what it will amount to—before cloture is invoked. One day. Thursday. That is it because we do not work around here on Mondays and Fridays.

Mr. DURBIN. I ask one last question of the Senator from Nevada. It is my understanding today we have had two votes on this bill.

Mr. REID. We had one unanimous consent vote today on DOD and a vote on the Lugar amendment. I thought there would be something on Boy Scouts, but that never came to be, on an amendment offered by the majority leader.

Mr. DURBIN. I might ask the Senator, it is my understanding there are many amendments pending right now that we could debate.

Mr. REID. I believe there are six—I could be wrong, but something like that.

Mr. DURBIN. I have one pending.

Mr. LEVIN. Thirteen amendments pending.

Mr. WARNER. I say to my colleagues, I accept the responsibility. I listened carefully to these points. I suggest we all do our very best between now and Tuesday morning to put together a record of accomplishments to have the votes—they can be set up quite easily tomorrow, tonight, Monday—and we will reassess this situation.

Clearly, with the representations that underlie your statements that we need to move forward, with that momentum on that side, I would be very happy to match it on this side. I assure you it will be forthcoming. But I am not going to sit here and recount the number of instances today I have worked with Senators on both sides of the aisle—of which my distinguished colleague is aware—who, for various reasons, could not do this or that. And I respect that. But we have had a reasonable amount of work achieved today. So might I suggest at this point in time that we have made our case with all points. I accept responsibility. Let's go forward and see what we can achieve.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, there is nobody in this body I would rather work with than Senator WARNER. We have had this relationship, which is a very warm one, for as long as we have both been here, and we have been here the same length of time.

I want to tell Senator WARNER we are doing something unusual tomorrow and Monday in an effort to address the amendments which people want to offer. We are lining up people to speak on amendments, although they cannot get votes. Traditionally around here, there has been great resistance—and understandably—to offering amendments on one day if you cannot get a vote on that day because people want votes to come shortly after the debate so it will be fresh in people's mind.

We are making every effort to move this bill. We are having people lined up. We have them for tomorrow. We have them for Monday. We are willing, just in order to expedite consideration of this bill, to debate the bill on a Friday, although the votes cannot occur until a Tuesday. We are moving heaven and Earth. We are going out of our way to bring up amendments. But it is utterly unfair that a cloture motion be adopted which will cut off the opportunity of other Members to offer amendments under this circumstance. We are not delaying it. We are expediting this bill in every single way we know.

In terms of the question asked by a number of my colleagues, I cannot remember a Defense bill that just had 1 day for votes. Typically, we spend a good week on debate, maybe more—2 weeks, 3 weeks—on a Defense authorization bill. The idea that the cloture is filed on the second day to cut off debate on amendments seems to me unthinkable.

These are amendments aimed at improving this bill, strengthening this bill. That is the motive. We all have the same goal. We may differ when it comes to votes, but the motive is to strengthen this bill, to offer greater support for the men and women in the military. The idea that any one of those amendments might be cut off because technically they are not germane—although they are relevant—seems to me unthinkable.

I hope, No. 1, we will make progress; No. 2, that the majority would think about filing a cloture motion under these circumstances which would deny an opportunity to strengthen a bill which is so important to the men and women in the military.

Mr. WARNER. Now, Mr. President, the distinguished Senator from Michigan and I have cleared amendments. I would like to do them. Then I wish to entertain a colloquy with my colleague from South Dakota. Perhaps I will undergo that colloquy at this time.

AMENDMENT NO. 1389

Again, the Senator has very cooperative in bringing this amendment to the attention of the Senate. I have had a few minutes to go over it. Let's see if we can, as best we are able, define certain parameters with regard to the goals of this amendment and its impact on the existing law. I ask unanimous consent to have printed in the RECORD a detailed listing of the BRAC timeline.

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

2005 BRAC TIMELINE

SECDEF sends initial selection criteria to defense committees.	December 31, 2003
President submits proposed force structure.[a]	February 1, 2004
Sec/Def sends final selection criteria to defense committees; publishes criteria in Federal Register.	February 16, 2004
Criteria final, unless disapproved by Act of Congress ..	March 15, 2004
Congress receives interim report of Overseas Basing Commission.[b].	March 31, 2005
President transmits nine nominees for BRAC Commission to Senate for advice, consent and confirmation.[c].	NLT March 15, 2005
SECDEF sends closure/realignment list to Commission and defense committees; publishes in Federal Register.	NLT May 16, 2005
GAO reviews DOD's list; reports findings to President/defense committees.	July 1, 2005
Commission sends its recommendations to President ..	NLT September 8, 2005
President reviews Sec/Def's and Commission's list of recommendations and reports to Congress.[d].	NLT September 23, 2005
Commission may submit revised list in response to President's request for reconsideration.	NLT October 20, 2005
Final date for the President to approve and submit BRAC list to Congress (or process is terminated)[e].	November 7, 2005
Work of the closure/realignment Commission is terminated.	April 15, 2006

[a] SECDEF has option to submit revised force structure to Congress by Mar 15, 2005.
[b] Established by Congress in P.L. 108–132. Report date extended in PL 108–324.
[c] If President does not send nominations by required date, process is terminated.
[d] President prepares report containing approval or disapproval.
[e] Congress has 45 days to pass disapproving motion, or list becomes law.

Mr. WARNER. We have completed the GAO reviews of the DOD list and reported findings to the President and defense committees. That was done July 1. We are in the process and the Commission is having a series of hearings all across the country. The Commission sends its recommendations to the President on September 8. Thereafter, the President reviews the recommendations of the Secretary of Defense and the Commission's list of recommendations and reports to the Congress. That is September 23. Then the Commission may submit a revised list in response to the President's request no later than October 20. And the final date for the President to approve and submit the BRAC list to the Congress, or the process is terminated, is November 7. So that frames the current timetable.

Now, as I look over the Senator's—and I will go first to page 2, the section entitled: ''Actions Required Before Base Closure Round.''

The actions referred to in subsection (a)—

And that is essentially the timetable I have recounted here—

are the following actions:

(A) The complete analysis, consideration, and, where appropriate, implementation by the Secretary of Defense of the recommendations of the Commission on Review of Overseas Military Facility Structure of the United States.

I draw your attention to the word ''implementation.'' Now, this report, if finished, will be released August 15. But the implementation—I certainly have no facts before me at this time by which I could even conjecture how long it would take the Secretary of Defense to implement the recommendations of the Commission on Review of Overseas Military Facility Structure of the United States. So there is no determinate date at which time the provisions in (A) can be estimated; is that correct?

Mr. THUNE. Mr. President, the first criteria that deals with the Overseas BRAC Commission's findings and report would suggest that until those recommendations, until the analysis is complete, until that report has been carefully analyzed, and then ultimately it says implemented, ''where appropriate,'' by the Secretary of Defense is the condition to be met. It does not specify a specific date when that happens.

I think the answer, through the Chair, to the chairman's question is that the notion of having a domestic round of closures occur before decisions are made with respect to the basing needs overseas and some of the recommendations that have been brought forward by the Overseas BRAC Commission—that process would be completed prior to the implementation of the domestic BRAC recommendations.

Mr. WARNER. Mr. President, our colloquy is addressed through the Chair. It is the word ''implementation.'' It could be that analysis could be completed—consideration. But the ''implementation'' leaves an indeterminate date for (A). I think we both agree on that point.

Going to the next point:

The return from deployment in the Iraq theater of operations of substantially all (as determined by the Secretary of Defense) major combat units and assets of the Armed Forces.

Now, our President, I think quite wisely, and the Secretary of Defense have avoided any reference to a timetable with respect to the achieving of our goals in Iraq; namely, allowing that country to form its government, to provide for itself that measure of security to protect the sovereignty and, hopefully, law and order in that country, at which time it is expected that our President and the coalition leaders will make a determination as to the redeployment from the theater in Iraq of substantially all of the major combat units. So that clearly is a very difficult condition to meet in terms of when that could be completed, that with even conjecture, we cannot anticipate when that will be completed—unless you have facts that I am not aware of.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. THUNE. Thank you, Mr. President. I appreciate the Chair giving me an opportunity to respond to the question. I think what the Senator from Virginia is asking is if there is a definitive timetable in the amendment. The answer is no, there is not. This does not involve a timetable. We are not suggesting in this amendment that there be any timetable. All we are simply saying is that the Secretary of Defense can determine at what point the return from deployment of personnel who are stationed in Iraq as a result of some drawdown of the operation there is substantial. That is a determination which, as you can see, we leave to the Secretary of Defense.

Mr. WARNER. Well, it is the words ''return from deployment.'' That, clearly, in the mind of this Senator, means all the major, as determined by the Secretary of Defense, combat units. It is not difficult for me to define what are major combat units. What I cannot estimate in any way reasonably, and nor should I, because it would impinge upon the President's decision—a correct one—not to try to set a timetable. So anyway, I will move on. But that is a very indeterminate condition, to me.

We then go to (C). Now, I am told that report is likely to be finished by March of next year.

Then let's go now to (D):

The complete development and implementation by the Secretary of Defense and the Secretary of Homeland Security of the National Maritime Security Strategy.

Now, I can possibly conjecture or maybe even estimate when the development would be completed by the two Secretaries, but I certainly would not be able to determine, nor can anyone else, in my judgment, when there would be implementation. So there is another open-ended criteria. Am I incorrect?

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. THUNE. I thank you, Mr. President.

I say to the Senator from Virginia, if you are looking for, again, a specific timeline on this, I think these were probably condition (D) and condition

(E) you were referring to. It may be more easily defined if you are looking for a specific time, although I do not think that is specified here. But these are conditions. These are not specific timelines. We are not saying that the BRAC shall be delayed until March of 2006, although with the QDR that becomes a little more clear.

But these are conditions in the same way that I think our military leadership and the President have said the withdrawal from Iraq ought to be condition-based. These are conditions that would have to be met before the domestic BRAC recommendations would be implemented.

Mr. WARNER. What I am trying to convey, Mr. President, to my distinguished colleague is that the criteria you have established for a new timetable, which, again, is in a subsequent paragraph—that is in paragraph (2) on page 4—and I read it—

The report required under subparagraph (F) of paragraph (1) shall be submitted not later than one year after the occurrence of the last action described in subparagraphs (A) through (E) of such paragraph.

So you add possibly up to a year on a whole set of indeterminate schedules up here. Now, I think I have made my point.

I want to put this question to the Senator. As our colleagues have the opportunity—as we are now doing—to look at this and to either determine how best they can vote to protect the interests of their State and to protect the interests of the country, as we go through this very difficult process of BRAC this is my fifth one. It is not easy. I think they have to suddenly recognize the indeterminate schedule, as laid out by this amendment, will hold in limbo the whole BRAC process for, it could be, up to 2 years. I just throw the quick estimate out of 2 years. That 2-year period poses a frightful situation for the communities that will have had by that time the report of the BRAC Commission, which will send its recommendations to the President on September 8.

So this amendment does not stop that process going forward. I am correct on that; am I not?

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. THUNE. Mr. President, again, the Senator from Virginia is correct in that the timeline you gave me, the current BRAC timeline, is not impacted until the President would act and make the recommendation to the Congress.

Mr. WARNER. That is fine. But on September 8, all the communities would know what is final, what is decided by the Commission on the President's original list that went up, which bases, facilities will be closed, realigned, whatever the case may be. It is a wide spectrum of decisions. Then they are subject to other additions, which they are in the process of going through. And they are permitted by law.

So there it is: The BRAC Commission report is out, and these communities have to now cope with the high probability, under this amendment, were it to be adopted—2 years have lapsed. In the meantime, how can they attract new business as a consequence of such facility, the military they have? The businesses that are serving indirectly or directly the military facilities in that community, do they decide to put in new capital and continue to modernize their business to do their responsible actions to support that facility?

You put a cloud of indecision and doubt over all the communities that will be affected by this September 8 decision. And BRAC is onerous in its own schedule right here. It is extremely hard. And now to take and hold these communities, literally, in irons for a period of 2 years until, if the amendment were adopted, certain adjustments might be made in the final Presidential decision—I just find this amendment, with all due respect to my good friend and colleague, who is a member of our committee, as one that will impose on communities a very severe hardship. I am not sure the Congress will want to do that. I say that to you in all respect.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. THUNE. Mr. President, if I could respond to the very distinguished chairman of our committee. And I do appreciate his leadership on our committee. I appreciate his sensitivity to the impact that these decisions are going to have on communities all across this country.

But I would also submit that when the conditions are met, a timeline should not be a prerequisite where national security is involved. This is the exact same argument we are now making with respect to our involvement in Iraq, that we cannot subscribe to a specific timeline. It is a conditions-based approach that we are adopting there. This would simply say that these are conditions that, when they are met, would trigger that next step in the BRAC process, which ultimately is the approval by this body. It comes back to the Congress.

The Congress would have an opportunity, then, after they have evaluated the recommendations in the QDR, after they have gotten a better handle on that and the Defense Department has had a chance to review the recommendations with respect to overseas basing needs and we have gotten a better idea about what our domestic needs are going to be when these troops start returning to this country. I think those are conditions for which at this point in time it is unwise for us to be moving forward at this fast pace.

I would simply add what the Overseas Basing Commission in their recommendations said; and that is, if the Congress moves too quickly on domestic basing decisions, it could weaken our global posture and, furthermore, that we need to proceed with caution. I believe that the conditions we have included here are things that, as a Congress—as a Member of the Senate—I would want to know before I make a vote on a final list of recommendations.

Now, the Senator is correct, it is fair to say there will be communities, after August 22, perhaps—which I think is when the markup is—that will know whether they are on or off the list.

At the same time, what we are saying is, those communities may or may not stay on that list. In fact, when the Congress has had an opportunity to review some of these conditions that are included in this legislation, they may decide not to vote in favor of those recommendations. I don't think the door is closed, I say to the Senator from Virginia, at the time when the list is approved by the BRAC Commission and submitted to the President.

Mr. WARNER. One last point, and then perhaps the distinguished ranking member would like to be engaged in this debate. One of the aspects of the BRAC process that has always troubled this Senator is the duty, beginning with the Governor of the State and the congressional delegation, to encourage the communities, with their support, to do everything they can to question such decisions as may be made regarding installations within that State and the several communities.

In doing so, they engage in those activities which are quite normal—hire lobbyists, experts to come in and help them. That whole infrastructure then essentially has to be kept in place for maybe up to another 2 years at an enormous cost to these communities. I will argue strenuously, when we get into further debate on the Senator's amendment, that the amendment, no matter how well-intended, will inflict on communities across this land affected by BRAC an unusual punishment that certainly I do not believe any of us would want to do.

Therefore, I urge my colleagues to vote against this amendment.

Mr. THUNE. Will the Senator yield on that point?

Mr. WARNER. Yes.

Mr. THUNE. If I could make one comment, I understand what the chairman is saying with respect to some of these communities. I think a lot of these communities would welcome the opportunity to keep fighting for a couple of years. I also know firsthand, because I have a community that is involved, about the costs that are associated with a long, drawn-out, protracted campaign. Many of these communities have been in that process literally since the last round in 1995. Much of that expense concludes when the BRAC makes its recommendation. For all intents and purposes, what you are left with, once the recommendations are out there, is final approval by the President and the Congress. My assumption would be that in terms of the cost for consultants and all the costs

associated with analyzing data and making presentations to the BRAC, many of those costs are now sunk. Those are costs that are going to be concluded, by the time August 22nd rolls around and these recommendations are out there.

I hear what the chairman is saying. I don't think that is an issue that many of these communities that are fighting to keep their bases are most concerned with. I think they would welcome the opportunity to keep the fight going.

Mr. WARNER. My last question on that point, there will be an enormous amount of data generated, information and decisionmaking that will take place should the Senator's amendment become law. Is he suggesting that the communities then will have no participation in the deliberations as to how that data may or may not affect the decision of the Secretary of Defense regarding the prior decision of the Base Closure Commission and how the Secretary of Defense is to advocate? I just cannot see this amount of data and decision being made by all of these various tribunals and organizations and that the communities just have to sit there and fold their hands and let the executive branch go backwards and forwards until the President then submits something to the Congress.

Mr. THUNE. I am not sure I fully understand the question except that it seems to me if what you are suggesting is that somehow they are going to continue, once the BRAC Commission makes its final recommendations, to have to appeal this to the Secretary of Defense, I don't understand the process to work that way. Ultimately, what they are left with is a decision by the President and final subsequent approval by the Congress. It seems to me, once you get past this point in the process, when August 22nd is reached and those recommendations are made by the BRAC Commission, it then becomes a function of the President.

What our bill would do is trigger the BRAC period moving forward, going forward from the time the recommendations are submitted to Congress, the 45-day period. So most communities would then be lobbying members of their congressional delegation, if they are on the list, I suspect, to vote no when that final vote would come.

Mr. WARNER. I understand that. But it seems to me, if you look at all of the information, data, reports in A, B, C, D, E, and F, to me, in fairness, the communities should have some involvement as to how that information may or may not impact the decision with regard to their community rendered by the BRAC Commission. I just can't see that everybody is going to fold their hands. If you are going to delay it for 2 years, some provision should be made to allow the active participation, once again, by the communities after this massive amount of data is brought into the public domain. I make that observation.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. THUNE. Mr. President, one final observation. My expectation would be that if we get this, if there is a download of information as a result of QDR and some of these other conditions that we impose, that Congress would hold hearings. The public would have an opportunity, through a congressional process, through their elected representatives, to be heard on the subject that the conditions would address.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I, too, oppose the amendment for the reasons which were set forth by the chairman. But, in addition, I have some other thoughts about this process. Each one of our States has gone through a tremendous period of anxiety. As it turns out, some of that anxiety was well based because they are on the list. For those States that did better than expected or better than their worst fears, it seems to me this amendment will throw them right back into that state of anxiety because by definition, this makes it more likely because of the uncertainty that is injected. And because of the delay in the final disposition, more States will be thrown right back into the position of being very nervous and anxious as to whether their bases and their facilities might be hit by a base-closing round. In other words, there is no finality. It is a totally uncertain finish, not just 2 years.

We don't know when substantially all major combat units from Iraq will be withdrawn. I would be very concerned that in addition to the arguments which the Senator from Virginia made, we have many States that hired consultants, that made major presentations, that now are going to be put back into a state of limbo because they will then say: Well, we are not going to know whether we are basically off the hook for years, potentially many years. So those that breathe a sigh of relief by this list or did better than their worst fears or better than expected are now going to be put in a position where they are going to have to say: This could go on for years. We better keep these consultants on board. We better continue to be nervous about this for some indefinite period of time.

There are many uncertainties that are created and a great degree of pain that will be inflicted if we continue this process for some unlimited period.

As I understand the Senator's amendment, he would complete the process through the Presidential decision.

Mr. THUNE. The Senator from Michigan is correct.

Mr. LEVIN. That means that while the Senator sets forth arguments for why all this information is essential before a congressional decision, the Presidential decision would be made before all of this information is available?

Mr. THUNE. That would be correct.

Mr. LEVIN. I think there is a deep illogic in that. To the extent you would want to delay something so that Congress could have information, which I think would be a mistake for the reasons given, to the extent there is logic in that, the President should have the same information before making his decision as the Congress arguably should have.

Again, for reasons given by Senator WARNER and myself, I think it would be a mistake to create the state of limbo which would result from the adoption of this amendment. It also has that degree of illogic in it as well.

Finally, I ask the chairman, so that we can get the precise position of the administration on this, whether we could reasonably expect that at least by Monday we could have a letter from the administration relating to the specifics of this amendment. I know we have a general position of the administration.

Mr. WARNER. What we do have already is a statement by the President that any effort to delay or impede the BRAC process would lead to a veto, with such clarity in my mind. By the way, an amendment, if I may advise my good friend, quite similar to this amendment was considered by the House and defeated by a vote of 112 for and 316 against, or something.

I think our colleague should know if this ever got into the bill, the President would have to veto the bill. We would have to start all over again on the Defense bill. I don't know when we would do it. But certainly if the House is any guide, it was thoroughly rejected.

Am I not correct in that?

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. THUNE. If the Senator from Virginia would yield, the response to your question is that you are correct. The House did have a vote on an amendment. There was a BRAC amendment. But it was not this amendment. It was an amendment that would essentially do away with or delay the entire BRAC process. In other words, the BRAC Commission would not be able, under the House amendment, to complete its work. This allows the BRAC Commission to continue with their work product and respects the BRAC process, but simply slows down the implementation of those recommendations until these certain conditions are met.

And with respect to the question of the Senator from Michigan regarding the so-called illogic of having the President weigh in on this, frankly, this Senator would like to know this type of information before we cast votes on whether we are going to close bases. I, frankly, don't know, nor does anybody on the floor this evening, what is in the QDR. I have some assumptions about that, but I happen to believe we may be surprised by some of the findings, some of the strategies that are going to be laid out when that

QDR comes out, and what some of the weapon systems needs are and what some of the basing needs are. We are the elected representatives of the people. We represent the people of our respective States. In my view, we should be the ones who review this type of information before we make votes on shuttering bases across the country. As a member of the Armed Services Committee, and my chairman and distinguished ranking member are here, I think we have a responsibility before we make decisions of this consequence and this magnitude about bases that may never be able to be opened again. Once we shut these things down, they are shut down for good.

There are a lot of questions that remain unanswered about the QDR, about basing needs overseas, about what our needs are going to be when those troops start coming home from Iraq and Afghanistan from other theaters.

I appreciate and respect the leaders of this committee on their thoughts. I understand their opposition to this amendment. Frankly, I would urge my colleagues who look at these issues and are concerned about moving forward too quickly on decisions that have enormous and major consequences, not only for the communities that are impacted but for the national security of the United States of America, that without having this kind of information, it seems to me at least that many of the decisions are, at a minimum, very premature.

Mr. WARNER. Mr. President, I thank our colleague. We have had quite a good debate. I am prepared to move on, subject to the views of my colleague.

Mr. LEVIN. Mr. President, I think it is important that in addition to getting the general views of the administration about the importance of this BRAC process proceeding for the reasons they have set forth, the language of this amendment be forwarded to them. I will give an example of why.

As I understand it, one of the impacts of the amendment would be that it would be difficult, if not impossible, for the Army to bring back to the United States about 49,000 personnel and their families because those relocations back to the United States are dependent upon certain steps being taken as proposed in the BRAC process. We are leaving a lot of people in limbo overseas, I believe—that is our conclusion—but I would like to hear from the Defense Department as to the specific ramifications of this kind of delay, in addition to the reasons they have already given for opposing any delay or cancellation of the BRAC process. So I agree with our chairman that they are very clear that they would veto this bill if this kind of amendment passes.

But in terms of the argument on the amendment, there are practical problems, in addition to the ones already raised by the Defense Department, that they may want to raise if we get them the language. I hope that over the weekend the chairman will forward the language to the Defense Department.

Mr. WARNER. Rest assured, that will be done. I will prepare a letter. The Senator from Michigan and I will be here tomorrow morning and perhaps we can make a joint request outlining precisely what our views are.

Mr. LEVIN. I hope the Senator from South Dakota, if available tomorrow or Monday, if there is further debate on this amendment, might be present or be able to listen to the debate so he could respond to it.

Mr. WARNER. I anticipate that the reply from the administration would be forthcoming on Monday. I think the Senator would be available to debate this matter later in the afternoon.

Mr. THUNE. I will, and I welcome the opportunity to come to the floor and speak to it as well.

Mr. WARNER. The Senator has a very distinguished list of cosponsors, I might add.

Mr. LEVIN. And an even more distinguished list of opponents. Just kidding. The hour is late.

Mr. WARNER. Mr. President, in great seriousness, referring to the cosponsors, they are Senators LIEBERMAN, SNOWE, LAUTENBERG, JOHNSON, DODD, COLLINS, CORZINE, BINGAMAN, and DOMENICI.

I stick by my words that it is a distinguished list of cosponsors.

Mr. THUNE. I thank the chair.

Mr. WARNER. Mr. President, the managers wish to advise the Senate that we have accomplished a good deal today, and we will be fully in business tomorrow, with the exception of rollcall votes. It is our hope and expectation that we can go through a number of amendments and stack those votes for a time to be decided by leadership.

Therefore, Mr. President, I think we can move off of the bill and do such wrap-up as is necessary.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

MORNING BUSINESS

Mr. WARNER. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business.

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

TRIBUTE TO FORMER SENATOR JAMES EXON

Mr. CONRAD. Mr. President, I wish to take a moment to pay tribute to former Senator Jim Exon, a friend and colleague, who passed away on June 10, 2005.

Jim Exon is a legend in his own State. For almost three decades, he served the people of Nebraska as both Governor and Senator. And through dedication and the force of his personality, he almost singlehandedly founded the Democratic Party in his State. In his entire career, he never lost an election because his constituents recognized his basic decency and common sense.

However, Jim Exon didn't only serve his Nebraska constituents. He also served his country and our Government in ways that we could sorely use today. He was, of course, a patriot and World War II veteran who brought his wartime experience to his important role on defense matters. But beyond his obvious love of country, Jim Exon especially loved his country's democracy, which he saw as the crucial spark animating the American community.

Jim Exon relished forthright debate and always had tremendous faith in the fairness of our system of Government. But while he advanced his beliefs with conviction and passion, he also listened to those with whom he disagreed. Indeed, he was renowned as a fair and considerate lawmaker who routinely sought common ground with adversaries out of genuine sympathy for their concerns.

Jim Exon's facility for finding common ground with others stemmed from his roots in America's heartland. In rural areas and small towns, neighbors must depend on one another. People in the country rely on pragmatism to solve problems, having little patience with argument for its own sake. Jim Exon brought these Midwestern values to his work, fighting openly for his beliefs, while still playing a cooperative and constructive role in resolving differences.

Given his ability to see the point of view of others, it's hardly surprising that Jim Exon made abundant legislative contributions. I was privileged to serve on the Senate Budget Committee with him, where he fought to keep our Nation's fiscal house in order. Here, too, his approach was balanced, offering a fierce opposition to wasting taxpayer money on unjustified spending, while maintaining an abiding faith in effective government. Most importantly in this area, he recognized that lawmakers must resist the temptation to use public debt to shift current burdens onto future taxpayers. To Jim Exon, skyrocketing Federal debt was a shameful legacy to leave our children.

Senator Exon also understood the wisdom of investing in the family farmer, the backbone of rural communities. A tireless advocate of rural economic development, he was one of the first to recognize the importance of ethanol as fuel, a renewable energy source that we produce here at home. And he fought for better transportation, better medical care, and better

schools for rural areas facing special challenges.

Jim Exon also worked to keep America's military strong. A veteran of the South Pacific in World War II, he never wavered in his commitment to our Armed Forces. He played a crucial role on the Armed Services Committee in the aftermath of communism's collapse. Thanks in large measure to his efforts, our military remained the mightiest in the world, even though its mission was reoriented to face the challenges of the post-Cold War world. He worked tirelessly to contain nuclear proliferation.

Jim Exon accomplished much during his three terms here in the Senate. That's not surprising given the kind of man he was. He lacked pretense. He would tell you straight out what he believed, and he listened carefully to others. And he was fair. He brought Senators together by focusing on shared interests, rather than differences.

Jim Exon was a big hearty man who loved to laugh. His deep, rolling baritone had an infectious good humor and compassion behind it that won over others. He was effective, in part, because people liked to work with him.

I will miss my good friend and colleague. His accomplishments live after him. The Nation and the people of Nebraska will long remember the standards of integrity and decency that were the hallmarks of Jim Exon's service to his country.

HONORING THE MASSACHUSETTS GENERAL HOSPITAL

Mr. KENNEDY. Mr. President, I join with President Bush and Project Hope in commending the extraordinary work of the health professionals from Massachusetts General Hospital who dropped everything and went to Indonesia in January and February to provide medical care to survivors of the tsunami disaster. I especially commend Dr. Laurence Ronan, the group leader at MGH who did so much to organize the trip.

These dedicated health professionals answered the urgent call when the disaster struck. As in the past when earthquakes devastated Armenia, and El Salvador, and Iran, they volunteered their services and skills on the USS *Mercy*, the Navy hospital ship sent to the coast of Indonesia.

Massachusetts General Hospital sent the largest health team. More than 60 doctors, nurses, and social workers each spent a month helping on cases too complex to be treated by personnel already on the ground in Indonesia. They had expertise in critical medical specialties such as neurology, burns, lung disease, kidney disease, and pediatrics, and they provided care to hundreds devastated by the tsunami.

Massachusetts is very very proud of MGH and the extraordinary health professionals being honored today. Their dedication and caring have served America and the world well.

HONORING ARTHUR A. FLETCHER

Mr. KERRY. Mr. President, we should all take a moment today to honor the life and the work of Arthur Fletcher. Considered ''the father of affirmative action,'' he advised four Presidential administrations and never missed an opportunity to advance the interests of underserved people throughout the Nation. Today, Mr. Fletcher is being laid to rest, after a distinguished life of public service.

As an affirmative action supporter, Mr. Fletcher identified with Abraham Lincoln's legacy and felt that in order to make the greatest changes he needed to work from inside the political system. He was appointed by President Nixon to be the Assistant Secretary of Wage and Labor Standards. From this position, he developed ''the revised Philadelphia Plan'' which became the blueprint for affirmative action plans, creating a framework for employers to use in hiring. He continued to advise three more presidents: He was the Deputy Urban Affairs Adviser for President Gerald R. Ford, an adviser to President Ronald Reagan, and the Chairman of the Civil Rights Commission between 1990 and 1993. During his service in these administrations, Mr. Fletcher never shied away from addressing the most challenging opposition as he worked to expand equality and opportunity.

Mr. Fletcher is probably best known for the phrase, ''a mind is a terrible thing to waste'' which he helped develop while serving as the executive director of the United Negro College Fund, however his influence was more far reaching. For example, Mr. Fletcher personally helped finance the lawsuit against the Topeka Board of Education in the landmark Brown v. Board of Education case, which successfully sought to desegregate the Topeka public school system.

His interests seemed to know no bounds as he played football for the Los Angeles Rams and then became the first African American player for the Baltimore Colts. He ran for high public office, including President of the United States in 1996, always to advance the virtues of affirmative action.

As a lifetime advocate Arthur Fletcher himself was a story of affirmative action, not only working for the advancement of others but blazing a trail for others to follow of hard work and determination. His contributions to American society have benefited millions and raised the lifestyles of African Americans and all traditionally underserved people across our country. His family can take pride in the great strides that our country has made as a result of his hard work.

My deepest sympathy goes out to his three children, his many grandchildren, and of course his wife Bernyce Hassan-Fletcher. His legacy lives on in all of us who believe in the struggle for racial and gender equality and who continue to fight for equal opportunity for all. He will be greatly missed.

ADDITIONAL STATEMENTS

HONORING THE LIFE OF MR. ALFRED WILLIAM EDEL

● Mr. JOHNSON. Mr. President, I am saddened to report the passing of one of the most innovative news personalities in South Dakota broadcasting history, Alfred William Edel.

On July 3, South Dakota and the broadcasting industry lost a veteran radio and television reporter to cancer. Al's extraordinary contributions to news media set him apart from other dedicated reporters.

Born in Buffalo, NY, in 1935, Al received his bachelor's degree from the College of Wooster, OH, in 1957, and then went on to secure his master's degree in communications from Syracuse University in 1959. Following his graduation from Syracuse, Al became a radio broadcaster and editor at WKBW in his hometown of Buffalo. Although his time at WKBW was short, it was clear from the start that his deep, booming voice would take him far.

In 1960, Al joined the Department of Defense's American Forces Network, AFN, in Frankfurt, Germany. Al worked as a news writer and anchor, relaying the news to millions of GIs and American civilians stationed throughout the continent. The local community quickly appreciated and welcomed his quick understanding of the region's issues and his innate ability to infuse humor into his insightful and succinct reports. Interestingly, Al's two sons, Scot and Tod, were both born in the U.S. Army's 97th General Hospital in Frankfurt. As a result of his success in Germany, Al was promoted to chief of AFN's London news bureau in 1961. Following his term in London, Al, his wife Lee, and their two children packed up and moved back to the U.S. in 1966. At that time, he anchored ABC Radio's newscasts that aired daily throughout our Nation.

Eager to try his hand in television, Al left ABC in 1970 to accept a position as prime-time news anchor at KSOO–TV in Sioux Falls, SD. KSOO would later become KSFY, which continues to broadcast today. As a member of KSOO–TV's team, Al and the news bureau nearly led the market with their tenacity and determination to cover all the news, even if their competitors were not interested in the story. Steve Hemmingsen, a reporter for KELO-Land News, recalls that Al and KSOO–TV went ''the extra mile to cover stories that KELO didn't think of covering. General Douglas MacArthur's 'hit 'em where they ain't' philosophy of war transposed to television. [Al] helped wake [KELO] up and changed the way we do business.'' In addition to his ubiquitous strategy, Al's famous, deep, rumbling ''Good evening,'' and his trademark, ''Rest easy'' lured viewers to his program.

Despite his success and popularity in South Dakota, Al accepted an offer in 1980 and moved to Washington as a

news writer for ''Good Morning America.'' Subsequently, in 1982, he moved across town to become a radio anchor for the government's ''Voice of America station'' that broadcasts around the world via shortwave.

Al retired from ''Voice of America'' in 1997, having worked in the business for nearly 40 years. In 2001, he and his wife Lee moved to St. George, UT, where he lived out his remaining years.

It is an honor for me to share Al's accomplishments with my colleagues and to publicly commend the talent and commitment to broadcasting he always exhibited throughout his life. His dedication to providing the public with accurate, insightful, and original information serves as his greatest legacy, and his work continues to inspire all those who knew him. South Dakota and the broadcasting industry are far better because of Al's life, and while we miss him very much, the best way to honor his memory is to emulate the passion and enthusiasm he shared with others.●

HONORING THE COMMUNITY OF MILBANK, SOUTH DAKOTA

● Mr. JOHNSON. Mr. President, I rise today to honor and publicly recognize the 125th anniversary of the founding of Milbank, SD. I would like to take this opportunity to draw attention to and commemorate the achievements and history of this charming city that stands as an enduring tribute to the fortitude and pioneer spirit of the earliest Dakotans.

Located in Grant County in northeastern South Dakota, Milbank got its start with the help of the railroad, specifically the Milwaukee line. Prior to the establishment of Milbank, the Milwaukee Railroad only went as far west as Ortonville, MN however, in 1880 it was extended to Milbank, a deserted section of prairie consisting of a solitary sod shanty. The railroad's arrival quickly gave rise to the town. Milbank is, in fact, named for Jeremiah Milbank, director of the Hastings division of the Chicago, Milwaukee & St. Paul Railroad. Platted in 1880, the town was originally called the Village of Milbank Junction.

Construction of the tracks was completed in July of 1880; however, at that point, the town was still in its earliest stages. As a result, everyone in the region ''who could handle a saw and hammer'' was summoned to help construct buildings. Development plans were running smoothly until a blizzard struck on October 25, 1880. The blizzard lasted 3 days, impeding not only the building process, but all local business.

In hindsight, this storm turned out to be a sign of the difficult times Milbank would experience in its next few years. Due to the heavy snow storms and high drifts, rail service throughout the winter of 1880–81 was sporadic, at best. In fact, the spring proved to be more treacherous than the winter, as Milbank was hit with a series of blizzards between January and mid-April. Over a 12-week period, the tracks were so dangerous that no trains were able to reach the community. Consequently, the town nearly ran out of fuel, save for the green wood brought down from the hills.

In the fall of 1881, the county commission held an election with hopes of moving the county seat from Big Stone City to an area closer to the center of Grant County. Milbank's population had increased considerably by that time, and its residents eagerly anticipated winning the two-thirds majority necessary to capture the title. Turnout for the vote was staggeringly high with virtually every person, regardless of residency, voting. Milbank received about 1,100 votes, claiming to have passed the two-thirds threshold; however, Big Stone City disputed Milbank's declaration, asserting that Milbank was 11 votes short. A rather long and drawn out dispute erupted, ripe with claims of election fraud and mismanaged ballot counting. The dispute ensued until two of the three county commissioners declared Milbank the winner.

In addition to the difficult winter of 1880–81, four devastating fires broke out between 1884 and 1900. The Big Fire, as many call it, occurred mid-November of 1884, destroying every building on the east side of Main Street south to Third Avenue. Another of the significant fires, one of the quickest on record, took place July 30, 1895. Started by a loan company assistant hoping to profit from the catastrophe, the blaze ravaged the Grant County Court House, destroying virtually all of the records housed there, save for those locked in the fireproof safe. Despite these tragedies and hardships, Milbank's resilient residents rebounded and rebuilt, which is testimony to South Dakotans' legendary pioneer spirit.

One of Milbank's notable attractions is its historic grist mill, a celebrated relic from the town's early days. Located on the east edge of the city, the Old Holland Mill is a favorite of tourists. Its name, however, is deceiving, as many assume it is a Dutch windmill. In realty, the English-style mill was designed and built in 1882 by Henry Hollands, who himself was an Englishman. The mill was used to grind buckwheat flour and to saw wood. Due to the rapid growth of the surrounding foliage, however, after a short period of time, the wind was not strong enough to turn the giant blades, consequently requiring the attachment of a gasoline engine to supply the power necessary to operate it. An interesting and clever feature of the mill is its main drive wheel, which is constructed entirely of wood to prevent significant damage or injury. If something were to go wrong, the wooden cogs in the wheel would break, thus rendering the mill ineffectual.

Milbank is also proud of the recreational opportunities it offers. In addition to its four city parks, lighted tennis courts, swimming pool, and golf course, Milbank is the birthplace of American Legion Baseball. While hosting the seventh annual American Legion and Auxiliary convention in July of 1925, a resolution was passed to create Junior Legion Baseball throughout the entire Nation. Not only does this program provide an excellent recreational outlet for millions athletic youth, but throughout the years it has guided many talented athletes on to play professionally.

In the twelve and a half decades since its founding, Milbank has provided its citizens with a rich and diverse atmosphere. Milbank's nearly 3,500 proud residents celebrate the town's 125th anniversary August 8–14, and it is with great honor that I share with my colleagues this community's unique past and wish them the best for a promising future.●

TRIBUTE TO JEN JEN HAZELBAKER

● Mr. BOND. Mr. President, on behalf of my fellow Missourians, I extend my warmest congratulations to my good friends the Hazelbakers on Jen Jen's naturalization as a U.S. citizen.

As this family is aware, the freedoms we share in this country are not to be found elsewhere in the world. To maintain these freedoms, we must exercise the responsibilities that are incumbent with these liberties.

As the English philosopher John Stuart Mill said, ''The worth of a state in the long run is the worth of the individuals composing it.''

Already an important figure in her community and active in this country's political process, I am confident that Jen Jen will serve her new home well and I am proud to welcome her.

We send best wishes for success in Jen Jen's future endeavors. We also wish this warm family continued success, happiness, and prosperity.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were refened to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

ENROLLED BILL SIGNED

At 9:33 a.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 joint resolution:

H.J. Res. 52. Joint resolution approving the renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2003.

The enrolled joint resolution was signed subsequently by the President pro tempore (Mr. STEVENS).

At 12:29 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 202. Concurrent resolution permitting the use of the Rotunda of the Capitol for a ceremony to honor Constantino Brumidi on the 200th anniversary of his birth.

At 6:07 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 3377. An act to provide an extension of highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund pending enactment of a law reauthorizing the Transportation Equity Act for the 21 st Century.

MEASURES DISCHARGED

The following measure was discharged from the Committee on Commerce, Science, and Transportation by unanimous consent, and referred as indicated:

H.R. 2385. An act to extend by 10 years the authority of the Secretary of Commerce to conduct the quarterly financial report program.

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–3111. A communication from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Berry Amendment Memoranda'' (DFARS Case 2004–D035) received on July 18, 2005; to the Committee on Armed Services.

EC–3112. A communication from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Business Restructuring Costs—Delegation of Authority to Make Determinations Relating to Payment'' (DFARS Case 2004–D026) received on July 18, 2005; to the Committee on Armed Services.

EC–3113. A communication from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Sole Source 8(a) Awards to Small Business Concerns Owned by Native Hawaiian Organizations'' (DFARS Case 2004–D031) received on July 18, 2005; to the Committee on Armed Services.

EC–3114. A communication from the Under Secretary of Defense for Personnel and Readiness, transmitting, the report of a retirement; to the Committee on Armed Services.

EC–3115. A communication from the Under Secretary of Defense for Acquisition, Technology, and Logistics, transmitting, pursuant to law, a report (6 subjects on 1 disc beginning with ''Army Hearing Questions'') relative to the Defense Base Closure and Realignment Act of 1990, as amended; to the Committee on Armed Services.

EC–3116. A communication from the Under Secretary of Defense for Acquisition, Technology, and Logistics, transmitting, pursuant to law, a report (1 subject on 1 disc entitled ''Review of BRAC Recommendations by NORTHCOM'') relative to the Defense Base Closure and Realignment Act of 1990, as amended; to the Committee on Armed Services.

EC–3117. A communication from the Under Secretary of Defense for Acquisition, Technology, and Logistics, transmitting, pursuant to law, a report (1 subject on 1 disc entitled ''DoD Response to BRAC Commission's July 1, 2005 Letter Providing an Explanation for Actions Not Taken at Particular Installations'') relative to the Defense Base Closure and Realignment Act of 1990, as amended; to the Committee on Armed Services.

EC–3118. A communication from the Under Secretary of Defense for Acquisition, Technology, and Logistics, transmitting, pursuant to law, a report (6 subjects on 1 disc beginning with ''Inquiry Response Regarding ANG Training Costs'') relative to the Defense Base Closure and Realignment Act of 1990, as amended; to the Committee on Armed Services.

EC–3119. A communication from the Under Secretary of Defense for Acquisition, Technology, and Logistics, transmitting, pursuant to law, a report (5 subjects on 1 disc beginning with ''Memorandum Regarding NI Industries at Riverbank Army Ammunition Plant'') relative to the Defense Base Closure and Realignment Act of 1990, as amended; to the Committee on Armed Services.

EC–3120. A communication from the Under Secretary of Defense for Acquisition, Technology, and Logistics, transmitting, pursuant to law, a report (2 subjects on 1 disc beginning with ''Correspondence Regarding Attack Submarine Force Structure'') relative to the Defense Base Closure and Realignment Act of 1990, as amended; to the Committee on Armed Services.

EC–3121. A communication from the Chairman, Nuclear Regulatory Commission, transmitting, pursuant to law, a monthly report on the status of the Commission's licensing and other regulatory activities; to the Committee on Environment and Public Works.

EC–3122. A communication from the Assistant Secretary of the Army (Civil Works), Department of Defense, transmitting, pursuant to law, a report relative to the construction of the Western Sarpy/Clear Creek, Nebraska, levee project for flood damage reduction; to the Committee on Environment and Public Works.

EC–3123. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, the report of two documents entitled ''A Regulator's Guide to the Management of Radioactive Residuals from Drinking Water Treatment Technologies'' and ''Tribal Drinking Water Operator Certification Program Guidelines'' received on July 18, 2005; to the Committee on Environment and Public Works.

EC–3124. 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; New Mexico; Albuquerque/Bernalillo County'' (FRL No. 7942–5) received on July 18, 2005; to the Committee on Environment and Public Works.

EC–3125. 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 Plan; Idaho; Correction'' (FRL No. 7941–7) received on July 18, 2005; to the Committee on Environment and Public Works.

EC–3126. 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 ''Idaho: Final Authorization of State Hazardous Waste Management Program Revision'' (FRL No. 7942–9) received on July 18, 2005; to the Committee on Environment and Public Works.

EC–3127. A communication from the Assistant General Counsel, Division of Regulatory Services, Department of Education, transmitting, pursuant to law, the report of a rule entitled ''Final Priorities—Grants to States To Improve Management of Drug and Violence Prevention Programs'' received on July 18, 2005; to the Committee on Health, Education, Labor, and Pensions.

EC–3128. A communication from the Assistant General Counsel, Division of Regulatory Services, Department of Education, transmitting, pursuant to law, the report of a rule entitled ''Final Priorities—Grants for School-Based Student Drug-Testing Program'' received on July 18, 2005; to the Committee on Health, Education, Labor, and Pensions.

EC–3129. A communication from the Assistant General Counsel, Division of Regulatory Services, Department of Education, transmitting, pursuant to law, the report of a rule entitled ''Final Priorities—Alcohol and Other Drug Prevention Models on College Campuses'' received on July 18, 2005; to the Committee on Health, Education, Labor, and Pensions.

EC–3130. A communication from the Assistant General Counsel, Division of Regulatory Services, Department of Education, transmitting, pursuant to law, the report of a rule entitled ''Final Priorities—Emergency Response and Crisis Management Grants Program'' received on July 18, 2005; to the Committee on Health, Education, Labor, and Pensions.

EC–3131. A communication from the Assistant General Counsel, Division of Regulatory Services, Department of Education, transmitting, pursuant to law, the report of a rule entitled ''Notice of Final Priority for a National Center for the Dissemination of Disability Research'' received on July 18, 2005; to the Committee on Health, Education, Labor, and Pensions.

EC–3132. A communication from the Administrator, General Services Administration, transmitting, pursuant to law, a report entitled ''Report of Building Project Survey for Council Bluffs, IA''; to the Committee on Homeland Security and Governmental Affairs.

EC–3133. A communication from the Administrator, General Services Administration, transmitting, pursuant to law, a report relative to prospectuses supporting the Administration's fiscal year 2006 program; to the Committee on Homeland Security and Governmental Affairs.

EC–3134. A communication from the Chairman of the Board of Governors, Federal Reserve System, transmitting, pursuant to law, the Board's semiannual report entitled ''Monetary Policy Report''; to the Committee on Banking, Housing, and Urban Affairs.

EC–3135. A communication from the Assistant Secretary, Division of Corporation Finance, Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule entitled ''Securities Offering Reform'' (RIN3235–AI11) received on July 20, 2005; to the Committee on Banking, Housing, and Urban Affairs.

EC–3136. A communication from the Assistant Secretary, Land and Minerals Management, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Oil and Gas and Sulphur Operations in the Outer Continental Shelf (OCS)—Fixed and Floating Platforms and Structures and Documents Incorporated by Reference'' (RIN1010–AC85) received on July 18, 2005; to the Committee on Energy and Natural Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BROWNBACK, from the Committee on Appropriations, without amendment:

S. 1446. An original bill making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 2006, and for other purposes (Rept. No. 109–105).

By Mrs. HUTCHISON, from the Committee on Appropriations, with an amendment in the nature of a substitute and an amendment to the title:

H.R. 2528. A bill making appropriations for military quality of life functions of the Department of Defense, military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2006, and for other purposes.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. STEVENS for the Committee on Commerce, Science, and Transportation.

*Rebecca F. Dye, of North Carolina, to be a Federal Maritime Commissioner for a term expiring June 30, 2010.

Mr. STEVENS. Mr. President, for the Committee on Commerce, Science, and Transportation I report favorably the following nomination lists which were printed in the RECORDs on the dates indicated, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar that these nominations lie at the Secretary's desk for the information of Senators.

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

Coast Guard nomination of Melissa Diaz to be Lieutenant.

Coast Guard nomination of Royce W. James to be Lieutenant.

By Mr. DOMENICI for the Committee on Energy and Natural Resources.

*Mark A. Limbaugh, of Idaho, to be an Assistant Secretary of the Interior.

*R. Thomas Weimer, of Colorado, to be an Assistant Secretary of the Interior.

*James A. Respoli, of Virginia, to be an Assistant Secretary of Energy (Environmental Management).

*David R. Hill, of Missouri, to be General Counsel of the Department of Energy.

*Jill L. Sigal, of Wyoming, to be Assistant Secretary of Energy (Congressional and Intergovernmental Affairs).

By Mr. ENZI for the Committee on Health, Education, Labor, and Pensions.

*Kathie L. Olsen, of Oregon, to be Deputy Director of the National Science Foundation.

By Ms. COLLINS for the Committee on Homeland Security and Governmental Affairs.

*Edmund S. Hawley, of California, to be an Assistant Secretary of Homeland Security.

*Brian David Miller, of Virginia, to be Inspector General, General Services Administration.

*Richard L. Skinner, of Virginia, to be Inspector General, 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.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

By Mr. CRAPO (for himself and Mrs. LINCOLN):

S. 1440. A bill to amend title XVIII of the Social Security Act to provide coverage for cardiac rehabilitation and pulmonary rehabilitation services; to the Committee on Finance.

By Mr. THOMAS (for himself and Mrs. LINCOLN):

S. 1441. A bill to amend the Internal Revenue Code of 1986 to include wireless telecommunications equipment in the definition of qualified technological equipment for purposes of determining the depreciation treatment of such equipment; to the Committee on Finance.

By Mrs. CLINTON (for herself, Mr. CHAFEE, and Mr. REID):

S. 1442. A bill to amend the Public Health Service Act to establish a Coordinated Environmental Health Network, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Ms. COLLINS (for herself and Mr. LIEBERMAN):

S. 1443. A bill to permit athletes to receive nonimmigrant alien status under certain conditions, and for other purposes; to the Committee on the Judiciary.

By Mr. BAUCUS (for himself and Mr. COLEMAN):

S. 1444. A bill to amend the Trade Act of 1974 to provide for alternative means of certifying workers for adjustment assistance on an industry-wide basis; to the Committee on Finance.

By Mr. SALAZAR:

S. 1445. A bill to designate the facility of the United States Postal Service located at 520 Colorado Avenue in Arriba, Colorado, as the ''William H. Emery Post Office''; to the Committee on Homeland Security and Governmental Affairs.

By Mr. BROWNBACK:

S. 1446. An original bill making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 2006, and for other purposes; from the Committee on Appropriations; placed on the calendar.

By Mr. GRASSLEY (for himself and Mr. BAUCUS):

S. 1447. A bill to amend the Internal Revenue Code of 1986 to make technical corrections, and for other purposes; to the Committee on Finance.

By Mr. DURBIN (for himself and Mrs. BOXER):

S. 1448. A bill to improve the treatment provided to veterans suffering from posttraumatic stress disorder; to the Committee on Veterans' Affairs.

By Mr. SMITH (for himself, Mr. KOHL, Mr. FEINGOLD, Mrs. FEINSTEIN, and Ms. MURKOWSKI):

S. 1449. A bill to amend the Internal Revenue Code of 1986 with respect to the eligibility of veterans for mortgage bond financing, and for other purposes; to the Committee on Finance.

By Mr. SANTORUM:

S. 1450. A bill to suspend temporarily the duty on Aspirin; to the Committee on Finance.

By Mr. SANTORUM:

S. 1451. A bill to suspend temporarily the duty on Desmodur IL; to the Committee on Finance.

By Mr. SANTORUM:

S. 1452. A bill to suspend temporarily the duty on Desmodur E 14; to the Committee on Finance.

By Mr. SANTORUM:

S. 1453. A bill to suspend temporarily the duty on Desmodur VP LS 2253; to the Committee on Finance.

By Mr. SANTORUM:

S. 1454. A bill to suspend temporarily the duty on Walocel MW 3000 PFV; to the Committee on Finance.

By Mr. SANTORUM:

S. 1455. A bill to suspend temporarily the duty on XAMA 2; to the Committee on Finance.

By Mr. SANTORUM:

S. 1456. A bill to suspend temporarily the duty on XAMA 7; to the Committee on Finance.

By Mr. SANTORUM:

S. 1457. A bill to extend the suspension of duty on Baytron C–R; to the Committee on Finance.

By Mr. SANTORUM:

S. 1458. A bill to temporarily suspend the duty on Baytron and Baytron P; to the Committee on Finance.

By Mr. SANTORUM:

S. 1459. A bill to suspend temporarily the duty on TSME; to the Committee on Finance.

By Mr. SANTORUM:

S. 1460. A bill to extend the suspension of duty on D-Mannose to the Committee on Finance.

By Mr. SHELBY:

S. 1461. A bill to establish procedures for the protection of consumers from misuse of, and unauthorized access to, sensitive personal information contained in private information files maintained by commercial entities engaged in, or affecting, interstate commerce, provide for enforcement of those procedures by the Federal Trade Commission, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. BROWNBACK (for himself, Mr. CORZINE, Mr. DEWINE, Mr. DURBIN, Mr. COBURN, Mr. LAUTENBERG, Mr. SCHUMER, Mr. BINGAMAN, Mr. COLEMAN, Mr. TALENT, Mr. SALAZAR, Mrs. DOLE, and Mr. BAYH):

S. 1462. A bill to promote peace and accountability in Sudan, and for other purposes; to the Committee on Foreign Relations.

By Mr. KERRY:

S. 1463. A bill to clarify that the Small Business Administration has authority to provide emergency assistance to non-farm-related small business concerns that have

suffered substantial economic harm from drought; to the Committee on Small Business and Entrepreneurship.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. CRAIG (for himself and Mr. AKAKA):

S. Res. 203. A resolution recognizing the 75th anniversary of the establishment of the Veterans' Administration and acknowledging the achievements of the Veterans' Administration and the Department of Veterans Affairs; considered and agreed to.

By Mr. DURBIN (for himself, Mr. BINGAMAN, Mr. CHAFEE, Mrs. CLINTON, Mr. DEWINE, Mr. DODD, Mr. GRASSLEY, Mr. HARKIN, Mr. INOUYE, Mr. KENNEDY, Mr. LAUTENBERG, Mr. LEAHY, Mr. OBAMA, Mr. REED, Mr. REID, and Mr. ROCKEFELLER):

S. Res. 204. A resolution recognizing the 75th anniversary of the American Academy of Pediatrics and supporting the mission and goals of the organization; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 313

At the request of Mr. LUGAR, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 313, a bill to improve authorities to address urgent nonproliferation crises and United States nonproliferation operations.

S. 333

At the request of Mr. SANTORUM, the name of the Senator from South Dakota (Mr. THUNE) was added as a cosponsor of S. 333, a bill to hold the current regime in Iran accountable for its threatening behavior and to support a transition to democracy in Iran.

S. 381

At the request of Mr. SMITH, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. 381, a bill to amend the Internal Revenue Code of 1986 to encourage guaranteed lifetime income payments from annuities and similar payments of life insurance proceeds at dates later than death by excluding from income a portion of such payments.

S. 397

At the request of Mr. CRAIG, the name of the Senator from Arizona (Mr. MCCAIN) was added as a cosponsor of S. 397, a bill to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages, injunctive or other relief resulting from the misuse of their products by others.

At the request of Mr. BAUCUS, the name of the Senator from Colorado (Mr. SALAZAR) was added as a cosponsor of S. 397, supra.

S. 453

At the request of Mr. SMITH, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 453, a bill to amend section 402 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 to provide for an extension of eligibility for supplemental security income through fiscal year 2008 for refugees, asylees, and certain other humanitarian immigrants.

S. 489

At the request of Mr. ALEXANDER, the name of the Senator from South Dakota (Mr. THUNE) was added as a cosponsor of S. 489, a bill to amend chapter 111 of title 28, United States Code, to limit the duration of Federal consent decrees to which State and local governments are a party, and for other purposes.

S. 528

At the request of Mr. HARKIN, the names of the Senator from New York (Mrs. CLINTON) and the Senator from New York (Mr. SCHUMER) were added as cosponsors of S. 528, a bill to authorize the Secretary of Health and Human Services to provide grants to States to conduct demonstration projects that are designed to enable medicaid-eligible individuals to receive support for appropriate and necessary long-term services in the settings of their choice.

S. 543

At the request of Ms. SNOWE, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. 543, a bill to amend the Internal Revenue Code of 1986 to expand the availability of the cash method of accounting for small businesses, and for other purposes.

S. 544

At the request of Mr. JEFFORDS, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 544, a bill to amend title IX of the Public Health Service Act to provide for the improvement of patient safety and to reduce the incidence of events that adversely effect patient safety.

S. 548

At the request of Mr. CONRAD, the name of the Senator from Georgia (Mr. ISAKSON), the Senator from New Mexico (Mr. BINGAMAN), and the Senator from Vermont (Mr. LEAHY) were added as cosponsors of S. 548, a bill to amend the Food Security Act of 1985 to encourage owners and operators of privately-held farm, ranch, and forest land to voluntarily make their land available for access by the public under programs administered by States and tribal governments.

S. 557

At the request of Mr. COBURN, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 557, a bill to provide that Executive Order 13166 shall have no force or effect, to prohibit the use of funds for certain purposes, and for other purposes.

S. 601

At the request of Mr. CONRAD, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 601, a bill to amend the Internal Revenue Code of 1986 to include combat pay in determining an allowable contribution to an individual retirement plan.

S. 662

At the request of Ms. COLLINS, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 662, a bill to reform the postal laws of the United States.

S. 722

At the request of Mr. SANTORUM, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. 722, a bill to amend the Internal Revenue Code of 1986 to reduce the tax on beer to its pre-1991 level.

S. 737

At the request of Mr. CRAIG, the name of the Senator from Connecticut (Mr. DODD) 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. 770

At the request of Mr. LEVIN, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 770, a bill to amend the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 to reauthorize and improve that Act.

S. 792

At the request of Mr. DORGAN, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. 792, a bill to establish a National sex offender registration database, and for other purposes.

S. 859

At the request of Mr. SANTORUM, the name of the Senator from Louisiana (Mr. VITTER) was added as a cosponsor of S. 859, a bill to amend the Internal Revenue Code of 1986 to allow an income tax credit for the provision of homeownership and community development, and for other purposes.

S. 919

At the request of Mr. BURNS, the name of the Senator from Wyoming (Mr. THOMAS) was added as a cosponsor of S. 919, a bill to amend title 49, United States Code, to enhance competition among and between rail carriers in order to ensure efficient rail service and reasonable rail rates, and for other purposes.

S. 963

At the request of Mr. THUNE, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 963, a bill to amend title 38, United States Code, to provide for a guaranteed adequate level of funding for veterans' health care, to direct the Secretary of Veterans Affairs to conduct a pilot program to improve access to health care for rural veterans, and for other purposes.

S. 984

At the request of Ms. SNOWE, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 984, a bill to amend the Exchange Rates and International Economic Policy Coordination Act of 1988

to clarify the definition of manipulation with respect to currency, and for other purposes.

S. 1064

At the request of Mr. COCHRAN, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 1064, a bill to amend the Public Health Service Act to improve stroke prevention, diagnosis, treatment, and rehabilitation.

S. 1066

At the request of Mr. VOINOVICH, the name of the Senator from Mississippi (Mr. LOTT) was added as a cosponsor of S. 1066, a bill to authorize the States (and subdivisions thereof), the District of Columbia, territories, and possessions of the United States to provide certain tax incentives to any person for economic development purposes.

S. 1112

At the request of Mr. GRASSLEY, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of S. 1112, a bill to make permanent the enhanced educational savings provisions for qualified tuition programs enacted as part of the Economic Growth and Tax Relief Reconciliation Act of 2001.

S. 1120

At the request of Mr. DURBIN, the names of the Senator from Indiana (Mr. BAYH) and the Senator from Washington (Mrs. MURRAY) were added as cosponsors of S. 1120, a bill to reduce hunger in the United States by half by 2010, and for other purposes.

S. 1142

At the request of Ms. LANDRIEU, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. 1142, a bill to provide pay protection for members of the Reserve and the National Guard, and for other purposes.

S. 1157

At the request of Mr. CRAPO, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 1157, a bill to amend the Internal Revenue Code of 1986 to treat gold, silver, platinum, and palladium, in either coin or bar form, in the same manner as equities and mutual funds for purposes of maximum capital gains rate for individuals.

S. 1172

At the request of Mr. SPECTER, the names of the Senator from Maryland (Mr. SARBANES) and the Senator from Louisiana (Ms. LANDRIEU) were added as cosponsors of S. 1172, a bill to provide for programs to increase the awareness and knowledge of women and health care providers with respect to gynecologic cancers.

S. 1180

At the request of Mr. OBAMA, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 1180, a bill to amend title 38, United States Code, to reauthorize various programs servicing the needs of homeless veterans for fiscal years 2007 through 2011, and for other purposes.

S. 1191

At the request of Mr. SALAZAR, the names of the Senator from New Mexico (Mr. BINGAMAN), the Senator from Iowa (Mr. GRASSLEY), the Senator from North Dakota (Mr. DORGAN) and the Senator from Florida (Mr. NELSON) were added as cosponsors of S. 1191, a bill to establish a grant program to provide innovative transportation options to veterans in remote rural areas.

S. 1197

At the request of Mr. BIDEN, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 1197, a bill to reauthorize the Violence Against Women Act of 1994.

S. 1215

At the request of Mr. GREGG, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 1215, a bill to authorize the acquisition of interests in underdeveloped coastal areas in order better to ensure their protection from development.

S. 1249

At the request of Mr. CORZINE, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 1249, a bill to require the Secretary of Education to rebate the amount of Federal Pell Grant aid lost as a result of the update to the tables for State and other taxes used in the Federal student aid need analysis for award year 2005–2006.

S. 1281

At the request of Mrs. HUTCHISON, the name of the Senator from Mississippi (Mr. LOTT) was added as a cosponsor of S. 1281, a bill to authorize appropriations for the National Aeronautics and Space Administration for science, aeronautics, exploration, exploration capabilities, and the Inspector General, and for other purposes, for fiscal years 2006, 2007, 2008, 2009, and 2010.

S. 1289

At the request of Ms. MIKULSKI, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of S. 1289, a bill to provide for research and education with respect to uterine fibroids, and for other purposes.

S. 1300

At the request of Mr. SANTORUM, the name of the Senator from Colorado (Mr. ALLARD) was added as a cosponsor of S. 1300, a bill to amend the Agricultural Marketing Act of 1946 to establish a voluntary program for the provision of country of origin information with respect to certain agricultural products, and for other purposes.

S. 1317

At the request of Mr. HATCH, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. 1317, a bill to provide for the collection and maintenance of cord blood units for the treatment of patients and research, and to amend the Public Health Service Act to authorize the Bone Marrow and Cord Blood Cell Transplantation Program to increase the number of transplants for recipients suitable matched to donors of bone marrow and cord blood.

S. 1321

At the request of Mr. SANTORUM, the name of the Senator from South Dakota (Mr. THUNE) was added as a cosponsor of S. 1321, a bill to amend the Internal Revenue Code of 1986 to repeal the excise tax on telephone and other communications.

S. 1340

At the request of Mr. INHOFE, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. 1340, a bill to amend the Pittman-Robertson Wildlife Restoration Act to extend the date after which surplus funds in the wildlife restoration fund become available for apportionment.

S. 1352

At the request of Mr. SPECTER, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 1352, a bill to provide grants to States for improved workplace and community transition training for incarcerated youth offenders.

S. 1356

At the request of Mr. GRASSLEY, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of S. 1356, a bill to amend title XVIII of the Social Security Act to provide incentives for the provision of high quality care under the medicare program.

S. 1360

At the request of Mr. SMITH, the name of the Senator from Georgia (Mr. CHAMBLISS) was withdrawn as a cosponsor of S. 1360, a bill to amend the Internal Revenue Code of 1986 to extend the exclusion from gross income for employer-provided health coverage to designated plan beneficiaries of employees, and for other purposes.

S. 1367

At the request of Mr. REID, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 1367, a bill to provide for recruiting, selecting, training, and supporting a national teacher corps in underserved communities.

S. 1423

At the request of Mr. SCHUMER, the names of the Senator from Colorado (Mr. SALAZAR) and the Senator from Arkansas (Mrs. LINCOLN) were added as cosponsors of S. 1423, a bill to provide for a medal of appropriate design to be awarded by the President to the next of kin or other representatives of those individuals killed as a result of the terrorist attacks of September 11, 2001.

S. 1424

At the request of Mr. HAGEL, his name was added as a cosponsor of S. 1424, a bill to remove the restrictions on commercial air service at Love Field, Texas.

S. RES. 182

At the request of Mr. COLEMAN, the names of the Senator from Ohio (Mr. VOINOVICH), the Senator from Mississippi (Mr. COCHRAN) and the Senator

from Alaska (Ms. MURKOWSKI) were added as cosponsors of S. Res. 182, a resolution supporting efforts to increase childhood cancer awareness, treatment, and research.

AMENDMENT NO. 1312

At the request of Mr. INHOFE, the names of the Senator from Maine (Ms. COLLINS) and the Senator from Maine (Ms. SNOWE) were added as cosponsors of amendment No. 1312 proposed to S. 1042, an original bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

AMENDMENT NO. 1313

At the request of Mr. INHOFE, the name of the Senator from Arizona (Mr. KYL) was added as a cosponsor of amendment No. 1313 proposed to S. 1042, an original bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

AMENDMENT NO. 1314

At the request of Mr. KENNEDY, his name was added as a cosponsor of amendment No. 1314 proposed to S. 1042, an original bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

At the request of Mr. LEVIN, his name and the name of the Senator from Indiana (Mr. BAYH) were added as cosponsors of amendment No. 1314 proposed to S. 1042, supra.

At the request of Mr. WARNER, the names of the Senator from Ohio (Mr. DEWINE), the Senator from Maine (Ms. COLLINS), the Senator from Washington (Ms. CANTWELL) and the Senator from Maine (Ms. SNOWE) were added as cosponsors of amendment No. 1314 proposed to S. 1042, supra.

At the request of Mr. BYRD, his name was added as a cosponsor of amendment No. 1314 proposed to S. 1042, supra.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. THOMAS (for himself and Mrs. LINCOLN):

S. 1441. A bill to amend the Internal Revenue Code of 1986 to include wireless telecommunications equipment in the definition of qualified technological equipment for purposes of determining the depreciation treatment of such equipment; to the Committee on Finance.

Mr. THOMAS. Mr. President, today I rise to introduce a bill that would clarify the class life of cell site equipment used by wireless telecommunications companies.

Wireless telecommunications, like many other high-tech industries, uses computer-based technology to facilitate the digitization of voice, video and data services over its networks. The wireless industry was in its infancy in 1986 when the Internal Revenue Code's rules regarding depreciation were last revised, so the sophisticated equipment used today was not even contemplated. For the past 20 years, the Internal Revenue Service—and taxpayers—have had to try to shoehorn modern equipment into outdated wireline telephony definitions in order to determine the appropriate depreciation period. Even the Treasury Department, in its July 2000 ''Report to the Congress on Depreciation Recovery Periods and Methods,'' admits that this is inappropriate.

The result of this methodology is that the IRS has taken the position that wireless cell site equipment should be depreciated similarly to wooden telephone poles and wires rather than other, computerized equipment that it more closely resembles. Consequently, this equipment is depreciated over 20 years rather than 5. In other words, the misclassification significantly increases the cost of capital investment in the Nation's wireless network.

Given the rapid technological change and advances in the wireless industry, this bill would classify wireless telecommunications equipment as ''qualified technological equipment.'' This is the proper classification because the major components of wireless cell sites are, in fact, computers or peripheral equipment controlled by computers.

Consumer demand for wireless services grew almost 700 percent over the last decade, and rapid growth in this area continues. The industry also makes significant contributions to the economy directly employing 226,340 workers and making hundreds of billions of dollars in capital investments. Clarifying the depreciation treatment of cell site equipment means even greater wireless investment, increased wireless employment, and improved benefits to America's wireless consumers.

Wireless technology has brought tremendous advances to rural America, and this bill would ensure that rural consumers continue to have timely access to the latest technology available. I thank my colleague from Arkansas, Mrs. LINCOLN, for joining me in recognizing the problem and introducing this legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1441

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

SECTION 1. WIRELESS TELECOMMUNICATIONS EQUIPMENT.

(a) IN GENERAL.—Subparagraph (A) of section 168(i)(2) of the Internal Revenue Code of 1986 (defining qualified technological equipment) is amended by striking ''and'' at the end of clause (ii), by striking the period at the end of clause (iii) and inserting '', and'', and by inserting after clause (iii) the following new clause:

''(iv) any wireless telecommunications equipment.''.

(b) WIRELESS TELECOMMUNICATIONS EQUIPMENT.—Section 168(i)(2) of the Internal Revenue Code of 1986 is amended by inserting after subparagraph (C) the following new subparagraph:

''(D) WIRELESS TELECOMMUNICATIONS EQUIPMENT.—For purposes of this paragraph, the term 'wireless telecommunications equipment' means all equipment used in the transmission, reception, coordination, or switching of wireless telecommunications service, other than cell towers, buildings, and T–1 lines or other cabling connecting cell sites to mobile switching centers. For this purpose, 'wireless telecommunications service' includes any commercial mobile radio service as defined in title 47 of the Code of Federal Regulations.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service on or after the date of the enactment of this Act.

By Mrs. CLINTON (for herself, Mr. CHAFEE, and Mr. REID):

S. 1442. A bill to amend the Public Health Service Act to establish a Coordinated Environmental Health Network, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mrs. CLINTON. Mr. President, I rise today to introduce, with my colleagues Senators CHAFEE and REID, the Coordinated Environmental Health Tracking Act of 2005.

There is a saying—''what you don't know can't hurt you.'' But when it comes to chronic disease, what we don't know can hurt all of us. The bill we are introducing today will help us solve the mysteries behind the high rates of chronic diseases such as cancer, autism, and Alzheimer's that afflict so many American communities.

Once we are able to track diseases, and detect links to environmental or other causes, we will be able to prevent public health crises before they occur.

The environmental links to the onset of diseases are not well understood. They are hidden health hazards that manifest themselves in chronic diseases. We are only beginning to understand what these hazards are and what is the scope of their effects on our health.

We need more specifics on these environmental factors. For example, we need to know what is the cumulative effect of extended exposure to a variety of environmental factors over time.

One way to get those specifics is to track the outbreak of chronic diseases, just like we track the outbreaks of infectious diseases.

This legislation would establish a comprehensive national tracking system for chronic diseases, so that we can identify, address and prevent them.

It would help States to participate in this national tracking system- by providing them with Environmental Health Tracking Network Grants, assisting them in developing the infrastructure necessary to participate in this network.

It would also create a chronic disease response force, bringing the expertise of environmental, scientific and health experts to areas with potential clusters of chronic diseases, like Long Island's breast cancer cluster.

It will allow us to monitor our environmental health by requiring an annual report of the results of the Nationwide Health Tracking Network, helping to educate and arm us with valuable information in the fight against chronic diseases.

Finally, it will help us build the public health expertise we need to address these issues in the future, by providing funding for the establishment of at least seven biomonitoring labs and setting up epidemiology fellowships and centers of excellence for environmental health.

I believe that this legislation will help obtain and act on the best possible evidence to improve our Nation's health and to begin to tackle the extraordinary human and economic costs that chronic disease imposes on our country.

By Ms. COLLINS (for herself and Mr. LIEBERMAN):

S. 1443. A bill to permit athletes to receive nonimmigrant alien status under certain conditions, and for other purposes; to the Committee on the Judiciary.

Ms. COLLINS. Mr. President, I rise today to once again introduce legislation that will address the challenges facing many promising, talented young athletes from other countries who wish to play for sports teams in the United States. Due to the shortage of H–2B nonimmigrant visas for temporary or seasonal nonagricultural foreign workers both this year and last, many American teams who rely on these visas to recruit new talent from abroad have been unable to bring some of their most talented prospects to the United States. This bill would provide a commonsense solution to this problem.

Across the United States, the H–2B visa shortage has been a significant concern to many in a wide variety of industries, including hospitality, forest products, fisheries, and landscaping, to name a few. While we recently were successful in crafting a temporary, 2-year fix for the H–2B shortage, there is more still to be done. We must continue to seek permanent solutions to this problem, and to find practical ways to reduce the demand on this visa category. While there are a number of factors contributing to this high demand, among these is the extremely diverse, ''catch-all'' nature of this visa classification.

What many people do not know is that, in addition to loggers, hotel and restaurant employees, fisheries workers, landscapers, and many other types of seasonal workers, the H–2B visa category is also used by many talented, highly competitive foreign athletes. Specifically, minor league athletes—unlike their counterparts at Major League franchises—are lumped into this same oversubscribed visa category, despite the obvious differences in the nature of the work they perform. The recent H–2B visa shortage has therefore meant that hundreds of promising athletes have been unable to come to the United States to play for minor league and amateur sports teams across the Nation. Not only have many teams been unable to bring some of their most talented prospects to the United States, but this visa shortage has also compromised a traditional source of talent for Major League sports teams. In addition, some very talented ice skaters who have earned roles in a number of popular theatrical productions, such as Disney on Ice, have faced difficulties in coming to the United States.

In my home State of Maine, for example, the Lewiston MAINEiacs, a Canadian junior hockey league team, faced tremendous difficulties last year obtaining the H–2B visas necessary for the majority of its players to remain in the United States to play in the team's first home games in September. These young athletes are among Canada's most talented junior players, but the shortage of H–2B visas threatened their chances of improve their skills with the MAINEiacs and, possibly, graduate to a career in professional hockey. This year, due to uncertainty about the availability of H–2B visas at the end of the fiscal year, the team has had to schedule a later season home opener. It must also attempt to schedule make-up games for the home games that the team would normally play in September. This creates a hardship on the team and its venue, and could mean fewer home games and a loss of revenue for businesses in the surrounding area. I have received a letter from the MAINEiacs, expressing the teams's support for this legislation. I ask unanimous consent that this letter be printed in the RECORD.

The Portland Sea Dogs, a Double-A level baseball team affiliated with the Boston Red Sox, is another of the many teams that relies on H–2B visas to bring some of its most skilled players to the United States. Thousands of fans come out each year to see this team, and others like it across the country, play one of America's favorite sports. Due to the shortage of H–2B visas, however, Major League Baseball reports that more than 350 talented young, foreign baseball players were prevented from coming to the U.S. last year and early this year to play for Minor League teams, a traditional proving ground for athletes hoping to make it to the Major Leagues. The experience gained in the Minor Leagues is crucial to the development of the best Major League players.

The inclusion of these athletes in the H–2B visa category seems particularly unusual when you consider that Major League athletes are permitted to use an entirely different nonimmigrant visa category: the P–1 visa. This visa is used by athletes who are deemed by the U.S. Citizenship and Immigration Services, CIS, to perform at an ''internationally recognized level of performance.'' Arguably, any foreign athlete whose achievements have earned him a contract with an American team would meet this definition. However, CIS has interpreted this category to exclude minor and amateur league athletes. Instead, the P–1 visa is typically reserved for only those athletes who have already been promoted to Major League sports. Unfortunately, this creates something of a catch-22: if an H–2B visa shortage means that promising athletes are unable to hone their skills, and to prove themselves, in the Minor Leagues, then they are far less likely to ever earn a Major League contract.

A simple solution would be to expand the P–1 visa category to include minor league athletes and certain amateur-level athletes who have demonstrated a significant likelihood of graduating to the major leagues. I have received a letter from officials from Major League Baseball, which continues to strongly support the expansion of the P–1 visa category to include professional Minor League baseball players. I would ask unanimous consent that this letter be printed in the RECORD. As the League points out, by making P–1 visas available to this group of athletes, teams would be able to make player development decisions based on the talent of its players, without being constrained by visa quotas. The P–1 category, the League argues, is appropriate for Minor League players because these are the players that the Major League Clubs have selected as some of the best baseball prospects in the world.

There is no question that Americans are passionate about sports. We have high expectations for our teams, and demand only the best from our athletes. By expanding the P–1 visa category, we will make it possible for athletes to be selected based on talent and skill, rather than nationality. In addition, we would reduce some pressure on the H–2B visa category so that more of those visas can be used where they are really needed.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

JULY 11, 2005.

Re legislation for nonimmigrant alien status for certain athletes.

Hon. SUSAN M. COLLINS,

U.S. Senator from Maine, Russell Senate Office Building, Washington, DC.

DEAR SENATOR COLLINS: I wish to express the Lewiston MAINEiacs Hockey Club's support for your efforts with regard to amending the P–1 work visa to enable all of our

non U.S. players to work in the United States.

The Lewiston MAINEiacs Hockey Club is the sole U.S. based franchise in the 18-member Quebec Major Junior Hockey League (QMJHL). The QMJHL together with the Ontario Hockey League (OHL) and the Western Hockey League (WHL) make up the Canadian Hockey League which comprises a total of 58 teams. Of these 58 franchises, 9 are located in the United Stats (OHL–3,WHL–5, QMJHl–1).

The CHL is the largest developer of talent for the National Hockey League (NHL). More than 70% of all players, coaches and general managers who have played in the NHL are graduates of the Canadian Hockey League.

The majority of players in the Canadian Hockey League are Canadian, although each team is permitted to have a maximum of 2 Europeans on their rosters. These is also an increasing number of elite U.S. born players now playing in the league.

The MAINEiacs sophomore season in 2004–fnl2-005 was a giant success, growing the fan base to over 93,000 fans in the regular season (2662 per game average). The team easily advanced through the first round of the playoffs before losing to the Rimouski Oceanic in the second round. Rimouski subsequently went on to win the league title. The Lewiston MAINEiacs also had two of their players drafted into the National Hockey League in June 2004 with Alexandre Picard being selected in the first round, 8th overall by the Columbus Blue Jackets and Jonathan Paiememt being selected by the New York Rangers in the 8th round. A total of 27 players in the QMJHL were selected at the 2004 NHL Entry Draft.

In January of 2004, the City of Lewiston purchased the Colisée in order to complete the first round of renovations to the facility which was in excess of two million dollars. The Colisée has undergone a second phase of renovations in excess of 1.8 million dollars that entails a three-story addition to the front of the building providing for new offices, box office, proshop, food and beverage concessions and a new private VIP suite that can accommodate more than 130 fans per game. The City of Lewiston recently contracted the day-to-day management of the Colisée to Global Spectrum, a subsidiary of Comcast-Spectacor, one of the largest and most successful facility management companies in North America.

The results of the current visa laws have forced all U.S. based franchises in the CHL to delay the commencement of their regular season until or after October 1 of each year due to the restrictions of the H–2B temporary work visa regulations. This has caused significant hardship on teams, their facilities and the 3 leagues. U.S. based franchises are forced to try and make-up games that would normally be scheduled in the month of the September later in the season, putting both the teams and their fans at disadvantage before the season even commences.

Under your leadership, should congressional legislation make available P–1 visas to Major Junior players of the CHL, the success of all 9 U.S. based CHL franchises would be greatly enhanced by ensuring that all 58 teams have an equal chance at attracting and developing the best available talent.

It is the hope of the Lewiston MAINEiacs that your colleagues in the Senate follow your leadership and endorse your recommendations for the expanded P–1 work visa to ensure the viability and success of not only our franchise—but the 8 other U.S. based clubs in the Canadian Hockey League.

Sincerely,

MATT MCKNIGHT,
Vice President & Governor.

OFFICE OF THE COMMISSIONER,
MAJOR LEAGUE BASEBALL,
New York, NY, May 6, 2005.

Re legislation for nonimmigrant alien status for certain athletes.

Hon. SUSAN M. COLLINS,
U.S. Senator from Maine, Russell Senate Office Building, Washington, DC.

DEAR SENATOR COLLINS: I write to express Major League Baseball's support for your efforts on behalf of Minor League professional baseball players. We understand that you are sponsoring legislation that will enable Minor League players to obtain P–1 work visas to perform in the United States.

Currently, foreign players under Minor League contracts are required to obtain H–2B (temporary worker) work visas to perform in the United States, forcing the Major League Clubs to compete with employers of various unskilled workers for a limited number of such visas that are issued. The United States Citizenship and Immigration Services stopped accepting H–2B visa applications in early January this year (and in March, in 2004), citing the nationwide cap in the number of such visas that can be issued. That action prevented more than 350 young baseball players from performing in the Minor Leagues in the United States in 2004 and 2005. Moreover, Major League Clubs were forced to make premature player promotion decisions this past off-season, in a race to apply for H–2B visas before the cap was reached.

Minor League experience is crucial in developing the best possible Major League players. Unlike other professional athletes, baseball players almost invariably cannot go directly from high school or college to the Major Leagues. Almost all need substantial experience in the Minor Leagues to develop their talents and skills to Major League quality. To get that necessary experience, young players are signed by Major League Clubs and assigned to play for Minor League affiliates throughout the United States, such as the Eastern League's Portland Sea Dogs in your state.

Major League Clubs sign many players from the Dominican Republic and Venezuela and assign them at first to affiliates in those countries, then seek to promote them to affiliates in the United States as players' skills progress. Typically, a Club would seek to promote 3–5 players per season to Minor League affiliates in the United States, but the visa restrictions will make those promotions impossible this season, as they did last year as well. The Major League Clubs were able to use only approximately 80% of the H–2B visas the Department of Labor allowed them for the 2004 and 2005 seasons, because current laws prevent them from making decisions in the late spring and throughout the summer to promote foreign prospects to United States affiliates. My staff has learned that at least several Clubs shied away from drafting foreign (mostly Canadian) players whom they otherwise might have selected in the annual First-Year Player Draft in June 2004 and will do so again this year, because those Clubs know there is no opportunity for those players to begin their professional careers in the United States the summer after their selection. For the Canadian players who were drafted in June 2004, signings declined 80% from 2003. These results of the current visa laws have deprived Minor League fans across America from seeing the best young players possible perform for affiliates of the Major League Baseball Clubs and have affected the quality and attractiveness of those affiliates.

Under your leadership, congressional legislation could, by sensibly making available P–1 visas to professional Minor League athletes, ensure that the best baseball prospects from around the world will get the opportunity to develop here in the United States, without the constraint that the H–2B visa cap imposes. The National Association of Professional Baseball Leagues, Inc., also known as Minor League Baseball, shares our support of your legislation. The Major League Baseball Players Association also supports allowing the best young players to develop here in the United States.

Major League Baseball hopes that your Senate colleagues will follow your leadership and pursue a legislative remedy to a problem that is threatening to weaken Baseball's Minor League system.

Sincerely,

ROBERT A. DUPUY,
President and Chief Operating Officer.

By Mr. BAUCUS (for himself and Mr. COLEMAN):

S. 1444. A bill to amend the Trade Act of 1974 to provide for alternative means of certifying workers for adjustment assistance on an industry-wide basis; to the Committee on Finance.

Mr. BAUCUS. Mr. President, I rise today to introduce the Trade Adjustment Assistance for Industries Act.

I have long been a champion for our Trade Adjustment Assistance program, what we call ''TAA.''

For more than 40 years, TAA has been providing retraining, income support, and other benefits to workers who lose their jobs due to trade. The program has a critical mission: to give trade-impacted workers the skills they need to find new jobs and prosper in growing sectors of the economy.

Maintaining a well-trained workforce is key to our Nation's long-term competitiveness and economic health. And helping those few who lose out from our trade policy choices is key to maintaining public support for trade liberalization.

In the Trade Act of 2002, I spearheaded the most comprehensive expansion and overhaul of the TAA program since 1974. We expanded the kinds of workers who are eligible for TAA benefits. We extended the training benefit to make it more effective and enhanced funding for training. We added new benefits like wage insurance and the health coverage tax credit. We also streamlined the application process to get workers enrolled and retraining sooner.

TAA is a lifeline for those who enter the program. Participating workers in Montana tell me that TAA has made it possible for them to make a new start. It gives them hope that they can do something more than merely survive a plant closure.

One of the industries in Montana that has had all too much experience

with the TAA program is softwood lumber. Our softwood lumber industry has been battered for years by imports of dumped and subsidized lumber from Canada. Over time, and despite decades of litigation, these unfair trading practices have taken their toll.

Since 1999, workers from at least 24 Montana lumber mills have applied for TAA certification. An additional 11 petitions were filed under the now-repealed NAFTA–TAA program.

What surprises me is not that so many Montana lumber workers have applied for TAA—but the inconsistent treatment of their petitions. Of the 24 Montana lumber companies that petitioned for TAA, 16 were approved and 8 were denied. Under the NAFTA–TAA program, 6 petitions were approved, and 5 were denied.

These results do not make sense. These mills are all competing in the same market. They are all competing against dumped and subsidized imports from Canada that drive down prices until U.S. producers cannot survive. The International Trade Commission found that Canadian imports injure or threaten injury to the entire domestic softwood lumber industry. And yet, somewhere between a third and a half of Montana workers laid off in the industry were left to fend for themselves, while the others had the chance to participate in TAA.

So why are some workers getting TAA and others being turned down? The answer lies in the way the Department of Labor reviews petitions. Under current law, petitions have to be filed and reviewed on a plant-by-plant basis and in a total vacuum.

In effect, the Labor Department puts on blinders. It does not consider whether the International Trade Commission has found injury to the industry from imports. It does not ask whether imports are leading to job losses nationwide. It does not examine whether entire occupational categories are being offshored.

Instead, it just asks an individual plant whether it or its customers are buying more imports. If that one plant submits the wrong information, or its customers deny buying imports, its workers lose out—while similar workers up the road get the benefits they deserve.

The plight of softwood lumber illustrates why, in some cases, plant-by-plant certification is not the best policy. And lumber workers are not alone. A similarly checkered record of certifications and denials affects other industries, like textiles and small electronics. Simply put, there are some industries where the trade-related displacements are clearly national in scope.

The industries are easy to identify. They experience multiple plant closures covering multiple states in a relatively short period. They are often industries seeking or receiving relief under trade remedy laws.

In these cases, it makes no sense to consider petitions one plant closure at a time. That creates the risk of inconsistent results for similarly situated workers. And it makes the Department of Labor investigate the same situation over and over again—even when the International Trade Commission, or another Federal agency, has already made a thorough injury investigation.

What would make more sense is a way to certify workers on an industry-wide basis or on the basis of occupational classification in cases where the trade-related layoffs are national in scope. That is what this legislation does.

I should note that, in one rare circumstance, the President already has the authority to certify workers for TAA on an industry-wide and nationwide basis. When the President grants a remedy in a global safeguard case—what we call section 201—he has the option of certifying all workers in the affected industry for TAA.

To my knowledge, this option has been used only once, by President Reagan, in a case involving the footwear industry. In that case, workers laid off from individual footwear plants did not need to petition the Department of Labor for a determination that their job losses were import-related. All each worker had to do was go to a designated office in his State and prove that he lost a job in the footwear industry within the applicable time period.

Normally, there are two steps needed to qualify for TAA under current law. First, the Department of Labor has to certify that a particular layoff is trade-related. That certification covers all the workers laid off at a single plant. Second, each individual worker affected by that layoff has to prove that he or she satisfies a list of criteria to qualify for benefits, such as 2 years' employment at the firm and eligibility for unemployment insurance. In the footwear case, workers were spared the first, group eligibility step and moved right to the second step.

To me, this model makes a lot of sense. If you believe in the purpose of TAA, it makes sense to make it as easy as possible for qualifying workers to access benefits.

This bill achieves that goal in two ways.

First, it makes industry-wide TAA certification automatic in cases where the President, the International Trade Commission, or another qualified Federal agency has already determined that imports are having an injurious effect. If workers lose their jobs in an industry covered by a global or bilateral safeguard or an antidumping or countervailing duty order, within a set period of time, they do not need to file a petition for TAA. Instead, they can proceed directly to the second step of demonstrating their individual eligibility and enrolling through the one-stop centers in their states.

Second, the bill permits, but does not require, the Secretary of Labor to make her eligibility determination on an industry-wide or occupation-wide basis in other circumstances that suggest a plant-by-plant approach is not appropriate. Such circumstances would include cases where the Secretary has received three or more petitions from workers at different plants in the same industry within a 6 month period. It would also include cases where the Senate Finance Committee or the House Ways and Means Committee passes a resolution requesting an industry-wide investigation. In these cases, the Secretary may certify workers in an entire industry only if she determines that the statutory eligibility criteria are satisfied on an industry-wide basis.

Now that I have described what this bill does, I think it is important to emphasize some things that it does not do:

It does not change the eligibility criteria or make any new categories of workers eligible for TAA.

It does not make TAA benefits available to workers who quit their jobs or are fired for cause.

It does not change the type or amount of benefits an eligible worker can receive.

What it does is create a fair, predictable, and efficient way to make eligibility determinations where industry-wide effects are obvious.

We owe our trade-affected workers a fair chance to train for the jobs of the future and get back into the workforce. And we owe our employers and our economic future well-trained workers.

We already have a program designed to do just that. We should be doing everything we can to make sure that TAA benefits reach every qualified worker who needs them. This change is long overdue.

I want to thank Senator COLEMAN for joining me in introducing this important legislation. He has been a strong partner in the quest to make TAA work for every American who needs it.

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. 1444

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 ''Trade Adjustment Assistance for Industries Act of 2005''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Trade Adjustment Assistance assists workers and agricultural commodity producers who lose their jobs for trade-related reasons to retrain, gain new skills, and find new jobs in growing sectors of the economy.

(2) The total cost of providing adjustment assistance represents a tiny fraction of the gains to the United States economy as a whole that economists attribute to trade liberalization.

(3) In circumstances where, due to changes in market conditions caused by the implementation of bilateral or multilateral free

trade agreements, unfair trade practices, unforeseen import surges, and other reasons, import competition creates industry-wide effects on domestic workers or agricultural commodity producers, the current process of assessing eligibility for trade adjustment assistance on a plant-by-plant basis is inefficient and can lead to unfair and inconsistent results.

SEC. 3. OTHER METHODS OF REQUESTING INVESTIGATION.

Section 221 of the Trade Act of 1974 (19 U.S.C. 2271) is amended—

(1) by adding at the end the following:

''(c) OTHER METHODS OF INITIATING A PETITION.—Upon the request of the President or the United States Trade Representative, or the resolution of either the Committee on Ways and Means of the House of Representatives or the Committee on Finance of the Senate, the Secretary shall promptly initiate an investigation under this chapter to determine the eligibility for adjustment assistance of—

''(1) a group of workers (which may include workers from more than one facility or employer); or

''(2) all workers in an occupation as that occupation is defined in the Bureau of Labor Statistics Standard Occupational Classification System.'';

(2) in subsection (a)(2), by inserting ''or a request or resolution filed under subsection (c),'' after ''paragraph (1),''; and

(3) in subsection (a)(3), by inserting '', request, or resolution'' after ''petition'' each place it appears.

SEC. 4. NOTIFICATION.

Section 224 of the Trade Act of 1974 (19 U.S.C. 2274) is amended to read as follows:

''SEC. 224. NOTIFICATIONS REGARDING AFFIRMATIVE DETERMINATIONS AND SAFEGUARDS.

''(a) NOTIFICATIONS REGARDING CHAPTER 1 INVESTIGATIONS AND DETERMINATIONS.—Whenever the International Trade Commission makes a report under section 202(f) containing an affirmative finding regarding serious injury, or the threat thereof, to a domestic industry, the Commission shall immediately—

''(1) notify the Secretary of Labor of that finding; and

''(2) in the case of a finding with respect to an agricultural commodity, as defined in section 291, notify the Secretary of Agriculture of that finding.

''(b) NOTIFICATION REGARDING BILATERAL SAFEGUARDS.—The International Trade Commission shall immediately notify the Secretary of Labor and, in an investigation with respect to an agricultural commodity, the Secretary of Agriculture, whenever the Commission makes an affirmative determination pursuant to one of the following provisions:

''(1) Section 421 of the Trade Act of 1974 (19 U.S.C. 2451).

''(2) Section 312 of the United States-Australia Free Trade Agreement Implementation Act (19 U.S.C. 3805 note).

''(3) Section 312 of the United States-Morocco Free Trade Agreement Implementation Act (19 U.S.C. 3805 note).

''(4) Section 312 of the United States-Singapore Free Trade Agreement Implementation Act (19 U.S.C. 3805 note).

''(5) Section 312 of the United States-Chile Free Trade Agreement Implementation Act (19 U.S.C. 3805 note).

''(6) Section 302(b) of the North American Free Trade Agreement Implementation Act (19 U.S.C. 3352(b)).

''(7) Section 212 of the United States-Jordan Free Trade Agreement Implementation Act (19 U.S.C. 2112).

''(c) AGRICULTURAL SAFEGUARDS.—The Commissioner of Customs shall immediately notify the Secretary of Labor and, in the case of an agricultural commodity, the Secretary of Agriculture, whenever the Commissioner of Customs assesses additional duties on a product pursuant to one of the following provisions:

''(1) Section 202 of the United States-Australia Free Trade Agreement Implementation Act (19 U.S.C. 3805 note).

''(2) Section 202 of the United States-Morocco Free Trade Agreement Implementation Act (19 U.S.C. 3805 note).

''(3) Section 201(c) of the United States-Chile Free Trade Agreement Implementation Act (19 U.S.C. 3805 note).

''(4) Section 309 of the North American Free Trade Agreement Implementation Act (19 U.S.C. 3358).

''(5) Section 301(a) of the United States-Canada Free Trade Agreement Implementation Act of 1988 (19 U.S.C. 2112 note).

''(6) Section 404 of the United States-Israel Free Trade Agreement Implementation Act (19 U.S.C. 2112 note).

''(d) TEXTILE SAFEGUARDS.—The President shall immediately notify the Secretary of Labor whenever the President makes a positive determination pursuant to one of the following provisions:

''(1) Section 322 of the United States-Australia Free Trade Agreement Implementation Act (19 U.S.C. 3805 note).

''(2) Section 322 of the United States-Morocco Free Trade Agreement Implementation Act (19 U.S.C. 3805 note).

''(3) Section 322 of the United States-Chile Free Trade Agreement Implementation Act (19 U.S.C. 3805 note).

''(4) Section 322 of the United States-Singapore Free Trade Agreement Implementation Act (19 U.S.C. 3805 note).

''(e) ANTIDUMPING AND COUNTERVAILING DUTIES.—Whenever the International Trade Commission makes a final affirmative determination pursuant to section 705 or section 735 of the Tariff Act of 1930 (19 U.S.C. 1671d or 1673d), the Commission shall immediately notify the Secretary of Labor and, in the case of an agricultural commodity, the Secretary of Agriculture, of that determination.''.

SEC. 5. INDUSTRY-WIDE DETERMINATION.

Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) is amended by adding at the end the following:

''(e) INVESTIGATION REGARDING INDUSTRY-WIDE CERTIFICATION.—If the Secretary receives a request or a resolution under section 221(c) on behalf of workers in a domestic industry or occupation (described in section 221(c)(2)) or receives 3 or more petitions under section 221(a) within a 180-day period on behalf of groups of workers in a domestic industry or occupation, the Secretary shall make an industry-wide determination under subsection (a) of this section with respect to the domestic industry or occupation in which the workers are or were employed. If the Secretary does not make certification under the preceding sentence, the Secretary shall make a determination of eligibility under subsection (a) with respect to each group of workers in that domestic industry or occupation from which a petition was received.''.

SEC. 6. COORDINATION WITH OTHER TRADE PROVISIONS.

(a) INDUSTRY-WIDE CERTIFICATION BASED ON GLOBAL SAFEGUARDS.—

(1) RECOMMENDATIONS BY ITC.—

(A) Section 202(e)(2)(D) of the Trade Act of 1974 (19 U.S.C. 2252(e)(2)(D)) is amended by striking '', including the provision of trade adjustment assistance under chapter 2''.

(B) Section 203(a)(3)(D) of the Trade Act of 1974 (19 U.S.C. 2253(a)(3)(D)) is amended by striking '', including the provision of trade adjustment assistance under chapter 2''.

(2) ASSISTANCE FOR WORKERS.—Section 203(a)(1)(A) of the Trade Act of 1974 (19 U.S.C. 2253(a)(1)(A)) is amended to read as follows:

''(A) After receiving a report under section 202(f) containing an affirmative finding regarding serious injury, or the threat thereof, to a domestic industry—

''(i) the President shall take all appropriate and feasible action within his power; and

''(ii)(I) the Secretary of Labor shall certify as eligible to apply for adjustment assistance under section 223 workers employed in the domestic industry defined by the Commission if such workers become totally or partially separated, or are threatened to become totally or partially separated, not earlier than 1 year before, or not later than 1 year after, the date on which the Commission made its report to the President under section 202(f); and

''(II) in the case of a finding with respect to an agricultural commodity as defined in section 291, the Secretary of Agriculture shall certify as eligible to apply for adjustment assistance under section 293 agricultural commodity producers employed in the domestic production of the agricultural commodity that is the subject of the finding during the most recent marketing year.''.

(b) INDUSTRY-WIDE CERTIFICATION BASED ON BILATERAL SAFEGUARD PROVISIONS OR ANTIDUMPING OR COUNTERVAILING DUTY ORDERS.—

(1) IN GENERAL.—Subchapter A of chapter 1 of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.) is amended by inserting after section 224 the following new section:

''SEC. 224A. INDUSTRY-WIDE CERTIFICATION WHERE BILATERAL SAFEGUARD PROVISIONS INVOKED OR ANTIDUMPING OR COUNTERVAILING DUTIES IMPOSED.

''(a) IN GENERAL.—

''(1) MANDATORY CERTIFICATION.—Not later than 10 days after the date on which the Secretary of Labor receives a notification with respect to the imposition of a trade remedy, safeguard determination, or antidumping or countervailing duty determination under section 224 (a), (b), (c), (d), or (e), the Secretary shall certify as eligible for trade adjustment assistance under section 223(a) workers employed in the domestic production of the article that is the subject of the trade remedy, safeguard determination, or antidumping or countervailing duty determination, as the case may be, if such workers become totally or partially separated, or are threatened to become totally or partially separated not more than 1 year before or not more than 1 year after the applicable date.

''(2) APPLICABLE DATE.—In this section, the term 'applicable date' means—

''(A) the date on which the affirmative or positive determination or finding is made in the case of a notification under section 224 (a), (b), or (d);

''(B) the date on which a final determination is made in the case of a notification under section 224(e); or

''(C) the date on which additional duties are assessed in the case of a notification under section 224(c).

''(b) QUALIFYING REQUIREMENTS FOR WORKERS.—The provisions of subchapter B shall apply in the case of a worker covered by a certification under this section or section 223(e), except as follows:

''(1) Section 231(a)(5)(A)(ii) shall be applied—

''(A) by substituting '30th week' for '16th week' in subclause (I); and

''(B) by substituting '26th week' for '8th week' in subclause (II).

''(2) The provisions of section 236(a)(1) (A) and (B) shall not apply.''.

(2) AGRICULTURAL COMMODITY PRODUCERS.—Chapter 6 of title II of the Trade Act of 1974

(19 U.S.C. 2401 et seq.) is amended by striking section 294 and inserting the following:

''SEC. 294. INDUSTRY-WIDE CERTIFICATION FOR AGRICULTURAL COMMODITY PRODUCERS WHERE SAFEGUARD PROVISIONS INVOKED OR ANTIDUMPING OR COUNTERVAILING DUTIES IMPOSED.

''(a) IN GENERAL.—Not later than 10 days after the date on which the Secretary of Agriculture receives a notification with respect to the imposition of a trade remedy, safeguard determination, or antidumping or countervailing duty determination under section 224 (b), (c), or (e), the Secretary shall certify as eligible for trade adjustment assistance under section 293(a) agricultural commodity producers employed in the domestic production of the agricultural commodity that is the subject of the trade remedy, safeguard determination, or antidumping or countervailing duty determination, as the case may be, during the most recent marketing year.

''(b) APPLICABLE DATE.—In this section, the term 'applicable date' means—

''(1) the date on which the affirmative or positive determination or finding is made in the case of a notification under section 224(b);

''(2) the date on which a final determination is made in the case of a notification under section 224(e); or

''(3) the date on which additional duties are assessed in the case of a notification under section 224(c).''.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) TRAINING.—Section 236(a)(2)(A) is amended by striking ''$220,000,000, and inserting ''$440,000,000''.

(2) TABLE OF CONTENTS.—The table of contents for title II of the Trade Act of 1974 is amended—

(A) by striking the item relating to section 224 and inserting the following:

''Sec. 224. Notifications regarding affirmative determinations and safeguards.'';

(B) by inserting after the item relating to section 224, the following:

''Sec. 224A. Industry-wide certification based on bilateral safeguard provisions invoked or antidumping or countervailing duties imposed.'';

and

(C) by striking the item relating to section 294, and inserting the following:

''Sec. 294. Industry-wide certification for agricultural commodity producers where safeguard provisions invoked or antidumping or countervailing duties imposed.''.

SEC. 7. REGULATIONS.

The Secretary of the Treasury, the Secretaries of Agriculture and Labor, and the International Trade Commission may promulgate such regulations as may be necessary to carry out the amendments made by this Act.

By Mr. GRASSLEY (for himself and Mr. BAUCUS):

S. 1447. A bill to amend the Internal Revenue Code of 1986 to make technical corrections, and for other purposes; to the Committee on Finance.

Mr. GRASSLEY. Mr. President, Today I am pleased to introduce the Tax Technical Corrections Act of 2005 with Senator BAUCUS.

Technical corrections measures are routine for major tax acts, and are necessary to ensure that the provisions of the acts are working consistently with the originally enacted provisions, or to provide clerical corrections. Because these measures carry out Congressional intent, no revenue gain or loss is scored from them.

Technical corrections are derived from a deliberative and consultative process among the Congressional and administration tax staffs. That means the Republican and Democratic staffs of the House Ways and Means and Senate Finance Committees are involved as is the Treasury Department staff. All of this work is performed with the participation and guidance of the nonpartisan Joint Committee on Taxation staff. A technical enters the list only if all staffs agree it is appropriate.

The process and test for technical corrections ensures that only provisions narrowly drawn to carry out Congressional intent are included.

Unfortunately, some press reports have distorted the technical corrections bill. These reports unfairly characterize this technical corrections bill as a re-opening of substantive tax policy of settled tax legislation.

While it is true that interested parties are heard on purported technical corrections, only measures that all staffs agree are purely technical are included in the bill. Clarifications or substantive changes to provisions are not considered technical corrections. This is an important distinction that the press reports unfortunately did not make.

I ask unanimous consent that the text of this bill be printed in the RECORD.

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

S. 1447

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

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Tax Technical Corrections Act of 2005''.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

SEC. 2. AMENDMENTS RELATED TO THE AMERICAN JOBS CREATION ACT OF 2004.

(a) AMENDMENTS RELATED TO SECTION 102 OF THE ACT.—

(1) Paragraph (1) of section 199(b) is amended by striking ''the employer'' and inserting ''the taxpayer''.

(2) Paragraph (2) of section 199(b) is amended to read as follows:

''(2) W–2 WAGES.—For purposes of this section, the term 'W–2 wages' means, with respect to any person for any taxable year of such person, the sum of the amounts described in paragraphs (3) and (8) of section 6051(a) paid by such person with respect to employment of employees by such person during the calendar year ending during such taxable year. Such term shall not include any amount which is not properly included in a return filed with the Social Security Administration on or before the 60th day after the due date (including extensions) for such return.''.

(3) Subparagraph (B) of section 199(c)(1) is amended by inserting ''and'' at the end of clause (i), by striking clauses (ii) and (iii), and by inserting after clause (i) the following:

''(ii) other expenses, losses, or deductions (other than the deduction allowed under this section), which are properly allocable to such receipts.''.

(4) Paragraph (2) of section 199(c) is amended to read as follows:

''(2) ALLOCATION METHOD.—The Secretary shall prescribe rules for the proper allocation of items described in paragraph (1) for purposes of determining qualified production activities income. Such rules shall provide for the proper allocation of items whether or not such items are directly allocable to domestic production gross receipts.''.

(5) Subparagraph (A) of section 199(c)(4) is amended by striking clauses (ii) and (iii) and inserting the following new clauses:

''(ii) in the case of a taxpayer engaged in the active conduct of a construction trade or business, construction of real property performed in the United States by the taxpayer in the ordinary course of such trade or business, or

''(iii) in the case of a taxpayer engaged in the active conduct of an engineering or architectural services trade or business, engineering or architectural services performed in the United States by the taxpayer in the ordinary course of such trade or business with respect to the construction of real property in the United States.''.

(6) Subparagraph (B) of section 199(c)(4) is amended by striking ''and'' at the end of clause (i), by striking the period at the end of clause (ii) and inserting '', or'', and by adding at the end the following:

''(iii) the lease, rental, license, sale, exchange, or other disposition of land.''.

(7) Paragraph (4) of section 199(c) is amended by adding at the end the following new subparagraphs:

''(C) SPECIAL RULE FOR CERTAIN GOVERNMENT CONTRACTS.—Gross receipts derived from the manufacture or production of any property described in subparagraph (A)(i)(I) shall be treated as meeting the requirements of subparagraph (A)(i) if—

''(i) such property is manufactured or produced by the taxpayer pursuant to a contract with the Federal Government, and

''(ii) the Federal Acquisition Regulation requires that title or risk of loss with respect to such property be transferred to the Federal Government before the manufacture or production of such property is complete.

''(D) PARTNERSHIPS OWNED BY EXPANDED AFFILIATED GROUPS.—For purposes of this

paragraph, if all of the interests in the capital and profits of a partnership are owned by members of a single expanded affiliated group at all times during the taxable year of such partnership, the partnership and all members of such group shall be treated as a single taxpayer during such period.''.

(8) Paragraph (1) of section 199(d) is amended to read as follows:

''(1) APPLICATION OF SECTION TO PASS-THRU ENTITIES.—

''(A) PARTNERSHIPS AND S CORPORATIONS.—In the case of a partnership or S corporation—

''(i) this section shall be applied at the partner or shareholder level,

''(ii) each partner or shareholder shall take into account such person's allocable share of each item described in subparagraph (A) or (B) of subsection (c)(1) (determined without regard to whether the items described in such subparagraph (A) exceed the items described in such subparagraph (B)), and

''(iii) each partner or shareholder shall be treated for purposes of subsection (b) as having W–2 wages for the taxable year in an amount equal to the lesser of—

''(I) such person's allocable share of the W–2 wages of the partnership or S corporation for the taxable year (as determined under regulations prescribed by the Secretary), or

''(II) 2 times 9 percent of so much of such person's qualified production activities income as is attributable to items allocated under clause (ii) for the taxable year.

''(B) TRUSTS AND ESTATES.—In the case of a trust or estate—

''(i) the items referred to in subparagraph (A)(ii) (as determined therein) and the W–2 wages of the trust or estate for the taxable year, shall be apportioned between the beneficiaries and the fiduciary (and among the beneficiaries) under regulations prescribed by the Secretary, and

''(ii) for purposes of paragraph (2), adjusted gross income of the trust or estate shall be determined as provided in section 67(e) with the adjustments described in such paragraph.

''(C) REGULATIONS.—The Secretary may prescribe rules requiring or restricting the allocation of items and wages under this paragraph and may prescribe such reporting requirements as the Secretary determines appropriate.''.

(9) Paragraph (3) of section 199(d) is amended to read as follows:

''(3) AGRICULTURAL AND HORTICULTURAL COOPERATIVES.—

''(A) DEDUCTION ALLOWED TO PATRONS.—Any person who receives a qualified payment from a specified agricultural or horticultural cooperative shall be allowed for the taxable year in which such payment is received a deduction under subsection (a) equal to the portion of the deduction allowed under subsection (a) to such cooperative which is—

''(i) allowed with respect to the portion of the qualified production activities income to which such payment is attributable, and

''(ii) identified by such cooperative in a written notice mailed to such person during the payment period described in section 1382(d).

''(B) COOPERATIVE DENIED DEDUCTION FOR PORTION OF QUALIFIED PAYMENTS.—The taxable income of a specified agricultural or horticultural cooperative shall not be reduced under section 1382 by reason of that portion of any qualified payment as does not exceed the deduction allowable under subparagraph (A) with respect to such payment.

''(C) TAXABLE INCOME OF COOPERATIVES DETERMINED WITHOUT REGARD TO CERTAIN DEDUCTIONS.—For purposes of this section, the taxable income of a specified agricultural or horticultural cooperative shall be computed without regard to any deduction allowable under subsection (b) or (c) of section 1382 (relating to patronage dividends, per-unit retain allocations, and nonpatronage distributions).

''(D) SPECIAL RULE FOR MARKETING COOPERATIVES.—For purposes of this section, a specified agricultural or horticultural cooperative described in subparagraph (F)(ii) shall be treated as having manufactured, produced, grown, or extracted in whole or significant part any qualifying production property marketed by the organization which its patrons have so manufactured, produced, grown, or extracted.

''(E) QUALIFIED PAYMENT.—For purposes of this paragraph, the term 'qualified payment' means, with respect to any person, any amount which—

''(i) is described in paragraph (1) or (3) of section 1385(a),

''(ii) is received by such person from a specified agricultural or horticultural cooperative, and

''(iii) is attributable to qualified production activities income with respect to which a deduction is allowed to such cooperative under subsection (a).

''(F) SPECIFIED AGRICULTURAL OR HORTICULTURAL COOPERATIVE.—For purposes of this paragraph, the term 'specified agricultural or horticultural cooperative' means an organization to which part I of subchapter T applies which is engaged—

''(i) in the manufacturing, production, growth, or extraction in whole or significant part of any agricultural or horticultural product, or

''(ii) in the marketing of agricultural or horticultural products.''.

(10) Clause (i) of section 199(d)(4)(B) is amended—

(A) by striking ''50 percent'' and inserting ''more than 50 percent'', and

(B) by striking ''80 percent'' and inserting ''at least 80 percent''.

(11)(A) Paragraph (6) of section 199(d) is amended to read as follows:

''(6) COORDINATION WITH MINIMUM TAX.—For purposes of determining alternative minimum taxable income under section 55—

''(A) the deduction under this section shall be determined without regard to any adjustments under sections 56 through 59, and

''(B) in the case of a corporation, subsection (a)(1)(B) shall be applied by substituting 'alternative minimum taxable income' for 'taxable income'.''.

(B) Paragraph (2) of section 199(a) is amended by striking ''subsections (d)(1) and (d)(6)'' and inserting ''subsection (d)(1)''.

(12) Subsection (d) of section 199 is amended by redesignating paragraph (7) as paragraph (8) and by inserting after paragraph (6) the following new paragraph:

''(7) UNRELATED BUSINESS TAXABLE INCOME.—For purposes of determining the tax imposed by section 511, subsection (a)(1)(B) shall be applied by substituting 'unrelated business taxable income' for 'taxable income'.''.

(13) Subsection (d) of section 199, as amended by the preceding paragraphs of this subsection, is further amended by redesignating paragraph (8) as paragraph (9) and by inserting after paragraph (7) the following new paragraph:

''(8) COORDINATION WITH CARRYOVER OF NET OPERATING LOSS.—The deduction allowable under this section shall not be taken into account for purposes of computing taxable income under section 172(b)(2).''.

(14) Paragraph (9) of section 199(d), as redesignated by the preceding paragraphs of this subsection, is amended by inserting '', including regulations which prevent more than 1 taxpayer from being allowed a deduction under this section with respect to any activity described in subsection (c)(4)(A)(i)'' before the period at the end.

(15) Clause (i) of section 163(j)(6)(A) is amended by striking ''and'' at the end of subclause (II), by redesignating subclause (III) as subclause (IV), and by inserting after subclause (II) the following new subclause:

''(III) any deduction allowable under section 199, and''.

(16) Paragraph (2) of section 170(b) is amended by redesignating subparagraphs (C) and (D) as subparagraphs (D) and (E), respectively, and by inserting after subparagraph (B) the following new subparagraph:

''(C) section 199,''.

(17) Paragraph (1) of section 613A(d) is amended by redesignating subparagraphs (B), (C), and (D) as subparagraphs (C), (D), and (E), respectively, and by inserting after subparagraph (A) the following new subparagraph:

''(B) any deduction allowable under section 199,''.

(18) Subsection (e) of section 102 of the American Jobs Creation Act of 2004 is amended to read as follows:

''(e) EFFECTIVE DATE.—

''(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

''(2) APPLICATION TO PASS-THRU ENTITIES, ETC.—In determining the deduction under section 199 of the Internal Revenue Code of 1986 (as added by this section), items arising from a taxable year of a partnership, S corporation, estate, or trust beginning before January 1, 2005, shall not be taken into account for purposes of subsection (d)(1) of such section.''.

(b) AMENDMENTS RELATED TO SECTION 231 OF THE ACT.—

(1) Clause (ii) of section 1361(c)(1)(A) is amended by inserting ''(and their estates)'' after ''all members of the family''.

(2) Subparagraph (C) of section 1361(c)(1) is amended to read as follows:

''(C) EFFECT OF ADOPTION, ETC.—For purposes of this paragraph, any legally adopted child of an individual, any child who is lawfully placed with an individual for legal adoption by the individual, and any eligible foster child of an individual (within the meaning of section 152(f)(1)(C)), shall be treated as a child of such individual by blood.''.

(c) AMENDMENT RELATED TO SECTION 235 OF THE ACT.—Subsection (b) of section 235 of the American Jobs Creation Act of 2004 is amended by striking ''taxable years beginning'' and inserting ''transfers''.

(d) AMENDMENTS RELATED TO SECTION 243 OF THE ACT.—

(1) Paragraph (7) of section 856(c) is amended to read as follows:

''(7) RULES OF APPLICATION FOR FAILURE TO SATISFY PARAGRAPH (4).—

''(A) IN GENERAL.—A corporation, trust, or association that fails to meet the requirements of paragraph (4) (other than a failure to meet the requirements of paragraph (4)(B)(iii) which is described in subparagraph (B)(i) of this paragraph) for a particular quarter shall nevertheless be considered to have satisfied the requirements of such paragraph for such quarter if—

''(i) following the corporation, trust, or association's identification of the failure to satisfy the requirements of such paragraph for a particular quarter, a description of each asset that causes the corporation, trust, or association to fail to satisfy the requirements of such paragraph at the close of such quarter of any taxable year is set forth in a schedule for such quarter filed in accordance with regulations prescribed by the Secretary,

''(ii) the failure to meet the requirements of such paragraph for a particular quarter is due to reasonable cause and not due to willful neglect, and

''(iii)(I) the corporation, trust, or association disposes of the assets set forth on the schedule specified in clause (i) within 6 months after the last day of the quarter in which the corporation, trust or association's identification of the failure to satisfy the requirements of such paragraph occurred or such other time period prescribed by the Secretary and in the manner prescribed by the Secretary, or

''(II) the requirements of such paragraph are otherwise met within the time period specified in subclause (I).

''(B) RULE FOR CERTAIN DE MINIMIS FAILURES.—A corporation, trust, or association that fails to meet the requirements of paragraph (4)(B)(iii) for a particular quarter shall nevertheless be considered to have satisfied the requirements of such paragraph for such quarter if—

''(i) such failure is due to the ownership of assets the total value of which does not exceed the lesser of—

''(I) 1 percent of the total value of the trust's assets at the end of the quarter for which such measurement is done, and

''(II) $10,000,000, and

''(ii)(I) the corporation, trust, or association, following the identification of such failure, disposes of assets in order to meet the requirements of such paragraph within 6 months after the last day of the quarter in which the corporation, trust or association's identification of the failure to satisfy the requirements of such paragraph occurred or such other time period prescribed by the Secretary and in the manner prescribed by the Secretary, or

''(II) the requirements of such paragraph are otherwise met within the time period specified in subclause (I).

''(C) TAX.—

''(i) TAX IMPOSED.—If subparagraph (A) applies to a corporation, trust, or association for any taxable year, there is hereby imposed on such corporation, trust, or association a tax in an amount equal to the greater of—

''(I) $50,000, or

''(II) the amount determined (pursuant to regulations promulgated by the Secretary) by multiplying the net income generated by the assets described in the schedule specified in subparagraph (A)(i) for the period specified in clause (ii) by the highest rate of tax specified in section 11.

''(ii) PERIOD.—For purposes of clause (i)(II), the period described in this clause is the period beginning on the first date that the failure to satisfy the requirements of such paragraph (4) occurs as a result of the ownership of such assets and ending on the earlier of the date on which the trust disposes of such assets or the end of the first quarter when there is no longer a failure to satisfy such paragraph (4).

''(iii) ADMINISTRATIVE PROVISIONS.—For purposes of subtitle F, the taxes imposed by this subparagraph shall be treated as excise taxes with respect to which the deficiency procedures of such subtitle apply.''.

(2) Subsection (m) of section 856 is amended by adding at the end the following new paragraph:

''(6) TRANSITION RULE.—

''(A) IN GENERAL.—Notwithstanding paragraph (2)(C), securities held by a trust shall not be considered securities held by the trust for purposes of subsection (c)(4)(B)(iii)(III) if such securities—

''(i) were held by such trust on October 22, 2004, and continuously thereafter, and

''(ii) would not be taken into account for purposes of such subsection by reason of paragraph (7)(C) of subsection (c) (as in effect on October 22, 2004) if the amendments made by section 243 of the American Jobs Creation Act of 2004 had never been enacted.

''(B) RULE NOT TO APPLY TO SECURITIES HELD AFTER MATURITY DATE.—Subparagraph (A) shall not apply with respect to any security after the latest maturity date under the contract (as in effect on October 22, 2004) taking into account any renewal or extension permitted under the contract if such renewal or extension does not significantly modify any other terms of the contract.

''(C) SUCCESSORS.—If the successor of a trust to which this paragraph applies acquires securities in a transaction to which section 381 applies, such trusts shall be treated as a single entity for purposes of determining the holding period of such securities under subparagraph (A)(i).''.

(3) Subparagraph (E) of section 857(b)(2) is amended by striking ''section 856(c)(7)(B)(iii), and section 856(g)(1).'' and inserting ''section 856(c)(7)(C), and section 856(g)(5)''.

(4) Subsection (g) of section 243 of the American Jobs Creation Act of 2004 is amended to read as follows:

''(g) EFFECTIVE DATES.—

''(1) SUBSECTIONS (A) AND (B).—The amendments made by subsections (a) and (b) shall apply to taxable years beginning after December 31, 2000.

''(2) SUBSECTIONS (C) AND (E).—The amendments made by subsections (c) and (e) shall apply to taxable years beginning after the date of the enactment of this Act.

''(3) SUBSECTION (D).—The amendment made by subsection (d) shall apply to transactions entered into after December 31, 2004.

''(4) SUBSECTION (F).—

''(A) The amendment made by paragraph (1) of subsection (f) shall apply to failures with respect to which the requirements of subparagraph (A) or (B) of section 856(c)(7) of the Internal Revenue Code of 1986 (as added by such paragraph) are satisfied after the date of the enactment of this Act.

''(B) The amendment made by paragraph (2) of subsection (f) shall apply to failures with respect to which the requirements of paragraph (6) of section 856(c) of the Internal Revenue Code of 1986 (as amended by such paragraph) are satisfied after the date of the enactment of this Act.

''(C) The amendments made by paragraph (3) of subsection (f) shall apply to failures with respect to which the requirements of paragraph (5) of section 856(g) of the Internal Revenue Code of 1986 (as added by such paragraph) are satisfied after the date of the enactment of this Act.

''(D) The amendment made by paragraph (4) of subsection (f) shall apply to taxable years ending after the date of the enactment of this Act.

''(E) The amendments made by paragraph (5) of subsection (f) shall apply to statements filed after the date of the enactment of this Act.''.

(e) AMENDMENTS RELATED TO SECTION 244 OF THE ACT.—

(1) Paragraph (2) of section 181(d) is amended by striking the last sentence in subparagraph (A), by redesignating subparagraph (B) as subparagraph (C), and by inserting after subparagraph (A) the following new subparagraph:

''(B) SPECIAL RULES FOR TELEVISION SERIES.—In the case of a television series—

''(i) each episode of such series shall be treated as a separate production, and

''(ii) only the first 44 episodes of such series shall be taken into account.''.

(2) Subparagraph (C) of section 1245(a)(2) is amended by inserting ''181,'' after ''179B,''.

(f) AMENDMENT RELATED TO SECTION 245 OF THE ACT.—Subsection (b) of section 45G is amended to read as follows:

''(b) LIMITATION.—The credit allowed under subsection (a) for any taxable year shall not exceed the product of—

''(1) $3,500, and

''(2) the sum of—

''(A) the number of miles of railroad track owned or leased by the eligible taxpayer as of the close of the taxable year, and

''(B) the number of miles of railroad track assigned for purposes of this subsection to the eligible taxpayer by a Class II or Class III railroad which owns or leases such railroad track as of the close of the taxable year.

Any mile which is assigned by a taxpayer under paragraph (2)(B) may not be taken into account by such taxpayer under paragraph (2)(A).''.

(g) AMENDMENTS RELATED TO SECTION 248 OF THE ACT.—

(1) Subsection (c) of section 1356 is amended—

(A) by striking paragraph (3), and

(B) by adding at the end of paragraph (2) the following new flush sentence:

''Such term shall not include any core qualifying activities.''.

(2) The last sentence of section 1354(b) is amended by inserting ''on or'' after ''only if made''.

(h) AMENDMENT RELATED TO SECTION 301 OF THE ACT.—Section 6427 is amended by striking subsection (f).

(i) AMENDMENT RELATED TO SECTION 314 OF THE ACT.—Paragraph (2) of section 55(c) is amended by striking ''regular tax'' and inserting ''regular tax liability''.

(j) AMENDMENTS RELATED TO SECTION 322 OF THE ACT.—

(1) Subparagraph (C) of section 49(a)(1) is amended by inserting ''and'' at the end of clause (i), by striking ''and'' at the end of clause (ii), and by striking clause (iii).

(2)(A) Subparagraph (B) of section 194(b)(1) is amended to read as follows:

''(B) DOLLAR LIMITATION.—The aggregate amount of reforestation expenditures which may be taken into account under subparagraph (A) with respect to each qualified timber property for any taxable year shall not exceed—

''(i) except as provided in clause (ii) or (iii), $10,000,

''(ii) in the case of a separate return by a married individual (as defined in section 7703), $5,000, and

''(iii) in the case of a trust, zero.''.

(B) Paragraph (4) of section 194(c) is amended to read as follows:

''(4) TREATMENT OF TRUSTS AND ESTATES.—The aggregate amount of reforestation expenditures incurred by any trust or estate shall be apportioned between the income beneficiaries and the fiduciary under regulations prescribed by the Secretary. Any amount so apportioned to a beneficiary shall be taken into account as expenditures incurred by such beneficiary in applying this section to such beneficiary.''.

(3) Subparagraph (C) of section 1245(a)(2) is amended by striking ''or 193'' and inserting ''193, or 194''.

(k) AMENDMENTS RELATED TO SECTION 336 OF THE ACT.—

(1) Clause (iv) of section 168(k)(2)(A) is amended by striking ''subparagraphs (B) and (C)'' and inserting ''subparagraph (B) or (C)''.

(2) Clause (iii) of section 168(k)(4)(B) is amended by striking ''and paragraph (2)(C)'' and inserting ''or paragraph (2)(C) (as so modified)''.

(l) AMENDMENT RELATED TO SECTION 402 OF THE ACT.—Paragraph (2) of section 904(g) is amended to read as follows:

''(2) OVERALL DOMESTIC LOSS.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'overall domestic loss' means—

''(i) with respect to any qualified taxable year, the domestic loss for such taxable year to the extent such loss offsets taxable income from sources without the United

States for the taxable year or for any preceding qualified taxable year by reason of a carryback, and

''(ii) with respect to any other taxable year, the domestic loss for such taxable year to the extent such loss offsets taxable income from sources without the United States for any preceding qualified taxable year by reason of a carryback.

''(B) DOMESTIC LOSS.—For purposes of subparagraph (A), the term 'domestic loss' means the amount by which the gross income for the taxable year from sources within the United States is exceeded by the sum of the deductions properly apportioned or allocated thereto (determined without regard to any carryback from a subsequent taxable year).

''(C) QUALIFIED TAXABLE YEAR.—For purposes of subparagraph (A), the term 'qualified taxable year' means any taxable year for which the taxpayer chose the benefits of this subpart.''.

(m) AMENDMENT RELATED TO SECTION 403 OF THE ACT.—Section 403 of the American Jobs Creation Act of 2004 is amended by adding at the end the following new subsection:

''(d) TRANSITION RULE.—If the taxpayer elects (at such time and in such form and manner as the Secretary of the Treasury may prescribe) to have the rules of this subsection apply—

''(1) the amendments made by this section shall not apply to taxable years beginning after December 31, 2002, and before January 1, 2005, and

''(2) in the case of taxable years beginning after December 31, 2004, clause (iv) of section 904(d)(4)(C) of the Internal Revenue Code of 1986 (as amended by this section) shall be applied by substituting 'January 1, 2005' for 'January 1, 2003' both places it appears.''.

(n) AMENDMENTS RELATED TO SECTION 413 OF THE ACT.—

(1) Subsection (b) of section 532 is amended by striking paragraph (2) and redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

(2) Subsection (b) of section 535 is amended by adding at the end the following new paragraph:

''(10) CONTROLLED FOREIGN CORPORATIONS.—There shall be allowed as a deduction the amount of the corporation's income for the taxable year which is included in the gross income of a United States shareholder under section 951(a). In the case of any corporation the accumulated taxable income of which would (but for this sentence) be determined without allowance of any deductions, the deduction under this paragraph shall be allowed and shall be appropriately adjusted to take into account any deductions which reduced such inclusion.''.

(o) AMENDMENT RELATED TO SECTION 415 OF THE ACT.—Subparagraph (D) of section 904(d)(2) is amended by inserting ''as in effect before its repeal'' after ''section 954(f)''.

(p) AMENDMENTS RELATED TO SECTION 418 OF THE ACT.—

(1) The second sentence of section 897(h)(1) is amended—

(A) by striking ''any distribution'' and all that follows through ''any class of stock'' and inserting ''any distribution by a real estate investment trust with respect to any class of stock'', and

(B) by striking ''the taxable year'' and inserting ''the 1-year period ending on the date of the distribution''.

(2) Subsection (c) of section 418 of the American Jobs Creation Act of 2004 is amended by striking ''taxable years beginning after the date of the enactment of this Act'' and inserting ''any distribution by a real estate investment trust which is treated as a deduction for a taxable year of such trust beginning after the date of the enactment of this Act''.

(q) AMENDMENTS RELATED TO SECTION 422 OF THE ACT.—

(1) Subparagraph (B) of section 965(a)(2) is amended by inserting ''from another controlled foreign corporation in such chain of ownership'' before '', but only to the extent''.

(2) Subparagraph (A) of section 965(b)(2) is amended by inserting ''cash'' before ''dividends''.

(3) Paragraph (3) of section 965(b) is amended by adding at the end the following: ''The Secretary may prescribe such regulations as may be necessary or appropriate to prevent the avoidance of the purposes of this paragraph, including regulations which provide that cash dividends shall not be taken into account under subsection (a) to the extent such dividends are attributable to the direct or indirect transfer (including through the use of intervening entities or capital contributions) of cash or other property from a related person (as so defined) to a controlled foreign corporation.''.

(4) Paragraph (1) of section 965(c) is amended to read as follows:

''(1) APPLICABLE FINANCIAL STATEMENT.—The term 'applicable financial statement' means—

''(A) with respect to a United States shareholder which is required to file a financial statement with the Securities and Exchange Commission (or which is included in such a statement so filed by another person), the most recent audited annual financial statement (including the notes which form an integral part of such statement) of such shareholder (or which includes such shareholder)—

''(i) which was so filed on or before June 30, 2003, and

''(ii) which was certified on or before June 30, 2003, as being prepared in accordance with generally accepted accounting principles, and

''(B) with respect to any other United States shareholder, the most recent audited financial statement (including the notes which form an integral part of such statement) of such shareholder (or which includes such shareholder)—

''(i) which was certified on or before June 30, 2003, as being prepared in accordance with generally accepted accounting principles, and

''(ii) which is used for the purposes of a statement or report—

''(I) to creditors,

''(II) to shareholders, or

''(III) for any other substantial nontax purpose.''.

(5) Paragraph (2) of section 965(d) is amended by striking ''properly allocated and apportioned'' and inserting ''directly allocable''.

(6) Subsection (d) of section 965 is amended by adding at the end the following new paragraph:

''(4) COORDINATION WITH SECTION 78.—Section 78 shall not apply to any tax which is not allowable as a credit under section 901 by reason of this subsection.''.

(7) The last sentence of section 965(e)(1) is amended by inserting ''which are imposed by foreign countries and possessions of the United States and are'' after ''taxes''.

(8) Subsection (f) of section 965 is amended by inserting ''on or'' before ''before the due date''.

(r) AMENDMENTS RELATED TO SECTION 501 OF THE ACT.—

(1) Subparagraph (A) of section 164(b)(5) is amended to read as follows:

''(A) ELECTION TO DEDUCT STATE AND LOCAL SALES TAXES IN LIEU OF STATE AND LOCAL INCOME TAXES.—At the election of the taxpayer for the taxable year, subsection (a) shall be applied—

''(i) without regard to the reference to State and local income taxes, and

''(ii) as if State and local general sales taxes were referred to in a paragraph thereof.''.

(2) Clause (ii) of section 56(b)(1)(A) is amended by inserting ''or clause (ii) of section 164(b)(5)(A)'' before the period at the end.

(s) AMENDMENTS RELATED TO SECTION 708 OF THE ACT.—Section 708 of the American Jobs Creation Act of 2004 is amended—

(1) in subsection (a), by striking ''contract commencement date'' and inserting ''construction commencement date'', and

(2) by redesignating subsection (d) as subsection (e) and inserting after subsection (c) the following new subsection:

''(d) CERTAIN ADJUSTMENTS NOT TO APPLY.—Section 481 of the Internal Revenue Code of 1986 shall not apply with respect to any change in the method of accounting which is required by this section.''.

(t) AMENDMENTS RELATED TO SECTION 710 OF THE ACT.—

(1) Clause (ii) of section 45(b)(4)(B) is amended by striking ''the date of the enactment of this Act'' and inserting ''January 1, 2005,''.

(2) Clause (ii) of section 45(c)(3)(A) is amended by inserting ''or any nonhazardous lignin waste material'' after ''cellulosic waste material''.

(3) Subsection (e) of section 45 is amended by striking paragraph (6).

(4)(A) Paragraph (9) of section 45(e) is amended to read as follows:

''(9) COORDINATION WITH CREDIT FOR PRODUCING FUEL FROM A NONCONVENTIONAL SOURCE.—

''(A) IN GENERAL.—The term 'qualified facility' shall not include any facility which produces electricity from gas derived from the biodegradation of municipal solid waste if such biodegradation occurred in a facility (within the meaning of section 29) the production from which is allowed as a credit under section 29 for the taxable year or any prior taxable year.

''(B) REFINED COAL FACILITIES.—The term 'refined coal production facility' shall not include any facility the production from which is allowed as a credit under section 29 for the taxable year or any prior taxable year.''.

(B) Subparagraph (C) of section 45(e)(8) is amended by striking ''and (9)''.

(5) Subclause (I) of section 168(e)(3)(B)(vi) is amended to read as follows:

''(I) is described in subparagraph (A) of section 48(a)(3) (or would be so described if 'solar and wind' were substituted for 'solar' in clause (i) thereof and the last sentence of such section did not apply to such subparagraph),''.

(6) Paragraph (4) of section 710(g) of the American Jobs Creation Act of 2004 is amended by striking ''January 1, 2004'' and inserting ''January 1, 2005''.

(u) AMENDMENT RELATED TO SECTION 801 OF THE ACT.—Paragraph (3) of section 7874(a) is amended to read as follows:

''(3) COORDINATION WITH SUBSECTION (B).—A corporation which is treated as a domestic corporation under subsection (b) shall not be treated as a surrogate foreign corporation for purposes of paragraph (2)(A).''.

(v) AMENDMENTS RELATED TO SECTION 804 OF THE ACT.—

(1) Subparagraph (C) of section 877(g)(2) is amended by striking ''section 7701(b)(3)(D)(ii)'' and inserting ''section 7701(b)(3)(D)''.

(2) Subsection (n) of section 7701 is amended to read as follows:

''(n) SPECIAL RULES FOR DETERMINING WHEN AN INDIVIDUAL IS NO LONGER A UNITED STATES CITIZEN OR LONG-TERM RESIDENT.—For purposes of this chapter—

''(1) UNITED STATES CITIZENS.—An individual who would (but for this paragraph) cease to be treated as a citizen of the United States shall continue to be treated as a citizen of the United States until such individual—

''(A) gives notice of an expatriating act (with the requisite intent to relinquish citizenship) to the Secretary of State, and

''(B) provides a statement in accordance with section 6039G (if such a statement is otherwise required).

''(2) LONG-TERM RESIDENTS.—A long-term resident (as defined in section 877(e)(2)) who would (but for this paragraph) be described in section 877(e)(1) shall be treated as a lawful permanent resident of the United States and as not described in section 877(e)(1) until such individual—

''(A) gives notice of termination of residency (with the requisite intent to terminate residency) to the Secretary of Homeland Security, and

''(B) provides a statement in accordance with section 6039G (if such a statement is otherwise required).''.

(w) AMENDMENT RELATED TO SECTION 811 OF THE ACT.—Subsection (c) of section 811 of the American Jobs Creation Act of 2004 is amended by inserting ''and which were not filed before such date'' before the period at the end.

(x) AMENDMENTS RELATED TO SECTION 812 OF THE ACT.—

(1) Subsection (b) of section 6662 is amended by adding at the end the following new sentence: ''Except as provided in paragraph (1) or (2)(B) of section 6662A(e), this section shall not apply to the portion of any underpayment which is attributable to a reportable transaction understatement on which a penalty is imposed under section 6662A.''

(2) Paragraph (2) of section 6662A(e) is amended to read as follows:

''(2) COORDINATION WITH OTHER PENALTIES.—

''(A) COORDINATION WITH FRAUD PENALTY.—This section shall not apply to any portion of an understatement on which a penalty is imposed under section 6663.

''(B) COORDINATION WITH GROSS VALUATION MISSTATEMENT PENALTY.—This section shall not apply to any portion of an understatement on which a penalty is imposed under section 6662 if the rate of the penalty is determined under section 6662(h).''.

(3) Subsection (f) of section 812 of the American Jobs Creation Act of 2004 is amended to read as follows:

''(f) EFFECTIVE DATES.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

''(2) DISQUALIFIED OPINIONS.—Section 6664(d)(3)(B) of the Internal Revenue Code of 1986 (as added by subsection (c)) shall not apply to the opinion of a tax advisor if—

''(A) the opinion was provided to the taxpayer before the date of the enactment of this Act,

''(B) the opinion relates to one or more transactions all of which were entered into before such date, and

''(C) the tax treatment of items relating to each such transaction was included on a return or statement filed by the taxpayer before such date.''.

(y) AMENDMENT RELATED TO SECTION 814 OF THE ACT.—Subparagraph (B) of section 6501(a)(10) is amended by striking ''(as defined in section 6111)''.

(z) AMENDMENT RELATED TO SECTION 815 OF THE ACT.—Paragraph (1) of section 6112(b) is amended ''(or was required to maintain a list under subsection (a) as in effect before the enactment of the American Jobs Creation Act of 2004)'' after ''a list under subsection (a)''.

(aa) AMENDMENTS RELATED TO SECTION 832 OF THE ACT.—

(1) Subsection (e) of section 853 is amended to read as follows:

''(e) TREATMENT OF CERTAIN TAXES NOT ALLOWED AS A CREDIT UNDER SECTION 901.—This section shall not apply to any tax with respect to which the regulated investment company is not allowed a credit under section 901 by reason of subsection (k) or (l) of such section.''.

(2) Clause (i) of section 901(l)(2)(C) is amended by striking ''if such security were stock''.

(bb) AMENDMENTS RELATED TO SECTION 833 OF THE ACT.—

(1) Subsection (a) of section 734 is amended by inserting ''with respect to such distribution'' before the period at the end.

(2) So much of subsection (b) of section 734 as precedes paragraph (1) is amended to read as follows:

''(b) METHOD OF ADJUSTMENT.—In the case of a distribution of property to a partner by a partnership with respect to which the election provided in section 754 is in effect or with respect to which there is a substantial basis reduction, the partnership shall—''.

(cc) AMENDMENT RELATED TO SECTION 835 OF THE ACT.—Paragraph (3) of section 860G(a) is amended—

(1) in subparagraph (A)(iii)(I), by striking ''the obligation'' and inserting ''a reverse mortgage loan or other obligation'', and

(2) by striking all that follows subparagraph (C) and inserting the following:

''For purposes of subparagraph (A), any obligation secured by stock held by a person as a tenant-stockholder (as defined in section 216) in a cooperative housing corporation (as so defined) shall be treated as secured by an interest in real property. For purposes of subparagraph (A), any obligation originated by the United States or any State (or any political subdivision, agency, or instrumentality of the United States or any State) shall be treated as principally secured by an interest in real property if more than 50 percent of such obligations which are transferred to, or purchased by, the REMIC are principally secured by an interest in real property (determined without regard to this sentence).''.

(dd) AMENDMENTS RELATED TO SECTION 836 OF THE ACT.—

(1) Paragraph (1) of section 334(b) is amended by striking ''except that'' and all that follows and inserting ''except that, in the hands of such distributee—

''(A) the basis of such property shall be the fair market value of the property at the time of the distribution in any case in which gain or loss is recognized by the liquidating corporation with respect to such property, and

''(B) the basis of any property described in section 362(e)(1)(B) shall be the fair market value of the property at the time of the distribution in any case in which such distributee's aggregate adjusted basis of such property would (but for this subparagraph) exceed the fair market value of such property immediately after such liquidation.''.

(2) Clause (ii) of section 362(e)(2)(C) is amended to read as follows:

''(ii) ELECTION.—Any election under clause (i) shall be made at such time and in such form and manner as the Secretary may prescribe, and, once made, shall be irrevocable.''.

(ee) AMENDMENT RELATED TO SECTION 840 OF THE ACT.—Subsection (d) of section 121 is amended—

(1) by redesignating the paragraph (10) relating to property acquired from a decedent as paragraph (11) and by moving such paragraph to the end of such subsection, and

(2) by amending the paragraph (10) relating to property acquired in like-kind exchange to read as follows:

''(10) PROPERTY ACQUIRED IN LIKE-KIND EXCHANGE.—If a taxpayer acquires property in an exchange with respect to which gain is not recognized (in whole or in part) to the taxpayer under subsection (a) or (b) of section 1031, subsection (a) shall not apply to the sale or exchange of such property by such taxpayer (or by any person whose basis in such property is determined, in whole or in part, by reference to the basis in the hands of such taxpayer) during the 5-year period beginning with the date of such acquisition.''.

(ff) AMENDMENT RELATED TO SECTION 849 OF THE ACT.—Subsection (a) of section 849 of the American Jobs Creation Act of 2004 is amended by inserting '', and in the case of property treated as tax-exempt use property other than by reason of a lease, to property acquired after March 12, 2004'' before the period at the end.

(gg) AMENDMENTS RELATED TO SECTION 853 OF THE ACT.—

(1) Subparagraph (C) of section 4081(a)(2) is amended by striking ''for use in commercial aviation'' and inserting ''for use in commercial aviation by a person registered for such use under section 4101''.

(2) So much of paragraph (2) of section 4081(d) as precedes subparagraph (A) is amended to read as follows:

''(2) AVIATION FUELS.—The rates of tax specified in clauses (ii) and (iv) of subsection (a)(2)(A) shall be 4.3 cents per gallon—''.

(hh) AMENDMENT RELATED TO SECTION 884 OF THE ACT.—Subparagraph (B) of section 170(f)(12) is amended by adding at the end the following new clauses:

''(v) Whether the donee organization provided any goods or services in consideration, in whole or in part, for the qualified vehicle.

''(vi) A description and good faith estimate of the value of any goods or services referred to in clause (v) or, if such goods or services consist solely of intangible religious benefits (as defined in paragraph (8)(B)), a statement to that effect.''.

(ii) AMENDMENTS RELATED TO SECTION 885 OF THE ACT.—

(1) Paragraph (2) of section 26(b) is amended by striking ''and'' at the end of subparagraph (R), by striking the period at the end of subparagraph (S) and inserting '', and'', and by adding at the end the following new subparagraph:

''(T) subsections (a)(1)(B)(i) and (b)(4)(A) of section 409A (relating to interest and additional tax with respect to certain deferred compensation).''.

(2) Clause (ii) of section 409A(a)(4)(C) is amended by striking ''first''.

(3)(A) Notwithstanding section 885(d)(1) of the American Jobs Creation Act of 2004, subsection (b) of section 409A of the Internal Revenue Code of 1986 shall take effect on January 1, 2005.

(B) Not later than 90 days after the date of the enactment of this Act, the Secretary of the Treasury shall issue guidance under which a nonqualified deferred compensation plan which is in violation of the requirements of section 409A(b) of such Code shall be treated as not having violated such requirements if such plan comes into conformance with such requirements during such limited period as the Secretary may specify in such guidance.

(4) Subsection (f) of section 885 of the American Jobs Creation Act of 2004 is amended by striking ''December 31, 2004'' the first place it appears and inserting ''January 1, 2005''.

(jj) AMENDMENTS RELATED TO SECTION 898 OF THE ACT.—

(1) Paragraph (3) of section 361(b) is amended by inserting ''(reduced by the amount of the liabilities assumed (within the meaning

of section 357(c)))'' before the period at the end.

(2) Paragraph (1) of section 357(d) is amended by inserting ''section 361(b)(3),'' after ''section 358(h),''.

(kk) AMENDMENT RELATED TO SECTION 899 OF THE ACT.—Subparagraph (A) of section 351(g)(3) is amended by adding at the end the following: ''If there is not a real and meaningful likelihood that dividends beyond any limitation or preference will actually be paid, the possibility of such payments will be disregarded in determining whether stock is limited and preferred as to dividends.''.

(ll) AMENDMENT RELATED TO SECTION 902 OF THE ACT.—Paragraph (1) of section 709(b) is amended by striking ''taxpayer'' both places it appears and inserting ''partnership''.

(mm) AMENDMENT RELATED TO SECTION 909 OF THE ACT.—Clause (ii) of section 451(i)(4)(B) is amended by striking ''the close of the period applicable under subsection (a)(2)(B) as extended under paragraph (2)'' and inserting ''December 31, 2006''.

(nn) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the provisions of the American Jobs Creation Act of 2004 to which they relate.

SEC. 3. AMENDMENTS RELATED TO THE WORKING FAMILIES TAX RELIEF ACT OF 2004.

(a) AMENDMENT RELATED TO SECTION 201 OF THE ACT.—Paragraph (2) of section 152(e) is amended to read as follows:

''(2) REQUIREMENTS.—For purposes of paragraph (1), the requirements described in this paragraph are met if—

''(A) a decree of divorce or separate maintenance or written separation agreement between the parents applicable to the taxable year beginning in such calendar year provides that the noncustodial parent shall be entitled to any deduction allowable under section 151 for such child, and in the case of such a decree or agreement executed before January 1, 1985, the noncustodial parent provides at least $600 for the support of such child during such calendar year, or

''(B) the custodial parent signs a written declaration (in such manner and form as the Secretary may prescribe) that such parent will not claim such child as a dependent for such taxable year.

For purposes of subparagraph (A), amounts expended for the support of a child or children shall be treated as received from the noncustodial parent to the extent that such parent provided amounts for such support.''.

(b) AMENDMENT RELATED TO SECTION 203 OF THE ACT.—Subparagraph (B) of section 21(b)(1) is amended by inserting ''(as defined in section 152, determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B))'' after ''dependent of the taxpayer''.

(c) AMENDMENT RELATED TO SECTION 207 OF THE ACT.—Subparagraph (A) of section 223(d)(2) is amended by inserting '', determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof'' after ''section 152''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the provisions of the Working Families Tax Relief Act of 2004 to which they relate.

SEC. 4. AMENDMENTS RELATED TO THE JOBS AND GROWTH TAX RELIEF RECONCILIATION ACT OF 2003.

(a) AMENDMENTS RELATED TO SECTION 201 OF THE ACT.—

(1) Clause (ii) of section 168(k)(4)(B) is amended to read as follows:

''(ii) which is—

''(I) acquired by the taxpayer after May 5, 2003, and before January 1, 2005, but only if no written binding contract for the acquisition was in effect before May 6, 2003, or

''(II) acquired by the taxpayer pursuant to a written binding contract which was entered into after May 5, 2003, and before January 1, 2005, and''.

(2) Subparagraph (D) of section 1400L(b)(2) is amended by striking ''September 11, 2004'' and inserting ''January 1, 2005''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in section 201 of the Jobs and Growth Tax Relief and Reconciliation Act of 2003.

SEC. 5. AMENDMENT RELATED TO THE VICTIMS OF TERRORISM TAX RELIEF ACT OF 2001.

(a) AMENDMENT RELATED TO SECTION 201 OF THE ACT.—Paragraph (17) of section 6103(l) is amended by striking ''subsection (f), (i)(7), or (p)'' and inserting ''subsection (f), (i)(8), or (p)''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in section 201 of the Victims of Terrorism Tax Relief Act of 2001.

SEC. 6. AMENDMENT RELATED TO THE TRANSPORTATION EQUITY ACT FOR THE 21ST CENTURY.

(a) AMENDMENT RELATED TO SECTION 9005 OF THE ACT.—The last sentence of paragraph (2) of section 9504(b) is amended by striking ''subparagraph (B)'' and inserting ''subparagraph (C)''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in section 9005 of the Transportation Equity Act for the 21st Century.

SEC. 7. AMENDMENTS RELATED TO THE TAXPAYER RELIEF ACT OF 1997.

(a) AMENDMENTS RELATED TO SECTION 1055 OF THE ACT.—

(1) The last sentence of section 6411(a) is amended by striking ''6611(f)(3)(B)'' and inserting ''6611(f)(4)(B)''.

(2) Paragraph (4) of section 6601(d) is amended by striking ''6611(f)(3)(A)'' and inserting ''6611(f)(4)(A)''.

(b) AMENDMENT RELATED TO SECTION 1144 OF THE ACT.—Subparagraph (B) of section 6038B(a)(1) is amended by inserting ''or'' at the end.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the provisions of the Taxpayer Relief Act of 1997 to which they relate.

SEC. 8. CLERICAL CORRECTIONS.

(a) Subparagraph (C) of section 2(b)(2) is amended by striking ''subparagraph (C)'' and inserting ''subparagraph (B)''.

(b) Subparagraph (E) of section 26(b)(2) is amended by striking ''section 530(d)(3)'' and inserting ''section 530(d)(4)''.

(c)(1) Subclause (II) of section 38(c)(2)(A)(ii) is amended by striking ''or the New York Liberty Zone business employee credit or the specified credits'' and inserting '', the New York Liberty Zone business employee credit, and the specified credits''.

(2) Subclause (II) of section 38(c)(3)(A)(ii) is amended by striking ''or the specified credits'' and inserting ''and the specified credits''.

(3) Subparagraph (B) of section 38(c)(4) is amended—

(A) by striking ''includes'' and inserting ''means'', and

(B) by inserting ''and'' at the end of clause (i).

(d)(1) Subparagraph (A) of section 39(a)(1) is amended by striking ''each of the 1 taxable years'' and by inserting ''the taxable year''.

(2) Subparagraph (B) of section 39(a)(3) is amended to read as follows:

''(B) paragraph (1) shall be applied by substituting 'each of the 5 taxable years' for 'the taxable year' in subparagraph (A) thereof, and''.

(e) Paragraph (5) of section 43(c) is amended to read as follows:

''(5) ALASKA NATURAL GAS.—For purposes of paragraph (1)(D)—

''(A) IN GENERAL.—The term 'Alaska natural gas' means natural gas entering the Alaska natural gas pipeline (as defined in section 168(i)(16) (determined without regard to subparagraph (B) thereof)) which is produced from a well—

''(i) located in the area of the State of Alaska lying north of 64 degrees North latitude, determined by excluding the area of the Alaska National Wildlife Refuge (including the continental shelf thereof within the meaning of section 638(1)), and

''(ii) pursuant to the applicable State and Federal pollution prevention, control, and permit requirements from such area (including the continental shelf thereof within the meaning of section 638(1)).

''(B) NATURAL GAS.—The term 'natural gas' has the meaning given such term by section 613A(e)(2).''.

(f) Paragraph (2) of section 45I(a) is amended by striking ''qualified credit oil production'' and inserting ''qualified crude oil production''.

(g) Subparagraph (E) of section 50(a)(2) is amended by striking ''section 48(a)(5)'' and inserting ''section 48(b)''.

(h)(1) Subsection (a) of section 62 is amended—

(A) by redesignating paragraph (19) (relating to costs involving discrimination suits, etc.), as added by section 703 of the American Jobs Creation Act of 2004, as paragraph (20), and

(B) by moving such paragraph after paragraph (19) (relating to health savings accounts).

(2) Subsection (e) of section 62 is amended by striking ''subsection (a)(19)'' and inserting ''subsection (a)(20)''.

(i) Paragraph (3) of section 167(f) is amended by striking ''section 197(e)(7)'' and inserting ''section 197(e)(6)''.

(j) Subparagraph (D) of section 168(i)(15) is amended by striking ''This paragraph shall not apply to'' and inserting ''Such term shall not include''.

(k) Paragraph (2) of section 221(d) is amended by striking ''this Act'' and inserting ''the Taxpayer Relief Act of 1997''.

(l) Paragraph (8) of section 318(b) is amended by striking ''section 6038(d)(2)'' and inserting ''section 6038(e)(2)''.

(m) Subparagraph (B) of section 332(d)(1) is amended by striking ''distribution to which section 301 applies'' and inserting ''distribution of property to which section 301 applies''.

(n) Paragraph (1) of section 415(l) is amended by striking ''individual medical account'' and inserting ''individual medical benefit account''.

(o) The matter following clause (iv) of section 415(n)(3)(C) is amended by striking ''clauses'' and inserting ''clause''.

(p) Paragraph (12) of section 501(c) is amended—

(1) by striking ''subparagraph (C)(iii)'' in subparagraph (F) and inserting ''subparagraph (C)(iv)'', and

(2) by striking ''subparagraph (C)(iv)'' in subparagraph (G) and inserting ''subparagraph (C)(v)''.

(q) Clause (ii) of section 501(c)(22)(B) is amended by striking ''clause (ii) of paragraph (21)(B)'' and inserting ''clause (ii) of paragraph (21)(D)''.

(r) Paragraph (1) of section 512(b) is amended by striking ''section 512(a)(5)'' and inserting ''subsection (a)(5)''.

(s)(1) Subsection (b) of section 512 is amended—

(A) by redesignating paragraph (18) (relating to the treatment of gain or loss on sale or exchange of certain brownfield sites), as added by section 702 of the American Jobs Creation Act of 2004, as paragraph (19), and

(B) by moving such paragraph to the end of such subsection.

(2) Subparagraph (E) of section 514(b)(1) is amended by striking ''section 512(b)(18)'' and inserting ''section 512(b)(19)''.

(t)(1) Subsection (b) of section 530 is amended by striking paragraph (3) and by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

(2) Clause (ii) of section 530(b)(2)(A) is amended by striking ''paragraph (4)'' and inserting ''paragraph (3)''.

(u) Section 881(e)(1)(C) is amended by inserting ''interest-related dividend received by a controlled foreign corporation'' after ''shall apply to any''.

(v) Clause (i) of section 954(c)(1)(C) is amended by striking ''paragraph (4)(A)'' and inserting ''paragraph (5)(A)''.

(w) Subparagraph (F) of section 954(c)(1) is amended by striking ''Net income from notional principal contracts.'' after ''Income from notional principal contracts.—''.

(x) Paragraph (23) of section 1016(a) is amended by striking ''1045(b)(4)'' and inserting ''1045(b)(3)''.

(y) Paragraph (1) of section 1256(f) is amended by striking ''subsection (e)(2)(C)'' and inserting ''subsection (e)(2)''.

(z) The matter preceding clause (i) of section 1031(h)(2)(B) is amended by striking ''subparagraph'' and inserting ''subparagraphs''.

(aa) Paragraphs (1) and (2) of section 1375(d) are each amended by striking ''subchapter C'' and inserting ''accumulated''.

(bb) Each of the following provisions are amended by striking ''General Accounting Office'' each place it appears therein and inserting ''Government Accountability Office'':

(1) Clause (ii) of section 1400E(c)(4)(A).

(2) Paragraph (1) of section 6050M(b).

(3) Subparagraphs (A), (B)(i), and (B)(ii) of section 6103(i)(8).

(4) Paragraphs (3)(C)(i), (4), (5), and (6)(B) of section 6103(p).

(5) Subsection (e) of section 8021.

(cc)(1) Clause (ii) of section 1400L(b)(2)(C) is amended by striking ''section 168(k)(2)(C)(i)'' and inserting ''section 168(k)(2)(D)(i)''.

(2) Clause (iv) of section 1400L(b)(2)(C) is amended by striking ''section 168(k)(2)(C)(iii)'' and inserting ''section 168(k)(2)(D)(iii)''.

(3) Subparagraph (D) of section 1400L(b)(2) is amended by striking ''section 168(k)(2)(D)'' and inserting ''section 168(k)(2)(E)''.

(4) Subparagraph (E) of section 1400L(b)(2) is amended by striking ''section 168(k)(2)(F)'' and inserting ''section 168(k)(2)(G)''.

(5) Paragraph (5) of section 1400L(c) is amended by striking ''section 168(k)(2)(C)(iii)'' and inserting ''section 168(k)(2)(D)(iii)''.

(dd) Section 3401 is amended by redesignating subsection (h) as subsection (g).

(ee) Paragraph (2) of section 4161(a) is amended to read as follows:

''(2) 3 PERCENT RATE OF TAX FOR ELECTRIC OUTBOARD MOTORS.—In the case of an electric outboard motor, paragraph (1) shall be applied by substituting '3 percent' for '10 percent'.''.

(ff) Subparagraph (C) of section 4261(e)(4) is amended by striking ''imposed subsection (b)'' and inserting ''imposed by subsection (b)''.

(gg) Subsection (a) of section 4980D is amended by striking ''plans'' and inserting ''plan''.

(hh) The matter following clause (iii) of section 6045(e)(5)(A) is amended by striking ''for '$250,000'.'' and all that follows through ''to the Treasury.'' and inserting ''for '$250,000'. The Secretary may by regulation increase the dollar amounts under this subparagraph if the Secretary determines that such an increase will not materially reduce revenues to the Treasury.''.

(ii) Subsection (p) of section 6103 is amended—

(1) by striking so much of paragraph (4) as precedes subparagraph (A) and inserting the following:

''(4) SAFEGUARDS.—Any Federal agency described in subsection (h)(2), (h)(5), (i)(1), (2), (3), (5), or (7), (j)(1), (2), or (5), (k)(8), (l)(1), (2), (3), (5), (10), (11), (13), (14), or (17) or (o)(1), the Government Accountability Office, the Congressional Budget Office, or any agency, body, or commission described in subsection (d), (i)(3)(B)(i) or 7(A)(ii), or (l)(6), (7), (8), (9), (12), (15), or (16) or any other person described in subsection (l)(16), (18), (19), or (20) shall, as a condition for receiving returns or return information—'',

(2) by amending paragraph (4)(F)(i) to read as follows:

''(i) in the case of an agency, body, or commission described in subsection (d), (i)(3)(B)(i), or (l)(6), (7), (8), (9), or (16), or any other person described in subsection (l)(16), (18), (19), or (20) return to the Secretary such returns or return information (along with any copies made therefrom) or make such returns or return information undisclosable in any manner and furnish a written report to the Secretary describing such manner,'', and

(3) by striking the first full sentence in the matter following subparagraph (F) of paragraph (4) and inserting the following: ''If the Secretary determines that any such agency, body, or commission, including an agency or any other person described in subsection (l)(16), (18), (19), or (20), or the Government Accountability Office or the Congressional Budget Office, has failed to, or does not, meet the requirements of this paragraph, he may, after any proceedings for review established under paragraph (7), take such actions as are necessary to ensure such requirements are met, including refusing to disclose returns or return information to such agency, body, or commission, including an agency or any other person described in subsection (l)(16), (18), (19), or (20), or the Government Accountability Office or the Congressional Budget Office, until he determines that such requirements have been or will be met.''.

(jj) Clause (ii) of section 6111(b)(1)(A) is amended by striking ''advice or assistance'' and inserting ''aid, assistance, or advice''.

(kk) Section 6427 is amended by striking subsection (o) and by redesignating subsection (p) as subsection (o).

(ll) Paragraph (3) of section 6662(d) is amended by striking ''the'' before ''1 or more''.

SEC. 9. OTHER CORRECTIONS RELATED TO THE AMERICAN JOBS CREATION ACT OF 2004.

(a) AMENDMENTS RELATED TO SECTION 233 OF THE ACT.—

(1) Clause (vi) of section 1361(c)(2)(A) is amended—

(A) by inserting ''or a depository institution holding company (as defined in section 3(w)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1813(w)(1))'' after ''a bank (as defined in section 581)'', and

(B) by inserting ''or company'' after ''such bank''.

(2) Paragraph (16) of section 4975(d) is amended—

(A) in subparagraph (A), by inserting ''or a depository institution holding company (as defined in section 3(w)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1813(w)(1))'' after ''a bank (as defined in section 581)'', and

(B) in subparagraph (C), by inserting ''or company'' after ''such bank''.

(b) AMENDMENT RELATED TO SECTION 237 OF THE ACT.—Subparagraph (F) of section 1362(d)(3) is amended by striking ''a bank holding company'' and all that follows through ''section 2(p) of such Act)'' and inserting ''a depository institution holding company (as defined in section 3(w)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1813(w)(1))''.

(c) AMENDMENTS RELATED TO SECTION 239 OF THE ACT.—Paragraph (3) of section 1361(b) is amended—

(1) in subparagraph (A), by striking ''and in the case of information returns required under part III of subchapter A of chapter 61'', and

(2) by adding at the end the following new subparagraph:

''(E) INFORMATION RETURNS.—Except to the extent provided by the Secretary, this paragraph shall not apply to information returns made by a qualified subchapter S subsidiary under part III of subchapter A of chapter 61.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the provisions of the American Jobs Creation Act of 2004 to which they relate.

By Mr. DURBIN (for himself and Mrs. BOXER):

S. 1448. A bill to improve the treatment provided to veterans suffering from post-traumatic stress disorder; to the Committee on Veterans' Affairs.

Mr. DURBIN. Mr. President, seventy-five years ago today, President Herbert Hoover created the Veterans Administration by signing Executive Order 5398 for the ''Consolidation and Coordination of Governmental Activities Affecting Veterans.''

Of course, the commitment of America to the care and welfare of the Nation's veterans goes back to the earliest days of our Republic. In 1789 George Washington said, ''The willingness with which our young people are likely to serve in any war, no matter how justified, shall be directly proportional as to how they perceive the Veterans of earlier wars were treated and appreciated by their country.''

The care of veterans was a central theme in Abraham Lincoln's second inaugural address. He said, ''With malice toward none; with charity for all; with firmness in the right, as God gives us to see the right, let us strive on to finish the work we are in; to bind up the nation's wounds; to care for him who shall have borne the battle, and for his widow, and his orphan—to do all which may achieve and cherish a just, and a lasting peace, among ourselves, and with all nations.''

Today, this important work of caring for our veterans is carried on by the Department of Veterans Affairs at a time when American troops are engaged in combat under very trying circumstances overseas.

In order to address the clearly emerging needs of the newest veterans, I am today introducing the ''Post-Traumatic Stress Disorder Treatment Improvement Act.''

This bill requires the Department of Veterans Affairs to hire the number of mental health professionals which the Department's own internal panel of experts has for years recommended as that required to provide an appropriate

level of treatment for veterans suffering from post-traumatic stress disorder or PTSD.

PTSD is a fairly new term but it is by no means a new problem. People exposed to extremely traumatic stressful events can suffer lasting and long-term mental health problems as a result. Soldiers who have endured the horrors—of the battlefield—who've experienced and had to participate in deeply troubling events—have long been susceptible to this problem. Among Civil War veterans it was called ''the soldier's heart.'' Among World War I veterans it was called ''shell shock.'' In World War II it was called ''battle fatigue.'' Many people will remember the incident during World War II in which General George Patton slapped a soldier hospitalized with battle fatigue. The American public reacted angrily to Patton's action because they understood that Patton was wrong; needing medical treatment to help recover from the psychological trauma of war was not any sign of weakness or cowardice but rather simply one of the understandable hazards of the very violent modern battlefield. In the aftermath of Vietnam, our understanding of what is today known as post-traumatic stress disorder or PTSD has grown tremendously and so has our ability to treat it. Today, as a result of its work with Vietnam Veterans, the Department of Veterans Affairs is the world leader in diagnosing and treating PTSD.

While the quality of the expertise in the VA is high, we need to improve the quantity. The Department of Veterans Affairs needs more mental health professionals to meet the needs of the coming influx of new veterans from Iraq and Afghanistan.

Two articles in the July 2004 issue of the New England Journal of Medicine indicate that the nature of the war in Iraq is producing a new generation of American veterans who will require treatment for PTSD. The data gathered from recently returned troops suggests that about 1 in 6 of our Iraq veterans will develop this serious problem. One of the articles cautions that the actual numbers will probably be even higher because the data of the reported study was collected from soldiers and marines who served in the theater before the Iraqi insurgency rose to its current level of intensity. The conditions are now made even more stressful by the hidden enemy, frequently concealed among civilians and attacking suddenly with roadside explosions and suicide bombers. The uncertainly, the shock, the blood and destruction of this type of warfare understandably takes a toll on the feelings of even the toughest of our warriors. We know from experience that roughly 30 percent of Vietnam veterans suffered from PTSD sometime in their lifetime.

Senators don't have to read the New England Journal of Medicine to know that our returning veterans will need a little help to overcome some terrible memories and troubling mental images. We can hear it from the veterans in our own States.

Several weeks ago I traveled across my State of Illinois to five different locations for roundtable discussions about this subject. I invited veterans as well as medical counselors from the Veterans' Administration to tell me about former service members who were trying to come to grips with this torment in their minds over what they had been through and what they had seen. I was nothing short of amazed at what happened. At every single stop, these men and women came forward and sat at tables before groups in their communities, before the media, and told their stories of being trained to serve this country, being proud to serve, and going into battle situations which caused an impact on their mind they never could have imagined. They talked about coming home with their minds in this turmoil over the things they had done and seen. Many of them told of having to wait months and, in one case, a year before they could see a doctor at a VA hospital.

I heard from veterans from Iraq, Vietnam, Korea and World War II. One veteran in southern Illinois who was in the Philippines couldn't come to my meeting because ''I just can't face talking about it.'' This was 60 years after his experience. Veterans of Vietnam, coming home, facing animosity from others, then being unable to address their emotional and psychological anguish and difficulty because they were afraid to even acknowledge they were veterans. They were left tormented by this for decades.

The ones that gripped my heart the most were the Iraqi veterans. I will never forget these men and women. The one I sat next to at Collinsville, a bright, handsome, young Marine, talked about going into Fallujah with his unit and how his point man was riddled with bullets, and he had to carry the parts of his body out of that street into some side corner where the remains could be evacuated. Then he took over his friend's job as point man and went forward. A rocket-propelled grenade was shot at him, and it bounced off his helmet. One of the insurgents came up and shot him twice in the chest. This happened just this past November.

When he came home, he said he couldn't understand who he was because of what he had seen and been involved in. He had problems with his wife—difficult, violent problems, and he turned to the VA for help.

I said to this young Marine: I am almost afraid to ask you this, but how old are you? He said, ''I am 19.''

Think of what he has been through. Thank goodness he is in the hands of counselors. Thank goodness he is getting some help and moving in the right direction.

But in another meeting in southern Illinois, another soldier said, in front of the group, ''As part of this battle, I killed children, women. I killed old people. I am trying to come to grips with this in my mind as I try to come back into civilian life.''

A young woman, a member of the Illinois National Guard, said when she returned to the United States, still in distress over what she had seen and done, she was released from active duty through Fort McCoy in Wisconsin where the Army sat her down and asked, ''Any problems?'' Of course, that should have been the time for her to come forward and say: I have serious problems. She didn't. She'd heard that if you said you had a problem, you had to stay at Fort McCoy for several more months. She was so desperate to get home she said, ''No problems.''

She came home and finally realized that was not true. She had serious psychological problems over what she had been through. When she turned to the VA and asked for help, they said: You can come in and see a counselor at the VA in a year.

What happens to these veterans, victims of post-traumatic stress disorder, without counseling at an early stage? Sadly, many of them see their marriages destroyed. One I met was on his fourth marriage. Many of them self-medicate with alcohol, sometimes with drugs, desperate to find some relief from the nightmares they face every night. These are the real stories of real people, our sons and daughters, our brothers and sisters, our husbands and wives who go to battle to defend this country and come home with the promise that we will stand behind them.

So, in addition to the Vietnam, Gulf War and other veterans already being treated, it is clear that we will soon see large numbers of Iraq veterans coming to the VA for help with PTSD. What is our capacity to help them? Unfortunately, it does not look good.

Disturbingly, the Department of Veterans Affairs may lack the capacity to treat those with PTSD. The Government Accountability Office recently concluded, and the Department of Veterans Affairs concurred, that the Department has not kept adequate accounting of the numbers of patients it currently treats for PTSD. Without any reliable numbers of patients currently receiving treatment, the VA cannot deliver to us any assurance about having the facilities or staff needed to treat the coming influx of new veterans.

The VA has demonstrated an inability to forecast the number of patients it must be ready to treat. In three of the past four years, the Department of Veterans Affairs has submitted budget requests that included patient estimates which turned out to be too low in four different areas. In three of the past four years, the VA has underestimated its number of acute hospital care patients, the number of medical visits, the dependents and survivors' hospital census, and the numbers of dependent and survivor outpatients that it would see.

Now, just a couple of weeks ago, the VA had to acknowledge that its budget for the current fiscal year was going to be $1 billion short because they got their estimate of Iraq veteran patients wrong. The VA had forecasted a 2.3 percent growth in healthcare demand this year but the actual increase turned out to be 5.2 percent—more than twice the VA estimate. The VA budget assumed that 23,553 VA patients would be veterans of the Global War on Terrorism. The number of these patients in 2005 is now estimated to be 103,000—more than four times what VA had estimated.

In the absence of reliable patient information and patient estimates from the Department of Veterans Affairs, how can we know that the VA healthcare system lacks the capability to treat the incoming number of veterans needing PTSD treatment? That's easy—we can simply listen to the VA medical professionals who provide the treatment.

In the course of conducting its investigation, the Government Accountability Office asked officials at VA facilities if they would be able to meet this coming demand. The answer they received was very disturbing. Fully six out of these seven VA healthcare officials stated that their facilities may be unable to handle the influx of new veterans needing PTSD treatment. Six out of seven!

In addition, another set of internal VA mental health professionals has repeatedly recommended that VA expand its capability to treat PTSD. The Department's own Special Committee on Post-Traumatic Stress Disorder has issued a long list of recommended improvements. When the Government Accountability Office studied the progress on implementing these expert recommendations, it found that the Department of Veterans Affairs hadn't fully implemented any of them.

Enough is enough!

When the VA fails to count its current PTSD patients; when the VA consistently underestimates its number of future patients; when the VA ignores the improvement recommendations of its own internal mental health professionals it is time for Congress to step in, demonstrate the leadership that is required, and take action to provide the treatment capability that our veterans deserve.

The bill I am introducing today accomplishes this by requiring the Department of Veterans Affairs to implement three of the key treatment improvement recommendations made by the Department's own Special Committee on Post-Traumatic Stress Disorder.

The bill requires the Secretary of Veterans Affairs to do three things. First, it requires the Secretary to establish a Post-Traumatic Stress Disorder Clinical Team at every Medical Center within the Department of Veterans Affairs. Second, it requires the Secretary to provide a certified family therapist within each Vet Center. Finally, the bill requires the appointment of a regional PTSD Coordinator within each Veteran Integrated Service Network (VISN) and Readjustment Counseling Service region to evaluate programs, promote best practices and make resource recommendations.

Let me explain the importance of these three provisions.

The majority of the major VA hospitals already have a clinical team of mental health experts focused on providing treatment for post-traumatic stress disorder. These teams include psychiatrists, psychologists, and psychotherapists who bring their varied skills together. However, approximately 60 of our VA hospitals currently do not have a PTSD clinical team. This bill requires that these teams be established.

Nationwide, the Department of Veterans Affairs operates 207 ''Vet Centers.'' The community-based, informal atmosphere of these centers has proven to be a highly effective way to provide counseling and other services to veterans who might not want or be able to go to a formal VA hospital for help. The Special Committee has recognized the importance of family relationships in helping veterans deal with their PTSD and has recommended that there be a certified marriage and family therapist at each Vet Center.

Currently only 17 centers have these specialists on staff. This bill helps keep families strong for our veterans by adding 190 family therapists to Vet Centers nationwide.

Finally, the bill ensures that PTSD treatment capability gets the attention and management needed to keep it strong by requiring the appointment of PTSD coordinators at the regional level.

Altogether, this bill will add about 400 mental health professionals to the Department of Veterans Affairs' capability to treat those of our veterans whose wounds are not visible, whose thoughts are continually troubled by the horrors of war, who need just a little help to get past the nightmares and get their life back on track.

Even the toughest of warriors can have troubled feelings following the stress of combat. It is no sign of weakness—it is no sign of failure to ask for a little help in getting past some of those feelings. That message must be clearly conveyed to all of our veterans.

By acting now, we can ensure that this help is available to our veterans when they return. This is crucial because the effects of post-traumatic stress disorder are sometimes left undiagnosed and untreated for years. If we delay, we virtually guarantee a future shortage of treatment capability and, in so doing, we lay the groundwork for the plague of drug abuse, domestic violence, homelessness, unemployment and even suicide that so often is the result of post-traumatic stress disorder which is left untreated.

America's newest generation of young veterans certainly deserve better than that!

We in the Congress can step up and require that the Department of Veterans Affairs hire a full staff of mental health professionals that can help our veterans to move past the psychological trauma of war and to lead healthy, happy and productive lives.

I encourage my colleagues to join me in supporting our returning veterans by supporting the Post-Traumatic Stress Disorder Treatment Improvement Act.

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

S. 1448

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 ''Post-Traumatic Stress Disorder Treatment Improvement Act''.

SEC. 2. IMPROVED TREATMENT OF POST-TRAUMATIC STRESS DISORDER.

(a) IN GENERAL.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall—

(1) establish a post-traumatic stress disorder clinical team at every Medical Center of the Department of Veterans Affairs;

(2) provide a certified family therapist for each Vet Center of the Department of Veterans Affairs; and

(3) appoint a post-traumatic stress disorder coordinator within each Veteran Integrated Service Network and within each Readjustment Counseling Service Region.

(b) DUTIES OF PTSD COORDINATOR.—Each coordinator appointed for a network or region under subsection (a)(3) shall—

(1) evaluate post-traumatic stress disorder and family therapy treatment programs within the network or region;

(2) identify and disseminate best practices on evaluation and treatment of post-traumatic stress disorder, and on family therapy treatment, within the network or region and to other networks and regions; and

(3) recommend the resource allocation necessary to meet post-traumatic stress disorder and family therapy treatment needs within the network or region.

(c) WAIVER.—Beginning on the date that is 5 years after the date of the enactment of this Act, the Secretary of Veterans Affairs may waive any requirement of this Act for the fiscal year beginning after that date if the Secretary, not later than 90 days before the beginning of such fiscal year, submits to Congress a report—

(1) notifying Congress of the proposed waiver;

(2) explaining why the requirement is not necessary; and

(3) describing how post-traumatic stress disorder services and family therapy services will be provided to all veterans who may need such services.

By Mr. SHELBY:

S. 1461. A bill to establish procedures for the protection of consumers from misuse of, and unauthorized access to, sensitive personal information contained in private information files maintained by commercial entities engaged in, or affecting, interstate commerce, provide for enforcement of those procedures by the Federal Trade Commission, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Mr. SHELBY. Mr. President, I rise today to introduce the Consumer Identity Protection and Security Act. This legislation provides consumers the ability to place credit freezes on their credit reports.

My sole intent in introducing this legislation is to address a jurisdictional question that has recently arisen with respect to the Fair Credit Reporting Act. I want to make sure that the referral precedent with respect to legislation that amends the Fair Credit Reporting Act, or touches upon the substance covered by that Act, is entirely clear. I believe the Parliamentarian's decision to refer this bill to the Senate Banking Committee establishes that there is no question in this regard and that this subject matter is definitively and singularly in the jurisdiction of the Senate Banking Committee.

By Mr. BROWNBACK (for himself, Mr. CORZINE, Mr. DEWINE, Mr. DURBIN, Mr. COBURN, Mr. LAUTENBERG, Mr. SCHUMER, Mr. BINGAMAN, Mr. COLEMAN, Mr. TALENT, Mr. SALAZAR, Mrs. DOLE, and Mr. BAYH):

S. 1462. A bill to promote peace and accountability in Sudan, and for other purposes; to the Committee on Foreign Relations.

Mr. BROWNBACK. Mr. President, I rise with my colleague Senator CORZINE and 11 other cosponsors to introduce the Darfur Peace and Accountability Act of 2005. I applaud Senator CORZINE for his tireless work on this issue—he has traveled on several occasions to Sudan, and was instrumental in moving the U.S. to declare the atrocities genocide. In addition, there is a strong bipartisan coalition forming to address one of the greatest moral issues that faces our world today.

I wish to thank many of my colleagues for their support for the Darfur Accountability Act that was introduced in March and passed unanimously by this body as an amendment to the Emergency Supplemental. Unfortunately, that provision was stripped in conference.

Since that time, several relevant U.N. Security Council resolutions have been passed, NATO has committed to assisting the African Union Mission in Sudan (AMIS), and the National Unity Government of Sudan was established just two weeks ago on July 9, following the Comprehensive Peace Agreement between the North and the South. While we applaud the recent peace agreement ending the longest civil war in Africa, we pause with great concern that genocide continues in Darfur. There can be no comprehensive peace in Sudan until the crisis in Darfur has been resolved.

Just today news reports were swarming about the Sudanese officials who manhandled Secretary Rice's staff and reporters during their meeting with President Bashir. When a U.S. reporter asked a question about the killing of innocent civilians, she was taken by the arm and promptly removed from the meeting.

It is unfortunate that the ''international incident'' not being reported is about the hundreds of thousands of lives lost, or the 2 million refugees who live day to day on inadequate portions of food and very little clean water.

In remarks prior to the G–8 summit on June 30, 2005, President Bush declared, ''the violence in Darfur is clearly genocide,'' and ''the human cost is beyond calculation.''

While momentum for international support to end this crisis has been building, the violence and humanitarian crisis continues. Rape is still being used as weapon against women. Some women who have become pregnant due to brutal rape, have been forced to abort their babies and other women have been imprisoned for bearing illegitimate children. In addition, the government seems to be prepared to raze the Kalma refugee camp of 120,000 people against their wishes, sending them back into areas where there is no security against these rapes and killings.

I remind my colleagues that it was one year ago, on July 22, we stood together in Congress to denounce the atrocities in Darfur as genocide. Twelve long months later is not the time to start thinking about easing sanctions or restoring certain diplomatic ties, rather it is time to address the needs of the African Union and it is time to sanction those responsible for genocide.

That is why we are joining with colleagues in the House to introduce new bipartisan legislation called the Darfur Peace and Accountability act of 2005. This bill increases pressure on Khartoum, provides greater support to the African Union mission in Darfur to help protect civilians, imposes sanctions on individuals responsible for atrocities, and encourages the appointment of a U.S. special envoy to help advance a peace process for Darfur. I applaud our colleagues in the House, including Congressmen HYDE, TANCREDO, PAYNE, WOLF, SMITH and others, who have diligently worked with us to ensure a strong piece of legislation that we hope will move quickly and be enacted so that we may provide further relief to the suffering victims.

I urge my colleagues to support this very important piece of legislation. For the first time in history we publicly speak of genocide while it is underway, yet we have broken our promise of ''Never Again.'' We can no longer be indifferent to the suffering Africans of Darfur. We have got to move beyond partisan politics, and agree on the fundamentals that will help save lives immediately.

Mr. CORZINE. Mr. President, I rise today to introduce the Darfur Peace and Accountability Act. This bill, which is the latest version of legislation Senator BROWNBACK and I have been pushing for almost six months, will provide the tools and authorizations and put forth the policies necessary to stop the genocide in Darfur. This bill also has support in the House, where it has been introduced by Representatives HYDE, PAYNE and others.

Sudan is in the news today because of Secretary Rice's trip, and because of the rough treatment her entourage has received. But let's not lose sight of what has happened in Sudan over the last two years, and what is still happening. 2 million Darfurian civilians have been displaced from their homes. 1.8 million have been forced into camps in Darfur. There are 200,000 Darfur refugees in Chad. Hundreds of thousands have died, with some estimates up to 400,000. The Government of Sudan and the janjaweed militias it supports are responsible for systematic, targeted and premeditated violence, including murder and rape.

It was one year ago tomorrow that the Senate recognized these atrocities as genocide. One long, horrible, violent, tragic year for the people of Darfur.

We can stop this genocide, and we know how to do it. It just takes the will.

Three months ago, the Senate passed the Darfur Accountability Act as an amendment to the Supplemental Appropriations bill. Despite overwhelming bipartisan support, it was stripped out in conference. Meanwhile, the genocide continued and now we are forced to revisit many of the same issues.

First, it is time we put real pressure on the Government of Sudan. While I welcome Secretary Rice's trip to Sudan, and Deputy Secretary Zoellick's two trips, diplomacy only goes so far. When the world threatens sanctions, Khartoum moderates its behavior. This bill calls for a UN Security Council resolution to impose real sanctions on the Government of Sudan.

Second, we need boots on the ground. When I visited Darfur in August last year, there were only a couple hundred African Union troops on the ground. There are not more than 3,000. But this number is far from adequate to patrol a region the size of Texas. There are over 50,000 police officers in Texas, yet we are still struggling to deploy 7,000 AU soldiers in Darfur, where genocide and civil war are raging, and where transportation and communications are limited.

The AU has been effective where it is deployed and I applaud the AU's leadership on this issue. But we have to be realistic about what they are up against. They need an explicit mandate to protect civilians and they need much more support.

It also requires that, 30 days after we learn the names of those the UN has identified as having committed atrocities, the President report to Congress on whether he is sanctioning those people and the reasons for his decision.

This is not about the past. Those who have committed genocide are still

doing so. While we debate this legislation, brutal killers continue to terrorize the people of Darfur with impunity. They must be named, they must be sanctioned, and they must be brought to justice.

Fifth, we need a Special Presidential Envoy. Secretary Rice and Deputy Secretary Zoellick simply cannot devote themselves full time to this crisis.

A high-profile envoy will make sustain the pressure on the Government, get the UN Security Council to act, keep tract of what the African Union really needs to be effective and accelerate NATO involvement, and make sure that peace talks with the Darfur rebels don't drift. A Special Envoy will be able to visit all of Darfur, not just the camps that have been cleaned up for visiting VIPs. And a Special Envoy will be able to address related problems, from northern Uganda to Sudan's troubled East.

We can do all of this. We just need the political will But, that has always been the problem. From Cambodia to the Balkans to Rwanda, we failed to act or acted too late. And this time, we can't even claim not to know what is happening. We know all too well.

We can't claim that we haven't had the time to act. It's been a year since we declared the atrocities in Darfur to be genocide. We can't claim that we are not responsible. What greater responsibility can there be than to stop a genocide?

We're out of excuses, and we're out of time. I hope this bipartisan bill and its House counterpart are quickly passed. I urge my colleagues to support this bill.

By Mr. KERRY:

S. 1463. A bill to clarify that the Small Business Administration has authority to provide emergency assistance to non-farm-related small business concerns that have suffered substantial economic harm from drought; to the Committee on Small Business and Entrepreneurship.

Mr. KERRY. Mr. President, drought continues to be a serious problem for many States in this country, and I rise to re-introduce legislation to help small businesses that need disaster assistance but can't get it through the Small Business Administration's disaster loan program.

You see, the SBA doesn't treat all drought victims the same. The Agency only helps those small businesses whose income is tied to farming and agriculture. However, farmers and ranchers are not the only small business owners whose livelihoods are at risk when drought hits their communities. The impact can be just as devastating to the owners of rafting businesses, marinas, and bait and tackle shops. Sadly, these small businesses cannot get help through the SBA's disaster loan program because of something taxpayers hate about government—buraucracy.

The SBA denies these businesses access to disaster loans because its lawyers say drought is not a sudden event and therefore it is not a disaster by definition. However, contrary to the Agency's position that drought is not a disaster, in July of 2002, when this Act was originally introduced, the SBA had in effect drought disaster declarations in 36 States. As of July 2005, 11 States remain declared drought disasters and 19 States are suffering from severe to extreme drought conditions. Adding insult to injury, in those States where the Agency declares drought disaster, it limits assistance to only farm-related small businesses. Take, for instance, South Carolina. A couple of years ago that entire State had been declared a disaster by the SBA, but the Administration would not help all drought victims. Let met read to you from the declaration:

Small businesses located in all 46 counties may apply for economic injury disaster loan assistance through the SBA. These are working capital loans to help the business continue to meet its obligations until the business returns to normal conditions. . . . Only small, non-farm agriculture dependent and small agricultural cooperative are eligible to apply for assistance. Nurseries are also eligible for economic injury caused by drought conditions.

The SBA has the authority to help all small businesses hurt by drought in declared disaster areas, but the Agency won't do it. For years the Agency has been applying the law unfairly, helping some and not others, and it is out of compliance with the law. The Small Business Drought Relief Act of 2005 would force SBA to comply with existing law, restoring fairness to an unfair system, and get help to small business drought victims that need it.

Time is of the essence for drought victims, and I am hopeful that Congress will consider passing this legislation soon. This Act has been thoroughly reviewed, passing the committee of jurisdiction three times and the Senate twice, with supporters numbering up to 25, from both sides of the aisle. In addition to approval by the committee of jurisdiction, OMB approved virtually identical legislation in 2003. The bill I am introducing today includes those changes we worked out with the Administration, and I see no reason for delay.

I thank Senators SNOWE and BOND, our current and past chairs, both of whom have been supportive of this legislation each time it was introduced and passed.

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. 1463

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 as the ''Small Business Drought Relief Act of 2005''.

SEC. 2. FINDINGS.

Congress finds that—

(1) as of July 2002, when this Act was originally introduced in the 107th Congress as Senate Bill S. 2734, more than 36 States (including Massachusetts, Montana, Texas, and Nevada) had suffered from continuing drought conditions;

(2) as of July 2005, drought continues to be a serious national problem, with 19 States suffering from severe to extreme drought conditions;

(3) droughts have a negative effect on State and regional economies;

(4) many small businesses in the United States sell, distribute, market, or otherwise engage in commerce related to water and water sources, such as lakes, rivers, and streams;

(5) many small businesses in the United States suffer economic injury from drought conditions, leading to revenue losses, job layoffs, and bankruptcies;

(6) these small businesses need access to low-interest loans for business-related purposes, including paying their bills and making payroll until business returns to normal;

(7) absent a legislative change, the practice of the Small Business Administration of permitting only agriculture and agriculture-related businesses to be eligible for Federal disaster loan assistance as a result of drought conditions would likely continue;

(8) during the past several years small businesses that rely on the Great Lakes have suffered economic injury as a result of lower than average water levels, resulting from low precipitation and increased evaporation, and there are concerns that small businesses in other regions could suffer similar hardships beyond their control and that they should also be eligible for assistance; and

(9) it is necessary to amend the Small Business Act to clarify that non-farm-related small businesses that have suffered economic injury from drought are eligible to receive financial assistance through Small Business Administration Economic Injury Disaster Loans.

SEC. 3. DISASTER RELIEF FOR SMALL BUSINESS CONCERNS DAMAGED BY DROUGHT.

(a) DROUGHT DISASTER AUTHORITY.—

(1) DEFINITION OF DISASTER.—Section 3(k) of the Small Business Act (15 U.S.C. 632(k)) is amended—

(A) by inserting ''(1)'' after ''(k)''; and

(B) by adding at the end the following:

''(2) For purposes of section 7(b)(2), the term 'disaster' includes—

''(A) drought; and

''(B) below average water levels in the Great Lakes, or on any body of water in the United States that supports commerce by small business concerns.''

(2) DROUGHT DISASTER RELIEF AUTHORITY.—Section 7(b)(2) of the Small Business Act (15 U.S.C. 636(b)(2)) is amended—

(A) by inserting ''(including drought), with respect to both farm-related and non-farm-related small business concerns,'' before ''if the Administration''; and

(B) in subparagraph (B), by striking ''the Consolidated Farmers Home Administration Act of 1961 (7 U.S.C. 1961)'' and inserting the following: ''section 321 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961), in which case, assistance under this paragraph may be provided to farm-related and non-farm-related small business concerns, subject to the other applicable requirements of this paragraph''.

(b) LIMITATION ON LOANS.—From funds otherwise appropriated for loans under section 7(b) of the Small Business Act (15 U.S.C. 636(b)), not more than $9,000,000 may be used during each of fiscal years 2005 through 2008, to provide drought disaster loans to non-farm-related small business concerns in accordance with this Act and the amendments made by this Act.

(c) PROMPT RESPONSE TO DISASTER REQUESTS.—Section 7(b)(2)(D) of the Small Business Act (15 U.S.C. 636(b)(2)(D)) is amended by striking ''Upon receipt of such certification, the Administration may'' and inserting ''Not later than 30 days after the date of receipt of such certification by a Governor of a State, the Administration shall respond in writing to that Governor on its determination and the reasons therefore, and may''.

SEC. 4. RULEMAKING.

Not later than 45 days after the date of enactment of this Act, the Administrator of the Small Business Administration shall promulgate final rules to carry out this Act and the amendments made by this Act.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 203—RECOGNIZING THE 75TH ANNIVERSARY OF THE ESTABLISHMENT OF THE VETERANS' ADMINISTRATION AND ACKNOWLEDGING THE ACHIEVEMENTS OF THE VETERANS' ADMINISTRATION AND THE DEPARTMENT OF VETERANS AFFAIRS

Mr. CRAIG (for himself and Mr. AKAKA) submitted the following resolution; which was considered and agreed to:

S. RES. 203

Whereas in the history of the United States more than 48,000,000 citizen-soldiers have served the United States in uniform and more than 1,000,000 have given their lives as a consequence of their duties;

Whereas as of July 21, 2005, there are more than 25,000,000 living veterans;

Whereas on March 4, 1865, President Abraham Lincoln expressed in his Second Inaugural Address the obligation of the United States ''to care for him who shall have borne the battle and for his widow and his orphan'';

Whereas on July 21, 1930, President Herbert Hoover issued an executive order creating a new agency, the Veterans' Administration, to ''consolidate and coordinate Government activities affecting war veterans'';

Whereas on October 25, 1988, President Ronald Reagan signed into law the Department of Veterans Affairs Act (Public Law 100-527; 102 Stat. 2635), effective March 15, 1989, redesignating the Veterans' Administration as the Department of Veterans Affairs and establishing it as an executive department with the mission of providing Federal benefits to veterans and their families; and

Whereas in 2005, the 230,000 employees of the Department of Veterans Affairs continue the tradition of their predecessors of caring for the veterans of the United States with dedication and compassion and upholding the high standards required of them as stewards of the gratitude of the public to those veterans: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the 75th anniversary of the establishment of the Veterans' Administration; and

(2) acknowledges the achievements of the employees of the Veterans' Administration and the Department of Veterans Affairs and commends these employees for serving the veterans of the United States.

Mr. CRAIG. Mr. President, I seek recognition today to submit a resolution recognizing the 75th anniversary of the establishment of the Veterans' Administration and acknowledging the achievements of the employees, past and present, of the Veterans' Administration and the Department of Veterans Affairs. As Chairman of the Senate Veterans' Affairs Committee, I am honored to offer public recognition of this auspicious anniversary and, more importantly, the fine work being done every day by over 230,000 VA employees.

The Veterans' Administration was created by an Executive Order signed by President Herbert Hoover on July 21, 1930, 75 years ago today. Prior to 1930, of course, Federal programs existed to assist war veterans. For example, early in the Revolutionary War, the Continental Congress created the first veterans' benefits package, which included life-long pensions for both disabled veterans and the survivors of soldiers killed in battle. Other veterans benefits—for example, ''mustering out'' pay—were also provided to veterans of the War of 1812, the Mexican War, the Civil War, the Indian wars, and the Spanish-American War, and the first educational assistance benefits for veterans were enacted as part of the Rehabilitation Act of 1919 which provided for a monthly education assistance allowance to disabled World War I veterans. But it was not until 1930—75 years ago today—that a Federal agency recognizable by today's standards was created by President Hoover.

The VA has a unique place in history having administered one of the most significant pieces of legislation ever enacted in the Nation's history, the ''Servicemen's Readjustment Act of 1944,'' better known as the ''GI Bill of Rights.'' This legislation, it is now generally recognized, revolutionized American society after World War II by providing educational opportunity to an entire generation of Americans—opportunity which otherwise would not have been available and which changed the Nation and ushered in the space age. During the period, VA's capability to provide medical care and rehabilitation services to disabled and needy veterans also grew significantly, leading ultimately to a health care system which is today recognized as a provider of ''the best care, anywhere.''

In the Nation's history, more than 48 million citizen-soldiers have worn the uniform, and more than 1 million have perished as a result of their service. More than 25 million men and women are alive today who proudly acknowledge the title ''veteran''. The Department of Veterans Affairs, as VA is designated today, exists solely for the reason articulated by President Abraham Lincoln in his Second Inaugural Address: ''. . . to care for him who shall have borne the battle and for his widow and his orphan.'' I applaud the efforts of the more than 230,000 VA employees who keep faith, every day, with President Lincoln's words. They—and we—could have no higher calling.

SENATE RESOLUTION 204—RECOGNIZING THE 75TH ANNIVERSARY OF THE AMERICAN ACADEMY OF PEDIATRICS AND SUPPORTING THE MISSION AND GOALS OF THE ORGANIZATION

Mr. DURBIN (for himself, Mr. BINGAMAN, Mr. CHAFEE, Mrs. CLINTON, Mr. DEWINE, Mr. DODD, Mr. GRASSLEY, Mr. HARKIN, Mr. INOUYE, Mr. KENNEDY, Mr. LAUTENBERG, Mr. LEAHY, Mr. OBAMA, Mr. REED, Mr. REID, and Mr. ROCKEFELLER) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 204

Whereas 2005 marks the 75th anniversary of the American Academy of Pediatrics (referred to in this resolution as the ''Academy'');

Whereas in 1930, 35 pediatricians founded the Academy to attain optimal physical, mental, and social health and well-being for all infants, children, adolescents, and young adults;

Whereas in 2005, the Academy is the largest membership organization in the United States dedicated to child and adolescent health and well-being, with more than 60,000 primary care pediatricians, pediatric medical subspecialists, and pediatric surgical specialists belonging to its 59 chapters in the United States and 7 chapters in Canada;

Whereas, in addition to promoting good physical health, the Academy also promotes early childhood education, good mental health, reading, environmental health, safety, pediatric research, and the elimination of disparities in health care;

Whereas the Academy serves as a voice for the most vulnerable people in the United States by advocating for the needs of children with special health care needs, low-income families, victims of abuse and neglect, individuals in under-served communities, and the uninsured;

Whereas the Academy is dedicated to improving child health and well-being through numerous efforts and initiatives, including continuing medical education, the promotion of optimal standards for pediatric education, the authorship and dissemination of materials which advance its mission, and advocacy on improvements in child health;

Whereas the Academy promotes the use of evidence-based research and ''best practices'' to drive major improvements in child health and well-being, such as the use of immunizations to decrease the rates of infectious childhood diseases;

Whereas the Academy promotes the pediatric ''medical home'' as the most effective approach to guaranteeing the highest quality care for all children;

Whereas the Academy provides international leadership on child health issues, including translating child health materials into more than 40 languages;

Whereas Academy members have organized numerous child health initiatives at the State and community levels; and

Whereas, throughout its history, the Academy has been instrumental in the passage of several Federal child health laws, including poison prevention measures, the medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.), Federal child safety seat initiatives, the State Children's Health Insurance Program under title XXI of the Social Security Act (42 U.S.C. 1397aa et seq.), universal immunization, and the Best Pharmaceuticals for Children Act (Public Law 107-109): Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the 75th anniversary of the American Academy of Pediatrics;

(2) supports the mission and goals of the Academy;

(3) commends the Academy for its commitment to attaining optimal physical, mental, and social health and well-being for all infants, children, adolescents, and young adults;

(4) encourages the people of the United States to observe this anniversary and support the Academy on behalf of the children of the United States; and

(5) encourages the Academy to continue striving to improve the health and well-being of all infants, children, adolescents, and young adults of the United States.

AMENDMENTS SUBMITTED AND PROPOSED

SA 1337. Mr. REID submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table.

SA 1338. Mr. REID submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1339. Mr. BAYH submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1340. Mr. WYDEN (for himself and Mr. SMITH) submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1341. Mr. ALEXANDER submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1342. Mr. FRIST (for himself, Mr. ALEXANDER, Mr. ALLARD, Mr. ALLEN, Mr. BENNETT, Mr. BINGAMAN, Mr. BOND, Mr. BROWNBACK, Mr. BUNNING, Mr. BURNS, Mr. BURR, Mr. CHAMBLISS, Mr. COBURN, Mr. COCHRAN, Mr. COLEMAN, Ms. COLLINS, Mr. CORNYN, Mr. CRAIG, Mr. CRAPO, Mr. DEMINT, Mrs. DOLE, Mr. DOMENICI, Mr. ENSIGN, Mr. ENZI, Mr. GRAHAM, Mr. GRASSLEY, Mr. HAGEL, Mr. HATCH, Mrs. HUTCHISON, Mr. INHOFE, Mr. ISAKSON, Mr. KYL, Mrs. LINCOLN, Mr. LOTT, Mr. LUGAR, Mr. MARTINEZ, Mr. MCCONNELL, Ms. MURKOWSKI, Mr. NELSON of Florida, Mr. NELSON of Nebraska, Mr. PRYOR, Mr. ROBERTS, Mr. SANTORUM, Mr. SESSIONS, Mr. SHELBY, Mr. SMITH, Mr. STEVENS, Mr. SUNUNU, Mr. TALENT, Mr. THOMAS, Mr. THUNE, Mr. VITTER, Ms. LANDRIEU, and Mr. WARNER) proposed an amendment to the bill S. 1042, supra.

SA 1343. Mr. ALLEN submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1344. Mr. MARTINEZ submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1345. Ms. COLLINS (for herself, Mr. AKAKA, Mr. LIEBERMAN, Mr. CARPER, and Mr. OBAMA) submitted an amendment intended to be proposed by her to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1346. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1347. Mrs. CLINTON (for herself and Ms. COLLINS) submitted an amendment intended to be proposed by her to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1348. Mrs. MURRAY submitted an amendment intended to be proposed by her to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1349. Mrs. MURRAY submitted an amendment intended to be proposed by her to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1350. Mr. MARTINEZ submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1351. Mr. LAUTENBERG (for himself, Mr. CORZINE, Mrs. CLINTON, and Mr. FEINGOLD) proposed an amendment to the bill S. 1042, supra.

SA 1352. Mr. REED (for himself and Mr. ROCKEFELLER) submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1353. Mr. SHELBY submitted an amendment intended to be proposed to amendment SA 1311 proposed by Mr. INHOFE to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1354. Mr. ALLARD submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1355. Mr. ALLARD submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1356. Mr. DEWINE submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1357. Mrs. HUTCHISON (for herself, Mr. NELSON of Florida, and Mr. SESSIONS) submitted an amendment intended to be proposed by her to the bill S. 1042, supra.

SA 1358. Mr. GRAHAM submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1359. Mr. THOMAS (for himself and Mr. ENZI) submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1360. Mr. GRASSLEY (for himself and Mr. HARKIN) submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1361. Mr. LIEBERMAN submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1362. Mr. OBAMA submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1363. Mr. GRAHAM (for himself, Mrs. CLINTON, Mr. LEAHY, Mr. LAUTENBERG, Mr. DEWINE, Mr. KERRY, Mr. PRYOR, Mr. REID, Mr. COLEMAN, Mr. DAYTON, Mr. ALLEN, Ms. CANTWELL, Ms. MURKOWSKI, Mr. WARNER, Mr. LEVIN, and Mrs. MURRAY) proposed an amendment to the bill S. 1042, supra.

SA 1364. Mr. BAYH submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1365. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1366. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1367. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1368. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1369. Mr. DAYTON submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1370. Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1371. Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1372. Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1373. Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1374. Mr. ENSIGN proposed an amendment to the bill S. 1042, supra.

SA 1375. Mr. ENSIGN proposed an amendment to the bill S. 1042, supra.

SA 1376. Mr. LEVIN (for himself, Mr. WARNER, and Mr. KERRY) proposed an amendment to the bill S. 1042, supra.

SA 1377. Ms. COLLINS proposed an amendment to amendment SA 1351 proposed by Mr. LAUTENBERG (for himself, Mr. CORZINE, Mrs. CLINTON, and Mr. FEINGOLD) to the bill S. 1042, supra.

SA 1378. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1379. Mr. DURBIN (for himself and Mrs. FEINSTEIN) proposed an amendment to the bill S. 1042, supra.

SA 1380. Mr. LUGAR (for himself, Mr. LEVIN, Mr. DOMENICI, Mr. OBAMA, Mr. LOTT, Mr. JEFFORDS, Mr. NELSON of Florida, Mr. VOINOVICH, Mr. DODD, Mr. LEAHY, Mr. NELSON of Nebraska, Ms. MURKOWSKI, Mr. KENNEDY, Mr. CHAFEE, Ms. COLLINS, Mr. ALEXANDER, Mr. ALLEN, Mr. SALAZAR, Mr. HAGEL, Mr. DEWINE, Mr. REED, Mr. DORGAN, Mrs. CLINTON, Ms. MIKULSKI, Mr. BIDEN, Ms. STABENOW, Mr. BINGAMAN, Mr. AKAKA, Mr. LAUTENBERG, Mrs. FEINSTEIN, Mr. ENZI, Mr. CONRAD, Mrs. BOXER, Mr. DURBIN, Mr. SARBANES, Ms. LANDRIEU, Mr. SUNUNU, Mr. BAYH, Mr. SMITH, and Mr. CARPER) proposed an amendment to the bill S. 1042, supra.

SA 1381. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1382. Mr. ALLARD submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1383. Mr. ALLARD submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1384. Mr. BYRD submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1385. Mr. BAYH submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1386. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1387. Mr. GRAHAM submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1388. Mr. INHOFE submitted an amendment intended to be proposed by him to the

bill S. 1042, supra; which was ordered to lie on the table.

SA 1389. Mr. THUNE (for himself, Mr. LIEBERMAN, Ms. SNOWE, Mr. LAUTENBERG, Mr. JOHNSON, Mr. DODD, Ms. COLLINS, Mr. CORZINE, Mr. BINGAMAN, and Mr. DOMENICI) proposed an amendment to the bill S. 1042, supra.

SA 1390. Mr. WARNER proposed an amendment to the bill S. 1042, supra.

SA 1391. Mr. WARNER (for Mr. WYDEN (for himself and Mr SMITH)) proposed an amendment to the bill S. 1042, supra.

SA 1392. Mr. WARNER proposed an amendment to the bill S. 1042, supra.

SA 1393. Mr. WARNER (for Mr. INOUYE) proposed an amendment to the bill S. 1042, supra.

SA 1394. Mr. WARNER (for Mr. SESSIONS) proposed an amendment to the bill S. 1042, supra.

SA 1395. Mr. WARNER (for Mr. REED) proposed an amendment to the bill S. 1042, supra.

SA 1396. Mr. WARNER (for Mr. STEVENS) proposed an amendment to the bill S. 1042, supra.

SA 1397. Mr. WARNER (for Mrs. FEINSTEIN) proposed an amendment to the bill S. 1042, supra.

SA 1398. Mr. WARNER (for Mr. LOTT (for himself and Mr. COCHRAN)) proposed an amendment to the bill S. 1042, supra.

SA 1399. Mr. WARNER (for Mrs. FEINSTEIN (for herself and Mr. GRASSLEY)) proposed an amendment to the bill S. 1042, supra.

SA 1400. Mr. WARNER (for Mr. LOTT) proposed an amendment to the bill S. 1042, supra.

SA 1401. Mr. KENNEDY (for himself, Ms. COLLINS, Mrs. CLINTON, Mr. ROBERTS, Ms. MIKULSKI, Mr. SANTORUM, Mr. LIEBERMAN, and Mrs. DOLE) submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1402. Mr. AKAKA (for himself, Mr. COCHRAN, and Mr. DODD) submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table

SA 1403. Mr. AKAKA submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1404. Mr. AKAKA (for himself and Mr. HATCH) submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1405. Mr. ALLARD (for himself and Mr. MCCONNELL) submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1406. Mr. LUGAR submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1407. Mr. LUGAR submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1408. Mr. HAGEL submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1409. Mr. HAGEL submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1410. Mrs. FEINSTEIN (for herself and Mr. HAGEL) submitted an amendment intended to be proposed by her to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1411. Mr. WARNER (for Mr. ENZI (for himself, Mr. JEFFORDS, Mr. GREGG, Mr. KENNEDY, Mr. FRIST, Mrs. MURRAY, and Mr. BINGAMAN)) proposed an amendment to the bill S. 544, to amend title IX of the Public Health Service Act to provide for the improvement of patient safety and to reduce the incidence of events that adversely effect patient safety.

SA 1412. Mr. HATCH (for himself, Mr. INHOFE, Mr. BENNETT, and Mr. CHAMBLISS) submitted an amendment Intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 1337. Mr. REID submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle D of title VI, add the following:

SEC. 642. INCLUSION OF VETERANS WITH SERVICE-CONNECTED DISABILITIES RATED AS TOTAL BY REASON OF UNEMPLOYABILITY UNDER TERMINATION OF PHASE-IN OF CONCURRENT RECEIPT OF RETIRED PAY AND VETERANS' DISABILITY COMPENSATION.

(a) INCLUSION OF VETERANS.—Section 1414(a)(1) of title 10, United States Code, is amended by inserting ''or a qualified retiree receiving veterans' disability compensation for a disability rated as total (within the meaning of subsection (e)(3)(B))'' after ''rated as 100 percent''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on December 31, 2004.

SA 1338. Mr. REID submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle F of title V, add the following;

SEC. 573. REQUIREMENT FOR MEMBERS OF THE ARMED FORCES TO DESIGNATE A PERSON TO BE AUTHORIZED TO DIRECT THE DISPOSITION OF THE MEMBER'S REMAINS.

(a) DESIGNATION REQUIRED.—Section 655 of title 10, United States Code, is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following new subsection (b):

''(b) The Secretary concerned shall, upon the enlistment or appointment of a person in the armed forces, require that the person specify in writing the person authorized to direct the disposition of the person's remains under section 1482 of this title. The Secretary shall periodically, and whenever the member is deployed as part of a contingency operation or in other circumstances specified by the Secretary, require that such designation be reconfirmed, or modified, by the member.''.

(b) CHANGE IN DESIGNATION.—Subsection (c) of such section, as redesignated by subsection (a)(1), is amended by inserting ''or (b)'' after ''subsection (a)''.

(c) PERSONS AUTHORIZED TO DIRECT DISPOSITION OF REMAINS.—Section 1482(c) of such title is amended—

(1) by striking the matter preceding paragraph (1) and inserting the following:

''(c) The person designated under section 655(b) of this title shall be considered for all purposes to be the person designated under this subsection to direct disposition of the remains of a decedent covered by this chapter. If the person so designated is not available, or if there was no such designation under that section one of the following persons, in the order specified, shall be the person designated to direct the disposition of remains:'' and

(2) in paragraph (4), by striking ''clauses (1)–(3)'' and inserting ''paragraph (1), (2), or (3)''.

(d) EFFECTIVE DATE.—Subsection (b) of section 655 of title 10, United States Code, as added by subsection (a)(2), shall take effect at the end of the 30-day period beginning on the date of the enactment of this Act and shall be applied to persons enlisted or appointed in the Armed Forces after the end of such period. In the case of persons who are members of the Armed Forces as of the end of such 30-day period, such subsection—

(1) shall be applied to any member who is deployed to a contingency operation after the end of such period; and

(2) in the case of any member not sooner covered under paragraph (1), shall be applied before the end of the 180-day period beginning on the date of the enactment of this Act.

(e) TREATMENT OF PRIOR DESIGNATIONS.—

(1) IN GENERAL.—A qualifying designation by a decedent covered by section 1481 of title 10, United States Code, shall be treated for purposes of section 1482 of such title as having been made under section 655(b) of such title.

(2) QUALIFYING DESIGNATIONS.—For purposes of paragraph (1), a qualifying designation is a designation by a person of the person to be authorized to direct disposition of the remains of the person making the designation that was made before the date of the enactment of this Act and in accordance with regulations and procedures of the Department of Defense in effect at the time.

SA 1339. Mr. BAYH submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 303, strike line 3 and all that follows through page 304, line 24, and insert the following:

(3) For other procurement, $105,000,000.

(b) AVAILABILITY OF CERTAIN AMOUNTS.—Of the amount authorized to be appropriated by subsection (a)(3), $105,000,000 shall be available for the procurement of so-called ''b'' armor kits for M1151 and M1152 high mobility multipurpose wheeled vehicles.

SEC. 1404. MARINE CORPS PROCUREMENT.

(a) MARINE CORPS PROCUREMENT.—Funds are hereby authorized to be appropriated for fiscal year 2006 for the procurement account of the Marine Corps in the amount of $340,400,000.

(b) AVAILABILITY OF AMOUNT.—Of the amount authorized to be appropriated by subsection (a), $340,000,000 shall be available for purposes as follows:

(1) Procurement of Up-Armored Humvees.

(2) Procurement of so-called ''b'' armor kits for M1151 and M1152 high mobility multipurpose wheeled vehicles.

(3) Procurement of M1151 and M1152 high mobility multipurpose wheeled vehicles.

SA 1340. Mr. WYDEN (for himself and Mr. SMITH) submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 378, between lines 10 and 11, insert the following:

SEC. 3___. CLARIFICATION OF COOPERATIVE AGREEMENT AUTHORITY UNDER CHEMICAL DEMILITARIZATION PROGRAM.

(a) IN GENERAL.—Section 1412(c)(4) of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521(c)(4)), is amended—

(1) by inserting ''(A)'' after ''(4)'';

(2) in the first sentence—

(A) by inserting ''and tribal organizations'' after ''State and local governments''; and

(B) by inserting ''and tribal organizations'' after ''those governments'';

(3) in the third sentence—

(A) by striking ''Additionally, the Secretary'' and inserting the following:

''(B) Additionally, the Secretary''; and

(B) by inserting ''and tribal organizations'' after ''State and local governments''; and

(4) by adding at the end the following:

''(C) In this paragraph, the term 'tribal organization' has the meaning given the term in section 4(*l*) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(*l*)).''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a)—

(1) take effect on December 5, 1991; and

(2) apply to any cooperative agreement entered into on or after that date.

SA 1341. Mr. ALEXANDER submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle C of title III, add the following:

SEC. 330. STUDY ON USE OF GROUND SOURCE HEAT PUMPS.

(a) IN GENERAL.—The Secretary of Defense shall conduct a study on the feasibility of the use of ground source heat pumps in current and future Department of Defense facilities.

(b) ELEMENTS.—The study shall include an examination of—

(1) the life cycle costs, including maintenance costs, of the operation of such heat pumps compared to generally available heating, cooling, and water heating equipment;

(2) barriers to installation, such as availability and suitability of terrain; and

(3) such other matters as the Secretary considers appropriate.

(c) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the study conducted under subsection (a).

(d) GROUND SOURCE HEAT PUMP DEFINED.—In this section, the term ''ground source heat pump'' means an electric powered system that uses the relatively constant temperature of the earth to provide heating, cooling, or hot water.

SA 1342. Mr. FRIST (for himself, Mr. ALEXANDER, Mr. ALLARD, Mr. ALLEN, Mr. BENNETT, Mr. BINGAMAN, Mr. BOND, Mr. BROWNBACK, Mr. BUNNING, Mr. BURNS, Mr. BURR, Mr. CHAMBLISS, Mr. COBURN, Mr. COCHRAN, Mr. COLEMAN, Ms. COLLINS, Mr. CORNYN, Mr. CRAIG, Mr. CRAPO, Mr. DEMINT, Mrs. DOLE, Mr. DOMENICI, Mr. ENSIGN, Mr. ENZI, Mr. GRAHAM, Mr. GRASSLEY, Mr. HAGEL, Mr. HATCH, Mrs. HUTCHISON, Mr. INHOFE, Mr. ISAKSON, Mr. KYL, Mrs. LINCOLN, Mr. LOTT, Mr. LUGAR, Mr. MARTINEZ, Mr. MCCONNELL, Ms. MURKOWSKI, Mr. NELSON of Florida, Mr. NELSON of Nebraska, Mr. PRYOR, Mr. ROBERTS, Mr. SANTORUM, Mr. SESSIONS, Mr. SHELBY, Mr. SMITH, Mr. STEVENS, Mr. SUNUNU, Mr. TALENT, Mr. THOMAS, Mr. THUNE, Mr. VITTER, Ms. LANDRIEU, and Mr. WARNER) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subtitle G of title X, insert the following:

SEC. 1073. SUPPORT FOR YOUTH ORGANIZATIONS.

(a) SHORT TITLE.—This Act may be cited as the ''Support Our Scouts Act of 2005''.

(b) SUPPORT FOR YOUTH ORGANIZATIONS.—

(1) DEFINITIONS.—In this subsection—

(A) the term ''Federal agency'' means each department, agency, instrumentality, or other entity of the United States Government; and

(B) the term ''youth organization''—

(i) means any organization that is designated by the President as an organization that is primarily intended to—

(I) serve individuals under the age of 21 years;

(II) provide training in citizenship, leadership, physical fitness, service to community, and teamwork; and

(III) promote the development of character and ethical and moral values; and

(ii) shall include—

(I) the Boy Scouts of America;

(II) the Girl Scouts of the United States of America;

(III) the Boys Clubs of America;

(IV) the Girls Clubs of America;

(V) the Young Men's Christian Association;

(VI) the Young Women's Christian Association;

(VII) the Civil Air Patrol;

(VIII) the United States Olympic Committee;

(IX) the Special Olympics;

(X) Campfire USA;

(XI) the Young Marines;

(XII) the Naval Sea Cadets Corps;

(XIII) 4-H Clubs;

(XIV) the Police Athletic League;

(XV) Big Brothers—Big Sisters of America; and

(XVI) National Guard Youth Challenge.

(2) IN GENERAL.—

(A) SUPPORT FOR YOUTH ORGANIZATIONS.—No Federal law (including any rule, regulation, directive, instruction, or order) shall be construed to limit any Federal agency from providing any form of support for a youth organization (including the Boy Scouts of America or any group officially affiliated with the Boy Scouts of America) that would result in that Federal agency providing less support to that youth organization (or any similar organization chartered under the chapter of title 36, United States Code, relating to that youth organization) than was provided during the preceding fiscal year.

(B) TYPES OF SUPPORT.—Support described under this paragraph shall include—

(i) holding meetings, camping events, or other activities on Federal property;

(ii) hosting any official event of such organization;

(iii) loaning equipment; and

(iv) providing personnel services and logistical support.

(c) SUPPORT FOR SCOUT JAMBOREES.—

(1) FINDINGS.—Congress makes the following findings:

(A) Section 8 of article I of the Constitution of the United States commits exclusively to Congress the powers to raise and support armies, provide and maintain a Navy, and make rules for the government and regulation of the land and naval forces.

(B) Under those powers conferred by section 8 of article I of the Constitution of the United States to provide, support, and maintain the Armed Forces, it lies within the discretion of Congress to provide opportunities to train the Armed Forces.

(C) The primary purpose of the Armed Forces is to defend our national security and prepare for combat should the need arise.

(D) One of the most critical elements in defending the Nation and preparing for combat is training in conditions that simulate the preparation, logistics, and leadership required for defense and combat.

(E) Support for youth organization events simulates the preparation, logistics, and leadership required for defending our national security and preparing for combat.

(F) For example, Boy Scouts of America's National Scout Jamboree is a unique training event for the Armed Forces, as it requires the construction, maintenance, and disassembly of a ''tent city'' capable of supporting tens of thousands of people for a week or longer. Camporees at the United States Military Academy for Girl Scouts and Boy Scouts provide similar training opportunities on a smaller scale.

(2) SUPPORT.—Section 2554 of title 10, United States Code, is amended by adding at the end the following:

''(i)(1) The Secretary of Defense shall provide at least the same level of support under this section for a national or world Boy Scout Jamboree as was provided under this section for the preceding national or world Boy Scout Jamboree.

''(2) The Secretary of Defense may waive paragraph (1), if the Secretary—

''(A) determines that providing the support subject to paragraph (1) would be detrimental to the national security of the United States; and

''(B) reports such a determination to the Congress in a timely manner, and before such support is not provided.''.

(d) EQUAL ACCESS FOR YOUTH ORGANIZATIONS.—Section 109 of the Housing and Community Development Act of 1974 (42 U.S.C. 5309) is amended—

(1) in the first sentence of subsection (b) by inserting ''or (e)'' after ''subsection (a)''; and

(2) by adding at the end the following:

''(e) EQUAL ACCESS.—

''(1) DEFINITION.—In this subsection, the term 'youth organization' means any organization described under part B of subtitle II of title 36, United States Code, that is intended to serve individuals under the age of 21 years.

''(2) IN GENERAL.—No State or unit of general local government that has a designated open forum, limited public forum, or nonpublic forum and that is a recipient of assistance under this chapter shall deny equal access or a fair opportunity to meet to, or discriminate against, any youth organization, including the Boy Scouts of America or any group officially affiliated with the Boy Scouts of America, that wishes to conduct a meeting or otherwise participate in that designated open forum, limited public forum, or nonpublic forum.''.

SA 1343. Mr. ALLEN submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 237, after line 17, add the following:

SEC. 846. INCREASED LIMIT APPLICABLE TO ASSISTANCE PROVIDED UNDER CERTAIN PROCUREMENT TECHNICAL ASSISTANCE PROGRAMS.

Section 2414(a)(2) of title 10, United States Code, is amended by striking ''$150,000'' and inserting ''$300,000''.

SA 1344. Mr. MARTINEZ submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle A of title X, add following:

SEC. 1009. USE OF FUNDS FOR COSTS ASSOCIATED WITH SPECIAL CATEGORY RESIDENTS AT NAVAL STATION GUANTANAMO BAY, CUBA.

(a) AUTHORIZATION TO USE FUNDS.—The Secretary of the Navy may obligate and expend funds authorized to be appropriated to the Department of the Navy for the purposes of covering the costs associated with Special Category Residents residing at Naval Station Guantanamo Bay, Cuba, including costs associated with medical care, transportation, legal services, and subsistence.

(b) RATIFICATION OF USE OF FUNDS.—Any obligation or expenditure of funds by the Secretary of the Navy for the purposes described in subsection (a) during the period beginning on January 1, 1959, and ending on the date of the enactment of this Act is hereby deemed to have complied with the provisions of section 1301 of title 31, United States Code.

SA 1345. Ms. COLLINS (for herself, Mr. AKAKA, Mr. LIEBERMAN, Mr. CARPER, and Mr. OBAMA) submitted an amendment intended to be proposed by her to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 292, between lines 15 and 16, insert the following:

SEC. 1106. BID PROTESTS BY FEDERAL EMPLOYEES IN ACTIONS UNDER OFFICE OF MANAGEMENT AND BUDGET CIRCULAR A–76.

(a) ELIGIBILITY TO PROTEST.—(1) Section 3551(2) of title 31, United States Code, is amended to read as follows:

''(2) The term 'interested party'—

''(A) with respect to a contract or a solicitation or other request for offers described in paragraph (1), means an actual or prospective bidder or offeror whose direct economic interest would be affected by the award of the contract or by failure to award the contract; and

''(B) with respect to a public-private competition conducted under Office of Management and Budget Circular A–76 regarding performance of an activity or function of a Federal agency, includes—

''(i) any official who submitted the agency tender in such competition; and

''(ii) any one person who, for the purpose of representing them in a protest under this subchapter that relates to such competition, has been designated as their agent by a majority of the employees of such Federal agency who are engaged in the performance of such activity or function.''.

(2)(A) Subchapter V of chapter 35 of such title is amended by adding at the end the following new section:

''§ 3557. Expedited action in protests for Public-Private competitions

''For protests in cases of public-private competitions conducted under Office of Management and Budget Circular A–76 regarding performance of an activity or function of Federal agencies, the Comptroller General shall administer the provisions of this subchapter in a manner best suited for expediting final resolution of such protests and final action in such competitions.''.

(B) The chapter analysis at the beginning of such chapter is amended by inserting after the item relating to section 3556 the following new item:

''3557. Expedited action in protests for public-private competitions.''.

(b) RIGHT TO INTERVENE IN CIVIL ACTION.—Section 1491(b) of title 28, United States Code, is amended by adding at the end the following new paragraph:

''(5) If a private sector interested party commences an action described in paragraph (1) in the case of a public-private competition conducted under Office of Management and Budget Circular A–76 regarding performance of an activity or function of a Federal agency, then an official or person described in section 3551(2)(B) of title 31 shall be entitled to intervene in that action.''.

(c) APPLICABILITY.—Subparagraph (B) of section 3551(2) of title 31, United States Code (as added by subsection (a)), and paragraph (5) of section 1491(b) of title 28, United States Code (as added by subsection (b)), shall apply to—

(1) protests and civil actions that challenge final selections of sources of performance of an activity or function of a Federal agency that are made pursuant to studies initiated under Office of Management and Budget Circular A–76 on or after January 1, 2004; and

(2) any other protests and civil actions that relate to public-private competitions initiated under Office of Management and Budget Circular A–76 on or after the date of the enactment of this Act.

SA 1346. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle H of title V, add the following:

SEC. 596. COLD WAR SERVICE MEDAL.

(a) AUTHORITY.—Chapter 57 of title 10, United States Code, is amended by adding at the end the following new section:

''§ 1135. Cold War service medal

''(a) MEDAL AUTHORIZED.—The Secretary concerned shall issue a service medal, to be known as the 'Cold War service medal', to persons eligible to receive the medal under subsection (b). The Cold War service medal shall be of an appropriate design approved by the Secretary of Defense, with ribbons, lapel pins, and other appurtenances.

''(b) ELIGIBLE PERSONS.—The following persons are eligible to receive the Cold War service medal:

''(1) A person who—

''(A) performed active duty or inactive duty training as an enlisted member during the Cold War;

''(B) completed the person's initial term of enlistment or, if discharged before completion of such initial term of enlistment, was honorably discharged after completion of not less than 180 days of service on active duty; and

''(C) has not received a discharge less favorable than an honorable discharge or a release from active duty with a characterization of service less favorable than honorable.

''(2) A person who—

''(A) performed active duty or inactive duty training as a commissioned officer or warrant officer during the Cold War;

''(B) completed the person's initial service obligation as an officer or, if discharged or separated before completion of such initial service obligation, was honorably discharged after completion of not less than 180 days of service on active duty; and

''(C) has not been released from active duty with a characterization of service less favorable than honorable and has not received a discharge or separation less favorable than an honorable discharge.

''(c) ONE AWARD AUTHORIZED.—Not more than one Cold War service medal may be issued to any person.

''(d) ISSUANCE TO REPRESENTATIVE OF DECEASED.—If a person described in subsection (b) dies before being issued the Cold War service medal, the medal shall be issued to the person's representative, as designated by the Secretary concerned.

''(e) REPLACEMENT.—Under regulations prescribed by the Secretary concerned, a Cold War service medal that is lost, destroyed, or rendered unfit for use without fault or neglect on the part of the person to whom it was issued may be replaced without charge.

''(f) APPLICATION FOR MEDAL.—The Cold War service medal shall be issued upon receipt by the Secretary concerned of an application for such medal, submitted in accordance with such regulations as the Secretary prescribes.

''(g) UNIFORM REGULATIONS.—The Secretary of Defense shall ensure that regulations prescribed by the Secretaries of the military departments under this section are uniform so far as is practicable.

''(h) DEFINITION.—In this section, the term 'Cold War' means the period beginning on September 2, 1945, and ending at the end of December 26, 1991.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

''1135. Cold War service medal.''.

SA 1347. Mrs. CLINTON (for herself and Ms. COLLINS) submitted an amendment intended to be proposed by her to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle E of title VI, add the following:

SEC. 653. CONSUMER EDUCATION FOR MEMBERS OF THE ARMED FORCES AND THEIR SPOUSES ON INSURANCE AND OTHER FINANCIAL SERVICES.

(a) EDUCATION AND COUNSELING REQUIREMENTS.—

(1) IN GENERAL.—Chapter 50 of title 10, United States Code, is amended by adding at the end the following new section:

''§ 992. Consumer education: financial services

''(a) REQUIREMENT FOR CONSUMER EDUCATION PROGRAM FOR MEMBERS.—(1) The Secretary concerned shall carry out a program to provide comprehensive education to members of the armed forces under the jurisdiction of the Secretary on—

''(A) financial services that are available under law to members;

''(B) financial services that are routinely offered by private sector sources to members;

''(C) practices relating to the marketing of private sector financial services to members;

''(D) such other matters relating to financial services available to members, and the marketing of financial services to members, as the Secretary considers appropriate; and

''(E) such other financial practices as the Secretary considers appropriate.

''(2) Training under this subsection shall be provided to members as—

''(A) a component of the members' initial entry training;

''(B) a component of each level of the members' professional development training that is required for promotion; and

''(C) a component of periodically recurring required training that is provided for the members at military installations.

''(3) The training provided at a military installation under paragraph (2)(C) shall include information on any financial services marketing practices that are particularly prevalent at that military installation and in the vicinity.

''(b) COUNSELING FOR MEMBERS AND SPOUSES.—(1) The Secretary concerned shall provide counseling on financial services to each member of the armed forces under the jurisdiction of the Secretary.

''(2) The Secretary concerned shall, upon request, provide counseling on financial services to the spouse of any member of the armed forces under the jurisdiction of the Secretary.

''(2) The Secretary concerned shall provide counseling on financial services under this subsection as follows:

''(A) In the case of members, and the spouses of members, assigned to a military installation to which at least 750 members of the armed forces are assigned, through a full-time financial services counselor at such installation.

''(B) In the case of members, and the spouses of members, assigned to a military installation other than an installation described in subparagraph (A), through such mechanisms as the Secretary considers appropriate, including through the provision of counseling by a member of the armed forces in grade E–7 or above, or a civilian, at such installation who provides such counseling as a part of the other duties performed by such member or civilian, as the case may be, at such installation.

''(3) Each financial services counselor under paragraph (2)(A), and each individual providing counseling on financial services under paragraph (2)(B), shall be an individual who, by reason of education, training, or experience, is qualified to provide helpful counseling to members of the armed forces and their spouses on financial services and marketing practices described in subsection (a)(1). Such individual may be a member of the armed forces or an employee of the Federal Government.

''(4) The Secretary concerned shall take such action as is necessary to ensure that each financial services counselor under paragraph (2)(A), and each individual providing counseling on financial services under paragraph (2)(B), is free from conflicts of interest relevant to the performance of duty under this section and, in the performance of that duty, is dedicated to furnishing members of the armed forces and their spouses with helpful information and counseling on financial services and related marketing practices.

''(5) The Secretary concerned may authorize financial services counseling to be provided to members of a unit of the armed forces by unit personnel under the guidance and with the assistance of a financial services counselor under paragraph (2)(A) or an individual providing counseling on financial services under paragraph (2)(B), as applicable.

''(c) LIFE INSURANCE.—(1) In counseling a member of the armed forces, or spouse of a member of the armed forces, under this section regarding life insurance offered by a private sector source, a financial services counselor under subsection (b)(2)(A), or an individual providing counseling on financial services under subsection (b)(2)(B), shall furnish the member or spouse, as the case may be, with information on the availability of Servicemembers' Group Life Insurance under subchapter III of chapter 19 of title 38, including information on the amounts of coverage available and the procedures for electing coverage and the amount of coverage.

''(2)(A) A covered member of the armed forces may not authorize payment to be made for private sector life insurance by means of an allotment of pay to which the member is entitled under chapter 3 of title 37 unless the authorization of allotment is accompanied by a written certification by a commander of the member, or by a financial services counselor referred to in subsection (b)(2)(A) or an individual providing counseling on financial services under subsection (b)(2)(B), as applicable, that the member has received counseling under paragraph (1) regarding the purchase of coverage under that private sector life insurance.

''(B) Subject to subparagraph (C), a written certification described in subparagraph (A) may not be made with respect to a member's authorization of allotment as described in subparagraph (A) until 7 days after the date of the member's authorization of allotment in order to facilitate the provision of counseling to the member under paragraph (1).

''(C) The commander of a member may waive the applicability of subparagraph (B) to a member for good cause, including the member's imminent change of station.

''(D) In this paragraph, the term 'covered member of the armed forces' means a member of the armed forces in pay grades E–1 through E–4.

''(d) FINANCIAL SERVICES DEFINED.—In this section, the term 'financial services' includes the following:

''(1) Life insurance, casualty insurance, and other insurance.

''(2) Investments in securities or financial instruments.''.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

''992. Consumer education: financial services.''.

(b) CONTINUING EFFECT OF EXISTING ALLOTMENTS FOR LIFE INSURANCE.—Subsection (c)(2) of section 992 of title 10, United States Code (as added by subsection (a)), shall not affect any allotment of pay authorized by a member of the Armed Forces before the effective date of such section.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first month that begins more than 120 days after the date of the enactment of this Act.

SA 1348. Mrs. MURRAY submitted an amendment intended to be proposed by her to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 582 of the bill and insert the following:

SEC. 582. ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES WITH SIGNIFICANT ENROLLMENT CHANGES IN MILITARY DEPENDENT STUDENTS DUE TO FORCE STRUCTURE CHANGES, TROOP RELOCATIONS, CREATION OF NEW UNITS, AND REALIGNMENT UNDER BRAC.

(a) AVAILABILITY OF ASSISTANCE.—To assist communities making adjustments resulting from changes in the size or location of the Armed Forces, the Secretary of Defense shall make payments to eligible local educational agencies that, during the period between the end of the school year preceding the fiscal year for which the payments are authorized and the beginning of the school year immediately preceding that school year, had (as determined by the Secretary of Defense in consultation with the Secretary of Education) an overall increase or reduction of—

(1) not less than 5 percent in the average daily attendance of military dependent students enrolled in the schools served by the eligible local educational agencies; or

(2) not less than 250 military dependent students enrolled in the schools served by the eligible local educational agencies.

(b) NOTIFICATION.—Not later than June 30, 2006, and June 30 of each of the next 2 fiscal years, the Secretary of Defense shall notify each eligible local educational agency for such fiscal year—

(1) that the local educational agency is eligible for assistance under this section; and

(2) of the amount of the assistance for which the eligible local educational agency qualifies, as determined under subsection (c).

(c) AMOUNT OF ASSISTANCE.—

(1) IN GENERAL.—The Secretary of Defense shall, in consultation with the Secretary of Education, make assistance available to eligible local educational agencies for a fiscal year on a pro rata basis, as described in paragraph (2).

(2) PRO RATA DISTRIBUTION.—

(A) IN GENERAL.—The amount of the assistance provided under this section to an eligible local educational agency for a fiscal year shall be equal to the product obtained by multiplying—

(i) the per-student rate determined under subparagraph (B) for such fiscal year; by

(ii) the overall increase or reduction in the number of military dependent students in the schools served by the eligible local educational agency, as determined under subsection (a).

(B) PER-STUDENT RATE.—For purposes of subparagraph (A), the per-student rate for a fiscal year shall be equal to the dollar amount obtained by dividing—

(i) the amount of funds available for such fiscal year to provide assistance under this section; by

(ii) the sum of the overall increases and reductions, as determined under subparagraph (A)(ii), for all eligible local educational agencies for that fiscal year.

(d) DISBURSEMENT OF FUNDS.—The Secretary of Defense shall disburse assistance made available under this section for a fiscal year, not later than 30 days after the date on which the Secretary of Defense notified the eligible local educational agencies under subsection (b) for the fiscal year.

(e) CONSULTATION.—The Secretary of Defense shall carry out this section in consultation with the Secretary of Education.

(f) REPORTS.—

(1) REPORTS REQUIRED.—Not later than May 1 of each of the years 2007, 2008, and 2009, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the assistance provided under this section during the fiscal year preceding the date of such report.

(2) ELEMENT OF REPORT.—Each report described in paragraph (1) shall include an assessment and description of the current compliance of each eligible local educational agency with the requirements of part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.).

(g) FUNDING.—Of the amount authorized to be appropriated to the Department of Defense for fiscal years 2006, 2007, and 2008 for operation and maintenance for Defense-wide activities, $15,000,000 shall be available for each such fiscal year only for the purpose of providing assistance to eligible local educational agencies under this section.

(h) TERMINATION.—The authority of the Secretary of Defense to provide financial assistance under this section shall expire on September 30, 2008.

(i) DEFINITIONS.—In this section:

(1) BASE CLOSURE PROCESS.—The term ''base closure process'' means the 2005 base closure and realignment process authorized by the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) or any base closure and realignment process conducted after the date of the enactment of this Act under section 2687 of title 10, United States Code, or any other similar law enacted after that date.

(2) ELIGIBLE LOCAL EDUCATIONAL AGENCY.—The term ''eligible local educational agency'' means, for a fiscal year, a local educational agency—

(A)(i) for which not less than 20 percent (as rounded to the nearest whole percent) of the students in average daily attendance in the schools served by the local educational agency during the preceding school year were military dependent students that were counted under section 8003(a)(1) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703(a)(1)); or

(ii) that would have met the requirements of clause (i) except for the reduction in military dependent students in the schools served by the local educational agency; and

(B) for which the required overall increase or reduction in the number of military dependent students enrolled in schools served by the local educational agency, as described in subsection (a), occurred as a result of—

(i) the global rebasing plan of the Department of Defense;

(ii) the official creation or activation of 1 or more new military units;

(iii) the realignment of forces as a result of the base closure process; or

(iv) a change in the number of required housing units on a military installation, due to the military housing privatization initiative of the Department of Defense undertaken under the alternative authority for the acquisition and improvement of military housing under subchapter IV of chapter 169 of title 10, United States Code.

(3) LOCAL EDUCATIONAL AGENCY.—The term ''local educational agency'' has the meaning given the term in section 8013 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7713).

(4) MILITARY DEPENDENT STUDENT.—The term ''military dependent student'' means—

(A) an elementary school or secondary school student who is a dependent of a member of the Armed Forces; or

(B) an elementary school or secondary school student who is a dependent of a civilian employee of the Department of Defense.

SA 1349. Mrs. MURRAY submitted an amendment intended to be proposed by her to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle E of title VI, add the following:

SEC. 653. CHILD CARE FOR CHILDREN OF MEMBERS OF ARMED FORCES ON ACTIVE DUTY FOR OPERATION ENDURING FREEDOM OR OPERATION IRAQI FREEDOM.

(a) CHILD CARE FOR CHILDREN WITHOUT ACCESS TO MILITARY CHILD CARE.—

(1) IN GENERAL.—In any case where the children of a covered member of the Armed Forces are geographically dispersed and do not have practical access to a military child development center, the Secretary of Defense may, to the extent funds are available for such purpose, provide such funds as are necessary permit the member's family to secure access for such children to State licensed child care and development programs and activities in the private sector that are similar in scope and quality to the child care and development programs and activities the Secretary would otherwise provide access to under subchapter II of chapter 88 of title 10, United States Code, and other applicable provisions of law.

(2) PROVISION OF FUNDS.—Funds may be provided under paragraph (1) in accordance with the provisions of section 1798 of title 10, United States Code, or by such other mechanism as the Secretary considers appropriate.

(3) PRIORITIES FOR ALLOCATION OF FUNDS IN CERTAIN CIRCUMSTANCES.—The Secretary shall prescribe in regulations priorities for the allocation of funds for the provision of access to child care under paragraph (1) in circumstances where funds are inadequate to provide all children described in that paragraph with access to child care as described in that paragraph.

(b) PRESERVATION OF SERVICES AND PROGRAMS.—The Secretary shall provide for the attendance and participation of children in military child development centers and child care and development programs and activities under subsection (a) in a manner that preserves the scope and quality of child care and development programs and activities otherwise provided by the Secretary.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Department of Defense $25,000,000 to carry out this section for fiscal year 2006.

(d) DEFINITIONS.—In this section:

(1) The term ''covered members of the Armed Forces'' means members of the Armed Forces on active duty, including members of the Reserves who are called or ordered to active duty under a provision of law referred to in section 101(a)(13)(B) of title 10, United States Code, for Operation Enduring Freedom or Operation Iraqi Freedom.

(2) The term ''military child development center'' has the meaning given such term in section 1800(1) of title 10, United States Code.

SEC. 654. EMERGENCY FUNDING FOR LOCAL EDUCATIONAL AGENCIES ENROLLING MILITARY DEPENDENT CHILDREN.

(a) SHORT TITLE.—This section may be cited as the ''Help for Military Children Affected by War Act of 2005''.

(b) GRANTS AUTHORIZED.—The Secretary of Defense is authorized to award grants to eligible local educational agencies for the additional education, counseling, and other needs of military dependent children who are affected by war or dramatic military decisions.

(c) DEFINITIONS.—In this section:

(1) ELIGIBLE LOCAL EDUCATIONAL AGENCY.—The term ''eligible local educational agency'' means a local educational agency that—

(A) had a number of military dependent children in average daily attendance in the schools served by the local educational agency during the school year preceding the school year for which the determination is made, that—

(i) equaled or exceeded 20 percent of the number of all children in average daily attendance in the schools served by such agency during the preceding school year; or

(ii) was 1,000 or more,

whichever is less; and

(B) is designated by the Secretary of Defense as impacted by—

(i) Operation Iraqi Freedom;

(ii) Operation Enduring Freedom;

(iii) the global rebasing plan of the Department of Defense;

(iv) the realignment of forces as a result of the base closure process;

(v) the official creation or activation of 1 or more new military units; or

(vi) a change in the number of required housing units on a military installation, due to the Military Housing Privatization Initiative of the Department of Defense.

(2) LOCAL EDUCATIONAL AGENCY.—The term ''local educational agency'' has the meaning

given the term in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(3) MILITARY DEPENDENT CHILD.—The term ''military dependent child'' means a child described in subparagraph (B) or (D)(i) of section 8003(a)(1) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703(a)(1)).

(d) USE OF FUNDS.—Grant funds provided under this section shall be used for—

(1) tutoring, after-school, and dropout prevention activities for military dependent children with a parent who is or has been impacted by war-related action described in clause (i), (ii), or (iii) of subsection (c)(1)(B);

(2) professional development of teachers, principals, and counselors on the needs of military dependent children with a parent who is or has been impacted by war-related action described in clause (i), (ii), or (iii) of subsection (c)(1)(B);

(3) counseling and other comprehensive support services for military dependent children with a parent who is or has been impacted by war-related action described in clause (i), (ii), or (iii) of subsection (c)(1)(B), including the hiring of a military-school liaison; and

(4) other basic educational activities associated with an increase in military dependent children.

(e) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the Department of Defense such sums as may be necessary to carry out this section for fiscal year 2006 and each of the 2 succeeding fiscal years.

(2) SPECIAL RULE.—Funds appropriated under paragraph (1) are in addition to any funds made available to local educational agencies under section 582, 583 or 584 of this Act or section 8003 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703).

SA 1350. Mr. MARTINEZ submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title XXII, add the following:

SEC. 2207. WHARF UPGRADES, NAVAL STATION MAYPORT, FLORIDA.

Of the amount authorized to be appropriated by section 2204(a)(4) for the Navy for architectural and engineering services and construction design, $500,000 shall be available for the design of wharf upgrades at Naval Station Mayport, Florida.

SA 1351. Mr. LAUTENBERG (for himself, Mr. CORZINE, Mrs. CLINTON, and Mr. FEINGOLD) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of the bill, add the following:

TITLE XXXIV—FINANCING OF TERRORISM

SEC. 3401. SHORT TITLE.

This title may be cited as the ''Stop Business with Terrorists Act of 2005''.

SEC. 3402. DEFINITIONS.

In this title:

(1) CONTROL IN FACT.—The term ''control in fact'', with respect to a corporation or other legal entity, includes—

(A) in the case of—

(i) a corporation, ownership or control (by vote or value) of at least 50 percent of the capital structure of the corporation; and

(ii) any other kind of legal entity, ownership or control of interests representing at least 50 percent of the capital structure of the entity; or

(B) control of the day-to-day operations of a corporation or entity.

(2) PERSON SUBJECT TO THE JURISDICTION OF THE UNITED STATES.—The term ''person subject to the jurisdiction of the United States'' means—

(A) an individual, wherever located, who is a citizen or resident of the United States;

(B) a person actually within the United States;

(C) a corporation, partnership, association, or other organization or entity organized under the laws of the United States, or of any State, territory, possession, or district of the United States;

(D) a corporation, partnership, association, or other organization, wherever organized or doing business, that is owned or controlled in fact by a person or entity described in subparagraph (A) or (C); and

(E) a successor, subunit, or subsidiary of an entity described in subparagraph (C) or (D).

(3) FOREIGN PERSON.—The term ''foreign person'' means—

(A) an individual who is an alien;

(B) a corporation, partnership, association, or any other organization or entity that is organized under the laws of a foreign country or has its principal place of business in a foreign country;

(C) a foreign governmental entity operating as a business enterprise; and

(D) a successor, subunit, or subsidiary of an entity described in subparagraph (B) or (C).

SEC. 3403. CLARIFICATION OF SANCTIONS.

(a) PROHIBITIONS ON ENGAGING IN TRANSACTIONS WITH FOREIGN PERSONS.—

(1) IN GENERAL.—In the case of a person subject to the jurisdiction of the United States that is prohibited as described in subsection (b) from engaging in a transaction with a foreign person, that prohibition shall also apply to—

(A) each subsidiary and affiliate, wherever organized or doing business, of the person prohibited from engaging in such a transaction; and

(B) any other entity, wherever organized or doing business, that is controlled in fact by that person.

(2) PROHIBITION ON CONTROL.—A person subject to the jurisdiction of the United States that is prohibited as described in subsection (b) from engaging in a transaction with a foreign person shall also be prohibited from controlling in fact any foreign person that is engaged in such a transaction whether or not that foreign person is subject to the jurisdiction of the United States.

(b) IEEPA SANCTIONS.—Subsection (a) applies in any case in which—

(1) the President takes action under the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) or the Trading with the Enemy Act (50 U.S.C. App.) to prohibit a person subject to the jurisdiction of the United States from engaging in a transaction with a foreign person; or

(2) the Secretary of State has determined that the government of a country that has jurisdiction over a foreign person has repeatedly provided support for acts of international terrorism under section 6(j) of the Export Administration Act of 1979 (as in effect pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.)), or any other provision of law, and because of that determination a person subject to the jurisdiction of the United States is prohibited from engaging in transactions with that foreign person.

(c) CESSATION OF APPLICABILITY BY DIVESTITURE OR TERMINATION OF BUSINESS.—

(1) IN GENERAL.—In any case in which the President has taken action described in subsection (b) and such action is in effect on the date of enactment of this Act, the provisions of this section shall not apply to a person subject of the jurisdiction of the United States if such person divests or terminates its business with the government or person identified by such action within 1 year after the date of enactment of this Act.

(2) ACTIONS AFTER DATE OF ENACTMENT.—In any case in which the President takes action described in subsection (b) on or after the date of enactment of this Act, the provisions of this section shall not apply to a person subject to the jurisdiction of the United States if such person divests or terminates its business with the government or person identified by such action within 1 year after the date of such action.

(d) PUBLICATION IN FEDERAL REGISTER.—Not later than 90 days after the date of enactment of this Act, the President shall publish in the Federal Register a list of persons with respect to whom there is in effect a sanction described in subsection (b) and shall publish notice of any change to that list in a timely manner.

SEC. 3404. NOTIFICATION OF CONGRESS OF TERMINATION OF INVESTIGATION BY OFFICE OF FOREIGN ASSETS CONTROL.

(a) REQUIREMENT FOR NOTIFICATION.—The Office of Federal Procurement Policy Act (41 U.S.C. 403 et seq.) is amended by adding at the end the following new section:

''SEC. 42. NOTIFICATION OF CONGRESS OF TERMINATION OF INVESTIGATION BY OFFICE OF FOREIGN ASSETS CONTROL.

''The Director of the Office of Foreign Assets Control shall notify Congress upon the termination of any investigation by the Office of Foreign Assets Control of the Department of the Treasury if any sanction is imposed by the Director of such office as a result of the investigation.''.

(b) CLERICAL AMENDMENT.—The table of contents in subsection (b) of such Act is amended by adding at the end the following new item:

''Sec. 42. Notification of Congress of termination of investigation by Office of Foreign Assets Control.''.

SEC. 3405. ANNUAL REPORTING.

(a) SENSE OF CONGRESS.—It is the sense of the Congress that investors and the public should be informed of activities engaged in by a person that may threaten the national security, foreign policy, or economy of the United States, so that investors and the public can use the information in their investment decisions.

(b) REGULATIONS.—

(1) IN GENERAL.—Not later than 120 days after the date of enactment of this Act, the Securities and Exchange Commission shall issue regulations that require any person subject to the annual reporting requirements of section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m) to disclose in that person's annual reports—

(A) any ownership stake of at least 10 percent (or less if the Commission deems appropriate) in a foreign person that is engaging

in a transaction prohibited under section 3403(a) of this title or that would be prohibited if such person were a person subject to the jurisdiction of the United States; and

(B) the nature and value of any such transaction.

(2) PERSON DESCRIBED.—A person described in this section is an issuer of securities, as that term is defined in section 3 of the Securities Exchange Act of 1934 (15 U.S.C. 78c), that is subject to the jurisdiction of the United Sates and to the annual reporting requirements of section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m).

SA 1352. Mr. REED (for himself and Mr. ROCKEFELLER) submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 296, after line 19, add the following:

SEC. 3114. REPORT ON ASSISTANCE FOR COMPREHENSIVE INVENTORY OF RUSSIAN NONSTRATEGIC NUCLEAR WEAPONS.

(a) FINDINGS.—Congress makes the following findings:

(1) The nonstrategic nuclear weapons of the Russian Federation are insufficiently accounted for and insufficiently secure.

(2) Because of the dangers posed by such insufficient accounting and security, it is in the national security interest of the United States to assist the Russian Federation in the conduct of a comprehensive inventory of its nonstrategic nuclear weapons.

(3) It is in the interests of the United States and Russia to begin negotiations on a verifiable agreement leading to the reduction and dismantlement of nonstrategic Russian nuclear weapons and the corresponding reduction of excess United States nuclear forces.

(4) In the March 2003 Senate resolution advising and consenting to the ratification of the Moscow Treaty, the Senate urged the President ''to engage the Russian Federation with the objectives of establishing cooperative measures to give each party to the Treaty improved confidence regarding the accurate accounting and security of nonstrategic nuclear weapons maintained by the other party; and providing the United States or other international assistance to help the Russian Federation ensure the accurate accounting and security of its nonstrategic nuclear weapons.''

(b) REPORT.—

(1) REPORT REQUIRED.—Not later than March 1, 2006, the Secretary of State and the Secretary of Energy shall, in consultation with the Secretary of Defense, submit to Congress a joint report on the accounting for and security of the nonstrategic nuclear weapons of the Russian Federation.

(2) CONTENT.—The report shall include—

(A) An assessment of the actions of the Government of Russia and the United States Government toward the fulfillment of their commitments under the 1991 Presidential Nuclear Initiatives;

(B) an evaluation of the past and current efforts of the United States Government to encourage or facilitate a proper accounting for and securing of the nonstrategic nuclear weapons of the Russian Federation, and the strategy of the United States Government to overcome obstacles to realize joint measures that would lead to the further withdrawal, reductions, and verifiable dismantlement of Russian and United States substrategic weapons; and

(C) a strategy for, and recommendations regarding, actions by the United States Government that are most likely to lead to progress in improving the accounting for, securing of, and elimination of such weapons.

(c) REVIEW OF UNITED STATES STOCKPILE OF NONSTRATEGIC NUCLEAR WEAPONS.—

(1) REVIEW REQUIRED.—Not later than February 1, 2006, the Secretary of Defense and the Secretary of State shall conduct a joint review of the military missions and strategic rationale for the remaining United States stockpile of nonstrategic nuclear weapons stationed at NATO bases in Europe, including—

(A) an investigation of alternative options for meeting such missions by using other elements of the United States nuclear weapons stockpile; and

(B) an assessment of the circumstances that would facilitate further reductions of the United States stockpile of nonstrategic nuclear weapons.

(2) REPORT REQUIRED.—The Secretary of Defense and the Secretary of State shall submit a joint report on the results of the review under paragraph (1) with the report submitted under subsection (b).

(d) FORM.—The reports required under subsections (b) and (c) shall be submitted in unclassified form, but may include a classified annex.

SA 1353. Mr. SHELBY submitted an amendment intended to be proposed to amendment SA 1311 proposed by Mr. INHOFE to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. ___. CONGRESSIONAL AUTHORITY UNDER DEFENSE PRODUCTION ACT.

Section 721 of the Defense Production Act of 1950 (50 U.S.C. App. 2170) is amended—

(1) in subsection (a)—

(A) by striking ''30'' and inserting ''60''; and

(B) by adding at the end the following: ''The findings and recommendations of any such investigation shall be sent immediately to the President and to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives for review.'';

(2) in subsection (b)—

(A) by inserting before the first period '', or in such instance at the request of the chairman and ranking member of the Committee on Banking, Housing, and Urban Affairs of the Senate or the Committee on Financial Services of the House of Representatives'';

(B) in paragraph (2), by inserting before the period '', and the findings and recommendations of such investigation shall be sent immediately to the President and to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives for review''; and

(C) by striking ''30'' and inserting ''60'';

(3) in subsection (f)—

(A) by striking ''designee may'' and inserting ''designee shall'';

(B) in paragraph (4), by striking ''and'' at the end;

(C) in paragraph (5), by striking the period at the end and inserting ''; and''; and

(D) by adding at the end the following:

''(6) the long-term projections of United States requirements for sources of energy and other critical resources and materials.''.

(4) in subsection (g)—

(A) by striking ''The President'' and inserting the following:

''(1) IN GENERAL.—The President''; and

(B) by adding at the end the following:

''(2) QUARTERLY SUBMISSIONS.—The Secretary of the Treasury shall transmit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on a quarterly basis, a detailed summary and analysis of each merger, acquisition, or takeover that is being reviewed, was reviewed during the preceding 90-day period, or is likely to be reviewed in the coming quarter by the President or the President's designee under subsection (a) or (b). Each such summary and analysis shall be submitted in unclassified form, with classified annexes as the Secretary determines are required to protect company proprietary information and other sensitive information.''; and

(5) by adding at the end the following new subsections:

''(l) CONGRESSIONAL AUTHORITY.—

''(1) IN GENERAL.—If the President does not suspend or prohibit an acquisition, merger, or takeover under subsection (d), the Congress may enact a joint resolution suspending or prohibiting such acquisition, merger, or takeover, not later than 30 days after the date of receipt of findings and recommendations with respect to the transaction under subsection (a) or (b).

''(2) CONSIDERATIONS.—The Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives shall review any findings and recommendations submitted under subsection (a) or (b), and any joint resolution under paragraph (1) of this subsection shall be based on the factors outlined in subsection (f).

''(3) SENATE PROCEDURE.—Any joint resolution under paragraph (1) shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94-329, 90 Stat. 765).

''(4) HOUSE CONSIDERATION.—For the purpose of expediting the consideration and enactment of a joint resolution under paragraph (1), a motion to proceed to the consideration of any such joint resolution shall be treated as highly privileged in the House of Representatives.

''(m) THOROUGH REVIEW.—The President, or the President's designee, shall ensure that an acquisition, merger, or takeover that is completed prior to a review or investigation under this section shall be fully reviewed for national security considerations, even in the event that a request for such review is withdrawn.''.

SA 1354. Mr. ALLARD submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other

purposes; which was ordered to lie on the table; as follows:

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

SEC. ___. PARTICIPATION OF MEMBERS OF THE ARMED FORCES IN THE PARALYMPIC GAMES.

Section 717(a)(1) of title 10, United States Code, is amended by striking ''and Olympic Games'' and inserting '', Olympic Games, and Paralympic Games,''.

SA 1355. Mr. ALLARD submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 359, between lines 3 and 4, insert the following:

SEC. 2862. LAND CONVEYANCE, AIR FORCE PROPERTY, LA JUNTA, COLORADO.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Air Force may convey, without consideration, to the City of La Junta, Colorado (in this section referred to as the ''City''), all right, title, and interest of the United States in and to a parcel of real property, including improvements thereon, consisting of approximately 8 acres located at the USA Bomb Plot in the La Junta Industrial Park for the purpose of training local law enforcement officers.

(b) PAYMENT OF COSTS OF CONVEYANCE.—

(1) IN GENERAL.—The Secretary shall require the City to cover costs to be incurred by the Secretary after the date of enactment of the Act, or to reimburse the Secretary for costs incurred by the Secretary after that date, to carry out the conveyance under subsection (a), including any survey costs, costs related to environmental assessments, studies, analyses, or other documentation, and other administrative costs related to the conveyance. If amounts are collected from the City in advance of the Secretary incurring the actual costs, and the amount collected exceeds the costs actually incurred by the Secretary to carry out the conveyance, the Secretary shall refund the excess amount to the City.

(2) TREATMENT OF AMOUNTS RECEIVED.—Amounts received as reimbursement under paragraph (1) shall be credited to the fund or account that was used to cover the costs incurred by the Secretary in carrying out the conveyance. Amounts so credited shall be merged with amounts in such fund or account, and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund or account.

(c) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SA 1356. Mr. DEWINE submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle C of title IX, add the following:

SEC. 924. AUTHORITY FOR UNITED STATES AIR FORCE INSTITUTE OF TECHNOLOGY TO RECEIVE FACULTY RESEARCH GRANTS FOR CERTAIN PURPOSES.

Section 9314 of title 10, United States Code, is amended by adding at the end the following new subsection:

''(d) ACCEPTANCE OF RESEARCH GRANTS.—(1) The Secretary of the Air Force may authorize the Commandant of the United States Air Force Institute of Technology to accept qualifying research grants. Any such grant may only be accepted if the work under the grant is to be carried out by a professor or instructor of the Institute for a scientific, literary, or educational purpose.

''(2) For purposes of this subsection, a qualifying research grant is a grant that is awarded on a competitive basis by an entity referred to in paragraph (3) for a research project with a scientific, literary, or educational purpose.

''(3) An entity referred to in this paragraph is a corporation, fund, foundation, educational institution, or similar entity that is organized and operated primarily for scientific, literary, or educational purposes.

''(4) The Secretary shall establish an account for the administration of funds received as qualifying research grants under this subsection. Funds in the account with respect to a grant shall be used in accordance with the terms and condition of the grant and subject to applicable provisions of the regulations prescribed under paragraph (6).

''(5) Subject to such limitations as may be provided in appropriations Acts, appropriations available for the United States Air Force Institute of Technology may be used to pay expenses incurred by the Institute in applying for, and otherwise pursuing, the award of qualifying research grants.

''(6) The Secretary of the Air Force shall prescribe regulations for purposes of the administration of this subsection.''.

SA 1357. Mrs. HUTCHISON (for herself, Mr. NELSON of Florida, and Mr. SESSIONS) submitted an amendment intended to be proposed by her to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. ___. SENSE OF THE SENATE REGARDING MANNED SPACE FLIGHT.

(a) FINDINGS.—The Congress finds that—

(1) human spaceflight preeminence allows the United States to project leadership around the world and forms an important component of United States national security;

(2) continued development of human spaceflight in low-Earth orbit, on the Moon, and beyond adds to the overall national strategic posture;

(3) human spaceflight enables continued stewardship of the region between the earth and the Moon—an area that is critical and of growing national and international security relevance;

(4) human spaceflight provides unprecedented opportunities for the United States to lead peaceful and productive international relationships with the world community in support of United States security and geopolitical objectives;

(5) a growing number of nations are pursuing human spaceflight and space-related capabilities, including China and India;

(6) past investments in human spaceflight capabilities represent a national resource that can be built upon and leveraged for a broad range of purposes, including national and economic security; and

(7) the industrial base and capabilities represented by the Space Transportation System provide a critical dissimilar launch capability for the nation.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that it is in the national security interest of the United States to maintain uninterrupted preeminence in human spaceflight.

SA 1358. Mr. GRAHAM submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 178, strike lines 20 through 24 and insert the following:

(4) Department of Defense participation in the Medicare Advantage Program, formerly Medicare plus Choice;

(5) the use of flexible spending accounts and health savings accounts for military retirees under the age of 65;

(6) incentives for eligible beneficiaries of the military health care system to retain private employer-provided health care insurance;

(7) means of improving integrated systems of disease management, including chronic illness management;

(8) means of improving the safety and efficiency of pharmacy benefits management;

(9) the management of enrollment options for categories of eligible beneficiaries in the military health care system;

(10) reform of the provider payment system, including the potential for use of a pay-for-performance system in order to reward quality and efficiency in the TRICARE System;

(11) means of improving efficiency in the administration of the TRICARE program, to include the reduction of headquarters and redundant management layers, and maximizing efficiency in the claims processing system;

(12) other improvements in the efficiency of the military health care system; and

(13) any other matters the Secretary considers appropriate to improve the efficiency and quality of military health care benefits.

SA 1359. Mr. THOMAS (for himself and Mr. ENZI) submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the

Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 326, in the table following line 4, insert after the item relating to Fairchild Air Force Base, Washington, the following:

Wyoming ...	F.E. Warren Air Force Base.	$10,000,000

On page 326, in the table following line 4, strike the amount identified as the total in the amount column and insert ''$1,058,106,000''.

On page 329, line 8, strike ''$3,116,982,000'' and insert ''$3,126,982,000''.

On page 329, line 11, strike ''$923,106,000'' and insert ''$933,106,000''.

SA 1360. Mr. GRASSLEY (for himself and Mr. HARKIN) submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 337, between lines 4 and 5, insert the following:

SEC. 2602. CONSTRUCTION OF ARMY NATIONAL GUARD READINESS CENTER, IOWA CITY, IOWA.

Of the amount authorized to be appropriated for the Department of the Army for the Army National Guard of the United States under section 2601(1)(A), $10,724,000 is available for the construction of an Army National Guard Readiness Center in Iowa City, Iowa.

SA 1361. Mr. LIEBERMAN submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle E of title II, add the following:

SEC. 244. SEMICONDUCTOR MANUFACTURING AND TECHNOLOGY.

(a) PLAN TO SUSTAIN UNITED STATES LEADERSHIP.—The Secretary of Defense shall develop a plan to ensure that the United States sustains its worldwide leadership in semiconductor manufacturing and technology over the long-term.

(b) CONSULTATION.—The Secretary of Defense shall consult in the development of the plan required by subsection (a) with the following:

(1) The Secretary of the Treasury.

(2) The Secretary of Commerce.

(3) The United States Trade Representative.

(4) The Office of Science and Technology Policy.

(5) The National Science Foundation.

(c) INCORPORATION OF RECOMMENDATIONS.—In developing the plan required by subsection (a), the Secretary of Defense shall take into account the recommendations contained in the report of the Defense Science Board Task Force on High Performance Microchip Supply.

(d) REPORT.—Not later than six months after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report setting forth the plan developed under subsection (a).

SA 1362. Mr. OBAMA submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle B of title VII, add the following:

SEC. 718. REPORT ON THE DEPARTMENT OF DEFENSE COMPOSITE HEALTH CARE SYSTEM II.

(a) REPORT REQUIRED.—Not later than six months after the date of the enactment of this Act, the Secretary of Defense shall submit to the appropriate committees of Congress a report on the Department of Defense Composite Health Care System II (CHCS II).

(b) REPORT ELEMENTS.—The report under subsection (a) shall include the following:

(1) A chronology and description of previous efforts undertaken to develop an electronic medical records system capable of maintaining a two-way exchange of data between the Department of Defense and the Department of Veterans Affairs.

(2) The plans as of the date of the report, including any projected commencement dates, for the implementation of the Composite Health Care System II.

(3) A statement of the amounts obligated and expended as of the date of the report on the development of a system for the two-way exchange of data between the Department of Defense and the Department of Veterans Affairs, including the Composite Health Care System II.

(4) An estimate of the amounts that will be required for the completion of the Composite Health Care System II.

(5) A detailed description of the manpower allocated as of the date of the report to the development of the Composite Health Care System II.

(6) A description of the software and hardware being considered as of the date of the report for use in the Composite Health Care System II.

(7) A description of the management structure used in the development of the Composite Health Care System II.

(8) A description of the accountability measures utilized during the development of the Composite Health Care System II in order to evaluate progress made in the development of that System.

(9) The schedule for the remaining development of the Composite Health Care System II.

(c) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term ''appropriate committees of Congress'' means—

(1) the Committees on Armed Services, Appropriations, Veterans' Affairs, and Health, Education, Labor, and Pensions of the Senate; and

(2) the Committees on Armed Services, Appropriations, Veterans' Affairs, and Energy and Commerce of the House of Representatives.

SA 1363. Mr. GRAHAM (for himself, Mrs. CLINTON, Mr. LEAHY, Mr. LAUTENBERG, Mr. DEWINE, Mr. KERRY, Mr. PRYOR, Mr. REID, Mr. COLEMAN, Mr. DAYTON, Mr. ALLEN, Ms. CANTWELL, Ms. MURKOWSKI, Mr. WARNER, Mr. LEVIN, and Mrs. MURRAY) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subtitle A of title VII, add the following:

SEC. 705. EXPANDED ELIGIBILITY OF MEMBERS OF THE SELECTED RESERVE UNDER THE TRICARE PROGRAM.

(a) GENERAL ELIGIBILITY.—Subsection (a) of section 1076d of title 10, United States Code, is amended—

(1) by striking ''(a) ELIGIBILITY.—A member'' and inserting ''(a) ELIGIBILITY.—(1) Except as provided in paragraph (2), a member'';

(2) by striking ''after the member completes'' and all that follows through ''one or more whole years following such date''; and

(3) by adding at the end the following new paragraph:

''(2) Paragraph (1) does not apply to a member who is enrolled, or is eligible to enroll, in a health benefits plan under chapter 89 of title 5.''.

(b) CONDITION FOR TERMINATION OF ELIGIBILITY.—Subsection (b) of such section is amended by striking ''(b) PERIOD OF COVERAGE.—(1) TRICARE Standard'' and all that follows through ''(3) Eligibility'' and inserting ''(b) TERMINATION OF ELIGIBILITY UPON TERMINATION OF SERVICE.—Eligibility''.

(c) CONFORMING AMENDMENTS.—

(1) Such section is further amended—

(A) by striking subsection (e); and

(B) by redesignating subsection (g) as subsection (e) and transferring such subsection within such section so as to appear following subsection (d).

(2) The heading for such section is amended to read as follows:

''§ 1076d. TRICARE program: TRICARE Standard coverage for members of the Selected Reserve''.

(d) REPEAL OF OBSOLETE PROVISION.—Section 1076b of title 10, United States Code, is repealed.

(e) CLERICAL AMENDMENTS.—The table of sections at the beginning of chapter 55 of title 10, United States Code, is amended—

(1) by striking the item relating to section 1076b; and

(2) by striking the item relating to section 1076d and inserting the following:

''1076d. TRICARE program: TRICARE Standard coverage for members of the Selected Reserve.''.

(f) SAVINGS PROVISION.—Enrollments in TRICARE Standard that are in effect on the day before the date of the enactment of this Act under section 1076d of title 10, United States Code, as in effect on such day, shall be continued until terminated after such day under such section 1076d as amended by this section.

SA 1364. Mr. BAYH submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction,

and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle E of title VI, add the following:

SEC. 653. SERVICEMEMBERS RIGHTS UNDER THE HOUSING AND URBAN DEVELOPMENT ACT OF 1968.

(a) IN GENERAL.—Section 106(c)(5)(A)(ii) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(c)(5)(A)(ii)) is amended—

(1) in subclause (II), by striking ''; and'' and inserting a semicolon;

(2) in subclause (III), by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(IV) notify the homeowner or mortgage applicant by a statement or notice, written in plain English by the Secretary of Housing and Urban Development, in consultation with the Secretary of Defense and the Secretary of the Treasury, explaining the mortgage and foreclosure rights of servicemembers, and the dependents of such servicemembers, under the Servicemembers Civil Relief Act (50 U.S.C. App. 501 et seq.), including the toll-free military one source number to call if servicemembers, or the dependents of such servicemembers, require further assistance.''.

(b) NO EFFECT ON OTHER LAWS.—Nothing in this section shall relieve any person of any obligation imposed by any other Federal, State, or local law.

(c) DISCLOSURE FORM.—Not later than 150 days after the date of enactment of this Act, the Secretary of Housing and Urban Development shall issue a final disclosure form to fulfill the requirement of section 106(c)(5)(A)(ii)(IV) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(c)(5)(A)(ii)).

(d) EFFECTIVE DATE.—The amendments made under subsection (a) shall take effect 150 days after the date of enactment of this Act.

SA 1365. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle G of title X, add the following:

SEC. 1073. DISCLOSURE OF CERTAIN INFORMATION DURING MILITARY RECRUITMENT ACTIVITIES.

(a) IN GENERAL.—The Secretary of Defense shall require that each individual being recruited for service in the Armed Forces is provided, before making a formal enlistment in the Armed Forces, precise and detailed information on the period or periods of service to which such individual may be obligated by reason of enlistment in the Armed Forces.

(b) PARTICULAR INFORMATION.—The information provided under subsection (a) shall include the following:

(1) A description of the so-called ''stop loss'' authority and of the manner in which exercise of such authority could affect the duration of an individual service on active duty.

(2) A description of the authority for the call or order to active duty of members of the Individual Ready Reserve and of the manner in which such a call or order to active duty could affect an individual following the completion of the individual's expected period of service on active duty or in the Individual Ready Reserve.

(3) A description of any other authorities applicable to the call or order to active duty or the Reserves, or of the retention of members of the Armed Forces on active duty, that could affect the period of service of an individual on active duty or in the Armed Forces.

(4) Such other information as the Secretary considers appropriate.

SA 1366. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 309, after line 24, add the following new title:

TITLE XV—TRANSITIONAL SERVICES

SEC. 1501. SHORT TITLE.

This title may be cited as the ''Veterans' Enhanced Transition Services Act of 2005''.

SEC. 1502. IMPROVED ADMINISTRATION OF TRANSITIONAL ASSISTANCE PROGRAMS.

(a) PRESEPARATION COUNSELING.—Section 1142 of title 10, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking ''provide for individual preseparation counseling'' and inserting ''shall provide individual preseparation counseling'';

(B) by redesignating paragraph (4) as paragraph (6); and

(C) by inserting after paragraph (3) the following:

''(4) For members of the reserve components who have been serving on active duty continuously for at least 180 days, the Secretary concerned shall require that preseparation counseling under this section be provided to all such members (including officers) before the members are separated.

''(5) The Secretary concerned shall ensure that commanders of members entitled to services under this section authorize the members to obtain such services during duty time.''.

(2) in subsection (b)—

(A) in paragraph (4), by striking ''(4) Information concerning'' and inserting the following:

''(4) Provision of information on civilian occupations and related assistance programs, including information concerning—

''(A) certification and licensure requirements that are applicable to civilian occupations;

''(B) civilian occupations that correspond to military occupational specialties; and

''(C)''; and

(B) by adding at the end the following:

''(11) Information concerning the priority of service for veterans in the receipt of employment, training, and placement services provided under qualified job training programs of the Department of Labor.

''(12) Information concerning veterans small business ownership and entrepreneurship programs of the Small Business Administration and the National Veterans Business Development Corporation.

''(13) Information concerning employment and reemployment rights and obligations under chapter 43 of title 38.

''(14) Information concerning veterans preference in federal employment and federal procurement opportunities.

''(15) Information concerning homelessness, including risk factors, awareness assessment, and contact information for preventative assistance associated with homelessness.

''(16) Contact information for housing counseling assistance.

''(17) A description, developed in consultation with the Secretary of Veterans Affairs, of health care and other benefits to which the member may be entitled under the laws administered by the Secretary of Veterans Affairs.

''(18) If a member is eligible, based on a preseparation physical examination, for compensation benefits under the laws administered by the Secretary of Veterans Affairs, a referral for a medical examination by the Secretary of Veterans Affairs (commonly known as a 'compensation and pension examination').'';

(3) by adding at the end the following:

''(d) ADDITIONAL REQUIREMENTS.—(1) The Secretary concerned shall ensure that—

''(A) preseparation counseling under this section includes material that is specifically relevant to the needs of—

''(i) persons being separated from active duty by discharge from a regular component of the armed forces; and

''(ii) members of the reserve components being separated from active duty;

''(B) the locations at which preseparation counseling is presented to eligible personnel include—

''(i) each military installation under the jurisdiction of the Secretary;

''(ii) each armory and military family support center of the National Guard;

''(iii) inpatient medical care facilities of the uniformed services where such personnel are receiving inpatient care; and

''(iv) in the case of a member on the temporary disability retired list under section 1202 or 1205 of this title who is being retired under another provision of this title or is being discharged, a location reasonably convenient to the member;

''(C) the scope and content of the material presented in preseparation counseling at each location under this section are consistent with the scope and content of the material presented in the preseparation counseling at the other locations under this section; and

''(D) follow up counseling is provided for each member of the reserve components described in subparagraph (A) not later than 180 days after separation from active duty.

''(2) The Secretary concerned shall, on a continuing basis, update the content of the materials used by the National Veterans Training Institute and such officials' other activities that provide direct training support to personnel who provide preseparation counseling under this section.

''(e) NATIONAL GUARD MEMBERS ON DUTY IN STATE STATUS.—(1) Members of the National Guard, who are separated from long-term duty to which ordered under section 502(f) of title 32, shall be provided preseparation counseling under this section to the same extent that members of the reserve components being discharged or released from active duty are provided preseparation counseling under this section.

''(2) The preseparation counseling provided personnel under paragraph (1) shall include material that is specifically relevant to the needs of such personnel as members of the National Guard.

''(3) The Secretary of Defense shall prescribe, by regulation, the standards for determining long-term duty under paragraph (1).''; and

(4) by amending the heading to read as follows:

"§ 1142. Members separating from active duty: preseparation counseling".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 58 of title 10, United States Code, is amended by striking the item relating to section 1142 and inserting the following:

''1142. Members separating from active duty: preseparation counseling.''.

(c) DEPARTMENT OF LABOR TRANSITIONAL SERVICES PROGRAM.—Section 1144 of title 10, United States Code, is amended—

(1) in subsection (a)(1), by striking ''paragraph (4)(A)'' in the second sentence and inserting ''paragraph (6)(A)'';

(2) by amending subsection (c) to read as follows:

''(c) PARTICIPATION.—(1) Subject to paragraph (2), the Secretary and the Secretary of Homeland Security shall require participation by members of the armed forces eligible for assistance under the program carried out under this section.

''(2) The Secretary and the Secretary of Homeland Security need not require, but shall encourage and otherwise promote, participation in the program by the following members of the armed forces described in paragraph (1):

''(A) Each member who has previously participated in the program.

''(B) Each member who, upon discharge or release from active duty, is returning to—

''(i) a position of employment; or

''(ii) pursuit of an academic degree or other educational or occupational training objective that the member was pursuing when called or ordered to such active duty.

''(3) The Secretary concerned shall ensure that commanders of members entitled to services under this section authorize the members to obtain such services during duty time.''; and

(3) by adding at the end the following:

''(e) UPDATED MATERIALS.—The Secretary concerned shall, on a continuing basis, update the content of all materials used by the Department of Labor that provide direct training support to personnel who provide transitional services counseling under this section.''.

SEC. 1503. BENEFITS DELIVERY AT DISCHARGE PROGRAMS.

(a) PLAN FOR MAXIMUM ACCESS TO BENEFITS.—

(1) IN GENERAL.—The Secretary of Defense, the Secretary of Homeland Security, and the Secretary of Veterans Affairs shall jointly submit to Congress a plan to maximize access to benefits delivery at discharge programs for members of the Armed Forces.

(2) CONTENTS.—The plan submitted under paragraph (1) shall include a description of efforts to ensure that services under programs described in paragraph (1) are provided, to the maximum extent practicable—

(A) at each military installation under the jurisdiction of the Secretary;

(B) at each armory and military family support center of the National Guard;

(C) at each installation and inpatient medical care facility of the uniformed services at which personnel eligible for assistance under such programs are discharged from the armed forces; and

(D) in the case of a member on the temporary disability retired list under section 1202 or 1205 of title 10, United States Code, who is being retired under another provision of such title or is being discharged, at a location reasonably convenient to the member.

(b) DEFINITION.—In this section, the term ''benefits delivery at discharge program'' means a program administered jointly by the Secretary of Defense and the Secretary of Veterans Affairs to provide information and assistance on available benefits and other transition assistance to members of the Armed Forces who are separating from the Armed Forces, including assistance to obtain any disability benefits for such members may be eligible.

SEC. 1504. POST-DEPLOYMENT MEDICAL ASSESSMENT AND SERVICES.

(a) IMPROVEMENT OF MEDICAL TRACKING SYSTEM FOR MEMBERS DEPLOYED OVERSEAS.—Section 1074f of title 10, United States Code, is amended—

(1) in subsection (b), by striking ''(including an assessment of mental health'' and inserting ''(which shall include mental health screening and assessment'';

(2) by redesignating subsections (c) and (d) as subsections (e) and (f), respectively; and

(3) by inserting after subsection (b) the following:

''(c) PHYSICAL MEDICAL EXAMINATIONS.—(1) The Secretary shall—

''(A) prescribe the minimum content and standards that apply for the physical medical examinations required under this section; and

''(B) ensure that the content and standards prescribed under subparagraph (A) are uniformly applied at all installations and medical facilities of the armed forces where physical medical examinations required under this section are performed for members of the armed forces returning from a deployment described in subsection (a).

''(2) An examination consisting solely or primarily of an assessment questionnaire completed by a member does not meet the requirements under this section for—

''(A) a physical medical examination; or

''(B) an assessment.

''(3) The content and standards prescribed under paragraph (1) for mental health screening and assessment shall include—

''(A) content and standards for screening mental health disorders; and

''(B) in the case of acute post-traumatic stress disorder and delayed onset post-traumatic stress disorder, specific questions to identify stressors experienced by members that have the potential to lead to post-traumatic stress disorder, which questions may be taken from or modeled after the post-deployment assessment questionnaire used in June 2005.

''(4) An examination of a member required under this section may not be waived by the Secretary (or any official exercising the Secretary's authority under this section) or by the member.

''(d) FOLLOW UP SERVICES.—(1) The Secretary, in consultation with the Secretary of Veterans Affairs, shall ensure that appropriate actions are taken to assist a member who, as a result of a post-deployment medical examination carried out under the system established under this section, receives an indication for a referral for follow up treatment from the health care provider who performs the examination.

''(2) Assistance required to be provided to a member under paragraph (1) includes—

''(A) information regarding, and any appropriate referral for, the care, treatment, and other services that the Secretary or the Secretary of Veterans Affairs may provide to such member under any other provision of law, including—

''(i) clinical services, including counseling and treatment for post-traumatic stress disorder and other mental health conditions; and

''(ii) any other care, treatment, and services;

''(B) information on the private sector sources of treatment that are available to the member in the member's community; and

''(C) assistance to enroll in the health care system of the Department of Veterans Affairs for health care benefits for which the member is eligible under laws administered by the Secretary of Veterans Affairs.''.

(b) REPORT ON PTSD CASES.—(1) The Secretary of Defense and the Secretary of Veterans Affairs shall jointly submit to Congress a report on the services provided to members and former members of the Armed Forces who experience post-traumatic stress disorder (and related conditions) associated with service in the Armed Forces.

(2) The report submitted under paragraph (1) shall include—

(A) the number of persons treated;

(B) the types of interventions; and

(C) the programs that are in place for each of the Armed Forces to identify and treat cases of post-traumatic stress disorder and related conditions.

SEC. 1505. ACCESS OF MILITARY AND VETERANS SERVICE AGENCIES AND ORGANIZATIONS.

(a) DEPARTMENT OF DEFENSE.—

(1) IN GENERAL.—Chapter 58 of title 10, United States Code, is amended by adding at the end the following:

"§ 1154. Veteran-to-veteran preseparation counseling

''(a) COOPERATION REQUIRED.—The Secretary shall carry out a program to facilitate the access of representatives of military and veterans' service organizations and representatives of veterans' services agencies of States to provide preseparation counseling and services to members of the armed forces who are scheduled, or are in the process of being scheduled, for discharge, release from active duty, or retirement.

''(b) REQUIRED PROGRAM ELEMENT.—The program under this section shall provide for representatives of military and veterans' service organizations and representatives of veterans' services agencies of States to be invited to participate in the preseparation counseling and other assistance briefings provided to members under the programs carried out under sections 1142 and 1144 of this title and the benefits delivery at discharge programs.

''(c) LOCATIONS.—The program under this section shall provide for access to members—

''(1) at each installation of the armed forces;

''(2) at each armory and military family support center of the National Guard;

''(3) at each inpatient medical care facility of the uniformed services administered under chapter 55 of this title; and

''(4) in the case of a member on the temporary disability retired list under section 1202 or 1205 of this title who is being retired under another provision of this title or is being discharged, at a location reasonably convenient to the member.

''(d) CONSENT OF MEMBERS REQUIRED.—Access to a member of the armed forces under the program under this section is subject to the consent of the member.

''(e) DEFINITIONS.—In this section:

''(1) The term 'benefits delivery at discharge program' means a program administered jointly by the Secretary and the Secretary of Veterans Affairs to provide information and assistance on available benefits and other transition assistance to members of the armed forces who are separating from the armed forces, including assistance to obtain any disability benefits for which such members may be eligible.

''(2) The term 'representative', with respect to a veterans' service organization, means a representative of an organization who is recognized by the Secretary of Veterans Affairs for the representation of veterans under section 5902 of title 38.''.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 58 of title 10, United States Code, is amended by adding at the end the following:

''1154. Veteran-to-veteran preseparation counseling.''.

(b) DEPARTMENT OF VETERANS AFFAIRS.—

(1) IN GENERAL.—Subchapter I of chapter 17 of title 38, United States Code, is amended by adding at the end the following:

''§ 1709. Veteran-to-veteran counseling

''(a) COOPERATION REQUIRED.—The Secretary shall carry out a program to facilitate the access of representatives of military and veterans' service organizations and representatives of veterans' services agencies of States to veterans furnished care and services under this chapter to provide information and counseling to such veterans on—

''(1) the care and services authorized by this chapter; and

''(2) other benefits and services available under the laws administered by the Secretary.

''(b) FACILITIES COVERED.—The program under this section shall provide for access to veterans described in subsection (a) at each facility of the Department and any non-Department facility at which the Secretary furnishes care and services under this chapter.

''(c) CONSENT OF VETERANS REQUIRED.—Access to a veteran under the program under this section is subject to the consent of the veteran.

''(d) DEFINITION.—In this section, the term 'veterans' service organization' means an organization who is recognized by the Secretary for the representation of veterans under section 5902 of this title.''.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 17 of title 38, United States Code, is amended by inserting after the item relating to section 1708 the following:

''1709. Veteran-to-veteran counseling.''.

SA 1367. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

(a) AUTHORITY TO CONTINUE ALLOWANCE.—Effective as of September 30, 2005, section 1026 of division A of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005 (Public Law 109–13), is amended by striking subsections (d) and (e).

(b) CODIFICATION OF REPORTING REQUIREMENT.—Section 411h of title 37, United States Code, is amended by adding at the end the following new subsection:

''(e) If the amount of travel and transportation allowances provided in a fiscal year under clause (ii) of subsection (a)(2)(B) exceeds $20,000,000, the Secretary of Defense shall submit to Congress a report specifying the total amount of travel and transportation allowances provided under such clause in such fiscal year.''.

(c) CONFORMING AMENDMENT.—Subsection (a)(2)(B)(ii) of such section, as added by section 1026 of division A of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005 (Public Law 109–13), is amended by striking ''under section 1967(c)(1)(A) of title 38''.

(d) FUNDING.—Funding shall be provided out of existing funds.

SA 1368. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle C of title V, add the following:

SEC. 538. MODIFICATION OF LIMITATION ON NUMBER OF MONTHS MEMBERS OF THE READY RESERVE MAY BE ORDERED TO ACTIVE DUTY WITHOUT THEIR CONSENT.

Section 12302(a) of title 10, United States Code, is amended by striking ''24 consecutive months'' and inserting ''24 cumulative months''.

SA 1369. Mr. DAYTON submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle C of title III, add the following:

SEC. 330. CHILD AND FAMILY ASSISTANCE BENEFITS FOR MEMBERS OF THE RESERVES.

(a) ADDITIONAL AMOUNT FOR OPERATION AND MAINTENANCE, DEFENSE-WIDE.—The amount authorized to be appropriated by section 301(5) for operation and maintenance, Defense-wide activities, is hereby increased by $120,000,000.

(b) AVAILABILITY OF AMOUNT.—Of the amount authorized to be appropriated by section 301(5) for operation and maintenance, Defense-wide activities, as increased by subsection (a), $120,000,000 may be available as follows:

(1) $100,000,000 for childcare services for families of members of the National Guard and Reserves who are mobilized.

(2) $20,000,000 for family assistance centers that primarily serve members of the National Guard and Reserves and their families.

SA 1370. Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title XII, add the following:

SEC. 1205. COMPTROLLER GENERAL REVIEW OF THE UNITED STATES EXPORT CONTROL SYSTEM.

(a) COMPTROLLER GENERAL REVIEW.—The Comptroller General of the United States shall carry out a review of the current United States export control system in order to determine—

(1) the extent to which the export control system is efficient and effective; and

(2) the extent to which the export control system is focused on controlling articles and technology that are critical to the national security of the United States.

(b) MATTERS TO BE ADDRESSED.—In carrying out the review required by subsection (a), the Comptroller General shall address the following:

(1) The percentage of license applications involving commercial components or technologies that were included on the United States Munitions List because such components or technologies were designed or modified for specific military applications.

(2) The extent to which the inclusion of such components or technologies on the Munitions List has had an impact on limiting the ability of foreign countries to build or repair foreign equipment.

(3) The availability of similar or alternative components and technologies from non-United States manufacturers.

(c) REPORT.—Not later than October 1, 2006, the Comptroller General shall submit to the appropriate committees of Congress a report on the review required by subsection (a). The report shall include—

(1) the results of the review; and

(2) such recommendations for legislative or administrative action as the Comptroller General considers appropriate to make the United States export control system more effective, including by reducing controls and paperwork that do not promote United States security and economic interests.

(d) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term ''appropriate committees of Congress'' means—

(1) the Committees on Armed Services, Appropriations, and Foreign Relations of the Senate; and

(2) the Committees on Armed Services, Appropriations, and International Relations of the House of Representatives.

SA 1371. Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 237, after line 17, insert the following:

SEC. 846. ECONOMIC DISADVANTAGE.

Section 8(a)(6) of the Small Business Act (15 U.S.C. 637(a)(6)) is amended to read as follows:

''(6)(A)(i) Economically disadvantaged individuals are those socially disadvantaged individuals whose ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities, as compared to others in the same business area who are not socially disadvantaged.

''(ii) In determining the degree of diminished credit and capital opportunities of a socially disadvantaged individual for purposes of clause (i), the Administrator shall consider the assets and net worth of that individual as they relates to—

''(I) the assets and net worth of a business owner who is not socially disadvantaged; and

''(II) the capital needs of the primary industry in which the owner of the business is engaged.

''(iii) In determining the economic disadvantage of an Indian tribe for purposes of clause (i), the Administrator shall consider, where available—

''(I) the per capita income of members of the tribe excluding judgment awards;

''(II) the percentage of the local Indian population below the poverty level; and

''(III) the access of the tribe to capital markets.

''(B) Except as provided in paragraph (21), for purposes of this section, an individual who has been determined by the Administrator to be economically disadvantaged at the time of program entry shall be deemed to be economically disadvantaged for the term of the program.

''(C) In computing personal net worth for the purpose of program entry under subparagraph (B), the Administrator shall exclude—

''(i) the value of investments that a disadvantaged owner has in the business concern of the owner, except that such value shall be taken into account under this paragraph when comparing such concerns to other concerns in the same business area that are owned by other than socially disadvantaged persons; and

''(ii) the equity that a disadvantaged owner has in the primary personal residence of the owner.

''(D) The Administrator shall not establish a maximum net worth that prohibits program entry that is less than $750,000.''.

SA 1372. Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title XII, add the following:

SEC. 1205. THRESHOLDS FOR ADVANCE NOTICE TO CONGRESS OF SALES OR UPGRADES OF DEFENSE ARTICLES, DESIGN AND CONSTRUCTION SERVICES, AND MAJOR DEFENSE EQUIPMENT.

(a) LETTERS OF OFFER TO SELL.—Subsection (b) of section 36 of the Arms Export Control Act (22 U.S.C. 2776) is amended—

(1) in the first sentence of paragraph (1)—

(A) by striking ''Subject to paragraph (6), in'' and inserting ''In'';

(B) by striking ''Act for $50,000,000'' and inserting ''Act for $100,000,000'';

(C) by striking ''services for $200,000,000'' and inserting ''services for $350,000,000'';

(D) by striking ''$14,000,000'' and inserting ''$50,000,000''; and

(E) by inserting ''and in other cases if the President determines it is appropriate,'' before ''before such letter'';

(2) in the first sentence of paragraph (5)(C)—

(A) by striking ''Subject to paragraph (6), if'' and inserting ''If'';

(B) by striking ''costs $14,000,000'' and inserting ''costs $50,000,000'';

(C) by striking ''equipment, $50,000,000'' and inserting ''equipment, $100,000,000'';

(D) by striking ''or $200,000,000'' and inserting ''or $350,000,000''; and

(E) by inserting ''and in other cases if the President determines it is appropriate,'' before ''then the President''; and

(3) by striking paragraph (6).

(b) EXPORT LICENSES.—Subsection (c) of section 36 of the Arms Export Control Act is amended—

(1) in the first sentence of paragraph (1)—

(A) by striking ''Subject to paragraph (5), in'' and inserting ''In'';

(B) by striking ''$14,000,000'' and inserting ''$50,000,000'';

(C) by striking ''services sold under a contract in the amount of $50,000,000'' and inserting ''services sold under a contract in the amount of $100,000,000''; and

(D) by inserting ''and in other cases if the President determines it is appropriate,'' before ''before issuing such'';

(2) in the last sentence of paragraph (2), by striking ''(A) and (B)'' and inserting ''(A), (B), and (C)''; and

(3) by striking paragraph (5).

(c) PRESIDENTIAL CONSENT.—Section 3(d) of the Arms Export Control Act (22 U.S.C. 2753(d)) is amended—

(1) in paragraphs (1) and (3)(A)—

(A) by striking ''Subject to paragraph (5), the'' and inserting ''The'';

(B) by striking ''$14,000,000'' and inserting ''$50,000,000''; and

(C) by striking ''service valued (in terms of its original acquisition cost) at $50,000,000'' and inserting ''service valued (in terms of its original acquisition cost) at $100,000,000''; and

(2) by striking paragraph (5).

SA 1373. Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle C of title V, add the following:

SEC. 538. COMMENCEMENT OF RECEIPT OF NON-REGULAR SERVICE RETIRED PAY BY MEMBERS OF THE READY RESERVE ON ACTIVE FEDERAL STATUS OR ACTIVE DUTY FOR SIGNIFICANT PERIODS.

(a) REDUCED ELIGIBILITY AGE.—Section 12731 of title 10, United States Code, is amended—

(1) in subsection (a), by striking paragraph (1) and inserting the following:

''(1) has attained the eligibility age applicable under subsection (f) to that person;''; and

(2) by adding at the end the following new subsection:

''(f)(1) Subject to paragraph (2), the eligibility age for the purposes of subsection (a)(1) is 60 years of age.

''(2)(A) In the case of a person who serves on active service (other than for training) for a period of 179 or more consecutive days commencing on or after September 11, 2001, the eligibility age for the purposes of subsection (a)(1) shall be reduced below 60 years of age by one year for each period of 179 consecutive days on which such person so performs, subject to subparagraph (B). A day of duty may be included in only one period of duty for purposes of this paragraph.

''(B) The eligibility age may not be reduced below 50 years of age for any person under subparagraph (A).''.

(b) CONTINUATION OF AGE 60 AS MINIMUM AGE FOR ELIGIBILITY OF NON-REGULAR SERVICE RETIREES FOR HEALTH CARE.—Section 1074(b) of such title is amended—

(1) by inserting ''(1)'' after ''(b)''; and

(2) by adding at the end the following new paragraph:

''(2) Paragraph (1) does not apply to a member or former member entitled to retired pay for non-regular service under chapter 1223 of this title who is under 60 years of age.''.

(c) ADMINISTRATION OF RELATED PROVISIONS OF LAW OR POLICY.—With respect to any provision of law, or of any policy, regulation, or directive of the executive branch that refers to a member or former member of the uniformed services as being eligible for, or entitled to, retired pay under chapter 1223 of title 10, United States Code, but for the fact that the member or former member is under 60 years of age, such provision shall be carried out with respect to that member or former member by substituting for the reference to being 60 years of age a reference to having attained the eligibility age applicable under subsection (f) of section 12731 of title 10, United States Code (as added by subsection (a)), to such member or former member for qualification for such retired pay under subsection (a) of such section.

(d) EFFECTIVE DATE AND APPLICABILITY.—The amendment made by subsection (a) shall take effect as of September 11, 2001, and shall apply with respect to applications for retired pay that are submitted under section 12731(a) of title 10, United States Code, on or after the date of the enactment of this Act.

SA 1374. Mr. ENSIGN proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

On page 296, after line 19, insert the following:

SEC. 1205. REPORT ON USE OF RIOT CONTROL AGENTS.

(a) STATEMENT OF POLICY.—It remains the longstanding policy of the United States, as provided in Executive Order 11850 (40 Fed Reg 16187) and affirmed by the Senate in the resolution of ratification of the Chemical Weapons Convention, that riot control agents are not chemical weapons but are legitimate, legal, and non-lethal alternatives to the use of lethal force that may be employed by members of the Armed Forces in combat and in other situations for defensive purposes to save lives, particularly for those illustrative purposes cited specifically in Executive Order 11850.

(b) REPORT REQUIRED.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, and annually thereafter, the President shall submit to Congress a report on the use of riot control agents.

(2) CONTENT.—The reports required under paragraph (1) shall include—

(A) a listing of international and multilateral forums that occurred in the preceding 12 months at which—

(i) the United States was represented; and

(ii) the issues of the Chemical Weapons Convention, riot control agents, or non-lethal weapons were raised or discussed;

(B) with regard to the forums described in subparagraph (A), a listing of those events at which the attending United States representatives publicly and fully articulated the United States policy with regard to riot control agents, as outlined and in accordance with Executive Order 11850, the Senate resolution of ratification to the Chemical Weapons Convention, and the statement of policy set forth in subsection (a);

(C) a description of efforts by the United States Government to promote adoption by other states-parties to the Chemical Weapons Convention of the United States policy

and position on the use of riot control agents in combat;

(D) the legal interpretation of the Department of Justice with regard to the current legal availability and viability of Executive Order 11850, to include the rationale as to why Executive Order 11850 remains permissible under United States law;

(E) a description of the availability of riot control agents, and the means to deploy them, to members of the Armed Forces deployed in Iraq;

(F) a description of the doctrinal publications, training, and other resources available to members of the Armed Forces on an annual basis with regard to the tactical employment of riot control agents in combat; and

(G) a description of cases in which riot control agents were employed, or requested to be employed, during combat operations in Iraq since March, 2003.

(3) FORM.—The reports required under paragraph (1) shall be submitted in unclassified form, but may include a classified annex.

(c) DEFINITIONS.—In this section—

(1) the term ''Chemical Weapons Convention'' means the Convention on the Prohibitions of Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, with annexes, done at Paris, January 13, 1993, and entered into force April 29, 1997 (T. Doc. 103–21); and

(2) the term ''resolution of ratification of the Chemical Weapons Convention'' means Senate Resolution 75, 105th Congress, agreed to April 24, 1997, advising and consenting to the ratification of the Chemical Weapons Convention.

SA 1375. Mr. ENSIGN proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

On page 286, between lines 7 and 8, insert the following:

SEC. 1073. REPORT ON COSTS TO CARRY OUT UNITED NATIONS RESOLUTIONS.

(a) ASSIGNMENT AUTHORITY OF SECRETARY OF DEFENSE.—The Secretary of Defense shall submit, on a quarterly basis, a report to the congressional defense committees, the Committee on Foreign Relations of the Senate, and the Committee on International Relations of the House of Representatives that sets forth all costs (including incremental costs) incurred by the Department of Defense during the preceding quarter in implementing or supporting any resolution adopted by the United Nations Security Council, including any such resolution calling for international sanctions, international peacekeeping operations, or humanitarian missions undertaken by the Department of Defense. Each such quarterly report shall include an aggregate of all such Department of Defense costs by operation or mission.

(b) COSTS FOR TRAINING FOREIGN TROOPS.—The Secretary of Defense shall detail in the quarterly reports all costs (including incremental costs) incurred in training foreign troops for United Nations peacekeeping duties.

(c) CREDIT AND COMPENSATION.—The Secretary of Defense shall detail in the quarterly reports all efforts made to seek credit against past United Nations expenditures and all efforts made to seek compensation from the United Nations for costs incurred by the Department of Defense in implementing and supporting United Nations activities.

SA 1376. Mr. LEVIN (for himself, Mr. WARNER, and Mr. KERRY) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

On page 159, strike line 20 and all that follows through page 161, line 9, and insert the following:

SEC. 641. ENHANCEMENT OF DEATH GRATUITY AND ENHANCEMENT OF LIFE INSURANCE BENEFITS FOR CERTAIN COMBAT RELATED DEATHS.

(a) INCREASED AMOUNT OF DEATH GRATUITY.—

(1) INCREASED AMOUNT.—Section 1478(a) of title 10, United States Code, is amended by striking ''$12,000'' and inserting ''$100,000''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall take effect on October 7, 2001, and shall apply with respect to deaths occurring on or after that date.

(3) COORDINATION WITH OTHER ENHANCEMENTS.—If the date of the enactment of this Act occurs before October 1, 2005—

(A) effective as of such date of enactment, the amendments made to section 1478 of title 10, United States Code, by the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005 (Public Law 109–13) are repealed; and

(B) effective immediately before the execution of the amendment made by paragraph (1), the provisions of section 1478 of title 10, United States Code, as in effect on the date before the date of the enactment of the Act referred to in subparagraph (A), shall be revived.

SA 1377. Ms. COLLINS proposed an amendment to amendment SA 1351 proposed by Mr. LAUTENBERG (for himself, Mr. CORZINE, Mrs. CLINTON, and Mr. FEINGOLD) to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. ___. PROHIBITION ON ENGAGING IN CERTAIN TRANSACTIONS.

(a) APPLICATION OF IEEPA PROHIBITIONS TO THOSE ATTEMPTING TO EVADE OR AVOID THE PROHIBITIONS.—Section 206 of the International Emergency Economic Powers Act (50 U.S.C. 1705) is amended to read as follows:

''PENALTIES

''SEC. 206. (a) It shall be unlawful for—

''(1) a person to violate or attempt to violate any license, order, regulation, or prohibition issued under this title;

''(2) a person subject to the jurisdiction of the United States to take any action to evade or avoid, or attempt to evade or avoid, a license, order, regulation, or prohibition issued this title; or

''(3) a person subject to the jurisdiction of the United States to approve, facilitate, or provide financing for any action, regardless of who initiates or completes the action, if it would be unlawful for such person to initiate or complete the action.

''(b) A civil penalty of not to exceed $250,000 may be imposed on any person who commits an unlawful act described in paragraph (1), (2), or (3) of subsection (a).

''(c) A person who willfully commits, or willfully attempts to commit, an unlawful act described in paragraph (1), (2), or (3) of subsection (a) shall, upon conviction, be fined not more than $500,000, or a natural person, may be imprisoned not more than 10 years, or both; and any officer, director, or agent of any person who knowingly participates, or attempts to participate, in such unlawful act may be punished by a like fine, imprisonment, or both.''.

(b) PRODUCTION OF RECORDS.—Section 203(a)(2) of the International Emergency Economic Powers Act (50 U.S.C. 1702(a)(2)) is amended to read as follows:

''(2) In exercising the authorities granted by paragraph (1), the President may require any person to keep a full record of, and to furnish under oath, in the form of reports, testimony, answers to questions, or otherwise, complete information relative to any act or transaction referred to in paragraph (1), either before, during, or after the completion thereof, or relative to any interest in foreign property, or relative to any property in which any foreign country or any national thereof has or has had any interest, or as may be otherwise necessary to enforce the provisions of such paragraph. The President may require by subpoena or otherwise the production under oath by any person of all such information, reports, testimony, or answers to questions, as well as the production of any required books of accounts, records, contracts, letters, memoranda, or other papers, in the custody or control of any person. The subpoena or other requirement, in the case of contumacy or refusal to obey, shall be enforceable by order of any appropriate United States district court.''.

(c) CLARIFICATION OF JURISDICTION TO ADDRESS IEEPA VIOLATIONS.—Section 203 of the International Emergency Economic Powers Act (50 U.S.C. 1702) is further amended by adding at the end the following:

''(d) The district courts of the United States shall have jurisdiction to issue such process described in subsection (a)(2) as may be necessary and proper in the premises to enforce the provisions of this title.''.

SA 1378. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle C of title III, add the following:

SEC. 330. FUNDING PRIORITIES FOR INNOVATIVE READINESS TRAINING PROGRAMS.

In establishing funding priorities for Innovative Readiness Training (IRT) Programs, the Secretary of Defense shall give significant weight to training missions under such programs that enhance United States border security.

SA 1379. Mr. DURBIN (for himself and Mrs. FEINSTEIN) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year

2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subtitle C of title III, add the following:

SEC. 330. REPORTING OF SERIOUS ADVERSE HEALTH EVENTS.

(a) IN GENERAL.—The Secretary of Defense may not permit a dietary supplement containing a stimulant to be sold on a military installation or in a commissary store, exchange store, or other store under chapter 147 of title 10, United States Code, unless the manufacturer of such dietary supplement submits any report of a serious adverse health event associated with such dietary supplement to the Secretary of Health and Human Services, who shall make such reports available to the Surgeon Generals of the Armed Forces.

(b) EFFECT OF SECTION.—Notwithstanding section 201(ff)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(ff)(2)) and subsection (c)(3) of this section, this section shall not apply to a dietary supplement that is intended to be consumed in liquid form if the only stimulant contained in such supplement is caffeine.

(c) DEFINITIONS.—In this section:

(1) DIETARY SUPPLEMENT.—The term ''dietary supplement'' has the same meaning given the term in section 201(ff) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(ff)).

(2) SERIOUS ADVERSE HEALTH EVENT.—The term ''serious adverse health event'' means an adverse event that may reasonably be suspected to be associated with the use of a dietary supplement in a human, without regard to whether the event is known to be causally related to the dietary supplement, that—

(A) results in—

(i) death;

(ii) a life-threatening experience;

(iii) inpatient hospitalization or prolongation of an existing hospitalization;

(iv) a persistent or significant disability or incapacity; or

(v) a congenital anomaly or birth defect; or

(B) requires, based on reasonable medical judgment, medical or surgical intervention to prevent an outcome described in subparagraph (A).

(3) STIMULANT.—The term ''stimulant'' means a dietary ingredient that has a stimulant effect on the cardiovascular system or the central nervous system of a human by any means, including—

(A) speeding metabolism;

(B) increasing heart rate;

(C) constricting blood vessels; or

(D) causing the body to release adrenaline.

SA 1380. Mr. LUGAR (for himself, Mr. LEVIN, Mr. DOMENICI, Mr. OBAMA, Mr. LOTT, Mr. JEFFORDS, Mr. NELSON of Florida, Mr. VOINOVICH, Mr. DODD, Mr. LEAHY, Mr. NELSON of Nebraska, Ms. MURKOWSKI, Mr. KENNEDY, Mr. CHAFEE, Ms. COLLINS, Mr. ALEXANDER, Mr. ALLEN, Mr. SALAZAR, Mr. HAGEL, Mr. DEWINE, Mr. REED, Mr. DORGAN, Mrs. CLINTON, Ms. MIKULSKI, Mr. BIDEN, Ms. STABENOW, Mr. BINGAMAN, Mr. AKAKA, Mr. LAUTENBERG, Mrs. FEINSTEIN, Mr. ENZI, Mr. CONRAD, Mrs. BOXER, Mr. DURBIN, Mr. SARBANES, Ms. LANDRIEU, Mr. SUNUNU, Mr. BAYH, Mr. SMITH, and Mr. CARPER) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

On page 302, between lines 2 and 3, insert the following:

SEC. 1306. REMOVAL OF CERTAIN RESTRICTIONS ON PROVISION OF COOPERATIVE THREAT REDUCTION ASSISTANCE.

(a) REPEAL OF RESTRICTIONS.—

(1) SOVIET NUCLEAR THREAT REDUCTION ACT OF 1991.—Section 211(b) of the Soviet Nuclear Threat Reduction Act of 1991 (title II of Public Law 102–228; 22 U.S.C. 2551 note) is repealed.

(2) COOPERATIVE THREAT REDUCTION ACT OF 1993.—Section 1203(d) of the Cooperative Threat Reduction Act of 1993 (title XII of Public Law 103–160; 22 U.S.C. 5952(d)) is repealed.

(3) RUSSIAN CHEMICAL WEAPONS DESTRUCTION FACILITIES.—Section 1305 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 22 U.S.C. 5952 note) is repealed.

(b) INAPPLICABILITY OF OTHER RESTRICTIONS.—

Section 502 of the Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992 (Public Law 102–511; 106 Stat. 3338; 22 U.S.C. 5852) shall not apply to any Cooperative Threat Reduction program.

SA 1381. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle C of title V, add the following:

SEC. 538. MILITARY RETIREMENT CREDIT FOR CERTAIN SERVICE BY NATIONAL GUARD MEMBERS PERFORMED WHILE IN A STATE DUTY STATUS IMMEDIATELY AFTER THE TERRORIST ATTACKS OF SEPTEMBER 11, 2001.

(a) RETIREMENT CREDIT.—Service of a member of the Ready Reserve of the Army National Guard or Air National Guard described in subsection (b) shall be deemed to be service creditable under section 12732(a)(2)(A)(i) of title 10, United States Code.

(b) COVERED SERVICE.—Service referred to in subsection (a) is full-time State active duty service that a member of the National Guard performed on or after September 11, 2001, and before October 1, 2002, in any of the counties specified in subsection (c) to support a Federal declaration of emergency following the terrorist attacks on the United States of September 11, 2001.

(c) COVERED COUNTIES.—The counties referred to in subsection (b) are the following counties in the State of New York: Bronx, Kings, New York (boroughs of Brooklyn and Manhattan), Queens, Richmond, Delaware, Dutchess, Nassau, Orange, Putnam, Rockland, Suffolk, Sullivan, Ulster, and Westchester.

(d) APPLICABILITY.—Subsection (a) shall take effect as of September 11, 2001.

SA 1382. Mr. ALLARD submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle C of title III, add the following:

SEC. 330. REPORT ON AIRCRAFT TO PERFORM HIGH-ALTITUDE AVIATION TRAINING SITE OF THE ARMY NATIONAL GUARD.

Not later than December 15, 2005, the Secretary of the Army shall submit to the congressional defense committee a report containing the following:

(1) An identification of the type of aircraft in the inventory of the Army that is most suitable to perform the High-altitude Aviation Training Site (HAATS) of the Army National Guard.

(2) A schedule for assigning such aircraft to the Training Site.

SA 1383. Mr. ALLARD submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 378, between lines 10 and 11, insert the following:

SEC. 3114. MANAGEMENT OF POST-PROJECT COMPLETION RETIREMENT BENEFITS FOR EMPLOYEES AT DEPARTMENT OF ENERGY PROJECT COMPLETION SITES.

(a) PROGRAM AUTHORIZED.—

(1) IN GENERAL.—The Secretary of Energy shall carry out a program under which the Secretary shall use competitive procedures to enter into an agreement with a contractor for the plan sponsorship and program management of post-project completion retirement benefits for eligible employees at each Department of Energy project completion site.

(2) REQUIREMENT OF NO REDUCTION IN TOTAL VALUE OF RETIREMENT BENEFITS.—The total value of post-project completion retirement benefits provided to eligible employees at a Department of Energy project completion site may not be reduced under the program required under paragraph (1) without the specific authorization of Congress.

(b) AGREEMENT FOR BENEFITS MANAGEMENT.—

(1) IN GENERAL.—The Secretary of Energy shall, in accordance with procurement rules and regulations applicable to the Department of Energy, enter into the agreement described in subsection (a) not later than 90 days after the date of the physical completion date for the Department of Energy project completion site covered by the agreement.

(2) TERMS OF AGREEMENT.—The agreement under this section shall—

(A) provide for the plan sponsorship and program management of post-project completion retirement benefits;

(B) fully describe the post-project completion retirement benefits to be provided to employees at the Department of Energy project completion site; and

(C) require that the Secretary reimburse the contractor for the costs of plan sponsorship and program management of post-project completion retirement benefits.

(3) RENEWAL OF AGREEMENT.—The agreement shall be subject to renewal every 5 years until all the benefit obligations have been met.

(c) REPORT.—

(1) IN GENERAL.—Not later than 30 days after signing of the agreement described in subsection (a), the Secretary of Energy shall submit to the congressional defense committees a report on the program established under such subsection.

(2) CONTENTS.—The report submitted under paragraph (1) shall describe—

(A) the costs of plan sponsorship and program management of post-project completion retirement benefits;

(B) the funding profile in the Department of Energy's future year budget for the plan sponsorship and program management of post-project completion retirement benefits under the agreement entered into under subsection (b);

(C) the amount of unfunded accrued liability for eligible workers at the Department of Energy project completion site; and

(D) the justification for awarding the agreement entered into under subsection (b) to the selected contractor.

(d) DEFINITIONS.—In this section:

(1) PHYSICAL COMPLETION DATE.—The term ''physical completion date'' means—

(A) the date of physical completion or achievement of a similar milestone defined by or calculated in accordance with the terms of the completion project contract; or

(B) if the completion project contract specifies no such date, the date declared by the site contractor and accepted by the Department of Energy that the site contractor has completed all services required by the project completion contract other than close-out tasks and any other tasks excluded from the contract.

(2) DEPARTMENT OF ENERGY PROJECT COMPLETION SITE.—The term ''Department of Energy project completion site'' means a site, or a project within a site, in the Department of Energy's nuclear weapons complex that has been designated by the Secretary of Energy for closure or completion without any identified successor contractor.

(3) POST-PROJECT COMPLETION RETIREMENT BENEFITS.—The term ''post-project completion retirement benefits'' means those benefits provided to eligible employees at a Department of Energy project completion site as of the physical completion date through collective bargaining agreements, projects, or contracts for work scope, including pension, health care, life insurance benefits, and other applicable welfare benefits.

(4) ELIGIBLE EMPLOYEES.—The term ''eligible employees'' includes—

(A) any employee who—

(i) was employed by the Department of energy or by contract or first or second tier subcontract to perform cleanup, security, or administrative duties or responsibilities at a Department of Energy project completion site; and

(ii) has met applicable eligibility requirements for post-project completion retirement benefits as of the physical completion date; and

(B) any eligible dependant of such an employee, as defined in the post-project completion retirement benefits plan documents.

(5) UNFUNDED ACCRUED LIABILITY.—The term ''unfunded accrued liability'' means, with respect to eligible employees, the accrued liability, as determined in accordance with an actuarial cost method, that exceeds the present value of the assets of a pension plan and the aggregate projected life-cycle health care costs.

(6) PLAN SPONSORSHIP AND PROGRAM MANAGEMENT OF POST-PROJECT COMPLETION RETIREMENT BENEFITS.—The term ''plan sponsorship and program management of post-project completion retirement benefits'' means those duties and responsibilities that are necessary to execute, and are consistent with, the terms and legal responsibilities of the instrument under which the post-project completion retirement benefits are provided to employees at a Department of Energy project completion site.

SA 1384. Mr. BYRD submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle C of title VIII, add the following:

SEC. 824. REPORTS ON CERTAIN DEFENSE CONTRACTS IN IRAQ AND AFGHANISTAN.

(a) QUARTERLY REPORTS.—

(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, and every 90 days thereafter, the Secretary of Defense shall submit to the appropriate committees of Congress a report that lists and describes each task or delivery order contract or other contract related to security and reconstruction activities in Iraq and Afghanistan in which an audit conducted by an investigative or audit component of the Department of Defense during the 90-day period ending on the date of such report resulted in a finding described in subsection (b).

(2) COVERAGE OF SUBCONTRACTS.—For purposes of this section, any reference to a contract shall be treated as a reference to such contract and to any subcontracts under such contract.

(b) COVERED FINDING.—A finding described in this subsection with respect to a task or delivery order contract or other contract described in subsection (a) is a finding by an investigative or audit component of the Department of Defense that the contract includes costs that are unsupported, questioned, or both.

(c) REPORT INFORMATION.—Each report under subsection (a) shall include, with respect to each task or delivery order contract or other contract covered by such report—

(1) a description of the costs determined to be unsupported, questioned, or both; and

(2) a statement of the amount of such unsupported or questioned costs and the percentage of the total value of such task or delivery order that such costs represent.

(d) WITHHOLDING OF PAYMENTS.—In the event that any costs under a task or delivery order contract or other contract described in subsection (a) are determined by an investigative or audit component of the Department of Defense to be unsupported, questioned, or both, the appropriate Federal procurement personnel shall withhold from amounts otherwise payable to the contractor under such contract a sum equal to 100 percent of the total amount of such costs.

(e) RELEASE OF WITHHELD PAYMENTS.—Upon a subsequent determination by the appropriate Federal procurement personnel, or investigative or audit component of the Department of Defense, that any unsupported or questioned costs for which an amount payable was withheld under subsection (d) has been determined to be allowable, the appropriate Federal procurement personnel may release such amount for payment to the contractor concerned.

(f) INCLUSION OF INFORMATION ON WITHHOLDING AND RELEASE IN QUARTERLY REPORTS.—Each report under subsection (a) after the initial report under that subsection shall include the following:

(1) A description of each action taken under subsection (d) or (e) during the period covered by such report.

(2) A justification of each determination under subsection (d) or (e) that appropriately explains the determination of the appropriate Federal procurement personnel in terms of reasonableness, allocability, or other factors affecting the acceptability of the costs concerned.

(g) DEFINITIONS.—In this section:

(1) The term ''appropriate committees of Congress'' means—

(A) the Committees on Appropriations, Armed Services, and Homeland Security and Governmental Affairs of the Senate; and

(B) the Committees on Appropriations, Armed Services, and Government Reform of the House of Representatives.

(2) The term ''investigative or audit component of the Department of Defense'' means any of the following:

(A) The Office of the Inspector General of the Department of Defense.

(B) The Defense Contract Audit Agency.

(C) The Defense Contract Management Agency.

(D) The Army Audit Agency.

(E) The Naval Audit Service.

(F) The Air Force Audit Agency.

(3) The term ''questioned'', with respect to a cost, means an unreasonable, unallocable, or unallowable cost.

SA 1385. Mr. BAYH submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle E of title VI, add the following:

SEC. 653. LIABILITY FOR NONCOMPLIANCE WITH SERVICEMEMBERS CIVIL RELIEF ACT.

(a) IN GENERAL.—The Servicemembers Civil Relief Act (50 U.S.C. App. 501 et seq.) is amended by adding at the end the following new title:

''TITLE VIII—CIVIL LIABILITY AND ENFORCEMENT

''SEC. 801. CIVIL LIABILITY FOR NONCOMPLIANCE.

''(a) IN GENERAL.—Any person or entity (other than a servicemember or dependent) who fails to comply with any requirement imposed by this Act with respect to a servicemember or dependent is liable to such servicemember or dependent in an amount equal to the sum of—

''(1) any actual damages sustained by such servicemember or dependent as a result of the failure;

''(2) such additional damages as the court may allow, in an amount not less than $100 or more than $5,000 (as determined appropriate by the court), for each violation; and

''(3) in the case of any successful action to enforce liability under this section, the cost of the action together with reasonable attorneys fees as determined by the court.

''(b) ATTORNEY FEES.—On a finding by the court that an unsuccessful pleading, motion, or other paper filed in connection with an action under this section was filed in bad faith or for the purposes of harassment, the court shall award to the prevailing party attorney fees in amount that is reasonable in relation to the work expended in responding to such pleading, motion, or other paper.

''SEC. 802. ADMINISTRATIVE ENFORCEMENT.

''(a) ENFORCEMENT BY FEDERAL TRADE COMMISSION.—(1) Except as provided in subsection (b), compliance with the requirements imposed by this Act shall be enforced by the Federal Trade Commission in accordance with the Federal Trade Commission Act with respect to entities and persons subject to the Federal Trade Commission Act.

''(2) For the purpose of the exercise by the Commission under this subsection of its functions and powers under the Federal Trade Commission Act, a violation of any requirement or prohibition imposed by this Act shall constitute an unfair or deceptive act or practice in commerce in violation of section 5(a) of the Federal Trade Commission Act, and shall be subject to enforcement by the Commission with respect to any entity or person subject to enforcement by the Commission pursuant to this subsection, irrespective of whether such person or entity is engaged in commerce or meets any other jurisdictional tests under the Federal Trade Commission Act.

''(3) The Commission shall have such procedural, investigative, and enforcement powers, including the power to issue procedural rules in enforcing compliance with the requirements imposed by this Act and to require the filing of reports, the production of documents, and the appearance of witnesses, as though the applicable terms and conditions of the Federal Trade Commission Act were part of this Act.

''(4) Any person or entity violating any provision of this Act shall be subject to the penalties, and entitled to the privileges and immunities, provided in the Federal Trade Commission Act as though the applicable terms and provisions of the Federal Trade Commission Act were part of this Act.

''(5)(A) The Commission may commence a civil action to recover a civil penalty in a district court of the United States against any person or entity that has engaged in such violation. In such action, such person or entity shall be liable, in addition to any amounts otherwise recoverable, for a civil penalty in the amount of $5,000 to $50,000, as determined appropriate by the court for each violation.

''(B) In determining the amount of a civil penalty under subparagraph (A), the court shall take into account the degree of culpability, any history of prior such conduct, ability to pay, effect on ability to continue to do business, and such other matters as justice may require.

''(b) ENFORCEMENT BY OTHER REGULATORY AGENCIES.—Compliance with the requirements imposed by this Act with respect to financial institutions shall be enforced under—

''(1) section 8 of the Federal Deposit Insurance Act, in the case of—

''(A) national banks, and Federal branches and Federal agencies of foreign banks, and any subsidiaries of such (except brokers, dealers, persons providing insurance, investment companies, and investment advisers) by the Office of the Comptroller of the Currency;

''(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organization operating under section 25 or 25A of the Federal Reserve Act, and bank holding companies and their nonbank subsidiaries or affiliates (except brokers, dealers, persons providing insurance, investment companies, and investment advisers) by the Board of Governors of the Federal Reserve System; and

''(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and insured State branches of foreign banks, and any subsidiaries of such entities (except brokers, dealers, persons providing insurance, investment companies, and investment advisers) by the Board of Directors of the Federal Deposit Insurance Corporation;

''(2) section 8 of the Federal Deposit Insurance Act, by the Director of the Office of Thrift Supervision, in the case of a savings association the deposits of which are insured by the Federal Deposit Insurance Corporation and any subsidiaries of such saving associations (except brokers, dealers, persons providing insurance, investment companies, and investment advisers);

''(3) the Federal Credit Union Act, by the Administrator of the National Credit Union Administration with respect to any federally insured credit union, and any subsidiaries of such an entity;

''(4) State insurance law, by the applicable State insurance authority of the State in which a person is domiciled, in the case of a person providing insurance; and

''(5) the Federal Trade Commission Act, by the Federal Trade Commission for any other financial institution or other person that is not subject to the jurisdiction of any agency or authority under paragraphs (1) through (4).''.

(b) CLERICAL AMENDMENT.—The table of contents in the first section of that Act is amended by adding at the end the following new items:

''TITLE VIII—CIVIL LIABILITY AND ENFORCEMENT

''Sec. 801. Civil liability for noncompliance.

''Sec. 802. Administrative enforcement.''.

SA 1386. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 371, between lines 8 and 9, insert the following:

SEC. 2887. EFFECT OF CERTAIN FACILITIES ADMINISTRATION AND MILITARY HOUSING ACTIVITIES ON ALLOCATIONS OR ELIGIBILITY OF MILITARY INSTALLATIONS FOR POWER FROM FEDERAL POWER MARKETING AGENCIES.

Notwithstanding any other provision of law, a Federal power marketing agency may not terminate the eligibility of a military installation for power, or reduce the allocation of power to a military installation, as a result of the exercise at the military installation of any authority as follows:

(1) The conveyance of a utility system of the military installation under section 2688 of title 10, United States Code.

(2) The acquisition or improvement of military housing for the military installation under the alternative authority for the acquisition and improvement of military housing under subchapter IV of chapter 169 of title 10, United States Code.

SA 1387. Mr. GRAHAM submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 378, between lines 10 and 11, insert the following:

SEC. 31____. SAVANNAH RIVER NATIONAL LABORATORY.

The Savannah River National Laboratory shall be a participating laboratory in the Department of Energy laboratory directed research and development program.

SA 1388. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 286, between lines 7 and 8, insert the following:

SEC. 10____. ESTABLISHMENT OF THE USS OKLAHOMA MEMORIAL.

(a) SITE AND FUNDING FOR MEMORIAL.—Not later than 6 months after the date of enactment of this section, the Secretary of the Navy, in consultation with the Secretary of the Interior shall identify an appropriate site on Ford Island for a memorial for the USS Oklahoma consistent with the ''Pearl Harbor Naval Complex Design Guidelines and Evaluation Criteria for Memorials, April 2005''. The USS Oklahoma Foundation shall be solely responsible for raising the funds necessary to design and erect a dignified and suitable memorial to the naval personnel serving aborad the USS Oklahoma when it was attacked on December 7, 1941.

(b) ADMINISTRATION AND MAINTENANCE OF MEMORIAL.—After the site has been selected, the Secretary of the Interior shall administer and maintain the site as part of the USS Arizona Memorial, a unit of the National Park System, in accordance with the laws and regulations applicable to land administered by the National Park Service and any Memorandum of Understanding between the Secretary of the Navy and the Secretary of the Interior. The Secretary of the Navy shall continue to have jurisdiction over the land selected as the site.

(c) FUTURE MEMORIALS.—Any future memorials for U.S. Naval Vessels that were attacked at Pearl Harbor on December 7, 1941, shall be consistent with the ''Pearl Harbor Naval Complex Design Guidelines and Evaluation Criteria for Memorials, April 2005''.

SA 1389. Mr. THUNE (for himself, Mr. LIEBERMAN, Ms. SNOWE, Mr. LAUTENBERG, Mr. JOHNSON, Mr. DODD, Ms. COLLINS, Mr. CORZINE, Mr. BINGAMAN and Mr. DOMENICI) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of

Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

On page 371, between lines 8 and 9, insert the following:

SEC. 2887. POSTPONEMENT OF 2005 ROUND OF DEFENSE BASE CLOSURE AND REALIGNMENT.

The Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) is amended—

(1) by adding at the end the following:

''SEC. 2915. POSTPONEMENT OF 2005 ROUND OF DEFENSE BASE CLOSURE AND REALIGNMENT.

''(a) IN GENERAL.—Notwithstanding any other provision of this part, the round of defense base closure and realignment otherwise scheduled to occur under this part in 2005 by reasons of sections 2912, 2913, and 2914 shall occur instead in the year following the year in which the last of the actions described in subsection (b) occurs (in this section referred to as the 'postponed closure round year').

''(b) ACTIONS REQUIRED BEFORE BASE CLOSURE ROUND.—(1) The actions referred to in subsection (a) are the following actions:

''(A) The complete analysis, consideration, and, where appropriate, implementation by the Secretary of Defense of the recommendations of the Commission on Review of Overseas Military Facility Structure of the United States.

''(B) The return from deployment in the Iraq theater of operations of substantially all (as determined by the Secretary of Defense) major combat units and assets of the Armed Forces.

''(C) The receipt by the Committees on Armed Services of the Senate and the House of Representatives of the report on the quadrennial defense review required to be submitted in 2006 by the Secretary of Defense under section 118(d) of title 10, United States Code.

''(D) The complete development and implementation by the Secretary of Defense and the Secretary of Homeland Security of the National Maritime Security Strategy.

''(E) The complete development and implementation by the Secretary of Defense of the Homeland Defense and Civil Support directive.

''(F) The receipt by the Committees on Armed Services of the Senate and the House of Representatives of a report submitted by the Secretary of Defense that assesses military installation needs taking into account—

''(i) relevant factors identified through the recommendations of the Commission on Review of Overseas Military Facility Structure of the United States;

''(ii) the return of the major combat units and assets described in subparagraph (B);

''(iii) relevant factors identified in the report on the 2005 quadrennial defense review;

''(iv) the National Maritime Security Strategy; and

''(v) the Homeland Defense and Civil Support directive.

''(2) The report required under subparagraph (F) of paragraph (1) shall be submitted not later than one year after the occurrence of the last action described in subparagraphs (A) through (E) of such paragraph.

''(c) ADMINISTRATION.—For purposes of sections 2912, 2913, and 2914, each date in a year that is specified in such sections shall be deemed to be the same date in the postponed closure round year, and each reference to a fiscal year in such sections shall be deemed to be a reference to the fiscal year that is the number of years after the original fiscal year that is equal to the number of years that the postponed closure round year is after 2005.''; and

(2) in section 2904(b)(1)—

(A) in subparagraph (A), by striking ''the date on which the President transmits such report'' and inserting ''the date by which the President is required to transmit such report''; and

(B) in subparagraph (B), by striking ''such report is transmitted'' and inserting ''such report is required to be transmitted''.

SA 1390. Mr. WARNER proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of title XI, add the following:

SEC. 1106. INCREASE IN AUTHORIZED NUMBER OF DEFENSE INTELLIGENCE SENIOR EXECUTIVE SERVICE EMPLOYEES.

Section 1606(a) of title 10, United States Code, is amended by striking ''544'' and inserting ''the following:

''(1) In fiscal year 2005, 544.

''(2) In fiscal year 2006, 619.

''(3) In fiscal years after fiscal year 2006, 694.''.

SA 1391. Mr. WARNER (for Mr. WYDEN, (for himself and Mr. SMITH)) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

On page 378, between lines 10 and 11, insert the following:

SEC. 3___. CLARIFICATION OF COOPERATIVE AGREEMENT AUTHORITY UNDER CHEMICAL DEMILITARIZATION PROGRAM.

(a) IN GENERAL.—Section 1412(c)(4) of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521(c)(4)), is amended—

(1) by inserting ''(A)'' after ''(4)'';

(2) in the first sentence—

(A) by inserting ''and tribal organizations'' after ''State and local governments''; and

(B) by inserting ''and tribal organizations'' after ''those governments'';

(3) in the third sentence—

(A) by striking ''Additionally, the Secretary'' and inserting the following:

''(B) Additionally, the Secretary''; and

(B) by inserting ''and tribal organizations'' after ''State and local governments''; and

(4) by adding at the end the following:

''(C) In this paragraph, the term 'tribal organization' has the meaning given the term in section 4(*l*) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(*l*)).''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a)—

(1) take effect on December 5, 1991; and

(2) apply to any cooperative agreement entered into on or after that date.

SA 1392. Mr. WARNER proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subtitle A of title IX, add the following:

SEC. 903. PROVISION OF AUDIOVISUAL SUPPORT SERVICES BY THE WHITE HOUSE COMMUNICATIONS AGENCY.

(a) PROVISION ON NONREIMBURSABLE BASIS.—Section 912 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2623; 10 U.S.C. 111 note) is amended—

(1) in subsection (a)—

(A) in the subsection caption, by inserting ''AND AUDIOVISUAL SUPPORT SERVICES'' after ''TELECOMMUNICATIONS SUPPORT''; and

(B) by inserting ''and audiovisual support services'' after ''provision of telecommunications support''; and

(2) in subsection (b), by inserting ''and audiovisual'' after ''other than telecommunications''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 1, 2005, and shall apply with respect to the provision of audiovisual support services by the White House Communications Agency in fiscal years beginning on or after that date.

SA 1393. Mr. WARNER (for Mr. INOUYE) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subtitle C of title IX, add the following:

SEC. 924. UNITED STATES MILITARY CANCER INSTITUTE.

(a) ESTABLISHMENT.—Chapter 104 of title 10, United States Code, is amended by adding at the end the following new section:

''§ 2117. United States Military Cancer Institute

''(a) ESTABLISHMENT.—(1) There is a United States Military Cancer Institute in the University. The Director of the United States Military Cancer Institute is the head of the Institute.

''(2) The Institute is composed of clinical and basic scientists in the Department of Defense who have an expertise in research, patient care, and education relating to oncology and who meet applicable criteria for participation in the Institute.

''(3) The components of the Institute include military treatment and research facilities that meet applicable criteria and are designated as affiliates of the Institute.

''(b) RESEARCH.—(1) The Director of the United States Military Cancer Institute shall carry out research studies on the following:

''(A) The epidemiological features of cancer, including assessments of the carcinogenic effect of genetic and environmental factors, and of disparities in health, inherent or common among populations of various ethnic origins.

''(B) The prevention and early detection of cancer.

''(C) Basic, translational, and clinical investigation matters relating to the matters described in subparagraphs (A) and (B).

''(2) The research studies under paragraph (1) shall include complementary research on oncologic nursing.

''(c) COLLABORATIVE RESEARCH.—The Director of the United States Military Cancer Institute shall carry out the research studies

under subsection (b) in collaboration with other cancer research organizations and entities selected by the Institute for purposes of the research studies.

''(d) ANNUAL REPORT.—(1) Promptly after the end of each fiscal year, the Director of the United States Military Cancer Institute shall submit to the President of the University a report on the results of the research studies carried out under subsection (b).

''(2) Not later than 60 days after receiving the annual report under paragraph (1), the President of the University shall transmit such report to the Secretary of Defense and to Congress.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

''2117. United States Military Cancer Institute.''.

SA 1394. Mr. WARNER (for Mr. SESSIONS) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subtitle B of title II, add the following:

SEC. 213. TELEMEDICINE AND ADVANCED TECHNOLOGY RESEARCH CENTER.

(a) ADDITIONAL AMOUNT FOR RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY.—The amount authorized to be appropriated by section 201(1) for research, development, test, and evaluation for the Army is hereby increased by $1,000,000.

(b) AVAILABILITY OF AMOUNT.—Of the amount authorized to be appropriated by section 201(1) for research, development, test, and evaluation for the Army, as increased by subsection (a), $1,000,000 may be available for Medical Advanced Technology (PE #603002A) for the Telemedicine and Advanced Technology Research Center.

(c) OFFSET.—The amount authorized to be appropriated by section 101(4) for procurement of ammunition for the Army is hereby reduced by $1,000,000, with the amount of the reduction to be allocated to amounts available for Ammunition Production Base Support, Production Base Support for the Missile Recycling Center (MRC).

SA 1395. Mr. WARNER (for Mr. REED) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subtitle B of title II, add the following:

SEC. 213. TOWED ARRAY HANDLER.

(a) AVAILABILITY OF AMOUNT.—Of the amount authorized to be appropriated by section 201(2) for research, development, test, and evaluation for the Navy, the amount available for Program Element 0604503N for the design, development, and test of improvements to the towed array handler is hereby increased by $5,000,000 in order to increase the reliability of the towed array and the towed array handler by capitalizing on ongoing testing and evaluation of such systems.

(b) OFFSET.—Of the amount authorized to be appropriated by section 201(2) for research, development, test, and evaluation for the Navy, the amount available for Program Element 0604558N for new design for the Virginia Class submarine for the large aperture bow array is hereby reduced by $5,000,000.

SA 1396. Mr. WARNER (for Mr. STEVENS) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

On page 310, in the table following line 16, strike ''$39,160,000'' in the amount column of the item relating to Fort Wainwright, Alaska, and insert ''$44,660,000''.

On page 311, in the table preceding line 1, strike the amount identified as the total in the amount column and insert ''$2,000,622,000''.

On page 313, line 4, strike ''$2,966,642,000'' and insert ''$2,972,142,000''.

On page 313, line 7, strike ''$1,007,222,000'' and insert ''$1,012,722,000''.

On page 326, in the table following line 4, strike ''$92,820,000'' in the amount column of the item relating to Elmendorf Air Force Base, Alaska, and insert ''$84,820,000''.

On page 326, in the table following line 4, strike the amount identified as the total in the amount column and insert ''$1,040,106,000''.

On page 329, line 8, strike ''$3,116,982,000'' and insert ''$3,008,982,000''.

On page 329, line 11, strike ''$923,106,000'' and insert ''$915,106,000''.

SA 1397. Mr. WARNER (for Mrs. FEINSTEIN) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

On page 326, in the table following line 4, strike the item relating to Los Angeles Air Force Base, California.

On page 326, in the table following line 4, strike ''$6,800,000'' in the amount column of the item relating to Fairchild Air Force Base, Washington, and insert ''$8,200,000''.

On page 326, in the table following line 4, strike the amount identified as the total in the amount column and insert ''$1,047,006,000''.

On page 329, line 8, strike ''$3,116,982,000'' and insert ''$3,115,882,000''.

On page 329, line 11, strike ''$923,106,000'' and insert ''$922,006,000''.

On page 336, line 22, strike ''$464,680,000'' and insert ''$445,100,000''.

On page 337, line 2, strike ''$245,861,000'' and insert ''$264,061,000''.

On page 337, between lines 4 and 5, insert the following:

SEC. 2602. SPECIFIC AUTHORIZED ARMY NATIONAL GUARD CONSTRUCTION PROJECTS.

(a) CAMP ROBERTS, CALIFORNIA.—Of the amount authorized to be appropriated for the Department of the Army for the Army National Guard of the United States under section 2601(1)(A)—

(1) $1,500,000 is available for the construction of an urban combat course at Camp Roberts, California; and

(2) $1,500,000 is available for the addition or alteration of a field maintenance shop at Fort Dodge, Iowa.

SEC. 2603. CONSTRUCTION OF FACILITIES, NEW CASTLE COUNTY AIRPORT AIR GUARD BASE, DELAWARE.

Of the amount authorized to be appropriated for the Department of the Air Force for the Air National Guard of the United States under section 2601(3)(A)—

(1) $1,400,000 is available for the construction of a security forces facility at New Castle County Airport Air Guard Base, Delaware; and

(2) $1,500,000 is available for the construction of a medical training facility at New Castle County Airport Air Guard Base, Delaware.

SA 1398. Mr. WARNER (for Mr. LOTT (for himself and Mr. COCHRAN)) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

On page 18, beginning on line 20, strike ''and advance construction'' and insert ''advance construction, detail design, and construction''.

On page 19, beginning on line 10, strike ''fiscal year 2007'' and insert ''fiscal year 2006''

On page 19, between lines 18 and 19, insert the following:

(e) FUNDING AS INCREMENT OF FULL FUNDING.—The amounts available under subsections (a) and (b) for the LHA Replacement ship are the first increments of funding for the full funding of the LHA Replacement (LHA(R)) ship program.

SA 1399. Mr. WARNER (for Mrs. FEINSTEIN (for herself and Mr. GRASSLEY)) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

Strike section 1021 and insert the following:

SEC. 1021. TRANSFER OF BATTLESHIPS.

(a) TRANSFER OF BATTLESHIP WISCONSIN.—The Secretary of the Navy is authorized—

(1) to strike the Battleship U.S.S. WISCONSIN (BB–64) from the Naval Vessel Register; and

(2) subject to section 7306 of title 10, United States Code, to transfer the vessel by gift or otherwise provided that the Secretary requires, as a condition of transfer, that the transferee locate the vessel in the Commonwealth of Virginia.

(b) TRANSFER OF BATTLESHIP IOWA.—The Secretary of the Navy is authorized—

(1) to strike the Battleship U.S.S. IOWA (BB–61) from the Naval Vessel Register; and

(2) subject to section 7306 of title 10, United States Code, to transfer the vessel by gift or otherwise provided that the Secretary requires, as a condition of transfer, that the transferee locate the vessel in the State of California.

(c) INAPPLICABILITY OF NOTICE AND WAIT REQUIREMENT.—Notwithstanding any provision of subsection (a) or (b), section 7306(d) of

title 10, United States Code, shall not apply to the transfer authorized by subsection (a) or the transfer authorized by subsection (b).

(d) REPEAL OF SUPERSEDED REQUIREMENTS AND AUTHORITIES.—

(1) Section 1011 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 421) is repealed.

(2) Section 1011 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 112 Stat. 2118) is repealed.

SA 1400. Mr. WARNER (for Mr. LOTT) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subtitle D of title VI, add the following:

SEC. 642. IMPROVEMENT OF MANAGEMENT OF ARMED FORCES RETIREMENT HOME.

(a) REDESIGNATION OF CHIEF OPERATING OFFICER AS CHIEF EXECUTIVE OFFICER.—

(1) IN GENERAL.—Section 1515 of the Armed Forces Retirement Home Act of 1991 (24 U.S.C. 415) is amended—

(A) by striking ''Chief Operating Officer'' each place it appears and inserting ''Chief Executive Officer''; and

(B) in subsection (e)(1), by striking ''Chief Operating Officer's'' and inserting ''Chief Executive Officer's''.

(2) CONFORMING AMENDMENTS.—Such Act is further amended by striking ''Chief Operating Officer'' each place it appears in a provision as follows and inserting ''Chief Executive Officer'':

(A) In section 1511 (24 U.S.C. 411).

(B) In section 1512 (24 U.S.C. 412).

(C) In section 1513(a) (24 U.S.C. 413(a)).

(D) In section 1514(c)(1) (24 U.S.C. 414(c)(1)).

(E) In section 1516(b) (24 U.S.C. 416(b)).

(F) In section 1517 (24 U.S.C. 417).

(G) In section 1518(c) (24 U.S.C. 418(c)).

(H) In section 1519(c) (24 U.S.C. 419(c)).

(I) In section 1521(a) (24 U.S.C. 421(a)).

(J) In section 1522 (24 U.S.C. 422).

(K) In section 1523(b) (24 U.S.C. 423(b)).

(L) In section 1531 (24 U.S.C. 431).

(3) CLERICAL AMENDMENTS.—(A) The heading of section 1515 of such Act is amended to read as follows:

''SEC. 1515. CHIEF EXECUTIVE OFFICER.''.

(B) The table of contents for such Act is amended by striking the item relating to section 1515 and inserting the following new item:

''Sec. 1515. Chief Executive Officer.''.

(4) REFERENCES.—Any reference in any law, regulation, document, record, or other paper of the United States to the Chief Operating Officer of the Armed Forces Retirement Home shall be considered to be a reference to the Chief Executive Officer of the Armed Forces Retirement Home.

(b) PHYSICIANS AND DENTISTS FOR EACH RETIREMENT HOME FACILITY.—Section 1513 of such Act (24 U.S.C. 413) is amended—

(1) in subsection (a), by striking ''subsection (b)'' and inserting ''subsections (b), (c), and (d)''; and

(2) by adding at the end the following new subsection:

''(c) PHYSICIANS AND DENTISTS FOR EACH RETIREMENT HOME FACILITY.—(1) In providing for the health care needs of residents under subsection (c), the Retirement Home shall have in attendance at each facility of the Retirement Home, during the daily business hours of such facility, a physician and a dentist, each of whom shall have skills and experience suited to residents of such facility.

''(2) In providing for the health care needs of residents, the Retirement shall also have available to residents of each facility of the Retirement Home, on an on-call basis during hours other than the daily business hours of such facility, a physician and a dentist each of whom have skills and experience suited to residents of such facility.

''(3) In this subsection, the term 'daily business hours' means the hours between 9 o'clock ante meridian and 5 o'clock post meridian, local time, on each of Monday through Friday.''.

(c) TRANSPORTATION TO MEDICAL CARE OUTSIDE RETIREMENT HOME FACILITIES.—Section 1513 of such Act is further amended—

(1) in the third sentence of subsection (b), by inserting '', except as provided in subsection (d),'' after ''shall not''; and

(2) by adding at the end the following new subsection:

''(d) TRANSPORTATION TO MEDICAL CARE OUTSIDE RETIREMENT HOME FACILITIES.—The Retirement Home shall provide to any resident of a facility of the Retirement Home, upon request of such resident, transportation to any medical facility located not more than 30 miles from such facility for the provision of medical care to such resident. The Retirement Home may not collect a fee from a resident for transportation provided under this subsection.''.

(d) MILITARY DIRECTOR FOR EACH RETIREMENT HOME.—Section 1517(b)(1) of such Act (24 U.S.C. 417(b)(1)) is amended by striking ''a civilian with experience as a continuing care retirement community professional or''.

SA 1401. Mr. KENNEDY (for himself, Ms. COLLINS, Mrs. CLINTON, Mr. ROBERTS, Ms. MIKULSKI, Mr. SANTORUM, Mr. LIEBERMAN, and Mrs. DOLE) submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle B of title II, add the following:

SEC. 213. DEFENSE BASIC RESEARCH PROGRAMS.

(a) ARMY PROGRAMS.—(1) The amount authorized to be appropriated by section 201(1) for research, development, test, and evaluation for the Army is hereby increased by $10,000,000.

(2) Of the amount authorized to be appropriated by section 201(1) for research, development, test, and evaluation for the Army, as increased by paragraph (1), $10,000,000 shall be available for Program Element 0601103A for University Research Initiatives.

(b) NAVY PROGRAMS.—(1) The amount authorized to be appropriated by section 201(2) for research, development, test, and evaluation for the Navy is hereby increased by $10,000,000.

(2) Of the amount authorized to be appropriated by section 201(2) for research, development, test, and evaluation for the Navy, as increased by paragraph (1), $10,000,000 shall be available for Program Element 0601103N for University Research Initiatives.

(c) AIR FORCE PROGRAMS.—(1) The amount authorized to be appropriated by section 201(3) for research, development, test, and evaluation for the Air Force is hereby increased by $10,000,000.

(2) Of the amount authorized to be appropriated by section 201(3) for research, development, test, and evaluation for the Air Force, as increased by paragraph (1), $10,000,000 shall be available for Program Element 0601103F for University Research Initiatives.

(d) DEFENSE-WIDE ACTIVITIES.—(1) The amount authorized to be appropriated by section 201(4) for research, development, test, and evaluation for Defense-wide activities is hereby increased by $20,000,000.

(2) Of the amount authorized to be appropriated by section 201(4) for research, development, test, and evaluation for Defense-wide activities, as increased by paragraph (1)—

(A) $10,000,000 shall be available for Program Element 0601120D8Z for the SMART National Defense Education Program; and

(B) $10,000,000 shall be available for Program Element 0601101E for the Defense Advanced Research Projects Agency for fundamental research in computer science and cybersecurity.

(e) OFFSET.—The amount authorized to be appropriated by section 301(5) for operation and maintenance for Defense-wide activities is hereby reduced by $50,000,000, with the amount of the reduction to be allocated to amounts available for information technology initiatives.

(f) SENSE OF SENATE.—It is the sense of the Senate that it should be a goal of the Department of Defense to allocate to basic research programs each fiscal year an amount equal to 15 percent of the funds available to the Department of Defense for science and technology in such fiscal year.

SA 1402. Mr. AKAKA (for himself, Mr. COCHRAN, and Mr. DODD) submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 286, between lines 7 and 8, insert the following:

SEC. 1073. ESTABLISHMENT OF NATIONAL FOREIGN LANGUAGE COORDINATION COUNCIL.

(a) ESTABLISHMENT.—There is established the National Foreign Language Coordination Council (in this section referred to as the ''Council''), which shall be an independent establishment as defined under section 104 of title 5, United States Code.

(b) MEMBERSHIP.—The Council shall consist of the following members or their designees:

(1) The National Language Director, who shall serve as the chairperson of the Council.

(2) The Secretary of Education.

(3) The Secretary of Defense.

(4) The Secretary of State.

(5) The Secretary of Homeland Security.

(6) The Attorney General.

(7) The Director of National Intelligence.

(8) The Secretary of Labor.

(9) The Director of the Office of Personnel Management.

(10) The Director of the Office of Management and Budget.

(11) The Secretary of Commerce.

(12) The Secretary of Health and Human Services.

(13) The Secretary of the Treasury.

(14) The Secretary of Housing and Urban Development.

(15) The Secretary of Agriculture.
(16) The heads of such other Federal agencies as the Council considers appropriate.
(c) RESPONSIBILITIES.—
(1) IN GENERAL.—The Council shall be charged with—
(A) developing a national foreign language strategy, within 18 months of the date of enactment of this section, in consultation with—
(i) State and local government agencies;
(ii) academic sector institutions;
(iii) foreign language related interest groups;
(iv) business associations;
(v) industry;
(vi) heritage associations; and
(vii) other relevant stakeholders;
(B) conducting a survey of Federal agency needs for foreign language area expertise; and
(C) overseeing the implementation of such strategy through—
(i) execution of subsequent law; and
(ii) the promulgation and enforcement of rules and regulations.
(2) STRATEGY CONTENT.—The strategy developed under paragraph (1) shall include—
(A) identification of crucial priorities across all sectors;
(B) identification and evaluation of Federal foreign language programs and activities, including—
(i) recommendations on coordination;
(ii) program enhancements; and
(iii) allocation of resources so as to maximize use of resources;
(C) needed national policies and corresponding legislative and regulatory actions in support of, and allocation of designated resources to, promising programs and initiatives at all levels (Federal, State, and local), especially in the less commonly taught languages that are seen as critical for national security and global competitiveness in the next 20 to 50 years;
(D) effective ways to increase public awareness of the need for foreign language skills and career paths in all sectors that can employ those skills, with the objective of increasing support for foreign language study among—
(i) Federal, State, and local leaders;
(ii) students;
(iii) parents;
(iv) elementary, secondary, and postsecondary educational institutions; and
(v) potential employers;
(E) incentives for related educational programs, including foreign language teacher training;
(F) coordination of cross-sector efforts, including public-private partnerships;
(G) coordination initiatives to develop a strategic posture for language research and recommendations for funding for applied foreign language research into issues of national concern;
(H) assistance for—
(i) the development of foreign language achievement standards; and
(ii) corresponding assessments for the elementary, secondary, and postsecondary education levels, including the National Assessment of Educational Progress in foreign languages;
(I) development of —
(i) language skill-level certification standards;
(ii) an ideal course of pre-service and professional development study for those who teach foreign language;
(iii) suggested graduation criteria for foreign language studies and appropriate non-language studies, such as—
(I) international business;
(II) national security;
(III) public administration;
(IV) health care;
(V) engineering;
(VI) law;
(VII) journalism; and
(VIII) sciences; and
(J) identification of and means for replicating best practices at all levels and in all sectors, including best practices from the international community.
(d) MEETINGS.—The Council may hold such meetings, and sit and act at such times and places, as the Council considers appropriate, but shall meet in formal session at least 2 times a year. State and local government agencies and other organizations (such as academic sector institutions, foreign language-related interest groups, business associations, industry, and heritage community organizations) shall be invited, as appropriate, to public meetings of the Council at least once a year.
(e) STAFF.—
(1) IN GENERAL.—The Director may appoint and fix the compensation of such additional personnel as the Director considers necessary to carry out the duties of the Council.
(2) DETAILS FROM OTHER AGENCIES.—Upon request of the Council, the head of any Federal agency may detail, on a reimbursable basis, any of the personnel of such agency to the Council.
(3) EXPERTS AND CONSULTANTS.—With the approval of the Council, the Director may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.
(f) POWERS.—
(1) DELEGATION.—Any member or employee of the Council may, if authorized by the Council, take any action that the Council is authorized to take in this section.
(2) INFORMATION.—The Council may secure directly from any Federal agency such information, consistent with Federal privacy laws, the Council considers necessary to carry out its responsibilities. Upon request of the Director, the head of such agency shall furnish such information to the Council.
(3) DONATIONS.—The Council may accept, use, and dispose of gifts or donations of services or property.
(4) MAIL.—The Council may use the United States mail in the same manner and under the same conditions as other Federal agencies.
(g) CONFERENCES, NEWSLETTER, AND WEBSITE.—In carrying out this section, the Council—
(1) may arrange Federal, regional, State, and local conferences for the purpose of developing and coordinating effective programs and activities to improve foreign language education;
(2) may publish a newsletter concerning Federal, State, and local programs that are effectively meeting the foreign language needs of the nation; and
(3) shall create and maintain a website containing information on the Council and its activities, best practices on language education, and other relevant information.
(h) REPORTS.—Not later than 90 days after the date of enactment of this section, and annually thereafter, the Council shall prepare and transmit to the President and Congress a report that describes the activities of the Council and the efforts of the Council to improve foreign language education and training and impediments, including any statutory and regulatory restrictions, to the use of each such program.
(i) ESTABLISHMENT OF A NATIONAL LANGUAGE DIRECTOR.—
(1) IN GENERAL.—There is established a National Language Director who shall be appointed by the President. The National Language Director shall be a nationally recognized individual with credentials and abilities across all of the sectors to be involved with creating and implementing long-term solutions to achieving national foreign language and cultural competency.
(2) RESPONSIBILITIES.—The National Language Director shall—
(A) develop and oversee the implementation of a national foreign language strategy across all sectors;
(B) establish formal relationships among the major stakeholders in meeting the needs of the Nation for improved capabilities in foreign languages and cultural understanding, including Federal, State, and local government agencies, academia, industry, labor, and heritage communities; and
(C) coordinate and lead a public information campaign that raises awareness of public and private sector careers requiring foreign language skills and cultural understanding, with the objective of increasing interest in and support for the study of foreign languages among national leaders, the business community, local officials, parents, and individuals.
(3) COMPENSATION.—The National Language Director shall be paid at a rate of pay payable for a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.
(j) ENCOURAGEMENT OF STATE INVOLVEMENT.—
(1) STATE CONTACT PERSONS.—The Council shall consult with each State to provide for the designation by each State of an individual to serve as a State contact person for the purpose of receiving and disseminating information and communications received from the Council.
(2) STATE INTERAGENCY COUNCILS AND LEAD AGENCIES.—Each State is encouraged to establish a State interagency council on foreign language coordination or designate a lead agency for the State for the purpose of assuming primary responsibility for coordinating and interacting with the Council and State and local government agencies as necessary.
(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as necessary to carry out this section.

SA 1403. Mr. AKAKA submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle C of title III, add the following:

SEC. 330. DEMONSTRATION PROJECT ON EMERGENCY COMMUNICATIONS NETWORK IN HAWAII.

(a) IN GENERAL.—The Secretary of Defense shall carry out a demonstration project in the State of Hawaii to assess the feasability and advisability of utilizing an emergency communications network (ECN) to link civil defense sites in the State of Hawaii with Federal, State, and local emergency responder organizations in that State.
(b) EMERGENCY COMMUNICATIONS NETWORK.—
(1) IN GENERAL.—In carrying out the demonstration project, the Secretary shall establish in the State of Hawaii an emergency communications network to be known as the Emergency Communications Network–Hawaii (in this section referred to as the ''Network'' or ''ECN–H'').

(2) ELEMENTS.—The Network shall, to the extent practicable, consist of the elements as follows:

(A) Wireless satellite interactive ground terminals and mobile terminals.

(B) A remote teleport service enabling the high-speed Internet transmission of voice, video, data, and fax information, teleconferencing, and related applications.

(C) Commercially available technologies, including technologies that integrate digital broadcast with return channel over satellite (DVB–RCS) with voice over Internet Protocol (VOIP) conversion.

(D) Radio interoperability units to assemble each ground terminal [it's not clear what this means].

(3) CAPABILITIES.—The Network shall, to the extent practicable, have the capabilities as follows:

(A) To provide a link between civil defense sites in the State of Hawaii and Federal, State, and local emergency responder organizations in that State.

(B) To further enhance interoperability among emergency responder organizations in the State of Hawaii.

(C) To facilitate the evaluation of the Network by appropriate Federal agencies for purposes of determining the feasability and advisability of adding additional functions to the Network.

(4) LOCATION OF CERTAIN COMPONENTS.—(A) In order to facilitate uninterrupted communications for emergency responder organizations in the State of Hawaii, the return channel over satellite (RCS) hub for the Network shall be located at an appropriate location in the continental United States selected by the Secretary for purposes of the demonstration project.

(B) Not less than 13 grounds terminals, and not less than 6 mobile terminals, of the Network shall be provided to appropriate elements of State civil defense agencies and county law enforcement offices in the State of Hawaii selected by the Secretary for purposes of the demonstration project upon recommendations made by State civil defense authorities in that State.

(5) ASSIGNMENT OF ADDITIONAL COMPONENTS TO FEDERAL UNITS.—The Secretary shall assign a terminal for the Network, and provide for the full integration of each terminal so assigned with the Network, to each unit as follows:

(A) The 93rd Weapons of Mass Destruction Civil Support Team (CST) of the Army National Guard of the State of Hawaii.

(B) The Joint Rear Area Coordinator for Hawaii.

(c) REPORT.—Not later than _____, the Secretary shall submit to the congressional defense committees a report on the demonstration project carried out under this section. The report shall include—

(1) a description of the Network;

(2) an assessment of the utility of the Network in providing a link between civil defense sites in the State of Hawaii and Federal, State, and local emergency responder organizations in that State; and

(3) such recommendations for legislative or administrative action as the Secretary considers appropriate in light of the demonstration project.

(d) FUNDING.—Of the amount authorized to be appropriated by section 301(5) for operation and maintenance, Defense–wide activities, $4,000,000 shall be available to carry out the demonstration project required by this section.

SA 1404. Mr. AKAKA (for himself and Mr. HATCH) submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle C of title V, add the following:

SEC. 538. PILOT PROGRAM ON ENHANCED QUALITY OF LIFE FOR MEMBERS OF THE ARMY RESERVE AND THEIR FAMILIES.

(a) PILOT PROGRAM REQUIRED.—

(1) IN GENERAL.—The Secretary of the Army shall carry out a pilot program to assess the feasability and advisability of utilizing a coalition of military and civilian community personnel at military installations in order to enhance the quality of life for members of the Army Reserve who serve at such installations and their families.

(2) LOCATIONS.—The Secretary shall carry out the pilot program at a military installation selected by the Secretary for purposes of the pilot program in each State as follows:

(A) The State of Hawaii.

(B) The State of Utah.

(b) PARTICIPATING PERSONNEL.—A coalition of personnel under the pilot program shall consist of—

(1) such command personnel at the installation concerned as the commander of such installation considers appropriate;

(2) such other military personnel at such installation as the commander of such installation considers appropriate; and

(3) appropriate members of the civilian community of installation, such as clinicians and teachers, who volunteer for participation in the coalition.

(c) OBJECTIVES.—

(1) PRINCIPLE OBJECTIVE.—The principle objective of the pilot program shall be to enhance the quality of life for members of the Army Reserve and their families in order to enhance the mission readiness of such members, to facilitate the transition of such members to and from deployment, and to enhance the retention of such members.

(2) OBJECTIVES RELATING TO DEPLOYMENT.—In seeking to achieve the principle objective under paragraph (1) with respect to the deployment of members of the Army Reserve, each coalition under the pilot program shall seek to assist members of the Army Reserve and their families in—

(A) successfully coping with the absence of such members from their families during deployment; and

(B) successfully addressing other difficulties associated with extended deployments, including difficulties of members on deployment and difficulties of family members at home.

(3) METHODS TO ACHIEVE OBJECTIVES.—The methods selected by each coalition under the pilot program to achieve the objectives specified in this subsection shall include methods as follows:

(A) Methods that promote a balance of work and family responsibilities through a principle-centered approach to such matters.

(B) Methods that promote the establishment of appropriate priorities for family matters, such as the allocation of time and attention to finances, within the context of meeting military responsibilities.

(C) Methods that promote the development of meaningful family relationships.

(D) Methods that promote the development of parenting skills intended to raise emotionally healthy and empowered children.

(d) REPORT.—Not later than April 1, 2007, the Secretary shall submit to the congressional defense committees a report on the pilot program carried out under this section. The report shall include—

(1) a description of the pilot program;

(2) an assessment of the benefits of utilizing a coalition of military and civilian community personnel on military installations in order to enhance the quality of life for members of the Army Reserve and their families; and

(3) such recommendations for legislative or administrative action as the Secretary considers appropriate in light of the pilot program.

(e) FUNDING.—

(1) IN GENERAL.—The amount authorized to be appropriated by section 301(6) for operation and maintenance for the Army Reserve is hereby increased by $160,000, with the amount of the increase to be available to carry out the pilot program required by this section.

(2) OFFSET.—The amount authorized to be appropriated by section 201(2) for research, development, test, and evaluation for the Navy and available for Ship Self Defense (Detect and Control) (PE #0604775N) is hereby reduced by $160,000, with the amount of the reduction to be allocated to amounts for Autonomous Unmanned Surface Vessel.

SA 1405. Mr. ALLARD (for himself and Mr. MCCONNELL) submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 66, after line 22, insert the following:

SEC. 330. LIFE CYCLE COST ESTIMATES FOR THE DESTRUCTION OF LETHAL CHEMICAL MUNITIONS UNDER ASSEMBLED CHEMICAL WEAPONS ALTERNATIVES PROGRAM.

Upon completion of 60 percent of the design build at each site of the Assembled Chemical Weapons Alternatives program, the Program Manager for Assembled Chemical Weapons Alternatives shall, after consultation with the congressional defense committees, certify in writing to such committees updated and revised life cycle cost estimates for the destruction of lethal chemical munitions for each site under such program.

SA 1406. Mr. LUGAR submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 296, after line 19, add the following:

SEC. 1205. SECURITY AND STABILIZATION ASSISTANCE.

(a) ASSISTANCE AUTHORIZED.—Notwithstanding any other provision of law, the Secretary of Defense may, upon the request of the Secretary of State, authorize the use or transfer of defense articles, services, training, or other support, including support acquired by contract or otherwise, to provide

reconstruction, security, or stabilization assistance to a foreign country for the purpose of restoring or maintaining peace and security in that country if the Secretary of Defense determines that—

(1) an unforeseen emergency exists in that country that requires the immediate provision of such assistance; and

(2) the provision of such assistance is in the national security interests of the United States.

(b) AVAILABILITY OF FUNDS.—Subject to subsection (a), the Secretary of Defense may transfer funds available to the Department of Defense to the Department of State or any other department or agency of the United States Government to carry out the purposes of this section. Funds so transferred shall remain available until expended.

(c) LIMITATION.—The aggregate value of assistance provided or funds transferred under the authority of this section may not exceed $200,000,000.

(d) COMPLEMENTARY AUTHORITY.—The authority to provide assistance and transfer funds under this section shall be in addition to any other authority to provide assistance to a foreign country or to transfer funds.

(e) EXPIRATION.—The authority to provide assistance and transfer funds under this section shall expire on September 30, 2006.

SA 1407. Mr. LUGAR submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 1008.

SA 1408. Mr. HAGEL submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 170, between lines 16 and 17, insert the following:

SEC. 653. EXEMPTION FROM PAYMENT OF INDIVIDUAL CONTRIBUTIONS UNDER MONTGOMERY GI BILL OF ACTIVE DUTY MEMBERS OF THE ARMED FORCES UNDER EXECUTIVE ORDER 13235.

(a) ACTIVE DUTY PROGRAM.—Notwithstanding section 3011(b) of title 38, United States Code, no reduction in basic pay otherwise required by such section shall be made in the case of a covered member of the Armed Forces.

(b) SELECTED RESERVE PROGRAM.—Notwithstanding section 3012(c) of title 38, United States Code, no reduction in basic pay otherwise required by such section shall be made in the case of a covered member of the Armed Forces.

(c) TERMINATION OF ON-GOING REDUCTIONS IN BASIC PAY.—In the case of a covered member of the Armed Forces who first became a member of the Armed Forces or first entered on active duty as a member of the Armed Forces before the date of the enactment of this Act and whose basic pay would, but for subsection (a) or (b), be subject to reduction under section 3011(b) or 3012(c) of title 38, United States Code, for any month beginning on or after that date, the reduction of basic pay of such covered member of the Armed Forces under such section 3011(b) or 3012(c), as applicable, shall cease commencing with the first month beginning on or after that date.

(d) COVERED MEMBER OF THE ARMED FORCES DEFINED.—In this section, the term ''covered member of the Armed Forces'' means any individual who serves on active duty as a member of the Armed Forces during the period—

(1) beginning on November 16, 2001, the date of Executive Order 13235, relating to National Emergency Construction Authority; and

(2) ending on the termination date of the Executive order referred to in paragraph (1).

SEC. 654. OPPORTUNITY FOR ACTIVE DUTY MEMBERS OF THE ARMED FORCES UNDER EXECUTIVE ORDER 13235 TO WITHDRAW ELECTION NOT TO ENROLL IN MONTGOMERY GI BILL.

Section 3018 of title 38, United States Code, is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively;

(2) by inserting after subsection (b) the following:

''(c)(1) Notwithstanding any other provision of this chapter, during the 1-year period beginning on the date of enactment of this subsection, an individual who—

''(A) serves on active duty as a member of the Armed Forces during the period beginning on November 16, 2001, and ending on the termination date of Executive Order 13235, relating to National Emergency Construction Authority; and

''(B) has served continuously on active duty without a break in service following the date the individual first becomes a member or first enters on active duty as a member of the Armed Forces,

shall have the opportunity, on such form as the Secretary of Defense shall prescribe, to withdraw an election under section 3011(c)(1) or 3012(d)(1) not to receive education assistance under this chapter.

''(2) An individual described paragraph (1) who made an election under section 3011(c)(1) or 3012(d)(1) and who—

''(A) while serving on active duty during the 1-year period beginning on the date of the enactment of this subsection makes a withdrawal of such election;

''(B) continues to serve the period of service which such individual was obligated to serve;

''(C) serves the obligated period of service described in subparagraph (B) or before completing such obligated period of service is described by subsection (b)(3)(B); and

''(D) meets the requirements set forth in paragraphs (4) and (5) of subsection (b), is entitled to basic educational assistance under this chapter.''; and

(3) in subsection (e), as redesignated, by inserting ''or (c)(2)(A)'' after ''(b)(1)''.

SA 1409. Mr. HAGEL submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle D of title VI, add the following:

SEC. 642. COMMENCEMENT OF RECEIPT OF NON-REGULAR SERVICE RETIRED PAY BY RESERVES WHO SERVED ON ACTIVE DUTY FOR SIGNIFICANT PERIODS DURING THE GLOBAL WAR ON TERRORISM.

(a) REDUCED ELIGIBILITY AGE.—Section 12731 of title 10, United States Code, is amended—

(1) in subsection (a), by striking paragraph (1) and inserting the following:

''(1) has attained the eligibility age applicable under subsection (f) to that person;''; and

(2) by adding at the end the following new subsection:

''(f)(1) Subject to paragraph (2), the eligibility age for the purposes of subsection (a)(1) is 60 years of age.

''(2)(A) In the case of a person who, as a member of a reserve component of an armed force, served on active duty during a global war on terrorism service year under a provision of law referred to in section 101(a)(13)(B) of this title, the eligibility age for the purposes of subsection (a)(1) is reduced below 60 years of age by one year for each global war on terrorism service year during which such person so served on active duty for at least 90 consecutive days, subject to subparagraph (B).

''(B) The eligibility age may not be reduced below 55 years of age for any person under subparagraph (A).

''(C) In this paragraph, the term 'global war on terrorism service year' means—

''(i) the one-year period beginning on November 16, 2001, and ending on November 15, 2002; and

''(ii) each successive one-year period beginning on November 16 of a year.

(b) ADMINISTRATION OF RELATED PROVISIONS OF LAW OR POLICY.—With respect to any provision of law, or of any policy, regulation, or directive of the executive branch, that refers to a member or former member of the uniformed services as being eligible for, or entitled to, retired pay under chapter 1223 of title 10, United States Code, but for the fact that the member or former member is under 60 years of age, such provision shall be carried out with respect to that member or former member by substituting for the reference to being 60 years of age a reference to having attained the eligibility age applicable under subsection (f) of section 12731 of title 10, United States Code (as added by subsection (a)), to such member or former member for qualification for such retired pay under subsection (a) of such section.

(c) EFFECTIVE DATE AND APPLICABILITY.—The amendment made by subsection (a) shall take effect as of November 16, 2001, and shall apply with respect to applications for retired pay that are submitted under section 12731(a) of title 10, United States Code, on or after the date of the enactment of this Act.

SA 1410. Mrs. FEINSTEIN (for herself and Mr. HAGEL) submitted an amendment intended to be proposed by her to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 296, after line 19, add the following:

SEC. 1205. SENSE OF CONGRESS ON SUPPORT FOR NUCLEAR NON-PROLIFERATION TREATY.

Congress—

(1) reaffirms its support for the objectives of the Treaty on the Non-Proliferation of Nuclear Weapons, done at Washington, London, and Moscow July 1, 1968, and entered into force March 5, 1970 (the ''Nuclear Non-Proliferation Treaty'');

(2) expresses its support for all appropriate measures to strengthen the Nuclear Non-Proliferation Treaty and to attain its objectives; and

(3) calls on all parties to the Nuclear Non-Proliferation Treaty—

(A) to insist on strict compliance with the non-proliferation obligations of the Nuclear Non-Proliferation Treaty and to undertake effective enforcement measures against states that are in violation of their obligations under the Treaty;

(B) to agree to establish more effective controls on enrichment and reprocessing technologies that can be used to produce materials for nuclear weapons;

(C) to expand the ability of the International Atomic Energy Agency to inspect and monitor compliance with safeguard agreements and standards to which all states should adhere through existing authority and the additional protocols signed by the states party to the Nuclear Non-Proliferation Treaty;

(D) to demonstrate the international community's unified opposition to a nuclear weapons program in Iran by—

(i) supporting the efforts of the United States and the European Union to prevent the Government of Iran from acquiring a nuclear weapons capability; and

(ii) using all appropriate diplomatic means at their disposal to convince the Government of Iran to abandon its uranium enrichment program;

(E) to strongly support the ongoing United States diplomatic efforts in the context of the six-party talks that seek the verifiable and irreversible disarmament of North Korea's nuclear weapons programs and to use all appropriate diplomatic means to achieve this result;

(F) to pursue diplomacy designed to address the underlying regional security problems in Northeast Asia, South Asia, and the Middle East, which would facilitate non-proliferation and disarmament efforts in those regions;

(G) to accelerate programs to safeguard and eliminate nuclear weapons-usable material to the highest standards to prevent access by terrorists and governments;

(H) to halt the use of highly enriched uranium in civilian reactors;

(I) to strengthen national and international export controls and relevant security measures as required by United Nations Security Council Resolution 1540;

(J) to agree that no state may withdraw from the Nuclear Non-Proliferation Treaty and escape responsibility for prior violations of the Treaty or retain access to controlled materials and equipment acquired for ''peaceful'' purposes;

(K) to accelerate implementation of disarmament obligations and commitments under the Nuclear Non-Proliferation Treaty for the purpose of reducing the world's stockpiles of nuclear weapons and weapons-grade fissile material; and

(L) to strengthen and expand support for the Proliferation Security Initiative.

SA 1411. Mr. WARNER (for Mr. ENZI (for himself, Mr. JEFFORDS, Mr. GREGG, Mr. KENNEDY, Mr. FRIST, Mrs. MURRAY, and Mr. BINGAMAN)) proposed an amendment to the bill S. 544, to amend title IX of the Public Health Service Act to provide for the improvement of patient safety and to reduce the incidence of events that adversely effect patient safety; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Patient Safety and Quality Improvement Act of 2005''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

SEC. 2. AMENDMENTS TO PUBLIC HEALTH SERVICE ACT.

(a) IN GENERAL.—Title IX of the Public Health Service Act (42 U.S.C. 299 et seq.) is amended—

(1) in section 912(c), by inserting '', in accordance with part C,'' after ''The Director shall'';

(2) by redesignating part C as part D;

(3) by redesignating sections 921 through 928, as sections 931 through 938, respectively;

(4) in section 938(1) (as so redesignated), by striking ''921'' and inserting ''931''; and

(5) by inserting after part B the following:

''PART C—PATIENT SAFETY IMPROVEMENT

''SEC. 921. DEFINITIONS.

''In this part:

''(1) HIPAA CONFIDENTIALITY REGULATIONS.—The term 'HIPAA confidentiality regulations' means regulations promulgated under section 264(c) of the Health Insurance Portability and Accountability Act of 1996 (Public Law 104–191; 110 Stat. 2033).

''(2) IDENTIFIABLE PATIENT SAFETY WORK PRODUCT.—The term 'identifiable patient safety work product' means patient safety work product that—

''(A) is presented in a form and manner that allows the identification of any provider that is a subject of the work product, or any providers that participate in activities that are a subject of the work product;

''(B) constitutes individually identifiable health information as that term is defined in the HIPAA confidentiality regulations; or

''(C) is presented in a form and manner that allows the identification of an individual who reported information in the manner specified in section 922(e).

''(3) NONIDENTIFIABLE PATIENT SAFETY WORK PRODUCT.—The term 'nonidentifiable patient safety work product' means patient safety work product that is not identifiable patient safety work product (as defined in paragraph (2)).

''(4) PATIENT SAFETY ORGANIZATION.—The term 'patient safety organization' means a private or public entity or component thereof that is listed by the Secretary pursuant to section 924(d).

''(5) PATIENT SAFETY ACTIVITIES.—The term 'patient safety activities' means the following activities:

''(A) Efforts to improve patient safety and the quality of health care delivery.

''(B) The collection and analysis of patient safety work product.

''(C) The development and dissemination of information with respect to improving patient safety, such as recommendations, protocols, or information regarding best practices.

''(D) The utilization of patient safety work product for the purposes of encouraging a culture of safety and of providing feedback and assistance to effectively minimize patient risk.

''(E) The maintenance of procedures to preserve confidentiality with respect to patient safety work product.

''(F) The provision of appropriate security measures with respect to patient safety work product.

''(G) The utilization of qualified staff.

''(H) Activities related to the operation of a patient safety evaluation system and to the provision of feedback to participants in a patient safety evaluation system.

''(6) PATIENT SAFETY EVALUATION SYSTEM.—The term 'patient safety evaluation system' means the collection, management, or analysis of information for reporting to or by a patient safety organization.

''(7) PATIENT SAFETY WORK PRODUCT.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'patient safety work product' means any data, reports, records, memoranda, analyses (such as root cause analyses), or written or oral statements—

''(i) which—

''(I) are assembled or developed by a provider for reporting to a patient safety organization and are reported to a patient safety organization; or

''(II) are developed by a patient safety organization for the conduct of patient safety activities;

and which could result in improved patient safety, health care quality, or health care outcomes; or

''(ii) which identify or constitute the deliberations or analysis of, or identify the fact of reporting pursuant to, a patient safety evaluation system.

''(B) CLARIFICATION.—

''(i) Information described in subparagraph (A) does not include a patient's medical record, billing and discharge information, or any other original patient or provider record.

''(ii) Information described in subparagraph (A) does not include information that is collected, maintained, or developed separately, or exists separately, from a patient safety evaluation system. Such separate information or a copy thereof reported to a patient safety organization shall not by reason of its reporting be considered patient safety work product.

''(iii) Nothing in this part shall be construed to limit—

''(I) the discovery of or admissibility of information described in this subparagraph in a criminal, civil, or administrative proceeding;

''(II) the reporting of information described in this subparagraph to a Federal, State, or local governmental agency for public health surveillance, investigation, or other public health purposes or health oversight purposes; or

''(III) a provider's recordkeeping obligation with respect to information described in this subparagraph under Federal, State, or local law.

''(8) PROVIDER.—The term 'provider' means—

''(A) an individual or entity licensed or otherwise authorized under State law to provide health care services, including—

''(i) a hospital, nursing facility, comprehensive outpatient rehabilitation facility, home health agency, hospice program, renal dialysis facility, ambulatory surgical center, pharmacy, physician or health care practitioner's office, long term care facility, behavior health residential treatment facility, clinical laboratory, or health center; or

''(ii) a physician, physician assistant, nurse practitioner, clinical nurse specialist, certified registered nurse anesthetist, certified nurse midwife, psychologist, certified social worker, registered dietitian or nutrition professional, physical or occupational therapist, pharmacist, or other individual health care practitioner; or

''(B) any other individual or entity specified in regulations promulgated by the Secretary.

''SEC. 922. PRIVILEGE AND CONFIDENTIALITY PROTECTIONS.

''(a) PRIVILEGE.—Notwithstanding any other provision of Federal, State, or local law, and subject to subsection (c), patient safety work product shall be privileged and shall not be—

''(1) subject to a Federal, State, or local civil, criminal, or administrative subpoena or order, including in a Federal, State, or local civil or administrative disciplinary proceeding against a provider;

''(2) subject to discovery in connection with a Federal, State, or local civil, criminal, or administrative proceeding, including in a Federal, State, or local civil or administrative disciplinary proceeding against a provider;

''(3) subject to disclosure pursuant to section 552 of title 5, United States Code (commonly known as the Freedom of Information Act) or any other similar Federal, State, or local law;

''(4) admitted as evidence in any Federal, State, or local governmental civil proceeding, criminal proceeding, administrative rulemaking proceeding, or administrative adjudicatory proceeding, including any such proceeding against a provider; or

''(5) admitted in a professional disciplinary proceeding of a professional disciplinary body established or specifically authorized under State law.

''(b) CONFIDENTIALITY OF PATIENT SAFETY WORK PRODUCT.—Notwithstanding any other provision of Federal, State, or local law, and subject to subsection (c), patient safety work product shall be confidential and shall not be disclosed.

''(c) EXCEPTIONS.—Except as provided in subsection (g)(3)—

''(1) EXCEPTIONS FROM PRIVILEGE AND CONFIDENTIALITY.—Subsections (a) and (b) shall not apply to (and shall not be construed to prohibit) one or more of the following disclosures:

''(A) Disclosure of relevant patient safety work product for use in a criminal proceeding, but only after a court makes an in camera determination that such patient safety work product contains evidence of a criminal act and that such patient safety work product is material to the proceeding and not reasonably available from any other source.

''(B) Disclosure of patient safety work product to the extent required to carry out subsection (f)(4)(A).

''(C) Disclosure of identifiable patient safety work product if authorized by each provider identified in such work product.

''(2) EXCEPTIONS FROM CONFIDENTIALITY.—Subsection (b) shall not apply to (and shall not be construed to prohibit) one or more of the following disclosures:

''(A) Disclosure of patient safety work product to carry out patient safety activities.

''(B) Disclosure of nonidentifiable patient safety work product.

''(C) Disclosure of patient safety work product to grantees, contractors, or other entities carrying out research, evaluation, or demonstration projects authorized, funded, certified, or otherwise sanctioned by rule or other means by the Secretary, for the purpose of conducting research to the extent that disclosure of protected health information would be allowed for such purpose under the HIPAA confidentiality regulations.

''(D) Disclosure by a provider to the Food and Drug Administration with respect to a product or activity regulated by the Food and Drug Administration.

''(E) Voluntary disclosure of patient safety work product by a provider to an accrediting body that accredits that provider.

''(F) Disclosures that the Secretary may determine, by rule or other means, are necessary for business operations and are consistent with the goals of this part.

''(G) Disclosure of patient safety work product to law enforcement authorities relating to the commission of a crime (or to an event reasonably believed to be a crime) if the person making the disclosure believes, reasonably under the circumstances, that the patient safety work product that is disclosed is necessary for criminal law enforcement purposes.

''(H) With respect to a person other than a patient safety organization, the disclosure of patient safety work product that does not include materials that—

''(i) assess the quality of care of an identifiable provider; or

''(ii) describe or pertain to one or more actions or failures to act by an identifiable provider.

''(3) EXCEPTION FROM PRIVILEGE.—Subsection (a) shall not apply to (and shall not be construed to prohibit) voluntary disclosure of nonidentifiable patient safety work product.

''(d) CONTINUED PROTECTION OF INFORMATION AFTER DISCLOSURE.—

''(1) IN GENERAL.—Patient safety work product that is disclosed under subsection (c) shall continue to be privileged and confidential as provided for in subsections (a) and (b), and such disclosure shall not be treated as a waiver of privilege or confidentiality, and the privileged and confidential nature of such work product shall also apply to such work product in the possession or control of a person to whom such work product was disclosed.

''(2) EXCEPTION.—Notwithstanding paragraph (1), and subject to paragraph (3)—

''(A) if patient safety work product is disclosed in a criminal proceeding, the confidentiality protections provided for in subsection (b) shall no longer apply to the work product so disclosed; and

''(B) if patient safety work product is disclosed as provided for in subsection (c)(2)(B) (relating to disclosure of nonidentifiable patient safety work product), the privilege and confidentiality protections provided for in subsections (a) and (b) shall no longer apply to such work product.

''(3) CONSTRUCTION.—Paragraph (2) shall not be construed as terminating or limiting the privilege or confidentiality protections provided for in subsection (a) or (b) with respect to patient safety work product other than the specific patient safety work product disclosed as provided for in subsection (c).

''(4) LIMITATIONS ON ACTIONS.—

''(A) PATIENT SAFETY ORGANIZATIONS.—

''(i) IN GENERAL.—A patient safety organization shall not be compelled to disclose information collected or developed under this part whether or not such information is patient safety work product unless such information is identified, is not patient safety work product, and is not reasonably available from another source.

''(ii) NONAPPLICATION.—The limitation contained in clause (i) shall not apply in an action against a patient safety organization or with respect to disclosures pursuant to subsection (c)(1).

''(B) PROVIDERS.—An accrediting body shall not take an accrediting action against a provider based on the good faith participation of the provider in the collection, development, reporting, or maintenance of patient safety work product in accordance with this part. An accrediting body may not require a provider to reveal its communications with any patient safety organization established in accordance with this part.

''(e) REPORTER PROTECTION.—

''(1) IN GENERAL.—A provider may not take an adverse employment action, as described in paragraph (2), against an individual based upon the fact that the individual in good faith reported information—

''(A) to the provider with the intention of having the information reported to a patient safety organization; or

''(B) directly to a patient safety organization.

''(2) ADVERSE EMPLOYMENT ACTION.—For purposes of this subsection, an 'adverse employment action' includes—

''(A) loss of employment, the failure to promote an individual, or the failure to provide any other employment-related benefit for which the individual would otherwise be eligible; or

''(B) an adverse evaluation or decision made in relation to accreditation, certification, credentialing, or licensing of the individual.

''(f) ENFORCEMENT.—

''(1) CIVIL MONETARY PENALTY.—Subject to paragraphs (2) and (3), a person who discloses identifiable patient safety work product in knowing or reckless violation of subsection (b) shall be subject to a civil monetary penalty of not more than $10,000 for each act constituting such violation.

''(2) PROCEDURE.—The provisions of section 1128A of the Social Security Act, other than subsections (a) and (b) and the first sentence of subsection (c)(1), shall apply to civil money penalties under this subsection in the same manner as such provisions apply to a penalty or proceeding under section 1128A of the Social Security Act.

''(3) RELATION TO HIPAA.—Penalties shall not be imposed both under this subsection and under the regulations issued pursuant to section 264(c)(1) of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d-2 note) for a single act or omission.

''(4) EQUITABLE RELIEF.—

''(A) IN GENERAL.—Without limiting remedies available to other parties, a civil action may be brought by any aggrieved individual to enjoin any act or practice that violates subsection (e) and to obtain other appropriate equitable relief (including reinstatement, back pay, and restoration of benefits) to redress such violation.

''(B) AGAINST STATE EMPLOYEES.—An entity that is a State or an agency of a State government may not assert the privilege described in subsection (a) unless before the time of the assertion, the entity or, in the case of and with respect to an agency, the State has consented to be subject to an action described in subparagraph (A), and that consent has remained in effect.

''(g) RULE OF CONSTRUCTION.—Nothing in this section shall be construed—

''(1) to limit the application of other Federal, State, or local laws that provide greater privilege or confidentiality protections than the privilege and confidentiality protections provided for in this section;

''(2) to limit, alter, or affect the requirements of Federal, State, or local law pertaining to information that is not privileged or confidential under this section;

''(3) except as provided in subsection (i), to alter or affect the implementation of any provision of the HIPAA confidentiality regulations or section 1176 of the Social Security

Act (or regulations promulgated under such section);

''(4) to limit the authority of any provider, patient safety organization, or other entity to enter into a contract requiring greater confidentiality or delegating authority to make a disclosure or use in accordance with this section;

''(5) as preempting or otherwise affecting any State law requiring a provider to report information that is not patient safety work product; or

''(6) to limit, alter, or affect any requirement for reporting to the Food and Drug Administration information regarding the safety of a product or activity regulated by the Food and Drug Administration.

''(h) CLARIFICATION.—Nothing in this part prohibits any person from conducting additional analysis for any purpose regardless of whether such additional analysis involves issues identical to or similar to those for which information was reported to or assessed by a patient safety organization or a patient safety evaluation system.

''(i) CLARIFICATION OF APPLICATION OF HIPAA CONFIDENTIALITY REGULATIONS TO PATIENT SAFETY ORGANIZATIONS.—For purposes of applying the HIPAA confidentiality regulations—

''(1) patient safety organizations shall be treated as business associates; and

''(2) patient safety activities of such organizations in relation to a provider are deemed to be health care operations (as defined in such regulations) of the provider.

''(j) REPORTS ON STRATEGIES TO IMPROVE PATIENT SAFETY.—

''(1) DRAFT REPORT.—Not later than the date that is 18 months after any network of patient safety databases is operational, the Secretary, in consultation with the Director, shall prepare a draft report on effective strategies for reducing medical errors and increasing patient safety. The draft report shall include any measure determined appropriate by the Secretary to encourage the appropriate use of such strategies, including use in any federally funded programs. The Secretary shall make the draft report available for public comment and submit the draft report to the Institute of Medicine for review.

''(2) FINAL REPORT.—Not later than 1 year after the date described in paragraph (1), the Secretary shall submit a final report to the Congress.

''SEC. 923. NETWORK OF PATIENT SAFETY DATABASES.

''(a) IN GENERAL.—The Secretary shall facilitate the creation of, and maintain, a network of patient safety databases that provides an interactive evidence-based management resource for providers, patient safety organizations, and other entities. The network of databases shall have the capacity to accept, aggregate across the network, and analyze nonidentifiable patient safety work product voluntarily reported by patient safety organizations, providers, or other entities. The Secretary shall assess the feasibility of providing for a single point of access to the network for qualified researchers for information aggregated across the network and, if feasible, provide for implementation.

''(b) DATA STANDARDS.—The Secretary may determine common formats for the reporting to and among the network of patient safety databases maintained under subsection (a) of nonidentifiable patient safety work product, including necessary work product elements, common and consistent definitions, and a standardized computer interface for the processing of such work product. To the extent practicable, such standards shall be consistent with the administrative simplification provisions of part C of title XI of the Social Security Act.

''(c) USE OF INFORMATION.—Information reported to and among the network of patient safety databases under subsection (a) shall be used to analyze national and regional statistics, including trends and patterns of health care errors. The information resulting from such analyses shall be made available to the public and included in the annual quality reports prepared under section 913(b)(2).

''SEC. 924. PATIENT SAFETY ORGANIZATION CERTIFICATION AND LISTING.

''(a) CERTIFICATION.—

''(1) INITIAL CERTIFICATION.—An entity that seeks to be a patient safety organization shall submit an initial certification to the Secretary that the entity—

''(A) has policies and procedures in place to perform each of the patient safety activities described in section 921(5); and

''(B) upon being listed under subsection (d), will comply with the criteria described in subsection (b).

''(2) SUBSEQUENT CERTIFICATIONS.—An entity that is a patient safety organization shall submit every 3 years after the date of its initial listing under subsection (d) a subsequent certification to the Secretary that the entity—

''(A) is performing each of the patient safety activities described in section 921(5); and

''(B) is complying with the criteria described in subsection (b).

''(b) CRITERIA.—

''(1) IN GENERAL.—The following are criteria for the initial and subsequent certification of an entity as a patient safety organization:

''(A) The mission and primary activity of the entity are to conduct activities that are to improve patient safety and the quality of health care delivery.

''(B) The entity has appropriately qualified staff (whether directly or through contract), including licensed or certified medical professionals.

''(C) The entity, within each 24-month period that begins after the date of the initial listing under subsection (d), has bona fide contracts, each of a reasonable period of time, with more than 1 provider for the purpose of receiving and reviewing patient safety work product.

''(D) The entity is not, and is not a component of, a health insurance issuer (as defined in section 2791(b)(2)).

''(E) The entity shall fully disclose—

''(i) any financial, reporting, or contractual relationship between the entity and any provider that contracts with the entity; and

''(ii) if applicable, the fact that the entity is not managed, controlled, and operated independently from any provider that contracts with the entity.

''(F) To the extent practical and appropriate, the entity collects patient safety work product from providers in a standardized manner that permits valid comparisons of similar cases among similar providers.

''(G) The utilization of patient safety work product for the purpose of providing direct feedback and assistance to providers to effectively minimize patient risk.

''(2) ADDITIONAL CRITERIA FOR COMPONENT ORGANIZATIONS.—If an entity that seeks to be a patient safety organization is a component of another organization, the following are additional criteria for the initial and subsequent certification of the entity as a patient safety organization:

''(A) The entity maintains patient safety work product separately from the rest of the organization, and establishes appropriate security measures to maintain the confidentiality of the patient safety work product.

''(B) The entity does not make an unauthorized disclosure under this part of patient safety work product to the rest of the organization in breach of confidentiality.

''(C) The mission of the entity does not create a conflict of interest with the rest of the organization.

''(c) REVIEW OF CERTIFICATION.—

''(1) IN GENERAL.—

''(A) INITIAL CERTIFICATION.—Upon the submission by an entity of an initial certification under subsection (a)(1), the Secretary shall determine if the certification meets the requirements of subparagraphs (A) and (B) of such subsection.

''(B) SUBSEQUENT CERTIFICATION.—Upon the submission by an entity of a subsequent certification under subsection (a)(2), the Secretary shall review the certification with respect to requirements of subparagraphs (A) and (B) of such subsection.

''(2) NOTICE OF ACCEPTANCE OR NON-ACCEPTANCE.—If the Secretary determines that—

''(A) an entity's initial certification meets requirements referred to in paragraph (1)(A), the Secretary shall notify the entity of the acceptance of such certification; or

''(B) an entity's initial certification does not meet such requirements, the Secretary shall notify the entity that such certification is not accepted and the reasons therefor.

''(3) DISCLOSURES REGARDING RELATIONSHIP TO PROVIDERS.—The Secretary shall consider any disclosures under subsection (b)(1)(E) by an entity and shall make public findings on whether the entity can fairly and accurately perform the patient safety activities of a patient safety organization. The Secretary shall take those findings into consideration in determining whether to accept the entity's initial certification and any subsequent certification submitted under subsection (a) and, based on those findings, may deny, condition, or revoke acceptance of the entity's certification.

''(d) LISTING.—The Secretary shall compile and maintain a listing of entities with respect to which there is an acceptance of a certification pursuant to subsection (c)(2)(A) that has not been revoked under subsection (e) or voluntarily relinquished.

''(e) REVOCATION OF ACCEPTANCE OF CERTIFICATION.—

''(1) IN GENERAL.—If, after notice of deficiency, an opportunity for a hearing, and a reasonable opportunity for correction, the Secretary determines that a patient safety organization does not meet the certification requirements under subsection (a)(2), including subparagraphs (A) and (B) of such subsection, the Secretary shall revoke the Secretary's acceptance of the certification of such organization.

''(2) SUPPLYING CONFIRMATION OF NOTIFICATION TO PROVIDERS.—Within 15 days of a revocation under paragraph (1), a patient safety organization shall submit to the Secretary a confirmation that the organization has taken all reasonable actions to notify each provider whose patient safety work product is collected or analyzed by the organization of such revocation.

''(3) PUBLICATION OF DECISION.—If the Secretary revokes the certification of an organization under paragraph (1), the Secretary shall—

''(A) remove the organization from the listing maintained under subsection (d); and

''(B) publish notice of the revocation in the Federal Register.

''(f) STATUS OF DATA AFTER REMOVAL FROM LISTING.—

''(1) NEW DATA.—With respect to the privilege and confidentiality protections described in section 922, data submitted to an entity within 30 days after the entity is removed from the listing under subsection (e)(3)(A) shall have the same status as data submitted while the entity was still listed.

''(2) PROTECTION TO CONTINUE TO APPLY.—If the privilege and confidentiality protections described in section 922 applied to patient safety work product while an entity was listed, or to data described in paragraph (1), such protections shall continue to apply to such work product or data after the entity is removed from the listing under subsection (e)(3)(A).

''(g) DISPOSITION OF WORK PRODUCT AND DATA.—If the Secretary removes a patient safety organization from the listing as provided for in subsection (e)(3)(A), with respect to the patient safety work product or data described in subsection (f)(1) that the patient safety organization received from another entity, such former patient safety organization shall—

''(1) with the approval of the other entity and a patient safety organization, transfer such work product or data to such patient safety organization;

''(2) return such work product or data to the entity that submitted the work product or data; or

''(3) if returning such work product or data to such entity is not practicable, destroy such work product or data.

''SEC. 925. TECHNICAL ASSISTANCE.

''The Secretary, acting through the Director, may provide technical assistance to patient safety organizations, including convening annual meetings for patient safety organizations to discuss methodology, communication, data collection, or privacy concerns.

''SEC. 926. SEVERABILITY.

''If any provision of this part is held to be unconstitutional, the remainder of this part shall not be affected.''.

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 937 of the Public Health Service Act (as redesignated by subsection (a)) is amended by adding at the end the following:

''(e) PATIENT SAFETY AND QUALITY IMPROVEMENT.—For the purpose of carrying out part C, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2006 through 2010.''.

(c) GAO STUDY ON IMPLEMENTATION.—

(1) STUDY.—The Comptroller General of the United States shall conduct a study on the effectiveness of part C of title IX of the Public Health Service Act (as added by subsection (a)) in accomplishing the purposes of such part.

(2) REPORT.—Not later than February 1, 2010, the Comptroller General shall submit a report on the study conducted under paragraph (1). Such report shall include such recommendations for changes in such part as the Comptroller General deems appropriate.

SA 1412. Mr. HATCH (for himself, Mr. INHOFE, Mr. BENNETT, and Mr. CHAMBLISS) submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 66, after line 22, insert the following:

SEC. 330. SENSE OF THE SENATE REGARDING DEPOT MAINTENANCE.

(a) FINDINGS.—The Senate finds that—

(1) the Depot Maintenance Strategy and Master Plan of the Air Force reflects the essential requirements for the Air Force to maintain a ready and controlled source of organic technical competence, thereby ensuring an effective and timely response to national defense contingencies and emergency requirements;

(2) since the publication of the Depot Maintenance Strategy and Master Plan of the Air Force in 2002, the service has made great progress toward modernizing all 3 of its Depots, in order to maintain their status as ''world class'' maintenance repair and overhaul operations;

(3) one of the indispensable components of the Depot Maintenance Strategy and Master Plan of the Air Force is the commitment of the Air Force to allocate $150,000,000 a year over 6 years, beginning in fiscal year 2004, for recapitalization and investment, including the procurement of technologically advanced facilities and equipment, of our Nation's 3 Air Force depots; and

(4) the funds expended to date have ensured that transformation projects, such as the initial implementation of ''Lean'' and ''Six Sigma'' production techniques, have achieved great success in dramatically reducing the time necessary to perform depot maintenance on aircraft.

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

(1) the Air Force should be commended for the implementation of its Depot Maintenance Strategy and Master Plan and, in particular, meeting its commitment to invest $150,000,000 a year over 6 years, since fiscal year 2004, in the Nation's 3 Air Force Depots; and

(2) the Air Force should continue to fully fund its commitment of $150,000,000 a year through fiscal year 2009 in investments and recapitalization projects pursuant to the Depot Maintenance Strategy and Master Plan.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition and Forestry be authorized to conduct a committee business meeting during the session of the Senate on Thursday, July 21, 2005 at 10:30 a.m. in SR–328A, Russell Senate Office Building. The purpose of this business meeting is to mark up an original bill regarding the reauthorization of the Commodity Futures Trading Commission.

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on July 21, 2005, at 10 a.m., to conduct a hearing on the ''The Semiannual Monetary Policy Report to the Congress.''

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Thursday, July 21, 2005, at 10 a.m., on pending committee business.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Thursday, July 21, at 10 a.m.

The purpose of this hearing is to receive testimony regarding the current state of climate change scientific research and the economics of strategies to manage climate change.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, on Thursday, July 21 at 10 a.m. to consider pending nominations:

Jill L. Sigal to be Assistant Secretary of Energy for Congressional and Intergovernmental Affairs; David R. Hill to be General Counsel of the Department of Energy; James A. Rispoli to be Assistant Secretary of Energy for Environmental Management; R. Thomas Weimer to be an Assistant Secretary of the Interior for Policy, Management and Budget; Mark A. Limbaugh to be an Assistant Secretary of the Interior for Water and Science.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, July 21, 2005, at 10 a.m. to hold a hearing on United Nations Reform.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, July 21, 2005, at 2:30 p.m. to hold a hearing on Nominations.

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

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. WARNER. 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, July 21, 2005, to consider the nominations of Richard L. Skinner to be Inspector General of the U.S. Department of Homeland Security, Brian David Miller to be Inspector General of the General Services Administration, and Edmund S. Hawley to be Assistant Secretary of the U.S. Department of Homeland Security.

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

COMMITTEE ON INDIAN AFFAIRS

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Thursday, July 21, 2005, at 9:30 a.m., in Room 485 of the Russell Senate Office Building to conduct a hearing on S. 1003, the Navajo-Hopi Land Settlement Amendments Act of 2005.

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

COMMITTEE ON THE JUDICIARY

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a markup on Thursday, July 21, 2005 at 9:30 a.m., in Senate Dirksen Office Building, Room 226.

Agenda

I. Bills: S. 1088, Streamlined Procedures Act of 2005, Kyl, Cornyn, Grassley, Hatch; S. ___, Personal Data Privacy and Security Act of 2005, Specter, Leahy, Feingold; S. 751, Notification of Risk to Personal Data Act, Feinstein, Kyl; S. 1326, Notification of Risk to Personal Data Act, Sessions; S. 155, Gang Prevention and Effective Deterrence Act of 2005, Feinstein, Hatch, Grassley, Cornyn, Kyl, Specter; S. 103, Combat Meth Act of 2005, Talent, Feinstein, Kohl, Schumer, Feingold; S. 1086, A Bill to Improve the National Program to Register and Monitor Individuals Who Commit Crimes Against Children or Sex Offenses, Hatch, Biden, Schumer; S. 956, Jetseta Gage Prevention and Deterrence of Crimes Against Children Act of 2005, Grassley, Kyl, Cornyn; S. 1389, To authorize and improve the USA PATRIOT Act, Specter, Feinstein, Kyl.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. WARNER. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on July 21, at 2:30 p.m., to hold a hearing.

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

SUBCOMMITTEE ON BIOTERRORISM AND PUBLIC HEALTH PREPAREDNESS

Mr. WARNER. Mr. President, I ask unanimous consent that the Subcommittee on Bioterrorism and Public Health Preparedness, be authorized to hold a hearing during the session of the Senate on Thursday, July 21, at 10 a.m., in SD–430.

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

SUBCOMMITTEE ON FEDERAL FINANCIAL MANAGEMENT, GOVERNMENT INFORMATION AND INTERNATIONAL SECURITY

Mr. WARNER. Mr. President, I ask unanimous consent that the Subcommittee on Federal Management, Government Information, and International Security be authorized to meet on Thursday, July 21, 2005 at 2:30 p.m., for a hearing regarding ''U.S. Financial Involvement in Renovation of U.N. Headquarters in New York City''.

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

SUBCOMMITTEE ON TAXATION AND IRS OVERSIGHT

Mr. WARNER. Mr. President, I ask unanimous consent that the Subcommittee on Taxation and IRS Oversight be authorized to meet during the session on Thursday, July 21, 2003, at 2:30 p.m., to hear testimony on ''Updating Depreciable Lives: Is there Salvage Value in the Current System?

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

PRIVILEGE OF THE FLOOR

Mr. HARKIN. Mr. President, I ask unanimous consent that Jonathan Brostoff be granted floor privileges for the duration of today's session.

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

Mr. DAYTON. I ask unanimous consent that Brigit Helgen on my staff be granted the privilege of the floor during the remainder of the debate.

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

Mr. INHOFE. Mr. President, I ask unanimous consent that my Air Force fellow, LTC Carlos Hill, be granted the privileges of the floor during consideration of the Defense authorization bill.

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

Mr. WARNER. Mr. President, I ask unanimous consent that Ken Casey, in Senator CHAMBLISS' office, be granted floor privileges for the duration of the Defense authorization bill.

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

Mr. WARNER. Mr. President, I ask unanimous consent that Katy Hagan, a detailee with the Defense Appropriations Subcommittee, be granted floor privileges during the consideration of this bill.

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

Mr. NELSON of Florida. Mr. President, I ask unanimous consent that Mike Dodson, a fellow in my office, be granted the privilege of the floor during the consideration of amendment No. 1357.

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

Mrs. CLINTON. I ask unanimous consent that Charlie Perham, a fellow in my office, be granted the privilege of the floor during the full consideration of this bill.

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

Mr. LEVIN. Mr. President, I ask unanimous consent, on behalf of Senator REID, that Richard Ferguson, a Defense fellow, be granted the privilege of the floor during debate on the Defense authorization bill.

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

TEMPORARY EXTENSION OF THE HIGHWAY BILL

Mr. WARNER. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 3377 which was received from the House.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 3377) to provide extension of highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund pending enactment of a law reauthorizing the Transportation Equity Act for the 21st century.

There being no objection, the Senate proceeded to consider the bill.

Mr. WARNER. Mr. President, I ask unanimous consent that the bill 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.

Mr. LEVIN. No objection.

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

The bill (H.R. 3377) was read the third time and passed.

AUTHORITY TO SIGN DULY ENROLLED BILLS AND JOINT RESOLUTIONS

Mr. WARNER. Mr. President, I ask unanimous consent that during the adjournment of the Senate, the majority whip be authorized to sign duly enrolled bills and joint resolutions.

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

AUTHORIZING USE OF THE ROTUNDA OF THE CAPITOL

Mr. WARNER. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H. Con. Res. 202, which is at the desk.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 202) permitting the use of the rotunda of the Capitol for a ceremony to honor Constantino Brumidi on the 200th anniversary of his birth.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. WARNER. Mr. President, I ask unanimous consent that the concurrent resolution be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the concurrent resolution be printed in the RECORD.

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

The resolution (H. Con. Res. 202) was agreed to.

THE 75TH ANNIVERSARY OF THE ESTABLISHMENT OF THE VETERANS' ADMINISTRATION

Mr. WARNER. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of S.

Res. 203, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution.

The legislative clerk read as follows:

A resolution (S. Res. 203) recognizing the 75th anniversary of the establishment of the Veterans' Administration.

There being no objection, the Senate proceeded to consider the resolution.

Mr. WARNER. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

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

The resolution (S. Res. 203) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 203

Whereas in the history of the United States more than 48,000,000 citizen-soldiers have served the United States in uniform and more than 1,000,000 have given their lives as a consequence of their duties;

Whereas as of July 21, 2005, there are more than 25,000,000 living veterans;

Whereas on March 4, 1865, President Abraham Lincoln expressed in his Second Inaugural Address the obligation of the United States ''to care for him who shall have borne the battle and for his widow and his orphan'';

Whereas on July 21, 1930, President Herbert Hoover issued an executive order creating a new agency, the Veterans' Administration, to ''consolidate and coordinate Government activities affecting war veterans'';

Whereas on October 25, 1988, President Ronald Reagan signed into law the Department of Veterans Affairs Act (Public Law 100-527; 102 Stat. 2635), effective March 15, 1989, redesignating the Veterans' Administration as the Department of Veterans Affairs and establishing it as an executive department with the mission of providing Federal benefits to veterans and their families; and

Whereas in 2005, the 230,000 employees of the Department of Veterans Affairs continue the tradition of their predecessors of caring for the veterans of the United States with dedication and compassion and upholding the high standards required of them as stewards of the gratitude of the public to those veterans: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the 75th anniversary of the establishment of the Veterans' Administration; and

(2) acknowledges the achievements of the employees of the Veterans' Administration and the Department of Veterans Affairs and commends these employees for serving the veterans of the United States.

DISCHARGE AND REFERRAL—H.R. 2385

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be discharged from further consideration of the bill H.R. 2385, and that the bill be referred to the Committee on Homeland Security and Governmental Affairs.

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

PATIENT SAFETY AND QUALITY IMPROVEMENT ACT OF 2005

Mr. WARNER. Mr. President, I ask unanimous consent that the HELP Committee be discharged from further consideration of S. 544 and the Senate proceed to its immediate consideration.

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

The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 544) to amend title IX of Public Health Service Act to provide for the improvement of patient safety and to reduce the incidence of events that adversely affect patient safety.

There being no objection, the Senate proceeded to consider the bill.

Mr. KENNEDY. Mr. President, I commend Senator ENZI, Senator GREGG, Senator JEFFORDS, Senator FRIST, and all of the other members of our Health Committee who have done so much to achieve this bipartisan consensus on the complex issue of preventing medical errors and improving patient safety. I also commend our colleagues in the House of Representatives, especially Chairman BARTON of the Committee on Energy and Commerce, and the ranking member of that committee, Representative DINGELL, for their willingness to work with us to resolve the differences between the House and Senate bills on this important issue.

For even one American to die from an avoidable medical error is a tragedy. When thousands die every year from such errors, it is a national tragedy, and it is also a national disgrace, and an urgent call to action.

Five years ago, the Institute of Medicine reported that medical errors cause 98,000 deaths every year. That is an average of 268 deaths a day, every day. If errors in aviation killed 200 passengers a day in plane crashes, we would do more than simply encourage voluntary reporting. If errors at factories caused the deaths of 200 workers a day, we would demand more than corporate reports. We would require real changes.

Unfortunately, the culture of medicine has an expectation of infallibility in health professionals, and this unrealistic assumption has been reinforced by generations of medical training and medical practice.

When confronted with a mistake in health care, doctors and patients and citizens often ask, ''How can there be errors without negligence?'' Obviously, the fear of legal liability or embarrassment among peers and in the press leads to strong pressure to cover up mistakes.

In many cases, however, the inadequate design and implementation of health systems are responsible for the problem, including excessive work schedules and unreasonable time pressures.

We can do better. We can encourage the development of a safer health care system. We can learn important lessons from other dangerous fields, such as the aviation industry and the military, which are skillful in designing ways to provide maximum feasible safety.

The Institute of Medicine has called for strong action, and our proposal is responding to that call. The Institute's series of reports on health care quality contain numerous recommendations for improving patient safety, and if we work together, we can make more of them a reality.

The Institute recommended that health care professionals should be encouraged to report medical errors, without fearing that their reports will be used against them. Our legislation implements this sensible recommendation by establishing patient safety organizations to analyze medical errors and recommend ways to avoid them in the future. The legislation also creates a legal privilege for information reported to the safety organizations, but still guaranteeing that original records, such as patients' charts will remain accessible to patients.

Drawing the boundaries of this privilege requires a careful balance, and I believe the legislation has found that balance. The bill is intended to make medical professionals feel secure in reporting errors without fear of punishment, and it is right to do so. But the bill tries to do so carefully, so that it does not accidentally shield persons who have negligently or intentionally caused harm to patients. The legislation also upholds existing state laws on reporting patient safety information.

The legislation can be the beginning of more effective action on patient safety, but other reforms are also necessary. The Federal Government should have a leading role in improving safety and improving the quality of care for patients. The title of one of IOM's most important reports, Leadership by Example, highlights the central role that the Federal Government should have on this issue.

Other actions are also necessary. Hospital systems that have improved health care quality have done so by making far-reaching reforms in which improving health care quality is a key part of the practice of medicine. To turn best practices into everyday practices, hospitals have created clinical guidelines and assessments of outcomes to help see that every patient receives the best possible care.

The Senate is acting to approve needed legislation on the use of information technology in health care, such as in electronic medical records, decision support software, and computer reminders for needed screening tests. These and other features of health IT systems can improve overall health care. In a culture where doctors can learn from mistakes and near misses, these IT systems can dramatically improve health care for all Americans.

I commend my colleagues on both sides of the aisle and both sides of the Capitol, who came together to bring this major legislation to a vote, so that

every patient in America will receive effective, high quality health care.

AMENDMENT NO. 1411

(Purpose: In the nature of a substitute)

Mr. WARNER. I ask unanimous consent that the amendment at the desk be agreed to, the bill, as amended, 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 amendment (No. 1411) was agreed to.

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

The bill (S. 544), as amended, was read the third time and passed.

THANKING STAFF

Mr. WARNER. Mr. President, there is one matter remaining. I want to thank all of those who have been working very hard on the Defense authorization bill. I am not just speaking of the Senators or their staffs but all of those who make it possible for this venerable and great institution to work. Long hours are expended here. This Chamber remains open, and while there are not many people to be seen, there are many people around this Chamber working diligently to keep it open. I thank them all, and I would assure them that momentarily this final matter will be concluded and we will be able to stand in adjournment.

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. SESSIONS. Mr. President, I ask unanimous consent the quorum call be dispensed with.

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

CORRECTING ENROLLMENT OF H.R. 3377

Mr. SESSIONS. I ask unanimous consent that notwithstanding the recess or the adjournment of the Senate, that when the Senate receives from the House a concurrent resolution relating to the enrollment of H.R. 3377, the text of which is at the desk, the resolution be considered agreed to and the motion to reconsider be laid upon the table.

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

ORDERS FOR FRIDAY, JULY 22, 2005

Mr. SESSIONS. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 10 a.m. on Friday, July 22. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and the Senate then resume consideration of the Defense authorization bill.

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

PROGRAM

Mr. SESSIONS. Tomorrow the Senate will resume consideration of the Defense authorization bill. We hope to make further progress on the bill. A number of colleagues have indicated they will be available to offer amendments to the Defense bill, and I encourage them to come over early tomorrow morning. Although we will not have any rollcall votes, we will be able to debate amendments and agree to any amendments that can be cleared on both sides of the aisle.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. SESSIONS. If there is no further business, I ask unanimous consent the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 8:58 p.m., adjourned until Friday, July 22, 2005, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate July 21, 2005:

DEPARTMENT OF STATE

WILLIAM J. BURNS, OF THE DISTRICT OF COLUMBIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF CAREER MINISTER, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE RUSSIA FEDERATION.

FEDERAL MEDIATION AND CONCILIATION SERVICE

ARTHUR F. ROSENFELD, OF VIRGINIA, TO BE FEDERAL MEDIATION AND CONCILIATION DIRECTOR, VICE PETER J. HURTGEN, RESIGNED.

ELECTION ASSISTANCE COMMISSION

DONETTA DAVIDSON, OF COLORADO, TO BE A MEMBER OF THE ELECTION ASSISTANCE COMMISSION FOR THE REMAINDER OF THE TERM EXPIRING DECEMBER 12, 2007, VICE DEFOREST B. SOARIES, JR., RESIGNED.

CONFIRMATIONS

Executive nominations confirmed by the Senate Thursday, July 21, 2005:

DEPARTMENT OF AGRICULTURE

THOMAS C. DORR, OF IOWA, TO BE UNDER SECRETARY OF AGRICULTURE FOR RURAL DEVELOPMENT.

THOMAS C. DORR, OF IOWA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE COMMODITY CREDIT CORPORATION.