SA 1569. Mr. NELSON, of Nebraska (for himself and Mr. WYDEN) submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1570. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1571. Mr. DURBIN (for himself, Ms. MIKULSKI, Mr. ALLEN, Mr. GRAHAM, Ms. LANDRIEU, Mr. LEAHY, Mr. SARBANS, Mr. LACROIX, Mr. BINGAMAN, Mr. KERRY, Mr. SALAZAR, Mr. CORZINE, Mr. CHAFEE, Mrs. LINDOLN, Mr. BIDEN, Mr. KENNEDY, Mrs. MURRAY, and Mr. NELSON, of Florida) submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1572. Mr. KOHL submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1573. Ms. SNOWE (for herself and Ms. COLLINS) submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1574. Mr. VOINOVICH (for himself and 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 1575. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1576. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1577. Mr. NELSON, of Nebraska submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1578. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1579. Mr. CORZINE (for himself, Mr. KENNEDY, Mr. LAUTENBERG, Mr. DODD, Mr. JEFFORDS, and Mr. FRAUGOLI) submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 1439. Mr. BINGAMAN (for himself and Mr. DOMENICI) 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. FIELD PROGRAMMABLE GATE ARRAY.

(a) Additional Amount for Research, Development, Test, and Evaluation, Air Force.—The amount authorized to be appropriated by section 201(3) for research, development, test, and evaluation for the Air Force is hereby increased by $3,000,000.

(b) Availability of Amount.—Of the amount authorized to be appropriated by section 201(3) for research, development, test, and evaluation for the Air Force, as increased in subsection (a), $1,000,000 is available for Space Technology (PE # 0602601F) for research and development on the reliability of field programmable gate arrays for space applications, including design of an assurance strategy, reference architectures, research and development on reliability and survivability, and outreach to industry and localities to develop core competencies.

(c) Offset.—The amount authorized to be appropriated by section 201(3) for operation and maintenance for the Air Force is hereby reduced by $3,000,000.

SA 1440. 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:

On page 48, between lines 5 and 6, insert the following:

SEC. 244. NATIONAL CRITICAL TECHNOLOGIES PANEL.

(a) Establishment.—The Director of the Office of Science and Technology Policy shall establish within that office a National Critical Technologies Panel (referred to in this section as the 'panel'). The panel shall prepare the biennial national critical technologies report required by subsection (c).

(b) Membership.—

(1) Composition and Appointment.—The panel shall consist of 13 members appointed from among persons who are experts in science and engineering as follows:

(i) 1 shall be appointed by the Majority Leader of the Senate;

(ii) 1 shall be appointed by the Minority Leader of the Senate;

(iii) 1 shall be appointed by the Speaker of the House of Representatives; and

(iv) 1 shall be appointed by the Majority Leader of the House of Representatives.

(2) Agency Appointments.—Of the remaining 4 members of the panel—

(i) 1 shall be appointed by the Secretary of Defense, who shall be an official of the Department of Defense;

(ii) 1 shall be appointed by the Secretary of Energy, who shall be an official of the Department of Energy;

(iii) 1 shall be appointed by the Secretary of Commerce, who shall be an official of the Department of Commerce; and

(iv) 1 shall be appointed by the Administrator of the National Aeronautics and Space Administration, who shall be an official of the National Aeronautics and Space Administration.

(3) Term of Office; Vacancies.—

(a) Term.—

(i) In General.—Except as provided in clause (ii), members shall serve for the duration of the panel.

(ii) Private Persons.—Members appointed under paragraph (1)(A)(i) shall serve for a term of 2 years.

(b) Vacancies.—Any vacancy in the membership of the panel shall be filled in the same manner as the original appointment.

(c) Chairman.—The Director of the Office of Science and Technology Policy shall designate 1 of the members appointed under paragraph (1)(A)(i) as chairman of the panel.

(d) Biennial National Critical Technologies Report.—

(1) In General.—The panel shall submit to the President and Congress a biennial report on national critical technologies.

(2) Technologies considered National Critical Technologies.—For purposes of this subsection, a product technology or process technology may be considered to be a national critical technology if the panel determines it to be a technology that is essential to the United States to further the long-term national security or economic prosperity of the United States.

(e) Expiration.—The panel shall terminate on December 31, 2010.

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SEC. 114. TACTICAL WHEELED VEHICLES.
(a) ADDITIONAL AMOUNT FOR OTHER PROCUREMENT, ARMY.—The amount authorized to be appropriated by section 101(5) for other procurement for the Army is hereby increased by $390,100,000.
(b) AVAILABILITY OF AMOUNT.—Of the amount authorized to be appropriated by section 101(5) for other procurement for the Army, as increased by subsection (a)—
(1) $281,000,000 may be available for the procurement of Frontline Tactical Wheeled Vehicles to reconstitute Army Prepositioned Stock-5, including the procurement of armored Light Tactical Vehicles (LTVs), armored Medium Tactical Vehicles (MTVs), and armored Heavy Tactical Vehicles (HTVs) for purposes of equipping one heavy brigade, one infantry brigade, and two infantry battalions; and
(2) $109,100,000 may be available for the procurement of armored Tactical Wheeled Vehicles for the Joint Readiness Training Center at Fort Polk, Louisiana, including the procurement of armored Light Tactical Vehicles, armored Medium Tactical Vehicles, and armored Heavy Tactical Vehicles for purposes of equipping one infantry brigade and two infantry battalions.

SEC. 1442. Mr. KENNEDY (for himself 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 213, between lines 2 and 3, insert the following:

SEC. 807. PUBLIC-PRIVATE COMPETITION FOR WORK PERFORMED BY CIVILIAN EMPLOYEES OF THE DEPARTMENT OF DEFENSE.

(a) LIMITATION.—Section 261(b) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(6) A-notwithstanding subsection (d), a function of the Department of Defense performed by 10 or more civilian employees may not be converted, in whole or in part, to performance by a contractor unless the decision is based on the results of a public-private competition process that—

(i) formally compares the cost of civilian employment of this function with the costs of performance by a contractor;

(ii) creates an agency tender, including a most efficient organization plan, in accordance with the Federal Register published by the Department of Defense, for military 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. 996. SENSE OF CONGRESS ON WOMEN IN COMBAT.

It is the sense of Congress that—

(1) women play a critical role in the accomplishment of the mission of the Armed Forces;

(2) there should be no change to existing statutes, regulations, or policy that would
SEC. 1073. GRANT OF FEDERAL CHARTER TO KO-REAN WAR VETERANS ASSOCIATION, INCORPORATED.

(a) Grant of Charter.—Part B of subtitle II of title 36, United States Code, is amended—

(1) by striking “Funds” and inserting “(a) Funds”;

(2) by adding at the end the following new subsection:

“(b) Notwithstanding the provisions of subsection (a), all sums received for any Department of Defense activity for fire protection rendered pursuant to this Act shall be credited to the appropriation fund or account from which the expenses were paid. Amounts so credited shall be merged with funds in such appropriation fund or account and shall be available for the same purposes and subject to the same limitations as the funds with which the funds are merged.”.

(b) Application to Existing Provisions of Law.—Section 5 of the Act of May 27, 1955 (chapter 95, 69 Stat. 67; 42 U.S.C. 1856d) is amended—

(1) by striking “Funds” and inserting “(a) Funds”;

(2) by adding at the end the following new subsection:

“(b) Expiration of Charter.—If the corporation does not comply with the provisions of this chapter, the charter granted by subsection (a) expires.

§ 120102. Purposes

“The purposes of the corporation are those provided in its articles of incorporation and shall include the following:

(1) Organize as a veterans service organization in order to maintain a continuing interest in the welfare of veterans of the Korean War, and rehabilitation of the disabled veterans of the Korean War to include all that served during active hostilities and subsequently in defense of the Republic of Korea, 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. RETENTION OF REIMBURSEMENT FOR PROVISIONS OF FEDERAL CHARTER TO KO-REAN WAR VETERANS ASSOCIATION, INCORPORATED.

Section 5 of the Act of May 27, 1955 (chapter 95, 69 Stat. 67; 42 U.S.C. 1856d) is amended—

(1) by striking “Funds” and inserting “(a) Funds”;

(2) by adding at the end the following new subsection:

“(b) Notwithstanding the provisions of subsection (a), all sums received for any Department of Defense activity for fire protection rendered pursuant to this Act shall be credited to the appropriation fund or account from which the expenses were paid. Amounts so credited shall be merged with funds in such appropriation fund or account and shall be available for the same purposes and subject to the same limitations as the funds with which the funds are merged.”.

SA 1445. Mr. SARBANES (for himself and Ms. MIKULSKI) 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. GRANT OF FEDERAL CHARTER TO KO-REAN WAR VETERANS ASSOCIATION, INCORPORATED.

(a) Grant of Charter.—Part B of subtitle II of title 36, United States Code, is amended—

(1) by striking the following:

“CHAPTER 1201—[RESERVED];

and

(2) by inserting after chapter 1183 the following new chapter:

“CHAPTER 1201—KO-REAN WAR VETERANS ASSOCIATION, INCORPORATED 120101*.

“Sec.

“120101. Organization.

“120102. Purposes.

“120103. Membership.

“120104. Governing body.


“120107. Tax-exempt status required as condition of charter.

“120108. Records and inspection.

“120109. Service of process.

“120110. Liability for acts of officers and agents.

“120111. Annual report.

“120112. Definition.

“120107. Tax-exempt status required as condition of charter

“If the corporation fails to maintain its status as an organization exempt from tax on the Internal Revenue Code of 1986, the charter granted under this chapter shall terminate.

“120108. Records and inspection

“(a) Records.—The corporation shall keep—

“(1) correct and complete records of account;

“(2) minutes of the proceedings of its members, board of directors, and committees having any of the authority of its board of directors; and

“(3) at its principal office, a record of the names and addresses of its members entitled to vote on matters relating to the corporation.

“(b) Inspection.—A member entitled to vote on matters relating to the corporation, or an agent or attorney of the member, may inspect the records of the corporation for any proper purpose, at any reasonable time.

“120109. Service of process

“The corporation shall have a designated agent in the District of Columbia to receive service of process for the corporation. Notice to or service on the agent is notice to or service on the Corporation.

“120110. Liability for acts of officers and agents

“The corporation is liable for the acts of its officers and agents acting within the scope of their authority.

“120111. Annual report

“The corporation shall submit to Congress an annual report on the activities of the corporation during the preceding fiscal year. The report shall be submitted at the same time as the report of the audit required by section 10101(b) of this title. The report may not be printed as a public document.

“120112. Definition

“For purposes of this chapter, the term ‘State’ includes the District of Columbia and the territories and possessions of the United States.”

SA 1446. Mr. CORZINE 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. 539. REDUCTION IN AGE FOR RECEIPT OF MILITARY RETIRED PAY FOR NON-REGULAR SERVICE.

(a) Reduction in Age.—Section 1273a(1) of title 10, United States Code, is amended by striking “at least 60 years of age” and inserting “at least 55 years of age”.

(b) Application to Existing 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 Armed Forces who is retired as a non-Regular service member, the authority of that provision shall be construed to mean that a member or former member of the Armed Forces who has previously served in a non-Regular service capacity is eligible for that provision if the member or former member would have been eligible for that provision if he or she had served in a Regular service capacity.
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 the age in effect for qualification for such retired pay under section 12731(a) of title 10, United States Code, as amended by subsection (a).

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the first day of the first month beginning on or after the date of enactment of this Act and shall apply to retired pay payable for that month and subsequent months.

SA 1447. Mr. HARKIN (for himself and Mr. DORGAN) submitted an amendment intended to be proposed by him to the bill S. 32, 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 IX, add the following:

SEC. 903. AMERICAN FORCES NETWORK.

(a) Mission.—The American Forces Network (AFN) shall provide members of the Armed Forces, civilian employees of the Department of Defense, and their families stationed outside the continental United States and at sea with the same type and quality of American radio and television news, information, sports, and entertainment as is available in the continental United States.

(b) POLITICAL PROGRAMMING.—

(1) FAIRNESS AND BALANCE.—All political programming of the American Forces Network shall be characterized by its fairness and balance.

(2) FREE FLOW OF PROGRAMMING.—The American Forces Network shall provide its programming a free flow of political programming from United States commercial and public radio and television stations.

(c) OMBUDSMAN OF THE AMERICAN FORCES NETWORK.—

(1) ESTABLISHMENT.—There is hereby established the Office of the Ombudsman of the American Forces Network.

(2) HEAD OF OFFICE.—

(A) OMBUDSMAN.—The head of the Office of the Ombudsman of the American Forces Network shall be the Ombudsman of the American Forces Network (in this subsection referred to as the "Ombudsman"), who shall be appointed by the Secretary of Defense.

(B) QUALIFICATIONS.—Any individual nominated for appointment to the position of Ombudsman shall have recognized expertise in military activities, sports, and entertainment as is associated with the Armed Forces, civilian employees of the Department of Defense, and the American Forces Network (in this subsection referred to as the "Ombudsman"), who shall be appointed by the Secretary of Defense.

(3) DUTIES.—

(i) initiate and conduct, upon the request of Congress, and in accordance with the governing law of the American Forces Network, reviews of the programming of the Network;

(ii) initiate, pursuant to reviews under clause (i), investigations into circumstances in which the American Forces Network has not adhered to the standards and practices of the Network in its programming, including circumstances in which the programming of the Network lacked integrity, fairness, or balance; and

(iv) make recommendations to the American Forces Network on means of correcting the lack of adherence identified pursuant to clause (iii).

(C) LIMITATION.—In carrying out the duties of the Ombudsman under this paragraph, the Ombudsman may not engage in any pre-broadcast censorship or pre-broadcast review of the programming of the American Forces Network.

(4) RESOURCES.—The Secretary of Defense shall provide the Office of the Ombudsman of the American Forces Network such personnel and other resources as the Secretary and the Ombudsman jointly determine appropriate to permit the Ombudsman to carry out the duties of the Ombudsman under paragraph (3).

(5) INDEPENDENCE.—The Secretary shall take appropriate actions to ensure the complete independence of the Ombudsman and the Office of the Ombudsman of the American Forces Network within the Department of Defense.

(6) ANNUAL REPORTS.—

(A) IN GENERAL.—The Ombudsman shall submit to the Secretary of Defense and the congressional defense committees each year a report on the activities of the Office of the Ombudsman of the American Forces Network during the preceding year.

(B) AVAILABILITY TO PUBLIC.—The Ombudsman shall make available to the public each report submitted under subparagraph (A) through the Internet website of the Office of the Ombudsman of the American Forces Network and by such other means as the Ombudsman considers appropriate.

SEC. 1448. Mr. BIDEN (for himself, Mr. CARPER, and 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 B of title VII, add the following:

SEC. 718. RESPONSE TO MEDICAL NEEDS ARISING FROM MANDATORY MILITARY VACCINATIONS.

(a) IN GENERAL.—The Secretary of Defense shall maintain a joint military medical center of excellence focusing on the medical needs arising from mandatory military vaccinations.

(b) ELEMENTS.—The joint military medical center of excellence under subsection (a) shall consist of the following:

(1) The Armed Forces Health Care Centers of the Department of Defense, which shall be the principal elements of the center.

(2) Any other elements that the Secretary considers appropriate.

(c) AUTHORIZED ACTIVITIES.—In acting as the principal elements of the joint military medical center under subsection (a), the Vaccine Health Care Centers referred to in subsection (b)(1) may carry out the following:

(1) Medical assistance and care to individuals requiring mandatory military vaccines and their dependents, including long-term case management for adverse events when necessary.

(2) Investigations to identify and treat potential and actual health effects from vaccines before and after their use in the field.

(3) The development and sustainment of a long-term vaccine safety and efficacy registry.

(4) Support for an expert clinical advisory board for case reviews related to disability assessment questions.

(5) Long-term and short-term studies to identify unanticipated benefits and adverse events from vaccines.

(6) Educational outreach for immunization providers and those requiring immunizations.

(7) The development, dissemination, and validation of educational materials for Department of Defense healthcare workers relating to vaccine safety, efficacy, and acceptability.

SA 1449. Mr. KERRY 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. 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. 636(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 sea business concerns.''.

(b) LIMITATION ON LOANS.—From funds otherwise available, not more than $9,000,000 may be used under this section (b)(1) may carry out the following:

(1) Medical assistance and care to individuals requiring mandatory military vaccines and their dependents, including long-term case management for adverse events when necessary.

(2) Investigations to identify and treat potential and actual health effects from vaccines before and after their use in the field.

(3) The development and sustainment of a long-term vaccine safety and efficacy registry.

(4) Support for an expert clinical advisory board for case reviews related to disability assessment questions.

(5) Long-term and short-term studies to identify unanticipated benefits and adverse events from vaccines.

(6) Educational outreach for immunization providers and those requiring immunizations.

(7) The development, dissemination, and validation of educational materials for Department of Defense healthcare workers relating to vaccine safety, efficacy, and acceptability.

On page 237, after line 17, insert the following:

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(1) DEFINITION OF DISASTER.—Section 3(k) of the Small Business Act (15 U.S.C. 636(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.''.

(b) LIMITATION ON LOANS.—From funds otherwise available, not more than $9,000,000 may be used under this section (b)(1) may carry out the following:

(1) Medical assistance and care to individuals requiring mandatory military vaccines and their dependents, including long-term case management for adverse events when necessary.

(2) Investigations to identify and treat potential and actual health effects from vaccines before and after their use in the field.

(3) The development and sustainment of a long-term vaccine safety and efficacy registry.

(4) Support for an expert clinical advisory board for case reviews related to disability assessment questions.

(5) Long-term and short-term studies to identify unanticipated benefits and adverse events from vaccines.

(6) Educational outreach for immunization providers and those requiring immunizations.

(7) The development, dissemination, and validation of educational materials for Department of Defense healthcare workers relating to vaccine safety, efficacy, and acceptability.
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 notify the Administrator of the Small Business Administration shall promulgate final rules to carry out this section and the amendments made by this section.

SA 1450. Mr. OBAMA (for himself and Mr. SALAZAR) 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. LIMITATIONS ON INQUIRIES BY EMPLOYERS REGARDING SERVICE IN THE UNIFORMED SERVICES OF PROFESSIONAL, CLERICAL, TECHNICAL, AND OTHER PRIVATE EMPLOYEES.

Section 4311 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 new subsection (c):

"(c) A prospective employer shall not ask or inquire, directly or indirectly, about the membership in the uniformed services of a person seeking employment with such employer—

"(i) such membership is a condition of employment; or

"(ii) such employer has a formal written policy of providing preference in hiring to current members of the uniformed services, veterans, or both."; and

(3) in subsection (d), as redesignated by paragraph (1) of this section—

(A) in paragraph (1), by striking "or" at the end;

(B) in paragraph (2), by striking the period at the end; and

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

"(4) under subsection (c), if the employer makes an inquiry prohibited by that subsection.
"

SA 1451. Ms. LANDRIEU 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 F of title VI, add the following:

SEC. 753. MENTAL HEALTH SCREENINGS OF MEMBERS OF THE ARMED FORCES FOR POST-TRAUMATIC STRESS DISORDER AND OTHER MENTAL HEALTH CONDITIONS.

(a) MENTAL HEALTH SCREENINGS.—

(1) IN GENERAL.—Under regulations prescribed by the Secretary of Defense, the Secretary concerned shall perform mental health screenings of each member of the Armed Forces who is deployed in a combat operation or to a combat zone.

(b) ABOVE-THE-LINE DEDUCTION.—The first mental health screening of a member under this section shall be designed to determine the mental state of such member before deployment; a second mental health screening of a member under this section shall be designed to detect symptoms or other evidence in such member of Post Traumatic Stress Disorder or other mental health condition relating to combat.

(c) TIME OF SCREENINGS.—A member shall receive a mental health screening under this section—

(1) Prior to deployment in a combat operation or to a combat zone.

(2) Not later than 30 days after the date of the member’s return from such deployment.

(3) Whenever the member is screened for human immunodeficiency virus (HIV) or acquired immune deficiency syndrome (AIDS).

(4) Whenever the member receives any other medical examination through the Department of Defense.

SA 1452. Ms. LANDRIEU 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 appropriate place insert the following:

SEC. 754. TAX CHECK-OFF FOR CERTAIN CONTRIBUTIONS TO ARMED FORCES RELIEF TRUST.

(a) TAX CHECK-OFF.—

(1) IN GENERAL.—In the case of an individual, with respect to each taxpayer’s return for the taxable year of the tax imposed by chapter 1, such individual may designate that a contribution has been made for such taxable year to the Armed Forces Relief Trust.

(2) MANNER AND TIME OF DESIGNATION.—A designation made to the Armed Forces Relief Trust there is established an advisory board of directors, the members of which are

(A) IN GENERAL.—Within the Armed Forces Relief Trust there is established an advisory board of directors the members of which are

(i) one individual appointed by the Chair- man of the Committee on Finance of the Senate;

(ii) one individual appointed by the Chair- man of the Committee on Armed Services of the Senate;

(iii) one individual appointed by the Chair- man of the Committee on Veterans’ Affairs of the Senate;

(2) CHAIRMAN; VICE CHAIRMAN.—

(A) IN GENERAL.—The ap- pointment of successors .—The ap- pointment of a successor shall be made by the Chair- man of the Committee on Veterans’ Affairs of the House of Representatives.

(B) TERM.—The term of each member of the advisory board shall be 3 years, except that any member whose term of office has expired shall continue to serve until such member’s successor is appointed. No member shall serve more than two 3-year terms.

(C) APPOINTMENT OF SUCCESSORS.—The ap- pointment of any successor member shall be made in the same manner as the original ap- pointment. If a member dies or resigns before the expiration of his term, a successor shall be appointed for the unex- pired portion of the term in the same man- ner as the original appointment.

(d) ADVISORY BOARD OF DIRECTORS.—

(1) APPOINTMENT.—

(A) IN GENERAL.—Within the Armed Forces Relief Trust there is established an advisory board of directors the members of which are

(i) one individual appointed by the Chair- man of the Committee on Veterans’ Affairs of the Senate;

(ii) one individual appointed by the Chair- man of the Joint Committee on Taxation;

(iii) one individual appointed by the Chair- man of the Committee on Armed Services of the House of Representatives;

(iv) one individual appointed by the Chair- man of the Committee on Appropriations of the House of Representatives;

(2) CHAIRMAN; VICE CHAIRMAN.—

(A) IN GENERAL.—The ap- pointment of a successor shall be made in the same manner as the original ap- pointment. If a member dies or resigns before the expiration of his term, a successor shall be appointed for the unex- pired portion of the term in the same man- ner as the original appointment.

(B) TERM.—The term of each member of the advisory board shall be 3 years, except that any member whose term of office has expired shall continue to serve until such member’s successor is appointed. No member shall serve more than two 3-year terms.

(C) APPOINTMENT OF SUCCESSORS.—The ap- pointment of any successor member shall be made in the same manner as the original ap- pointment. If a member dies or resigns before the expiration of his term, a successor shall be appointed for the unex- pired portion of the term in the same man- ner as the original appointment.

(D) ADVISORY BOARD OF DIRECTORS.—The ap- pointment of a successor member shall be made in the same manner as the original ap- pointment. If a member dies or resigns before the expiration of his term, a successor shall be appointed for the unex- pired portion of the term in the same man- ner as the original appointment.

(E) APPOINTMENT.—The appointment of any successor member shall be made in the same manner as the original ap- pointment. If a member dies or resigns before the expiration of his term, a successor shall be appointed for the unex- pired portion of the term in the same man- ner as the original appointment.
SEC. 718. PANDEMIC AVIAN FLU PREPAREDNESS.

(a) STUDY.—The Secretary of Defense, in collaboration with the Secretary of Health and Human Services, shall conduct an ongoing study within the Department of Defense to prepare for pandemic influenza, including avian influenza. In conducting such study the Secretary shall address, as applicable, with respect to military and civilian personnel—

(1) the procurement of vaccines, antivirals and other medicines, and medical supplies, including personal protective equipment, particularly those that must be imported;

(2) protocols for the allocation and distribution of vaccines and medicines among high priority populations, including personal protective equipment, particularly those that must be imported;

(3) public health containment measures that may be implemented on military bases and other facilities, including quarantine, travel restrictions and other isolation precautions;

(4) communication with Department of Defense affiliated health providers about pandemic preparedness and response;

(5) surge capacity for the provision of medical care during pandemics;

(6) the availability and delivery of food and basic supplies and services;

(7) surveillance efforts domestically and internationally, including those utilizing the Global Early Warning System (GIEWS), and how such efforts are integrated with other ongoing surveillance systems;

(8) the integration of pandemic and re-employment actions of the Armed Forces, including the Department of Defense, the Department of Health and Human Services, the Department of Veterans Affairs, the Department of State, and USAID;

(9) collaboration (as appropriate) with international entities engaged in pandemic preparedness and response;

(b) Submission of report.—Not later than 120 days after the date of enactment of this Act, and annually thereafter, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate, and to the Committee on Health, Education, Labor, and Pensions of the Senate, and to the Committee on Armed Services and Committee on Energy and Commerce of the House of Representatives, a report containing the results of the study conducted under subsection (a).

SEC. 743. LEADERSHIP TRAINING ON POST TRAUMATIC STRESS DISORDER.

(a) TRAINING REQUIRED.—Each Secretary concerned shall provide leadership training on post-traumatic stress disorder, with the production process of the producer under subparagraph (1)(A).

SA 1455. Ms. LANDRIEU 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 title VII, add the following:

SEC. 111. COMPLIANCE WITH BERRY AMENDMENT REGARDING CERTAIN SPECIALTY METALS.

Section 2533a of title 10, United States Code, is amended—

(1) in subsection (a), by striking “(h)” and inserting “(i)”;

(2) by redesignating subsections (f), (g), (h), (i), and (j) as subsections (g), (h), (i), (j), and (k), respectively; and

(3) by inserting after subsection (e) the following new subsection (f):—

“(f) EXCEPTION FOR SPECIALTY METALS TO FACUL.

Subsection (a) does not preclude the procurement of an item containing specialty metals produced outside the United States if the contractor or subcontractor that produces the item, or, in the case of a component that contains specialty metals, the producer of such component—

(A) uses the same production processes for the production of the item or component being delivered to the Department of Defense as it uses for similar items or components to be delivered to the Department of Defense;

(B) notifies the contracting officer before the award of the contract that it will purchase during the period specified in paragraph (2) an amount of domestically-melted specialty metals equivalent in quality and amount to that which would have been used to produce the item or component for delivery to the Department of Defense; and

(C) purchases the amount of domestically-melted specialty metals specified in the notice under subparagraph (B) during the period specified in paragraph (2).

(2) The period specified in the subparagraph (1)(B) with respect to an item or component covered by paragraph (1) is the period beginning on the date of the award of the contract for the delivery of the item or component to the Department of Defense; and

(3) public health containment measures that may be implemented on military bases and other facilities, including quarantine, travel restrictions and other isolation precautions;

(4) communication with Department of Defense affiliated health providers about pandemic preparedness and response;

(5) surge capacity for the provision of medical care during pandemics;
the Armed Forces who serve as commanders of military units at the company level and above.

(b) Elements.—The training provided under subsection (a) shall include the following:

(1) Information on the availability of mental health screenings under section 2 for members of the Armed Forces and their dependents.

(2) Information on various means of encouraging members of the Armed Forces who may be suffering from Post Traumatic Stress Disorder to seek evaluation and treatment.

(3) Such other information on Post Traumatic Stress Disorder, and the identification, treatment, and management of Post Traumatic Stress Disorder, as the Secretary concerned considers appropriate.

SEC. 744. TRAINING AND EDUCATION OF MEMBERS OF THE ARMED FORCES AND THEIR DEPENDENTS ON POST-TRAUMATIC STRESS DISORDER.

(a) Training for Members of Armed Forces.—Each Secretary concerned shall provide training on the causes, symptoms, and effects of Post Traumatic Stress Disorder (PTSD) to members of the Armed Forces.

(b) Education for Dependents.—Each Secretary concerned shall take such actions as are necessary to facilitate the participation of dependents of members of the Armed Forces in the training provided under subsection (a).

SEC. 745. TREATMENT PROGRAMS FOR POST-TRAUMATIC STRESS DISORDER AND OTHER MENTAL HEALTH CONDITIONS.

(a) Programs Required.—The Secretary of Health and Human Services shall implement programs, and enhance existing programs, in order to improve the treatment provided by the Department of Health and Human Services to members of the Armed Forces who are suffering from Post Traumatic Stress Disorder and other mental health conditions associated with service in combat. Such programs shall facilitate the participation of dependents of members of the Armed Forces in the treatment of such members for such conditions.

(b) Report on Programs.—Not later than one year after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the actions taken by the Secretary under subsection (a). The report shall include—

(1) a description of the programs implemented or enhanced under that subsection, including a description of how such programs will improve the treatment provided to members of the Armed Forces for Post Traumatic Stress Disorder; and

(2) information on the participation of members of the Armed Forces and their dependents in such programs.

SEC. 746. DEFINITIONS.

In this subtitle—

(1) by amendment.—The term ‘‘dependent’’, with respect to a member of the Armed Forces, has the meaning given such term in section 101(3) of title 10, United States Code.

(2) Secretary Concerned.—The term ‘‘Secretary Concerned’’ has the meaning given such term in section 101(a) of title 10, United States Code.

SA 1456. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 1452, 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 C of title V, add the following:

SEC. 358. SENSE OF SENATE ON TAX RELIEF FOR EMPLOYERS WHO COVER PAY GAP OF MOBILIZED EMPLOYEES WHO ARE MEMBERS OF THE NATIONAL GUARD AND RESERVES.

(a) FINDINGS.—The Senate makes the following findings:

(1) More than 137,000 members of the National Guard and the Reserves have been mobilized or ordered to active duty.

(2) 7,600,000 may be available for augmentation personnel;

(3) $4,200,000 may be available for military family support services; and

(b) The Securities and Exchange Commission is hereby directed to issue a rule that will reduce the amount authorized to be appropriated by section 301(6) for operation and maintenance of the Army Reserve, as increased by subsection (a), from $4,750,000 to $4,500,000.

SEC. 751. COMPENSATION OF ENERGY EMPLOYEES EXPOSED TO RESIDUAL BERYLLIUM CONTAMINATION.

(a) AMENDMENTS TO ENERGY EMPLOYEES OCCUPATIONAL ILLNESS PROGRAM.—The Energy Employees Occupational Illness Compensation Program Act of 2000 (title XXXVI of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106-398)) is amended as follows:

(1) EMPLOYEES COVERED UNDER PROGRAM.—Section 3621(c)(7)(C) (42 U.S.C. 7381(c)(7)(C)) is amended by striking ‘‘during a period when the vendor was engaged in activities related to the production of beryllium’’ and inserting ‘‘for sale to, or use by, the Department of Energy’’ and inserting the following: ‘‘or during a period when—

‘‘(1) the vendor was engaged in activities related to the production or processing of beryllium for sale to, or use by, the Department of Energy; or

‘‘(2) there existed a potential for significant residual beryllium contamination at a facility after the vendor ceased to be engaged in such activities, according to the Report on Residual Radioactive Contamination and Beryllium Contamination at Atomic Weapons Employer Facilities and Beryllium Vendors, published by the National Institute for Occupational Safety and Health in October 2003, or any update of such report, including updates required under section 3169 of the National Defense Authorization Act for Fiscal Year 2005 (Public Law 108-375; 42 U.S.C. 7384 note).’’.

(b) DETERMINATION OF BERYLLIUM EXPOSURE.—Section 3622(a) (42 U.S.C. 7384(a)) is amended—

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

(2) in subparagraph (A), by inserting ‘‘or significant residual beryllium’showing the following is ‘‘or significant residual beryllium has been found in a facility after the vendor ceased to be engaged in activities related to the production or processing of beryllium for sale to, or use by, the Department of Energy and one or more other entities shall be determined to have been exposed to beryllium in the performance of duty for the purposes of the compensation program regardless of whether the source of such exposure can be conclusively established through reliable documentation.’’;

(3) by inserting the following as a new paragraph:

‘‘(2) A covered beryllium employee exposed to residual beryllium while present in a facility after the date of enactment of this Act is eligible for compensation under section 301 of the Energy Employees Occupational Illness Compensation Program Act of 2000 (42 U.S.C. 7381 et seq.) if the employee was engaged in activities related to the production or processing of beryllium for sale to, or use by, the Department of Energy and one or more other entities shall be determined to have been exposed to beryllium in the performance of duty for the purposes of the compensation program regardless of whether the source of such exposure can be conclusively established through reliable documentation.’’.

(4) by striking ‘‘(b) DETERMINATION OF BERYLLIUM EXPOSURE.—Section 3622(a)’’ and inserting ‘‘(b) DETERMINATION OF BERYLLIUM EXPOSURE.—Section 3622(a)’’;
2005, and annually thereafter until December 31, 2008, the President shall:—
(b) UPDATES OF REPORTS ON RESIDUAL CONTAMINATION.—
(1) AUTHORIZATION REQUIRED.—Subsection (a) of section 3169 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–185; 42 U.S.C. 7384 note) is amended to read as follows:

“(a) UPDATES OF REPORT.—Not later than 14 days after a residual beryllium report is completed for a facility and the Director of the National Institute for Occupational Safety and Health completes an internal review of such report, the Director shall submit to Congress a report required by section 315(b) of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–191; 42 U.S.C. 7384 note) that includes with respect to such facility the applicable elements described in subsection (b).”

(2) CONFORMING AMENDMENTS.—Such section is further amended—
(A) in subsection (b), by striking “The update” and inserting “Each update submitted under subsection (a)”;
(B) in subsection (a), by striking “the report” and inserting “each report”; and
(C) in the heading, by striking “update” and inserting “updates”.

SA 1459. Mr. NELSON of Florida 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:

Subtitle H—Convention Against Torture Implementation

SEC. 1081. SHORT TITLE. This subtitle may be cited as the “Convention Against Torture Implementation Act of 2005”.

SEC. 1082. PROHIBITION ON CERTAIN TRANSFERS OF PERSONS.

SEC. 1083. UPDATES OF REPORTS ON RESIDUAL CONTAMINATION AT DEPARTMENT OF ENERGY VENDOR FACILITIES.

SEC. 1084. REGULATIONS.

SEC. 1085. SAVINGS CLAUSE.

SEC. 1086. REPEAL OF SUPERSEDED AUTHORITY.

SEC. 1087. DEFINITIONS.
community under section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

(2) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means—
(A) the Committees on Armed Services, Homeland Security and Governmental Affairs, Judiciary, Foreign Relations, and the Select Committee on Intelligence of the Senate; and
(B) the Committees on Armed Services, Homeland Security, Judiciary, International Relations, and the Permanent Select Committee on Intelligence of the House of Representatives.

(3) CONVENTION AGAINST TORTURE.—The term "Convention Against Torture" means the United Nations Convention Against Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment, done at New York on December 10, 1984, entered into force on June 26, 1987, signed by the United States on April 18, 1988, and ratified by the United States on October 21, 1994 (T. Doc. 100–20).

(4) Expelled person.—A person who is expelled is a person who is involuntarily transferred from the territory of any country, or a port of entry thereto, to the territory of another country, or a port of entry thereto.

(5) Extradited person.—A person who is extradited is an accused person who, in accordance with chapter 209 of title 18, United States Code, is surrendered or delivered to another country with jurisdiction to try and punish the person.

(6) Returned person.—A person who is returned is a person who is transferred from the territory of any country, or a port of entry thereto, to the territory of another country of which the person is a national or where the person has previously resided, or a port of entry thereto.

(b) MK TERRORISM IN THE CONVENTION AGAINST TORTURE—Except as otherwise provided, the terms used in this subtitle have the meanings given those terms in the Convention Against Torture, subject to any reservations, understandings, declarations, and provisos contained in the Senate resolution advising and consenting to the ratification of the Convention Against Torture.

SEC. 1088. EFFECTIVE DATE.
This subtitle shall take effect on the date that is 30 days after the date of the enactment of this subtitle.

SEC. 1089. CLASSIFICATION IN UNITED STATES CODE.
This subtitle shall be classified to the United States Code as a new chapter of title 50, United States Code.

SA 1461. Mr. JOHNSON 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, insert the following:

TITLE II—FULL RECOGNITION OF SACRIFICE AND VALOR OF UNITED STATES SERVICE MEMBERS

Subtitle A—Findings

SEC. 01. FINDINGS.
Congress makes the following findings:
(1) The testimony for the June 28, 2005, hearing of the Committee on Veterans’ Affairs of the Senate, Secretary R. James Nicholson reported that over 103,000 veterans of the Global War on Terrorism, including operations in Iraq, are reported to seek health care from the Department of Veterans Affairs each year.
(2) In his testimony for the March 10, 2005, hearing of the Committee on Veterans’ Affairs of the Senate, Secretary Nicholson testified that—
(A) over 85,000 veterans of the Global War on Terrorism, including operations in Iraq, had already sought care from the Department of Veterans Affairs; and
(B) 24 percent of all veterans returning from the combat zone are seeking health care from the Department of Veterans Affairs.
(3) In his testimony before the Subcommittee on Defense of the Committee on Appropriations of the Senate on May 11, 2005, Air Force Surgeon General Lieutenant General George Peach Taylor, Jr. testified that over 55,000 service members had been medically evacuated since the beginning of Operation Iraqi Freedom.
(4) The Department of Defense reports that, through July 22, 2005—
(A) 13,559 service members had been wounded in action in Operation Iraqi Freedom; and
(B) 511 service members had been wounded in action in Operation Enduring Freedom.
(5) The number of wounded service members reported wounded by the Department of Defense constitute less than 1/2 of the number of veterans reported to have already sought health care from the Department of Veterans’ Affairs, a number which excludes wounded service members still serving on active duty in the Armed Services and wounded service members who sought health care from private physicians.
(6) In his testimony before the June 28, 2005, hearing of the Committee on Veterans’ Affairs of the Senate, Secretary Nicholson estimated that the Department of Veterans Affairs will experience a $1,300,000,000 funding shortfall for fiscal year 2005 and a $1,700,000,000 funding shortfall for fiscal year 2006, in large part because of the Department’s inability to plan for the increased workload experienced as a result of large numbers of veterans returning from Operations Iraqi Freedom and Enduring Freedom and seeking health care from the Department.
(7) It is impossible for the Department of Veterans Affairs to estimate, and for Congress to appropriate, the resources necessary to ensure that the Department of Veterans Affairs can adequately provide quality health care to veterans returning home from Operation Iraqi Freedom and other critical operations if the number of wounded and disabled service members is not accurately reported.

Subtitle B—Accounting for Casualties Incurred in the Prosecution of the Global War on Terrorism

SEC. 11. MONTHLY ACCOUNTING.
Not later than 5 days after the end of each calendar month, the Secretary of Defense shall publish, for each operation described in section 12, a report containing the number of casualties among the members of the Armed Forces that were incurred in such operation during that month.

SEC. 12. OPERATIONS COVERED.
The operations referred to in section 11 are as follows:
(1) Operation Iraqi Freedom.
(2) Operation Enduring Freedom.
(3) Each other operation undertaken by the Armed Forces in the prosecution of the Global War on Terrorism.

SEC. 13. COMPREHENSIVE CONTENT OF ACCOUNTING.
For the purpose of providing a full and complete accounting of casualties covered by a report under section 11, the Secretary of Defense shall include in the report the number of casualties in each casualty status in accordance with section 14.

SEC. 14. CASUALTY STATUS.
(a) STATUS TYPES.—In a report under this title, each casualty among members of the Armed Forces shall be characterized by the most specific casualty status applicable to the member as follows:
(1) Killed in action.
(2) Killed in non-hostile duty.
(3) Killed, self-inflicted.
(4) Wounded in action, not returned to duty.
(5) Wounded in action, returned to duty (to the extent that data is available to support this characterization of casualty status).
(6) Evacuated for medical reasons.
(b) DEFINITIONS.—In this section:
(1) Killed in action.—The term "killed in action", with respect to a member of the Armed Forces, means that the member incurred one or more mortal wounds while involved in an action against a hostile force, whether or not the wounds are inflicted by the hostile force.
(2) Killed in non-hostile duty.—The term "killed in non-hostile duty", with respect to a member of the Armed Forces, means that the member incurred one or more mortal wounds that were not self-inflicted and not inflicted during an action against a hostile force.
(3) Killed, self-inflicted.—The term "killed, self-inflicted", with respect to a member of the Armed Forces, means a suicide of the member or the death of the member as a result of one or more self-inflicted injuries.
(4) Wounded in action, not returned to duty.—The term "wounded in action, not returned to duty", with respect to a member of the Armed Forces, means that the member, while involved in an action against a hostile force, incurred one or more non-mortal injuries that required medical attention and that prevented the member from returning to duty within 72 hours after incurring the injury or injuries.
(5) Wounded in action, returned to duty.—The term "wounded in action, returned to duty", with respect to a member of the Armed Forces, means that the member, while involved in an action against a hostile force, incurred one or more non-mortal injuries that required medical attention but did not prevent the member from returning to duty within 72 hours after incurring the injury or injuries.
(6) Evacuated for medical reasons.—The term "evacuated for medical reasons", with respect to a member of the Armed Forces, means that the member was evacuated from a theater of operations for medical reasons, immediately following a medical evaluation.

SEC. 15. PUBLICATION AND RELEASE OF REPORT.
The Secretary of Defense shall—
(1) transmit a copy of the report under section 11 to the Secretary of Veterans Affairs;
(2) transmit a copy of the report to the chairman and ranking member of—
(A) the Committee on Armed Services of the Senate; and
(B) the Committee on Armed Services of the House of Representatives; and
(D) the Committees on Veterans' Affairs of the Senate and of the House of Representatives; and
(3) place the report on the official website of the Department of Defense.
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 real property to be conveyed (a) shall be determined by surveys satisfactory to the Secretary. The cost of each survey shall be borne by the City; (b) Availability 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.

SEC. 2843. LAND CONVEYANCE, IOWA ARMY AMMUNITION PLANT, MIDDLETOWN, IOWA.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey, without consideration, to the City of Middletown (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 any improvements thereon, consisting of approximately 1.0 acres located at the Iowa Army Ammunition Plant, Middletown, Iowa.

(b) REIMBURSEMENT.—Amounts received as reimbursement under paragraph (a) shall be credited to the fund or account that was used to cover the costs incurred by the Secretary in carrying out the conveyance. The United States shall release or otherwise relinquish any entitlement to receive, to the City, payment, compensation from the holder of a reversionary interest in real property used by the United States for improvements made to a military installation that is closed or realigned as part of the 2005 round of defense base closure and realignment.

SEC. 2857. RELEASE OF RIGHT TO PAYMENT FROM REVERSIONARY INTEREST HOLDERS FOR IMPROVEMENTS TO MILITARY INSTALLATIONS CLOSED OR REALIGNLED UNDER 2005 ROUND OF DEFENSE BASE CLOSURE AND REALIGNMENT.

SEC. 505. RESTORATION OF PREVIOUS POLICY REGARDING RESTRICTIONS ON USE OF MEDICAL TREATMENT FACILITIES OR OTHER DEPARTMENT OF DEFENSE FACILITIES.

Section 1093 of title 10, United States Code, is amended—

(1) by striking subsection (b); and

(2) in subsection (a), by striking “(a) RESTRICTION ON USE OF FUNDS.—”.

SEC. 1463. Mr. HARKIN (for himself and Mr. GRASSLEY) 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 subsection A of title VII, add the following:

SEC. 705. RESTORATION OF PREVIOUS POLICY REGARDING RESTRICTIONS ON USE OF MEDICAL TREATMENT FACILITIES OR OTHER DEPARTMENT OF DEFENSE FACILITIES.

Section 1093 of title 10, United States Code, is amended—

(1) by striking subsection (b); and

(2) in subsection (a), by striking “(a) RESTRICTION ON USE OF FUNDS.—”.

SEC. 1464. Mr. LOTT 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 B of title I, add the following:

SEC. 114. E-HUNTER UNMANNED AERIAL VEHICLE KITS.

Of the amount authorized to be appropriated by section 101(h) for other procurement for the Army, $50,000,000 shall be available for the procurement and installation of E-Hunter Unmanned Aerial Vehicle (UAV) kits.

SEC. 1465. Mr. LOTT (for himself, Mr. COCHRAN, and Mr. NELSON of Florida) 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 subsection C of title II, add the following:

SEC. 224. ARROW BALLISTIC MISSILE DEFENSE SYSTEM.

Of the amount authorized to be appropriated by section 201(h) for research, development, test, and evaluation for Defense-wide activities and available for ballistic missile defense, $80,000,000 may be available for coproduction of the Arrow ballistic missile defense system.

SEC. 1466. Mr. LOTT (for himself and Mr. COCHRAN) 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:

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 real property to be conveyed (a) shall be determined by surveys satisfactory to the Secretary. The cost of each survey shall be borne by the City; (b) Availability 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.

SEC. 2843. LAND CONVEYANCE, IOWA ARMY AMMUNITION PLANT, MIDDLETOWN, IOWA.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey, without consideration, to the City of Middletown (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 any improvements thereon, consisting of approximately 1.0 acres located at the Iowa Army Ammunition Plant, Middletown, Iowa.

(b) REIMBURSEMENT.—Amounts received as reimbursement under paragraph (a) 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 real property to be conveyed (a) shall be determined by surveys satisfactory to the Secretary. The cost of each survey shall be borne by the City; (b) Availability 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.

SEC. 2857. RELEASE OF RIGHT TO PAYMENT FROM REVERSIONARY INTEREST HOLDERS FOR IMPROVEMENTS TO MILITARY INSTALLATIONS CLOSED OR REALIGNLED UNDER 2005 ROUND OF DEFENSE BASE CLOSURE AND REALIGNMENT.

The United States shall release or otherwise relinquish any entitlement to receive, to the City, payment, compensation from the holder of a reversionary interest in real property used by the United States for improvements made to a military installation that is closed or realigned as part of the 2005 round of defense base closure and realignment.

SEC. 507. RESTORATION OF PREVIOUS POLICY REGARDING RESTRICTIONS ON USE OF MEDICAL TREATMENT FACILITIES OR OTHER DEPARTMENT OF DEFENSE FACILITIES.

Section 1093 of title 10, United States Code, is amended—

(1) by striking subsection (b); and

(2) in subsection (a), by striking “(a) RESTRICTION ON USE OF FUNDS.—”.

SEC. 1463. Mr. HARKIN (for himself and Mr. GRASSLEY) 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 subsection A of title VII, add the following:

SEC. 705. RESTORATION OF PREVIOUS POLICY REGARDING RESTRICTIONS ON USE OF MEDICAL TREATMENT FACILITIES OR OTHER DEPARTMENT OF DEFENSE FACILITIES.

Section 1093 of title 10, United States Code, is amended—

(1) by striking subsection (b); and

(2) in subsection (a), by striking “(a) RESTRICTION ON USE OF FUNDS.—”.

SEC. 1464. Mr. LOTT submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle B of title I, add the following:

SEC. 114. E-HUNTER UNMANNED AERIAL VEHICLE KITS.

Of the amount authorized to be appropriated by section 101(h) for other procurement for the Army, $50,000,000 shall be available for the procurement and installation of E-Hunter Unmanned Aerial Vehicle (UAV) kits.

SEC. 1465. Mr. LOTT (for himself, Mr. COCHRAN, and Mr. NELSON of Florida) 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 subsection C of title II, add the following:

SEC. 224. ARROW BALLISTIC MISSILE DEFENSE SYSTEM.

Of the amount authorized to be appropriated by section 201(h) for research, development, test, and evaluation for Defense-wide activities and available for ballistic missile defense, $80,000,000 may be available for coproduction of the Arrow ballistic missile defense system.

SEC. 1466. Mr. LOTT (for himself and Mr. COCHRAN) 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:

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 real property to be conveyed (a) shall be determined by surveys satisfactory to the Secretary. The cost of each survey shall be borne by the City; (b) Availability 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.
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. Each such summary and analysis shall include an appendix detailing dissenting views, and setting forth the dissenting views at the end of the following, and a motion to proceed to the consideration and enactment of any such joint resolution shall be disposed of on the same legislative day in the regular session of Congress by the chairman of one of the appropriate congressional committees during such period, the transaction may not be commenced until 30 legislative days after such resolution is introduced.

(3) CONSIDERATIONS. The Committee on Banking, Housing, and Urban Affairs of the Senate, 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).

(4) SENATE PROCEDURE. A 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 1996 (Public Law 94-329, 90 Stat. 765).

(5) 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 adequate and thorough review of the contract 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 1468. 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:

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

SEC. 1073. RENEWAL OF MORATORIUM ON RETURN OF VETERANS MEMORIAL OBJECTS TO FOREIGN NATIONS WITHOUT SPECIFIC AUTHORIZATION IN LAW.

Section 1051(c) of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106-105; 113 Stat. 763; 10 U.S.C. 2572 note) is amended by inserting “,” and during the period beginning on the date of the enactment of the Authorization Act for Fiscal Year 2006 and ending on the date that is eight years after that date” before the period.

SA 1470. Mr. BENNETT 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 V, add the following:

SEC. 912. STUDY ON USE OF SPACE SHUTTLE-DEPLOYED LAUNCH SYSTEM TO MEET SPECIFIC REQUIREMENTS.

(a) STUDY REQUIRED. The Secretary of Defense shall conduct a study to evaluate the feasibility and advisability of utilizing a space launch system derived from the Space Shuttle to meet current and future space launch requirements for medium and heavy payloads for national security purposes as a complement to current space launch vehicles.

(b) ELEMENTS. The study required by subsection (a) shall include the following:

(1) A comparison of the reliability of the space launch system described in that subsection with the vehicles referred to in that subsection.

(2) A comparison of the workforce available to support such system and to support such vehicles.

(3) A comparative assessment of the infrastructure investment required for such system and for such vehicles.

(4) A comparative assessment of the impact of the utilization of such system and of the utilization of such vehicles on other weapons systems.

(5) An identification of single points of failure, if any, in such system and in such vehicles.

(6) An identification and comparison of any economies of scale with other departments and agencies of the Federal Government that might result from the utilization of such system or of such vehicles.

(c) REPORT. The Secretary shall submit to the congressional defense committees a report on the study required by subsection (a) not later than February 28, 2006.

SA 1471. Mr. VITTER 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. DEFENSE SCIENCE BOARD STUDY ON DEPLOYMENT OF MEMBERS OF THE NATIONAL GUARD AND RESERVES IN THE GLOBAL WAR ON TERRORISM.

(a) STUDY REQUIRED. The Defense Science Board shall conduct a study of the length and frequency of the deployment of members of the National Guard and the Reserves as a result of the global war on terrorism.

(b) ELEMENTS. The study required by subsection (a) shall include the following:

(1) An identification of the current range of lengths and frequencies of deployments of members of the National Guard and the Reserves.

(2) An assessment of the consequences for force structure, morale, and missions capability of deployments of members of the National Guard and the Reserves in the course of the global war on terrorism that are lengthy, frequent, or both.

(3) An identification of the optimal length and frequency of deployments of members of the National Guard and the Reserves during the global war on terrorism.

(4) An identification of mechanisms to reduce the length, frequency, or both of deployments of members of the National Guard and the Reserves during the global war on terrorism.

(c) REPORT. Not later than May 1, 2006, the Defense Science Board shall submit to the congressional defense committees a report on the study required by subsection (a). The report shall include the results of the study and such recommendations as the Defense Science Board considers appropriate in light of the study.

SA 1472. Mr. SPECTER 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 H of title V, add the following:

SEC. 596. AWARD OF COMBAT MEDICAL BADGE (CMB) OR OTHER COMBAT BADGE FOR PERFORMANCE WITH A HELICOPTER MEDICAL EVACUATION AMBULANCE CREW.

(a) REQUIREMENT TO ELEIGIBLE AND AWARD COMBAT BADGE.—The Secretary of the Army shall, at the election of the Secretary—

(1) award the Combat Medical Badge (CMB) to each member of a helicopter medical evacuation ambulance crew; or

(2) establish a badge of appropriate design, to be known as the Combat Medevac Badge.

(b) AWARD TO CREW MEMBERS.—The Secretary shall award a badge under subsection (a) to each such person with respect to whom an application for the award of such badge is made to the Secretary and such a designation by the Secretary is made.

(c) MEMBER OF HELICOPTER MEDICAL EVACUATION CREW DEFINED.—In this section, a "member of a helicopter medical evacuation ambulance crew" means any person who serves in the Armed Forces and who served in the Armed Forces in any capacity related to the military activities of the Department of Defense.

SEC. 1475. 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 337, between lines 4 and 8, insert the following:

SEC. 2002. PROHIBITION ON USE OF FUNDS FOR ARMY RESERVE PROJECT AT ELLINGTON FIELD, TEXAS.

None of the funds authorized to be appropriated to the Army Reserve for military construction may be made available for construction of an Army Reserve center at Ellington Field, Texas.

SEC. 1476. 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:

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 US-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 relationship of China and North Korea to global ballistic missile proliferation is extensive and ongoing;

(D) China’s transfers of technology and components for mass destruction weapons (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 on 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’s 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 of current trends in United States-China relations that have for United States long-term economic and national security interests.

(2) COURTS.—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 laws, to reduce unfair and discriminatory 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 disputes 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) Provisions 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 by the Secretaries of State and Energy to consult with the International Energy Agency with the objective of guiding 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 operating on a cooperative, long-term basis.

(F) Actions by the administration to develop 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 pursue national security strategy.

(G) Actions by the administration to review laws and regulations governing the Committee on Foreign Investment in the United States (CFIUS), including those governing whether actions of national security should include the potential impact on national economic security as a criterion to be reviewed, and whether the chairmanship of CFIUS should be transferred from the Secretary of the Treasury to a more appropriate executive branch agency.

On page 311, in the table preceding line 1, strike the item relating to Fort Sam Housto, Texas.

On page 311, in the table preceding line 1, strike the amount identified as the total in section 2601(1)(A) for the Army Reserve for military construction may be made available for construction of an Army Reserve center at Ellington Field, Texas.

SEC. 2602. PROHIBITION ON USE OF FUNDS FOR ARMY RESERVE PROJECT AT ELLINGTON FIELD, TEXAS.

None of the funds authorized to be appropriated to 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 8, insert the following:

SEC. 2002. PROHIBITION ON USE OF FUNDS FOR ARMY RESERVE PROJECT AT ELLINGTON FIELD, TEXAS.

None of the funds authorized to be appropriated to the Army Reserve for military construction may be made available for construction of an Army Reserve center at Ellington Field, Texas.
**SA 1477. Mrs. HUTCHISON 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 end of subtitle B of title VI, add the following:

**SEC. 624. ELIGIBILITY OF ORAL AND MAXILLOFACIAL SURGEONS FOR SPECIAL PAY FOR RESERVE HEALTH PROFESSIONALS IN CRITICALLY SHORT WARTIME SPECIALTIES.**

(a) In General.—Section 302(b) of title 37, United States Code, is amended by inserting "oral and maxillofacial surgery," after "in a health profession".

(b) Effective Date.—The amendment made by subsection (a) shall take effect on October 1, 2005.

**SA 1478. Mrs. HUTCHISON (for herself and Ms. MUKULSKY) 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 B of title VI, add the following:

**SEC. 624. ELIGIBILITY OF ORAL AND MAXILLOFACIAL SURGEONS FOR INCENTIVE SPECIAL PAY FOR MEDICAL OFFICERS OF THE ARMED FORCES.**

(a) In General.—For purposes of eligibility for incentive special pay payable under section 302b of title 37, United States Code, oral and maxillofacial surgeons shall be treated as medical officers of the Armed Forces who may be paid variable special pay under section 302a(2) of such title.

(b) Effective Date.—Subsection (a) shall take effect on October 1, 2005, and shall apply with respect to incentive special pay payable under section 302b of title 37, United States Code, on or after that date.

**SA 1479. Mrs. HUTCHISON 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 237, after line 17, insert the following:

**SEC. 846. SMALL DISADVANTAGED BUSINESSES.**

(a) In General.—Subparagraphs (D) and (E) of section 8(a)(6) of the Small Business Act (15 U.S.C. 637(a)(6)), regarding asset withdrawals, shall not apply to a socially and economically disadvantaged small business concern if—

(1) the small business concern provides supplies or services under a Government prime contract or subcontract at any tier; and

(2) such supplies or services are provided in whole or in part through the presence of the personnel of such small business concern in a qualified area.

(b) Duration.—A waiver under subsection (a) shall last for the duration of the prime contract or subcontract with the Government under subsection (a)(3).

(c) Definitions.—As used in this section:

(1) the term "qualified area" means—

(A) a combat zone, as defined in section 112(c)(2) of the Internal Revenue Code of 1986; and

(B) an area designated by the Secretary of State as eligible for a danger pay allowance under section 5928 of title 5, United States Code; and

the following:

(j), respectively;

(i), and

(h), and

(g), and

(f); and

(e)

SEC. 2887. SENSE OF THE SENATE REGARDING REQUIREMENT TO OBTAIN CONSENT OF GOVERNORS AFFECTED BY MOVEMENT OR REALLOCATION OF AIRCRAFT FROM AIR NATIONAL GUARD UNITS.

It is the sense of the Senate that the movement or reallocation of aircraft from one Air

**SA 1480. Mrs. HUTCHISON 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 title VII, add the following:

**SEC. 330. MODIFICATION OF AUTHORITY OF ARMY WORKING-CAPITAL FUNDED FACILITIES FOR IMPROVEMENTS, AND FOR COOPERATIVE ACTIVITIES WITH NON-ARMY ENTITIES.**

(a) Applicability of Sunset.—Subsection (j) of section 4544 of title 10, United States Code, is amended by striking "September 30, 2009," and all that follows through the end and inserting September 30, 2009.

(b) Crediting of Proceeds of Sales of Articles and Services.—Such section is further amended:

(1) in subsection (d), by striking "subsection (e)" and inserting "subsection (f)";

(2) by redesignating subsections (e), (f), (g), (h), and (i) as subsections (f), (g), (h), and (i), respectively;

(3) by inserting after subsection (d) the following new subsection (e):

"(e) Proceeds Credited to Working Capital Fund.—The proceeds of an article or service pursuant to a contract or other cooperative arrangement under this section shall be credited to the working capital fund maintained under the meaning given that term under section 8(a)(4)(A) of the Small Business Act (15 U.S.C. 637(a)(4)(A))."

**SA 1482. Mr. OBAMA (for himself, Mr. BYRD, and Mr. DURBIN) 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. 2888. SENSE OF THE CONGRESS REGARDING BILATERAL TREATIES WITH ISRAEL AND THE ARAB STATES.**

"Whereas the War on Terror cannot be won without a global strategy and a global commitment, the United States must lead the international community in supporting the Palestinians' struggle for self-determination, peace, and the two-state solution; and

"Whereas the order of specific diplomatic steps that the President of the United States must take in pursuit of the goal of a two-state solution is a matter of judgment for the President of the United States; and

"Now, therefore, be it — The Senate recognizes that the United States President may wish to invite the President of the State of Israel to engage in direct negotiations with the President of the Palestinian Authority on behalf of the Palestinian people; and

"Resolved, That the Senate urges the President to engage in direct negotiations with the President of the Palestinian Authority on behalf of the Palestinian people, according to the wishes of the President of the United States, in the pursuit of a comprehensive and lasting solution to the Israeli-Palestinian conflict."

**SA 1483. Mrs. HUTCHISON 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:**

SEC. 129. INCREASED MILITARY ACTIVITIES SUPPORT FOR NATIONAL SECURITY.

(a) The Department of Defense, in consultation with the Secretary of State, the Administrator of the Small Business Administration, and the Secretary of Energy, is directed to conduct an assessment of aeronautical research 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 VII, add the following:

**SEC. 129. INCREASED MILITARY ACTIVITIES SUPPORT FOR NATIONAL SECURITY.

(a) The Department of Defense, in consultation with the Secretary of State, the Administrator of the Small Business Administration, and the Secretary of Energy, is directed to conduct an assessment of aeronautical research 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:**

SEC. 2888. SENSE OF THE CONGRESS REGARDING BILATERAL TREATIES WITH ISRAEL AND THE ARAB STATES.

"Whereas the War on Terror cannot be won without a global strategy and a global commitment, the United States must lead the international community in supporting the Palestinians' struggle for self-determination, peace, and the two-state solution; and

"Whereas the order of specific diplomatic steps that the President of the United States must take in pursuit of the goal of a two-state solution is a matter of judgment for the President of the United States; and

"Now, therefore, be it — The Senate recognizes that the United States President may wish to invite the President of the State of Israel to engage in direct negotiations with the President of the Palestinian Authority on behalf of the Palestinian people; and

"Resolved, That the Senate urges the President to engage in direct negotiations with the President of the Palestinian Authority on behalf of the Palestinian people, according to the wishes of the President of the United States, in the pursuit of a comprehensive and lasting solution to the Israeli-Palestinian conflict."

SEC. 2888. SENSE OF THE CONGRESS REGARDING BILATERAL TREATIES WITH ISRAEL AND THE ARAB STATES.

"Whereas the War on Terror cannot be won without a global strategy and a global commitment, the United States must lead the international community in supporting the Palestinians' struggle for self-determination, peace, and the two-state solution; and

"Whereas the order of specific diplomatic steps that the President of the United States must take in pursuit of the goal of a two-state solution is a matter of judgment for the President of the United States; and

"Now, therefore, be it — The Senate recognizes that the United States President may wish to invite the President of the State of Israel to engage in direct negotiations with the President of the Palestinian Authority on behalf of the Palestinian people; and

"Resolved, That the Senate urges the President to engage in direct negotiations with the President of the Palestinian Authority on behalf of the Palestinian people, according to the wishes of the President of the United States, in the pursuit of a comprehensive and lasting solution to the Israeli-Palestinian conflict."
National Guard unit to another Air National Guard unit—
(1) constitutes—
(A) a relocation or withdrawal of a unit for purposes of section 12288 of title 10, United States Code; and
(B) a “change in the branch, organization, or allotment of a unit” for purposes of section 1091(c) of title 32, United States Code; and
(2) therefore requires the consent of the governor of an affected State.

SA 1483. Mr. REED 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 the following:

SEC. 1009. FUNDING FOR INCREASED PERSONNEL STRENGTHS FOR ARMY AND MARINE CORPS FOR FISCAL YEAR 2006.

(a) ADDITIONAL AMOUNTS.—
(1) ADDITIONAL AMOUNT FOR OPERATION AND MAINTENANCE, ARMY.—The amount authorized to be appropriated by section 301(1) for operation and maintenance for the Army is hereby increased by $1,081,640,000.
(2) ADDITIONAL AMOUNT FOR OPERATION AND MAINTENANCE, MARINE CORPS.—The amount authorized to be appropriated by section 303(3) for operation and maintenance for the Marine Corps is hereby increased by $31,431,000.
(3) ADDITIONAL AMOUNT FOR OPERATION AND MAINTENANCE, DEFENSE-WIDE ACTIVITIES.—The amount authorized to be appropriated by section 301(5) for operation and maintenance for Defense-wide activities is hereby increased by $121,397,000.

(b) ADDITIONAL AMOUNT FOR DEFENSE HEALTH PROGRAM.—The amount authorized to be appropriated by section 303(a) for the Defense Health Program is hereby increased by $271,397,000.

(c) ADDITIONAL AMOUNT FOR MILITARY PERSONNEL.—The amount authorized to be appropriated by section 421 for military personnel is hereby increased by $275,615,000.

(d) OFFSETS FROM SUPPLEMENTAL AMOUNTS FOR IRAQ, AFGHANISTAN, AND GLOBAL WAR ON TERRORISM.

(1) OPERATION AND MAINTENANCE, ARMY.—The amount authorized to be appropriated by section 1406(1) is hereby reduced by $1,081,640,000.
(2) OPERATION AND MAINTENANCE, MARINE CORPS.—The amount authorized to be appropriated by section 1406(3) is hereby reduced by $31,431,000.
(3) OPERATION AND MAINTENANCE, DEFENSE-WIDE ACTIVITIES.—The amount authorized to be appropriated by section 1406(5) is hereby reduced by $121,397,000.

(e) DEFENSE HEALTH PROGRAM.—The amount authorized to be appropriated by section 1408(1) is hereby reduced by $271,397,000.
(5) MILITARY PERSONNEL, ARMY.—The amount authorized to be appropriated by section 1408(1) is hereby reduced by $275,615,000.
(6) MILITARY PERSONNEL, MARINE CORPS.—The amount authorized to be appropriated by section 1408(3) is hereby reduced by $170,571,000.

SA 1484. 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:

On page 296, after line 19, insert the following:

SEC. 1205. REPORT ON NUCLEAR WEAPONS DEVELOPMENT IN NORTH KOREA.

(a) FINDINGS.—Congress makes the following findings:
(1) Since the 1993 announcement by officials of the Government of North Korea that North Korea intended to withdraw from the Treaty on the Non-Proliferation of Nuclear Weapons, done at Washington, London, and Moscow July 1, 1968 (28 UST 483) (hereinafter referred to as the ‘‘Nuclear Non-Proliferation Treaty’’), the United States and its allies have carried out a number of diplomatic initiatives to address concerns related to nuclear weapons in North Korea.

(2) Diplomatic negotiations led to the Agreement Framework between the United States and North Korea, signed in Geneva on October 12, 1994, and referred to as the ‘‘Agreement Framework’’, under which more than 8,000 plutonium spent fuel rods suitable for reprocessing into weapons grade material were kept under international monitoring.

(3) During the period that the Agreement Framework has not been in effect since 2002—
(A) officials of the Government of North Korea have indicated North Korea has reprocessed all of the 8,000 plutonium spent fuel rods that were previously under international monitoring so that such rods are in a form suitable for use in multiple nuclear weapons;
(B) North Korea has withdrawn from the Nuclear Non-Proliferation Treaty; and
(C) officials of the Government of North Korea have indicated that North Korea has 6,000 more spent fuel rods in its current reactors at Yongbyon which allows North Korea to prepare more nuclear weapons material.

(4) Since 2002, the United States diplomatic strategy with respect to nuclear materials in North Korea has centered on a six party talks process, the last meeting of which occurred in June 2004, and next meeting of which is expected to begin on July 26, 2005.

(5) Complete and open debate by Congress and the people of the United States of the national security interests and an accurate assessment of the diplomatic options available to the United States with respect to North Korea require that the most complete data regarding nuclear materials development in North Korea be available.

(b) SENSE OF CONGRESS.—It is the sense of Congress that:
(1) the United States negotiators in the process of six party talks regarding the development of nuclear materials in North Korea should be fully empowered with the flexibility necessary to seek agreements and understandings that advance toward the goal of a denuclearized North Korea, as such agreements and understandings are in the national security interest of the United States; and
(2) such six party talks should occur in an ongoing, regular, and frequent basis.

(c) REQUIREMENT.—Not later than 90 days after the date of the enactment of this Act, the President shall submit to Congress a report on the development of nuclear materials in North Korea. Such report shall include—
(A) an estimate of the number of nuclear weapons that the President believes is likely that North Korea produced—
(i) prior to the signing of the Agreement Framework in 1994;
(ii) during the period from 1994 through 2002 that the Agreement Framework was in effect; and
(iii) after the date that the United States and North Korea ceased adhering to the Agreement Framework in 2002; and
(B) an assessment of the number of plutonium and uranium-based nuclear weapons that the President believes—
(i) the United States has control of on the date of the enactment of the Act; and
(ii) projects that North Korea could have control of on the date of the enactment of the Act if diplomatic efforts to prevent the proliferation of nuclear materials in North Korea are unsuccessful.

(2) FORM OF REPORT.—The report required by paragraph (1) shall be submitted in an unclassified form.

SA 1485. 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:

On page 296, after line 19, insert the following:

SEC. 1206. SENSE OF CONGRESS ON UNITED STATES PARTICIPATION IN THE REVIEW CONFERENCES OF THE PARTIES TO TREATY ON THE NON-PROLIFERATION OF NUCLEAR WEAPONS.

(a) FINDINGS.—Congress makes the following findings:
(1) The Treaty on the Non-Proliferation of Nuclear Weapons, done at Washington, London, and Moscow July 1, 1968 (28 UST 483) (hereinafter referred to as the “Nuclear Non-Proliferation Treaty”), which has been signed by 188 parties constituting a majority of the international regime to prevent the spread of nuclear weapons.

(2) Since 1975, a Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons has been held every five years to review the Nuclear Non-Proliferation Treaty, evaluate the progress that has been made, and assess the additional steps that must be carried out to prevent the spread of nuclear weapons.

(3) The Nuclear Non-Proliferation Treaty must be strengthened to respond to current proliferation challenges, and the leadership of the United States is crucial in such effort.

(4) The United States was represented at each of the first four Review Conferences, which were held during 1975, 1980, 1985, and 1990, by an official no lower than the equivalent of a Deputy Secretary of State, who reported directly to the Secretary of State, and at the last two conferences, which were held during 1995 and 2000, the United States was represented by the Vice President and the Secretary of State.

(5) The Assistant Secretary for Arms Control of the Department of State, who reports to the Secretary of State through the Under Secretary for Arms Control and International Security Affairs and the Deputy Secretary of State, represented the United

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States at the 2005 Review Conference and was the lowest-level representative ever to represent the United States at a Review Conference.

(b) The level of United States representation at Review Conferences affects the ability of the United States Government to exert leadership in strengthening the international nonproliferation regime.

(c) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the Secretary of State should represent the United States at a future Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons;

(2) not later than 90 days prior to the start of each Review Conference or any preparatory conference to the Nuclear Non-Proliferation Treaty, the President should submit to Congress a plan that outlines the United States objectives for the Review Conference or preparatory conference and a comprehensive strategy for achieving such objectives; and

(3) not later than 90 days after the conclusion of a Review Conference or any such preparatory conference or, with respect to the Review Conference held during 2005, not later than the first day of committee consideration of this Act, the President should submit to Congress an after-action review of the Review Conference or preparatory conference, including an assessment of which United States objectives related to strengthening international nuclear nonproliferation efforts were achieved and which objectives were not achieved during the Review Conference or preparatory conference.

SA 1486. Mr. REID (for himself and 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 title XII, add the following:

SEC. 1005. UPDATE OF NATIONAL STRATEGY TO COMBAT THE PROLIFERATION OF WEAPONS OF MASS DESTRUCTION.

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

(1) On February 11, 2004, President George W. Bush stated that “the greatest threat facing humanity today is the possibility of secret and sudden attack with chemical or biological or radiological or nuclear weapons” and on September 30, 2004, President George W. Bush stated that “the biggest threat facing the country is weapons of mass destruction in the hands of a terrorist network.”

(2) The non-nuclear, chemical, biological, or radiological terrorism requires a layered defense drawing upon a full spectrum of capabilities and tools, beginning with a coordinated and integrated international effort to detect, prevent, and respond to the proliferation of weapons of mass destruction (WMD), or, if prevention fails, to manage the consequences of attacks while preserving fundamental liberties and economic activity.

(3) A National Strategy to Combat Weapons of Mass Destruction was published in December 2002.

(4) Since the development of the National Strategy, the nature of the weapons of mass destruction threats to the United States has changed; and

(5) the understanding of likely future weapons of mass destruction threats has also changed.

(6) Since the development of the National Strategy, programs and capabilities for detecting, preventing, and responding to weapons of mass destruction threats have also changed.

(A) President George W. Bush enumerated on February 11, 2004, a number of new actions the United States would call for to address weaknesses in efforts to combat the proliferation of weapons of mass destruction. Some of the most important of these actions have not yet been implemented or have met international resistance, leading role within the United States Government in addressing such threats.

(B) A significant intelligence failure has been identified with respect to the assessment of the weapons of mass destruction capabilities of Iraq, which failure has precipitated several efforts to identify systemic deficiencies in intelligence and implement recommended improvements, including implementation of 70 recommendations of the Commission on the Intelligence Capabilities of the United States Regarding Weapons of Mass Destruction.

(C) As required by the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108-458), and as recommended by the Commission on the Intelligence Capabilities of the United States Regarding Weapons of Mass Destruction, President George W. Bush announced in June 2005 the intent to establish a National Counter Proliferation Center (NCPC), and the strategic oversight of the work of the intelligence community on threats posed by the proliferation of weapons of mass destruction and will play a unique leading role within the United States Government in addressing such threats.

(D) A number of other significant changes to United States capabilities to combat the proliferation of weapons of mass destruction have been recommended, and in some cases, implemented since December 2002, in the absence of an updated national strategy on combating the proliferation of weapons of mass destruction.

(b) UPDATE OF NATIONAL STRATEGY TO COMBAT WEAPONS OF MASS DESTRUCTION.—(1) Not later than 6 months after the date of enactment of this Act, the President shall develop and submit to Congress an update to the National Strategy to Combat Weapons of Mass Destruction of December 2002.

(2) The update of the National Strategy shall include the following:

(A) NATIONAL COUNTER PROLIFERATION CENTER.—A description of the roles, missions, and concepts of operations for the National Counter Proliferation Center, including a plan and schedule for establishing the Center and developing it to full working capacity.

(B) INTERNATIONAL NONPROLIFERATION REGIMES.—A review of how the United States will seek to strengthen the international nonproliferation regimes, including, but not limited to, the Nuclear Non-Proliferation Treaty and associated entities (such as the Nuclear Suppliers Group) in the wake of the 2005 Nuclear Non-Proliferation Treaty review conference, the Missile Technology Control Treaty and associated entities (such as the Australia Group), and the Chemical Weapons Convention and associated entities (such as the Austral Group).

(C) SECURITY OF NUCLEAR MATERIALS.—A review of how the United States plans to enhance programs to secure weapons-useable nuclear materials and nonnuclear materials suitable for use in a so-called “dirty bomb” that are located around the world, including but not limited to fulfilling commitments made under the G-8 Global Partnership Against the Spread of Weapons and Materials of Mass Destruction.

(D) DETECTION AND CHARACTERIZATION CAPABILITIES.—A review of how the United States plans to improve the array of technologies and devices for the detection of weapons of mass destruction to ensure the homeland is protected from any means by which weapons of mass destruction could be used against the United States and to prevent the unauthorized movement of such weapons.

(E) INTERDICT CAPABILITIES.—An assessment of the ability of the United States and other international partners to interdict in transit illicit equipment, technology, materials, and personnel related to weapons of mass destruction, including—

(i) an assessment of the date, type, number, and impact of interdictions under the Proliferation Security Initiative and any other similar initiatives or programs; and

(ii) an assessment of how the capabilities under the Initiative, and any other similar initiatives or programs, can be strengthened to achieve more concrete results; and

(iii) an assessment of the amount of funding needed to support such capabilities.

(F) NUCLEAR INSPECTIONS AND SAFEGUARDS.—A review of how the United States will seek to strengthen the ability of the International Atomic Energy Agency (IAEA) to monitor peaceful nuclear energy programs to the extent that such programs are not used as a cover for nuclear weapons development, including, but not limited to—

(i) how the United States will encourage the adoption and ratification of a non-nuclear weapons state of the Model Additional Protocol with the Agency; and
The implementation of intelligence reforms in combat operations abroad.

fronting multiple and extended tours of duty, and put pressure on recruiting and retention difficulties, and put pressure on the force, exacerbate recruiting and retention issues, which could worsen over time.

the supply and demand mismatch, are having an effect on recruitment and retention that could be thousands of recruits short of its force, which could worsen over time.

the Army in Afghanistan and elsewhere around the world.

The severe stresses on the force are having an effect on the force, which was ordered to lie on the table; as follows:

At the end of division A, add the following:

SEC. 1501. FINDINGS.

The war in Iraq and military operations in Afghanistan and elsewhere around the world are putting protracted conflict, combined with the supply and demand mismatch, are having a negative and corrosive effect on the force, which could worsen over time.

The demands on the force are not likely to diminish in the foreseeable future.

40 percent of the forces in Iraq are from the National Guard or the Reserve.

The severe stresses on the force are having an effect on the force, which was ordered to lie on the table; as follows:

At the end of division A, add the following:

SEC. 1505. DUTIES OF THE COMMISSION.

(a) STUDY.—The Commission shall conduct a thorough study of all matters relating to the future of the all-volunteer Army;

(b) MATTERS STUDIED.—In conducting the study, the Commission shall consider—

(A) the roles and missions anticipated for the Army during the five-year period beginning on March 1, 2006; and

(B) the proper size and structure of the Army in order to perform the roles and missions described in subparagraph (A), including the proper allocation of responsibilities for such roles and missions between the regular component of the Army and the reserve components of the Army;

(C) the appropriate role and structure of the reserve components of the Army to continue to contribute to the performance of such roles and missions;

(D) whether the current utilization of the reserve components of the Army is compatible with its capability and whether the proper size and structure of the reserve components of the Army to such roles and missions; and

(E) the recruitment and retention practices required to provide for an Army of the size and structure needed to perform such roles and missions, including practices related to incentives and other benefits.

SEC. 1506. ESTABLISHMENT OF COMMISSION.

(a) ESTABLISHMENT.—There is established the National Commission on the Future of the All-Volunteer Army (in this title referred to as the "Commission").

(b) MEMBERSHIP.—(1) The Commission shall be composed of eight members of whom—

(A) two shall be appointed by the Majority Leader of the Senate;

(B) two shall be appointed by the Minority Leader of the Senate;

(C) two shall be appointed by the Speaker of the House of Representatives; and

(D) two shall be appointed by the Minority Leader of the House of Representatives, from among the members of such House.

(2) Date.—The appointments of the members of the Commission shall be made on or before 90 days after the date of the enactment of this Act.

(c) PERIOD OF APPOINTMENT, VACANCIES.—Members of the Commission shall serve until the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting, and 90 days after the date of the enactment of this Act.

(d) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting.

(e) MEETINGS.—The Commission shall meet at the call of the Chairman.

(f) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(g) CHAIRMAN AND VICE CHAIRMAN.—The Commission shall select a Chairman and Vice Chairman from among its members.

SEC. 1507. POWERS OF THE COMMISSION.

The Commission may, without regard to the civil service laws and regulations, appoint and employ such personnel as may be necessary to enable the Commission to perform its duties. The employment of an executive director shall be subject to confirmation by the Commission.

The Chairman of the Commission may fix the compensation of the executive director and other personnel.

Any Federal Government employee may be detailed to the Commission.

The Commission may accept, use, and dispose of gifts or donations of services or property.

SEC. 1508. REPORT.

The Commission shall submit a report to the President and Congress which shall contain a detailed statement of the findings and conclusions of the Commission, together with its recommendations for such legislation and administrative actions as it considers appropriate in light of such findings and conclusions.

SEC. 1509. PERSONNEL MATTERS.

(a) COMPENSATION OF MEMBERS.—Each member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission.

(b) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code.

(c) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(d) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

SEC. 1511. SELECTION AND APPOINTMENT OF EXECUTIVE DIRECTOR.

The Commission may, without regard to the civil service laws and regulations, appoint and employ such personnel as may be necessary to carry out this title. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information as the Commission considers necessary to carry out this title.

SEC. 1512. GRANTS AND LOANS.

The Commission may accept, use, and dispose of gifts or donations of services or property.
SEC. 1505. TERMINATION OF THE COMMISSION.

The Commission shall terminate 90 days after the date on which the Commission submits its report under section 1505(b).

SEC. 1507. FUNDING.

(a) In General.—Of the amounts authorized to be appropriated by section 301(5) for operation and maintenance, Defense-wide activities, $3,000,000 may be available for the activities of the Commission under this title.

(b) Availability.—Amounts available under section 1505(a) shall remain available until expended.

SA 1488. 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, to procure national defense personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

SEC. 1411. COMMISSION ON STRATEGY FOR SUCCESS IN THE GLOBAL WAR ON TERRORISM.

(a) Establishment.—There is established a Commission on a Strategy for Success in the Global War on Terrorism (in this section referred to as the "Commission").

(b) Study and Report.—

(1) Study.—The Commission shall conduct a study on the strategy, tactics, and metrics for assessing performance and measuring success used by the United States in the conduct of the Global War on Terrorism and submit to the Congress the findings of such study, as described in paragraph (2).

(2) Report.—Not later than 6 months after the date of the enactment of this Act, the Commission shall submit to the appropriate congressional committees a report on the study required by paragraph (1). Such report shall include the following:

(A) Recommendations for a set of benchmarks by which the United States can assess performance and measure success in the following areas:

(i) Reducing the capability of major world-wide terrorist organizations for carrying out attacks against the United States and its interests.

(ii) Disrupting senior leadership of major world-wide terrorist organizations.

(iii) Decreasing the ability of major world-wide terrorist organizations to recruit new members.

(iv) Disrupting major world-wide terrorist organizations’ access to, movement of, and use of financial assets and key non-financial resources.

(v) Eliminating safe havens and training grounds for major world-wide terrorist organizations.

(vi) Reducing terrorists from gaining access to nuclear materials and other weapons of mass destruction.

(vii) Enhancing the public image of the United States within the populations from which terrorists have most often originated.

(B) An assessment of performance and progress since winning the Global War on Terrorism according to the benchmarks set forth by the Commission in accordance with subparagraph (A).

(C) An analysis of the conduct of the individual operations carried out by the United States as part of the Global War on Terrorism, including Operation Iraqi Freedom, on overall progress in the Global War on Terrorism.

(D) An analysis of the annual country reports on the Global War on Terrorism of the Secretary of State in accordance with section 140 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (22 U.S.C. 2656), including an assessment of the following:

(i) The effectiveness of the process by which the Secretary of State tabulates and categorizes terrorist attacks and events around the world.

(ii) The accuracy of the data reported in the reports.

(iii) The adequacy of safeguards against the influence of political considerations or other corrupting factors on the quality of data included in the reports.

(iv) Any recommendations the Commission may have for expanding, reconfiguring, or otherwise improving the reports.

(c) Members.—

(1) Number and Appointment.—The Commission shall have not less than six members who are appointed not later than one month after the date of the enactment of this Act, as follows:

(A) Two co-chairpersons, of which—

(i) one co-chairperson shall be appointed by a majority of the majority leaders of the Senate and the House of Representatives, and of the chairmen of each of the appropriate congressional committees; and

(ii) one co-chairperson shall be appointed by a committee consisting of the minority leaders of the House and Senate, the ranking minority member of each of the appropriate congressional committees.

(B) Five members appointed by the chairmen and ranking minority members of the Committees on Armed Services, the Committee on Homeland Security, and the Committee on International Relations.

(C) Five members appointed by the chairmen and ranking minority members of the Committees on Armed Services, the Committee on Homeland Security, and the Committee on International Relations.

(D) Five members appointed by the chairmen and ranking minority members of the Committees on Armed Services, the Committee on Homeland Security, and the Committee on International Relations.

(E) Five members appointed by the chairmen and ranking minority members of the Committees on Armed Services, the Committee on Homeland Security, and the Committee on International Relations.

(F) Five members appointed by the chairmen and ranking minority members of the Committees on Armed Services, the Committee on Homeland Security, and the Committee on International Relations.

(2) Qualifications.—Individuals appointed to the Commission shall have proven experience or expertise in the prosecution of the Global War on Terrorism or in the study and analysis of terrorism, terrorists, United States military intelligence operations, or other relevant subject matter.

(3) Vacancies.—Any vacancy on the Commission shall not affect its powers and shall be filled in the manner in which the original appointment was made.

(d) Chairpersons.—The members appointed pursuant to paragraph (1)(A) shall serve as co-chairpersons of the Commission.

(e) Prohibition on Pay.—Members of the Commission shall serve without pay.

(f) Travel Expenses.—Each member of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(g) Quorum.—A majority of the members of the Commission shall constitute a quorum but a lesser number may hold hearings.

(h) Meetings.—The Commission shall meet at the call of the chairpersons. The initial meeting of the Commission shall occur not later than two weeks after the date on which the Commission is established. The Commission may select a temporary chairperson until such time as the co-chairpersons have been appointed.

(i) Director and Staff.—

(A) Director.—The Commission shall have a Director who shall be appointed by the Chairperson. The Director shall be paid at a rate not to exceed the rate of basic pay payable for level V of the Executive Schedule.

(B) Staff.—The Commission may appoint personnel as appropriate for the performance of the Commission's duties and shall be in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of title 5 relating to classification and General Schedule pay rates.

(j) Experts and Consultants.—The Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay payable for the General Schedule.

(k) Powers.—

(1) Hearings and Sessions.—The Commission may, for the purpose of carrying out this section, hold hearings, sit and act at times and places, take testimony, and receive such evidence as the Commission considers appropriate.

(2) Powers of Members and Agents.—Any member or agent of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take by this section.

(l) Use of Official Data.—The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this section. Upon request of the chairpersons of the Commission, the head of such department or agency shall furnish information to the Commission in a timely manner.

(m) Postal Services.—The Commission may use the United States postal services in the same manner and under the same conditions as other departments and agencies of the United States.

(n) Gifts.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(o) Administrative Support Services.—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, administrative support services necessary for the Commission to carry out its responsibilities under this section.

(p) Security Clearances for Commission Members and Staff.—The Commission, the departments and agencies of the United States shall cooperate with the Commission in expeditiously providing to the Commission members and staff the security clearances in a manner consistent with existing procedures and requirements, except that no person shall be provided with access to classified information who would not otherwise qualify for such security clearance.

(q) Appropriate Congressional Committee.—In the case of an "appropriate congressional committee" means the Committee on Armed Services, the Committee on Governmental Affairs, the Committee on Homeland Security and Governmental Affairs of the Senate, and the Committee on Armed Services, the Committee on Governmental Affairs, and the Committee on Homeland Security of the House of Representatives.
SA 1489. Ms. COLLINS (for Mr. THUNE) 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:

On page 371, between lines 8 and 9, insert the following:


(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 action 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 Iraqi 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 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) the report of the study identified in the report on the 2005 quadrennial defense review; and

(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 7 days following 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—

(1) the number of years after the original fiscal year in which the action described in subsection (b) occurs; and

(2) the number of years after the original fiscal year in such sections shall be deemed to be a reference to the fiscal year that is equal to the number of years that is enacted before the earlier of—

(A) the end of the 45-day period beginning on the date by which the President is required to transmit such report; or

(B) the adjournment sine die of Congress during which such report is required to be transmitted.

SEC. 2915. POSTPONEMENT OF 2005 ROUND OF DEFENSE BASE CLOSURE AND REALIGNMENT. The Secretary of Energy is authorized to postdate the deadline for the Secretary of Defense to transmitt the report under section 2910 of title 10, United States Code, in each of the fiscal years 2005 and 2006.

SEC. 2916. POSTPONEMENT OF 2005 ROUND OF DEFENSE BASE CLOSURE AND REALIGNMENT. In paragraph (C), by striking ‘‘paragraph (1)’’ and inserting ‘‘the date by which the President is required to transmit such report’’;

(c) PROTECTION AGAINST RETALIATION.—No member of the Armed Forces may be discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against because such member provided or caused to be provided testimony under this subsection.

SEC. 2917. TESTIMONY BY MEMBERS OF THE ARMED FORCES IN CONNECTION WITH THE 2005 ROUND OF DEFENSE BASE CLOSURE AND REALIGNMENT. (a) SENSE OF THE SENATE.—It is the sense of the Senate that the Secretary of Defense should permit any member of the Armed Forces to provide to the Defense Base Closure and Realignment Commission testimony on the military value of a military installation inside the United States for purposes of the consideration by the Commission of the Secretary's recommendations for the 2005 round of defense base closure and realignment under section 2914(d) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2876 note).

(b) PROTECTION AGAINST RETALIATION.—No member of the Armed Forces may be discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against because such member provided or caused to be provided testimony under this subsection.

SA 1492. Mr. REED (for Mr. LEVIN) 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:

At the end of subtitle C of title II, add the following:

SEC. 330. ADDITIONAL AMOUNT FOR COOPERATIVE THREAT REDUCTION PROGRAMS. (a) INCREASED AMOUNT FOR OPERATION AND MAINTENANCE, COOPERATIVE THREAT REDUCTION PROGRAMS.—The amount authorized to be appropriated by section 301(c) for the Cooperative Threat Reduction programs is hereby increased by $50,000,000.

(b) OFFSET.—Of the amount authorized to be appropriated by section 301(d) for research, development, test, and evaluation, Defense-wide activities, is hereby reduced by $50,000,000, with the amount of the reduction to be allocated as follows:

(1) The amount available in Program Element 0603882C for long lead procurement of Ground-Based Interceptors is hereby reduced by $30,000,000.

(2) The amount available for initial construction of associated silos is hereby reduced by $20,000,000.

SA 1493. Mr. LEVIN 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:

At the end of subtitle C of title IIum, add the following:

SEC. 336. ADDITIONAL AMOUNT FOR OPERATIONS AND MAINTENANCE, COOPERATIVE THREAT REDUCTION PROGRAMS.—The amount authorized to be appropriated by section 301(c) for the Cooperative Threat Reduction programs is hereby increased by $63,000,000.
and for other purposes; as follows:

1. to prescribe personnel strengths for activities of the Department of Energy, 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 Armed Forces, and for other purposes; as follows:

At the end of division A, add the following:

**TITLE XV—NATIONAL COMMISSION ON POLICIES AND PRACTICES RELATING TO DETAINES SINCE SEPTEMBER 11, 2001**

SEC. 1501. FINDINGS.

Congress makes the following findings:

(1) The vast majority of the members of the Armed Forces who have served honorably and upheld the highest standards of professionalism and morality.

(2) While there have been numerous reviews, inspections, and investigations by the Department of Defense and others regarding aspects of the treatment of individuals detained in the course of Operation Enduring Freedom, Operation Iraqi Freedom, or United States activities to counter international terrorism since September 11, 2001, none has provided a comprehensive, objective, and independent investigation of United States policies and practices relating to the treatment of such detainees.

(3) The reports of the various reviews, inspections, and investigations conducted by the Department of Defense and others have left numerous omissions and reached conflicting conclusions regarding institutional and personal responsibility for United States policies and practices on the treatment of the detainees described in paragraph (2) that may have contributed, directly or indirectly, to the mistreatment of such detainees.

(4) Omissions in the reports produced to date also include omissions relating to—

(A) the authorities of the intelligence community for activities to counter international terrorism since September 11, 2001, including the rendition of detainees to foreign countries, and whether such authorities differed from the authorities of the military for the detention and interrogation of detainees;

(B) the role of intelligence personnel in the detention and interrogation of detainees;

(C) the role of special operations forces in the detention and interrogation of detainees; and

(D) the role of contract employees in the detention and interrogation of detainees.

SEC. 1502. ESTABLISHMENT OF COMMISSION.

There is established the National Commission on United States Policies and Practices Relating to the Treatment of Detainees since September 11, 2001 (in this title referred to as the "Commission").

SEC. 1503. COMPOSITION OF THE COMMISSION.

(a) MEMBERS.—The Commission shall be composed of 10 members, of whom—

(1) 1 member shall be appointed by the President, who shall serve as chairman of the Commission;

(2) 1 member shall be appointed by the senior member of the leadership of the Senate of the Democratic Party, who shall serve as vice chairman of the Commission;

(3) 2 members shall be appointed by the senior member of the Senate leadership of the Republican Party;

(4) 2 members shall be appointed by the senior member of the Senate leadership of the Democratic Party;

(5) 2 members shall be appointed by the senior member of the leadership of the House of Representatives of the Democratic Party; and

(6) 2 members shall be appointed by the senior member of the leadership of the House of Representatives of the Republican Party.

(b) QUALIFICATIONS; INITIAL MEETING.—An individual appointed to the Commission may not be an officer or employee of the Federal Government or any State or local government.

(4) OTHER QUALIFICATIONS.—It is the sense of Congress that individuals appointed to the Commission should be prominent United States citizens, with national recognition and significant depth of experience in such professional or governmental service, the Armed Forces, intelligence gathering or analysis, law, public administration, law enforcement, and foreign affairs.

(4) DEADLINE FOR APPOINTMENT.—All members of the Commission shall be appointed not later than 30 days after the date of the enactment of this Act.

(c) MEETINGS; VACANCIES.—

(1) INITIAL MEETING.—The Commission shall meet and begin the operations as soon as practicable after all members have been appointed under subsection (b).

(2) MEETINGS.—After its initial meeting under paragraph (1), the Commission shall meet upon the call of the chairman or a majority of its members.

(d) QUORUM.—Six members of the Commission shall constitute a quorum.

(e) VACANCIES.—A vacancy in the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

SEC. 1504. PURPOSES.

(a) IN GENERAL.—The purposes of the Commission are to—

(1) conduct an investigation that ascertains relevant facts and circumstances relating to—

(A) laws, policies, and practices of the United States relating to the treatment of detainees since September 11, 2001, including any relevant treaties, statutes, Executive orders, regulations, plans, policies, practices, or procedures;

(B) activities of any department, agency, or other entity of the United States Government relating to Operation Enduring Freedom, Operation Iraqi Freedom, and efforts to counter international terrorism since September 11, 2001;

(C) the role of private contractor employees in the treatment of detainees;

(D) the role of legal and medical personnel in the treatment of detainees, including the role of medical personnel responsible for planning for, and the conduct of, interrogations; and

(E) dealings of any department, agency, or other entity of the United States Government with the International Committee of the Red Cross;

(2) examine and report on practices, orders, regulations, plans, policies, and procedures implemented, and evaluate such practices in light of the lessons learned from activities in Iraq, Afghanistan, Guantanamo Bay, Cuba, and elsewhere;

(3) submit to the President and Congress such reports as are required by this title containing such findings, conclusions, and recommendations as the Commission shall determine, including proposing any appropriate modifications in legislation, organization, coordination, planning, management, and structures, rules, and regulations.

SEC. 1505. FUNCTIONS OF COMMISSION.

The functions of the Commission are to—

(1) avoid unnecessary duplication; and

(2) identify any inconsistencies or conflicts between such reports which in the Commission's view merit further investigation.

SEC. 1506. POWERS OF COMMISSION.

The Commission may—

(1) subpoena persons and require the production of documents or other tangible things for the purpose of carrying out this title—

(2) enter any relevant establishment, including the offices of any department, agency, or other entity of the United States Government, and such offices of any city, town, or other governmental unit, for the purpose of conducting investigations related to the purposes of this title;

(3) request any department, agency, or other entity of the United States Government to provide any advice, assistance, or information that the Commission may require to carry out the functions of the Commission under this title;

(4) ascertain, evaluate, and report on the effectiveness and propriety of interrogation techniques, policies, and practices producing useful and reliable intelligence;

(5) ascertain, evaluate, and report on all planning for long-term detention, or procedures for prosecution by civilian courts or military tribunals or commission, of detainees in the custody of any department, agency, or other entity of the United States Government or any foreign government or entity; and

(6) investigate and submit a report to the President and Congress on the Commission's findings, conclusions, and recommendations, including any modifications to existing treaties, laws, policies, or regulations, as appropriate.

(b) UTILIZATION OF OTHER MATERIALS.—The Commission may build upon reports conducted by the Department of Defense or other entities by reviewing the source materials contained in such reports and recommendations of those other reviews in order to—

(1) avoid unnecessary duplication; and

(2) identify any inconsistencies or conflicts between such reports which in the Commission's view merit further investigation.

SEC. 1507. USE OF PROCEEDS, FINDINGS, CONCLUSIONS, AND RECOMMENDATIONS.

The Commission may make available to the President and Congress the findings, conclusions, and recommendations of the Commission as soon as practicable after their production.

SEC. 1508. STUDIES AND REPORTS.

The President shall have the authority to conduct any study that the President considers appropriate to carry out the purposes of this title.
(A) hold such hearings and sit and act at such times and places, take such testimony, receive such evidence, and administer such oaths; and
(B) subject to paragraph (2)(A), require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, documents, and other material, as the Commission or such designated subcommittee or designated member may determine advisable.

(2) **Subpoenas.—**

(A) ISSUANCE.—

(i) IN GENERAL.—A subpoena may be issued under this subsection only—

(I) by the agreement of the chairman and the vice chairman; or

(II) by the affirmative vote of 6 members of the Commission.

(ii) SIGNATURE.—Subject to clause (i), subpoenas issued under this subsection may be issued under the signature of the chairman or any member designated by a majority of the Commission, and may be served by any person designated by the chairman or by a member designated by a majority of the Commission.

(B) ENFORCEMENT.—

(i) IN GENERAL.—In the case of contumacy or failure to obey a subpoena issued under subsection (A), or the refusal or failure of United States officers or employees of any department or agency, or of any other Federal department or agency, or of any officer or employee thereof, whose assistance is necessary for the fulfillment of the purpose of this Act, the Commission shall submit to the appropriate United States attorney, for his or her action, under the same statutory authority, a request for the issuance of a subpoena under the signature of the United States attorney. The United States attorney may proceed as the Commission or such designated subcommittee or designated member may determine advisable.

(ii) ADDITIONAL ENFORCEMENT.—In the case of any witness or officer or employee of the United States obligated by law, rules, or regulations, to appear before or testify to or produce documentary or other evidence, any failure to obey the order of the court may be punished by the court as a contempt of that court.

(3) **ACCESS TO INFORMATION AND MATERIALS.—** No department, agency, element, bureau, board, commission, independent establishment, or other instrumentality of the United States shall refuse to provide the Commission or such designated subcommittee or designated member with all classified information and materials provided to the Commission under this title in a secure location in the offices of the Commission or as designated by the Chairman.

(4) **ASSISTANCE FROM PARTICULAR FEDERAL AGENCIES.—**

(1) IN GENERAL.—The Administrator of General Services shall provide to the Commission on a reimbursable basis administrative support and other services necessary for the performance of the Commission’s functions.

(2) **OTHER DEPARTMENTS AND AGENCIES.—** In addition to the assistance prescribed in paragraph (1), departments, agencies, and other elements of the Government may provide to the Commission such services, funds, facilities, staff, and other support services as they may determine advisable and as may be required by law.

(e) **POSTAL SERVICES.—** The Commission may use the United States mails in the same manner and under the same conditions as departments and agencies of the United States Government.

SEC. 1507. COMPENSATION AND TRAVEL EXPENSES.

(a) **COMPENSATION.—** Each member of the Commission shall be compensated at not to exceed the daily equivalent of the annual rate of basic pay in effect for a position at level IV of the Executive Schedule under section 5314 of title 5, United States Code, for each day during which that member is engaged in the actual performance of the duties of the Commission.

(b) **TRAVEL EXPENSES.—** While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service, and as employees of the Commission under section 5703(b)(1) of title 5, United States Code.

SEC. 1508. STAFF OF COMMISSION.

(a) **IN GENERAL.—**

(1) **APPOINTMENT AND COMPENSATION.—** The chairman, in consultation with the vice chairman and in accordance with rules agreed upon by the Commission, may appoint and fix the compensation of a director of the staff and such other personnel as may be necessary to enable the Commission to carry out its functions, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, governing appointments and General Schedule pay rates, except that no rate of pay fixed under this subsection may exceed the equivalent of that payable for a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

(2) **PERSONNEL AS FEDERAL EMPLOYEES.—**

(a) **TREATMENT.—** The staff director and any personnel of the Commission who are employees of the Commission shall be treated as employees of the General Government under section 2105 of title 5, United States Code, for purposes of chapters 63, 81, 83, 84, 85, 87, 89, and 90 of that title.

(b) **EXCEPTION.—** Subparagraph (A) shall not apply to members of the Commission.

(c) **DETAILS.—** Any Federal Government employee may be detailed to the Commission under such terms and conditions as the Commission, and such detail shall retain the rights, status, and privileges of his or her regular employment without interruption.

(d) **CONSULTANT SERVICES.—** The Commission is authorized to procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code, but at rates not to exceed the daily rate paid a person occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code.

SEC. 1509. SECURITY CLEARANCES FOR COMMISSION MEMBERS AND STAFF.

The departments, agencies, and elements of the United States shall cooperate with the Commission in expeditiously providing to the Commission members and staff appropriate security clearances, in the same manner as to existing procedures and requirements. No person shall be provided with access to classified information under this title without the appropriate security clearances.

SEC. 1510. NONAPPLICABILITY OF FEDERAL AGENCY ACTS.

(a) **IN GENERAL.—** The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

(b) **PUBLIC MEETINGS AND RELEASE OF PUBLIC VERSIONS OF REPORTS.—** The Commission shall—

(1) hold public hearings and meetings to the extent appropriate; and

(2) release public versions of the reports required under section 1511.

(c) **PUBLIC HEARINGS.—** Any public hearings of the Commission shall be conducted in a manner consistent with the protection of information provided to or developed for or by the Commission as required by any applicable statute, regulation, or Executive order.

SEC. 1511. REPORT OF COMMISSION; TERMINATION.

(a) **INTERIM REPORTS.—** The Commission may submit to the President and Congress interim reports containing such findings, conclusions and recommendations as have been agreed to by a majority of Commission members.

(b) **FINAL REPORT.—** Not later than 12 months after the date of the enactment of this Act, the Commission shall submit to the President and Congress a report containing such findings, conclusions, and recommendations as have been agreed to by a majority of Commission members.

SEC. 1512. FUNDING.

(a) **AUTHORIZATION OF APPROPRIATIONS.—** There are authorized to be appropriated to...
the Commission to carry out this section $2,500,000.

(b) DURATION OF AVAILABILITY.—Amounts made available to the Commission under subsection (a) shall remain available until the termination of the Commission.

SA 1495. Mr. LEVIN 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. 2897. TREATMENT OF INDIAN TRIBE GOVERNMENTS AS PUBLIC ENTITIES FOR PURPOSES OF DISPOSAL OF REAL PROPERTY RECOMMENDED FOR CLOSURE IN JULY 2006 BRAC COMMISSION REPORT.

Section 913 of the Department of Defense Appropriations Act, 1994 (Public Law 103–139; 107 Stat. 1440) is amended by striking "the report to the President from the Defense Base Closure and Realignment Commission, July 1991 and July 1993" and inserting "the report to the President from the Defense Base Closure and Realignment Commission, July 1991 and July 1993."
goals for the utilization of small business concerns (as defined in section 3 of the Small Business Act (15 U.S.C. 632)), in Department of Defense contracts; and

(2) to educate the small business community regarding radio frequency identifier technology requirements, compliance, standards, and opportunities.

(b) The report on education to the small business community regarding radio frequency identifier technology used in Department of Defense contracting, including—

(A) standardization of the data required to be reported by such technology; and

(B) standardization of the manufacturing quality required for such technology.

(2) ANNUAL REPORT.—Not later than 1 year after the date of submission of the report under paragraph (1), and annually thereafter, the Secretary of Defense shall submit a report to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business and the Committee on Armed Services of the House of Representatives detailing the status of the efforts by the Secretary of Defense to establish requirements for radio frequency identifier technology used in Department of Defense contracting, including—

(A) standardization of the data required to be reported by such technology; and

(B) standardization of the manufacturing quality required for such technology.

SEC. 30B. EMPLOYER WAGE CREDIT FOR ACTIVATED MILITARY RESERVIST AND REPLACEMENT PERSONNEL.

(a) In General.-(1) The term ‘average daily qualified compensation’ means—

(i) compensation which is normally contingent on the qualified employee’s presence for work and which is deductible from the taxpayer’s gross income under section 162(a)(1) if the qualified employee were present and receiving such compensation;

(ii) compensation which is not characterized by the taxpayer as vacation or holiday pay, or as sick leave or pay, or as any other form of pay for a nonspecific leave of absence, sick leave, or any other form of leave of absence or sick leave previously credited to or earned by the qualified employee; and

(iii) group health plan costs (if any) with respect to the compensation paid to a qualified replacement employee under this subsection.

(b) Qualified Replacement Employee.—The term ‘qualified replacement employee’ means an individual who is hired to replace a qualified employee of the taxpayer for any taxable year.

(c) Self-Employment Credit.—For purposes of this section—

(1) IN GENERAL.—The self-employment credit of a qualified self-employed taxpayer for any taxable year is equal to 40 percent of so much of the excess (if any) of—

(A) the qualified self-employed taxpayer’s average daily qualified compensation for the taxable year, over

(B) the average daily wages paid to the qualified employee during the taxable year divided by 365, and

(ii) the term ‘average daily military pay and allowances’ means—

(A) the amount paid to the qualified employee during the taxable year as military pay and allowances on account of the qualified employee’s participation in reserve component duty, divided by

(B) the total number of days the qualified employee participates in reserve component duty, including time spent in travel status.

(2) QUALIFIED COMPENSATION.—When used with respect to a qualified replacement employee, the term ‘qualified compensation’ means—

(i) compensation which is normally contingent on the qualified replacement employee’s presence for work and which is deductible from the taxpayer’s gross income under section 162(a)(1) if the qualified employee were present and receiving such compensation;

(ii) compensation which is not characterized by the taxpayer as vacation or holiday pay, or as sick leave or pay, or as any other form of pay for a nonspecific leave of absence, sick leave, or any other form of leave of absence or sick leave previously credited to or earned by the qualified employee; and

(iii) group health plan costs (if any) with respect to the compensation paid to a qualified replacement employee under this subsection.

(3) QUALIFIED replacement EMPLOYEE.—The term ‘qualified replacement employee’ means an individual who is hired to replace a qualified employee of the taxpayer for any taxable year.

(4) Self-Employment Credit.—For purposes of this section—

(1) IN GENERAL.—The self-employment credit of a qualified self-employed taxpayer for any taxable year is equal to 40 percent of so much of the excess (if any) of—

(A) the self-employment income (as defined in section 1402(b) of the Internal Revenue Code of 1986 relating to foreign tax credit, etc.) of the qualified self-employed taxpayer for the taxable year, over

(B) the self-employment income of the qualified employee under this subsection.

(2) QUALIFIED replacement EMPLOYEE.—The term ‘qualified replacement employee’ means an individual who is hired to replace a qualified employee of the taxpayer for any taxable year.
(4) QUALIFIED SELF-EMPLOYED TAXPAYER.—The term ‘qualified self-employed taxpayer’ means a taxpayer—

(A) who has net earnings from self-employment (as defined in section 1402(a) for the taxable year, and

(B) to whom the provisions of section 1402(a) do not apply.

(5) SPECIAL RULES WITH RESPECT TO OTHER CREDITS.—The amount of credit otherwise allowable under sections 28, 30, and 45A for any taxable year shall not exceed the excess (if any) of—

(A) the regular tax for the taxable year reduced by the sum of the credits allowable by this section with respect to such employee, and

(B) the tentative minimum tax for the taxable year.

(2) DISALLOWANCE FOR FAILURE TO COMPLY WITH EMPLOYMENT OR REEMPLOYMENT RIGHTS OF MEMBERS OF THE ARMED FORCES OF THE UNITED STATES.—No credit shall be allowed under subsection (a) to a taxpayer for

(A) the regular tax for any taxable year, beginning after the date of the enactment of this section, in which the taxpayer is a member of the Ready Reserve of the Armed Forces of the United States, or

(B) the 2 succeeding taxable years.

(3) DISALLOWANCE FOR TAXABLE YEARS IN WHICH THE EMPLOYER OF THE TAXPAYER WAS NOT COMPENSATING THE TAXPAYER AT A RATE HIGHER THAN THE BASELINE RATE.—No credit shall be allowed under subsection (a) to an employer after the date of enactment of this Act, to prescribe per-

sonnel 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, insert the following:

SEC. 40. REPORT ON EDUCATIONAL BENEFITS FOR VETERANS.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary of Defense and the Secretary of Veterans Affairs shall submit a report containing the information described in subsection (b) to—

(1) the Committee on Armed Services of the Senate;

(2) the Committee on Armed Services of the House of Representatives;

(3) the Committee on Veterans’ Affairs of the Senate; and

(4) the Committee on Veterans’ Affairs of the House of Representatives.

(b) CONTENTS.—The report under subsection (a) shall include—

(1) an analysis by the Department of Defense of the effect on recruitment of educational benefits under the Montgomery GI Bill, including—

(A) the percentage of personnel who sign up for such educational benefits; and

(B) the importance of such educational benefits in the decision of an individual to enlist;

(2) an analysis by the Department of Veterans Affairs of the effect on readjustment of educational benefits under the Montgomery GI Bill, including—

(A) the percentage who use partial benefits;

(B) the percentage who use full benefits; and

(C) the reasons that veterans choose not to use benefits;

(3) suggestions of ways to improve educational benefits in order to improve recruiting, retention and readjustment;

(4) cost estimates for the improvements suggested under paragraph (3);

(5) projected 5-year and 10-year costs of educational benefits under chapters 1606 and 1607 of title 10, United States Code, and section 3015 of title 38, United States Code; and

(6) projected 5-year and 10-year costs under chapters 1606 and 1607 of title 10, United States Code, and section 3015 of title 38, United States Code; and

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid in taxable years beginning after December 31, 2004.

SA 1502. Mr. KERRY 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 VI, add the following:

SEC. 605. PERMANENT EXTENSION OF PERIOD OF TEMPORARY CONTINUATION OF BASIC ALLOWANCE FOR HOUSING FOR DEPENDENTS OF MEMBERS OF THE ARMED FORCES WHO DIE ON ACTIVE DUTY.

Effective immediately after the termination, pursuant to subsection (b) of section 1022 of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005 (Public Law 109-13; 119 Stat. 251), of the amendments made by subsection (a) of such section, section 4061(1) of title 37, United States Code, is amended by striking “180 days” each place it appears and inserting “365 days”.

SA 1503. Mr. KERRY 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, insert the following:

SEC. 40. REPORT ON EDUCATIONAL BENEFITS FOR VETERANS.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary of Defense and the Secretary of Veterans Affairs shall submit a report containing the information described in subsection (b) to—

(1) the Committee on Armed Services of the Senate;

(2) the Committee on Armed Services of the House of Representatives;

(3) the Committee on Veterans’ Affairs of the Senate; and

(4) the Committee on Veterans’ Affairs of the House of Representatives.

(b) CONTENTS.—The report under subsection (a) shall include—

(1) an analysis by the Department of Defense of the effect on recruitment of educational benefits under the Montgomery GI Bill, including—

(A) the percentage of personnel who sign up for such educational benefits; and

(B) the importance of such educational benefits in the decision of an individual to enlist;

(2) an analysis by the Department of Veterans Affairs of the effect on readjustment of educational benefits under the Montgomery GI Bill, including—

(A) the percentage who use partial benefits;

(B) the percentage who use full benefits; and

(C) the reasons that veterans choose not to use benefits;

(3) suggestions of ways to improve educational benefits in order to improve recruiting, retention and readjustment;

(4) cost estimates for the improvements suggested under paragraph (3);

(5) projected 5-year and 10-year costs of educational benefits under chapters 1606 and 1607 of title 10, United States Code, and section 3015 of title 38, United States Code; and

(6) projected 5-year and 10-year costs under chapters 1606 and 1607 of title 10, United States Code, and section 3015 of title 38, United States Code; and

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid in taxable years beginning after December 31, 2004.

SA 1502. Mr. KERRY 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. PROJECT SHERIFF.**

(a) AVAILABILITY OF AMOUNT.—Of the amount authorized to be appropriated by section 201(4) for research, development, test, and evaluation for Defense-wide activities, the amount available for the Force Transformation Directorate is hereby increased by $10,000,000, with the amount of the increase to be available for Project Sheriff.

(b) OVERTURE.—Of that amount authorized to be appropriated by section 201(4) for research, development, test, and evaluation for Defense-wide activities the amount available for the Transformation Initiatives Program is hereby reduced by $10,000,000.

**SA 1505.** Mr. GRAHAM (for himself, Mr. WARNER, and Mr. MCCAIN) 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; as follows:

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

**SEC. 107a. AUTHORITY TO UTILIZE COMBATANT STATUS REVIEW TRIBUNALS AND ANNUAL REVIEW BOARD TO DETERMINE WHETHER PERSONS HELD AT GUANTANAMO BAY, CUBA, ARE ENEMY COMBATANTS.**

(a) AUTHORITY.—The President is authorized to utilize the Combatant Status Review Tribunal and the annual review procedures to determine whether persons held at Guantánamo Bay, Cuba, are enemy combatants, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

(b) AVAILABILITY OF AMOUNT.—Of the amount authorized to be appropriated by section 201(4) for research, development, test, and evaluation for Defense-wide activities, the amount available for the Transformation Initiatives Program is hereby reduced by $10,000,000.

**SA 1506.** Mr. ALLARD (for himself and Mr. SALAZAR) 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; as follows:

On page 378, between lines 10 and 11, insert the following:

**SEC. 3114. ROCKY FLATS ENVIRONMENTAL TECHNOLOGY SITE.**

(a) DEFINITIONS.—In this section:

(1) ESSENTIAL MINERAL RIGHT.—The term ‘‘essential mineral right’’ means a right to mine sand and gravel at Rocky Flats, as depicted on the map.

(2) FAIR MARKET VALUE.—The term ‘‘fair market value’’ means the value of an essential mineral right, as determined by an appraiser performed by an independent, certified mineral appraiser under the Uniform Standards of Professional Appraisal Practice.

(3) MAP.—The term ‘‘map’’ means the map entitled ‘‘Rocky Flats National Wildlife Refuge’’ approved for use under this title, and for use under this paragraph shall be made jointly by the Trustee.

(c) ADDITIONAL FUNDS.—The Trustee may use the funds received under paragraph (4) in conjunction with other private and public funds.

(d) EXEMPTION FROM NATIONAL ENVIRONMENTAL POLICY ACT.—Any purchases of mineral rights under this subsection shall be exempt from the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(e) ROCKY FLATS NATIONAL WILDLIFE REFUGE.—

(A) TRANSFER OF MANAGEMENT RESPONSIBILITIES.—The Rocky Flats National Wildlife Refuge Act of 2001 (16 U.S.C. 668dd note; Public Law 106-177) is amended—

(i) in section 317(b)(1), by striking subsections (b) and (f); and

(ii) by redesignating subsections (c), (d), and (e) as subsections (b), (c), and (d), respectively; and

(B) BOUNDARIES.—Section 317 of the Rocky Flats National Wildlife Refuge Act of 2001 is amended to strike—

(1) Exceptions (1) through (6) in subsection (b) of that section; and

(2) the following:

(A) the definition of ‘‘significantly impairs’’ in section 317(g)(7) and

(B) the definition of ‘‘significantly impairs’’ in section 317(g)(8).
SA 1508. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Energy, for defense activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 379, after line 22, add the following:

**SEC. 3302. AUTHORIZATION FOR DISPOSAL OF TUNGSTEN ORES AND CONCENTRATES.**

(a) DISPOSAL AUTHORIZED.—The Director of the Defense Logistics Agency is authorized to dispense of tungsten ores and concentrates from the National Defense Stockpile in fiscal year 2006.

(b) CERTAIN SALES AUTHORIZED.—The tungsten ores and concentrates disposed under subsection (a) may be sold to entities with ore conversion or tungsten carbide manufacturing or processing capabilities in the United States.
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 I, add the following:

SEC. 138. SENSE OF SENATE ON F/A-22 RAPTOR AIRCRAFT.

(a) FINDINGS.—The Senate makes the following findings:

(1) It is widely held that integrated air defense systems, composed of next generation surface-to-air missiles and fifth generation fighters, will be the primary threat to United States interests during the 21st Century unless the ability of the Nation to access strategically important regions during future conflicts.

(2) Many of the current tactical aircraft of the United States first flew more than 30 years ago and several nations have deployed integrated air defense systems designed to counter those aircraft. These aircraft include the F-15 Eagle, F-16 Fighting Falcon, and F/A-18 Hornet, none of which are stealth aircraft.

(3) The F/A-22 Raptor aircraft is a highly capable stealth aircraft designed to neutralize both surface-to-air missiles and fifth generation fighters.

(4) The F/A-22 Raptor aircraft is a truly transformational aircraft incorporating—

(A) super-cruise engines that allow for extended supersonic flight (a magnitude longer than that of after-burner predecessors);

(B) unmatched stealth capabilities; and

(C) a radar and avionics system that will permit the identification of ground targets and engage enemy aircraft at great ranges.

(5) The F-35 Joint Strike Fighter is being designed as a complement to the F/A-22 Raptor aircraft, but the F-35 Joint Strike Fighter cannot stealthily fly the F/A-22 Raptor aircraft, nor will it be able, due to sign constraints, to utilize super-cruise engines.

(6) The F/A-22 Raptor aircraft is the most maneuverable fighter flying today, a matter of particular importance when encountering newer Russian-made aircraft that have been sold widely throughout the world and boast a highly impressive maneuverability.

(7) The F/A-22 Raptor aircraft is a capable bomber, with a large weapons bay having the capacity to carry two 1,000 pound Global Positioning System-guided Joint Direct Attack Munitions or several Small Diameter Bombs.

(b) NATIONAL DEFENSE STRATEGY CALLS FOR A FORCING QR.

(1) it defends the homeland;

(2) it is capable of forward deterrence in four regions;

(3) it can swiftly defeat adversaries in two overlapping conflicts; and

(4) it can decisively defeat an enemy in one of those conflicts.

(c) THE AIR FORCE HAS REPEATEDLY WARNED OF PREDICTABLE PROBLEMS.

(1) The Air Force has repeatedly warned of predictable problems.

SA 1511. Mr. BROWNBACK 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. 2851. LAND CONVEYANCE, MARINE CORPS AIR STATION, MIRAMAR, SAN DIEGO, CALIFORNIA.

(a) CONVEYANCE AUTHORIZED.—Subject to subsection (c), the Secretary of the Navy may convey to the County of San Diego, California (in this section referred to as the “County”), all right, title, and interest of the United States in and to a parcel of real property, including any improvements thereon, consisting of approximately 230 acres located on the eastern boundary of Marine Corps Air Station, Miramar, California, for the purpose of removing the property from federal ownership and making it available for use as a park and recreational area.

(b) CONSIDERATION.—

(1) IN GENERAL.—As consideration for the conveyance under subsection (a), the County shall provide the United States consideration with a total value that is not less than the fair market value of the conveyed real property, as determined by the Secretary. The consideration provided by the County shall be in a form and quantity that is acceptable to the Secretary.

(2) RELATION TO OTHER LAWS.—The requirements under sections 2662 and 2802 of title 10, United States Code, shall not apply with respect to any new facilities the construction of which is accepted as in-kind consideration under this subsection.

(c) REVERSIBILITY INTEREST.—

(1) IN GENERAL.—If the Secretary determines at any time that the real property conveyed under subsection (a) is not being used in accordance with the purpose of the conveyance specified in such subsection, all right, title, and interest in and to the property, including any improvements thereon, shall revert, at the option of the Secretary, to the United States, and the United States shall have the right to re-enter onto the property. Any determination of the Secretary under this subsection shall be made

SEC. 1073. RETENTION OF REIMBURSEMENT FOR PERSONNEL STRENGTHS FOR SUCH FISCAL YEAR FOR THE ARMED FORCES, AND FOR OTHER PURPOSES.

It is the sense of the Senate that the Senate concurs with the conclusion that legal impediments exist to the close or realignment of Air National Guard assets, as stated in the memorandum entitled “Discussion of Legal and Policy Considerations Related to Certain Base Closure and Realignment Rec- (9) The Air Force has repeatedly warned

SEC. 846. PROHIBITION ON PROCUREMENTS FROM COMMUNIST CHINESE MILITARY COMPANIES.

(a) IN GENERAL.—Chapter 141 of title 10, United States Code, is amended by adding at the end the following new section:

"S 2410p. Prohibition on procurements of goods and services from Communist Chinese military companies.

(1) It is the sense of the Senate that the

SEC. 857. SENSE OF THE SENATE CONCURRING.

It is the sense of the Senate that the

SEC. 1514. Mrs. FEINSTEIN 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 357, strike line 30, and insert the following:

SA 1512. Mr. SARBAKES

On page 321, between lines 17 and 18, insert the following:

SEC. 2891. SENSE OF THE SENATE CONCURRING.

It is the sense of the Senate that the

SEC. 1513. Mr. BYRD

On page 381, strike line 30, and insert the following:

SA 1511. Mr. BROWNBACK submitted a
on the record after an opportunity for a hearing.

(2) Release of Reversionary Interest.—The Secretary shall release, without consideration, any reversionary interest reserved by the United States under paragraph (1) if—
(A) Marine Corps Air Station, Miramar, is no longer being used for Department of Defense activities;
(B) the Secretary determines that the reversionary interest is otherwise unnecessary to protect the interests of the United States.

(3) Payment Required.—The Secretary shall require the County to cover costs incurred by the Secretary, or to reimburse the Secretary for costs incurred by the Secretary, to carry out the conveyance under subsection (a) and implement the receipt of any in-kind consideration under subsection (b), including appraisal costs, survey costs, costs related to environmental documentation, and other administrative costs related to the conveyance and receipt of any in-kind consideration. If amounts are collected from the County in advance of the Secretary incurring the actual costs, and the amount received exceeds the costs actually incurred by the Secretary under this section, the Secretary shall refund the excess amount to the County.

(4) Reimbursement.—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 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.

SA 1515. 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:

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, 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 in modernizing all of its Depots, in order to maintain their status as "world class" maintenance repair and overhaul; and
(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 six years, beginning in fiscal year 2004, for recapitalization and investment, including the procurement of technologically advanced facilities and equipment, for 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 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 six 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.

SEC. 310. CHILD AND FAMILY ASSISTANCE BENEFITS FOR MEMBERS OF THE ARMED FORCES.

(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 Armed Forces.

SEC. 563. ENFORCEMENT AND LIABILITY FOR NONCOMPLIANCE WITH SERVICEMEMBERS CIVIL RELIEF ACT.

(a) Enforcement.—
(1) In general.—The Servicemembers Civil Relief Act (50 U.S.C. App. 501 et seq.) is amended by adding at the end the following new title:

"TITLE VIII—ENFORCEMENT";

"SEC. 801. ADMINISTRATIVE ENFORCEMENT.

"(a) Enforcement by Federal Trade Commission.—(1) Except as provided in 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 enforcing this Act 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 the entity engaged in commerce or meets any other jurisdictional tests under the Federal Trade Commission Act.
"(b) The Commission shall have such procedural, investigatory, 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.
"(c) 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 conditions of the Federal Trade Commission Act were part of this Act.
"(d)(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 amount 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.
"(e) 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) supervised by the Office of the Comptroller of the Currency;
(B) member banks of the Federal Reserve System (other than national banks), state members and agencies (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 sections 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 Home Loan Bank 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 6 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 savings 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 the action is filed, in the case of a person providing insurance;

"(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)."

(2) CLERICAL AMENDMENT.—The table of contents in the first section of said Act is amended by adding at the end the following new items:

TITLE VIII—ENFORCEMENT

"Sec. 801. Administrative enforcement."

(b) LIABILITY FOR NONCOMPLIANCE.—

(1) Section 301(c) of the Servicemembers Civil Identity Protection Act of 2008 (50 U.S.C. App. 531(c)) is amended by striking paragraph (2) and inserting the following new paragraphs:

(2) CIVIL LIABILITY FOR NONCOMPLIANCE.— Any person or entity (other than a servicemember or dependent) who fails to comply with any requirement imposed by this section with respect to a servicemember or dependent is liable to such servicemember or dependent in an amount equal to the sum of—

(A) any actual damages sustained by such servicemember or dependent as a result of the failure;

(B) such amount of punitive damages as the court may allow;

(C) such amount of consequential damages as the court may allow;

(D) such additional damages as the court may allow, in an amount not less than $100 or more than $5,000 (as determined appropriate by the court), for each violation; and

(E) in the case of any successful action to enforce liability under this section, the cost of the action together with reasonable attorneys fees as determined by the court.

(3) ATTORNEY FEES.—On a finding by the court that an unsuccessful pleading, motion, or other paper filed in connection with an action under this section was filed in bad faith or for the purposes of harassment, the court shall award to the prevailing party attorney fees in amount that is reasonable in relation to the work expended in responding to such pleading, motion, or other paper."

(5) Section 306(e) of that Act (50 U.S.C. App. 536(e)) is amended by striking paragraphs (2) and inserting the following new paragraphs:

(2) CIVIL LIABILITY FOR NONCOMPLIANCE.— Any person or entity (other than a servicemember or dependent) who fails to comply with any requirement imposed by this section with respect to a servicemember or dependent is liable to such servicemember or dependent in an amount equal to the sum of—

(A) any actual damages sustained by such servicemember or dependent as a result of the failure;

(B) such amount of punitive damages as the court may allow;

(C) such amount of consequential damages as the court may allow;

(D) such additional damages as the court may allow, in an amount not less than $100 or more than $5,000 (as determined appropriate by the court), for each violation; and

(E) in the case of any successful action to enforce liability under this section, the cost of the action together with reasonable attorneys fees as determined by the court.

(3) ATTORNEY FEES.—On a finding by the court that an unsuccessful pleading, motion, or other paper filed in connection with an action under this section was filed in bad faith or for the purposes of harassment, the court shall award to the prevailing party attorney fees in amount that is reasonable in relation to the work expended in responding to such pleading, motion, or other paper."
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.”.

SA 1518. Mrs. BAYH submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriation 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. SERVICE MEMBERS’ RIGHTS UNDER THE HOUSING AND URBAN DEVELOPMENT ACT OF 1968.

(a) In General.—Section 106(c)(5)(A)(i) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(c)(5)(A)(i)) is amended—

(1) in subclause (II), by striking “; and” and inserting a semicolon;

(2) in subclauses (III), by striking the period and inserting “; and”;

and

(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.

d) 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)(i) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(c)(5)(A)(i)).

e) EFFECTIVE DATE.—The amendments made under subsection (a) shall take effect 150 days after the date of enactment of this Act.

SA 1519. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 1042, to authorize appropriation 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, insert the following:

SEC. 410. DEPARTMENT OF DEFENSE TASK FORCE ON MENTAL HEALTH SERVICES.

(a) REQUIREMENT TO ESTABLISH.—The Secretary of Defense shall establish within the Department of Defense a task force to examine means by which the Department of Defense may improve the efficacy of mental health services provided to members of the Armed Forces, including programs for and with respect to forward-deployed troops, the reduction or elimination of barriers to care, including the stigma associated with seeking help for mental health related conditions, and the enhancement of continuity for members of the Armed Forces seeking care for such conditions.

(b) COMPOSITION.—

1. MEMBERS.—The task force shall consist of—

(A) at least one member of each of the Army, Navy, Air Force, and Marine Corps; and

(B) a number of persons from outside the Department of Defense equal to the total number of personnel from within the Department of Defense (whether members of the Armed Forces or civilian personnel) who are appointed to the task force.

2. INDIVIDUALS APPOINTED WITHIN DEPARTMENT OF DEFENSE.—At least one of the individuals appointed to the task force from within the Department of Defense shall be the surgeon general of the Armed Forces or a designee of such surgeon general.

3. INDIVIDUALS APPOINTED OUTSIDE DEPARTMENT OF DEFENSE.—(A) Individuals appointed to the task force from outside the Department of Defense may include officers or employees of other departments or agencies of the Federal Government, officers or employees of State and governments, or individuals from the private sector.

(B) The individuals appointed to the task force from outside the Department of Defense shall include—

(i) an officer or employee of the Department of Veterans Affairs appointed by the Secretary of Veterans Affairs in consultation with the designee of the Surgeon General; and

(ii) an officer or employee of the Substance Abuse and Mental Health Services Administration of the Department of Health and Human Services appointed by the Secretary of Defense in consultation with the Secretary of Health and Human Services; and

(C) at least two individuals who are representatives of—

(i) a mental health policy and advocacy organization; and

(ii) a national veterans service organization.

4. DEADLINE FOR APPOINTMENT.—All appointments of individuals to the task force shall be made—

(I) not less than 90 days before the date on which all members of the Armed Forces are notified that they are subject to the task force; and

(II) a national veterans service organization.

5. ACCESS TO FACILITIES.—The Under Secretary of Defense for Personnel and Readiness shall—

(A) expedite access to facilities of the Armed Forces by members so appointed; and

(B) take into consideration completed and ongoing efforts by the Department of Defense to improve the efficacy of mental health services provided to members of the Armed Forces.

6. UTILIZATION OF OTHER EFFORTS.—In preparing the report, the task force shall take into consideration completed and ongoing efforts by the Department of Defense to improve the efficacy of mental health care provided to members of the Armed Forces by the Department of Defense.

7. EVIDENCE OF EFFORTS.—The long-term plan shall include an assessment of the evidence of efforts for legislative or administrative action for measures to improve the following:

(A) The awareness of the prevalence of mental health conditions among members of the Armed Forces.

(B) The efficacy of existing programs to prevent and identify, and enhance continuities for members of the Armed Forces seeking care for such conditions.

(C) The adequacy of outreach, education, and support programs on mental health matters for the families of members of the Armed Forces.

(E) The efficacy of programs and mechanisms for ensuring a seamless transition from care of members of the Armed Forces on active duty for mental health conditions through the Department of Defense to care for such conditions through the Department of Veterans Affairs after such members are discharged or released from military, naval, or air service.

(F) The availability of long-term follow-up and continued care for mental health conditions for the Individual Ready Reserve, and the Selective Reserve and for discharged, separated, or retired members of the Armed Forces.

(G) Collaboration among organizations in the Department of Defense with responsibility for or jurisdiction over the provision of mental health services.

(H) Coordination between the Department of Defense and civilian communities, including local support organizations, with respect to mental health services.

(I) The scope and efficacy of curricula and training on mental health matters for commanders in the Armed Forces.

(J) Other matters as the task force considers appropriate.

(d) ADMINISTRATIVE MATTERS.—

1. COMPENSATION.—Each member of the task force shall receive such compensation (other than compensation to which entitled as a member of the Armed Forces or an officer or employee of the United States, as the case may be). Other members of the task force shall be entitled to compensation as a member of the Armed Forces.

2. OVERSIGHT.—The Under Secretary of Defense for Personnel and Readiness shall oversee the activities of the task force.

3. ADMINISTRATIVE SUPPORT.—The Washington Headquarters Services of the Department of Defense shall provide the task force with personnel, facilities, and other administrative support as necessary for the performance of the duties of the task force.

(e) REPORT.—

1. In General.—The task force shall submit to the Secretary of Defense a report on its activities under this section. The report shall include—

(A) a description of the activities of the task force;

(B) a plan required by subsection (c); and

(C) a description of the activities of the task force that the task force considers appropriate.
(2) Transmittal to Congress.—Not later than 90 days after receipt of the report under paragraph (1), the Secretary shall transmit the report to the Committees on Armed Services of the Senate and the House of Representatives. The Secretary may include in the transmittal such comments on the report as the Secretary considers appropriate.

(f) Termination.—The task force shall terminate 90 days after the date on which the report of the task force is submitted to Congress under subsection (e)(2).

SA 1520. 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 C of title III, add the following:

SEC. 330. ASSESSMENT OF PRODUCTION OF ALTERNATIVE TRANSPORTATION FUELS FOR THE DEPARTMENT OF DEFENSE.

(a) Program Required.—The Secretary of Defense shall carry out a program to evaluate the commercial and technical viability of advanced technologies for the production of alternative transportation fuels having applications for the Department of Defense. The program shall include the construction and operation of testing facilities in accordance with this subsection.

(b) Alternative Transportation Fuels.—For purposes of this section, alternative transportation fuels are ethanol and Fischer-Tropsch fuels that are produced domestically from cellulosic biomass feedstocks or Illinois Basin Coal.

(c) Coordination of Efforts.—

(1) In general.—The Secretary of Defense shall carry out the program required by this section through the Under Secretary of Defense for Acquisition, Technology, and Logistics and in consultation with the Director of Defense Research and Engineering, the Advanced Systems and Concepts Office, the Secretary of Agriculture, and the Secretary of Energy.

(2) Role of Biomass Research and Development Technological Advisory Committee.—The committee established under paragraph (1) shall include the participation of the Biomass Research and Development Technical Advisory Committee established under section 306 of the Biomass Research and Development Act of 2000 (title III of Public Law 106-224; 7 U.S.C. 8101 note).

(d) Facilities for Evaluating Production of Alternative Transportation Fuels.—

(1) In general.—In carrying out the program required by this section, the Secretary of Defense shall provide for the following:

(A) The utilization and capital modifications of the National Corn-to-Ethanol Research Center for the purpose of evaluating the technical and commercial viability of corn kernel cellulosics for producing ethanol.

(B) The construction or capital modification of—

(i) not less than four facilities for the purposes of evaluating the production from cellulosic biomass of alternative transportation fuels having applications for the Department of Defense; and

(ii) not less than four facilities for the purposes of evaluating the production from Illinois Basin Coal of alternative transportation fuels having applications for the Department of Defense.

(2) Location of Facilities.—(A) The facilities described in paragraph (1)(B) for the purposes of cellulosic biomass shall—

(i) afford the efficient use of a diverse range of fuel sources; and

(ii) give initial preference to existing domestic facilities with current or potential capacity for cellulosic conversion.

(B) The facilities constructed under paragraph (1)(B) shall have the flexibility for producing commercial volumes of alternative transportation fuels such that when the facility demonstrates economic viability of the process it can provide commercial production for the region in which it is located.

(d) Authority to enter into Transactions for Facility Construction.—The Secretary of Defense shall seek to construct the facilities required by paragraph (1)(B) at the lowest cost practicable. The Secretary may make grants, enter into agreements, and provide loans or loan guarantees to corporations, farm cooperatives, associates of farmers, and consortia of such entities for such purposes.

(e) Evaluations at Facilities.—

(1) In general.—Not later than 5 years after the date of the enactment of this Act, the Secretary of Defense shall begin at the facilities described in paragraph (1)(B) evaluations of the technical and commercial viability of different processes of producing alternative transportation fuels having Department of Defense applications from cellulosic biomass or Illinois Basin Coal.

(B) Evaluations at National Corn-to-Ethanol Research Center.—Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall begin at the National Corn-to-Ethanol Research Center evaluations of the technical and commercial viability of different processes of corn kernel cellulosics for producing ethanol.

(f) Program Milestones.—In carrying out the program required by this section, the Secretary of Defense shall meet the following milestones:

(1) Selection of Testing Processes.—Not later than 10 years after the date of the enactment of this Act, the Secretary shall select processes for evaluating the technical and commercial viability of producing ethanol or Fischer-Tropsch fuel from cellulosic biomass or Illinois Basin Coal.

(2) Initiation of Work at Existing Facilities.—Not later than one year after the date of enactment of this Act, the Secretary shall begin to enter into agreements to carry out testing under this section at existing facilities.

(3) Construction Agreements.—Not later than 5 years after the date of the enactment of this Act, the Secretary shall enter into agreements for the capital modification or construction of facilities under subsection (d)(1)(B).

(4) Construction of Materials and Design Work.—Not later than three years after the date of the enactment of this Act, the Secretary shall complete capital modifications of existing facilities and the engineering and design work necessary for the construction of new facilities under this section.

(B) Report on Program.—Not later than 18 months after the date of the enactment of this Act, and annually thereafter for the next 5 years, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the implementation and results of the program required by this section to—

(1) the Committees on Armed Services, Energy and Natural Resources, Agriculture, and Appropriations of the Senate; and

(2) the Committees on Armed Services, Energy and Commerce, Agriculture, and Appropriations of the House of Representatives.

(g) Fundings.—(1) In general.—Of the amounts appropriated under this Act, $75,000,000 may be available for the program required by this section, of which $15,000,000 may be available in each of fiscal years 2006 through 2010 for the program.

(2) Availability.—Amounts available under paragraph (1) shall remain available until expended.
entered into under this chapter or title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) if that source—

"(A) has failed to provide the authorization described in paragraph (1)(B);

"(B) has failed to register in that registry all valid taxpayer identification numbers for that source; or

"(C) has registered in that registry an invalid taxpayer identification number and fails to correct that registration.

"(4) The Secretary of Defense shall make arrangements with the Commissioner of Internal Revenue for each head of an agency within the Department of Defense to participate in the taxpayer identification number matching program of the Internal Revenue Service.

"(B) The Commissioner of Internal Revenue shall coordinate with the Secretary of Defense to determine the validity of taxpayer identification numbers registered in the Central Contractor Registry. As part of the cooperation, the Commissioner shall promptly respond to a request of the Secretary of Defense or the head of an agency within the Department of Defense for electronic validation of a taxpayer identification number for a registrant by notifying the Secretary or head of an agency, respectively, of—

"(i) the validity of that number; and

"(ii) in the case of an invalid taxpayer identification number, any correct taxpayer identification number for such registrant that the Commissioner can promptly and reasonably determine.

"(C) The Secretary shall transmit to a registrant, notification of each of the registrant's taxpayer identification numbers, if any, that is determined invalid by the Commissioner of Internal Revenue and shall provide the registrant with an opportunity to substitute a valid taxpayer identification number.

"(5) The Secretary of Defense shall require that, at the place in the Central Contractor Registry where the taxpayer identification numbers of a registrant are to be displayed, the display bear (as applicable)—

"(A) for each taxpayer identification number of that registrant, an indicator of whether such number has been determined valid, is being reviewed for validity, or has been determined invalid.

"(B) an indicator that no taxpayer identification number is required for the registrant.

"(6) This subsection applies to each source who registers any information regarding that source in the Central Contractor Registry after December 31, 2005, except that paragraphs (1), (2), and (3) do not apply to a source that establishes to the satisfaction of the Secretary of Defense that such source is not required to have a taxpayer identification number.

"(c) CONFIDENTIALITY OF INFORMATION.—The Secretary of Defense shall ensure that taxpayer identification numbers in the Central Contractor Registry are not made available to the public. The Secretary shall preclude a requirement for procurement officials of the United States having access to such numbers in that registry to maintain the confidentiality of those numbers.

"(b) CLERICAL AMENDMENT.—The table of sections at the end of subtitle D of title VI, as follows:

"SEC. 208. Terms of consumer credit.

At the end of Sec. 208, as added by the amendment, the table; as follows:
"(1) by inserting ''or licensed or certified marriage and family therapists'' both places

"SEC. 718. MENTAL HEALTH COUNSELORS UNDER TRICARE.

At the end of Sec. 718, the table of sections at the end of the section, as follows:
"(1) by inserting ''or licensed or certified marriage and family therapists'' both places

"(2) TERMS.—Such disclosures shall be presented in accordance with the regulations issued by the Board of Governors of the Federal Reserve System to implement the Truth in Lending Act (15 U.S.C. 1601 et seq.).

"(3) LIMITATION.—A creditor described in subsection (a) shall not automatically renew, repay, refinance, or consolidate with the proceeds of other credit extended by the same creditor any consumer credit extended to a servicer or a servicer's dependent without—

"(A) executing new loan documentation signed by the servicer or the servicer's dependent, as applicable; and

"(B) providing the loan disclosures described in subsection (c) to the servicer or the servicer's dependent.

"(d) PREEMPTION.—Except as provided in subsection (f)(2), this section preempts any State or Federal law, rule, or regulation, including any State usury law, to the extent that the laws, rules, or regulations are inconsistent with this section, except that this section shall not preempt any such law, rule, or regulation that provides additional protection to a servicer or a servicer's dependent.

"(e) PENALTIES.—

"(1) MISSTATEMENT.—Any creditor who knowingly violates this section shall be fined as provided in title 18, United States Code, or imprisoned for not more than one year, or both.

"(2) PRESERVATION OF OTHER REMEDIES.—The remedies and rights provided under this section are in addition to and do not preclude enforcement of any remedy otherwise available under any law to the person claiming relief under this section, including any award for consequential and punitive damages.

"(f) DEFINITION.—For purposes of this section, the term 'interest' includes service charges, renewal charges, fees, or any other charges (except bona fide insurance) with respect to the extension of consumer credit.

"(g) CLERICAL AMENDMENT.—The table of sections at the end of title VII, as follows:

"(1) by inserting ''or licensed or certified marriage and family therapists'' both places

"(2) TERMS.—Such disclosures shall be presented in accordance with the regulations issued by the Board of Governors of the Federal Reserve System to implement the Truth in Lending Act (15 U.S.C. 1601 et seq.).

"(3) LIMITATION.—A creditor described in subsection (a) shall not automatically renew, repay, refinance, or consolidate with the proceeds of other credit extended by the same creditor any consumer credit extended to a servicer or a servicer's dependent without—

"(A) executing new loan documentation signed by the servicer or the servicer's dependent, as applicable; and

"(B) providing the loan disclosures described in subsection (c) to the servicer or the servicer's dependent.

"(4) PENALTIES.—

"(1) MISSTATEMENT.—Any creditor who knowingly violates this section shall be fined as provided in title 18, United States Code, or imprisoned for not more than one year, or both.

"(2) PRESERVATION OF OTHER REMEDIES.—The remedies and rights provided under this section are in addition to and do not preclude enforcement of any remedy otherwise available under any law to the person claiming relief under this section, including any award for consequential and punitive damages.

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"(3) LIMITATION.—A creditor described in subsection (a) shall not automatically renew, repay, refinance, or consolidate with the proceeds of other credit extended by the same creditor any consumer credit extended to a servicer or a servicer's dependent without—

"(A) executing new loan documentation signed by the servicer or the servicer's dependent, as applicable; and

"(B) providing the loan disclosures described in subsection (c) to the servicer or the servicer's dependent.

"(4) PENALTIES.—

"(1) MISSTATEMENT.—Any creditor who knowingly violates this section shall be fined as provided in title 18, United States Code, or imprisoned for not more than one year, or both.

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"(3) DEFINITION.—For purposes of this section, the term 'interest' includes service charges, renewal charges, fees, or any other charges (except bona fide insurance) with respect to the extension of consumer credit.

"(4) CLERICAL AMENDMENT.—The table of sections at the end of title VII, as follows:

"(1) by inserting ''or licensed or certified marriage and family therapists'' both places

"(2) TERMS.—Such disclosures shall be presented in accordance with the regulations issued by the Board of Governors of the Federal Reserve System to implement the Truth in Lending Act (15 U.S.C. 1601 et seq.).
(2) by inserting "or licensed or certified mental health counselors" after "that the therapists.",(b) AUTHORITY TO PROVIDE MENTAL HEALTH SERVICES TO RELATED CASES.—Section 1079(a)(13) of such title is amended by inserting "licensed or certified mental health counselor", after "certified marriage and family therapist".(c) AUTHORITY TO ENTER INTO PERSONAL SERVICES CONTRACTS.—Section 706(c)(2) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2799; 10 U.S.C. 1091 note) is amended by inserting "mental health counselors", after "psychologists".(d) APPLICABILITY OF LICENSURE REQUIREMENT FOR HEALTH-CARE PROFESSIONALS.—Section 1094 (c)(2) of title 10, United States Code, is amended by inserting "mental health counselor", after "psychologist.".

SA 1525. 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 appropriate place, insert the following:

SEC. 2887. SENSE OF THE SENATE REGARDING COMMUNITY IMPACT ASSISTANCE RELATED TO CONSTRUCTION OF NAVY LANDING FIELD, NORTH CAROLINA.

It is the sense of the Senate that—

(1) the planned construction of an outlying landing field in North Carolina is vital to the national security interests of the United States; and

(2) the Federal Government should provide community impact assistance to those communities directly impacted by the location of the outlying landing field—

(A) economic development assistance;

(B) impact aid program assistance;

(C) the provision by cooperative agreement with the Navy of fire, rescue, water, and sewer services;

(D) access by leasing arrangement to appropriate land for farming for farmers impacted by the location of the landing field;

(E) direct ad valorem tax relief; and

(F) direct relocation assistance; and

(G) fair compensation to landowners for property purchased by the Navy.

SA 1527. Mrs. BOXER (for herself and Ms. SNOWE) 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 appropriate place, add the following:

SEC. 2887. USE OF DEPARTMENT OF DEFENSE FUNDS FOR ABORTIONS IN CASES OF RAPE AND INCEST.

Section 1093(a) of title 10, United States Code, is amended by inserting before the period at the end the following: "or in cases in which the pregnancy is the result of an act of rape or incest.".

SA 1528. Mr. KERRY 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:

SA 1526. Mrs. DOE 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 371, between lines 8 and 9, insert the following:

SEC. 2887. SENSE OF THE SENATE REGARDING COMMUNITY IMPACT ASSISTANCE RELATED TO CONSTRUCTION OF NAVY LANDING FIELD, NORTH CAROLINA.
SEC. 1023. SENSE OF SENATE ON SECOND HOMEPORT ON THE EAST COAST OF THE UNITED STATES.

(a) FINDINGS.—The Senate makes the following findings:

(1) The Navy has long recognized the need for sufficient deepwater ports, in both the Atlantic Ocean and the Pacific Ocean, to adequately protect its fleet.

(2) The Chief of Naval Operations testified before Congress in 2005 that the Navy needs two homeports capable of handling aircraft carriers on each coast of the United States for strategic and security purposes.

(b) REPORT.—The Secretary of Defense shall act through the Defense Advanced Research Projects Agency to create and foster research teams and capabilities 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. 1024. STUDY ON ROLE AND MISSION OF THE DEFENSE ADVANCED RESEARCH PROJECTS AGENCY.

(a) STUDY.—Not later than February 1, 2007, the Secretary shall carry out a study of the role and mission of the Defense Advanced Research Projects Agency (DARPA).

(b) CONTENT OF STUDY.—The study under subsection (a) shall include the following:

(1) An examination of unique mission of the Defense Advanced Research Projects Agency at the time of its establishment, and whether there has been a significant change in the need for an organization fulfilling such mission, including an assessment of the current need for the Department of Defense:

(A) to ensure that the United States maintains clear leadership in all significant areas of basic and applied research having potential relevance to the national security of the United States for the foreseeable future;

(B) to ensure United States leadership in key areas, such as advanced mathematics or revolutionary materials, not adequately addressed by other departments or agencies of the Federal Government;

(C) to explore revolutionary approaches to difficult, but not typical, problems that would not be attempted by research programs with near-term and mid-term development goals;

(D) to create and foster research teams and partnerships along critical lines, including a linkage of academic and private sector entities that would be unlikely to form through traditional research practices; and

(E) to protect the unique research capacity of research groups in institutions of higher education and ensure that perspectives and insights from research conducted by institutions of higher education continuously stimulate advances in defense research.

(2) An analysis of whether the mission of the Agency can be fulfilled by other components of the Department of Defense engaged in defense research.

(3) An identification of recommendations for ensuring that the Agency is capable of carrying out the unique functions assigned to it, which recommendations shall be based on an assessment of whether:

(A) the Agency is assigned a position in the Department of Defense best suited to ensuring that it is evaluated with respect to the mission referred to in paragraph (1); and

(B) the tests applied to the Agency ensure a focus by the Agency on projects relevant to the security interests of the United States for which the Agency is best suited to ensure significant progress complex areas of research.

(c) REPORT.—

(1) IN GENERAL.—Not later than February 1, 2007, the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the results of the study under subsection (a).

(2) RECOMMENDATIONS.—The report shall include recommendations regarding:

(A) the appropriate mission of the Defense Advanced Research Projects Agency; and

(B) whether or not modifications are required for the authorities and resources applicable to the Agency in order to ensure that such mission can be executed with utmost efficiency.

(d) ROLE OF DEFENSE SCIENCE BOARD.—The Secretary shall act through the Defense Science Board in carrying out the study under subsection (a) and preparing the report under subsection (c).

SEC. 1032. SENSE OF SENATE ON SECOND HOMEPORT FOR NUCLEAR AIRCRAFT CARRIERS ON THE EAST COAST OF THE UNITED STATES.

(a) FINDINGS.—The Senate makes the following findings:

(1) The Navy has long recognized the need for sufficient deepwater ports, in both the Atlantic Ocean and the Pacific Ocean, to adequately protect its fleet.

(2) The Chief of Naval Operations testified before Congress in 2005 that the Navy needs two homeports capable of handling aircraft carriers on each coast of the United States for strategic and security purposes.

(b) REPORT.—The Secretary shall act through the Defense Advanced Research Projects Agency to create and foster research teams and capabilities 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. 1044. STUDY ON ROLE AND MISSION OF THE DEFENSE ADVANCED RESEARCH PROJECTS AGENCY.

(a) STUDY.—Not later than February 1, 2007, the Secretary of Defense shall carry out a study of the role and mission of the Defense Advanced Research Projects Agency (DARPA).

(b) CONTENT OF STUDY.—The study under subsection (a) shall include the following:

(1) An examination of unique mission of the Defense Advanced Research Projects Agency at the time of its establishment, and whether there has been a significant change in the need for an organization fulfilling such mission, including an assessment of the current need for the Department of Defense:

(A) to ensure that the United States maintains clear leadership in all significant areas of basic and applied research having potential relevance to the national security of the United States for the foreseeable future;

(B) to ensure United States leadership in key areas, such as advanced mathematics or revolutionary materials, not adequately addressed by other departments or agencies of the Federal Government;

(C) to explore revolutionary approaches to difficult, but not typical, problems that would not be attempted by research programs with near-term and mid-term development goals;

(D) to create and foster research teams and partnerships along critical lines, including a linkage of academic and private sector entities that would be unlikely to form through traditional research practices; and

(E) to protect the unique research capacity of research groups in institutions of higher education and ensure that perspectives and insights from research conducted by institutions of higher education continuously stimulate advances in defense research.

(2) An analysis of whether the mission of the Agency can be fulfilled by other components of the Department of Defense engaged in defense research.

(3) An identification of recommendations for ensuring that the Agency is capable of carrying out the unique functions assigned to it, which recommendations shall be based on an assessment of whether:

(A) the Agency is assigned a position in the Department of Defense best suited to ensuring that it is evaluated with respect to the mission referred to in paragraph (1); and

(B) the tests applied to the Agency ensure a focus by the Agency on projects relevant to the security interests of the United States for which the Agency is best suited to ensure significant progress complex areas of research.

(c) REPORT.—

(1) IN GENERAL.—Not later than February 1, 2007, the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the results of the study under subsection (a).

(2) RECOMMENDATIONS.—The report shall include recommendations regarding:

(A) the appropriate mission of the Defense Advanced Research Projects Agency; and

(B) whether or not modifications are required for the authorities and resources applicable to the Agency in order to ensure that such mission can be executed with utmost efficiency.

(d) ROLE OF DEFENSE SCIENCE BOARD.—The Secretary shall act through the Defense Science Board in carrying out the study under subsection (a) and preparing the report under subsection (c).
(2) The United States is the largest market for pharmaceuticals in the world, yet American consumers pay the highest prices for brand pharmaceuticals in the world;

(3) A pot currently enjoys;

(4) Allowing and structuring the importation of prescription drugs to ensure access to safe and affordable drugs approved by the Food and Drug Administration will provide a level of safety to American consumers that they deserve;

(5) American seniors alone will spend $1,800,000,000,000 on pharmaceuticals over the next 10 years; and

(6) Opening foreign pharmaceutical markets could save American consumers at least $38,000,000,000 each year.

SEC. 3. REPEAL OF CERTAIN SECTION REGARDING IMPORTATION OF PRESCRIPTION DRUGS.


SEC. 4. IMPORTATION OF PRESCRIPTION DRUGS; WAIVER OF CERTAIN IMPORT RESTRICTIONS.

(a) In General.—Chapter VIII of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381 et seq.), as amended by section 3, is further amended by inserting after section 803 the following:

"SEC. 804. COMMERCIAL AND PERSONAL IMPORTATION OF PRESCRIPTION DRUGS.

"(a) Importation of Prescription Drugs.—

"(1) In General.—In the case of qualifying drugs imported or offered for import into the United States from registered importers or by registered importers, the following:

(A) the limitation on importation that is established in section 801(d)(1) is waived; and

(B) the standards referred to in section 801(a) regarding the registration of the drugs are subject to subsection (g) of this section (including with respect to qualifying drugs to which section 801(d)(1) does not apply).

(2) Importers.—A qualifying drug may not be imported under paragraph (1) unless—

(A) the drug is imported by a pharmacy, group of pharmacies, or a wholesaler that is a registered importer; or

(B) the drug is imported by an individual for personal use or for the use of a family member of the individual (not for resale) from the registered importer.

(3) Rule of Construction.—This section shall apply only with respect to a drug that is imported or offered for import into the United States:

(A) by a registered importer; or

(B) by a registered exporter to an individual.

(4) Definitions.—

(A) Registered Exporter; Registered Importer.—For purposes of this section:

(I) the term ‘registered exporter’ means an exporter for which a registration under subsection (b) has been approved and is in effect;

(ii) the term ‘registered importer’ means a pharmacy, group of pharmacies, or a wholesaler for which a registration under subsection (b) has been approved and is in effect;

(iii) the term ‘registration condition’ means a condition that must exist for a registration under subsection (b) to be approved.

(B) Qualifying Drug.—For purposes of this section, the term ‘qualifying drug’ means a drug for which there is a corresponding U.S. label drug.

(C) U.S. Label Drug.—For purposes of this section, the term ‘U.S. label drug’ means a prescription drug that—

(i) with respect to a qualifying drug, has the same active ingredient or ingredients, route of administration, dosage form, and strength as the qualifying drug;

(ii) with respect to the qualifying drug, is manufactured by or for the person that manufactures the qualifying drug;

(iii) is approved under section 505(c); and

(iv) satisfies the control requirements described in subsection (g) of this section (in a manner that will not adversely affect public health).

(C) Permitted Country.—The term ‘permitted country’ means—

(I) Australia;

(ii) Canada;

(iii) a member country of the European Union, but does not include a member country with respect to which—

(I) the country’s Annex to the Treaty of Accession to the European Union 2003 includes a transitional measure for the regulation of human pharmaceutical products that has not expired; or

(II) the Secretary determines that the requirements described in subclauses (I) and (II) of clause (vii) will not be met by the date on which such transitional measure for the regulation of human pharmaceutical products expires;

(iv) Japan;

(v) New Zealand;

(vi) Switzerland; and

(vii) a country in which the Secretary determines the following requirements are met:

(I) the country has statutory or regulatory requirements—

(aa) that require the review of drugs for safety and effectiveness by an entity of the government of the country;

(bb) that authorize the approval of only those drugs that have been determined to be safe and effective by experts employed by or acting on behalf of such entity and qualified by scientific training and experience to evaluate the safety and effectiveness of drugs based on the results of adequate and well-controlled investigations, including clinical investigations, conducted by experts qualified by scientific training and experience to evaluate the safety and effectiveness of drugs;

(cc) that require the methods used in, and the facilities and controls used for the manufacture, processing, and packing of drugs in the country to be adequate to preserve their identity, quality, purity, and strength;

(dd) that require the registration of importers and exporters of drugs and procedures to withdraw approval and remove drugs found not to be safe or effective; and

(EE) that require the labeling and promotion of drugs to be in accordance with the approval of the drug.

(II) The valid marketing authorization system in the country is equivalent to the systems in the countries described in clauses (i) through (vi).

(3) Importation of Drugs to the United States from the country will not adversely affect public health.

(b) Registration of Importers and Exporters.—A registration condition is that the importer or exporter involved (referred to in this subsection as a ‘registrant’) submits to the Secretary a registration containing the following:

(A) In the case of an exporter, the name of the exporter and an identification of all places of business of the exporter that relate to qualifying drugs, including each warehouse or other facility owned or controlled by the exporter;

(ii) In the case of a registrant, the registrant is in compliance with registration conditions under—

(I) the country’s Annex to the Treaty of Accession to the European Union 2003 includes a transitional measure for the regulation of human pharmaceutical products that has not expired; or

(II) the Secretary determines that the requirements described in subclauses (I) and (II) of clause (vii) will not be met by the date on which such transitional measure for the regulation of human pharmaceutical products expires;

(iv) Japan;

(v) New Zealand;

(vi) Switzerland; and

(vii) a country in which the Secretary determines the following requirements are met:

(I) the country has statutory or regulatory requirements—

(aa) that require the review of drugs for safety and effectiveness by an entity of the government of the country;

(bb) that authorize the approval of only those drugs that have been determined to be safe and effective by experts employed by or acting on behalf of such entity and qualified by scientific training and experience to evaluate the safety and effectiveness of drugs based on the results of adequate and well-controlled investigations, including clinical investigations, conducted by experts qualified by scientific training and experience to evaluate the safety and effectiveness of drugs;

(cc) that require the methods used in, and the facilities and controls used for the manufacture, processing, and packing of drugs in the country to be adequate to preserve their identity, quality, purity, and strength;

(dd) that require the registration of importers and exporters of drugs and procedures to withdraw approval and remove drugs found not to be safe or effective; and

(EE) that require the labeling and promotion of drugs to be in accordance with the approval of the drug.

(II) The valid marketing authorization system in the country is equivalent to the systems in the countries described in clauses (i) through (vi).

(3) Importation of drugs to the United States from the country will not adversely affect public health.

(c) Enforcement.—
(ii) in the case of an exporter, subsections (c), (d), (f), (g), (h), (i), and (j) (relating to the sources of exported qualifying drugs; the inspection of facilities of the exporter and the marking or compliant shipments; the payment of fees; and compliance with the standards referred to in section 801(a); being licensed as a pharmacist; conditions for individual importers; and maintenance of records and samples).

(C) An agreement by the registrant that the registrant will not under subsection (a) import, export or offer for import or export, to the United States under subsection (a);

(i) provide for the return to the registrant of such drug; and

(ii) cease, or not begin, the exportation or importation of such drug unless the Secretary has notified the registrant that exportation or importation of such drug may proceed.

(E) An agreement by the registrant to ensure and monitor compliance with each registration condition, to promptly correct any noncompliance with such a condition, and to promptly report to the Secretary any such noncompliance.

(F) A plan describing the manner in which the registrant will comply with the agreement under paragraph (E).

(G) An agreement by the registrant to enforce a contract under subsection (c)(3)(B) against a party in the chain of custody of a qualifying drug with respect to the authority of the registrant under clauses (ii) and (iii) of that subsection.

(H) An agreement by the registrant to notify the Secretary not more than 30 days before the registrant intends to make the change of—

(i) any change that the registrant intends to make regarding information provided under subparagraph (A) or (B); and

(ii) any change that the registrant intends to make in the compliance plan under subsection (d).

(I) In the case of an exporter—

(i) an agreement by the exporter that a qualifying drug will not under subsection (a) be shipped or disposed of by a person or entity pursuant to subsection (a)(2)(B) to be an importer of such drug.

(ii) An agreement to post a bond, payable to the Treasury of the United States that is equal in value to the lesser of—

(A) $1,000,000; and

(B) the importation by the exporter to the United States in a typical 4-week period over the course of a year under this section; or

(iii) in the case of a manufacturer, subsection (a)(2)(B) of this section.

(J) An agreement by the importer to report to the Secretary—

(i) in the case of an importer, an agreement by the importer to report to the Secretary—

(A) not later than August 1 of each fiscal year, the total price and the total volume of drugs imported to the United States by the importer during the 6-month period from January 1 through June 30 of that fiscal year; and

(B) not later than January 1 of each fiscal year, the total price and the total volume of drugs exported to the United States by the exporter during the previous fiscal year.

(ii) in the case of an importer, an agreement by the importer to report to the Secretary—

(A) not later than August 1 of each fiscal year, the total price and the total volume of drugs imported to the United States by the importer during the 6-month period from January 1 through June 30 of that fiscal year; and

(B) not later than January 1 of each fiscal year, the total price and the total volume of drugs exported to the United States by the exporter during the previous fiscal year.

(K) Such other provisions as the Secretary may require by regulation to protect the public health.

(1) The importation by pharmacies, groups of pharmacies, and wholesalers as registered importers of qualifying drugs under subsection (a);

(ii) importation by individuals of qualifying drugs under subsection (a).

(1) A general.—Not later than 90 days after the date on which a registrant submits to the Secretary a registration under paragraph (1), the Secretary shall notify the registrant whether the registration is approved or is disapproved. The Secretary shall disapprove a registration if there is reason to believe that the registrant is not in compliance with one or more registration conditions, and shall notify the registrant of such reason.

In the case of a disapproved registration, the Secretary shall immediately notify the registrant that the registration is approved if the Secretary determines that the registrant is in compliance with such conditions.

(2) Changes in registration information.—Not later than 30 days after receiving notice under paragraph (1)(B) from a registrant, the Secretary shall determine whether the change involved affects the approval of the registration of the registrant under paragraph (1), and shall inform the registrant of the determination.

(3) Publication of contact information for registered exporters.—Through the Internet website of the Food and Drug Administration and a toll-free telephone number, the Secretary shall make readily available to the public a list of registered exporters, including their addresses and telephone numbers, for the exporters. Promptly after the approval of a registration submitted under paragraph (1), the Secretary shall post the Internet website and the information provided through the toll-free telephone number accordingly.

(4) Suspension and termination.—

(A) Suspension.—With respect to the effectiveness of a registration submitted under paragraph (1):

(i) Subject to clause (ii), the Secretary may suspend the registration if the Secretary determines, after notice and opportunity for a hearing, that the registrant has failed to maintain substantial compliance with a registration condition.

(ii) If the Secretary determines that, under color of the registration, the exporter or importer has misrepresented information with respect to each individual importing a prescription drug from the exporter under subsection (a)(2)(B) to be an importer of such drug.

(B) Termination.—The Secretary, after notice and opportunity for a hearing, may terminate the registration under paragraph (1) of a registrant if the Secretary determines, after notice and opportunity for a hearing, that the registrant is in a pattern or practice of violating 1 or more registration conditions, or if on 1 or more occasions the Secretary has under paragraph (3)(B) assessed a fine against a party in the chain of custody of a qualifying drug from the exporter under subsection (a) for failure to comply with a registration condition.

(ii) provide for the return to the registrant of such drug; and

(iii) cease, or not begin, the exportation or importation of such drug unless the Secretary has notified the registrant that exportation or importation of such drug may proceed.

(E) An agreement by the registrant to ensure and monitor compliance with each registration condition, to promptly correct any noncompliance with such a condition, and to promptly report to the Secretary any such noncompliance.

(F) A plan describing the manner in which the registrant will comply with the agreement under paragraph (E).

(G) An agreement by the registrant to enforce a contract under subsection (c)(3)(B) against a party in the chain of custody of a qualifying drug with respect to the authority of the registrant under clauses (ii) and (iii) of that subsection.

(H) An agreement by the registrant to notify the Secretary not more than 30 days before the registrant intends to make the change of—

(i) any change that the registrant intends to make regarding information provided under subparagraph (A) or (B); and

(ii) any change that the registrant intends to make in the compliance plan under subsection (d).

(I) In the case of an exporter—

(i) an agreement by the exporter that a qualifying drug will not under subsection (a) be shipped or disposed of by a person or entity pursuant to subsection (a)(2)(B) to be an importer of such drug.

(ii) An agreement to post a bond, payable to the Treasury of the United States that is equal in value to the lesser of—

(A) $1,000,000; and

(B) the importation by the exporter to the United States in a typical 4-week period over the course of a year under this section; or

(iii) in the case of a manufacturer, subsection (a)(2)(B) of this section.

(J) An agreement by the importer to report to the Secretary—

(i) in the case of an importer, an agreement by the importer to report to the Secretary—

(A) not later than August 1 of each fiscal year, the total price and the total volume of drugs imported to the United States by the importer during the 6-month period from January 1 through June 30 of that fiscal year; and

(ii) not later than January 1 of each fiscal year, the total price and the total volume of drugs exported to the United States by the exporter during the previous fiscal year.

(ii) in the case of an importer, an agreement by the importer to report to the Secretary—

(A) not later than August 1 of each fiscal year, the total price and the total volume of drugs imported to the United States by the importer during the 6-month period from January 1 through June 30 of that fiscal year; and

(ii) not later than January 1 of each fiscal year, the total price and the total volume of drugs exported to the United States by the exporter during the previous fiscal year.
Act that are applicable to facilities of that type in the United States; and

(iv) has ensured, through such contractual relationships as may be necessary, that the Secretary requires the same authority regarding other parties in the chain of custody from the establishment that the Secretary has under clauses (ii) and (iii) regarding such entity.

(4) The foreign country from which the importer will import the drug is a permitted country;

(B) The foreign country from which the exporter will export the drug is the permitted country in which the exporter is located.

(5) During any period in which the drug was not in the control of the manufacturer of the drug, the drug did not enter any country that is not a permitted country;

(6) The exporter or importer retains a sample of each lot of the drug sufficient for testing by the Secretary.

(d) Inspection of facilities; marking of shipments.—

(1) Inspection of facilities.—A registration condition is that, for the purpose of ascertaining whether the exporter involved is in compliance with all other registration conditions—

(A) the exporter agrees to permit the Secretary—

(i) to conduct on-site inspections, including monitoring on a day-to-day basis, of places of business of the exporter that relate to qualifying drugs, including each warehouse or other facility owned or controlled by, or operated for, the exporter;

(ii) to have access, including on a day-to-day basis, to—

(I) records of the exporter that relate to the export of such drugs, including financial records;

(II) samples of such drugs;

(iii) to carry out the duties described in paragraph (3); and

(iv) to carry out any other functions determined by the Secretary to be necessary regarding the compliance of the exporter; and

(B) the Secretary has assigned 1 or more employees of the Secretary to carry out the functions described in this subsection for the Secretary to inspect the registered importers.

(2) Marking of compliant shipments.—A registration condition is that the exporter involved agrees to affix to each shipping container that is not authorized to bear the markings or other technology to any container that is not authorized to bear the markings or other technology shall not be in the control of the manufacturer of the drug. Markings or other technology shall not be affixed to a container that is not authorized to bear markings or other technology.

(3) Certain duties relating to exporters.—Duties of the Secretary with respect to an exporter include the following:

(A) Designing, randomly, but not less than 12 times annually, the places of business of the exporter at which qualifying drugs are stored and from which qualifying drugs are exported;

(B) During the inspections under subparagraph (A), verifying the chain of custody of a statistically significant sample of qualifying drugs shipped by the exporter, including the identity of the establishment in which the drug was manufactured to the exporter, which shall be accomplished or supplemented by the use of anticounterfeiting or track-and-trace technologies, taking into account the economic and technical feasibility of such technologies.

(4) Prior notice of shipments.—A registration condition is that the exporter involved agrees to permit the Secretary to require by regulation.

(A) the establishment of a system for submission and review of the notices required under section (d)(4) with respect to shipments qualifying drugs under subsection (a) to assess compliance with all registration conditions for such shipments are offered for import into the United States; and

(B) inspecting such shipments as necessary, to pay the costs for that fiscal year that is sufficient, and not more than necessary, to pay the costs associated with—

(i) inspecting the facilities of registered importers, and of other entities in the chain of custody of qualifying drug as necessary, under subsection (d)(6); and

(ii) developing, implementing, and operating under such subsection an electronic system for submission and review of the notices required under subsection (d)(4) with respect to shipments of qualifying drugs under subsection (a) to assess compliance with all registration conditions for such shipments are offered for import into the United States; and

(C) TOTAL PRICE OF DRUGS.—

(i) ESTIMATE.—For the purposes of complying with the limitation described in sub paragraph (B) when establishing under subparagraph (A) the aggregate total of fees to be collected under this subsection an electronic system for submission and review of the notices required under subsection (d)(4) with respect to shipments of qualifying drugs under subsection (a) to assess compliance with all registration conditions for such shipments are offered for import into the United States by registered importers under subsection (d).

(5) Certain duties relating to importers.—Duties of the Secretary with respect to an importer include the following:

(A) Inspecting, randomly, but not less than 12 times annually, the places of business of the importer at which a qualifying drug is initially received after importation;

(B) During the inspections under subparagraph (A), verifying the chain of custody or a statistically significant sample of qualifying drugs from the establishment in which the drug was manufactured to the importer, which shall be accomplished or supplemented by the use of anticounterfeiting or track-and-trace technologies, taking into account the economic and technical feasibility of those technologies, except that a drug that lacks such technologies from the point of manufacture shall not for that reason be excluded from importation by an importer;

(C) Randomly reviewing records of exporters for the purpose of determining whether the drug was manufactured to the importer, which shall be accomplished or supplemented by the use of anticounterfeiting or track-and-trace technologies, taking into account the economic and technical feasibility of those technologies, except that a drug that lacks such technologies from the point of manufacture shall not for that reason be excluded from importation by an importer;

(D) Monitoring the affixing of markings under paragraph (2).

(E) Inspecting as the Secretary determines is necessary the warehouses and other facilities, including records, of other parties in the chain of custody of qualifying drugs.

(F) Determining whether the exporter is in compliance with all other registration conditions.

(C) AMOUNT OF INSPECTION FEE.—A registration condition is that the importer involved pays to the Secretary a fee of $10,000 due on the date on which the importer first submits the notice required by subsection (a) to the Secretary under subsection (b).

(2) Inspection Fee.—A registration condition is that the importer involved pays a fee to the Secretary in accordance with this subsection. Such fee shall be paid not later than October 1 and April 1 of each fiscal year in the amount provided for under paragraph (3).

(3) AMOUNT OF INSPECTION FEE.—

(A) AGGREGATE TOTAL OF FEES.—Not later than 30 days before the start of each fiscal year, the Secretary, in consultation with the Secretary of Homeland Security and the Secretary of the Treasury, shall establish an aggregate total of fees to be collected under paragraph (2) for importers for that fiscal year that is sufficient, and not more than necessary, to pay the costs that fiscal year of administering this section with respect to registered importers, including the costs associated with—

(i) inspecting the facilities of registered importers, and of other entities in the chain of custody of qualifying drug as necessary, under subsection (d)(6); and

(ii) developing, implementing, and operating under such section an electronic system for submission and review of the notices required under subsection (d)(4) with respect to shipments of qualifying drugs under subsection (a) to assess compliance with all registration conditions for such shipments are offered for import into the United States; and

(iii) inspecting such shipments as necessary, to pay the costs for that fiscal year that is sufficient, and not more than necessary, to pay the costs associated with—

(1) the aggregate total of fees collected under paragraph (2) for a fiscal year shall not exceed 1 percent of the total price of qualifying drugs imported during that fiscal year, the Secretary shall estimate the total price of qualifying drugs imported into the United States; and

(2) LIMITATION.—Subject to subparagraph (C), the aggregate total of fees collected under paragraph (2) for a fiscal year shall not exceed 1 percent of the total price of qualifying drugs imported during that fiscal year.

(4) PRIOR NOTICE OF SHIPMENTS.—A registration condition is that the importer agrees to permit the Secretary—

(A) the exporter agrees to permit the Secretary—

(i) to conduct on-site inspections, including monitoring on a day-to-day basis, of places of business of the exporter that relate to qualifying drugs, including each warehouse or other facility owned or controlled by, or operated for, the exporter;

(ii) to have access, including on a day-to-day basis, to—

(I) records of the exporter that relate to the export of such drugs, including financial records;

(II) samples of such drugs;

(iii) to carry out the duties described in paragraph (3); and

(iv) to carry out any other functions determined by the Secretary to be necessary regarding the compliance of the exporter; and

(B) the Secretary has assigned 1 or more employees of the Secretary to carry out the functions described in this subsection for the Secretary to inspect the registered importers.

(5) Marking of compliant shipments.—A registration condition is that the importer involved agrees to permit the Secretary—

(A) the exporter agrees to permit the Secretary—

(i) to conduct on-site inspections, including monitoring on a day-to-day basis, of places of business of the exporter that relate to qualifying drugs, including each warehouse or other facility owned or controlled by, or operated for, the exporter;

(ii) to have access, including on a day-to-day basis, to—

(I) records of the exporter that relate to the export of such drugs, including financial records;

(II) samples of such drugs;

(iii) to carry out the duties described in paragraph (3); and

(iv) to carry out any other functions determined by the Secretary to be necessary regarding the compliance of the exporter; and

(B) the Secretary has assigned 1 or more employees of the Secretary to carry out the functions described in this subsection for the Secretary to inspect the registered importers.

(6) Certain duties relating to importers.—Duties of the Secretary with respect to an importer include the following:

(A) Inspecting, randomly, but not less than 12 times annually, the places of business of the importer at which a qualifying drug is initially received after importation;

(B) During the inspections under subparagraph (A), verifying the chain of custody or a statistically significant sample of qualifying drugs from the establishment in which the drug was manufactured to the importer, which shall be accomplished or supplemented by the use of anticounterfeiting or track-and-trace technologies, taking into account the economic and technical feasibility of those technologies.
United States by registered importers during that fiscal year by adding the total price of qualifying drugs imported by each registered importer during the 6-month period from January 30 of the current fiscal year, as reported to the Secretary by each registered importer under subsection (b)(1)(J).

(2) Individual importer fee.—Subject to the limitations described in subparagraph (B), the total price of qualifying drugs imported by each registered importer under subsection (b)(1)(J).

(3) Total price of drugs.—

(i) Estimate.—For the purposes of complying with the limitation described in subparagraph (A), the aggregate total of fees collected under paragraph (2) for that fiscal year shall not exceed 1 percent of the total price of qualifying drugs imported during that fiscal year into the United States by registered importers under subsection (b)(1)(J).

(ii) Calculation.—Not later than March 1 of the fiscal year that follows the fiscal year for which the estimate under clause (i) is made, the Secretary shall calculate the total price of qualifying drugs imported into the United States by registered importers during a fiscal year as calculated under clause (ii) is less than the aggregate total of fees collected under paragraph (2) for a fiscal year shall not exceed 1 percent of the total price of qualifying drugs imported during that fiscal year into the United States by registered importers under subsection (b)(1)(J).

(4) Use of fees.—

(A) In general.—Subject to appropriations Acts, fees collected by the Secretary under paragraphs (1) and (2) shall be credited to the appropriation account for salaries and expenses of the Bureau of Customs and Border Protection until expended (without fiscal year limitation).

(B) Sole purpose.—Fees collected by the Secretary under paragraphs (1) and (2) are available to the Secretary and, if transferred, to the Secretary of Homeland Security, and are for the sole purpose of paying the costs referred to in paragraph (3)(A).

(C) Collection of fees.—In any case where the Secretary does not receive payment of a fee assessed under paragraph (1) or (2) within 30 days after it is due, such fee shall be treated as a claim of the United States Government subject to chapter II of title 37, United States Code.

(D) Compliance with law.—In any case where the Secretary does not receive payment of a fee assessed under paragraph (1) or (2) within 30 days after it is due, such fee shall be treated as a claim of the United States Government subject to chapter II of title 37, United States Code.

(E) Universality.—The fees imposed under paragraphs (1) and (2) shall be uniform and shall apply with respect to registered exporters, including the costs associated with the Secretary's enforcement of the law, and any necessary, to pay the costs referred to in paragraph (3)(A).

(F) Use of fees.—

(A) In general.—Subject to the limitations described in subparagraph (B), the aggregate total of fees collected under paragraph (2) for a fiscal year shall not exceed 1 percent of the total price of qualifying drugs imported during that fiscal year into the United States by registered importers under subsection (b)(1)(J).

(B) Limitation.—Subject to paragraph (C), the aggregate total of fees collected under paragraph (2) for a fiscal year shall not exceed 1 percent of the total price of qualifying drugs imported during that fiscal year into the United States by registered importers under subsection (b)(1)(J).

(C) Total price of drugs.—

(i) Estimate.—For the purposes of complying with the limitation described in subparagraph (A), the aggregate total of fees collected under paragraph (2) for that fiscal year shall not exceed 1 percent of the total price of qualifying drugs imported during that fiscal year by the registered exporter under section (a) that indicate the exporter involved pays a fee assessed under paragraph (1) or (2) of the fiscal year to which such fees are credited.

(ii) Calculation.—Not later than March 1 of the fiscal year that follows the fiscal year for which the estimate under clause (i) is made, the Secretary shall calculate the total price of qualifying drugs imported during that fiscal year by the registered exporter under section (a) that indicate the exporter involved pays a fee assessed under paragraph (1) or (2) of the fiscal year to which such fees are credited.

(5) Collection of fees.—In any case where the Secretary does not receive payment of a fee assessed under paragraph (1) or (2) within 30 days after it is due, such fee shall be treated as a claim of the United States Government subject to chapter II of title 37, United States Code.

(6) Use of fees.—

(A) In general.—Subject to the limitations described in subparagraph (B), the aggregate total of fees collected under paragraph (2) for a fiscal year shall not exceed 1 percent of the total price of qualifying drugs imported during that fiscal year into the United States by registered importers under subsection (b)(1)(J).

(B) Limitation.—Subject to paragraph (C), the aggregate total of fees collected under paragraph (2) for a fiscal year shall not exceed 1 percent of the total price of qualifying drugs imported during that fiscal year into the United States by registered importers under subsection (b)(1)(J).

(C) Total price of drugs.—

(i) Estimate.—For the purposes of complying with the limitation described in subparagraph (A), the aggregate total of fees collected under paragraph (2) for that fiscal year shall not exceed 1 percent of the total price of qualifying drugs imported during that fiscal year by the registered exporter under section (a) that indicate the exporter involved pays a fee assessed under paragraph (1) or (2) of the fiscal year to which such fees are credited.

(ii) Calculation.—Not later than March 1 of the fiscal year that follows the fiscal year for which the estimate under clause (i) is made, the Secretary shall calculate the total price of qualifying drugs imported during that fiscal year into the United States by registered importers under subsection (b)(1)(J).

(7) Use of fees.—

(A) In general.—Subject to the limitations described in subparagraph (B), the aggregate total of fees collected under paragraph (2) for a fiscal year shall not exceed 1 percent of the total price of qualifying drugs imported during that fiscal year into the United States by registered importers under subsection (b)(1)(J).

(B) Limitation.—Subject to paragraph (C), the aggregate total of fees collected under paragraph (2) for a fiscal year shall not exceed 1 percent of the total price of qualifying drugs imported during that fiscal year into the United States by registered importers under subsection (b)(1)(J).

(C) Total price of drugs.—

(i) Estimate.—For the purposes of complying with the limitation described in subparagraph (A), the aggregate total of fees collected under paragraph (2) for that fiscal year shall not exceed 1 percent of the total price of qualifying drugs imported during that fiscal year by the registered exporter under section (a) that indicate the exporter involved pays a fee assessed under paragraph (1) or (2) of the fiscal year to which such fees are credited.

(ii) Calculation.—Not later than March 1 of the fiscal year that follows the fiscal year for which the estimate under clause (i) is made, the Secretary shall calculate the total price of qualifying drugs imported during that fiscal year into the United States by registered importers under subsection (b)(1)(J).

(8) Waiver of fees.—In any case where the Secretary determines that the exporter involved pays a fee assessed under paragraph (1) or (2) within 30 days after it is due, such fee shall be treated as a claim of the United States Government subject to chapter II of title 37, United States Code.

(9) Use of fees.—

(A) In general.—Subject to the limitations described in subparagraph (B), the aggregate total of fees collected under paragraph (2) for a fiscal year shall not exceed 1 percent of the total price of qualifying drugs imported during that fiscal year into the United States by registered importers under subsection (b)(1)(J).

(B) Limitation.—Subject to paragraph (C), the aggregate total of fees collected under paragraph (2) for a fiscal year shall not exceed 1 percent of the total price of qualifying drugs imported during that fiscal year into the United States by registered importers under subsection (b)(1)(J).

(C) Total price of drugs.—

(i) Estimate.—For the purposes of complying with the limitation described in subparagraph (A), the aggregate total of fees collected under paragraph (2) for that fiscal year shall not exceed 1 percent of the total price of qualifying drugs imported during that fiscal year by the registered exporter under section (a) that indicate the exporter involved pays a fee assessed under paragraph (1) or (2) of the fiscal year to which such fees are credited.

(ii) Calculation.—Not later than March 1 of the fiscal year that follows the fiscal year for which the estimate under clause (i) is made, the Secretary shall calculate the total price of qualifying drugs imported during that fiscal year into the United States by registered importers under subsection (b)(1)(J).

(10) Use of fees.—

(A) In general.—Subject to the limitations described in subparagraph (B), the aggregate total of fees collected under paragraph (2) for a fiscal year shall not exceed 1 percent of the total price of qualifying drugs imported during that fiscal year into the United States by registered importers under subsection (b)(1)(J).

(B) Limitation.—Subject to paragraph (C), the aggregate total of fees collected under paragraph (2) for a fiscal year shall not exceed 1 percent of the total price of qualifying drugs imported during that fiscal year into the United States by registered importers under subsection (b)(1)(J).

(C) Total price of drugs.—

(i) Estimate.—For the purposes of complying with the limitation described in subparagraph (A), the aggregate total of fees collected under paragraph (2) for that fiscal year shall not exceed 1 percent of the total price of qualifying drugs imported during that fiscal year by the registered exporter under section (a) that indicate the exporter involved pays a fee assessed under paragraph (1) or (2) of the fiscal year to which such fees are credited.

(ii) Calculation.—Not later than March 1 of the fiscal year that follows the fiscal year for which the estimate under clause (i) is made, the Secretary shall calculate the total price of qualifying drugs imported during that fiscal year into the United States by registered importers under subsection (b)(1)(J).
address, and a brief statement of the qualifications of the person that made the translation.

(iii) Certifications.—The chief executive officer of a manufacturer of a drug that is under section 506A, not later than 120 days after the date on which the notice is submitted.

(i) Establishment Inspection.—If review of such a notice would require an inspection of the establishment in which the qualifying drug is manufactured—

(aa) such inspection by the Secretary shall be required;

(bb) the Secretary may rely on a satisfactory report of a good manufacturing practice inspection of the establishment from a permitted country if the Secretary recognizes as equivalent under a mutual recognition agreement, as provided under section 516A(3), section 803, or part 216 of title 21, Code of Federal Regulations (or any corresponding successor rule or regulation).

(ii) Publication of Information on Notice.—

(I) In General.—Through the Internet website of the Food and Drug Administration and a toll-free telephone number, the Secretary shall readily make available to the public a list of notices submitted under clause (i).

(II) Contents.—The list under clause (I) shall include the date on which a notice is submitted and whether—

(aa) a notice is under review;

(bb) the Secretary has ordered that importation of the qualifying drug from a permitted country cease, or provide that an order concerning the importation of the qualifying drug from a permitted country cease;

(cc) the importation of the drug is permitted under subsection (a).

(iii) Review by Secretary.—The Secretary shall promptly update the Internet website with any changes to the list.

(iv) Notice; Drug Difference Requiring Prior Approval.—In the case of a notice under subparagraph (B)(i) that includes a difference that would, under section 506A(c) or (d)(3)(B)(i), require a supplemental application before the difference could be made to the U.S. label drug the following shall occur:

(1) Promptly after the notice is submitted, the Secretary shall notify registered exporters, registered importers, the Federal Trade Commission, and the State attorneys general that the notice has been submitted with respect to the drug involved.

(2) If the Secretary has not made a determination whether such a supplemental application regarding the U.S. label drug would be approved, the Secretary shall—

(a) promptly notify registered exporters and importers, the Federal Trade Commission, and the State attorneys general that the notice is being reviewed by the Secretary, the following shall occur:

(i) During the period in which the notice is being reviewed by the Secretary, the authority under this subsection to import the qualifying drug involved continues in effect.

(ii) If the Secretary determines that such a supplemental application regarding the U.S. label drug would not be approved, the Secretary shall—

(1) order that the importation of the qualifying drug involved from the permitted country cease; and

(2) notify the permitted country that approved the qualifying drug for commercial distribution in a permitted country.

(iii) promptly notify registered exporters, registered importers, the Federal Trade Commission, and the State attorneys general of the determination.

(iv) if the Secretary determines that such a supplemental application regarding the U.S. label drug would be approved, the Secretary shall—

(1) vacate the order under clause (ii), if any;

(2) consider the difference to be a variation provided for in the approved application for the U.S. label drug;

(3) permit importation of the qualifying drug under subsection (a); and

(iv) promptly notify registered exporters, registered importers, the Federal Trade Commission, and the State attorneys general of the determination.

(b) Notice; Drug Difference Not Requiring Prior Approval; No Difference.—In the case of a notice under subparagraph (B)(i) that includes a difference that would, under section 506A(d)(3)(B)(i), not require the approval of a supplemental application before the difference could be made to the U.S. label drug the following shall occur:

(i) During the period in which the notice is being reviewed by the Secretary, the authority under this subsection to import the qualifying drug involved continues in effect.

(ii) If the Secretary determines that such a supplemental application regarding the U.S. label drug would not be approved, the Secretary shall—

(1) order that the importation of the qualifying drug involved from the permitted country cease;

(2) notify the permitted country that approved the qualifying drug for commercial distribution in a permitted country.

(iii) promptly notify registered exporters, registered importers, the Federal Trade Commission, and the State attorneys general of the determination.

(iv) if the Secretary determines that such a supplemental application regarding the U.S. label drug would be approved, the Secretary shall—

(1) vacate the order under clause (ii), if any;

(2) consider the difference to be a variation provided for in the approved application for the U.S. label drug.

(c) Notice; Drug Difference Not Requiring Prior Approval; No Difference.—In the case of a notice under subparagraph (B)(i) that includes a difference that would, under section 506A(d)(3)(B)(i), not require the approval of a supplemental application before the difference could be made to the U.S. label drug the following shall occur:

(i) During the period in which the notice is being reviewed by the Secretary, the authority under this subsection to import the qualifying drug involved continues in effect.

(ii) If the Secretary determines that such a supplemental application regarding the U.S. label drug would not be approved, the Secretary shall—

(1) order that the importation of the qualifying drug involved from the permitted country cease;

(2) notify the permitted country that approved the qualifying drug for commercial distribution in a permitted country.

(iii) promptly notify registered exporters, registered importers, the Federal Trade Commission, and the State attorneys general of the determination.

(iv) if the Secretary determines that such a supplemental application regarding the U.S. label drug would be approved, the Secretary shall—

(1) vacate the order under clause (ii), if any;

(2) consider the difference to be a variation provided for in the approved application for the U.S. label drug.

(d) Notice; Drug Difference Not Requiring Prior Approval; No Difference.—In the case of a notice under subparagraph (B)(i) that includes a difference that would, under section 506A(d)(3)(B)(i), not require the approval of a supplemental application before the difference could be made to the U.S. label drug the following shall occur:

(i) During the period in which the notice is being reviewed by the Secretary, the authority under this subsection to import the qualifying drug involved continues in effect.

(ii) If the Secretary determines that such a supplemental application regarding the U.S. label drug would not be approved, the Secretary shall—

(1) order that the importation of the qualifying drug involved from the permitted country cease;

(2) notify the permitted country that approved the qualifying drug for commercial distribution in a permitted country.

(iii) promptly notify registered exporters, registered importers, the Federal Trade Commission, and the State attorneys general of the determination.

(iv) if the Secretary determines that such a supplemental application regarding the U.S. label drug would be approved, the Secretary shall—

(1) vacate the order under clause (ii), if any;

(2) consider the difference to be a variation provided for in the approved application for the U.S. label drug.

(e) Notice; Drug Difference Not Requiring Prior Approval; No Difference.—In the case of a notice under subparagraph (B)(i) that includes a difference that would, under section 506A(d)(3)(B)(i), not require the approval of a supplemental application before the difference could be made to the U.S. label drug the following shall occur:

(i) During the period in which the notice is being reviewed by the Secretary, the authority under this subsection to import the qualifying drug involved continues in effect.

(ii) If the Secretary determines that such a supplemental application regarding the U.S. label drug would not be approved, the Secretary shall—

(1) order that the importation of the qualifying drug involved from the permitted country cease;

(2) notify the permitted country that approved the qualifying drug for commercial distribution in a permitted country.

(iii) promptly notify registered exporters, registered importers, the Federal Trade Commission, and the State attorneys general of the determination.

(iv) if the Secretary determines that such a supplemental application regarding the U.S. label drug would be approved, the Secretary shall—

(1) vacate the order under clause (ii), if any;

(2) consider the difference to be a variation provided for in the approved application for the U.S. label drug.
‘(II) include the information that the person submitted to the government of the permitted country for purposes of obtaining approval for commercial distribution of the other drug in that country, which if in a language other than English, shall be accompanied by an English translation verified to be complete and accurate, with the name, address, and a brief statement of the qualifications of the person that made the translation;

‘(III) include a right of reference to the application for the drug approved under section 505(b) and

‘(IV) include such additional information as the Secretary may require.

‘(iii) Timing of submission of application.—Under section 505(b), required under clause (i) shall be submitted to the Secretary not later than the day on which the information referred to in clause (ii) is submitted to the government of the permitted country.

‘(iv) Notice of decision on application.—The Secretary shall promptly notify registered exporters, the Federal Trade Commission, and the State attorneys general of a determination to approve or to disapprove an application under section 505(b) required under clause (i).

‘(v) related active ingredients.—For purposes of clause (i)(II), 2 active ingredients are related if they are—

‘(I) the same;

‘(II) different salts, esters, or complexes of the same moiety;

‘(v) section 502; labeling.—

‘(A) importation by registered importer.—

‘(I) In general.—In the case of a qualifying drug that is imported or offered for import by a registered importer, such drug shall be in compliance with section 502 and the labeling requirements under the approved application for the U.S. label drug if the packaging and labeling of the qualifying drug complies with paragraph (B) and the active ingredients of the drug differ from the active ingredients of the U.S. label drug; and

‘(II) directions for use by the consumer;

‘(II) the lot number assigned by the manufacturer;

‘(III) the name and registration number of the exporter;

‘(IV) if required under paragraph (2)(B)(vi)(III), a prominent advisory that the drug is safe and effective but not bioequivalent to the U.S. label drug;

‘(V) if the inactive ingredients of the drug are different from the inactive ingredients for the U.S. label drug—

‘(aa) a prominent advisory that persons with an allergy should check the ingredient list of the drug and ascertain whether the drug is bioequivalent to the U.S. label drug;

‘(bb) a list of the ingredients of the drug as would be required under section 502(e); and

‘(VI) a copy of any special labeling that would be required by the Secretary had the U.S. label drug been dispensed by a pharmacist in the United States, without regard to whether the special labeling bears any trademark involved;

‘(v) section 502; labeling.—

‘(A) importation by registered importer.—

‘(I) in general.—In the case of a qualifying drug that is imported or offered for import by a registered importer, such drug shall be in compliance with section 502 and the labeling requirements under the approved application for the U.S. label drug if the qualifying drug bears—

‘(aa) a prominent advisory that persons with an allergy should check the ingredient list of the drug;

‘(bb) a list of the ingredients of the U.S. label drug that is bioequivalent to the U.S. label drug, in—

‘(I) directions for use by the consumer;

‘(II) the lot number assigned by the manufacturer;

‘(III) the name and registration number of the exporter;

‘(IV) if required under paragraph (2)(B)(vi)(III), a prominent advisory that the drug is safe and effective but not bioequivalent to the U.S. label drug;

‘(V) if the inactive ingredients of the drug are different from the inactive ingredients for the U.S. label drug—

‘(aa) a prominent advisory that persons with an allergy should check the ingredient list of the drug and ascertain whether the drug is bioequivalent to the U.S. label drug;

‘(bb) a list of the ingredients of the drug as would be required under section 502(e); and

‘(VI) a copy of any special labeling that would be required by the Secretary had the U.S. label drug been dispensed by a pharmacist in the United States, without regard to whether the special labeling bears any trademark involved;

‘(I) include the established name, as defined in section 502(e)(3), for each active ingredient in the qualifying drug;

‘(II) if not the proprietary name of the U.S. label drug or any active ingredient thereof;

‘(III) if required under paragraph (2)(B)(vi)(III), a prominent advisory that the qualifying drug is safe and effective but not bioequivalent to the U.S. label drug; and

‘(IV) if the inactive ingredients of the qualifying drug are different from the inactive ingredients for the U.S. label drug, include—

‘(aa) a prominent notice that the ingredients of the qualifying drug differ from the ingredients of the U.S. label drug and that the qualifying drug should be dispensed with an advisory to people with allergies about this difference and a list of ingredients; and

‘(bb) a list of the ingredients of the qualifying drug as would be required under section 502(e).

‘(B) importation by individual.—In the case of a qualifying drug that is imported or offered for import by a registered exporter to an individual, such drug shall be in compliance with all the labeling requirements under the approved application for the U.S. label drug if the packaging and labeling of the qualifying drug complies with paragraph (B) and the active ingredients of the drug differ from the active ingredients of the U.S. label drug; and

‘(I) directions for use by the consumer;

‘(II) the lot number assigned by the manufacturer;

‘(III) the name and registration number of the exporter;

‘(IV) if required under paragraph (2)(B)(vi)(III), a prominent advisory that the drug is safe and effective but not bioequivalent to the U.S. label drug;

‘(V) if the inactive ingredients of the drug are different from the inactive ingredients for the U.S. label drug—

‘(aa) a prominent advisory that persons with an allergy should check the ingredient list of the drug and ascertain whether the drug is bioequivalent to the U.S. label drug;

‘(bb) a list of the ingredients of the drug as would be required under section 502(e); and

‘(VI) a copy of any special labeling that would be required by the Secretary had the U.S. label drug been dispensed by a pharmacist in the United States, without regard to whether the special labeling bears any trademark involved;

‘(I) include the established name, as defined in section 502(e)(3), for each active ingredient in the qualifying drug;

‘(II) if not the proprietary name of the U.S. label drug or any active ingredient thereof;

‘(III) if required under paragraph (2)(B)(vi)(III), a prominent advisory that the qualifying drug is safe and effective but not bioequivalent to the U.S. label drug; and

‘(IV) if the inactive ingredients of the qualifying drug are different from the inactive ingredients for the U.S. label drug, include—

‘(aa) a prominent notice that the ingredients of the qualifying drug differ from the ingredients of the U.S. label drug and that the qualifying drug should be dispensed with an advisory to people with allergies about this difference and a list of ingredients; and

‘(bb) a list of the ingredients of the qualifying drug as would be required under section 502(e).

‘(A) The drug is not a qualifying drug.

‘(B) A notice for the drug required under paragraph (2)(B) has not been submitted to the Secretary.

‘(C) The Secretary has ordered that importation of the drug from the permitted country cease under paragraph (2) (C) or (D).

‘(D) The drug does not comply with paragraph (2)(B) or (C).

‘(E) The shipping container appears damaged in a way that may affect the strength, quality, or purity of the drug.

‘(F) The Secretary becomes aware that—

‘(i) the drug may be counterfeit;

‘(ii) the drug may have been prepared, packed, or held under insanitary conditions; or

‘(iii) the methods used in, or the facilities or controls used for, the manufacturing, processing, packing, or holding of the drug do not conform to good manufacturing practice.

‘(G) The Secretary has obtained an injunction under section 302 that prohibits the distribution of the drug in interstate commerce.

‘(H) The Secretary has under section 505(e) withdrawn approval of the drug.

‘(1) The manufacturer of the drug has instituted a recall of the drug.

‘(2) The drug is imported or offered for import by a registered exporter without submission of a notice in accordance with subsection (d)(4).

‘(3) The drug is imported or offered for import from a registered exporter to an individual and 1 or more of the following applies:

‘(i) The shipping container for such drug does not bear the markings required under subsection (d)(2).

‘(ii) The markings on the shipping container appear to be counterfeit.

‘(3) The shipping importer or markings appear to have been tampered with.

‘(b) licensing as pharmacist.—A registration condition is that the exporter involved agrees that a qualifying drug will be exported to an individual only if the Secretary has verified that—

‘(1) the exporter is authorized under the law of the permitted country in which the exporter is located to dispense prescription drugs; and

‘(2) the employer employs persons that are licensed under the law of the permitted country in which the exporter is located to dispense prescription drugs in sufficient number to dispense safely the drugs exported to individuals, and the exporter assigns to those persons responsibility for dispensing such drugs to individuals.

‘(i) individuals; conditions for importation.—

‘(1) in general.—For purposes of subsection (a)(2)(B), the importation of a qualifying drug by an individual is in accordance with this subsection if the following conditions are met:

‘(A) The drug is accompanied by a copy of a prescription for the drug, which prescription—

‘(i) is valid under applicable Federal and State laws; and

‘(ii) was issued by a practitioner who, under the law of a State of which the individual is a resident, or in which the individual receives care from the practitioner who issues the prescription, is authorized to administer prescription drugs.

‘(B) The drug is accompanied by a copy of the documentation that was required under the law of the permitted country in which the exporter is located, as a condition of dispensing the drug to the individual.

‘(2) the copies referred to in subparagraphs (A)(i) and (B) are marked in a manner sufficient—
of such refusal and the reason for the refusal.

(E) The quantity of the drug does not exceed a 30-day supply.

(F) The drug is not an ineligible subpart H drug. For purposes of this section, a prescription drug is an ineligible subpart H drug if it is approved by the Secretary under subpart H of part 314 of title 21, Code of Federal Regulations (relating to accelerated approval), with restrictions under sections 3 and 4 of the Poison Prevention Packaging Act of 1970 (15 U.S.C. 1471 et seq.) or regulations promulgated under sections 3 and 4 of the Poison Prevention Packaging Act of 1970 and shall include with any other labeling provided to the individual the following:

(A) The lot number assigned by the manufacturer.

(B) The name and registration number of the importer.

(C) If required under paragraph (2)(VII) of section 3 or the Poison Prevention Packaging Act of 1970 (15 U.S.C. 1471 et seq.) or regulations promulgated under sections 3 and 4 of the Poison Prevention Packaging Act of 1970, knowingly submit such a notice on or before the date specified in subsection (g)(2)(B)(v) or as otherwise required under subsection (e) (3), (4), (5), (6), or (7) and the Secretary has published in the Federal Register a notice that the Secretary has determined that good cause exists to prohibit the drug from being imported pursuant to this subsection.

(2) NOTICE REGARDING DRUG REFUSED ADMISSION.—If a registered exporter ships a drug that is refused admission pursuant to subsection (a)(2)(B) and the drug is refused admission to the United States, a written notice shall be sent to the individual and to the exporter that the drug is refused admission and the reason for such refusal and the reason for the refusal.

(3) MAINTENANCE OF RECORDS AND SAMPLES.—

(A) In general.—A registration condition that an importer or exporter involved shall:

(i) maintain records required under this section for not less than 2 years; and

(ii) maintain samples of each lot of a qualifying drug required under this section for not less than 2 years.

(B) Place of record maintenance.—The records described under paragraph (1) shall be maintained:

(A) in the case of an importer, at the place of business of the importer at which the importer initially receives the qualifying drug after importation; or

(B) in the case of an exporter, at the facility from which the exporter ships the qualifying drug to the United States.

(4) Drug labeling and packaging.—

(A) Manufacturers.—A person that manufactures a qualifying drug imported from a permitted country under this section shall promptly inform the Secretary of:

(i) the person exporting or importing a qualifying drug to the United States under this section; and

(ii) the person exporting or importing a qualifying drug to the United States under this section.

(B) Importers, wholesalers, pharmacies, or the public of a withdrawal of a qualifying drug in a permitted country.

(5) Secretary.—With respect to each permitted country, the Secretary shall:

(A) enter into an agreement with the government of the country to receive information about recalls and withdrawals of qualifying drugs in the country or other information that is available to the public in any media.

(B) monitor recalls and withdrawals of qualifying drugs in the country using any information that is available to the public in any media.

(C) Notice.—The Secretary may notify, as appropriate, registered exporters, registered importers, wholesalers, pharmacies, or the public of a withdrawal of a qualifying drug in a permitted country.

(6) Drug labeling and packaging.—

(A) In general.—When a qualifying drug that is imported into the United States by an importer under subsection (a) is dispensed to a pharmacist by an individual pursuant to subsection (a) is approved by a pharmacist to an individual, the pharmacist shall provide that the packaging and labeling of the drug complies with all applicable regulations promulgated under sections 3 and 4 of the Poison Prevention Packaging Act of 1970 (15 U.S.C. 1471 et seq.) and shall include with any other labeling provided to the individual the following:

(i) The lot number assigned by the manufacturer.

(ii) The name and registration number of the importer.

(B) If a pharmacist receives a prescription for a drug that is, or will be, introduced for commercial distribution in a permitted country or other person, to another person than the price that is charged, inclusive of any other provision of this section.

(C) Discriminate by charging a higher price for a prescription drug sold to a registered exporter or other person in a permitted country that exports a qualifying drug to the United States under this section than the price that is charged, inclusive of any other provision of this section.

(D) Discriminate by charging a higher price for a prescription drug imported into the United States under this section than the price that is charged, inclusive of any other provision of this section.

(E) Discriminate by charging a higher price for a prescription drug imported into the United States under this section than the price that is charged, inclusive of any other provision of this section.

(F) Discriminate by charging a higher price for a prescription drug sold to a registered exporter or other person in a permitted country that exports a qualifying drug to the United States under this section than the price that is charged, inclusive of any other provision of this section.

(G) Discriminate by charging a higher price for a prescription drug sold to a registered exporter or other person in a permitted country that exports a qualifying drug to the United States under this section than the price that is charged, inclusive of any other provision of this section.

(H) Discriminate by charging a higher price for a prescription drug sold to a registered exporter or other person in a permitted country that exports a qualifying drug to the United States under this section than the price that is charged, inclusive of any other provision of this section.

(I) Discriminate by charging a higher price for a prescription drug sold to a registered exporter or other person in a permitted country that exports a qualifying drug to the United States under this section than the price that is charged, inclusive of any other provision of this section.

(J) Become a party to a licensing agreement or other agreement related to a qualifying drug that fails to provide for compliance with all requirements of this section with respect to such drug.

(K) Enter into a contract that restricts, prohibits, or delays the importation of a qualifying drug under this section.

(L) Engage in other action to restrict, prohibit, or delay the importation of a qualifying drug under this section.

(M) Engage in other action that the Federal Trade Commission determines to discriminate against a person that engages in activities to engage in the importation of a qualifying drug under this section.

(2) Affirmative defense.—

(A) Discrimination.—It shall be an affirmative defense to a charge that a manufacturer has discriminated under subparagraph (A), (B), (C), (D), or (M) of paragraph (1) that the higher price charged for a prescription drug that is, or will be, introduced for commercial distribution in a permitted country or other person, to another person than the price that is charged, inclusive of any other provision of this section.

(B) Discriminate by charging a higher price for a prescription drug sold to a registered exporter or other person in a permitted country that exports a qualifying drug to the United States under this section than the price that is charged, inclusive of any other provision of this section.

(C) Discriminate by charging a higher price for a prescription drug sold to a registered exporter or other person in a permitted country that exports a qualifying drug to the United States under this section than the price that is charged, inclusive of any other provision of this section.

(D) Discriminate by charging a higher price for a prescription drug sold to a registered exporter or other person in a permitted country that exports a qualifying drug to the United States under this section than the price that is charged, inclusive of any other provision of this section.

(E) Discriminate by charging a higher price for a prescription drug sold to a registered exporter or other person in a permitted country that exports a qualifying drug to the United States under this section than the price that is charged, inclusive of any other provision of this section.

(F) Discriminate by charging a higher price for a prescription drug sold to a registered exporter or other person in a permitted country that exports a qualifying drug to the United States under this section than the price that is charged, inclusive of any other provision of this section.

(G) Discriminate by charging a higher price for a prescription drug sold to a registered exporter or other person in a permitted country that exports a qualifying drug to the United States under this section than the price that is charged, inclusive of any other provision of this section.

(H) Discriminate by charging a higher price for a prescription drug sold to a registered exporter or other person in a permitted country that exports a qualifying drug to the United States under this section than the price that is charged, inclusive of any other provision of this section.

(I) Discriminate by charging a higher price for a prescription drug sold to a registered exporter or other person in a permitted country that exports a qualifying drug to the United States under this section than the price that is charged, inclusive of any other provision of this section.

(J) Engage in other action to restrict, prohibit, or delay the importation of a qualifying drug under this section.

(K) Enter into a contract that restricts, prohibits, or delays the importation of a qualifying drug under this section.

(L) Engage in other action to restrict, prohibit, or delay the importation of a qualifying drug under this section.

(M) Engage in other action that the Federal Trade Commission determines to discriminate against a person that engages in activities to engage in the importation of a qualifying drug under this section.
(ii) the Secretary has determined that the difference was necessary to improve the safety or effectiveness of the drug;

(iii) the person manufacturing the drug for distribution in the United States has given notice to the Secretary under subsection (g)(2)(B)(i) that the drug for distribution in the United States is not different from the drug for distribution in permit the sale or distribution of the drug in a country. Nothing in this subsection shall be construed to—

(1) prevent a manufacturer of a prescription drug from providing discounts or selling a prescription drug at nominal cost, to a charitable or governmental organization, including the United Nations and affiliates, or to a government of a foreign country; or

(2) apply to such donations or supplying of a prescription drug; or

(iii) prevent or restrict any other measures taken by an insurer, health plan, pharmacy benefit manager, or other person to encourage consumption of such prescription drug;

(C) CHARITABLE CONTRIBUTIONS.—Nothing in this subsection shall be construed to—

(i) require that such discounts be made available to other purchasers of the prescription drug; or

(ii) apply to such donations or supplying of a prescription drug.

(4) UNFAIR OR DECEPTIVE ACT OR PRACTICE.—A violation of this subsection shall be treated as a violation of a rule defining an unfair or deceptive act or practice prescribed under section 804(a)(2)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

(B) ACTIONS BY THE COMMISSION.—The Federal Trade Commission—

(i) may be found.

(ii) is an inhabitant; or

(B) INTERVENTION.—The Federal Trade Commission may intervene in an action brought under subparagraph (A)(ii), the Federal Trade Commission shall have the right to intervene in the action that is the subject of the notice.

(1) EFFECT OF INTERVENTION.—If the Federal Trade Commission intervenes in an action under subparagraph (A), it shall have the right—

(1) to be heard with respect to any matter that arises in that action; and

(2) to file a petition for appeal.

(C) CONSTRUCTION.—For purposes of bringing any civil action under subparagraph (A), nothing in this subsection shall be construed to prevent an attorney general of a State from exercising the powers conferred on the attorney general by the laws of that State to—

(i) conduct investigations;

(ii) administer oaths or affirmations; or

(iii) compel the attendance of witnesses or the production of documentary and other evidence.

(D) ACTIONS BY THE COMMISSION.—In any case in which an action is instituted by or on behalf of the Federal Trade Commission for a violation of paragraph (1), a State may not, during the pendency of that action, institute an action under section 5 of the Clayton Act (15 U.S.C. 15) against the same defendant.

(E) VENUE.—Any action brought under subparagraph (A) may be brought in the district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code. 

(F) SERVICE OF PROCESS.—In an action brought under subparagraph (A), process may be served in any district in which the defendant—

(i) is an inhabitant; or

(ii) may be found.

(G) MEASUREMENT OF DAMAGES.—In any action under this paragraph to enforce a cause of action under this subsection in which there has been a determination that a defendant has violated a provision of this subsection, damages may be proved and assessed in the aggregate by statistical or sampling methods, by the computation of illegal overcharges or by such other reasonable systems as the court may approve.

(H) EXCLUSION ON DUPLICATIVE RELIEF.—The district court shall exclude from the calculation of monetary relief awarded in an action under this paragraph brought by the attorney general of a State any amount of monetary relief which duplicates amounts previously awarded to the State.

(6) EFFECT ON ANTITRUST LAWS.—Nothing in this subsection shall be construed to modify, impair, or supersede the operation of the antitrust laws. For the purpose of this subsection, the term ‘antitrust laws’ has the meaning given in it the first section of the Clayton Act, except that it includes section 5 of the Federal Trade Commission Act to the extent that such section 5 applies to unfair methods of competition.

(MANUFACTURER) Nothing in this subsection, the term ‘manufacturer’ means any entity, including any affiliate or licensee of that entity, that is engaged in—

(A) the production, preparation, propagation, compounding, conversion, or processing of a prescription drug, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis; or

(B) the packaging, repackaging, labeling, relabeling, or distribution of a prescription drug.

(b) PROHIBITED ACTS.—The Federal Food, Drug, and Cosmetic Act is amended—

(1) in section 301 (21 U.S.C. 331), by striking paragraph (aa) and inserting the following:

(aa)(i) The sale or trade of a prescription drug that under section 804(a)(2)(B) is imported by the pharmacist, or

(ii) a sale at retail made pursuant to dispensing the drug to a customer of the pharmacist or organization; or

(b) a sale or trade of the drug to a pharmacist or a wholesaler registered to import drugs under section 804.

(2) The sale or trade by an individual of a qualifying drug that under section 804(a)(2)(B) was imported by the individual.

(3) The making of a materially false, fictitious, or fraudulent statement or representations; or

(c) AMENDMENT OF CERTAIN PROVISIONS.—(1) IN GENERAL.—Section 801 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381) is amended by striking subsection (g) and inserting the following:

(2) in section 303(a) (21 U.S.C. 333(a)), by striking paragraph (6) and inserting the following:

(f) NOTWITHSTANDING subsection (a), any person that knowingly violates section 301(1) (2) or (3) or section 303(a)(4) shall be imprisoned not more than 10 years, or fined in accordance with title 18, United States Code, or both.

(o) AMENDMENT OF CERTAIN PROVISIONS.—(1) IN GENERAL.—Section 801 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381) is amended by striking subsection (g) and inserting the following:

(f) With respect to a prescription drug that is imported or offered for import into the United States by an individual who is not in the business of such importation, that individual shall be deemed to be an importer under section 804, and that is refused admission under subsection (a), the Secretary shall notify the individual that—

(1) the drug shall be deemed to be a drug that has been refused admission because the drug was not a lawful import under section 804.
“(2) the drug is not otherwise subject to a waiver of the requirements of subsection (a);”

“(3) the individual may under section 804 lawfully import certain prescription drugs from a non-U.S. source registered with the Secretary under section 804; and

“(4) the individual can find information about such importation, including a list of registered importers, through the Internet website of the Food and Drug Administration or through a toll-free telephone number required under section 804.”

(2) Importer registration.

Section 510(i) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(i)) is amended in paragraph (2)(A) to read—

“(A) by redesignating subsections (h) and (i) as (h)1 and (h)2, respectively; and

(B) by inserting after subsection (g) the following—

“(h) It shall not be an act of infringement to use, offer to sell, or sell within the United States or to import into the United States any drug referred to in section 510(i) of the Federal Food, Drug, and Cosmetic Act that was first sold abroad by or under authority of the owner or licensee of that patent.”

(2) Rule of construction.

Nothing in the amendment made by paragraph (1) shall be construed to affect the ability of a patent owner or licensee to enforce their patent, subject to such amendment.

(e) Effect of section 804.

(1) In general.

Section 804 of the Federal Food, Drug, and Cosmetic Act, as added by subsection (a), shall permit the importation of qualifying drugs (as defined in such section) into the United States without regard to the status of the issuance of implementation regulations—

(A) by importers registered under such section 804 to not less than 100 of such entities in Canada that are significant exporters under such section 804 to not less than 100, and

(B) from permitted countries, as defined in such section 804, by importers registered under such section 804 to not less than 100 of such groups, so long as the Secretary gives priority to those importers with demonstrated ability to process a high volume of shipments of drugs to individuals in the United States.

(2) Further limit on number of importers.

—During any 1-year period beginning on a date that is 2 or more years after the date of enactment of this title, the Secretary may limit the number of registered importers under such section 804 to not less than 25 more than the number of such exporters during the previous 1-year period, so long as the Secretary gives priority to those importers with demonstrated ability to process a high volume of shipments of drugs to individuals in the United States.

(3) Limits on number of importers.

(A) First year limit on number of importers.

During the 1-year period beginning on the date that is 1 year after the date of enactment of this title, the Secretary may limit the number of registered importers under such section 804 to not less than 100 of which at least a significant number shall be groups of pharmacies, to the extent feasible given the applications submitted by such groups, so long as the Secretary gives priority to those importers with demonstrated ability to process a high volume of shipments of drugs into the United States.

(B) Second year limit on number of importers.

During the 1-year period beginning on the date that is 2 years after the date of enactment of this title, the Secretary may limit the number of registered importers under such section 804 to not less than 200 of which at least a significant number shall be groups of pharmacies, to the extent feasible given the applications submitted by such groups, so long as the Secretary gives priority to those importers with demonstrated ability to process a high volume of shipments of drugs into the United States.

(C) Further limit on number of importers.

During any 1-year period beginning on a date that is 2 years after the date of enactment of this title, the Secretary may limit the number of registered importers under such section 804 to not less than 250 of which at least a significant number shall be groups of pharmacies, to the extent feasible given the applications submitted by such groups, so long as the Secretary gives priority to those importers with demonstrated ability to process a high volume of shipments of drugs to individuals in the United States.

(4) Notices for drugs for import from Canada.

—The notice with respect to a qualifying drug introduced for commercial distribution in a permitted country under such section 804 shall be submitted to the Secretary not later than 120 days after the date of enactment of this title if—

(A) the U.S. label drug for the qualifying drug is 1 of the 100 prescription drugs with the highest dollar volume of sales in the United States based on the 12 calendar month period most recently completed before the date of enactment of this title; or

(B) the notice is a notice under subsection (g)(2)(B)(i)(II) of such section 804.

(6) Notice for drugs for import from other countries.

—The notice with respect to a qualifying drug introduced for commercial distribution in a permitted country under such section 804 shall be submitted to the Secretary not later than 120 days after the date of enactment of this title if—

(A) the U.S. label drug for the qualifying drug is 1 of the 100 prescription drugs with the highest dollar volume of sales in the United States based on the 12 calendar month period that is first completed on the date that is 120 days after the date of enactment of this title; or

(B) the notice is a notice under subsection (g)(2)(B)(i)(II) of such section 804.

(6) Notice for other drugs for import.

—(A) Guidance on submission dates.

The Secretary shall by guidance establish a series of submission dates for the notices under subsection (g)(2)(B)(i)(II) of such section 804 with respect to qualifying drugs introduced for commercial distribution in a permitted country under such section 804.

—The Secretary may condition the requirement to submit such a notice, and the review of such a notice, on the submission by a registered importer or on the Secretary of a notice that such exporter or importer intends to import such qualifying drug to the United States under such section 804.

(3) Priority for drugs with higher sales.

—The Secretary shall establish the dates described under subparagraph (A) so that such notices described under subparagraph (A) are submitted and reviewed at a rate that allows consistent and efficient use of the resources and staff available to the Secretary for such reviews. The Secretary may condition the requirements to submit such a notice, and the review of such a notice, on the submission by a registered importer or on the Secretary of a notice that such exporter or importer intends to import such qualifying drug to the United States under such section 804.

(6) Notices for drugs approved after effective date.

—The notice required under subsection (g)(2)(B)(i)(II) of such section 804 for a qualifying drug first introduced for commercial distribution in a permitted country under such section 804, and

(B) the notice is a notice under subsection (g)(2)(B)(i)(II) of such section 804.

(6) Notice for other drugs for import.

—(A) Guidance on submission dates.

The Secretary shall by guidance establish a series of submission dates for the notices under subsection (g)(2)(B)(i)(II) of such section 804 with respect to qualifying drugs introduced for commercial distribution in a permitted country under such section 804.

—The Secretary may condition the requirement to submit such a notice, and the review of such a notice, on the submission by a registered importer or on the Secretary of a notice that such exporter or importer intends to import such qualifying drug to the United States under such section 804.

(3) Priority for drugs with higher sales.

—The Secretary shall establish the dates described under subparagraph (A) so that such notices described under subparagraph (A) are submitted and reviewed at a rate that allows consistent and efficient use of the resources and staff available to the Secretary for such reviews. The Secretary may condition the requirements to submit such a notice, and the review of such a notice, on the submission by a registered importer or on the Secretary of a notice that such exporter or importer intends to import such qualifying drug to the United States under such section 804.

(6) Notices for drugs approved after effective date.

—The notice required under subsection (g)(2)(B)(i)(II) of such section 804 for a qualifying drug first introduced for commercial distribution in a permitted country under such section 804, and

(B) the notice is a notice under subsection (g)(2)(B)(i)(II) of such section 804.

(5) and (6).

—Beginning with fiscal year 2006, not later than 90 days after the end of each fiscal year during which the Secretary reviews a notice referred to in paragraph (4), the Secretary shall submit a report to Congress concerning the progress of the Food and Drug Administration in reviewing the notices referred to in paragraphs (4), (5), and (6).

(9) User fees.

—(A) Exporters.

—When establishing an aggregate total of fees to be collected from exporters under subsection (a) of such section 804, the Secretary shall, under section (f)(3)(C)(i) of such section 804, estimate the total price of drugs imported under such section (a) of such section 804 to the United States by registered exporters during fiscal year 2006 to be $1,000,000,000.
(B) IMPORTERS.—When establishing an aggregate total of fees to be collected from importers under subsection (e)(2) of such section 804, the Secretary shall, under subsection (e)(3)(C)(ii) of such section 804, estimate the total price of drugs imported under subsection (a) of such section 804 into the United States by registered importers during—

(i) fiscal year 2006 to be $1,000,000,000; and
(ii) fiscal year 2007 to be $10,000,000,000.

(C) FISCAL YEAR 2007 ADJUSTMENT.—

(I) In general.—Notwithstanding subsection (e)(3)(C)(ii) of such section 804, the Secretary shall, under subsection (a) of such section 804 into the United States by the importer during the 4-month period from October 1, 2006, through January 31, 2007.

(II) REESTIMATE.—Notwithstanding subsection (e)(3)(C)(ii) of such section 804 or subparagraph (B), the Secretary shall reestimate the total price of qualifying drugs imported under subsection (a) of such section 804 into the United States by registered importers during fiscal year 2007. Such reestimate shall be equal to—

(I) the total price of qualifying drugs imported by each importer as reported under clause (i); multiplied by

(II) 1.

(III) ADJUSTMENT.—The Secretary shall adjust the fee due on April 1, 2007, from each importer so that the aggregate total of fees collected under subsection (e)(2) for fiscal year 2007 does not exceed the total price of qualifying drugs imported under subsection (a) of such section 804 into the United States by registered importers during fiscal year 2007 as reestimated under clause (i).

(D) ANNUAL REPORT.—

(I) FOOD AND DRUG ADMINISTRATION.—Beginning with fiscal year 2006, not later than 180 days after the end of each fiscal year during which fees are collected under subsection (e), (I), or (g)(2)(D)(v) of such section 804, the Secretary shall pay to the House of Representatives and the Senate a report on the implementation of the authority for such fees during such fiscal year and the use, by the Food and Drug Administration, of the fees collected for the fiscal year for which the report is made and credited to the Food and Drug Administration.

(II) BUREAU OF CUSTOMS AND BORDER PROTECTION.—Beginning with fiscal year 2006, not later than 180 days after the end of each fiscal year during which fees are collected under subsection (e), (I), or (g)(2)(D)(v) of such section 804, the Secretary shall prepare and submit to the House of Representatives and the Senate a report on the use, by the Bureau of Customs and Border Protection, of the fees, if any, transferred by the Secretary to the Bureau of Customs and Border Protection for the fiscal year for which the report is made.

(E) SPECIAL RULE REGARDING IMPORTATION BY INDIVIDUAL CONSUMERS.—

(A) IN GENERAL.—Notwithstanding any provision of this title (or an amendment made by this title), the Secretary shall designate additional countries from which an individual may import a qualifying drug into the United States under section 804 if any action implemented by the Government of Canada that has the effect of limiting or prohibiting the importation of qualifying drugs into the United States from Canada.

(B) TIMING AND CRITERIA.—The Secretary shall designate additional countries under subparagraph (A) if—

(i) not later than 6 months after the date of the action by the Government of Canada described in paragraph (A); and

(ii) using the criteria described under subsection (a)(4)(D)(ii)(I) of such section 804.

(F) IMPLEMENTATION OF SECTION 804.—

(I) INTERIM RULE.—The Secretary may promulgate an interim rule for implementing section 804 of the Federal Food, Drug, and Cosmetic Act, as added by subsection (a) of this section.

(II) NOTICE OF PROPOSED RULEMAKING.—The interim rule described under paragraph (I) may be promulgated by the Secretary without providing general notice of proposed rulemaking.

(G) FINAL RULE.—Not later than 1 year after the date on which the Secretary promulgates an interim rule under paragraph (I), the Secretary shall, in accordance with procedures under section 553 of title 5, United States Code, prepare and publish a final rule for implementing such section 804, which may incorporate by reference provisions of the interim rule provided for under paragraph (I), to the extent that such provisions are not modified.

(H) CONSUMER EDUCATION.—The Secretary shall carry out activities that educate consumers—

(I) with regard to the availability of qualifying drugs for import for personal use from an exporter registered with and approved by the Food and Drug Administration under section 804 of the Federal Food, Drug, and Cosmetic Act, as added by this section, including information on how to verify whether an exporter is registered and approved by the Food and Drug Administration and the toll-free telephone number required by this title;

(II) that such drugs be designed toward the objective of ensuring that, with respect to efficiently utilizing Federal resources available for carrying out this section, a substantial majority of shipments of drugs subject to description in subsection (e) are identified and destroyed.

(I) PROHIBITION OF ACTIONS OR PROCEDURES.—Procedures promulgated under paragraph (I) shall be designed toward the objective of ensuring that, with respect to efficiently utilizing Federal resources available for carrying out this section, a substantial majority of shipments of drugs subject to description in subsection (e) are identified and destroyed.

(J) RULE OF CONSTRUCTION.—This section may not be construed as having any legal effect on applicable law with respect to a shipment of drugs that is imported or offered for import into the United States and has a declared value equal to or greater than $10,000.

(K) PROCEDURES.—

(I) IN GENERAL.—The delivery and destruction of drugs under this section may be carried out without notice to the importer, owner, or consignee of the drugs except as required by section 804(i)(2) of the Federal Food, Drug, and Cosmetic Act. The issuance of receipts for the drugs, and recordkeeping activities regarding the drugs, may be carried out on a summary basis.

(II) OBJECTIVE OF PROCEDURES.—Procedures promulgated under paragraph (I) shall be designed toward the objective of ensuring that, with respect to efficiently utilizing Federal resources available for carrying out this section, a substantial majority of shipments of drugs subject to description in subsection (e) are identified and destroyed.

(III) EVIDENCE EXCEPTION.—Drugs may not be destroyed under subsection (c) to the extent that the Attorney General of the United States determines that the drugs should be preserved as evidence of a violation of law with respect to an offense against the United States.

(L) EFFECT ON ADMINISTRATION PRACTICES.—Notwithstanding any provision of this title (or an amendment made by this title), nothing in this title (or the amendments made by this title) shall be construed to change, limit, or restrict the practices of the Food and Drug Administration or the Bureau of Customs and Protection in effect on January 1, 2004, with respect to the importation of prescription drugs into the United States of an individual, on the person of such individual, for personal use.

(M) REPORT TO CONGRESS.—The Federal Trade Commission shall, on an annual basis, submit to Congress a report that describes any action taken during the period for which the report is being prepared to enforce the provisions of section 806(n) of the Federal Food, Drug, and Cosmetic Act (as added by this title), including any pending investigations or civil actions under such section.

(SEC. 805. DISPOSITION OF CERTAIN DRUGS DENIED ADMISION INTO UNITED STATES.)

(Sec. 805. DISPOSITION OF CERTAIN DRUGS DENIED ADMISION INTO UNITED STATES.)

(A) IN GENERAL.—The Secretary of Homeland Security shall deliver to the Secretary of Health and Human Services any drug that is denied admission under section 801(a) or 801(d)(1).

(B) REQUIREMENTS FOR SCHEDULED DRUGS.—

(I) IN GENERAL.—With respect to drugs subject to a schedule under title I, section 811(b) of the Controlled Substances Act, as added by this section, or section 301(e) of the Controlled Substances Act (21 U.S.C. 811(b)), the Secretary shall, under section 805 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 335(e)), determine whether the drug is a scheduled drug or a non-scheduled drug and shall report to the Secretary of Health and Human Services the determination of the Secretary.

(II) DETERMINATION.—With respect to any drug that is not scheduled under title I, section 811(b) of the Controlled Substances Act, as added by this section, or section 301(e) of the Controlled Substances Act (21 U.S.C. 811(b)), the Secretary shall, under section 805 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 335(e)), determine whether the drug is non-scheduled under title I, section 811(b) of the Controlled Substances Act, as added by this section, or section 301(e) of the Controlled Substances Act (21 U.S.C. 811(b)).

(C) INTERIM RULE.—The Secretary may, if needed, promulgate an interim rule for implementing section 805 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 335(e)) to carry out this section.
"(C)(i) The Secretary shall by regulation establish requirements that supersede subparagraph (A) (referred to in this subparagraph as ‘alternative requirements’) to identify the chain of custody of a drug subject to subsection (b) from the manufacturer of the drug throughout the wholesale distribution of the drug to a pharmacist who intends to sell the drug, in such a manner that the Secretary determines that the alternative requirements, which may include standardized anti-counterfeiting or track-and-trace technologies, will provide assurance of the chain of custody or the identity of the discrete package of the drug from which the drug is dispensed with equal or greater certainty to the requirements of subparagraph (A), and that the alternative requirements are economically and technically feasible.

"(ii) When the Secretary promulgates a final rule to establish such alternative requirements, the final rule in addition shall, with respect to the registration condition established in clause (1) of section 806(c)(3)(B), establish a condition equivalent to the alternative requirements, and such equivalent condition may be met in lieu of the registration condition established in such clause (1).

"(3) In paragraph (2)(A), by adding at the end the following: ‘‘The preceding sentence may not be used in having an applicability with respect to a registered exporter under section 804.’’; and

"(4) In paragraph (3), by striking ‘‘and subsection (d) in the matter preceding subparagraph (A) and all that follows through ‘the term ‘wholesale distribution’ means’’ in subparagraph (B) and inserting the following: ‘‘(B) the term ‘wholesale distribution’ means’’.

"(b) CONFORMING AMENDMENT.—Section 503(d)(4)(D) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 353(d)) is amended by adding at the end the following:

‘‘(7) Each manufacturer of a drug subject to subsection (b) shall maintain at its corporate offices a current list of the authorized distributors of record of such drug.’’

"(c) EFFECTIVE DATE.—

"(1) IN GENERAL.—The amendments made by paragraphs (1) and (2) of subsection (a) and by subsection (b) shall take effect on January 1, 2010. (B) A link to which paragraph (1) applies shall be displayed in a clear and prominent caption for the link the words ‘licensing and contact information’.

"(2) EXCEPTIONS.—Paragraph (1) does not apply to—

‘‘(A) the dispensing or selling of a prescription drug pursuant to telemedicine practices covered by—

‘‘(i) a hospital that has in effect a provider agreement under title XVIII of the Social Security Act (relating to the Medicare program);

‘‘(ii) a group practice that has not fewer than 100 physicians who have in effect provider agreements under such title; or

‘‘(B) the dispensing or selling of a prescription drug pursuant to telemedicine practices for which the individual holds such licenses or other authorizations.

"(B) A link to which paragraph (1) applies shall be displayed in a clear and prominent caption for the link the words ‘licensing and contact information’.

"SEC. 8. LEADING PRINCIPLES.—

"(a) DEFINITIONS.—(1) The term ‘provider’ means—

‘‘(A) a person who provides care or services to a patient;

‘‘(B) the practitioner is in the physical presence of the patient at the time of the dispensing or sale of the prescription drug for the patient that is valid in the United States;

‘‘(C) the patient for whom the drug was dispensed or purchased did not, when such communications began, have a qualifying medical relationship with the patient; and

‘‘(D) the person received payment for the dispensing or sale of the prescription drug.

"(b) REQUIREMENTS REGARDING INFORMING THE PATIENT.—

‘‘(1) IN GENERAL.—A person may not sell or dispense a prescription drug pursuant to a sale of the drug by such person if—

‘‘(A) the purchaser of the drug submitted the purchase order for the drug, or conducted any other part of the sales transaction for the drug, through an Internet site;

‘‘(B) the person dispenses the drug to the purchaser by mailing or shipping the drug to the purchaser; and

‘‘(C) such site, or any other Internet site sponsored by—

‘‘(i) a hospital that has in effect a provider agreement under title XVIII of the Social Security Act (relating to the Medicare program); or

‘‘(ii) a group practice that has not fewer than 100 physicians who have in effect provider agreements under such title; or

(3) QUALIFYING MEDICAL RELATIONSHIP.—

‘‘(A) IN GENERAL.—With respect to issuing a prescription for a drug to a patient, a practitioner has a qualifying medical relationship with the patient for purposes of this section if—

‘‘(i) at least one in-person medical evaluation of the patient has been conducted by the practitioner; or

‘‘(ii) the practitioner conducts a medical evaluation of the patient as a covering practitioner.

‘‘(B) IN-PERSON MEDICAL EVALUATION.—A medical evaluation by a practitioner is an in-person medical evaluation for purposes of this section if the practitioner is in the physical presence of the patient as part of conducting the evaluation, without regard to whether portions of the evaluation are conducted by other health professionals.

‘‘(C) COVERING PRACTITIONER.—With respect to a patient, a practitioner is a covering practitioner for purposes of this section if
the practitioner conducts a medical evaluation of the patient at the request of a practitioner who has conducted at least one in-person medical evaluation of the patient and is temporarily unavailable to conduct the evaluation of the patient. A practitioner is a covering without regard to whether the practitioner has conducted any in-person medical evaluation of the patient involved.

"(4) RULES OF CONSTRUCTION.—

"(A) INDIVIDUALS REPRESENTED AS PRACTITIONERS.—A person who is not a practitioner (as defined in subsection (e)(1)) lacks legal standing to bring the action.

"(B) APPLICABILITY OF SUBSECTION.—Paragraph (1) may not be construed as prohibiting any conduct that is a standard practice in the practice of pharmacy.

"(C) OR INQUIRIES.—Paragraph (3) may not be construed as having any applicability beyond this section, and does not affect any State law, or interpretation thereof, concerning the practice of medicine.

"(c) ACTIONS BY STATES.—

"(1) IN GENERAL.—Whenever an attorney general of any State has reason to believe that the interests of the residents of that State have been or are being threatened or invaded by any person engaged or engaging in a pattern or practice that violates section 303(1), the State may bring a civil action on behalf of its residents to enjoin such practice, to enjoin compliance with such section, to obtain damages, restitution, or other compensation on behalf of residents of such State, to obtain reasonable attorneys fees and costs if the State prevails in the civil action, or to obtain any other relief as the court may deem appropriate.

"(2) NOTICE.—The State shall serve prior written notice of any civil action under paragraph (1) or (5)(B) upon the Secretary and provide the Secretary with a copy of its complaint, except that if it is not feasible for the State to provide such prior notice, the State shall serve such notice immediately upon instituting such action. Upon receiving a notice respecting a civil action, the Secretary shall serve the right to intervene in such action;

"(B) upon so intervening, to be heard on all matters arising therein; and

"(C) for appeal.

"(3) CONSTRUCTION.—For purposes of bringing any civil action under paragraph (1), nothing in this chapter shall prevent an attorney general from exercising the powers conferred on the attorney general by the laws of such State to conduct investigations or to administer oaths or examinations or to compel the attendance of witnesses or the production of documentary and other evidence.

"(4) VENUE; SERVICE OF PROCESS.—Any civil action brought under paragraph (1) or (5)(B) upon the Secretary and provide the Secretary with a copy of its complaint, except that if it is not feasible for the State to provide such prior notice, the State shall serve such notice immediately upon instituting such action. Upon receiving a notice respecting a civil action, the Secretary shall serve the right to intervene in such action;

"(B) upon so intervening, to be heard on all matters arising therein; and

"(C) for appeal.

"(3) CONSTRUCTION.—For purposes of bringing any civil action under paragraph (1), nothing in this chapter shall prevent an attorney general from exercising the powers conferred on the attorney general by the laws of such State to conduct investigations or to administer oaths or examinations or to compel the attendance of witnesses or the production of documentary and other evidence.

"(4) VENUE; SERVICE OF PROCESS.—Any civil action brought under paragraph (1) or (5)(B) upon the Secretary and provide the Secretary with a copy of its complaint, except that if it is not feasible for the State to provide such prior notice, the State shall serve such notice immediately upon instituting such action. Upon receiving a notice respecting a civil action, the Secretary shall serve the right to intervene in such action;

"(B) upon so intervening, to be heard on all matters arising therein; and

"(C) for appeal.

"(3) CONSTRUCTION.—For purposes of bringing any civil action under paragraph (1), nothing in this chapter shall prevent an attorney general from exercising the powers conferred on the attorney general by the laws of such State to conduct investigations or to administer oaths or examinations or to compel the attendance of witnesses or the production of documentary and other evidence.

"(4) VENUE; SERVICE OF PROCESS.—Any civil action brought under paragraph (1) or (5)(B) upon the Secretary and provide the Secretary with a copy of its complaint, except that if it is not feasible for the State to provide such prior notice, the State shall serve such notice immediately upon instituting such action. Upon receiving a notice respecting a civil action, the Secretary shall serve the right to intervene in such action;

"(B) upon so intervening, to be heard on all matters arising therein; and

"(C) for appeal.
"(v) a money transmitting business; or

"(vi) a participant in an international, national, regional, or local network used to effect a credit transaction, electronic fund transfer, or money transmitting service;

"(vii) an operator of a payment system that is centrally managed and is primarily engaged in the transmission and settlement of credit transactions, electronic fund transfers, or money transmitting service where at least one party to the transaction or transfer is an individual; and

"(viii) any other person described in paragraph (2)(B) as specified by the Board in such regulations,

"to establish policies and procedures that are reasonably designed to prevent the introduction of restricted transactions into a payment system or the completion of restricted transactions using a payment system,

"(ii) to the extent practicable, permit any payment system, or person described in paragraph (2)(B), as applicable, to choose among alternative means of preventing the introduction or completion of restricted transactions,

"(C) NO LIABILITY FOR BLOCKING OR REFUSING TO HONOR RESTRICTED TRANSACTION.—

"(1) IN GENERAL.—A payment system, or a person described in paragraph (2)(B) that is required to adopt policies and procedures reasonably designed to comply with any regulations required under paragraph (7) within 60 days after such regulations are issued in final form,

"(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the day that is 90 days after the date of enactment of this title.

"SEC. 9. IMPORTATION EXEMPTION UNDER CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT.

Section 1006(a)(2) of the Controlled Substances Import and Export Act (21 U.S.C. 956(a)(2)) is amended by striking ‘‘not import into the United States’’ and inserting ‘‘import into the United States in an amount that exceeds 50 dosage units of the controlled substance.’’

SA 1533. Mr. MARTINEZ (for himself and Mr. NELSON of Florida) 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 wide efforts of the Department of Energy, to prescribe personal 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 insert the following:

SENSE OF THE SENATE REGARDING OIL AND GAS EXPLORATION ON MILITARY OPERATIONS

(A) FINDINGS.—The Senate finds the following:

(1) Whereas the U.S. Air Force and Navy conduct vital and critical national security preparedness missions in the Eastern Gulf of Mexico

(2) Whereas the U.S. Air Force and Navy have had to move their live-fire training operations from Vieques, Puerto Rico, to increasingly limited areas

(3) Whereas these training operations are critical for the battle-preparedness of military personnel

(4) Whereas the training areas for these live-fire missions are restricted to an increasingly limited area

(5) Whereas the lives of personnel of both armed forces are seriously threatened by exposure to the noxious emissions created by the oil and gas exploration operations in the vicinity of U.S. military training operations poses a risk to human life and

"(iv) the meaning given the term in section 903 of the Electronic Transfer Fund Act (15 U.S.C. 1693a); and

"(ii) FACTORS TO BE CONSIDERED.—In considering any enforcement action under this subsection against a payment system or person described in paragraph (2)(B), the Federal functional regulators and the Federal Trade Commission shall consider the following factors:

"(D) ENFORCEMENT.—

"(I) The extent to which the payment system or person knowingly permits restricted transactions.

"(II) The history of the payment system or person in connection with permitting restricted transactions.

"(III) The extent to which the payment system or person has established and is maintaining policies and procedures in compliance with regulations prescribed under this subsection.

"(IV) TRANSACTIONS PERMITTED.—A payment system or person described in paragraph (2)(B) that is subject to a regulation issued under this subsection, is authorized to engage in transactions with foreign pharmacies in connection with investigating violations or potential violations of any rule or requirement adopted by the payment system or person described in paragraph (7). A payment system, or such a person, and its agents and employees shall not be found to be in violation of, or liable under, any such rule or requirement because the payment transaction involves a payment to a foreign pharmacy.

"(9) RELATION TO STATE LAWS.—No requirement, prohibition, or liability may be imposed on a payment system, or a person described in paragraph (2)(B) that is subject to a regulation issued under this subsection, under the laws of any state with respect to any payment system, or person described in paragraph (2)(B) that is subject to a regulation issued under this subsection.

"(10) TIMING OF REQUIREMENTS.—A payment system in an amount that exceeds 50 dosage units of the controlled substance.”
an accident could threaten and impact coastal communities and beaches.

(6) Where as military personnel have expressed concerns with oil and gas exploration and development that would interfere with their training missions and operations of the Department of Defense.

(B) The Sense of the Senate.—It is the Sense of the Senate that oil and gas exploration and development that would interfere with the training missions and operations of the Department of Defense.

SA 1534. Mr. DeWINE (for himself, Mr. BENID, and 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:

On page 266, between lines 7 and 8, insert the following:

SEC. 1073. EXPANSION OF EMERGENCY SERVICES UNDER RECIPROCAL AGREEMENTS.

Subsection (n) of section 8016(a) of the Act of May 27, 1955 (69 Stat. 66, chapter 105; 42 U.S.C. 156(b)) is amended by striking "‘and fire fighting’" and inserting "‘and emergency services, including basic and advanced life support, hazardous material containment and confinement, and special rescue events involving vehicular and water rescue, fire fighting, and trench, building, and confined space extractions’’".

SA 1535. Ms. SNOWE 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 226, between lines 2 and 3, insert the following:

SEC. 807. MODIFICATION OF LIMITATION ON CONTRACTOR PERFORMANCE.

Section 8014(a)(5) of the Department of Defense Appropriations Act, 2005 (Public law 108–287; 118 Stat. 972) is amended—

(1) in subparagraph (A), by inserting ": and a detailed description of the pilot program;" and

(2) in subparagraph (B), by striking ": and the annual accomplishments;" and

(3) in paragraph (2), by striking ": and the annual accomplishments;" and

(4) in paragraph (3), by striking ": and the annual accomplishments;" and

(5) by inserting before ": and the annual accomplishments;" the following: ": and a detailed compilation of results achieved by such pilot program in terms of business assisted and the number of inventions transitioned.

(a) IN GENERAL.—If the Secretary of Defense upon the recommendation of the Secretary of Energy and the Secretary of State, finds it to be in the national interest, the Director of the Energy Efficiency and Renewable Energy Office of the Department of Energy and the Secretary of Defense may enter into an agreement with one or more small businesses to carry out a small business pilot program.

(b) EXEMPTION.—The Secretary of Defense may extend the provisions of this subsection to such other Federal agencies as the Secretary shall determine.

(c) APPLICATION.—The provisions of this section shall apply to small businesses participating in the Small Business Innovation Research and Small Business Technology Transfer Programs in accordance with requirements for such programs under section 9.

(d) TESTING AND EVALUATION AUTHORITY.—Section 9(e) of the Small Business Act (15 U.S.C. 638(e)) is amended—

(1) in paragraph (7), by striking "‘and’" and inserting "‘or’"; and

(2) in paragraph (9), by striking the period at the end and inserting "‘and’"; and

(e) COMMERCIALIZATION PILOT PROGRAM.—

(A) IN GENERAL.—The Secretary of Defense shall establish a pilot program to accelerate the technology transfer from the Small Business Innovation Research Program to investors and commercial entities.

(B) CONTENTS.—Each report under subparagraph (A) shall include, for the year covered by such report—

(i) an accounting of the funds used in any pilot program;

(ii) the number of small businesses and the number of small business concerns participating in the Small Business Innovation Research and Small Business Technology Transfer Programs in accordance with requirements for such programs under section 9;

(iii) a detailed description of the pilot program;

(iv) a detailed compilation of the benefits of the pilot program to small businesses and investors;

(v) the limitations on the use of funds in subsection (a) that are applicable if funds are made available to the Department of Energy or the military department to carry out the Small Business Innovation Research Program and the Small Business Technology Transfer Program.

(f) SENSE OF THE SENATE.—It is the sense of the Senate that the pilot program should—

(1) be extended to other Federal agencies;

(2) be extended to other programs; and

(3) be extended to other small business concerns participating in the Small Business Innovation Research and Small Business Technology Transfer Programs in accordance with requirements for such programs under section 9.

(g) MENTOR-PROTEGE ASSISTANCE.—Section 9(g)(1) of the Small Business Act (15 U.S.C. 638(g)(1)) is amended—

(i) by adding at the end the following: "‘(ii) permit the head of an agency to further adjust the amount of funds an agency may award in the first and second phase of an SBIR program to existing commercialization of small business concerns;’’;

(ii) in subsection (b), by striking ": such small business concerns;" and

(iii) in subsection (c), by striking ": such small business concerns;" and

(iv) in paragraph (1)—

(A) in subparagraph (A), by striking ": such small business concerns;" and

(B) in subparagraph (B), by striking ": such small business concerns;" and

(C) by adding at the end the following: "‘and the Secretary of Defense may extend the provisions of this subsection to such other Federal agencies as the Secretary shall determine.’’

SEC. 808. INCREASE IN FUNDING FOR DEVELOPMENT OF HIGH END COMPUTING RESOURCES.

It is the sense of the Senate that—

(A) the Secretary of Defense carry out a comprehensive effort to develop a national high end computing resource that includes—

(i) the needs of the Department of Defense, the Department of Energy, and other Federal agencies;

(ii) the needs of the Armed Forces;

(iii) the needs of the Department of Energy; and

(iv) the needs of the Department of Veterans Affairs;

(B) the Secretary of Defense carry out an effort to establish a national high end computing resource that includes—

(i) the needs of the Department of Defense, the Department of Energy, and other Federal agencies;

(ii) the needs of the Armed Forces;

(iii) the needs of the Department of Energy; and

(iv) the needs of the Department of Veterans Affairs; and

(C) the Secretary of Defense the report on—

(i) the need for a national high end computing resource;

(ii) the development of a national high end computing resource; and

(iii) the benefits of a national high end computing resource to the Armed Forces.

SEC. 809. FUNDING FOR SMALL BUSINESS INNOVATION RESEARCH AND SMALL BUSINESS TECHNOLOGY TRANSFER PROGRAM.

It is the sense of the Senate that—

(A) the Secretary of Defense increase the funding available to small businesses participating in the Small Business Innovation Research and Small Business Technology Transfer Programs; and

(B) the Secretary of Defense the report on—

(i) the funding available to small businesses participating in the Small Business Innovation Research and Small Business Technology Transfer Programs.

SEC. 901. INCREASE IN FUNDING FOR DEVELOPMENT OF HIGH END COMPUTING RESOURCES.

It is the sense of the Senate that—

(A) the Secretary of Defense increase the funding available to small businesses participating in the Small Business Innovation Research and Small Business Technology Transfer Programs; and

(B) the Secretary of Defense the report on—

(i) the funding available to small businesses participating in the Small Business Innovation Research and Small Business Technology Transfer Programs.

SEC. 902. INCREASE IN FUNDING FOR DEVELOPMENT OF HIGH END COMPUTING RESOURCES.

It is the sense of the Senate that—

(A) the Secretary of Defense increase the funding available to small businesses participating in the Small Business Innovation Research and Small Business Technology Transfer Programs; and

(B) the Secretary of Defense the report on—

(i) the funding available to small businesses participating in the Small Business Innovation Research and Small Business Technology Transfer Programs.

SEC. 1001. INCREASE IN FUNDING FOR DEVELOPMENT OF HIGH END COMPUTING RESOURCES.

It is the sense of the Senate that—

(A) the Secretary of Defense increase the funding available to small businesses participating in the Small Business Innovation Research and Small Business Technology Transfer Programs; and

(B) the Secretary of Defense the report on—

(i) the funding available to small businesses participating in the Small Business Innovation Research and Small Business Technology Transfer Programs.
programs in accordance with requirements for small business concerns participating in the Small Business Innovation Research and Small Business Technology Transfer Programs and with requirements for such programs under section 9.

(h) TESTING AND EVALUATION AUTHORITY.—Section 8(e) of the Small Business Act (15 U.S.C. 638(e)) is amended—

(1) in paragraph (7), by striking “and” at the end;

(2) in paragraph (8), by striking the period at the end and inserting “;”;

and

(i) by adding the following:

“(9) the term ‘commercial applications’ includes testing and evaluation of products, services, or technologies for use in technical or weapons systems.”;

SEC. 846. SMALL BUSINESS INNOVATION RESEARCH PROGRAM DEFINED.—In this section, the term “Small Business Innovation Research Program” has the meaning—

SA 1538. Ms. SNOWE 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:

SEC. . BUILDING THE PARTNERSHIP SECURITY CAPACITY BUILDING AUTHORITY.—

(a) AUTHORITY.—The President may authorize the capacity building of partner nations’ militaries and security forces to disrupt or destroy terrorist networks, close safe havens, or participate in or support United States, coalition, or international military or stability operations.

(b) TYPES OF PARTNERSHIP SECURITY CAPACITY BUILDING.—The partnership security capacity building authority authorized under this section may include the provision of equipment, supplies, services, training, and funding.

(c) A VAILABILITY OF FUNDS.—The Secretary of Defense may, with the concurrence of the Secretary of State, implement partnership security capacity building as authorized under this section (a) including by transferring funds available to the Department of Defense to the Department of State, or to any other federal agency. Any funds so transferred shall remain subject to the same controls.

(d) A VAILABILITY OF FUNDS.—In connection with such partnership security capacity building provided by the Department of Defense under this section the Secretary of Defense may not exceed $500,000,000 in total.

SEC. 845. SMALL BUSINESS CONTRACTING IN THE GLOBAL WAR ON TERRORISM.

(a) CONGRESSIONAL FINDINGS AND REAFFIRMATION OF EXISTING POLICY.—

(1) FINDINGS.—Congress finds that—

(A) small business contracting in support of defense activities and support of the Federal Government strengthens the trade posture of the United States in the global marketplace;

(B) small business contractors are a vital component of the civilian industrial base, and they have provided outstanding value in support of the activities of the Federal Government domestically and internationally, especially in the international reconstruction, stabilization, and assistance activities in the Global War on Terror;

(C) maintaining a vital small business industrial base protects the Federal Government from higher costs and reduced innovation that accompany undue consolidation of Government contractors;

(D) Congress has a strong interest in preserving the competitive nature of the Government contracting marketplace, particularly with regard to performance of Federal contracts and subcontracts overseas;

(E) small business contractors suffer competitive harm and the Federal Government supports reduction in competition and a needless shrinkage of its industrial base when Federal agencies exempt contracts and subcontracts awarded for performance overseas from the application of the Small Business Act;

(F) small businesses desiring to support troops deployed in the Global War on Terror and the reconstruction of Iraq and Afghanistan have faced needless hurdles to meaningful participation in Government contracts and subcontracts; and

(G) Congress has a strong interest in holding large prime contractors accountable for fulfilling their subcontracting plans on offset performance and requirements.

(b) REAFFIRMATION OF POLICY.—In light of the findings in paragraph (a), Congress reaffirms its policy contained in sections 2 and 15 of the Small Business Act (15 U.S.C. 631, 633) and section 302 of the Small Business Economic Policy Act of 1980 (15 U.S.C. 631a) to promote international competitiveness of United States small businesses and to ensure that small business concerns are awarded a fair portion of all Federal prime contracts, and subcontracts, regardless of geographic area.

(b) COMPLIANCE.—Not later than 270 days after the date of enactment of this Act, the head of each Federal agency, office, and department having jurisdiction to conduct regulations shall conduct regulatory reviews to ensure that such regulations require
compliance with the Small Business Act in Federal prime contracts and subcontracts, regardless of the geographic place of award or performance, and shall promulgate any necessary conforming changes to such regulations. (c) Cooperation With the Small Business Administration.—The Administrator and the Chief Counsel for Advocacy of the Small Business Administration shall be consulted for recommendations concerning regulatory reviews and changes required by such reviews. (d) ConMitting Provisions of Law.—In conducting any regulatory review or promulgating any rules required by a request, notice and recognition shall be given to the specific requirements and procedures of any other Federal statute or treaty which may exempt any Federal prime contract or subcontract from the application of the Small Business Act in whole or in part. (e) Report to Congressional Committees.—Not later than 1 year after the date of enactment of this Act, the Administrator and the Chief Counsel for Advocacy of the Small Business Administration shall submit to the Committee on Small Business and Entrepreneurship of the Senate and to the Committee on Small Business of the House of Representatives a report on the activities of Federal agencies, and departments in carrying out this section.

SA 1541. Ms. SNOWE (for herself and Mr. KERRY) 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:

SEC. 846. FAIR ACCESS TO MULTIPLE-AWARD CONTRACTS.

(a) Findings and Reaffirmations of Congressional Policy.—

(1) FINDINGS.—Congress finds that—

(A) multiple-award contracts have increased administrative efficiency in Government procurement;

(B) at the same time, small businesses and firms new to Government contracting have experienced problems with transparency and fairness in gaining access to multiple-award contracts;

(C) data presented before the Acquisition Advisory Panel for the Office of Federal Procurement Policy indicates that the small business share of sales under the Federal Supply Schedules amounts to less than half of the small business share of Federal Supply Schedule contracts; and

(D) Federal contracting officials incorrectly persist in limiting competition under the Federal Supply Schedule acquisitions to no more than 3 bidders; and

(E) the small business reservation and greater notice requirements will promote greater and fairer access to multiple-award contracts.

(2) CONGRESSIONAL POLICY.—

(A) In general.—Congress reaffirms its policy stated in section 15(j) of the Small Business Act (15 U.S.C. 644(j)), to provide a small business reservation for all contracts below the simplified acquisition threshold, specifically including Federal Supply Schedule contracts and agency contracts.

(B) MULTIPLE-AWARD CONTRACTS.—Congress favors increasing competition in the use of multiple-award contracts by civilian agencies, as was previously increased for defense agencies in section 803 of the National Defense Authorization Act for Fiscal Year 2002 (10 U.S.C. 2304 note).

(b) Small Business Participation Assurances.—Section 15(j) of the Small Business Act (15 U.S.C. 644(j)) is amended—

(1) in paragraph (1), by striking “(2) In carrying out paragraph (1)” and inserting the following:

“(3) In carrying out paragraphs (1) and (2):”;

(2) in paragraph (3), by striking “(3) Nothing in paragraph (1)” and inserting “(4) Nothing and (3) by inserting after paragraph (1) the following:

“(2)(A) In the case of orders under multiple-award contracts, including Federal Supply Schedule contracts and multi-agency contracts, contracting officers shall consider not fewer than 2 small business concerns, if such small business concerns can offer the items sought by the contracting officer on terms that are competitive with respect to price, quality, and delivery schedule with the goods or services otherwise available in the market.

“(B) If only 1 small business concern can satisfy the requirement, the contracting officer shall consider such small business concern in awarding the contract.”;

(c) Competition Requirement for Purchase of services pursuant to Multiple-Award Contracts.—Not later than 180 days after the date of enactment of this Act, the Federal Acquisition Regulation shall be amended to promote competition in multiple-award contracts by civilian agencies on the same terms as are applicable to the Department of Defense and defense agencies pursuant to section 803 of the National Defense Authorization Act for Fiscal Year 2002 (10 U.S.C. 2304 note).

(d) Report Requirement.—

(1) In general.—Not less frequently than once every 180 days, the Administrator of the Small Business Administration shall submit a report on the level of participation of small business concerns in multiple-award contracts, including Federal Supply Schedule contracts, to—

(A) the Administrator, Office for Federal Procurement Policy;

(B) the Committee on Small Business and Entrepreneurship of the Senate; and

(C) the Committee on Small Business of the House of Representatives.

(2) CONTENTS.—Each report submitted under paragraph (1) shall contain, for the 6-month reporting period—

(A) the total number of multiple-award contracts;

(B) the total number of small business concerns that received multiple-award contracts;

(C) the total number of orders;

(D) the total value of orders;

(E) the number of orders received by small business concerns;

(F) the value of orders received by small business concerns;

(G) the number of small business concerns that received orders; and

(H) such other information that may be relevant.

SA 1542. Ms. SNOWE 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:

SEC. 846. BATTLEFIELD SMALL BUSINESS CONTRACTORS.

Section 3 of the Small Business Act (15 U.S.C. 632) is amended by adding at the end:

“(e) BATTLEFIELD SMALL BUSINESS CONTRACTORS.—

In general.—The Administrator shall—

(A) not later than 30 days after the date of enactment of the National Defense Authorization Act for Fiscal Year 2006, submit a report to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives concerning the desirability and feasibility of providing any other special awards exemptions for small business concerns working under Federal contracts or subcontracts in a qualified area.

(B) not later than 180 days after the date of enactment of the National Defense Authorization Act for Fiscal Year 2006, submit a report to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives concerning the desirability and feasibility of providing any other special awards exemptions for small business concerns working under Federal contracts or subcontracts in a qualified area.

(2) DEFINITION.—In this subsection, the term ‘qualified area’ means—

(A) Iraq.

(B) Afghanistan, and

(C) any foreign country which included a combat zone, as that term is defined in section 111 of the Internal Revenue Code of 1986, at the time of performance of the relevant Federal contract or subcontract.”.

SA 1543. Mr. DOMENICI (for himself and 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 372, line 3, insert after “$1,637,239,000” the following: “, of which amount $338,565,000 shall be available for project 99-D-143, the Mixed Oxide Fuel Fabrication Facility, Savannah River Site, Aiken, South Carolina, and $24,000,000 shall be available for project 99-D-141, the Pit Disassembly and Conversion Facility, Savannah River Site, Aiken, South Carolina”.

SA 1544. Mr. DOMENICI (for himself and 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 B of title II, add the following:
SEC. 213. LONG WAVELENGTH ARRAY LOW FREQUENCY RADIO ASTRONOMY INSTRUMENTS.

(a) ADDITIONAL AMOUNT FOR RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, NAVY.—

The amount authorized to be appropriated by section 201(2) for research, development, test, and evaluation for the Navy is hereby increased by $6,000,000.

(b) AVAILABILITY OF AMOUNT.—

(1) IN GENERAL.—The amount authorized to be appropriated by section 201(2) for research, development, test, and evaluation for the Navy, as increased by subsection (a), $6,000,000, shall be available for research and development on Long Wavelength Array low frequency radio astronomy instruments.

(2) CONSTRUCTION WITH OTHER AMOUNTS.—

The amount under paragraph (1) for the purpose set forth in that paragraph is in addition to any other amounts available under this Act for that purpose.

(c) ORIGIN.—The amount authorized to be appropriated by section 301(1) for operation and maintenance for the Navy is hereby reduced by $6,000,000.

SA 1545. Mr. DOMENICI 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. TRAINING SUPPORT EQUIPMENT FOR THE MARINE CORPS RESERVE.

(a) ADDITIONAL AMOUNT FOR OPERATION AND MAINTENANCE, MARINE CORPS.—The amount authorized to be appropriated by section 301(3) for operation and maintenance for the Marine Corps is hereby increased by $20,379,000.

(b) AVAILABILITY OF AMOUNT.—

(1) IN GENERAL.—Of the amount appropriated by section 301(3) for operation and maintenance for the Marine Corps, as increased by subsection (a), $20,379,000, may be available for training support equipment for the Marine Corps Reserve, including the procurement of the following:

<table>
<thead>
<tr>
<th>Equipment</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>(A)</td>
<td>Improved load-bearing equipment (ILBE)</td>
</tr>
<tr>
<td>(B)</td>
<td>Lightweight helmets (LWH)</td>
</tr>
<tr>
<td>(C)</td>
<td>Goggles and spectacles under the military equipment program (MEPS)</td>
</tr>
<tr>
<td>(D)</td>
<td>Outer tactical vests (OTV)</td>
</tr>
<tr>
<td>(E)</td>
<td>Full spectrum flight equipment (FSBE) for individuals and platoons</td>
</tr>
<tr>
<td>(F)</td>
<td>Combat assault slings (CAS)</td>
</tr>
<tr>
<td>(G)</td>
<td>Individual first aid kits (IFAK)</td>
</tr>
<tr>
<td>(H)</td>
<td>Individual water purification (IWP) systems</td>
</tr>
<tr>
<td>(I)</td>
<td>Field tarp</td>
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<tr>
<td>(J)</td>
<td>All purpose environmental clothing</td>
</tr>
<tr>
<td>(K)</td>
<td>Extended cold weather (APEC) gortex clothing</td>
</tr>
<tr>
<td>(L)</td>
<td>Reversible helmet covers (RHC)</td>
</tr>
<tr>
<td>(M)</td>
<td>Small arms protective insert (SAPI) plates</td>
</tr>
</tbody>
</table>

(2) SUPPLEMENT NOT SUPPLANT.—Amounts available under paragraph (1) for purposes specified in that paragraph are in addition to any other amounts available in this Act for such purposes.

SA 1546. Mr. DOMENICI (for himself, Mrs. HUTCHISON, and 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. 1073. ELIMINATION OF THE 2-YEAR WAIT PERIOD FOR GRANT RECIPIENTS.

Section 504(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(c)(a)) is amended—

(1) by striking “and all that follows through “The Secretary” and inserting “PERIOD.—The Secretary” and (2) by striking paragraph (2).

SA 1547. Ms. LANDRIEU 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 for other purposes; which was ordered to lie on the table; as follows:

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

SEC. 1072. PILOT PROGRAMS FOR USE OF LEAVE BY SPOUSES OF INDIVIDUALS PERFORMING NATIONAL GUARD OR RESERVE SERVICE.

(a) SHORT TITLE.—This section may be cited as the “National Guard and Reserve Service Leave Act of 2005.”

(b) FEDERAL EMPLOYEES PROGRAM—

(1) DEFINITIONS.—In this subsection—

(A) AGENCY.—The term “agency” means an Executive agency that employs an employee.

(B) COVERED PERIOD OF SERVICE.—The term ‘‘covered period of service’’ means any period of service performed by the spouse while that spouse—

(i) is a member of a reserve component of the Armed Forces as described under section 10101 of title 10, United States Code; and

(ii) is serving on active duty in the Armed Forces in support of a contingency operation as defined under section 101(a)(13) of title 10, United States Code.

(C) EMPLOYEE.—The term “employee” has the meaning given under section 6311 of title 5, United States Code.

(D) EXECUTIVE AGENCY.—The term ‘‘Executive agency’’ has the meaning given under section 105 of title 5, United States Code.

(E) ESTABLISHMENT OF PROGRAM.—The Office of Personnel Management shall establish a pilot program to authorize an employee to—

(i) use any sick leave of that employee during a covered period of service in the same manner and to the same extent as annual leave is used; and

(ii) use any leave available to that employee under subchapter III or IV of chapter 63 of title 5, United States Code, during a covered period of service as though that covered period of service is a medical emergency.

(F) AGENCY PARTICIPATION.—A agency may apply to the Office of Personnel Management to participate in the pilot program under this subsection. The Office of Personnel Management shall select at least 5 agencies to participate in the pilot program. For purposes of this paragraph the Office of Personnel Management may treat any office or other organizational entity within an agency as an agency.

(G) REGULATIONS.—Not later than 120 days after the date of enactment of this Act, the Office of Personnel Management shall prescribe regulations to carry out this subsection.

(H) TERMINATION.—The pilot program under this subsection shall terminate on December 31, 2007.
(1) DEFINITIONS.—In this subsection:
(A) COVERED PERIOD OF SERVICE.—The term “covered period of service” means any period of service performed by the spouse of an employee while that spouse—
(i) is a member of a reserve component of the Armed Forces as described under section 10101 of title 10, United States Code; and
(ii) serves duty in the Armed Forces in support of a contingency operation as defined under section 101(a)(13) of title 10, United States Code.
(B) EMPLOYEE.—The term “employee” means an employee of a business entity participating in the program under this subsection.

(2) ESTABLISHMENT OF PROGRAM.—
(A) IN GENERAL.—The Secretary of Labor shall establish a pilot program to authorize employees of business entities described under paragraph (3) to use sick leave, or any other leave available to an employee, during a covered period of service in the same manner and to the same extent as annual leave (or its equivalent) is used.
(B) EXCEPTION.—Subparagraph (A) shall not apply to leave made available under the Family and Medical Leave Act of 1993 (29 U.S.C. 2601 et seq.).

(3) VOLUNTARY BUSINESS PARTICIPATION.—The Secretary of Labor shall solicit business entities to voluntarily participate in the pilot program under this subsection.

(4) REGULATIONS.—Not later than 120 days after the date of enactment of this Act, the Secretary of Labor shall prescribe regulations to carry out this subsection.

(5) TERMINATION.—The pilot program under this subsection shall terminate on December 31, 2007.

(6) GAO REPORT.—Not later than December 31, 2006, the Government Accountability Office shall submit a report to Congress on the programs under subsections (a) and (b) that includes—

(1) an evaluation of the success of each program; and
(2) recommendations for the continuation or termination of each program.

SA 1550. 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 48, line 21, strike “$18,584,469,000” and insert “$18,581,369,000.” At the appropriate place, insert the following:

SEC. . PILOT PROJECT FOR CIVILIAN LIN- GUIST RESERVE CORPS.

(a) ESTABLISHMENT.—The Secretary of Defense (referred to in this section as the “Secretary”), through the National Security Education Program, shall conduct a 3-year pilot project to establish the Civilian Linguist Reserve Corps, which shall be composed of United States citizens with advanced proficiency in foreign languages who would be available, upon request from the President, to perform any services or duties with respect to such foreign languages in the defense of the Government as the President may require.

(b) IMPLEMENTATION.—In establishing the Civilian Linguist Reserve Corps, the Secretary shall—

(1) conduct a study of the best practices in implementing the Civilian Linguist Reserve Corps, including—
(A) administrative structure;
(B) languages to be offered;
(C) number of language specialists needed for each language;
(D) Federal agencies which may need language services;
(E) certification standards and procedures;
(F) security clearances;
(G) skill maintenance and training; and
(H) the use of private contractors to supply language specialists.
(2) REPORTS.—
(A) EVALUATION REPORTS.—Not later than 1 year after the date of enactment of this Act, and annually thereafter until the expiration of the 3-year period beginning on such date of enactment, the Secretary shall submit to Congress an evaluation report on the pilot project conducted under this section.
(B) CONTENTS.—Each report required under subparagraph (A) shall contain information on the operation of the pilot project, the success of the pilot project in carrying out the objectives of the establishment of a Civilian Linguist Reserve Corps, and recommendations for the continuation or expansion of the pilot project.
"(c) CONTRACT AUTHORITY.—In establishing the Civilian Linguist Reserve Corps, the Secretary may enter into contracts with appropriate agencies or entities.
(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $3,100,000 for fiscal year 2006 to carry out the pilot project under this section.
(g) REPORT ON NOTIFICATION.—The President shall submit to Congress a final report summarizing the lessons learned, best practices, and recommendations for full implementation of the Civilian Linguist Reserve Corps.
(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $5,100,000 for fiscal year 2006 to carry out the pilot project under this section.

SA 1551. 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, add the following:

SEC. 4101. DEFENSE PRODUCTION ACT.

(A) IN GENERAL.—Section 271 of the Defense Production Act (50 U.S.C. App. 2170) is amended—
(1) by redesignating subsections (g) and (h) as subsections (i) and (j) and
(2) by inserting after subsection (i) the following:
"(g) NOTIFICATION AND INVESTIGATION.—
(1) NOTIFICATION.—
(A) IN GENERAL.—Any entity described in subparagraph (B) shall notify the President at least 60 days before a proposed merger, acquisition, or takeover described in subparagraph (B)(ii).
(B) ENTITY DESCRIBED.—An entity described in this subparagraph is—
(i) controlled by, or acting on behalf of, a foreign government; and
(ii) seeks to engage in a merger, acquisition, or takeover of a United States entity that has energy assets valued at $1,000,000,000 or more, that could result in control of a person engaged in interstate commerce in the United States that could affect the national security of the United States.
(2) INVESTIGATION.—A mandatory investigation for the purposes of subsection (b) shall be required in the case of a merger, acquisition, or takeover described in paragraph (1)(B)(i) by an entity described in paragraph (1)(B).
(b) PRESIDENT’S DESIGNEES.—In this section, the term ‘President’s designees’ means the Secretary of Commerce, the Secretary of Defense, the Secretary of Homeland Security, the Secretary of State, the Secretary of the Treasury, the Attorney General, the Director of National Intelligence, and appropriate employees of the Executive Office of the President.
"(B) NOTIFICATION.—Section 271(i) of the Defense Production Act (50 U.S. C. App. 2170), as redesignated by subsection (a)(1), is amended—
(1) by striking “The President” and inserting “(1) REPORT ON ACTION.—The President”;
(2) by adding at the end the following:
"(2) REPORT ON NOTIFICATION.—The President shall immediately transmit to the Secretary of the Senate and the Clerk of the House of Representatives a notification as soon as the President receives a notification under subsection (b) or (g).”,

"(C) NOTIFICATIONS TO BE CONSIDERED.—Section 271(f) of the Defense Production Act (50 U.S. C. App. 2170(f)) is amended—
(1) by striking “and” at end of paragraph (4);
(2) by striking the period at the end of paragraph (5) and inserting “;”;
(3) by adding at the end the following:
"(d) robust and expanding defense capa-
(bility of the country in which the acquiring entity is located.”;
(7) the nature of the bilateral relationship with the country in which the acquiring entity is located.”;";

SA 1552. Mrs. LINCOLN 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:

DIVISION D—CERTAIN MERGERS, ACQUISITIONS, AND TAKEOVERS TITLE XII—MERGERS, ACQUISITIONS, AND TAKEOVERS
At the appropriate place, insert the following:

SEC. 1073. POLICY OF THE UNITED STATES ON COUNT STATEMENTS.

(a) BENEFIT DECISION AND ADJUSTMENT NOTICES.—Section 1143(a)(2) of the Social Security Act (42 U.S.C. 405(s)) is amended—

(1) in the first sentence—

(A) by striking "(1)" and inserting "(1)"; and

(B) by striking "(2)" and inserting "(2)"; and

(2) by adding at the end the following:

(R) by inserting "(B)" before "In"; and

(B) by striking "paragraph (2)" and inserting "clause (i) of subparagraph (A)"; and

(3) by adding at the end the following:

(1) in the first sentence—

(A) by inserting "(B)" before "In"; and

(B) by striking "paragraph (2)" and inserting "clause (i) of subparagraph (A)"; and

(4) in the second sentence—

(A) by inserting "(1)(A)" after "(s)"; and

(B) by adding at the end the following:

(2) in the second sentence—

(A) by inserting "(B)" before "In"; and

(B) by striking "paragraph (2)" and inserting "clause (i) of subparagraph (A)"; and

(5) by adding at the end the following:

(R) by adding a period at the end.

(b) SOCIAL SECURITY ACCOUNT STATEMENTS.—Section 1144 of the Social Security Act (42 U.S.C. 405(s)) is amended—

(1) by adding after "(a)" the following:

(2) by adding at the end the following:

(3) by adding at the end the following:

(4) by adding at the end the following:

(5) by adding at the end the following:

(c) EFFECTIVE DATE.—The amendments made by this section apply to notices of decisions and benefit adjustments and social security account statements issued on or after the date that is 180 days after the date of enactment of this Act.

SA 1554. Mr. CONRAD 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 III, add the following:

SEC. 1306. COMPREHENSIVE STRATEGY FOR SECURITY AND ACCOUNTABILITY OF WEAPONS-USABLE NUCLEAR MATERIALS IN THE FORMER SOVIET UNION.

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

(1) On September 30, 2004, President George W. Bush stated that "the biggest threat facing this country is weapons of mass destruction in the hands of a terrorist network."...

(2) In a joint statement with President of Russia Vladimir Putin on February 24, 2005, President George W. Bush further noted that the United States and Russia "[w]ill be working together to guard against the possibility of confrontation with nuclear weapons".

(3) When the Soviet Union disintegrated, it left behind an estimated 30,000 nuclear warheads, as well as sufficient plutonium and highly enriched uranium to produce more than 40,000 additional weapons. Most of this material is not secure and is therefore vulnerable to theft by potential terrorists.

(4) In 1992, the United States adopted the new strategy of containment; and

(5) It is the stated goal of the Department of Energy to complete comprehensive security and accountability upgrades through programs under the Nuclear Threat Reduction Act of 1991 for all of the former weapons usable nuclear material in the Soviet Union by 2008. However, to date, less than 50 percent of such nuclear materials and warheads have been acquired of such weapons usable nuclear material and fissile material.

(6) Acquiring fissile materials is the most difficult step for terrorists to build a nuclear weapon, and also the easiest step for the United States and friendly nations to stop, making control over fissile material an important line of defense for preventing terrorist groups from using nuclear weapons.

(7) It has now been nearly 10 years since Congress first received testimony about the risk of theft of nuclear material in the former Soviet Union.

(8) Statements by Osama bin Laden and other terrorist leaders have made it clear that terrorists will stop at nothing to obtain nuclear weapons material and fissile material.

(9) In February 2003 Porter Goss, Director of the Central Intelligence Agency, testified that sufficient Russian nuclear material was unaccounted for to enable terrorists to build a nuclear weapon.

(10) The September 11, 2001, terrorist attacks on the United States highlighted the importance of preventing terrorists from obtaining nuclear weapons or fissile material, yet the pace of progress toward that goal has decreased when compared with the years immediately preceding those attacks.

(11) The National Commission on Terrorist Attacks on the United States (September 11th Commission) concluded that a "maximum effort was required to keep nuclear weapons and fissile material out of terrorist hands.

(12) Securing only a portion of the loose nuclear material is insufficient because terrorists seeking nuclear weapons materials will likely seek out the worst defended sites.

(13) A new report published by the Project on Managing the Atom at Harvard University and the Nuclear Threat Initiative, entitled "Securing the Bomb 2005", concluded that a "dramatic acceleration will be needed to close the [Department of Energy's] stated goal of finishing upgrades by less than 4 years from now.

(14) In January 2001, a bipartisan task force chaired by Howard Baker, former Majority Leader of the Senate and Lloyd Butler, former White House counsel, concluded that "the most urgent, unmet national security threat to the United States today is the danger that weapons of mass destruction or weapons usable material in Russia could be stolen and sold to terrorists or hostile nation states, or used against American troops abroad or citizens at home.

(15) Many reports, including the report referred to in paragraph (14), have called for a single, strategic plan to secure nuclear material in the former Soviet Union, but none has yet been produced.

(16) The urgency for this work is demonstrated by the fact that custom officials in Russia reported in 2000, 2001, and 2002 attempts to smuggle nuclear or radiological materials out of Russia in 2004.
(17) While an increasing number of nuclear sites in Russia have been secured, the remaining unsecured sites include several very sensitive locations that hold vast stocks of nuclear material.

(18) Concentrated attention to these sensitive sites is required, including an effort to increase the seriousness with which the Government of Russia takes the public in Russia view the problem, in order to help overcome remaining issues of access, liability, and location of Russian resources which have long hampered progress on the objectives of the Soviet Nuclear Threat Reduction Act of 1991.

(19) The horrific terrorist attack on schoolchildren in Russia last year has helped to reinforce attention in Russia to problems of terrorism, including nuclear terrorism, making United States support for these efforts all the more crucial at this time.

(20) Eliminating onerous certification requirements for cooperative threat reduction programs with Russia, or providing permanent authority to waive those requirements on an annual basis, could significantly accelerate the pace of efforts to secure loose nuclear material and warheads.

(21) Recent developments with the G-8 Global Partnership and the Global Threat Reduction Initiative, as well as funding increases included in the fiscal year 2006 budget request for the Department of Energy, to prescribe per-

SEC. 807. MODIFICATION OF REQUIREMENTS APPLICABLE TO CONTRACTS AUTHORIZED BY LAW FOR CERTAIN MILITARY MATERIAL.

(a) INCLUSION OF COMBAT VEHICLES UNDER REQUIREMENTS OF TITLE 10, UNITED STATES CODE, IS AMENDED—

(1) by striking "vessel or aircraft" each place it appears and inserting "aircraft, or combat vehicle; and"

(ii) management contractors obtain access to the program.

(b) The Secretary of Defense shall submit to the Secretary and the congressional committees—

(c) For the purposes of this section, a major defense acquisition program may be commenced where the milestone decision authority approves entry of the program into the initial phase of the acquisition process applicable to the program.

(2) C ONTENT.—The table of sections at the beginning of chapter 144 of such title is amended by striking the item relating to section 2301 and inserting the following new item:

"2301a. Major defense acquisition programs: requirement for analysis of alternatives"

"(a) No major defense acquisition program may be commenced before the completion of an analysis of alternatives with respect to such program.

(b) For the purposes of this section, a major defense acquisition program is commenced when the milestone decision authority approves entry of the program into the initial phase of the acquisition process applicable to the program.

(c) The table of sections at the beginning of chapter 144 of such title is amended by inserting after the item relating to section 2301 the following new item:

"2301a. Major defense acquisition programs: requirement for analysis of alternatives"

"(d) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act, and shall apply with respect to major defense acquisition programs commenced on or after that date.

SEC. 808. REQUIREMENT FOR ANALYSIS OF ALTERNATIVES FOR MAJOR DEFENSE ACQUISITION PROGRAMS.

(a) REQUIREMENT.—

(1) IN GENERAL.—Chapter 144 of title 10, United States Code, is amended by inserting after section 2301 the following section:

"2301a. Major defense acquisition programs: requirement for analysis of alternatives

"(a) No major defense acquisition program may be commenced before the completion of an analysis of alternatives with respect to such program.

(b) For the purposes of this section, a major defense acquisition program is commenced when the milestone decision authority approves entry of the program into the initial phase of the acquisition process applicable to the program.

(c) The table of sections at the beginning of chapter 144 of such title is amended by inserting after the item relating to section 2301 the following new item:

"2301a. Major defense acquisition programs: requirement for analysis of alternatives"

"(d) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act, and shall apply with respect to major defense acquisition programs commenced on or after that date.

SEC. 809. MANAGEMENT CONTRACTS FOR MAJOR DEFENSE ACQUISITION PROGRAMS.

(a) REGULATIONS REGARDING MANAGEMENT CONTRACTS.—

(1) REGULATIONS REQUIRED.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall prescribe regulations on management contracts for the acquisition by the Department of Defense of major systems.

(2) CONTENT.—The regulations prescribed under paragraph (1) shall—

(A) define the respective rights of the Department of Defense, the management contractors, and other contractors that participate in the development or production of any individual element of the major weapon system (including any management contracts in intellectual property that is developed by the other participating contractors in a manner that ensures that—

(i) the Department of Defense obtains appropriate rights in technical data developed by the other participating contractors in accordance with the requirements of section 2520 of title 10, United States Code; and

(ii) management contractors obtain access to technical data developed by the other participating contractors to execute their obligations under such management contracts;
(B) include specific measures to prevent—
(1) organizational conflicts of interest on the part of management contractors; and
(2) the performance of inherently governmental functions by management contractors;
(C) require that a management contractor in a management contract with system responsibility use competitive procedures for each subcontract in excess of the simplified acquisition threshold, unless one of the circumstances described in paragraphs (1) through (3) of title 10, United States Code, applies to the award of such subcontract; and
(D) prohibit a management contractor in a management contract without system responsibility from having any financial interest in the development or production of any individual element of the major weapon system, unless the Secretary of Defense determines in writing that it is necessary in the interest of the national defense for the management contractor to participate in the development or production of a particular element of the major weapon system.

(b) REGULATIONS PROHIBITING PASS-THROUGH CHARGES

(1) REGULATIONS REQUIRED.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall prescribe regulations prohibiting pass-through charges on contracts or subcontracts (or task or delivery orders) that are entered into for or on behalf of the Department of Defense that are in excess of the simplified acquisition threshold.

(2) SCOPE OF REGULATIONS.—The regulations prescribed under this paragraph shall not apply to any firm, fixed-price contract or subcontract (or task or delivery order) that is awarded on the basis of adequate price competition.

(c) DEFINITIONS.—In this section:

(1) The term ‘‘management contract’’ includes contracts with system responsibility and management contracts without system responsibility.

(2) The term ‘‘management contract with system responsibility’’ means a Federal agency contract (or task or delivery order) for the development or production of a major system under which the prime contractor is not expected at the time of award to perform work constituting at least 20 percent of the cost of manufacturing the major system.

(3) The term ‘‘management contract without system responsibility’’ means a Federal agency contract (or task or delivery order) for the procurement of services, the primary purpose of which is to perform acquisition functions closely associated with inherently governmental functions with regard to the development or production of a major system.

(4) The term ‘‘management contractor’’ means the prime contractor under a management contract.

(5) The term ‘‘major system’’ has the meaning given such term in section 2383(b)(3) of title 10, United States Code.

(6) The term ‘‘pass-through charge’’ means a charge by a covered contractor or subcontractor for overhead or profit on work performed by a covered lower-tier contractor (other than charges for the direct costs of managing lower-tier contracts and overhead and profit based on such direct costs).

(7) The term ‘‘covered contractor’’ means the following:

(A) A contractor that assigns work accounting for more than 90 percent of the cost of contract performance (not including overhead or profit) for any particular weapon system under such contract to subcontractors.

(B) With respect to a covered contractor described by paragraph (7)(A) in a contract, any lower-tier subcontractor under such contract.

(C) With respect to a covered contractor described by paragraph (7)(B) in a contract, any and all subcontractors under such contract for which such covered contractor has assigned work accounting for more than 90 percent of the cost of contract performance (not including overhead or profit).

(D) In the case of a contract providing for a management contract with system responsibility use competitive procedures for each subcontract in excess of the simplified acquisition threshold, unless one of the circumstances described in paragraphs (1) through (3) of title 10, United States Code, applies to the award of such subcontract; and

(E) In the case of a contract providing for a management contract without system responsibility from having any financial interest in the development or production of any individual element of the major weapon system, unless the Secretary of Defense determines in writing that it is necessary in the interest of the national defense for the management contractor to participate in the development or production of a particular element of the major weapon system.

SEC. 1073. UNIFORM STANDARDS FOR THE INTERROGATION OF PERSONS UNDER THE DETENTION OF THE DEPARTMENT OF DEFENSE.

(a) LIMITATION ON INTERROGATION TECHNIQUES

(1) IN GENERAL.—No person in the custody or under the effective control of the Department of Defense or under detention in a Department of Defense facility shall be subject to any treatment or technique of interrogation not authorized by and listed in the United States Army Field Manual on Intelligence Interrogation.

(2) APPLICABILITY.—Paragraph (1) shall not apply to with respect to any person in the custody or under the effective control of the Department of Defense, for providing goods and services to the United States, criminal law or immigration law of the United States.

(b) PROHIBITION ON INCLUSION OF CERTAIN INTERROGATION TECHNIQUES IN ARMY FIELD MANUAL.—No interrogation technique may be included as an authorized interrogation technique within the United States Army Field Manual on Intelligence Interrogation if such technique constitutes torture or cruel, inhuman, or degrading treatment or punishment that is prohibited by the Constitution, laws, or treaties of the United States.

(c) PRECEDENCE TO CONGRESSIONAL DIRECTIVE.—Not later than 30 days before issuing any revision to the United States Army Field Manual on Intelligence Interrogation, including an authorization of additional interrogation techniques, the Secretary of Defense shall submit to the congressional defense committees a report on such revision.

(d) REGISTRATION WITH INTERNATIONAL RED CROSS.—Each individual described in subsection (a) who is a national of a foreign country shall be registered with the International Committee of the Red Cross.

SEC. 1058. Mr. WARNER 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:

SEC. 1009. REIMBURSEMENT FOR COSTS INCURRED IN PROVIDING GOODS AND SERVICES TO THE UNITED STATES DEPARTMENT OF DEFENSE.

The Department of Defense shall be reimbursed on an annual basis by any executive agency for the total amount of the unreimbursed direct and indirect costs incurred during each fiscal year by the Department of Defense for providing goods and services to such agency.

SEC. 1059. Mr. WARNER submitted an amendment intended to be proposed by 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:
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 28, between lines 10 and 11, insert the following:

SEC. 203. FUNDING FOR DEVELOPMENT OF DISTRIBUTED GENERATION TECHNOLOGIES.

(a) INCREASE IN FUNDS AVAILABLE TO NAVY FOR RESEARCH, DEVELOPMENT, TEST, AND EVALUATION.—The amount authorized to be appropriated by section 201(2) for research, development, test, and evaluation for the Navy for procurement, Ammunition, is hereby increased by $1,000,000, with the amount of such increase to be available for research on and facilitation of technology for converting obsolete chemical munitions to fertilizers.

(b) REDUCTION IN FUNDS AVAILABLE TO AIR FORCE FOR RESEARCH, DEVELOPMENT, TEST, AND EVALUATION.—The amount authorized to be appropriated by section 301(4) for operation and maintenance for the Air Force is hereby reduced by $5,000,000.

SA 1562. Mr. WARNER (for himself and Mr. LEAHY) submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 371, between lines 8 and 9, insert the following:

SA 2851. COMMISSIONER OF THE MUSEUM.

SEC. 2851. LEASE OF UNITED STATES NAVY NAVAL YARD DISTRICT OF COLUMBIA.

(a) LEASE AUTHORIZED.—The Secretary of the Navy may lease to the Smithsonian Institution (in this section referred to as the "Institution") the United States Naval Yard (in this section referred to as the "Naval Yard") in the District of Columbia, for the term of 99 years, with option for additional 99 year terms.

(b) LIMITATION.—Any activities carried out under subsection (a) shall be consistent with the purposes of the Naval Yard.

(c) USE OF PROCEEDS.—The Secretary shall use amounts received under subsection (b) to cover the costs of operating and maintaining the Naval Yard.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the lease under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

PART III—AIR FORCE CONVEYANCES

SA 1564. Mr. WARNER 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:

SA 1565. Mr. WARNER 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 357, strike line 20 and insert the following:

PART II—NAVY CONVEYANCES

SEC. 2851. LEASE OF UNITED STATES NAVY NAVAL YARD DISTRICT OF COLUMBIA.

(a) LEASE AUTHORIZED.—The Secretary of the Navy may lease to the Smithsonian Institution the United States Naval Yard in the District of Columbia, that house the United States Naval History Museum (in this section referred to as the "Museum") of the United States, for the term of 99 years, with option for additional 99 year terms.

(b) LIMITATION.—Any activities carried out at the leased facilities under paragraph (1) must be consistent with the purposes of the Museum.

(c) USE OF PROCEEDS.—The amounts appropriated for fiscal year 2006 for the lease of facilities under subsection (a) may not exceed the actual cost, as determined by the Secretary, of the annual operation and maintenance of the facilities.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the lease under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.
(A) by redesignating paragraph (4) as paragraph (5); and
(B) by inserting after paragraph (3) the following new paragraph (4):

"(4) LICENSING REQUIREMENTS.—

"(A) AUSTRALIA.—Subject to section 1205 of the National Defense Authorization Act for Fiscal Year 2006, the requirements for a bilateral agreement described in paragraphs (1)(A)(ii), (2)(A)(i), and (2)(A)(ii) shall not apply to a bilateral agreement between the United States Government and the government of the United Kingdom for an exemption from the licensing requirements of this Act after such agreement enters into force.

"(B) UNITED KINGDOM.—Subject to section 1205 of the National Defense Authorization Act for Fiscal Year 2006, the requirements for a bilateral agreement described in paragraphs (1)(A)(ii), (2)(A)(i), and (2)(A)(ii) shall not apply to a bilateral agreement between the United States and Australia with respect to transfers or changes in end use of defense items within Australia that will remain subject to the licensing requirements of this Act after such agreement enters into force.

"(C) UNITED STATES.—Subject to section 1205 of the National Defense Authorization Act for Fiscal Year 2006, the requirements for a bilateral agreement described in paragraphs (1)(A)(ii), (2)(A)(i), and (2)(A)(ii) shall not apply to a bilateral agreement between the United States and the United Kingdom for an exemption from the licensing requirements of this Act.

(2) CONFORMING AMENDMENT.—Paraphrase (2) of such subsection is amended in the matter preceding subparagraph (A) by striking "A bilateral agreement" and inserting "Except as provided in paragraph (4), a bilateral agreement".

(3) CERTIFICATIONS.—Not later than 30 days before issuing an exemption from the licensing requirements of the International Traffic in Arms Regulations in accordance with any bilateral agreement entered into with the United Kingdom or Australia under section 38(j) of the Arms Export Control Act (22 U.S.C. 2778(j)), as amended by subsection (c), the President shall certify to the appropriate congressional committees that such agreement—

(1) is in the national interest of the United States and will not in any way affect the goals and policy of the United States under section 1 of the Arms Export Control Act (22 U.S.C. 2751);

(2) will be void if such country quantitatively or qualitatively increases the export of defense items to the People's Republic of China;

(3) does not adversely affect the efficacy of the International Traffic in Arms Regulations to provide consistent and adequate controls for licensed exports of United States defense items; and

(4) does not adversely affect the duties or requirements of the Secretary of State under the Arms Export Control Act.

(4) NOTIFICATION OF BILATERAL LICENSING EXEMPTIONS.—Not later than 30 days before authorizing an exemption from the licensing requirements of the International Traffic in Arms Regulations in accordance with any bilateral agreement entered into with the United Kingdom or Australia under section 38(j) of the Arms Export Control Act (22 U.S.C. 2778(j)), the President shall submit to the appropriate congressional committees the text of the regulations that authorize such a licensing exemption.

(5) REPORT ON CONSULTATION ISSUES.—Not later than one year after the date of the enactment of this Act and annually thereafter, for each of the following 5 years, the President shall submit to the appropriate congressional committees a report on issues raised during any consultations conducted under the terms of any bilateral agreement entered into with Australia under section 38(j) of the Arms Export Control Act, or under any bilateral agreement entered into with the United Kingdom under such section, for exemption from the licensing requirements of the Arms Export Control Act (22 U.S.C. 2761 et seq.). Each report shall contain—

(1) information on any notices or consultations with either government on the effectiveness of the defense trade control systems of such government;

(2) information on provisions and procedures undertaken pursuant to—

(A) any agreement between the United Kingdom with respect to the handling of United States origin defense items exempt from the licensing requirements of the Arms Export Control Act by persons and entities qualified to receive such items in the United Kingdom; and

(B) any agreement with Australia with respect to the handling of United States origin defense items exempt from the licensing requirements of the Arms Export Control Act by persons and entities qualified to receive such items in Australia;

(3) information on consultations or steps taken pursuant to any agreement with the United Kingdom or any agreement with Australia;

(4) information on any new understandings, including the text of such understandings, between the United States and the United Kingdom concerning cooperation and consultation for the transshipment of any agreement with Australia concerning cooperation and consultation with either government on the effectiveness of the defense trade control systems of such government;

(5) information on any new understandings, including the text of such understandings, between the United States and Australia concerning cooperation and consultation with each other government on the effectiveness of the defense trade control systems of such government;

(6) information on consultations with the Government of the United Kingdom or the Government of Australia concerning the legal enforcement of any such agreements;

(7) information on United States origin defense items with respect to which the United States has provided an exception under the Memorandum of Understanding between the United States and the United Kingdom and any agreement between the United States and Australia from the requirement for United States Government re-export consent that was not provided for under United States laws and regulations in effect on the date of the enactment of this Act; and

(8) information on any significant concerns that have arisen between the Government of Australia or the Government of the United Kingdom and the United States concerning any aspect of any bilateral agreement between such country and the United States to gain exemption from the licensing requirements of the Arms Export Control Act.

(6) SPECIAL NOTIFICATIONS.—The Secretary of State shall notify the appropriate congressional committees not later than 90 days after receiving any credible information on any bilateral agreement described in paragraph (4) that has the potential to increase or diversion of United States exports of goods or services made pursuant to any agreement with a country to gain exemption from the licensing requirements of the Arms Export Control Act. The notification shall be made in a manner that is consistent with any ongoing efforts to investigate and coordinate civil actions or criminal investigations or prosecutions regarding such matters and may be made in classified or unclassified form.

(2) CONTENT.—The notification regarding an unauthorized end-use or diversion of goods or services under paragraph (1) shall include—

(A) a description of the goods or services;

(B) the United States origin of the good or service;

(C) the authorized recipient of the good or service;

(D) a detailed description of the unauthorized end-use or diversion, including any authorized recipient of such unauthorized end-use or diversion;

(E) any enforcement action taken by the Government of the United States; and

(F) any criminal action taken by the government of the recipient nation.

SA 1565.—Mr. WARNER 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, including activities for the Armed Forces, on the following basis:

SEC. 1023. TRANSFER OF NAVAL VESSELS TO CERTAIN FOREIGN RECIPIENTS.

(a) TRANSFERS BY GRANT.—The President is authorized to transfer to foreign recipients on a grant basis under title 51 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321), as follows:

(1) INDIA.—To the Government of India, the OSPREY class minehunter coastal ship PELICAN (MHC-53).

(2) EGYPT.—To the Government of Egypt, the OSPREY class minehunter coastal ships CARDINAL (MHC-60) and RAVEN (MHC-61).

(3) PACIFIC OCEAN.—To the Government of Turkey, the SPRUCANCE class destroyer ship CUSHING (DD-985).

(4) TURKEY.—To the Government of Turkey, the SPRUCANCE class destroyer ship O'BANNON (DD-987).

(b) TRANSFERS BY SALE.—The President is authorized to transfer vessels to foreign recipients on a sale basis under section 21 of the Arms Export Control Act (22 U.S.C. 2761).
any expense incurred by the United States in connection with a transfer authorized under subsection (a) shall be charged to the recipient.

(e) REPAIR AND REFRUBISHMENT IN UNITED STATES SHIPYARDS.—To the maximum extent practicable, the President shall require, as a condition of the transfer of a vessel under this section, that the country to which the vessel is transferred have such repair or refurbishment of the vessel as is needed before the vessel joins the naval forces of that country. The Secretary of Defense shall notify, in writing, the congressional defense committees of such revision.

(f) EXPIRATION OF AUTHORITY.—The authority under subsection (c) to enter into an agreement under this section shall expire at the end of the 2-year period beginning on the date of the enactment of this Act.

SA 1566. 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:

SEC. 509. APPLICABILITY OF OFFICER DISTRIBUTION AND STRENGTH LIMITATIONS TO OFFICERS SERVING IN INTELLIGENCE COMMUNITY POSITIONS.

(a) In General.—Section 508 of title 10, United States Code, is amended to read as follows:

"§ 508. Exclusion: officers serving in certain intelligence positions. "

(1) EXCLUSION OF OFFICERS SERVING IN CERTAIN CIA POSITIONS.—When either of the individuals serving in a position specified in section 528 of title 10, United States Code, is amended to read as follows:

"§ 528. Exclusion: officers serving in certain intelligence positions."

(b) COVERED POSITIONS.—The positions referred to in this subsection are the following:

"(1) Director of the Central Intelligence Agency.

"(2) Deputy Director of the Central Intelligence Agency.

"(3) ASSOCIATE DIRECTOR OF CIA FOR NATIONAL SECURITY AFFAIRS."

(c) APPLICABILITY.—The standards and procedures established under subsection (a) shall be consistent with United States law and international treaty obligations.

SEC. 1073. UNIFORM STANDARDS AND PROCEDURES FOR TREATMENT OF PERSONS PERSONNEL DETENTION BY THE DEPARTMENT OF DEFENSE.

(a) Uniform Standards and Procedures Established.—The Secretary of Defense shall establish uniform standards and procedures for the detention and interrogation of persons in the custody or under the control of the Department of Defense.

(b) Consistency with Law and Treaty Obligations.—The standards and procedures established under subsection (a) shall be consistent with United States law and international treaty obligations.

(c) Applicability.—

(1) In General.—The standards and procedures established under subsection (a) shall apply to activities involving persons in the custody or under the control of the Department of Defense, and to such activities conducted within the United States by the Department of Defense, regardless of whether such activities are conducted by Department of Defense personnel, Department of Defense contractor personnel, or contractor personnel of any other department, agency, or element of the United States Government.

(2) Exception.—The standards and procedures established under subsection (a) shall not apply with respect to any person in the custody or under the control of the Department of Defense pursuant to a criminal law or immunity provided by the United States.

(d) Construction.—Nothing in this section shall affect such rights, if any, under the Constitution of the United States of any person in the custody of the Department of Defense.

(e) Notice to Congress of Revision.—Not later than 90 days before issuing any revision to the standards and procedures established under subsection (a), the Secretary of Defense shall notify, in writing, the congressional defense committees of such revision.

(f) Interpretation.—Nothing in this section shall affect the authority of the Secretary of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personal strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subsection A of title V, add the following:

SEC. 528. EXCLUSION: OFFICERS SERVING IN CERTAIN CIA POSITIONS.

(a) IN GENERAL:—Not later than 90 days after the date of the enactment of this Act, 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 personal 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 V, add the following:

SEC. 528. EXCLUSION: OFFICERS SERVING IN CERTAIN CIA POSITIONS.

(a) IN GENERAL:—The standards and procedures established not later than 60 days after the date of the enactment of this Act shall be consistent with United States law and international treaty obligations.

(b) COVERED POSITIONS:—The positions referred to in this subsection are the following:

"(1) Director of the Central Intelligence Agency.

"(2) Deputy Director of the Central Intelligence Agency.

"(3) ASSOCIATE DIRECTOR OF CIA FOR NATIONAL SECURITY AFFAIRS."
SA 1569. Mr. NELSON of Nebraska (for himself and Mr. WYDEN) 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, insert the following:

SEC. 1205. APPLICATION OF THE GENEVA CONVENTION TO ENEMY COMBATANTS.

(a) FINDING.— Congress finds that the executive branch has the authority to detain enemy combatants.

(b) ENEMY COMBATANT DEFINED.—In this section, the term ‘‘enemy combatant’’ means any individual who:

(1) is held by personnel of the Department of Defense at a facility under the control of the Secretary of Defense, including the naval base at Guantanamo Bay;

(2) is accused of knowingly—

(A) planning, authorizing, committing, aiding, or abetting one or more terrorist acts against the United States; or

(B) being part of or supporting forces engaged in armed conflict against the United States;

(3) is not a United States person or lawful permanent resident and

(4) is not a prisoner of war within the meaning of the Convention Relative to the Treatment of Prisoners of War, dated at Geneva August 12, 1949 (6 UST 3316).

(c) APPLICATION OF GENEVA CONVENTION.—The President shall treat each enemy combatant in accordance with all the terms of the Convention Relative to the Treatment of Prisoners of War, dated at Geneva August 12, 1949 (6 UST 3316).

(d) ANNUAL REPORT.—

(1) REQUIREMENT.—The Secretary of Defense shall submit to Congress an annual report on enemy combatants, including—

(A) for each enemy combatant detained by the United States on the date that is 30 days prior to the submission of such report—

(i) the name and nationality of the enemy combatant;

(ii) the period during which the enemy combatant has been so detained; and

(iii) a description of the specific process afforded to the enemy combatant and the outcome of those processes; and

(B) for each individual who was detained as an enemy combatant and released prior to the date referred to in subparagraph (A)—

(i) the name and nationality of the individual;

(ii) the terms of the conditional release agreement with respect to the individual;

(iii) a statement of the basis for the determination of the United States Government that such an individual was released and warranted; and

(iv) the period during which the person was so detained, including the release date of the individual.

(2) FORM OF REPORT.—Each report required by this subsection shall be submitted in unclassified form, but may include a classified annex.

SA 1570. Mr. DURBIN 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 298, between lines 7 and 8, insert the following:

SEC. 1072. PROHIBITION ON TORTURE AND CRUEL, INHUMAN, OR DEGRADING TREATMENT OR PUNISHMENT.

(a) Prohibition.—The Secretary of Defense, or any person in the custody of the United States, shall not authorize or permit any such person to be treated in the custody or control of the United States in a manner which—

(1) violates any provision of the Geneva Conventions of 1949 (6 UST 3316).

(b) Definition.—As used in this section—

(1) the term ‘‘torture’’ has the meaning given in section 2340(1) of title 18, United States Code; and

(2) the term ‘‘cruel, inhuman, or degrading treatment or punishment’’ means conduct which would constitute cruel, unusual, and inhumane treatment prohibited by the fifth amendment, eighth amendment, or fourteenth amendment to the Constitution of the United States if the conduct took place in the United States.

SA 1571. Mr. DURBIN (for himself, Ms. MUKULSKY, Mr. ALLEN, Mr. GRAHAM, Ms. LANDRIEU, Mr. LEAHY, Mr. BARAKAT, Mr. LUTTENBERG, Mr. BINGHAM, Mr. KERRY, Mr. SALAZAR, Mr. CORZINE, Mr. CHAPREE, Mrs. LINCOLN, Mr. BIDEN, Mr. KENNEDY, Mrs. MURRAY, and Mr. NELSON of Florida) 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 XI, add the following:

SEC. 1106. NONREDUCTION IN PAY WHILE FEDERAL EMPLOYEE IS PERFORMING ACTIVE SERVICE IN THE UNIFORMED SERVICES OR NATIONAL GUARD.

(a) Short Title.—This section may be cited as the ‘‘Reservists Pay Security Act of 2005’’.

(b) In General.—Subchapter IV of chapter 55 of title 5, United States Code, is amended by adding at the end the following:

‘‘§ 5538. Nonreduction in pay while serving in the uniformed services or National Guard.

‘‘(a) An employee who is absent from a position of employment with the Federal Government in order to perform active duty in the uniformed services pursuant to a call or order to active duty under a provision of law referred to in section 101(a)(13)(B) of title 10 shall be entitled, while serving on active duty, to be paid by the employer for each pay period described in subsection (b), an amount equal to the amount by which—

(1) the amount of basic pay which would otherwise have been payable to such employee for such pay period if such employee’s civilian employment with the Government had not been interrupted by that service, exceeds (if at all)

(2) the amount of pay and allowances which (as determined under subsection (d))—

(A) is payable to such employee for that service; and

(B) is allocable to such pay period.

(‘‘b(1) Amounts under this section shall be paid with respect to such fiscal year (which would otherwise apply if the employee’s civilian employment had not been interrupted).

(d) Effective Date.—The amendments made by this section shall apply with respect to pay periods (as described in section 5538(b) of title 5, United States Code, as amended by this section) beginning on or after the date of enactment of this Act.

SA 1572. Mr. KOHL 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, insert the following:

SEC. 1093. HEALTH SERVICE PROGRAMS.

Section 7901 of title 5, United States Code, is amended—

(1) in subsection (a), by inserting "or members of the components of the Armed Forces" after "employees"; and

(2) in subsection (b)(2), by inserting "or members of the components of the Armed Forces" after "employees".

SA 1573. Ms. SNOWE (for herself and Ms. COLLINS) 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 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. NAVY HUMAN RESOURCES BENEFIT CALL CENTER.

(a) ADDITIONAL AMOUNT FOR OPERATION AND MAINTENANCE, NAVY.—The amount authorized to be appropriated by section 301(2) for operation and maintenance for the Navy is hereby increased by $1,500,000.

(b) AVAILABILITY OF AMOUNT.—Of the amount authorized to be appropriated by section 301(2) for operation and maintenance for the Navy, as increased by subsection (a), $1,500,000 may be available for Civilian Manpower and Personnel for a Human Resources Benefit Call Center in Machias, Maine.

SA 1574. Mr. VOINOVICH (for himself and 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 B of title I, add the following:

SEC. 114. SECOND DOMESTIC SOURCE FOR PRODUCTION AND SUPPLY OF TIRES FOR THE STRYKER COMBAT VEHICLE.

(a) REQUIREMENT.—The Secretary of the Army shall develop a second domestic source for the production and supply of tires for the Stryker combat vehicle. The source shall be such a source as the Secretary determines is capable of meeting the capacity of the industrial base in the United States to meet such requirements, and 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. HYFIRE REUSABLE LOX/LNG PROPULSION TECHNOLOGY.

(a) ADDITIONAL AMOUNT FOR RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE.—The amount authorized to be appropriated by section 201(3) for research, development, test, and evaluation for the Air Force is hereby increased by $2,000,000.

(b) AVAILABILITY OF AMOUNT.—Of the amount authorized to be appropriated by section 201(3) for research, development, test, and evaluation for the Air Force, as increased by subsection (a), $2,000,000 may be available for Aerospace Propulsion Power Technology (PE #693216F) for HyFire Reusable LOX/LNG Propulsion Technology.

(c) OFFSET.—The amount authorized to be appropriated by section 102(a)(4) for other procurement for the Navy is hereby reduced by $2,000,000, with the amount of the reduction to be allocated to amounts available for Ordnance Support Equipment, Ship Missile Systems Equipment for the Phalanx SeaRAM.

SA 1576. Mr. SESSIONS 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. NEXT GENERATION INTERCEPTOR MATERIALS.

(a) ADDITIONAL AMOUNT FOR RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY.—The amount authorized to be appropriated by section 201(3) for research, development, test, and evaluation for the Army is hereby increased by $3,000,000.

(b) AVAILABILITY OF AMOUNT.—Of the amount authorized to be appropriated by section 201(3) for research, development, test, and evaluation for the Army, as increased by subsection (a), $3,000,000 may be available for Next Generation Interceptor Materials, including the Information specified in subsection (a).

(c) OFFSET.—The amount authorized to be appropriated by section 102(a)(4) for other procurement for the Army is hereby reduced by $3,000,000, with the amount of the reduction to be allocated to amounts available for Ordnance Support Equipment, Ship Missile Systems Equipment for the Phalanx SeaRAM.

SA 1577. Mr. NELSON of Nebraska 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. ADDITIONAL LEAVE FOR MEMBERS OF THE ARMED FORCES IN CONNECTION WITH CERTAIN PRE-ADOPTION ACTIVITIES.

(a) AUTHORITY TO GRANT ADDITIONAL LEAVE.—Section 701 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(i) The Secretary concerned may, under uniform regulations prescribed by the Secretary of Defense, grant a member of the armed forces adoption leave of up to 21 days of leave to be used in connection with the legal placement of the child in the home of the member in anticipation of the finalization of the adoption.

"(ii) In the event that two members of the armed forces who are spouses of each other adopt a child for which leave may be granted under this subsection, only one such member shall be granted leave in connection with such adoption under this subsection.

"(iii) Leave under this subsection is in addition to leave provided under any other provision of this section."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on January 1, 2006.

SA 1578. Mr. DURBIN 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 VIII, add the following:

SEC. 807. REPORTS ON SIGNIFICANT INCREASES IN PROGRAM ACQUISITION UNIT COSTS OR PROCUREMENT UNIT COSTS OF MAJOR DEFENSE ACQUISITION PROGRAMS.

(a) INITIAL REPORT REQUIRED.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on the acquisition status of each major defense acquisition program whose program acquisition unit cost or procurement unit cost, as of the date of the enactment of this Act, has exceeded by more than 50 percent the original baseline projection for such unit cost. The report shall include the information specified in subsection (b).

(b) ADDITIONAL REPORTS.—Not later than 90 days after the date on which the Secretary...
structures of the Department and the Registry. Each report shall include the baseline projection for such unit cost, the major defense acquisition program has experienced, and the procedures for submitting notice of enrollment in the Registry. (f) DEPARTMENT OF DEFENSE RESPONSIBILITY FOR MAINTENANCE AND COLLECTION.—The Department of Defense shall be solely responsible for maintaining the Registry and for enrolling individuals in the Registry. The Department may not maintain the Registry or enroll individuals in the Registry by contract or otherwise utilizing for military recruitment purposes any information obtained or information with respect to such individuals, including (but not limited to) information specified in subsection (1). The registry shall be known as the “Student Privacy Protection Registry” (in this section referred to as the “Registry”).

(b) SINGLE REGISTRY.—(1) IN GENERAL.—The Registry shall be the sole source of information on individuals described in subsection (a). The Secretary shall not maintain separate or local registries or databases of information on such individuals in addition to the Registry.

(2) ACCESS.—In order to facilitate compliance with the requirement in paragraph (1), the Secretary shall ensure access to the Registry by all individuals engaged in military recruitment activities.

(c) INDIVIDUALS ELIGIBLE TO ENROLL IN REGISTRY.—(1) IN GENERAL.—The following individuals may enroll in the Registry:

(A) Any individual who is older than 15 years of age but younger than 18 years of age.

(B) Any individual who is older than 17 years of age but younger than 26 years of age.

(2) ENROLLMENT OF CERTAIN INDIVIDUALS BY PARENTS.—An individual described by paragraph (1)(A) may enroll in the Registry or be enrolled in the Registry by a parent of such individual.

(d) ENROLLMENT IN REGISTRY.—(1) IN GENERAL.—An individual shall be enrolled in the Registry through the submittal to the Secretary of a notice of enrollment in the Registry. (2) CONTENTS OF NOTICE.—A notice under paragraph (1) shall include only the full name (first, middle, and last name), date of birth, address, and telephone number of the individual covered by the notice.

(3) MECHANISMS FOR SUBMITTAL OF NOTICE.—The Secretary shall establish a variety of mechanisms for the submittal of notices under paragraph (1). Such mechanisms shall include—

(A) a toll-free telephone number (commonly referred to as an “800 number”) established by the Secretary for purposes of this section;

(B) a prominently displayed Internet link from the Internet homepage of the Department of Defense to the Internet webpage for the submittal and receipt of notices;

(C) a physical address to which notices may be sent and will be received; and

(D) such other mechanisms as the Secretary considers appropriate.

(4) UTILIZATION OF NOTICE INFORMATION.—Any information in the Registry in a notice under paragraph (1) shall be utilized solely for purposes of the Registry, and may not be utilized for any other purposes.

(e) PROHIBITION ON DISSEMINATION OF INFORMATION OBTAINED IN REGISTRY.—The Secretary may not disseminate or disclose to any individual in the military, any other individual, or any other entity any information obtained by the Department of Defense, or obtained by any contractor of the Department, for the purposes of military recruitment activities, including any such information maintained in the military recruitment databases of the Department and the Registry.

(f) COORDINATION OF LAWS RELATING TO INFORMATION FOR REGISTRATION.—(1) ENROLLMENT OUT OF ACCESS TO STUDENT RECRUITING INFORMATION.—The enrollment in the Registry of an individual described by subsection (c)(1)(A) shall be deposited with the request of such individual’s parents that information described by paragraph (1) of section 9582(a) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7908(a)) not be released without prior written parental consent in accordance with paragraph (2) of such section.

(2) OPT OUT OF ACCESS TO STUDENT RECRUITING INFORMATION.—A request pursuant to paragraph (2) of subsection (c)(1)(A) of the Elementary and Secondary Education Act of 1965 by an individual described by subsection (c)(1)(A), or by a parent of such individual, that information described by paragraph (1) of such section 9582(a) not be released without prior written parental consent shall be treated as an enrollment of such individual in the Registry.

(g) PROHIBITION ON DISSEMINATION OF INFORMATION OBTAINED IN REGISTRY.—The Secretary may not disseminate or disclose to any individual in the military, any other individual, or any other entity any information obtained by the Department of Defense, or obtained by any contractor of the Department, for the purposes of military recruitment activities, including any such information maintained in the military recruitment databases of the Department and the Registry.

(h) COORDINATION OF LAWS RELATING TO INFORMATION FOR REGISTRATION.—(1) ENROLLMENT OUT OF ACCESS TO STUDENT RECRUITING INFORMATION.—The enrollment in the Registry of an individual described by subsection (c)(1)(A) shall be deposited with the request of such individual’s parents that information described by paragraph (1) of section 9582(a) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7908(a)) not be released without prior written parental consent in accordance with paragraph (2) of such section.

(2) OPT OUT OF ACCESS TO STUDENT RECRUITING INFORMATION.—A request pursuant to paragraph (2) of subsection (c)(1)(A) of the Elementary and Secondary Education Act of 1965 by an individual described by subsection (c)(1)(A), or by a parent of such individual, that information described by paragraph (1) of such section

PRIVILEGE OF THE FLOOR

Mr. HARKIN. Mr. President, I ask unanimous consent that Chris Erikson and Dree Collory of my staff be granted the privilege of the floor for the duration of today’s session.

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

Mr. JEFFORDS. Mr. President, I ask unanimous consent that Dr. Jonathan Epstein, a legislative fellow in Senator Bingaman’s office, be granted the privilege of the floor during the pending of S. 1042 and any votes thereupon.

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

Mr. REED. I ask unanimous consent that two fellows in my office, Tanya Weinberg and Elizabeth Winkelman, be granted the privilege of the floor for the remainder of today’s session.

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

Mr. HARKIN. Mr. President, I ask unanimous consent that privilege of the floor be granted to Monica Severson during the duration of today’s session.

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