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Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable SAM BROWNBACK, a Senator from the State of Kansas.

PRAYER

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

Let us pray.

Shepherd of our souls, we bring You our burdens and depend on Your strength. Thank You for supplying our needs. When we feel guilt, You supply forgiveness. When we are lonely, You provide companionship. When we are perplexed, You provide guidance. When we feel threatened, You provide protection. When we feel grief, You provide comfort. Thank You for never forgetting us and for loving us throughout life's seasons.

Bless our Senators. Help them to put first things first, ever seeking Your kingdom and righteousness. Strengthen them to stand for something, lest they fall for anything.

We pray it in Your holy Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable SAM BROWNBACK led the Pledge of Allegiance, as follows:

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, August 2, 2006.

To the Senate:

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

TED STEVENS,
President pro tempore.

Mr. BROWNBACK thereupon assumed the Chair as acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

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

SCHEDULE

Mr. FRIST. Mr. President, today we are returning to the Department of Defense appropriations bill. Our two managers opened the debate last night and are ready this morning to continue that debate and consider amendments that may be offered. If Senators have amendments to the bill, they should be contacting Senator STEVENS or Senator INOUYE at this time. If we have a full day today and into the evening, there is no reason we can't complete this bill by Thursday night.

It is also my intention to move today to proceed to the death tax, minimum wage, and extenders package. There is an objection to moving forward on that bill, and therefore I will be filing a cloture motion on the motion to proceed to that bill. We will still be able to continue our work on the Defense bill, as the vote on invoking cloture on the motion to proceed will not likely occur until Friday morning; therefore, there will be votes today as Chairman STEVENS makes progress on the Defense appropriations bill.

I hope we can finish our work this week or this weekend, and if we work together over the next couple of days, we can complete a number of important legislative matters before we leave.

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

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

The legislative clerk proceeded to call the roll.

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

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

RESERVATION OF LEADER TIME

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

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2007

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of H.R. 5631, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 5631) making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes.

Mr. STEVENS. Mr. President, the subcommittee has been presented with some requests pertaining to the use of treatment to deal with the effects of acute radiation syndrome. We believe we do not have sufficient information available to respond to the request for funding for this concept.

I will send to the desk an amendment that will require the Secretary of Defense to submit along with the President's budget for 2008 a plan to deal with countermeasures for treating members of the Armed Forces against the lethal effects of acute radiation syndrome and identify countermeasures required to protect the members of the Armed Forces in the event of a nuclear or bioterrorist attack. We believe we should not move forward and dedicate funds at this time until we have such a plan.

I will yield to our cochairman, if he has comments about this issue.

Mr. INOUYE. Mr. President, we have checked the amendment, and we find that it is worthy of consideration. We approve of it.

AMENDMENT NO. 4762

Mr. STEVENS. Mr. President, I send an amendment to the desk.

The ACTING PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS] proposes an amendment numbered 4762.

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

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

The amendment is as follows:

(Purpose: To require plans to procure medical countermeasures for treating forward deployed members of the Armed Forces against acute radiation syndrome and similar threats)

At the end of title VIII, add the following:

SEC. ____. The Secretary of Defense shall submit to the congressional defense committees, at the same time the budget of the President for fiscal year 2008 is submitted to Congress pursuant to section 1105(a) of title 31, United States Code, a report setting forth the following:

(1) A plan to procure medical countermeasures for purposes of treating forward deployed members of the Armed Forces against the lethal effects of acute radiation syndrome, including neutropenia and thrombocytopenia.

(2) An identification of the countermeasures required to protect members of the Armed Forces in the event of a nuclear or bioterrorist attack.

(3) A plan for the forward deployment of the countermeasures identified under paragraph (2), including an assessment of the costs associated with implementing such plan.

Mr. STEVENS. Mr. President, last evening, on behalf of myself and the Senator from Hawaii, I submitted an amendment and the Senate agreed to the amendment dealing with additional funding on an emergency basis for the Department of Defense. That was offered after consultation with the Department of Defense and also the Office of Management and Budget. It considers a series of things, some of which would be covered by other amendments which I understand other Members have.

I see Senator REED is here now.

The amendment was intended to cover a whole series of issues.

I apologize to the Senator from Rhode Island. I know he wishes to offer an amendment.

I must say that these funds are duplicative, however, and we would have to examine each amendment to see what we will do with it. But we responded to the request of the Department of Defense and the OMB to provide additional emergency money for 2008 so-called reset programs. I will be happy to discuss that with anyone.

The ACTING PRESIDENT pro tempore. The Senator from Rhode Island.

Mr. REED. Mr. President, while I certainly appreciate the efforts last evening of Senator STEVENS and Senator INOUYE to add roughly $13 billion to this appropriations bill for the readiness of the U.S. Army and the Marine Corps, it is emergency spending, but it should come as no surprise that it is necessary.

What I find surprising is that apparently the requests by the Department of the Army, the Department of Defense, and also the OMB were turned down until it became obvious—and publicly obvious—that the readiness condition of the Army and the Marine Corps is the worst it has been in several decades. The principle is the lack of repaired, rehabilitated, and in certain cases replaced equipment. We are in a difficult situation with threats across the globe, with an Army that is heavily committed and a Marine Corps that is heavily committed to both Iraq and Afghanistan, and we are in a situation now in which our readiness is the worst it has been in three decades. This is a situation which requires not only the remedy of money, but it requires accountability.

How did the Department of Defense and this administration allow our military forces to become so degraded? In the judgment of many people, including former Secretary of Defense Bill Perry, myself, and others, two-thirds of the Army's operating force, Active and Reserve is now reporting in as unready. There is not a single non-deployed Army brigade combat team in the United States that is ready to deploy. Our Army currently has no ready strategic reserve. Not since the Vietnam era and its aftermath has the Army's readiness been so degraded.

How did that happen? It is not a surprise. Months ago, in February, I came to this Chamber and proposed an amendment to the tax reconciliation bill which would provide a fund of $50 billion to provide for the reset recapitalization of Army and Marine equipment. I was offsetting that, as I think it is appropriate to do, with the upper income tax breaks that were being voted on in that bill. My measure didn't survive conference, but the tax cuts did. I believe that is an unfortunate paradigm of what is happening here too often.

We are sending soldiers and marines in harm's way, and we are not repairing their equipment. We don't have time to wait until it is too late—until the emergency is upon us. But we have plenty of time to debate tax cuts and estate tax reform.

I can tell you that I served, as so many others did, and in fact, we are privileged to have the chairman and ranking member of this committee as distinguished veterans of the Army Air Corps and U.S. Army. I don't know many soldiers who qualify for the estate tax, but every soldier needs adequate, decent equipment to do their job. Their lives depend upon it.

Yesterday Lieutenant General Blum, chief of the National Guard Bureau, stated:

I am further behind or in more dire situation than the Active Army.

This is the Reserve National Guard forces. The National Guard is charged not only with assisting in operations such as Enduring Freedom and Iraqi Freedom, they are the first line of protection at home. They are the first responders in a hurricane situation. They are in worse shape than our active forces.

At the end of June—again, several weeks ago—at a hearing before the House of Representatives, Congressman IKE SKELTON asked the Chief of Staff of the Army:

Are you comfortable with the readiness level for the non-deployed units that are in the continental United States?

General Schoomaker replied: No. The Chief of Staff of the United States Army says in a public hearing he is not comfortable with the readiness condition of our forces in the United States. That is a stunning admission.

Senator DODD and I were ready to propose an amendment to this Defense bill, along with Senators LAUTENBERG, MIKULSKI, LIEBERMAN, and many others, to try to rectify this. We would offer $10.2 billion in emergency spending. I not only support but commend the leadership of this committee, Senator STEVENS and Senator INOUYE, proposing $13.1 billion. The money is necessary. I concur in their judgment and their action.

This is not a situation where suddenly yesterday someone jumped up and said, we need some money. This is a situation that has been recognized for months. Not only was nothing done, but the budget sent here by the White House was inadequate and they knew it. At a time of war when soldiers are committed, at a time of contest and conflict around the globe when we have to respond to threats, they lowballed money for the Army and the Marine Corps. We can give them all the money we want, but we need a little accountability, also. We didn't reach this position overnight. This was not a midnight discovery. This is years in the making.

The Army told those who would listen that for every year of intense operations in Afghanistan and Iraq, they need $12 billion for reset. Last year we only provided a fraction of that, so this year the bill was $17 billion. Some of those funds cannot be used in this year so it will be pushed forward a bit, but basically we know what is happening. It will continue to happen every year. Twelve billion baseline for reset. If we do not make that number, it is rolled over to next year. This is not going to be a one-time affair. It is an emergency, but it is a chronic emergency. We have to understand the Army will need another $12 billion and the Marine Corps will need another $12 billion next year and the next year, as long as we are committed. It is the real course of

Iraq, the course that seldom is found in speeches about ''staying the course,'' or ''when they stand up, we will stand down.'' We have to pay those costs.

Last October, GAO released a report on military readiness. It assessed the state of 30 pieces of equipment, predominantly tanks, vehicles, helicopters, and aircraft. They made several disturbing operation observations last October:

GAO's analysis showed reported readiness rates declined between fiscal years 1999 and 2004 for most of these items. The decline in readiness, which occurred more markedly in fiscal years 2003 and 2004, generally resulted from, 1, the continued high use of equipment to support current operations and 2, maintenance issues caused by the advancing ages and complexity of the systems. Key equipment items—such as Army and Marine Corps trucks, combat vehicles, and rotary wing aircraft—have been used well beyond normal peacetime use during deployments in support of operations in Iraq and Afghanistan.

Let me relate a story. I was in Fallujah about 3 weeks ago with the 1st Marine Expeditionary Force. They are doing a superb job, as all our forces are. We asked questions about the state of the helicopters. They told us their helicopters are flying 200 percent more than in peacetime. They told us this before we got on the helicopters. We got on anyway because the helicopters are being maintained. But it costs money to maintain those helicopters. It costs money to repair those helicopters. If you fly any helicopter, fixed-wing aircraft, or you drive any military vehicle 200 percent more than its normal allocation, they wear out very quickly. That is what is happening.

A report of the GAO went on to say:

Until the DOD ensures that condition issues for key equipment are addressed, DOD risks a continued decline in readiness trends, which could threaten its ability to continue meeting mission requirements. The military services have not fully identified near and long-term program strategies and funding plans to ensure that all the 30 selected equipment items can meet defense requirements.

Another GAO report released last October assessed the readiness of the Army National Guard. It found:

To meet the demand for certain types of equipment for continuing operations, the Army has required the Army National Guard units to leave behind many items for use by follow-on forces. The Army Guard estimates that since 2003 it has left more than 64,000 items, valued at more than $1.2 billion, overseas to support operations. Without a completed and implemented plan to replace all Guard equipment left overseas, Army Guard units will likely face growing equipment shortages and challenges in regaining readiness for future missions.

Again, this is the Army National Guard. These are the people we expect in the next few weeks to respond to a hurricane if it strikes the gulf coast, the Atlantic coast. These are the folks we expect to respond to earthquakes and to other problems any place in this country. They have left a great deal of their equipment overseas. They need help, also.

In April of this year, still 3 months before the markup of this Defense appropriations bill, the Lexington Institute and the Center for American Progress jointly released the report called ''Army Equipment After Iraq.'' This report clearly stated:

High utilization rates and harsh conditions have greatly accelerated the aging of equipment. A significant amount of equipment is being destroyed due to both combat losses and the wear associated with constant use. Equipment readiness in deployed units has shown a gradual erosion as the service struggles to keep up with maintenance and replacement needs. Readiness in nondeployed units has plummeted as equipment is transferred to deploying units or left behind when troops depart Iraq.

Again, warning bells were sounded, but the administration was deaf. The Army knew the situation was growing increasingly difficult—indeed, perilous. They always knew that there would be a reset bill. Last November, as I suggested, they said it would cost $12 billion a year for each year of ongoing operations until 2 years after that. The Marines estimated at that time that they needed $11.7 billion over a 5-year-period for reset. These figures were confirmed by our March GAO report, entitled ''Preliminary Observations on Equipment Reset Challenges and Issues for the Army and the Marine Corps.'' Again, these pleas for help were ignored.

However, when the Army and Marine Corps submitted their reset needs to the Office of the Secretary of Defense and the Office of the Management and Budget, these requirements, the requirements of the commanders in the field, were slashed. The Army's request was reportedly cut by $4.9 billion and the commanders in the field were not able to submit a rebuttal argument as they have in other administrations. Our military leaders were told what they would get by the budget experts and that was the end of the discussion until it became so painfully obvious and publicly obvious that we are not ready to deploy significant forces that are here in the United States.

In February, the President's budget request was submitted to Congress. The shortfall for reset was obvious. Again, I recognized this, as others did. That is why in February I submitted my amendment to the reconciliation bill to provide a fund of $50 billion over the next several years so we could deal with this readiness problem, not through emergency spending but through an offset where we would use proposed tax cuts for the very wealthiest Americans to buy equipment for our soldiers and marines in the field. This amendment was rejected and the tax cuts went through. The equipment remained unrepaired.

As early as 2005, information on the state of Army and Marine Corps readiness was readily available for all who were willing to pay attention. Billions of dollars would be needed to solve this problem. Now here we are in August of 2006. We are debating the fiscal year 2007 Defense appropriations bill and until last night there was only $2.5 billion in this bill for the Army for their reset needs.

Again, we all must commend and thank the chairman and ranking member for taking the action they did last night. But we have to ask serious questions about an administration that would allow this situation to develop, that would tell commanders that they were not going to get the money they needed to provide for the equipment and troops in the field.

This administration has tried to run a serious war on the cheap. They have tried gimmicks. They have hidden costs. They have failed to admit staggering costs that are involved already. It goes not only to the equipment, but having just returned from Iraq, having observed reconstruction that has produced very little after $30 billion, having listened to Prime Minister Maliki in his speech ask for further reconstruction aid, if we are ever going to make a difference there, we would have to complement our military effort with renewed reconstruction. That is a multibillion dollar proposition. Where are we going to get the money?

I am pleased the Army and Marine Corps will receive this $13.1 billion, but that is just an installment payment. As long as we are committed, we will continue to see this type of expenditure go on and on and on. We have to provide for it, not on an emergency basis, not suddenly with the expression of surprise. We have to understand this will happen again and again and again. Anyone who goes to Iraq or Afghanistan, anyone who has the privilege of being with soldiers, marines, sailors, and airmen, knows the extraordinary sacrifices they make. Anyone who has ever been around a military unit knows one of the quickest ways to undermine morale, undermine the spirit of these troops, is to give them lousy equipment and not repair their equipment. They know their life depends upon the equipment. They also know that it is not the speeches, not the parades, not the flag pins in the lapel that say what you mean about troops; you have to give them what they need to fight. Last evening, we did that.

This administration has to be accountable. I don't understand how we can have both an administration and a Secretary of Defense who would see the readiness numbers that are presented today and deny money, forcing Congress to put it in. There is a gross lack of accountability bordering on dereliction.

Mr. DODD. Will the Senator yield?

Mr. REED. I yield.

Mr. DODD. I commend my colleague from Rhode Island for raising this issue, particularly the point he raised about how long we have known about this.

I commend to my colleagues a report dated March 28 of this year, Army Equipment RESET Update to HAC–D.

I further ask my colleague, just to make the point, this has been known for some time. The fact that the

Commander in Chief did not send up a budget, including the necessary resources knowing exactly what my colleague from Rhode Island has described, is troublesome. I commend him in joining our colleagues who offered the amendment last evening, although I would still suggest we are still in excess of $6 billion short of what our uniformed services are telling us they need.

It might be appropriate here to have an amendment that would include a soft mark that would allow the military, if they are able to do it, have the resource capability to fill in the gaps that are necessary. The amount we are talking about here, based on what we presently know, would allow them to meet what they can do with the money that has been appropriated, yet there is a significant shortfall still, but to make sure the units are going to be combat ready. Lord forbid they are called upon to respond to a crisis in the Korean Peninsula or elsewhere.

I appreciate the comments of my colleague from Rhode Island. I will have some comments myself, and then discuss the possibility of an amendment that might require the soft mark that would not require the spending to occur, but if the military could use those resources, we ought not to deprive them of the cash they need if the units are ready. I do not know if he has any additional comments to make.

Mr. REED. Mr. President, I thank my colleague. He has been extraordinarily active in ensuring us the resources are available for our military forces. I would be happy to explore with him the possibility of additional funding if it is necessary.

Again, let me thank Senator DODD. We traveled together in October of last year to Iraq and saw the great service that is being rendered by our soldiers and the need for the equipment, the honest need. But I will, at this juncture, Mr. President, yield the floor.

Mr. INOUYE. Mr. President, will the Senator yield?

Mr. REED. I yield the floor.

Mr. INOUYE. Mr. President, I wish to join my colleague from Connecticut in commending our leader from Rhode Island for the role he has played in bringing this to our attention. The men and women of the Army and the Marines are fortunate to have the Senator looking after their interests. I thank him very much.

Mr. REED. I thank the Senator.

The PRESIDING OFFICER (Mr. COLEMAN). The Senator from Alaska.

Mr. STEVENS. Mr. President, we join the Senator from Rhode Island, Mr. REED, with his distinguished military career, who has raised this issue. Some time ago, we had reports on this matter of the reset funding and the goal of about $17 billion for that purpose.

I personally visited with Secretary Rumsfeld and Deputy Secretary Gordan England and Admiral Giambastiani about this and asked they check how much was needed for this reset operation and urged them to deal with the Office of Management and Budget so we would not have any problem over the total amount.

If you examine the bill, as we have it now, with the moneys we added last night, and the money that is already in the bridge account, there is the $17 billion there that was requested by the military.

In my trips to Iraq, I visited some of the places where they are up-armoring large trucks and up-armoring some of the humvees and saw some of the activities they were pursuing in order to get better armor on some of the helicopters.

All of this is part of the process, and it is not something new. After the Persian Gulf war we had two separate requests for funds for the reset activities. And ''reset'' is a word of art in the military; that is, to literally reset the force and the equipment so it is usable and ready in the event of another operation, should that be necessary.

But again, we had several sums suggested. And when we went to the OMB and to the Department, they came back with the figures we offered the Senate last night on a bipartisan basis. I think they are sufficient at this time to carry us through. We will have a supplemental in the spring. We all know that. The bridge is to carry us forward through the period until we look at what might be the requirements for the operations going on in some 120 countries. As I said yesterday, in terms of our people in uniform, they are in 120 countries as we speak. So this is an enormous problem to assure that the equipment and all of the systems are brought up to absolute the best state possible.

But again, Senator REED has put forth his comments about this necessity from his military background. We appreciate that, and we agree with him. We agreed with him, and, as a matter of fact, the moneys we added last night were in addition to what the Senator was seeking because they cover some other activities beyond what he was talking about.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I want to take a few minutes, if I can, and speak on similar subject matter. I appreciate the comments of the distinguished Senator from Alaska and my great friend from Hawaii who brings a wealth of knowledge and information, including his personal experiences, of the importance of adequate equipment.

America's soldiers, sailors, airmen, and marines are courageously waging wars on two fronts against terrorism and militant insurgents, with 19,000 U.S. servicemembers still engaged in combat in Afghanistan and 132,000 of our troops in uniform in Iraq, as we speak this morning on the floor of the Senate.

No other military service bears the brunt of these military operations more than the U.S. Army and Marine Corps. And no other Americans are sacrificing more in these wars than the soldiers, marines, and their families involved in these conflicts.

It is therefore critically important, as Senator REED from Rhode Island has pointed out, and my colleagues on the floor—Senator INOUYE and Senator STEVENS—that we pay particular attention to their uniformed leadership when these leaders speak out about equipment shortfalls that they warn could jeopardize our missions and our military's overall combat readiness.

When the U.S. Army's Chief of Staff repeatedly sounds the alarm in testimony before Congress—repeatedly—that the budgets drawn up by the civilian leaders at the Pentagon and the White House have left them with a $17 billion shortfall in vehicles and equipment they need, then we should take heed and listen to what they are saying.

And when our Army and Marine Corps' top leaders are telling us such shortfalls are so severe that major portions of their forces are unprepared for combat duty, then I think we need to take action.

I am deeply concerned, as I think others are, that we are not meeting our obligations to these men and women in uniform. Amendments may serve as a first step toward addressing the needs of our soldiers and marines. Out of the $17 billion identified by the Army Chief of Staff that is needed to address equipment shortfalls, the amendment that was adopted last evening would add $7.8 billion on top of the $2.5 billion that is also included in the underlying bill, and another $5.3 billion for the Marine Corps.

Nonetheless, I remain concerned, as I hope my colleagues are as well, that there remains almost a $7 billion shortfall of what we are being told by the uniformed military leaders we need to address the Army's outstanding requirements, as expressed by GEN Pete Schoomaker, the Army's top general.

As the Senator from Rhode Island has pointed out, these shortfalls have been known for months. The report that I included in the RECORD a moment ago is dated March of this year. They were not suddenly discovered last evening or in the last few days. I have a slide presentation that the Army provided to the House Appropriations Committee on March 28 of this year that specifically identifies all of these shortfalls without exception. And yet, despite that briefing in March, the administration and Congress did little or nothing about it.

Today, I do not think we can stand by—in the remaining days of this Congress—and allow this Congress to proceed further without addressing our Nation's major and most pressing needs, particularly as our men and women in uniform continue to defend America in combat operations each and every day.

We are not talking about arbitrary budget numbers that we pulled out of

thin air. These are very specific allocations requested by our top leaders in uniform—leaders such as General Schoomaker and his deputies: LTG James Lovelace and LTG David Melcher. They have testified repeatedly—repeatedly—that the Bush administration has once again proposed a Defense budget that falls far short of what our troops need.

As far as this Senator is concerned, the days of sort of nickel and dimming our national defense needs should be over when it comes to these soldiers in uniform. We can no longer afford to continue down the path the Bush administration has brought us.

Regrettably, this is not the first time we have had to address the administration's poor budget planning for this war. But I hope it might be the last. I have come to the floor to try to address, in the past, some lacking resources for our military's essential equipment needs from the very first year of this conflict.

In 2003, the Army identified $322 million in shortfalls in critical health and safety gear—ranging from body armor, camelback hydration systems, and combat helmets, to equipment for deactivating high explosives—all of them are listed as priorities that the Rumsfeld Pentagon and Bush administration failed to provide in their initial budgets.

I offered an amendment, in 2003, to the emergency appropriations bill to resolve those problems. Unfortunately, the administration opposed this legislation, and the amendment was defeated, despite the fact that our top uniformed military leaders were asking otherwise.

In 2004, we tried a different approach, in an amendment I offered requiring the Department of Defense to reimburse military personnel who bought equipment for their military service in Iraq and Afghanistan that the Rumsfeld Pentagon had failed to provide. This time, despite ardent objections from the Secretary of Defense, Congress approved the legislation. And in October 2004, the President signed that bill—the larger bill which included those amendments—into law.

We approved similar legislation last year because the Pentagon did not act on them, despite the fact that Congress had voted overwhelmingly in support of those provisions and the President signed them into law. And on the very day I offered a new amendment, I received a call from the Pentagon saying on that day—a year later—they were beginning to implement the legislation as required under law.

This year, the difficulties associated with equipment shortfalls pose a far more serious problem. The ones I identified earlier, which my colleagues will recall—having servicemen stand up and admit they were rummaging—rummaging—through garbage dumps in Baghdad to provide equipment to up-armor their humvees and other equipment because they were not getting it from the Pentagon. These were not some dissidents, some activists outside complaining. These were our men and women in uniform telling us what they had to do in a theater of war to protect themselves because they were not getting it from the Pentagon.

Well, today the problems are more serious. The ones that Senator REED has identified are real. And the concerns are being expressed by our top military leaders. It is disgraceful it takes an amendment being offered on the floor of Congress to try to provide for these needs rather than coming from the leaders at the Pentagon, the civilian leadership or out of the White House.

We are not talking today about a shortage of flapjackets or gun scopes. Today, the challenge is that our Army's entire fleet of tanks, aircraft, and vehicles are wearing out. And we are not doing enough about it.

Recent media accounts have indicated that the administration's failure to fund the replacement and repair of this critical hardware is greatly affecting America's overall military readiness. The Associated Press reported on July 26 that up to two-thirds of the Army's combat brigades are not ready for wartime missions, largely because they are hampered by equipment shortfalls.

In other words, if America does not finally heed the warnings of the U.S. military's top generals, and fully fund our equipment needs, the Armed Force's ability to respond to future challenges to America's national security—whether on the Korean Peninsula, the Middle East or elsewhere in the world—could be harmed, to put it mildly.

Maintaining a wartime military is very different from business as usual—something I am afraid that the Rumsfeld Pentagon does not seem to entirely understand, after 5 years of combat in Iraq and Afghanistan. Having 16 to 18 combat brigades deployed in combat at one time over the last year 3 years, in addition to other U.S. forces, has placed tremendous stress on the military's equipment.

In Iraq, U.S. tanks are being driven over 4,000 miles per year—five times the expected annual usage of 800 miles. Army helicopters are experiencing usage rates up to two to three times their planned usage. The Army's truck fleet is experiencing some of the most pronounced problems of excessive wear, with usage rates of five to six times the normal rates, further exacerbated by the addition of heavy armor.

This increased use, obviously, shortens the life of equipment and demands much earlier and larger investments in maintenance and procurement. On top of that, our equipment is being further degraded by the sand and extreme heat in that part of the world, which harm the mechanical and electronic systems, not to mention rocket-propelled grenade and explosive attacks that are causing grave harm and loss of equipment at an alarming rate.

As this chart I put up shows, just a few years in combat will age military equipment dramatically. These statistics are coming from the U.S. Army. They are not ones I made up. So my colleagues can appreciate what we are talking about here.

For example, the Abrams tank, listed up here—it may be hard to read on the TV screen—but the first item here, the Abrams tank, usually has a lifespan of 20 years before it needs to be overhauled. It is seeing its lifespan being cut short to just over 5 years because of where they are.

The flatbed truck, which we have listed here as well—this item here—normally has an expected lifespan of 20 years. It is getting 3.3 years today—substantially less than would normally be expected to be the case.

The humvee has a 15-year normal, expected lifespan. And 2.5 years is what we are getting here.

The semitrailers and trailers—all 20 to 15 years—but the actual numbers they are getting is in the range of 2.5 to 3.3 years.

This is what we are being told and have been told repeatedly. These numbers didn't pop up yesterday or the week before. We have been told repeatedly by top military leaders that this problem has persisted and is growing.

Recently, Army officials testified before Congress that it will cost $36 billion to fully reset the force due to this situation. But this estimate assumed that the United States would fully draw down its forces by the end of 2007. Army Chief of Staff Peter Schoomaker conceded that if the Army continues to operate in Iraq at its current pace, the reset cost will total over $72 billion and will eventually require steady reset expenditures for a full 2 years after the U.S. military withdraws from Iraq. These estimates do not even take into account the Marine Corps' reset requirements. In the meantime, the Army intends to leave over 280,000 major items in theater and will not redeploy this equipment to be reset until forces draw down in Iraq.

The situation in the Army National Guard, which my colleague from Rhode Island who is knowledgeable on these matters has pointed out, is particularly alarming. In late 2003, the Army began to direct redeploying Guard units to leave their equipment in theater for use by deploying forces. Under current regulation, the Pentagon requires the Army to replace equipment transferred to it from the Guard. But under Secretary Rumsfeld's leadership, the Army has not tracked much of the Guard equipment left in theater nor prepared to replace it.

The National Guard and Reserves comprise 40 percent of the forces now fighting in Iraq. If you consider that the National Guard began the Iraq war with less capable equipment than the Active Force to begin with, it only seems reasonable to assume that they have lost ground as the occupation has continued. The Army claims that the

National Guard has been directed to transfer more than 75,000 pieces of equipment, valued at $1.7 billion, to the Army. But the Army does not have a complete accounting of these items. An independent analyst at the Government Accountability Office put the cost of resetting the Guard at $20 billion. Since much of the stay-behind equipment is relatively old, I presume it will never return to the United States.

The drawdown of the National Guard equipment in the United States to support the war effort is so extensive that it raises doubts about preparedness for homeland defense. As the Senator from Rhode Island pointed out, we are now going into the hurricane season and the problems that can ensue there. I don't think the National Guard is going to be ready to respond to those situations because of the situation we are in today.

For that reason, I am joining my colleague from Vermont, Senator LEAHY, in supporting an amendment he will be offering to provide necessary funding for the National Guard that for too long has been neglected by this administration. On Tuesday of this week, the Chief of the National Guard Bureau, LTG H. Steven Blum, admitted that more than two-thirds of the Army National Guard's 34 brigades are now not combat ready due largely to the vast equipment shortfalls that will take as much as $21 billion to correct. General Blum addressed the situation this way:

I am further behind or in an even more dire situation than the active Army, but we both have the same symptoms, I just have a higher fever.

In spite of all the administration's rhetoric that we have turned a corner, I think many of us believe that the insurgents are not in their last throes, as the Vice President said only a few months ago, or that the mission is accomplished, as others have suggested. Our military commitments in Afghanistan and Iraq have only grown, as we are hearing now additional requests for troops to protect the Baghdad area, to the point that our forces are now larger in number in these countries than they were when we started the wars in 2001 and 2003. And there is some indication that our forces in Iraq may increase even more. Now it seems that the effect on our own forces has been devastating. Our forces are stretched thin. Our fleets of aircraft, tanks, and trucks are wearing out. But the administration's only answer for Iraq and Afghanistan is to stay the course.

I can tell you, with today's situation, that is not an option. If we are going to maintain America's edge in the war on terrorism, retain the ability to respond to other future threats, then we need to provide some relief to our Armed Forces and start putting critical investments into rebuilding these forces.

During two Presidential election campaigns, the Bush-Cheney team sold its candidacy to the American people as a solution to all of our Nation's security needs. A vote for that ticket, we were told, would shore up our Nation's vulnerabilities at home and keep us on the offensive overseas. Sadly, I submit, the policies of this administration have only left our Nation weaker, as the administration shortchanges the needs of our Armed Forces and fails America's National Guard personnel.

The 2000 campaign disparaged President Clinton's stewardship of the Armed Forces, and it was leaked that two of the Army divisions were rated C–3 and C–4, the lowest levels of preparedness and readiness, the lowest category, according to the Army's own scale, decrying that ''two Army divisions could not report for duty.'' The then-Governor of Texas pointed out that he promised help was on the way. Instead today, as a result of the administration's strain on our forces, the situation is dramatically worse.

According to the Army's own accounts, our forces are being drained of critical resources to meet our homeland security needs in the United States and to stay prepared to address our military threats in the future.

While the sheer size and scope of U.S. Army readiness remains classified, one thing is for certain, our military hardware is stretched thin. Our fleets of aircraft, tanks and trucks are wearing out. Those are the facts. The military leaders are telling us that in clear, uncomplicated voices. U.S. military experts and media reports have long been sounding the alarm about the Iraq and Afghanistan wars and their impact on military readiness.

The Washington Post recently said the following:

The unexpected heavy demands of sustained ground combat are depleting military manpower and gear faster than they can be fully replenished. Shortfalls in recruiting and backlogs in needed equipment are taking a toll, and growing numbers of units have been broken apart or taxed by repeated deployments, particularly in the Army National Guard and Army Reserve.

That was from a year and a half ago. Things have only gotten worse since then. The administration's failures are literally breaking the back of the U.S. Armed Forces. I am worried about it. I know my colleagues are. In addition to the amendment we have adopted, and while the Senator from Alaska is correct, the amount of money they can receive and actually spend is constrained. But I am hopeful our military leaders will be able to do a better job. I ask them to consider the possibility of what we might call a soft mark that would provide the resources now, not wait until next spring, and that if our military leaders can find the way to expend the dollars to increase the readiness of this equipment, we ought not wait another almost year to do so. If they can't spend the money, then it doesn't get spent. It comes back to the Treasury. But I wouldn't want them saying we could have used the money, but you didn't appropriate it on an emergency basis for us.

So while I appreciate the amendment that was adopted last night, as I pointed out, we are still $7 billion short, according to the military leaders testifying before Congress in the last number of months. I think it is not only appropriate but required of us here to provide those resources, put them in place. And if they can be spent, they ought to be spent to make sure this equipment we are falling so short on is going to be replenished and repaired so that our units can be combat ready, not only for the present crises but also for future ones we may face.

Again, my compliments to the Senator from Alaska and the Senator from Hawaii, who historically have placed the needs of our military very high on their agenda. My criticism is not focused on them. It is focused on the fact that the Secretary of Defense and the Commander in Chief should have been having these numbers in the budget coming up here, not requiring us to ask them to do a better job. That is what the two Senators did last night. They should have been telling us how the leadership of the Pentagon and the White House put the numbers in and that we were supporting them, not requiring an amendment to be adopted out here to fill the needs.

I am urging my colleagues to take a look at some additional funding we may need in order to meet these requirements.

Mr. INOUYE. Will the Senator yield?

Mr. DODD. I am happy to yield.

Mr. INOUYE. I commend my colleague from Connecticut. I concur fully with my friend that when we are prepared to send men and women into combat and in harm's way, the least we can do is provide them with appropriate equipment to carry out the mission and to return home safely.

Mr. DODD. I thank my colleague.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I ask unanimous consent to proceed as in morning business for up to 10 minutes.

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

(The remarks of Mr. BOND and Mr. SESSIONS pertaining to the introduction of S. 3774 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SESSIONS. Mr. President, what is the pending matter?

The PRESIDING OFFICER. The Stevens amendment.

AMENDMENT NO. 4775

Mr. SESSIONS. Mr. President, I will not speak on an amendment at this time, but if others do not object, I would like to call up amendment No. 4775 and ask unanimous consent that the pending amendment be set aside.

The PRESIDING OFFICER. Is there objection to laying aside the present amendment?

Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alabama [Mr. SESSIONS] proposes an amendment numbered 4775.

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

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

The amendment is as follows:

(Purpose: To provide $1,829,000,000 for the Army National Guard for the construction of 370 miles of triple-layered fencing, and 461 miles of vehicle barriers along the southwest border)

On page 221, line 9, strike ''$204,000,000'', and insert ''$2,033,000,000, which shall be designated as an emergency pursuant to Section 9011 of this Act.''.

Mr. SESSIONS. I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. SESSIONS. Mr. President, I had previously offered and called up amendment No. 4775, and I ask that Senator KYL of Arizona be made an original cosponsor.

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

Mr. SESSIONS. Mr. President, a few weeks ago, on May 17, by a vote of 83 to 16, we approved my amendment to mandate the construction of at least 370 miles of fencing and 500 miles of vehicle barriers along the southwest border of the United States. That was a very strong vote. It represented the request of Secretary Chertoff of the Department of Homeland Security. It was the amount of barriers and construction that he felt was necessary to help him create a secure border. I believe this Senate meant it when we voted to do that.

When the vehicle came forward on Homeland Security, we failed to fund this project. I think it left this body in an embarrassing position, telling the American people we are for barriers at the border, we are for meeting the request of the Secretary of Homeland Security, but, by the way, we are not going to put up any money to fund it.

I know there were reasons that some felt it couldn't be afforded under the amendment process, which gave the appropriators a requirement to find it within the $30-billion-plus Homeland Security bill, but we are now in a position where we feel there are funds available that we can utilize to make this step.

We believe this is a germane amendment to the Defense bill. The National Guard is going to be a part of our border security, and the National Guard does have the authority to enter into construction and other engineering projects as part of their directive to assist in securing the border.

That is where we are today. I think this is an appropriate amendment. I see my colleague, Senator KYL from Arizona, is here. I would say it has been my honor to work with him quite a number of years—ever since I have been in the Senate. There is not a single Senator here who has ever spent anything like the number of hours he has spent in advocating for a legitimate, sound method of border security, nor has anyone voted more consistently than he to establish that. I am glad he is a cosponsor.

Senator KYL understands this process. He is one of the leaders in the Senate. I am glad he feels this is an appropriate way we can go forward.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

AMENDMENT NO. 4788 TO AMENDMENT NO. 4775

Mr. KYL. Mr. President, I call for the regular order with respect to amendment 4775 and send a second-degree amendment to the desk.

The PRESIDING OFFICER. The amendment is pending. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Arizona [Mr. KYL] proposes an amendment numbered 4788 to amendment No. 4775.

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

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

The amendment is as follows:

(Purpose: To provide $1,829,000,000 for the Army National Guard for the construction of 370 miles of triple-layered fencing, and 500 miles of vehicle barriers along the southwest border)

On line 2, strike ''2,033,000,000'' and insert ''2,033,100,000''

Mr. KYL. Mr. President, this amendment simply adds $100,000 to the sum that would otherwise be appropriate to the National Guard for the purpose of constructing the fence. There is some question about whether the appropriations for vehicle barriers we have in the Department of Homeland Security appropriations bill will be added to construct the full number of barriers that are required. This is a very slight addition to the funding called for in the underlying amendment to help ensure we have that funding as well.

What Senator SESSIONS and I are committed to doing is ensuring that the authorization for construction of fencing is fully funded so that we can assure our constituents that we have done everything necessary to provide the fencing on the border that the experts have said is necessary. When we talk about vehicle barriers, let me describe briefly how that fits into fencing.

Fencing is primarily a way for the Border Patrol to ensure, as it patrols the border in urban areas primarily, that it is very difficult to cross. It is hard for the Border Patrol in urban areas to be able to patrol on a continuous basis and deal with the large volume of people who could come across if there is not adequate fencing. I think we have all seen the pictures of the rush to the border at border points of entry where large numbers of people congregate on the Mexican side of the border, come rushing across, and it is virtually impossible for the Border Patrol to deal with that mass of people when they cross. In order to make it more difficult in the urban areas where this is likely to occur, they prefer fencing as one of the mechanisms for securing the border.

Fencing is not effective unless you also have Border Patrol to patrol along the fencing because it is possible, in most cases, to get over a fence or through a fence. But it slows people down to the point that the Border Patrol is able to apprehend them and ensure that they do not cross illegally. One of the reasons for a double fence is that the Border Patrol can get to the point where people are trying to cross illegally if you have a double fence, and that is what this funding is helping to achieve.

Right now, we have this single fence constructed of steel. It is excess or surplus landing mat steel that the military has no more use for but used to be the equipment they would lay down on a field in order to be able to land planes on an emergency basis. This is surplus steel. They put that on end, welded together, and it constructs a fence. It is somewhat effective in the urban areas, but much of it is deteriorating in the areas where it has been constructed for a long time, and it is also not as effective because the Border Patrol cannot see through it and therefore it does not as easily know what is happening on the other side of the fence—whether people are congregating there. They would prefer to replace that deteriorating landing mat fencing with other kinds of fencing.

What the amendment from Senator SESSIONS does is ensure the National Guard will have the funds necessary to put the landing mat fencing up that they are currently constructing in those areas where that is appropriate but also that there will be adequate funding to convert to the other kind of fencing we are familiar with in the form of a very heavy gauge chain link kind of fencing with barbed wire, and so forth, to prevent entry.

The vehicle barriers we speak of are a real necessity now because the Border Patrol is gradually gaining control of the border, and their control is being contested by the cartels and the coyotes who in the past have had significant control of that territory. They are responding with violence, and they are using pretty high-caliber weapons.

What the Border Patrol says is that every time they see a vehicle coming across the border, they know they have a problem because it is big enough to carry weapons. It is also big enough to carry contraband, usually drugs, which is protected by weapons. So unlike the

situation with illegal immigrants crossing the border, they know that the coyotes and the cartels, the gangs that are in control, are going to use weapons to protect their turf, protect their territory, and enable that contraband to get across the border. So vehicles present a special threat to the Border Patrol.

The vehicle barriers they will construct and they are constructing will prevent, in the flat areas, beyond the urban areas, these vehicles from coming across. They are constructed in such a way that animals or people could get through them, but vehicles cannot. In some of the more mountainous areas, obviously it is not possible to put up either fencing or vehicle barriers. But the combination of those two items, plus cameras that can view large areas of the border at a time, plus lights that enable the Border Patrol to see at night and sensors in the more remote areas, in addition to the unmanned aerial vehicles, fixed-wing and helicopters that patrol the border, provides a mechanism that supports the vehicular patrols of the Border Patrol and the combination of which provides the mosaic for securing the border.

All this is a part of the Border Patrol's recommendations—the Department of Homeland Security recommendations—and is authorized by legislation we have adopted. But the funding is not adequate to complete all of this work. That is what the amendment Senator SESSIONS has offered would do. It would in effect put our money where our mouth is. It would provide the funding that is needed to achieve the goals we have all agreed we need to achieve.

Just a final point. When the previous appropriations bill was before us, and Senator SESSIONS referred to this, we had amendments—for example, one that I offered that was accepted which applied more funding to achieve the authorization we had previously passed to fund more detention spaces to end the catch-and-release program. Right after that or very shortly after that amendment was adopted, the amendment of Senator SESSIONS was laid down. Through no fault of his, there was a problem in funding—that is, it would have provided a potential across-the-board funding reduction of everything else—so some of us were caught in a catch-22. We very much wanted to support what Senator SESSIONS was doing—he is absolutely right, we needed to secure more money for the construction of fencing—yet in my case it could have been taken out of funding I had just succeeded in adding to the bill. So it was an impossible vote for us.

One of the reasons this amendment is before us is to correct that and ensure that all of the things we need to fund will be funded: the detention spaces that I was able to add, more border patrol that we have added, as well as the fencing that has to be added. So in effect this is the last block in the foundation for the effort we have of securing the border. We need to put it in place.

We have authorized the work. Everybody agrees it needs to go forward. There has simply been a difference between the funding appropriated and the funding required. This amendment will provide that funding and will do so in a way that will do harm to no other account and will help us to achieve the goal of securing the border.

I am very happy to support the amendment. The second-degree amendment that I laid down, as I said, is technical; it simply adds $100,000 to ensure there is enough money to provide for the vehicular barrier construction as well.

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

Mr. KYL. I am happy to.

Mr. SESSIONS. I had a call several months ago, before I offered the amendment, from Congressman DUNCAN HUNTER of San Diego, who chairs the House Armed Services Committee, and he shared with me his positive view of what the San Diego fencing had meant for that area. Crime had gone down. Economic growth had occurred on both sides of the border—it was so positive. I know there is fencing in Arizona, and it is not the best kind, not the most attractive. As was said, it is not something you can see through—landing mats.

But based on the Senator's experience and many years of examining what has happened at the border, is he convinced and would he share his thoughts about how this could be helpful in the overall view of creating a border in which the law is followed and we have security?

Mr. KYL. Mr. President, I appreciate that. We had testimony before the Terrorism Subcommittee of the Judiciary Committee, which I chair and on which Senator FEINSTEIN is the ranking member, about what the results of that fencing in San Diego have meant—on both sides of the border. The testimony was that it has reduced crime on both sides of the border. The people in Mexico are very pleased because the gangs and the coyotes that used to gather together before they would try to bring their load of illegal immigrants across the boarder—preying on them, stealing from them, robbing them, beating them, and committing other crimes against them—that whole milieu has ended because the fencing has made it impossible to cross, so the coyotes have gone to other places to try to take their loads across the border. They are no longer congregating and hanging out in that area in Tijuana and south of the San Diego area, and as a result, on both sides of the border, crime has gone down dramatically. The environment has improved dramatically because you don't have these thousands and thousands of people crossing, cutting all these trails, leaving their garbage behind.

In fact, I am told nobody has actually gotten across the fencing in that entire sector. I don't have the statistics off the top of my head here, but the testimony before our subcommittee was dramatic in terms of the number of apprehensions before the fencing and the number of apprehensions afterward. I am proud that I was a sponsor, along with Senator FEINSTEIN, of the fencing in that area which has made such a dramatic difference there.

As I said in the Judiciary Committee, when I got the authority to add fencing in Arizona, a lot of those folks who were crossing in California are now trying to do it in Arizona. Wherever that traffic is now attempting to cross the border, we need to provide the Border Patrol with all the tools it needs to get the job done, and that includes a substantial amount of fencing.

Mr. SESSIONS. One more question, if I could ask the Senator from Arizona. Would he share with us and the American people some information he might have about the size and scope and numbers of people that are crossing in the Arizona area? I know he cares about that. That is one reason the Senator feels so strongly about it. But I am not sure a lot of people understand the scope of the problem. He has already shared that fencing is a component of fixing the problem, but would the Senator share with us the scope of the problem?

Mr. KYL. Let me illustrate with a couple of examples. There are so many things one could talk about. For example, the violence at the border has increased 108 percent, according to the U.S. attorney in Arizona, Paul Charlton, in testimony before our subcommittee. The number of crimes and number of criminals crossing is up dramatically. Over 10 percent of all of the people apprehended now at the border have criminal records—and these are serious crimes. This is murder and rape and kidnapping and drug crimes and the like. So it is not just people coming across the border to find work here. There is a substantial number of criminals, and they are not just from our neighbor to the south, Mexico; they are from countries all over the world.

When you see the apprehensions of people from Russia and Vietnam or China or Iran or Iraq or other countries, you also wonder how many people we are not apprehending who are criminals or who can be terrorists. So there is that element.

I spoke to the matter of vehicle barriers. One of the areas they are adding barriers right now and want to add more is in the area of the Barry Goldwater Gunnery Range. This is known to the people in the military as the finest area of training for our pilots in the world. There are wide-open spaces. There is nothing to prevent the kind of activity that occurs, which includes dropping bombs. From all over the country, our pilots come to train there. There is one problem. With illegal immigration, the Marine Corps now has to go out on patrol to make sure there are not any illegal immigrants in the

area where the bombing or strafing will occur. Obviously you don't want to hurt anyone.

They do that at great cost. They come back and report the area is clear, our planes are gassed, ready, loaded with the bombs and so on, maybe take off, and then they get a report that more immigrants are streaming into the area.

They have had to call off their missions. Over the past couple of years there have been hundreds of missions that had to be canceled. Thousands of flying hours have been lost as a result.

My point is this: There are costs for not having secured the border that I think many in America aren't even aware of. There are huge environmental costs. Tons of garbage are left behind rotting, a danger that leads to the people as well as to the livestock, the way the ranchers' operations are disrupted when the fences are torn down, the water lines are broken, and all the other things that occur.

The bottom line is that we have to secure the border, and adding fencing helps to do that.

That is why the amendment is so important. We have to make up the difference between what we have authorized and what the Border Patrol says they need, with what we have already provided in funding in the amendment to make up the difference to ensure that we have full funding for what we have to do at the border.

Mr. SESSIONS. I thank Senator KYL. I yield the floor.

The PRESIDING OFFICER (Mr. COLEMAN). The minority leader is recognized.

Mr. REID. Mr. President, first of all, let me say this. We are in a procedural quagmire in the Senate as happens once in a while. Of course, it would have been the right of the minority to stop this Defense appropriations bill from going forward. For a couple of reasons I felt that was inappropriate.

First of all, the defense of this country is extremely important, and we should try to get a few things done dealing with our fighting men and women around the world as quickly as we can. But one of the factors in my agreement to go forward with this legislation is the two managers of this bill are history itself. Two of the most senior Members of the Senate, two of the most experienced Members of the Senate, the two Members who manage a bill as partners, as a couple of friends should, are experienced. I felt that with their management of this bill we would have a fair opportunity to do what was appropriate. My feeling has been underscored in the little while we have been on this bill. We will give a fair shake in the process to the men and women who are defending our country.

I come to the floor today with a simple amendment. I must confess that the amendment I brought to the floor is certainly not new and unique with me. The amendment that I am offering has been taken directly word for word from a bill that was passed by the Republican-controlled House last week by a broad bipartisan margin.

This amendment consists of tax provisions—so-called extenders—excluding the abandoned mine land fund in the House-passed bill.

Again, every single provision in my amendment enjoys broad bipartisan support. But I am forced to offer this amendment for a couple of reasons.

First, our friends in the majority have allowed many of these provisions to expire.

Second, the statements made by the majority leader yesterday—which I don't think are hard to understand—I have to confess that the statements by my friend, the majority leader, were wrong in a number of different ways. What he basically said yesterday was we have a vote on the motion to proceed to a big bill on Friday; take it or leave it take that bill which includes these extending tax provisions which are so important to the country, some of which have expired.

It also has in it a minimum wage provision which is so flawed. It takes 3 years to kick in, but, more importantly, for seven States it would be a wage cut for these people. The threats—for lack of a better way to describe it—are simply an attempt to coerce, blackmail Members of the Senate to vote for a bill that is bad just because there are certain provisions that people might like, thinking, well, this allows a chance; whatever, we are going to have to vote on the extenders and the pension bill simply is not true. We have to pass these extenders. We always do, and we will this year.

I certainly hope we pass the pensions legislation. We have worked on that in conference for almost a year.

Last Friday, it was all agreed on, and on a bipartisan basis it was done. They were ready to sign the conference report. Had that happened, we would have long been done with this.

For the majority leader to say it is now or never, you vote for this Friday morning on the motion to proceed, that it is a very faulty, wrong-headed piece of legislation, not the least of which is to create an $800 billion further deficit and debt for this country with the estate tax—$800 billion.

It affects 8,100 people in our country. We are a country of 300 million people. This whole matter is being driven for 8,100 people—$800 billion.

If we are talking about priorities, what is more important? The pensions provisions affect 45 million people, and these extenders which affect virtually everybody in the country—businesses and, of course, directly our citizens.

We do not need to go through each of these extenders, and I am not going to do that. For example, take the one that allows taxpayers to deduct up to $4,000 of their college tuition expenses. Senator FRIST is telling us and the American people that the 8,100 Americans that we are creating a debt for this country of $800 billion are more important than parents sending their children to college with this deduction. It doesn't sound good to me. It doesn't seem like a fair chance.

This amendment contains an R&D tax credit to encourage American businesses to make investments that will benefit American workers. What is more important, to get that done before we leave here at the end of this week or to pass an estate tax repeal costing $800 billion? Senator FRIST said that the 8,100 people are more important than the R&D tax credit.

My amendment contains a provision that will extend the State and local sales tax deduction, led by a number of Members but certainly the senior Senator from the State of Texas. That State's residents will benefit so significantly because there are so many people there. But Nevada, which doesn't have as many people, has a sales tax, and we want this benefit.

Senator FRIST says, no, you are not going to have a chance to do that unless you support my estate tax repeal—$800 billion to extend the State and local sales tax.

This amendment includes a provision to allow teachers to deduct out-of-pocket expenses when they incur classroom expenses. In Nevada, we are struggling to find ways to have affordable housing for our teachers. This means a lot to them—deduct out-of-pocket expenses for classroom activities. Senator FRIST says, No, 8,100 of the richest of the rich of the rich take precedent.

As I have said, I am not going to go through each of these provisions. But why don't we just go ahead and pass this?

People say the House is out of session. The House is still in session.

I think it would give true impetus to this defense bill, and we could perhaps finish this bill within a day or two. There will be some stimulus for doing that. On the House side, just like we do over here, leadership can bring the House back into session. They have to come every 3 days. That is the rule. They cannot adjourn unless we give them permission.

They can do this by unanimous consent. We could do the Defense appropriations bill, and we could do these extensions.

This amendment is important. It provides an opportunity for every Member of this body to show the American people that we are prepared to respond to their needs.

These extenders should have been extended a long time ago.

I am speaking for my friend, the ranking member on the Finance Committee, Senator BAUCUS, who, as you know, is not here as a result of his nephew being killed while serving us in Iraq. He feels very strongly about this.

I don't believe we can be coerced into providing budget-busting tax breaks for the wealthiest of the wealthy in our country. We should not leave here

without giving our colleagues every opportunity to provide working Americans some tax relief, which they deserve.

Mr. DURBIN. Mr. President, I rise in support of amendment that is being offered by the Senator from Nevada.

Yesterday, the Republican leader, Senator FRIST, told us that the only chance the Senate would have to pass critical legislation to help countless deserving Americans will be if we are willing to reduce and virtually repeal the estate tax in America.

My question and the question of the Senator from Nevada and this side of aisle is, why? Why not just pass this tax-extender package that is ready right now on the Senate floor?

Those of us who have been in Congress for a few years know that this package of extenders is a spoonful of sugar. It helps the medicine go down. It is saved until the end of the session. It is offered as a sweetener to pass a package that is otherwise not palatable for indigestion.

We all know the merits of these proposals. They are very positive, and they help a lot of people across America. Why wouldn't we get that part right?

Why wouldn't this Congress, which has done so little to help people across America, make sure that this package of extenders passes?

Why wouldn't we pass this legislation and make it easier for veterans to own their own homes?

Why wouldn't we pass this to make it easier for families to pay for their kids' college education expenses?

Why wouldn't we pass this and help high school teachers pay for the expenses that they incur out-of-pocket to help students in the classroom?

Why wouldn't we pass it to encourage investment in low-income communities, to encourage employers to hire workers from low-income families, or Indian tribes, and encourage employers to hire high-risk youth and veterans?

Why wouldn't we pass this to encourage our businesses to conduct critical research on new products and ideas?

Why wouldn't we pass it to support coal mining cleanup and bolster coal miners' health care when they retire?

It appears that the answer, as Senator REID has stated, is very simple. The position of the Republican leader is you can't do these good things for America unless you do something that is terrible for America. Unless we repeal the estate tax creating an additional debt on future generations of at least $750 billion to $800 billion, you can't help Americans across-the-board unless you provide a special tax break for those who are the most well-off in America, the most comfortable, the people who have benefited the most from being part of this great Nation.

Unless you give them an additional tax break, the position of the Republic leader yesterday was, We will not help anyone else in America. We will not help 6.6 million minimum-wage workers who desperately need an increase in the minimum wage after 9 years of being stuck at $5.15 an hour.

We will not pass these tax extenders which help some Americans in so many different ways unless at the same time we repeal the estate tax at great expense to America and to future generations.

We believe these priorities in this amendment are too important to be any kind of subject for games in the Senate. This is serious business. I encourage my colleagues on both sides of the aisle, despite all the other debate we might get in, to enact this amendment. Pass these tax extenders at the earliest opportunity.

AMENDMENT NO. 4795

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, my friends have agreed to set aside the pending amendment and I ask consent that be done, and I then call up my amendment which is at the desk.

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

The clerk will report.

The bill clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 4795.

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

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

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

Mr. STEVENS. I make a point of order this amendment is legislation on an appropriations bill and violates rule XVI, and it would bring about a blue slip if this is reported to the House.

With regret, I make that point of order.

The PRESIDING OFFICER. The point of order is sustained. The amendment falls.

The Senator from Michigan.

Ms. STABENOW. Mr. President, what just happened is extremely unfortunate for American families, extremely important for people all across the country who want Members to do things in the Senate that affect them and their lives.

People are feeling squeezed on all sides: Jobs, health care costs are rising, they are afraid they will lose their pension, maybe have lost their pension, the costs of college, men and women serving overseas want to know when they come home their house is not gone because of foreclosure, or they worry their family has a more difficult time because they have been serving our country.

The extension bill, the amendment Senator REID offered with Senator DURBIN, and of which I am proud to be a cosponsor, speaks to those issues the American families are asking Congress to address. It speaks to the kind of tax policy that makes sure middle-class Americans are supported and that we are doing something for them, not just for those who are the most blessed, the multibillionaires of this country.

Let me give an example. Our amendment that was just objected to included a provision to extend the $4,000 deduction for higher education expenses for families to send their children to college or for people going back to school themselves to be retrained or get a new degree to better meet the demands of the new global economy. Why in the world would we not want to rush to extend that $4,000 tax deduction for individuals who are just trying to make it, trying to get the American dream for themselves or their children?

Extending the research and development tax credit, again, is absolutely critical. Our State has gone through and continues to go through major transformations in manufacturing. This is not your father's factory anymore. This is high tech. The R&D tax credit is critical to be extended.

It is about jobs. There are many provisions in this amendment just objected to that directly relate to jobs, directly relate to our way of life in this country, creating opportunity, as well as supporting our troops. One of the provisions treats combat pay as earned income under the earned income tax credit for our brave men and women in uniform. Who would not support doing that as quickly as possible? I regret this amendment was not supported.

Let me go on to say, as our leader Senator REID indicated, there is another bill that affects middle-class Americans that is being held up, essentially is being used for political maneuvers right now, that affects upwards of 45 million people in this country. That is the pension bill. We are talking about people who have paid into a defined benefit plan all their lives. They assumed it would be there. They assume in the United States of America one shouldn't have to worry, after paying into a pension, that the funds would not be there at retirement. Yet that is happening for too many people I represent and too many people around the country.

We have a bill that has been worked on very hard. People on both sides of the aisle in the Senate have worked together in a bipartisan effort, a good-faith effort—the Committee on Finance, with Senator GRASSLEY and Senator BAUCUS, and the HELP Committee, with Senator KENNEDY and Senator ENZI, working very hard along with Senator MIKULSKI on our side playing such a critical role to make sure we get it right. Unfortunately, the process for this bill has been a disaster despite the best efforts of people on both sides of the aisle in the Senate.

Unfortunately, the price is being paid by families who find their economic interests, their future, their retirement security, put on the back burner. Three failed deadlines have occurred on this bill, 7 months of lost time in conference. Now the same families are being told they have to wait some more so we can take up a tax bill with provisions that do not even expire until 2010. People have pensions in jeopardy because of the possibility we will not act

in 2 days, and we are not acting. Hopefully we will get this done. We ought to get this done now before we focus on legislation that affects only .2 percent of the wealthiest in this country, people who are not even impacted for 4 years. There is something wrong with this picture.

There is no way to justify this. In my opinion, it is immoral to watch working Americans lose pensions they have earned over the last 30 or 40 years, and not step up and do something about it as quickly as possible. People have waited too long. In Michigan alone we have over 1.5 million families counting on their pension plan. They are counting on Congress to make sure it will be there. They are counting on Congress to make sure what they have worked for all their life will be there.

There is a fundamental principle: You work all your life, you pay into a pension, you ought to get it, period. We shouldn't be spending the time to take up another bill. This should have been done months ago. I don't understand this.

The families I represent are betting on us to help them. They are counting on us to make sure they have their pensions. Unfortunately, the leadership on the other side of the aisle has decided to prioritize a bill that impacts .2 percent of the wealthiest taxpayers while a bill that affects upwards of 45 million people is waiting to come to the Senate floor. We have no guarantee it will be passed this week. We cannot count on the fact when all of this is done on Friday that they will even proceed with this critical pension bill.

On the pension bill itself, I commend, as I said before, my colleagues, our leaders, who have worked so hard. I commend the conferees for considering the unique aspects of manufacturing and the auto industry. These are tough times in Michigan. The bill as it passed the Senate did not fully represent what we need for manufacturing. In the conference committee, people of good will worked together. We fixed those things. I am very pleased about that. Our automakers are trying to do the right thing, trying to fund their pension plans. The pension bill addresses those things that will allow them to continue to do the right thing.

We also have folks in the construction industry and building trades, the multiemployer plans, who are asking for flexibility to fix their pension plans. That is in this bill. We have companies such as Northwest Airlines, which has gone into bankruptcy but has chosen up to this point not to dump their pensions in the Pension Guaranty Fund. We have to make sure we do everything possible to help. Thousands of people, their livelihoods, their future, their retirement security, are at stake.

I thank all those working on the pension bill. I thank all of my colleagues who have worked to address our manufacturing issues and the multiemployer provisions. I am proud to be one of the sponsors of the amendment to address the pension plans of about 10 million Americans in what is called multiemployer pension plans. I thank the conferees for including that, as well. I thank all of those businesses that are trying to hang in there and do the right thing.

Most importantly, people are counting on us to do the right thing. Part of the American dream has been to work hard all your life, care for your family, put money aside for retirement, be able to afford college, which this last amendment would have addressed if it had not been objected to.

Right now, too many people in America are feeling squeezed on all sides. They see decisions being made, issues being brought up, that have nothing to do with their lives. They see policies being proposed that have nothing to do with helping them do better, hoping they will able to keep the American dream, be able to protect their way of life.

It is time we had a new direction in this country. It is time we had a new direction and focus on that which will directly affect people every day so they will trust in their Government again that we will have the right values and priorities that allow every middle-class American, every working American, everyone who is working hard and playing by the rules, to have a chance to know they will not only make it but we will keep our promises, as well.

In conclusion, I urge my colleagues, urge the leadership in the Senate, to bring before the Senate a bill that can have universal support, overwhelming support in the pension bill.

As we complete this very important Defense bill, this funding bill critical to our men and women, our troops, a bill we all want to see passed, I urge we then bring up the pension bill and let us pass it so 45 million people will have the assurance by the end of this week that their pensions will remain intact, or at least we will have given it our very best effort.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I have a chart that shows the reset requirements of the Army and Marine Corps. Again, I say to the Senate, the Defense Department identified a $23.7 billion requirement for resetting the force, bringing it back up to operational capability. The amount included was $17.1 billion for the Army and $6.6 billion for the Marine Corps. The fiscal year 2007 Defense appropriations bill which we have presented to the Senate included $10.6 billion that would directly address these needs. The remaining need was $13.3 billion. That was addressed in the amendment Senator INOUYE and I presented last evening.

I ask unanimous consent the chart be printed in the RECORD.

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

ARMY AND MARINE CORPS RESET NEEDS

[$ in billions]

	Total need identified by DOD	FY 2007 bill as proposed	Remaining needs (Stevens-Inouye amendment)
Army:			
Equipment	8.6	3.6	5.0
Maintenance	8.5	5.7	2.8
Total, Army	17.1	9.3	7.8
Marine Corps:			
Equipment	5.3	1.1	4.2
Maintenance	1.3	0.2	1.1
Total, Marine Corps	6.6	1.3	5.3
Total in the Bill	23.7	10.6	13.1

AMENDMENTS NOS. 4758, AS MODIFIED, 4759, 4770, AND 4772, EN BLOC

Mr. STEVENS. Mr. President, we are prepared now to offer the first managers' package. This includes Senate amendment 4758, as modified, for Senator COCHRAN, requiring a report on depleted uranium. It includes Senate amendment No. 4759, for Senator MENENDEZ, regarding the New Jersey National Guard. It includes Senate amendment 4770, for Senator LUGAR, regarding man overboard ID systems, and Senate amendment 4772, for Senator CARPER, regarding contractor award fees.

I send these amendments to the desk and ask unanimous consent this managers' package be considered en bloc and agreed to en bloc.

Mr. INOUYE. We have no objection.

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

The amendments were agreed to, as follows:

AMENDMENT NO. 4758, AS MODIFIED

(Purpose: To require a report assessing the Depleted Uranium Sensing and Treatment for Removal program of the Department of Defense)

At the end of title VIII, add the following:

SEC. 8109. Not later than December 31, 2006, the Secretary of Defense shall submit to the congressional defense committees a report setting forth the assessment of the Secretary regarding the Depleted Uranium Sensing and Treatment for Removal program of the Department of Defense.

AMENDMENT NO. 4759

(Purpose: To make available from Other Procurement, Army, up to $2,600,000 for the Virtual Interactive Combat Environment for the New Jersey National Guard)

At the end of title VIII, add the following:

SEC. 8109. Of the amount appropriated or otherwise made available by title III under the heading ''OTHER PROCUREMENT, ARMY'', up to $2,600,000 may be available for the Virtual Interactive Combat Environment for the New Jersey National Guard.

AMENDMENT NO. 4770

(Purpose: To make available from Other Procurement, Navy, up to $3,000,000 for the Man Overboard Identification System Program)

At the appropriate place, insert the following:

SEC. ____. Of the amount appropriated or otherwise made available by title III under the heading ''OTHER PROCUREMENT, NAVY'', up to $3,000,000 may be available for the Man Overboard Identification System (MOBI) program.

AMENDMENT NO. 4772

(Purpose: To provide that none of the funds appropriated or otherwise made available by this Act may be obligated or expended to provide award fees to any defense contractor for performance that does not meet the requirements of the contract)

On page 218, betwen lines 6 and 7, insert the following:

SEC. 8109. PROHIBITION ON PAYMENT OF AWARD FEES TO DEFENSE CONTRACTORS IN CASES OF CONTRACT NON-PERFORMANCE.

None of the funds appropriated or otherwise made available by this Act may be obligated or expended to provide award fees to any defense contractor for performance that does not meet the requirements of the contract.

Mr. STEVENS. Mr. President, if Senator SESSIONS is prepared to consider his amendment No. 4775, the managers are prepared to accept this amendment.

Mr. SESSIONS. Mr. President, I thank the chairman for his interest and support. I know he indicated we needed to work on it the last time we voted on it. Perhaps I would like to speak a little more on it. And I think I would ask for a rollcall vote.

Mr. STEVENS. Senator KENNEDY had the floor when I interrupted him. When he is finished, we will be happy to proceed with your amendment.

Mr. SESSIONS. I thank the Chairman.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I am going to send an amendment to the desk, and at the appropriate time I will ask for its consideration. The floor managers have the amendment now and are reviewing it. But I wanted to make a brief comment, which I will do at this time, to outline the amendment. And then we will work with the floor managers to see if this might be an acceptable amendment.

Mr. President, the amendment I send to the desk would require the Director of National Intelligence to task the intelligence community to prepare an updated National Intelligence Estimate on Iraq. The amendment is cosponsored by our Democratic leader, Senator REID, Senator BIDEN, Senator LEVIN, and Senator REED of Rhode Island.

The last time the NIE was updated was in July 2004. According to press reports, it outlined three possibilities for Iraq through the end of 2005. The worst case was civil war. The best case was an Iraq whose stability would remain tenuous in political, economic, and security terms. Much has changed over the last 2 years, and decisionmakers in the executive and legislative branches urgently need an updated NIE.

Since 2004, reports from the Departments of Defense and State and comments by administration officials on security and stability in Iraq have been unconvincing, and it is essential to have an objective assessment of Iraq from the intelligence community.

Our amendment would require the Director of National Intelligence to provide an intelligence assessment by October 1—2 months from now. If he is unable to do so, he must provide a report outlining the reasons.

The intelligence estimate required in our amendment would require an update on eight key issues.

The first is sectarianism. We need an assessment from the intelligence community on whether Iraq is in a civil war now or is descending into civil war, and what will prevent or reverse a deterioration of conditions promoting civil war.

The growing sectarian violence, the ruthless death squads, the increasingly powerful privately armed militias, and the administration's decision to send thousands more U.S. troops to Baghdad are alarming and are of concern to the American people. We need an assessment from the intelligence community so we know how to adjust our policy.

The second issue the new intelligence estimate should address is security. One of the key elements of that assessment should be the militias. Militias are the engines of civil war. All one needs to do is look at Bosnia or Lebanon.

As the violence in Lebanon demonstrates, political parties cannot govern with one hand and use militias to terrorize civilians with the other. It did not work with Hezbollah in Lebanon, it will not work with Hamas, and it will not work in Iraq.

Prime Minister Maliki has acknowledged the militia problem, but he has not articulated a clear vision for how to tackle this critical issue. It is time for the new Government to move beyond vague statements and develop a viable strategy to deal with the militias and prevent Iraq from descending into full-scale civil war.

On this critical issue, we need to know the intelligence community's assessment of the likelihood that the Government of Iraq will obtain a commitment from the political parties to ban militias. We need to know the extent to which the Government of Iraq has developed and implemented a credible plan to disarm, demobilize, and reintegrate militias into Government security forces.

More broadly, we need an assessment from the intelligence community about whether Iraq is succeeding in standing up its own effective security forces and what actions are needed to increase the prospect of that occurring.

The third issue is terrorism. We need an assessment from the intelligence community about the extent of the threat from violent, extremist-related terrorism, including al-Qaida, in and from Iraq, and the factors the intelligence community believes will address the terrorist threat.

Iraq Prime Minister Maliki told Congress last week that in addition to the challenge of sectarian violence, his country is ''the front line'' against terrorism. Is a majority of the violence in Iraq driven by the insurgency rather than foreign terrorists? Is it still the case that less than 1 percent of the prison population in Iraq are foreign fighters? We need to know the current nature and the extent of the terrorism threat. Just as important, we need the intelligence community's assessment on what we and the Iraqis can do to counter the threat.

Fourth, we need an assessment from the intelligence community about whether Iraq is succeeding in creating a stabile and effective unity government, the likelihood that changes to the constitution will be made to address the concerns of the Sunni community, and the actions it believes will increase the prospect of that occurring.

Fifth is economic reconstruction. We need an assessment from the intelligence community about whether Iraq is succeeding in rebuilding its economy and creating economic prosperity for Iraqis, the likelihood that economic reconstruction in Iraq will significantly diminish Iraq's dependence on foreign aid to meet its domestic economic needs, and the actions the intelligence community believes are needed to increase the likelihood of that occurring.

Sixth is the future of Iraq. We need an assessment from the intelligence community of the optimistic, the most likely, and the pessimistic scenarios for the stability of Iraq through 2007. The future of Iraq is difficult to predict, but certainly the assessment provided in 2004 needs to be updated. We need to know what the intelligence community foresees now.

Seventh is an assessment of the international presence in Iraq, including whether and in what ways the large-scale presence of multinational forces is helping or hindering Iraqis' chances for success.

Eighth, and finally, we need an assessment of the extent to which our operations in Iraq are affecting our relations with Iran, Saudi Arabia, Turkey, and other countries in the region.

A new National Intelligence Estimate is long overdue. John Adams once said: ''Facts are stubborn things.'' It is abundantly clear that the facts matter. They mattered before the war and during the war and they matter now as we try to deal effectively with the continuing quagmire.

So, Mr. President, at the appropriate time I will urge our colleagues to accept the amendment. And I will be glad to work with the floor managers if they have ideas about how it can be addressed and further effected.

Mr. President, I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 4775

Mr. SESSIONS. Mr. President, I would like to share a few remarks

about the amendment I have offered, No. 4775. It is to actually fund the border barriers and fencing that we authorized by an 83-to-16 vote just a few weeks ago, on May 17. This Senate said that is what we wanted to do. Unfortunately, when the more appropriate time came to fund it, we failed to have the money to do it.

I think there is a great deal of cynicism among the American people about Congress's commitment to actually creating a lawful system of immigration for America. They are not only cynical, but they are determined to see to it that Congress does. We are the vehicles for the American people to accomplish national goals of importance.

As a person who had been a law enforcement officer for many years involving Federal law, it is just heartbreaking to see, with regard to immigration, law made a mockery. People have every right to be upset with us, upset with the President—this President—and previous Presidents, previous Congresses.

Twenty years ago, in 1986, we developed a system that was supposed to work to deal with immigration. We gave a one-time amnesty to several million people. We promised we were going to make the system work in the future. And we never funded anything that would work. That is undisputable. It just cannot be denied by any person, I do not think, who would look at the situation as it has developed since 1986. There was a promise to do something. That promise was not fulfilled. So we do not want to head down that road again.

I think the House of Representatives is correct. Let's make sure we follow through this time. We have a credibility gap. We have a problem. People are not confident we are going to do it. Indeed, money gets tight around here. We spent $30-something billion on homeland security, but we could not find $1.8 billion to fund the fencing we voted to authorize and that DHS wants—fencing is a one-time expenditure that would reduce the number of Border Patrol agents, reduce the number of people who attempt to come in, and reduce the overall cost in the long run of making the border secure. But we did not do it. Why not? Well, those are the kinds of questions we are dealing with.

Now, the President has done some things that indicate he is committed to border enforcement. On July 25, Border Patrol Chief David Aguilar and National Guard Bureau General Steven Blum held a press conference on Operation Jump Start. That is where the National Guard is helping us at the border, as the President requested that they do. Chief Aguilar and General Blum explained: The National Guard is assisting them—the Border Patrol—with their ''tactical infrastructure so they can be more effective; . . . better roads so they can move along the border laterally . . . '' You have to be able to move along the border. You cannot have people elbow to elbow trying to stop people coming here illegally. When you see people come, you have to be able to move laterally along the border. And quote: ''fences and lighting and sensors.''

So that is what the National Guard is doing.

Now, yesterday, on August 1, we received a letter from Ralph Basham, the Border Patrol Commissioner, and Paul McHale, Assistant Secretary of Defense, announcing the fulfillment of President Bush's promise to deploy 6,000 National Guardsmen to the border by August 1. He met that goal. This is a good step. It is not the solution. They are not allowed to participate as a law enforcement agency. They have a lot of restrictions on them. But it is an assistance, and it is also part of a signal to the world that a wide-open border no longer exists, that we are taking steps to maintain security at our borders, like most nations of the world strive to do.

The letter describes how 6,199 soldiers and airmen are now working in four border States. One of the capacities they are serving in is ''forward deployment,'' which includes ''engineering and other efforts.'' This refers to the National Guard's role in building tactical infrastructures—roads and fencing.

So the National Guard is already charged with helping build the tactical infrastructure needed on the southern border. But they just do not have enough money to build what the Senate authorized: 370 miles of fencing and 500 miles of vehicle barriers that are less expensive but at least keep people from driving across the border in their vehicles.

So the amendment we have before us now, and the vote we will have, will finally appropriate the funds that will build fencing on the border. This is a real vote. What we often do in this Chamber is authorize expenditures. We authorize programs to be undertaken that will serve some good purpose. But if the appropriating committees and the Senate do not get around to actually funding those authorized activities, they never occur.

This is an appropriations bill, and it is a bill that has real power to fund a fence, in this case. So it is a real vote.

The language of the amendment is simple. We take the amount of money already in the bill to fund emergency National Guard activities and increase that money by the amount needed to construct the 370 miles of fencing and 461 miles of vehicle barriers on the southern border. Because 39 new miles of vehicle barriers were already funded in the Senate-passed Homeland Security bill we moved some weeks ago, we only fund 461 miles of vehicle barriers with this amendment.

Of course, the number of miles of barriers and fencing is what was requested by the Secretary of Homeland Security, Mike Chertoff, to the Congress. It is what he stated he needed to be effective on the border.

It is also important that we send that signal to the world that there has been a change in policy. We can deny we had a policy of open borders, but in reality we basically did. We have had an open borders mentality, so people around the world have received a message; and that is, if they are determined and if they come to our border, they can figure out a way to get across. That has been happening. We do not need to send that signal. We need to send a signal that the open borders time is over by passing this amendment. It is not a bottomless pit of costs. In fact, these barriers are one-time costs, but they will help us have good enforcement with fewer agents for decades to come. The net result will be that we will be able to save money. It will also save money in its signal capacity in that I believe we are going to have fewer people attempting to violate the law, as a result of a clear commitment to use the National Guard, fencing, increased Border Patrol, and also detention beds and deportation activity.

We are not playing games. The American people have every right to be dubious and concerned about the commitment of this Congress to follow through. However, I believe we can follow through. This is a test for us. I believe we will be ready to pass the test.

The cost to construct these miles of fencing and barriers will run between $1 and $3 million per mile for fencing, based on whether the military constructs the fencing or they use private contractors, and they are authorized to use contractors that they supervise, and $1.4 million per mile of vehicle barriers. The total construction cost for these miles will be less than $2 billion. That is not a small amount of money, but it is a manageable amount.

In a budget that spends over $900 billion a year, we ought to be able to find a couple of billion dollars to follow through on a commitment we made and the commitment the American people expect us to fulfill.

Fencing is a proven approach. With the establishment of the San Diego border fence, crime rates in San Diego have fallen off dramatically. According to the FBI crime index, crime in San Diego County dropped 56 percent between 1989 and 2000, after the fence was built. This is a whole county. It was a huge lawless area. Congressman DUNCAN HUNTER, chairman of the House Armed Services Committee, lives in San Diego. He called me several months ago to give me some personal insight into the economic growth, the security, and safety on both sides of the border, after this lawless area was brought under control by a fence. It is a proven success.

Vehicle drive-throughs, where people drive across the border and run right past anybody who may be watching them, have fallen between 6 to 10 per day before the construction of the border infrastructure to only four drive-throughs in the whole year of 2004.

Those occurred only where the secondary fence was incomplete. It is undeniable that fencing has reduced illegal entries into San Diego.

According to the numbers provided by the San Diego sector Border Patrol in February of 2004, apprehensions decreased from 531,689 in 1993—they apprehended 531,689 people on the San Diego sector in 1993. As a result of the fencing at the most busily crossed area in 2003, there were 111,515. Isn't that great? That is about one-fifth as many, indicating that one-fifth as many people were trying to cross the border overall. They apprehended in the San Diego area last year—in 2003—111,000 people attempting to enter this country illegally, and there are hundreds of thousands now crossing in Texas and Arizona, far more than are crossing where the San Diego fence was built.

So the scope of this problem is huge. I can't understand the concern that people would have that barriers would be somehow impractical when we are dealing with these kind of numbers. Fencing has also reduced drug trafficking in San Diego. In 1993, before the fence, authorities apprehended over 58,000 pounds of marijuana coming across the border. In 2003, after the fence helped stem the tide, only 36,000 pounds of marijuana were apprehended. In addition, cocaine smuggling decreased from 1,200 pounds to approximately 150 pounds. We have made a lot of progress there. We need to replicate that. We have learned from it, and we need to follow our own example. It is a one-time expense that this bill would meet and will allow us to meet those challenges.

I am convinced that physical barriers at the border are an essential part of a cost-effective solution to our current border security crisis. Virtual fences are intriguing and may be good in remote areas, but they don't impress me with regard to high traffic areas where we are talking about half a million or a million people crossing per year. There are only two alternative routes that we can take to secure the border: manpower alone or manpower plus infrastructure. We can take either: just personnel alone or we can do personnel plus infrastructure. The latter is much more cost effective. It will save us money.

Attempting to secure the entire 2,000-mile border with manpower alone could require as much as 150,000 agents, if you put 15 per mile over the 2,000 miles of the border. Then you have 7 days a week, 24 hours a day. How serious is this? It is a huge cost, were we not to have barriers at the most troubled areas.

If we only build a virtual fence and not a real one, we will be spending millions on technology to detect illegal crossings, and then we will be spending millions on manpower to chase down, apprehend, arrest, process, and deport the illegal crossers. That is not what we want to do. We don't want to play an expensive game where we catch and release and chase and catch and apprehend and pay to deport and pay to house while they are being deported. Apprehension is manpower intensive, slow, and legally complex. It requires additional related activities and costs such as incarceration and repatriation, courts, appeals, transport, lawyers. We don't want to do that. We want to get away from that.

We want to send a message to the world that this border is no longer open, that if you attempt to cross our border illegally, you are not going to succeed. You need to apply and wait in line to come legally. We are generous about how many people we allow now and how many people we will allow in the future. We are a very generous nation with regard to immigration. We will remain so. But we want people to make their application and wait in line, not to pour across the border. Many of the illegal crossers are coming from areas of the world that have terrorist influences. Once they are inside the border, they are that much harder to catch. Preventing people from coming here illegally is the right approach. Prevention is the right approach. We need to get to that place.

I talked to President Bush about this issue recently. He agreed that we need to get to what you might call a tipping point. Once we are serious and get border enforcement up and going in a real way, we get more Border Patrol agents, we end the catch-and-release policy, we put up fences and vehicle barriers, and we have sufficient detention beds so people don't have to be released on bail after they have been apprehended, never to show up again when they are asked to come back to court, if we end all of that, all of a sudden we will see a dramatic reduction in the number of people attempting to come. Couple that with a really workable biometric identifier card for people who come here with a lawful entry right and a job, and they have to present that card or they can't get work, people will wait in line to get that card. If we crack down on businesses who are hiring people without the proper identification, they will quit hiring people. Most businesses will do what you tell them to do.

We can get to that point very easily, far easier than a lot of people believe, where we can go back to a lawful system of immigration for America. That is what the American people want. They have every right to insist on it. They have been insisting on it for 40 years. We were supposed to have fixed it in 1986, 20 years ago. We did not do so. I am telling you, this Senator is not going to support any kind of immigration legislation that will not work to serve the interests of the United States and will not create a system that is lawful and not lawless. No Member of this Senate should.

I urge my colleagues to take this step and vote for this amendment because it is narrow. It simply adds money to the emergency National Guard account already in this bill to provide funds for the construction of physical barriers on the most vulnerable miles along the southern border, the area that Secretary Chertoff and the Department of Homeland Security favor. If we don't use the emergency funds provided in the budget for this purpose, they will get used for something else. The Senate has already voted overwhelmingly to approve construction of physical barriers along the border. We missed a chance to fund that barrier in the Department of Homeland Security appropriations bill. With this vote, there are no difficult choices to make. We can actually say to our constituents that we followed through and we walked the walk as well as talked the talk. I am confident that we will be successful.

I thank Chairman STEVENS for his consideration. I understand we may have a vote later this afternoon, which would be pleasing to me.

I yield the floor.

The PRESIDING OFFICER (Ms. MURKOWSKI). The Senator from Hawaii.

Mr. INOUYE. Madam President, I ask unanimous consent that amendment No. 4802 to H.R. 5631 be the pending business after the conclusion of the Sessions amendment.

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

The Senator from Alaska.

AMENDMENT NO. 4788

Mr. STEVENS. Madam President, I ask unanimous consent that the Kyl second-degree amendment be agreed to; further, that the Senate proceed to a vote in relation to the Sessions amendment, as amended, at 2 p.m. today, with no further second-degree amendments in order.

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

The amendment (No. 4788) was agreed to.

Mr. STEVENS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. STEVENS. Madam President, it is my understanding that the Senator from Texas would like to offer an amendment. I ask unanimous consent that the pending business be set aside so that he might offer that amendment, keeping in mind we do have a vote set for 2 o'clock on the pending business.

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

The Senator from Texas.

AMENDMENT NO. 4768

Mr. CORNYN. Madam President, I call up amendment No. 4768 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Texas [Mr. CORNYN] proposes an amendment numbered 4768.

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

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

The amendment is as follows:

(Purpose: To provide emergency supplemental appropriations for border security and immigration reform)

At the appropriate place, insert the following:

TITLE ___

BORDER SECURITY AND IMMIGRATION REFORM

CHAPTER 1—DEPARTMENT OF HOMELAND SECURITY

UNITED STATES VISITOR AND IMMIGRATION STATUS INDICATOR TECHNOLOGY

For an additional amount for ''United States Visitor and Immigration Status Indicator Technology'' to accelerate biometric database integration and conversion to 10-print enrollment, $60,000,000, to remain available until expended: *Provided*, That the amount provided under this heading may not be obligated until the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives receive and approve a plan for expenditure prepared by the Secretary of Homeland Security: *Provided further*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 83 (109th Congress), the concurrent resolution on the budget for fiscal year 2007, as made applicable in the Senate by section 7035 of Public Law 109–234.

CUSTOMS AND BORDER PROTECTION

SALARIES AND EXPENSES

For an additional amount for ''Salaries and Expenses'', $173,000,000, to remain available until September 30, 2007: *Provided*, That the amount provided under this heading may not be obligated until the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives receive and approve a plan for expenditure prepared by the Secretary of Homeland Security: *Provided further*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 83 (109th Congress), the concurrent resolution on the budget for fiscal year 2007, as made applicable in the Senate by section 7035 of Public Law 109–234.

AIR AND MARINE INTERDICTION, OPERATIONS, MAINTENANCE, AND PROCUREMENT

For an additional amount for ''Air and Marine Interdiction, Operations, Maintenance, and Procurement'' to replace air assets and upgrade air operations facilities, $560,000,000, to remain available until expended: *Provided*, That the amount provided under this heading may not be obligated until the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives receive and approve a plan for expenditure prepared by the Secretary of Homeland Security: *Provided further*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 83 (109th Congress), the concurrent resolution on the budget for fiscal year 2007, as made applicable in the Senate by section 7035 of Public Law 109–234.

CONSTRUCTION

For an additional amount for ''Construction'', $2,155,100,000, to remain available until expended; of which not less than $1,628,000,000 shall be for the construction of 370 miles of double-layered fencing along the international border between the United States and Mexico; of which not less than $507,100,000 shall be for the construction of 461 miles of vehicle barriers along the international border between the United States and Mexico; and of which not less than $20,000,000 shall be for construction associated with the hiring of 500 border patrol agents: *Provided*, That the amount provided under this heading may not be obligated until the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives receive and approve a plan for expenditure prepared by the Secretary of Homeland Security: *Provided further*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 83 (109th Congress), the concurrent resolution on the budget for fiscal year 2007, as made applicable in the Senate by section 7035 of Public Law 109–234.

IMMIGRATION AND CUSTOMS ENFORCEMENT

SALARIES AND EXPENSES

For an additional amount for ''Salaries and Expenses'', $196,500,000, to remain available until September 30, 2007; of which not less than $38,000,000 shall be for the hiring of 200 investigators and associated support for alien smuggling investigations; of which $113,000,000 shall be for the hiring of 600 investigators and associated support for worksite enforcement; of which $45,500,000 shall be for 1,300 detention beds, personnel, and associated support: *Provided*, That the amount provided under this heading may not be obligated until the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives receive and approve a plan for expenditure prepared by the Secretary of Homeland Security: *Provided further*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 83 (109th Congress), the concurrent resolution on the budget for fiscal year 2007, as made applicable in the Senate by section 7035 of Public Law 109–234.

UNITED STATES COAST GUARD

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

For an additional amount for ''Acquisition, Construction, and Improvements'' for acquisition, construction, renovation, and improvement of vessels, aircraft, and equipment, $416,000,000, to remain available until expended: *Provided*, That the amount provided under this heading may not be obligated until the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives receive and approve a plan for expenditure prepared by the Secretary of Homeland Security: *Provided further*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 83 (109th Congress), the concurrent resolution on the budget for fiscal year 2007, as made applicable in the Senate by section 7035 of Public Law 109–234.

UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES

For an additional amount for ''United States Citizenship and Immigration Services'' for the development and the implementation of the Electronic Employment Verification System, $400,000,000: *Provided*, That the amount provided under this heading may not be obligated until the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives receive and approve a plan for expenditure prepared by the Secretary of Homeland Security: *Provided further*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 83 (109th Congress), the concurrent resolution on the budget for fiscal year 2007, as made applicable in the Senate by section 7035 of Public Law 109–234.

GENERAL PROVISIONS—THIS TITLE

Notwithstanding any other provision in law, the transfers and programming conditions of the Department of Homeland Security Appropriations Act, 2007 shall apply to this title.

CHAPTER 2—DEPARTMENT OF JUSTICE

GENERAL ADMINISTRATION

ADMINISTRATIVE REVIEW AND APPEALS

For an additional amount for ''Administrative Review and Appeals'', $2,600,000, to remain available until September 30, 2007: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 83 (109th Congress), the concurrent resolution on the budget for fiscal year 2007, as made applicable in the Senate by section 7035 of Public Law 109–234.

LEGAL ACTIVITIES

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

For an additional amount for ''Salaries and Expenses, General Legal Activities'', $2,600,000, to remain available until September 30, 2007: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 83 (109th Congress), the concurrent resolution on the budget for fiscal year 2007, as made applicable in the Senate by section 7035 of Public Law 109–234.

SALARIES AND EXPENSES, UNITED STATES ATTORNEYS

For an additional amount for ''Salaries and Expenses, United States Attorneys,'' $2,600,000, to remain available until September 30, 2007: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 83 (109th Congress), the concurrent resolution on the budget for fiscal year 2007, as made applicable in the Senate by section 7035 of Public Law 109–234.

Mr. CORNYN. Madam President, I also ask unanimous consent that Senators KYL and BURNS be added as cosponsors to the amendment.

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

Mr. CORNYN. Madam President, I thank and commend Senator STEVENS and Senator INOUYE for their hard work on the Defense appropriations bill. They have done a tremendous job of putting together a bill that funds programs critical to the global war on terror.

I come to the floor today to talk about another aspect of our national security, and that is our border security. This amendment is a border security emergency supplemental appropriations amendment that I filed to the Defense appropriations bill.

At the outset, I made clear to the chairman of the Defense Appropriations Subcommittee, Senator STEVENS, and anyone else who was interested, this amendment does not reduce by one penny any funding for the Defense Department or our troops, nor would this amendment add to the budget deficit

because it is emergency spending necessary to control our borders and improve our national security.

It has now been about 2 months since the Senate passed a comprehensive immigration reform bill and over 7 months since the House of Representatives passed its bill. We are at a stalemate, I think it is fair to say, with no apparent way out.

While there has been no progress over the past few months on comprehensive immigration reform and border security measures, I remain optimistic and certainly committed to sending the President a comprehensive immigration reform bill before the end of the year.

The enforcement titles in the House and Senate bills are, upon inspection, people would agree, very similar. And there are several different proposals for addressing the 12 million people who are currently living here out of status, including one Senator KYL and I introduced about a year ago. Others have offered productive and constructive ideas and concepts, and I welcome all those who share my goal of moving this process forward and addressing this subject this year.

The main hurdle to a conference with the House and ultimately a bill approved by both Chambers is not a lack of common ground between the two bills. Instead, I submit it is a deep-rooted public skepticism that the Federal Government will enforce the immigration laws and fund enforcement programs that are necessary to maintain any level of integrity in our immigration system.

Unfortunately, Madam President, their skepticism is warranted. In 1986, Congress promised the American people that there would be a one-time amnesty and that increased enforcement would then prevent a buildup of illegal immigration in the country.

As we know, the amnesty came, but the enforcement did not. Unless and until Americans are confident that the Federal Government will control the border and enforce the law, they are unlikely to support an immigration bill that includes any temporary worker program.

One way to build that confidence is for Congress and this administration to fully fund border security and immigration enforcement programs starting with those that the Congress has already authorized and that the President has indicated are necessary to control our broken immigration system.

What are Americans to think when Congress authorizes additional Border Patrol agents and detention beds and claims then to have dealt with our broken borders, but when Congress turns around, it fails to fund the positions and the infrastructure that we just got through authorizing. Unfortunately, that has been the pattern too often over the last years.

Last week, Senators KYL, ISAKSON, CHAMBLISS, and I sent a letter to President Bush asking him to send Congress an emergency supplemental request to fully fund those programs; again, not new programs, by and large, but programs that have already been authorized by an act of Congress, signed into law by the President but never funded, in addition to a couple of additional programs the President himself has said we need in order to deal with this problem. A request by the President would send a clear message that the time for the status quo is over, it is no longer acceptable, and that the Federal Government will fund and, yes, will enforce the immigration laws of the United States.

But I am also prepared to proceed with an amendment to this Defense appropriations bill, the amendment that is before the Senate. It is my hope and desire that by funding enforcement programs that we will increase the credibility of the Federal Government when it comes to actually creating a system that will work and will facilitate a successful conference on comprehensive immigration reform between the House and the Senate.

This amendment in no way eliminates the need for comprehensive immigration reform. It is not a substitute for it, and I believe that comprehensive immigration reform should and can be done in a single piece of legislation. In fact, this amendment, rather than being a substitute for that comprehensive immigration reform, is just the opposite. This amendment will allow us to find common ground on visa reform and ways to address the 12 million individuals who are currently living in the shadows and outside our laws.

Absent action on this sort of credibility-restoring measure, I am afraid that we will find ourselves at a continued stalemate and do nothing.

My amendment would fund an additional 500 Border Patrol agents, along with the necessary support staff, training, and education to help make our borders safe. The President called for an additional 2,500 agents, and this appropriations amendment would allow him and us to meet that goal.

This amendment would also fund 1,300 additional detention beds which would allow the Department of Homeland Security to end its policy of catch and release more quickly.

The Intelligence Reform Act of 2004 authorized 8,000 additional beds, but Congress and the President have only funded 6,700 additional beds.

This amendment would provide $60 million to fund the US–VISIT entry-exit system. But the GAO report released today that revealed that undercover agents routinely were able to enter the country with false documents demonstrates, in as current fashion as today's news, the need to move forward with a biometric entry-exit system, and this amendment would provide the funds to do exactly that, something we have already passed and has been authorized but which we have not funded.

The President has also called for an expansion of the electronic verification system that would allow employers to quickly and more reliably determine whether new hires are authorized to work legally in the United States.

Unfortunately, the basic pilot program, which is a voluntary program, but it is only utilized by a handful of employers, has not been successful because it is not mandatory and it is not nationwide, and the Government today, even under this voluntary program, struggles to service the 10,000 employers who do voluntarily participate.

If we were serious about expanding the verification system to all employers around the country—which means approximately 6 million companies—on the timeframes proposed by the House and Senate, Congress needs to fully fund that program. This amendment would do that.

Anyone who has visited the border region knows that the infrastructure of our Coast Guard and our Border Patrol is woefully out of date. At one point, all of the P–3 surveillance aircraft along the border were grounded due to structural failures. This amendment therefore funds $973 million for Coast Guard improvements in vessels, aircraft, and equipment, and to replace air assets and engage in air fleet modernization—something that is long overdue. This funding was previously passed by the Senate in H.R. 4939, only to be stripped during the conference report.

Of course, this amendment alone will not fix our broken immigration system. We need comprehensive reform. But until Congress regains the credibility it so sorely needs to be able to move forward on comprehensive immigration reform, we will remain stuck as we are now with the Senate, which has passed a bill and the House which has passed a bill failing to convene a conference and work out our differences and actually provide a solution to this problem.

We do need comprehensive immigration reform. We need to create a temporary worker program for those who come to our country and want to work legally and then return to their country of origin. We need to address the 12 million individuals who are currently living in the shadows who are already present, living among us.

I remain committed to comprehensive immigration reform and I will continue to advocate for a bill that provides economic and national security. But I believe that funding for our border security is a necessary and essential step in that direction and I urge my colleagues to support this amendment.

Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

At this time there is not a sufficient second.

The Senator from Arizona.

Mr. KYL. Madam President, I wish to compliment our colleague. I know the

Senator from Georgia wishes to speak so I will simply say this: Senator CORNYN and I proposed something rather radical here and that is that we actually put our money where our mouth is. That is to say, all the things we authorized, all the things the President requested to make sure we can secure the border, we actually fund so we can get the job done. That is what this amendment does. It basically takes the difference between what we said we want to do and what we fund and closes the gap so we fund it all. It is an important amendment to ensure that we can secure the border first as part of a comprehensive immigration reform.

I appreciate the work my colleague Senator CORNYN has done. I am proud to cosponsor it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. ISAKSON. I ask unanimous consent I be included as a cosponsor of this amendment.

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

Mr. ISAKSON. Madam President, the heart and soul of comprehensive immigration reform is first and foremost the foundation of a secure border. When we debated in the Senate the comprehensive immigration bill that was finally passed, Senator SESSIONS, Senator CORNYN, Senator KYL, myself, Senator SANTORUM, and others were sponsors of the amendment that called on the border security being the trigger for any program granting legal status to someone who is here illegally. That still is the case and is still the foundation on which we must build comprehensive immigration reform.

The American people know that in 1986, the last time Congress reformed immigration laws, we granted amnesty and promised border security. We gave amnesty, but we did not secure the borders. That is why we had a 3-million illegal alien problem in 1986 and we have a 12-million illegal alien problem today.

It is absolutely essential, too, as the Senator from Arizona said, to put our money where our mouth is. The amount of money proposed by the Senator is truly an emergency. There is no greater domestic issue in this country than the problems on our southern border with Mexico. There is no greater challenge to American business, industry, and agriculture than to have a functioning and a working and a meaningful guest worker program. None of those can be accomplished without first securing the border so people come to the United States the right way and the legal way.

Our country has always had a pathway to citizenship and it is known as legal immigration. Only with the enforcement of our laws and respect for those laws can we bring about a return to legal immigration into the United States of America.

I have commented often in speeches I have made around my State that this is a great nation in which we live. You don't find anybody trying to break out of the United States of America. They are all trying to break in because we are a nation of hope and promise. But with an absence of respect for our own security on our own border, we ask for and will end up getting significant trouble.

Senator CORNYN has brought to the floor a perfect idea: an emergency supplemental as a part of the Department of Defense authorization to ensure that border security becomes meaningful and becomes real. It is absolutely true, it is a national security issue. And, it is absolutely true that it is a matter of the defense of our Nation. It is fundamentally true that it is the foundation for whatever comprehensive reform this Senate and the House will ever agree to.

I urge my colleagues to vote in support of the Cornyn amendment.

I yield the floor.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

AMENDMENT NO. 4768, AS MODIFIED

Mr. CORNYN. Madam President, I send a modification of amendment 4768 to the desk.

The PRESIDING OFFICER. The amendment is so modified.

The amendment (No. 4768), as modified, is as follows:

At the appropriate place, insert the following:

TITLE ___

BORDER SECURITY AND IMMIGRATION REFORM

CHAPTER 1—DEPARTMENT OF HOMELAND SECURITY

UNITED STATES VISITOR AND IMMIGRATION STATUS INDICATOR TECHNOLOGY

For an additional amount for ''United States Visitor and Immigration Status Indicator Technology'' to accelerate biometric database integration and conversion to 10-print enrollment, $60,000,000, to remain available until expended: *Provided*, That the amount provided under this heading may not be obligated until the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives receive and approve a plan for expenditure prepared by the Secretary of Homeland Security: *Provided further*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 83 (109th Congress), the concurrent resolution on the budget for fiscal year 2007, as made applicable in the Senate by section 7035 of Public Law 109–234.

CUSTOMS AND BORDER PROTECTION

SALARIES AND EXPENSES

For an additional amount for ''Salaries and Expenses'', $173,000,000, to remain available until September 30, 2007: *Provided*, That the amount provided under this heading may not be obligated until the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives receive and approve a plan for expenditure prepared by the Secretary of Homeland Security: *Provided further*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 83 (109th Congress), the concurrent resolution on the budget for fiscal year 2007, as made applicable in the Senate by section 7035 of Public Law 109–234.

AIR AND MARINE INTERDICTION, OPERATIONS, MAINTENANCE, AND PROCUREMENT

For an additional amount for ''Air and Marine Interdiction, Operations, Maintenance, and Procurement'' to replace air assets and upgrade air operations facilities, $560,000,000, to remain available until expended: *Provided*, That the amount provided under this heading may not be obligated until the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives receive and approve a plan for expenditure prepared by the Secretary of Homeland Security: *Provided further*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 83 (109th Congress), the concurrent resolution on the budget for fiscal year 2007, as made applicable in the Senate by section 7035 of Public Law 109–234.

CONSTRUCTION

For an additional amount for ''Construction'', $2,155,100,000, to remain available until expended; of which not less than $1,628,000,000 shall be for the construction of 370 miles of double-layered fencing along the international border between the United States and Mexico; of which not less than $507,100,000 shall be for the construction of 461 miles of vehicle barriers along the international border between the United States and Mexico; and of which not less than $20,000,000 shall be for construction associated with the hiring of 500 border patrol agents: *Provided*, That the amount provided under this heading may not be obligated until the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives receive and approve a plan for expenditure prepared by the Secretary of Homeland Security: *Provided further*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 83 (109th Congress), the concurrent resolution on the budget for fiscal year 2007, as made applicable in the Senate by section 7035 of Public Law 109–234.

IMMIGRATION AND CUSTOMS ENFORCEMENT

SALARIES AND EXPENSES

For an additional amount for ''Salaries and Expenses'', $196,500,000, to remain available until September 30, 2007; of which not less than $38,000,000 shall be for the hiring of 200 investigators and associated support for alien smuggling investigations; of which $113,000,000 shall be for the hiring of 600 investigators and associated support for worksite enforcement; of which $45,500,000 shall be for 1,300 detention beds, personnel, and associated support: *Provided*, That the amount provided under this heading may not be obligated until the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives receive and approve a plan for expenditure prepared by the Secretary of Homeland Security: *Provided further*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 83 (109th Congress), the concurrent resolution on the budget for fiscal year 2007, as made applicable in the Senate by section 7035 of Public Law 109–234.

UNITED STATES COAST GUARD

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

For an additional amount for ''Acquisition, Construction, and Improvements'' for acquisition, construction, renovation, and improvement of vessels, aircraft, and equipment, $416,000,000, to remain available until expended: *Provided*, That the amount provided under this heading may not be obligated until the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives receive and approve a plan for expenditure prepared by the Secretary of Homeland Security: *Provided further*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 83 (109th Congress), the concurrent resolution on the budget for fiscal year 2007, as made applicable in the Senate by section 7035 of Public Law 109–234.

UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES

For an additional amount for ''United States Citizenship and Immigration Services'' for the development and the implementation of the Electronic Employment Verification System, $400,000,000 to remain available until expended: *Provided*, That the amount provided under this heading may not be obligated until the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives receive and approve a plan for expenditure prepared by the Secretary of Homeland Security: *Provided further*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 83 (109th Congress), the concurrent resolution on the budget for fiscal year 2007, as made applicable in the Senate by section 7035 of Public Law 109–234.

GENERAL PROVISIONS—THIS TITLE

Notwithstanding any other provision in law, the transfers and programming conditions of the Department of Homeland Security Appropriations Act, 2007 shall apply to this title.

CHAPTER 2—DEPARTMENT OF JUSTICE

GENERAL ADMINISTRATION

ADMINISTRATIVE REVIEW AND APPEALS

For an additional amount for ''Administrative Review and Appeals'', $2,600,000, to remain available until September 30, 2007: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 83 (109th Congress), the concurrent resolution on the budget for fiscal year 2007, as made applicable in the Senate by section 7035 of Public Law 109–234.

LEGAL ACTIVITIES

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

For an additional amount for ''Salaries and Expenses, General Legal Activities'', $2,600,000, to remain available until September 30, 2007: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 83 (109th Congress), the concurrent resolution on the budget for fiscal year 2007, as made applicable in the Senate by section 7035 of Public Law 109–234.

SALARIES AND EXPENSES, UNITED STATES ATTORNEYS

For an additional amount for ''Salaries and Expenses, United States Attorneys,'' $2,600,000, to remain available until September 30, 2007: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 83 (109th Congress), the concurrent resolution on the budget for fiscal year 2007, as made applicable in the Senate by section 7035 of Public Law 109–234.

Mr. CORNYN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

RECESS

Mr. STEVENS. Madam President, I ask unanimous consent that the Senate stand in recess until the hour of 1:30 p.m. today.

There being no objection, the Senate, at 1 p.m., recessed until 1:29 p.m. and reassembled when called to order by the Presiding Officer (Mr. THUNE).

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2007—Continued

Mr. STEVENS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. CHAMBLISS. Mr. President, I rise today to speak on the 2007 Defense appropriations bill. Senator STEVENS and Senator INOUYE, as well as the entire committee, worked diligently to produce a bill that supports our troops and provides what our military needs to fight and win the global war on terrrorism. I am pleased to say that this bill does just that. The bill provides $453.48 billion in new budget authority for the Department of Defense, including the $50.0 billion in additional global war on terror appropriations, and $14.7 billion above the fiscal year 2006 enacted level, excluding supplemental funding. This bill provides our service men and women with the resources necessary to continue and win the global war on terrorism, keep our country safe, and improve the quality of life for soldiers, sailors, airmen, marines, and their families.

After visiting with soldiers stationed from the 48th Brigade in Tallil, Iraq, I am convinced that the members of the Armed Forces are wholeheartedly committed to accomplishing the mission. It is my belief that Members of Congress have a duty to support fine soldiers such as these and ensure they have the best training, equipment, and resources to defeat our Nation's enemies. We must never forget that it is essential we finish the job we set out to do because our own security rests in winning the global war on terrorism.

Over the past few months, we have seen many amendments that claim that withdrawing from Iraq is the right approach. The Senate wisely defeated those amendments. We have a responsibility to ensure that the governments of Iraq and Afghanistan are stable, have the ability to govern themselves as sovereign nations, and have the infrastructure necessary to maintain the rule of law. I am proud that the bill before us today allows us to continue to fight and win the global war on terrorism and also continues to enhance our research and development projects so that we will continue to be able to defeat those who raise arms against us.

One of the key provisions in this bill is the funding for new aircraft. By appropriating $4.3 billion and approving a multiyear contract for the F–22A, the United States will maintain its position as having the superior air fighter well into the next few decades. Because my colleagues and I fought hard for multiyear procurement during the Defense authorization bill debate, we will be able to save the American taxpayer an estimated $225 million over separate 1-year contracts for the next 60 F–22s. While some dismissed these savings as ''insignificant,'' funds saved through this multiyear contract can be applied to other, crucial priorities during this time of war.

I am also very proud of the aspects of the bill which guarantee the United States will maintain its strategic lift capability. With an aging fleet, it is imperative we invest now in strategic lift aircraft to secure our future. The bill appropriates $867 million to procure C–130Js. Coupled with an additional $12 million for the C–5 AMP Program and $2.3 billion for C–17 procurement, including language directing the Department of Defense to budget for additional C–17s fiscal year 2008, we can be assured that the United States will maintain a strategic force projection capability able to respond to crises any place on short notice.

We must remember, however, that the best investment we can make is not equipment, but in the warfighters themselves. I am pleased that this legislation appropriates $45 million in supplemental education funding for local school districts that are heavily impacted by the presence of military personnel and families, including $30 million for impact aid, $5 million for educational services to support special-needs children, and an additional $10 million for districts experiencing rapid increases in the number of students due to rebasing and the BRAC process. I have several bases in my State that will benefit from this funding and I can assure you that this funding is critical to ensuring that children of our military families receive the quality education they deserve. As a result of the 2005 base realignment and closure process, Fort Benning and school systems in the surrounding area will experience an influx of approximately 10,000 students into their school systems over

the next several years. This funding ensures that communities like Fort Benning will have additional resources to help accommodate these extra students.

Continuing our focus on the families of service members, this bill provides $2 million to support the Reach Out and Read Program on military installations world-wide. The Reach Out and Read organization seeks to promote literacy and language development in infants and young children to ensure that they start school with every advantage possible. Cited by the National Research Council as an exemplary program, I am pleased that the bill provides funding for this worthy cause. This program makes an investment in the future that I am sure will pay substantial dividends.

This bill also provides a well deserved pay raise of 2.2 percent for all military personnel, effective January 1, 2007, and approves targeted pay raises for mid-career and senior enlisted personnel and warrant officers effective April 1, 2007. I have heard directly from troops in the field and personnel at Georgia military installations about how important these targeted pay raises are for retaining our men and women in uniform in the service and taking advantage of their hard-to-replace expertise. I commend the committee for including these pay raises in the bill.

This is a good bill that is clearly crafted with the needs of our troops and the security of our Nation foremost in mind. I hope my colleagues will join me in expeditiously approving this legislation so that our men and women in uniform can get the equipment, the benefits, and the support that they need and deserve.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. STEVENS. Will the Senator yield for a moment?

Mr. SPECTER. I yield.

AMENDMENT NO. 4775, AS MODIFIED

Mr. STEVENS. I send to the desk a modification of Senator SESSIONS' amendment that reflects the amendment offered by Senator KYL. Since it has not been ordered yet, I believe it is the Senator's right to modify the amendment.

The PRESIDING OFFICER. A vote has been ordered on the amendment, so it does take consent.

Mr. STEVENS. I ask unanimous consent he be permitted to modify his amendment.

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

The amendment (No. 4775), as modified, is as follows:

On page 221, line 9, strike ''$204,000,000'', and insert ''$2,033,100,000, which shall be designated as an emergency pursuant to section 402 of S. Con. Res. 83 (109th Congress), the concurrent resolution on the budget for fiscal year 2007, as made applicable in the Senate by section 7035 of Public Law 109–234.''

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I commend the distinguished chairman of the Subcommittee on Defense Appropriations and the ranking Member for their very good work in producing this Defense appropriations bill. It has been my pleasure to serve on this committee for some 25½ years with Senator STEVENS and Senator INOUYE. I have supported their action in providing substantial funding for a robust military and will be supporting this bill.

Our first line of defense is diplomacy. We ought to be undertaking some very strenuous efforts at diplomacy on what is happening today in the Middle East with Israel raging a defensive war, having been attacked by Hezbollah to the north and Hamas to the south, two terrorist organizations.

I spoke at some length on this subject on June 16th. My remarks are in the CONGRESSIONAL RECORD. I made the basic point that I thought it highly advisable for the United States to engage in direct negotiations with Iran and in direct negotiations with North Korea to try to solve the problems posed by those nations on the very serious issue of nuclear proliferation, with Iran seeking to develop nuclear weapons and with North Korea having nuclear weapons and posing an enormous threat.

In the more extensive remarks, which I made back on June 16, I pointed out the experience I have had in discussions with Hafez al-Assad on many visits which I paid to Syria over the years and some of those contacts which I think were helpful in acquainting Hafez al-Assad with the thinking of the West, acting to some extent as an intermediary between Assad and the Israeli Prime Minister because they would not talk, and perhaps being helpful in getting Assad and the Syrians to go to the Madrid Conference in 1991.

I picked up some of the efforts of former Congressman Solarz in trying to get Assad to allow the Jews in Syria to leave. And after many years, Assad did that. Whether my exhortations had any influence or not, I cannot be sure. But my own experience has been, in talking to foreign leaders, that one-on-one negotiations is highly desirable.

I had occasion to talk to Castro, to Chavez in Venezuela, to officials in China. And all of this is set out at some greater length in the floor statement I made back on June 16.

I made some comments on July 20, again, noted in the CONGRESSIONAL RECORD, as to what I thought ought to be done with respect to trying to work for a settlement in the Mideast, trying to eliminate Hezbollah as a threat to Israel's north and Hamas as a threat to the south in Israel.

I want to supplement those comments today with the underlying point that a solution to the problems there require some international pressure, if there is any pressure at all that can be brought to bear on Iran and Syria to stop backing Hezbollah and to stop arming Hezbollah and to stop being an accessory before the fact and really a coconspirator with Hezbollah in waging the war against Israel.

Earlier this week, on July 31, I wrote to Secretary of State Condoleezza Rice, with a copy to U.N. Ambassador Bolton. My letter to Secretary Rice applauded the efforts she is making to find a peaceful solution to the Mideast, and saying:

It is my judgment that no solution is possible, especially as to Hezbollah, until Iran and Syria cease to support Hezbollah's military action.

I sent a copy of that letter, as noted, to our Ambassador to the U.N., John Bolton, and talked to him about the situation. And after those discussions—and I am not looking for any endorsement from anybody—I thought that I ought to pursue the matter with this floor statement.

We have had a situation where the Iranian Foreign Minister was in Beirut earlier this week and parroted the party line from Syria and Hezbollah in making demands for a five-point program: First, Israeli withdrawal; second, an exchange of prisoners; third, an international force; fourth, that Israel should compensate Lebanon, which is not sensible, to put it mildly, in light of the fact that Israel is fighting a war in self-defense, which Israel has every right to do under article 51 of the U.N. Charter; and the fifth point pursued by the Iranian Foreign Minister, in talks with the French Foreign Minister in Beirut earlier this week, was the formation of an international commission to investigate Israeli war crimes, with the view to compensation—again, an idea which has no merit whatsoever in view of the underlying facts as to what is going on there.

We have seen a situation evolve in the fighting there where Hezbollah has fired some 1,500 Katyusha rockets into Israel. They started the turmoil and the conflict on July 12 of this year, kidnapping two Israeli soldiers and killing eight others. This is the same Hezbollah terrorist organization which, in April of 1983, killed 63 people in a bomb attack on the U.S. Embassy in Lebanon. On October 23, 1983 Hezbollah was responsible for the killing of 241 U.S. servicemen at the marine barracks in Beirut.

Since its establishment, Hezbollah has been tracked with the kidnapping of more than 30 westerners and has been charged with carrying out attacks from London to Buenos Aires. Hezbollah has killed more Americans than any terrorist group, with the exception of al-Qaida.

The State Department's 2006 Country Reports on Terrorism noted that Hezbollah ''receives training, weapons, and explosives, as well as political, diplomatic, and organizational aid, from Iran.'' The report further states that Hezbollah ''is closely allied with Iran and often acts at its behest.'' Further, the report maintains that ''the Iranian Islamic Revolutionary Guard Corps and Ministry of Intelligence and Security

were directly involved in the planning and support of terrorist acts and continued to exhort . . . Lebanese Hezbollah, to use terrorism in pursuit of their goals.''

The same State Department 2006 report on terrorism also describes the support provided to Hezbollah by the Government of Syria. According to the report: ''Hezbollah receives diplomatic, political, and logistical support from Syria'' and ''Syria continued to permit Iran to use Damascus as a transshipment point to resupply Hezbollah in Lebanon.'' More recently, an intelligence officer said, as reported by the Washington Post on July 27 of this year, that, Iranian national security chief Ali Larijani was on an unannounced visit to Damascus on Thursday to discuss the Lebanon crisis with Syrian leaders and to urge continued support for Hezbollah.''

The New York Times, on July 19, reported that 5 days earlier an Israeli naval vessel was attacked by ''a sophisticated antiship cruise missile, the C–802, an Iranian-made variant of the Chinese Silkworm.'' Experts cited in this article noted that ''Iran was not likely to deploy such a sophisticated weapon without also sending Revolutionary Guard crews with the expertise to fire the missile.'' And the Times also noted that forensics conducted by the Israelis concluded that many of the Hezbollah rockets ''including a 220-millimeter rocket used in a deadly attack on a railway site in Haifa . . . were built in Syria.''

On February 9 of 2004, the Security Council passed Resolution 1559 by a vote of 9–0 which called for the disbanding and disarmament of Hezbollah, the removal of foreign forces from Lebanon, and the deployment of the Lebanese Army to the southern border. After the adoption of that resolution, the U.N. issued a statement calling ''upon all parties concerned to cooperate fully and urgently with the Council for the full implementation of all its resolutions concerning the restoration in Lebanon of territorial integrity, full sovereignty and political independence.''

An April 2006 report delivered to the Security Council on the implementation of Resolution 1559 was explicitly critical of Iran's and Syria's support for Hezbollah. In the report, Secretary General Kofi Annan noted:

. . . renewed incidents of arms transfers across the Syrian-Lebanese border into Lebanon . . . [is] in contradiction of resolution 1559.

The report further stated that Hezbollah ''maintains close ties, with frequent contacts and regular communication, with the Syrian Arab Republic and the Islamic Republic of Iran.''

All of this paints a conclusive picture of Iran and Syria being behind Hezbollah, having armed Hezbollah, having the rockets in a position with a knife at the throat of Israel, with Israel taking action in self-defense, once Israeli soldiers were killed, other Israeli soldiers attacked.

And in searching for a resolution to this dire situation, it is pointless to defang Hezbollah if Hezbollah is going to be resupplied by Syria and by Iran. And that is why I have urged Secretary of State Condoleezza Rice, by the letter dated July 31, to have the United States seek to bring Iran and Syria before the United Nations for the imposition of sanctions if they do not act promptly in furtherance of U.N. resolutions to stop arming Hezbollah.

My conversations with U.N. Ambassador John Bolton confirmed my view that this sort of U.N. action is urgently needed. I complimented Ambassador Bolton on the U.N. resolution—14 to 1—to set the stage for the imposition of sanctions on Iran if Iran does not move ahead to cease its development of nuclear weapons.

So I urge our State Department to move ahead vigorously to seek the imposition of sanctions on Iran and Syria to try to be helpful on this serious situation. Without eliminating the source of supply to Hezbollah, any cease-fire or any resolution would be temporary only.

Mr. President, I ask unanimous consent that the full text of my letter to Secretary Rice be printed in the RECORD.

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

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC, July 31, 2006.

Hon. CONDOLEEZZA RICE,
Secretary, Department of State,
Washington, DC.

DEAR CONDI: I applaud the efforts you are making to try to find a peaceful solution to the two-front defensive war which Israel is waging against Hezbollah to the north and Hamas to the south.

It is my judgment that no solution is possible, especially as to Hezbollah, until Iran and Syria cease to support Hezbollah's military action.

In a speech on the Senate floor on July 20, 2006, I urged the United Nations to call Iran and Syria on the carpet to explain their conduct in backing Hezbollah, in providing personnel to do more than train Hezbollah, more than advisers being integral parts of the military offensive of Hezbollah.

I urge you to take the leadership to bring a U.S. resolution before the UN Security Council demanding that Iran and Syria stop supporting Hezbollah and other terrorist organizations.

Sincerely,

ARLEN SPECTER.

Mr. SPECTER. Mr. President, I ask unanimous consent that a fuller statement be printed in the RECORD at the end of these extemporaneous remarks.

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

STATEMENT OF SENATOR ARLEN SPECTER ON THE UNITED NATIONS OBLIGATION TO CONFRONT THE IRAN-SYRIA-HEZBOLLAH CONNECTION

Mr. SPECTER. Mr. President. I have been following the recent developments in the Middle East with great concern. While Israel has rightfully defended itself against the attacks of Hezbollah, I believe the true source of this conflict must be confronted if there is to be an enduring peace in the region. Hezbollah is not a terrorist entity acting solely of its own accord. Rather, Hezbollah is a proxy of Iran and Syria.

Despite Israel's withdrawal from Southern Lebanon in 2000, the territory has remained a terrorist safe haven and over the last two weeks has become the launching point for more than 1,500 Katyusha rockets into Israel. This is the same territory from which Hezbollah launched an attack on an Israeli border patrol on July 12, 2006 which resulted in the killing of eight Israeli soldiers and the kidnapping of two others. These unprovoked acts of aggression have resulted in numerous civilian casualties in both Israel and Lebanon.

Israel, especially its citizens in the north, have had a knife at their throat for decades. Hezbollah has spent the last 25 years digging in and arming themselves poised to attack Israel. These belligerent acts are not the first to come from Hezbollah. In April 1983, Hezbollah killed 63 people in a bomb attack on the U.S. embassy in Lebanon. In October of that same year, the terrorist group killed 241 U.S. servicemen at the Marine Corps barracks in Beirut. Since its establishment, Hezbollah is believed to have kidnapped more than thirty Westerners and has been charged with carrying out attacks from London to Buenos Aires.

I compliment the Secretary of State, Condoleezza Rice, for her efforts to highlight the connectivity which exists between Iran, Syria, and Hezbollah. These links have contributed to the destabilization of the region and are directly responsible for the outbreak of hostilities between the Israeli Defense Forces and Hezbollah. The UN must proclaim that Iran and Syria's links with Hezbollah will not be tolerated and must be severed. Failure to do so will allow Syria and Iran to remain the obstacle in laying a foundation upon which a lasting peace can be established.

The connection between Iran, Syria and Hezbollah is undeniable. According to the State Department's 2006 Country Reports on Terrorism, Hezbollah ''receives training, weapons, and explosives, as well as political, diplomatic, and organizational aid, from Iran.'' The report states that Hezbollah ''is closely allied with Iran and often acts at its behest.'' Further, the report maintains that ''the Iranian Islamic Revolutionary Guard Corps (IRGC) and Ministry of Intelligence and Security (MOIS) were directly involved in the planning and support of terrorist acts and continued to exhort . . . Lebanese Hezbollah, to use terrorism in pursuit of their goals.''

The State Department's 2006 Reports on Terrorism also describes the support provided to Hezbollah by the government of Syria. According to the report, ''Hezbollah receives diplomatic, political, and logistical support from Syria'' and ''Syria continued to permit Iran to use Damascus as a transshipment point to resupply Hezbollah in Lebanon.'' More recently, an intelligence officer told The Washington Post on July 27, 2006, that, ''Iranian national security chief Ali Larijani was on an unannounced visit to Damascus on Thursday to discuss the Lebanon crisis with Syrian leaders and to urge continued support for Hizbollah.''

The outbreak of violence has made these connections even more apparent. According to officials cited in a July 19, 2006 article in The New York Times, on July 14, 2006 an Israeli naval vessel was attacked by ''a sophisticated antiship cruise missile, the C–802, an Iranian-made variant of the Chinese Silkworm.'' Experts cited in this article noted, ''Iran was not likely to deploy such a sophisticated weapon without also sending Revolutionary Guard crews with the expertise to

fire the missile.'' The New York Times also stated that forensics conducted by the Israelis concluded that many of the rockets in Hezbollah's arsenal ''including a 220–millimeter rocket used in a deadly attack on a railway site in Haifa . . . were built in Syria.'' It is evident that not only is Hezbollah supplied by Iran and Syria, but that both nations have tacit knowledge of their actions and are directly supporting terrorist operations in Southern Lebanon.

On February 9, 2004, the Security Council attempted to plant the seeds for peace when it adopted Resolution 1559 by a vote of 9–0 which called for the disbanding and disarmament of Hezbollah, the removal of foreign forces from Lebanon, and the deployment of the Lebanese army to the southern border. Upon adoption of Resolution 1559, the U.N. issued a statement calling ''upon all parties concerned to cooperate fully and urgently with the Council for the full implementation of all its resolutions concerning the restoration in Lebanon of territorial integrity, full sovereignty and political independence.'' Although Israel fully withdrew its forces from Lebanon, Hezbollah did not disarm. Further, Iran and Syria continued to be an obstacle by providing support to Hezbollah, which prevented the deployment of Lebanese forces to southern Lebanon—an area the State Department has described as a ''terrorist sanctuary''.

An April 2006 report delivered to the Security Council on the implementation of Resolution 1559 was critical of Iran and Syria's support for Hezbollah. In the report, Secretary-General Kofi Annan noted, ''renewed incidents of arms transfers across the Syrian-Lebanese border into Lebanon . . . in contradiction to resolution 1559''. Specifically the report cited, ''an incident, in which arms destined for Hezbollah had been transferred from the Syrian Arab Republic into Lebanon. Twelve trucks carrying ammunitions and weapons of various kinds, including Katyusha rockets, crossed the border from the Syrian Arab Republic.'' The report further stated that Hezbollah, ''maintains close ties, with frequent contacts and regular communication, with the Syrian Arab Republic and the Islamic Republic of Iran'' and that implementation of the resolution would require the ''cooperation of all other relevant parties, including the Syrian Arab Republic and the Islamic Republic of Iran.''

Secretary General Annan stated, ''with the continued support of the Security Council, the national dialogue, the unity of the Lebanese and the farsighted leadership of the Government of Lebanon, as well as the necessary cooperation of all other relevant parties, including the Syrian Arab Republic and the Islamic Republic of Iran, the difficulties of the past can be overcome and significant headway made towards the full implementation of resolution 1559.'' It is clear that Iran and Syria, have acted in a manner to subvert the implementation of 1559.

I believe Iran and Syria, through Hezbollah, are responsible for attacking the State of Israel and should be held accountable. Accordingly, I urge the United Nations to demand the immediate halt of Hezbollah's attacks against Israel, declare Iran and Syria directly responsible for the actions of Hezbollah and demand that all support for the terrorist organization be immediately withdrawn under the threat of sanction.

Iran and Syria were three of the original 51 Member States of the United Nations, agreeing to the Charter and accepting its conditions on October 24, 1945. Chapter I, Article 2, Paragraph 2 of the Charter binds ''All Members, in order to ensure to all of them the rights and benefits resulting from membership, shall fulfill in good faith the obligations assumed by them in accordance with the present Charter.'' The Charter further calls on member states ''to practice tolerance and live together in peace with one another as good neighbors'' and ''to maintain international peace and security.'' Iran and Syria have not practiced tolerance and their actions pose a threat to peace and security.

Chapter I, Article 2, Paragraph 3 states that, ''All Members shall settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered.'' Iran and Syria, via Hezbollah, have chosen to support aggression rather than peaceful means in their dispute with Israel.

Furthermore, under Chapter I, Article 2, Paragraph 4, ''All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations.'' Iran and Syria, who have tacit knowledge of and directly support Hezbollah's actions, have orchestrated and enabled the attacks against the territory of a sovereign nation.

The Security Council is bound under Chapter VII, Article 39 to, ''determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measures shall be taken in accordance with Articles 41 and 42, to maintain or restore international peace and security.'' Accordingly, the UN must recognize that Hezbollah is a threat to the peace, Iran and Syria have enabled Hezbollah to breach the peace and that this connectivity represents a direct threat to the peace. The Security Council should, under Article 40, call on Syria and Iran to cease and desist. Should either nation fail to comply, the UN should move to consider actions, such as sanctions, available under Article 41.

In conclusion, Syria and Iran have acted contrary to Security Council Resolution 1559, to the detriment of peace and stability in the region. Iran and Syria enable, arm, support and, to a significant degree, dictate the actions of Hezbollah. It is the duty of the United Nations to directly confront Iran and Syria and take swift and harsh action to rightfully lay the blame of Hezbollah's aggression at the doorstep of Damascus and Tehran.

I yield the floor.

Mr. SPECTER. I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

VOTE ON AMENDMENT NO. 4775, AS AMENDED AND MODIFIED

Mr. STEVENS. Mr. President, at 2 p.m. there will be a vote on the Sessions amendment, as modified?

The PRESIDING OFFICER. The Senator is correct.

Mr. STEVENS. The yeas and nays have not been ordered?

The PRESIDING OFFICER. The Senator is correct.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the amendment, as amended and modified. The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. The following Senator was necessarily absent: the Senator from Kentucky (Mr. BUNNING).

Further, if present and voting, the Senator from Kentucky (Mr. BUNNING) would have voted ''yea.''

Mr. DURBIN. I announce that the Senator from Montana (Mr. BAUCUS and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

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

The result was announced—yeas 94, nays 3, as follows:

[Rollcall Vote No. 220 Leg.]

YEAS—94

Akaka	Domenici	Mikulski
Alexander	Dorgan	Murkowski
Allard	Durbin	Murray
Allen	Ensign	Nelson (FL)
Bayh	Enzi	Nelson (NE)
Bennett	Feinstein	Obama
Biden	Frist	Pryor
Bingaman	Graham	Reed
Bond	Grassley	Reid
Boxer	Gregg	Roberts
Brownback	Harkin	Rockefeller
Burns	Hatch	Salazar
Burr	Hutchison	Santorum
Byrd	Inhofe	Sarbanes
Cantwell	Inouye	Schumer
Carper	Isakson	Sessions
Chafee	Johnson	Shelby
Chambliss	Kennedy	Smith
Clinton	Kerry	Snowe
Coburn	Kohl	Specter
Cochran	Kyl	Stabenow
Coleman	Landrieu	Stevens
Collins	Lautenberg	Sununu
Conrad	Leahy	Talent
Cornyn	Levin	Thomas
Craig	Lincoln	Thune
Crapo	Lott	Vitter
Dayton	Lugar	Voinovich
DeMint	Martinez	Warner
DeWine	McCain	Wyden
Dodd	McConnell	
Dole	Menendez	

NAYS—3

Feingold	Hagel	Jeffords

NOT VOTING—3

Baucus	Bunning	Lieberman

The amendment (No. 4775), as amended and modified was agreed to.

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

The motion to lay on the table was agreed to.

Mr. KENNEDY. Mr. President, I have an amendment at the desk and I ask for its immediate consideration. I talked to both managers of the bill, and they are reviewing it.

Mr. STEVENS. Will the Senator permit us to have a managers' package first?

Mr. KENNEDY. Yes. I withhold my request.

The PRESIDING OFFICER. Under the previous order, amendment No. 4802 is scheduled to be the next pending measure before the Senate.

The Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, on behalf of myself and Senator INOUYE, I will present another managers' package. This contains amendment No. 4778, for Senator SMITH, regarding airships; No. 4773, for Senator DAYTON, regarding postdeployment support; No. 4766, for Senator INOUYE, regarding a military history exhibit; No. 4760, as modified, for Senator LOTT, regarding airdrop systems.

Mr. President, I withdraw the package.

AMENDMENT NO. 4802

The PRESIDING OFFICER. Under the previous order, it is now in order to consider amendment No. 4802, as offered by Senator KENNEDY.

The clerk will report.

The legislative clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY], for himself, Mr. REID, Mr. BIDEN, Mr. LEVIN, and Mr. REED, proposes an amendment numbered 4802.

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

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

The amendment is as follows:

(Purpose: To require a new National Intelligence Estimate on Iraq)

On page 150, line 24, insert before the period the following: ''*: Provided*, That Director of National Intelligence shall, utilizing amounts appropriated by this heading, prepare by not later than October 1, 2006, a new National Intelligence Estimate on Iraq with an assessment by the intelligence community of critical political, economic, and security trends in Iraq, which shall address such matters as the Director of National Intelligence considers appropriate, including (1) an assessment whether Iraq is in or is descending into civil war and the actions that will prevent or reverse deterioration of conditions promoting civil war, including sectarianism, (2) an assessment whether Iraq is succeeding in standing up effective security forces, and the actions that will increase the chances of that occurring, including an assessment of (A) the extent to which militias are providing security in Iraq, and (B) the extent to which the Government of Iraq has developed and implemented a credible plan to disarm and demobilize and reintegrate militias into government security forces and is working to obtain a political commitment from political parties to ban militias, (3) an assessment of (A) the extent of the threat from violent extremist-related terrorism, including al Qaeda, in and from Iraq, (B) the extent to which terrorism in Iraq has exacerbated terrorism in the region and globally, (C) the extent to which terrorism in Iraq has increased the threat to United States persons and interests around the world, and (D) actions to address the terrorist threat, (4) an assessment whether Iraq is succeeding in creating a stable and effective unity government, the likelihood that changes to the constitution will be made to address concerns of the Sunni community, and the actions that will increase the chances of that occurring, (5) an assessment (A) whether Iraq is succeeding in rebuilding its economy and creating economic prosperity for Iraqis, (B) the likelihood that economic reconstruction in Iraq will significantly diminish the dependence of Iraq on foreign aid to meet its domestic economic needs, and (C) the actions that will increase the chances of that occurring, (6) a description of the optimistic, most likely, and pessimistic scenarios for the stability of Iraq through 2007, (7) an assessment whether, and in what ways, the large-scale presence of multinational forces in Iraq helps or hinders the chances of success in Iraq; and (8) an assessment of the extent to which the situation in Iraq is affecting relations with Iran, Saudi Arabia, Turkey, and other countries in the region: *Provided further*, That, not later than October 1, 2006, the Director of National Intelligence shall submit to Congress the National Intelligence Estimate prepared under the preceding proviso, together with an unclassified summary of the National Intelligence Estimate: *Provided further*, That if the Director of National Intelligence is unable to submit the National Intelligence Estimate by the date specified in the preceding proviso, the Director shall submit to Congress, not later than that date, a report setting forth the reasons for being unable to do so''.

Mr. KENNEDY. Mr. President, this is a request for a national intelligence estimate on Iraq. We haven't had one now for 2 years. I have talked with the managers. They will review it. It is under consideration. They will let us know. We will have further comments on it later. The managers understand this, and I hope we will have an opportunity to dispose of it a little later.

Mr. STEVENS. Mr. President, Senator KENNEDY's amendment remains the pending business?

The PRESIDING OFFICER. Amendment No. 4802 is the pending business.

Mr. STEVENS. I suggest the absence of a quorum. I withhold that request.

The PRESIDING OFFICER. The request is withdrawn.

The Senator from Illinois.

AMENDMENT NO. 4781

Mr. DURBIN. Mr. President, I ask unanimous consent that the pending amendment be set aside so I may call up amendment No. 4781 for debate.

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

The legislative clerk read as follows:

The Senator from Illinois [Mr. DURBIN], for himself, Mr. OBAMA, and Mr. LAUTENBERG, proposes an amendment numbered 4781.

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

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

The amendment is as follows:

(Purpose: To make available from Research, Development, Test and Evaluation, Army, up to $2,000,000 for the improvement of imaging for traumatic brain injuries)

At the end of title VIII, add the following:

SEC. 8109. Of the amount appropriated or otherwise made available by title IV under the heading ''RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY'', up to $2,000,000 may be available for the improvement of imaging for traumatic brain injuries and the adaptation of current technologies to treat brain injuries suffered in combat.

The PRESIDING OFFICER. The Senator is recognized.

Mr. DURBIN. Mr. President, I ask the Senate to join me for a few minutes to consider this amendment. It relates to traumatic brain injury. It is a very serious problem with soldiers who are serving in Iraq and Afghanistan. This amendment addresses the very real medical issues and problems they are facing with these serious wounds. Senator OBAMA shares my concern of this issue. That is why we are offering this amendment together today.

Our goal is to improve the treatment of the devastating injuries which are suffered by many of our soldiers in Iraq and Afghanistan.

Traumatic brain injuries can range from large, penetrating skull fractures to concussions which may not be immediately detected.

As of January of this year, the Department of Defense reported that nearly 12,000 members of the military have been directly or indirectly wounded in explosions in Iraq and Afghanistan.

Mr. President, I am going to display a chart at this moment which is painful to see. I talked it over with a man who has served in Iraq who commanded troops in Iraq who saw one of his soldiers suffer a very serious injury similar to the one I am about to show. I asked whether he thought it was appropriate for me to show this image on the floor. He said, Yes, it is important that the people of this country understand the kinds of injuries that our soldiers are experiencing and why this issue of traumatic brain injury is so important for us to discuss with this amendment.

This is an actual x-ray of an American soldier who has been the victim of a traumatic brain injury. Because of an explosion, one can see that a major portion of this soldier's skull was blown off. We are told that there are soldiers who have experienced injuries that are even more grievous, and they survived. Through the miracle of evacuation and medical treatment, they survive. They go through extensive surgeries, and some, this officer told me, end up wearing helmets for long periods of time during their recuperation until they can finally rebuild their skulls so they can start to go through rehabilitation and recuperation.

This is amazing when we see an image of an x-ray such as this and understand that many of our soldiers have been subjected to traumatic brain injury of lesser and greater extent and are now returning to the United States.

These brain injuries are often caused by bullet wounds or penetrating head injuries and can also be the result of blasts, obviously bombs, grenades, landmines, missiles, mortar, artillery shells.

In the Iraq and Afghanistan conflicts, traumatic brain injury accounts for 22 percent or more of injuries, a larger proportion of casualties than in any other recent war of the United States. It is a serious medical challenge for those who treat our soldiers, certainly for the soldiers who are victims of these injuries and their families.

With the frequency of attack by rocket-propelled grenades, improvised explosive devices in Iraq and Afghanistan, soldiers are more likely to encounter an explosion. Improvements in protective devices, such as Kevlar helmets and body armor, may make the soldiers more likely to survive these terrible explosions.

More than 1,700 of those wounded in Iraq are known to have sustained serious brain injury—1,700 soldiers. Half of these injuries are severe enough to permanently impair thinking, memory, mood, behavior, and their ability to work.

This information I am sharing is from official documentation of the Department of Defense.

Mr. President, you may recall, however, that back in January, ABC News co-anchor Bob Woodruff sustained a traumatic brain injury from an IED when he was embedded with the Army's 4th Infantry Division in Iraq.

In a recent survey of 115 soldiers wounded from blast injuries, 62 percent had brain injuries, according to the Defense and Veterans Injury Center at Walter Reed.

According to a recent study by researchers at Harvard and Columbia, it is estimated that the cost of medical treatment for those individuals with brain injuries from the Iraqi war will be at least $14 billion over the next 20 years. In Vietnam and previous 20th century wars, brain injuries accounted for less than 20 percent of injuries.

The effect of these injuries range from short-term minor impairment to long-term serious disability. One of the common long-term residual effects of traumatic brain injury is the onset of epileptic seizures. These symptoms may begin months or even years after the injury occurs. The more brain tissue a soldier loses as a result of a brain injury, the more likely he or she is to develop seizures.

I can recall recently seeing another television show. There was a young woman, a beautiful young woman, who had volunteered to serve in the Army and was in Iraq. She was the victim of one of these blast injuries and lost a major portion of her skull. She had gone through numerous surgeries and long periods of recuperation. When you saw her on television, she looked perfect, beautiful as can be, perfectly normal, as if nothing had ever happened to her. It is a tribute to the men and women who treat our soldiers that they do return to this moment in their lives where they have a chance.

When she was asked what life was like, she said: It is still a battle every day, but it is one I am willing to face—double vision, pain, these are things which I am just going to work with.

Unfortunately, we know that these brain seizures are also a challenge for these victims. Recurrent late seizures are considered post-traumatic epilepsy, or PTE. Studies have estimated that over 50 percent of Vietnam veterans with penetrating head injuries acquired epilepsy as a result of their injuries.

The same statistics apply in Iraq. It means that we will have massive numbers of our soldiers in years to come who have suffered head injuries of varying degrees at least subject to the possibility of these seizures. Unfortunately, our veterans in Iraq and Afghanistan may face that future. I hope they do not, but it could happen.

Given the heavy incidence of closed head trauma in this war, which is less well understood, we may see even more cases.

The Army currently does not have a program focused on advanced traumatic brain injury diagnosis that will treat combat wounds and related ailments, such as PTE. Clearly, such a program would help the more than 1,700 soldiers with brain injuries sustained in Iraq and Afghanistan.

The Army estimates that there is an annual investment gap of $20 million in research, development, test, and evaluation for improved diagnostics and other long-term rehabilitative treatments of traumatic brain injuries. These are the Army's own estimates: That they are falling short $20 million for what they need to deal with this serious problem.

Senator OBAMA and I are offering this amendment so that we can focus a small part of a large bill on defense funds, using them to acquire and use technology that can best diagnose, identify, and help us treat traumatic brain injury.

Currently, there is a promising technology called diffusion tensor imaging, DTI, that could help identify traumatic brain injury that might not be apparent. DTI is similar to an MRI, but it is twice as powerful in scanning the brain. DTI identifies damage to the white matter in the brain that frequently causes traumatic brain injury.

However, today DTI is currently used primarily to identify noncombat diseases, such as multiple sclerosis and schizophrenia, not for diagnosing combat-related injuries.

Before we can deploy this promising technology to help treat our soldiers who suffer traumatic brain injury, we need a greater understanding of how to use it more effectively. If this research isn't focused soon, we won't be able to deploy DTI technology to combat field hospitals or regional medical treatment facilities in places such as Baghdad or Landstuhl, Germany, that are very close to the scene of battle.

In order to reach the point where DTI can be deployed closer to combat, we need to fund a program that pairs the Army with premier brain institutes in America to focus primarily on diagnosing brain injuries sustained in combat.

The amendment that Senator OBAMA and I offer would do just that. It would allocate $2 million—$2 million—a significant sum for the average person, but in the context of this bill involving billions of dollars a very small amount. It would allocate $2 million to premier brain scientists at the University of Chicago where this research is underway and enable them to partner with the U.S. Army to test and evaluate DTI technology so that we can establish a standard of care for traumatic brain injury that would bring the advantages of DTI closer to the troops in the field.

This will allow us to immediately detect and treat the increasing number of traumatic brain injury cases caused by combat. In addition, these funds will allow the university to partner with the Army Medical Research and Materiel Command and associated epilepsy advocacy to treat traumatic brain injury survivors with post-traumatic epilepsy.

As my colleagues can see, this project is directly related to the real-life needs of our soldiers who have served us so valiantly in Iraq and Afghanistan and other theaters. It is a small amount by the standards of this bill, but it could provide the promise of recovery for soldiers who face these traumatic brain injuries. It will go a long way toward treating what may be the signature wound of the conflicts in Iraq and Afghanistan.

I know this is not included in the bill as it comes before us. I hope, despite the debate in the committee, that my colleagues on both sides of the aisle will consider this amendment.

Mr. President, $2 million seems a small price to pay to give these soldiers who have paid such a greater price for America, a chance for full recovery; $2 million doesn't seem like an unreasonable amount to bring the very best, modern technology closer to the battlefield so that our soldiers can be treated and treated effectively and treated quickly. I hope my colleagues will support our injured troops fighting this war by supporting this amendment.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I think I can say with assurance, I am probably the only Member of the Senate who has had a traumatic brain injury in connection with a jet crash in 1978. I have deep respect for the researchers who are involved in this area. But really, this is an amendment to give the University of Chicago's research team $2 million.

The NIH has a substantial number of programs. I am told that through the National Institute of Neurological Disorders and Stroke, a whole portion of NIH has an extensive traumatic brain injury program that supports basic, translational, and clinical research through grants and contracts through over 100 research teams and investigators.

In addition, we have $45 million in this bill that can be used. It is called the Peer Review Medical Research Program. This amount can come out of that $45 million if the Department of Defense needs it. It is up to them. To stay within our allocation, we had to notify Members who brought us requests for medical research that we had established this $45 million program, and from that the Defense Department can pick these suggestions that come from Members of the Senate, the Congress, too. The House will be involved in it obviously.

This is not a neglected area. We spent over $1 billion in research grants for studies in this area, particularly funding long-term research in traumatic head injury, head and spine injury, and epilepsy. This amendment deals with epilepsy and its connection with brain injuries.

In the past 3 years, an average of $430 million a year has been awarded for grants, contracts, and research by the National Institutes of Health clinics for epilepsy, traumatic brain injury, and injuries to the head and spine. In the last 3 years alone we spent $1.29 billion in those specific efforts in this area.

In this current fiscal year Congress encouraged and directed the National Institutes of Health to expand basic and advanced research in brain injury rehabilitation. As I said, they told us they have an extensive program there. This is where this money should be taken, in the final analysis. We have been using over three-quarters of a billion dollars for research not associated with military programs in the past.

We have at least 20 amendments of the same kind that have also been suggested to us. The Senator from Pennsylvania has one. A whole series of people have come and said they want to have earmarks on the money we have in that fund. We have not done that because we believe the Department should take the money and spend it on research that is related to the demands of the military today.

Further brain injury research through the Department of Defense will reduce the funds available for military readiness and will ignore the valuable contributions made by NIH and other nondefense research entities.

I say to the Senator from Illinois, as we discussed in the committee, there is no question it is a good program. There is no question the University of Chicago should compete with other universities for the money that is available. For this to be earmarked here now means they no longer have to compete. As I said, NIH said there are currently over 100 separate contracts out there right now in addition to the $45 million we have in this bill. NIH has an enormous amount of money and the expertise of NIH and their clinical trials. The program they have for allocating money, I think, should not be obviated by an earmark here on the floor.

If it happens, if the Senate wants to adopt this amendment, then I can tell them in all fairness we are going to have to bring forth the amendments of the other Senators. Several of them, as a matter of fact, are from Senators who are up for election. We told them no. So I say to the Senate, if you want to adopt this amendment of the Senator from Illinois to give the University of Illinois priority on this money, then that is the judgment of the Senate. I oppose it, as I did in committee. I do think we have to stop using Defense money for contracts with universities and basic research at the suggestion of a single Senator. It is not something that should be done.

We have adequate money in this bill to cover this if the Department wants to do it. We have an overwhelming amount of money in the NIH area, if NIH wants to pursue having the University of Chicago do this epilepsy research, but this is not a military requirement.

All the Senator said about injuries that are coming from current military involvement is correct. But they are being met. Not one member of the military society came to us and said we need more money for brain research—not one. This is not something to be handled with an amendment on the floor, to give one university priority over all others in connection with the research money that is available under this bill.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, it has been my honor to serve on the Appropriations Committee and on this subcommittee. It is an important subcommittee, one of the most important subcommittees in terms of our national defense.

A decision was reached, probably before I was elected to the Senate, that we would dedicate funds within this appropriation for medical research. Some have questioned them over the years. I have never questioned them. I believe it is important that we pursue medical research, not only at the National Institutes of Health—which, incidentally is facing a cutback in medical research funds in this President's budget this year—but also when it comes to our military medical research. They are very competent. They have been very good. They have included in their research enormous opportunities, opportunities which relate directly to the soldiers in combat and opportunities which relate to them and their families.

Breast cancer research is included in this. I totally support it. I applaud it. I voted for it. There is no question about that. What I am talking about here is traumatic brain injury to soldiers. This is something that has become the signature wound of this conflict in Iraq. The amount of money which I am asking for, $2 million, pales in comparison to the millions and millions of dollars earmarked in this bill for universities, specific universities for specific medical research.

The Senator from Alaska cannot tell me that every dollar in medical research in this bill is peer reviewed. It is not. You know it and I know it. Decisions were made by the committee to earmark certain research at specific universities. I will tell the Senator, I didn't question that. I deferred to his judgment and the judgment of Senator INOUYE on that.

Mr. STEVENS. Will the Senator yield? I will be pleased to have you point that out to me.

Mr. DURBIN. Page 241.

Mr. STEVENS. We have had $3 billion requested of our subcommittee for medical research. It is the largest growth area in this subcommittee's jurisdiction. More and more money for medical research was requested. We put $45 million into this program. I want to see that earmark.

Mr. DURBIN. It is page 241 that I refer the chairman to. What we are talking about here is $2 million. The Senator from Alaska has said we can't afford this. We cannot afford this medical research. It will be at the expense of our readiness, the ability of our soldiers to fight.

I am prepared to make the same offer I made to the Senator in committee. I am prepared to take $2 million—Senator OBAMA and I will—from existing projects we alone offered in this bill, $2 million we will take out of those projects to go into this medical research for traumatic brain injury so you cannot make the argument that the $2 million is at the expense of anything else related to readiness.

These are dollars that only we requested, dollars given to us in the bill, and we believe this is a higher priority. So the argument that somehow we are taking money away from military readiness does not apply.

To argue that $2 million for traumatic brain injury should be disqualified because it would go to the University of Chicago? It turns out the University of Chicago is one of the premier institutes when it comes to this new technology. I am not going to argue about money going to any university if it is the right place to send it, and we believe the credentials of this institution stand up against the best in America—the best in the world. Isn't that what we want for our troops?

As far as being an earmark, I plead guilty, it is an earmark. But it is being discussed right here on the floor of the Senate, the exact dollar amount, the exact recipient, and the exact purpose. There is nothing that is being done here under cover of night. It should not be.

Why is it so hard for us in a bill of this magnitude, with all of this spending, to find $2 million for epileptic seizures from traumatic brain injury when we have so many of our soldiers returning with this problem? Wouldn't we want to at least err on the side of these soldiers to get them back, as quickly as possible, recovered, as close as possible to normal lives?

I don't understand it. I can't understand the opposition of the chairman. I am prepared—maybe it is best now to go ahead and do it. I am prepared to say we will take the $2 million out of existing projects in the bill.

AMENDMENT NO. 4781, AS MODIFIED

I ask unanimous consent to modify the pending amendment and send this amendment in its place to the desk.

The PRESIDING OFFICER. Is there objection to the modification?

Mr. STEVENS. Does this require unanimous consent?

Mr. DURBIN. I don't need consent to modify my amendment under the Senate rules.

The PRESIDING OFFICER. The Senator has that right.

The amendment (No. 4781), as modified, is as follows:

At the end of title VIII, add the following:

SEC. 8109. (a) IMPROVEMENT OF IMAGING FOR TRAUMATIC BRAIN INJURIES.—

(1) ADDITIONAL AMOUNT FOR RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY.—The amount appropriated or otherwise made available by title IV under the heading ''RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY'' is hereby increased by $2,000,000.

(2) AVAILABILITY.—Of the amount appropriated or otherwise made available by title IV under the heading ''RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY'', as increased by paragraph (1), up to $2,000,000 may be available for the improvement of imaging for traumatic brain injuries and the adaptation of current technologies to treat brain injuries suffered in combat.

(b) OFFSET.—

(1) OTHER PROCUREMENT, AIR FORCE.—The amount appropriated by title III under the heading ''OTHER PROCUREMENT, AIR FORCE'' is hereby reduced by $1,000,000.

(2) DEFENSE HEALTH PROGRAM.—The amount appropriated by title V under the heading ''DEFENSE HEALTH PROGRAM'' is hereby reduced by $1,000,000.

Mr. DURBIN. That argument is gone. This $2 million is from our projects that only we requested, that we are prepared to give up for this medical research for the soldiers. Now what is the next argument? That we don't need it, when 1,700 of our soldiers have already suffered traumatic brain injuries? We are prepared to take it out of our own projects for soldiers who are going through this kind of an injury.

Why do you still resist it?

I yield the floor.

Mr. STEVENS. Mr. President, those 1,700 or however many you have, soldiers, aren't going to the University of Chicago. This is simply a provision to take $2 million of the defense money for the University of Chicago for epilepsy research. As I said, we had a total of $3 billion in requests from this subcommittee for medical research from other Senators. We turned them all down. The Senator from Illinois wouldn't take ''no.''

I understand his position. His position is he now wants to say other items we allowed him to earmark in other portions of the bill would be changed in order to have this go to the University of Chicago.

Every Senator who asks for that money is going to come wanting to do the same thing. In other words, it will not make any difference. The money will be going to medical research instead of going to the needs of the military.

I didn't say it was for readiness. I said we could not have any more money going out of the Defense bill to take care of medical research when medical research is basically a function of NIH and the subcommittee that deals with Labor, Health, and Human Services. It is not our business.

I confess, I am the one who made the first mistake years ago. The Senator just reminded me. I am the one who suggested that we include some money for breast cancer research. It was languishing at the time. It was back in the 1980s. Since that time it has grown to $750 million that was involved, I think it was, in the last bill we had, dealing with medical research that had nothing to do with the Department of Defense.

With the shortage of money we have now, we are now over the budget by about $78 billion in emergency money. Don't tell me I am objecting to brain research. As I said, I have been the subject of brain research. But there is plenty of money there for it.

I notice the occupant of the chair suggests maybe I need a little bit more.

But as a practical matter, we cannot do this just for one Senator, and I have been a whip and I understand what it means to have access to the floor and make a demand. But this is not right. I say to the Senate, if we are going to vote this $2 million, I am going to go back and tell each one of the other Senators they should come and offer their amendments, too. They are very well-meaning amendments. I have to tell you, we have back injury. We have problems with regard to a whole series of items. Among the amendments proposed were tissue engineering; another traumatic brain injury study for a long-term concept of a study of that; vaccine health care centers; eye refractive surgery; hypothermia; hemostatic agents; traumatic brain injury research at several other universities.

One of the reasons we turned this one down is we could not in good faith take the one from the University of Chicago in Illinois and take down the others. We had neuromuscular research. I could go on and on.

The things all added up to $3 billion. This is just the tip of the iceberg. It is $2 million, but it leads into, Why should we take this amendment of the Senator from Illinois and turn down all these other amendments? We turned them down, not because they were not worthy. We didn't turn them down because they were not necessary. We turned them down because this is not the place to fund them.

It is my position that the suggestion we are going to turn around and take it out of another provision in the bill that says why did we agree to that other provision, if it is not necessary? Why did we add it to the bill?

As a matter of fact, I don't recall those items where we did, but we did handle several amendments for the Senator from Illinois. We treated them the same as we did every other Senators with regard to research for medical purposes. This is the only one out of all of them where we said, no, that has been presented to the Senate.

I do not want to be accused of being against brain research or ignorant of the fact that there is an enormous number of brain injuries to our military people. As a matter of fact, I went out to Walter Reed to see one of our young people from Alaska who had a brain injury. But no one, again, has told me we need money in this bill for brain research beyond what is there already and beyond what is being made available by NIH.

I do say again, this amendment should not be adopted.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, I don't want to belabor this. I think we have covered most of the ground. But I will tell the chairman, the Senator from Alaska, the Army estimates annual investment gaps of $20 million in research, development, test, and evaluation for improved diagnostics and other long-term rehabilitative treatment of traumatic brain injury.

I am not making this up from whole cloth. This is the Army's own report. To suggest that we have all the funds we need in this area, to suggest they couldn't figure out what to do with $2 million just isn't backed up by the Army's own official statements about what is needed. They need $20 million. We are offering $2 million.

The Senator has argued that we are taking it from some other areas of the bill. Senator OBAMA and I are offering $1 million each from projects included in the bill, which will slow down their development but will put more money into medical research in traumatic brain injury. And, yes, the University of Chicago is a leader. I don't apologize for that. Wouldn't you want to go to a leading institution with $2 million for 1,700 soldiers facing traumatic brain injury?

I don't want to belabor the point other than to say to the Senator, whom I tried in the committee to reason with, that we are prepared to make sacrifices in other areas for what we consider to be a very important medical priority, and he wouldn't allow us to go forward. I tried here on the floor; I am trying now.

At some point, I would like to have my colleagues vote. I think traumatic brain injury is a serious issue. We need to put more resources into it. We need to give our soldiers the very best technology.

Senator OBAMA and I will offer this amendment.

I ask unanimous consent that Senators MENENDEZ and SALAZAR be added as cosponsors.

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

Mr. DURBIN. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. SALAZAR. Mr. President, I ask unanimous consent that the pending amendment be set aside.

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

AMENDMENT NO. 4776

Mr. SALAZAR. Mr. President, I call up my amendment No. 4776.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Colorado [Mr. SALAZAR] proposes an amendment numbered 4776.

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

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

The amendment is as follows:

(Purpose: To provide that, of the amount appropriated or otherwise made available by title II for the Air Force for operation and maintenance, $10,000,000 shall be available for an interoperable communications capability for the United States Northern Command)

At the appropriate place, insert the following:

SEC. ____. Of the amount appropriated or otherwise made available by title II under the heading ''OPERATION AND MAINTENANCE, AIR FORCE'', $10,000,000 shall be available to provide the United States Northern Command with an interoperable mobile wireless communications capability to effectively communicate with Federal, State, and local authorities.

AMENDMENT NO. 4776, AS MODIFIED

Mr. SALAZAR. Mr. President, I ask unanimous consent to modify the amendment with a modification which I am sending to the desk.

The PRESIDING OFFICER. The Senator has the right to modify the amendment.

The amendment is so modified.

The amendment (No. 4776), as modified, is as follows:

At the appropriate place, insert the following:

SEC. ____. Of the amount appropriated or otherwise made available by title II under the heading ''OPERATION AND MAINTENANCE, AIR FORCE'', up to $10,000,000 may be available to provide the United States Northern Command with an interoperable mobile wireless communications capability to effectively communicate with Federal, State, and local authorities.

Mr. SALAZAR. Mr. President, I ask unanimous consent that Senators LEVIN and WARNER be added as cosponsors of this amendment.

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

Mr. SALAZAR. Mr. President, I also understand that this amendment will be accepted as part of a managers' package. I want to say thank you to both the Senator from Hawaii and the Senator from Alaska, the floor managers, for accepting this amendment.

At the outset of my brief comments on this amendment, I also want to say that I very much appreciate the leadership of both Senator INOUYE and Senator STEVENS. I had the great honor of participating in some activities with Senator INOUYE within this past week and hearing his own story of his personal courage and fight against discrimination, and how he has stood up for our country is something that makes me very proud to be an American. I think with Senator INOUYE's life story one can see how far it is we have come as a country. And he is a living example of the kind of heroes that we need in America today in these difficult times which we face as a nation.

I commend both Senator STEVENS and Senator INOUYE for bringing this vitally important bill to the floor. While service members are fighting overseas, this bill is one of the most important actions that we can take this year on the Senate floor.

This bill takes care of our troops and I look forward to its passage before the August recess.

Protecting its citizens from attack is our Government's most important responsibility. Liberty and prosperity are impossible without security here in our Nation and in our homeland.

We must see to it that we are making the right investments to protect Americans from attack.

In the last few years the threats facing our Nation have grown in size and complexity. Rogue nations are developing nuclear weapons as we speak. Terrorist organizations are recruiting and new members and have been plotting attacks against Americans. And American service men and women are in harm's way in Iraq and Afghanistan as we speak.

Our way of life and our freedoms depend on our ability to confront these threats. They depend on our ability to make smart, forward-thinking investments in our national defense.

I am proud to represent a State that contributes so much toward achieving these objectives. An in-depth look at this bill shows just how prominent a role Colorado plays in contributing to our national defense and our homeland security. I am happy to support those measures in this bill that focus on Colorado's military installations, such as those that will benefit Fort Carson, Schriever Air Force Base, Peterson Air Force Base, the United States Air Force Academy, and Pueblo Chemical Depot.

Furthermore, this bill contains additional emergency supplemental money for the ongoing campaign in Iraq. This money is necessary to make sure that our fighting men and women are provided with the equipment they need to be safe and to get the job done. Recently there have been a number of military commanders saying that overall military readiness is on the decline. Military equipment is wearing out in the harsh environment of the desert. I am very troubled by these reports, and am therefore very proud to support the measure introduced by Chairman STEVENS and Ranking Member INOUYE last night to counteract this decline in readiness by adding $13.1 billion to the bridge fund for Army and Marine Corps equipment reset requirements. This money is necessary for the continuing combat missions in Iraq and Afghanistan. I thank my friends—the Senator from Alaska and the Senator from Hawaii, as well as Senator REED of Rhode Island and Senator DODD of Connecticut—for their leadership on this important issue.

The amendment I offer directly impacts our homeland security, by providing the United States Northern Command, known as NORTHCOM, with an emergency, mobile, fly-away interoperable communications capability.

Northern Command is headquartered in Peterson Air Force Base in Colorado, and is a crown jewel of our Nation's homeland defense.

The U.S. Northern Command was established on October 1, 2002 to provide command and control for DOD homeland defense efforts and to coordinate military assistance to civil authorities. NORTHCOM serves to defend America on our native soil.

Specifically, NORTHCOM's mission is to conduct operations to deter, prevent, and defeat threats and aggression aimed at the United States, its territories and interests within the assigned area of responsibility; and as directed by the President or Secretary of Defense, provide military assistance to civil authorities including consequence management operations.

The area of responsibility that falls under Northern Command is vast. Their responsibility encompasses the continental United States, Alaska, Canada, Mexico, and the surrounding water out to approximately 500 nautical miles. It also includes the Gulf of Mexico, Puerto Rico and the U.S. Virgin Islands.

NORTHCOM plans, organizes, and executes homeland defense and civil support missions. NORTHCOM's civil support mission includes domestic disaster relief operations that occur during fires, hurricanes, floods, and earthquakes. Support also includes counterdrug operations and managing the consequences of a terrorist event employing a weapon of mass destruction.

It is quite clear to all of us, that in the few short years that NORTHCOM has been in existence, it has quickly become integrated into the very fabric of our homeland defense. NORTHCOM exists to provide the unity of command that is absolutely necessary when responding to emergencies that immediately threaten Americans on their home soil. I know that the men and women at NORTHCOM work hard every single day to make sure that we are safe, and I thank them for their dedication and their unswerving devotion to duty.

But thanking them is not enough. We, the Congress, have to provide them with the tools necessary to do their job. And one thing they lack right now but desperately need is an interoperable communications capability.

The amendment I am proposing will benefit the entire country, because it will provide NORTHCOM with the interoperable communications equipment they need in order to respond effectively during an emergency.

Northen Command's top unfunded requirement is the purchase of these systems. Without interoperable communications, NORTHCOM, the Department of Homeland Security, and local and State authorities cannot effectively respond to natural and manmade disasters. A $10 million increase in fiscal year 2007 funds for NORTHCOM would allow the command to procure an interoperable mobile communications capability.

This amendment cosponsored by Senator WARNER and Senator LEVIN will

accomplish that. It is legislation that we have approved before in the Senate.

When we spoke about this with respect to the budget resolution and the Department of Defense authorization bill, it was approved by the Senate.

Language included in the National Defense Authorization Act for fiscal year 2007 specifically referred to the $10 million for interoperable communications.

On page 293 of that report, we in the Senate said the following:

U.S. Northern Command requires the capability to effectively communicate with Federal, State, and local governments in order to facilitate support to civil authorities, share information, and provide situational awareness in response to natural or man-made disasters.

The committee recommends an increase of $10 million to OMAF to address this funding shortfall and to provide the interoperable communications capability for USNORTHCOM.

My amendment follows that recommendation.

The Nation cannot afford to wait for the next disaster to strike before we purchase this equipment.

I urge my colleagues to support this amendment. I thank the Senator from Alaska and the Senator from Hawaii for their consideration and for their support of this amendment. I am proud to offer this amendment and again thank both Senator INOUYE and Senator STEVENS for their leadership on Department of Defense appropriations legislation.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, I ask unanimous consent that the pending amendments be set aside.

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

AMENDMENT NO. 4806

Mr. KYL. Mr. President, I have an amendment at the desk, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arizona [Mr. KYL], for himself and Mr. WYDEN, Mr. DEWINE, Mr. LIEBERMAN, Mrs. FEINSTEIN, Ms. CANTWELL, and Mr. SALAZAR, proposes an amendment numbered 4806.

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

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

The amendment is as follows:

(Purpose: To prohibit the suspension of royalties under certain circumstances, to clarify the authority to impose price thresholds for certain leases, to limit the eligibility of certain lessees for new leases, and to restrict the transfer of certain leases)

At the appropriate place, insert the following:

SEC. ___. ROYALTY RELIEF FOR PRODUCTION OF OIL AND GAS.

(a) PRICE THRESHOLDS.—Notwithstanding any other provision of law, the Secretary of the Interior shall place limitations based on market price on the royalty relief granted under any lease for the production of oil or natural gas on Federal land (including submerged land) entered into by the Secretary of the Interior on or after the date of enactment of this Act.

(b) CLARIFICATION OF AUTHORITY TO IMPOSE PRICE THRESHOLDS FOR CERTAIN LEASE SALES.—Congress reaffirms the authority of the Secretary of the Interior under section 8(a)(1)(H) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(a)(1)(H)) to vary, based on the price of production from a lease, the suspension of royalties under any lease subject to section 304 of the Outer Continental Shelf Deep Water Royalty Relief Act (Public Law 104–58; 43 U.S.C. 1337 note).

SEC. ___. ELIGIBILITY FOR NEW LEASES AND THE TRANSFER OF LEASES.

(a) DEFINITIONS.—In this section

(1) COVERED LEASE.—The term ''covered lease'' means a lease for oil or gas production in the Gulf of Mexico that is—

(A) in existence on the date of enactment of this Act;

(B) issued by the Department of the Interior under the Outer Continental Shelf Deep Water Royalty Relief Act (43 U.S.C. 1337 note; Public Law 104–58); and

(C) not subject to limitations on royalty relief based on market price that are equal to or less than the price thresholds described in clauses (v) through (vii) of section 8(a)(3)(C) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(a)(3)(C).

(2) LESSEE.—The term ''lessee'' includes any person that controls, is controlled by, or is in common control with, a lessee.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(b) ISSUANCE OF NEW LEASES.—

(1) IN GENERAL.—Beginning on the date that is 1 year after the date of enactment of this Act, the Secretary shall not issue any new lease that authorizes the production of oil or natural gas in the Gulf of Mexico under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) to—

(A) any lessee that—

(i) holds a covered lease on the date on which the Secretary considers the issuance of the new lease; or

(ii) was issued a covered lease before the date of enactment of this Act, but transferred the covered lease to another person or entity (including a subsidiary or affiliate of the lessee) after the date of enactment of this Act; or

(B) any other entity or person who has any direct or indirect interest in, or who derives any benefit from, a covered lease.

(2) MULTIPLE LESSEES.—

(A) IN GENERAL.—For purposes of paragraph (1), if there are multiple lessees that own a share of a covered lease, the Secretary may implement separate agreements with any lessee with a share of the covered lease that modifies the payment responsibilities with respect to the share of the lessee to include price thresholds that are equal to or less than the price thresholds described in clauses (v) through (vii) of section 8(a)(3)(C) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(a)(3)(C)).

(B) COVERED LEASE.—Beginning on the effective date of an agreement under subparagraph (A), any share subject to the agreement shall not constitute a covered lease with respect to any lessees that entered into the agreement.

(c) TRANSFERS.—A lessee or any other person who has any direct or indirect interest in, or who derives a benefit from, a lease shall not be eligible to obtain by sale or other transfer (including through a swap, spinoff, servicing, or other agreement) any covered lease, the economic benefit of any covered lease, or any other lease for the production of oil or natural gas in the Gulf of Mexico under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.), unless the lessee—

(1) renegotiates all covered leases of the lessee; and

(2) enters into an agreement with the Secretary to modify the terms of all covered leases of the lessee to include limitations on royalty relief based on market prices that are equal to or less than the price thresholds described in clauses (v) through (vii) of section 8(a)(3)(C) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(a)(3)(C)).

Mr. KYL. Mr. President, let me briefly describe what this amendment does. We will have a unanimous consent request later today to deal with this amendment in the most expeditious way. I appreciate the cooperation of Senator STEVENS and his staff and Senator DOMENICI in helping to work out how we deal with this particular amendment.

This amendment deals with some unfinished business before the Senate. As we will recall, yesterday the Senate overwhelming passed S. 3711, which is the Gulf of Mexico Security Act of 2006. This bill would open new areas off the gulf to oil and gas exploration and development. S. 3711, which I voted for, is an important first step in providing our energy independence and reducing energy prices for American consumers. Once again, it raises a matter of concern: a history of lapses and mistakes in royalty collection and payments for oil and gas production under deepwater leases. It also underscores the prospect that future payments will go uncollected due to royalty provisions that are still on the books.

We must step up and deal with this unfinished business of royalty reform. That is why Senator WYDEN and I are offering this amendment today. I am pleased to be joined by Senator WYDEN who has been working with me on a bipartisan basis on this issue, along with Senator DEWINE, who is an original cosponsor of this royalty reform legislation, S. 3760, and Senators LIEBERMAN, FEINSTEIN, CANTWELL, and SALAZAR.

There are three important aspects of the royalty program that need fixing.

First, we need to deal with the mistakes that were committed by the Clinton administration in 1998 and 1999. In those years, the Department of the Interior, through the Mineral Management Service, issued leases that did not include price thresholds. That is a big deal. Energy prices have skyrocketed, and without price thresholds to trigger payment for royalties, the U.S. Government and the American people will not see a dime from these leases. The GAO estimated that this mistake could cost the taxpayers at least $7 billion in lost revenues to the U.S. Treasury.

Second, we need to deal with leases that were issued in 1996, 1997, and 2000 that included price thresholds in the lease terms but which are being challenged. A few of the oil and gas companies who signed leases in those years

have refused to pay royalties on production even though the thresholds have been exceeded. One of the companies has sued the Department of the Interior, arguing that Interior does not have the authority to establish price thresholds or any leases issued between 1996 and 2000. If the lawsuit is successful, this could have significant implications for royalties already collected. The Federal Government would likely be required to refund approximately $525 million in royalties paid by the industry and be precluded from collecting between $18 billion and $28 billion over the next 5 years.

Third, we need to deal with new leases that have royalty relief in the lease terms. In the Energy Policy Act of 2005, Congress reinstitutes royalty relief on production in the deep waters but did not require the Department of Interior to put price thresholds in new leases that include royalty relief. The 1998 and 1999 leases demonstrate that the Interior Department can't be trusted to do this on its own, and we cannot afford another $7 billion mistake.

Let me explain how the amendment fixes these three problems. Let's take the 1998 and 1999 leases first, since they are the most controversial. In the context of the fiscal year 2007 Interior appropriations bill, there have been efforts to address this problem by Senator GREGG, Senator DOMENICI, and Senator FEINSTEIN. This amendment today builds on those efforts.

In our approach, we try to get companies to do the right thing by giving them a choice: Keep your existing leases royalty free but be barred from bidding on new leases or renegotiate in good faith with the Federal Government and retain your eligibility to bid on new leases in the future. The major difference in our amendment is that we provide time to renegotiate.

Every company that wants to come to the table has a full year from the date of enactment of this Act to reach agreement. One year is more than enough time to address any concerns that need to be explored and worked out. I am told many of the companies holding leases from 1998 and 1999 are already renegotiating those leases. I applaud the efforts of those companies. However, Congress cannot stand by and watch consumers pay record prices at the pump knowing that American taxpayers are not getting fairly compensated for the oil and gas extracted from public land. We need to deal with this problem.

Incidentally, I note that Senator DOMENICI has inserted in a separate appropriations bill an amendment that deals with this problem, hopefully, over the course of the next year. What Senator WYDEN and I are saying is let the process that Senator DOMENICI has begun have an opportunity to work. We hope it does work. But in the event that it does not work after a year, our amendment kicks in to, in effect, force a solution.

The other two fixes are less controversial and probably in the future actually even more important. Let's turn to the leases first issued between 1996 and 2000 and the Secretary's authority to impose price thresholds limiting royalty relief when oil and gas prices are high. The amendment we are offering simply reaffirms that Congress intended the Secretary to have the authority to vary the suspension of royalties based on the price of production in all leases subject to the deepwater royalty relief action. The language is exactly the same as Senator DOMENICI offered on another bill. After all, the whole point of royalty relief was to provide companies that undertook high-risk investments in deep water specific volumes of royalty-free production to help cover a portion of their capital costs before starting to pay royalties. It was not to pad the pocketbooks of the oil and gas companies at the expense of the American taxpayer. Price thresholds are the mechanism that ensures the companies do not benefit from both high market prices and royalty-free volumes.

Finally, Congress needs to require that new oil and gas deepwater leases that the Federal Government issues include price thresholds. This seems like a no-brainer, but right now there is no requirement that price thresholds be included in leases that have royalty relief. The language says ''may,'' not ''shall.'' Our amendment will say ''shall.'' It is a one-word change that directs the Secretary of Interior to include price thresholds in all new leases. This is an important action to ensure that the Interior Department collects royalties on the American people's energy resources at times when oil and gas prices warrant it.

I am hoping that as we debate this important Defense bill we can do the right thing and fix this problem. We are talking about a program that accounts for 30 percent of the oil and 23 percent of the natural gas produced domestically and is a major source of revenue for the Federal Government.

According to the Mineral Management Service, Federal revenues from offshore leases are estimated at $6.3 billion in fiscal year 2005. Of the $6.3 billion in revenue for fiscal year $2005, $5.5 billion was from royalties. Securing royalty receipts is important.

I recognize this amendment may be deemed legislating on an appropriations bill, but my colleagues and I have tried to go the traditional route up to this point to no avail. This problem is too important to ignore. We are running out of time. We are willing to submit this amendment to a 60-vote threshold. I look forward to working with Senator DOMENICI to work an agreement to that effect soon.

As President Bush and the oil and gas companies have said, we don't need these additional incentives to explore and develop oil and gas at current prices. Let's give the American taxpayer fair compensation for the oil and gas that is extracted from public lands.

I hope my colleagues will agree to our amendment. I note, in passing, that the score of this, according to CBO, is a $9 billion revenue gain to the Treasury. This is one of those few times when we are actually going to be able to help the Treasury rather than take some money from it.

I conclude by thanking my colleague from Oregon. The Senator from Oregon and I have worked in a bipartisan way now for several weeks. We have come to a good resolution of the issue that our colleagues should be able to support.

Senator WYDEN is seeking recognition, and I will let him comment at this point.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, first of all, I thank the distinguished Senator from Arizona for working with me on this issue for many months now. Colleagues know that I stood in this spot for almost 5 hours a few months ago to try to put together a bipartisan effort to save taxpayers billions of dollars. I believe we have done that.

I ask unanimous consent to have printed in the RECORD the official score that Senator KYL and I have now received from the Congressional Budget Office, which the Congressional Budget Office has now officially informed us that over the next 10 years, the taxpayers will save $9 billion.

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

Estimated budgetary impact of Kyl-Wyden amendment to prohibit the suspension of royalties under certain circumstances, to clarify authority to impose price thresholds for certain leases, to limit the eligibility of certain lessees for new leases, and to restrict the transfer of certain leases—Amendment No. 4806.

[In millions of dollars, by fiscal year]

	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2007–2011	2007–2016
BA	0	−100	−500	−600	−900	−900	−1,100	−1,600	−1,700	−1,600	−2,100	−9,000
OL	0	−100	−500	−600	−900	−900	−1,100	−1,600	−1,700	−1,600	−2,100	−9,000

Source: CBO.

Mr. WYDEN. Mr. President, the reason Senator KYL and I feel so strongly about this, this is a program that is out of control. The fact is that even the sponsor of this program, our distinguished former colleague, Senator Johnston of Louisiana, said this program is not operating as Senator Johnston intended.

A brief bit of history is relevant. This program began in the 1990s, when the price of oil was under $20 a barrel. The point of the program, as devised by Senator Johnston, nobody could really argue with. We needed to produce energy, and with the economic situation in that part of the country, folks were hurting. They devised this program.

But no one can make a case for a program that began when oil was $19 a barrel, when the price of it is now over $70 a barrel. We have a situation where the companies are charging record prices. They are making record profits. We certainly do not need record subsidies, particularly at a time when we have a program that even the sponsor of the original effort says is not working.

This is the biggest subsidy in the energy area. This is one of the biggest boondoggles we have seen operated by the Federal Government. The fact of the matter is, there have been mistakes made under both Democratic and Republican administrations.

As I outlined for the Senate several months ago, the initial mistakes were made by those in the Clinton administration which did not lock in the appropriate price thresholds. When former Secretary Norton came into office, she sweetened up the subsidies administratively, and Congress went still further with respect to this program in the Energy bill.

The Government Accountability Office has estimated that at a minimum the Federal Government and the taxpayers are going to be out $20 billion. There is litigation underway that could mean the taxpayers would be out in the vicinity of $80 billion. It is time to draw a line in the sand and ensure that this effort to roll back these subsidies becomes law.

If the oil industry can keep the Senate from voting on royalties, the legislation the House adopted after Senator KYL and I came to the Senate and discussed it, almost certainly is going to disappear. The negotiations now underway with oil companies, in my view, are going to be dragged out until the last legislative vehicle has left town. Then the companies can walk away from the table and return to feeding at the expense of the taxpayers.

Senator KYL and I have worked very closely with Chairman DOMENICI. As always, he has been very fair and very straightforward with us.

With this approach, we have a chance to get a permanent solution to this giveaway of taxpayer money. We will not interrupt the approach that Chairman DOMENICI has advocated. We hope it will work. It essentially involves negotiations on a voluntary basis. As I have indicated in the Senate before, while I hope that works, put me down as skeptical because it is fairly implausible that the oil companies will simply walk away from billions and billions of dollars at the negotiating table. If it does work, all the better. If it doesn't work, however, Senator KYL and I believe it is finally time for the Senate, on a bipartisan basis, to lock in a permanent solution.

Colleagues, the President, to his credit, has said, ''You don't need subsidies for the oil industry when the price of oil is over $55 a barrel.'' The President made that statement, and I appreciate him making it. Second, this is an opportunity for the Senate to go back through these various programs, save taxpayers some money, and to do it in a bipartisan way.

Even though the President said we do not need incentives with the price of oil over $55 barrel, we did see the Secretary of the Interior and the Congress continue to sweeten this royalty relief program, even as the price of oil climbed far above the point mentioned by the President at which the oil industry no longer needs subsidies.

We are now faced with the prospect that if we are going to get a permanent solution, now is the time for the Congress to step up.

I, also, point out, given the fact that the Senate has voted in the last few days to start a new program, a program that will involve additional dollars going out to the oil industry, at a minimum, let us say we are going to fix the old program that is out of control before a new program is started. That is common sense.

For the Senate to talk about creating a new program, allowing even more taxpayer money to be given away—and in that case, for 50 years or more—common sense says the Senate should step up before the end of this session and move to permanently fix the old program that is out of control.

The Senate ought to have an opportunity to debate and vote on a permanent solution to ending these oil royalty giveaways. The House has voted to do it. They voted, in a bipartisan way, for the very thing that I spoke at length about in the Senate and that Senator KYL and I have been trying to change for many months.

I also point out, if we can get the savings by fixing the old program, you can talk about a responsible way for funding new efforts, such as the effort approved by the Senate this week.

I am sure our citizens who now face the highest gas prices ever will be interested to know when the Senate is going to have a chance to vote on the question of, at this time of record prices and record profits, whether we should continue to give away record amounts of taxpayer subsidies that the President of the United States has indicated are not necessary.

If the Senate ducks this issue, I think it will be very difficult to explain to the American people how Congress can be proposing to allow additional billions of dollars of royalty money to go out before it fixes the current out-of- control program.

I have said for some time the Senate should not be forced into a false choice of either aiding the Gulf States or standing up for the public interest in the face of outrageous taxpayer ripoffs.

We can and should do both. Given what the Senate did earlier this week on the new program, it is, in my view, essential to protect taxpayers to accept the bipartisan amendment that Senator KYL and I offer this afternoon to reform the Oil Royalty Program.

Mr. President, I urge colleagues to support the bipartisan Kyl-Wyden amendment. I would also note—I see Senator STEVENS on the Senate floor—that we have a number of sponsors of this bipartisan proposal, including Senator DEWINE, Senator LIEBERMAN, Senator CANTWELL, Senator FEINSTEIN, and Senator SALAZAR.

Mrs. FEINSTEIN. Mr. President, I rise today as a cosponsor of the Kyl amendment dealing with royalty relief. The amendment would put an end to the Federal Government giving the oil and gas industry incentives to drill when oil and natural gas prices are high.

The amendment includes a provision that Senator GREGG and I successfully included in the Senate Interior Appropriations bill that would fix an administrative error that was made in 1998 and 1999. This provision also passed the House by a vote of 252 to 165.

In 1998 and 1999, the Department of Interior inadvertently omitted price thresholds from contracts entered into with oil and gas companies.

This omission has allowed oil companies to produce in Federal waters in the Gulf of Mexico for free while consumers are paying $3 a gallon at the pump. And it will cost American taxpayers $10 billion over the next 25 years.

Essentially, the amendment provides energy companies with a choice: They can keep their existing leases royalty-free if they so choose, but be barred from bidding on a new lease, or agree to renegotiate the terms of the existing lease and be free to bid on new leases.

In my view, the oil companies do not need incentives at a time when they are making record profits. Just last week, the companies reported their second quarter profits, and again, they hit new records. ExxonMobil made $10.36 billion in the second quarter of 2006; that is almost $3 billion more than they made in the second quarter of 2005. Shell reported a second quarter profit of $7.32 billion—more than $2 billion greater than their second quarter profit in 2005. And BP's profits were $7.27 billion, or just less than $2 billion greater than their second quarter 2005 profits.

The oil companies themselves have said that they do not need royalty relief. At the Joint Energy and Natural

Resources and Committee hearing on November 9, 2005, the oil executives were asked by Senator WYDEN:

Gentlemen, the President says and I quote ''With $55 oil, we don't need incentives to oil and gas companies to explore. There are plenty of incentives.'' Now today the price of oil is above $55 per barrel. Is the President wrong when he says we don't need incentives for oil and gas exploration?

All responded that they did not need incentives.

In addition, a lawyer for Shell Oil, Michael Coney, recently told the New York Times:

Under the current environment, we don't need royalty relief.

The amendment passed by the House and by the Senate Appropriations Committee has spurred oil companies to admit publicly that they would be willing to renegotiate their leases to include a price threshold. But without congressional pressure, there is no reason for them to actually do it. We need to hold their feet to the fire in order to make sure the leases are really renegotiated.

I just want to take a minute to focus on the issues that the oil companies have raised in opposition to this amendment: First, they raised the issue that foreign companies were going to take over production in the Gulf of Mexico.

Nothing could be farther from the truth. Regulations implementing the Outer Continental Shelf Lands Act state that ''Mineral leases issued pursuant to the Act . . . may be only held by Citizens and Nationals of the United States . . . or private, public or municipal corporations organized under the laws of the United States or of any State or of the District of Columbia or territory thereof . . .''

Secondly, the oil companies have argued that the amendment will hurt oil and gas production.

In fact, the amendment will not impact the daily production of more than 1.5 million barrels of oil and 10 billion cubic feet of natural gas from the Gulf of Mexico.

Oil companies are also free to explore and drill in the more than 4,000 untapped leases in the Gulf of Mexico that have already been leased to them. The amendment simply prohibits oil companies that fail to renegotiate existing royalty-free leases from obtaining new ones.

Finally, and most importantly, the oil companies say that the amendment attacks the sanctity of contracts.

And the oil companies couldn't be more wrong on this point.

CRS has issued two papers now stating that the amendment is constitutional. Specifically, CRS says ''the amendment's incentive to renegotiate . . . gives the government side a classic argument that there is no taking here: the decision of a . . . leaseholder to renegotiate is voluntary, and voluntary actions cannot be the basis of a taking claim.''

In addition, CRS shows that case law supports the fact that amendment does not violate contracts.

The courts have determined that if there is no legal compulsion, the voluntary compromise of a property right in exchange for an economic benefit is not a taking.

And I would like to reiterate—the amendment offers energy companies a choice: compromise a property right—exemption from payment of royalties—in exchange for a possible economic benefit—ability to bid on new OCS leases.

This amendment is not a taking, because the government is not taking any property right from the oil companies; it is merely offering an incentive to renegotiate their leases—an incentive that the oil companies are free to decline.

We should not be giving away this oil and gas for free while consumers are paying record high prices to fuel their cars and heat their homes, and oil companies are making record profits.

Unless we act to force the companies to renegotiate the leases, taxpayers are going to be left holding the bill for $10 billion.

I urge my colleagues to support this amendment.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

AMENDMENT NO. 4776, AS MODIFIED

Mr. STEVENS. Mr. President, I ask unanimous consent that the pending amendment be set aside and that Senator SALAZAR's amendment No. 4776 be placed before the Senate.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. STEVENS. Mr. President, the managers of the bill are prepared to accept this amendment and ask that it be accepted on a voice vote.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment, as modified.

The amendment (No. 4776), as modified, was agreed to.

Mr. STEVENS. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENTS NOS. 4778; 4773; 4760, AS MODIFIED; 4796, AND 4771

Mr. STEVENS. Mr. President, we have managers' package No. 2 back again. I wish to restate that request now. It applies to amendment No. 4778, for Senator SMITH, regarding airships; amendment No. 4773, for Senator DAYTON, regarding postdeployment support; amendment No. 4760, as modified, for Senator LOTT, regarding airdrop systems; amendment No. 4796, for Senator CONRAD, regarding weapons bays; and amendment No. 4771, for Senator FRIST, regarding contracts.

I ask unanimous consent that the pending amendment be set aside and that the Senate proceed to the consideration of this managers' package en bloc, and that they be adopted en bloc, and the motion to reconsider be laid upon the table.

Mr. INOUYE. No objection.

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

The amendments were agreed to en bloc, as follows:

AMENDMENT NO. 4778

(Purpose: To make available from Research, Development, Test and Evaluation, Navy, up to $2,000,000 for the Advanced Airship Flying Laboratory)

At the appropriate place, insert the following:

SEC. ____. Of the amount appropriated or otherwise made available by title IV under the heading ''RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY'', up to $2,000,000 may be available for the Advanced Airship Flying Laboratory.

AMENDMENT NO. 4773

(Purpose: To make available from additional appropriations for Operation and Maintenance, Army National Guard, up to $6,700,000 for the pilot program of the Army National Guard on the reintegration of members of the National Guard into civilian life after deployment)

At the end of title IX, add the following:

SEC. 9012. Of the amount appropriated or otherwise made available by chapter 2 of this title under the heading ''OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD'', up to $6,700,000 may be available for the pilot program of the Army National Guard on the reintegration of members of the National Guard into civilian life after deployment.

AMENDMENT NO. 4760, AS MODIFIED

(Purpose: To appropriate, with an offset, an additional $2,000,000 for Research, Development, Test and Evaluation, Army for the Para foil Joint Precision Air Drop System)

At the end of title VIII, add the following:

SEC. 8109. Of the amount appropriated by title IV under the heading ''RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY'', up to $2,000,000 may be available for support of design enhancements and continued testing of the Para foil Joint Precision Air Drop System (JPADS) design parachute system for the drop of 5-ton and 15-ton loads to precise locations from high altitude and greater offset distance.

AMENDMENT NO. 4796

(Purpose: To make available from Research, Development, Test and Evaluation, Air Force, up to $6,000,000 for Military-Standard-1760 integration for the internal weapons bays of B–52 aircraft)

At the end of title VIII, add the following:

SEC. 8109. Of the amount appropriated or otherwise made available by title IV under the heading ''RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE'', up to $6,000,000 may be available for Military-Standard-1760 (MIL–STD 1760) integration for the internal weapons bays of B–52 aircraft.

AMENDMENT NO. 4771

(Purpose: To modify the notice and wait period applicable to modifications of certain contracts for national defense purposes)

At the end of title VIII, add the following:

SEC. 8109. Notwithstanding the first section of Public Law 85–804 (50 U.S.C. 1431), in the event a notice on the modification of a contract described in that section is submitted to the Committees on Armed Services of the Senate and the House of Representatives by the Army Contract Adjustment Board during the period beginning on July 28, 2006, and ending on the date of the adjournment of the 109th Congress sine die, such contract may be modified in accordance with such notice commencing on the earlier of—

(1) the date that is 60 calendar days after the date of such notice; or

(2) the date of the adjournment of the 109th Congress sine die.

Mr. STEVENS. Now, what is the pending amendment, Mr. President?

The PRESIDING OFFICER. The pending amendment is the Kyl amendment No. 4806.

The Senator from North Dakota.

AMENDMENT NO. 4805

Mr. DORGAN. Mr. President, I know that the chairman and the ranking member of the Appropriations Committee and particularly this subcommittee are anxious to move this piece of legislation. I thank them for their work. This is perhaps one of the more difficult pieces of legislation to put together from the appropriations side. It spends an enormous amount of money at a time when we are engaged in wartime activities. There are many accounts that are in urgent necessity of being replenished and restored.

Let me say to the chairman and to the ranking member, I think they have done an excellent job with a very difficult piece of legislation. I appreciate their work, and I am privileged to serve on that subcommittee with them and understand the importance this bill will have for the U.S. military at a time when men and women are risking their lives because their country has asked them to do that.

I do want to make a point, however, today, as we pass an appropriations bill, and I will make the point understanding that the chairman and ranking member will recognize that this is not about how much money we appropriate but, rather, about how the money is used. I accept that in most cases that is a function of authorizing committees—oversight requirements of authorizing committees—rather than the Appropriations Committee.

But I do want to make the point now because we have spent a great deal of money, and will again spend a lot of money—most of it emergency funding outside of this particular bill—dealing with issues in Iraq and Afghanistan, when all around us we are seeing that a fair portion of that money is attached to allegations of misuse and waste and, in some cases, fraud.

I think all of us, especially those of us on the Appropriations Committee, wish very much to make certain that what we appropriate is used to support our troops, to improve the security of this country, is used wisely and prudently in support of the things that Congress has authorized.

I want to go through some things because I think it is important for all of us in Congress to understand the allegations of waste that have attended some of this spending. And it is important for all of us on the appropriations and authorizing committees to try to figure out: How on Earth do we deal with this? What do we do to put a stop to—not allegations—the waste of taxpayers' funding?

There are so many examples it is hard to know where to start. But because there have been so few oversight hearings on the bulk of these issues, I think it is important to describe what we are hearing. Taxpayers in this country have been asked to provide taxpayer funding through appropriations, and here are some of the examples: contracts that are signed, sole-source, no-bid contracts that extend for some long while.

And because they are sole-source, no-bid contracts, and they are cost-plus, the taxpayer has been fleeced.

These are stories not from someone who alleges to have seen something, these stories are from people who worked for the contractors, whistleblowers: $85,000 trucks, brandnew $85,000 trucks abandoned beside the road to be torched because they had a flat tire; $85,000 trucks abandoned to be torched because they had a plugged fuel pump; a case of Coca-Cola, $45—that is the charge to the American taxpayer—two plates of breakfast, $28 a plate; feed 42,000 soldiers a day—and it turns out they were feeding only 14,000 soldiers a day; they missed it by 28,000 in the charges they made to the U.S. Government—leasing SUVs, $7,500 a month.

Hand towels, providing hand towels for our troops, the buyer who was asked to buy the additional hand towels for our troops in the war theater said: Here are the hand towels I was going to purchase. And here are the hand towels I was asked to purchase. And the hand towels I was asked to purchase by my supervisor included the embroidered name of my company, which doubled the price of the hand towels. So when I complained about that, the answer was: It doesn't matter.

This is cost-plus. We are the only contractor. The taxpayer will pay the bill. Cost doesn't matter.

The list is endless and goes on and on and on. Food service to the troops: A man named Rory, who actually worked in the food service kitchens, in Iraq, of the contractor—an employee of the contractor—said: We routinely got food that was stamped ''expired,'' date-stamped ''expired.''

He said: Our supervisors said it doesn't matter. Feed it to the troops. It doesn't matter. Just feed it to the troops.

He said: We were repeatedly told by our supervisors, don't you dare speak to a Government investigator or a Government auditor. If they show up and you talk to them, you are going to be fired. If they show up and you talk to them, and you are not fired, you are going to be sent to the most hostile area we can find to send you.

The fellow named Rory, who showed up and spoke about this, who was an employee and described all of this, in fact, did speak to Government investigators about what he saw happening to the American taxpayer, and he was sent to Fallujah during the hostilities. That is what happened to him.

More recently, we have a whistleblower, or several of them, who have come forward to say: We are spending money for a contractor to provide water to our troops at all of the bases in Iraq. That is the money we are spending to provide water to our troops.

I want to show you some memoranda and some discussions back and forth about what has happened to that spending. This is an internal report written by Will Granger, who works for the company that has the contract to provide water to all the U.S. bases in Iraq. Will Granger is the top employee for Halliburton on the ground in Iraq. Here is what Will Granger said in his report:

> No disinfection to non-potable water was occurring at Camp Ar-Ramadi for water designated for showering purposes.

Incidentally, this is water that the troops use to brush their teeth and wash their face and shower.

> This caused an unknown population to be exposed to potentially harmful water for an undetermined amount of time.

The whistleblowers came forward who were also involved in the delivery of this water. And they said: By the way, the nonpotable water—that is water you do not drink, but water you brush your teeth with and take showers with, and so on—the nonpotable water was more degraded, more contaminated than if they would have taken raw water from the Euphrates. This is from the whistleblowers.

Now, when this became known, the internal report that we had from Mr. Will Granger—again, from the same company—said:

> The deficiencies of the camp where the event occurred is not exclusive to that camp; meaning that country wide, all camps suffered to some extent from all or some of the deficiencies noted.

Now, while all this going on, the company, Halliburton, said: None of this happened. You are wrong. None of this happened.

My point is, the discussion of this came from employees of the company itself and from an internal memorandum that was leaked, an internal memorandum written by the top official on the ground in Iraq in charge of water.

Will Granger, the man I am speaking of, the man in charge, while his company in Houston was saying publicly, and said it repeatedly, that none of this happened, none of this happened, Mr. Ganger's report said this:

> This event should be considered a ''near miss'' as the consequences of these actions could have been VERY SEVERE resulting in mass sickness or death.

We are spending money on these contracts. Then we have whistleblowers come forward to say there is a waste of money—tragic waste of money. Then we have whistleblowers come forward to say that the companies that are getting these contracts—in this case for water—are not treating the nonpotable water properly, which is a danger to the troops. And the company says: Not true. Just not true.

Then we discover the internal memorandum that the company received from that company's person on the ground in Iraq, and the guy says:

The consequence . . . could have been VERY SEVERE resulting in mass sickness or death.

Shortly after this, by the way, a young woman who is serving in Iraq, an Army physician, wrote me an e-mail, and she said: I have read about this sort of thing. I want you to know it has happened in my camp. And I had my assistant go track the water line to see what kind of water they were bringing into the base that is called nonpotable water, and it, too, was contaminated, and it, too, is of degraded quality and more contaminated than raw water, the raw water you would get from the Euphrates River.

So the question is: What are we getting? What are we getting for the money we are spending? Where is the accountability?

Now, some of these have been Halliburton. And I know the minute you talk about Halliburton, somebody says: Ah, that is a political attack on the Vice President. The Vice President is not at Halliburton. This is not about the Vice President at all. He used to work for that company, but this is not about him. It is about a company that received large no-bid contracts, sole-source contracts, and the allegations are almost unbelievable about what has happened.

Now, there are others. Some of them are with a RIO contract, Restore Iraq Oil contract, others with a LOGCAP contract. But let me give you some other examples: Custer-Battles—two guys show up in Iraq, one named Custer, one named Battles, and they decide: We want to get in on some of this. We want to get in on some of this activity.

Before that ended, Custer and Battles had received over $100 million in contracts from our Government. Among the contracts was one to provide security at the Baghdad Airport. There were no flights going in and out of the Baghdad Airport, so presumably they did a pretty good job of that, except they took the forklift trucks that existed at that airport, put them in a shed someplace and repainted them blue, and then sold them back to the Coalition Provisional Authority, which was us. That is an interesting way to do business.

And, by the way, here is a picture of $2 million wrapped in Saran Wrap. I know this fellow. This fellow showed up here in Washington, DC. This picture was taken in Iraq in a building.

He was the guy holding a portion of this money. He said: Our message in Iraq was, Bring a bag; we pay in cash. If you are a contractor, bring a sack; we pay in cash.

This is $2 million, 100-dollar bills wrapped in Saran Wrap. They used them to play football in the office, throwing bricks of 100-dollar bills around. It was like the Wild West, he said. This particular $2 million went to Custer Battles, a company that showed up with no experience, took forklift trucks from the airport, repainted them, sold them back to the American taxpayer, called the Coalition Provisional Authority. The CPA is us, the Coalition Provisional Authority. That was created by Donald Rumsfeld. He signed the creation of the CPA. It was us. So Custer Battles gets a contract for airport security.

Here is the Baghdad airport director of security talking about Custer Battles. He wrote it to the CPA.

Custer Battles have shown themselves to be unresponsive, uncooperative, incompetent, deceitful, manipulative, and war profiteers. Other than that they are swell fellows.

Something else that happened with this contract. They were supposed to provide trucks. The problem is, they supplied trucks and the trucks didn't work. Couldn't get them started. They didn't run. The Custer Battles company said: We just said we would supply trucks. We didn't guarantee they were going to run. They didn't have to be operational.

My point is this, this goes on day after day, month after month. It is not the fault of the appropriators. It has nothing to do with the appropriators. It is about accountability. And in most cases, that would come from authorizing committees and from a Congress that would say: Wait a second. When we hear about nonpotable water that is more contaminated than raw water from the Euphrates River, a Congress would say, wait a second; you can't do that to American troops, and begin an immediate investigation. Yet you see very little activity to look into these issues.

On behalf of the taxpayers and on behalf of those of us who are appropriators, including the chairman and ranking member and the entire committee, I think all of us, the Congress, the Department of Defense, all of us need to expect more accountability and soon. We are spending an enormous amount of money.

I have mentioned previously that in the early 1940s, Harry Truman believed there was substantial waste. He put together the Truman committee, formed by Congress, a bipartisan committee. I am sure there was a great deal of teeth gnashing down at the White House because the President was of his own party. But the Congress, with that bipartisan committee, rooted out a great deal of waste, fraud, and abuse through the Truman committee. I have tried previously on three occasions to pass such legislation here in the Senate. I have not been successful.

I think it is time—and I only take the time to speak as we appropriate money—for all of us to expect more from those committees with the responsibility to hold accountable those who spend this money. I have seen precious little energy and far too little activity to respond to these issues.

I have talked about food and water to troops. There are many other issues. I will not go through them all today. The issues are sufficient that we need to take a hard look at what is happening.

Last Friday I met with a doctor from Iraq. He wanted to go look at the 142 health clinics that were to be restored and rehabilitated and created in Iraq, 142 health clinics with the money we appropriated in the U.S. Congress. This Iraq physician went to the health minister of Iraq and said: I would like to track the money and see what is happening with these 142 clinics.

The health minister said: No, you don't understand. Many of these clinics are imaginary.

I said: Are you sure? You are sure that is what he said.

Oh yes, I am sure. Many of these are imaginary clinics. They don't exist.

It turns out 20 clinics were rehabilitated or created of the 142 that were supposed to have been rehabilitated or created. Only 20 were done and all the money is gone. Why? How? Who cares? Does somebody care? That is the question for this Congress.

I don't mean in any way to suggest that my colleagues, the chairman and ranking member on the Appropriations Committee, bear responsibility for this. That is not the case. It is the case, however, that we need to be much more aggressive on other committees with oversight responsibility. Oversight is a significant legislative responsibility. It has gone unfulfilled in this Congress and a couple of Congresses preceding it.

I have an amendment that I noticed. I understand that the amendment itself is not germane on an appropriations bill. A point of order would lie against it. I would expect my colleagues would insist on a point of order. But the amendment would punish war profiteers, crack down on contract cheaters, and force real contract competition so that we finally can do what we should for the American taxpayer and bring down these costs.

I had filed it as No. 4805. I ask unanimous consent that we set aside the pending amendment in order to have 4805 considered.

The PRESIDING OFFICER. Is there objection to setting aside the pending amendment?

Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

The Senator from North Dakota [Mr. DORGAN] proposes an amendment numbered 4805.

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

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

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I am appalled at some of the information that the Senator from North Dakota

has brought to us. I will join him, perhaps, in some specific amendment that might have some germaneness to this bill such as an authorization to shoot such people. I can't imagine that anyone would provide to troops in the field contaminated water. I can't believe that we are being charged for a sizable number of clinics and our taxpayers are paying for it and they are imaginary.

On the other hand, this is a provision that deals with Government contracting governmentwide. If we include it, we would have to have several subcommittees and the other body confer with us to try to write the amendment in a way that might be pertinent to the matter before us, and that is financing the Department of Defense.

I do think we should be indebted to the Senator for his research and what he is doing to try to bring honesty into Government contracting. But I am compelled to say that it is an amendment that should be taken to the Government Affairs Committee, and it should not be on this bill. It is legislation on an appropriations bill. I do make a point of order that it violates rule XVI.

The PRESIDING OFFICER. The point of order is taken.

The amendment falls.

The Senator from North Dakota.

Mr. DORGAN. Mr. President, I use this opportunity when we appropriate money to make the point. It is not the responsibility or the burden of a couple people who have put together a good appropriations bill to bear the responsibility for a lack of oversight that exists and the lack of oversight that exists in the entire Congress. I only raise this because I think it is critically important that all of us understand.

There is far too much waste and fraud and abuse in some of these contracts. I recognize that wartime is different. There are times during wartime when you do things you might not otherwise do. You might not be quite as efficient or effective. Some money may be wasted. But this seems like hogs in a trough when you see what is going on.

We are spending so many billions. We added $18.2 billion for reconstruction in Iraq, and the grunting and shoving and moaning of hogs at the trough trying to find some of that money. I mentioned Custer Battles. Two guys would show up with hardly a taxi fare, get $100 million in contracts, and now we discover the American taxpayer has been fleeced for much of that. The water isn't going to clear up until you get the hogs out of the creek. We need to find a way to address these issues, most especially those raised with food and water to troops.

Let me say to Senators STEVENS and INOUYE, I want to work with them. I know they want the same result I want with respect to these issues. That is the only reason I raise this today. This burden also falls on some authorization committees and others that really need to do a much better job with respect to oversight.

My hope remains that at some point we will be able to pass my amendment—I expect to offer it again, and I think that will be the fourth time—to create a Truman-type committee that sinks its teeth into these issues and says: We will not put up with this. We won't put up with waste, fraud, and abuse.

I will be back again. I thank my colleagues for their forbearance as I discuss these things and know that they share with me an interest in trying to deal with them in an effective way on behalf of our troops and on behalf of America's taxpayers.

I yield the floor.

Mr. STEVENS. Mr. President, before the Senator leaves, I am sure Senator INOUYE is telling him the same thing. We will instruct our staff to start the process of establishing a series of hearings to investigate this fraud that he has brought to our attention. The Senator is a member of our committee, and we will be pleased to work with him on it. If it gets to the point where we need a commission per se to be outside of the Congress to do this investigating, we can look into that, too. I think we should start the process of investigating into these repeated reports we have had about fraud and corruption in connection with Government contracting, particularly that related to our war effort.

I thank the Senator for his work.

Mr. DORGAN. Mr. President, let me then work with my colleagues, Senators STEVENS and INOUYE, and see if I can find a way to write this approach in a way that does not have a point of order lying against it and in a way that begins some kind of inquiry. I very much appreciate the cooperation and interest.

I yield the floor.

Mr. STEVENS. I don't think we need an act. We have authority under our existing rules today to do that investigation. As has been pointed out, President Truman used a subcommittee of the Congress at the time he did his investigations in World War II.

Mr. STEVENS. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. COBURN). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. GREGG. Mr. President, I wanted to speak briefly about the status of the budget relative to defense spending, really more for the purpose of information for my colleagues, because we are getting into a process where there is tremendous confusion over how much we are spending and where it is coming from and how it is being spent as a function of what has been the administration's view that they can fund this war out of emergency supplementals ad infinitum.

Traditionally when you fund a war such as this—I guess there isn't much tradition, and hopefully it won't be a tradition for war. But if you look back over the wars we have fought as a nation that have gone on for a while, they have usually started out with significant commitments of emergency funds. There is no question about that. It is essential to get the troops in the field and get them what they need.

Over time, in both the Korean war and the Vietnam war, which are probably the best examples to look to, the operation and funding of the war has been folded into the regular order where the authorizations have gone through the Defense Department, have gone through the Defense authorization committee and on to the Appropriations Committee, and there has been some significant congressional oversight.

In the Korean war, 77 percent of the cost of that war was funded through the regular budget. In the Vietnam war, about 72 percent was funded through the regular budget.

This war we are confronted with now is as big and as significant a threat as we have ever faced because of the fact that, regrettably, the people who wish to do us harm have shown their willingness to kill Americans. They have stated their purpose is to destroy our culture. They have said that if they can get their hands on a weapon that will kill thousands of people, they will use it against civilian populations, and they have shown their willingness to kill civilians, Americans on American soil.

So this is a war that must be fought aggressively. I congratulate the President for the aggressiveness with which he has gone after terrorists around the globe and the fact that he has taken the fight to them. I have supported that effort. But I also remain concerned that we, as a Congress, have a role here, which we have to some degree abrogated, and that is the role of oversight as this effort goes forward—maybe not so much in the day-to-day operation of the war, which should be left to the generals and the people on the ground, the officers and men and women fighting this war, but to the issue of how the Defense Department structures its core purposes in the context of being in a war.

In fact, for the first couple of years of this effort, when supplementals were coming up—and they came up at the rate of $50 billion, $60 billion—there appeared to be an almost physical disconnect between the dollars being used on the war-fighting effort and the dollars being used for the core purposes of national defense. One could ask the question: Was the core purpose of the Defense Department, which was costing in the vicinity of $300 billion to $400 billion at the time, 2 or 3 years ago—

was a large percentage of that being used to fight the war or was a large percentage being used to maintain traditional operations within the Defense Department? It appeared that the two were decoupled in many ways.

What evolved is a process where, essentially, we have a core defense budget, on which we have overlaid an entirely separate appropriations process and budget, called emergency appropriations. We have now had 4 years of experience, and we are averaging about $90 billion a year of emergency appropriations that are outside of the basic budget process and which are being spent on the war-fighting effort. For the first 2 years of this effort, the Defense Department refused to send up any number at all relative to what this would cost. That didn't make a lot of sense because we knew we were going to have to pay something with soldiers in the field. At the urging of the Congress 2 years ago, we put into place a $50 billion—for lack of a better term—''holding'' number to try to cover and identify what that cost was going to be in the context of the entire budget.

The Defense Department still at that time took the position that it had no number for that, so $50 billion didn't need to be put in. It turned out that they exceeded the $50 billion by about $40 billion. Last year, because we put in $50 billion before, the administration sent up the base defense budget of about $400 billion and put $50 billion in because, as it was represented by the Assistant Secretary of Defense before the Budget Committee, because he said the Congress had done it the year before, he could not estimate whether that would be the cost of the war. They put that in because Congress had already done that, so they were trying to track what Congress did. This didn't make a lot of budgetary sense again, so we put in the budget what had been the average for this supplemental effort to fight the war, which was $90 billion.

The new Budget Director—and I give him great credit, and I appreciate the fact that he has convinced people at the Pentagon to go along with this—stated very openly that now the supplemental that they expect in the next budget cycle will be somewhere in the vicinity of $110 billion to $120 billion, which is at least a number we can work on, a number that has been put forward and appears to be realistic.

I guess the point is this: Where do we stand with all these numbers floating around? Do we have any control over this? Is this a lot of operational activity that is being basically sloughed off on the emergency accounts so that we end up with the core budget of the Defense Department not being correctly reflected and authorized, and, of course, that account clearly isn't authorized relative to war fighting and is difficult to reflect.

I tried to put this together. This chart reflects the situation as I see it and the Budget Committee sees it. I put these numbers out so people can get a sense of where we are going and what we are spending because this is becoming a fairly significant item of the Federal activity and is obviously critical to our capacity to fight this war and be successful.

Since 2001, we have had this core budget of the Defense Department which, as you can see, rose from $297 billion in 2001, where the Defense Department had been radically cut back by the Clinton administration and was suffering underfunding. Ironically, I would call in the last year and a half of the Clinton Presidency—he acknowledged publicly that he disproportionately cut the Defense Department and was starting to retool it and refund it. The core budget has gone from $297 billion—which was a low number, below what they needed—up to $430 billion. That includes the appropriations for the Defense bill and for military construction.

The supplementals in the postwar period, as we dealt with the Iraq situation and Afghanistan situation, are the red numbers. They have gone from $79 billion to $88 billion, to $79 billion, and last year—or the year we are presently in, it is estimated to be $125 billion. Now we are looking at 2007.

This is a number that I think needs to be at least publicly stated so we know what is happening around here. We have the core budget of $430 billion. On top of that, we have a supplemental within this bill—before the 2007 is even passed and the year has even begun, this is a supplemental within the bill of $42 billion to basically fight the war. Then $8 billion came out of money, which last year there was an across-the-board cut in spending generating about a $9 billion savings—more than that, but of that across-the-board cut, about $9 billion was not spent. That came down to about $8 billion being available. And it is now transferred over to this Defense bill. It could have gone to the Defense bill or the HHS bill, whatever bill came to the floor, or it could have been applied to deficit reduction.

On top of that, last night there was a $13 billion add-on to this bill in emergency spending to basically refund the Army and the Marines, who are in desperate shape in the area of equipment due to the harsh climate of Iraq, and this money was critical. And then the President's representative, Mr. Portman—and I congratulate him—has said the full cost of this year's emergency supplementals will be about $110 billion. So we can presume that we are going to get at least another $60 billion in emergency supplemental as we head into 2007 and, regrettably, I suspect that will be conservative. It means we are going to essentially have a $553 billion budget in the defense area, even though you could argue that the stated budget is $430 billion in the defense area.

These are just numbers and they are facts. I think it is important we understand what is happening. I guess the bottom line of all this is we have set up a two-track process of budgeting and spending around here. One is subject to the proper review process, which is the authorizing process followed by the appropriating process. That is the $430 billion. And the other part in here essentially has no controls and comes at us from the White House and the administration, where they unilaterally make the decision as to the dollars. I don't think that is healthy.

There is no question that the Defense Department probably needs this money. But the purpose of the Congress should be in oversight of the use of the money. So I am hopeful, because it appears that this process of these large supplementals has become the modus operandi for both the administration and the Congress. We should take a hard look at this. We need to consider the fact that maybe there is a better way to do this, where Congress can intersect a little earlier on how we are going to spend this money, so that we put the same review into this money that we are putting into the base budget, so we can be sure that the money going to the emergencies of fighting the war—and it is critical that our soldiers have what they need in the field—is not being used actually for the purpose of replacing core defense opportunities or defense needs and, thus, being a way around congressional scrutiny of core defense obligations.

There are a lot of weapons systems being purchased which have outyear procurement issues. I heard the second ranking member of the Defense Committee say that of the nine major systems—I think he said seven systems were in issue as to how much they were costing and whether they would be delivered on time. If you are going to properly oversight that, you want to make sure that those dollars are not suddenly flowing through the emergency process and thus not being subject to review.

So we have a problem as a Congress, as to how we deal with the reality of having troops on the ground who have to get support from us—and no one here would not support them—but at the same time have a defense budget and an actual budget process that is fundamentally broken relative to our capacity to oversight these dollars as they are coming up and being requested.

I don't have the answer, to be very honest with you. But I am trying to outline the issue so that people are aware of it. I honestly don't think there are probably five people in the Senate who understand this number. What we are dealing with is not a defense number of $430 billion, not a defense number of that plus the $42 billion supplemental in it or plus the $8 billion or plus the $13 billion. It is a defense number of somewhere around $553 billion and going up. It may be, and probably is, money we are going to have to spend. I suspect I will vote for all of it. But I would like to have more

confidence than I have right now that we have not set up a two-track budget process, where we essentially focus on one set of numbers and allow another set of numbers to pass through here as if they are going through in the night on some shadowy boat.

Mr. STEVENS. Will the Senator yield?

Mr. GREGG. Yes.

Mr. STEVENS. The Budget Committee chairman raises literally the things we have been thinking about and mumbling about for months now. We have in this bill a provision that says next year all of this should be within the budget. That, of course, we realize is next to impossible because of the inability to predict in advance—really 18 months in advance—what the costs are going to be to fight a war.

I believe the Senator should look at the changes that have been made since the war I was in, World War II. We had draftees. All of the equipment that was used, the transportation equipment was operated by people in uniform. All of the bases were operated by people in uniform. We didn't have security people; we did the guard duty. We didn't have people running the kitchens; we did it ourselves. I distinctly remember peeling potatoes for hour after hour.

All I am saying to the Senator is, the concept of handling war materials and emergency issues has gotten out of control. The Senator from North Dakota—I don't know if the Senator from New Hampshire saw his comments about some of the fraud and abuse that is involved in Government contracting.

It is fairly clear, because of the nature of the emergency, controls have been thought of after the fact. We are trying to bring it into some kind of perspective for the future.

As budget chairman, the Senator from New Hampshire is absolutely correct, I don't know how we could fold into the budget for next year and make everything involved in the fiscal year 2008 the concepts we are dealing with in terms of emergency funding right now.

However, I am also convinced that because of the way this conflict has changed and the nature of the conflict, as opposed to wars of the past, even the Persian Gulf war that we fought, we have no way of telling how much it is going to cost.

I want the Senator to know that those of us who handle the appropriations bills, particularly those regarding defense, would like to work with the Senator. There must be some way to put some controls over the way this money is spent.

I am appalled when I hear of some of the things the money is spent for in a redundant fashion which ends up not achieving the goals, but still have to spend the money after the goals are not achieved. It is difficult for us right now to get our hands on the way this war has been costed out and the way the money has been spent.

I don't think it is a political question. I don't think it is a matter of politics. I think it is a matter of practical application, some good money-handling propositions. We have run into that in terms of some of the money we have provided to the Iraq Government, also. I hope the Senator from New Hampshire is familiar with those.

I wonder whether the Senator has any suggestions on how we might help him in this endeavor.

Mr. GREGG. Mr. President, first off, my admiration for the Senator from Alaska is immense and is extremely deep on the issue of defense policy and how we should fund our Defense Department. If the Senator from Alaska says we need something, the odds are I am going to say we need to fund it. People, such as the Senator from Alaska who have the expertise around here and have had it for a long time—the Senator from Virginia, for example, who chairs the Armed Services Committee and members of that committee—are not getting much of a window of opportunity to be players in how these budgets are evolved. We are just getting them presented to us and claimed they are an emergency and basically they have gone outside the budget process.

We have to set up some process that allows the Senator from Alaska, as chairman of the subcommittee that appropriates, and which allows Senator WARNER as chairman of the full Armed Services Committee to intersect this activity a little earlier in the process so they can have their input in it, much as they would the core budget.

The Senator from Alaska spent a lot of time putting together this base budget of $434 billion. I know he did. That emergency money comes in here with a bang—here it is today and the Senator has to appropriate it tomorrow—a situation from the administration. Granted, it is a war and there is going to be some need for that type of activity, but there is also a way to anticipate some fairly significant percentage of that, I would think. I think a little more openness and cooperation from downtown on that might be helpful.

I don't have the answer. I am just raising the red flag of concern. I would rely greatly on the Senator's expertise and the expertise of others around here who have the history and knowledge of the Defense Department to figure out how we as a Congress can engage more effectively and not have this second budget moving along which is really sort of shadowing.

I thank the Senator.

Mr. STEVENS. I thank the Senator also.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, on this subject, I thank the chairman of the Budget Committee and Chairman STEVENS for their observations. Early on, I urged the administration to budget for the war, and they said: It is hard to predict what will be needed. I said: That is true, but the one thing we know for certain, the right answer is not zero. And that is what the administration was sending up in their budgets: Zero, no money. Obviously, that wasn't right.

Budgets are about making an estimate of what the costs are going to be. Unfortunately, early on, the chief spokesman for this administration dramatically understated what this war would cost. I remember very well Larry Lindsey, who was the chief economic adviser to the President, said this may cost over $100 billion. The Vice President of the United States chastised him publicly—at least that is my recollection—and suggested that this war would not cost more than $50 billion.

Here we are and the war has cost over $300 billion so far, and the administration is still not budgeting appropriately for it. They are dramatically understating in their budgets what this war is really going to cost. What that does is denies the Congress the ability to oversee these expenditures, and the result is we are going to see more scandals, we are going to see more wasteful spending, we are going to see more circumstances in which our troops do not receive the equipment they ought to receive because this money is being handled in a way that is outside the normal process in which a budget is sent up here that does not really represent the spending plan at all. And then it is followed by what is called an emergency supplemental bill that has very little chance for review, very little chance for scrutiny, very little chance for oversight.

What the chairman is saying is there is a reason for a budget process, and the reason is to give Congress the chance to try to make certain that money is not wasted.

Is it a perfect process? No, we all know that. We know it is a very imperfect process. But we know it is the best we have, and if we don't follow it, we are then vulnerable to waste and abuse, and that is a serious concern for every one of the Members.

THE SPREADING DISASTER OF DROUGHT

Mr. President, I now wish to speak on a different matter. It is a matter of an emergency in my State and increasingly a matter of emergency in other States as well, and that is the spreading disaster of drought that is enveloping the central part of our country.

Ironically, last year, my State had massive flooding. These were the headlines from a year ago: ''Rain Halts Harvest''; ''Heavy Rain Leads to Crop Diseases''; ''Beet Crop Could be Smallest in 10 Years''; ''Crops, Hay Lost to Flooding''; ''Area Farmers Battle Flooding, Disease.''

These were the headlines from last year.

In North Dakota last year, every one of our counties was declared a disaster because of abnormal wet weather conditions, something we are not very used to in North Dakota, but that is what we were experiencing last year. Pictures such as this were very typical

last year: Massive flooding in which farmsteads were surrounded by water. And in fact, in North Dakota last year, we had over 1 million acres that couldn't even be planted; 1 million acres that could not even be planted in my State last year, and then hundreds of thousands of additional acres that were planted but then flooded out. So farmers got no production.

Fast forward to this year and what is happening now. This is the drought monitor that comes out on a weekly basis. What this shows is the center part of the country is now in very serious drought. The color code for those watching on TV is: Yellow is abnormally dry, the light tan is moderate drought, the darker tan is severe drought, the red is extreme drought, and the dark brown is exceptional drought.

One can see all of my State is now in drought. All of South Dakota is now in drought. All of Nebraska, all of Kansas, and all of the Presiding Officer's State are in drought, and virtually all of Texas—not quite all, but virtually all.

What is dramatic is how this has spread. Last year, it was just the south central part of our State. Now the entire State is in drought, and much of it is in extreme drought. That is the red part of this chart. And one part is in exceptional drought, that is beyond extreme—exceptional drought.

There was an article in one of our major dailies saying that the Dakotas are now the epicenter of a drought-stricken Nation. It indicated that more than 60 percent of the United States is in drought, and it says the experts say that the dry spell is the third worst on record. Looking at the drought from 1999 to 2006, the drought ranks only behind the 1930s and the 1950s.

This is an extraordinarily serious situation in my State. We put together a chart that just shows the month of July. These are the days that were over 90 degrees in Bismarck, ND, the capital city, my hometown: 23 days over 90 degrees. Rainfall is less than 20 percent of normal. We are a pretty dry area to begin with, but 20 percent of normal? In my lifetime, I have never seen anything like this. I didn't live in the thirties. I did live in the fifties, but I was so young I probably didn't really know what was going on in terms of weather conditions.

I thought I had seen it all, but last Sunday in my hometown, it was 112 degrees—112 degrees in Bismarck, ND. I have never seen anything approaching that. I am not talking about the heat index here. I am not talking about when they add a bunch of things together. I am talking about the temperature in my hometown last Sunday was 112 degrees with rainfall 20 percent of normal.

This is a situation that is becoming dire, and if we look at the 10 days leading up to that, on the 10th of July, it was 96 degrees; the next day it was 101; the next day 105; the next day 94; the next day 102; the next day 105; the next day 106.

In North Dakota, typically you might have a couple of days that are 100 in the summer, but you don't have day after day, and you certainly don't have a day that gets to be 112.

In July, Senator DORGAN, Congressman POMEROY, the Governor, and I went together on a drought tour. This was in early July. This is what we saw in pastures in North Dakota. There is nothing there. There is nothing for the cattle to eat.

Now we have seen as the days have gone by that the ground is actually cracking. It is so dry the ground is cracking. This is an extremely serious situation.

Here is a map of North Dakota and our counties. The red counties are ones that have already been approved for emergency CRP haying and grazing. One can see it is widespread across our State and growing.

But what is striking is when you go out and look at the crops. This is southern Burleigh County. This is where Bismarck, my hometown, is located, the capital city of North Dakota. This is a cornfield. You know what they used to say—knee high by the 4th of July? This isn't boot high by the 4th of July. There are hardly any plants that have even emerged. They will produce nothing, absolutely nothing.

During our drought tour, a man came up from South Dakota who runs the Herreid livestock auction ring in north central South Dakota. He said: Senators, I want to alert you to something that is happening. It is a real warning signal. He said: In July we would normally be selling a couple of hundred head a day. The last 3 or 4 days we have been selling thousands, thousands of head, because there is no feed.

The Senate has taken action before. We took it on the supplemental appropriations bill and we said we needed to provide disaster assistance. There is a need to take it here. Seventy-two Members of the Senate said: Don't take it out, we ought to provide disaster assistance. The President said no. If there is any disaster assistance, he would veto it.

I hope the President is watching carefully what is happening, what is developing. I just had the independent bankers of my State in my office. They told me if there is not assistance, 10 percent of the people they lend to will go out of business by the end of this year—10 percent of the farmers and ranchers of my State. This is a catastrophe of stunning proportion. It is getting worse each and every day.

We are experiencing temperatures that are unprecedented and a lack of rainfall that has only happened twice before in our history—in the 1930s, the Dust Bowl days, and the 1950s.

I take the time of my colleagues to raise this issue on the Defense appropriations bill. I recognize full well this has nothing to do with the Defense appropriations bill. This does have to do with a crisis among the people I represent, so I have taken a few moments of the time of the Senate to alert them to what is happening and to tell them that a group of us, on a bipartisan basis, from the States affected, are writing the leadership, Republican and Democratic, of this body to alert them that when we return in September it will be our effort on every vehicle that moves to put on disaster assistance.

This is a group of Republican Senators and Democratic Senators who are from the affected regions. We will do everything we can to minimize the financial request that is made, but we have to say to our colleagues this is a crisis. When it gets to be 112 in July in Bismarck, ND, and rainfall is 20 percent of normal, that is headed toward a catastrophe—a catastrophe for literally tens of thousands of people in my State.

It extends way beyond the border of North Dakota. I have talked to colleagues here from Montana who report to me their State is in drought, as are Minnesota, South Dakota, Nebraska, Kansas, Oklahoma, Texas, Colorado—so many of these States being affected—and, of course, Wyoming as well. I have talked to colleagues from many of these States who report to me that they are seeing in their States what I am seeing in mine. This drought is intensifying and the prospects for a calamitous growing season are growing.

I thank my colleagues for their patience.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 4819

Mr. DODD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection to setting aside the pending amendment?

Mr. DODD. I ask unanimous consent to do that.

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

The assistant legislative clerk read as follows:

The Senator from Connecticut (Mr. DODD) proposes an amendment numbered 4819.

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

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

The amendment is as follows:

(Purpose: To make available an additional $6,700,000,000 to fund equipment reset requirements resulting from continuing combat operations, including repair, depot, and procurement activities)

At the appropriate place, insert the following:

SEC. ____. From funds available in this Act, an additional $6,700,000,000 may be available to fund equipment reset requirements resulting from continuing combat operations, including repair, depot, and procurement activities.

Mr. DODD. I offer this amendment on behalf of myself, Senator REED of Rhode Island, Senator INOUYE, Senator LEAHY, Senator BINGAMAN, and Senator KENNEDY.

I thank Senator INOUYE and his staff for helping us craft this amendment. As I understand it, this amendment has been cleared on both sides for consideration. I will be asking for a vote on this amendment at the appropriate time, but I am not going to take a long time here because the substance of this amendment was discussed last evening when it was offered—part of this was offered by Senator STEVENS, along with Senator INOUYE—and then earlier today Senator REED of Rhode Island and I had a discussion here on the floor about this issue, of what is occurring in terms of the equipment our military needs to operate effectively, the gap that exists, that we worry about here, in terms of the failure to provide the necessary support for our men and women in uniform, in the Marine Corps, the Army particularly, but also in the National Guard.

The Senator from Alaska offered an amendment last evening, as I mentioned a moment ago, to address critical capital equipment shortfalls long identified by the Army and Marine Corps.

As my colleagues know, Army Chief of Staff General Schoomaker has said that $17 billion would be needed to begin repairing and replacing our fleets of trucks, tanks, and aircraft. Last night's amendment contained an additional $7.8 billion for the Army to add to the $2.5 billion in the underlying bill. It also contained $5.3 billion for the Marine Corps. But the amendment still leaves a $6.7 billion shortfall within the $17 billion figure identified by the military's top uniformed officers.

I am offering this amendment, along with Senator REED and others, to make this remaining $6.7 billion available to our military if it needs it. This is what we call a ''soft mark.'' If the money is not needed, the resource would come back to the Treasury. But rather than waiting until next spring sometime when a supplemental might be asked for, we don't want to deprive our military leadership of the resources necessary if they can use them to replace and repair the deteriorated equipment being used in Iraq and Afghanistan and elsewhere.

This amendment is a soft amendment, if you will, in that regard. It will not detract from other defense priorities, and it will not contribute further to the deficit. It is part of our budget-neutral, if you will, proposal. All my amendment does is say that the Army is allowed at its discretion to use this appropriation for any available unobligated funds.

Up until now, the cost of war in Iraq has been mainly measured in the number of lives lost, which is tragic, and the U.S. Treasury spent—and rightly so.

In Iraq, 2,578 of our fellow citizens have been killed, and Congress has approved more than $437 billion, with another $50 billion now soon to be considered by this body. But there is another cost of this war that needs to be addressed, one we cannot afford to ignore. That is military readiness.

For months now, the Army's uniformed leadership has been sounding the alarm about the growing readiness gap, as it is called.

In March, Army Deputy Chief of Staff LTG James Lovelace testified to Congress that since the Iraq war's beginning, the number of Army units fully equipped for combat has steadily declined. According to General Lovelace and his Marine counterpart, LTG Jan Huly, military units have increasingly become less prepared for combat as they have seen their stock of functioning vehicles, aircraft, and equipment decline.

Last month, Army Chief of Staff GEN Peter Schoomaker put the problem in budgetary terms—the President's proposed 2006 supplemental request was $4.9 billion short to address the equipment shortfalls caused by combat losses and wear and tear in Iraq. In the administration's 2007 budget request, there was an even larger $12 billion shortfall, according to the leadership of our uniformed services.

Today we are announcing our commitment to meeting those generals' calls to address one of the most pressing challenges of the U.S. military—the growing readiness gap.

We must find resources necessary to repair and replace our military's critical equipment. This is a matter of the most urgent priority. By some accounts, these equipment shortfalls are leaving up to two-thirds of the U.S. Army's combat brigades unfit to perform basic combat duties. I do not know what could be more alarming, particularly as the United States confronts growing threats to peace and security throughout the globe, from the Korean Peninsula to the Middle East, and elsewhere.

While the sheer size and scope of the U.S. Army readiness remains classified, one thing is certain: Our military hardware is stretched thin and our fleets of aircraft, tanks, and trucks are wearing out. Those are facts—not ones I concluded on my own, but our uniformed services have warned us about this since very earlier this year.

Early this year in Iraq, U.S. tanks were being driven over 4,000 miles per year—5 times the expected annual usage of 800 miles. Army helicopters are experiencing usage rates up to roughly two to three times their otherwise planned usage. The Army's truck fleet is experiencing some of the most pronounced problems of excessive wear, with usage rates of five to six times their peacetime rates, further exacerbated by the addition of heavy armor. This increased use shortens the life of equipment and demands larger investments in maintenance and procurement.

On top of that, our equipment is being further degraded by sand, extreme heat, rocket-propelled grenades, and explosive attacks.

Certainly, our military personnel's bravery and valor can never be exhausted. We know that. But the same could not be said of the fleets of humvees, trucks, and aircraft they depend upon. We owe it to them and to the American people to make certain that the U.S. Armed Forces are outfitted with the equipment they need to get the job done.

On three or four other occasions over the last several years, I have stood on this floor to offer amendments to deal with equipment used by our men and women in uniform. At one point, we were offering the necessary dollars to make certain that our service men and women were getting hydration systems, basic needs of a soldier going into combat. We lost those amendments, and we came back and offered a different idea—to reimburse the men and women in uniform, some of whom, by their own accounts, were scraping around in dumps in Iraq to find the hardware to armor up their humvees and equipment.

Whatever our politics may be on the issue of the war in Iraq, all of us believe we should never send a soldier into harm's way without giving them the equipment they deserve and need when they are in those kinds of situations. Those situations are important. This situation I have described here today outstrips the importance of those issues. This has to do with the very ability of our people to defend themselves and to prosecute their efforts successfully, and we are coming up woefully short.

I appreciate the leadership of this committee, Senator STEVENS and Senator INOUYE, for supporting these additional funds we talked about here which Senator REED and I are offering. We think it is critically important that the uniformed services have the tools necessary to make sure the men and women in uniform are going to have the kind of equipment they deserve and need to have under these circumstances. I am very grateful to the leadership for supporting this amendment.

I will ask at the appropriate time for the yeas and nays on this amendment. In fact, I will ask for the yeas and nays at this point.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. DODD. Mr. President, I do not know when we want to schedule these votes. Are we ready to go to a vote? I withhold moving that at that moment until the chairman of the committee

has a chance to determine how they will proceed.

I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. STEVENS. Mr. President, the Dodd amendment raises an interesting issue of availability of additional money if needed. It in effect is reprogramming authority granted in advance to move money to meet necessity, if it occurs. On that basis, I think I would be willing to support it, but I think the Senate as a whole ought to vote.

Mr. President, I suggest that we agree on a time to commence this rollcall vote. Can we say it occur at 10 minutes after 5? Is that agreeable with Senator INOUYE?

Mr. INOUYE. Yes.

Mr. STEVENS. Mr. President, I ask unanimous consent that this vote be scheduled for 10 minutes after 5.

Mr. DODD. And no second degrees in order.

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

Mr. STEVENS. Is there any further amendment to be discussed at this time?

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. STEVENS. Mr. President, I ask to rescind the previous order regarding the vote that is scheduled, and I now ask consent that at 5:15 today, the Senate proceed to a vote in relation to the DOD amendment No. 4819, with no amendments in order to the amendment prior to the vote; further, that the Senate then vote in relation to the Durbin amendment No. 4781, with no amendments in order to the amendment prior to the vote, and there be 4 minutes for debate equally divided between the votes.

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

Mr. STEVENS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Under the previous order, the question is on agreeing to the Dodd amendment No. 4819. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. MCCONNELL. The following Senator was necessarily absent: the Senator from Kentucky (Mr. BUNNING).

Further, if present and voting, the Senator from Kentucky (Mr. BUNNING) would have voted ''yea.''

Mr. DURBIN. I announce that the Senator from Montana (Mr. BAUCUS) and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

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

The result was announced—yeas 97, nays 0, as follows:

[Rollcall Vote No. 221 Leg.]

YEAS—97

Akaka	Dorgan	Menendez
Alexander	Durbin	Mikulski
Allard	Ensign	Murkowski
Allen	Enzi	Murray
Bayh	Feingold	Nelson (FL)
Bennett	Feinstein	Nelson (NE)
Biden	Frist	Obama
Bingaman	Graham	Pryor
Bond	Grassley	Reed
Boxer	Gregg	Reid
Brownback	Hagel	Roberts
Burns	Harkin	Rockefeller
Burr	Hatch	Salazar
Byrd	Hutchison	Santorum
Cantwell	Inhofe	Sarbanes
Carper	Inouye	Schumer
Chafee	Isakson	Sessions
Chambliss	Jeffords	Shelby
Clinton	Johnson	Smith
Coburn	Kennedy	Snowe
Cochran	Kerry	Specter
Coleman	Kohl	Stabenow
Collins	Kyl	Stevens
Conrad	Landrieu	Sununu
Cornyn	Lautenberg	Talent
Craig	Leahy	Thomas
Crapo	Levin	Thune
Dayton	Lincoln	Vitter
DeMint	Lott	Voinovich
DeWine	Lugar	Warner
Dodd	Martinez	Wyden
Dole	McCain	
Domenici	McConnell	

NOT VOTING—3

Baucus	Bunning	Lieberman

The amendment (No. 4819) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, I would like the Senate to know where we are. As of 4:35 this afternoon, we had 68 more amendments. I have asked the Parliamentarian to advise Senator INOUYE and me tomorrow morning how many of them are subject to rule XVI. A great many of them are legislation.

I point out to the Senate that this bill must be conferenced and we must get this bill to the President in time for the money to be available at the end of the fiscal year. We cannot go over this year.

Amendments subject to rule XVI, when we go to conference, require us to confer with another committee on the House side in order to see whether the House will accept these nongermane amendments.

It is our intention to raise rule XVI against any amendment that the Parliamentarian tells us is subject to the rule. If some can be rewritten in a way not to do that, we can reconsider them.

I apologize to the Senator from Illinois. There is another vote scheduled.

AMENDMENT NO. 4781, AS MODIFIED

The PRESIDING OFFICER. Under the previous order, there is 4 minutes equally divided prior to a vote on the Durbin amendment No. 4781, as modified.

The Senator from Illinois is recognized.

Mr. DURBIN. Mr. President, Senator OBAMA and I have offered an amendment relating to medical research on traumatic brain injury. This is the x-ray of an American soldier who has returned from Iraq having suffered an explosive blast injury. Mr. President, 1,700 of our soldiers have returned with traumatic brain injuries. This is a very severe case, but this soldier, thank God, survived. But 1,700 soldiers have faced this injury, and 62 percent of the soldiers exposed to blast injuries have traumatic brain injury.

Senator OBAMA and I have taken money out of our own projects in this bill—a million dollars each—to put it into medical research at the University of Chicago so we can use the latest technology to diagnose and treat traumatic brain injury.

The U.S. Army has reported in their official documents that they have a gap of $20 million necessary for research for diagnosis and treatment of soldiers who have suffered these traumatic brain injuries. This does not take money out of the bill.

Today, we have added $1.8 billion in emergency spending. We just shifted $6.7 billion. We are asking for $2 million from our own projects for research for traumatic brain injury for these soldiers. Please, if you believe we should do everything we can to help these soldiers, I hope you will support the amendment.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, this is an important amendment. It is one to provide the University of Chicago with $2 million to conduct imaging research on the connection between epilepsy and brain injury.

This is not to directly help the soldiers who have been injured. As a matter of fact, this is not a neglected area. We put up a billion dollars in the last 2 years, and there has been substantial research on brain injuries.

There is a necessity for money for the treatment and care of those who have this problem, but we do not need more money for research. As a matter of fact, in the past 3 years, we averaged $430 million a year in grants, contracts, and research conducted by NIH. For 2006, we asked NIH to expand research on brain injury rehabilitation.

This money is not going to treat soldiers; it is going to the University of Chicago for an imaging research

project. We have 20 other amendments here that deal with the question: Should we use more money from defense for medical research? We have said no, we don't want any more money used for brain research.

There is $45 million in this bill that the Department of Defense can use for any research project in the health area it wants to. But to take more money now—this is a symbolic $2 million. If this amendment passes, we have to deal with the other 20. We have said no to everybody, not just to one amendment.

I urge my colleagues not to support this amendment. As a matter of fact, I move to table this amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The question is on agreeing to the motion. The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. The following Senator was necessarily absent: the Senator from Kentucky (Mr. BUNNING).

Further, if present and voting, the Senator from Kentucky (Mr. BUNNING) would have voted ''yea.''

Mr. DURBIN. I announce that the Senator from Montana (Mr. BAUCUS) and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

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

The result was announced—yeas 54, nays 43, as follows:

[Rollcall Vote No. 222 Leg.]

YEAS—54

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

NAYS—43

Akaka	Durbin	Murray
Bayh	Feinstein	Nelson (FL)
Biden	Harkin	Nelson (NE)
Bingaman	Jeffords	Obama
Boxer	Johnson	Pryor
Burns	Kennedy	Reed
Byrd	Kerry	Reid
Cantwell	Kohl	Rockefeller
Carper	Landrieu	Salazar
Clinton	Lautenberg	Sarbanes
Conrad	Leahy	Schumer
Dayton	Levin	Stabenow
DeWine	Lincoln	Wyden
Dodd	Menendez	
Dorgan	Mikulski	

NOT VOTING—3

Baucus	Bunning	Lieberman

The motion was agreed to.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 4806

Mr. STEVENS. Mr. President, I ask the Chair lay before the Senate amendment No. 4806.

The PRESIDING OFFICER (Mr. COBURN). The amendment is pending.

Mr. STEVENS. Mr. President, I raise a point of order that this amendment violates rule XVI.

The PRESIDING OFFICER. The point of order is well taken, and the amendment falls.

AMENDMENT NO. 4768

Mr. STEVENS. Mr. President, I ask the Chair lay before the Senate amendment No. 4768.

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

Mr. STEVENS. Mr. President, I similarly raise a point of order that this amendment violates rule XVI.

The PRESIDING OFFICER. The point of order is well taken, and the amendment falls.

Mr. STEVENS. Mr. President, we do have another managers' package. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. STEVENS. Mr. President, again, I would alert Senators of the fact that we have active staff on both sides of the aisle working on these managers' packages. We urge Senators to come forward and discuss these amendments with us. We would like to work out as many as we can.

AMENDMENTS NOS. 4803, 4779, 4766, AND 4798, EN BLOC

I have another managers' package ready now. I will read the components of it:

Amendment No. 4803 for Senator BYRD regarding a biometrics study, amendment No. 4779 for Senator WARNER regarding research and studies, amendment No. 4766 for Senator INOUYE regarding a military history exhibit; amendment No. 4798 for Senator ISAKSON regarding environmental compliance.

I send these amendments to the desk. I ask unanimous consent they be considered en bloc, adopted en bloc, and the motions to reconsider be laid on the table.

The PRESIDING OFFICER. Is there objection?

Mr. INOUYE. No objection.

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

The amendments were agreed to, as follows:

AMENDMENT NO. 4803

(Purpose: To require reports on the recommendations of the Defense Science Board regarding the management of the biometrics program of the Department of Defense)

At the end of title VIII, add the following:

SEC. 8109. (a) INTERIM REPORT ON MANAGEMENT OF BIOMETRICS PROGRAM.—Not later than September 8, 2006, the Secretary of Defense shall submit to the congressional defense committees an interim report on the management of the biometrics program of the Department of Defense.

(b) FINAL REPORT.—Not later than October 15, 2006, the Secretary shall submit to the congressional defense committees a final report on the management of the biometrics program of the Department of Defense.

(c) REPORT ELEMENTS.—Each report under this section shall include, current as of the date of such report, the following:

(1) A detailed description of the recommendations of the Defense Science Board regarding the management of the biometrics program of the Department of Defense.

(2) Such recommendations as the Defense Science Board considers appropriate regarding changes of mission for the existing biometrics support officers.

AMENDMENT NO. 4779

(Purpose: To make available from Operation and Maintenance, Defense-Wide, an additional amount of up to $7,500,000 for the Joint Advertising, Market Research and Studies program)

At the end of title VIII, add the following:

SEC. 8109. (a) JOINT ADVERTISING, MARKET RESEARCH AND STUDIES PROGRAM.—Of the amount appropriated or otherwise made available by title II under the heading ''OPERATION AND MAINTENANCE, DEFENSE-WIDE'', up to $7,500,000 may be available for the Joint Advertising, Market Research and Studies (JAMRS) program.

(b) SUPPLEMENT NOT SUPPLANT.—The amount available under subsection (a) for the program referred to in that subsection is in addition to any other amounts available in this Act for that program.

AMENDMENT NO. 4766

(Purpose: To make available from Operation and Maintenance, Army, up to $500,000 for the United States Army Center of Military History to support a traveling exhibit on military experience in World War II)

At the end of title VIII, add the following:

SEC. 8109. Of the amount appropriated or otherwise made available by title II under the heading ''OPERATION AND MAINTENANCE, ARMY'', up to $500,000 may be available for the United States Army Center of Military History to support a traveling exhibit on military experience in World War II.

AMENDMENT NO. 4798

(Purpose: To make available from Research, Development, Test and Evaluation, Army, up to $1,000,000 for environmental management and compliance information)

At the end of title VIII, add the following:

SEC. 8109. Of the amount appropriated or otherwise made available by title IV under the heading ''RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY'', up to $1,000,000 may be available for environmental management and compliance information.

Mr. STEVENS. Mr. President, what is the pending amendment now, Mr. President?

AMENDMENT NO. 4802

The PRESIDING OFFICER. The Kennedy amendment, No. 4802, is the pending amendment.

Mr. STEVENS. The Kennedy amendment, yes. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 4762

Mr. STEVENS. Mr. President, I ask the Chair lay before the Senate amendment No. 4762.

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

Mr. STEVENS. This is the medical countermeasures procurement amendment. Is that ready for clearance on both sides?

Mr. INOUYE. We have no objection.

Mr. STEVENS. I am informed there is no objection to this amendment. I ask it be considered at this time and adopted.

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

The amendment (No. 4762) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, again, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENTS NOS. 4814, 4829, 4792, AS MODIFIED, AND 4783, AS MODIFIED, EN BLOC

Mr. STEVENS. Mr. President, I have another managers' package offered by myself and Senator INOUYE.

The first is amendment No. 4814 by Senator BINGAMAN regarding adaptive optics; amendment No. 4829 by Senator SUNUNU regarding unmanned underwater vehicles; amendment No. 4792, as modified, by Senator COLEMAN regarding microelectronics; and amendment No. 4783, as modified, by Senator SCHUMER regarding bandages.

These I believe have been cleared on both sides.

Mr. INOUYE. No objection.

Mr. STEVENS. Mr. President, I send this package to the desk and ask unanimous consent that the amendments be considered en bloc, agreed to en bloc, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Is there objection?

Mr. INOUYE. No objection.

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

The amendments were agreed to, as follows:

AMENDMENT NO. 4814

(Purpose: To make available from Research, Development, Test and Evaluation, Air Force, up to $1,500,000 for Commercialization and Industrialization of Adaptive Optics)

At the end of title VIII, add the following:

SEC. 8109. Of the amount appropriated or otherwise made available by title IV under the heading ''RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE'', up to $1,500,000 may be available for Commercialization and Industrialization of Adaptive Optics (PE #0602890F).

AMENDMENT NO. 4829

(Purpose: To make available from Research, Development, Test and Evaluation, Navy, up to $1,000,000 for an integrated, low-cost, low-power Multibeam Side Scan Sonar System for Unmanned Underwater Vehicles)

At the end of title VIII, add the following:

SEC. 8109. Of the amount appropriated or otherwise made available by title IV under the heading ''RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY'' up to $1,000,000 may be available for an integrated, low-cost, low-power Multibeam Side Scan Sonar System for Unmanned Underwater Vehicles (UUVs).

AMENDMENT NO. 4792, AS MODIFIED

At the end of title VIII, add the following:

SEC. 8109. Of the amount appropriated or otherwise made available by title III under the heading ''PROCUREMENT OF AMMUNITION, AIR FORCE'', up to $5,000,000 may be available for the procurement of Radiation Hardened Microelectronics (HX5000).

AMENDMENT NO. 4783, AS MODIFIED

(Purpose: To provide that up to $9,000,000 of the amount appropriated or otherwise made available by chapter 2 of title IX for the Army for operation and maintenance and up to $2,000,000 of the amount appropriated or otherwise made available by such chapter for the Marine Corps for operation and maintenance may be made available for the procurement of hemostatic agents, including blood clotting bandages and invasive hemostatic agents, for use by members of the Armed Forces in the field)

On page 238, after line 24, add the following:

SEC. 9012. (a) Of the amount appropriated or otherwise made available by chapter 2 of this title under the heading ''OPERATION AND MAINTENANCE, ARMY'', up to $9,000,000 may be made available for the procurement of hemostatic agents, including blood clotting bandages and invasive hemostatic agents, for use by members of the Armed Forces in the field.

(b) Of the amount appropriated or otherwise made available by such chapter under the heading ''OPERATION AND MAINTENANCE, MARINE CORPS'', up to $2,000,000 may be made available for the procurement of hemostatic agents and invasive hemostatic agents, including blood clotting bandages, for use by members of the Armed Forces in the field.

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

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

The motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, I announce to the Senate that we have completed all the packages we can work on tonight. We urge Senators and their staff to get together with us early in the morning. We will be back in session at 9:30, and we hope we can continue to find ways to agree to the amendments that can be worked out.

There is a series of amendments regarding the National Guard that we wish to get to as quickly as possible tomorrow. I alert Senators and staff that we are interested in working on the National Guard amendments during the early part of the morning tomorrow, if it is at all possible.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. MCCAIN. Mr. President, amendment No. 4838 would strike language from the bill that states that certain projects in the committee report ''shall be considered to be authorized by law.''

Committee reports that accompany Senate bills and joint explanatory statements that accompany conference reports are not law but, rather, advisory documents. While some like to think otherwise, the Federal agencies are under no legal requirement to follow verbatim the many directives that are included in each and every committee report. And I note that also applies to the hundreds of earmarks that are included in committee reports and joint explanatory statements each year. Unless provisions are included in enacted legislation, they do not have the force of law. And this is not just my view.

Let me read from the April 1998 opinion of Supreme Court Justice Scalia in United States, petitioner v. Estate of Francis J. Romani et al.:

The Constitution sets forth the only manner in which the Members of Congress have the power to impose their will upon the country: by a bill that passes both Houses and is either signed by the President or repassed by a supermajority after his veto. Art. I, §7. Everything else the Members of Congress do is either prelude or internal organization.

And just this past June, in Zedner v. United States, Scalia wrote:

I believe that the only language that constitutes ''a Law'' within the meaning of the Bicameralism and Presentment Clause of Article I §7, and hence the only language adopted in a fashion that entitles it to our attention, is the text of the enacted statute.

It may seem that there is no harm in using committee reports and other such sources when they are merely in accord with the plain meaning of the Act. But this sort of intellectual piling-on has addictive consequences. To begin with, it accustoms us to believing that what is said by a single person in a floor debate or by a committee report represents the view of Congress as a whole—so that we sometimes even will say (when referring to a floor statement and committee report) that ''Congress has expressed'' thus-and-so. . . . There is no basis either in law or in reality for this naive belief Moreover, if legislative history is relevant when it confirms the plain meaning of the statutory text, it should also be relevant when it contradicts the plain meaning, thus rendering what is plain ambiguous.

I fully understand a committee's interest in having an agency consider the guidance it provides in its report language. But on occasion, that interest can get carried away. I remember the controversy that occurred a few years ago when a report included language expressing extreme displeasure over the fact that an agency had not followed to the letter certain prior year's

report language. The subsequent report, which accompanied the fiscal year 2004 CJS appropriations bill, stated the following:

As in past years, the Committee expects NOAA and the Department to adhere to the direction given in this section of the Committee report, particularly language regarding consultation with Congress, and to observe the reprogramming procedures detailed in section 605 in the general provisions of the accompanying bill. Unlike past years, however, the Committee intends to enforce congressional direction ruthlessly.

The reason I am referencing that report is to demonstrate the extent to which committees can go in imposing report directives. I am not trying to suggest the DOD appropriations report accompanying the pending bill includes comparable threats, but I am concerned about a line in the bill language that I believe should be eliminated because it would have the effect of authorizing projects that are merely listed in the report, thus giving provisions in the report the force of law.

Section 8042 of the bill states:

The Secretary of Defense, notwithstanding any other provision of law, acting through the Office of Economic Adjustment of the Department of Defense, may use funds made available in this Act under the heading ''Operation and Maintenance, Defense-Wide'' to make grants and supplement other Federal funds in accordance with the guidance provided in the report of the Committee on Appropriations of the Senate accompanying this Act, and the projects specified in such guidance shall be considered to be authorized by law.

Let me repeat the last phrase: ''and the projects specified in such guidance shall be considered to be authorized by law.''

Mr. President, the projects referred to are not included in the legislative language, and we should not be suggesting that it is acceptable to authorize provisions by reference. In this particular case, it would result in the authorization of about 30 projects. But imagine what is next. I can envision the conference report of this or another bill to include a line stating that all the projects in its report ''shall be considered to be authorized by law.''

The language that allows certain projects to be ''considered authorized by law'' is a dangerous precedent, and I believe it should be eliminated.

I appreciate that the bill managers have agreed to accept this amendment, and I trust that they will work to ensure that the final conference agreement is free of language that would allow provisions in the joint explanatory statement to have the force of law.

Mr. JOHNSON. Mr. President, recently the Senate Appropriations Committee approved the fiscal year 2007 Defense appropriations bill. As a member of the committee, I supported this measure, and it is now being considered by the full Senate.

The bill provides $453.5 billion in new discretionary spending authority for the Department of Defense. Included in this amount is $50 billion for contingency operations related to the global war on terror.

I have repeatedly called upon the Bush administration to be frank with American taxpayers about funding levels for ongoing operations in Iraq and Afghanistan. For far too long, the Bush administration has relied upon emergency supplemental spending measures, as opposed to the annual budget process, to fund our efforts in Iraq and Afghanistan. I believe that is wrong.

In his budget proposal, President Bush finally submitted a $50 billion request for a bridge fund to support military efforts in Afghanistan and Iraq for the coming fiscal year. The Senate Appropriations Committee funded this request, but I remain concerned that this level of funding will be insufficient, and once again Congress will need to consider another emergency supplemental appropriations bill.

Furthermore, President Bush's continued insistence on maintaining tax breaks for the extremely wealthy has made it incredibly difficult to fund important domestic spending programs. In fact, the President's budget reduced funding for critical programs including No Child Left Behind, the Perkins Career and Technical Education Program, and firefighter assistance grants.

Consequently, Senate Appropriations Committee Chairman THAD COCHRAN was forced to reduce defense spending by $9.1 billion to meet urgent domestic spending needs. As a result, our servicemembers received a 2.2 percent across- the-board pay raise, a reduction of nearly 1 percent from last year's level of 3.1 percent. In addition, the Bush budget recommended funding for only 333,000 Army National Guard personnel, well below the National Guard authorized end-strength of 350,000. This proposal was opposed by the National Guard and Reserve, and I am pleased that the Senate was able to provide sufficient funding to support an Army National Guard end strength of 350,000 soldiers.

While some shortfalls remain in the bill, it is important to note that it provides an additional $340 million for National Guard and Reserve equipment above the President's request. The bill also provides $735 million for body armor and personal protection equipment, as well as $1.5 billion for the Joint Improvised Explosive Device Defeat Organization.

Furthermore, I am pleased that the bill reported out by the Senate Appropriations Committee provides funding for a number of important South Dakota projects. Due to my seat on the Appropriations Committee, the South Dakota School of Mines and Technology received funding to develop a number of important defense related projects. Researchers at the school will receive over $3.3 million to establish and staff a nationally competitive polymer and composites processing laboratory in South Dakota; they will work to develop new transparent armor for the Army's Future Combat Systems; and the school will develop a control system for laser powder deposition.

The South Dakota School of Mines and Technology is not the only organization conducting critical defense-related research in South Dakota. The Rosebud Sioux Tribe will receive $5 million to continue their efforts to establish the Advanced Electronics Rosebud Integration Center. The center will research, develop, test, and demonstrate advanced electronics integration and fabrication technology on the Rosebud Sioux Tribe reservation in South Dakota. In addition, funding was provided to RPM & Associates to facilitate their efforts to use LENS technology for aerospace applications. Likewise, the Batcheller Consulting Group will move forward in developing innovative on-board sensor systems to assess the wear-and-tear to military vehicles and weapon systems.

Finally, the South Dakota National Guard will benefit from defense-wide funding increases I championed. For example, the Senate Appropriations Committee included nearly $35 million above the President's request to meet the urgent needs of our National Guard and Reserve. This funding will help procure additional M22 Automatic Chemical Agent Alarms, Improved Chemical Agent Monitors, targeting pods for F–16 aircraft, and helmet mounted cueing systems.

Mr. President, while I continue to have deep concerns about the spending priorities of the Bush administration, I do believe that the funding included in this bill will go a long way toward providing our troops with the resources they need to defend our country.

MORNING BUSINESS

Mr. STEVENS. Mr. President, in behalf of the leader I ask unanimous consent that there be a period for morning business with Senators permitted to speak therein for up to 10 minutes each.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. DEMINT. Mr. President, this is that time of year when Congressmen and Senators go back to their States and report to the people about what we have done and what we plan to do. I am looking forward to going back to the State of South Carolina. I know the people are going to be interested in things that are much simpler. They want to know if we are going to help make the future better than the past, if we are going to make them safer, if

we are going to make them more prosperous, if we will do the things in Congress that will protect the values they believe make this country great.

As we think about how we have made this country safer, we can all be thankful there has not been an attack by terrorists in this country since September 11. A lot of that can be attributed to the President, his firm stand against radical Islamic terrorists around the world, and his effort, along with Republicans, pushing the PATRIOT Act to give our Government the tools it needs to track down terrorists.

Unfortunately, as many Americans know, our Democrat colleagues have made it very difficult for the President and for Republicans to do those things that are necessary to protect our people. The minority leader was bragging, boasting, that they had killed the PATRIOT Act. Fortunately, we were able to overrule and get that bill passed so our country will be safer.

Our colleagues on the other side have also criticized the President for using technology to track communications of terrorists and to trace their finances—on every turn, criticizing.

Perhaps the biggest problem we have is our Democrat colleagues do not even appear to know the enemy we are fighting. They seem to believe that if we withdraw from Iraq that somehow this global war against radical Islamic terrorists will just go away.

Most of us who are thinking clearly know that Afghanistan and Iraq are just two fronts in this battle on terror. It is a global war. We see it now in Lebanon. We see it in many places around the world. We have even been able to stop some attacks in the United States. The right is right: We are facing an enemy that is spread around the world. If we allow them to win in Iraq, we will never defeat them anywhere. We are making this country safer. We are doing it despite the obstruction of the other side of the aisle.

South Carolinians and Americans will ask how we are protecting values. Unfortunately, again, I have heard too many of my Democrat colleagues say we need to be dealing with important things and not messing with these value issues. They have tried to block a number of things, but we were able to pass the Child Predator Act, we were able to pass the Child Custody Act, and we were able to get some good judges approved so we can stop the activist courts from overturning our values and our beliefs in this country. We have made progress.

I want to talk specifically tonight about helping Americans make ends meet. I know I have heard this around South Carolina, and my colleagues are telling me they are hearing it all over the country, that despite a good economy, many Americans are still having trouble making ends meet. As we say sometimes back home, there is too much ''month'' at the end of our money. People have gotten raises, but they have also seen more taken out of their paycheck for health care. They have seen the cost of gasoline continue to rise.

We know our Democrat colleagues, for decades, have blocked new energy supplies in this country. They have blocked the generation of electricity with nuclear power. They blocked the development of new oil reserves in Alaska more than 10 years ago. If they had not stopped it then, we would now have an additional 5 percent supply of oil at a time we desperately need it. The point is, my Democrat colleagues have raised the cost of living for many Americans. We have to stop that.

This week we started off well. We passed a new energy bill that will open new exploration in the gulf. We know there are huge reserves of oil and natural gas that will lower the cost of gasoline and make it easier for our businesses to compete in this country. That is something we passed despite Democrat obstruction.

On Friday this week we will take up one of the most important bills of the year. This gets at the recent calls for prosperity that the American people are asking for. We call it the Family Prosperity Act. I call it, raise your standard of living and lower the cost of death.

This bill includes a number of things. It increases the minimum wage but, more importantly, it provides a number of research and development tax credits, tax credits for welfare to work, a lot of tax incentives to expand our economy, increase jobs and help everyone increase their income in this country, not through a Federal mandate but by just letting businesses and individuals keep more of their own money and reinvesting in our economy. That is the way to help increase income. This bill includes all of that.

It also reduces this death tax and gives some permanency out there. It makes absolutely no sense in this country when people pay taxes their whole lives, and when they die we are going to take more of it. We have not been able to overcome the Democrat obstruction to completely eliminate the death tax, but we have come up with a good compromise.

All week we have heard the Democrats in the Senate talking about this death tax, with lots of misinformation about what it really means. The death tax does provide revenue to the Federal Government—last year, about $24.8 billion, which is a lot of money, there is no question about it. But if you look at what keeping that money in our economy would do if we were able to eliminate the death tax completely, a number of economists say this would add $847 billion in capital investment and create over 100,000 new jobs a year.

Simply leaving that money in the economy, rather than bringing it here to Washington, where every American knows we don't necessarily spend it in the most efficient way, it would add over $10 billion in growth per year to our gross domestic product. This economic activity and the tax revenues associated with it would more than offset the loss of revenues from eliminating this death tax.

Let's look at it another way. This really gets back to the American family and what this means to us as a Nation. This death tax provides less then 1 percent to the Federal budget as far as tax revenues. What it does to an individual family, a small business, a farm—I have heard all week this is just the richest people in America. That is absolutely not true. The people who work for these small businesses and farms are not rich. Many times when a person dies, their estate has to sell the farm or sell the business in order to pay, sometimes, over half of what that business is worth. A family may have to work their whole lives to build up this business. There is no reason when they die that we will take half of that value and put it in the Federal Government.

Only the Democrats are going to try to make America believe that somehow we are better off as a Nation, somehow the lower income people in this country are better off if we take money from a family farm or small business or car dealership, if we take that money and put it into Government. Somehow America is better off and this will help the little guy.

What this does, it takes his job, it diminishes our economy because this money will not work as hard in our Government to create jobs and to raise personal income as it will if we leave it where people are investing and hiring people, creating jobs, building our economy, all across the country.

Unfortunately, again, our Democrats are obstructing one of the most important things we can do for the American people at this time. We can keep talking about a good economy, but lower and middle-income Americans are not increasing their incomes as fast as the cost of gasoline and health care is increasing. We have tried to put a small business health plan on the floor of the Senate this year that we think would lower the cost of health care to small businesses to around 20 percent, but it was blocked. We hope to bring it back.

Too many Americans do not have health insurance. Those that do are paying more and more every year. If they get a $25 a week raise and their employer has to take $50 more a week out of their paycheck for their health insurance, they are worse off than they were before. When they stop by the gas station, if it costs $25 more to fill up their car than it did a year ago, they are worse off than they were.

This bill we will be voting on—the motion to proceed—on Friday, we will bring it to the Senate floor to debate and work on it in September. We can send a signal to the people of South Carolina and the people of this country that we care about the problems they are having making ends meet and we are not going to stand for the Democrat obstruction that continues to keep

the cost of living higher by blocking new energy production, keeping taxes high and fighting the things that will actually lower the cost of living such as lowering the cost of gasoline and lowering the cost of health care.

The Family Prospect Act includes the first increase in the minimum wage in almost 10 years. It includes a reduction in the death tax so small family farms and businesses will not have to be sold. It includes tax credits for college tuition, welfare to work, and many other things we know will create jobs. It is truly the Family Prosperity Act.

I call on my colleagues to stop obstructing what we are trying to do. We believe we can raise the income of every American and that we can lower the cost of living if we just work together.

I hope all of our colleagues, Republican and Democrat, will see the individual family in America is much more important as far as their income than the Government. By passing this bill, at least moving on to debate at the end of this week, we will have done a lot to reassure Americans that we do care about lowering the cost of living so they can live more prosperous lives.

GULF OF MEXICO ENERGY BILL

Mr. GRAHAM. Mr. President, I take this opportunity to comment on S. 3711, the Gulf of Mexico energy bill. I believe this legislation strikes an appropriate balance between our need for new sources of oil and natural gas, with the concerns of the coastal States.

I do support passage of S. 3711, but I do not support the bill passed by the House of Representatives earlier this year. The careful compromise that is the Senate bill cannot be found in the version passed by the House. I will not support any legislation that opens South Carolina's coast to drilling for oil.

I am supporting the Senate bill, but I wish that it went further to address our energy dependency issues. According to the International Atomic Energy Agency, IAEA, the world's demand for energy is expected to double in the coming years. This should be a call to intensify our efforts to become energy independent as soon as possible. We must continue to fund research into alternative sources of energy such as hydrogen. Where suitable we need to use solar power and potentially wind. We must expand production of ethanol beyond corn so that all regions of the country can produce ethanol efficiently.

As a cochair of the Senate Manufacturing Caucus, I voted for this legislation to increase our supply of natural gas for manufacturers. According to a study by the Congressional Research Service, 24 percent of our natural gas is consumed to generate electricity. While it is very easy to generate electricity from gas, it is a very inefficient use of the resource. Instead of electricity generation, natural gas should be utilized for industrial and home heating use.

For electricity generation, we need to continue encourage a renaissance in nuclear power. This involves reducing the regulatory redtape involved in constructing new plants, opening Yucca Mountain, and proceeding with spent nuclear fuel recycling. Nuclear power is an efficient zero-emission source of energy that can address both our energy and climate concerns.

I applaud the ongoing work of Senator DOMENICI and others to help increase the supply of critical energy resources. This bill is a small step in the right direction, and I look forward to working to further this effort beyond what we are accomplishing today. I also encourage my colleagues in the House that if they are truly serious about passing a bill to increase the supply of natural gas and oil this year, S. 3711 needs to be passed by the House as soon as possible.

STRENGTHENING CFIUS

Mr. BINGAMAN. Mr. President, I rise today to express my support for this Chamber's efforts to strengthen our CFIUS process—a system of screening foreign investment to make sure our national security is not compromised. In light of recent concerns about investments that did not receive adequate scrutiny, I think is imperative that we review this process and improve upon it where needed. It is important, however, that we do not modify the process in such a way that we create a system that unnecessarily discourages companies from investing in the United States. In order for our country to maintain our competitive advantage, we must make sure that we continue to be the worldwide choice of location for businesses. Although we have passed legislation out of the Senate intended to strengthen CFIUS, this legislation did not have the benefit of floor debate. I encourage the chairman of the Banking Committee, Senator SHELBY, to continue to solicit the views of the Members of this Chamber and address concerns that may be raised about the impact on direct investment before we begin to conference with the House on the measure.

WHITE PINE COUNTY CONSERVATION, RECREATION, AND DEVELOPMENT ACT

Mr. ENSIGN. Mr. President, yesterday my colleague from Nevada, Senator REID, and I introduced the White Pine County Conservation, Recreation, and Development Act of 2006. This bill is the product of bipartisan cooperation and it represents a fair compromise on a number of issues relating to the protection of White Pine County's natural resources. While not perfect, this measure strikes an appropriate balance between economic development, privatizing Federal lands, and designating wilderness areas. On whole, the White Pine County Conservation, Recreation, and Development Act of 2006 is a good piece of legislation and it should be passed.

White Pine County, NV, with fewer than 10,000 residents, is in rural eastern Nevada. The county has seen more prosperous times. The closure of mines has been hard on the local economy. Additionally, the Federal Government manages a high percentage of land which makes it difficult to foster growth. The bill seeks modest changes to the land ownership pattern to allow White Pine County to grow and increase its tax base, and gives residents some modest tools they need to prosper. We have also provided the same tools to the Ely Shoshone Tribe. We accomplish these goals through land disposal, natural resource and wildlife conservation, tourism development, additional protection for the wondrous Great Basin National Park, recreation opportunities, Nevada State Parks expansions, wilderness designation, and a study to determine if off highway vehicles should have a designated route through the county.

The White Pine County Conservation, Recreation, and Development Act of 2006 is modeled on an innovative law that I coauthored as a member of the House of Representatives with former Senator Richard Bryan. That measure, the Southern Nevada Public Land Management Act of 1998, SNPLMA, is widely regarded as a huge success. Two successor laws I wrote with Senator REID and Congressman GIBBONS, the Clark County Protection of Lands and Natural Resources Act of 2002 and the Lincoln County Conservation, Recreation, and Development Act of 2004 followed SNPLMA.

These county bills for Nevada can and should be replicated in every county in Nevada. Many other Western States with large public land holdings may benefit from our Nevada model. The premise is simple: not all land is suitable for public ownership, and other public lands are suitable for increased protection. We settle longstanding wilderness issues by designating permanent wilderness areas and release wilderness study areas to multiple use. Years of disagreements between developers, multiple use advocates, governments, environmentalists, conservationists, and other stakeholders are settled by these land bills. Bringing together people from diverse interests has actually proved to be a very healthy exercise in Nevada; it has fostered a spirit of cooperation that will benefit generations of Nevadans to come.

The White Pine County Conservation, Recreation, and Development Act of 2006 also proposes significant amendments to the Southern Nevada Public Land Management Act of 1998. In some instances, we revise provisions in current law that need improvement. We add new expenditure categories for

projects that will be beneficial to the citizens of Nevada and our environment.

For example, an improvement we make to current law relates to local governments in Clark and Lincoln Counties that use parks and trails funds in the SNPLMA special account. The localities are having difficulty building approved parks and trails projects. Local governments have to front their own funds and seek reimbursement from the Bureau of Land Management to build these projects. In some cases, this means millions of dollars that have to be borrowed or taken from other programs. To help local governments speed the development of parks and trails, we propose to pay local governments up front, eliminating a cumbersome reimbursement process. We can still maintain the financial integrity of all expenditures.

Additionally, we have significantly streamlined the affordable housing provisions in current law. Our revisions will make Federal land available at a discount for workforce housing and improve the lives of hard working families across the state of Nevada.

For new expenditure categories, we have taken great care to propose using the SNPLMA special account for critical needs, and in particular, for projects and initiatives that have broad support from the environmental and conservation community. We propose a clean water project for Lake Mead in southern Nevada and hazardous fuels reduction programs for two of the most heavily visited and fire prone areas in Nevada: Lake Tahoe and the Spring Mountains. We seek to conserve Colorado River water through the buyback of turf from public entities. Eighty five percent of the special account is now used for environmental and recreational purposes. We do not seek to break from the purposes for which SNPLMA was established in 1998; doing so would be controversial and harm the prospects of the passage of this bill.

The White Pine County Conservation, Recreation, and Development Act is the culmination of 2 years of hard work and spirited debate. Our staffs have worked together closely and have made visits to and held meetings in White Pine County on numerous occasions. We have received thousands of comments and useful suggestions from people across Nevada. This bill touches every corner of our beautiful State, and I am proud to have been part of this endeavor. I look forward to working with my colleagues and interested parties to improve this bill as necessary.

In summary, under title I, the bill authorizes the disposal of up to 45,000 acres of BLM land in White Pine County. Distributes proceeds through a White Pine special account.

Under title II, the bill designates roughly 545,000 acres of wilderness in 13 new wilderness areas and adds wilderness to two areas established in 1989. The White Pine County Commission supported approximately 500,000 acres. Standard language is included stating primacy of Nevada water laws in wilderness areas. Wildlife water developments are protected in wilderness areas.

Under title III, the bill transfers approximately 645 acres to the Fish and Wildlife Service to be managed as part of the Ruby Lake National Wildlife Refuge. In lieu of expanding the size of Great Basin National Park and in an effort to simplify land management and protect lands near Great Basin National Park, the bill transfers 117,000 acres from the Forest Service to the BLM. Of this amount, 54,400 acres are withdrawn from mineral entry and other form of entry. Motorized access is confined to existing routes. This withdrawal language does not intend for the withdrawal area to be managed as an NCA, but it will likely require an update of the Resource Management Plan after the transfer of administrative jurisdiction is completed. It is also intended through bill language that the BLM honor existing permits and cooperative agreements approved by the Forest Service.

Under title IV, the bill conveys Federal lands to expand two existing Nevada State parks: Cave Lake State Park and the Ward Charcoal Ovens State Park. The bill also conveys land to expand the Steptoe Valley Wildlife Management Area. Finally, the bill conveys Federal lands for the expansion of the Ely Airport and industrial park, with certain restrictions.

Under title V, the bill authorizes a 3-year study for a possible extension of the Silver State Highway Off-Highway Vehicle Trail from Lincoln County through White Pine County. The route may only be designated if the Secretary determines that there would not be significant impacts to natural, or cultural resources, and wildlife. While the bill provides the Secretary with discretion, it is my view that providing a designated route for motorized use can actually preserve resources and wildlife in areas that are not appropriate for motorized use.

Under title VI, the bill expands the Ely Shoshone Tribal Reservation by 3,500 acres. Extensive negotiations concerning the ownership of land just south of Ely strived to equitably balance the future expansion needs of the city of Ely with the economic development needs of the tribe.

Under title VII, the bill authorizes funding from the Southern Nevada Public Land Management Act to be used for the Eastern Nevada Landscape Project. The project will improve landscape restoration projects that reduce the risk of fire, prevent the endangerment of species, and improve watersheds.

Under title VIII, this title significantly amends the Southern Nevada Public Land Management Act of 1998, SNPLMA, to improve the effectiveness of the act, while proposing new conservation-oriented expenditure categories from the special account.

Specifically, for SNPLMA special account expenditure categories, the bill provides new authority for (1) the expansion of the Southern Nevada Water Authority's water saving ''Cash for Grass'' program to public entities for permanent turf removal; (2) the implementation of the Clark County Multi-Species Habitat Conservation Program, as was intended by the authors of SNPLMA; (3) the Clean Water Coalition's Lake Mead and Las Vegas Wash water quality pipeline project; (4) two comprehensive, 10-year hazardous fuels and fire prevention plans for the Spring Mountains and the Lake Tahoe Basin—including adjacent areas in Nevada along the Carson Range; (5) Nevada State Parks in Clark County to access parks and trails funding from the special account; (6) the Bureau of Land Management to clear and protect lands designated for sale in the Las Vegas Valley, alleviating the dumping problem; and (7) a one-time park/trails/natural area nomination in Washoe County—remainder of Ballardini Ranch lands offered by a willing seller.

For SNPLMA improvements, the bill streamlines the current law's affordable housing provisions that make Federal land available in Nevada at a discount. SNPLMA's current ceiling of serving persons not more than 80 percent of median income has been lifted to 120 percent, and future BLM land auctions of more than 200 acres in the Las Vegas Valley will require housing builders to set aside at least 5 percent of the units for affordable housing as defined by SNPLMA. The bill also speeds the progress of local governments' parks and trails projects by replacing a cumbersome reimbursement system, which constrains the financial ability of local governments to finance projects, with a requirement that local governments be paid up front.

Under title IX, this title establishes the Great Basin National Heritage Route. The House and Senate have each approved legislation designating this National Heritage Route; however, the bill has not reached the President for final approval. Designation of the Route will ensure the protection of key educational and recreational opportunities in White Pine County and neighboring Millard County, UT.

COSPONSORSHIP OF S. 3709

Mr. LUGAR. Mr. President, on July 24 the majority leader placed a list of the Senators who had sought to be cosponsors of S. 3709, the United States-India Peaceful Atomic Energy Cooperation Act, into the RECORD.

I ask unanimous consent that an updated list of those who wish to be listed as cosponsors be printed in the RECORD at this time.

Senators LUGAR, BIDEN, HAGEL, CHAFEE, ALLEN, COLEMAN, VOINOVICH, ALEXANDER, SUNUNU, MURKOWSKI, MARTINEZ, DODD, KERRY, NELSON, OBAMA, CORNYN, BAYH, and HUTCHISON.

STRONG FOUNDATION FOR ECONOMIC GROWTH

Mr. KYL. Mr. President, yesterday, the Senator from North Dakota gave a speech on the Senate floor on what he calls the wall of debt. My colleague said, ''We have cut revenue, cut revenue, cut revenue.'' Clearly, he misunderstands both the rationale and the economic effect of the tax cuts. I would like to take a few moments today to clear up several misconceptions.

My colleagues know full well that the Senator's wall of debt is built of increased spending and runaway entitlement costs. Twenty years ago, entitlements accounted for 45 percent of the budget; soon, they will exceed 60 percent. Medicare alone is growing by almost 10 percent a year. In 30 years, the three big entitlement programs—Medicare, Medicaid, and Social Security—if left unchanged, will consume the entire Federal budget, leaving no money for border security or education or any other necessary program.

Our problem is not that Americans are undertaxed; our problem is that entitlement spending has run amok.

In characterizing the tax relief provided in recent years, we do better to call it a ''Foundation for Economic Growth.''

When Congress cuts tax rates, it leaves money in the private economy, where it can be used more efficiently. Being taxed at lower rates, Americans have more incentive to work, save, and invest, which fosters economic growth. Tax rate cuts implemented by Republicans have kept America competitive by leaving $1.1 trillion in the American economy, where it has given us more than 4 years of uninterrupted economic growth.

To illustrate the effects that low tax rates can have on the economy, I recommend to my colleagues a study conducted by Dr. Edward Prescott, a Nobel laureate in economics and a professor at Arizona State University. Dr. Prescott's study reveals an interesting fact. Based on labor marker statistics from the Organization for Economic Cooperation and Development, Americans aged 15 to 64 worked 50 percent more than their European counterparts in France, Germany, and Italy. Fifty percent more. But this difference in output has not always been so. Two decades ago, France's labor supply, as measured by hours worked per employee, exceeded the American labor supply, as did several other European nations.

Why is this? According to Dr. Prescott, this discrepancy in the labor market is attributable to taxes. When you lower the rates on individuals, people work harder and greater productivity results. As the United States lowered its marginal tax rates, Americans had a greater incentive to work hard, work longer, and be more productive, relative to the European nations, which kept higher tax rates.

The results of Dr. Prescott's study are telling. Ultimately, a country must establish an efficient tax system with low tax rates to achieve maximum economic productivity. This is exactly what this Republican Congress has tried to accomplish: a tax system that keeps as much money as possible in the private economy, with individuals and businesses. In contrast, Democrats seem to want to keep as much taxpayer money in Washington as possible.

If my colleague from North Dakota doesn't believe that our tax and economic policies are working, let me quote some figures from the Office of Management and Budget's Mid-Session Review, released on July 11. These figures demonstrate that our tax and economic policies are fostering economic growth in the private economy and that all of this new economic growth is helping to bring down the budget deficit.

From 2005 to 2006, Federal receipts are projected to grow by 11 percent, $246 billion, more than twice as fast as the economy itself. Since the tax relief was fully implemented in 2003, tax receipts have increased by 34.6 percent. The economy has grown for 18 consecutive quarters. The economy has created over 5.4 million jobs since August 2003. This is more than Japan and the 25 nations of Europe combined. That is combined. The unemployment rate of 4.6 percent is lower than the average of the last four decades. There have been 34 months of consecutive job growth. Progrowth policies and tax receipts will allow the deficit to be cut in half by 2008, a year ahead of the President's schedule. The projected budget deficit for 2006 has fallen from 3.2 percent of gross domestic product to 2.3 percent of GDP—and measuring our deficit in relation to the size of the American economy gives the most accurate assessment of how big or small the deficit is relative to other times in our history. The projected deficit of 2.3 percent of GDP registers at the 40-year average and is lower than the deficits in 17 of the last 25 years.

Although our economy has made many steps in the right direction, we ought not be content to stop here. My colleagues and I will continue to work to reduce Government spending and to make the tax cuts permanent.

The issue that prompted this debate over the deficit, to be clear about it, is not how to reform entitlements. It is legislation the Senate will consider later this week to reform the estate tax. On this, as well, my colleagues labor under some misconceptions.

I want to take a moment to explain to them how many people will actually benefit from this legislation and to debunk some of the myths we are hearing about the cost.

If Congress fails to reform the estate tax, the exemption amount will revert to $1 million and the rate will be 55 percent in 2011. According to an analysis done by the Joint Committee on Taxation at the request of Senator BAUCUS, in that year, 127,000 estates would be subject to the death tax—meaning that 127,000 estates would have a value of $1 million or more in 2011.

But if Congress approves estate tax reform, at least 115,000 estates each and every year that would otherwise be subject to the tax—estates that are valued over $1 million, but less than $5 million—will be spared from this tax on productivity, once the reform proposal is fully effective in the year 2015. Under the proposal the Senate will consider later this week, we will be left with about 11,500 estates each and every year that will still be subject to the death tax.

The official Joint Committee on Taxation estimate for the cost of death tax reform is $267.6 billion over 10 years. Some of my colleagues have used incorrect information generated by liberal interest groups to argue that this underestimates the cost of the proposal, since it does not begin until 2010 and is not fully phased in until 2015. Thus, they claim that the cost of the death tax reform would be $808 billion over the 2012 to 2021 timeframe. They claim that it would cost $1 trillion over the same period ''when the associated increases in interest payments on the debt are included.''

There are several reasons this logic is faulty. First, Joint Tax has estimated that the proposal will cost $39.186 billion in 2012—the first year of the bogus 10-year $808 billion estimate. So if you assume that it will cost that amount, plus an increase for economic growth, each year thereafter, it could not possibly add up to $808 billion for that 10-year period.

Using actual Joint Tax estimates—the estimates we are required to use around here—you can see that once the proposal is phased in, the annual cost will increase by roughly $5 billion as a result of economic growth. Thus, using actual JCT estimates through 2016 and then assuming that the cost will increase by $5 billion each year, the total cost between 2012 and 2021 would be around $627 billion, not $808 billion.

Second, JCT does not produce estimates further ahead than 10 years because anything beyond that range is thought to be too speculative to be even close to accurate. We simply cannot predict how much revenue the proposed changes will bring into the Government's coffers that far down the road. The Congressional Budget Office and Joint Tax have had enough trouble accurately estimating revenue collections one year out, let alone 10. For example, reducing the long-term capital gains tax in 2003, as estimated by the budgeteers at the Congressional Budget Office and the Joint Committee on Taxation, would cost $27 billion in 2004. It actually brought in $26 billion that year. If official estimators have difficulty producing accurate revenue estimates in the short-term, we should heed their warnings about not betting the farm on estimates that go beyond 10 years.

Finally, as I said, Joint Tax is the official revenue-estimating body of Congress. Whether we like their estimates or not, at the end of the day we all know that is the estimate we all must rely on.

I hope these facts will bring a little perspective to the debate we are having over the deficit, the effect tax cuts have on the economy and, more to the point this week, the debate over what is really a moderate and responsible proposal to reform the death tax—a proposal that deserves broad, bipartisan support.

ADDITIONAL STATEMENTS

TRIBUTE TO ROBERTS DAIRY

• Mr. NELSON of Nebraska. Mr. President, today I wish to pay tribute to a business that has provided irreplaceable value to the city of Omaha, NE, for 100 years.

Roberts Dairy was founded in 1906 on a farm near the outskirts of Lincoln, NE. This is where J.R. Roberts, the company's founder, began his first retail route using a herd of 60 cows. During the first years of the company's existence, Roberts was the only dairy that sold pasteurized milk to the community.

In 1992, the company expanded to Omaha and has been expanding ever since. Roberts Dairy is a full-service dairy that processes and fills more than 900 million gallons yearly. It operates around the clock, 365 days a year, to provide the freshest dairy products to customers. Roberts serves a region that includes Nebraska, Iowa, Missouri, Kansas and parts of Colorado, Illinois, and South Dakota.

Roberts Dairy is one of the area's largest companies, employing more than 700 people and generating annual sales of more than $250 million.

Roberts is a Quality Chekd® dairy, which means all of its products are produced and tested by an independent association to higher standards that exceed State and Federal requirements for purity, freshness, and flavor.

In 2004, all four of Roberts' production plants received Merit of Excellence Awards from Quality Chekd, signifying production that far surpasses the high standards necessary to be Quality Chekd dairy.

In 2004, the Iowa City plant received the Wayne Gingrich Award for Production from Quality Chekd Dairies Inc., an international organization. The plant won the award after rigorous competition among 40 dairies, each with several plants.

Roberts Dairy actively supports local and regional causes, events, and organizations that seek to help make our communities better places to live. The company also annually raises funds for the Juvenile Diabetes Research Foundation.

This year Roberts Dairy will be celebrating its 100th anniversary. As part of its centennial celebration, Roberts Dairy plans to host its celebration in Omaha on Sunday, September 3, 2006 prior to the annual SeptemberFest.

In closing, I would like to once again thank Roberts Dairy for their contribution to the State of Nebraska and the Midwest as a whole. The services that Roberts provide to all of its customers will continue to have a lasting impact for years to come.•

TRIBUTE TO ALABAMA STATE AUDITOR BETH CHAPMAN

• Mr. SESSIONS. Mr. President, I recently had the opportunity to speak in favor of the constitutional amendment prohibiting the physical desecration of the flag. I was proud to be a cosponsor of that amendment, and even though it failed by a vote of 66 to 34, I do not believe it is an issue that will ''go gentle into that good night,'' to use the words of poet Dylan Thomas. The flag is the unifying symbol of our country and all it embodies. Hundreds of thousands have died fighting to protect what it represents. It seems only logical that we, as a body, would continue to fight to protect it.

A few days after the Senate vote, I received a copy of a speech written by Alabama's state auditor, Beth Chapman. It was a speech she delivered to a meeting of the Alabama Chapter of the Daughters of the American Revolution—a group dedicated to promoting patriotism and preserving American history. I found it to be not only timely, but a beautifully written and passionate reminder of what the flag represents and why it should be protected. I ask that the full speech be printed in the RECORD.

The material follows.

FLAG DAY SPEECH

ALABAMA STATE AUDITOR BETH CHAPMAN'S ADDRESS TO THE STATE MEETING OF THE ALABAMA CHAPTER OF THE DAUGHTER'S OF THE AMERICAN REVOLUTION

The red, white and blue, the Stars and Stripes, Old Glory, our Standard, the Star Spangle Banner—the American flag—it has heard the battle cry for freedom and has been the banner for democracy—it is our sacred symbol of the heart and soul of our country—our freedom.

It represents the fifty states and the blood of the men and women who died carrying it—if not on their bodies, in their hearts and souls as they fought for freedom of a nation—our nation.

Though tattered and worn, it continued to wave as 6,000 patriots died in the Revolutionary War breaking off the chains of tyranny from Great Britain.

It survived the Civil War and draped the caskets of many of the 500,000 total (some brother against brother) who fought and died defending freedom, though they disagreed on what that freedom meant—the flag continued to wave in its defense.

It soared at Gettysburg, unfurled at the Battle of the Bulge, was blood stained at Kasson, stood watch in the final hours at Pearl Harbor as hulls of ships and shells of men floated on the burning waters. It was hoisted by brave American soldiers at Iwo Jima.

Throughout history it was tested and tried on the beaches of Normandy and was triumphant on the shores of Tripoli.

It stood for justice's sake though 116,000 Americans fell in WWI and 405,000 in World War II.

It survived the numbness of frost bite in the Chosin Reservoir of the Korean Conflict and heard the brassy bugle's cry of Taps being played for more than 54,000 who lost their lives.

It proudly but sadly waves today over a wall that bears only etched names in stone of more than 58,000 faces, hearts, souls and bodies of the fallen soldiers who died in the jungles of Vietnam.

It flew for righteousness' sake mounted in the dirt of Desert Storm as 293 Americans' bodies were killed but their love for country was not captured, conquered or defeated.

Most recently it saw 1,672 Americans in Operation Iraqi Freedom die and is has covered the bodies of 190 killed in Enduring Freedom—yet the flag still endures. It still waves—restoring the foundations on which America was built and reminding us of the freedom with which we've been blessed.

And today it continues to wave, somberly but surely over the 260,000 brave and courageous veterans whose silent, sleeping spirits remain in Arlington Cemetery. They defended our freedom and determined our destiny and the destiny of our nation. Now they rest in peace while we enjoy the symbolism of the flag with as much passion as they once felt when they were defending it.

Many have spit on the flag, buried it and burned it, not realizing the freedom it represents is what allows them that right, though no matter how obnoxious and disrespectful it may be, it supposedly was right.

But what a pity they know not how much innocent blood was shed so they could have that freedom to express the bitterness, hatred and disrespect they appear to have for their own freedom and anything it represents.

Over one million men and women of the United States Military have died defending what our flag symbolizes, but others have died simply by living the American Dream which it represents—2,595 civilians at the World Trade Center on 9–11, 92 on Flight 11 and 65 on Flight 175, 125 in the Pentagon, 64 on Flight 77, and 45 on Flight 93—total of 2,986 died on that same tragic day—doing nothing but living out in their daily lives what our flag stands for—freedom. They were the innocent victims of evil people and a jealousy and hatred that comes against such a beloved freedom as ours.

And on that day when our country was at its lowest level, our spirits had plummeted; we had been wounded worse than at any time in our great nation—in the very middle of that ordeal, three exhausted New York Fireman had the foresight, the vision and the inspiration which could only be fueled physically by adrenaline, but spiritually and emotionally by raw patriotism—love of God and country—to hoist an American flag for all the world, friend and foe alike to see, so they would know we had not been defeated.

Even in the ruin and rubble, Old Glory was raised and proudly waved as she had so many times before in peace and war. She rose up out of the dust, dirt and even fire to restore the American spirit, which can not be snuffed out as a burning candle by tragedy or hatred, but is only further motivated to wave higher and further unfold to spread the news of freedom and of victory.

It symbolized freedom, hope, and determination of the American people and the strength of our spirit.

Some have purchased with blood the freedom our flag represents, other have defended it—and by the grace of God those of us in this room have been blessed to simply live under it in the greatest country on the face of the earth.

And it costs most of us nothing and that's why it should have our utmost honor and respect. For the same exact flag many not have been through all the battles, but what it represents has been, and that is more than anyone person can say.

The flag has seen it all and survived it all, therefore, the spirit and freedom which it represents has survived it all. It is the epitome of the sacred symbol we know it to be.

It stands atop the United States Supreme Court building as justice attempts to be served; it stands over the United States Capitol in hopes of good laws being passed and bad ones being killed.

It stands in schoolyards as children play, over Court Houses and City Halls as good grassroots government is hopefully being administered. It drapes the shoulders of our country's finest athletes as they represent us at the Olympics.

But let us not forget that it has also left this earth to represent us, to fly into the Heavens and land on the moon. It has flown into the wild blue yonder far into the majestic skies reaching toward the very face of God, only to explode, and quickly plummet into the sea with the Challenger and the brave Americans in it.

There is little of our heritage that it has not seen; there are fewer of our victories, triumphs, and tragedies that it has not experienced first hand. It has waved at half mast and at full mast, but it has never ceased to wave.

It is not to be burned or buried, but flown with great pride and admiration. Some say it is not the flag, but what it represents that we should honor—I say we cannot honor one without a pledge of allegiance to the other.

The Pledge of Allegiance nationally debuted in October 1892 on Columbus Day when 12 million children across America recited it for the first time.

The Pledge of Allegiance has had three major changes:

Originally it read: ''I pledge allegiance to my flag and to the Republic for which it stands: one nation indivisible, with liberty and justice for all.''

June 14, 1923, it was revised to ''the flag'' instead of ''my flag'' and the words ''United States'' were added.

One year later it was revised to read ''the flag, of the United States of America.''

But the most significant change came on Flag Day, June 14, 1954, when President Dwight D. Eisenhower added these two simple, but profound words: ''Under God.''

And this is what he said about adding those two words: ''In this way we are reaffirming the transcendence of religious faith in America's heritage and future; in this way we shall constantly strengthen those spiritual weapons which forever will be our country's most powerful resource in peace and war.''

The Pledge of Allegiance as we know it today is only 31 words packed with pride, honor, loyalty and devotion.

Red Skelton, a brilliant comedic mind of another generation shared this story on television many years ago. Little did he know this story would be so poignant and prophetic today. He shared the story of his teacher Mr. Laswell who came to think his class was just saying the pledge of allegiance out of routine so he made a drastic change in their schedule one day. This is what he said to them:

''I've been listening to you boys and girls recite the Pledge of Allegiance all semester and it seems as thought it is becoming monotonous to you. If I may, may I recite it and try to explain to you the meaning of each word.''

I—me, an individual, a committee of one.

Pledge—dedicate all of my worldly goods to give without self pity,

Allegiance—my love and devotion

To the flag—our standard, old glory, a symbol of freedom. Wherever she waves, there's been respect because your loyalty has given her a dignity that shouts freedom is everybody's job.

United—that means we all have come together.

States—individual communities that have united into 48 great states. Forty-eight individual communities with pride and dignity and purpose; all divided with imaginary boundaries, yet united to a common purpose and that's love for country.

And to the Republic—a state in which sovereign power is invested in representatives chose by the people to govern. And government is the people and it's from the people to the leaders, not from the leaders to the people.

For which it stands, one nation—one nation meaning ''so blessed by God.''

Indivisible—incapable of being divided.

With liberty—which is freedom—the right of power to live one's life without threats, fear or some sort of retaliation

And justice—the principle or quality of dealing fairly with others.

For all—which means boys, and girls, it's as much your country as mine.

Skelton later said since he was a young boy that two states had been added to our country and that two words had been added to our pledge—''Under God.''

Then he smiled and said, ''Wouldn't it be a pity if someone said that (those two words ''Under God'') is a prayer and they would eliminate it from schools too?

Little did he know that now, many years later, that very effort has been discussed before the United States Supreme Court.

Though the words to the Pledge of Allegiance have changed its purpose, meaning and intent has not.

But the flag still waves and our nation is still one nation under God and we still live under the banner of democracy and the flag waves in our churches, school yards, state and national government buildings and always in our hearts and homes—because that's where freedom originated and that is where it must remain.

When we pledge allegiance to our flag, we are making a commitment, and what we are committed to is what we become as individual people, and as a nation. The destinies of many nations have been determined by what their people were allegiant to—Rome is a good example of that. Let America never become a Rome.

Our flag is more than three colors of cloth and millions of pieces of thread sown by hand. It is more than Betsy Ross and Francis Scott Key. It represents a message of hope and freedom that is carried in the hearts and souls of the people of a nation for generations.

I pray today that God will continue to bless this country and that we may never divorce ourselves from the preservation of that freedom for which our men and women have died and our flag still boldly stands.

Now let us stand and with great pride, honor, humility and resolve—with great enthusiasm, fervor, patriotism, passion and respect to say our pledge of allegiance together as we have never said it before.●

TRIBUTE TO GALELYN McELROY

● Mr. BUNNING. Mr. President, today I pay tribute to Ms. Galelyn McElroy from Prospect, KY, who has been selected to participate in the inaugural year of the American Civic Education Teacher Awards. This program is designed to promote recognition and respect for teachers of civic education across the United States.

The American Civic Education Teacher Awards are a part of the Alliance for Representative Democracy which is designed to educate Americans about the relationship between the government and the American people it serves. This program helps individuals better understand the way the government works and how it relates to them personally in their individual lives.

Ms. McElroy teaches senior legal and government services, U.S. history, and world civilization at Central High in Prospect, KY, and has been providing educational leadership in the classroom there for 13 years. She has gone above and beyond the curriculum expectations by establishing out of school mentoring experiences for her students at local law firms and legal study programs through the University of Louisville. She motivates them to think about the future by providing them with real-world experiences that partner with their civic education studies.

I now ask my fellow colleagues to join me in thanking Ms. McElroy for her commitment to making Kentucky a better place through educational excellence and for providing her students the motivation to succeed in life. I know I can speak for all Kentuckians when I say congratulations and thank you for everything that you do. Teachers like Ms. McElroy are an inspiration and a true example of leadership in our State.●

RECOGNIZING WISE COUNTY'S SESQUICENTENNIAL

● Mr. ALLEN. Mr. President, I am pleased to announce the sesquicentennial anniversary of historic Wise County. The centennial celebration has created and will continue to create community awareness of opportunities for the preservation of Wise County's rich heritage. In addition, this event will foster pride in Wise County's educational, cultural, social, and economic resources and will encourage the brainstorming of ways to ensure a bright future for Wise County.

Throughout the year Wise County has come up with exciting ways to celebrate its centennial birthday. In May there was a kickoff ceremony to begin the celebration, as well as a Business Appreciation Day. Other presentations include a play on the history of Wise County, a Miss Sesquicentennial Pageant, and a presentation of Coal Camp Songs. The celebration will culminate with the 150th Birthday Bash on from noon until 11:00 pm on August 12 at the Lonesome Pine Raceway, which will feature food, games, music and fun.

The sesquicentennial celebration of Wise County is a great way to remember its history, appreciate its current state, and look forward to its bright future. Over the years, I have enjoyed

many opportunities to join the people of Wise County for events, festivals, and meetings, and I am proud to be a part of this sesquicentennial celebration and look forward to sharing in many more events in the coming years.●

RECOGNIZING THE CITY OF GALAX CENTENNIAL

● Mr. ALLEN. Mr. President, I am pleased to announce the centennial anniversary of the historic city of Galax. The centennial celebration created and will continue to create community awareness of opportunities for the preservation of Galax's rich heritage. In addition, this event will foster pride in Galax's educational, cultural, social, and economic resources and will encourage the brainstorming of ways to ensure a bright future for the city of Galax.

Throughout the year, the city of Galax has come up with exciting ways to celebrate its centennial. July was Freedom Celebration Month in Galax which included a Fourth of July parade and the Virginia State Barbeque Championship. August is Musical Heritage Celebration Month and will include the Annual Old Fiddler's Convention, as well as the Annual Championship Rodeo. September is Free Enterprise, Agriculture and Industry Month and will feature a play on the history of the city of Galax, as well as events with authors Sharyn McCrumb and Robert Chappell.

This centennial celebration of the city of Galax is a great way to remember its history, appreciate its current state, and look forward to its bright future. Over the years I have enjoyed many opportunities to join the people of the city of Galax for events, festivals, and meetings, and I am proud to be a part of this centennial celebration and look forward to sharing in many more events in the coming years.●

RECOGNIZING PLANTERS 100TH ANNIVERSARY

● Mr. ALLEN. Mr. President, I am pleased to acknowledge the 100th anniversary of the Planters Company which has had a fruitful working relationship with Suffolk County over the past century and has one of its major production facilities located there. To celebrate, Planters has embarked on a 4-month, cross-country tour visiting landmarks in Planters' history. Over the past century Planters has consistently delivered a variety of fresh-tasting nuts and has also developed an American icon in the internationally famous Mr. Peanut.

On Tuesday, June 13, 2006 Planters NUTmobile and Centennial Display Tour made a stop in Suffolk, VA. Visitors got the opportunity to meet and interact with Mr. Peanut, sample fresh roasted peanuts, view Planters and Mr. Peanut collectibles from the past century, and put themselves in moments and events throughout Planters and American history using green screen technology.

Over the past century Planters' Suffolk facility has enjoyed a wonderful relationship with the city of Suffolk. The Planters Suffolk facility produces a variety of nut products. Planters has employed thousands of Virginians over the years, and many more have enjoyed and benefited from both its products and its reputation in the Suffolk community. Planters has been a model for the type of relationship that should exist between communities and businesses over the past century, and we look forward to working with them for the next 100 years.●

TRIBUTE TO RALPH CONTE

● Mr. WARNER. Mr. President, today I wish to acknowledge the retirement and to honor the service of a fellow Virginian, a true patriot, and a career civil servant of the Department of Defense who has given 39 years of dedicated military and civilian service to our country. Mr. Ralph Conte was born in Ponza, Italy, in 1940. He immigrated to the United States in January 1956 whereupon he studied engineering at New York University. He was commissioned as an Air Force officer through OTS in June 1967, and his first assignment was at Aviano Air Base, Italy. His military career included serving in Vietnam as a member of the premier combat engineering unit in the Air Force, known as RED HORSE. He further served at Kunsan Air Base in Korea and at Wright-Patterson Air Force Base, OH. In 1975 he separated from active duty and continued service to his country as a civilian manager at Air Force Logistics Command and a NATO program manager at Ramstein Air Base, Germany. He finally settled in Virginia in June 1986, working for the Air National Guard eventually as the chief of programs.

I believe everyone in the Air National Guard will attest that very few individuals have had a greater positive impact on providing the finest facilities and installations for the Air National Guard to accomplish their missions. During his tenure at the Air National Guard, Mr. Conte was directly responsible for planning and programming facility and real property requirements worth over $7 billion to support 177 Guard locations throughout the 50 States, 3 territories, and the District of Columbia. His leadership, outstanding technical expertise, and unlimited energy have created a blueprint for success for which generations of Air National Guardsmen will reap the benefits. I offer sincere appreciation and thanks for his service, and wish him and his family the best in retirement.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE

At 12:40 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 467. Concurrent resolution providing for a conditional adjournment of the House of Representatives and a conditional adjournment or recess of the Senate.

ENROLLED BILLS SIGNED

The message also announced that the Speaker has signed the following enrolled bills:

S. 250. An act to amend the Carl D. Perkins Vocational and Technical Education Act of 1998 to improve the Act.

S. 3693. An act to make technical corrections to the Violence Against Women and Department of Justice Reauthorization Act of2005.

S. 3741. An act to provide funding authority to facilitate the evacuation of persons from Lebanon, and for other purposes.

H.R. 3682. An act to redesignate the Mason Neck National Wildlife Refuge in Virginia as the Elizabeth Hartwell Mason Neck National Wildlife Refuge.

H.R. 5683. An act to preserve the Mt. Soledad Veterans Memorial in San Diego, California, by providing for the immediate acquisition of the memorial by the United States.

H.R. 5877. An act to amend the Iran and Libya Sanctions Act of 1996 to extend the authorities provided in such Act until September 29, 2006.

The enrolled bills were subsequently signed by the President pro tempore (Mr. STEVENS).

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, August 2, 2006, she had presented to the President of the United States the following enrolled bills:

S. 250. An act to amend the Carl D. Perkins Vocational and Technical Education Act of 1998 to improve the Act.

S. 3693. An act to make technical corrections to the Violence Against Women Act and Department of Justice Reauthorization Act of 2005.

S. 3741. An act to provide funding authority to facilitate the evacuation of persons from Lebanon, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with

accompanying papers, reports, and documents, and were referred as indicated:

EC–7733. A communication from the Director, Strategic Human Resources Policy Division, Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled ''Implementation of Title II of the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002—Notification & Training'' (RIN3206–AK38) received on July 25 , 2006; to the Committee on Homeland Security and Governmental Affairs.

EC–7734. A communication from the Acting Senior Procurement Executive, Office of the Chief Acquisition Officer, National Aeronautics and Space Administration, transmitting, pursuant to law, the report of a rule entitled ''Federal Acquisition Regulation; Federal Acquisition Circular 2005–10'' (FAC2005–10) received on July 26, 2006; to the Committee on Homeland Security and Governmental Affairs.

EC–7735. A communication from the District of Columbia Auditor, transmitting, pursuant to law, a report entitled ''Letter Report: Certification of the Sufficiency of the Washington Convention Center Authority's Projected Revenues and Excess Reserve to Meet Projected Operating and Debt Service Expenditures and Reserve Requirements for Fiscal Year 2007''; to the Committee on Homeland Security and Governmental Affairs.

EC–7736. A communication from the Director, Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the report on the Mid-Session Review of the Budget of the U.S. Government for Fiscal Year 2007 received on July 26, 2006; to the Committee on Homeland Security and Governmental Affairs.

EC–7737. A communication from the Secretary of Transportation , transmitting, pursuant to law, the Department of Transportation Office of Inspector General Semiannual Report for the period October 1, 2005 through March 31, 2006; to the Committee on Homeland Security and Governmental Affairs.

EC–7738. A communication from the Chairman, National Transportation Safety Board, transmitting, pursuant to law, a report on the National Transportation Safety Board's compliance with the Federal Manager's Financial Integrity Act; to the Committee on Homeland Security and Governmental Affairs.

EC–7739. A communication from the Regulations Coordinator, Department of Health and Human Services/National Institute of Health, transmitting, pursuant to law, the report of a rule entitled ''NIH Training Grants'' (RIN0925–AA28) received on July 26 , 2006; to the Committee on Health, Education, Labor, and Pensions.

EC–7740. A communication from the Assistant Secretary, Employee Benefits Security Administration, Department of Labor, transmitting, pursuant to law, the report of a rule entitled ''Electronic Filing of Annual Reports'' (RIN1210–AB04) received on July 21, 2006; to the Committee on Health, Education, Labor, and Pensions.

EC–7741. A communication from the White House Liaison, Department of Education, transmitting, pursuant to law, the report of action on a nomination for the position of General Counsel received on July 26, 2006; to the Committee on Health, Education, Labor, and Pensions.

EC–7742. A communication from the Secretary of Health and Human Services transmitting, pursuant to law, a report on the need to lift the cap on funding available through the Repatriation program, received on July 24, 2006; to the Committee on Health, Education, Labor, and Pensions.

EC–7743. A communication from the Special Assistant to the Secretary, White House Liaison, Department of Veterans Affairs, transmitting, pursuant to law, (3) reports relative to vacancy announcements within the Department, received on July 26, 2006; to the Committee on Veterans' Affairs.

EC–7744. A communication from the Under Secretary of Defense, transmitting, pursuant to law, a report entitled ''Report to Congress on Collaborative Measures to Reduce the Risks of a Launch of Russian Nuclear Weapons''; to the Committee on Armed Services.

EC–7745. A communication from the Under Secretary of Defense, transmitting, pursuant to law, the quarterly report detailing the account balance in the Defense Cooperation Account and the personal property contributed for the quarter ending June 30, 2006, received on July 28, 2006; to the Committee on Armed Services.

EC–7746. A communication from the Regulatory Specialist, Office of the Comptroller of the Currency, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Assessment of Fees'' (RIN1557–AC96) received on July 27, 2006; to the Committee on Banking, Housing, and Urban Affairs.

EC–7747. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the annual report entitled ''Report to the Congress on the Refugee Resettlement Program'' covering the period from October 1, 2003 to September 30, 2004; to the Committee on the Judiciary.

EC–7748. A communication from the Director, Regulations & Rulings Division, Alcohol & Tobacco Tax & Trade Bureau, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Major Food Allergen Labeling for Wines, Distilled Spirits, and Malt Beverages'' ((RIN1513–AB08) (T.D.TTB–53)) received on July 31, 2006; to the Committee on the Judiciary.

EC–7749. A communication from the Rules Administrator, Office of General Counsel, Federal Bureau of Prisons, transmitting, pursuant to law, the report of a rule entitled ''Classification and Program Review'' (RIN1120–AB32) received on August 1, 2006; to the Committee on the Judiciary.

EC–7750. A communication from the Director, Office of National Drug Control Policy, transmitting, pursuant to law, the report entitled ''Fiscal Year 2005 Accounting of Drug Control Funds''; to the Committee on the Judiciary.

EC–7751. A communication from the Chief of the Publication and Regulations Branch, Internal Revenue Service, Department of Treasury, transmitting, pursuant to law, the report of a rule entitled ''Coordinated Issue: Claim Revenue under a Long-Term Contract'' (460.02–04) received on July 31, 2006; to the Committee on Finance.

EC–7752. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Employer Comparable Contributions to Health Savings Accounts Under Section 4980G'' ((RIN1545–BE30) (TD9277)) received on July 31, 2006; to the Committee on Finance.

EC–7753. A communication from the Chief of Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Weighted Average Interest Rate Update'' (Notice 2006–66) received on July 31, 2006; to the Committee on Finance.

EC–7754. A communication from the Regulations Coordinator, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Medicare Program; Prospective Payment System and Consolidated Billing for Skilled Nursing Facilities-Update-'' (RIN0938–AM46) received on July 31, 2006; to the Committee on Finance.

EC–7755. A communication from the Director, Executive Services Staff, Social Security Administration, transmitting, pursuant to law, the report of a vacancy in the position of Deputy Commissioner of Social Security, Social Security Administration, received on August 1, 2006; to the Committee on Finance.

EC–7756. A communication from the Regulations Coordinator, Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''State Children's Health Insurance Program; Final Allotments to States, the District of Columbia, and U.S. Territories and Commonwealths for Fiscal Year 2007'' (RIN0938–ZA17) received on July 31, 2006; to the Committee on Health, Education, Labor, and Pensions.

EC–7757. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report to Congress on the ''Implementation of State Policies and Procedures for Suspected Medical Neglect Relating to Disabled Infants with Life-Threatening Conditions'' received on August 1, 2006; to the Committee on Health, Education, Labor, and Pensions.

EC–7758. A communication from the Deputy Director of Communications and Legislative Affairs, U.S. Equal Employment Opportunity Commission, transmitting, pursuant to law, a report relative to employment programs for women and minorities as well as information on the hiring of people with disabilities in the Federal Government, received on August 1, 2006; to the Committee on Health, Education, Labor and Pensions.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Ms. COLLINS, from the Committee on Homeland Security and Governmental Affairs, with an amendment in the nature of a substitute:

S. 2590. A bill to require full disclosure of all entities and organizations receiving Federal funds.

By Ms. SNOWE, from the Committee on Small Business and Entrepreneurship, without amendment:

S. 3778. An original bill to reauthorize and improve the Small Business Act and the Small Business Act of 1958, and for other purposes.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of nominations were submitted:

By Mr. STEVENS for the Committee on Commerce, Science, and Transportation.

*Charles D. Nottingham, of Virginia, to be a Member of the Surface Transportation Board for a term expiring December 31, 2010.

*Robert L. Sumwalt III, of South Carolina, to be a Member of the National Transportation Safety Board for the remainder of the term expiring December 31, 2006.

*Robert L. Sumwalt III, of South Carolina, to be a Member of the National Transportation Safety Board for a term expiring December 31, 2011.

*Sean T. Connaughton, of Virginia, to be Administrator of the Maritime Administration.

*Jay M. Cohen, of New York, to be Under Secretary for Science and Technology, Department of Homeland Security.

*Nathaniel F. Wienecke, of New York, to be an Assistant Secretary of Commerce.

Mr. STEVENS. Mr. President, for the Committee on Commerce, Science, and Transportation I report favorably the following nomination list which was printed in the RECORD on the date indicated, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar that this nomination lie at the Secretary's desk for the information of Senators.

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

*National Oceanic and Atmospheric Administration nominations beginning with Wade J. Blake and ending with Christopher S. Moore, which nominations were received by the Senate and appeared in the Congressional Record on July 12, 2006.

By Mr. ENZI for the Committee on Health, Education, Labor, and Pensions.

*Peter Schaumber, of the District of Columbia, to be a Member of the National Labor Relations Board for the term of five years expiring August 27, 2010, to which position he was appointed during the recess of the Senate from July 29, 2005, to September 1, 2005.

*Ronald E. Meisburg, of Virginia, to be General Counsel of the National Labor Relations Board for a term of four years, to which position he was appointed during the last recess of the Senate.

*Wilma B. Liebman, of the District of Columbia, to be a Member of the National Labor Relations Board for the term of five years expiring August 27, 2011.

*Timothy Shanahan, of Illinois, to be a Member of the National Institute for Literacy Advisory Board for a term expiring November 25, 2007.

*Carmel Borders, of Kentucky, to be a Member of the National Institute for Literacy Advisory Board for a term expiring November 25, 2008.

*Donald D. Deshler, of Kansas, to be a Member of the National Institute for Literacy Advisory Board for a term expiring January 30, 2008.

*Victoria Ray Carlson, of Iowa, to be a Member of the National Council on Disability for a term expiring September 17, 2007.

*Chad Colley, of Florida, to be a Member of the National Council on Disability for a term expiring September 17, 2007.

*Lisa Mattheiss, of Tennessee, to be a Member of the National Council on Disability for a term expiring September 17, 2007.

*John R. Vaughn, of Florida, to be a Member of the National Council on Disability for a term expiring September 17, 2007.

*Kevin Owen Starr, of California, to be a Member of the National Museum and Library Services Board for a term expiring December 6, 2009.

*Katherine M. B. Berger, of Virginia, to be a Member of the National Museum and Library Services Board for a term expiring December 6, 2010.

*Karen Brosius, of South Carolina, to be a Member of the National Museum and Library Services Board for a term expiring December 6, 2011.

*Ioannis N. Miaoulis, of Massachusetts, to be a Member of the National Museum and Library Services Board for a term expiring December 6, 2010.

*Christina Orr-Cahall, of Florida, to be a Member of the National Museum and Library Services Board for a term expiring December 6, 2010.

*Kenneth R. Weinstein, of the District of Columbia, to be a Member of the National Council on the Humanities for a term expiring January 26, 2012.

*Jay Winik, of Maryland, to be a Member of the National Council on the Humanities for a term expiring January 26, 2012.

*Josiah Bunting III, of Rhode Island, to be a Member of the National Council on the Humanities for a term expiring January 26, 2012.

*Wilfred M. McClay, of Tennessee, to be a Member of the National Council on the Humanities for a term expiring January 26, 2012.

*Robert S. Martin, of Texas, to be a Member of the National Council on the Humanities for a term expiring January 26, 2012.

*Mary Habeck, of Maryland, to be a Member of the National Council on the Humanities for a term expiring January 26, 2012.

*Karl Hess, of Illinois, to be a Member of the National Science Board, National Science Foundation, for the remainder of the term expiring May 10, 2008.

*Thomas N. Taylor, of Kansas, to be a Member of the National Science Board, National Science Foundation, for a term expiring May 10, 2012.

*Richard F. Thompson, of California, to be a Member of the National Science Board, National Science Foundation, for a term expiring May 10, 2012.

*Mark R. Abbott, of Oregon, to be a Member of the National Science Board, National Science Foundation, for a term expiring May 10, 2012.

*John T. Bruer, of Missouri, to be a Member of the National Science Board, National Science Foundation, for a term expiring May 10, 2012.

*Patricia D. Galloway, of Washington, to be a Member of the National Science Board, National Science Foundation, for a term expiring May 10, 2012.

*Jose-Marie Griffiths, of Pennsylvania, to be a Member of the National Science Board, National Science Foundation, for a term expiring May 10, 2012.

*Arthur F. Rosenfeld, of Virginia, to be Federal Mediation and Conciliation Director, to which position he was appointed during the last recess of the Senate.

By Mr. ROBERTS for the Select Committee on Intelligence.

*Randall M. Fort, of Virginia, to be an Assistant Secretary of State (Intelligence and Research).

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

By Mr. DOMENICI:

S. 3773. A bill to increase the number of Federal judgeships, in accordance with recommendations by the Judicial Conference, in districts that have an extraordinarily high immigration caseload; to the Committee on the Judiciary.

By Mr. BOND (for himself, Mr. LOTT, Mr. CHAMBLISS, Mr. STEVENS, Mr. COCHRAN, Mr. BURNS, Mr. HATCH, Mr. SANTORUM, Mr. CORNYN, Mr. DOMENICI, Mr. BENNETT, and Mr. ALEXANDER):

S. 3774. A bill to amend title 18, United States Code, to prohibit the unauthorized disclosure of classified information; to the Committee on the Judiciary.

By Mr. DURBIN (for himself, Mr. COLEMAN, Mr. DEWINE, Mr. FEINGOLD, and Mr. LEAHY):

S. 3775. A bill to amend the Foreign Assistance Act of 1961 to assist countries in sub-Saharan Africa in the effort to achieve internationally recognized goals in the treatment and prevention of HIV/AIDS and other major diseases and the reduction of maternal and child mortality by improving human health care capacity and improving retention of medical health professionals in sub-Saharan Africa, and for other purposes; to the Committee on Foreign Relations.

By Mr. FEINGOLD:

S. 3776. A bill to ensure the provision of high-quality health care coverage for uninsured individuals through State health care initiatives that expand coverage and access and improve quality and efficiency in the health care system; to the Committee on Health, Education, Labor, and Pensions.

By Mr. KERRY:

S. 3777. A bill to amend the Internal Revenue Code of 1986 to ensure a fairer and simpler method of taxing controlled foreign corporations of United States shareholders, to treat certain foreign corporations managed and controlled in the United States as domestic corporations, to codify the economic substance doctrine, and to eliminate the top corporate income tax rate, and for other purposes; to the Committee on Finance.

By Ms. SNOWE:

S. 3778. An original bill to reauthorize and improve the Small Business Act and the Small Business Act of 1958, and for other purposes; from the Committee on Small Business and Entrepreneurship; placed on the calendar.

By Mrs. BOXER:

S. 3779. A bill to provide that if Congress enacts a phased-in increase in the Federal minimum wage as provided for in the Estate Tax and Extension of Tax Relief Act of 2006, the pay increase of Members of Congress will be phased-in over the same time frame; to the Committee on Homeland Security and Governmental Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DEWINE:

S. Res. 546. A resolution supporting the goals and ideals of a National Polycystic Kidney Disease Awareness Week to raise public awareness and understanding of polycystic kidney disease and to foster understanding of the impact polycystic kidney disease has on patients and future generations of their families; to the Committee on Health, Education, Labor, and Pensions.

By Ms. LANDRIEU (for herself and Mr. CRAIG):

S. Res. 547. A resolution recognizing and supporting the successes of the Adoption and Safe Families Act of 1997 in increasing adoption, observing the efforts that the Act has spurred, including National Adoption Day and National Adoption Month, and encouraging citizens of the United States to consider adoption throughout the year; to the Committee on Finance.

ADDITIONAL COSPONSORS

S. 713

At the request of Mr. ROBERTS, the name of the Senator from Oklahoma

(Mr. COBURN) was added as a cosponsor of S. 713, a bill to amend the Internal Revenue Code of 1986 to provide for collegiate housing and infrastructure grants.

S. 781

At the request of Mr. CRAPO, the name of the Senator from Missouri (Mr. TALENT) was added as a cosponsor of S. 781, a bill to preserve the use and access of pack and saddle stock animals on land administered by the National Park Service, the Bureau of Land Management, the United States Fish and Wildlife Service, or the Forest Service on which there is a historical tradition of the use of pack and saddle stock animals, and for other purposes.

S. 912

At the request of Mr. FEINGOLD, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 912, a bill to amend the Federal Water Pollution Control Act to clarify the jurisdiction of the United States over waters of the United States.

S. 1035

At the request of Mr. INHOFE, the names of the Senator from Tennessee (Mr. ALEXANDER), the Senator from Virginia (Mr. ALLEN), the Senator from Georgia (Mr. CHAMBLISS), the Senator from Minnesota (Mr. COLEMAN), the Senator from South Carolina (Mr. DEMINT), the Senator from Kentucky (Mr. MCCONNELL), the Senator from Pennsylvania (Mr. SANTORUM), the Senator from Alabama (Mr. SESSIONS), the Senator from Alaska (Mr. STEVENS), the Senator from Louisiana (Mr. VITTER) and the Senator from Virginia (Mr. WARNER) were added as cosponsors of S. 1035, a bill to authorize the presentation of commemorative medals on behalf of Congress to Native Americans who served as Code Talkers during foreign conflicts in which the United States was involved during the 20th century in recognition of the service of those Native Americans to the United States.

S. 1360

At the request of Mr. SMITH, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 1360, a bill to amend the Internal Revenue Code of 1986 to extend the exclusion from gross income for employer-provided health coverage to designated plan beneficiaries of employees, and for other purposes.

S. 1934

At the request of Mr. SPECTER, the names of the Senator from New York (Mrs. CLINTON) and the Senator from Iowa (Mr. HARKIN) were added as cosponsors of S. 1934, a bill to reauthorize the grant program of the Department of Justice for reentry of offenders into the community, to establish a task force on Federal programs and activities relating to the reentry of offenders into the community, and for other purposes.

S. 2010

At the request of Mr. HATCH, the names of the Senator from Indiana (Mr. BAYH) and the Senator from West Virginia (Mr. ROCKEFELLER) were added as cosponsors of S. 2010, a bill to amend the Social Security Act to enhance the Social Security of the Nation by ensuring adequate public-private infrastructure and to resolve to prevent, detect, treat, intervene in, and prosecute elder abuse, neglect, and exploitation, and for other purposes.

S. 2284

At the request of Ms. MIKULSKI, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 2284, a bill to extend the termination date for the exemption of returning workers from the numerical limitations for temporary workers.

S. 2299

At the request of Ms. LANDRIEU, the name of the Senator from Pennsylvania (Mr. SANTORUM) was added as a cosponsor of S. 2299, a bill to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to restore Federal aid for the repair, restoration, and replacement of private nonprofit educational facilities that are damaged or destroyed by a major disaster.

S. 2491

At the request of Mr. CORNYN, the name of the Senator from South Dakota (Mr. THUNE) was added as a cosponsor of S. 2491, a bill to award a Congressional gold medal to Byron Nelson in recognition of his significant contributions to the game of golf as a player, a teacher, and a commentator.

S. 2503

At the request of Mrs. LINCOLN, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 2503, a bill to amend the Internal Revenue Code of 1986 to provide for an extension of the period of limitation to file claims for refunds on account of disability determinations by the Department of Veterans Affairs.

S. 2590

At the request of Mr. COBURN, the names of the Senator from Louisiana (Mr. VITTER) and the Senator from Georgia (Mr. CHAMBLISS) were added as cosponsors of S. 2590, a bill to require full disclosure of all entities and organizations receiving Federal funds.

S. 2674

At the request of Mr. AKAKA, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 2674, a bill to amend the Native American Languages Act to provide for the support of Native American language survival schools, and for other purposes.

S. 3500

At the request of Mr. THOMAS, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 3500, a bill to amend title XVIII of the Social Security Act to protect and preserve access of Medicare beneficiaries in rural areas to health care providers under the Medicare program, and for other purposes.

S. 3542

At the request of Mr. DEMINT, his name was added as a cosponsor of S. 3542, a bill to improve maritime and cargo security and for other purposes.

S. 3651

At the request of Mr. DURBIN, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 3651, a bill to reduce child marriage, and for other purposes.

S. 3656

At the request of Mrs. FEINSTEIN, the names of the Senator from Illinois (Mr. DURBIN) and the Senator from New Jersey (Mr. LAUTENBERG) were added as cosponsors of S. 3656, a bill to provide additional assistance to combat HIV/AIDS among young people, and for other purposes.

S. 3696

At the request of Mr. BROWNBACK, the name of the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of S. 3696, a bill to amend the Revised Statutes of the United States to prevent the use of the legal system in a manner that extorts money from State and local governments, and the Federal Government, and inhibits such governments' constitutional actions under the first, tenth, and fourteenth amendments.

S. 3705

At the request of Mr. KENNEDY, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 3705, a bill to amend title XIX of the Social Security Act to improve requirements under the Medicaid program for items and services furnished in or through an educational program or setting to children, including children with developmental, physical, or mental health needs, and for other purposes.

S. 3726

At the request of Mr. SANTORUM, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 3726, a bill to amend the Railroad Retirement Act of 1974 to provide for continued payment of railroad retirement annuities by the Department of the Treasury, and for other purposes.

S. 3769

At the request of Mr. ENSIGN, the names of the Senator from Florida (Mr. MARTINEZ), the Senator from Texas (Mrs. HUTCHISON) and the Senator from Virginia (Mr. ALLEN) were added as cosponsors of S. 3769, a bill to encourage multilateral cooperation and authorize a program of assistance to facilitate a peaceful transition in Cuba, and for other purposes.

S. CON. RES. 72

At the request of Mr. INOUYE, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. Con. Res. 72, a concurrent resolution requesting the President to issue a proclamation annually calling upon the people of the United States to observe Global Family Day, One Day of Peace and Sharing, and for other purposes.

S. CON. RES. 84

At the request of Mr. KYL, the name of the Senator from Arizona (Mr.

MCCAIN) was added as a cosponsor of S. Con. Res. 84, a concurrent resolution expressing the sense of Congress regarding a free trade agreement between the United States and Taiwan.

S. CON. RES. 113

At the request of Mr. SUNUNU, his name was added as a cosponsor of S. Con. Res. 113, a concurrent resolution congratulating the Magen David Adom Society in Israel for achieving full membership in the International Red Cross and Red Crescent Movement, and for other purposes.

AMENDMENT NO. 4194

At the request of Mr. CARPER, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of amendment No. 4194 intended to be proposed to H.R. 8, a bill to make the repeal of the estate tax permanent.

AMENDMENT NO. 4761

At the request of Mr. LOTT, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of amendment No. 4761 intended to be proposed to H.R. 5631, a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DOMENICI:

S. 3773. A bill to increase the number of Federal judgeships, in accordance with recommendations by the Judicial Conference, in districts that have an extraordinarily high immigration caseload; to the Committee on the Judiciary.

Mr. DOMENICI. Mr. President, I rise today with Senators KYL and CORNYN to introduce legislation that creates the new Federal judgeships recommended by the 2005 Judicial Conference for our U.S. district courts that have a serious overload of immigration cases.

I believe it is imperative to equip all of our Federal agencies with the assets they need to secure our borders and enforce our immigration laws. That includes equipping our U.S. district courts with enough judges to handle the criminal immigration cases that appear on their dockets. The immigration reform bill passed by the Senate in May recognizes that with increased border security and immigration enforcement there will be increased prosecutions, and the bill calls for more immigration judges to handle those prosecutions. But the bill fails to recognize that repeat immigration law violators can be charged with a felony and tried in U.S. district court. We need to increase the number of judges in our district courts that handle such cases, particularly in those districts that are already overwhelmed with immigration cases.

The legislation I am proposing creates eleven new Federal judgeships, as recommended by the Judicial Conference, in the U.S. district courts in which at least 50 percent of their criminal cases are immigration cases. The bill affects four districts, all of which border Mexico. In fiscal year 2004, the Western District of Texas had 5599 criminal case filings, 3,688 of those cases, over 65 percent, dealt with immigration. The District Court of Arizona had 4,007 criminal filings, of which 2,404 cases, or 59 percent, were immigration filings. The Southern District of California has 2,206 immigration filings, 64 percent of their 3,400 total criminal filings. Lastly, the District of New Mexico had 2,497 criminal filings, 60 percent of them, 1,502 cases, were immigration cases.

Based on these caseloads, I think we should already be giving these districts new judgeships. But to increase our border security and immigration enforcement efforts without equipping these courts to handle the even larger immigration caseloads that they are expected to face would be tantamount to willful negligence.

The New Mexico District Chief Judge, Martha Vazquez, wrote me a letter in May about the situation the New Mexico District faces. Judge Vazquez wrote:

As it is, the burden on Article III Judges in this District is considerable. This District ranks first among all districts in criminal filings per judgeship: 405 criminal filings compared to the national average of 87. As in all federal districts along the southwest border, the majority of cases filed in this District relate to immigration offenses under United States Code, Title 8 and drug offenses arising under Title 21. Immigration and drug cases account for eighty-five percent of the caseload in the District of New Mexico. . . In fiscal year 1997, there were 240 immigration felony filings in the District of New Mexico. By fiscal year 2005, the number of immigration felony filings increased to 1,826, which is an increase of 661 percent . . . Increasing the number of Immigration Judges will do nothing to reduce the increasing caseload in the border states' federal courts.

The Albuquerque Tribune has also documented the burden immigration cases put on district courts. An April 17 article entitled ''Judges See Ripple Effect of Policy on Immigration,'' stated:

U.S. District Chief Judge Martha Vazquez of Santa Fe oversees a court that faces a rising caseload from illegal border crossings and related crime. And help from Washington is by no means certain . . . From Sept. 30, 1999 to Sept. 30, 2004 (the end of the fiscal year), the caseload in the New Mexico federal district court increased 57.5 percent, from 2,804 to 4,416. In the 2004 fiscal year alone, 2,126 felony cases were heard, almost half of all cases in the entire 10th Circuit, which includes Colorado, Kansas, Oklahoma, Utah and Wyoming. Most typical immigration cases go before an immigration judge, and the subjects are deported. But people deported once and caught crossing illegally again can be charged with a felony. And that brings the defendant into federal district court. Those are the cases driving up New Mexico's caseload . . . Some days as many as 90 defendants crowd the courtroom in Las Cruces . . . The same problems are afflicting federal border courts in Arizona, California, and Texas.

Similar problems were documented in a May 23 Reuters article entitled ''Bush Border Patrol Plan to Pressure Courts'' which said:

President George W. Bush's plan to send thousands of National Guard troops to the U.S.-Mexico border could spark a surge in immigration cases and U.S. courts are ill prepared to handle them . . . Even without the stepped-up security at the border, federal courts in southern California, Arizona, New Mexico and Texas have been overburdened. Carelli [a spokesman for U.S. federal courts] said those five judicial districts, out of 94 nationwide, account for 34 percent of all criminal cases moving through U.S. courts . . . Most immigrants caught crossing illegally are ordered out of the country without prosecution. But that still leaves a growing pile of cases involving illegals who are being prosecuted after being caught multiple times or those accused of other crimes . . . Nationwide, each U.S. judge handles an average of 87 cases a year. But along the southern border, even before Bush's plan moves forward, the average is around 300 per judge, Carelli said.

Mr. President, the U.S. Congress needs to address the overwhelming immigration caseload in our southwestern border U.S. district courts. The bill I am filing today with Senators KYL and CORNYN does just that by authorizing the nine permanent and two temporary judgeships recommended by the 2005 Judicial Conference for the four U.S. districts in which the immigration caseload totals more than fifty percent of those districts' total criminal caseload.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 3773

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ADDITIONAL DISTRICT COURT JUDGESHIPS.

The President shall appoint, by and with the advice and consent of the Senate, such additional district court judges as are necessary to carry out the 2005 recommendations of the Judicial Conference of the United States for district courts in which the criminal immigration filings totaled more than 50 percent of all criminal filings for the 12-month period ending September 30, 2004.

By Mr. BOND (for himself, Mr. LOTT, Mr. CHAMBLISS, Mr. STEVENS, Mr. COCHRAN, Mr. BURNS, Mr. HATCH, Mr. SANTORUM, Mr. CORNYN, Mr. DOMENICI, Mr. BENNETT, and Mr. ALEXANDER):

S. 3774. A bill to amend title 18, United States Code, to prohibit the unauthorized disclosure of classified information; to the Committee on the Judiciary.

Mr. BOND. Mr. President, I rise to talk about a related area of security. The Defense appropriations bill is extremely important, but I believe that there is another matter we should be considering. I appreciate the courtesy of the managers of the bill for allowing me to present this.

This is legislation that was passed by the Intelligence Committees in 2000. It

had been adopted by unanimous vote, but it was vetoed at the time. This bill very simply provides, for the first time, a simple, clear statement of penalties for Government employees and contractors with access to classified information, who have signed agreements to keep it classified, who knowingly and willfully leak America's most important secrets. Over the past few years, we have seen unauthorized disclosures of classified information at an alarming rate. Each one of the leaks gravely increases the threat to our national security and makes it easier for our enemies to achieve their murderous and destructive plans. Each leak is a window of opportunity for terrorists to discover our sources and methods. Each violation of trust guarantees chaos and violence in the world.

Time and time again, we have witnessed leaks that told our enemies not only that we were watching them and listening to them but how and whom we are cooperating with and how we are getting the information. These leaks have threatened to erode the trust and confidence of the American people and the members of the intelligence community, as well as our allies, built upon years of work. What if during World War II, Americans had seen a leak of the Enigma Program that allowed us to decipher enemy communications and if major media outlets had joined in blowing our most sensitive secret?

Over the past year, there has arisen an apparent absence of fear of punishment in regard to arbitrary divulging of classified information. These are individuals who took solemn vows to protect our Nation. In taking a vow to protect classified information, one should acknowledge that being privy to it establishes a solemn trust. I and all of my colleagues are under obligations as Senators. And as a member of the Intelligence Committee, I have a higher standard to protect classified information. Having that access is a privilege and a trust. There are a number of stinging examples of how these leaks have compromised security. I will not call attention to them because the people who are benefiting from knowing the leaks don't need to know more about it. But a litany of intelligence officials over the past year have told me how much it hurts their efforts.

The former Director of the CIA, Porter Goss, stated in open session that there has been ''very severe'' damage to our national security. He repeated ''very severe.'' I asked the same question to current CIA Director Michael Hayden in his open confirmation hearing about the leaks and he said: We have applied the Darwinian theory to terrorists. Unfortunately, we are only catching the dumb ones because the smart ones who watch the media understand what we are doing and will escape. And many others have repeated that refrain. That was before the leakage of our ability to track terrorist financing efforts occurred in papers.

As I have traveled throughout the world and talked with cooperating overseas officials, they have asked me why they should continue to work with us when we can't keep secrets. Our intelligence chiefs abroad tell me that sources now think twice before speaking with U.S. officers. They fear their information leaking. They said: How can I give you this information if it might be leaked?

What they are really worried about is that leaking their information will identify them and put themselves and their families at risk. This is something which we cannot tolerate if we are to get the intelligence we need.

This is language which has been passed before. It is very simple. It just applies to former or retired officers or employees of the United States or any person who has authorized access and who has agreed to keep it confidential.

First, let me be clear about a couple of things this legislation does not do. It only affects Government employees and contractors who have signed a nondisclosure agreement. It doesn't affect the media, businesses, or private citizens.

Second, it only regards information properly and appropriately classified, not frivolously or inappropriately classified. If there is an overclassification, then I think the courts would easily throw out the prosecution. It doesn't cover the new categories of information developed since 9/11, like sensitive but unclassified or unclassified for official use only. It limits the subject of prosecution to those knowingly and willfully disclosing to someone they know is not authorized to receive it. It is not a ''gotcha'' tool; it is for deliberate leakers.

Well, a Federal judge has pointed out that there is no one piece of legislation that brings together all of our outdated and disparate provisions on the law. The judge has stated that ''the merits of the law are committed to Congress. If it is not sensible, it ought to be changed.'' This is why we are doing this.

Some of my colleagues said it is an insult that you have to pass a bill to protect classified information. One said:

> If they have taken an oath, they don't need the threat of law hanging over them to maintain that oath.

My answer to that one is, where have you been over the past year? I am sorry to inform you that some people need laws to hold them in check. More important, they need prosecution under those laws. There is nothing like an orange jumpsuit on a deliberate leaker to discourage others from going down that path.

I have heard that some say Attorney General Ashcroft recommended that the executive branch not pursue leaks legislation. That is true, but not because it wasn't needed. He said that the onus is on the executive branch to take care to instill a sense of loyalty in its employees to track down leakers and to prevent leakers. He was right. He also said that leaks legislation had value.

I am more than happy to work with my colleagues. I believe it is appropriate to have this debate at a time when Osama bin Laden and al-Zawahiri are warning the United States of future terrorist attacks. It is important to provide protection so that our men and women in the field in places of active hostility, such as Iraq and Afghanistan, can be protected by intelligence that is not compromised.

I ask unanimous consent to have printed in the RECORD a letter dated 31 July from the Association for Intelligence Officers, a group of 4,500 current and former intelligence military and homeland security officers supporting passage of this legislation.

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

ASSOCIATION FOR INTELLIGENCE OFFICERS,
McLean, VA, July 31, 2006.

Hon. CHRISTOPHER BOND,
Senate Select Committee on Intelligence, U.S. Senate.

DEAR SENATOR BOND: On behalf of the Association for Intelligence Officers, a 31-year organization of over 4,500 current and former intelligence, military and homeland security officers, I write in support of your intention to introduce a bill concerning prohibition of the disclosure of classified information by individuals who sign secrecy agreements. We concur that such unauthorized actions have damaged national security.

We note that as early as the 2001 fiscal year, the Congress included such provisions in the Intelligence Authorization Act, but the legislation did not prevail over presidential veto. Since that time, no substantive remedy has appeared.

We understand that the proposed legislation will apply only to government employees and civilian contractors who promised to uphold the secrecy contracts they signed. It will not cover others, such as journalists, nor others not working for the federal government or contractors. It would prohibit only knowing and willful disclosure, so that innocent, inadvertent, or accidental disclosures would not be covered.

We believe there has been an increasing cascade of damaging disclosures of classified information such that a crisis now exists. With no serious punishments nor enforcement of penalties, we lack any meaningful impediment to this growing willful harm to the national interest. As a result, the leaks grow—essentially sabotaging our own intelligence and military operations and causing the deaths of our troops and intelligence operatives. Our allies, understandably, are losing trust that we can engage in mutual operations and hesitate to share crucial intelligence and battlefield information with us.

What leakers think is a harmless bit of back channel policymaking has repercussions down the line that constitute treason and should be treated as such.

We enthusiastically support your efforts. We are ready to provide assistance in whatever manner would prove helpful.

Very respectfully,
S. EUGENE POTEAT,
President, AFIO.

Mr. SESSIONS. Mr. President, first, I thank Senator BOND for dealing with this important issue. We have indeed

reached a point in this country where I think there is confusion about the absolute responsibility and legal requirement to maintain classified information in our Government. We need to be more serious about that. He can speak with authority. His son has served in Iraq and is a fine officer. We appreciate that. He understands these issues deeply. Again, I thank Senator BOND for that.

By Mr. DURBIN (for himself, Mr. COLEMAN, Mr. DEWINE, Mr. FEINGOLD, and Mr. LEAHY):

S. 3775. A bill to amend the Foreign Assistance Act of 1961 to assist countries in sub-Saharan Africa in the effort to achieve internationally recognized goals in the treatment and prevention of HIV/AIDS and other major diseases and the reduction of maternal and child mortality by improving human health care capacity and improving retention of medical health professionals in sub-Saharan Africa, and for other purposes; to the Committee on Foreign Relations.

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

Mr. DURBIN. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

S. 3775

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''African Health Capacity Investment Act of 2006''.

SEC. 2. DEFINITIONS.

In this Act, the term ''HIV/AIDS'' has the meaning given such term in section 104A(g) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151b–2(g)).

SEC. 3. FINDINGS.

Congress makes the following findings:

(1) The World Health Report, 2003, Shaping the Future, states, ''The most critical issue facing health care systems is the shortage of people who make them work.''.

(2) The World Health Report, 2006, Working Together for Health, states, ''The unmistakable imperative is to strengthen the workforce so that health systems can tackle crippling diseases and achieve national and global health goals. A strong human infrastructure is fundamental to closing today's gap between health promise and health reality and anticipating the health challenges of the 21st century.''.

(3) The shortage of health personnel, including doctors, nurses, pharmacists, counselors, paraprofessionals, and trained lay workers is one of the leading obstacles to fighting HIV/AIDS in sub-Saharan Africa.

(4) The HIV/AIDS pandemic aggravates the shortage of health workers through loss of life and illness among medical staff, unsafe working conditions for medical personnel, and increased workloads for diminished staff, while the shortage of health personnel undermines efforts to prevent and provide care and treatment for those with HIV/AIDS.

(5) Workforce constraints and inefficient management are limiting factors in the treatment of tuberculosis, which infects over ⅓ of the global population.

(6) Over 1,200,000 people die of malaria each year. More than 75 percent of these deaths occur among African children under the age of 5 years old and the vast majority of these deaths are preventable. The Malaria Initiative of President George W. Bush seeks to reduce dramatically the disease burden of malaria through both prevention and treatment. Paraprofessionals can be instrumental in reducing mortality and economic losses associated with malaria and other health problems.

(7) For a woman in sub-Saharan Africa, the lifetime risk of maternal death is 1 out of 16. In highly developed countries, that risk is 1 out of 2,800. Increasing access to skilled birth attendants is essential to reducing maternal and newborn mortality in sub-Saharan Africa.

(8) The Second Annual Report to Congress on the progress of the President's Emergency Plan for AIDS Relief identifies the strengthening of essential health care systems through health care networks and infrastructure development as critical to the sustainability of funded assistance by the United States Government and states that ''outside resources for HIV/AIDS and other development efforts must be focused on transformational initiatives that are owned by host nations''. This report further states, ''Alongside efforts to support community capacity-building, enhancing the capacity of health care and other systems is also crucial for sustainability. Among the obstacles to these efforts in many nations are inadequate human resources and capacity, limited institutional capacity, and systemic weaknesses in areas such as: quality assurance; financial management and accounting; health networks and infrastructure; and commodity distribution and control.''.

(9) Vertical disease control programs represent vital components of United States foreign assistance policy, but human resources for health planning and management often demands a more systematic approach.

(10) Implementation of capacity-building initiatives to promote more effective human resources management and development may require an extended horizon to produce measurable results, but such efforts are critical to fulfillment of many internationally recognized objectives in global health.

(11) The November 2005 report of the Working Group on Global Health Partnerships for the High Level Forum on the Health Millennium Development Goals entitled ''Best Practice Principles for Global Health Partnership Activities at Country Level'', raises the concern that the collective impact of various global health programs now risks ''undermining the sustainability of national development plans, distorting national priorities, diverting scarce human resources and/or establishing uncoordinated service delivery structures'' in developing countries. This risk underscores the need to coordinate international donor efforts for these vital programs with one another and with recipient countries.

(12) The emigration of significant numbers of trained health care professionals from sub-Saharan African countries to the United States and other wealthier countries exacerbates often severe shortages of health care workers, undermines economic development efforts, and undercuts national and international efforts to improve access to essential health services in the region.

(13) Addressing this problem, commonly referred to as ''brain drain'', will require increased investments in the health sector by sub-Saharan African governments and by international partners seeking to promote economic development and improve health care and mortality outcomes in the region.

(14) Virtually every country in the world, including the United States, is experiencing a shortage of health workers. The Joint Learning Initiative on Human Resources for Health and Development estimates that the global shortage exceeds 4,000,000 workers. Shortages in sub-Saharan Africa, however, are far more acute than in any other region of the world. The World Health Report, 2006, states that ''[t]he exodus of skilled professionals in the midst of so much unmet health need places Africa at the epicentre of the global health workforce crisis.''.

(15) Ambassador Randall Tobias, now the Director of United States Foreign Assistance and Administrator of the United States Agency for International Development, has stated that there are more Ethiopian trained doctors practicing in Chicago than in Ethiopia.

(16) According to the United Nations Development Programme, Human Development Report 2003, approximately 3 out of 4 countries in sub-Saharan Africa have fewer than 20 physicians per 100,000 people, the minimum ratio recommended by the World Health Organization, and 13 countries have 5 or fewer physicians per 100,000 people.

(17) Nurses play particularly important roles in sub-Saharan African health care systems, but approximately ¼ of sub-Saharan African countries have fewer than 50 nurses per 100,000 people or less than ½ the staffing levels recommended by the World Health Organization.

(18) Paraprofessionals can be trained more quickly than nurses or doctors and are critically needed in sub-Saharan Africa to meet immediate health care needs.

(19) Imbalances in the distribution of countries' health workforces represents a global problem, but the impact is particularly acute in sub-Saharan Africa.

(20) In Malawi, for example, more than 95 percent of clinical officers are in urban health facilities, and about 25 percent of nurses and 50 percent of physicians are in the 4 central hospitals of Malawi. Yet the population of Malawi is estimated to be 87 percent rural.

(21) In parts of sub-Saharan Africa, such as Kenya, thousands of qualified health professionals are employed outside the health care field or are unemployed despite job openings in the health sector in rural areas because poor working and living conditions, including poor educational opportunities for children, transportation, and salaries, make such openings unattractive to candidates.

(22) The 2002 National Security Strategy of the United States stated, ''The scale of the public health crisis in poor countries is enormous. In countries afflicted by epidemics and pandemics like HIV/AIDS, malaria, and tuberculosis, growth and development will be threatened until these scourges can be contained. Resources from the developed world are necessary but will be effective only with honest governance, which supports prevention programs and provides effective local infrastructure.''.

(23) Public health deficiencies in sub-Saharan Africa and other parts of the developing world reduce global capacities to detect and respond to potential crises, such as an avian flu pandemic.

(24) On September 28, 2005, Secretary of State Condoleezza Rice declared that ''HIV/AIDS is not only a human tragedy of enormous magnitude; it is also a threat to the stability of entire countries and to the entire regions of the world.''.

(25) Foreign assistance by the United States that expands local capacities, provides commodities or training, or builds on and enhances community-based and national programs and leadership can increase the impact, efficiency, and sustainability of funded efforts by the United States.

(26) African health care professionals immigrate to the United States for the same

set of reasons that have led millions of people to come to this country, including the desire for freedom, for economic opportunity, and for a better life for themselves and their children, and the rights and motivations of these individuals must be respected.

(27) Helping countries in sub-Saharan Africa increase salaries and benefits of health care professionals, improve working conditions, including the adoption of universal precautions against workplace infection, improve management of health care systems and institutions, increase the capacity of health training institutions, and expand education opportunities will alleviate some of the pressures driving the migration of health care personnel from sub-Saharan Africa.

(28) While the scope of the problem of dire shortfalls of personnel and inadequacies of infrastructure in the sub-Saharan African health systems is immense, effective and targeted interventions to improve working conditions, management, and productivity would yield significant dividends in improved health care.

(29) Failure to address the shortage of health care professionals and paraprofessionals, and the factors pushing individuals to leave sub-Saharan Africa will undermine the objectives of United States development policy and will subvert opportunities to achieve internationally recognized goals for the treatment and prevention of HIV/AIDS and other diseases, in the reduction of child and maternal mortality, and for economic growth and development in sub-Saharan Africa.

SEC. 4. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) the United States should help sub-Saharan African countries that have not already done so to develop national human resource plans within the context of comprehensive country health plans involving a wide range of stakeholders;

(2) comprehensive, rather than piecemeal approaches to advance multiple sustainable interventions will better enable countries to plan for the number of health care workers they need, determine whether they need to reorganize their health workforce, integrate workforce planning into an overall strategy to improve health system performance and impact, better budget for health care spending, and improve the delivery of health services in rural and other underserved areas;

(3) in order to promote systemic, sustainable change, the United States should seek, where possible, to strengthen existing national systems in sub-Saharan African countries to improve national capacities in areas including fiscal management, training, recruiting and retention of health workers, distribution of resources, attention to rural areas, and education;

(4) because foreign-funded efforts to fight HIV/AIDS and other diseases may also draw health personnel away from the public sector in sub-Saharan African countries, the policies and programs of the United States should, where practicable, seek to work with national and community-based health structures and seek to promote the general welfare and enhance infrastructures beyond the scope of a single disease or condition;

(5) paraprofessionals and community-level health workers can play a key role in prevention, care, and treatment services, and in the more equitable and effective distribution of health resources, and should be integrated into national health systems;

(6) given the current personnel shortages in sub-Saharan Africa, paraprofessionals represent a critical potential workforce in efforts to reduce the burdens of malaria, tuberculosis, HIV/AIDS, and other deadly and debilitating diseases;

(7) it is critically important that the governments of sub-Saharan African countries increase their own investments in education and health care;

(8) international financial institutions have an important role to play in the achievement of internationally agreed upon health goals, and in helping countries strike the appropriate balance in encouraging effective public investments in the health and education sectors, particularly as foreign assistance in these areas scales up, and promoting macroeconomic stability;

(9) public-private partnerships are needed to promote creative contracts, investments in sub-Saharan African educational systems, codes of conduct related to recruiting, and other mechanisms to alleviate the adverse impacts on sub-Saharan African countries caused by the migration of health professionals;

(10) colleges and universities of the United States, as well as other members of the private sector, can play a significant role in promoting training in medicine and public health in sub-Saharan Africa by establishing or supporting in-country programs in sub-Saharan Africa through twinning programs with educational institutions in sub-Saharan Africa or through other in-country mechanisms;

(11) given the substantial numbers of African immigrants to the United States working in the health sector, the United States should enact and implement measures to permit qualified aliens and their family members that are legally present in the United States to work temporarily as health care professionals in developing countries or in other emergency situations, as in S. 2611, of the 109th Congress, as passed by the Senate on May 25, 2006;

(12) the President, acting through the United States Permanent Representative to the United Nations, should exercise the voice and vote of the United States—

(A) to ameliorate the adverse impact on less developed countries of the migration of health personnel;

(B) to promote voluntary codes of conduct for recruiters of health personnel; and

(C) to promote respect for voluntary agreements in which individuals, in exchange for individual educational assistance, have agreed either to work in the health field in their home countries for a given period of time or to repay such assistance;

(13) the United States, like countries in other parts of the world, is experiencing a shortage of medical personnel in many occupational specialties, and the shortage is particularly acute in rural and other underserved areas of the country; and

(14) the United States should expand training opportunities for health personnel, expand incentive programs such as student loan forgiveness for Americans willing to work in underserved areas, and take other steps to increase the number of health personnel in the United States.

SEC. 5. ASSISTANCE TO INCREASE HUMAN CAPACITY IN THE HEALTH SECTOR IN SUB-SAHARAN AFRICA.

Chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) is amended by adding at the end the following new section:

"SEC. 135. ASSISTANCE TO INCREASE HUMAN CAPACITY IN THE HEALTH SECTOR IN SUB-SAHARAN AFRICA.

''(a) ASSISTANCE.—

''(1) AUTHORITY.—The President is authorized to provide assistance, including providing assistance through international or nongovernmental organizations, for programs in sub-Saharan Africa to improve human health care capacity.

''(2) TYPES OF ASSISTANCE.—Such programs should include assistance—

''(A) to provide financial and technical assistance to sub-Saharan African countries in developing and implementing new or strengthened comprehensive national health workforce plans;

''(B) to build and improve national and local capacities and sustainable health systems management in sub-Saharan African countries, including financial, strategic, and technical assistance for—

''(i) fiscal and health personnel management;

''(ii) health worker recruitment systems;

''(iii) the creation or improvement of computerized health workforce databases and other human resource information systems;

''(iv) implementation of measures to reduce corruption in the health sector; and

''(v) monitoring, evaluation, and quality assurance in the health field, including the utilization of national and district-level mapping of health care systems to determine capacity to deliver health services;

''(C) to train and retain sufficient numbers of health workers, including paraprofessionals, to provide essential health services in sub-Saharan African countries, including financing, strategic technical assistance for—

''(i) health worker safety and health care, including HIV/AIDS prevention and off-site testing and treatment programs for health workers;

''(ii) increased capacity for training health professionals and paraprofessionals in such subjects as human resources planning and management, health program management, and quality improvement;

''(iii) expanded access to secondary level math and science education;

''(iv) expanded capacity for nursing and medical schools in sub-Saharan Africa, with particular attention to incentives or mechanisms to encourage graduates to work in the health sector in their country of residence;

''(v) incentives and policies to increase retention, including salary incentives;

''(vi) modern quality improvement processes and practices;

''(vii) continuing education, distance education, and career development opportunities for health workers;

''(viii) mechanisms to promote productivity within existing and expanding health workforces; and

''(ix) achievement of minimum infrastructure requirements for health facilities, such as access to clean water;

''(D) to support sub-Saharan African countries with financing, technical support, and personnel, including paraprofessionals and community-based caregivers, to better meet the health needs of rural and other underserved populations by providing incentives to serve in these areas, and to more equitably distribute health professionals and paraprofessionals;

''(E) to support efforts to improve public health capacities in sub-Saharan Africa through education, leadership development, and other mechanisms;

''(F) to provide technical assistance, equipment, training, and supplies to assist in the improvement of health infrastructure in sub-Saharan Africa;

''(G) to promote efforts to improve systematically human resource management and development as a critical health and development issue in coordination with specific disease control programs for sub-Saharan Africa; and

''(H) to establish a global clearinghouse or similar mechanism for knowledge sharing regarding human resources for health, in consultation, if helpful, with the Global Health Workforce Alliance.

''(3) MONITORING AND EVALUATION.—

''(A) IN GENERAL.—The President shall establish a monitoring and evaluation system to measure the effectiveness of assistance by the United States to improve human health care capacity in sub-Saharan Africa in order to maximize the sustainable development impact of assistance authorized under this section and pursuant to the strategy required under subsection (b).

''(B) REQUIREMENTS.—The monitoring and evaluation system shall—

''(i) establish performance goals for assistance provided under this section;

''(ii) establish performance indicators to be used in measuring or assessing the achievement of performance goals;

''(iii) provide a basis for recommendations for adjustments to the assistance to enhance the impact of the assistance; and

''(iv) to the extent feasible, utilize and support national monitoring and evaluation systems, with the objective of improved data collection without the imposition of unnecessary new burdens.

''(b) STRATEGY OF THE UNITED STATES.—

''(1) REQUIREMENT FOR STRATEGY.—Not later than 180 days after the date of enactment of this Act, the President shall develop and transmit to the appropriate congressional committees a strategy for coordinating, implementing, and monitoring assistance programs for human health care capacity in sub-Saharan Africa.

''(2) CONTENT.—The strategy required by paragraph (1) shall include—

''(A) a description of a coordinated strategy, including coordination among agencies and departments of the Federal Government with other bilateral and multilateral donors, to provide the assistance authorized in subsection (a);

''(B) a description of a coordinated strategy to consult with sub-Saharan African countries and the African Union on how best to advance the goals of this Act; and

''(C) an analysis of how international financial institutions can most effectively assist countries in their efforts to expand and better direct public spending in the health and education sectors in tandem with the anticipated scale up of international assistance to combat HIV/AIDS and other health challenges, while simultaneously helping these countries maintain prudent fiscal balance.

''(3) FOCUS OF ANALYSIS.—It is suggested that the analysis described in paragraph (2)(C) focus on 2 or 3 selected countries in sub-Saharan Africa, including, if practical, 1 focus country as designated under the President's Emergency Plan for AIDS Relief (authorized by the United States Leadership Against Global HIV/AIDS, Tuberculosis, and Malaria Act of 2003 (Public Law 108–25)) and 1 country without such a designation.

''(4) CONSULTATION.—The President is encouraged to develop the strategy required under paragraph (1) in consultation with the Secretary of State, the Administrator for the United States Agency for International Development, including employees of its field missions, the Global HIV/AIDS Coordinator, the Chief Executive Officer of the Millennium Challenge Corporation, the Secretary of the Treasury, the Director of the Bureau of Citizenship and Immigration Services, the Director of the Centers for Disease Control and Prevention, and other relevant agencies to ensure coordination within the Federal Government.

''(5) COORDINATION.—

''(A) DEVELOPMENT OF STRATEGY.—To ensure coordination with national strategies and objectives and other international efforts, the President should develop the strategy described in paragraph (1) by consulting appropriate officials of the United States Government and by coordinating with the following:

''(i) Other donors.

''(ii) Implementers.

''(iii) International agencies.

''(iv) Nongovernmental organizations working to increase human health capacity in sub-Saharan Africa.

''(v) The World Bank.

''(vi) The International Monetary Fund.

''(vii) The Global Fund to Fight AIDS, Tuberculosis, and Malaria.

''(viii) The World Health Organization.

''(ix) The International Labour Organization.

''(x) The United Nations Development Programme.

''(xi) The United Nations Programme on HIV/AIDS.

''(xii) The European Union.

''(xiii) The African Union.

''(B) ASSESSMENT AND COMPILATION.—The President should make the assessments and compilations required by subsection (a)(3)(B)(v), in coordination with the entities listed in subparagraph (A).

''(c) REPORT.—

''(1) IN GENERAL.—Not later than 1 year after the date on which the President submits the strategy required in subsection (b), the President shall submit to the appropriate congressional committees a report on the implementation of this section.

''(2) ASSESSMENT OF MECHANISMS FOR KNOWLEDGE SHARING.—The report described in paragraph (1) shall be accompanied by a document assessing best practices and other mechanisms for knowledge sharing about human resources for health and capacity building efforts to be shared with governments of developing countries and others seeking to promote improvements in human resources for health and capacity building.

''(d) DEFINITIONS.—In this section:

''(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term 'appropriate congressional committees' means the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on International Relations and the Committee on Appropriations of the House of Representatives.

''(2) BRAIN DRAIN.—The term 'brain drain' means the emigration of a significant proportion of a country's professionals working in the health field to wealthier countries, with a resulting loss of personnel and often a loss in investment in education and training for the countries experiencing the emigration.

''(3) HEALTH PROFESSIONAL.—The term 'health professional' means a person whose occupation or training helps to identify, prevent, or treat illness or disability.

''(4) HIV/AIDS.—The term 'HIV/AIDS' has the meaning given such term in section 104A(g) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151b–2(g)).

''(e) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—There are authorized to be appropriated to the President to carry out the provisions of this section—

''(A) $100,000,000 for fiscal year 2007;

''(B) $150,000,000 for fiscal year 2008; and

''(C) $200,000,000 for fiscal year 2009.

''(2) AVAILABILITY OF FUNDS.—Amounts made available under paragraph (1) are authorized to remain available until expended and are in addition to amounts otherwise made available for the purpose of carrying out this section.''.

By Mr. FEINGOLD:

S. 3776. A bill to ensure the provision of high-quality health care coverage for uninsured individuals through State health care initiatives that expand coverage and access and improve quality and efficiency in the health care system; to the Committee on Health, Education, Labor, and Pensions.

Mr. FEINGOLD. Mr. President, I rise today to speak about a crisis facing our country, a crisis that directly affects the lives of 46 million people in the United States, and that indirectly affects many more. The crisis is the lack of universal health insurance in America, and its effects are rippling through our families, our communities, and our economy. It is the No. 1 issue that I hear about in Wisconsin, and it is the No. 1 issue for tens of millions of Americans. Nevertheless, the issue has been largely ignored in the Halls of Congress. We sit idle, locked in a stalemate, refusing to give this life-threatening problem its due attention. We need a way to break that deadlock, and today I am introducing a bill that will do just that—the State-Based Health Care Reform Act.

I believe that health care is a fundamental right, and every American should have guaranteed health care coverage. My bill seeks to move us toward that goal in a way that I hope will be acceptable to many of my colleagues.

Every day, all over our Nation, Americans suffer from medical conditions that cause them pain and even change they way they lead their lives. Every one of us has either experienced this personally or through a family member suffering from cancer, Alzheimer's, diabetes, genetic disorders, mental illness or some other condition. The disease takes its toll on both individuals and families, as trips to the hospital for treatments such as chemotherapy test the strength of the person and the family affected. This is an incredibly difficult situation for anyone. But for the uninsured and underinsured, the suffering goes beyond physical discomfort. These 46 million Americans bear the additional burden of wondering where the next dollar for their health care bills will come from; worries of going into debt; worries of going bankrupt because of health care needs. When illness strikes families, the last thing they should have to think about is money, but I know that for many in our country, this is a persistent burden that causes stress and hopelessness.

It is difficult to do justice to the magnitude of the uninsurance problem, but I want to share a few astounding statistics. Forty-seven percent of the uninsured avoided seeking care in 2003 due to the cost. Thirty-five percent needed care but did not get it. Thirty-seven percent did not fill a prescription because of cost. The uninsured are seven times more likely to seek care in an emergency room. They are less likely to receive preventative care because they cannot afford to see the doctor, and they are more likely to die as a result. Each year, at least 18,000 people die prematurely in this country because of uninsurance. If the uninsured

had access to continuous health coverage, a reduction in mortality of 5 percent to 15 percent could be achieved.

Even for those Americans who currently have health insurance through their employer, the risk of becoming uninsured is very real. Large businesses are finding themselves less competitive in the global market because of skyrocketing health care costs. Small businesses are finding it difficult to offer insurance to employees while staying competitive in their own communities. Our health care system has failed to keep costs in check, and there is simply no way we can expect businesses to keep up. More and more, employers offer sub-par benefits, or no benefits at all. Employers cannot be the sole provider of health care when these costs are rising faster than inflation.

I travel to each of Wisconsin's 72 counties every year to hold townhall meetings. Almost every year, the No. 1 issue raised at these listening sessions is the same—health care. The failure of our health care system brings people to these meetings in droves. These people used to think government involvement was a terrible idea, but not anymore. Now they come armed with their frustration, their anger, and their desperation, and they tell me that their businesses and their lives are being destroyed by health care costs, and they want the government to step in.

Our country can do better, and it will.

Last year, I was pleased to be joined by the Senator from South Carolina, Mr. GRAHAM, in introducing legislation that requires Congress to act on health care reform. It requires Congress to take up and debate universal health care bills within the first 90 days of the session following enactment of the bill. This bill does not prejudge what particular health care reform measure should be debated—it simply requires Congress to act.

Today, I am here to build on the proposal from last year. I am introducing the State-Based Health Care Reform Act. In short, this bill establishes a pilot project to provide States with the resources needed to implement universal health care reform. The bill does not dictate what kind of reform the States should implement; it just provides an incentive for action, provided the States meet certain minimum coverage and low-income requirements.

Over the years I have heard many different proposals for how we should change the health care system in this country. Some propose using tax incentives as a way to expand access to health care. Others think the best approach is to expand public programs. Some feel a national single payer health care system is the only way to go. I have my own preferences, but I don't think we can ignore any of these proposals. We need to consider all of these as we address our broken health care system.

As a former State legislator, I come to this debate appreciating the role that States are playing in coming up with some very innovative solutions to the health care problem. We are already seeing States move ahead of the Federal Government on covering the uninsured. Massachusetts recently passed into law a plan to require health insurance for all residents, and State legislators in my home State of Wisconsin, as well as Vermont, Maine, and California, are working to expand health insurance coverage in their States. The Federal Government should be encouraging these innovative initiatives, and my bill provides the mechanism for this goal to be realized.

This legislation harnesses the talent and ingenuity of Americans to come up with new solutions. This approach takes advantage of America's greatest resources—the mind power and creativity of the American people—to move our country toward the goal of a working health care system with universal coverage. With help from the Federal Government, States will be able to try new ways of covering all their residents, and our political logjam around health care will begin to loosen.

Under my proposal, States can be creative in the State resources they use to expand health care coverage. For example, a State can use personal or employer mandates for coverage, use State tax incentives, create a single-payer system or even join with neighboring States to offer a regional health care plan. The proposals are subject only to the approval of the newly created Health Care Reform Task Force, which will be composed of health care experts, consumers, and representatives from groups affected by health care reform. This task force will be responsible for choosing viable State projects and ensuring that the projects are effective. The Task Force will also help the States develop projects, and will continue a dialog with the States in order to facilitate a good relationship between the State and Federal Governments.

The task force is also charged with making sure that the State plans meet certain minimal requirements. First, the State plans must include specific target dates for decreasing the number of uninsured, and must also identify a set of minimum benefits for every covered individual. These benefits must be comparable to health insurance offered to Federal employees. Second, the State plans must include a mechanism to guarantee that the insurance is affordable. Americans should not go broke trying to keep healthy, and health care reform should ensure that individual costs are manageable. The State-Based Health Care Reform Act bases affordability on income.

Another provision in this legislation requires that the States contribute to paying for their new health care programs. The Federal Government will provide matching funds based on enhanced FMAP—the same standard used for SCHIP—and will then provide an additional 5 percent. States that can afford to provide more are encouraged to, but in order to ensure the financial viability of the bill and to ensure State buy-in, this matching requirement provides a starting point. Other than these requirements, the States largely have flexibility to design a plan that works best for their respective residents. The possibilities for reform are wide open.

One of the main criticisms of Federal Government spending on health care is that it is expensive and increases the deficit. My legislation is fully offset, ensuring that it will not increase the deficit. The bill doesn't avoid making the tough budget choices that need to be made if we are going to pay for health care reform.

One of the offsets in the bill was proposed by the Congressional Budget Office: an increase in the flat rebate paid by drug manufacturers for Medicaid prescription drugs. Currently, Medicaid recoups a portion of its drug spending through a rebate paid by the manufacturer. The savings mechanism would set a flat rebate, and provide funding for the States' health care reform projects.

Additional funding for the bill comes from the President's fiscal year 2007 budget proposal to extend the authority of the Federal Communications Commission to auction the radio spectrum and the authority of Customs and Border Protection to collect multiple different conveyance and passenger user fees through fiscal year 2016. My bill proposes similar extensions of these established authorities. Also, my bill proposes to both simplify and reduce the federal subsidy of airline passenger screening costs by replacing the current variable fee, which is capped at five dollars per one-way trip, with a flat five dollar fee. This proposal is similar to one in the President's fiscal year 2007 budget and would decrease federal subsidies to about thirty percent of passenger security costs, without reducing aviation security spending.

I also pay for this bill with an offset modeled on legislation introduced in the House by my good friend and fellow Wisconsinite TOM PETRI and in the Senate by the senior Senator from Massachusetts that seeks to save money by encouraging higher education institutions to shift from private lenders to the direct loan program, which is most cost-effective for taxpayers. Currently, the Federal Government subsidizes private lenders for the loans they issue to students and this offset would end the current taxpayer-funded subsidies while increasing financial aid to students.

We can say that it is time to move toward universal coverage, but it is empty rhetoric without a feasible plan. I believe that this is the way to make universal coverage work in this country. Universal coverage doesn't mean that we have to copy a system already in place in another country. We can harness our Nation's creativity and entrepreneurial spirit to design a system

that is uniquely American. Universal coverage doesn't have to be defined by what's been attempted in the past. What universal coverage does mean is providing a solution for a broken system where millions are uninsured, and where businesses and Americans are struggling under the burden of health care costs.

It has been over 10 years since the last serious debate over health care reform was killed by special interests and the soft money contributions they used to corrupt the legislative process. The legislative landscape is now much different. Soft money can no longer be used to set the agenda, and businesses and workers are crying out as never before for Congress to do something about the country's health care crisis.

We are fortunate to live in a country that has been abundantly blessed with democracy and wealth, and yet, there are those in our society whose daily health struggles overshadow these blessings. That is an injustice, and it is one we can and must address. Martin Luther King, Jr. said, ''Of all the forms of inequality, injustice in health care is the most shocking and inhumane.'' It is long past time for Congress to heed these words and end this terrible inequality. I urge my colleagues to support the State-Based Health Care Reform Act.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 3776

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''State-Based Health Care Reform Act''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Health care remains one of the most important domestic issues for Americans.

(2) According to the Census Bureau, 45,800,000 Americans were uninsured in 2004. Over 8,000,000 of these individuals were children. The number of uninsured has increased by 6,000,000 since 2000.

(3) According to the Commonwealth Fund, many of the uninsured are employed, and an increasing number are from middle-income families:

(A) Two in five working-age Americans with annual incomes between $20,000 and $40,000 were uninsured for at least part of 2005. In 2001, just over one-quarter of those with moderate incomes were uninsured.

(B) Of the estimated 48,000,000 American adults who spent any time uninsured in 2005, two-thirds were in families where at least one person was working full time.

(4) The uninsured face serious financial problems, and often have to choose between medical care and other basic necessities. According to the Commonwealth Fund, more than half of uninsured adults reported medical debt or problems paying bills. Of those, nearly half used up all their savings to pay their bills. Two of five were unable to pay for basic necessities like food, heat, or rent because of medical bills.

(5) Health outcomes for the uninsured are worse than health outcomes for those who are covered. According to the Institute of Medicine, the number of excess deaths among uninsured adults ages 25 to 64 is estimated at around 18,000 a year. Fifty-nine percent of uninsured adults who had a chronic illness, such as diabetes or asthma, did not fill a prescription or skipped their medications because they could not afford them.

(6) The cost of providing care to the uninsured weighs heavily on the United States economy. The United States spends twice as much as any other industrialized nation on health care, and more than the United Kingdom's entire gross domestic product. According to the Kaiser Family Foundation, $124,600,000,000 was spent on care provided to individuals who were uninsured for all or part of 2004. Despite this spending, the United States ranks second to last among industrialized countries in infant mortality rates.

SEC. 3. PURPOSE.

It is the purpose of this Act to establish a program to award grants to States for the establishment of State-based projects to—

(1) increase health care coverage for uninsured individuals in selected States within the 5-year period beginning on the date of enactment of this Act;

(2) ensure high-quality health care coverage that provides adequate access to providers, services, and benefits;

(3) improve the efficiency of health care spending and lower the cost of health care for the participating State; and

(4) encourage universal health care coverage within States.

TITLE I—HEALTH CARE COVERAGE

SEC. 101. STATE-BASED HEALTH CARE COVERAGE PROGRAM.

(a) APPLICATIONS BY STATES, MULTI-STATE REGIONS, LOCAL GOVERNMENTS, AND TRIBES.—

(1) STATE APPLICATION.—A State, in consultation with local governments, Indian tribes, and Indian organizations involved in the provision of health care (referred to in this Act as a ''State''), may apply for a State health care reform grant for the entire State (or for regions of two or more States) under paragraph (2).

(2) SUBMISSION OF APPLICATION.—In accordance with this section, each State desiring to implement a State health care reform program shall submit an application to the Health Care Reform Task Force established under subsection (b) (referred to in this section as the ''Task Force'') for approval.

(3) LOCAL GOVERNMENT AND OTHER APPLICATIONS.—

(A) IN GENERAL.—Where a State fails to submit an application under this section, a unit of local government of such State, or a consortium of such units of local governments, may submit an application directly to the Task Force for programs or projects under this section. Such an application shall be subject to the requirements of this section.

(B) OTHER APPLICATIONS.—Subject to such additional regulations as the Secretary may prescribe, a unit of local government, Indian tribe, or Indian health organization may submit an application under this section, whether or not the State submits such an application, if such unit, tribe, or organization can demonstrate unique demographic needs or a significant population size that warrants a substate program under this subsection.

(b) HEALTH CARE REFORM TASK FORCE.—

(1) ESTABLISHMENT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall establish a Health Care Reform Task Force in accordance with this subsection.

(2) MEMBERSHIP.—

(A) IN GENERAL.—The Task Force shall be comprised of not less than 20 members to be appointed by the Comptroller General in accordance with subparagraph (B) and the Secretary.

(B) APPOINTED MEMBERS.—With respect to the members appointed by the Comptroller General under subparagraph (A)—

(i) such members shall include consumers of health services who represent individuals who have not had health insurance coverage during the 2-year period prior to the appointment and who have had a chronic illness and are disabled;

(ii) such members shall include individuals—

(I) with expertise in the financing of, and paying for, benefits and access to care;

(II) representing business and labor; and

(III) who are health care providers;

(iii) such members shall include individuals with expertise and experience in State health policy, State government, and local government;

(iv) such members shall have a broad geographic representation and be balanced between urban and rural areas; and

(v) such members shall not include elected officials or paid employees or representatives of associations or advocacy organizations involved in the health care system.

(3) GENERAL DUTIES.—The Task Force shall—

(A) formally approve the application of a State for a grant under this section and the administration of a reform program within the State;

(B) establish minimum performance measures with respect to coverage, quality, and cost of State programs, as described under subsection (c)(1);

(C) conduct a thorough review of the grant application from a State and carry on a dialogue with such State applicants concerning possible modifications and adjustments;

(D) be responsible for monitoring the status and progress achieved under programs and projects granted under this section; and

(E) report to the public concerning progress made by States with respect to the performance measures and goals established under this Act, the periodic progress of the State relative to its State performance measures and goals, and the State program application procedures, by region and State jurisdiction.

(4) PERIOD OF APPOINTMENT; REPRESENTATION REQUIREMENTS; VACANCIES.—Members shall be appointed for the life of the Task Force. In appointing members under paragraph (1)(A), the Comptroller General shall ensure the representation of urban and rural areas and an appropriate geographic distribution of such members. Any vacancy on the Task Force shall not affect its powers, but shall be filled within a reasonable period of time and in the same manner as the original appointment.

(5) CHAIRPERSON, MEETINGS.—

(A) CHAIRPERSON.—The Task Force shall select a Chairperson from among its members.

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

(C) MEETINGS.—Not later than 30 days after the date on which all members of the Task Force have been appointed, the Task Force shall hold its first meeting. The Task Force shall meet at the call of the Chairperson.

(6) POWERS OF THE TASK FORCE.—

(A) NEGOTIATIONS WITH STATES.—The Task Force may conduct detailed discussions and negotiations with States submitting applications under this section, either individually or in groups, to facilitate a final set of recommendations for purposes of subsection (c)(4)(B). Such negotiations shall be conducted in a public forum.

(B) SUBCOMMITTEES.—The Task Force may establish such subcommittees as the Task Force determines are necessary to increase the efficiency of the Task Force.

(C) HEARINGS.—The Task Force may hold hearings, so long as the Task Force determines such meetings to be necessary in order to carry out the purposes of this Act, sit and act at such times and places, take such testimony, and receive such evidence as the Task Force considers advisable to carry out the purposes of this subsection.

(D) ANNUAL MEETING.—In addition to other meetings the Task Force may hold, the Task Force shall hold an annual meeting with the participating States under this section for the purpose of having States report progress toward the purposes in section 3 and for an exchange of information.

(E) INFORMATION.—The Task Force may obtain information directly from any Federal department or agency as the Task Force considers necessary to carry out the provisions of this subsection. Upon request of the Chairperson of the Task Force, the head of such department or agency shall furnish such information to the Task Force.

(F) CONTRACTING.—The Task Force may enter into contracts with qualified independent organizations (such as Mathematica or the Institute of Medicine) to obtain necessary information for the development of the performance standards, reporting requirements, financing mechanisms, or any other matters determined by the Task Force to be appropriate and reasonable.

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

(7) PERSONNEL MATTERS.—

(A) COMPENSATION.—Each member of the Task Force 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 Task Force. All members of the Task Force who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(B) TRAVEL EXPENSES.—The members of the Task Force shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Task Force.

(C) STAFF.—The Chairperson of the Task Force may, without regard to the civil service laws and regulations, appoint and terminate personnel as may be necessary to enable the Task Force to perform its duties.

(D) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Task Force without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(E) TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson of the Task Force may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

(8) FUNDING.—For the purpose of carrying out this subsection, there are authorized to be appropriated $4,000,000 for fiscal year 2007 and each fiscal year thereafter.

(c) STATE PLAN.—

(1) IN GENERAL.—A State that seeks to receive a grant to operate a program under this section shall prepare and submit to the Task Force, as part of the application under subsection (a), a State health care plan that—

(A) designates the lead State entity that will be responsible for administering the State program;

(B) contains a list of the minimum benefits that will be provided to all individuals covered under the State program, which shall, at a minimum, provide for coverage that is comparable to the coverage provided for benefits under any of the plans offered under the Federal Employees Health Benefits Program under chapter 89 of title 5, United States Code or the minimum benefits required under the program under title XXI of the Social Security Act (42 U.S.C. 1397aa et seq.);

(C) includes specific target dates for decreasing the number of uninsured individuals in the State; and

(D) otherwise complies with this subsection.

(2) COVERAGE.—With respect to coverage for uninsured individuals in the State, the State plan shall—

(A) provide and describe the manner in which the State will ensure that an increased number of such individuals residing within the State will have expanded access to health care coverage with a specific 5-year target for reduction in the number of uninsured individuals through either private or public program expansion, or both, such description to include the manner in which the State will ensure expanded access to health care coverage for low-income individuals within the 5-year target period;

(B) provide for improvements in the availability of appropriate health care services that will increase access to care in urban, rural, and frontier areas of the State with medically underserved populations or where there is an inadequate supply of health care providers; and

(C) describe the minimum benefits package that will be provided to every beneficiary, including information on affordability for beneficiaries.

(3) EFFECTIVENESS AND EFFICIENCY.—The State plan shall include provisions to improve the effectiveness and efficiency of health care in the State, including provisions to attempt to reduce the overall health care costs within the State.

(4) COSTS.—

(A) IN GENERAL.—With respect to the costs of health care provided under the program, the State plan shall—

(i) describe the public and private sector financing to be provided for the State health program;

(ii) estimate the amount of Federal, State, and local expenditures, as well as the costs to business and individuals under the State health program;

(iii) describe how the State plan will ensure the financial solvency of the State health program; and

(iv) contain assurances that the State will comply with the premium and cost sharing limitations described in subparagraph (B).

(B) PREMIUM AND COST SHARING LIMITATIONS.—

(i) PREMIUMS.—In providing health care coverage under a State program under this Act, the State shall ensure that—

(I) with respect to an individual whose family income is at or below 100 percent of the poverty line, the State program shall not require—

(aa) the payment of premiums for such coverage; or

(bb) the payment of cost sharing for such coverage in an amount that exceeds .5 percent of the family's income for the year involved;

(II) with respect to an individual whose family income is greater than 100 percent, but at or below 200 percent, of the poverty line, the State program shall not require—

(aa) the payment of premiums for such coverage in excess of 20 percent of the average cost of providing benefits to an individual or family or 3 percent of the amount of the family's income for the year involved; or

(bb) the payment of cost sharing for such coverage in an amount that, together with the premium amount, does not exceed 5 percent of the family's income for the year involved; and

(III) with respect to an individual whose family income is greater than 200 percent, but at or below 300 percent, of the poverty line, the State program shall not require—

(aa) the payment of premiums for such coverage in excess of 20 percent of the average cost of providing benefits to an individual or family or 5 percent of the amount of the family's income for the year involved; or

(bb) the payment of cost sharing for such coverage in an amount that, together with the premium amount, does not exceed 7 percent of the family's income for the year involved.

(ii) DEFINITION.—For purposes of this subparagraph, the term ''poverty line'' has the meaning given such term in section 2110(c)(5) of the Social Security Act (42 U.S.C. 1397jj(c)(5)).

(5) PROTECTION FOR LOWER INCOME INDIVIDUALS.—The State plan may only vary premiums, deductibles, coinsurance, and other cost sharing under the plan based on the family income of the family involved in a manner that does not favor individuals from families with higher income over individuals from families with lower income.

(d) REVIEW; DETERMINATION; AND PROJECT PERIOD.—

(1) INITIAL REVIEW.—With respect to a State application for a grant under subsection (a), the Secretary and the Task Force shall, not later than 90 days after receipt of such application, complete an initial review of such State application, an analysis of the scope of the proposal, and a determination of whether additional information is needed from the State. The Task Force shall advise the State within such 90-day period of the need to submit additional information.

(2) FINAL DETERMINATION.—Not later than 90 days after completion of the initial review under paragraph (1), the Task Force shall determine whether to approve such application. Such application may be approved only if ⅔ of the members of the Task Force vote to approve such application.

(3) PROGRAM OR PROJECT PERIOD.—A State program or project may be approved for a period of not to exceed 5 years and may be extended for subsequent 5-year periods upon approval by the Task Force and the Secretary, based upon achievement of targets, except that a shorter period may be requested by a State and granted by the Secretary.

(e) REQUIRED CONGRESSIONAL ACTION.—It is the sense of the Senate that, not later than 45 days after receiving the report submitted under subsection (g)(2), each committee to which such report is submitted should hold at least 1 hearing concerning such report and the recommendations contained in such report.

(f) FUNDING.—

(1) IN GENERAL.—The Secretary shall provide a grant to a State that has an application approved under subsection (d)(2) to enable such State to carry out the State health program under the grant.

(2) AMOUNT OF GRANT.—The amount of a grant provided to a State under paragraph (1) shall be determined based upon the recommendations of the Task Force, subject to the amount appropriated under subsection (k).

(3) MATCHING REQUIREMENT.—To be eligible to receive a grant under paragraph (1), a State shall provide assurances to the Secretary that the State shall contribute to the costs of carrying out activities under the grant an amount equal to not less than the product of—

(A) the amount of the grant; and

(B) the sum of the enhanced FMAP for the State (as defined in section 2105(b) of the Social Security Act (42 U.S.C. 1397ee(b))) and 5 percent.

(4) MAINTENANCE OF EFFORT.—A State, in utilizing the proceeds of a grant received under paragraph (1), shall maintain the expenditures of the State for health care coverage purposes for the support of direct health care delivery at a level equal to not less than the level of such expenditures maintained by the State for the fiscal year preceding the fiscal year for which the grant is received.

(g) REPORTS.—

(1) BY STATES.—Each State that has received a grant under subsection (f)(1) shall submit to the Task Force an annual report for the period representing the respective State's fiscal year, that shall contain a description of the results, with respect to health care coverage, quality, and costs, of the State program.

(2) BY TASK FORCE.—At the end of the 5-year period beginning on the date on which the Secretary awards the first grant under paragraph (1), the Task Force established under subsection (b) shall prepare and submit to the appropriate committees of Congress, a report on the progress made by States receiving grants under paragraph (1) in meeting the goals of expanded coverage, improved quality, and cost containment through performance measures established during the 5-year period of the grant. Such report shall contain—

(A) the recommendation of the Task Force concerning any future action that Congress should take concerning health care reform, including whether or not to extend the program established under this subsection;

(B) an evaluation of the effectiveness of State health care coverage reforms in—

(i) expanding health care coverage for State residents;

(ii) improving the quality of health care provided in the States; and

(iii) reducing or containing health care costs in the States;

(C) recommendations regarding the advisability of increasing Federal financial assistance for State ongoing or future health program initiatives, including the amount and source of such assistance; and

(D) recommendations concerning whether any particular State program should serve as a model for implementation as a national health care reform program.

(h) PROTECTIONS FOR FEDERAL PROGRAMS.—

(1) IN GENERAL.—Nothing in this Act, or in section 1115 of the Social Security Act (42 U.S.C. 1315) shall be construed as authorizing the Secretary, the Task Force, a State, or any other person or entity to alter or affect in any way the provisions of titles XIX and XXI of such Act (42 U.S.C. 1396 et seq. and 1397 et seq.) or the regulations implementing such titles.

(2) MAINTENANCE OF EFFORT.—No payment may be made under this section if the State adopts criteria for benefits, income, and resource standards and methodologies for purposes of determining an individual's eligibility for medical assistance under the State plan under title XIX that are more restrictive than those applied as of the date of enactment of this Act.

(i) MISCELLANEOUS PROVISIONS.—

(1) APPLICATION OF CERTAIN REQUIREMENTS.—

(A) RESTRICTION ON APPLICATION OF PREEXISTING CONDITION EXCLUSIONS.—

(i) IN GENERAL.—Subject to subparagraph (B), a State shall not permit the imposition of any preexisting condition exclusion for covered benefits under a program or project under this section.

(ii) GROUP HEALTH PLANS AND GROUP HEALTH INSURANCE COVERAGE.—If the State program or project provides for benefits through payment for, or a contract with, a group health plan or group health insurance coverage, the program or project may permit the imposition of a preexisting condition exclusion but only insofar and to the extent that such exclusion is permitted under the applicable provisions of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 and title XXVII of the Public Health Service Act.

(B) COMPLIANCE WITH OTHER REQUIREMENTS.—Coverage offered under the program or project shall comply with the requirements of subpart 2 of part A of title XXVII of the Public Health Service Act insofar as such requirements apply with respect to a health insurance issuer that offers group health insurance coverage.

(2) PREVENTION OF DUPLICATIVE PAYMENTS.—

(A) OTHER HEALTH PLANS.—No payment shall be made to a State under this section for expenditures for health assistance provided for an individual to the extent that a private insurer (as defined by the Secretary by regulation and including a group health plan (as defined in section 607(1) of the Employee Retirement Income Security Act of 1974), a service benefit plan, and a health maintenance organization) would have been obligated to provide such assistance but for a provision of its insurance contract which has the effect of limiting or excluding such obligation because the individual is eligible for or is provided health assistance under the plan.

(B) OTHER FEDERAL GOVERNMENTAL PROGRAMS.—Except as provided in any other provision of law, no payment shall be made to a State under this section for expenditures for health assistance provided for an individual to the extent that payment has been made or can reasonably be expected to be made promptly (as determined in accordance with regulations) under any other federally operated or financed health care insurance program, other than an insurance program operated or financed by the Indian Health Service, as identified by the Secretary. For purposes of this paragraph, rules similar to the rules for overpayments under section 1903(d)(2) of the Social Security Act shall apply.

(3) APPLICATION OF CERTAIN GENERAL PROVISIONS.—The following sections of the Social Security Act shall apply to States under this section in the same manner as they apply to a State under such title XIX:

(A) TITLE XIX PROVISIONS.—

(i) Section 1902(a)(4)(C) (relating to conflict of interest standards).

(ii) Paragraphs (2), (16), and (17) of section 1903(i) (relating to limitations on payment).

(iii) Section 1903(w) (relating to limitations on provider taxes and donations).

(iv) Section 1920A (relating to presumptive eligibility for children).

(B) TITLE XI PROVISIONS.—

(i) Section 1116 (relating to administrative and judicial review), but only insofar as consistent with this title.

(ii) Section 1124 (relating to disclosure of ownership and related information).

(iii) Section 1126 (relating to disclosure of information about certain convicted individuals).

(iv) Section 1128A (relating to civil monetary penalties).

(v) Section 1128B(d) (relating to criminal penalties for certain additional charges).

(vi) Section 1132 (relating to periods within which claims must be filed).

(4) RELATION TO OTHER LAWS.—

(A) HIPAA.—Health benefits coverage provided under a State program or project under this section shall be treated as creditable coverage for purposes of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974, title XXVII of the Public Health Service Act, and subtitle K of the Internal Revenue Code of 1986.

(B) ERISA.—Nothing in this section shall be construed as affecting or modifying section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144) with respect to a group health plan (as defined in section 2791(a)(1) of the Public Health Service Act (42 U.S.C. 300gg–91(a)(1))).

(j) AUTHORIZATIONS.—

(1) IN GENERAL.—There are appropriated in each of fiscal years 2007 through 2016 to carry out this Act, an amount equal to the amount of savings to the Federal Government in each such fiscal year as a result of the enactment of the provisions of title II.

(2) USE OF FUNDS.—Amounts appropriated for a fiscal year under paragraph (1) and not expended may be used in subsequent fiscal years to carry out this section.

(3) LIMITATION.—Notwithstanding any other provision of this Act, the total amount of funds appropriated to carry out this Act through fiscal year 2016 shall not exceed $32,000,000,000.

TITLE II—OFFSETS

SEC. 201. INCREASE IN REBATES FOR COVERED OUTPATIENT DRUGS.

Section 1927(c)(1)(B)(i) of the Social Security Act (42 U.S.C. 1396r-8(c)(1)(B)(i)) is amended—

(1) in subclause (IV), by striking ''and'' after the semicolon;

(2) in subclause (V)—

(A) by inserting ''and before January 1, 2007,'' after ''1995,''; and

(B) by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(VI) after December 31, 2006, is 20 percent.''.

SEC. 202. STUDENT AID REWARD PROGRAM.

Part G of title IV of the Higher Education Act of 1965 is amended by inserting after section 489 (20 U.S.C. 1096) the end the following:

''SEC. 489A. STUDENT AID REWARD PROGRAM.

''(a) PROGRAM AUTHORIZED.—The Secretary shall carry out a Student Aid Reward Program to encourage institutions of higher education to participate in the student loan program under this title that is most cost-effective for taxpayers.

''(b) PROGRAM REQUIREMENTS.—In carrying out the Student Aid Reward Program, the Secretary shall—

''(1) provide to each institution of higher education participating in the student loan program under this title that is most cost-effective for taxpayers a Student Aid Reward Payment, in an amount determined in accordance with subsection (c), to encourage the institution to participate in that student loan program;

''(2) require each institution of higher education receiving a payment under this section to provide student loans under that student loan program for a period of 5 years from the date the payment is made;

''(3) where appropriate, require that funds paid to institutions of higher education under this section be used to award students a supplement to such students' Pell Grants under subpart 1 of part A;

''(4) permit such funds to also be used to award lower and middle income graduate students need-based grants; and

''(5) encourage all institutions of higher education to participate in the Student Aid Reward Program.

''(c) AMOUNT.—The amount of a Student Aid Reward Payment under this section shall be not less than 50 percent, and not more than 75 percent, of the savings to the Federal Government generated by the institution's participation in the student loan program under this title that is most cost-effective for taxpayers instead of the institution's participation in the student loan program not cost-effective for taxpayers.

''(d) TRIGGER TO ENSURE COST NEUTRALITY.—

''(1) LIMIT TO ENSURE COST NEUTRALITY.—Notwithstanding subsection (c), the Secretary shall not distribute Student Aid Reward Payments under the Student Aid Reward Program that, in the aggregate, exceed the Federal savings resulting from implementation of the Student Aid Reward Program.

''(2) FEDERAL SAVINGS.—In calculating Federal savings, as used in paragraph (1), the Secretary shall determine Federal savings on loans made to students at institutions of higher education that participate the student loan program under this title that is most cost-effective for taxpayers and that, on the date of enactment of the Student Aid Reward Program, participated in the student loan program that is not the most cost-effective for taxpayers, resulting from the difference of—

''(A) the Federal cost of loan volume made under the student loan program under this title that is most cost-effective for taxpayers; and

''(B) the Federal cost of an equivalent type and amount of loan volume made, insured, or guaranteed under the student loan program under this title that is not the most cost-effective for taxpayers.

''(3) DISTRIBUTION RULES.—If the Federal savings determined under paragraph (2) is not sufficient to distribute full Student Aid Reward Payments under the Student Aid Reward Program, the Secretary shall—

''(A) first make Student Aid Reward Payments to those institutions of higher education that participated in the student loan program under this title that is not the most cost-effective for taxpayers on the date of enactment of the Student Aid Reward Program; and

''(B) with any remaining Federal savings after making Payments under subparagraph (A), make Student Aid Reward Payments to the institutions of higher education not described in subparagraph (A) on a pro-rata basis.

''(4) DISTRIBUTION TO STUDENTS.—Any institution of higher education that receives a Student Aid Reward Payment under this section—

''(A) shall distribute, where appropriate, part or all of such payment among the students of such institution who are Pell Grant recipients by awarding such students a supplemental grant; and

''(B) may distribute part of such payment as a supplemental grant to graduate students in financial need.

''(5) ESTIMATES, ADJUSTMENTS, AND CARRY OVER.—

''(A) ESTIMATES AND ADJUSTMENTS.—The Secretary may make Student Aid Reward Payments to institutions of higher education on the basis of estimates, using the best data available at the beginning of an academic/fiscal year. If the Secretary determines thereafter that loan program costs for that academic/fiscal year were different than such estimate, the Secretary shall adjust (reduce or increase) subsequent Student Aid Reward Payments rewards paid to such institutions of higher education to reflect such difference.

''(B) CARRY OVER.—Any institution of higher education that receives a reduced Student Aid Reward Payment under paragraph (3)(B), shall remain eligible for the unpaid portion of such institution's financial reward payment, as well as any additional financial reward payments for which the institution is otherwise eligible, in subsequent academic or fiscal years.

''(e) DEFINITION.—For purposes of this section—

''(1) the student loan program under this title that is most cost-effective for taxpayers is the loan program under part B or D of this title that has the lowest overall cost to the Federal Government (including administrative costs) for the loans authorized by such parts; and

''(2) the student loan program under this title that is not most cost-effective for taxpayers is the loan program under part B or D of this title that does not have the lowest overall cost to the Federal Government (including administrative costs) for the loans authorized by such parts.''.

SEC. 203. AVIATION SECURITY SERVICE PASSENGER FEES.

Section 44940 of title 49, United States Code, is amended—

(1) in subsection (a)(1), by inserting ''in an amount equal to $5.00 per one-way trip'' after ''uniform fee'';

(2) by striking subsection (c); and

(3) in subsection (d)—

(A) in paragraph (2), by striking ''subsection (d)'' each place it appears and inserting ''this subsection''; and

(B) in paragraph (3), by striking ''in accordance with paragraph (1)'' and inserting ''under subsection (a)(2)''.

SEC. 204. EXTENSION OF FCC SPECTRUM AUCTION AUTHORITY.

Section 309(j)(11) of the Communications Act of 1934 (47 U.S.C. 309(j)(11)) is amended by striking ''2011'' and inserting ''2016''.

SEC. 205. EXTENSION OF FEES FOR CERTAIN CUSTOMS SERVICES.

Section 13031(j)(3)(A) and (B) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)(A) and (B)) is amended by striking ''2014'' each place it appears and inserting ''2016''.

By Mr. KERRY:

S. 3777. A bill to amend the Internal Revenue Code of 1986 to ensure a fairer and simpler method of taxing controlled foreign corporations of United States shareholders, to treat certain foreign corporations managed and controlled in the United States as domestic corporations, to codify the economic substance doctrine, and to eliminate the top corporate income tax rate, and for other purposes; to the Committee on Finance.

Mr. KERRY. Mr. President, today I am introducing the Export Products Not Jobs Act of 2006. Tomorrow, the Senate Finance Committee will hold a hearing to tackle the issue of tax reform and will hear from the chairman and vice chairman of the President's Advisory Panel on Federal Tax Reform. The panel's report took a broad look at our current tax law and made numerous recommendations. I agree with some of the recommendations and have concerns about others, but believe that the report provides a good starting place for a thorough discussion of tax reform.

In 1994, the IRS estimated that a family that itemized their deductions and had some interest and capital gains would spend 11½ hours preparing their Federal income tax return. This estimate has increased to 19 hours and 45 minutes in 2004. It is time for Congress to pass bipartisan tax legislation in the style of Tax Reform Act of 1986, which greatly simplified Tax Code. And our tax reform should be based upon the following three principles: fairness, simplicity, and opportunity for economic growth.

Our Tax Code is extremely complicated. Citizens and businesses struggle to comply with rules governing: taxation of business income, capital gains, income phase-outs, extenders, the myriad savings vehicles, record-keeping for itemized deductions, the alternative minimum tax, AMT, the earned-income tax credit, EITC, and taxation of foreign business income. I believe that our international tax system needs to be simplified and reformed to encourage businesses to remain in the United States. And today, I am introducing legislation that I hope will be fully considered as we begin our discussions on tax reform.

Presently, the complexities of our international tax system actually encourage U.S. corporations to invest overseas. Current tax laws allow companies to defer paying U.S. taxes on income earned by their foreign subsidiaries, which provides a substantial tax break for companies that move investment and jobs overseas. Today, under U.S. tax law, a company that is trying to decide where to locate production or services—either in the United States or in a foreign low-tax haven—is actually given a substantial tax incentive not only to move jobs overseas but to reinvest profits permanently, as opposed to bringing the profits back to re-invest in the United States.

Recent press articles have revealed examples of companies taking advantage of this perverse incentive in our Tax Code. For instance, some companies have taken advantage of this initiative by opening subsidiaries to serve markets throughout Europe. Much of the profit earned by these subsidiaries will stay in Ireland and the companies will therefore avoid paying U.S. taxes. Other companies have announced the expansion of jobs in India. This reflects a continued pattern among some U.S. multinational companies of shifting software development and call centers to India, and this trend is starting to expand to include the shifting of critical functions like design and research

and development to India as well. Some companies are even outsourcing the preparation of U.S. tax returns.

The Export Products Not Jobs Act of 2006 would put an to end to these practices by eliminating tax breaks that encourage companies to move jobs overseas and by using the savings to create jobs in the United States by repealing the top corporate tax rate. This legislation ends tax breaks that encourage companies to move jobs by: (1) eliminating the ability of companies to defer paying U.S. taxes on foreign income; (2) closing abusive corporate tax loopholes; and (3) repealing the top corporate rate. It removes the incentive to shift jobs overseas by eliminating deferral so that companies pay taxes on their international income as they earn it, rather than being allowed to defer taxes.

Last month, the Ways and Means Subcommittee on Revenue held a hearing on international tax laws. Stephen Shay, a former Reagan Treasury official, testified that our tax rules ''provide incentives to locate business activity outside the United States.'' Furthermore, he suggested that taxation of U.S. shareholders under an expansion of Subpart F would be a ''substantial improvement'' over our current system. The Export Products Not Jobs Act of 2006 does just that.

Our current tax system punishes U.S. companies that choose to create and maintain jobs in the United States. These companies pay higher taxes and suffer a competitive disadvantage with a company that chooses to move jobs to a foreign tax haven. There is no reason why our Tax Code should provide an incentive that encourages investment and job creation overseas. Under my legislation, companies would be taxed the same whether they invest abroad or at home; they will be taxed on their foreign subsidiary profits just like they are taxed on their domestic profits.

This legislation reflects the most sweeping simplification of international taxes in over 40 years. Our economy has changed in the last 40 years and our tax laws need to be updated to keep pace. Our current global economy was not even envisioned when existing law was written.

The Export Products Not Jobs Act of 2006 that I am introducing today will not hinder our global competitiveness. Companies will be able to continue to defer income they earn when they locate production in a foreign country that serves that foreign country's markets. For example, if a U.S. company wants to open a hotel in Bermuda or a car factory in India to sell cars, foreign income can still be deferred. But if a company wants to open a call center in India to answer calls from outside India or relocate abroad to sell cars back to the United States or Canada, the company must pay taxes just like call centers and auto manufacturers located in the United States.

Currently, American companies allocate their revenue not in search of the highest return, but in search of lower taxes. Eliminating deferral will improve the efficiency of the economy by making taxes neutral so that they do not encourage companies to overinvest abroad solely for tax reasons.

The Congressional Research Service stated in a 2003 report that, ''[a]ccording to traditional economic theory, deferral thus reduces economic welfare by encouraging firms to undertake overseas investments that are less productive—before taxes are considered—than alternative investments in the United States.'' Additionally, a 2000 Department of Treasury study on deferral stated, ''[a]mong all of the options considered, ending deferral would also be likely to have the most positive long-term effect on economic efficiency and welfare because it would do the most to eliminate tax considerations from decisions regarding the location of investment.''

The revenue raised from the repeal of deferral and closing corporate loopholes would be used to repeal the top corporate tax rate of 35 percent. The tax differential between U. S. corporate rates and foreign corporate rates has grown over the last two decades and the repeal of the top corporate rate is a start in narrowing this gap.

The Export Products Not Jobs Act of 2006 would promote equity among U.S. taxpayers by ensuring that corporations could not eliminate or substantially reduce taxation of foreign income by separately incorporating their foreign operations. This legislation will eliminate the tax incentives to encourage U.S. companies to invest abroad and reward those companies that have chosen to invest in the United States. I urge my colleagues to join me in this effort, and ask for unanimous consent that the full text of the bill be printed in the RECORD.

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

S. 3777

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This Act may be cited as the ''Export Products Not Jobs Act''.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

TITLE I—FOREIGN TAX REFORM AND SIMPLIFICATION

SEC. 101. REFORM AND SIMPLIFICATION OF SUBPART F.

(a) IN GENERAL.—Subpart F of part III of subchapter N of chapter 1 (relating to controlled foreign corporations) is amended by striking sections 952, 953, and 954 and inserting the following:

''SEC. 952. SUBPART F INCOME DEFINED.

''(a) IN GENERAL.—For purposes of this subpart, except as provided in this section, the term 'subpart F income' means the gross income of the controlled foreign corporation.

''(b) EXCEPTIONS FOR CERTAIN TYPES OF INCOME.—Subpart F income shall not include—

''(1) the active home country income (as defined in section 953) of the controlled foreign corporation for the taxable year, or

''(2) any item of income for the taxable year from sources within the United States which is effectively connected with the conduct by the controlled foreign corporation of a trade or business within the United States unless such item is exempt from taxation (or is subject to a reduced rate of tax) pursuant to a treaty obligation of the United States. For purposes of paragraph (2), income described in paragraph (2) or (3) of section 921(d) shall be treated as derived from sources within the United States and any exemption (or reduction) with respect to the tax imposed by section 884 shall not be taken into account.

''(c) LIMITATION BASED ON EARNINGS AND PROFITS.—

''(1) IN GENERAL.—For purposes of subsection (a), the subpart F income of any controlled foreign corporation for any taxable year shall not exceed the earnings and profits of such corporation for such taxable year.

''(2) RECHARACTERIZATION IN SUBSEQUENT TAXABLE YEARS.—If the subpart F income of any controlled foreign corporation for any taxable year was reduced by reason of paragraph (1), any excess of the earnings and profits of such corporation for any subsequent taxable year over the subpart F income of such foreign corporation for such taxable year shall be recharacterized as subpart F income under rules similar to the rules applicable under section 904(f)(5).

''(3) SPECIAL RULE FOR DETERMINING EARNINGS AND PROFITS.—For purposes of this subsection, earnings and profits of any controlled foreign corporation shall be determined without regard to paragraphs (4), (5), and (6) of section 312(n). Under regulations, the preceding sentence shall not apply to the extent it would increase earnings and profits by an amount which was previously distributed by the controlled foreign corporation.

''(d) DE MINIMIS EXCEPTION.—If the subpart F income of a controlled foreign corporation for any taxable year (determined without regard to this subsection and section 954(a)) is less than the lesser of—

''(1) 5 percent of gross income, or

''(2) $1,000,000,

the subpart F income of such corporation for such taxable year shall be treated as being equal to zero.

''(e) SPECIAL RULES RELATING TO BOYCOTTS, BRIBES, AND CERTAIN FOREIGN COUNTRIES.—

''(1) IN GENERAL.—Subpart F income of a controlled foreign corporation for any taxable year (determined without regard to this subsection) shall be increased by the sum of—

''(A) the product of—

''(i) the gross income of the corporation reduced by its subpart F income (as so determined), and

''(ii) the international boycott factor (as determined under section 999),

''(B) the sum of the amounts of any illegal bribes, kickbacks, or other payments (within the meaning of section 162(c)) paid by or on behalf of the corporation during the taxable year of the corporation directly or indirectly to an official, employee, or agent in fact of a government, and

''(C) the gross income of such corporation which is derived from any foreign country during any period during which section 901(j) applies to such foreign country and which is not otherwise treated as subpart F income (as so determined).

''(2) SPECIAL RULE FOR ILLEGAL PAYMENTS.—The payments referred to in paragraph (1)(B) are payments which would be

unlawful under the Foreign Corrupt Practices Act of 1977 if the payor were a United States person.

''(3) INCOME DERIVED FROM FOREIGN COUNTRY.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of paragraph (1)(C), including regulations which treat income paid through 1 or more entities as derived from a foreign country to which section 901(j) applies if such income was, without regard to such entities, derived from such country.

''SEC. 953. ACTIVE HOME COUNTRY INCOME.

''(a) IN GENERAL.—For purposes of section 952(b), the term 'active home country income' means, with respect to any controlled foreign corporation, income derived from the active and regular conduct of 1 or more trades or businesses within the home country of such corporation which constitutes—

''(1) qualified property income, or

''(2) qualified services income.

''(b) QUALIFIED PROPERTY INCOME.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified property income' means income derived in connection with—

''(A) the manufacture, production, growth, or extraction (in whole or in substantial part)of any personal property within the home country of the controlled foreign corporation, or

''(B) the resale by the controlled foreign corporation within its home country of personal property manufactured, produced, grown, or extracted (in whole or in substantial part) within that home country.

''(2) PROPERTY MUST BE USED OR CONSUMED IN HOME COUNTRY.—Paragraph (1) shall only apply to income if the personal property is sold for use or consumption within the home country.

''(c) QUALIFIED SERVICES INCOME.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified services income' means income (other than qualified property income) derived in connection with the providing of services in transactions with customers which, at the time the services are provided, are located in the home country of such corporation.

''(2) SERVICES MUST BE USED IN HOME COUNTRY.—Paragraph (1) shall only apply to income if the services—

''(A) are used or consumed in the home country of the controlled foreign corporation, or

''(B) are used in the active conduct of a trade or business by the recipient and substantially all of the activities in connection with the trade or business are conducted by the recipient in such home country.

''(3) SPECIAL RULE FOR INSURANCE INCOME.—If income of a controlled foreign corporation—

''(A) is attributable to the issuing (or reinsuring) of an insurance or annuity contract, and

''(B) would (subject to the modifications under section 954(c)(2)(B)) be taxed under subchapter L of this chapter if such income were the income of a domestic corporation,

such income shall be treated as qualified services income only if the contract covers only risks in connection with property in, liability arising out of activity in, or lives or health of residents of, the home country of such corporation.

''(4) ANTI-ABUSE RULE.—For purposes of this subsection, there shall be disregarded any item of income of a controlled foreign corporation derived in connection with any trade or business if, in the conduct of the trade or business, the corporation is not engaged in regular and continuous transactions with customers which are not related persons.

''(d) HOME COUNTRY.—For purposes of this section, the term 'home country' means, with respect to a controlled foreign corporation, the country in which such corporation is created or organized.

''SEC. 954. OTHER RULES AND DEFINITIONS RELATING TO SUBPART F INCOME.

''(a) DEDUCTIONS TO BE TAKEN INTO ACCOUNT.—For purposes of determining the subpart F income of a controlled foreign corporation for any taxable year, gross income, and any category of income described in subsection (b) or (c) of section 953, shall be reduced by deductions (including taxes) properly allocable to such income or category. The Secretary shall prescribe regulations for the application of this subsection.

''(b) ELECTION BY CONTROLLED FOREIGN CORPORATION TO BE TREATED AS DOMESTIC CORPORATION.—

''(1) IN GENERAL.—If—

''(A) a foreign corporation is a controlled foreign corporation which makes an election to have this subsection apply and waives all benefits to such corporation granted by the United States under any treaty, and

''(B) such foreign corporation meets such requirements as the Secretary shall prescribe to ensure that the taxes imposed by this chapter on such foreign corporation are paid,

such corporation shall be treated as a domestic corporation for purposes of this title.

''(2) PERIOD DURING WHICH ELECTION IS IN EFFECT.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), an election under paragraph (1) shall apply to the taxable year for which made and all subsequent taxable years unless revoked with the consent of the Secretary.

''(B) TERMINATION.—If a corporation which made an election under paragraph (1) for any taxable year fails to meet the requirements of subparagraph (B) of paragraph (1) for any subsequent taxable year, such election shall not apply to such subsequent taxable year and all succeeding taxable years.

''(3) TREATMENT OF LOSSES.—If any corporation treated as a domestic corporation under this subsection is treated as a member of an affiliated group for purposes of chapter 6 (relating to consolidated returns), any loss of such corporation shall be treated as a dual consolidated loss for purposes of section 1503(d) without regard to paragraph (2)(B) thereof.

''(4) EFFECT OF ELECTION.—

''(A) IN GENERAL.—For purposes of section 367, any foreign corporation making an election under paragraph (1) shall be treated as transferring (as of the 1st day of the 1st taxable year to which such election applies) all of its assets to a domestic corporation in connection with an exchange to which section 354 applies.

''(B) EXCEPTION FOR PRE-2007 EARNINGS AND PROFIT.—

''(i) IN GENERAL.—Earnings and profits of the foreign corporation accumulated in taxable years beginning before January 1, 2007, shall not be included in the gross income of the persons holding stock in such corporation by reason of subparagraph (A).

''(ii) TREATMENT OF DISTRIBUTIONS.—For purposes of this title, any distribution made by a corporation to which an election under paragraph (1) applies out of earnings and profits accumulated in taxable years beginning before January 1, 2007, shall be treated as a distribution made by a foreign corporation.

''(iii) CERTAIN RULES TO CONTINUE TO APPLY TO PRE-2007 EARNINGS.—The provisions specified in clause (iv) shall be applied without regard to paragraph (1), except that, in the case of a corporation to which an election under paragraph (1) applies, only earnings and profits accumulated in taxable years beginning before January 1, 2007, shall be taken into account.

''(iv) SPECIFIED PROVISIONS.—The provisions specified in this clause are:

''(I) Section 1248 (relating to gain from certain sales or exchanges of stock in certain foreign corporations).

''(II) Subpart F of part III of subchapter N to the extent such subpart relates to earnings invested in United States property or amounts referred to in clause (ii) or (iii) of section 951(a)(1)(A).

''(5) EFFECT OF TERMINATION.—For purposes of section 367, if—

''(A) an election is made by a corporation under paragraph (1) for any taxable year, and

''(B) such election ceases to apply for any subsequent taxable year,

such corporation shall be treated as a domestic corporation transferring (as of the 1st day of such subsequent taxable year) all of its property to a foreign corporation in connection with an exchange to which section 354 applies.

''(c) SPECIAL RULE FOR CERTAIN CAPTIVE INSURANCE COMPANIES.—

''(1) IN GENERAL.—Solely for purposes of applying this subpart to related person insurance income—

''(A) the term 'United States shareholder' means, with respect to any foreign corporation, a United States person (as defined in section 957(c)) who owns (within the meaning of section 958(a)) any stock of the foreign corporation,

''(B) the term 'controlled foreign corporation' has the meaning given to such term by section 957(a) determined by substituting '25 percent or more' for 'more than 50 percent', and

''(C) the pro rata share referred to in section 951(a)(1)(A)(i) shall be determined under paragraph (5) of this subsection.

''(2) RELATED PERSON INSURANCE INCOME.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'related person insurance income' means any income which—

''(i) is attributable to a policy of insurance or reinsurance with respect to which the person (directly or indirectly) insured is a United States shareholder in the foreign corporation or a related person to such a shareholder, and

''(ii) would (subject to the modifications provided by subparagraph (B)) be taxed under subchapter L of this chapter if such income were the income of a domestic insurance company.

''(B) SPECIAL RULES.—For purposes of subparagraph (A)—

''(i) The following provisions of subchapter L shall not apply:

''(I) The small life insurance company deduction.

''(II) Section 805(a)(5) (relating to operations loss deduction).

''(III) Section 832(c)(5) (relating to certain capital losses).

''(ii) The items referred to in—

''(I) section 803(a)(1) (relating to gross amount of premiums and other considerations),

''(II) section 803(a)(2) (relating to net decrease in reserves),

''(III) section 805(a)(2) (relating to net increase in reserves), and

''(IV) section 832(b)(4) (relating to premiums earned on insurance contracts),

shall be taken into account only to the extent they are in respect of any reinsurance or the issuing of any insurance or annuity contract described in subparagraph (A).

''(iii) Reserves for any insurance or annuity contract shall be determined in the same

manner as if the controlled foreign corporation were subject to tax under subchapter L, except that in applying such subchapter—

''(I) the interest rate determined for the functional currency of the corporation and which, except as provided by the Secretary, is calculated in the same manner as the Federal mid-term rate under section 1274(d), shall be substituted for the applicable Federal interest rate,

''(II) the highest assumed interest rate permitted to be used in determining foreign statement reserves shall be substituted for the prevailing State assumed interest rate, and

''(III) tables for mortality and morbidity which reasonably reflect the current mortality and morbidity risks in the corporation's home country shall be substituted for the mortality and morbidity tables otherwise used for such subchapter.

''(iv) All items of income, expenses, losses, and deductions shall be properly allocated or apportioned under regulations prescribed by the Secretary.

''(3) EXCEPTION FOR CORPORATIONS NOT HELD BY INSUREDS.—Paragraph (1) shall not apply to any foreign corporation if at all times during the taxable year of such foreign corporation—

''(A) less than 20 percent of the total combined voting power of all classes of stock of such corporation entitled to vote, and

''(B) less than 20 percent of the total value of such corporation,

is owned (directly or indirectly under the principles of section 883(c)(4)) by persons who are (directly or indirectly) insured under any policy of insurance or reinsurance issued by such corporation or who are related persons to any such person.

''(4) TREATMENT OF MUTUAL INSURANCE COMPANIES.—In the case of a mutual insurance company—

''(A) this subsection shall apply,

''(B) policyholders of such company shall be treated as shareholders, and

''(C) appropriate adjustments in the application of this subpart shall be made under regulations prescribed by the Secretary.

''(5) DETERMINATION OF PRO RATA SHARE.—

''(A) IN GENERAL.—The pro rata share determined under this paragraph for any United States shareholder is the lesser of—

''(i) the amount which would be determined under paragraph (2) of section 951(a) if—

''(I) only related person insurance income were taken into account,

''(II) stock owned (within the meaning of section 958(a)) by United States shareholders on the last day of the taxable year were the only stock in the foreign corporation, and

''(III) only distributions received by United States shareholders were taken into account under subparagraph (B) of such paragraph (2), or

''(ii) the amount which would be determined under paragraph (2) of section 951(a) if the entire earnings and profits of the foreign corporation for the taxable year were subpart F income.

''(B) COORDINATION WITH OTHER PROVISIONS.—The Secretary shall prescribe regulations providing for such modifications to the provisions of this subpart as may be necessary or appropriate by reason of subparagraph (A).

''(6) RELATED PERSON.—For purposes of this subsection—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'related person' has the meaning given such term by subsection (d)(3).

''(B) TREATMENT OF CERTAIN LIABILITY INSURANCE POLICIES.—In the case of any policy of insurance covering liability arising from services performed as a director, officer, or employee of a corporation or as a partner or employee of a partnership, the person performing such services and the entity for which such services are performed shall be treated as related persons.

''(7) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subsection, including—

''(A) regulations preventing the avoidance of this subsection through cross insurance arrangements or otherwise, and

''(B) regulations which may provide that a person will not be treated as a United States shareholder under paragraph (1) with respect to any foreign corporation if neither such person (nor any related person to such person) is (directly or indirectly) insured under any policy of insurance or reinsurance issued by such foreign corporation.

''(d) OTHER DEFINITIONS AND RULES.—For purposes of this section—

''(1) TREATMENT OF BRANCHES.—If—

''(A) a controlled foreign corporation carries on activities through a branch or similar establishment with a home country other than the home country of such corporation, and

''(B) the carrying on of such activities in such manner has substantially the same effect as if such branch or similar establishment were a wholly owned subsidiary of such corporation,

this subpart shall, under regulations prescribed by the Secretary, be applied as if such branch or other establishment were a wholly owned subsidiary of such corporation.

''(2) HOME COUNTRY.—For purposes of paragraph (1)—

''(A) IN GENERAL.—The term 'home country' has the meaning given such term by section 953(d).

''(B) BRANCH.—In the case of a branch or similar establishment, the term 'home country' means the foreign country in which—

''(i) the principal place of business of the branch or similar establishment is located, and

''(ii) separate books and accounts are maintained.

''(3) RELATED PERSON DEFINED.—For purposes of this section, a person is a related person with respect to a controlled foreign corporation, if—

''(A) such person is an individual, corporation, partnership, trust, or estate which controls, or is controlled by, the controlled foreign corporation, or

''(B) such person is a corporation, partnership, trust, or estate which is controlled by the same person or persons which control the controlled foreign corporation.

For purposes of the preceding sentence, control means, with respect to a corporation, the ownership, directly or indirectly, of stock possessing more than 50 percent of the total voting power of all classes of stock entitled to vote or of the total value of stock of such corporation. In the case of a partnership, trust, or estate, control means the ownership, directly or indirectly, of more than 50 percent (by value) of the beneficial interests in such partnership, trust, or estate. For purposes of this paragraph, rules similar to the rules of section 958 shall apply.''.

(b) CONFORMING AMENDMENT.—The table of sections for subpart F of part III of subchapter N of chapter 1 is amended by striking the items relating to sections 953 and 954 and inserting:

''Sec. 953. Active home country income.
''Sec. 954. Other rules and definitions relating to subpart F income.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years of controlled foreign corporations beginning after December 31, 2006, and taxable years of United States shareholders with or within which such taxable years of such corporations end.

SEC. 102. TREATMENT OF FOREIGN CORPORATIONS MANAGED AND CONTROLLED IN THE UNITED STATES AS DOMESTIC CORPORATIONS.

(a) IN GENERAL.—Section 7701(a)(4) of the Internal Revenue Code of 1986 (defining domestic) is amended to read as follows:

''(4) DOMESTIC.—

''(A) IN GENERAL.—The term 'domestic' means, when applied to a corporation or partnership, a corporation or partnership which is created or organized in the United States or under the law of the United States or of any State unless, in the case of a partnership, the Secretary provides otherwise by regulations.

''(B) INCOME TAX EXCEPTION FOR PUBLICLY-TRADED CORPORATIONS MANAGED AND CONTROLLED IN THE UNITED STATES.—Notwithstanding subparagraph (A), in the case of a corporation the stock of which is regularly traded on an established securities market, if—

''(i) the corporation would not otherwise be treated as a domestic corporation for purposes of this title, but

''(ii) the management and control of the corporation occurs primarily within the United States,

then, solely for purposes of chapter 1 (and any other provision of this title relating to chapter 1), the corporation shall be treated as a domestic corporation.

''(C) MANAGEMENT AND CONTROL.—For purposes of this paragraph, the management and control of a corporation shall be treated as primarily occurring within the United States if substantially all of the executive officers and senior management of the corporation who exercise day-to-day responsibility for making decisions involving strategic, financial, and operational policies of the corporation are primarily located within the United States. The Secretary may by regulations include other individuals not described in the preceding sentence in the determination of whether the management and control of the corporation occurs primarily within the United States if such other individuals exercise the day-to day responsibilities described in the preceding sentence.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning on or after the date which is 2 years after the date of the enactment of this Act.

TITLE II—ECONOMIC SUBSTANCE DOCTRINE

SEC. 201. CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE.

(a) IN GENERAL.—Section 7701 is amended by redesignating subsection (o) as subsection (p) and by inserting after subsection (n) the following new subsection:

''(o) CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE; ETC.—

''(1) GENERAL RULES.—

''(A) IN GENERAL.—In any case in which a court determines that the economic substance doctrine is relevant for purposes of this title to a transaction (or series of transactions), such transaction (or series of transactions) shall have economic substance only if the requirements of this paragraph are met.

''(B) DEFINITION OF ECONOMIC SUBSTANCE.—For purposes of subparagraph (A)—

''(i) IN GENERAL.—A transaction has economic substance only if—

''(I) the transaction changes in a meaningful way (apart from Federal tax effects) the taxpayer's economic position, and

''(II) the taxpayer has a substantial nontax purpose for entering into such transaction

and the transaction is a reasonable means of accomplishing such purpose.

In applying subclause (II), a purpose of achieving a financial accounting benefit shall not be taken into account in determining whether a transaction has a substantial nontax purpose if the origin of such financial accounting benefit is a reduction of income tax.

''(ii) SPECIAL RULE WHERE TAXPAYER RELIES ON PROFIT POTENTIAL.—A transaction shall not be treated as having economic substance by reason of having a potential for profit unless—

''(I) the present value of the reasonably expected pre-tax profit from the transaction is substantial in relation to the present value of the expected net tax benefits that would be allowed if the transaction were respected, and

''(II) the reasonably expected pre-tax profit from the transaction exceeds a risk-free rate of return.

''(C) TREATMENT OF FEES AND FOREIGN TAXES.—Fees and other transaction expenses and foreign taxes shall be taken into account as expenses in determining pre-tax profit under subparagraph (B)(ii).

''(2) SPECIAL RULES FOR TRANSACTIONS WITH TAX-INDIFFERENT PARTIES.—

''(A) SPECIAL RULES FOR FINANCING TRANSACTIONS.—The form of a transaction which is in substance the borrowing of money or the acquisition of financial capital directly or indirectly from a tax-indifferent party shall not be respected if the present value of the deductions to be claimed with respect to the transaction is substantially in excess of the present value of the anticipated economic returns of the person lending the money or providing the financial capital. A public offering shall be treated as a borrowing, or an acquisition of financial capital, from a tax-indifferent party if it is reasonably expected that at least 50 percent of the offering will be placed with tax-indifferent parties.

''(B) ARTIFICIAL INCOME SHIFTING AND BASIS ADJUSTMENTS.—The form of a transaction with a tax-indifferent party shall not be respected if—

''(i) it results in an allocation of income or gain to the tax-indifferent party in excess of such party's economic income or gain, or

''(ii) it results in a basis adjustment or shifting of basis on account of overstating the income or gain of the tax-indifferent party.

''(3) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

''(A) ECONOMIC SUBSTANCE DOCTRINE.—The term 'economic substance doctrine' means the common law doctrine under which tax benefits under subtitle A with respect to a transaction are not allowable if the transaction does not have economic substance or lacks a business purpose.

''(B) TAX-INDIFFERENT PARTY.—The term 'tax-indifferent party' means any person or entity not subject to tax imposed by subtitle A. A person shall be treated as a tax-indifferent party with respect to a transaction if the items taken into account with respect to the transaction have no substantial impact on such person's liability under subtitle A.

''(C) EXCEPTION FOR PERSONAL TRANSACTIONS OF INDIVIDUALS.—In the case of an individual, this subsection shall apply only to transactions entered into in connection with a trade or business or an activity engaged in for the production of income.

''(D) TREATMENT OF LESSORS.—In applying paragraph (1)(B)(ii) to the lessor of tangible property subject to a lease—

''(i) the expected net tax benefits with respect to the leased property shall not include the benefits of—

''(I) depreciation,

''(II) any tax credit, or

''(III) any other deduction as provided in guidance by the Secretary, and

''(ii) subclause (II) of paragraph (1)(B)(ii) shall be disregarded in determining whether any of such benefits are allowable.

''(4) OTHER COMMON LAW DOCTRINES NOT AFFECTED.—Except as specifically provided in this subsection, the provisions of this subsection shall not be construed as altering or supplanting any other rule of law, and the requirements of this subsection shall be construed as being in addition to any such other rule of law.

''(5) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection. Such regulations may include exemptions from the application of this subsection.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions entered into after the date of the enactment of this Act.

SEC. 202. PENALTY FOR UNDERSTATEMENTS ATTRIBUTABLE TO TRANSACTIONS LACKING ECONOMIC SUBSTANCE, ETC.

(a) IN GENERAL.—Subchapter A of chapter 68 is amended by inserting after section 6662A the following new section:

''SEC. 6662B. PENALTY FOR UNDERSTATEMENTS ATTRIBUTABLE TO TRANSACTIONS LACKING ECONOMIC SUBSTANCE, ETC.

''(a) IMPOSITION OF PENALTY.—If a taxpayer has an noneconomic substance transaction understatement for any taxable year, there shall be added to the tax an amount equal to 40 percent of the amount of such understatement.

''(b) REDUCTION OF PENALTY FOR DISCLOSED TRANSACTIONS.—Subsection (a) shall be applied by substituting '20 percent' for '40 percent' with respect to the portion of any noneconomic substance transaction understatement with respect to which the relevant facts affecting the tax treatment of the item are adequately disclosed in the return or a statement attached to the return.

''(c) NONECONOMIC SUBSTANCE TRANSACTION UNDERSTATEMENT.—For purposes of this section—

''(1) IN GENERAL.—The term 'noneconomic substance transaction understatement' means any amount which would be an understatement under section 6662A(b)(1) if section 6662A were applied by taking into account items attributable to noneconomic substance transactions rather than items to which section 6662A would apply without regard to this paragraph.

''(2) NONECONOMIC SUBSTANCE TRANSACTION.—The term 'noneconomic substance transaction' means any transaction if—

''(A) there is a lack of economic substance (within the meaning of section 7701(o)(1)) for the transaction giving rise to the claimed benefit or the transaction was not respected under section 7701(o)(2), or

''(B) the transaction fails to meet the requirements of any similar rule of law.

''(d) RULES APPLICABLE TO COMPROMISE OF PENALTY.—

''(1) IN GENERAL.—If the 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals has been sent with respect to a penalty to which this section applies, only the Commissioner of Internal Revenue may compromise all or any portion of such penalty.

''(2) APPLICABLE RULES.—The rules of paragraphs (2) and (3) of section 6707A(d) shall apply for purposes of paragraph (1).

''(e) COORDINATION WITH OTHER PENALTIES.—Except as otherwise provided in this part, the penalty imposed by this section shall be in addition to any other penalty imposed by this title.

''(f) CROSS REFERENCES.—

''(1) For coordination of penalty with understatements under section 6662 and other special rules, see section 6662A(e)

''(2) For reporting of penalty imposed under this section to the Securities and Exchange Commission, see section 6707A(e).''.

(b) COORDINATION WITH OTHER UNDERSTATEMENTS AND PENALTIES.—

(1) The second sentence of section 6662(d)(2)(A) is amended by inserting ''and without regard to items with respect to which a penalty is imposed by section 6662B'' before the period at the end.

(2) Subsection (e) of section 6662A is amended—

(A) in paragraph (1), by inserting ''and noneconomic substance transaction understatements'' after ''reportable transaction understatements'' both places it appears,

(B) in paragraph (2)(A), by inserting ''and a noneconomic substance transaction understatement'' after ''reportable transaction understatement'',

(C) in paragraph (2)(B), by inserting ''6662B or'' before ''6663'',

(D) in paragraph (2)(C)(i), by inserting ''or section 6662B'' before the period at the end,

(E) in paragraph (2)(C)(ii), by inserting ''and section 6662B'' after ''This section'',

(F) in paragraph (3), by inserting ''or noneconomic substance transaction understatement'' after ''reportable transaction understatement'', and

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

''(4) NONECONOMIC SUBSTANCE TRANSACTION UNDERSTATEMENT.—For purposes of this subsection, the term 'noneconomic substance transaction understatement' has the meaning given such term by section 6662B(c).''.

(3) Subsection (e) of section 6707A is amended—

(A) by striking ''or'' at the end of subparagraph (B), and

(B) by striking subparagraph (C) and inserting the following new subparagraphs:

''(C) is required to pay a penalty under section 6662B with respect to any noneconomic substance transaction, or

''(D) is required to pay a penalty under section 6662(h) with respect to any transaction and would (but for section 6662A(e)(2)(C)) have been subject to penalty under section 6662A at a rate prescribed under section 6662A(c) or under section 6662B,''.

(c) CLERICAL AMENDMENT.—The table of sections for part II of subchapter A of chapter 68 is amended by inserting after the item relating to section 6662A the following new item:

''Sec. 6662B. Penalty for understatements attributable to transactions lacking economic substance, etc.''

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions entered into after the date of the enactment of this Act.

SEC. 203. DENIAL OF DEDUCTION FOR INTEREST ON UNDERPAYMENTS ATTRIBUTABLE TO NONECONOMIC SUBSTANCE TRANSACTIONS.

(a) IN GENERAL.—Section 163(m) (relating to interest on unpaid taxes attributable to nondisclosed reportable transactions) is amended—

(1) by striking ''attributable'' and all that follows and inserting the following: ''attributable to—

''(1) the portion of any reportable transaction understatement (as defined in section 6662A(b)) with respect to which the requirement of section 6664(d)(2)(A) is not met, or

''(2) any noneconomic substance transaction understatement (as defined in section 6662B(c)).'', and

(2) by inserting ''**AND NONECONOMIC SUBSTANCE TRANSACTIONS**'' in the heading thereof after ''**TRANSACTIONS**''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions after the date of the enactment of this Act in taxable years ending after such date.

TITLE III—ELIMINATION OF HIGHEST CORPORATE MARGINAL INCOME TAX RATE

SEC. 301. ELIMINATION OF HIGHEST CORPORATE MARGINAL INCOME TAX RATE.

(a) IN GENERAL.—Section 11(b)(1) (relating to amount of tax imposed on corporations) is amended by striking subparagraphs (C) and (D) and inserting the following new subparagraph:

''(C) 34 percent of so much of the taxable income as exceeds $75,000.''.

(b) CERTAIN PERSONAL SERVICE CORPORATIONS.—Section 11(b)(2) is amended by striking ''35 percent'' and inserting ''34 percent''.

(c) CONFORMING AMENDMENTS.—

(1) Section 11(b)(1) is amended by striking the last sentence.

(2) Section 1201(a) is amended—

(A) by striking ''35 percent'' each place it appears and inserting ''34 percent'', and

(B) by striking ''last 2 sentences'' and inserting ''last sentence''.

(3) Paragraphs (1) and (2) of section 1445(e) are each amended by striking ''35 percent'' and inserting ''34 percent''.

(4) Section 1561(a) is amended by striking ''last 2 sentences'' and inserting ''last sentence''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2006.

By Ms. SNOWE:

S. 3778. An original bill to reauthorize and improve the Small Business Act and the Small Business Act of 1958, and for other purposes; from the Committee on Small Business and Entrepreneurship; placed on the calendar.

Ms. SNOWE. Mr. President, as chair of the Senate Committee on Small Business and Entrepreneurship, I rise today to introduce a bill, The Small Business Reauthorization and Improvements Act of 2006, that was reported by the committee on a vote of 18 to 0.

I strongly believe we must do everything possible to sustain prosperity and job creation throughout Maine and the United States. To achieve that goal, I have long fought to expand the reach of Small Business Administration programs that have helped millions of aspiring entrepreneurs and existing small businesses.

Today is a pivotal time for the SBA. A new Administrator, Steven C. Preston, has been sworn in, and I have held hearings on the reauthorization of the agency's programs that are set to expire September 30, 2006. The reauthorization and funding of SBA programs is vital to the continued growth of the economy and the small business community. My goal is for the process to conclude with a renewed SBA that is completely dedicated to fostering small business ownership and job creation in America.

The SBA's fundamental purpose is to ''aid, counsel, assist, and protect the interests of small-business concerns.'' The methods for carrying out this congressional mandate include a wide array of financial, procurement, management, and technical assistance programs tailored to encourage small business growth and expansion. As the economy continues to grow, it is essential that Congress affirms long-term stability in the programs the SBA provides to the small business community. The American economy needs a strong and vibrant SBA because small businesses represent 99 percent of all employers, create nearly 75 percent of all net new jobs, and employ 51 percent of the private-sector workforce.

There is no doubt that SBA's technical assistance programs have demonstrated impressive growth. During fiscal year 2005, the SBA provided 56,739 small businesses with technical assistance. That was an astounding 46.4 percent increase from the 38,754 small businesses assisted in fiscal year 2004.

If there is truth in numbers, the SBA has numerous ''truths'' it can and should tout. Its record of achievement for fiscal year 2005 alone includes:

Counseling 1.5 million entrepreneurs through the agency's Small Business Development Centers, Business Information Centers, SCORE and Women's Business Centers;

approving over 89,000 business loans through the 7(a) and 504 lending programs;

funding 74,307 7(a) program loans to small businesses for a total of more than $14 billion; and

a doubling of small business lending since 2001, with nearly a third of SBA-backed loans being made to minority-owned small businesses.

Despite a drastically declining share of the Federal budget, the data clearly indicate that the SBA's programs have created or retained a significant number of jobs over the last several years. Between fiscal year 1999 and fiscal year 2004, the SBA's Offices of Advocacy and Legislative Affairs report that the SBA's lending and technical assistance programs enabled participating small businesses to create or retain 4.4 million new jobs. In addition, the SBA's programs have helped to create or retain more jobs during each passing year. In fiscal year 2004, the SBA's programs created or retained 51.2 percent more jobs than they did in fiscal 1999.

Our goal is to build on these tremendous successes. The building blocks for a successful reauthorization are a bipartisan bill: The Small Business Reauthorization and Improvements Act. It is cosponsored by Ranking Member KERRY, Senator VITTER, Senator LANDRIEU, Senator CANTWELL, Senator LIEBERMAN and Senator ISAKSON. This legislation will:

Reform the SBA's largest small business financing program, the section 7(a) loan program, which provided almost $15 billion in loans to small businesses last year, by increasing the maximum size of a loan from $2 million to $3 million.

Require the SBA to implement a more efficient test for loan eligibility that measures businesses' revenues, rather than merely their number of employees.

Establish a national preferred lender program to increase small businesses' access to capital by reducing duplicative administrative burdens on small business loans.

Restructure the Small Business Investment Company Program, an innovative public-private venture capital partnership that has provided more than $25 billion in financing to small businesses.

Expand the SBA's capability to assist disaster victims by allowing private lenders to make loans at lower interest rates.

Increase Federal authority to prosecute, suspend, and debar large corporations which obtain government contracts by misrepresenting themselves as small businesses.

Create a stronger system of SBA size standards to ensure that Federal agencies respect SBA decisions on whether a company that receives a government contract is truly a small business.

Address the small business health insurance crisis by creating a competitive pilot grant program for Small Business Development Centers, SBDCs, to provide counseling and resources to small businesses about health insurance options in their geographic areas.

The legislation also rejects new loan fees. I strongly oppose SBA's proposal to increase fees for these programs. The fees would be charged against every loan that is greater than $1 million. In the 7(a) program, this is 3 percent of loans; in the 504 program, it is 15 percent of loans; and in the SBIC program it's 100 percent of the loans. A fee increase is not the way to balance the budget and it remains wholly unacceptable, to put it mildly.

Increasing fees charged to small businesses end up hurting—not helping our Nation's small businesses. When we consider that the SBA's budget represents less than 3/100ths of a percent of the total Federal budget, is this really the place for the administration to find additional savings? Congress must always strive to ensure that all small businesses are able to access SBA's financing programs without additional penalties.

In 2005, SBA programs disbursed recordbreaking totals of loans to small businesses, both in the number of loans and total dollar value provided to small businesses. During the last fiscal year, the SBA guaranteed over $24 billion in loans and venture capital for small businesses, the highest level of capital ever provided. This included over $1 million in 90 loans to Mainers through the Microloan program, which is an inexpensive program the Bush administration has targeted for elimination.

The SBA's programs demonstrate how Congress can play a positive role in enhancing private-sector financing

for start-up companies. Since 1953, nearly 20 million small business owners have received direct or indirect help from one of the SBA's lending or technical assistance programs, making the agency one of the government's most cost-effective instruments for economic development.

SBA loan and investment programs have produced success story after success story, which include assisting the founders of Intel, Staples, and Federal Express, as well as thousands of other successful businesses. This bill will build upon these past successes and make the SBA even more effective.

The American economy needs a strong and vibrant Small Business Administration. This committee is here to help improve the SBA in any way possible to ensure the success of tomorrow's entrepreneurs. Of course, the agency has been subjected to criticism, including my own. We can move beyond criticism and find solutions to the problems that have plagued the SBA and transform it into an agency that is led with the same dedication to excellence found in the entrepreneurs it serves. The Small Business Reauthorization And Improvements Act will help us achieve that goal.

Mr. KERRY. Mr. President, I rise today as ranking Democrat on the Committee on Small Business and Entrepreneurship, in support of a bipartisan bill being reported out of our committee, the Small Business Reauthorization and Improvements Act of 2006. This bill, which originated in our committee and which is the product of many Senators' work, was voted out unanimously, 18 to 0. While there are no official cosponsors of the legislation because it is an original bill being reported out of committee, I would have been pleased to be added as an original cosponsor, and Senators LANDRIEU, CANTWELL, LIEBERMAN and VITTER also asked to be added as cosponsors. I would like to thank my colleague from Maine, Senator SNOWE, for making this a bipartisan process. This is the fourth Small Business reauthorization bill I have worked on, having been a member of the committee for 21 years. Our committee has the reputation for working across party lines to put what is important for small businesses first, and I appreciate that the Chair and her staff have worked with us on reauthorization with that goal in mind. The result is a comprehensive approach to reauthorizing the SBA for the next 3 years that includes not Republican or Democratic priorities but instead the priorities of America's small businesses.

This reauthorization could not have came at a more opportune time to tackle some of the issues that are eating away at our small business programs and at the core mission of the SBA—which is to foster small business growth and bridge the gaps left by the private sector.

One of the most important things we are here to do today is to address the shortcomings and failures of the SBA's disaster loan program. Nearly a year has passed since Hurricanes Katrina, Rita and Wilma battered the gulf coast, and in that year I have visited New Orleans on three occasions. I can tell you that many of the streets are still covered in debris, and that many of the region's small businesses are barely keeping their doors open. The SBA needs to be prepared to handle an emergency of this magnitude. Thanks in large part to the hard work of Senator LANDRIEU and her dedicated staff, this bill provides the tools to respond swiftly and effectively following future large scale disasters.

Through federally guaranteed bridge loans, States can offer small businesses short-term access to capital so that they can remain open while they wait for other sources of assistance to come through. We provide the President with the authority to declare a new category of disaster—a catastrophic national disaster—which triggers nationwide economic injury disaster loans for businesses located outside the immediate geographic disaster area. And we improve the way SBA and FEMA coordinate disaster assistance. A greater importance needs to be placed on serving the victims, by making the process of applying for and receiving Federal assistance as painless and user friendly as possible. That is why we give the SBA the authority to work with private lenders to get disaster loans out quickly—an idea that members of our committee tried to get SBA to embrace last year. This will only work if we can ensure that these loans do not come at a high cost to disaster victims. We are hopeful that our approach will keep interest rates down.

This bill also addresses the effects that the energy crisis is having on America's small businesses. Gas prices are once again approaching record highs, and for the small businesses that depend on fuel to put food on the table, rising prices mean more than having to decide whether or not to drive to work. Included in the bill is the bipartisan Small Business Energy Emergency Relief Act, a bill which has passed the Senate before, which provides low-interest loans to small businesses dependent on fuel. The loans are triggered when oil prices increase significantly over the average price from the previous two years. This proposal is complemented by Chair SNOWE's 7(a) express loans for small businesses that are willing to invest in renewable energy solutions.

In looking at our core programs, this bill makes a strong statement about the need for the SBA to fill the lending gap in our minority communities. It is unacceptable that since 2001, while numbers of 7(a) loans have gone up for African Americans, the actual dollars loaned have remained stagnant. In the Microloan program, African Americans received 28 percent of the total number of microloans made in 2001 as compared to only 21 percent of the total number of loans made in 2005. Native Americans went from 2 percent of the total number of microloans made in 2001 to less than 1 percent—a mere .93 percent—in 2005. If this trend continues—Native Americans alone will be completely cut out of the Microloan program. The stagnant lending in these communities represents a failure of this administration to expand access to capital to our underserved communities, communities where conventional lending is not meeting the need.

The bill provides an incredible framework for the SBA to reverse this trend. It creates an Office of Minority Small Business Development at the SBA, similar to offices devoted to business development of veterans and women and rural areas, and, it creates a grant program to develop a cross campus curriculum at Historically Black Colleges and Universities, Tribal Colleges, and Hispanic-Serving Institutions to encourage minority students in a wide range of fields to consider entrepreneurship. There is much to be done to bridge the wealth gap in minority communities and this is one approach worth pursuing. Finally, the bill incorporates legislation from my colleague, Senator JOHNSON, to provide financial assistance to tribal governments, tribal colleges, Native Hawaiian organizations, and Alaska Native corporations to create Native American business centers.

One of the keys to ensuring access to capital is making sure that SBA-backed financing remains affordable to the small business community. As we all know, the administration insisted on eliminating all funding for 7(a) loans and shifting the cost to borrowers and lenders by imposing higher fees. The President's budget reveals that borrowers and lenders already pay too much in fees, generating more than $800 million in overpayments since 1992 because the government routinely overestimates the amount of fees needed to cover the cost of the program. This bill seeks to address overpayments by requiring the SBA to lower fees if borrowers and lenders pay more than is necessary to cover the program costs or if the Congress appropriates money for the program.

The bill also reauthorizes the PRIME program through 2009 and includes a provision that Senator BINGAMAN and I worked closely to develop that will expand PRIME with a separate $2 million authorization to provide technical assistance and counseling to disadvantaged Native American small business owners. The bill also includes technical yet important changes in the Microloan program such as making loans to persons with disabilities as one of the statutorily enumerated ''purposes'' of the Microloan program and changing the average smaller loan size in the Microloan program from $7,500 to $10,000.

In reauthorizing one of our other core programs, SBA's 504 loan program, I am pleased that we were able to come

up with a bipartisan approach to preserving the local economic development focus of the program. The ability of our certified development companies, CDCs, to expand operations into multiple States, in conjunction with the growing demand for 504 loans, required that we put in place accountability measures. The 504 program was not created for CDCs to expand operations and simply create revenue from one state to another. CDCs are more than lenders and should not act like for-profit banks. This bill allows CDC board members to serve on another CDC board, but institutes safeguards to prevent control of multiple boards.

The bill also incorporates legislation I have introduced to create a Child Care Lending Pilot Program to expand the availability of affordable, quality childcare in this country by using the 504 loan program to spur the establishment and expansion of childcare providers. Right now only for-profit childcare businesses are eligible for 504 loans, yet in some States a majority of affordable childcare is delivered through nonprofit providers and in the neediest communities nonprofits are often the only provider.

I am pleased that our bill reauthorizes the Women's Business Centers and makes permanent the Women's Business Center Sustainability Pilot Program through the creation of 3-year ''renewal'' grants for centers with sustainability grants, and 4-year ''initial'' grants for new centers across the country. We should not be abandoning our existing centers—many of which leverage Federal dollars to do excellent work in our communities—to run and create new ones. Senator SNOWE and I have been fighting for this for a long time, since I first introduced legislation in 1999: It is time we get this adopted. Our bill also reauthorizes Small Business Development Centers and builds on this excellent resource by creating a pilot program to provide regulatory assistance to small businesses, in addition to the role SBDCs play in the minority entrepreneurship initiative.

One area of our bill which does not deal with reauthorizing SBA programs is just as critical to small businesses—Federal contracting. Earlier this month, we heard the new SBA inspector general Eric Thorson testify about the largest impediments to small businesses receiving their fair share of prime and subcontracting opportunities. He explained how many of the problems in applying and enforcing small business contracting statutes are simply due to contracting officer error. Contracting officers do not know or do not care about small business requirements, and small businesses suffer the consequences. This bill seeks to do something about the disregard that is shown to small businesses with respect to federal procurement policy.

Procurement center representatives, or PCRs, are responsible for advocating on behalf of small businesses in cases affecting Federal contracting, such as the bundling or consolidation of contracts. Unfortunately, there are not enough of them to effectively get the job done. By requiring the SBA to assign no fewer than one PCR per major procurement center, this bill takes steps to limit the incidence of contractor error referred to by Mr. Thorson. We can no longer tolerate the level of neglect that is currently the norm. It is time for the SBA to staff up and fulfill its responsibility as a watchdog for small businesses.

In addition to mandating adequate staffing levels, this bill takes many significant steps to enforce subcontracting and bundling laws already on the books. Firms bidding for small business contracts are required to certify annually as small businesses so we do not have large businesses taking small business contracts, and large prime contractors are required to certify that subcontracting goals will be met. If subcontractors are not paid on a timely basis, Federal agencies are permitted to withhold payments and to pay subcontractors directly. We must stop fraudulent misrepresentation by large firms, and require the administration to start looking out for the interests of small firms that want to do business with the Federal Government.

The time has also come to implement the women's procurement program. The administration has postponed implementing a women's procurement program that became law 6 years ago. This bill tells SBA to get it done within 90 days. It also makes clear that America's service disabled veteran small businesses deserve the same advantages as other subgroups with respect to sole source contracting. Our veterans are returning from Iraq and Afghanistan, and we owe it to them to give them every opportunity at fulfilling the dream of entrepreneurship.

Another program sorely needing our attention: The 8(a) program was created to assist socially and economically disadvantaged small businesses, but the financial threshold for inclusion in the program is out dated and too restrictive. This bill allows for an inflationary adjustment to be made so that businesses that belong in this program aren't being shut out.

Finally, let me say a few words about SBIR, the Small Business Innovation Research Program. The Small Business Committee had a hearing on SBIR earlier this month, and at that time, I made clear my concern that we were being premature in going ahead with reauthorizing SBIR when the program's authorization doesn't expire until 2008. There is a $5 million National Academy of Sciences study due to come out at the end of this year that I am certain will give us much to consider. Yet, this bill does reauthorize SBIR, making it permanent, and it includes some strong provisions to protect SBIR companies' intellectual property and to reign in excessively large awards—which are a particular problem at NIH. While SBIR Phase IIs are supposed to be $750,000, NIH Phase II are often larger. One Phase II award reportedly equalled $6 million. While the firms getting these large awards may be doing important work, we need to keep in mind that if one firm receives $6 million, there are many firms that are not getting Phase IIs at all. That is why I am glad that we have adopted Senator BAYH's proposal to increase the overall share of SBIR funds from 2.5 percent to 5 percent of Federal research budgets, so that more small businesses will have a chance to compete in this program. I also support several provisions in the bill to encourage commercialization, one of the biggest challenges facing the program.

There is one provision in this bill that was added during our committee markup which concerns me, a provision which gives Federal agencies the option to direct 25 percent of SBIR funds to firms which are majority backed by venture capital investment. The firms which will benefit from this provision are primarily biotechnology firms and no one disagrees that they are doing critical work and should receive Federal support. I am committed to finding a way to help biotechnology firms but I am concerned that this set-aside may crowd out small firms that are not blessed with venture capital. SBIR is the only Federal research and development program devoted to small business and it has been universally praised for fostering innovative technologies and lifesaving therapies and medical devices that may never attract the support of venture capital firms. SBIR serves as seed funding for the companies that are willing to take on these research and development projects. It is important to retain the integrity of this program, and I look forward to working with my colleagues to find a way to strike a balance so that we can continue to support cutting edge research that is at so early a stage it has yet to attract the private sector.

Mr. President, before I close, I want to note that while this bill is truly bipartisan, so was our last reauthorization bill back in 2003, S. 1375. However, the reauthorization bill that was finally adopted back in 2004, was a notably partisan product, attached to an omnibus appropriations bill, with almost all Democratic provisions dropped. I urge the Senate to maintain today's spirit of bipartisanship as we move forward, so that the final reauthorization bill truly reflects all of our efforts.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 546—SUPPORTING THE GOALS AND IDEALS OF A NATIONAL POLYCYSTIC KIDNEY DISEASE AWARENESS WEEK TO RAISE PUBLIC AWARENESS AND UNDERSTANDING OF POLYCYSTIC KIDNEY DISEASE AND TO FOSTER UNDERSTANDING OF THE IMPACT POLYCYSTIC KIDNEY DISEASE HAS ON PATIENTS AND FUTURE GENERATIONS OF THEIR FAMILIES

Mr. DEWINE submitted the following resolution; which was referred to the Committee on Health, Education, Labor, and Pensions:

S. RES. 546

Whereas polycystic kidney disease (known as ''PKD'') is the most prevalent life-threatening genetic disease in the United States, is a severe, dominantly inherited disease that has a devastating impact, in both human and economic terms, on people of all ages, and affects equally people of all races, sexes, nationalities, geographic locations, and income levels;

Whereas, based on prevalence estimates by the National Institutes of Health, it is estimated that about 600,000 patients in the United States have a genetic inheritance from 1 or both parents called polycystic kidney disease, and that countless additional friends, loved ones, spouses, and caregivers must shoulder the physical, emotional, and financial burdens that polycystic kidney disease causes;

Whereas polycystic kidney disease, for which there is no cure, is 1 of the 4 leading causes of kidney failure in the United States;

Whereas the vast majority of polycystic kidney disease patients reach kidney failure at an average age of 53, causing a severe strain on dialysis and kidney transplantation resources and on the delivery of health care in the United States, as the largest segment of the population of the United States, the ''baby boomers'', continues to age;

Whereas end stage renal disease is one of the fastest growing components of the Medicare budget, and polycystic kidney disease contributes to that cost by an estimated $2,000,000,000 annually for dialysis, kidney transplantation, and related therapies;

Whereas polycystic kidney disease is a systemic disease that causes damage to the kidney and the cardiovascular, endocrine, hepatic, and gastrointestinal organ systems and instills in patients a fear of an unknown future with a life-threatening genetic disease and apprehension over possible genetic discrimination;

Whereas the severity of the symptoms of polycystic kidney disease and the limited public awareness of the disease causes many patients to live in denial and forego regular visits to their physicians or to avoid following good health management which would help avoid more severe complications when kidney failure occurs;

Whereas people who have chronic, life-threatening diseases like polycystic kidney disease have a predisposition to depression (7 times the national average) and its resultant consequences due to their anxiety over pain, suffering, and premature death;

Whereas the Senate and taxpayers of the United States desire to see treatments and cures for disease and would like to see results from investments in research conducted by the National Institutes of Health and from such initiatives as the NIH Roadmap to the Future;

Whereas polycystic kidney disease is a verifiable example of how collaboration, technological innovation, scientific momentum, and public-private partnerships can generate therapeutic interventions that directly benefit polycystic kidney disease sufferers, save billions of Federal dollars under Medicare, Medicaid, and other programs for dialysis, kidney transplants, immunosuppressant drugs, and related therapies, and make available several thousand openings on the kidney transplant waiting list;

Whereas improvements in diagnostic technology and the expansion of scientific knowledge about polycystic kidney disease have led to the discovery of the 3 primary genes that cause polycystic kidney disease and the 3 primary protein products of the genes and to the understanding of cell structures and signaling pathways that cause cyst growth that has produced multiple polycystic kidney disease clinical drug trials;

Whereas the national PKD Foundation and its 60 volunteer chapters around the country are dedicated to expanding essential research, fostering public awareness and understanding of polycystic kidney disease, educating polycystic kidney disease patients and their families about the disease to improve their treatment and care, providing appropriate moral support, and encouraging people to become organ donors; and

Whereas the PKD Foundation's Walk for PKD has grown from a small, grassroots activity to an annual national awareness event held during the third week of September, and such week would be an appropriate time to recognize National Polycystic Kidney Disease Week: Now, therefore, be it

Resolved, That the Senate—

(1) supports the goals and ideals of a National Polycystic Kidney Disease Awareness Week to raise public awareness and understanding of polycystic kidney disease (known as ''PKD'');

(2) recognizes the need for additional research into a cure for polycystic kidney disease; and

(3) encourages the people of the United States and interested groups to support National Polycystic Kidney Awareness Week through appropriate ceremonies and activities to promote public awareness of polycystic kidney disease and to foster understanding of the impact of the disease on patients and their families.

SENATE RESOLUTION 547—RECOGNIZING AND SUPPORTING THE SUCCESSES OF THE ADOPTION AND SAFE FAMILIES ACT OF 1997 IN INCREASING ADOPTION, OBSERVING THE EFFORTS THAT THE ACT HAS SPURRED, INCLUDING NATIONAL ADOPTION DAY AND NATIONAL ADOPTION MONTH, AND ENCOURAGING CITIZENS OF THE UNITED STATES TO CONSIDER ADOPTION THROUGHOUT THE YEAR

Ms. LANDRIEU (for herself and Mr. CRAIG) submitted the following resolution; which was referred to the Committee on Finance.

S. RES. 547

Whereas, since the passage of the Adoption and Safe Families Act of 1997 (42 U.S.C. 1305 note; Public Law 105–89), the number of children adopted from the foster care system has increased significantly, with approximately 51,000 children adopted from the foster care system in fiscal year 2004 alone;

Whereas, despite that remarkable progress, approximately 118,000 children in the foster care system of the United States are waiting to be adopted, and 49 percent of those children are at least 9 years old;

Whereas adoptive families make an important difference in the lives of the children they adopt by providing a stable, nurturing environment for those children;

Whereas National Adoption Day is a collective national effort to find permanent, loving families for children in the foster care system;

Whereas both National Adoption Day and National Adoption Month occur in November;

Whereas, in 2002, the Department of Health and Human Services launched a series of public service announcements promoting the adoption of children aged 8 and older;

Whereas more than 6,000 children have been placed into adoptive homes since the Department of Health and Human Services launched www.adoptuskids.org, a national photo listing service for children awaiting adoption across the United States;

Whereas, in 2005, judges, attorneys, adoption professionals, child welfare agencies, and child advocates in 45 States and the District of Columbia participated in 227 events in conjunction with National Adoption Day; and

Whereas those events finalized the adoptions of more than 3,300 children from the foster care system: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes and supports—

(A) the success of the Adoption and Safe Families Act of 1997 (42 U.S.C. 1305 note; Public Law 105–89) and the efforts that the Act has spurred; and

(B) the goals and ideals of National Adoption Day and National Adoption Month; and

(2) encourages the citizens of the United States to consider adoption throughout the year.

AMENDMENTS SUBMITTED AND PROPOSED

SA 4762. Mr. STEVENS proposed an amendment to the bill H.R. 5631, making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes.

SA 4763. Mrs. CLINTON (for herself, Mr. LIEBERMAN, Mr . LAUTENBERG, and Mr. DURBIN) submitted an amendment intended to be proposed by her to the bill H.R. 5631, supra; which was ordered to lie on the table.

SA 4764. Ms. MIKULSKI (for herself, Mr. SARBANES, Mr. KENNEDY, Mr. AKAKA, Mr. LIEBERMAN, Mr. DURBIN, Mr. KERRY, and Mr. HARKIN) submitted an amendment intended to be proposed by her to the bill H.R. 5631, supra; which was ordered to lie on the table.

SA 4765. Mr. KENNEDY (for himself, Ms. COLLINS, Mr. BINGAMAN, Mr. ROBERTS, Mr. KERRY, Mr. REED, Mr. FEINGOLD, Mr. BAUCUS, Ms. STABENOW, Mrs. CLINTON, Mr. LIEBERMAN, and Mr . DURBIN) submitted an amendment intended to be proposed by him to the bill H.R. 5631, supra; which was ordered to lie on the table.

SA 4766. Mr. INOUYE submitted an amendment intended to be proposed by him to the bill H.R. 5631, supra.

SA 4767. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill H.R. 5631, supra; which was ordered to lie on the table.

SA 4768. Mr. CORNYN (for himself, Mr. KYL, Mr. BURNS, and Mr. ISAKSON) submitted an amendment intended to be proposed by him to the bill H.R. 5631, supra.

SA 4769. Mr. LUGAR submitted an amendment intended to be proposed by him to the bill H.R. 5631, supra; which was ordered to lie on the table.

SA 4770. Mr. LUGAR submitted an amendment intended to be proposed by him to the bill H.R. 5631, supra.

SA 4771. Mr. FRIST (for himself, Mr. ALEXANDER, and Mr. ALLEN) submitted an amendment intended to be proposed by him to the bill H.R. 5631, supra.

SA 4772. Mr. CARPER (for himself and Mr. MCCAIN) submitted an amendment intended to be proposed by him to the bill H.R. 5631, supra.

SA 4773. Mr. DAYTON submitted an amendment intended to be proposed by him to the bill H.R. 5631, supra.

SA 4774. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill H.R. 5631, supra; which was ordered to lie on the table.

SA 4775. Mr. SESSIONS (for himself, Mr. KYL, and Mr. TALENT) submitted an amendment intended to be proposed by him to the bill H.R. 5631, supra.

SA 4776. Mr. SALAZAR (for himself, Mr. LEVIN, and Mr. WARNER) submitted an amendment intended to be proposed by him to the bill H.R. 5631, supra.

SA 4777. Mr. SMITH (for himself and Mr. WYDEN) submitted an amendment intended to be proposed by him to the bill H.R. 5631, supra; which was ordered to lie on the table.

SA 4778. Mr. SMITH (for himself and Mr. WYDEN) submitted an amendment intended to be proposed by him to the bill H.R. 5631, supra.

SA 4779. Mr. WARNER submitted an amendment intended to be proposed by him to the bill H.R. 5631, supra.

SA 4780. Mr. ALLEN (for himself and Mr. WARNER) submitted an amendment intended to be proposed by him to the bill H.R. 5631, supra; which was ordered to lie on the table.

SA 4781. Mr. DURBIN (for himself, Mr. OBAMA, and Mr. LAUTENBERG) submitted an amendment intended to be proposed by him to the bill H.R. 5631, supra.

SA 4782. Mr. LEAHY (for himself and Ms. LANDRIEU) submitted an amendment intended to be proposed by him to the bill H.R. 5631, supra; which was ordered to lie on the table.

SA 4783. Mr. SCHUMER (for himself, Mr. COLEMAN, and Mrs. CLINTON) submitted an amendment intended to be proposed by him to the bill H.R. 5631, supra.

SA 4784. Mr. COBURN (for himself and Mr. OBAMA) submitted an amendment intended to be proposed by him to the bill H.R. 5631, supra; which was ordered to lie on the table.

SA 4785. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 5631, supra; which was ordered to lie on the table.

SA 4786. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 5631, supra; which was ordered to lie on the table.

SA 4787. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 5631, supra; which was ordered to lie on the table.

SA 4788. Mr. KYL proposed an amendment to amendment SA 4775 submitted by Mr. SESSIONS (for himself, Mr. KYL, and Mr. TALENT) to the bill H.R. 5631, supra.

SA 4789. Ms. STABENOW submitted an amendment intended to be proposed by her to the bill H.R. 5631, supra; which was ordered to lie on the table.

SA 4790. Mr. VOINOVICH (for himself, Mrs. CLINTON, Mr. LOTT, Mr. BINGAMAN, Mr. DEWINE, and Mr. LIEBERMAN) submitted an amendment intended to be proposed by him to the bill H.R. 5631, supra; which was ordered to lie on the table.

SA 4791. Mr. COLEMAN submitted an amendment intended to be proposed by him to the bill H.R. 5631, supra; which was ordered to lie on the table.

SA 4792. Mr. COLEMAN submitted an amendment intended to be proposed by him to the bill H.R. 5631, supra.

SA 4793. Mr. COLEMAN submitted an amendment intended to be proposed by him to the bill H.R. 5631, supra; which was ordered to lie on the table.

SA 4794. Mr. COLEMAN submitted an amendment intended to be proposed by him to the bill H.R. 5631, supra; which was ordered to lie on the table.

SA 4795. Mr. REID (for himself, Mr. ROCKEFELLER, Mr. KERRY, Mr. OBAMA, Mr. LAUTENBERG, Mr. LIEBERMAN, Mr. DURBIN, Mr. SCHUMER, Ms. STABENOW, Mr. JOHNSON, and Mr. DORGAN) proposed an amendment to the bill H.R. 5631, supra.

SA 4796. Mr. CONRAD submitted an amendment intended to be proposed by him to the bill H.R. 5631, supra.

SA 4797. Mr. VOINOVICH (for himself and Mr. DEWINE) submitted an amendment intended to be proposed by him to the bill H.R. 5631, supra; which was ordered to lie on the table.

SA 4798. Mr. ISAKSON submitted an amendment intended to be proposed by him to the bill H.R. 5631, supra.

SA 4799. Mr. DEWINE (for himself and Mr. VOINOVICH) submitted an amendment intended to be proposed by him to the bill H.R. 5631, supra; which was ordered to lie on the table.

SA 4800. Mr. DEWINE (for himself and Mr. VOINOVICH) submitted an amendment intended to be proposed by him to the bill H.R. 5631, supra; which was ordered to lie on the table.

SA 4801. Mr. DEWINE (for himself and Mr. VOINOVICH) submitted an amendment intended to be proposed by him to the bill H.R. 5631, supra; which was ordered to lie on the table.

SA 4802. Mr. KENNEDY (for himself, Mr. REID, Mr. BIDEN, Mr. LEVIN, Mr. REED, Mr. LAUTENBERG, and Mr. ROCKEFELLER) submitted an amendment intended to be proposed by him to the bill H.R. 5631, supra.

SA 4803. Mr. BYRD submitted an amendment intended to be proposed by him to the bill H.R. 5631, supra.

SA 4804. Mr. LAUTENBERG (for himself, Mr. HARKIN, Ms. STABENOW, Mr. LIEBERMAN, Mrs. LINCOLN, and Mr . MENENDEZ) submitted an amendment intended to be proposed by him to the bill H.R. 5631, supra; which was ordered to lie on the table.

SA 4805. Mr. DORGAN submitted an amendment intended to be proposed by him to the bill H.R. 5631, supra.

SA 4806. Mr. KYL (for himself, Mr. WYDEN, Mr. DEWINE, Mr. LIEBERMAN, Mrs. FEINSTEIN, Ms. CANTWELL, Mr. SALAZAR, and Mr. DURBIN) submitted an amendment intended to be proposed by him to the bill H.R. 5631, supra.

SA 4807. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill H.R. 5631, supra; which was ordered to lie on the table.

SA 4808. Mr. NELSON, of Florida submitted an amendment intended to be proposed by him to the bill H.R. 5631, supra; which was ordered to lie on the table.

SA 4809. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill H.R. 5631, supra; which was ordered to lie on the table.

SA 4810. Mrs. MURRAY submitted an amendment intended to be proposed by her to the bill H.R. 5631, supra; which was ordered to lie on the table.

SA 4811. Mrs. MURRAY submitted an amendment intended to be proposed by her to the bill H.R. 5631, supra; which was ordered to lie on the table.

SA 4812. Mrs. MURRAY submitted an amendment intended to be proposed by her to the bill H.R. 5631, supra; which was ordered to lie on the table.

SA 4813. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 5631, supra; which was ordered to lie on the table.

SA 4814. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill H.R. 5631, supra.

SA 4815. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill H.R. 5631, supra; which was ordered to lie on the table.

SA 4816. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill H.R. 5631, supra; which was ordered to lie on the table.

SA 4817. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill H.R. 5631, supra; which was ordered to lie on the table.

SA 4818. Mr. PRYOR submitted an amendment intended to be proposed by him to the bill H.R. 5631, supra; which was ordered to lie on the table.

SA 4819. Mr. DODD (for himself, Mr. REED, Mr. INOUYE, Mrs. LINCOLN, and Mr. DURBIN) submitted an amendment intended to be proposed by him to the bill H.R. 5631, supra.

SA 4820. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 5631, supra; which was ordered to lie on the table.

SA 4821. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 5631, supra; which was ordered to lie on the table.

SA 4822. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 5631, supra; which was ordered to lie on the table.

SA 4823. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill H.R. 5631, supra; which was ordered to lie on the table.

SA 4824. Mr. BAYH submitted an amendment intended to be proposed by him to the bill H.R. 5631, supra; which was ordered to lie on the table.

SA 4825. Mr. BAYH submitted an amendment intended to be proposed by him to the bill H.R. 5631, supra; which was ordered to lie on the table.

SA 4826. Mrs. CLINTON (for herself, Mr. LIEBERMAN, and Mr. LAUTENBERG) submitted an amendment intended to be proposed by her to the bill H.R. 5631, supra; which was ordered to lie on the table.

SA 4827. Mr. BOND (for himself, Mr. LEAHY, Mr. LAUTENBERG, Mr. DORGAN, Ms. MIKULSKI, Mr. HARKIN, and Mr. REID) submitted an amendment intended to be proposed by him to the bill H.R. 5631, supra; which was ordered to lie on the table.

SA 4828. Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill H.R. 5631, supra; which was ordered to lie on the table.

SA 4829. Mr. SUNUNU submitted an amendment intended to be proposed by him to the bill H.R. 5631, supra.

SA 4830. Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the bill H.R. 5631, supra; which was ordered to lie on the table.

SA 4831. Mr. SESSIONS (for himself, Mr. WARNER, and Mr. NELSON, of Nebraska) submitted an amendment intended to be proposed by him to the bill H.R. 5631, supra; which was ordered to lie on the table.

SA 4832. Mr. ALLEN submitted an amendment intended to be proposed by him to the bill H.R. 5631, supra; which was ordered to lie on the table.

SA 4833. Mr. KENNEDY (for himself and Ms. COLLINS) submitted an amendment intended to be proposed by him to the bill H.R.

5631, supra; which was ordered to lie on the table.

SA 4834. Mrs. MURRAY submitted an amendment intended to be proposed by her to the bill H.R. 5631, supra; which was ordered to lie on the table.

SA 4835. Mrs. CLINTON (for herself and Mr. SCHUMER) submitted an amendment intended to be proposed by her to the bill H.R. 5631, supra; which was ordered to lie on the table.

SA 4836. Mr. SMITH submitted an amendment intended to be proposed by him to the bill H.R. 5631, supra; which was ordered to lie on the table.

SA 4837. Mr. BENNETT submitted an amendment intended to be proposed by him to the bill H.R. 5631, supra; which was ordered to lie on the table.

SA 4838. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill H.R. 5631, supra; which was ordered to lie on the table.

SA 4839. Mr. OBAMA submitted an amendment intended to be proposed by him to the bill H.R. 5631, supra; which was ordered to lie on the table.

SA 4840. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill H.R. 5631, supra; which was ordered to lie on the table.

SA 4841. Mr. ALLEN (for himself and Mr. WARNER) submitted an amendment intended to be proposed by him to the bill H.R. 5631, supra; which was ordered to lie on the table.

SA 4842. Mr. KYL (for himself, Mr. WYDEN, and Mr. DEWINE) submitted an amendment intended to be proposed by him to the bill H.R. 5631, supra; which was ordered to lie on the table.

SA 4843. Mr. KENNEDY (for himself and Ms. COLLINS) submitted an amendment intended to be proposed by him to the bill H.R. 5631, supra; which was ordered to lie on the table.

SA 4844. Mr. SESSIONS (for himself, Mr. WARNER, and Mr. NELSON, of Nebraska) submitted an amendment intended to be proposed by him to the bill H.R. 5631, supra; which was ordered to lie on the table.

SA 4845. Mr. PRYOR (for himself and Mr. FEINGOLD) submitted an amendment intended to be proposed by him to the bill H.R. 5631, supra; which was ordered to lie on the table.

SA 4846. Mr. PRYOR submitted an amendment intended to be proposed by him to the bill H.R. 5631, supra; which was ordered to lie on the table.

SA 4847. Mr. REED submitted an amendment intended to be proposed by him to the bill H.R. 5631, supra; which was ordered to lie on the table.

SA 4848. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 5631, supra; which was ordered to lie on the table.

SA 4849. Mr. BOND submitted an amendment intended to be proposed by him to the bill H.R. 5631, supra; which was ordered to lie on the table.

SA 4850. Mr. LAUTENBERG (for himself, Mr. HARKIN, Ms. STABENOW, Mr. LIEBERMAN, Mrs. LINCOLN, Mr. MENENDEZ, Ms. MIKULSKI, and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill H.R. 5631, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 4762. Mr. STEVENS proposed an amendment to the bill H.R. 5631, making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes; as follows:

At the end of title VIII, add the following:

SEC. ____. The Secretary of Defense shall submit to the congressional defense committees, at the same time the budget of the President for fiscal year 2008 is submitted to Congress pursuant to section 1105(a) of title 31, United States Code, a report setting forth the following:

(1) A plan to procure medical countermeasures for purposes of treating forward deployed members of the Armed Forces against the lethal effects of acute radiation syndrome, including neutropenia and thrombocytopenia.

(2) An identification of the countermeasures required to protect members of the Armed Forces in the event of a nuclear or bioterrorist attack.

(3) A plan for the forward deployment of the countermeasures identified under paragraph (2), including an assessment of the costs associated with implementing such plan.

SA 4763. Mrs. CLINTON (for herself, Mr. LIEBERMAN, Mr. LAUTENBERG, and Mr. DURBIN) submitted an amendment intended to be proposed by her to the bill H.R. 5631, making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VIII, add the following:

SEC. 8109. (a) FUNDING FOR LONGITUDINAL STUDY ON TRAUMATIC BRAIN INJURY INCURRED BY MEMBERS OF THE ARMED FORCES IN OPERATION IRAQI FREEDOM AND OPERATION ENDURING FREEDOM.—Of the amount appropriated or otherwise made available by title V under the heading ''DEFENSE HEALTH PROGRAM'', up to $5,000,000 may be available for a longitudinal study on traumatic brain injury incurred by members of the Armed Forces in Operation Iraqi Freedom and Operation Enduring Freedom.

(b) FUNDING FOR TRAINING CURRICULA FOR FAMILY CAREGIVERS ON CARE AND ASSISTANCE FOR MEMBERS AND FORMER MEMBERS OF THE ARMED FORCES WITH TRAUMATIC BRAIN INJURY INCURRED IN OPERATION IRAQI FREEDOM OR OPERATION ENDURING FREEDOM.—

(1) OPERATION AND MAINTENANCE, ARMY, FUNDS.—Of the amount appropriated or otherwise made available by title II under the heading ''OPERATION AND MAINTENANCE, ARMY'', up to $800,000 may be available for training curricula for family caregivers on care and assistance for members and former members of the Armed Forces with traumatic brain injury incurred in Operation Iraqi Freedom or Operation Enduring Freedom.

(2) OPERATION AND MAINTENANCE, MARINE CORPS, FUNDS.—Of the amount appropriated or otherwise made available by title II under the heading ''OPERATION AND MAINTENANCE, MARINE CORPS'', up to $200,000 may be available for training curricula for family caregivers on care and assistance for members and former members of the Armed Forces with traumatic brain injury incurred in Operation Iraqi Freedom or Operation Enduring Freedom.

SA 4764. Ms. MIKULSKI (for herself, Mr. SARBANES, Mr. KENNEDY, Mr. AKAKA, Mr. LIEBERMAN, Mr. DURBIN, Mr. KERRY, and Mr. HARKIN) submitted an amendment intended to be proposed by her to the bill H.R. 5631, making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes; which was ordered to lie on the table; as follows:

On page 218, between lines 6 and 7, insert the following:

SEC. 8109. None of the funds appropriated or otherwise made available by this Act may be used to enter into or carry out a contract for the performance by a contractor of any base operation support service at Walter Reed Army Medical Hospital pursuant to a private-public competition conducted under Office of Management and Budget Circular A–76 that was initiated on June 13, 2000, and has the solicitation number DADA 10–03–R–0001.

SA 4765. Mr. KENNEDY (for himself, Ms. COLLINS, Mr. BINGAMAN, Mr. ROBERTS, Mr. KERRY, Mr. REED, Mr. FEINGOLD, Mr. BAUCUS, Ms. STABENOW, Mrs. CLINTON, Mr. LIEBERMAN, and Mr. DURBIN) submitted an amendment intended to be proposed by him to the bill H.R. 5631, making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VIII, add the following:

SEC. 8109. (a) ARMY SUPPORT FOR UNIVERSITY RESEARCH INITIATIVES.—

(1) ADDITIONAL AMOUNT FOR RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY.—The amount appropriated by title IV under the heading ''RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY'' is hereby increased by $12,000,000.

(2) AVAILABILITY FOR UNIVERSITY RESEARCH INITIATIVES.—Of the amount appropriated by title IV under the heading ''RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY'', as increased by paragraph (1), up to $12,000,000 may be available for Program Element 0601103A for University Research Initiatives.

(b) NAVY SUPPORT FOR UNIVERSITY RESEARCH INITIATIVES.—

(1) ADDITIONAL AMOUNT FOR RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY.—The amount appropriated by title IV under the heading ''RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY'' is hereby increased by $13,000,000.

(2) AVAILABILITY FOR UNIVERSITY RESEARCH INITIATIVES.—Of the amount appropriated by title IV under the heading ''RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY'', as increased by paragraph (1), up to $13,000,000 may be available for Program Element 0601103N for University Research Initiatives.

(c) AIR FORCE SUPPORT FOR UNIVERSITY RESEARCH INITIATIVES.—

(1) ADDITIONAL AMOUNT FOR RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE.—The amount appropriated by title IV under the heading ''RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE'' is hereby increased by $5,000,000.

(2) AVAILABILITY FOR UNIVERSITY RESEARCH INITIATIVES.—Of the amount appropriated by title IV under the heading ''RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE'', as increased by paragraph (1), up to $5,000,000 may be available for Program Element 0601103F for University Research Initiatives.

(d) SMART NATIONAL DEFENSE EDUCATION PROGRAM.—

(1) ADDITIONAL AMOUNT FOR RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE.—The amount appropriated by title IV under the heading ''RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE'' is hereby increased by $9,000,000.

(2) AVAILABILITY FOR SMART NATIONAL DEFENSE EDUCATION PROGRAM.—Of the amount appropriated by title IV under the heading

''RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE'', as increased by paragraph (1), up to $9,000,000 may be available for Program Element 0601120D8Z for the SMART National Defense Education Program.

(e) DARPA UNIVERSITY RESEARCH PROGRAM IN COMPUTER SCIENCE AND CYBERSECURITY.—

(1) ADDITIONAL AMOUNT FOR RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE.—The amount appropriated by title IV under the heading ''RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE'' is hereby increased by $6,000,000.

(2) AVAILABILITY FOR DARPA PROGRAM IN COMPUTER SCIENCE AND CYBERSECURITY.—Of the amount appropriated by title IV under the heading ''RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE'', as increased by paragraph (1), up to $6,000,000 may be available for Program Element 0601101E the Defense Advanced Research Projects Agency Program in Computer Science and Cybersecurity.

(f) OFFSET.—The amount appropriated by title II under the heading ''OPERATION AND MAINTENANCE, DEFENSE-WIDE'' is hereby reduced by $45,000,000.

SA 4766. Mr. INOUYE submitted an amendment intended to be proposed by him to the bill H.R. 5631, making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes; as follows:

At the end of title VIII, add the following:

SEC. 8109. Of the amount appropriated or otherwise made available by title II under the heading ''OPERATION AND MAINTENANCE, ARMY'', up to $500,000 may be available for the United States Army Center of Military History to support a traveling exhibit on military experience in World War II.

SA 4767. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill H.R. 5631, making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VIII, add the following:

SEC. 8109. Of the amount appropriated or otherwise made available by title IV under the heading ''RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY'', up to $1,000,000 may be available for Program Element 0602105A for Thermoplastic Composite Body Armor research.

SA 4768. Mr. CORNYN (for himself, Mr. KYL, Mr. BURNS, and Mr. ISAKSON) submitted an amendment intended to be proposed by him to the bill H.R. 5631, making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes; as follows:

At the appropriate place, insert the following:

TITLE ___

BORDER SECURITY AND IMMIGRATION REFORM

CHAPTER 1—DEPARTMENT OF HOMELAND SECURITY

UNITED STATES VISITOR AND IMMIGRATION STATUS INDICATOR TECHNOLOGY

For an additional amount for ''United States Visitor and Immigration Status Indicator Technology'' to accelerate biometric database integration and conversion to 10-print enrollment, $60,000,000, to remain available until expended: *Provided*, That the amount provided under this heading may not be obligated until the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives receive and approve a plan for expenditure prepared by the Secretary of Homeland Security: *Provided further*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 83 (109th Congress), the concurrent resolution on the budget for fiscal year 2007, as made applicable in the Senate by section 7035 of Public Law 109–234.

CUSTOMS AND BORDER PROTECTION

SALARIES AND EXPENSES

For an additional amount for ''Salaries and Expenses'', $173,000,000, to remain available until September 30, 2007: *Provided*, That the amount provided under this heading may not be obligated until the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives receive and approve a plan for expenditure prepared by the Secretary of Homeland Security: *Provided further*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 83 (109th Congress), the concurrent resolution on the budget for fiscal year 2007, as made applicable in the Senate by section 7035 of Public Law 109–234.

AIR AND MARINE INTERDICTION, OPERATIONS, MAINTENANCE, AND PROCUREMENT

For an additional amount for ''Air and Marine Interdiction, Operations, Maintenance, and Procurement'' to replace air assets and upgrade air operations facilities, $560,000,000, to remain available until expended: *Provided*, That the amount provided under this heading may not be obligated until the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives receive and approve a plan for expenditure prepared by the Secretary of Homeland Security: *Provided further*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 83 (109th Congress), the concurrent resolution on the budget for fiscal year 2007, as made applicable in the Senate by section 7035 of Public Law 109–234.

CONSTRUCTION

For an additional amount for ''Construction'', $2,155,100,000, to remain available until expended; of which not less than $1,628,000,000 shall be for the construction of 370 miles of double-layered fencing along the international border between the United States and Mexico; of which not less than $507,100,000 shall be for the construction of 461 miles of vehicle barriers along the international border between the United States and Mexico; and of which not less than $20,000,000 shall be for construction associated with the hiring of 500 border patrol agents: *Provided*, That the amount provided under this heading may not be obligated until the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives receive and approve a plan for expenditure prepared by the Secretary of Homeland Security: *Provided further*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 83 (109th Congress), the concurrent resolution on the budget for fiscal year 2007, as made applicable in the Senate by section 7035 of Public Law 109–234.

IMMIGRATION AND CUSTOMS ENFORCEMENT

SALARIES AND EXPENSES

For an additional amount for ''Salaries and Expenses'', $196,500,000, to remain available until September 30, 2007; of which not less than $38,000,000 shall be for the hiring of 200 investigators and associated support for alien smuggling investigations; of which $113,000,000 shall be for the hiring of 600 investigators and associated support for worksite enforcement; of which $45,500,000 shall be for 1,300 detention beds, personnel, and associated support: *Provided*, That the amount provided under this heading may not be obligated until the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives receive and approve a plan for expenditure prepared by the Secretary of Homeland Security: *Provided further*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 83 (109th Congress), the concurrent resolution on the budget for fiscal year 2007, as made applicable in the Senate by section 7035 of Public Law 109–234.

UNITED STATES COAST GUARD

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

For an additional amount for ''Acquisition, Construction, and Improvements'' for acquisition, construction, renovation, and improvement of vessels, aircraft, and equipment, $416,000,000, to remain available until expended: *Provided*, That the amount provided under this heading may not be obligated until the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives receive and approve a plan for expenditure prepared by the Secretary of Homeland Security: *Provided further*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 83 (109th Congress), the concurrent resolution on the budget for fiscal year 2007, as made applicable in the Senate by section 7035 of Public Law 109–234.

UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES

For an additional amount for ''United States Citizenship and Immigration Services'' for the development and the implementation of the Electronic Employment Verification System, $400,000,000: *Provided*, That the amount provided under this heading may not be obligated until the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives receive and approve a plan for expenditure prepared by the Secretary of Homeland Security: *Provided further*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 83 (109th Congress), the concurrent resolution on the budget for fiscal year 2007, as made applicable in the Senate by section 7035 of Public Law 109–234.

GENERAL PROVISIONS – THIS TITLE

Notwithstanding any other provision in law, the transfers and programming conditions of the Department of Homeland Security Appropriations Act, 2007 shall apply to this title.

CHAPTER 2—DEPARTMENT OF JUSTICE

GENERAL ADMINISTRATION

ADMINISTRATIVE REVIEW AND APPEALS

For an additional amount for ''Administrative Review and Appeals'', $2,600,000, to remain available until September 30, 2007: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 83 (109th Congress), the concurrent resolution on the budget for fiscal year 2007, as made applicable in the Senate by section 7035 of Public Law 109–234.

LEGAL ACTIVITIES

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

For an additional amount for ''Salaries and Expenses, General Legal Activities'', $2,600,000, to remain available until September 30, 2007: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 83 (109th Congress), the concurrent resolution on the budget for fiscal year 2007, as made applicable in the Senate by section 7035 of Public Law 109–234.

SALARIES AND EXPENSES, UNITED STATES ATTORNEYS

For an additional amount for ''Salaries and Expenses, United States Attorneys,'' $2,600,000, to remain available until September 30, 2007: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 83 (109th Congress), the concurrent resolution on the budget for fiscal year 2007, as made applicable in the Senate by section 7035 of Public Law 109–234.

SA 4769. Mr. LUGAR submitted an amendment intended to be proposed by him to the bill H.R. 5631, making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VIII, add the following:

SEC. 8109. Of the amount appropriated or otherwise made available by title IV under the heading ''RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE'', up to $2,000,000 may be available for Gas Chromatographic Mass Spectrometers for Weapons of Mass Destruction Civil Support Teams.

SA 4770. Mr. LUGAR submitted an amendment intended to be proposed by him to the bill H.R. 5631, making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. Of the amount appropriated or otherwise made available by title III under the heading ''OTHER PROCUREMENT, NAVY'', up to $3,000,000 may be available for the Man Overboard Identification System (MOBI) program.

SA 4771. Mr. FRIST (for himself, Mr. ALEXANDER, and Mr. ALLEN) submitted an amendment intended to be proposed by him to the bill H.R. 5631, making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes; as follows:

At the end of title VIII, add the following:

SEC. 8109. Notwithstanding the first section of Public Law 85–804 (50 U.S.C. 1431), in the event a notice on the modification of a contract described in that section is submitted to the Committees on Armed Services of the Senate and the House of Representatives by the Army Contract Adjustment Board during the period beginning on July 28, 2006, and ending on the date of the adjournment of the 109th Congress sine die, such contract may be modified in accordance with such notice commencing on the earlier of—

(1) the date that is 60 calendar days after the date of such notice; or

(2) the date of the adjournment of the 109th Congress sine die.

SA 4772. Mr. CARPER (for himself and Mr. MCCAIN) submitted an amendment intended to be proposed by him to the bill H.R. 5631, making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes; as follows:

On page 218, betwen lines 6 and 7, insert the following:

SEC. 8109. PROHIBITION ON PAYMENT OF AWARD FEES TO DEFENSE CONTRACTORS IN CASES OF CONTRACT NON-PERFORMANCE.

None of the funds appropriated or otherwise made available by this Act may be obligated or expended to provide award fees to any defense contractor for performance that does not meet the requirements of the contract.

SA 4773. Mr. DAYTON submitted an amendment intended to be proposed by him to the bill H.R. 5631, making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes; as follows:

At the end of title IX, add the following:

SEC. 9012. Of the amount appropriated or otherwise made available by chapter 2 of this title under the heading ''OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD'', up to $6,700,000 may be available for the pilot program of the Army National Guard on the reintegration of members of the National Guard into civilian life after deployment.

SA 4774. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill H.R. 5631, making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VIII, add the following:

SEC. 8109. Of the amount appropriated or otherwise made available by title IV under the heading ''RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY'', up to $1,000,000 may be available for Program Element 0602787A for blast protection research.

SA 4775. Mr. SESSIONS (for himself, Mr. KYL, and Mr. TALENT) submitted an amendment intended to be proposed by him to the bill H.R. 5631, making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes; as follows:

On page 221, line 9, strike ''$204,000,000'', and insert ''$2,033,000,000, which shall be designated as an emergency pursuant to Section 9011 of this Act.''.

SA 4776. Mr. SALAZAR (for himself, Mr. LEVIN, and Mr. WARNER) submitted an amendment intended to be proposed by him to the bill H.R. 5631, making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. ____. Of the amount appropriated or otherwise made available by title II under the heading ''OPERATION AND MAINTENANCE, AIR FORCE'', $10,000,000 shall be available to provide the United States Northern Command with an interoperable mobile wireless communications capability to effectively communicate with Federal, State, and local authorities.

SA 4777. Mr. SMITH (for himself and Mr. WYDEN) submitted an amendment intended to be proposed by him to the bill H.R. 5631, making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. Of the amount appropriated or otherwise made available by title IV under the heading ''RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE'', up to $4,000,000 may be available for the Transportable Transponder Landing System.

SA 4778. Mr. SMITH (for himself and Mr. WYDEN) submitted an amendment intended to be proposed by him to the bill H.R. 5631, making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. ____. Of the amount appropriated or otherwise made available by title IV under the heading ''RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY'', up to $2,000,000 may be available for the Advanced Airship Flying Laboratory.

SA 4779. Mr. WARNER submitted an amendment intended to be proposed by him to the bill H.R. 5631, making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes; as follows:

At the end of title VIII, add the following:

SEC. 8109. (a) JOINT ADVERTISING, MARKET RESEARCH AND STUDIES PROGRAM.—Of the amount appropriated or otherwise made available by title II under the heading ''OPERATION AND MAINTENANCE, DEFENSE-WIDE'', up to $7,500,000 may be available for the Joint Advertising, Market Research and Studies (JAMRS) program.

(b) SUPPLEMENT NOT SUPPLANT.—The amount available under subsection (a) for the program referred to in that subsection is in addition to any other amounts available in this Act for that program.

SA 4780. Mr. ALLEN (for himself and Mr. WARNER) submitted an amendment intended to be proposed by him to the bill H.R. 5631, making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VIII, add the following:

SEC. ____. (a) FUNDING FROM OPERATION AND MAINTENANCE, ARMY RESERVE, FOR OUR MILITARY KIDS PROGRAM.—Of the amount appropriated or otherwise made available by title II under the heading ''OPERATION AND MAINTENANCE, ARMY RESERVE'' up to $500,000 may be available for the Our Military Kids program.

(b) FUNDING FROM OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD, FOR OUR MILITARY KIDS PROGRAM.—Of the amount appropriated or otherwise made available by

title II under the heading ''OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD'' up to $1,500,000 may be available for the Our Military Kids program.

SA 4781. Mr. DURBIN (for himself, Mr. OBAMA, and Mr. LAUTENBERG) submitted an amendment intended to be proposed by him to the bill H.R. 5631, making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes; as follows:

At the end of title VIII, add the following:

SEC. 8109. Of the amount appropriated or otherwise made available by title IV under the heading ''RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY'', up to $2,000,000 may be available for the improvement of imaging for traumatic brain injuries and the adaptation of current technologies to treat brain injuries suffered in combat.

SA 4782. Mr. LEAHY (for himself and Ms. LANDRIEU) submitted an amendment intended to be proposed by him to the bill H.R. 5631, making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes; which was ordered to lie on the table; as follows:

On page 229, between lines 12 and 13, insert the following:

NATIONAL GUARD AND RESERVE EQUIPMENT

For an additional amount for ''National Guard and Reserve Equipment'', $1,000,000,000, to remain available until September 30, 2009, with the entire amount designated as an emergency requirement pursuant to section 402 of S. Con. Res. 83 (109th Congress), the concurrent resolution on the budget for fiscal year 2007, as made applicable in the Senate by section 7035 of Public Law 109–234.

SA 4783. Mr. SCHUMER (for himself, Mr. COLEMAN, and Mrs. CLINTON) submitted an amendment intended to be proposed by him to the bill H.R. 5631, making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes; which was ordered to lie on the table; as follows:

On page 238, after line 24, add the following:

SEC. 9012. (a) Of the amount appropriated or otherwise made available by chapter 2 of this title under the heading ''OPERATION AND MAINTENANCE, ARMY'', up to $15,000,000 may be made available for the procurement of hemostatic agents, including blood clotting bandages and invasive hemostatic agents, for use by members of the Armed Forces in the field.

(b) Of the amount appropriated or otherwise made available by such chapter under the heading ''OPERATION AND MAINTENANCE, MARINE CORPS'', up to $5,000,000 may be made available for the procurement of hemostatic agents and invasive hemostatic agents, including blood clotting bandages, for use by members of the Armed Forces in the field.

SA 4784. Mr. COBURN (for himself and Mr. OBAMA) submitted an amendment intended to be proposed by him to the bill H.R. 5631, making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. (a) POSTING OF CERTAIN REPORTS ON DEPARTMENT OF DEFENSE INTERNET WEBSITE.—Each report described in subsection (b) shall be posted on the Internet website of the Department of Defense for the public not later than 48 hours after the submittal of such report to Congress.

(b) COVERED REPORTS.—The reports described in this subsection are the reports as follows:

(1) Each report required by a provision of this Act to be submitted by the Department of Defense to the Committees on Appropriations of the Senate and the House of Representatives.

(2) Any report required to be submitted by the Department of Defense to Congress in support of the budget of the President for fiscal year 2008 (as submitted to Congress pursuant to section 1105 of title 31, United States Code) for the Department of Defense, including any budget justification documents in support of such budget for the Department of Defense.

(c) REDACTION OF CERTAIN INFORMATION.—In posting a report on the Internet website of the Department under subsection (a), the Secretary of Defense may redact any information whose release to the public would, as determined by the Secretary, compromise the national security of the United States.

SA 4785. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 5631, making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes; which was ordered to lie on the table; as follows:

On page 218, between lines 6 and 7, insert the following:

SEC. 8109. 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 and the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives a report—

(1) describing risk assessments performed by the Department of Defense on payments made by the Department for travel, as required under section 2 of the Improper Payments Information Act of 2002 (Public Law 107–300; 31 U.S.C. 3321 note);

(2) including an estimate, using statistically valid methods, of improper payments for travel that have been processed by the Defense Finance and Accounting Service (DFAS); and

(3) including an explanation that the methods used to perform risk assessments are statistically valid in accordance with Office of Management and Budget Memorandum 30–13 issued pursuant to the Improper Payments Information Act of 2002 (Public Law 107–300; 31 U.S.C. 3321 note).

SA 4786. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 5631, making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. A limitation, directive, or earmark specified in the report of the Senate to accompany H.R. 5631 of the 109th Congress, or in the report of the House of Representatives to accompany H.R. 5631 of the 109th Congress, may not be treated as having been approved by both Houses of Congress unless such limitation, directive, or earmark, as the case may be, is included in the report of the committee on conference on H.R. 5631 of the 109th Congress or the joint explanatory statement of the committee on conference to accompany such report of the committee on conference.

SA 4787. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 5631, making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. The aggregate amount available in this Act for expenses of the Department of Defense relating to conferences in fiscal year 2007, including expenses relating to conference programs, staff, travel costs, and other conference matters, may not exceed $70,000,000.

SA 4788. Mr. KYL proposed an amendment to amendment SA 4775 submitted by Mr. SESSIONS (for himself, Mr. KYL, and Mr. TALENT) to the bill H.R. 5631, making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes; as follows:

On line 2, strike ''2,033,000,000'' and insert ''2,033,100,000''

SA 4789. Ms. STABENOW submitted an amendment intended to be proposed by her to the bill H.R. 5631, making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VIII, add the following:

SEC. 8109. Of the amount appropriated or otherwise made available by title IV under the heading ''RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY'', up to $8,000,000 may be available for the Advanced Tank Armament System.

SA 4790. Mr. VOINOVICH (for himself, Mrs. CLINTON, Mr. LOTT, Mr. BINGAMAN, Mr. DEWINE, and Mr. LIEBERMAN) submitted an amendment intended to be proposed by him to the bill H.R. 5631, making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes; which was ordered to lie on the table; as follows:

On page 218, between lines 6 and 7, insert the following:

SEC. 8109. None of the funds appropriated in this Act or any other Act may be used before October 1, 2011 to implement the provision under section 9902(c)(1) of title 5, United States Code, relating to the application of the National Security Personnel System on or after October 1, 2008.

SA 4791. Mr. COLEMAN submitted an amendment intended to be proposed by him to the bill H.R. 5631, making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes;

which was ordered to lie on the table; as follows:

At the end of title VIII, add the following:

SEC. 8109. ENERGY SECURITY.

(a) SHORT TITLE.—This section may be cited as the ''Transforming Energy Now Act of 2006''.

(b) TAX CREDITS.—

(1) INCREASE IN ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY CREDIT.—Section 30C(a) of the Internal Revenue Code of 1986 is amended by striking ''30 percent'' and inserting ''50 percent''.

(2) AMT RELIEF.—

(A) PERSONAL CREDIT.—Paragraph (2) of section 30C(d) of the Internal Revenue Code of 1986 is amended by striking ''the excess (if any) of'' and all that follows and inserting ''the excess of—

''(A) the sum of the regular tax liability (as defined under section 26(b)) plus the tax imposed by section 55, over

''(B) the sum of the credits allowable under subpart A and sections 27, 30, and 30B.''.

(B) BUSINESS CREDIT AMOUNT.—Subparagraph (B) of section 38(c)(4) of the Internal Revenue Code of 1986 is amended—

(i) in clause (i), by striking ''and'' at the end;

(ii) in clause (ii)(II), by striking the period at the end and inserting '', and''; and

(iii) by adding at the end the following:

''(iii) the portion of the credit under section 30C which is treated as a credit under this section by reason of section 30C(d)(1).''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to property placed in service after December 31, 2005, in taxable years ending after such date.

(c) USE OF CAFE PENALTIES TO BUILD ALTERNATIVE FUELING INFRASTRUCTURE.—Section 32912 of title 49, United States Code, is amended by adding at the end the following:

''(e) ALTERNATIVE FUELING INFRASTRUCTURE GRANT PROGRAM.—

''(1) TRUST FUND.—

''(A) ESTABLISHMENT.—There is established in the Treasury of the United States a trust fund, to be known as the Alternative Fueling Infrastructure Trust Fund (referred to in this subsection as the 'Trust Fund'), consisting of such amounts as are deposited into the Trust Fund under subparagraph (B) and any interest earned on investment of amounts in the Trust Fund.

''(B) TRANSFERS OF CIVIL PENALTIES.—The Secretary of Transportation shall remit 90 percent of the amount collected in civil penalties under this section to the Trust Fund.

''(2) ESTABLISHMENT OF GRANT PROGRAM.—

''(A) IN GENERAL.—The Secretary of Energy shall obligate such sums as are available in the Trust Fund to establish a grant program to increase the number of locations at which consumers may purchase alternative transportation fuels.

''(B) ALLOCATION TO CORPORATE AND NONPROFIT ENTITIES.—The Secretary shall allocate such sums from the Trust Fund as the Secretary considers appropriate to corporations (including nonprofit corporations) with demonstrated experience in the administration of grant funding. Corporations shall use funds received under this paragraph to award grants to owners and operators of fueling stations for the purpose of developing alternative fueling infrastructure for specific types of alternative fuels that can be used in at least 50,000 vehicles produced in the United States in the prior vehicle production year.

''(C) CONSIDERATIONS.—In making allocations under subparagraph (A), the Secretary shall—

''(i) give priority to recognized nonprofit corporations that have proven experience and demonstrated technical expertise in the establishment of alternative fueling infrastructure;

''(ii) consider the number of vehicles produced for sale in the preceding production year capable of using each specific type of alternative fuel; and

''(iii) identify 1 primary group per alternative fuel.

''(D) MATCHING REQUIREMENT.—The Secretary may not allocate funds to a corporation under this paragraph unless such corporation agrees to provide $1 of non-Federal contributions for every $3 of Federal funding received under this paragraph.

''(E) LIMITATION ON ADMINISTRATIVE EXPENSES.—A corporation may not expend more than 5 percent of the total allocation provided under this paragraph on administrative expenses.

''(F) TECHNICAL AND MARKETING ASSISTANCE.—Corporations receiving an allocation under subparagraph (A) shall provide grant recipients under paragraph (3) with technical and marketing assistance, including—

''(i) technical advice for compliance with applicable Federal and State environmental requirements;

''(ii) assistance in identifying alternative fuel supply sources; and

''(iii) point of sale and labeling materials.

''(3) ADMINISTRATION OF GRANTS.—

''(A) DIRECT GRANTS TO FUEL STATION OWNERS AND OPERATORS.—The Secretary of Energy shall award grants directly to owners and operators of fueling stations for the purpose of installing alternative fuel infrastructure for specific types of alternative fuels that can be used in fewer that 50,000 vehicles produced in the United States in the prior vehicle production year.

''(B) GRANT RECIPIENT.—Corporations receiving an allocation under paragraph (2), and the Secretary of Energy under subparagraph (A), shall award grants to owners and operators of fueling stations in an amount not greater than—

''(i) $150,000 per site; or

''(ii) $500,000 per entity.

''(C) SELECTION.—Grant recipients under this paragraph shall be selected on a formal, open, and competitive basis, based on—

''(i) the public demand for each alternative fuel in a particular county based on state registration records showing the number of vehicles that can be operated with alternative fuel; and

''(ii) the opportunity to create or expand corridors of alternative fuel stations along interstate or State highways.

''(D) USE OF FUNDS.—Grant funds received under this paragraph may be used to—

''(i) construct new facilities to dispense alternative fuels;

''(ii) purchase equipment to upgrade, expand, or otherwise improve existing alternative fuel facilities; or

''(iii) purchase equipment or pay for specific turnkey fueling services by alternative fuel providers.

''(E) MATCHING REQUIREMENT.—A recipient of a grant under this paragraph shall agree to provide $1 of non-Federal contributions for every $1 of grant funds received under this paragraph.

''(F) LIMITATION ON ADMINISTRATIVE EXPENSES.—A grant recipient may not expend more than 3 percent of any grant provided under this paragraph on administrative expenses.

''(4) OPERATION OF ALTERNATIVE FUEL STATIONS.—Facilities constructed or upgraded with grant funds received under this subsection shall—

''(A) provide alternative fuel available to the public for a period of not less than 4 years;

''(B) establish a marketing plan to advance the sale and use of alternative fuels;

''(C) prominently display the price of alternative fuel on the marquee and in the station;

''(D) provide point of sale materials on alternative fuel;

''(E) clearly label the dispenser with consistent materials;

''(F) price the alternative fuel at the same margin that is received for unleaded gasoline; and

''(G) support and use all available tax incentives to reduce the cost of the alternative fuel to the lowest possible retail price.

''(5) NOTIFICATION REQUIREMENTS.—

''(A) OPENING.—Not later than the date on which each alternative fuel station begins to offer alternative fuel to the public, the grant recipient that used grant funds to construct such station shall notify the Secretary of Energy of such opening. The Secretary of Energy shall add each new alternative fuel station to the alternative fuel station locator on its Website when it receives notification under this subparagraph.

''(B) SEMI-ANNUAL REPORT.—Not later than 6 months after the receipt of a grant award under this subsection, and every 6 months thereafter, each grant recipient shall submit a report to the Secretary of Energy that describes—

''(i) the status of each alternative fuel station constructed with grant funds received under this subsection;

''(ii) the amount of alternative fuel dispensed at each station during the preceding 6-month period; and

''(iii) the average price per gallon of the alternative fuel sold at each station during the preceding 6-month period.

''(6) ALTERNATIVE FUEL DEFINED.—For the purposes of this subsection, the term 'alternative fuel' means—

''(A) any fuel of which at least 85 percent (or such percentage, but not less than 70 percent, as determined by the Secretary, by rule, to provide for requirements relating to cold start, safety, or vehicle functions) of the volume consists of ethanol, natural gas, compressed natural gas, liquefied natural gas, liquefied petroleum gas, or hydrogen; or

''(B) any mixture of biodiesel and diesel fuel determined without regard to any use of kerosene that contains at least 20 percent biodiesel.''.

(d) LOW–INTEREST LOAN AND GRANT PROGRAM FOR RETAIL DELIVERY OF E–85 FUEL.—

(1) PURPOSES OF LOANS.—Section 312(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1942(a)) is amended—

(A) in paragraph (9)(B)(ii), by striking ''or'' at the end;

(B) in paragraph (10), by striking the period at the end and inserting ''; or''; and

(C) by adding at the end the following:

''(11) building infrastructure, including pump stations, for the retail delivery to consumers of any fuel that contains not less than 85 percent ethanol, by volume.''.

(2) PROGRAM.—Subtitle B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1941 et seq.) is amended by adding at the end the following:

''SEC. 320. LOW-INTEREST LOAN AND GRANT PROGRAM FOR RETAIL DELIVERY OF E-85 FUEL.

''(a) IN GENERAL.—The Secretary shall establish a low-interest loan and grant program to assist farmer-owned ethanol producers (including cooperatives and limited liability corporations) to develop and build infrastructure, including pump stations, that is directly related to the retail delivery to consumers of any fuel that contains not less than 85 percent ethanol, by volume.

''(b) LOAN TERMS.—

''(1) AMORTIZATION.—The repayment of a loan received under this section shall be amortized over the expected life of the infrastructure project that is being financed with the proceeds of the loan.

''(2) INTEREST RATE.—The annual interest rate of a loan received under this section shall be fixed at not more than 5 percent.

''(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.''.

(3) REGULATIONS.—As soon as practicable after the date of the enactment of this Act, the Secretary of Agriculture shall promulgate such regulations as are necessary to carry out the amendments made by this subsection.

SA 4792. Mr. COLEMAN submitted an amendment intended to be proposed by him to the bill H.R. 5631, making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes; as follows:

At the end of title VIII, add the following:

SEC. 8109. Of the amount appropriated or otherwise made available by title III under the heading ''PROCUREMENT OF AMMUNITION, AIR FORCE'', up to $20,000,000 may be available for the procurement of Radiation Hardened Microelectronics (HX5000).

SA 4793. Mr. COLEMAN submitted an amendment intended to be proposed by him to the bill H.R. 5631, making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VIII, add the following:

SEC. 8109. Of the amount appropriated or otherwise made available by title III under the heading ''PROCUREMENT, MARINE CORPS'', up to $9,500,000 may be available for the procurement of the Laser Perimeter Awareness System to improve antiterrorism and force protection functions at key Marine Corps operating locations.

SA 4794. Mr. COLEMAN submitted an amendment intended to be proposed by him to the bill H.R. 5631, making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VIII, add the following:

SEC. 8109. Of the amount appropriated or otherwise made available by title VI under the heading ''DEFENSE HEALTH PROGRAM'', up to $500,000 may be available for the Coordinated International Neuromuscular Research Group (CINRG).

SA 4795. Mr REID (for himself, Mr. ROCKEFELLER, Mr. KERRY, Mr. OBAMA, Mr. LAUTENBERG, Mr. LIEBERMAN, Mr. DURBAN, Mr. SCHUMER, Ms. STABENOW, Mr. JOHNSON, and Mr. DORGAN) proposed an amendment to the bill H.R. 5631, making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes; as follows:

At the end of the appropriate place add the following:

SECTION 1. SHORT TITLE, ETC.

(a) SHORT TITLE.—This Section may be cited as the ''Tax Extension Relief Act of 2006''.

(b) REFERENCE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

TITLE I—EXTENSION AND MODIFICATION OF CERTAIN TAX RELIEF PROVISIONS

SEC. 101. DEDUCTION FOR QUALIFIED TUITION AND RELATED EXPENSES.

(a) IN GENERAL.—Section 222(e) is amended by striking ''2005''and inserting ''2007''.

(b) CONFORMING AMENDMENTS.—Section 222(b)(2)(B) is amended—

(1) by striking ''a taxable year beginning in 2004 or 2005'' and inserting ''any taxable year beginning after 2003'', and

(2) by striking ''2004 AND 2005'' in the heading and inserting ''AFTER 2003''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

SEC. 102. EXTENSION AND MODIFICATION OF NEW MARKETS TAX CREDIT.

(a) EXTENSION.—Section 45D(f)(1)(D) is amended by striking ''and 2007'' and inserting '', 2007, and 2008''.

(b) REGULATIONS REGARDING NON-METROPOLITAN COUNTIES.—Section 45D(i) is amended by striking ''and'' at the end of paragraph (4), by striking the period at the end of paragraph (5) and inserting '', and'', and by adding at the end the following new paragraph:

''(6) which ensure that non-metropolitan counties receive a proportional allocation of qualified equity investments.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 103. ELECTION TO DEDUCT STATE AND LOCAL GENERAL SALES TAXES.

(a) IN GENERAL.—Section 164(b)(5)(I) is amended by striking ''2006'' and inserting ''2008''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

SEC. 104. EXTENSION AND MODIFICATION OF RESEARCH CREDIT.

(a) EXTENSION.—

(1) IN GENERAL.—Section 41(h)(1)(B) is amended by striking ''2005'' and inserting ''2007''.

(2) CONFORMING AMENDMENT.—Section 45C(b)(1)(D) is amended by striking ''2005'' and inserting ''2007''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to amounts paid or incurred after December 31, 2005.

(b) INCREASE IN RATES OF ALTERNATIVE INCREMENTAL CREDIT.—

(1) IN GENERAL.—Subparagraph (A) of section 41(c)(4) (relating to election of alternative incremental credit) is amended—

(A) by striking ''2.65 percent'' and inserting ''3 percent'',

(B) by striking ''3.2 percent'' and inserting ''4 percent'', and

(C) by striking ''3.75 percent'' and inserting ''5 percent''.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to amounts paid or incurred after December 31, 2006.

(c) ALTERNATIVE SIMPLIFIED CREDIT FOR QUALIFIED RESEARCH EXPENSES.—

(1) IN GENERAL.—Subsection (c) of section 41 (relating to base amount) is amended by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively, and by inserting after paragraph (4) the following new paragraph:

''(5) ELECTION OF ALTERNATIVE SIMPLIFIED CREDIT.—

''(A) IN GENERAL.—At the election of the taxpayer, the credit determined under subsection (a)(1) shall be equal to 12 percent of so much of the qualified research expenses for the taxable year as exceeds 50 percent of the average qualified research expenses for the 3 taxable years preceding the taxable year for which the credit is being determined.

''(B) SPECIAL RULE IN CASE OF NO QUALIFIED RESEARCH EXPENSES IN ANY OF 3 PRECEDING TAXABLE YEARS.—

''(i) TAXPAYERS TO WHICH SUBPARAGRAPH APPLIES.—The credit under this paragraph shall be determined under this subparagraph if the taxpayer has no qualified research expenses in any one of the 3 taxable years preceding the taxable year for which the credit is being determined.

''(ii) CREDIT RATE.—The credit determined under this subparagraph shall be equal to 6 percent of the qualified research expenses for the taxable year.

''(C) ELECTION.—An election under this paragraph shall apply to the taxable year for which made and all succeeding taxable years unless revoked with the consent of the Secretary. An election under this paragraph may not be made for any taxable year to which an election under paragraph (4) applies.''.

(2) COORDINATION WITH ELECTION OF ALTERNATIVE INCREMENTAL CREDIT.—

(A) IN GENERAL.—Section 41(c)(4)(B) (relating to election) is amended by adding at the end the following: ''An election under this paragraph may not be made for any taxable year to which an election under paragraph (5) applies.''.

(B) TRANSITION RULE.—In the case of an election under section 41(c)(4) of the Internal Revenue Code of 1986 which applies to the taxable year which includes the date of the enactment of this Act, such election shall be treated as revoked with the consent of the Secretary of the Treasury if the taxpayer makes an election under section 41(c)(5) of such Code (as added by subsection (c)) for such year.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to amounts paid or incurred after December 31, 2006.

SEC. 105. WORK OPPORTUNITY TAX CREDIT AND WELFARE-TO-WORK CREDIT.

(a) IN GENERAL.—Sections 51(c)(4)(B) and 51A(f) are each amended by striking ''2005'' and inserting ''2007''.

(b) ELIGIBILITY OF EX-FELONS DETERMINED WITHOUT REGARD TO FAMILY INCOME.—Paragraph (4) of section 51(d) is amended by adding ''and'' at the end of subparagraph (A), by striking '', and'' at the end of subparagraph (B) and inserting a period, and by striking all that follows subparagraph (B).

(c) INCREASE IN MAXIMUM AGE FOR ELIGIBILITY OF FOOD STAMP RECIPIENTS.—Clause (i) of section 51(d)(8)(A) is amended by striking ''25'' and inserting ''40''.

(d) EXTENSION OF PAPERWORK FILING DEADLINE.—Section 51(d)(12)(A)(ii)(II) is amended by striking ''21st day'' and inserting ''28th day''.

(e) CONSOLIDATION OF WORK OPPORTUNITY CREDIT WITH WELFARE-TO-WORK CREDIT.—

(1) IN GENERAL.—Paragraph (1) of section 51(d) is amended by striking ''or'' at the end of subparagraph (G), by striking the period at the end of subparagraph (H) and inserting '', or'', and by adding at the end the following new subparagraph:

''(I) a long-term family assistance recipient.''.

(2) LONG-TERM FAMILY ASSISTANCE RECIPIENT.—Subsection (d) of section 51 is amended by redesignating paragraphs (10) through (12) as paragraphs (11) through (13), respectively, and by inserting after paragraph (9) the following new paragraph:

''(10) LONG-TERM FAMILY ASSISTANCE RECIPIENT.—The term 'long-term family assistance recipient' means any individual who is certified by the designated local agency—

''(A) as being a member of a family receiving assistance under a IV–A program (as defined in paragraph (2)(B)) for at least the 18-month period ending on the hiring date,

''(B)(i) as being a member of a family receiving such assistance for 18 months beginning after August 5, 1997, and

''(ii) as having a hiring date which is not more than 2 years after the end of the earliest such 18-month period, or

''(C)(i) as being a member of a family which ceased to be eligible for such assistance by reason of any limitation imposed by Federal or State law on the maximum period such assistance is payable to a family, and

''(ii) as having a hiring date which is not more than 2 years after the date of such cessation.''.

(3) INCREASED CREDIT FOR EMPLOYMENT OF LONG-TERM FAMILY ASSISTANCE RECIPIENTS.—Section 51 is amended by inserting after subsection (d) the following new subsection:

''(e) CREDIT FOR SECOND-YEAR WAGES FOR EMPLOYMENT OF LONG-TERM FAMILY ASSISTANCE RECIPIENTS.—

''(1) IN GENERAL.—With respect to the employment of a long-term family assistance recipient—

''(A) the amount of the work opportunity credit determined under this section for the taxable year shall include 50 percent of the qualified second-year wages for such year, and

''(B) in lieu of applying subsection (b)(3), the amount of the qualified first-year wages, and the amount of qualified second-year wages, which may be taken into account with respect to such a recipient shall not exceed $10,000 per year.

''(2) QUALIFIED SECOND-YEAR WAGES.—For purposes of this subsection, the term 'qualified second-year wages' means qualified wages—

''(A) which are paid to a long-term family assistance recipient, and

''(B) which are attributable to service rendered during the 1-year period beginning on the day after the last day of the 1-year period with respect to such recipient determined under subsection (b)(2).

''(3) SPECIAL RULES FOR AGRICULTURAL AND RAILWAY LABOR.—If such recipient is an employee to whom subparagraph (A) or (B) of subsection (h)(1) applies, rules similar to the rules of such subparagraphs shall apply except that—

''(A) such subparagraph (A) shall be applied by substituting '$10,000' for '$6,000', and

''(B) such subparagraph (B) shall be applied by substituting '$833.33' for '$500'.''.

(4) REPEAL OF SEPARATE WELFARE-TO-WORK CREDIT.—

(A) IN GENERAL.—Section 51A is hereby repealed.

(B) CLERICAL AMENDMENT.—The table of sections for subpart F of part IV of subchapter A of chapter 1 is amended by striking the item relating to section 51A.

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to individuals who begin work for the employer after December 31, 2005.

(2) CONSOLIDATION.—The amendments made by subsections (b), (c), (d), and (e) shall apply to individuals who begin work for the employer after December 31, 2006.

SEC. 106. ELECTION TO INCLUDE COMBAT PAY AS EARNED INCOME FOR PURPOSES OF EARNED INCOME CREDIT.

(a) IN GENERAL.—Section 32(c)(2)(B)(vi)(II) is amended by striking ''2007'' and inserting ''2008''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2006.

SEC. 107. EXTENSION AND MODIFICATION OF QUALIFIED ZONE ACADEMY BONDS.

(a) IN GENERAL.—Paragraph (1) of section 1397E(e) is amended by striking ''and 2005'' and inserting ''2005, 2006, and 2007''.

(b) SPECIAL RULES RELATING TO EXPENDITURES, ARBITRAGE, AND REPORTING.—

(1) IN GENERAL.—Section 1397E is amended—

(A) in subsection (d)(1), by striking ''and'' at the end of subparagraph (C)(iii), by striking the period at the end of subparagraph (D) and inserting '', and'', and by adding at the end the following new subparagraph:

''(E) the issue meets the requirements of subsections (f), (g), and (h).'', and

(B) by redesignating subsections (f), (g), (h), and (i) as subsection (i), (j), (k), and (l), respectively, and by inserting after subsection (e) the following new subsections:

''(f) SPECIAL RULES RELATING TO EXPENDITURES.—

''(1) IN GENERAL.—An issue shall be treated as meeting the requirements of this subsection if, as of the date of issuance, the issuer reasonably expects—

''(A) at least 95 percent of the proceeds from the sale of the issue are to be spent for 1 or more qualified purposes with respect to qualified zone academies within the 5-year period beginning on the date of issuance of the qualified zone academy bond,

''(B) a binding commitment with a third party to spend at least 10 percent of the proceeds from the sale of the issue will be incurred within the 6-month period beginning on the date of issuance of the qualified zone academy bond, and

''(C) such purposes will be completed with due diligence and the proceeds from the sale of the issue will be spent with due diligence.

''(2) EXTENSION OF PERIOD.—Upon submission of a request prior to the expiration of the period described in paragraph (1)(A), the Secretary may extend such period if the issuer establishes that the failure to satisfy the 5-year requirement is due to reasonable cause and the related purposes will continue to proceed with due diligence.

''(3) FAILURE TO SPEND REQUIRED AMOUNT OF BOND PROCEEDS WITHIN 5 YEARS.—To the extent that less than 95 percent of the proceeds of such issue are expended by the close of the 5-year period beginning on the date of issuance (or if an extension has been obtained under paragraph (2), by the close of the extended period), the issuer shall redeem all of the nonqualified bonds within 90 days after the end of such period. For purposes of this paragraph, the amount of the nonqualified bonds required to be redeemed shall be determined in the same manner as under section 142.

''(g) SPECIAL RULES RELATING TO ARBITRAGE.—An issue shall be treated as meeting the requirements of this subsection if the issuer satisfies the arbitrage requirements of section 148 with respect to proceeds of the issue.

''(h) REPORTING.—Issuers of qualified academy zone bonds shall submit reports similar to the reports required under section 149(e).''.

(2) CONFORMING AMENDMENTS.—Sections 54(l)(3)(B) and 1400N(l)(7)(B)(ii) are each amended by striking ''section 1397E(i)'' and inserting ''section 1397E(l)''.

(c) EFFECTIVE DATES.—

(1) EXTENSION.—The amendment made by subsection (a) shall apply to obligations issued after December 31, 2005.

(2) SPECIAL RULES.—The amendments made by subsection (b) shall apply to obligations issued after the date of the enactment of this Act pursuant to allocations of the national zone academy bond limitation for calendar years after 2005.

SEC. 108. ABOVE-THE-LINE DEDUCTION FOR CERTAIN EXPENSES OF ELEMENTARY AND SECONDARY SCHOOL TEACHERS.

(a) IN GENERAL.—Subparagraph (D) of section 62(a)(2) is amended by striking ''or 2005'' and inserting ''2005, 2006, or 2007''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2005.

SEC. 109. EXTENSION AND EXPANSION OF EXPENSING OF BROWNFIELDS REMEDIATION COSTS.

(a) EXTENSION.—Subsection (h) of section 198 is amended by striking ''2005'' and inserting ''2007''.

(b) EXPANSION.—Section 198(d)(1) (defining hazardous substance) is amended by striking ''and'' at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting '', and'', and by adding at the end the following new subparagraph:

''(C) any petroleum product (as defined in section 4612(a)(3)).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to expenditures paid or incurred after December 31, 2005.

SEC. 110. TAX INCENTIVES FOR INVESTMENT IN THE DISTRICT OF COLUMBIA.

(a) DESIGNATION OF ZONE.—

(1) IN GENERAL.—Subsection (f) of section 1400 is amended by striking ''2005'' both places it appears and inserting ''2007''.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to periods beginning after December 31, 2005.

(b) TAX-EXEMPT ECONOMIC DEVELOPMENT BONDS.—

(1) IN GENERAL.—Subsection (b) of section 1400A is amended by striking ''2005'' and inserting ''2007''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to bonds issued after December 31, 2005.

(c) ZERO PERCENT CAPITAL GAINS RATE.—

(1) IN GENERAL.—Subsection (b) of section 1400B is amended by striking ''2006'' each place it appears and inserting ''2008''.

(2) CONFORMING AMENDMENTS.—

(A) Section 1400B(e)(2) is amended—

(i) by striking ''2010'' and inserting ''2012'', and

(ii) by striking ''2010'' in the heading thereof and inserting ''2012''.

(B) Section 1400B(g)(2) is amended by striking ''2010'' and inserting ''2012''.

(C) Section 1400F(d) is amended by striking ''2010'' and inserting ''2012''.

(3) EFFECTIVE DATES.—

(A) EXTENSION.—The amendments made by paragraph (1) shall apply to acquisitions after December 31, 2005.

(B) CONFORMING AMENDMENTS.—The amendments made by paragraph (2) shall take effect on the date of the enactment of this Act.

(d) FIRST-TIME HOMEBUYER CREDIT.—

(1) IN GENERAL.—Subsection (i) of section 1400C is amended by striking ''2006'' and inserting ''2008''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to property purchased after December 31, 2005.

SEC. 111. INDIAN EMPLOYMENT TAX CREDIT.

(a) IN GENERAL.—Section 45A(f) is amended by striking ''2005'' and inserting ''2007''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2005.

SEC. 112. ACCELERATED DEPRECIATION FOR BUSINESS PROPERTY ON INDIAN RESERVATIONS.

(a) IN GENERAL.—Section 168(j)(8) is amended by striking ''2005'' and inserting ''2007''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after December 31, 2005.

SEC. 113. FIFTEEN-YEAR STRAIGHT-LINE COST RECOVERY FOR QUALIFIED LEASEHOLD IMPROVEMENTS AND QUALIFIED RESTAURANT PROPERTY.

(a) IN GENERAL.—Clauses (iv) and (v) of section 168(e)(3)(E) are each amended by striking ''2006'' and inserting ''2008''.

(b) TREATMENT OF RESTAURANT PROPERTY TO INCLUDE NEW CONSTRUCTION.—Paragraph (7) of section 168(e) (relating to classification of property) is amended to read as follows:

''(7) QUALIFIED RESTAURANT PROPERTY.—The term 'qualified restaurant property' means any section 1250 property which is a building or an improvement to a building if more than 50 percent of the building's square footage is devoted to preparation of, and seating for on-premises consumption of, prepared meals.''.

(c) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendments made by subsection (a) shall apply to property placed in service after December 31, 2005.

(2) SUBSECTION (b).—The amendment made by subxection (b) shall apply to property placed in service after the date of the enactment of this Act.

SEC. 114. COVER OVER OF TAX ON DISTILLED SPIRITS.

(a) IN GENERAL.—Section 7652(f)(1) is amended by striking ''2006'' and inserting ''2008''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to articles brought into the United States after December 31, 2005.

SEC. 115. PARITY IN APPLICATION OF CERTAIN LIMITS TO MENTAL HEALTH BENEFITS.

(a) AMENDMENT TO THE INTERNAL REVENUE CODE OF 1986.—Section 9812(f)(3) is amended by striking ''2006'' and inserting ''2007''.

(b) AMENDMENT TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—Section 712(f) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1185a(f)) is amended by striking ''2006'' and inserting ''2007''.

(c) AMENDMENT TO THE PUBLIC HEALTH SERVICE ACT.—Section 2705(f) of the Public Health Service Act (42 U.S.C. 300gg–5(f)) is amended by striking ''2006''and inserting ''2007''.

SEC. 116. CORPORATE DONATIONS OF SCIENTIFIC PROPERTY USED FOR RESEARCH AND OF COMPUTER TECHNOLOGY AND EQUIPMENT.

(a) EXTENSION OF COMPUTER TECHNOLOGY AND EQUIPMENT DONATION.—

(1) IN GENERAL.—Section 170(e)(6)(G) is amended by striking ''2005'' and inserting ''2007''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to contributions made in taxable years beginning after December 31, 2005.

(b) EXPANSION OF CHARITABLE CONTRIBUTION ALLOWED FOR SCIENTIFIC PROPERTY USED FOR RESEARCH AND FOR COMPUTER TECHNOLOGY AND EQUIPMENT USED FOR EDUCATIONAL PURPOSES.—

(1) SCIENTIFIC PROPERTY USED FOR RESEARCH.—

(A) IN GENERAL.—Clause (ii) of section 170(e)(4)(B) (defining qualified research contributions) is amended by inserting ''or assembled'' after ''constructed''.

(B) CONFORMING AMENDMENT.—Clause (iii) of section 170(e)(4)(B) is amended by inserting ''or assembly'' after ''construction''.

(2) COMPUTER TECHNOLOGY AND EQUIPMENT FOR EDUCATIONAL PURPOSES.—

(A) IN GENERAL.—Clause (ii) of section 170(e)(6)(B) is amended by inserting ''or assembled'' after ''constructed'' and ''or assembling'' after ''construction''.

(B) CONFORMING AMENDMENT.—Subparagraph (D) of section 170(e)(6) is amended by inserting ''or assembled'' after ''constructed'' and ''or assembly'' after ''construction''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 2005.

SEC. 117. AVAILABILITY OF MEDICAL SAVINGS ACCOUNTS.

(a) IN GENERAL.—Paragraphs (2) and (3)(B) of section 220(i) are each amended by striking ''2005'' each place it appears in the text and headings and inserting ''2007''.

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 220(j) is amended—

(A) in the text by striking ''or 2004'' each place it appears and inserting ''2004, 2005, or 2006'', and

(B) in the heading by striking ''OR 2004'' and inserting ''2004, 2005, OR 2006'' .

(2) Subparagraph (A) of section 220(j)(4) is amended by striking ''and 2004'' and inserting ''2004, 2005, and 2006''.

(c) TIME FOR FILING REPORTS, ETC.—

(1) The report required by section 220(j)(4) of the Internal Revenue Code of 1986 to be made on August 1, 2005, shall be treated as timely if made before the close of the 90-day period beginning on the date of the enactment of this Act.

(2) The determination and publication required by section 220(j)(5) of such Code with respect to calendar year 2005 shall be treated as timely if made before the close of the 120-day period beginning on the date of the enactment of this Act. If the determination under the preceding sentence is that 2005 is a cut-off year under section 220(i) of such Code, the cut-off date under such section 220(i) shall be the last day of such 120-day period.

SEC. 118. TAXABLE INCOME LIMIT ON PERCENTAGE DEPLETION FOR OIL AND NATURAL GAS PRODUCED FROM MARGINAL PROPERTIES.

(a) IN GENERAL.—Section 613A(c)(6)(H) is amended by striking ''2006'' and inserting ''2008''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 2005.

SEC. 119. AMERICAN SAMOA ECONOMIC DEVELOPMENT CREDIT.

(a) IN GENERAL.—For purposes of section 30A of the Internal Revenue Code of 1986, a domestic corporation shall be treated as a qualified domestic corporation to which such section applies if such corporation—

(1) is an existing credit claimant with respect to American Samoa, and

(2) elected the application of section 936 of the Internal Revenue Code of 1986 for its last taxable year beginning before January 1, 2006.

(b) SPECIAL RULES FOR APPLICATION OF SECTION.—The following rules shall apply in applying section 30A of the Internal Revenue Code of 1986 for purposes of this section:

(1) AMOUNT OF CREDIT.—Notwithstanding section 30A(a)(1) of such Code, the amount of the credit determined under section 30A(a)(1) of such Code for any taxable year shall be the amount determined under section 30A(d) of such Code, except that section 30A(d) shall be applied without regard to paragraph (3) thereof.

(2) SEPARATE APPLICATION.—In applying section 30A(a)(3) of such Code in the case of a corporation treated as a qualified domestic corporation by reason of this section, section 30A of such Code (and so much of section 936 of such Code as relates to such section 30A) shall be applied separately with respect to American Samoa.

(3) FOREIGN TAX CREDIT ALLOWED.—Notwithstanding section 30A(e) of such Code, the provisions of section 936(c) of such Code shall not apply with respect to the credit allowed by reason of this section.

(c) DEFINITIONS.—For purposes of this section, any term which is used in this section which is also used in section 30A or 936 of such Code shall have the same meaning given such term by such section 30A or 936.

(d) APPLICATION OF SECTION.—Notwithstanding section 30A(h) or section 936(j) of such Code, this section (and so much of section 30A and section 936 of such Code as relates to this section) shall apply to the first two taxable years of a corporation to which subsection (a) applies which begin after December 31, 2005, and before January 1, 2008.

SEC. 120. RESTRUCTURING OF NEW YORK LIBERTY ZONE TAX CREDITS.

(a) IN GENERAL.—Part I of subchapter Y of chapter 1 is amended by redesignating section 1400L as 1400K and by adding at the end the following new section:

''SEC. 1400L. NEW YORK LIBERTY ZONE TAX CREDITS.

''(a) IN GENERAL.—In the case of a New York Liberty Zone governmental unit, there shall be allowed as a credit against any taxes imposed for any payroll period by section 3402 for which such governmental unit is liable under section 3403 an amount equal to so much of the portion of the qualifying project expenditure amount allocated under subsection (b)(3) to such governmental unit for the calendar year as is allocated by such governmental unit to such period under subsection (b)(4).

''(b) QUALIFYING PROJECT EXPENDITURE AMOUNT.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualifying project expenditure amount' means, with respect to any calendar year, the sum of—

''(A) the total expenditures paid or incurred during such calendar year by all New York Liberty Zone governmental units and the Port Authority of New York and New Jersey for any portion of qualifying projects located wholly within the City of New York, New York, and

''(B) any such expenditures—

''(i) paid or incurred in any preceding calendar year which begins after the date of enactment of this section, and

''(ii) not previously allocated under paragraph (3).

''(2) QUALIFYING PROJECT.—The term 'qualifying project' means any transportation infrastructure project, including highways, mass transit systems, railroads, airports, ports, and waterways, in or connecting with the New York Liberty Zone (as defined in section 1400K(h)), which is designated as a qualifying project under this section jointly by the Governor of the State of New York and the Mayor of the City of New York, New York.

''(3) GENERAL ALLOCATION.—

''(A) IN GENERAL.—The Governor of the State of New York and the Mayor of the City of New York, New York, shall jointly allocate to each New York Liberty Zone governmental unit the portion of the qualifying project expenditure amount which may be taken into account by such governmental unit under subsection (a) for any calendar year in the credit period.

''(B) AGGREGATE LIMIT.—The aggregate amount which may be allocated under subparagraph (A) for all calendar years in the credit period shall not exceed $1,750,000,000.

''(C) ANNUAL LIMIT.—

''(i) IN GENERAL.—The aggregate amount which may be allocated under subparagraph (A) for any calendar year in the credit period shall not exceed the sum of—

''(I) the applicable limit, plus

''(II) the aggregate amount authorized to be allocated under this paragraph for all preceding calendar years in the credit period which was not so allocated.

''(ii) APPLICABLE LIMIT.—For purposes of clause (i), the applicable limit for any calendar year is—

''(I) in the case of calendar years 2007 through 2016, $100,000,000,

''(II) in the case of calendar year 2017 or 2018, $200,000,000,

''(III) in the case of calendar year 2019, $150,000,000,

''(IV) in the case of calendar year 2020 or 2021, $100,000,000, and

''(V) in the case of any calendar year after 2021, zero.

''(D) UNALLOCATED AMOUNTS AT END OF CREDIT PERIOD.—If, as of the close of the credit period, the amount under subparagraph (B) exceeds the aggregate amount allocated under subparagraph (A) for all calendar years in the credit period, the Governor of the State of New York and the Mayor of the City of New York, New York, may jointly allocate to New York Liberty Zone governmental units for any calendar year in the 5-year period following the credit period an amount equal to—

''(i) the lesser of—

''(I) such excess, or

''(II) the qualifying project expenditure amount for such calendar year, reduced by

''(ii) the aggregate amount allocated under this subparagraph for all preceding calendar years.

''(4) ALLOCATION TO PAYROLL PERIODS.—Each New York Liberty Zone governmental unit which has been allocated a portion of the qualifying project expenditure amount under paragraph (3) for a calendar year may allocate such portion to payroll periods beginning in such calendar year as such governmental unit determines appropriate.

''(c) CARRYOVER OF UNUSED ALLOCATIONS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), if the amount allocated under subsection (b)(3) to a New York Liberty Zone governmental unit for any calendar year exceeds the aggregate taxes imposed by section 3402 for which such governmental unit is liable under section 3403 for periods beginning in such year, such excess shall be carried to the succeeding calendar year and added to the allocation of such governmental unit for such succeeding calendar year. No amount may be carried under the preceding sentence to a calendar year after 2026.

''(2) REALLOCATION.—If a New York Liberty Zone governmental unit does not use an amount allocated to it under subsection (b)(3) within the time prescribed by the Governor of the State of New York and the Mayor of the City of New York, New York, then such amount shall after such time be treated for purposes of subsection (b)(3) in the same manner as if it had never been allocated.

''(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) CREDIT PERIOD.—The term 'credit period' means the 15-year period beginning on January 1, 2007.

''(2) NEW YORK LIBERTY ZONE GOVERNMENTAL UNIT.—The term 'New York Liberty Zone governmental unit' means—

''(A) the State of New York,

''(B) the City of New York, New York, and

''(C) any agency or instrumentality of such State or City.

''(3) TREATMENT OF FUNDS.—Any expenditure for a qualifying project taken into account for purposes of the credit under this section shall be considered State and local funds for the purpose of any Federal program.

''(4) TREATMENT OF CREDIT AMOUNTS FOR PURPOSES OF WITHHOLDING TAXES.—For purposes of this title, a New York Liberty Zone governmental unit shall be treated as having paid to the Secretary, on the day on which wages are paid to employees, an amount equal to the amount of the credit allowed to such entity under subsection (a) with respect to such wages, but only if such governmental unit deducts and withholds wages for such payroll period under section 3401 (relating to wage withholding).

''(e) REPORTING.—The Governor of the State of New York and the Mayor of the City of New York, New York, shall jointly submit to the Secretary an annual report—

''(1) which certifies—

''(A) the qualifying project expenditure amount for the calendar year, and

''(B) the amount allocated to each New York Liberty Zone governmental unit under subsection (b)(3) for the calendar year, and

''(2) includes such other information as the Secretary may require to carry out this section.

''(f) GUIDANCE.—The Secretary may prescribe such guidance as may be necessary or appropriate to ensure compliance with the purposes of this section.

''(g) TERMINATION.—No credit shall be allowed under subsection (a) for any calender year after 2026.''.

(b) TERMINATION OF CERTAIN NEW YORK LIBERTY ZONE BENEFITS.—

(1) SPECIAL ALLOWANCE AND EXPENSING.—Section 1400K(b)(2)(A)(v), as redesignated by subsection (a), is amended by striking ''the termination date'' and inserting ''the date of the enactment of the Tax Extension Relief Act of 2006 or the termination date if pursuant to a binding contract in effect on such enactment date''.

(2) LEASEHOLD.—Section 1400K(c)(2)(B), as so redesignated, is amended by striking ''before January 1, 2007'' and inserting ''on or before the date of the enactment of the Tax Extension Relief Act of 2006 or before January 1, 2007, if pursuant to a binding contract in effect on such enactment date''.

(c) CONFORMING AMENDMENTS.—

(1) Section 38(c)(3)(B) is amended by striking ''section 1400L(a)'' and inserting ''section 1400K(a)''.

(2) Section 168(k)(2)(D)(ii) is amended by striking ''section 1400L(c)(2)'' and inserting ''1400K(c)(2)''.

(3) The table of sections for part I of subchapter Y of chapter 1 is amended by striking ''1400L'' and inserting ''1400K''.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to periods beginning after December 31, 2006.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall take effect as if included in section 301 of the Job Creation and Worker Assistance Act of 2002.

SEC. 121. EXTENSION OF BONUS DEPRECIATION FOR CERTAIN QUALIFIED GULF OPPORTUNITY ZONE PROPERTY.

(a) IN GENERAL.—Subsection (d) of section 1400N is amended by adding at the end the following new paragraph:

''(6) EXTENSION FOR CERTAIN PROPERTY.—

''(A) IN GENERAL.—In the case of any specified Gulf Opportunity Zone extension property, paragraph (2)(A) shall be applied without regard to clause (v) thereof.

''(B) SPECIFIED GULF OPPORTUNITY ZONE EXTENSION PROPERTY.—For purposes of this paragraph, the term 'specified Gulf Opportunity Zone extension property' means property—

''(i) substantially all of the use of which is in one or more specified portions of the GO Zone, and

''(ii) which is—

''(I) nonresidential real property or residential rental property which is placed in service by the taxpayer on or before December 31, 2009, or

''(II) in the case of a taxpayer who places a building described in subclause (I) in service on or before December 31, 2009, property described in section 168(k)(2)(A)(i) if substantially all of the use of such property is in such building and such property is placed in service by the taxpayer not later than 90 days after such building is placed in service.

''(C) SPECIFIED PORTIONS OF THE GO ZONE.—For purposes of this paragraph, the term 'specified portions of the GO Zone' means those portions of the GO Zone which are in any county or parish which is identified by the Secretary as being a county or parish in which hurricanes occurring during 2005 damaged (in the aggregate) more than 40 percent of the housing units in such county or parish which were occupied (determined according to the 2000 Census).''.

(b) EXTENSION NOT APPLICABLE TO INCREASED SECTION 179 EXPENSING.—Paragraph (2) of section 1400N(e) is amended by inserting ''without regard to subsection (d)(6)'' after ''subsection (d)(2)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in section 101 of the Gulf Opportunity Zone Act of 2005.

SEC. 122. AUTHORITY FOR UNDERCOVER OPERATIONS.

Paragraph (6) of section 7608(c) (relating to application of section) is amended by striking ''2007'' both places it appears and inserting ''2008''.

SEC. 123. DISCLOSURES OF CERTAIN TAX RETURN INFORMATION.

(a) DISCLOSURES TO FACILITATE COMBINED EMPLOYMENT TAX REPORTING.—

(1) IN GENERAL.—Subparagraph (B) of section 6103(d)(5) (relating to termination) is amended by striking ''2006'' and inserting ''2007''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to disclosures after December 31, 2006.

(b) DISCLOSURES RELATING TO TERRORIST ACTIVITIES.—

(1) IN GENERAL.—Clause (iv) of section 6103(i)(3)(C) and subparagraph (E) of section 6103(i)(7) are each amended by striking ''2006'' and inserting ''2007''.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to disclosures after December 31, 2006.

(c) DISCLOSURES RELATING TO STUDENT LOANS.—

(1) IN GENERAL.—Subparagraph (D) of section 6103(l)(13) (relating to termination) is amended by striking ''2006'' and inserting ''2007''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to requests made after December 31, 2006.

TITLE II—OTHER TAX PROVISIONS

SEC. 201. DEDUCTION ALLOWABLE WITH RESPECT TO INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION ACTIVITIES IN PUERTO RICO.

(a) IN GENERAL.—Subsection (d) of section 199 (relating to definitions and special rules) is amended by redesignating paragraph (8) as paragraph (9) and by inserting after paragraph (7) the following new paragraph:

''(8) TREATMENT OF ACTIVITIES IN PUERTO RICO.—

''(A) IN GENERAL.—In the case of any taxpayer with gross receipts for any taxable year from sources within the Commonwealth of Puerto Rico, if all of such receipts are taxable under section 1 or 11 for such taxable year, then for purposes of determining the domestic production gross receipts of such taxpayer for such taxable year under subsection (c)(4), the term 'United States' shall include the Commonwealth of Puerto Rico.

''(B) SPECIAL RULE FOR APPLYING WAGE LIMITATION.—In the case of any taxpayer described in subparagraph (A), for purposes of applying the limitation under subsection (b) for any taxable year, the determination of W–2 wages of such taxpayer shall be made without regard to any exclusion under section 3401(a)(8) for remuneration paid for services performed in Puerto Rico.

''(C) TERMINATION.—This paragraph shall apply only with respect to the first 2 taxable years of the taxpayer beginning after December 31, 2005, and before January 1, 2008.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to taxable years beginning after December 31, 2005.

SEC. 202. CREDIT FOR PRIOR YEAR MINIMUM TAX LIABILITY MADE REFUNDABLE AFTER PERIOD OF YEARS.

(a) IN GENERAL.—Section 53 (relating to credit for prior year minimum tax liability) is amended by adding at the end the following new subsection:

''(e) SPECIAL RULE FOR INDIVIDUALS WITH LONG-TERM UNUSED CREDITS.—

''(1) IN GENERAL.—If an individual has a long-term unused minimum tax credit for any taxable year beginning before January 1, 2013, the amount determined under subsection (c) for such taxable year shall not be less than the AMT refundable credit amount for such taxable year.

''(2) AMT REFUNDABLE CREDIT AMOUNT.—For purposes of paragraph (1)—

''(A) IN GENERAL.—The term 'AMT refundable credit amount' means, with respect to any taxable year, the amount equal to the greater of—

''(i) the lesser of—

''(I) $5,000, or

''(II) the amount of long-term unused minimum tax credit for such taxable year, or

''(ii) 20 percent of the amount of such credit.

''(B) PHASEOUT OF AMT REFUNDABLE CREDIT AMOUNT.—

''(i) IN GENERAL.—In the case of an individual whose adjusted gross income for any taxable year exceeds the threshold amount (within the meaning of section 151(d)(3)(C)), the AMT refundable credit amount determined under subparagraph (A) for such taxable year shall be reduced by the applicable percentage (within the meaning of section 151(d)(3)(B)).

''(ii) ADJUSTED GROSS INCOME.—For purposes of clause (i), adjusted gross income shall be determined without regard to sections 911, 931, and 933.

''(3) LONG-TERM UNUSED MINIMUM TAX CREDIT.—

''(A) IN GENERAL.—For purposes of this subsection, the term 'long-term unused minimum tax credit' means, with respect to any taxable year, the portion of the minimum tax credit determined under subsection (b) attributable to the adjusted net minimum tax for taxable years before the 3rd taxable year immediately preceding such taxable year.

''(B) FIRST-IN, FIRST-OUT ORDERING RULE.—For purposes of subparagraph (A), credits shall be treated as allowed under subsection (a) on a first-in, first-out basis.

''(4) CREDIT REFUNDABLE.—For purposes of this title (other than this section), the credit allowed by reason of this subsection shall be treated as if it were allowed under subpart C.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 6211(b)(4)(A) is amended by striking ''and 34'' and inserting ''34, and 53(e)''.

(2) Paragraph (2) of section 1324(b) of title 31, United States Code, is amended by inserting ''or 53(e)'' after ''section 35''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 203. RETURNS REQUIRED IN CONNECTION WITH CERTAIN OPTIONS.

(a) IN GENERAL.—So much of section 6039(a) as follows paragraph (2) is amended to read as follows:

''shall, for such calendar year, make a return at such time and in such manner, and setting forth such information, as the Secretary may by regulations prescribe.''.

(b) STATEMENTS TO PERSONS WITH RESPECT TO WHOM INFORMATION IS FURNISHED.—Section 6039 is amended by redesignating subsections (b) and (c) as subsection (c) and (d), respectively, and by inserting after subsection (a) the following new subsection:

''(b) STATEMENTS TO BE FURNISHED TO PERSONS WITH RESPECT TO WHOM INFORMATION IS REPORTED.—Every corporation making a return under subsection (a) shall furnish to each person whose name is set forth in such return a written statement setting forth such information as the Secretary may by regulations prescribe. The written statement required under the preceding sentence shall be furnished to such person on or before January 31 of the year following the calendar

year for which the return under subsection (a) was made.''.

(c) CONFORMING AMENDMENTS.—

(1) Section 6724(d)(1)(B) is amended by striking ''or'' at the end of clause (xvii), by striking ''and'' at the end of clause (xviii) and inserting ''or'', and by adding at the end the following new clause:

''(xix) section 6039(a) (relating to returns required with respect to certain options), and''.

(2) Section 6724(d)(2)(B) is amended by striking ''section 6039(a)'' and inserting ''section 6039(b)''.

(3) The heading of section 6039 and the item relating to such section in the table of sections of subpart A of part III of subchapter A of chapter 61 of such Code are each amended by striking ''Information'' and inserting ''Returns''.

(4) The heading of subsection (a) of section 6039 is amended by striking ''FURNISHING OF INFORMATION'' and inserting ''REQUIREMENT OF REPORTING''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to calendar years beginning after the date of the enactment of this Act.

SEC. 204. PARTIAL EXPENSING FOR ADVANCED MINE SAFETY EQUIPMENT.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 is amended by inserting after section 179D the following new section:

''SEC. 179E. ELECTION TO EXPENSE ADVANCED MINE SAFETY EQUIPMENT.

''(a) TREATMENT AS EXPENSES.—A taxpayer may elect to treat 50 percent of the cost of any qualified advanced mine safety equipment property as an expense which is not chargeable to capital account. Any cost so treated shall be allowed as a deduction for the taxable year in which the qualified advanced mine safety equipment property is placed in service.

''(b) ELECTION.—

''(1) IN GENERAL.—An election under this section for any taxable year shall be made on the taxpayer's return of the tax imposed by this chapter for the taxable year. Such election shall specify the advanced mine safety equipment property to which the election applies and shall be made in such manner as the Secretary may by regulations prescribe.

''(2) ELECTION IRREVOCABLE.—Any election made under this section may not be revoked except with the consent of the Secretary.

''(c) QUALIFIED ADVANCED MINE SAFETY EQUIPMENT PROPERTY.—For purposes of this section, the term 'qualified advanced mine safety equipment property' means any advanced mine safety equipment property for use in any underground mine located in the United States—

''(1) the original use of which commences with the taxpayer, and

''(2) which is placed in service by the taxpayer after the date of the enactment of this section.

''(d) ADVANCED MINE SAFETY EQUIPMENT PROPERTY.—For purposes of this section, the term 'advanced mine safety equipment property' means any of the following:

''(1) Emergency communication technology or device which is used to allow a miner to maintain constant communication with an individual who is not in the mine.

''(2) Electronic identification and location device which allows an individual who is not in the mine to track at all times the movements and location of miners working in or at the mine.

''(3) Emergency oxygen-generating, self-rescue device which provides oxygen for at least 90 minutes.

''(4) Pre-positioned supplies of oxygen which (in combination with self-rescue devices) can be used to provide each miner on a shift, in the event of an accident or other event which traps the miner in the mine or otherwise necessitates the use of such a self-rescue device, the ability to survive for at least 48 hours.

''(5) Comprehensive atmospheric monitoring system which monitors the levels of carbon monoxide, methane, and oxygen that are present in all areas of the mine and which can detect smoke in the case of a fire in a mine.

''(e) COORDINATION WITH SECTION 179.—No expenditures shall be taken into account under subsection (a) with respect to the portion of the cost of any property specified in an election under section 179.

''(f) REPORTING.—No deduction shall be allowed under subsection (a) to any taxpayer for any taxable year unless such taxpayer files with the Secretary a report containing such information with respect to the operation of the mines of the taxpayer as the Secretary shall require.

''(g) TERMINATION.—This section shall not apply to property placed in service after December 31, 2008.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 263(a)(1) is amended by striking ''or'' at the end of subparagraph (J), by striking the period at the end of subparagraph (K) and inserting '', or'', and by inserting after subparagraph (K) the following new subparagraph:

''(L) expenditures for which a deduction is allowed under section 179E.''.

(2) Section 312(k)(3)(B) is amended by striking ''or 179D'' each place it appears in the heading and text thereof and inserting ''179D, or 179E''.

(3) Paragraphs (2)(C) and (3)(C) of section 1245(a) are each amended by inserting ''179E,'' after ''179D,''.

(4) The table of sections for part VI of subchapter B of chapter 1 is amended by inserting after the item relating to section 179D the following new item:

''Sec. 179E. Election to expense advanced mine safety equipment.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to costs paid or incurred after the date of the enactment of this Act.

SEC. 205. MINE RESCUE TEAM TRAINING TAX CREDIT.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) is amended by adding at the end the following new section:

''SEC. 45N. MINE RESCUE TEAM TRAINING CREDIT.

''(a) AMOUNT OF CREDIT.—For purposes of section 38, the mine rescue team training credit determined under this section with respect to each qualified mine rescue team employee of an eligible employer for any taxable year is an amount equal to the lesser of—

''(1) 20 percent of the amount paid or incurred by the taxpayer during the taxable year with respect to the training program costs of such qualified mine rescue team employee (including wages of such employee while attending such program), or

''(2) $10,000.

''(b) QUALIFIED MINE RESCUE TEAM EMPLOYEE.—For purposes of this section, the term 'qualified mine rescue team employee' means with respect to any taxable year any full-time employee of the taxpayer who is—

''(1) a miner eligible for more than 6 months of such taxable year to serve as a mine rescue team member as a result of completing, at a minimum, an initial 20-hour course of instruction as prescribed by the Mine Safety and Health Administration's Office of Educational Policy and Development, or

''(2) a miner eligible for more than 6 months of such taxable year to serve as a mine rescue team member by virtue of receiving at least 40 hours of refresher training in such instruction.

''(c) ELIGIBLE EMPLOYER.—For purposes of this section, the term 'eligible employer' means any taxpayer which employs individuals as miners in underground mines in the United States.

''(d) WAGES.—For purposes of this section, the term 'wages' has the meaning given to such term by subsection (b) of section 3306 (determined without regard to any dollar limitation contained in such section).

''(e) TERMINATION.—This section shall not apply to taxable years beginning after December 31, 2008.''.

(b) CREDIT MADE PART OF GENERAL BUSINESS CREDIT.—Section 38(b) is amended by striking ''and'' at the end of paragraph (29), by striking the period at the end of paragraph (30) and inserting '', plus'', and by adding at the end the following new paragraph:

''(31) the mine rescue team training credit determined under section 45N(a).''.

(c) NO DOUBLE BENEFIT.—Section 280C is amended by adding at the end the following new subsection:

''(e) MINE RESCUE TEAM TRAINING CREDIT.—No deduction shall be allowed for that portion of the expenses otherwise allowable as a deduction for the taxable year which is equal to the amount of the credit determined for the taxable year under section 45N(a).''.

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

''Sec. 45N. Mine rescue team training credit.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

SEC. 206. WHISTLEBLOWER REFORMS.

(a) AWARDS TO WHISTLEBLOWERS.—

(1) IN GENERAL.—Section 7623 (relating to expenses of detection of underpayments and fraud, etc.) is amended—

(A) by striking ''The Secretary'' and inserting ''(a) IN GENERAL.—The Secretary'',

(B) by striking ''and'' at the end of paragraph (1) and inserting ''or'',

(C) by striking ''(other than interest)'', and

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

''(b) AWARDS TO WHISTLEBLOWERS.—

''(1) IN GENERAL.—If the Secretary proceeds with any administrative or judicial action described in subsection (a) based on information brought to the Secretary's attention by an individual, such individual shall, subject to paragraph (2), receive as an award at least 15 percent but not more than 30 percent of the collected proceeds (including penalties, interest, additions to tax, and additional amounts) resulting from the action (including any related actions) or from any settlement in response to such action. The determination of the amount of such award by the Whistleblower Office shall depend upon the extent to which the individual substantially contributed to such action.

''(2) AWARD IN CASE OF LESS SUBSTANTIAL CONTRIBUTION.—

''(A) IN GENERAL.—In the event the action described in paragraph (1) is one which the Whistleblower Office determines to be based principally on disclosures of specific allegations (other than information provided by the individual described in paragraph (1)) resulting from a judicial or administrative hearing, from a governmental report, hearing, audit, or investigation, or from the news media, the Whistleblower Office may award such sums as it considers appropriate, but in no case more than 10 percent of the collected

proceeds (including penalties, interest, additions to tax, and additional amounts) resulting from the action (including any related actions) or from any settlement in response to such action, taking into account the significance of the individual's information and the role of such individual and any legal representative of such individual in contributing to such action.

''(B) NONAPPLICATION OF PARAGRAPH WHERE INDIVIDUAL IS ORIGINAL SOURCE OF INFORMATION.—Subparagraph (A) shall not apply if the information resulting in the initiation of the action described in paragraph (1) was originally provided by the individual described in paragraph (1).

''(3) REDUCTION IN OR DENIAL OF AWARD.—If the Whistleblower Office determines that the claim for an award under paragraph (1) or (2) is brought by an individual who planned and initiated the actions that led to the underpayment of tax or actions described in subsection (a)(2), then the Whistleblower Office may appropriately reduce such award. If such individual is convicted of criminal conduct arising from the role described in the preceding sentence, the Whistleblower Office shall deny any award.

''(4) APPEAL OF AWARD DETERMINATION.—Any determination regarding an award under paragraph (1), (2), or (3) may, within 30 days of such determination, be appealed to the Tax Court (and the Tax Court shall have jurisdiction with respect to such matter).

''(5) APPLICATION OF THIS SUBSECTION.—This subsection shall apply with respect to any action—

''(A) against any taxpayer, but in the case of any individual, only if such individual's gross income exceeds $200,000 for any taxable year subject to such action, and

''(B) if the tax, penalties, interest, additions to tax, and additional amounts in dispute exceed $2,000,000.

''(6) ADDITIONAL RULES.—

''(A) NO CONTRACT NECESSARY.—No contract with the Internal Revenue Service is necessary for any individual to receive an award under this subsection.

''(B) REPRESENTATION.—Any individual described in paragraph (1) or (2) may be represented by counsel.

''(C) SUBMISSION OF INFORMATION.—No award may be made under this subsection based on information submitted to the Secretary unless such information is submitted under penalty of perjury.''.

(2) ASSIGNMENT TO SPECIAL TRIAL JUDGES.—

(A) IN GENERAL.—Section 7443A(b) (relating to proceedings which may be assigned to special trial judges) is amended by striking ''and'' at the end of paragraph (4), by redesignating paragraph (5) as paragraph (6), and by inserting after paragraph (4) the following new paragraph:

''(5) any proceeding under section 7623(b)(4), and''.

(B) CONFORMING AMENDMENT.—Section 7443A(c) is amended by striking ''or (4)'' and inserting ''(4), or (5)''.

(3) DEDUCTION ALLOWED WHETHER OR NOT TAXPAYER ITEMIZES.—Subsection (a) of section 62 (relating to general rule defining adjusted gross income) is amended by inserting after paragraph (20) the following new paragraph:

''(21) ATTORNEYS FEES RELATING TO AWARDS TO WHISTLEBLOWERS.—Any deduction allowable under this chapter for attorney fees and court costs paid by, or on behalf of, the taxpayer in connection with any award under section 7623(b) (relating to awards to whistleblowers). The preceding sentence shall not apply to any deduction in excess of the amount includible in the taxpayer's gross income for the taxable year on account of such award.''.

(b) WHISTLEBLOWER OFFICE.—

(1) IN GENERAL.—Not later than the date which is 12 months after the date of the enactment of this Act, the Secretary of the Treasury shall issue guidance for the operation of a whistleblower program to be administered in the Internal Revenue Service by an office to be known as the ''Whistleblower Office'' which—

(A) shall at all times operate at the direction of the Commissioner of Internal Revenue and coordinate and consult with other divisions in the Internal Revenue Service as directed by the Commissioner of Internal Revenue,

(B) shall analyze information received from any individual described in section 7623(b) of the Internal Revenue Code of 1986 and either investigate the matter itself or assign it to the appropriate Internal Revenue Service office, and

(C) in its sole discretion, may ask for additional assistance from such individual or any legal representative of such individual.

(2) REQUEST FOR ASSISTANCE.—The guidance issued under paragraph (1) shall specify that any assistance requested under paragraph (1)(C) shall be under the direction and control of the Whistleblower Office or the office assigned to investigate the matter under paragraph (1)(A). No individual or legal representative whose assistance is so requested may by reason of such request represent himself or herself as an employee of the Federal Government.

(c) REPORT BY SECRETARY.—The Secretary of the Treasury shall each year conduct a study and report to Congress on the use of section 7623 of the Internal Revenue Code of 1986, including—

(1) an analysis of the use of such section during the preceding year and the results of such use, and

(2) any legislative or administrative recommendations regarding the provisions of such section and its application.

(d) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to information provided on or after the date of the enactment of this Act.

SEC. 207. FRIVOLOUS TAX SUBMISSIONS.

(a) CIVIL PENALTIES.—Section 6702 is amended to read as follows:

''SEC. 6702. FRIVOLOUS TAX SUBMISSIONS.

''(a) CIVIL PENALTY FOR FRIVOLOUS TAX RETURNS.—A person shall pay a penalty of $5,000 if—

''(1) such person files what purports to be a return of a tax imposed by this title but which—

''(A) does not contain information on which the substantial correctness of the self-assessment may be judged, or

''(B) contains information that on its face indicates that the self-assessment is substantially incorrect, and

''(2) the conduct referred to in paragraph (1)—

''(A) is based on a position which the Secretary has identified as frivolous under subsection (c), or

''(B) reflects a desire to delay or impede the administration of Federal tax laws.

''(b) CIVIL PENALTY FOR SPECIFIED FRIVOLOUS SUBMISSIONS.—

''(1) IMPOSITION OF PENALTY.—Except as provided in paragraph (3), any person who submits a specified frivolous submission shall pay a penalty of $5,000.

''(2) SPECIFIED FRIVOLOUS SUBMISSION.—For purposes of this section—

''(A) SPECIFIED FRIVOLOUS SUBMISSION.—The term 'specified frivolous submission' means a specified submission if any portion of such submission—

''(i) is based on a position which the Secretary has identified as frivolous under subsection (c), or

''(ii) reflects a desire to delay or impede the administration of Federal tax laws.

''(B) SPECIFIED SUBMISSION.—The term 'specified submission' means—

''(i) a request for a hearing under—

''(I) section 6320 (relating to notice and opportunity for hearing upon filing of notice of lien), or

''(II) section 6330 (relating to notice and opportunity for hearing before levy), and

''(ii) an application under—

''(I) section 6159 (relating to agreements for payment of tax liability in installments),

''(II) section 7122 (relating to compromises), or

''(III) section 7811 (relating to taxpayer assistance orders).

''(3) OPPORTUNITY TO WITHDRAW SUBMISSION.—If the Secretary provides a person with notice that a submission is a specified frivolous submission and such person withdraws such submission within 30 days after such notice, the penalty imposed under paragraph (1) shall not apply with respect to such submission.

''(c) LISTING OF FRIVOLOUS POSITIONS.—The Secretary shall prescribe (and periodically revise) a list of positions which the Secretary has identified as being frivolous for purposes of this subsection. The Secretary shall not include in such list any position that the Secretary determines meets the requirement of section 6662(d)(2)(B)(ii)(II).

''(d) REDUCTION OF PENALTY.—The Secretary may reduce the amount of any penalty imposed under this section if the Secretary determines that such reduction would promote compliance with and administration of the Federal tax laws.

''(e) PENALTIES IN ADDITION TO OTHER PENALTIES.—The penalties imposed by this section shall be in addition to any other penalty provided by law.''.

(b) TREATMENT OF FRIVOLOUS REQUESTS FOR HEARINGS BEFORE LEVY.—

(1) FRIVOLOUS REQUESTS DISREGARDED.—Section 6330 (relating to notice and opportunity for hearing before levy) is amended by adding at the end the following new subsection:

''(g) FRIVOLOUS REQUESTS FOR HEARING, ETC.—Notwithstanding any other provision of this section, if the Secretary determines that any portion of a request for a hearing under this section or section 6320 meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A), then the Secretary may treat such portion as if it were never submitted and such portion shall not be subject to any further administrative or judicial review.''.

(2) PRECLUSION FROM RAISING FRIVOLOUS ISSUES AT HEARING.—Section 6330(c)(4) is amended—

(A) by striking ''(A)'' and inserting ''(A)(i)'';

(B) by striking ''(B)'' and inserting ''(ii)'';

(C) by striking the period at the end of the first sentence and inserting ''; or''; and

(D) by inserting after subparagraph (A)(ii) (as so redesignated) the following:

''(B) the issue meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A).''.

(3) STATEMENT OF GROUNDS.—Section 6330(b)(1) is amended by striking ''under subsection (a)(3)(B)'' and inserting ''in writing under subsection (a)(3)(B) and states the grounds for the requested hearing''.

(c) TREATMENT OF FRIVOLOUS REQUESTS FOR HEARINGS UPON FILING OF NOTICE OF LIEN.—Section 6320 is amended—

(1) in subsection (b)(1), by striking ''under subsection (a)(3)(B)'' and inserting ''in writing under subsection (a)(3)(B) and states the grounds for the requested hearing'', and

(2) in subsection (c), by striking ''and (e)'' and inserting ''(e), and (g)''.

(d) TREATMENT OF FRIVOLOUS APPLICATIONS FOR OFFERS-IN-COMPROMISE AND INSTALLMENT AGREEMENTS.—Section 7122 is amended

by adding at the end the following new subsection:

''(f) FRIVOLOUS SUBMISSIONS, ETC.—Notwithstanding any other provision of this section, if the Secretary determines that any portion of an application for an offer-in-compromise or installment agreement submitted under this section or section 6159 meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A), then the Secretary may treat such portion as if it were never submitted and such portion shall not be subject to any further administrative or judicial review.''.

(e) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by striking the item relating to section 6702 and inserting the following new item:

''Sec. 6702. Frivolous tax submissions.''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to submissions made and issues raised after the date on which the Secretary first prescribes a list under section 6702(c) of the Internal Revenue Code of 1986, as amended by subsection (a).

SEC. 208. ADDITION OF MENINGOCOCCAL AND HUMAN PAPILLOMAVIRUS VACCINES TO LIST OF TAXABLE VACCINES.

(a) MENINGOCOCCAL VACCINE.—Section 4132(a)(1) (defining taxable vaccine) is amended by adding at the end the following new subparagraph:

''(O) Any meningococcal vaccine.''.

(b) HUMAN PAPILLOMAVIRUS VACCINE.—Section 4132(a)(1), as amended by subsection (a), is amended by adding at the end the following new subparagraph:

''(P) Any vaccine against the human papillomavirus.''.

(c) EFFECTIVE DATE.—

(1) SALES, ETC.—The amendments made by this section shall apply to sales and uses on or after the first day of the first month which begins more than 4 weeks after the date of the enactment of this Act.

(2) DELIVERIES.—For purposes of paragraph (1) and section 4131 of the Internal Revenue Code of 1986, in the case of sales on or before the effective date described in such paragraph for which delivery is made after such date, the delivery date shall be considered the sale date.

SEC. 209. CLARIFICATION OF TAXATION OF CERTAIN SETTLEMENT FUNDS MADE PERMANENT.

(a) IN GENERAL.—Subsection (g) of section 468B, as amended by section 201 of the Tax Increase Prevention and Reconciliation Act of 2005, is amended by striking paragraph (3).

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in section 201 of the Tax Increase Prevention and Reconciliation Act of 2005.

SEC. 210. MODIFICATION OF ACTIVE BUSINESS DEFINITION UNDER SECTION 355 MADE PERMANENT.

(a) IN GENERAL.—Subparagraphs (A) and (D) of section 355(b)(3), as amended by section 202 of the Tax Increase Prevention and Reconciliation Act of 2005, are each amended by striking ''and on or before December 31, 2010''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in section 202 of the Tax Increase Prevention and Reconciliation Act of 2005.

SEC. 211. REVISION OF STATE VETERANS LIMIT MADE PERMANENT.

(a) IN GENERAL.—Subparagraph (B) of section 143(l)(3), as amended by section 203 of the Tax Increase Prevention and Reconciliation Act of 2005, is amended by striking clause (iv).

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in section 203 of the Tax Increase Prevention and Reconciliation Act of 2005.

SEC. 212. CAPITAL GAINS TREATMENT FOR CERTAIN SELF-CREATED MUSICAL WORKS MADE PERMANENT.

(a) IN GENERAL.—Paragraph (3) of section 1221(b), as amended by section 204 of the Tax Increase Prevention and Reconciliation Act of 2005, is amended by striking ''before January 1, 2011,''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in section 204 of the Tax Increase Prevention and Reconciliation Act of 2005.

SEC. 213. REDUCTION IN MINIMUM VESSEL TONNAGE WHICH QUALIFIES FOR TONNAGE TAX MADE PERMANENT.

(a) IN GENERAL.—Paragraph (4) of section 1355(a), as amended by section 205 of the Tax Increase Prevention and Reconciliation Act of 2005, is amended by striking ''10,000 (6,000, in the case of taxable years beginning after December 31, 2005, and ending before January 1, 2011)'' and inserting ''6,000''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in section 205 of the Tax Increase Prevention and Reconciliation Act of 2005.

SEC. 214. MODIFICATION OF SPECIAL ARBITRAGE RULE FOR CERTAIN FUNDS MADE PERMANENT.

(a) IN GENERAL.—Section 206 of the Tax Increase Prevention and Reconciliation Act of 2005 is amended by striking ''and before August 31, 2009''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in section 206 of the Tax Increase Prevention and Reconciliation Act of 2005.

SEC. 215. GREAT LAKES DOMESTIC SHIPPING TO NOT DISQUALIFY VESSEL FROM TONNAGE TAX.

(a) IN GENERAL.—Section 1355 (relating to definitions and special rules) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

''(g) GREAT LAKES DOMESTIC SHIPPING TO NOT DISQUALIFY VESSEL.—

''(1) IN GENERAL.—If the electing corporation elects (at such time and in such manner as the Secretary may require) to apply this subsection for any taxable year to any qualifying vessel which is used in qualified zone domestic trade during the taxable year—

''(A) solely for purposes of subsection (a)(4), such use shall be treated as use in United States foreign trade (and not as use in United States domestic trade), and

''(B) subsection (f) shall not apply with respect to such vessel for such taxable year.

''(2) EFFECT OF TEMPORARILY OPERATING VESSEL IN UNITED STATES DOMESTIC TRADE.—In the case of a qualifying vessel to which this subsection applies—

''(A) IN GENERAL.—An electing corporation shall be treated as using such vessel in qualified zone domestic trade during any period of temporary use in the United States domestic trade (other than qualified zone domestic trade) if the electing corporation gives timely notice to the Secretary stating—

''(i) that it temporarily operates or has operated in the United States domestic trade (other than qualified zone domestic trade) a qualifying vessel which had been used in the United States foreign trade or qualified zone domestic trade, and

''(ii) its intention to resume operation of the vessel in the United States foreign trade or qualified zone domestic trade.

''(B) NOTICE.—Notice shall be deemed timely if given not later than the due date (including extensions) for the corporation's tax return for the taxable year in which the temporary cessation begins.

''(C) PERIOD DISREGARD IN EFFECT.—The period of temporary use under subparagraph (A) continues until the earlier of the date of which—

''(i) the electing corporation abandons its intention to resume operations of the vessel in the United States foreign trade or qualified zone domestic trade, or

''(ii) the electing corporation resumes operation of the vessel in the United States foreign trade or qualified zone domestic trade.

''(D) NO DISREGARD IF DOMESTIC TRADE USE EXCEEDS 30 DAYS.—Subparagraph (A) shall not apply to any qualifying vessel which is operated in the United States domestic trade (other than qualified zone domestic trade) for more than 30 days during the taxable year.

''(3) ALLOCATION OF INCOME AND DEDUCTIONS TO QUALIFYING SHIPPING ACTIVITIES.—In the case of a qualifying vessel to which this subsection applies, the Secretary shall prescribe rules for the proper allocation of income, expenses, losses, and deductions between the qualified shipping activities and the other activities of such vessel.

''(4) QUALIFIED ZONE DOMESTIC TRADE.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'qualified zone domestic trade' means the transportation of goods or passengers between places in the qualified zone if such transportation is in the United States domestic trade.

''(B) QUALIFIED ZONE.—The term 'qualified zone' means the Great Lakes Waterway and the St. Lawrence Seaway.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 216. USE OF QUALIFIED MORTGAGE BONDS TO FINANCE RESIDENCES FOR VETERANS WITHOUT REGARD TO FIRST-TIME HOMEBUYER REQUIREMENT.

(a) IN GENERAL.—Section 143(d)(2) (relating to exceptions to 3-year requirement) is amended by striking ''and'' at the end of subparagraph (B), by adding ''and'' at the end of subparagraph (C), and by inserting after subparagraph (C) the following new subparagraph:

''(D) in the case of bonds issued after the date of the enactment of this subparagraph and before January 1, 2008, financing of any residence for a veteran (as defined in section 101 of title 38, United States Code), if such veteran has not previously qualified for and received such financing by reason of this subparagraph,''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after the date of the enactment of this Act.

SEC. 217. EXCLUSION OF GAIN FROM SALE OF A PRINCIPAL RESIDENCE BY CERTAIN EMPLOYEES OF THE INTELLIGENCE COMMUNITY.

(a) IN GENERAL.—Subparagraph (A) of section 121(d)(9) (relating to exclusion of gain from sale of principal residence) is amended by striking ''duty'' and all that follows and inserting ''duty—

''(i) as a member of the uniformed services,

''(ii) as a member of the Foreign Service of the United States, or

''(iii) as an employee of the intelligence community.''.

(b) EMPLOYEE OF INTELLIGENCE COMMUNITY DEFINED.—Subparagraph (C) of section 121(d)(9) is amended by redesignating clause (iv) as clause (v) and by inserting after clause (iii) the following new clause:

''(iv) EMPLOYEE OF INTELLIGENCE COMMUNITY.—The term 'employee of the intelligence community' means an employee (as defined by section 2105 of title 5, United States Code) of—

''(I) the Office of the Director of National Intelligence,

''(II) the Central Intelligence Agency,

''(III) the National Security Agency,

''(IV) the Defense Intelligence Agency,

''(V) the National Geospatial-Intelligence Agency,

''(VI) the National Reconnaissance Office,

''(VII) any other office within the Department of Defense for the collection of specialized national intelligence through reconnaissance programs,

''(VIII) any of the intelligence elements of the Army, the Navy, the Air Force, the Marine Corps, the Federal Bureau of Investigation, the Department of Treasury, the Department of Energy, and the Coast Guard,

''(IX) the Bureau of Intelligence and Research of the Department of State, or

''(X) any of the elements of the Department of Homeland Security concerned with the analyses of foreign intelligence information.''.

(c) SPECIAL RULE.—Subparagraph (C) of section 121(d)(9), as amended by subsection (b), is amended by adding at the end the following new clause:

''(vi) SPECIAL RULE RELATING TO INTELLIGENCE COMMUNITY.—An employee of the intelligence community shall not be treated as serving on qualified extended duty unless such duty is at a duty station located outside the United States.''.

(d) CONFORMING AMENDMENT.—The heading for section 121(d)(9) is amended to read as follows: ''UNIFORMED SERVICES, FOREIGN SERVICE, AND INTELLIGENCE COMMUNITY''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to sales or exchanges after the date of the enactment of this Act and before January 1, 2011.

SEC. 218. TREATMENT OF COKE AND COKE GAS.

(a) NONAPPLICATION OF PHASEOUT.—Section 45K(g)(2) is amended by adding at the end the following new subparagraph:

''(D) NONAPPLICATION OF PHASEOUT.—Subsection (b)(1) shall not apply.''.

(b) CLARIFICATION OF QUALIFYING FACILITY.—Section 45K(g)(1) is amended by inserting ''(other than from petroleum based products)'' after ''coke or coke gas''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in section 1321 of the Energy Policy Act of 2005.

SEC. 219. SALE OF PROPERTY BY JUDICIAL OFFICERS.

(a) IN GENERAL.—Section 1043(b) (relating to the sale of property to comply with conflict-of-interest requirements) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by inserting '', or a judicial officer,'' after ''an officer or employee of the executive branch''; and

(B) in subparagraph (B), by inserting ''judicial canon,'' after ''any statute, regulation, rule,'';

(2) in paragraph (2)—

(A) in subparagraph (A), by inserting ''judicial canon,'' after ''any Federal conflict of interest statute, regulation, rule,''; and

(B) in subparagraph (B), by inserting after ''the Director of the Office of Government Ethics,'' the following: ''in the case of executive branch officers or employees, or by the Judicial Conference of the United States (or its designee), in the case of judicial officers,''; and

(3) in paragraph (5)(B), by inserting ''judicial canon,'' after ''any statute, regulation, rule,''.

(b) JUDICIAL OFFICER DEFINED.—Section 1043(b) is amended by adding at the end the following new paragraph:

''(6) JUDICIAL OFFICER.—The term 'judicial officer' means the Chief Justice of the United States, the Associate Justices of the Supreme Court, and the judges of the United States courts of appeals, United States district courts, including the district courts in Guam, the Northern Mariana Islands, and the Virgin Islands, Court of Appeals for the Federal Circuit, Court of International Trade, Tax Court, Court of Federal Claims, Court of Appeals for Veterans Claims, United States Court of Appeals for the Armed Forces, and any court created by Act of Congress, the judges of which are entitled to hold office during good behavior.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales after the date of enactment of this Act.

SEC. 220. PREMIUMS FOR MORTGAGE INSURANCE.

(a) IN GENERAL.—Section 163(h)(3) (relating to qualified residence interest) is amended by adding at the end the following new subparagraph:

''(E) MORTGAGE INSURANCE PREMIUMS TREATED AS INTEREST.—

''(i) IN GENERAL.—Premiums paid or accrued for qualified mortgage insurance by a taxpayer during the taxable year in connection with acquisition indebtedness with respect to a qualified residence of the taxpayer shall be treated for purposes of this section as interest which is qualified residence interest.

''(ii) PHASEOUT.—The amount otherwise treated as interest under clause (i) shall be reduced (but not below zero) by 10 percent of such amount for each $1,000 ($500 in the case of a married individual filing a separate return) (or fraction thereof) that the taxpayer's adjusted gross income for the taxable year exceeds $100,000 ($50,000 in the case of a married individual filing a separate return).

''(iii) LIMITATION.—Clause (i) shall not apply with respect to any mortgage insurance contracts issued before January 1, 2007.

''(iv) TERMINATION.—Clause (i) shall not apply to amounts—

''(I) paid or accrued after December 31, 2007, or

''(II) properly allocable to any period after such date.''.

(b) DEFINITION AND SPECIAL RULES.—Section 163(h)(4) (relating to other definitions and special rules) is amended by adding at the end the following new subparagraphs:

''(E) QUALIFIED MORTGAGE INSURANCE.—The term 'qualified mortgage insurance' means—

''(i) mortgage insurance provided by the Veterans Administration, the Federal Housing Administration, or the Rural Housing Administration, and

''(ii) private mortgage insurance (as defined by section 2 of the Homeowners Protection Act of 1998 (12 U.S.C. 4901), as in effect on the date of the enactment of this subparagraph).

''(F) SPECIAL RULES FOR PREPAID QUALIFIED MORTGAGE INSURANCE.—Any amount paid by the taxpayer for qualified mortgage insurance that is properly allocable to any mortgage the payment of which extends to periods that are after the close of the taxable year in which such amount is paid shall be chargeable to capital account and shall be treated as paid in such periods to which so allocated. No deduction shall be allowed for the unamortized balance of such account if such mortgage is satisfied before the end of its term. The preceding sentences shall not apply to amounts paid for qualified mortgage insurance provided by the Veterans Administration or the Rural Housing Administration.''.

(c) INFORMATION RETURNS RELATING TO MORTGAGE INSURANCE.—Section 6050H (relating to returns relating to mortgage interest received in trade or business from individuals) is amended by adding at the end the following new subsection:

''(h) RETURNS RELATING TO MORTGAGE INSURANCE PREMIUMS.—

''(1) IN GENERAL.—The Secretary may prescribe, by regulations, that any person who, in the course of a trade or business, receives from any individual premiums for mortgage insurance aggregating $600 or more for any calendar year, shall make a return with respect to each such individual. Such return shall be in such form, shall be made at such time, and shall contain such information as the Secretary may prescribe.

''(2) STATEMENT TO BE FURNISHED TO INDIVIDUALS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—Every person required to make a return under paragraph (1) shall furnish to each individual with respect to whom a return is made a written statement showing such information as the Secretary may prescribe. Such written statement shall be furnished on or before January 31 of the year following the calendar year for which the return under paragraph (1) was required to be made.

''(3) SPECIAL RULES.—For purposes of this subsection—

''(A) rules similar to the rules of subsection (c) shall apply, and

''(B) the term 'mortgage insurance' means—

''(i) mortgage insurance provided by the Veterans Administration, the Federal Housing Administration, or the Rural Housing Administration, and

''(ii) private mortgage insurance (as defined by section 2 of the Homeowners Protection Act of 1998 (12 U.S.C. 4901), as in effect on the date of the enactment of this subsection).''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or accrued after December 31, 2006.

SEC. 221. MODIFICATION OF REFUNDS FOR KEROSENE USED IN AVIATION.

(a) IN GENERAL.—Paragraph (4) of section 6427(l) (relating to nontaxable uses of diesel fuel and kerosene) is amended to read as follows:

''(4) REFUNDS FOR KEROSENE USED IN AVIATION.—

''(A) KEROSENE USED IN COMMERCIAL AVIATION.—In the case of kerosene used in commercial aviation (as defined in section 4083(b)) (other than supplies for vessels or aircraft within the meaning of section 4221(d)(3)), paragraph (1) shall not apply to so much of the tax imposed by section 4041 or 4081, as the case may be, as is attributable to—

''(i) the Leaking Underground Storage Tank Trust Fund financing rate imposed by such section, and

''(ii) so much of the rate of tax specified in section 4041(c) or 4081(a)(2)(A)(iii), as the case may be, as does not exceed 4.3 cents per gallon.

''(B) KEROSENE USED IN NONCOMMERCIAL AVIATION.—In the case of kerosene used in aviation that is not commercial aviation (as so defined) (other than any use which is exempt from the tax imposed by section 4041(c) other than by reason of a prior imposition of tax), paragraph (1) shall not apply to—

''(i) any tax imposed by section 4041(c), and

''(ii) so much of the tax imposed by section 4081 as is attributable to—

''(I) the Leaking Underground Storage Tank Trust Fund financing rate imposed by such section, and

''(II) so much of the rate of tax specified in section 4081(a)(2)(A)(iii) as does not exceed the rate specified in section 4081(a)(2)(C)(ii).

''(C) PAYMENTS TO ULTIMATE, REGISTERED VENDOR.—

''(i) IN GENERAL.—With respect to any kerosene used in aviation (other than kerosene described in clause (ii) or kerosene to which paragraph (5) applies), if the ultimate purchaser of such kerosene waives (at such time and in such form and manner as the Secretary shall prescribe) the right to payment under paragraph (1) and assigns such right to the ultimate vendor, then the Secretary

shall pay the amount which would be paid under paragraph (1) to such ultimate vendor, but only if such ultimate vendor—

''(I) is registered under section 4101, and

''(II) meets the requirements of subparagraph (A), (B), or (D) of section 6416(a)(1).

''(ii) PAYMENTS FOR KEROSENE USED IN NONCOMMERCIAL AVIATION.—The amount which would be paid under paragraph (1) with respect to any kerosene to which subparagraph (B) applies shall be paid only to the ultimate vendor of such kerosene. A payment shall be made to such vendor if such vendor—

''(I) is registered under section 4101, and

''(II) meets the requirements of subparagraph (A), (B), or (D) of section 6416(a)(1).''.

(b) CONFORMING AMENDMENTS.—

(1) Section 6427(l) is amended by striking paragraph (5) and by redesignating paragraph (6) as paragraph (5).

(2) Section 4082(d)(2)(B) is amended by striking ''section 6427(l)(6)(B)'' and inserting ''section 6427(l)(5)(B)''.

(3) Section 6427(i)(4)(A) is amended—

(A) by striking ''paragraph (4)(B), (5), or (6)'' each place it appears and inserting ''paragraph (4)(C) or (5)'', and

(B) by striking ''(l)(5), and (l)(6)'' and inserting ''(l)(4)(C)(ii), and (l)(5)''.

(4) Section 6427(l)(1) is amended by striking ''paragraph (4)(B)'' and inserting ''paragraph (4)(C)(i)''.

(5) Section 9502(d) is amended—

(A) in paragraph (2), by striking ''and (l)(5)'', and

(B) in paragraph (3), by striking ''or (5)''.

(6) Section 9503(c)(7) is amended—

(A) by amending subparagraphs (A) and (B) to read as follows:

''(A) 4.3 cents per gallon of kerosene subject to section 6427(l)(4)(A) with respect to which a payment has been made by the Secretary under section 6427(l), and

''(B) 21.8 cents per gallon of kerosene subject to section 6427(l)(4)(B) with respect to which a payment has been made by the Secretary under section 6427(l).'', and

(B) in the matter following subparagraph (B), by striking ''or (5)''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to kerosene sold after September 30, 2005.

(2) SPECIAL RULE FOR PENDING CLAIMS.—In the case of kerosene sold for use in aviation (other than kerosene to which section 6427(l)(4)(C)(ii) of the Internal Revenue Code of 1986 (as added by subsection (a)) applies or kerosene to which section 6427(l)(5) of such Code (as redesignated by subsection (b)) applies) after September 30, 2005, and before the date of the enactment of this Act, the ultimate purchaser shall be treated as having waived the right to payment under section 6427(l)(1) of such Code and as having assigned such right to the ultimate vendor if such ultimate vendor has met the requirements of subparagraph (A), (B), or (D) of section 6416(a)(1) of such Code.

(d) SPECIAL RULE FOR KEROSENE USED IN AVIATION ON A FARM FOR FARMING PURPOSES.—

(1) REFUNDS FOR PURCHASES AFTER DECEMBER 31, 2004, AND BEFORE OCTOBER 1, 2005.—The Secretary of the Treasury shall pay to the ultimate purchaser of any kerosene which is used in aviation on a farm for farming purposes and which was purchased after December 31, 2004, and before October 1, 2005, an amount equal to the aggregate amount of tax imposed on such fuel under section 4041 or 4081 of the Internal Revenue Code of 1986, as the case may be, reduced by any payment to the ultimate vendor under section 6427(l)(5)(C) of such Code (as in effect on the day before the date of the enactment of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: a Legacy for Users).

(2) USE ON A FARM FOR FARMING PURPOSES.—For purposes of paragraph (1), kerosene shall be treated as used on a farm for farming purposes if such kerosene is used for farming purposes (within the meaning of section 6420(c)(3) of the Internal Revenue Code of 1986) in carrying on a trade or business on a farm situated in the United States. For purposes of the preceding sentence, rules similar to the rules of section 6420(c)(4) of such Code shall apply.

(3) TIME FOR FILING CLAIMS.—No claim shall be allowed under paragraph (1) unless the ultimate purchaser files such claim before the date that is 3 months after the date of the enactment of this Act.

(4) NO DOUBLE BENEFIT.—No amount shall be paid under paragraph (1) or section 6427(l) of the Internal Revenue Code of 1986 with respect to any kerosene described in paragraph (1) to the extent that such amount is in excess of the tax imposed on such kerosene under section 4041 or 4081 of such Code, as the case may be.

(5) APPLICABLE LAWS.—For purposes of this subsection, rules similar to the rules of section 6427(j) of the Internal Revenue Code of 1986 shall apply.

SEC. 222. DEDUCTION FOR QUALIFIED TIMBER GAIN.

(a) IN GENERAL.—Part I of subchapter P of chapter 1 is amended by adding at the end the following new section:

''SEC. 1203. DEDUCTION FOR QUALIFIED TIMBER GAIN.

''(a) IN GENERAL.—In the case of a taxpayer which elects the application of this section for a taxable year, there shall be allowed a deduction against gross income equal to 60 percent of the lesser of—

''(1) the taxpayer's qualified timber gain for such year, or

''(2) the taxpayer's net capital gain for such year.

''(b) QUALIFIED TIMBER GAIN.—For purposes of this section, the term 'qualified timber gain' means, with respect to any taxpayer for any taxable year, the excess (if any) of—

''(1) the sum of the taxpayer's gains described in subsections (a) and (b) of section 631 for such year, over

''(2) the sum of the taxpayer's losses described in such subsections for such year.

''(c) SPECIAL RULES FOR PASS-THRU ENTITIES.—In the case of any qualified timber gain of a pass-thru entity (as defined in section 1(h)(10))—

''(1) the election under this section shall be made separately by each taxpayer subject to tax on such gain, and

''(2) the Secretary may prescribe such regulations as are appropriate to apply this section to such gain.

''(d) TERMINATION.—No disposition of timber after December 31, 2007, shall be taken into account under subsection (b).''.

(b) COORDINATION WITH MAXIMUM CAPITAL GAINS RATES.—

(1) TAXPAYERS OTHER THAN CORPORATIONS.—Paragraph (2) of section 1(h) is amended to read as follows:

''(2) REDUCTION OF NET CAPITAL GAIN.—For purposes of this subsection, the net capital gain for any taxable year shall be reduced (but not below zero) by the sum of—

''(A) the amount which the taxpayer takes into account as investment income under section 163(d)(4)(B)(iii), and

''(B) in the case of a taxable year with respect to which an election is in effect under section 1203, the lesser of—

''(i) the amount described in paragraph (1) of section 1203(a), or

''(ii) the amount described in paragraph (2) of such section.''.

(2) CORPORATIONS.—Section 1201 is amended by redesignating subsection (b) as subsection (c) and inserting after subsection (a) the following new subsection:

''(b) QUALIFIED TIMBER GAIN NOT TAKEN INTO ACCOUNT.—For purposes of this section, in the case of a corporation with respect to which an election is in effect under section 1203, the net capital gain for any taxable year shall be reduced (but not below zero) by the corporation's qualified timber gain (as defined in section 1203(b)).''.

(c) DEDUCTION ALLOWED WHETHER OR NOT INDIVIDUAL ITEMIZES OTHER DEDUCTIONS.—Subsection (a) of section 62, as amended by this Act, is amended by inserting before the last sentence the following new paragraph:

''(22) QUALIFIED TIMBER GAINS.—The deduction allowed by section 1203.''.

(d) DEDUCTION ALLOWED IN COMPUTING ADJUSTED CURRENT EARNINGS.—Subparagraph (C) of section 56(g)(4) is amended by adding at the end the following new clause:

''(vii) DEDUCTION FOR QUALIFIED TIMBER GAIN.—Clause (i) shall not apply to any deduction allowed under section 1203.''.

(e) DEDUCTION ALLOWED IN COMPUTING TAXABLE INCOME OF ELECTING SMALL BUSINESS TRUSTS.—Subparagraph (C) of section 641(c)(2) is amended by inserting after clause (iii) the following new clause:

''(iv) The deduction allowed under section 1203.''.

(f) CONFORMING AMENDMENTS.—

(1) Subparagraph (B) of section 172(d)(2) is amended to read as follows:

''(B) the exclusion under section 1202 and the deduction under section 1203 shall not be allowed.''.

(2) Paragraph (4) of section 642(c) is amended by striking the first sentence and inserting the following: ''To the extent that the amount otherwise allowable as a deduction under this subsection consists of gain described in section 1202(a) or qualified timber gain (as defined in section 1203(b)), proper adjustment shall be made for any exclusion allowable to the estate or trust under section 1202 and for any deduction allowable to the estate or trust under section 1203.''.

(3) Paragraph (3) of section 643(a) is amended by striking the last sentence and inserting the following: ''The exclusion under section 1202 and the deduction under section 1203 shall not be taken into account.''.

(4) Subparagraph (C) of section 643(a)(6) is amended to read as follows:

''(C) Paragraph (3) shall not apply to a foreign trust. In the case of such a trust—

''(i) there shall be included gains from the sale or exchange of capital assets, reduced by losses from such sales or exchanges to the extent such losses do not exceed gains from such sales or exchanges, and

''(ii) the deduction under section 1203 shall not be taken into account.''.

(5) Paragraph (4) of section 691(c) is amended by inserting ''1203,'' after ''1202,''.

(6) Paragraph (2) of section 871(a) is amended by striking ''section 1202'' and inserting ''sections 1202 and 1203''.

(7) The table of sections for part I of subchapter P of chapter 1 is amended by adding at the end the following new item:

''Sec. 1203. Deduction for qualified timber gain.''.

(g) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

(2) TAXABLE YEARS WHICH INCLUDE DATE OF ENACTMENT.—In the case of any taxable year which includes the date of the enactment of this Act, for purposes of the Internal Revenue Code of 1986, the taxpayer's qualified timber gain shall not exceed the excess that would be described in section 1203(b) of such

Code, as added by this section, if only dispositions of timber after such date were taken into account.

SEC. 223. CREDIT TO HOLDERS OF RURAL RENAISSANCE BONDS.

(a) IN GENERAL.—Subpart H of part IV of subchapter A of chapter 1 (relating to credits against tax) is amended by adding at the end the following new section:

''SEC. 54A. CREDIT TO HOLDERS OF RURAL RENAISSANCE BONDS.

''(a) ALLOWANCE OF CREDIT.—In the case of a taxpayer who holds a rural renaissance bond on a credit allowance date of such bond, which occurs during the taxable year, there shall be allowed as a credit against the tax imposed by this chapter for such taxable year an amount equal to the sum of the credits determined under subsection (b) with respect to credit allowance dates during such year on which the taxpayer holds such bond.

''(b) AMOUNT OF CREDIT.—

''(1) IN GENERAL.—The amount of the credit determined under this subsection with respect to any credit allowance date for a rural renaissance bond is 25 percent of the annual credit determined with respect to such bond.

''(2) ANNUAL CREDIT.—The annual credit determined with respect to any rural renaissance bond is the product of—

''(A) the credit rate determined by the Secretary under paragraph (3) for the day on which such bond was sold, multiplied by

''(B) the outstanding face amount of the bond.

''(3) DETERMINATION.—For purposes of paragraph (2), with respect to any rural renaissance bond, the Secretary shall determine daily or caused to be determined daily a credit rate which shall apply to the first day on which there is a binding, written contract for the sale or exchange of the bond. The credit rate for any day is the credit rate which the Secretary or the Secretary's designee estimates will permit the issuance of rural renaissance bonds with a specified maturity or redemption date without discount and without interest cost to the qualified issuer.

''(4) CREDIT ALLOWANCE DATE.—For purposes of this section, the term 'credit allowance date' means—

''(A) March 15,

''(B) June 15,

''(C) September 15, and

''(D) December 15.

Such term also includes the last day on which the bond is outstanding.

''(5) SPECIAL RULE FOR ISSUANCE AND REDEMPTION.—In the case of a bond which is issued during the 3-month period ending on a credit allowance date, the amount of the credit determined under this subsection with respect to such credit allowance date shall be a ratable portion of the credit otherwise determined based on the portion of the 3-month period during which the bond is outstanding. A similar rule shall apply when the bond is redeemed or matures.

''(c) LIMITATION BASED ON AMOUNT OF TAX.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess of—

''(1) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(2) the sum of the credits allowable under this part (other than subpart C and this section).

''(d) RURAL RENAISSANCE BOND.—For purposes of this section—

''(1) IN GENERAL.—The term 'rural renaissance bond' means any bond issued as part of an issue if—

''(A) the bond is issued by a qualified issuer,

''(B) 95 percent or more of the proceeds from the sale of such issue are to be used for capital expenditures incurred for 1 or more qualified projects,

''(C) the qualified issuer designates such bond for purposes of this section and the bond is in registered form, and

''(D) the issue meets the requirements of subsections (e) and (h).

''(2) QUALIFIED PROJECT; SPECIAL USE RULES.—

''(A) IN GENERAL.—The term 'qualified project' means 1 or more projects described in subparagraph (B) located in a rural area.

''(B) PROJECTS DESCRIBED.—A project described in this subparagraph is—

''(i) a water or waste treatment project,

''(ii) an affordable housing project,

''(iii) a community facility project, including hospitals, fire and police stations, and nursing and assisted-living facilities,

''(iv) a value-added agriculture or renewable energy facility project for agricultural producers or farmer-owned entities, including any project to promote the production, processing, or retail sale of ethanol (including fuel at least 85 percent of the volume of which consists of ethanol), biodiesel, animal waste, biomass, raw commodities, or wind as a fuel,

''(v) a distance learning or telemedicine project,

''(vi) a rural utility infrastructure project, including any electric or telephone system,

''(vii) a project to expand broadband technology,

''(viii) a rural teleworks project, and

''(ix) any project described in any preceding clause carried out by the Delta Regional Authority.

''(C) SPECIAL RULES.—For purposes of this paragraph—

''(i) any project described in subparagraph (B)(iv) for a farmer-owned entity may be considered a qualified project if such entity is located in a rural area, or in the case of a farmer-owned entity the headquarters of which are located in a nonrural area, if the project is located in a rural area, and

''(ii) any project for a farmer-owned entity which is a facility described in subparagraph (B)(iv) for agricultural producers may be considered a qualified project regardless of whether the facility is located in a rural or nonrural area.

''(3) SPECIAL USE RULES.—

''(A) REFINANCING RULES.—For purposes of paragraph (1)(B), a qualified project may be refinanced with proceeds of a rural renaissance bond only if the indebtedness being refinanced (including any obligation directly or indirectly refinanced by such indebtedness) was originally incurred after the date of the enactment of this section.

''(B) REIMBURSEMENT.—For purposes of paragraph (1)(B), a rural renaissance bond may be issued to reimburse a borrower for amounts paid after the date of the enactment of this section with respect to a qualified project, but only if—

''(i) prior to the payment of the original expenditure, the borrower declared its intent to reimburse such expenditure with the proceeds of a rural renaissance bond,

''(ii) not later than 60 days after payment of the original expenditure, the qualified issuer adopts an official intent to reimburse the original expenditure with such proceeds, and

''(iii) the reimbursement is made not later than 18 months after the date the original expenditure is paid.

''(C) TREATMENT OF CHANGES IN USE.—For purposes of paragraph (1)(B), the proceeds of an issue shall not be treated as used for a qualified project to the extent that a borrower takes any action within its control which causes such proceeds not to be used for a qualified project. The Secretary shall prescribe regulations specifying remedial actions that may be taken (including conditions to taking such remedial actions) to prevent an action described in the preceding sentence from causing a bond to fail to be a rural renaissance bond.

''(e) MATURITY LIMITATIONS.—

''(1) DURATION OF TERM.—A bond shall not be treated as a rural renaissance bond if the maturity of such bond exceeds the maximum term determined by the Secretary under paragraph (2) with respect to such bond.

''(2) MAXIMUM TERM.—During each calendar month, the Secretary shall determine the maximum term permitted under this paragraph for bonds issued during the following calendar month. Such maximum term shall be the term which the Secretary estimates will result in the present value of the obligation to repay the principal on the bond being equal to 50 percent of the face amount of such bond. Such present value shall be determined without regard to the requirements of paragraph (3) and using as a discount rate the average annual interest rate of tax-exempt obligations having a term of 10 years or more which are issued during the month. If the term as so determined is not a multiple of a whole year, such term shall be rounded to the next highest whole year.

''(3) RATABLE PRINCIPAL AMORTIZATION REQUIRED.—A bond shall not be treated as a rural renaissance bond unless it is part of an issue which provides for an equal amount of principal to be paid by the qualified issuer during each calendar year that the issue is outstanding.

''(f) LIMITATION ON AMOUNT OF BONDS DESIGNATED.—

''(1) NATIONAL LIMITATION.—There is a rural renaissance bond limitation of $200,000,000.

''(2) ALLOCATION BY SECRETARY.—The Secretary shall allocate the amount described in paragraph (1) among qualified projects in such manner as the Secretary determines appropriate.

''(g) CREDIT INCLUDED IN GROSS INCOME.—Gross income includes the amount of the credit allowed to the taxpayer under this section (determined without regard to subsection (c)) and the amount so included shall be treated as interest income.

''(h) SPECIAL RULES RELATING TO EXPENDITURES.—

''(1) IN GENERAL.—An issue shall be treated as meeting the requirements of this subsection if, as of the date of issuance, the qualified issuer reasonably expects—

''(A) at least 95 percent of the proceeds from the sale of the issue are to be spent for 1 or more qualified projects within the 5-year period beginning on the date of issuance of the rural renaissance bond,

''(B) a binding commitment with a third party to spend at least 10 percent of the proceeds from the sale of the issue will be incurred within the 6-month period beginning on the date of issuance of the rural renaissance bond or, in the case of a rural renaissance bond, the proceeds of which are to be loaned to 2 or more borrowers, such binding commitment will be incurred within the 6-month period beginning on the date of the loan of such proceeds to a borrower, and

''(C) such projects will be completed with due diligence and the proceeds from the sale of the issue will be spent with due diligence.

''(2) EXTENSION OF PERIOD.—Upon submission of a request prior to the expiration of the period described in paragraph (1)(A), the Secretary may extend such period if the qualified issuer establishes that the failure to satisfy the 5-year requirement is due to reasonable cause and the related projects will continue to proceed with due diligence.

''(3) FAILURE TO SPEND REQUIRED AMOUNT OF BOND PROCEEDS WITHIN 5 YEARS.—To the extent that less than 95 percent of the proceeds of such issue are expended by the close of the

5-year period beginning on the date of issuance (or if an extension has been obtained under paragraph (2), by the close of the extended period), the qualified issuer shall redeem all of the nonqualified bonds within 90 days after the end of such period. For purposes of this paragraph, the amount of the nonqualified bonds required to be redeemed shall be determined in the same manner as under section 142.

''(i) SPECIAL RULES RELATING TO ARBITRAGE.—A bond which is part of an issue shall not be treated as a rural renaissance bond unless, with respect to the issue of which the bond is a part, the qualified issuer satisfies the arbitrage requirements of section 148 with respect to proceeds of the issue.

''(j) QUALIFIED ISSUER.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified issuer' means any not-for-profit cooperative lender which has as of the date of the enactment of this section received a guarantee under section 306 of the Rural Electrification Act and which meets the requirement of paragraph (2).

''(2) USER FEE REQUIREMENT.—The requirement of this paragraph is met if the issuer of any rural renaissance bond makes grants for qualified projects as defined under subsection (d)(2) on a semi-annual basis every year that such bond is outstanding in an annual amount equal to one-half of the rate on United States Treasury Bills of the same maturity multiplied by the outstanding principal balance of rural renaissance bonds issued by such issuer.

''(k) SPECIAL RULES RELATING TO POOL BONDS.—No portion of a pooled financing bond may be allocable to a loan unless the borrower has entered into a written loan commitment for such portion prior to the issue date of such issue.

''(l) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) BOND.—The term 'bond' includes any obligation.

''(2) POOLED FINANCING BOND.—The term 'pooled financing bond' shall have the meaning given such term by section 149(f)(4)(A).

''(3) RURAL AREA.—The term 'rural area' means any area other than—

''(A) a city or town which has a population of greater than 50,000 inhabitants, or

''(B) the urbanized area contiguous and adjacent to such a city or town.

''(4) PARTNERSHIP; S CORPORATION; AND OTHER PASS-THRU ENTITIES.—

''(A) IN GENERAL.—Under regulations prescribed by the Secretary, in the case of a partnership, trust, S corporation, or other pass-thru entity, rules similar to the rules of section 41(g) shall apply with respect to the credit allowable under subsection (a).

''(B) NO BASIS ADJUSTMENT.—In the case of a bond held by a partnership or an S corporation, rules similar to the rules under section 1397E(l) shall apply.

''(5) BONDS HELD BY REGULATED INVESTMENT COMPANIES.—If any rural renaissance bond is held by a regulated investment company, the credit determined under subsection (a) shall be allowed to shareholders of such company under procedures prescribed by the Secretary.

''(6) REPORTING.—Issuers of rural renaissance bonds shall submit reports similar to the reports required under section 149(e).''.

(b) REPORTING.—Subsection (d) of section 6049 (relating to returns regarding payments of interest) is amended by adding at the end the following new paragraph:

''(9) REPORTING OF CREDIT ON RURAL RENAISSANCE BONDS.—

''(A) IN GENERAL.—For purposes of subsection (a), the term 'interest' includes amounts includible in gross income under section 54A(f) and such amounts shall be treated as paid on the credit allowance date (as defined in section 54A(b)(4)).

''(B) REPORTING TO CORPORATIONS, ETC.—Except as otherwise provided in regulations, in the case of any interest described in subparagraph (A), subsection (b)(4) shall be applied without regard to subparagraphs (A), (H), (I), (J), (K), and (L)(i) of such subsection.

''(C) REGULATORY AUTHORITY.—The Secretary may prescribe such regulations as are necessary or appropriate to carry out the purposes of this paragraph, including regulations which require more frequent or more detailed reporting.''.

(c) CONFORMING AMENDMENTS.—

(1) The table of sections for subpart H of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

''Sec. 54A. Credit to holders of rural renaissance bonds.''.

(2) Section 54(c)(2) is amended by inserting '', section 54A,'' after ''subpart C''.

(3) Section 1400N(l)(3)(B) is amended by inserting '', section 54A,'' after ''subpart C''.

(d) ISSUANCE OF REGULATIONS.—The Secretary of Treasury shall issue regulations required under section 54A of the Internal Revenue Code of 1986 (as added by this section) not later than 120 days after the date of the enactment of this Act.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after the date of the enactment of this Act and before January 1, 2010.

SEC. 224. RESTORATION OF DEDUCTION FOR TRAVEL EXPENSES OF SPOUSE, ETC. ACCOMPANYING TAXPAYER ON BUSINESS TRAVEL.

(a) IN GENERAL.—Subsection (m) of section 274 (relating to additional limitations on travel expenses) is amended by adding at the end the following new paragraph:

''(4) TERMINATION.—Paragraph (3) shall not apply to any expense paid or incurred after the date of the enactment of this paragraph and before January 1, 2008.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to amounts paid or incurred after the date of the enactment of this Act.

SEC. 225. TECHNICAL CORRECTIONS.

(a) TECHNICAL CORRECTION RELATING TO LOOK-THROUGH TREATMENT OF PAYMENTS BETWEEN RELATED CONTROLLED FOREIGN CORPORATIONS UNDER THE FOREIGN PERSONAL HOLDING COMPANY RULES.—

(1) IN GENERAL.—

(A) The first sentence of section 954(c)(6)(A), as amended by section 103(b) of the Tax Increase Prevention and Reconciliation Act of 2005, is amended by striking ''which is not subpart F income'' and inserting ''which is neither subpart F income nor income treated as effectively connected with the conduct of a trade or business in the United States''.

(B) Section 954(c)(6)(A), as so amended, is amended by striking the last sentence and inserting the following: ''The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out this paragraph, including such regulations as may be necessary or appropriate to prevent the abuse of the purposes of this paragraph.''

(2) EFFECTIVE DATE.—The amendments made by this subsection shall take effect as if included in section 103(b) of the Tax Increase Prevention and Reconciliation Act of 2005.

(b) TECHNICAL CORRECTION REGARDING AUTHORITY TO EXERCISE REASONABLE CAUSE AND GOOD FAITH EXCEPTION.—

(1) IN GENERAL.—Section 903(d)(2)(B)(iii) of the American Jobs Creation Act of 2004, as amended by section 303(a) of the Gulf Opportunity Zone Act of 2005, is amended by inserting ''or the Secretary's delegate'' after ''the Secretary of the Treasury''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall take effect as if included in the provisions of the American Jobs Creation Act of 2004 to which it relates.

TITLE III—SURFACE MINING CONTROL AND RECLAMATION ACT AMENDMENTS OF 2006

SEC. 301. SHORT TITLE.

This title may be cited as the ''Surface Mining Control and Reclamation Act Amendments of 2006''.

Subtitle A—Mining Control and Reclamation

SEC. 311. ABANDONED MINE RECLAMATION FUND AND PURPOSES.

(a) IN GENERAL.—Section 401 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1231) is amended—

(1) in subsection (c)—

(A) by striking paragraphs (2) and (6); and

(B) by redesignating paragraphs (3), (4), and (5) and paragraphs (7) through (13) as paragraphs (2) through (11), respectively;

(2) by striking subsection (d) and inserting the following:

''(d) AVAILABILITY OF MONEYS; NO FISCAL YEAR LIMITATION.—

''(1) IN GENERAL.—Moneys from the fund for expenditures under subparagraphs (A) through (D) of section 402(g)(3) shall be available only when appropriated for those subparagraphs.

''(2) NO FISCAL YEAR LIMITATION.—Appropriations described in paragraph (1) shall be made without fiscal year limitation.

''(3) OTHER PURPOSES.—Moneys from the fund shall be available for all other purposes of this title without prior appropriation as provided in subsection (f).'';

(3) in subsection (e)—

(A) in the second sentence, by striking ''the needs of such fund'' and inserting ''achieving the purposes of the transfers under section 402(h)''; and

(B) in the third sentence, by inserting before the period the following: ''for the purpose of the transfers under section 402(h)''; and

(4) by adding at the end the following:

''(f) GENERAL LIMITATION ON OBLIGATION AUTHORITY.—

''(1) IN GENERAL.—From amounts deposited into the fund under subsection (b), the Secretary shall distribute during each fiscal year beginning after September 30, 2007, an amount determined under paragraph (2).

''(2) AMOUNTS.—

''(A) FOR FISCAL YEARS 2008 THROUGH 2022.—For each of fiscal years 2008 through 2022, the amount distributed by the Secretary under this subsection shall be equal to—

''(i) the amounts deposited into the fund under paragraphs (1), (2), and (4) of subsection (b) for the preceding fiscal year that were allocated under paragraphs (1) and (5) of section 402(g); plus

''(ii) the amount needed for the adjustment under section 402(g)(8) for the current fiscal year.

''(B) FISCAL YEARS 2023 AND THEREAFTER.—For fiscal year 2023 and each fiscal year thereafter, to the extent that funds are available, the Secretary shall distribute an amount equal to the amount distributed under subparagraph (A) during fiscal year 2022.

''(3) DISTRIBUTION.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), for each fiscal year, of the amount to be distributed to States and Indian tribes pursuant to paragraph (2), the Secretary shall distribute—

''(i) the amounts allocated under paragraph (1) of section 402(g), the amounts allocated under paragraph (5) of section 402(g), and any amount reallocated under section

411(h)(3) in accordance with section 411(h)(2), for grants to States and Indian tribes under section 402(g)(5); and

''(ii) the amounts allocated under section 402(g)(8).

''(B) EXCLUSION.—Beginning on October 1, 2007, certified States shall be ineligible to receive amounts under section 402(g)(1).

''(4) AVAILABILITY.—Amounts in the fund available to the Secretary for obligation under this subsection shall be available until expended.

''(5) ADDITION.—

''(A) IN GENERAL.—Subject to subparagraph (B), the amount distributed under this subsection for each fiscal year shall be in addition to the amount appropriated from the fund during the fiscal year.

''(B) EXCEPTIONS.—Notwithstanding paragraph (3), the amount distributed under this subsection for the first 4 fiscal years beginning on and after October 1, 2007, shall be equal to the following percentage of the amount otherwise required to be distributed:

''(i) 50 percent in fiscal year 2008.

''(ii) 50 percent in fiscal year 2009.

''(iii) 75 percent in fiscal year 2010.

''(iv) 75 percent in fiscal year 2011.''.

(b) CONFORMING AMENDMENT.—Section 712(b) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1302(b)) is amended by striking ''section 401(c)(11)'' and inserting ''section 401(c)(9)''.

SEC. 312. RECLAMATION FEE.

(a) AMOUNTS.—

(1) FISCAL YEARS 2008–2012.—Effective October 1, 2007, section 402(a) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(a)) is amended—

(A) by striking ''35'' and inserting ''31.5'';

(B) by striking ''15'' and inserting ''13.5''; and

(C) by striking ''10 cents'' and inserting ''9 cents''.

(2) FISCAL YEARS 2013–2021.—Effective October 1, 2012, section 402(a) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(a)) (as amended by paragraph (1)) is amended—

(A) by striking ''31.5'' and inserting ''28'';

(B) by striking ''13.5'' and inserting ''12''; and

(C) by striking ''9 cents'' and inserting ''8 cents''.

(b) DURATION.—Effective September 30, 2007, section 402(b) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(b)) (as amended by section 7007 of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, 2006 (Public Law 109–234; 120 Stat. 484)) is amended by striking ''September 30, 2007'' and all that follows through the end of the sentence and inserting ''September 30, 2021.''.

(c) ALLOCATION OF FUNDS.—Section 402(g) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(g)) is amended—

(1) in paragraph (1)(D)—

(A) by inserting ''(except for grants awarded during fiscal years 2008, 2009, and 2010 to the extent not expended within 5 years)'' after ''this paragraph''; and

(B) by striking ''in any area under paragraph (2), (3), (4), or (5)'' and inserting ''under paragraph (5)'';

(2) by striking paragraph (2) and inserting:

''(2) In making the grants referred to in paragraph (1)(C) and the grants referred to in paragraph (5), the Secretary shall ensure strict compliance by the States and Indian tribes with the priorities described in section 403(a) until a certification is made under section 411(a).'';

(3) in paragraph (3)—

(A) in the matter preceding subparagraph (A), by striking ''paragraphs (2) and'' and inserting ''paragraph'';

(B) in subparagraph (A), by striking ''401(c)(11)'' and inserting ''401(c)(9)''; and

(C) by adding at the end the following:

''(E) For the purpose of paragraph (8).'';

(4) in paragraph (5)—

(A) by inserting ''(A)'' after ''(5)'';

(B) in the first sentence, by striking ''40'' and inserting ''60'';

(C) in the last sentence, by striking ''Funds allocated or expended by the Secretary under paragraphs (2), (3), or (4)'' and inserting ''Funds made available under paragraph (3) or (4)''; and

(D) by adding at the end the following:

''(B) Any amount that is reallocated and available under section 411(h)(3) shall be in addition to amounts that are allocated under subparagraph (A).''; and

(5) by striking paragraphs (6) through (8) and inserting the following:

''(6)(A) Any State with an approved abandoned mine reclamation program pursuant to section 405 may receive and retain, without regard to the 3-year limitation referred to in paragraph (1)(D), up to 30 percent of the total of the grants made annually to the State under paragraphs (1) and (5) if those amounts are deposited into an acid mine drainage abatement and treatment fund established under State law, from which amounts (together with all interest earned on the amounts) are expended by the State for the abatement of the causes and the treatment of the effects of acid mine drainage in a comprehensive manner within qualified hydrologic units affected by coal mining practices.

''(B) In this paragraph, the term 'qualified hydrologic unit' means a hydrologic unit—

''(i) in which the water quality has been significantly affected by acid mine drainage from coal mining practices in a manner that adversely impacts biological resources; and

''(ii) that contains land and water that are—

''(I) eligible pursuant to section 404 and include any of the priorities described in section 403(a); and

''(II) the subject of expenditures by the State from the forfeiture of bonds required under section 509 or from other States sources to abate and treat acid mine drainage.

''(7) In complying with the priorities described in section 403(a), any State or Indian tribe may use amounts available in grants made annually to the State or tribe under paragraphs (1) and (5) for the reclamation of eligible land and water described in section 403(a)(3) before the completion of reclamation projects under paragraphs (1) and (2) of section 403(a) only if the expenditure of funds for the reclamation is done in conjunction with the expenditure before, on, or after the date of enactment of the Surface Mining Control and Reclamation Act Amendments of 2006 of funds for reclamation projects under paragraphs (1) and (2) of section 403(a).

''(8)(A) In making funds available under this title, the Secretary shall ensure that the grant awards total not less than $3,000,000 annually to each State and each Indian tribe having an approved abandoned mine reclamation program pursuant to section 405 and eligible land and water pursuant to section 404, so long as an allocation of funds to the State or tribe is necessary to achieve the priorities stated in paragraphs (1) and (2) of section 403(a).

''(B) Notwithstanding any other provision of law, this paragraph applies to the States of Tennessee and Missouri.''.

(d) TRANSFERS OF INTEREST EARNED BY ABANDONED MINE RECLAMATION FUND.—Section 402 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232) is amended by striking subsection (h) and inserting the following:

''(h) TRANSFERS OF INTEREST EARNED BY FUND.—

''(1) IN GENERAL.—

''(A) TRANSFERS TO COMBINED BENEFIT FUND.—As soon as practicable after the beginning of fiscal year 2007 and each fiscal year thereafter, and before making any allocation with respect to the fiscal year under subsection (g), the Secretary shall use an amount not to exceed the amount of interest that the Secretary estimates will be earned and paid to the fund during the fiscal year to transfer to the Combined Benefit Fund such amounts as are estimated by the trustees of such Fund to offset the amount of any deficit in net assets in the Combined Benefit Fund as of October 1, 2006, and to make the transfer described in paragraph (2)(A).

''(B) TRANSFERS TO 1992 AND 1993 PLANS.—As soon as practicable after the beginning of fiscal year 2008 and each fiscal year thereafter, and before making any allocation with respect to the fiscal year under subsection (g), the Secretary shall use an amount not to exceed the amount of interest that the Secretary estimates will be earned and paid to the fund during the fiscal year (reduced by the amount used under subparagraph (A)) to make the transfers described in paragraphs (2)(B) and (2)(C).

''(2) TRANSFERS DESCRIBED.—The transfers referred to in paragraph (1) are the following:

''(A) UNITED MINE WORKERS OF AMERICA COMBINED BENEFIT FUND.—A transfer to the United Mine Workers of America Combined Benefit Fund equal to the amount that the trustees of the Combined Benefit Fund estimate will be expended from the fund for the fiscal year in which the transfer is made, reduced by—

''(i) the amount the trustees of the Combined Benefit Fund estimate the Combined Benefit Fund will receive during the fiscal year in—

''(I) required premiums; and

''(II) payments paid by Federal agencies in connection with benefits provided by the Combined Benefit Fund; and

''(ii) the amount the trustees of the Combined Benefit Fund estimate will be expended during the fiscal year to provide health benefits to beneficiaries who are unassigned beneficiaries solely as a result of the application of section 9706(h)(1) of the Internal Revenue Code of 1986, but only to the extent that such amount does not exceed the amounts described in subsection (i)(1)(A) that the Secretary estimates will be available to pay such estimated expenditures.

''(B) UNITED MINE WORKERS OF AMERICA 1992 BENEFIT PLAN.—A transfer to the United Mine Workers of America 1992 Benefit Plan, in an amount equal to the difference between—

''(i) the amount that the trustees of the 1992 UMWA Benefit Plan estimate will be expended from the 1992 UMWA Benefit Plan during the next calendar year to provide the benefits required by the 1992 UMWA Benefit Plan on the date of enactment of this subparagraph; minus

''(ii) the amount that the trustees of the 1992 UMWA Benefit Plan estimate the 1992 UMWA Benefit Plan will receive during the next calendar year in—

''(I) required monthly per beneficiary premiums, including the amount of any security provided to the 1992 UMWA Benefit Plan that is available for use in the provision of benefits; and

''(II) payments paid by Federal agencies in connection with benefits provided by the 1992 UMWA benefit plan.

''(C) MULTIEMPLOYER HEALTH BENEFIT PLAN.—A transfer to the Multiemployer

Health Benefit Plan established after July 20, 1992, by the parties that are the settlors of the 1992 UMWA Benefit Plan referred to in subparagraph (B) (referred to in this subparagraph and subparagraph (D) as 'the Plan'), in an amount equal to the excess (if any) of—

''(i) the amount that the trustees of the Plan estimate will be expended from the Plan during the next calendar year, to provide benefits no greater than those provided by the Plan as of December 31, 2006; over

''(ii) the amount that the trustees estimated the Plan will receive during the next calendar year in payments paid by Federal agencies in connection with benefits provided by the Plan.

Such excess shall be calculated by taking into account only those beneficiaries actually enrolled in the Plan as of December 31, 2006, who are eligible to receive benefits under the Plan on the first day of the calendar year for which the transfer is made.

''(D) INDIVIDUALS CONSIDERED ENROLLED.—For purposes of subparagraph (C), any individual who was eligible to receive benefits from the Plan as of the date of enactment of this subsection, even though benefits were being provided to the individual pursuant to a settlement agreement approved by order of a bankruptcy court entered on or before September 30, 2004, will be considered to be actually enrolled in the Plan and shall receive benefits from the Plan beginning on December 31, 2006.

''(3) ADJUSTMENT.—If, for any fiscal year, the amount of a transfer under subparagraph (A), (B), or (C) of paragraph (2) is more or less than the amount required to be transferred under that subparagraph, the Secretary shall appropriately adjust the amount transferred under that subparagraph for the next fiscal year.

''(4) ADDITIONAL AMOUNTS.—

''(A) PREVIOUSLY CREDITED INTEREST.—Notwithstanding any other provision of law, any interest credited to the fund that has not previously been transferred to the Combined Benefit Fund referred to in paragraph (2)(A) under this section—

''(i) shall be held in reserve by the Secretary until such time as necessary to make the payments under subparagraphs (A) and (B) of subsection (i)(1), as described in clause (ii); and

''(ii) in the event that the amounts described in subsection (i)(1) are insufficient to make the maximum payments described in subparagraphs (A) and (B) of subsection (i)(1), shall be used by the Secretary to supplement the payments so that the maximum amount permitted under those paragraphs is paid.

''(B) PREVIOUSLY ALLOCATED AMOUNTS.—All amounts allocated under subsection (g)(2) before the date of enactment of this subparagraph for the program described in section 406, but not appropriated before that date, shall be available to the Secretary to make the transfers described in paragraph (2).

''(C) ADEQUACY OF PREVIOUSLY CREDITED INTEREST.—The Secretary shall—

''(i) consult with the trustees of the plans described in paragraph (2) at reasonable intervals; and

''(ii) notify Congress if a determination is made that the amounts held in reserve under subparagraph (A) are insufficient to meet future requirements under subparagraph (A)(ii).

''(D) ADDITIONAL RESERVE AMOUNTS.—In addition to amounts held in reserve under subparagraph (A), there is authorized to be appropriated such sums as may be necessary for transfer to the fund to carry out the purposes of subparagraph (A)(ii).

''(E) INAPPLICABILITY OF CAP.—The limitation described in subsection (i)(3)(A) shall not apply to payments made from the reserve fund under this paragraph.

''(5) LIMITATIONS.—

''(A) AVAILABILITY OF FUNDS FOR NEXT FISCAL YEAR.—The Secretary may make transfers under subparagraphs (B) and (C) of paragraph (2) for a calendar year only if the Secretary determines, using actuarial projections provided by the trustees of the Combined Benefit Fund referred to in paragraph (2)(A), that amounts will be available under paragraph (1), after the transfer, for the next fiscal year for making the transfer under paragraph (2)(A).

''(B) RATE OF CONTRIBUTIONS OF OBLIGORS.—

''(i) IN GENERAL.—

''(I) RATE.—A transfer under paragraph (2)(C) shall not be made for a calendar year unless the persons that are obligated to contribute to the plan referred to in paragraph (2)(C) on the date of the transfer are obligated to make the contributions at rates that are no less than those in effect on the date which is 30 days before the date of enactment of this subsection.

''(II) APPLICATION.—The contributions described in subclause (I) shall be applied first to the provision of benefits to those plan beneficiaries who are not described in paragraph (2)(C)(ii).

''(ii) INITIAL CONTRIBUTIONS.—

''(I) IN GENERAL.—From the date of enactment of the Surface Mining Control and Reclamation Act Amendments of 2006 through December 31, 2010, the persons that, on the date of enactment of that Act, are obligated to contribute to the plan referred to in paragraph (2)(C) shall be obligated, collectively, to make contributions equal to the amount described in paragraph (2)(C), less the amount actually transferred due to the operation of subparagraph (C).

''(II) FIRST CALENDAR YEAR.—Calendar year 2006 is the first calendar year for which contributions are required under this clause.

''(III) AMOUNT OF CONTRIBUTION FOR 2006.—Except as provided in subclause (IV), the amount described in paragraph (2)(C) for calendar year 2006 shall be calculated as if paragraph (2)(C) had been in effect during 2005.

''(IV) LIMITATION.—The contributions required under this clause for calendar year 2006 shall not exceed the amount necessary for solvency of the plan described in paragraph (2)(C), measured as of December 31, 2006 and taking into account all assets held by the plan as of that date.

''(iii) DIVISION.—The collective annual contribution obligation required under clause (ii) shall be divided among the persons subject to the obligation, and applied uniformly, based on the hours worked for which contributions referred to in clause (i) would be owed.

''(C) PHASE-IN OF TRANSFERS.—For each of calendar years 2008 through 2010, the transfers required under subparagraphs (B) and (C) of paragraph (2) shall equal the following amounts:

''(i) For calendar year 2008, the Secretary shall make transfers equal to 25 percent of the amounts that would otherwise be required under subparagraphs (B) and (C) of paragraph (2).

''(ii) For calendar year 2009, the Secretary shall make transfers equal to 50 percent of the amounts that would otherwise be required under subparagraphs (B) and (C) of paragraph (2).

''(iii) For calendar year 2010, the Secretary shall make transfers equal to 75 percent of the amounts that would otherwise be required under subparagraphs (B) and (C) of paragraph (2).

''(i) FUNDING.—

''(1) IN GENERAL.—Subject to paragraph (3), out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the plans described in subsection (h)(2) such sums as are necessary to pay the following amounts:

''(A) To the Combined Fund (as defined in section 9701(a)(5) of the Internal Revenue Code of 1986 and referred to in this paragraph as the 'Combined Fund'), the amount that the trustees of the Combined Fund estimate will be expended from premium accounts maintained by the Combined Fund for the fiscal year to provide benefits for beneficiaries who are unassigned beneficiaries solely as a result of the application of section 9706(h)(1) of the Internal Revenue Code of 1986, subject to the following limitations:

''(i) For fiscal year 2008, the amount paid under this subparagraph shall equal—

''(I) the amount described in subparagraph (A); minus

''(II) the amounts required under section 9706(h)(3)(A) of the Internal Revenue Code of 1986.

''(ii) For fiscal year 2009, the amount paid under this subparagraph shall equal—

''(I) the amount described in subparagraph (A); minus

''(II) the amounts required under section 9706(h)(3)(B) of the Internal Revenue Code of 1986.

''(iii) For fiscal year 2010, the amount paid under this subparagraph shall equal—

''(I) the amount described in subparagraph (A); minus

''(II) the amounts required under section 9706(h)(3)(C) of the Internal Revenue Code of 1986.

''(B) On certification by the trustees of any plan described in subsection (h)(2) that the amount available for transfer by the Secretary pursuant to this section (determined after application of any limitation under subsection (h)(5)) is less than the amount required to be transferred, to the plan the amount necessary to meet the requirement of subsection (h)(2).

''(C) To the Combined Fund, $9,000,000 on October 1, 2007, $9,000,000 on October 1, 2008, and $9,000,000 on October 1, 2009 (which amounts shall not be exceeded) to provide a refund of any premium (as described in section 9704(a) of the Internal Revenue Code of 1986) paid on or before September 7, 2000, to the Combined Fund, plus interest on the premium calculated at the rate of 7.5 percent per year, on a proportional basis and to be paid not later than 60 days after the date on which each payment is received by the Combined Fund, to those signatory operators (to the extent that the Combined Fund has not previously returned the premium amounts to the operators), or any related persons to the operators (as defined in section 9701(c) of the Internal Revenue Code of 1986), or their heirs, successors, or assigns who have been denied the refunds as the result of final judgments or settlements if—

''(i) prior to the date of enactment of this paragraph, the signatory operator (or any related person to the operator)—

''(I) had all of its beneficiary assignments made under section 9706 of the Internal Revenue Code of 1986 voided by the Commissioner of the Social Security Administration; and

''(II) was subject to a final judgment or final settlement of litigation adverse to a claim by the operator that the assignment of beneficiaries under section 9706 of the Internal Revenue Code of 1986 was unconstitutional as applied to the operator; and

''(ii) on or before September 7, 2000, the signatory operator (or any related person to the operator) had paid to the Combined Fund any premium amount that had not been refunded.

''(2) PAYMENTS TO STATES AND INDIAN TRIBES.—Subject to paragraph (3), out of any

funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary of the Interior for distribution to States and Indian tribes such sums as are necessary to pay amounts described in paragraphs (1)(A) and (2)(A) of section 411(h).

''(3) LIMITATIONS.—

''(A) CAP.—The total amount transferred under this subsection for any fiscal year shall not exceed $490,000,000.

''(B) INSUFFICIENT AMOUNTS.—In a case in which the amount required to be transferred without regard to this paragraph exceeds the maximum annual limitation in subparagraph (A), the Secretary shall adjust the transfers of funds so that—

''(i) each transfer for the fiscal year is a percentage of the amount described;

''(ii) the amount is determined without regard to subsection (h)(5)(A); and

''(iii) the percentage transferred is the same for all transfers made under this subsection for the fiscal year.

''(4) AVAILABILITY OF FUNDS.—Funds shall be transferred under paragraph (1) and (2) beginning in fiscal year 2008 and each fiscal year thereafter, and shall remain available until expended.''.

SEC. 313. OBJECTIVES OF FUND.

Section 403 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1233) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by striking ''(1) the protection'' and inserting the following:

''(1)(A) the protection;'';

(ii) in subparagraph (A) (as designated by clause (i)), by striking ''general welfare,''; and

(iii) by adding at the end the following:

''(B) the restoration of land and water resources and the environment that—

''(i) have been degraded by the adverse effects of coal mining practices; and

''(ii) are adjacent to a site that has been or will be remediated under subparagraph (A);'';

(B) in paragraph (2)—

(i) by striking ''(2) the protection'' and inserting the following:

''(2)(A) the protection'';

(ii) in subparagraph (A) (as designated by clause (i), by striking ''health, safety, and general welfare'' and inserting ''health and safety''; and

(iii) by adding at the end the following:

''(B) the restoration of land and water resources and the environment that—

''(i) have been degraded by the adverse effects of coal mining practices; and

''(ii) are adjacent to a site that has been or will be remediated under subparagraph (A); and'';

(C) in paragraph (3), by striking the semicolon at the end and inserting a period; and

(D) by striking paragraphs (4) and (5);

(2) in subsection (b)—

(A) by striking the subsection heading and inserting ''WATER SUPPLY RESTORATION.—''; and

(B) in paragraph (1), by striking ''up to 30 percent of the''; and

(3) in the second sentence of subsection (c), by inserting '', subject to the approval of the Secretary,'' after ''amendments''.

SEC. 314. RECLAMATION OF RURAL LAND.

(a) ADMINISTRATION.—Section 406(h) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1236(h)) is amended by striking ''Soil Conservation Service'' and inserting ''Natural Resources Conservation Service''.

(b) AUTHORIZATION OF APPROPRIATIONS FOR CARRYING OUT RURAL LAND RECLAMATION.—Section 406 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1236) is amended by adding at the end the following:

''(i) There are authorized to be appropriated to the Secretary of Agriculture, from amounts in the Treasury other than amounts in the fund, such sums as may be necessary to carry out this section.''.

SEC. 315. LIENS.

Section 408(a) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1238) is amended in the last sentence by striking ''who owned the surface prior to May 2, 1977, and''.

SEC. 316. CERTIFICATION.

Section 411 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1240a) is amended—

(1) in subsection (a)—

(A) by inserting ''(1)'' before the first sentence; and

(B) by adding at the end the following:

''(2)(A) The Secretary may, on the initiative of the Secretary, make the certification referred to in paragraph (1) on behalf of any State or Indian tribe referred to in paragraph (1) if on the basis of the inventory referred to in section 403(c) all reclamation projects relating to the priorities described in section 403(a) for eligible land and water pursuant to section 404 in the State or tribe have been completed.

''(B) The Secretary shall only make the certification after notice in the Federal Register and opportunity for public comment.''; and

(2) by adding at the end the following:

''(h) PAYMENTS TO STATES AND INDIAN TRIBES.—

''(1) IN GENERAL.—

''(A) PAYMENTS.—

''(i) IN GENERAL.—Notwithstanding section 401(f)(3)(B), from funds referred to in section 402(i)(2), the Secretary shall make payments to States or Indian tribes for the amount due for the aggregate unappropriated amount allocated to the State or Indian tribe under subparagraph (A) or (B) of section 402(g)(1).

''(ii) CONVERSION AS EQUIVALENT PAYMENTS.—Amounts allocated under subparagraphs (A) or (B) of section 402(g)(1) shall be reallocated to the allocation established in section 402(g)(5) in amounts equivalent to payments made to States or Indian tribes under this paragraph.

''(B) AMOUNT DUE.—In this paragraph, the term 'amount due' means the unappropriated amount allocated to a State or Indian tribe before October 1, 2007, under subparagraph (A) or (B) of section 402(g)(1).

''(C) SCHEDULE.—Payments under subparagraph (A) shall be made in 7 equal annual installments, beginning with fiscal year 2008.

''(D) USE OF FUNDS.—

''(i) CERTIFIED STATES AND INDIAN TRIBES.—A State or Indian tribe that makes a certification under subsection (a) in which the Secretary concurs shall use any amounts provided under this paragraph for the purposes established by the State legislature or tribal council of the Indian tribe, with priority given for addressing the impacts of mineral development.

''(ii) UNCERTIFIED STATES AND INDIAN TRIBES.—A State or Indian tribe that has not made a certification under subsection (a) in which the Secretary has concurred shall use any amounts provided under this paragraph for the purposes described in section 403.

''(2) SUBSEQUENT STATE AND INDIAN TRIBE SHARE FOR CERTIFIED STATES AND INDIAN TRIBES.—

''(A) IN GENERAL.—Notwithstanding section 401(f)(3)(B), from funds referred to in section 402(i)(2), the Secretary shall pay to each certified State or Indian tribe an amount equal to the sum of the aggregate unappropriated amount allocated on or after October 1, 2007, to the certified State or Indian tribe under subparagraph (A) or (B) of section 402(g)(1).

''(B) CERTIFIED STATE OR INDIAN TRIBE DEFINED.—In this paragraph the term 'certified State or Indian tribe' means a State or Indian tribe for which a certification is made under subsection (a) in which the Secretary concurs.

''(3) MANNER OF PAYMENT.—

''(A) IN GENERAL.—Subject to subparagraph (B), payments to States or Indian tribes under this subsection shall be made without regard to any limitation in section 401(d) and concurrently with payments to States under that section.

''(B) INITIAL PAYMENTS.—The first 3 payments made to any State or Indian tribe shall be reduced to 25 percent, 50 percent, and 75 percent, respectively, of the amounts otherwise required under paragraph (2)(A).

''(C) INSTALLMENTS.—Amounts withheld from the first 3 annual installments as provided under subparagraph (B) shall be paid in 2 equal annual installments beginning with fiscal year 2018.

''(4) REALLOCATION.—

''(A) IN GENERAL.—The amount allocated to any State or Indian tribe under subparagraph (A) or (B) of section 402(g)(1) that is paid to the State or Indian tribe as a result of a payment under paragraph (1) or (2) shall be reallocated and available for grants under section 402(g)(5).

''(B) ALLOCATION.—The grants shall be allocated based on the amount of coal historically produced before August 3, 1977, in the same manner as under section 402(g)(5).''.

SEC. 317. REMINING INCENTIVES.

Title IV of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1231 et seq.) is amended by adding at the following:

''SEC. 415. REMINING INCENTIVES.

''(a) IN GENERAL.—Notwithstanding any other provision of this Act, the Secretary may, after opportunity for public comment, promulgate regulations that describe conditions under which amounts in the fund may be used to provide incentives to promote remining of eligible land under section 404 in a manner that leverages the use of amounts from the fund to achieve more reclamation with respect to the eligible land than would be achieved without the incentives.

''(b) REQUIREMENTS.—Any regulations promulgated under subsection (a) shall specify that the incentives shall apply only if the Secretary determines, with the concurrence of the State regulatory authority referred to in title V, that, without the incentives, the eligible land would not be likely to be remined and reclaimed.

''(c) INCENTIVES.—

''(1) IN GENERAL.—Incentives that may be considered for inclusion in the regulations promulgated under subsection (a) include, but are not limited to—

''(A) a rebate or waiver of the reclamation fees required under section 402(a); and

''(B) the use of amounts in the fund to provide financial assurance for remining operations in lieu of all or a portion of the performance bonds required under section 509.

''(2) LIMITATIONS.—

''(A) USE.—A rebate or waiver under paragraph (1)(A) shall be used only for operations that—

''(i) remove or reprocess abandoned coal mine waste; or

''(ii) conduct remining activities that meet the priorities specified in paragraph (1) or (2) of section 403(a).

''(B) AMOUNT.—The amount of a rebate or waiver provided as an incentive under paragraph (1)(A) to remine or reclaim eligible land shall not exceed the estimated cost of reclaiming the eligible land under this section.''.

SEC. 318. EXTENSION OF LIMITATION ON APPLICATION OF PROHIBITION ON ISSUANCE OF PERMIT.

Section 510(e) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1260(e)) is amended by striking the last sentence.

SEC. 319. TRIBAL REGULATION OF SURFACE COAL MINING AND RECLAMATION OPERATIONS.

(a) IN GENERAL.—Section 710 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1300) is amended by adding at the end the following:

''(j) TRIBAL REGULATORY AUTHORITY.—

''(1) TRIBAL REGULATORY PROGRAMS.—

''(A) IN GENERAL.—Notwithstanding any other provision of law, an Indian tribe may apply for, and obtain the approval of, a tribal program under section 503 regulating in whole or in part surface coal mining and reclamation operations on reservation land under the jurisdiction of the Indian tribe using the procedures of section 504(e).

''(B) REFERENCES TO STATE.—For purposes of this subsection and the implementation and administration of a tribal program under title V, any reference to a 'State' in this Act shall be considered to be a reference to a 'tribe'.

''(2) CONFLICTS OF INTEREST.—

''(A) IN GENERAL.—The fact that an individual is a member of an Indian tribe does not in itself constitute a violation of section 201(f).

''(B) EMPLOYEES OF TRIBAL REGULATORY AUTHORITY.—Any employee of a tribal regulatory authority shall not be eligible for a per capita distribution of any proceeds from coal mining operations conducted on Indian reservation lands under this Act.

''(3) SOVEREIGN IMMUNITY.—To receive primary regulatory authority under section 504(e), an Indian tribe shall waive sovereign immunity for purposes of section 520 and paragraph (4).

''(4) JUDICIAL REVIEW.—

''(A) CIVIL ACTIONS.—

''(i) IN GENERAL.—After exhausting all tribal remedies with respect to a civil action arising under a tribal program approved under section 504(e), an interested party may file a petition for judicial review of the civil action in the United States circuit court for the circuit in which the surface coal mining operation named in the petition is located.

''(ii) SCOPE OF REVIEW.—

''(I) QUESTIONS OF LAW.—The United States circuit court shall review de novo any questions of law under clause (i).

''(II) FINDINGS OF FACT.—The United States circuit court shall review findings of fact under clause (i) using a clearly erroneous standard.

''(B) CRIMINAL ACTIONS.—Any criminal action brought under section 518 with respect to surface coal mining or reclamation operations on Indian reservation lands shall be brought in—

''(i) the United States District Court for the District of Columbia; or

''(ii) the United States district court in which the criminal activity is alleged to have occurred.

''(5) GRANTS.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), grants for developing, administering, and enforcing tribal programs approved in accordance with section 504(e) shall be provided to an Indian tribe in accordance with section 705.

''(B) EXCEPTION.—Notwithstanding subparagraph (A), the Federal share of the costs of developing, administering, and enforcing an approved tribal program shall be 100 percent.

''(6) REPORT.—Not later than 18 months after the date on which a tribal program is approved under subsection (e) of section 504, the Secretary shall submit to the appropriate committees of Congress a report, developed in cooperation with the applicable Indian tribe, on the tribal program that includes a recommendation of the Secretary on whether primary regulatory authority under that subsection should be expanded to include additional Indian lands.''.

(b) CONFORMING AMENDMENT.—Section 710(i) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1300(i)) is amended in the first sentence by striking '', except'' and all that follows through ''section 503''.

Subtitle B—Coal Industry Retiree Health Benefit Act

SEC. 321. CERTAIN RELATED PERSONS AND SUCCESSORS IN INTEREST RELIEVED OF LIABILITY IF PREMIUMS PREPAID.

(a) COMBINED BENEFIT FUND.—

(1) IN GENERAL.—Section 9704 of the Internal Revenue Code of 1986 (relating to liability of assigned operators) is amended by adding at the end the following new subsection:

''(j) PREPAYMENT OF PREMIUM LIABILITY.—

''(1) IN GENERAL.—If—

''(A) a payment meeting the requirements of paragraph (3) is made to the Combined Fund by or on behalf of—

''(i) any assigned operator to which this subsection applies, or

''(ii) any related person to any assigned operator described in clause (i), and

''(B) the common parent of the controlled group of corporations described in paragraph (2)(B) is jointly and severally liable for any premium under this section which (but for this subsection) would be required to be paid by the assigned operator or related person,

then such common parent (and no other person) shall be liable for such premium.

''(2) ASSIGNED OPERATORS TO WHICH SUBSECTION APPLIES.—

''(A) IN GENERAL.—This subsection shall apply to any assigned operator if—

''(i) the assigned operator (or a related person to the assigned operator)—

''(I) made contributions to the 1950 UMWA Benefit Plan and the 1974 UMWA Benefit Plan for employment during the period covered by the 1988 agreement; and

''(II) is not a 1988 agreement operator,

''(ii) the assigned operator (and all related persons to the assigned operator) are not actively engaged in the production of coal as of July 1, 2005, and

''(iii) the assigned operator was, as of July 20, 1992, a member of a controlled group of corporations described in subparagraph (B).

''(B) CONTROLLED GROUP OF CORPORATIONS.—A controlled group of corporations is described in this subparagraph if the common parent of such group is a corporation the shares of which are publicly traded on a United States exchange.

''(C) COORDINATION WITH REPEAL OF ASSIGNMENTS.—A person shall not fail to be treated as an assigned operator to which this subsection applies solely because the person ceases to be an assigned operator by reason of section 9706(h)(1) if the person otherwise meets the requirements of this subsection and is liable for the payment of premiums under section 9706(h)(3).

''(D) CONTROLLED GROUP.—For purposes of this subsection, the term 'controlled group of corporations' has the meaning given such term by section 52(a).

''(3) REQUIREMENTS.—A payment meets the requirements of this paragraph if—

''(A) the amount of the payment is not less than the present value of the total premium liability under this chapter with respect to the Combined Fund of the assigned operators or related persons described in paragraph (1) or their assignees, as determined by the operator's or related person's enrolled actuary (as defined in section 7701(a)(35)) using actuarial methods and assumptions each of which is reasonable and which are reasonable in the aggregate, as determined by such enrolled actuary;

''(B) such enrolled actuary files with the Secretary of Labor a signed actuarial report containing—

''(i) the date of the actuarial valuation applicable to the report; and

''(ii) a statement by the enrolled actuary signing the report that, to the best of the actuary's knowledge, the report is complete and accurate and that in the actuary's opinion the actuarial assumptions used are in the aggregate reasonably related to the experience of the operator and to reasonable expectations; and

''(C) 90 calendar days have elapsed after the report required by subparagraph (B) is filed with the Secretary of Labor, and the Secretary of Labor has not notified the assigned operator in writing that the requirements of this paragraph have not been satisfied.

''(4) USE OF PREPAYMENT.—The Combined Fund shall—

''(A) establish and maintain an account for each assigned operator or related person by, or on whose behalf, a payment described in paragraph (3) was made,

''(B) credit such account with such payment (and any earnings thereon), and

''(C) use all amounts in such account exclusively to pay premiums that would (but for this subsection) be required to be paid by the assigned operator.

Upon termination of the obligations for the premium liability of any assigned operator or related person for which such account is maintained, all funds remaining in such account (and earnings thereon) shall be refunded to such person as may be designated by the common parent described in paragraph (1)(B).''.

(b) INDIVIDUAL EMPLOYER PLANS.—Section 9711(c) of the Internal Revenue Code of 1986 (relating to joint and several liability) is amended to read as follows:

''(c) JOINT AND SEVERAL LIABILITY OF RELATED PERSONS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), each related person of a last signatory operator to which subsection (a) or (b) applies shall be jointly and severally liable with the last signatory operator for the provision of health care coverage described in subsection (a) or (b).

''(2) LIABILITY LIMITED IF SECURITY PROVIDED.—If—

''(A) security meeting the requirements of paragraph (3) is provided by or on behalf of—

''(i) any last signatory operator which is an assigned operator described in section 9704(j)(2), or

''(ii) any related person to any last signatory operator described in clause (i), and

''(B) the common parent of the controlled group of corporations described in section 9704(j)(2)(B) is jointly and severally liable for the provision of health care under this section which, but for this paragraph, would be required to be provided by the last signatory operator or related person,

then, as of the date the security is provided, such common parent (and no other person) shall be liable for the provision of health care under this section which the last signatory operator or related person would otherwise be required to provide. Security may be provided under this paragraph without regard to whether a payment was made under section 9704(j).

''(3) SECURITY.—Security meets the requirements of this paragraph if—

''(A) the security—

''(i) is in the form of a bond, letter of credit, or cash escrow,

''(ii) is provided to the trustees of the 1992 UMWA Benefit Plan solely for the purpose of paying premiums for beneficiaries who would be described in section 9712(b)(2)(B) if the requirements of this section were not met by the last signatory operator, and

''(iii) is in an amount equal to 1 year of liability of the last signatory operator under this section, determined by using the average cost of such operator's liability during the prior 3 calendar years;

''(B) the security is in addition to any other security required under any other provision of this title; and

''(C) the security remains in place for 5 years.

''(4) REFUNDS OF SECURITY.—The remaining amount of any security provided under this subsection (and earnings thereon) shall be refunded to the last signatory operator as of the earlier of—

''(A) the termination of the obligations of the last signatory operator under this section, or

''(B) the end of the 5-year period described in paragraph (4)(C).''.

(c) 1992 UMWA BENEFIT PLAN.—Section 9712(d)(4) of the Internal Revenue Code of 1986 (relating to joint and several liability) is amended by adding at the end the following new sentence: ''The provisions of section 9711(c)(2) shall apply to any last signatory operator described in such section (without regard to whether security is provided under such section, a payment is made under section 9704(j), or both) and if security meeting the requirements of section 9711(c)(3) is provided, the common parent described in section 9711(c)(2)(B) shall be exclusively responsible for any liability for premiums under this section which, but for this sentence, would be required to be paid by the last signatory operator or any related person.''.

(d) SUCCESSOR IN INTEREST.—Section 9701(c) of the Internal Revenue Code of 1986 (relating to terms relating to operators) is amended by adding at the end the following new paragraph:

''(8) SUCCESSOR IN INTEREST.—

''(A) SAFE HARBOR.—The term 'successor in interest' shall not include any person who—

''(i) is an unrelated person to an eligible seller described in subparagraph (C); and

''(ii) purchases for fair market value assets, or all of the stock, of a related person to such seller, in a bona fide, arm's-length sale.

''(B) UNRELATED PERSON.—The term 'unrelated person' means a purchaser who does not bear a relationship to the eligible seller described in section 267(b).

''(C) ELIGIBLE SELLER.—For purposes of this paragraph, the term 'eligible seller' means an assigned operator described in section 9704(j)(2) or a related person to such assigned operator.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act, except that the amendment made by subsection (d) shall apply to transactions after the date of the enactment of this Act.

SEC. 322. TRANSFERS TO FUNDS; PREMIUM RELIEF.

(a) COMBINED FUND.—

(1) FEDERAL TRANSFERS.—Section 9705(b) of the Internal Revenue Code of 1986 (relating to transfers from Abandoned Mine Reclamation Fund) is amended—

(A) in paragraph (1), by striking ''section 402(h)'' and inserting ''subsections (h) and (i) of section 402'';

(B) by striking paragraph (2) and inserting the following new paragraph:

''(2) USE OF FUNDS.—Any amount transferred under paragraph (1) for any fiscal year shall be used to pay benefits and administrative costs of beneficiaries of the Combined Fund or for such other purposes as are specifically provided in the Acts described in paragraph (1).''; and

(C) by striking ''FROM ABANDONED MINE RECLAMATION FUND''.

(2) MODIFICATIONS OF PREMIUMS TO REFLECT FEDERAL TRANSFERS.—

(A) ELIMINATION OF UNASSIGNED BENEFICIARIES PREMIUM.—Section 9704(d) of such Code (establishing unassigned beneficiaries premium) is amended to read as follows:

''(d) UNASSIGNED BENEFICIARIES PREMIUM.—

''(1) PLAN YEARS ENDING ON OR BEFORE SEPTEMBER 30, 2006.—For plan years ending on or before September 30, 2006, the unassigned beneficiaries premium for any assigned operator shall be equal to the applicable percentage of the product of the per beneficiary premium for the plan year multiplied by the number of eligible beneficiaries who are not assigned under section 9706 to any person for such plan year.

''(2) PLAN YEARS BEGINNING ON OR AFTER OCTOBER 1, 2006.—

''(A) IN GENERAL.—For plan years beginning on or after October 1, 2006, subject to subparagraph (B), there shall be no unassigned beneficiaries premium, and benefit costs with respect to eligible beneficiaries who are not assigned under section 9706 to any person for any such plan year shall be paid from amounts transferred under section 9705(b).

''(B) INADEQUATE TRANSFERS.—If, for any plan year beginning on or after October 1, 2006, the amounts transferred under section 9705(b) are less than the amounts required to be transferred to the Combined Fund under subsection (h)(2)(A) or (i) of section 402 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232)), then the unassigned beneficiaries premium for any assigned operator shall be equal to the operator's applicable percentage of the amount required to be so transferred which was not so transferred.''.

(B) PREMIUM ACCOUNTS.—

(i) CREDITING OF ACCOUNTS.—Section 9704(e)(1) of such Code (relating to premium accounts; adjustments) is amended by inserting ''and amounts transferred under section 9705(b)'' after ''premiums received''.

(ii) SURPLUSES ATTRIBUTABLE TO PUBLIC FUNDING.—Section 9704(e)(3)(A) of such Code is amended by adding at the end the following new sentence: ''Amounts credited to an account from amounts transferred under section 9705(b) shall not be taken into account in determining whether there is a surplus in the account for purposes of this paragraph.''

(C) APPLICABLE PERCENTAGE.—Section 9704(f)(2) of such Code (relating to annual adjustments) is amended by adding at the end the following new subparagraph:

''(C) In the case of plan years beginning on or after October 1, 2007, the total number of assigned eligible beneficiaries shall be reduced by the eligible beneficiaries whose assignments have been revoked under section 9706(h).''.

(3) ASSIGNMENTS AND REASSIGNMENT.—Section 9706 of the Internal Revenue Code of 1986 (relating to assignment of eligible beneficiaries) is amended by adding at the end the following:

''(h) ASSIGNMENTS AS OF OCTOBER 1, 2007.—

''(1) IN GENERAL.—Subject to the premium obligation set forth in paragraph (3), the Commissioner of Social Security shall—

''(A) revoke all assignments to persons other than 1988 agreement operators for purposes of assessing premiums for plan years beginning on and after October 1, 2007; and

''(B) make no further assignments to persons other than 1988 agreement operators, except that no individual who becomes an unassigned beneficiary by reason of subparagraph (A) may be assigned to a 1988 agreement operator.

''(2) REASSIGNMENT UPON PURCHASE.—This subsection shall not be construed to prohibit the reassignment under subsection (b)(2) of an eligible beneficiary.

''(3) LIABILITY OF PERSONS DURING THREE FISCAL YEARS BEGINNING ON AND AFTER OCTOBER 1, 2007.—In the case of each of the fiscal years beginning on October 1, 2007, 2008, and 2009, each person other than a 1988 agreement operator shall pay to the Combined Fund the following percentage of the amount of annual premiums that such person would otherwise be required to pay under section 9704(a), determined on the basis of assignments in effect without regard to the revocation of assignments under paragraph (1)(A):

''(A) For the fiscal year beginning on October 1, 2007, 55 percent.

''(B) For the fiscal year beginning on October 1, 2008, 40 percent.

''(C) For the fiscal year beginning on October 1, 2009, 15 percent.''.

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to plan years of the Combined Fund beginning after September 30, 2006.

(b) 1992 UMWA BENEFIT AND OTHER PLANS.—

(1) TRANSFERS TO PLANS.—Section 9712(a) of the Internal Revenue Code of 1986 (relating to the establishment and coverage of the 1992 UMWA Benefit Plan) is amended by adding at the end the following:

''(3) TRANSFERS UNDER OTHER FEDERAL STATUTES.—

''(A) IN GENERAL.—The 1992 UMWA Benefit Plan shall include any amount transferred to the plan under subsections (h) and (i) of section 402 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232).

''(B) USE OF FUNDS.—Any amount transferred under subparagraph (A) for any fiscal year shall be used to provide the health benefits described in subsection (c) with respect to any beneficiary for whom no monthly per beneficiary premium is paid pursuant to paragraph (1)(A) or (3) of subsection (d).

''(4) SPECIAL RULE FOR 1993 PLAN.—

''(A) IN GENERAL.—The plan described in section 402(h)(2)(C) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(h)(2)(C)) shall include any amount transferred to the plan under subsections (h) and (i) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232).

''(B) USE OF FUNDS.—Any amount transferred under subparagraph (A) for any fiscal year shall be used to provide the health benefits described in section 402(h)(2)(C)(i) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(h)(2)(C)(i)) to individuals described in section 402(h)(2)(C) of such Act (30 U.S.C. 1232(h)(2)(C)).''.

(2) PREMIUM ADJUSTMENTS.—

(A) IN GENERAL.—Section 9712(d)(1) of such Code (relating to guarantee of benefits) is amended to read as follows:

''(1) IN GENERAL.—All 1988 last signatory operators shall be responsible for financing the benefits described in subsection (c) by meeting the following requirements in accordance with the contribution requirements established in the 1992 UMWA Benefit Plan:

''(A) The payment of a monthly per beneficiary premium by each 1988 last signatory operator for each eligible beneficiary of such operator who is described in subsection (b)(2) and who is receiving benefits under the 1992 UMWA benefit plan.

''(B) The provision of a security (in the form of a bond, letter of credit, or cash escrow) in an amount equal to a portion of the

projected future cost to the 1992 UMWA Benefit Plan of providing health benefits for eligible and potentially eligible beneficiaries attributable to the 1988 last signatory operator.

''(C) If the amounts transferred under subsection (a)(3) are less than the amounts required to be transferred to the 1992 UMWA Benefit Plan under subsections (h) and (i) of section 402 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232), the payment of an additional backstop premium by each 1988 last signatory operator which is equal to such operator's share of the amounts required to be so transferred but which were not so transferred, determined on the basis of the number of eligible and potentially eligible beneficiaries attributable to the operator.''.

(B) CONFORMING AMENDMENTS.—Section 9712(d) of such Code is amended—

(i) in paragraph (2)(B), by striking ''prefunding'' and inserting ''backstop'', and

(ii) in paragraph (3), by striking ''paragraph (1)(B)'' and inserting ''paragraph (1)(A)''.

(C) EFFECTIVE DATE.—The amendments made by this paragraph shall apply to fiscal years beginning on or after October 1, 2010.

SEC. 323. OTHER PROVISIONS.

(a) BOARD OF TRUSTEES.—Section 9702(b) of the Internal Revenue Code of 1986 (relating to board of trustees of the Combined Fund) is amended to read as follows:

''(b) BOARD OF TRUSTEES.—

''(1) IN GENERAL.—For purposes of subsection (a), the board of trustees for the Combined Fund shall be appointed as follows:

''(A) 2 individuals who represent employers in the coal mining industry shall be designated by the BCOA;

''(B) 2 individuals designated by the United Mine Workers of America; and

''(C) 3 individuals selected by the individuals appointed under subparagraphs (A) and (B).

''(2) SUCCESSOR TRUSTEES.—Any successor trustee shall be appointed in the same manner as the trustee being succeeded. The plan establishing the Combined Fund shall provide for the removal of trustees.

''(3) SPECIAL RULE.—If the BCOA ceases to exist, any trustee or successor under paragraph (1)(A) shall be designated by the 3 employers who were members of the BCOA on the enactment date and who have been assigned the greatest number of eligible beneficiaries under section 9706.''.

(b) ENFORCEMENT OF OBLIGATIONS.—

(1) FAILURE TO PAY PREMIUMS.—Section 9707(a) of the Internal Revenue Code of 1986 is amended to read as follows:

''(a) FAILURES TO PAY.—

''(1) PREMIUMS FOR ELIGIBLE BENEFICIARIES.—There is hereby imposed a penalty on the failure of any assigned operator to pay any premium required to be paid under section 9704 with respect to any eligible beneficiary.

''(2) CONTRIBUTIONS REQUIRED UNDER THE MINING LAWS.—There is hereby imposed a penalty on the failure of any person to make a contribution required under section 402(h)(5)(B)(ii) of the Surface Mining Control and Reclamation Act of 1977 to a plan referred to in section 402(h)(2)(C) of such Act. For purposes of applying this section, each such required monthly contribution for the hours worked of any individual shall be treated as if it were a premium required to be paid under section 9704 with respect to an eligible beneficiary.''.

(2) CIVIL ENFORCEMENT.—Section 9721 of such Code is amended to read as follows:

''SEC. 9721. CIVIL ENFORCEMENT.

''The provisions of section 4301 of the Employee Retirement Income Security Act of 1974 shall apply, in the same manner as any claim arising out of an obligation to pay withdrawal liability under subtitle E of title IV of such Act, to any claim—

''(1) arising out of an obligation to pay any amount required to be paid by this chapter; or

''(2) arising out of an obligation to pay any amount required by section 402(h)(5)(B)(ii) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(h)(5)(B)(ii)).''.

SA 4796. Mr. CONRAD submitted an amendment intended to be proposed by him to the bill H.R. 5631, making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes; as follows:

At the end of title VIII, add the following:

SEC. 8109. Of the amount appropriated or otherwise made available by title IV under the heading ''RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE'', up to $6,000,000 may be available for Military-Standard-1760 (MIL–STD 1760) integration for the internal weapons bays of B–52 aircraft.

SA 4797. Mr. VOINOVICH (for himself and Mr. DEWINE) submitted an amendment intended to be proposed by him to the bill H.R. 5631, making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes; which was ordered to lie on the table; as follows:

On page 218, between lines 6 and 7, insert the following:

SEC. 8109. Of the amount appropriated or otherwise made available by title IV under the heading ''RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY'', $1,000,000 may be available for the Portable Battery Operated Solid-State Electrochemical Oxygen Generator project for the purpose of developing a field-portable oxygen generation device to enable the quick administration of oxygen to members of the Armed Forces wounded in action.

SA 4798. Mr. ISAKSON submitted an amendment intended to be proposed by him to the bill H.R. 5631, making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes; as follows:

At the end of title VIII, add the following:

SEC. 8109. Of the amount appropriated or otherwise made available by title IV under the heading ''RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY'', up to $1,000,000 may be available for environmental management and compliance information.

SA 4799. Mr. DEWINE (for himself and Mr. VOINOVICH) submitted an amendment intended to be proposed by him to the bill H.R. 5631, making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VIII, add the following:

SEC. 8109. (a) ADDITIONAL AMOUNT FOR SHIPBUILDING AND CONVERSION, NAVY.—The amount appropriated by title III under the heading ''SHIPBUILDING AND CONVERSION, NAVY'' is hereby increased by $23,000,000.

(b) AVAILABILITY.—Of the amount appropriated by title III under the heading ''SHIPBUILDING AND CONVERSION, NAVY'', as increased by subsection (a), up to $23,000,000 may be available for the Carrier Replacement Program.

(c) SUPPLEMENT NOT SUPPLANT.—Amounts available under subsection (b) for the purpose specified in that subsection are in addition to any other amounts available under this Act for that purpose.

(d) OFFSET.—The amount appropriated by title II under the heading ''OPERATION AND MAINTENANCE, DEFENSE-WIDE'' is hereby reduced by $23,000,000.

SA 4800. Mr. DEWINE (for himself and Mr. VOINOVICH) submitted an amendment intended to be proposed by him to the bill H.R. 5631, making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VIII, add the following:

SEC. 8109. (a) ADDITIONAL AMOUNT FOR SHIPBUILDING AND CONVERSION, NAVY.—The amount appropriated by title III under the heading ''SHIPBUILDING AND CONVERSION, NAVY'' is hereby increased by $23,000,000.

(b) AVAILABILITY.—Of the amount appropriated by title III under the heading ''SHIPBUILDING AND CONVERSION, NAVY'', as increased by subsection (a), up to $23,000,000 may be available for the Carrier Replacement Program.

(c) SUPPLEMENT NOT SUPPLANT.—Amounts available under subsection (b) for the purpose specified in that subsection are in addition to any other amounts available under this Act for that purpose.

SA 4801. Mr. DEWINE (for himself and Mr. VOINOVICH) submitted an amendment intended to be proposed by him to the bill H.R. 5631, making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VIII, add the following:

SEC. 8109. Of the amount appropriated or otherwise made available by title III under the heading ''SHIPBUILDING AND CONVERSION, NAVY'' , up to $23,000,000 may be available for the Carrier Replacement Program for advance procurement of nuclear propulsion equipment.

SA 4802. Mr. KENNEDY (for himself, Mr. REID, Mr. BIDEN, Mr. LEVIN, Mr. REED, Mr. LAUTENBERG, and Mr. ROCKEFELLER) submitted an amendment intended to be proposed by him to the bill H.R. 5631, making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes; as follows:

On page 150, line 24, insert before the period the following: '': *Provided*, That Director of National Intelligence shall, utilizing amounts appropriated by this heading, prepare by not later than October 1, 2006, a new National Intelligence Estimate on Iraq with an assessment by the intelligence community of critical political, economic, and security trends in Iraq, which shall address such matters as the Director of National Intelligence considers appropriate, including (1) an assessment whether Iraq is in or is descending into civil war and the actions that will prevent or reverse deterioration of conditions promoting civil war, including sectarianism, (2) an assessment whether Iraq is

succeeding in standing up effective security forces, and the actions that will increase the chances of that occurring, including an assessment of (A) the extent to which militias are providing security in Iraq, and (B) the extent to which the Government of Iraq has developed and implemented a credible plan to disarm and demobilize and reintegrate militias into government security forces and is working to obtain a political commitment from political parties to ban militias, (3) an assessment of (A) the extent of the threat from violent extremist-related terrorism, including al Qaeda, in and from Iraq, (B) the extent to which terrorism in Iraq has exacerbated terrorism in the region and globally, (C) the extent to which terrorism in Iraq has increased the threat to United States persons and interests around the world, and (D) actions to address the terrorist threat, (4) an assessment whether Iraq is succeeding in creating a stable and effective unity government, the likelihood that changes to the constitution will be made to address concerns of the Sunni community, and the actions that will increase the chances of that occurring, (5) an assessment (A) whether Iraq is succeeding in rebuilding its economy and creating economic prosperity for Iraqis, (B) the likelihood that economic reconstruction in Iraq will significantly diminish the dependence of Iraq on foreign aid to meet its domestic economic needs, and (C) the actions that will increase the chances of that occurring, (6) a description of the optimistic, most likely, and pessimistic scenarios for the stability of Iraq through 2007, (7) an assessment whether, and in what ways, the large-scale presence of multinational forces in Iraq helps or hinders the chances of success in Iraq; and (8) an assessment of the extent to which the situation in Iraq is affecting relations with Iran, Saudi Arabia, Turkey, and other countries in the region: *Provided further*, That, not later than October 1, 2006, the Director of National Intelligence shall submit to Congress the National Intelligence Estimate prepared under the preceding proviso, together with an unclassified summary of the National Intelligence Estimate: *Provided further*, That if the Director of National Intelligence is unable to submit the National Intelligence Estimate by the date specified in the preceding proviso, the Director shall submit to Congress, not later than that date, a report setting forth the reasons for being unable to do so''.

SA 4803. Mr. BYRD submitted an amendment intended to be proposed by him to the bill H.R. 5631, making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes; as follows:

At the end of title VIII, add the following:

SEC. 8109. (a) INTERIM REPORT ON MANAGEMENT OF BIOMETRICS PROGRAM.—Not later than September 8, 2006, the Secretary of Defense shall submit to the congressional defense committees an interim report on the management of the biometrics program of the Department of Defense.

(b) FINAL REPORT.—Not later than October 15, 2006, the Secretary shall submit to the congressional defense committees a final report on the management of the biometrics program of the Department of Defense.

(c) REPORT ELEMENTS.—Each report under this section shall include, current as of the date of such report, the following:

(1) A detailed description of the recommendations of the Defense Science Board regarding the management of the biometrics program of the Department of Defense.

(2) Such recommendations as the Defense Science Board considers appropriate regarding changes of mission for the existing biometrics support officers.

SA 4804. Mr. LAUTENBERG (for himself, Mr. HARKIN, Ms. STABENOW, Mr. LIEBERMAN, Mrs. LINCOLN, and Mr. MENENDEZ) submitted an amendment intended to be proposed by him to the bill H.R. 5631, making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VIII, add the following:

SEC. 8109. No funds appropriated or otherwise made available to the Department of Defense under title VI under the heading ''DEFENSE HEALTH PROGRAM'' may be obligated or expended unless, during the period beginning on October 1, 2006, and ending on September 30, 2007, the cost sharing requirements established under paragraph (6) of section 1074g(a) of title 10, United States Code, for pharmaceutical agents available through retail pharmacies covered by paragraph (2)(E)(ii) of such section do not exceed amounts as follows:

(1) In the case of generic agents, $3.

(2) In the case of formulary agents, $9.

(3) In the case of nonformulary agents, $22.

SA 4805. Mr. DORGAN submitted an amendment intended to be proposed by him to the bill H.R. 5631, making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes; as follows:

On page 238, after line 24, add the following:

TITLE X—ELIMINATION OF FRAUD IN GOVERNMENT CONTRACTING

SEC. 10001. SHORT TITLE.

This title may be cited as the ''Honest Leadership and Accountability in Contracting Act of 2006''.

Subtitle A—Elimination of Fraud and Abuse

SEC. 10011. PROHIBITION OF WAR PROFITEERING AND FRAUD.

(a) PROHIBITION.—

(1) IN GENERAL.—Chapter 47 of title 18, United States Code, is amended by adding at the end the following:

''§ 1039. War profiteering and fraud

''(a) PROHIBITION.—

''(1) IN GENERAL.—Whoever, in any matter involving a contract or the provision of goods or services, directly or indirectly, in connection with a war or military action knowingly and willfully—

''(A) executes or attempts to execute a scheme or artifice to defraud the United States or the entity having jurisdiction over the area in which such activities occur;

''(B) falsifies, conceals, or covers up by any trick, scheme, or device a material fact;

''(C) makes any materially false, fictitious, or fraudulent statements or representations, or makes or uses any materially false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry; or

''(D) materially overvalues any good or service with the specific intent to excessively profit from the war or military action;

shall be fined under paragraph (2), imprisoned not more than 20 years, or both.

''(2) FINE.—A person convicted of an offense under paragraph (1) may be fined the greater of—

''(A) $1,000,000; or

''(B) if such person derives profits or other proceeds from the offense, not more than twice the gross profits or other proceeds.

''(b) EXTRATERRITORIAL JURISDICTION.—There is extraterritorial Federal jurisdiction over an offense under this section.

''(c) VENUE.—A prosecution for an offense under this section may be brought—

''(1) as authorized by chapter 211 of this title;

''(2) in any district where any act in furtherance of the offense took place; or

''(3) in any district where any party to the contract or provider of goods or services is located.''.

(2) CLERICAL AMENDMENT.—The table of sections for chapter 47 of title 18, United States Code, is amended by adding at the end the following:

''1039. War profiteering and fraud.''.

(b) CIVIL FORFEITURE.—Section 981(a)(1)(C) of title 18, United States Code, is amended by inserting ''1039,'' after ''1032,''.

(c) CRIMINAL FORFEITURE.—Section 982(a)(2)(B) of title 18, United States Code, is amended by striking ''or 1030'' and inserting ''1030, or 1039''.

(d) TREATMENT UNDER MONEY LAUNDERING OFFENSE.—Section 1956(c)(7)(D) of title 18, United States Code, is amended by inserting the following: '', section 1039 (relating to war profiteering and fraud)'' after ''liquidating agent of financial institution),''.

SEC. 10012. SUSPENSION AND DEBARMENT OF UNETHICAL CONTRACTORS.

(a) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Federal Acquisition Regulation issued pursuant to section 25 of the Office of Federal Procurement Policy Act (41 U.S.C. 421) shall be revised to provide that no prospective contractor shall be considered to have a satisfactory record of integrity and business ethics if it—

(1) has exhibited a pattern of overcharging the Government under Federal contracts; or

(2) has exhibited a pattern of failing to comply with the law, including tax, labor and employment, environmental, antitrust, and consumer protection laws.

(b) EFFECTIVE DATE.—The revised regulation required by this section shall apply with respect to all contracts for which solicitations are issued after the date that is 90 days after the date of the enactment of this Act.

SEC. 10013. DISCLOSURE OF AUDIT REPORTS.

(a) DISCLOSURE OF INFORMATION TO CONGRESS.—

(1) IN GENERAL.—The head of each executive agency shall maintain a list of audit reports issued by the agency during the current and previous calendar years that—

(A) describe significant contractor costs that have been identified as unjustified, unsupported, questioned, or unreasonable under any contract, task or delivery order, or subcontract; or

(B) identify significant or substantial deficiencies in any business system of any contractor under any contract, task or delivery order, or subcontract.

(2) SUBMISSION OF INDIVIDUAL AUDITS.—The head of each executive agency shall provide, within 14 days of a request in writing by the chairman or ranking member of a committee of jurisdiction, a full and unredacted copy of—

(A) the current version of the list maintained pursuant to paragraph (1); or

(B) any audit or other report identified on such list.

(b) PUBLICATION OF INFORMATION ON FEDERAL CONTRACTOR PENALTIES AND VIOLATIONS.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Federal Procurement Data System shall be modified to include—

(A) information on instances in which any major contractor has been fined, paid penalties or restitution, settled, plead guilty to, or had judgments entered against it in connection with allegations of improper conduct; and

(B) information on all sole source contract awards in excess of $2,000,000 entered into by an executive agency.

(2) PUBLICLY AVAILABLE WEBSITE.—The information required by paragraph (1) shall be made available through the publicly available website of the Federal Procurement Data System.

Subtitle B—Contract Matters

Part 1—Competition in Contracting

SEC. 10021. PROHIBITION ON AWARD OF MONOPOLY CONTRACTS.

(a) CIVILIAN AGENCY CONTRACTS.—Section 303H(d) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253h(d)) is amended by adding at the end the following new paragraph:

''(4)(A) No task or delivery order contract in an amount estimated to exceed $100,000,000 (including all options) may be awarded to a single contractor unless the head of the agency determines in writing that—

''(i) because of the size, scope, or method of performance of the requirement, it would not be practical to award multiple task or delivery order contracts;

''(ii) the task orders expected under the contract are so integrally related that only a single contractor can reasonably perform the work; or

''(iii) for any other reason, it is necessary in the public interest to award the contract to a single contractor.

''(B) The head of the agency shall notify Congress within 30 days of any determination under subparagraph (A)(iii).''.

(b) DEFENSE CONTRACTS.—Section 2304a(d) of title 10, United States Code, is amended by adding at the end the following new paragraph:

''(4)(A) No task or delivery order contract in an amount estimated to exceed $100,000,000 (including all options) may be awarded to a single contractor unless the head of the agency determines in writing that—

''(i) because of the size, scope, or method of performance of the requirement, it would not be practical to award multiple task or delivery order contracts;

''(ii) the task orders expected under the contract are so integrally related that only a single contractor can reasonably perform the work; or

''(iii) for any other reason, it is necessary in the public interest to award the contract to a single contractor.

''(B) The head of the agency shall notify Congress within 30 days of any determination under subparagraph (A)(iii).''.

SEC. 10022. COMPETITION IN MULTIPLE AWARD CONTRACTS.

(a) REGULATIONS REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Federal Acquisition Regulation shall be revised to require competition in the purchase of goods and services by each executive agency pursuant to multiple award contracts.

(b) CONTENT OF REGULATIONS.—(1) The regulations required by subsection (a) shall provide, at a minimum, that each individual purchase of goods or services in excess of $1,000,000 that is made under a multiple award contract shall be made on a competitive basis unless a contracting officer of the executive agency—

(A) waives the requirement on the basis of a determination that—

(i) one of the circumstances described in paragraphs (1) through (4) of section 303J(b) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253j(b)) applies to such individual purchase; or

(ii) a statute expressly authorizes or requires that the purchase be made from a specified source; and

(B) justifies the determination in writing.

(2) For purposes of this subsection, an individual purchase of goods or services is made on a competitive basis only if it is made pursuant to procedures that—

(A) require fair notice of the intent to make that purchase (including a description of the work to be performed and the basis on which the selection will be made) to be provided to all contractors offering such goods or services under the multiple award contract; and

(B) afford all contractors responding to the notice a fair opportunity to make an offer and have that offer fairly considered by the official making the purchase.

(3) Notwithstanding paragraph (2), notice may be provided to fewer than all contractors offering such goods or services under a multiple award contract described in subsection (c)(2)(A) if notice is provided to as many contractors as practicable.

(4) A purchase may not be made pursuant to a notice that is provided to fewer than all contractors under paragraph (3) unless—

(A) offers were received from at least three qualified contractors; or

(B) a contracting officer of the executive agency determines in writing that no additional qualified contractors were able to be identified despite reasonable efforts to do so.

(c) DEFINITIONS.—In this section:

(1) The term ''individual purchase'' means a task order, delivery order, or other purchase.

(2) The term ''multiple award contract'' means—

(A) a contract that is entered into by the Administrator of General Services under the multiple award schedule program referred to in section 309(b)(3) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 259(b)(3));

(B) a multiple award task order contract that is entered into under the authority of sections 2304a through 2304d of title 10, United States Code, or sections 303H through 303K of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253h through 253k); and

(C) any other indefinite delivery, indefinite quantity contract that is entered into by the head of an executive agency with two or more sources pursuant to the same solicitation.

(d) APPLICABILITY.—The revisions to the Federal Acquisition Regulation pursuant to subsection (a) shall take effect not later than 180 days after the date of the enactment of this Act, and shall apply to all individual purchases of goods or services that are made under multiple award contracts on or after the effective date, without regard to whether the multiple award contracts were entered into before, on, or after such effective date.

(e) CONFORMING AMENDMENTS TO DEFENSE CONTRACT PROVISION.—Section 803 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 10 U.S.C. 2304 note) is amended as follows:

(1) GOODS COVERED.—(A) The section heading is amended by inserting ''**GOODS OR**'' before ''**SERVICES**''.

(B) Subsection (a) is amended by inserting ''goods and'' before ''services''.

(C) The following provisions are amended by inserting ''goods or'' before ''services'' each place it appears:

(i) Paragraphs (1), (2), and (3) of subsection (b).

(ii) Subsection (d).

(D) Such section is amended by adding at the end the following new subsection:

''(e) APPLICABILITY TO GOODS.—The Secretary shall revise the regulations promulgated pursuant to subsection (a) to cover purchases of goods by the Department of Defense pursuant to multiple award contracts. The revised regulations shall take effect in final form not later than 180 days after the date of the enactment of this subsection and shall apply to all individual purchases of goods that are made under multiple award contracts on or after the effective date, without regard to whether the multiple award contracts were entered into before, on, or after such effective date.''.

(f) PROTEST RIGHTS FOR CERTAIN AWARDS.—

(1) CIVILIAN AGENCY CONTRACTS.—Section 303J(d) of the Federal Property and Administrative Services Act (41 U.S.C. 253j(d)) is amended by inserting ''with a value of less than $500,000'' after ''task or delivery order''.

(2) DEFENSE CONTRACTS.—Section 2304c(d) of title 10, United States Code, is amended by inserting ''with a value of less than $500,000'' after ''task or delivery order''.

Part 2—Contract Personnel Matters

SEC. 10031. CONTRACTOR CONFLICTS OF INTEREST.

(a) PROHIBITION ON CONTRACTS RELATING TO INHERENTLY GOVERNMENTAL FUNCTIONS.—The head of an agency may not enter into a contract for the performance of any inherently governmental function.

(b) PROHIBITION ON CONTRACTS FOR CONTRACT OVERSIGHT.—

(1) PROHIBITION.—The head of an agency may not enter into a contract for the performance of acquisition functions closely associated with inherently governmental functions with any entity unless the head of the agency determines in writing that—

(A) neither that entity nor any related entity will be responsible for performing any of the work under a contract which the entity will help plan, evaluate, select a source, manage or oversee; and

(B) the agency has taken appropriate steps to prevent or mitigate any organizational conflict of interest that may arise because the entity—

(i) has a separate ongoing business relationship, such as a joint venture or contract, with any of the contractors to be overseen;

(ii) would be placed in a position to affect the value or performance of work it or any related entity is doing under any other Government contract;

(iii) has a reverse role with the contractor to be overseen under one or more separate Government contracts; or

(iv) has some other relationship with the contractor to be overseen that could reasonably appear to bias the contractor's judgment.

(2) RELATED ENTITY DEFINED.—In this subsection, the term ''related entity'', with respect to a contractor, means any subsidiary, parent, affiliate, joint venture, or other entity related to the contractor.

(c) DEFINITIONS.—In this section:

(1) The term ''inherently governmental functions'' has the meaning given to such term in part 7.5 of the Federal Acquisition Regulation.

(2) The term ''functions closely associated with governmental functions'' means the functions described in section 7.503(d) of the Federal Acquisition Regulation.

(3) The term ''organizational conflict of interest'' has the meaning given such term in part 9.5 of the Federal Acquisition Regulation.

(d) EFFECTIVE DATE AND APPLICABILITY.—This section shall take effect on the date of the enactment of this Act and shall apply to—

(1) contracts entered into on or after such date;

(2) any task or delivery order issued on or after such date under a contract entered into before, on, or after such date; and

(3) any decision on or after such date to exercise an option or otherwise extend a contract for the performance of a function relating to contract oversight regardless of whether such contract was entered into before, on, or after such date.

SEC. 10032. ELIMINATION OF REVOLVING DOOR BETWEEN FEDERAL PERSONNEL AND CONTRACTORS.

(a) ELIMINATION OF LOOPHOLES ALLOWING FORMER FEDERAL OFFICIALS TO ACCEPT COMPENSATION FROM CONTRACTORS OR RELATED ENTITIES.—

(1) IN GENERAL.—Paragraph (1) of subsection (d) of section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423) is amended—

(A) by striking ''or consultant'' and inserting ''consultant, lawyer, or lobbyist'';

(B) by striking ''one year'' and inserting ''two years''; and

(C) in subparagraph (C), by striking ''personally made for the Federal agency—'' and inserting ''participated personally and substantially in—''.

(2) DEFINITION.—Paragraph (2) of such subsection is amended to read as follows:

''(2) For purposes of paragraph (1), the term 'contractor' includes any division, affiliate, subsidiary, parent, joint venture, or other related entity of a contractor.''.

(b) PROHIBITION ON AWARD OF GOVERNMENT CONTRACTS TO FORMER EMPLOYERS.—Such section is further amended by adding at the end the following new subsection:

''(i) PROHIBITION ON INVOLVEMENT BY CERTAIN FORMER CONTRACTOR EMPLOYEES IN PROCUREMENTS.—A former employee of a contractor who becomes an employee of the Federal Government shall not be personally and substantially involved with any Federal agency procurement involving the employee's former employer, including any division, affiliate, subsidiary, parent, joint venture, or other related entity of the former employer, for a period of two years beginning on the date on which the employee leaves the employment of the contractor unless the designated agency ethics officer for the agency determines in writing that the government's interest in the former employee's participation in a particular procurement outweighs any appearance of impropriety.''.

(c) REQUIREMENT FOR FEDERAL PROCUREMENT OFFICERS TO DISCLOSE JOB OFFERS MADE TO RELATIVES.—Subsection (c)(1) of such section is amended by inserting after ''that official'' the following: '', or for a relative of that official (as defined in section 3110 of title 5, United States Code),''.

(d) ADDITIONAL CRIMINAL PENALTIES.—Paragraph (1) of subsection (e) of such section is amended to read as follows:

''(1) CRIMINAL PENALTIES.—Whoever engages in conduct constituting a violation of—

''(A) subsection (a) or (b) for the purpose of either—

''(i) exchanging the information covered by such subsection for anything of value, or

''(ii) obtaining or giving anyone a competitive advantage in the award of a Federal agency procurement contract; or

''(B) subsection (c) or (d);

shall be imprisoned for not more than 5 years, fined as provided under title 18, United States Code, or both.''.

(e) REGULATIONS.—Such section is further amended by adding at the end the following new subsection:

''(j) REGULATIONS.—The Director of the Office of Government Ethics, in consultation with the Administrator, shall—

''(1) promulgate regulations to carry out and ensure the enforcement of this section; and

''(2) monitor and investigate individual and agency compliance with this section.''.

Subtitle C—Other Personnel Matters

SEC. 10041. MINIMUM REQUIREMENTS FOR POLITICAL APPOINTEES HOLDING PUBLIC CONTRACTING AND SAFETY POSITIONS.

(a) IN GENERAL.—A position specified in subsection (b) may not be held by any political appointee who does not meet the requirements of subsection (c).

(b) SPECIFIED POSITIONS.—A position specified in this subsection is any position as follows:

(1) A public contracting position.

(2) A public safety position.

(c) MINIMUM REQUIREMENTS.—An individual shall not, with respect to any position, be considered to meet the requirements of this subsection unless such individual—

(1) has academic, management, and leadership credentials in one or more areas relevant to such position;

(2) has a superior record of achievement in one or more areas relevant to such position;

(3) has training and expertise in one or more areas relevant to such position; and

(4) has not, within the 2-year period ending on the date of such individual's nomination for or appointment to such position, been a lobbyist for any entity or other client that is subject to the authority of the agency within which, if appointed, such individual would serve.

(d) POLITICAL APPOINTEE.—For purposes of this section, the term ''political appointee'' means any individual who—

(1) is employed in a position listed in sections 5312 through 5316 of title 5, United States Code (relating to the Executive Schedule);

(2) is a limited term appointee, limited emergency appointee, or noncareer appointee in the Senior Executive Service; or

(3) is employed in the executive branch of the Government in a position which has been excepted from the competitive service by reason of its policy-determining, policy-making, or policy-advocating character.

(e) PUBLIC CONTRACTING POSITION.—For purposes of this section, the term ''public contracting position'' means the following:

(1) The Administrator for Federal Procurement Policy.

(2) The Administrator of the General Services Administration.

(3) The Chief Acquisition Officer of any executive agency, as appointed or designated pursuant to section 16 of the Office of Federal Procurement Policy Act (41 U.S.C. 414).

(4) The Under Secretary of Defense for Acquisition, Technology, and Logistics.

(5) Any position (not otherwise identified under any of the preceding provisions of this subsection) a primary function of which involves government procurement and procurement policy, as identified by the head of each employing agency in consultation with the Office of Personnel Management.

(f) PUBLIC SAFETY POSITION.—For purposes of this section, the term ''public safety position'' means the following:

(1) The Under Secretary for Emergency Preparedness and Response, Department of Homeland Security.

(2) The Director of the Federal Emergency Management Agency, Department of Homeland Security.

(3) Each regional director of the Federal Emergency Management Agency, Department of Homeland Security.

(4) The Recovery Division Director of the Federal Emergency Management Agency, Department of Homeland Security.

(5) The Assistant Secretary for Immigration and Customs Enforcement, Department of Homeland Security.

(6) The Assistant Secretary for Public Health Emergency Preparedness, Department of Health and Human Services.

(7) The Assistant Administrator for Solid Waste and Emergency Response, Environmental Protection Agency.

(8) Any position (not otherwise identified under any of the preceding provisions of this subsection) a primary function of which involves responding to a direct threat to life or property or a hazard to health, as identified by the head of each employing agency in consultation with the Office of Personnel Management.

(g) PUBLICATION OF POSITIONS.—Beginning not later than 30 days after the date of the enactment of this Act, the head of each agency shall maintain on such agency's public website a current list of all public contracting positions and public safety positions within such agency.

(h) COORDINATION WITH OTHER REQUIREMENTS.—The requirements set forth in subsection (c) shall be in addition to, and not in lieu of, any requirements that might otherwise apply with respect to any particular position.

(i) DEFINITIONS.—In this section:

(1) The term ''agency'' means an Executive agency (as defined by section 105 of title 5, United States Code).

(2) The terms ''limited term appointee'', ''limited emergency appointee'', and ''noncareer appointee'' have the meanings given such terms in section 3132 of title 5, United States Code.

(3) The term ''Senior Executive Service'' has the meaning given such term by section 2101a of title 5, United States Code.

(4) The term ''competitive service'' has the meaning given such term by section 2102 of title 5, United States Code.

(5) The terms ''lobbyist'' and ''client'' have the respective meanings given them by section 3 of the Lobbying Disclosure Act of 1995 (2 U.S.C. 1602).

(j) CONFORMING AMENDMENT.—Section 16(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 414(a)) is amended by striking ''non-career employee as''.

SEC. 10042. PROTECTION OF CERTAIN DISCLOSURES OF INFORMATION BY FEDERAL EMPLOYEES.

(a) CLARIFICATION OF DISCLOSURES COVERED.—Section 2302(b)(8) of title 5, United States Code, is amended—

(1) in subparagraph (A)—

(A) by striking ''which the employee or applicant reasonably believes evidences'' and inserting '', without restriction to time, place, form, motive, context, or prior disclosure made to any person by an employee or applicant, including a disclosure made in the ordinary course of an employee's duties, that the employee or applicant reasonably believes is evidence of''; and

(B) in clause (i), by striking ''a violation'' and inserting ''any violation'';

(2) in subparagraph (B)—

(A) by striking ''which the employee or applicant reasonably believes evidences'' and inserting '', without restriction to time, place, form, motive, context, or prior disclosure made to any person by an employee or applicant, including a disclosure made in the ordinary course of an employee's duties, of information that the employee or applicant reasonably believes is evidence of''; and

(B) in clause (i), by striking ''a violation'' and inserting ''any violation (other than a violation of this section)''; and

(3) by adding at the end the following:

''(C) any disclosure that—

''(i) is made by an employee or applicant of information required by law or Executive

order to be kept secret in the interest of national defense or the conduct of foreign affairs that the employee or applicant reasonably believes is direct and specific evidence of—

''(I) any violation of any law, rule, or regulation;

''(II) gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety; or

''(III) a false statement to Congress on an issue of material fact; and

''(ii) is made to—

''(I) a member of a committee of Congress;

''(II) any other Member of Congress; or

''(III) an employee of Congress who has the appropriate security clearance and is authorized to receive information of the type disclosed.''.

(b) COVERED DISCLOSURES.—Section 2302(a)(2) of title 5, United States Code, is amended—

(1) in subparagraph (B)(ii), by striking ''and'' at the end;

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

(3) by adding at the end the following:

''(D) 'disclosure' means a formal or informal communication or transmission, but does not include a communication concerning policy decisions that lawfully exercise discretionary authority unless the employee providing the disclosure reasonably believes that the disclosure evidences—

''(i) any violation of any law, rule, or regulation; or

''(ii) gross management, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.''.

(c) REBUTTABLE PRESUMPTION.—Section 2302(b) of title 5, United States Code, is amended by amending the matter following paragraph (12) to read as follows:

''This subsection shall not be construed to authorize the withholding of information from Congress or the taking of any personnel action against an employee who discloses information to Congress. For purposes of paragraph (8), any presumption relating to the performance of a duty by an employee who has authority to take, direct others to take, recommend, or approve any personnel action may be rebutted by substantial evidence. For purposes of paragraph (8), a determination as to whether an employee or applicant reasonably believes that they have disclosed information that evidences any violation of law, rule, regulation, gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety shall be made by determining whether a disinterested observer with knowledge of the essential facts known to and readily ascertainable by the employee could reasonably conclude that the actions of the Government evidence such violations, mismanagement, waste, abuse, or danger.''.

(d) NONDISCLOSURE POLICIES, FORMS, AND AGREEMENTS; SECURITY CLEARANCES; AND RETALIATORY INVESTIGATIONS.—

(1) PERSONNEL ACTION.—Section 2302(a)(2)(A) of title 5, United States Code, is amended—

(A) in clause (x), by striking ''and'' after the semicolon; and

(B) by redesignating clause (xi) as clause (xiv) and inserting after clause (x) the following:

''(xi) the implementation or enforcement of any nondisclosure policy, form, or agreement;

''(xii) a suspension, revocation, or other determination relating to a security clearance or any other access determination by a covered agency;

''(xiii) an investigation, other than any ministerial or nondiscretionary fact finding activities necessary for the agency to perform its mission, of an employee or applicant for employment because of any activity protected under this section; and''.

(2) PROHIBITED PERSONNEL PRACTICE.—Section 2302(b) of title 5, United States Code, is amended—

(A) in paragraph (11), by striking ''or'' at the end;

(B) in paragraph (12), by striking the period and inserting a semicolon; and

(C) by inserting after paragraph (12) the following:

''(13) implement or enforce any nondisclosure policy, form, or agreement, if such policy, form, or agreement does not contain the following statement: 'These provisions are consistent with and do not supersede, conflict with, or otherwise alter the employee obligations, rights, or liabilities created by Executive Order No. 12958; section 7211 (governing disclosures to Congress); section 1034 of title 10 (governing disclosure to Congress by members of the military); section 2302(b)(8) (governing disclosures of illegality, waste, fraud, abuse, or public health or safety threats); the Intelligence Identities Protection Act of 1982 (50 U.S.C. 421 et seq.) (governing disclosures that could expose confidential Government agents); and the statutes which protect against disclosures that could compromise national security, including sections 641, 793, 794, 798, and 952 of title 18 and section 4(b) of the Subversive Activities Control Act of 1950 (50 U.S.C. 783(b)). The definitions, requirements, obligations, rights, sanctions, and liabilities created by such Executive order and such statutory provisions are incorporated into this agreement and are controlling'; or

''(14) conduct, or cause to be conducted, an investigation, other than any ministerial or nondiscretionary fact finding activities necessary for the agency to perform its mission, of an employee or applicant for employment because of any activity protected under this section.''.

(3) BOARD AND COURT REVIEW OF ACTIONS RELATING TO SECURITY CLEARANCES.—

(A) IN GENERAL.—Chapter 77 of title 5, United States Code, is amended by inserting after section 7702 the following:

''§ 7702a. Actions relating to security clearances

''(a) In any appeal relating to the suspension, revocation, or other determination relating to a security clearance or access determination, the Merit Systems Protection Board or any reviewing court—

''(1) shall determine whether paragraph (8) or (9) of section 2302(b) was violated;

''(2) may not order the President or the designee of the President to restore a security clearance or otherwise reverse a determination of clearance status or reverse an access determination; and

''(3) subject to paragraph (2), may issue declaratory relief and any other appropriate relief.

''(b)(1) If, in any final judgment, the Board or court declares that any suspension, revocation, or other determination with regards to a security clearance or access determination was made in violation of paragraph (8) or (9) of section 2302(b), the affected agency shall conduct a review of that suspension, revocation, access determination, or other determination, giving great weight to the Board or court judgment.

''(2) Not later than 30 days after any Board or court judgment declaring that a security clearance suspension, revocation, access determination, or other determination was made in violation of paragraph (8) or (9) of section 2302(b), the affected agency shall issue an unclassified report to the congressional committees of jurisdiction (with a classified annex if necessary), detailing the circumstances of the agency's security clearance suspension, revocation, other determination, or access determination. A report under this paragraph shall include any proposed agency action with regards to the security clearance or access determination.

''(c) An allegation that a security clearance or access determination was revoked or suspended in retaliation for a protected disclosure shall receive expedited review by the Office of Special Counsel, the Merit Systems Protection Board, and any reviewing court.

''(d) For purposes of this section, corrective action may not be ordered if the agency demonstrates by a preponderance of the evidence that it would have taken the same personnel action in the absence of such disclosure.''.

(B) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 77 of title 5, United States Code, is amended by inserting after the item relating to section 7702 the following:

''7702a. Actions relating to security clearances.''.

(e) EXCLUSION OF AGENCIES BY THE PRESIDENT.—Section 2302(a)(2)(C) of title 5, United States Code, is amended by striking clause (ii) and inserting the following:

''(ii)(I) the Federal Bureau of Investigation, the Office of the Director of National Intelligence, the Central Intelligence Agency, the Defense Intelligence Agency, the National Geospatial-Intelligence Agency, and the National Security Agency; and

''(II) as determined by the President, any executive agency or unit thereof the principal function of which is the conduct of foreign intelligence or counterintelligence activities, if the determination (as that determination relates to a personnel action) is made before that personnel action; or''.

(f) ATTORNEY FEES.—Section 1204(m)(1) of title 5, United States Code, is amended by striking ''agency involved'' and inserting ''agency where the prevailing party is employed or has applied for employment''.

(g) DISCIPLINARY ACTION.—Section 1215(a)(3) of title 5, United States Code, is amended to read as follows:

''(3)(A) A final order of the Board may impose—

''(i) disciplinary action consisting of removal, reduction in grade, debarment from Federal employment for a period not to exceed 5 years, suspension, or reprimand;

''(ii) an assessment of a civil penalty not to exceed $1,000; or

''(iii) any combination of disciplinary actions described under clause (i) and an assessment described under clause (ii).

''(B) In any case in which the Board finds that an employee has committed a prohibited personnel practice under paragraph (8) or (9) of section 2302(b), the Board shall impose disciplinary action if the Board finds that the activity protected under paragraph (8) or (9) of section 2302(b) was a significant motivating factor, even if other factors also motivated the decision, for the employee's decision to take, fail to take, or threaten to take or fail to take a personnel action, unless that employee demonstrates, by preponderance of evidence, that the employee would have taken, failed to take, or threatened to take or fail to take the same personnel action, in the absence of such protected activity.''.

(h) SPECIAL COUNSEL AMICUS CURIAE APPEARANCE.—Section 1212 of title 5, United States Code, is amended by adding at the end the following:

''(h)(1) The Special Counsel is authorized to appear as amicus curiae in any action

brought in a court of the United States related to any civil action brought in connection with section 2302(b) (8) or (9), or subchapter III of chapter 73, or as otherwise authorized by law. In any such action, the Special Counsel is authorized to present the views of the Special Counsel with respect to compliance with section 2302(b) (8) or (9) or subchapter III of chapter 73 and the impact court decisions would have on the enforcement of such provisions of law.

''(2) A court of the United States shall grant the application of the Special Counsel to appear in any such action for the purposes described in subsection (a).''.

(i) JUDICIAL REVIEW.—

(1) IN GENERAL.—Section 7703(b)(1) of title 5, United States Code, is amended to read as follows:

''(b)(1)(A) Except as provided in subparagraph (B) and paragraph (2), a petition to review a final order or final decision of the Board shall be filed in the United States Court of Appeals for the Federal Circuit. Notwithstanding any other provision of law, any petition for review must be filed within 60 days after the date the petitioner received notice of the final order or decision of the Board.

''(B) During the 5-year period beginning on the effective date of this subsection, a petition to review a final order or final decision of the Board in a case alleging a violation of paragraph (8) or (9) of section 2302(b) shall be filed in the United States Court of Appeals for the Federal Circuit or any court of appeals of competent jurisdiction as provided under subsection (b)(2).''.

(2) REVIEW OBTAINED BY OFFICE OF PERSONNEL MANAGEMENT.—Section 7703(d) of title 5, United States Code, is amended to read as follows:

''(d)(1) Except as provided under paragraph (2), this paragraph shall apply to any review obtained by the Director of the Office of Personnel Management. The Director of the Office of Personnel Management may obtain review of any final order or decision of the Board by filing, within 60 days after the date the Director received notice of the final order or decision of the Board, a petition for judicial review in the United States Court of Appeals for the Federal Circuit if the Director determines, in his discretion, that the Board erred in interpreting a civil service law, rule, or regulation affecting personnel management and that the Board's decision will have a substantial impact on a civil service law, rule, regulation, or policy directive. If the Director did not intervene in a matter before the Board, the Director may not petition for review of a Board decision under this section unless the Director first petitions the Board for a reconsideration of its decision, and such petition is denied. In addition to the named respondent, the Board and all other parties to the proceedings before the Board shall have the right to appear in the proceeding before the Court of Appeals. The granting of the petition for judicial review shall be at the discretion of the Court of Appeals.

''(2) During the 5-year period beginning on the effective date of this subsection, this paragraph shall apply to any review relating to paragraph (8) or (9) of section 2302(b) obtained by the Director of the Office of Personnel Management. The Director of the Office of Personnel Management may obtain review of any final order or decision of the Board by filing, within 60 days after the date the Director received notice of the final order or decision of the Board, a petition for judicial review in the United States Court of Appeals for the Federal Circuit or any court of appeals of competent jurisdiction as provided under subsection (b)(2) if the Director determines, in his discretion, that the Board erred in interpreting paragraph (8) or (9) of section 2302(b). If the Director did not intervene in a matter before the Board, the Director may not petition for review of a Board decision under this section unless the Director first petitions the Board for a reconsideration of its decision, and such petition is denied. In addition to the named respondent, the Board and all other parties to the proceedings before the Board shall have the right to appear in the proceeding before the court of appeals. The granting of the petition for judicial review shall be at the discretion of the Court of Appeals.''.

(j) NONDISCLOSURE POLICIES, FORMS, AND AGREEMENTS.—

(1) IN GENERAL.—

(A) REQUIREMENT.—Each agreement in Standard Forms 312 and 4414 of the Government and any other nondisclosure policy, form, or agreement of the Government shall contain the following statement: ''These restrictions are consistent with and do not supersede, conflict with, or otherwise alter the employee obligations, rights, or liabilities created by Executive Order No. 12958; section 7211 of title 5, United States Code (governing disclosures to Congress); section 1034 of title 10, United States Code (governing disclosure to Congress by members of the military); section 2302(b)(8) of title 5, United States Code (governing disclosures of illegality, waste, fraud, abuse or public health or safety threats); the Intelligence Identities Protection Act of 1982 (50 U.S.C. 421 et seq.) (governing disclosures that could expose confidential Government agents); and the statutes which protect against disclosure that may compromise the national security, including sections 641, 793, 794, 798, and 952 of title 18, United States Code, and section 4(b) of the Subversive Activities Act of 1950 (50 U.S.C. 783(b)). The definitions, requirements, obligations, rights, sanctions, and liabilities created by such Executive order and such statutory provisions are incorporated into this agreement and are controlling.''.

(B) ENFORCEABILITY.—Any nondisclosure policy, form, or agreement described under subparagraph (A) that does not contain the statement required under subparagraph (A) may not be implemented or enforced to the extent such policy, form, or agreement is inconsistent with that statement.

(2) PERSONS OTHER THAN GOVERNMENT EMPLOYEES.—Notwithstanding paragraph (1), a nondisclosure policy, form, or agreement that is to be executed by a person connected with the conduct of an intelligence or intelligence-related activity, other than an employee or officer of the United States Government, may contain provisions appropriate to the particular activity for which such document is to be used. Such form or agreement shall, at a minimum, require that the person will not disclose any classified information received in the course of such activity unless specifically authorized to do so by the United States Government. Such nondisclosure forms shall also make it clear that such forms do not bar disclosures to Congress or to an authorized official of an executive agency or the Department of Justice that are essential to reporting a substantial violation of law.

(k) CLARIFICATION OF WHISTLEBLOWER RIGHTS FOR CRITICAL INFRASTRUCTURE INFORMATION.—Section 214(c) of the Homeland Security Act of 2002 (6 U.S.C. 133(c)) is amended by adding at the end the following: ''For purposes of this section a permissible use of independently obtained information includes the disclosure of such information under section 2302(b)(8) of title 5, United States Code.''.

(l) ADVISING EMPLOYEES OF RIGHTS.—Section 2302(c) of title 5, United States Code, is amended by inserting '', including how to make a lawful disclosure of information that is specifically required by law or Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs to the Special Counsel, the Inspector General of an agency, Congress, or other agency employee designated to receive such disclosures'' after ''chapter 12 of this title''.

(m) SCOPE OF DUE PROCESS.—

(1) SPECIAL COUNSEL.—Section 1214(b)(4)(B)(ii) of title 5, United States Code, is amended by inserting '', after a finding that a protected disclosure was a contributing factor,'' after ''ordered if''.

(2) INDIVIDUAL ACTION.—Section 1221(e)(2) of title 5, United States Code, is amended by inserting '', after a finding that a protected disclosure was a contributing factor,'' after ''ordered if''.

(n) EFFECTIVE DATE.—This section and the amendment made by this section shall take effect 30 days after the date of the enactment of this Act.

SA 4806. Mr. KYL (for himself, Mr. WYDEN, Mr. DEWINE, Mr. LIEBERMAN, Mrs. FEINSTEIN, Ms. CANTWELL, Mr. SALAZAR, and Mr. DURBIN) submitted an amendment intended to be proposed by him to the bill H.R. 5631, making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. ___. ROYALTY RELIEF FOR PRODUCTION OF OIL AND GAS.

(a) PRICE THRESHOLDS.—Notwithstanding any other provision of law, the Secretary of the Interior shall place limitations based on market price on the royalty relief granted under any lease for the production of oil or natural gas on Federal land (including submerged land) entered into by the Secretary of the Interior on or after the date of enactment of this Act.

(b) CLARIFICATION OF AUTHORITY TO IMPOSE PRICE THRESHOLDS FOR CERTAIN LEASE SALES.—Congress reaffirms the authority of the Secretary of the Interior under section 8(a)(1)(H) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(a)(1)(H)) to vary, based on the price of production from a lease, the suspension of royalties under any lease subject to section 304 of the Outer Continental Shelf Deep Water Royalty Relief Act (Public Law 104–58; 43 U.S.C. 1337 note).

SEC. ___. ELIGIBILITY FOR NEW LEASES AND THE TRANSFER OF LEASES.

(a) DEFINITIONS.—In this section

(1) COVERED LEASE.—The term ''covered lease'' means a lease for oil or gas production in the Gulf of Mexico that is—

(A) in existence on the date of enactment of this Act;

(B) issued by the Department of the Interior under the Outer Continental Shelf Deep Water Royalty Relief Act (43 U.S.C. 1337 note; Public Law 104–58); and

(C) not subject to limitations on royalty relief based on market price that are equal to or less than the price thresholds described in clauses (v) through (vii) of section 8(a)(3)(C) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(a)(3)(C).

(2) LESSEE.—The term ''lessee'' includes any person that controls, is controlled by, or is in common control with, a lessee.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(b) ISSUANCE OF NEW LEASES.—

(1) IN GENERAL.—Beginning on the date that is 1 year after the date of enactment of this Act, the Secretary shall not issue any new lease that authorizes the production of

oil or natural gas in the Gulf of Mexico under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) to—

(A) any lessee that—

(i) holds a covered lease on the date on which the Secretary considers the issuance of the new lease; or

(ii) was issued a covered lease before the date of enactment of this Act, but transferred the covered lease to another person or entity (including a subsidiary or affiliate of the lessee) after the date of enactment of this Act; or

(B) any other entity or person who has any direct or indirect interest in, or who derives any benefit from, a covered lease.

(2) MULTIPLE LESSEES.—

(A) IN GENERAL.—For purposes of paragraph (1), if there are multiple lessees that own a share of a covered lease, the Secretary may implement separate agreements with any lessee with a share of the covered lease that modifies the payment responsibilities with respect to the share of the lessee to include price thresholds that are equal to or less than the price thresholds described in clauses (v) through (vii) of section 8(a)(3)(C) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(a)(3)(C)).

(B) COVERED LEASE.—Beginning on the effective date of an agreement under subparagraph (A), any share subject to the agreement shall not constitute a covered lease with respect to any lessees that entered into the agreement.

(c) TRANSFERS.—A lessee or any other person who has any direct or indirect interest in, or who derives a benefit from, a lease shall not be eligible to obtain by sale or other transfer (including through a swap, spinoff, servicing, or other agreement) any covered lease, the economic benefit of any covered lease, or any other lease for the production of oil or natural gas in the Gulf of Mexico under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.), unless the lessee—

(1) renegotiates all covered leases of the lessee; and

(2) enters into an agreement with the Secretary to modify the terms of all covered leases of the lessee to include limitations on royalty relief based on market prices that are equal to or less than the price thresholds described in clauses (v) through (vii) of section 8(a)(3)(C) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(a)(3)(C)).

SA 4807. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill H.R. 5631, making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VIII, add the following:

SEC. 8109. (a) ADDITIONAL AMOUNT FOR RESEARCH, DEVELOPMENT TEST, AND EVALUATION, ARMY.—The amount appropriated by title IV under the heading ''RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY'' is hereby increased by $15,000,000.

(b) AVAILABILITY.—

(1) IN GENERAL.—Of the amount appropriated by title IV under the heading ''RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY'', as increased by subsection (a)—

(A) $5,000,000 is for Combat Vehicle and Automotive Technology (PE #0602601A) for appropriate purposes specified in paragraph (2).

(B) $10,000,000 is for Combat Vehicle and Automotive Technology (PE #0603005A) for appropriate purposes specified in paragraph (2).

(2) PURPOSES.—The purposes specified in this paragraph are the competitive award of research projects in the following areas:

(A) Vehicle-Based Active Protection Systems against kinetic energy threats.

(B) Robotic Ground Systems.

(C) Command and Control of Unmanned Systems.

(D) Hybrid Electric Technologies.

(E) Energy Efficient Vehicle Technologies.

(F) Vehicle Survivability Systems.

(G) Such other research activities as the Secretary of the Army may specify.

(c) OFFSET.—The amount appropriated by title IV under the heading ''RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE'' is hereby reduced by $15,000,000, with the amount of the reduction to be allocated to Alternative Infrared Space System (PE #0604443F).

SA 4808. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the bill H.R. 5631, making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes; which was ordered to lie on the table; as follows:

SEC. . Of the amount appropriated in title IV under the heading ''RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY'', up to $5,000,000 may be made available for the Virtual Training and Airspace Management Simulation for Unmanned Aerial Vehicles.

SA 4809. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill H.R. 5631, making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title IX, add the following:

SEC. 9012. (a) AVAILABILITY OF ADDITIONAL AMOUNT FOR NATIONAL GUARD AND RESERVE EQUIPMENT.—Of the aggregate amount appropriated or otherwise made available by this title, up to $2,400,000,000 shall be available for equipment for the National Guard and Reserve.

(b) SUPPLEMENT NOT SUPPLANT.—The amount available under subsection (a) for the purpose specified in that subsection is in addition to any other amounts available in this title for that purpose.

SA 4810. Mrs. MURRAY submitted an amendment intended to be proposed by her to the bill H.R. 5631, making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VIII, add the following:

SEC. 8109. Part G of title IV of the Higher Education Act of 1965 (20 U.S.C. 1088 et seq.) is amended by adding at the end the following:

''SEC. 494. STUDENT LOAN DEFERMENT FOR CERTAIN MEMBERS OF THE ARMED FORCES.

''Notwithstanding any other provision of this Act—

''(1) a member of the Armed Forces serving in a combat operation or combat zone, as designated by the Secretary of Defense, or a member of a reserve component of the Armed Forces who is serving pursuant to a call or order to active duty for a period of more than 30 days, shall be eligible for a deferment of any loan made, insured, or guaranteed under this title, under which periodic installments of principal need not be paid, but interest shall accrue and be paid by the Secretary, during the period of such service and for 6 months after such period; and

''(2) each institution of higher education that participates in any program under this title shall provide, to each student who is enrolled in the institution at the commencement of such service, the option to reenroll in the institution after the completion of such service.''.

SA 4811. Mrs. MURRAY submitted an amendment intended to be proposed by her to the bill H.R. 5631, making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VIII, add the following:

SEC. 8109. (a) CHILD CARE FOR CERTAIN CHILDREN WITHOUT ACCESS TO MILITARY CHILD CARE.—

(1) IN GENERAL.—In any case where the children of a covered member of the Armed Forces are geographically dispersed and do not have practical access to a military child development center, the Secretary of Defense may, to the extent funds are available for such purpose, provide such funds as are necessary permit the member's family to secure access for such children to State licensed child care and development programs and activities in the private sector that are similar in scope and quality to the child care and development programs and activities the Secretary would otherwise provide access to under subchapter II of chapter 88 of title 10, United States Code, and other applicable provisions of law.

(2) PROVISION OF FUNDS.—Funds may be provided under paragraph (1) in accordance with the provisions of section 1798 of title 10, United States Code, or by such other mechanism as the Secretary considers appropriate.

(3) PRIORITIES FOR ALLOCATION OF FUNDS IN CERTAIN CIRCUMSTANCES.—The Secretary shall prescribe in regulations priorities for the allocation of funds for the provision of access to child care under paragraph (1) in circumstances where funds are inadequate to provide all children described in that paragraph with access to child care as described in that paragraph.

(b) PRESERVATION OF SERVICES AND PROGRAMS.—The Secretary shall provide for the attendance and participation of children in military child development centers and child care and development programs and activities under subsection (a) in a manner that preserves the scope and quality of child care and development programs and activities otherwise provided by the Secretary.

(c) AUTHORIZATION OF APPROPRIATIONS.—Of the amounts appropriated by this Act, up to $25,000,000 may be available to carry out this section.

(d) DEFINITIONS.—In this section—

(1) The term ''covered members of the Armed Forces'' means members of the Armed Forces on active duty, including members of the Reserves who are called or ordered to active duty under a provision of law referred to in section 101(a)(13)(B) of title 10, United States Code, for Operation Enduring Freedom or Operation Iraqi Freedom.

(2) The term ''military child development center''has the meaning given such term in section 1800(1) of title 10, United States Code.

SEC. 8110. (a) SHORT TITLE.—This section may be cited as the ''Help for Military Children Affected by War Act of 2006''.

(b) GRANTS AUTHORIZED.—The Secretary of Defense is authorized to award grants to eligible local educational agencies for the additional education, counseling, and other needs of military dependent children who are affected by war or dramatic military decisions.

(c) DEFINITIONS.—In this section—

(1) ELIGIBLE LOCAL EDUCATIONAL AGENCY.—The term ''eligible local educational agency'' means a local educational agency that—

(A) had a number of military dependent children in average daily attendance in the schools served by the local educational agency during the school year preceding the school year for which the determination is made, that—

(i) equaled or exceeded 20 percent of the number of all children in average daily attendance in the schools served by such agency during the preceding school year; or

(ii) was 1,000 or more, whichever is less; and

(B) is designated by the Secretary of Defense as impacted by—

(i) Operation Iraqi Freedom;

(ii) Operation Enduring Freedom;

(iii) the global rebasing plan of the Department of Defense;

(iv) the realignment of forces as a result of the base closure process;

(v) the official creation or activation of 1 or more new military units; or

(vi) a change in the number of required housing units on a military installation, due to the Military Housing Privatization Initiative of the Department of Defense.

(2) LOCAL EDUCATIONAL AGENCY.—The term ''local educational agency'' has the meaning given the term in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(3) MILITARY DEPENDENT CHILD.—The term ''military dependent child'' means a child described in subparagraph (B) or (D)(i) of section 8003(a)(1) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703(a)(1)).

(d) USE OF FUNDS.—Grant funds provided under this section shall be used for—

(1) tutoring, after-school, and dropout prevention activities for military dependent children with a parent who is or has been impacted by war-related action described in clause (i), (ii), or (iii) of subsection (c)(1)(B);

(2) professional development of teachers, principals, and counselors on the needs of military dependent children with a parent who is or has been impacted by war-related action described in clause (i), (ii), or (iii) of subsection (c)(1)(B);

(3) counseling and other comprehensive support services for military dependent children with a parent who is or has been impacted by war-related action described in clause (i), (ii), or (iii) of subsection (c)(1)(B), including the hiring of a military-school liaison; and

(4) other basic educational activities associated with an increase in military dependent children.

(e) TREATMENT OF FUNDS.—Funds available to carry out this section are in addition to any funds made available to local educational agencies under section 582, 583 or 584 of this Act or section 8003 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703).

SA 4812. Mrs. MURRAY submitted an amendment intended to be proposed by her to the bill H.R. 5631, making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VIII, add the following:

SEC. 8109. (a) AVAILABILITY OF ASSISTANCE FOR LOCAL EDUCATIONAL AGENCIES.—To assist communities making adjustments resulting from changes in the size or location of the Armed Forces, the Secretary of Defense shall make payments to eligible local educational agencies that, during the period between the end of the school year preceding the fiscal year for which the payments are authorized and the beginning of the school year immediately preceding that school year, had (as determined by the Secretary of Defense in consultation with the Secretary of Education) an overall increase or reduction of—

(1) not less than 5 percent in the average daily attendance of military dependent students enrolled in the schools served by the eligible local educational agencies; or

(2) not less than 250 military dependent students enrolled in the schools served by the eligible local educational agencies.

(b) NOTIFICATION.—Not later than June 30, 2006, and June 30 of each of the next 2 fiscal years, the Secretary of Defense shall notify each eligible local educational agency for such fiscal year—

(1) that the local educational agency is eligible for assistance under this section; and

(2) of the amount of the assistance for which the eligible local educational agency qualifies, as determined under subsection (c).

(c) AMOUNT OF ASSISTANCE.—

(1) IN GENERAL.—The Secretary of Defense shall, in consultation with the Secretary of Education, make assistance available to eligible local educational agencies for a fiscal year on a pro rata basis, as described in paragraph (2).

(2) PRO RATA DISTRIBUTION.—

(A) IN GENERAL.—The amount of the assistance provided under this section to an eligible local educational agency for a fiscal year shall be equal to the product obtained by multiplying—

(i) the per-student rate determined under subparagraph (B) for such fiscal year; by

(ii) the overall increase or reduction in the number of military dependent students in the schools served by the eligible local educational agency, as determined under subsection (a).

(B) PER-STUDENT RATE.—For purposes of subparagraph (A), the per-student rate for a fiscal year shall be equal to the dollar amount obtained by dividing—

(i) the amount of funds available for such fiscal year to provide assistance under this section; by

(ii) the sum of the overall increases and reductions, as determined under subparagraph (A)(ii), for all eligible local educational agencies for that fiscal year.

(d) DISBURSEMENT OF FUNDS.—The Secretary of Defense shall disburse assistance made available under this section for a fiscal year, not later than 30 days after the date on which the Secretary of Defense notified the eligible local educational agencies under subsection (b) for the fiscal year.

(e) CONSULTATION.—The Secretary of Defense shall carry out this section in consultation with the Secretary of Education.

(f) REPORTS.—

(1) REPORTS REQUIRED.—Not later than May 1 of each of the years 2007, 2008, and 2009, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the assistance provided under this section during the fiscal year preceding the date of such report.

(2) ELEMENT OF REPORT.—Each report described in paragraph (1) shall include an assessment and description of the current compliance of each eligible local educational agency with the requirements of part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.).

(g) FUNDING.—Of the amount appropriated or otherwise made available by title II under the heading ''OPERATION AND MAINTENANCE, DEFENSE-WIDE'' up to $15,000,000 may be available for the purpose of providing assistance to eligible local educational agencies under this section.

(h) TERMINATION.—The authority of the Secretary of Defense to provide financial assistance under this section shall expire on September 30, 2008.

(i) DEFINITIONS.—In this section:

(1) BASE CLOSURE PROCESS.—The term ''base closure process'' means the 2005 base closure and realignment process authorized by the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note) or any base closure and realignment process conducted after the date of the enactment of this Act under section 2687 of title 10, United States Code, or any other similar law enacted after that date.

(2) ELIGIBLE LOCAL EDUCATIONAL AGENCY.—The term ''eligible local educational agency'' means, for a fiscal year, a local educational agency—

(A)(i) for which not less than 20 percent (as rounded to the nearest whole percent) of the students in average daily attendance in the schools served by the local educational agency during the preceding school year were military dependent students that were counted under section 8003(a)(1) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703(a)(1)); or

(ii) that would have met the requirements of clause (i) except for the reduction in military dependent students in the schools served by the local educational agency; and

(B) for which the required overall increase or reduction in the number of military dependent students enrolled in schools served by the local educational agency, as described in subsection (a), occurred as a result of—

(i) the global rebasing plan of the Department of Defense;

(ii) the official creation or activation of 1 or more new military units;

(iii) the realignment of forces as a result of the base closure process; or

(iv) a change in the number of required housing units on a military installation, due to the military housing privatization initiative of the Department of Defense undertaken under the alternative authority for the acquisition and improvement of military housing under subchapter IV of chapter 169 of title 10, United States Code.

(3) LOCAL EDUCATIONAL AGENCY.—The term ''local educational agency'' has the meaning given the term in section 8013 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7713).

(4) MILITARY DEPENDENT STUDENT.—The term ''military dependent student'' means—

(A) an elementary school or secondary school student who is a dependent of a member of the Armed Forces; or

(B) an elementary school or secondary school student who is a dependent of a civilian employee of the Department of Defense.

SA 4813. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 5631, making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes; which was ordered to lie on the table; as follows:

On page 218, between lines 6 and 7, insert the following:

SEC. 8109. (a) Congress makes the following findings:

(1) The United States is engaged in a global war on terror that has no clear geographic boundaries, is of unknown duration, and is against an enemy with no state sponsor that continues to commit senseless acts of violence and human destruction.

(2) Detention of enemy combatants in this war is necessary for the security of members of the Armed Forces and the achievement of United States national security and foreign policy objectives, but must be conducted in a way that upholds United States values and international law.

(3) Since January 11, 2002, Naval Station Guantanamo Bay has been used for the detention and interrogation of about 750 enemy combatants, of which approximately 460 remain incarcerated and only 10 of whom have been formally charged with crimes and been subject to legal adjudication through military commissions.

(4) The Supreme Court, in Hamdan v. Rumsfeld, 126 S.Ct. 2749, held that the nature and rules governing the United States Government's military commissions were in violation of the Uniform Code of Military Justice and did not comply with the Geneva Conventions.

(5) Official investigations and reports by the United States Government confirm multiple incidents of psychological and physical abuse inflicted upon detainees at Guantanamo, some of which included—

(A) the threatened use of extreme force by guards against detainees;

(B) sleep deprivation;

(C) forced stress positions;

(D) the use of dogs in interrogations; and

(E) the harsh manipulation of light, sound, and temperature.

(6) President George W. Bush stated on June 21, 2006, ''I'd like to end Guantanamo. I'd like it to be over with,'' yet the President has not offered a specific plan for transitioning the current detainees to another status.

(7) The individuals currently detained at the detention facility at Guantanamo Bay, many of whom appear to have little or no remaining intelligence value in the global war on terror, could be—

(A) transferred to other countries for further legal review;

(B) enrolled in United States domestic civil, criminal, or military court proceedings;

(C) transferred to a separate military detention facility that fully complies with United States domestic law, international law, and the law of war; or

(D) released if found not to pose a continuing security threat to the United States.

(8) The international perception of the detention facility at Guantanamo Bay is negative and has created substantial hostility toward the United States, raising reservations among friends and allies of the United States and other countries about the commitment of the United States to human rights.

(9) Members of the Armed Forces and other Americans who may be captured overseas and detained by other countries, or by nonstate groups, are more likely to be treated in a manner fully consistent with the Geneva Conventions if individuals detained by the United States are treated in the same manner.

(10) The security of the United States will not be diminished, United States diplomacy will be furthered, and the standing of the United States in the world will be enhanced if the detention facility at Guantanamo Bay is closed and all detainees are transitioned to another legal status.

(b) Not later than one year after the date of the enactment of this Act—

(1) the Secretary of Defense shall close the Department of Defense detention facility at Guantanamo Bay, Cuba; and

(2) all detainees detained at such facility shall be—

(A) charged with a violation of United States or international law and tried in an Article III court or military legal proceeding before a regularly-constituted court;

(B) transferred to a separate military detention facility that fully complies with all United States and international law and the law of war;

(C) transferred to their country of citizenship or a different country for further legal review; or

(D) released if found not to pose a continuing security threat to the United States.

SA 4814. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill H.R. 5631, making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes; as follows:

At the end of title VIII, add the following:

SEC. 8109. Of the amount appropriated or otherwise made available by title IV under the heading ''RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE'', up to $1,500,000 may be available for Commercialization and Industrialization of Adaptive Optics (PE #0602890F).

SA 4815. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill H.R. 5631, making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VIII, add the following:

SEC. 8109. Amounts appropriated or otherwise made available by title II under the heading ''OPERATION AND MAINTENANCE, AIR FORCE'' and available for Aerospace Vehicle Technologies (PE #602201F) may be available for Air Force Responsive Space Operations for purposes of completing an updated study of the New Mexico Spaceport that integrates the most current launch technology with capabilities of the Spaceport in order to further refine the manner in which the Spaceport may assist with Air Force planning and operations for Responsive Space.

SA 4816. Mr. BINGAMAN submitted an amendment intended to be proposed by her to the bill H.R. 5631, making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VIII, add the following:

SEC. 8109. Of the amount appropriated or otherwise made available by title IV under the heading ''RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY'', up to $2,500,000 may be available for the Quantum Noninvasive Explosives Detection Research and Test Program (PE #0602712A).

SA 4817. Mr. BINGAMAN submitted an amendment intended to be proposed by her to the bill H.R. 5631, making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VIII, add the following:

SEC. 8109. Amounts appropriated or otherwise made available by title II under the heading ''OPERATION AND MAINTENANCE, AIR FORCE'' and available for Aerospace Technology Development/Demonstration (PE #603211F) may be available for Air Force Responsive Space Operations for purposes of completing an updated study of the New Mexico Spaceport that integrates the most current launch technology with capabilities of the Spaceport in order to further refine the manner in which the Spaceport may assist with Air Force planning and operations for Responsive Space.

SA 4818. Mr. PRYOR submitted an amendment intended to be proposed by him to the bill H.R. 5631, making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes; which was ordered to lie on the table; as follows:

On page 218, between lines 6 and 7, insert the following:

SEC. 8109. (a) The amount appropriated or otherwise made available by title IV under the heading ''RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY'' and available for the Future Medical Shelter System is hereby increased by $5,000,000.

(b) The amount appropriated or otherwise made available by title IV under the heading ''RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY'' and available for Engineering and Manufacturing Development is hereby decreased by $5,000,000.

SA 4819. Mr. DODD (for himself, Mr. REED, Mr. INOUYE, Mrs. LINCOLN, and Mr. DURBIN) submitted an amendment intended to be proposed by her to the bill H.R. 5631, making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. From funds available in this Act, an additional $6,700,000,000 may be available to fund equipment reset requirements resulting from continuing combat operations, including repair, depot, and procurement activities.

SA 4820. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 5631, making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VIII, add the following:

SEC. 8109. Of the amount appropriated or otherwise made available by title II under the heading ''OPERATION AND MAINTENANCE, MARINE CORPS RESERVE'', up to $2,500,000 may be available for Infantry Combat Equipment (ICE).

SA 4821. Ms. LANDRIEU submitted an amendment intended to be proposed by here to the bill H.R. 5631, making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VIII, add the following:

SEC. 8109. Of the amount appropriated or otherwise made available by title II under

the heading ''OPERATION AND MAINTENANCE, MARINE CORPS RESERVE'', up to $3,500,000 may be available for the Individual First Aid Kit (IFAK).

SA 4822. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 5631, making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VIII, add the following:

SEC. 8109. (a) ADDITIONAL MATTER FOR STUDY BY COMMISSION ON THE NATIONAL GUARD AND RESERVES.—In addition to any other matters required to be studied by the Commission on the National Guard and Reserves under section 513 of Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375), the Commission shall also conduct an assessment of the feasibility and advisability of establishing a separate account in the Treasury for funding procurement for the Army National Guard rather than funding such procurement through the ''OTHER PROCUREMENT, ARMY'' account under current practice.

(b) REPORT.—The Commission on the National Guard and Reserves shall include in the final report to Congress required under section 513(f)(2) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 the results of the assessment conducted under subsection (a).

SA 4823. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill H.R. 5631, making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VIII, add the following:

SEC. 8109. Of the amount appropriated or otherwise made available by title VI under the heading ''DEFENSE HEALTH PROGRAM'', up to $500,000 may be available for a pilot program on troops to nurse teachers.

SA 4824. Mr. BAYH submitted an amendment intended to be proposed by him to the bill H.R. 5631, making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VIII, add the following:

SEC. 8109. (a) ADDITIONAL AMOUNT FOR RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE.—The amount appropriated by title IV under the heading ''RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE'', is hereby increased by $6,000,000.

(b) AVAILABILITY.—Of the amount appropriated by title IV under the heading ''RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE'', as increased by subsection (a), up to $6,000,000 may be available as follows:

(1) $3,000,000 for bioterrorism protection research (PE #0601384BP).

(2) $3,000,000 for advanced protective gear for small-arms threats (PE #0601101E).

(c) OFFSET.—The amount appropriated by title IV under the heading ''RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE'' is hereby reduced by $6,000,000, with the amount of the reduction allocated to amounts available for Technical Studies, Support, and Analysis.

SA 4825. Mr. BAYH submitted an amendment intended to be proposed by him to the bill H.R. 5631, making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VIII, add the following:

SEC. 8109. Of the amount appropriated or otherwise made available by title II under the heading ''OPERATION AND MAINTENANCE, DEFENSE-WIDE'', up to $30,000,000 may be available for the Defense Logistics Agency for the Meals Ready to Eat War Reserve Stockpile.

SA 4826. Mrs. CLINTON (for herself, Mr. LIEBERMAN, AND MR. LAUTENBERG) submitted an amendment intended to be proposed by her to the bill H.R. 5631, making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VIII, add the following:

SEC. 8109. (a) FUNDING FOR LONGITUDINAL STUDY ON TRAUMATIC BRAIN INJURY INCURRED BY MEMBERS OF THE ARMED FORCES IN OPERATION IRAQI FREEDOM AND OPERATION ENDURING FREEDOM.—Of the amount appropriated or otherwise made available by title V under the heading ''DEFENSE HEALTH PROGRAM'', up to $5,000,000 may be available for a longitudinal study on traumatic brain injury incurred by members of the Armed Forces in Operation Iraqi Freedom and Operation Enduring Freedom.

(b) FUNDING FOR THE ESTABLISHMENT OF A PANEL OF EXPERTS TO DEVELOP TRAINING CURRICULA FOR FAMILY CAREGIVERS ON CARE AND ASSISTANCE FOR MEMBERS AND FORMER MEMBERS OF THE ARMED FORCES WITH TRAUMATIC BRAIN INJURY INCURRED IN OPERATION IRAQI FREEDOM OR OPERATION ENDURING FREEDOM.—

(1) OPERATION AND MAINTENANCE, ARMY, FUNDS.—Of the amount appropriated or otherwise made available by title II under the heading ''OPERATION AND MAINTENANCE, ARMY'', up to $800,000 may be available for the establishment of a panel of experts to develop training curricula for family caregivers on care and assistance for members and former members of the Armed Forces with traumatic brain injury incurred in Operation Iraqi Freedom or Operation Enduring Freedom.

(2) OPERATION AND MAINTENANCE, MARINE CORPS, FUNDS.—Of the amount appropriated or otherwise made available by title II under the heading ''OPERATION AND MAINTENANCE, MARINE CORPS'', up to $200,000 may be available for the establishment of a panel of experts to develop training curricula for family caregivers on care and assistance for members and former members of the Armed Forces with traumatic brain injury incurred in Operation Iraqi Freedom or Operation Enduring Freedom.

SA 4827. Mr. BOND (for himself, Mr. LEAHY, Mr. LAUTENBERG, Mr. DORGAN, Ms. MIKULSKI, Mr. HARKIN, and Mr. REID) submitted an amendment intended to be proposed by him to the bill H.R. 5631, making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title IX, add the following:

SEC. 9012. Of the amount appropriated or otherwise made available by this Act by reason of the adoption of Senate Amendment 4751 (referred to as the ''Stevens amendment''), $2,440,000,000 is available for the National Guard for National Guard and Reserve equipment. Such amount is in addition to any other amounts available in this title, or under title III under the heading ''OTHER PROCUREMENT, ARMY'', for National Guard and Reserve equipment.

SA 4828. Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill H.R. 5631, making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VIII, add the following:

SEC. 8109. Of the amount appropriated or otherwise made available by title IV under the heading ''RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY'', up to $1,000,000 may be available for the Automated Communications Support System for WARFIGHTERS, Intelligence Community, Linguists, and Analysts.

SA 4829. Mr. SUNUNU submitted an amendment intended to be proposed by him to the bill H.R. 5631, making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VIII, add the following:

SEC. 8109. Of the amount appropriated or otherwise made available by title IV under the heading ''RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY'' up to $1,000,000 may be available for an integrated, low-cost, low-power Multibeam Side Scan Sonar System for Unmanned Underwater Vehicles (UUVs).

SA 4830. Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the bill H.R. 5631, making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VIII, add the following:

SEC. 8109. No funds appropriated or otherwise made available by this Act may be obligated or expended for a purpose as follows:

(1) To provide military assistance to the Government of Libya.

(2) To establish diplomatic relations between the Government of the United States and the Government of Libya.

SA 4831. Mr. SESSIONS (for himself, Mr. WARNER, and Mr. NELSON of Nebraska) submitted an amendment intended to be proposed by him to the bill H.R. 5631, making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. (a) ADDITIONAL AMOUNT FOR RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, NAVY.—The amount appropriated by title IV under the heading ''RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, NAVY'' is hereby increased by $77,000,000.

(b) AVAILABILITY OF AMOUNT FOR CONVENTIONAL TRIDENT MODIFICATION PROGRAM.—Of the amount appropriated by title IV under

the heading ''RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, NAVY'', as increased by subsection (a), $77,000,000 may be available for Advanced Conventional Strike Capability (PE #64327N) for the Conventional Trident Modification Program.

(c) OFFSET.—The aggregate amount appropriated by this Act (other than the amount available for the Conventional Trident Modification Program) is hereby reduced by $77,000,000. The Secretary of Defense shall allocate the amount of the reduction in an appropriate manner across and among the accounts of the Department of Defense

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SA 4832. Mr. ALLEN submitted an amendment intended to be proposed by him to the bill H.R. 5631, making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. NO DISBURSEMENT OF PAY TO MEMBERS OF CONGRESS IF APPROPRIATIONS ACTS NOT TIMELY PASSED.

(a) RESTRICTION ON DISBURSEMENT OF PAY.—

(1) IN GENERAL.—If, as of the first day of any fiscal year, Congress has not passed all final appropriations acts necessary to provide appropriations for the entirety of that fiscal year, the Secretary of the Senate and the Chief Administrative Officer of the House of Representatives may not disburse net pay to any Member of Congress for any pay period beginning in that fiscal year before the date on which notice is provided under subsection (b)(2) that all such final appropriation acts have been passed.

(2) DISBURSEMENT AFTER PASSAGE.—The Secretary of the Senate and the Chief Administrative Officer of the House of Representatives shall disburse all amounts of net pay to Members of Congress not disbursed under paragraph (1) at the same time pay is disbursed for the first pay period beginning after the period to which paragraph (1) applies.

(b) NOTICE.—The President pro tempore of the Senate shall provide notice to the Secretary of the Senate, and the Speaker of the House of Representatives shall provide notice to the Chief Administrative Officer of the House of Representatives—

(1) of any restriction on disbursement of pay under subsection (a)(1), on the first day of the fiscal year to which the restriction applies; and

(2) of the passage by Congress of all final appropriations acts described in subsection (a)(1) with respect to that fiscal year, on the date that passage occurs.

(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to affect the authority of the Secretary of the Senate or the Chief Administrative Officer of the House of Representatives relating to withholdings, deductions, or any other administrative function relating to pay as otherwise authorized by law.

(d) EFFECTIVE DATE.—This section shall take effect on January 3, 2007.

SA 4833. Mr. KENNEDY (for himself and Ms. COLLINS) submitted an amendment intended to be proposed by him to the bill H.R. 5631, making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VIII, add the following:

SEC. 8109. (a) ARMY SUPPORT FOR UNIVERSITY RESEARCH INITIATIVES.—Of the amount appropriated by title IV under the heading ''RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY'', up to $12,000,000 may be available for Program Element 0601103A for University Research Initiatives.

(b) NAVY SUPPORT FOR UNIVERSITY RESEARCH INITIATIVES.—Of the amount appropriated by title IV under the heading ''RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY'', up to $13,000,000 may be available for Program Element 0601103N for University Research Initiatives.

(c) AIR FORCE SUPPORT FOR UNIVERSITY RESEARCH INITIATIVES.—Of the amount appropriated by title IV under the heading ''RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE'', up to $5,000,000 may be available for Program Element 0601103F for University Research Initiatives.

(d) SMART NATIONAL DEFENSE EDUCATION PROGRAM.—Of the amount appropriated by title IV under the heading ''RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE'', up to $9,000,000 may be available for Program Element 0601120D8Z for the SMART National Defense Education Program.

(e) DARPA UNIVERSITY RESEARCH PROGRAM IN COMPUTER SCIENCE AND CYBERSECURITY.—Of the amount appropriated by title IV under the heading ''RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE'', up to $6,000,000 may be available for Program Element 0601101E the Defense Advanced Research Projects Agency Program in Computer Science and Cybersecurity.

SA 4834. Mrs. MURRAY submitted an amendment intended to be proposed by her to the bill H.R. 5631, making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VIII, add the following:

SEC. 8109. (a) STUDY ON DEPARTMENT OF DEFENSE TRANSITION ASSISTANCE SERVICES.—

(1) STUDY PANEL.—The Secretary of Defense and the Secretary of Veterans Affairs shall jointly establish a panel to conduct a study on means of improving the Transition Assistance Program (TAP) and other reintegration services for members of the National Guard and the Reserves. The panel shall be established not later than 60 days after the date of the enactment of this Act.

(2) COMPOSITION.—The panel established under paragraph (1) shall be composed of the following:

(A) Such officers or employees of the Department of Defense as the Secretary of Defense shall appoint to the panel.

(B) Such officers or employees of the Department of Veterans Affairs as the Secretary of Veterans Affairs shall appoint to the panel.

(C) Such individuals from the private sector as the Secretary of Defense and the Secretary of Veterans Affairs shall jointly appoint to the panel from among individuals in the private sector who have expertise in the matters to be studied by the panel, including individuals with expertise in occupational and employment adjustment matters, psychologists or other mental health professionals, and family specialists.

(3) STUDY ELEMENTS.—The panel established under paragraph (1) shall conduct a study on means of improving the Transition Assistance Program and other reintegration services for members of the National Guard and the Reserves, including means of improving the following under the Program:

(A) Training on interpersonal skills and life skills.

(B) Readjustment counseling.

(C) Briefings and workshops presented by the Department of Veterans Affairs to members before their completion of service on active duty.

(D) The duration of training sessions and workshops, so that such sessions and workshops continue for members for at least one year after their completion of service on active duty.

(E) Education and outreach on the transition benefits available to members of the National Guard and Reserves from the Federal Government, State and local governments, private organizations, and non-profit public service organizations.

(4) REPORT.—Not later than 120 days after the date of the enactment of this Act, the panel established under paragraph (1) shall submit to the Secretary of Defense and the Secretary of Veterans Affairs a report on the study conducted by the panel under this subsection. The report shall include the findings of the panel as a result of the study and such recommendations, including recommendations on the matters specified in paragraph (3), as the panel considers appropriate as a result of the study.

(5) TRANSMITTAL OF REPORT.—Not later than 60 days after receipt of the report under paragraph (4), the Secretary of Defense and the Secretary of Veterans Affairs shall jointly transmit the report to Congress, together with such comments on the report as the Secretary of Defense and the Secretary of Veterans Affairs jointly consider appropriate.

(b) STUDY ON OTHER NATIONAL GUARD AND RESERVE BENEFITS.—

(1) STUDY PANEL.—The Secretary of Defense shall establish a panel to conduct a study on the adequacy of current pay and benefits, including health care and other benefits, for members of the National Guard and the Reserves under the current policies and practices of the Armed Forces relating to the utilization of the National Guard and the Reserves. The panel shall be established not later than 60 days after the date of the enactment of this Act.

(2) COMPOSITION.—The panel established under paragraph (1) shall be composed of the following:

(A) Such officers or employees of the Department of Defense as the Secretary of Defense shall appoint to the panel.

(B) Such individuals from the private sector as the Secretary of Defense shall appoint to the panel from among individuals in the private sector who have expertise in the matters to be studied by the panel.

(3) STUDY ELEMENTS.—The panel established under paragraph (1) shall conduct a study of the adequacy of current pay and benefits, including health care and other benefits, for members of the National Guard and the Reserves under the current policies and practices of the Armed Forces relating to the utilization of the National Guard and the Reserves, including—

(A) the advisability of separate systems of pay for members of the regular components of the Armed Forces and members of the reserve components of the Armed Forces;

(B) the advisability of different eligibility for medical and dental care for members of the regular components of the Armed Forces and members of the reserve components of the Armed Forces; and

(C) the advisability of the modification or improvement of other policies and practices relating to the pay and benefits of members of the National Guard and the Reserves in order to improve the quality of life of such members while serving in the National Guard or Reserves.

(4) REPORT.—Not later than 120 days after the date of the enactment of this Act, the

panel established under paragraph (1) shall submit to the Secretary of Defense a report on the study conducted by the panel under this subsection. The report shall include the findings of the panel as a result of the study and such recommendations, including recommendations on the matters specified in paragraph (3), as the panel considers appropriate as a result of the study.

(5) TRANSMITTAL OF REPORT.—Not later than 60 days after receipt of the report under paragraph (4), the Secretary of Defense shall transmit the report to Congress, together with such comments on the report as the Secretary of Defense considers appropriate.

SA 4835. Mrs. CLINTON (for herself and Mr. SCHUMER) submitted an amendment intended to be proposed by her to the bill H.R. 5631, making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VIII, add the following:

SEC. 8109. Of the amount appropriated or otherwise made available by title II under the heading ''OPERATION AND MAINTENANCE, AIR FORCE'', up to $12,000,000 may be available for Unmanned Threat Emitter (UMTE) Modernization.

SA 4836. Mr. SMITH submitted an amendment intended to be proposed by him to the bill H.R. 5631, making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. Notwithstanding any other provision of this Act, there is appropriated $523,081,496 to make safety net payments for fiscal year 2007 under section 101 of the Secure Rural Schools and Community Self-Determination Act of 2000 (Public Law 106–393; 16 U.S.C. 500 note), to remain available until expended.

SA 4837. Mr. BENNETT submitted an amendment intended to be proposed by him to the bill H.R. 5631, making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VIII, add the following:

SEC. 8109. Of the amount appropriated or otherwise made available by title IV under the heading ''RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY'', up to $1,000,000 may be available for the development of a Lightweight All Terrain Vehicle (LATV).

SA 4838. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill H.R. 5631, making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes; which was ordered to lie on the table; as follows:

On page 180, beginning on line 2, strike '', and the projects'' and all that follows through line 4 and insert a period.

SA 4839. Mr. OBAMA submitted an amendment intended to be proposed by him to the bill H.R. 5631, making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. 8109. (a) CERTIFICATION ON NOTIFICATION OF DISCLOSURE OF PERSONAL INFORMATION.—Not later than 30 days after the date of any data security breach of the Department of Defense, the Secretary of Defense shall certify in writing to the congressional defense committees that each member of the Armed Forces or other individual whose personal information, while in the possession or control of the Department of Defense has been compromised due to lax security precautions at the Department of Defense, theft, or negligent disclosure has been appropriately notified in writing of such compromise.

(b) PROVISION OF CERTAIN SERVICES.—Upon request of any individual described in subsection (a), the Secretary shall provide to such individual, at no charge to such individual—

(1) credit monitoring services during the 1-year period beginning on the date of such request; and

(2) a copy of the credit report (as defined in section 603 of the Fair Credit Reporting Act) of such individual from each of the major credit bureaus, including Equifax, TransUnion, and Experian, once annually during the 2-year period beginning on the date on which the credit monitoring services required by paragraph (1) terminate, which shall be in addition to any other credit report provided to such individual under law, whether at no cost to such individual or otherwise.

(c) DEFINITIONS.—In this section:

(1) The term ''data security breach'' means the unauthorized assess or use of data in electronic or printed form that contains personal information.

(2) The term ''personal information'', in the case of an individual, means the name, address, or telephone number of the individual in combination with any of the following:

(A) The Social Security Number of the individual.

(B) Any information regarding the medical history of the individual.

(C) The history of the individual's service in the Armed Forces.

(D) Any other personally identifiable information of the individual that is not routinely part of the public record.

SA 4840. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill H.R. 5631, making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VIII, add the following:

SEC. 8109. (a) AVAILABILITY OF AMOUNTS WITHIN COMBAT VEHICLE AND AUTOMOTIVE TECHNOLOGY.—Of the amount appropriated by title IV under the heading ''RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY''—

(1) up to $5,000,000 may be available for Combat Vehicle and Automotive Technology (PE #0602601A) for appropriate purposes specified in subsection (b); and

(2) up to $10,000,000 may be available for Combat Vehicle and Automotive Technology (PE #0603005A) for appropriate purposes specified in subsection (b).

(b) PURPOSES.—The purposes specified in this subsection are the competitive award of research projects in the following areas:

(1) Vehicle-Based Active Protection Systems against kinetic energy threats.

(2) Robotic Ground Systems.

(3) Command and Control of Unmanned Systems.

(4) Hybrid Electric Technologies.

(5) Energy Efficient Vehicle Technologies.

(6) Vehicle Survivability Systems.

(7) Such other research activities as the Secretary of the Army may specify.

SA 4841. Mr. ALLEN (for himself and Mr. WARNER) submitted an amendment intended to be proposed by him to the bill H.R. 5631, making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VIII, add the following:

SEC. 8109. (a) Of the amount appropriated or otherwise made available by title II under the heading ''OPERATION AND MAINTENANCE, DEFENSE-WIDE'', up to $2,000,000 may be available for the Office of Economic Adjustment of the Department of Defense to conduct a traffic study on the improvements that are required to be carried out to the transportation infrastructure around Fort Belvoir, Virginia, to accommodate the increase in the workforce located on and around Fort Belvoir resulting from decisions implemented under the 2005 round of defense base closure and realignment. The study shall incorporate the input of the Virginia Department of Transportation and other State and local governments and agencies.

(b) Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on the study conducted under subsection (a), including a cost estimate for such improvements and the funding sources, including the Defense Access Road Program, proposed for such improvements.

SA 4842. Mr. KYL (for himself, Mr. WYDEN, and Mr. DEWINE) submitted an amendment intended to be proposed by him to the bill H.R. 5631, making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. ROYALTY RELIEF FOR PRODUCTION OF OIL AND GAS.

(a) PRICE THRESHOLDS.—Notwithstanding any other provision of law, the Secretary of the Interior shall place limitations based on market price on the royalty relief granted under any lease for the production of oil or natural gas on Federal land (including submerged land) entered into by the Secretary of the Interior on or after the date of enactment of this Act.

(b) CLARIFICATION OF AUTHORITY TO IMPOSE PRICE THRESHOLDS FOR CERTAIN LEASE SALES.—Congress reaffirms the authority of the Secretary of the Interior under section 8(a)(1)(H) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(a)(1)(H)) to vary, based on the price of production from a lease, the suspension of royalties under any lease subject to section 304 of the Outer Continental Shelf Deep Water Royalty Relief Act (Public Law 104–58; 43 U.S.C. 1337 note).

SA 4843. Mr. KENNEDY (for himself, Ms. COLLINS) submitted an amendment

intended to be proposed by him to the bill H.R. 5631, making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VIII, add the following:

SEC. 8109. (a) ARMY SUPPORT FOR UNIVERSITY RESEARCH INITIATIVES.—Of the amount appropriated by title IV under the heading ''RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY'', an additional amount of up to $12,000,000 may be available for Program Element 0601103A for University Research Initiatives.

(b) NAVY SUPPORT FOR UNIVERSITY RESEARCH INITIATIVES.—Of the amount appropriated by title IV under the heading ''RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY'', an additional amount of up to $13,000,000 may be available for Program Element 0601103N for University Research Initiatives.

(c) AIR FORCE SUPPORT FOR UNIVERSITY RESEARCH INITIATIVES.—Of the amount appropriated by title IV under the heading ''RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE'', an additional amount of up to $5,000,000 may be available for Program Element 0601103F for University Research Initiatives.

(d) SMART NATIONAL DEFENSE EDUCATION PROGRAM.—Of the amount appropriated by title IV under the heading ''RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE'', an additional amount of up to $9,000,000 may be available for Program Element 0601120D8Z for the SMART National Defense Education Program.

(e) DARPA UNIVERSITY RESEARCH PROGRAM IN COMPUTER SCIENCE AND CYBERSECURITY.—Of the amount appropriated by title IV under the heading ''RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE'', up to $6,000,000 may be available for Program Element 0601101E the Defense Advanced Research Projects Agency Program in Computer Science and Cybersecurity.

(f) SUPPLEMENT NOT SUPPLANT.—Amounts made available by subsections (a) through (e) for the purposes specified in such subsections are in addition to any other amounts made available by this Act for such purposes.

SA 4844. Mr. SESSIONS (for himself, Mr. WARNER, and Mr. NELSON of Nebraska) submitted an amendment intended to be proposed by him to the bill H.R. 5631, making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VIII, add the following:

SEC. 8109. Of the amount appropriated by title IV under the heading ''RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, NAVY'', up to $77,000,000 may be available for Advanced Conventional Strike Capability (PE #64327N) for the Conventional Trident Modification Program.

SA 4845. Mr. PRYOR (for himself, Mr. FEINGOLD) submitted an amendment intended to be proposed by him to the bill H.R. 5631, making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VIII, add the following:

SEC. 8109. Not later than March 31, 2007, the Secretary of Defense shall submit to the congressional defense committees a report setting forth the assessment of the Secretary regarding the implementation of the new health care benefit to help the children of members of the Armed Forces who died on active duty, including—

(1) a statement of the reasons for the delay in implementation of such benefit;

(2) an analysis of the new call centers established to help survivors of such members obtain the benefits to which they are entitled; and

(3) an assessment of whether the various survivor benefit programs under the Department of Defense are adequately staffed to carry out their mission in a timely and efficient manner.

SA 4846. Mr. PRYOR submitted an amendment intended to be proposed by him to the bill H.R. 5631, making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes; which was ordered to lie on the table; as follows:

On page 218, between lines 6 and 7, insert the following:

SEC. 8109. Of the amount appropriated or otherwise made available by title IV under the heading ''RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY'', up to $10,000,000 may be available for the Future Medical Shelter System.

SA 4847. Mr. REED submitted an amendment intended to be proposed by him to the bill H.R. 5631, making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VIII, add the following:

SEC. 8109. Of the amount appropriated or otherwise made available by title IV under the heading ''RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE'', up to $3,000,000 may be available for Small and Medium Caliber Recoil Mitigation Technologies (PE #1160402BB).

SA 4848. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 5631, making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VIII, add the following:

SEC. 8109. (a) REPORTS TO CONGRESS AND NOTICE TO PUBLIC ON EARMARKS IN FUNDS AVAILABLE TO THE DEPARTMENT OF DEFENSE.—The Secretary of Defense shall submit to Congress, and post on the Internet website of the Department of Defense available to the public, each year information as follows:

(1) A description of each earmark of funds made available to the Department of Defense by this Act, including the location (by city, State, country, and congressional district if relevant) in which the earmarked funds are to be utilized, the purpose of such earmark (if known), and the recipient of such earmark.

(2) The total cost of administering each such earmark including the amount of such earmark, staff time, administrative expenses, and other costs.

(3) The total cost of administering all such earmarks.

(4) An assessment of the utility of each such earmark in meeting the goals of the Department, set forth using a rating system as follows:

(A) A for an earmark that directly advances the primary goals of the Department or an agency, element, or component of the Department.

(B) B for an earmark that advances many of the primary goals of the Department or an agency, element, or component of the Department.

(C) C for an earmark that may advance some of the primary goals of the Department or an agency, element, or component of the Department.

(D) D for an earmark that cannot be demonstrated as being cost-effective in advancing the primary goals of the Department or any agency, element, or component of the Department.

(E) F for an earmark that distracts from or otherwise impedes that capacity of the Department to meet the primary goals of the Department.

(b) EARMARK DEFINED.—In this section, the term ''earmark'' means a provision of law, or a directive contained within a joint explanatory statement or report accompanying a conference report or bill (as applicable), that specifies the identity of an entity, program, project, or service, including a defense system, to receive assistance not requested by the President and the amount of the assistance to be so received.

SA 4849. Mr. BOND submitted an amendment intended to be proposed by him to the bill H.R. 5631, making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. Of the amounts available for the activity described on pages 149 through 159 of Volume VI, Book I of the Fiscal Year 2007 Congressional Budget Justification Book of the Intelligence Community, up to $8,000,000 may be available for personnel for that activity.

SA 4850. Mr. LAUTENBERG (for himself, Mr. HARKIN,, Ms. STABENOW, Mr. LIEBERMAN, Mrs. LINCOLN, Mr. MENENDEZ, Ms. MIKULSKI, and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill H.R. 5631, making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes; which was ordered to lie on the table; as follows:

On page 148, line 7, insert before the period at the end the following: '': *Provided*, That no funds appropriated or otherwise made available by this heading may be used to increase the cost sharing requirements established under paragraph (6) of section 1074g(a) of title 10, United States Code, for pharmaceutical agents available through retail pharmacies covered by paragraph (2)(E)(ii) of such section in excess of (1) $3 in the case of generic agents, (2) $9 in the case of formulary agents, or (3) $22 in the case of nonformulary agents''.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the

Senate on August 2, 2006, at 2 p.m., in open session to continue to receive testimony on the future of military commissions in light of the supreme court decision in Hamdan v. Rumsfeld.

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

COMMITTEE ON ARMED SERVICES

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Wednesday, August 2, 2006, at 5 p.m., in closed session, regarding overhead imagery systems.

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Wednesday, August 2, 2006, at 10 a.m. to mark up an original bill entitled ''Credit Rating Agency Reform Act of 2006.''

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on August 2, 2006, at 2:30 p.m., to conduct a hearing on ''Meeting the Housing Needs of Veterans.''

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on August 2, 2006, at 11:30 a.m., to purpose of this meeting is to consider the nominations of John Ray Correll, Mark Myers, and Drue Pearce.

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

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. STEVENS. Mr. President, I ask unanimous consent that on Wednesday, August 2, 2006, at 9:30 a.m. the Committee on Environment and Public Works be authorized to hold an oversight hearing to discuss The Toxic Substances Control Act and the Chemicals Management Program at EPA.

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

COMMITTEE ON FINANCE

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session on Wednesday, August 2, 2006, at 10 a.m., in 215 Dirksen Senate Office Building, to hear testimony on ''Border Insecurity, Take Two: Fake IDs Foil the First Line of Defense.''

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

COMMITTEE ON FOREIGN RELATIONS

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, August 2, 2006, at 9:30 a.m. to hold a hearing on nominations.

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

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions meet in executive session during the session of the Senate on Wednesday, August, 2, 2006, off the Senate floor at a time to be determined later.

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

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet on Wednesday, August 2, 2006, at 10 a.m. for a hearing titled, ''Iraq Reconstruction: Lessons Learned in Contracting and Procurement.''

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

COMMITTEE ON INDIAN AFFAIRS

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Wednesday, August 2, 2006, at 9:30 a.m. in Room 485 of the Russell Senate Office Building to conduct a business meeting on S. 374, the Tribal Parity Act; S. 480, the Thomasina E. Jordan Indian Tribes of Virginia Federal Recognition Act of 2005; S. 660, the Lumbee Recognition Act; S. 1439, the Indian Trust Reform Act of 2005; and S. 1535, the Cheyenne River Sioux Tribe Equitable Compensation Amendments Act of 2005.

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

COMMITTEE ON THE JUDICIARY

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate Committee on the Judiciary be authorized to meet to conduct a hearing on ''The Authority to Prosecute Terrorists Under the War Crime Provisions of Title 18'' on Wednesday, August 2, 2006, at 9:30 a.m. in Dirksen Senate Office Building Room 226.

Panel I: Steven Bradbury, Acting Assistant Attorney General, Office of Legal Counsel, Department of Justice, Washington, DC; General Richard B. Myers, Former Chairman, Joint Chiefs of Staff, Washington, DC; Major General Scott Black, The Judge Advocate General, United States Army, Washington, DC; Rear Admiral Bruce MacDonald, Judge Advocate General, United States Navy, Washington, DC; Major General Jack Rives, the Judge Advocate General, United States Air Force, Washington, DC, and Brigadier General Kevin M. Sandkuhler, Director, Judge Advocate Division, United States Marine Corps, Washington, DC.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. STEVENS. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on August 2, 2006, at 2:30 p.m. to hold a closed business meeting.

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

SUBCOMMITTEE ON THE CONSTITUTION, CIVIL RIGHTS, AND PROPERTY RIGHTS

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate Committee on the Judiciary Subcommittee on the Constitution, Civil Rights and Property Rights be authorized to meet on Wednesday, August 2, 2006, at 2:30 p.m. to conduct a hearing on ''Paying Your Own Way: Creating a Fair Standard for Attorney's Fees Awards in Establishment Clause Cases'' in Room 226 of the Dirksen Senate Office Building.

Witness list

Rees Lloyd, Commander of District 21, The American Legion Department of California, Banning, CA; Marc Stern, Assistant Executive Director, American Jewish Congress, New York, NY; Mathew Staver, Founder and Chairman, Liberty Counsel, Interim Dean, Liberty University School of Law, Lynchburg, VA; Melissa Rogers, Visiting Professor of Religion and Public Policy, Wake Forest University Divinity School, Winston-Salem, NC; Shannon Woodruff, Senior Research Counsel, American Center for Law and Justice, Washington, D.C.

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

SUBCOMMITTEE ON FORESTRY, CONSERVATION, AND RURAL REVITALIZATION

Mr. STEVENS. Mr. President, I ask unanimous consent that the Subcommittee on Forestry, Conservation and Rural Revitalization of the Committee on Agriculture, Nutrition and Forestry be authorized to conduct a hearing during the session of the Senate on August 2, 2006, at 9 a.m. in SR–328A, Senate Russell Building. The purpose of this subcommittee hearing will be to discuss H.R. 4200, the Forest Emergency Recovery and Research Act.

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

PRIVILEGES OF THE FLOOR

Mr. REID. Mr. President, on behalf of Senator KENNEDY, I ask unanimous consent that the following be granted floor privileges during the consideration of H.R. 5631, the Department of Defense appropriations bill, and any votes thereon: Tom Crowley, Navy detailee; and Rick Driscoll, State Department fellow.

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

Mr. STEVENS. Mr. President, I ask unanimous consent that Senator MCCAIN's legislative fellow, Navy LCDR Damien Christopher, be granted floor privileges during the debate on this bill.

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

Mr. STEVENS. Mr. President, I ask unanimous consent that Mike Morrissey and Kevin Templin, fellows serving in Senator COCHRAN's office, be granted floor privileges during the duration of the consideration of this bill.

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

Mr. DODD. Mr. President, I ask unanimous consent that Melissa Babin and Claire Vinocur, interns in my office, be granted floor privileges for the duration of the debate on the Defense appropriations bill.

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

Mr. INOUYE. Madam President, I ask unanimous consent that Michael Wiest, a Navy fellow in the office of Senator MIKULSKI, be granted the privileges of the floor for the duration of consideration of H.R. 5631.

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

Mr. STEVENS. I ask unanimous consent the privilege of the floor be granted to two military fellows, Howard Shaw and Trevor King, for the remainder of the debate on this bill. This is a request of Senator LOTT.

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

Mr. STEVENS. On behalf of Senator DOMENICI, I ask unanimous consent that an Air Force fellow, Stephen Purdy, detailed to Senator DOMENICI's office, be permitted floor privileges during this bill.

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

Mr. DORGAN. Mr. President, I ask unanimous consent that Robin Tibaduiza, a legislative fellow, be allowed floor privileges during the National Defense Appropriations Act on behalf of Senator HARRY REID.

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

Mr. STEVENS. I ask unanimous consent that Justin Kalmbach, a legal intern in our office, be granted the privileges of the floor during the consideration of this legislation.

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

Mr. INOUYE. Mr. President, on behalf of Senator KENNEDY I ask unanimous consent that his Navy detailee, Tom Crowley, and his State Department Fellow, Richard Driscoll, be granted full floor privileges during consideration of the Defense appropriations bill.

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

30TH ANNIVERSARY OF THE VICTORY OF UNITED STATES WINEMAKERS

Mr. FRIST. Mr. President, I ask unanimous consent that the Agriculture Committee be discharged from further consideration and the Senate now proceed to H. Con. Res. 399.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the concurrent resolution by title.

The assistant legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 399) recognizing the 30th Anniversary of the victory of United States winemakers at the 1976 Paris Wine Tasting.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. FRIST. Mr. President, I ask unanimous consent that the concurrent resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

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

The concurrent resolution (H. Con. Res. 399) was agreed to.

The preamble was agreed to.

THE CALENDAR

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Nos. 566, 568 through 575, all postal naming bills, en bloc, that the bills be read a third time and passed, and the motions to reconsider be laid upon the table, en bloc.

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

LANE EVANS POST OFFICE BUILDING ACT

The bill (S. 2555) to designate the facility of the United States Postal Service located at 2633 11th Street in Rock Island, Illinois, as the ''Lane Evans Post Office Building,'' was, ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 2555

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LANE EVANS POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 2633 11th Street in Rock Island, Illinois, shall be known and designated as the ''Lane Evans Post Office Building''.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the ''Lane Evans Post Office Building''.

MAJOR GEORGE QUAMO POST OFFICE BUILDING ACT

The bill (S. 3613) to designate the facility of the United Postal Service located at 2951 New York Highway 43 in Averill Park, New York, as the ''Major George Quamo Post Office Building,'' was, ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 3613

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MAJOR GEORGE QUAMO POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 2951 New York Highway 43 in Averill Park, New York, shall be known and designated as the ''Major George Quamo Post Office Building''.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the ''Major George Quamo Post Office Building''.

COACH JOHN WOODEN POST OFFICE BUILDING ACT

The bill (H.R. 4646) to designate the facility of the United States Postal Service located at 7320 Reseda Boulevard in Reseda, California, as the ''Coach John Wooden Post Office Building,'' was ordered to a third reading, was read the third time, and passed.

JOHN PAUL HAMMERSCHMIDT POST OFFICE ACT

The bill (H.R. 4811) to designate the facility of the United States Postal Service located at 215 West Industrial Park Road in Harrison, Arkansas, as the ''John Paul Hammerschmidt Post Office Building,'' was ordered to a third reading, was read the third time, and passed.

CAPTAIN GEORGE A. WOOD POST OFFICE BUILDING ACT

The bill (H.R. 4962) to designate the facility of the United States Postal Service located at 100 Pitcher Street in Utica, New York, as the ''Captain George A. Wood Post Office Building,'' was ordered to a third reading, was read the third time, and passed.

MORRIS W. MILTON POST OFFICE ACT

The bill (H.R. 5104) to designate the facility of the United States Postal Service located at 1750 16th Street South in St. Petersburg, Florida, as the ''Morris W. Milton Post Office,'' was ordered to a third reading, was read the third time, and passed.

EARL D. HUTTO POST OFFICE BUILDING ACT

The bill (H.R. 5107) to designate the facility of the United States Postal Service located at 1400 West Jordan Street in Pensacola, Florida, as the ''Earl D. Hutto Post Office Building,'' was ordered to a third reading, was read the third time, and passed.

WILFRED EDWARD ''COUSIN WILLIE'' SIEG, SR. POST OFFICE ACT

The bill (H.R. 5169) to designate the facility of the United States Postal Service located at 1310 Highway 64 NW. in Ramsey, Indiana, as the ''Wilfred Edward 'Cousin Willie' Sieg, Sr. Post Office,'' was ordered to a third reading, was read the third time, and passed.

SERGEANT JACOB DAN DONES POST OFFICE ACT

The bill (H.R. 5540) to designate the facility of the United States Postal Service located at 217 Southeast 2nd Street in Dimmitt, Texas, as the ''Sergeant Jacob Dan Dones Post Office,'' was ordered to a third reading, was read the third time, and passed.

ESTATE TAX AND EXTENSION OF TAX RELIEF ACT OF 2006—MOTION TO PROCEED

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate now proceed to Calendar No. 562, H.R. 5970, the bill that relates to the death tax, minimum wage increase, and other tax provisions.

The PRESIDING OFFICER. Is there objection?

Mr. FRIST. Mr. President, I object on behalf of the Democratic leader.

The PRESIDING OFFICER. Objection is heard.

CLOTURE MOTION

Mr. FRIST. Mr. President, I move to proceed to H.R. 5970, and I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the motion to proceed to H.R. 5970: a bill to amend the Internal Revenue Code of 1986 to increase the unified credit against the estate tax to an exclusion equivalent of $5,000,000, to repeal the sunset provision for the estate and generation-skipping taxes, and to extend expiring provisions, and for other purposes.

Bill Frist, Michael Crapo, Lamar Alexander, Richard C. Shelby, Sam Brownback, Saxby Chambliss, Chuck Hagel, Tom Coburn, Richard Burr, Orrin Hatch, Thad Cochran, John Ensign, David Vitter, Pat Roberts, Craig Thomas, Jeff Sessions, Mel Martinez.

Mr. FRIST. Mr. President, this vote will occur on Friday morning, unless changed by agreement, and we will announce the exact time for that vote as we get closer to it. In the meantime, I now withdraw the motion to proceed so we can return to the Defense appropriations bill over the next 24 hours.

Again, I believe the two managers will be able to work together over the next 24 to 48 hours and finish the Defense bill prior to the cloture vote on Friday. Therefore, I now withdraw the motion to proceed to H.R. 5970.

The PRESIDING OFFICER. The motion is withdrawn.

Mr. FRIST. Mr. President, I will suggest the absence of a quorum here shortly while we work through a few remaining items of business before closing for the day.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. FRIST. Mr. President, I ask unanimous consent the Senate immediately proceed to executive session to consider the following nominations on today's Executive Calendar: Calendar Nos. 836 through 840, and all nominations on the Secretary's desk in the Air Force, Army, Marine Corps, and the Navy. Finally, I ask unanimous consent the nominations be confirmed en bloc, the motions to reconsider be laid upon the table, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

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

The nominations considered and confirmed en bloc are as follows:

IN THE ARMY

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Kevin T. Campbell

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Lt. Gen. Robert T. Dail

IN THE MARINE CORPS

The following named officer for appointment as Commandant of the Marine Corps, and appointment to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S. C., sections 5043 and 601: to be General

To be general

Lt. Gen. James T. Conway

IN THE NAVY

The following named officer for appointment in the United States Navy to the grade indicated under title 10, U.S.C., section 624:

To be rear admiral (lower half)

Capt. Michael H. Mittelman

IN THE ARMY

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Lloyd J. Austin, III

NOMINATIONS PLACED ON THE SECRETARY'S DESK

IN THE AIR FORCE C–PN

PN1821 AIR FORCE nominations (87) beginning Gary L. Akins, and ending Glenn Zimmerman, which nominations were received by the Senate and appeared in the Congressional Record of July 18, 2006.

PN1853 ARMY nomination of David W. Wilson, which was received by the Senate and appeared in the Congressional Record of July 27, 2006.

PN1854 ARMY nomination of Lisa M. Weide, which was received by the Senate and appeared in the Congressional Record of July 27, 2006.

PN1855 ARMY nomination of Kerry K. King, which was received by the Senate and appeared in the Congressional Record of July 27, 2006.

PN1856 ARMY nomination of Lawrence N. Petz, which was received by the Senate and appeared in the Congressional Record of July 27, 2006.

PN1857 ARMY nomination of Yolanda Ruizisales, which was received by the Senate and appeared in the Congressional Record of July 27, 2006.

PN1858 ARMY nominations (26) beginning Paul G. Arbour, and ending James M. Zarlengo, which nominations were received by the Senate and appeared in the Congressional Record of July 27, 2006.

IN THE MARINE CORPS C–PN

PN1859 MARINE CORPS nomination of Robert J. Gallagher, which was received by the Senate and appeared in the Congressional Record of July 27, 2006.

IN THE NAVY C–PN

PN1822 NAVY nomination of Ben M. Smith, which was received by the Senate and appeared in the Congressional Record of July 18, 2006.

PN1823 NAVY nomination of Sidney E. Hall, which was received by the Senate and appeared in the Congressional Record of July 18, 2006.

PN1824 NAVY nomination of Dawn M. Divano, which was received by the Senate and appeared in the Congressional Record of July 18, 2006.

PN1825 NAVY nomination of Michael J. Lavelle, which was received by the Senate and appeared in the Congressional Record of July 18, 2006.

PN1826 NAVY nomination of Gary C. Norman, which was received by the Senate and appeared in the Congressional Record of July 18, 2006.

PN1827 NAVY nominations (3) beginning Neal D. Agamalte, and ending David C. Kleinberg, which nominations were received by the Senate and appeared in the Congressional Record of July 18, 2006.

PN1837 NAVY nominations (20) beginning Gregory R. Bart, and ending Gregory J. Smith, which nominations were received by the Senate and appeared in the Congressional Record of July 21, 2006.

PN1838 NAVY nominations (55) beginning Rickie V. Adside, and ending Michael J. Zerbo, which nominations were received by the Senate and appeared in the Congressional Record of July 21, 2006.

PN1839 NAVY nominations (88) beginning Anibal L. Acevedo, and ending Theresa M. Wood, which nominations were received by the Senate and appeared in the Congressional Record of July 21, 2006.

PN1840 NAVY nominations (4) beginning Thomas M. Dailey, and ending Toby C.

Swain, which nominations were received by the Senate and appeared in the Congressional Record of July 21, 2006.

PN1841 NAVY nominations (32) beginning Kevin J. Bartoe, and ending Machelle A. Vieux, which nominations were received by the Senate and appeared in the Congressional Record of July 21, 2006.

PN1842 NAVY nominations (14) beginning Kevin L. Anderson, Jr., and ending Thomas B. Webber, which nominations were received by the Senate and appeared in the Congressional Record of July 21, 2006.

PN1843 NAVY nominations (68) beginning Rebecca L. Bates, and ending Henry X. Young, which nominations were received by the Senate and appeared in the Congressional Record of July 21, 2006.

PN1844 NAVY nominations (23) beginning Erol Agi, and ending Walter R. Wittke, which nominations were received by the Senate and appeared in the Congressional Record of July 21, 2006.

PN1845 NAVY nominations (124) beginning Juliann M. Althoff, and ending Michael R. Yochelson, which nominations were received by the Senate and appeared in the Congressional Record of July 21, 2006.

PN1860 NAVY nominations (4) beginning George A. Quiroa, and ending Joyce C. Ross, which nominations were received by the Senate and appeared in the Congressional Record of July 27, 2006.

PN1861 NAVY nominations (9) beginning Cristal B. Caler, and ending Kimberly J. Schulz, which nominations were received by the Senate and appeared in the Congressional Record of July 27, 2006.

PN1862 NAVY nominations (10) beginning Matthew I. Borbash, and ending Robert W. Witzleb, which nominations were received by the Senate and appeared in the Congressional Record of July 27, 2006.

PN1863 NAVY nominations (7) beginning Larry J. Carpenter, and ending Pauline A. Storum, which nominations were received by the Senate and appeared in the Congressional Record of July 27, 2006.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will resume legislative session.

ORDERS FOR THURSDAY, AUGUST 3, 2006

Mr. FRIST. I ask unanimous consent when the Senate completes its business today, it stand in adjournment until 9:30 a.m. on Thursday, August 3. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and the Senate resume consideration of H.R. 5631, the Department of Defense appropriations bill.

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

PROGRAM

Mr. FRIST. Mr. President, today we made some progress on the Defense appropriations bill. Chairman STEVENS and Senator INOUYE will be here all day tomorrow with the goal of finishing the bill tomorrow evening. Those serious about offering amendments to the bill should be working with the two managers and talking to them early in the morning.

Moments ago, I filed cloture on the motion to proceed to H.R. 5970, the House-passed bill that includes the death tax reform, the tax relief extenders, and the minimum wage increase. Under the regular order, that vote will occur on Friday morning, unless we reach an agreement to change that timing.

I reiterate to my colleagues that we have some very important votes over the next few days, and Senators should be ready for a busy couple of days. It looks like we will be voting tomorrow night, and I ask all Members to adjust their schedules accordingly.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. FRIST. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 8:06 p.m., adjourned until Thursday, August 3, 2006, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate August 2, 2006:

THE JUDICIARY

ROSLYNN RENEE MAUSKOPF, OF NEW YORK, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF NEW YORK, VICE DAVID G. TRAGER, RETIRED.

LIAM O'GRADY, OF VIRGINIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF VIRGINIA, VICE CLAUDE M. HILTON, RETIRED.

LAWRENCE JOSEPH O'NEILL, OF CALIFORNIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF CALIFORNIA, VICE OLIVER W. WANGER, RETIRED.

UNITED STATES SENTENCING COMMISSION

DABNEY LANGHORNE FRIEDRICH, OF VIRGINIA, TO BE A MEMBER OF THE UNITED STATES SENTENCING COMMISSION FOR THE REMAINDER OF THE TERM EXPIRING OCTOBER 31, 2009, VICE MICHAEL O'NEILL.

CONFIRMATIONS

Executive nominations confirmed by the Senate Wednesday, August 2, 2006:

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. KEVIN T. CAMPBELL

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. ROBERT T. DAIL

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS COMMANDANT OF THE MARINE CORPS, AND APPOINTMENT TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTIONS 5043 AND 601:

To be general

LT. GEN. JAMES T. CONWAY

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be rear admiral (lower half)

CAPT. MICHAEL H. MITTELMAN

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. LLOYD J. AUSTIN III

IN THE AIR FORCE

AIR FORCE NOMINATIONS BEGINNING WITH GARY L. AKINS AND ENDING WITH GLENN ZIMMERMAN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 18, 2006.

IN THE ARMY

ARMY NOMINATION OF DAVID W. WILSON TO BE LIEUTENANT COLONEL.

ARMY NOMINATION OF LISA M. WEIDE TO BE LIEUTENANT COLONEL.

ARMY NOMINATION OF KERRY K. KING TO BE MAJOR.

ARMY NOMINATION OF LAWRENCE N. PETZ TO BE MAJOR.

ARMY NOMINATION OF YOLANDA RUIZISALES TO BE COLONEL.

ARMY NOMINATIONS BEGINNING WITH PAUL G. ARBOUR AND ENDING WITH JAMES M. ZARLENGO, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 27, 2006.

IN THE MARINE CORPS

MARINE CORPS NOMINATION OF ROBERT J. GALLAGHER TO BE MAJOR.

IN THE NAVY

NAVY NOMINATION OF BEN M. SMITH TO BE CAPTAIN.

NAVY NOMINATION OF SIDNEY E. HALL TO BE COMMANDER.

NAVY NOMINATION OF DAWN M. DIVANO TO BE LIEUTENANT COMMANDER.

NAVY NOMINATION OF MICHAEL J. LAVELLE TO BE LIEUTENANT COMMANDER.

NAVY NOMINATION OF GARY C. NORMAN TO BE LIEUTENANT COMMANDER.

NAVY NOMINATIONS BEGINNING WITH NEAL D. AGAMAITE AND ENDING WITH DAVID C. KLEINBERG, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 18, 2006.

NAVY NOMINATIONS BEGINNING WITH GREGORY R. BART AND ENDING WITH GREGORY J. SMITH, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 21, 2006.

NAVY NOMINATIONS BEGINNING WITH RICKIE V. ADSIDE AND ENDING WITH MICHAEL J. ZERBO, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 21, 2006.

NAVY NOMINATIONS BEGINNING WITH ANIBAL L. ACEVEDO AND ENDING WITH THERESA M. WOOD, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 21, 2006.

NAVY NOMINATIONS BEGINNING WITH THOMAS M. DAILEY AND ENDING WITH TOBY C. SWAIN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 21, 2006.

NAVY NOMINATIONS BEGINNING WITH KEVIN J. BARTOE AND ENDING WITH MACHELLE A. VIEUX, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 21, 2006.

NAVY NOMINATIONS BEGINNING WITH KEVIN L. ANDERSON, JR. AND ENDING WITH THOMAS B. WEBBER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 21, 2006.

NAVY NOMINATIONS BEGINNING WITH REBECCA L. BATES AND ENDING WITH HENRY X. YOUNG, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 21, 2006.

NAVY NOMINATIONS BEGINNING WITH EROL AGI AND ENDING WITH WALTER R. WITTKE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 21, 2006.

NAVY NOMINATIONS BEGINNING WITH JULIANN M. ALTHOFF AND ENDING WITH MICHAEL R. YOCHELSON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 21, 2006.

NAVY NOMINATIONS BEGINNING WITH GEORGE A. QUIROA AND ENDING WITH JOYCE C. ROSS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 27, 2006.

NAVY NOMINATIONS BEGINNING WITH CRISTAL B. CALER AND ENDING WITH KIMBERLY J. SCHULZ, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 27, 2006.

NAVY NOMINATIONS BEGINNING WITH MATTHEW I. BORBASH AND ENDING WITH ROBERT W. WITZLEB, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 27, 2006.

NAVY NOMINATIONS BEGINNING WITH LARRY J. CARPENTER AND ENDING WITH PAULINE A. STORUM, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 27, 2006.