

with Disabilities Act, ADA, with bipartisan support in Congress under the leadership of then-Senate Minority Leader Bob Dole, my predecessor from Kansas, and thanks in large part to the dedication and hard work of my current colleague, the good Senator from Iowa, Tom HARKIN, as well as current Senators CHARLES GRASSLEY of Iowa and DANIEL INOUYE of Hawaii.

Today we must continue to dismantle, brick by brick, the "shameful wall of exclusion" that existed in the United States previous to the existence of the ADA. And, building on our 15 years of experiences in tearing down the wall of exclusion, we must continue to bring to realization the full promise of the ideas entailed in the ADA. To carry on this significant legacy, we must recognize that, today, we face new challenges and new policy considerations.

It is estimated that there are now in America 50 million citizens with some sort of disability. An amazing individual from Kansas who visited D.C. last week to tell his story is 7-year-old Matthew Whaley. Matthew was denied access to the local recreation department's baseball league because he happened to have cerebral palsy. However, because of the Americans with Disabilities Act, he is now showing off his All-Star baseball skills as an outfielder.

When I think about what Congress needs to accomplish for people with disabilities over the next few years, to continue to achieve the dream that should have been, and that the ADA began to make possible, I consider what policies we need to change to ensure that Matthew, and others with disabilities, can continue to make a positive difference in this world.

We must consider America's aging population. According to the U.S. Census, by the year 2050, 21 percent of America's total population will be age 65 and over. It is understood that the probability of having a disability increases with age. This means that America's population with disabilities will continue to grow.

It is imperative that we look for ways to meet the needs of this population and ensure that they can continue to live independent, fulfilling lives. Just recently, I spent time with a constituent of mine who embodies this idea—a man named Rick Davidson from Olathe, KS. Rick is a motivational speaker for at-risk youth, has traveled across the country meeting with lawmakers on disabilities' policy issues, and is attending college for an associates degree in Web design. Rick has lived a healthy and active life as a quadriplegic for almost 18 years—doctors initially estimated that Rick had just 16 years to live.

Another way we can make a positive impact for the future is through supporting endeavors such as the New Freedom Initiative—a comprehensive program to promote the full participation of people with disabilities in all areas of society by increasing access to

assistive technologies, expanding educational and employment opportunities, and promoting increased access to daily community life.

In the context of changing public policy, we must also examine how effectively government programs, such as Medicare and Medicaid, are serving the needs of individuals with disabilities. For example, the Medicare Program's benefit for mobility devices has an "in the home" restriction which limits coverage to only those mobility devices that are necessary within a patient's home. Unfortunately, this does not address the needs of a patient who would use this device to obtain access to his or her community, work, school, physician's office, pharmacy, or place of worship. In view of this, I recently signed on a letter requesting that Medicare's mobility device "in the home" restriction be modified to improve community access for Medicare recipients with disabilities. I am also a cosponsor of legislation that would offer lower income families who have children with disabilities the opportunity to acquire health care coverage through the Medicaid Program.

Along these lines, Congress must address the issue of accessibility to long-term care for the elderly and those with disabilities. Currently, we have a Medicaid system that spends approximately two-thirds of its dollars on institutional care and approximately one-third on community services. This antiquated policy effectively removes disabled and elderly individuals from their community, family, and friends. Even from a cost perspective, this system does not make sense. According to the National Association of Insurance Commissioners, the cost of nursing home care ranges from \$30,000 to \$80,000 per year, while the annual cost of home and community care is much lower.

The bottom line is that Congress must work to align the Medicare and Medicaid Programs with goals of the Americans with Disabilities Act. After all, we live in America and in this country we celebrate independence, self-determination, uniqueness, and a sense of community. We must maintain these ideals for our children as well. This year, I introduced the Prenatally Diagnosed Conditions Awareness Act. For some conditions that can be detected in the womb, we are aborting 80 percent or more of the babies who test positive. The effect of this type of "weeding out" is the creation of a sort of new eugenics, a form of systematic, disability-based discrimination. The latter process is to the detriment of our society.

In addition to the many abilities that persons with disabilities have, these individuals so often have a perspective the rest of us don't have. We learn compassion, heroism, humility, courage, and self-sacrifice from these special individuals—and their gift to us is to inspire us, by their example, to achieve these virtues ourselves.

In our discussion of fostering independence, we must keep in mind the

importance of guaranteeing all individuals their right to vote. Our citizens with disabilities deserve equal access and an equal voice in our democratic process. Initiatives such as the Help America Vote Act, enacted in 2002, created vital grant programs ensuring electoral participation by persons with disabilities and making polling places accessible to persons with disabilities. Congress must continue to look for ways to expand access to our electoral system for persons with disabilities.

While we can change public policy to reflect the ideas embodied in the ADA, it is just as important to seek change at the individual level. Every human being has the ability to change their own ideas and actions in their daily life as they meet an elderly person or a person with disabilities. As Americans, we have a God-given duty to love each and every person, and treat them, not as a means to an end, but as an end in and of themselves. As a Nation, we are so blessed with the presence of individuals who are different than us, and who have the ability to teach us; to teach us about love, about compassion, and about what it means to have strength and courage from within.

My vision for America is to continue to build on the momentous legacy of the ADA, where we as citizens continue to celebrate the breadth of experience and life lessons that persons with disabilities offer us.

Over 137,000 individuals with disabilities reside in my State of Kansas. My hope for them is the same as my hope for all Americans who have disabilities: that we as a society and as a government do everything in our power to foster their independence, to nurture their soul and to embrace their contributions to society.

#### NATIONAL DEFENSE AUTHORIZATION ACT

Mr. JOHNSON. Mr. President, I rise today in support of Senate amendment No. 1389 to postpone the current round of domestic military base closures.

The threats confronting the United States today are vastly different from those during the Cold War, and we must shift our defense posture to address new and emerging enemies. I do not dispute that closing and realigning excess military capacity is critical to that endeavor. However, I fear we are rushing to conclude this process before having all pertinent national security information to make a well-informed decision. In short, I believe we have put the cart before the horse.

While I support delaying this base closure round, I do not dismiss the important work of the Base Realignment and Closure Commission. The Commissioners and their staff should be commended for their diligent efforts to carefully review and evaluate each recommendation made by the Pentagon.

Having said that, I believe closing military installations without thoughtful consideration is short-

sighted. Before implementing this round of base closures critical issues should be resolved to ensure we have not irrevocably damaged our ability to confront threats at home and abroad. The amendment requires specific benchmarks be fulfilled before the current round of domestic base closures is completed. I believe these requirements are logical and necessary in light of the threats facing the United States.

The ongoing conflicts in Iraq and Afghanistan are our most urgent national security concern, but the United States must be prepared to address other potential enemies. According to a recent Defense Department report, China has expanded its military reach enabling them to threaten Taiwan, Japan, and the U.S. military in the Pacific. Furthermore, China continues to both improve and expand its nuclear arsenal and has the capacity to field advanced missiles able to strike the United States.

China is not our only national security concern, as both Iran and North Korea have refused to relinquish their nuclear weapons programs. U.S. intelligence experts agree North Korea has developed multiple nuclear weapons, while Iran, an active state sponsor of terrorism, continues to pursue chemical and biological weapons.

Before completing this round of base closures, I believe it is prudent and sound policy to analyze all pertinent information that may impact our national security. For instance, the Department of Defense is undertaking a monumental shift in overseas deployments, which is long overdue. However, the Commission on Review of Overseas Military Facility Structure of the United States, commonly referred to as the Overseas Basing Commission, has indicated the Pentagon's plan to rotate soldiers back to the United States from overseas installations may be flawed. The Overseas Basing Commission argues if a crisis arises abroad, the military does not have enough sea and air transportation to rotate forces rapidly enough to respond. Furthermore, the Commission believes the Pentagon has understated the costs to redeploy troops to American soil. Finally, and most troubling, the Commission argues the plan could result in extended and more frequent rotations, which could strain U.S. military personnel and their families to the point where the United States is incapable of maintaining an all-volunteer force.

In addition, currently tens of thousands of brave men and women are serving in Iraq and Afghanistan, and like all Americans, it is my sincere hope that these soldiers return home as soon as possible. Having said that, I recognize immediately withdrawing American troops from Iraq could result in chaos and undermine the tremendous efforts made by all our service members. However, I question the timing of this round of base closures given that our Nation is at war and so many

of our soldiers are supporting this effort. Until these troops have finished their important mission, and have returned home safely, it does not make sense to close military installations at home.

Finally, we should not move forward with this round of base closures until the Defense Department completes the Quadrennial Defense Review and presents its findings to the President and Congress. The QDR is integral to U.S. military strategy as it assesses our future military capabilities and identifies emerging threats. It makes little sense to restructure our defenses until Congress has access to this vital piece of information.

I believe that these questions must be answered before we proceed with closing domestic military installations. We must reorganize our military force in order to respond to the threats of the 21st century. The challenge is to do so in a manner that is not detrimental to our national security and the men and women who proudly serve our country.

**Mrs. FEINSTEIN.** Mr. President, I rise today in support of an amendment to the fiscal year 06 National Defense Authorization Act, S. 1042, that authorizes the Navy to convey approximately 230 acres of open space land along the eastern boundary of Marine Corps Air Station Miramar to the county of San Diego in order to provide access to the historic Stowe Trail.

The Stowe Trail at one time functioned as the primary road leading to the historic town of Stowe, and now links the Goodan Ranch and Sycamore Canyon Preserves in the north with the Mission Trails Regional Park and Santee Lakes Regional Recreation Area further south.

According to county records, up until the 1930s when access to this portion became restricted for military use, the Stowe Trail had served for some 80 years as the principle thoroughfare between the towns of Santee and Poway.

The 230 acres of land that would be conveyed by the Navy under this provision include diverse plant and animal life and environmentally-sensitive habitats and would provide a natural wildlife corridor between the two preserves, as well as with the Santee Lakes Recreation Area.

Under the control of the County of San Diego, this land will become part of an extensive open space trail system that will not only increase recreational opportunities in the region, but will also provide a buffer zone that will mitigate against potential encroachment that could impact the essential military missions at Marine Corps Air Station Miramar.

It is important to point out that this proposed land conveyance is the fruition of a process set in motion jointly by the San Diego County Board of Supervisors and Marine Corps Air Station Miramar in 2002.

Both sides have worked together closely since that time to ensure that

the result will be a win-win situation for both county and the Marines.

For example, as part of the land conveyance process, the County of San Diego has fully committed to compensate the Navy by paying the full fair market value for this property.

I would therefore ask unanimous consent that it be in order for the Senate to consider this amendment, and that the amendment be agreed to.

I would also ask that this statement and the relevant amendment be placed together in the CONGRESSIONAL RECORD.

#### AMENDMENT NO. 1406

**Mr. LUGAR.** Mr. President, I rise in support of amendment No. 1406 that authorizes the Secretary of Defense, in the event of an overseas emergency, to transfer \$200 million in defense articles, services, training and other support to the State Department to address the crisis. The funding would be used by the Office of Stabilization and Reconstruction at the State Department, a new office that has been created to organize the civilian side of the military/civilian response in post-conflict situations. The authority provided is permissive. It does not require such a transfer.

The Secretary of Defense requested the authority contained in this amendment in his submission of legislation to be considered by the Congress. The Department of Defense needs a capable civilian partner that is prepared to go into hostile environments to assist the military in stabilizing a post-conflict situation. It also needs to be able to hand off a stabilized situation to civilian leadership. Without such a capacity, the military ends up performing tasks that civilians could and should be carrying out. As a consequence, the resources of the Armed Services are stretched thin and deployments of military personnel have to be extended beyond expectations.

The Senate Foreign Relations Committee has for some time been deeply involved in building the capacity of the State Department to play a leadership role in this area. Through legislation, hearings, and meetings of a policy advisory group of experts, we have called for the organization of a corps of civilians who are willing and able to undertake difficult missions in wartorn countries. The Office of Stabilization and Reconstruction, led by a Coordinator, Ambassador Carlos Pascual, is now up and running and doing an excellent job.

My amendment reflects continued Senate Foreign Relations Committee attention to the issue. On June 16, we held a hearing on stabilization and reconstruction entitled "Building Peace in a Hostile Environment." Ambassador Pascual participated as did two witnesses from the Defense Department, Ryan Henry, Principal Deputy in the Office of the Under Secretary of Defense for Policy and LTG Walter Sharp, Director of Strategic Plans and Policy at the Joint Staff. James

Kunder, Assistant Administrator for Asia and the Near East, testified on behalf of USAID.

Both Defense Department witnesses urged the committee to support the transfer authority contained in my amendment. Mr. Henry stated that it is in the Defense Department's interest to help the Stabilization and Reconstruction office "fill the gap in its ability to deploy in a crisis." General Sharp said that General Myers, the Chairman of the Joint Chiefs, supports such a request because it would "greatly improve Ambassador Pascual's ability to rapidly deploy in a crisis."

As most Members know, the foreign affairs budget is under considerable pressure. The Senate has just finished debating H.R. 3057, the State-Foreign Operations Appropriations bill. The 302(b) allocations for this bill were some \$1 billion below the President's request. On the House side, the corresponding amount is some \$3 billion below the President's request. When confereed, the appropriated funding levels for foreign affairs will once again fall short of the amount that the President of the United States says he needs to conduct a strong foreign policy at a time of great complexity and danger.

Tight budgets yield painful compromises. During consideration of H.R. 3057, Senators CORZINE and DEWINE offered an amendment to appropriate \$50 million to support African Union peacekeeping efforts in Sudan. They took the funding from the Conflict Response Fund that is to be used in emergencies by the new Office of Stabilization and Reconstruction. The amendment was accepted.

That development has made the passage of this amendment to the Department of Defense bill even more crucial. The amendment does not make the transfer of services and other support automatic. Rather, the Secretary of Defense is authorized to transfer the support only if he determines that an emergency exists that requires the immediate provision of such assistance. He must also determine that such assistance is in the national security interests of the United States.

The Department of Defense has asked for the authority. It recognizes that coordination between the State Department and USAID during international emergencies can actually save money and lives. It reflects a new kind of cooperation between the military and the civilian component of our Government that a number of Members have spent much time and effort trying to promote. I urge my colleagues to vote in favor of the amendment.

AMENDMENT NO. 1407

Mr. President, I rise in support of amendment 1407 that strikes section 1008 from the bill under consideration.

The purpose of the amendment is to allow the Defense Department to pay its fair share of the costs of building safer embassies. Section 1008 allows Defense Department participation in the

program only to the extent that unreimbursed services provided by State to DOD exceed unreimbursed services provided by DOD to State. It is a complicated formula that, in the end, will probably result in no contributions from the Department of Defense. There is no other agency that has similar legislation.

More than 61,000 American Government employees from 30 agencies work at our embassies and consulates. The Departments of Justice, Homeland Security, Commerce, Treasury, Health & Human Services, Agriculture, and every other agency that has personnel overseas are contributing to the cost-sharing program. After an interagency negotiation, all executive branch departments, including the Defense Department, agreed to contribute to the cost-sharing program. But section 1008 would essentially vitiate that agreement on the part of the Department of Defense.

The Senate has a deep interest in the safety and well-being of our citizens working overseas. Defense Department employees are second in number only to the State Department in many of our embassies. We all know that U.S. facilities are a prime target for terrorists. The 1998 bombings of two American embassies in Africa made it clear that the threat can erupt in unexpected places.

The United States has some 251 embassies and consulates overseas. Many of them do not meet security standards. They are not set far enough back from busily traveled streets, and they are not constructed to minimize damage if attacked. The capital construction program focuses on replacing 150 embassies, prioritized according to a formula that encompasses the threat they face. New embassy compounds are being built on a construction schedule that can be cut almost in half if the cost-sharing program is fully implemented.

The cost-sharing program allocates construction expenses among agencies on the basis of future occupancy and the need for space specially designed for security purposes. After the State Department, the military ranks among the top contributors expected to participate in the program. Defense Department nonparticipation would stretch the embassy construction timetable by several years, prolonging the risks to embassy workers from all agencies.

President Bush has designed an interagency cost-sharing program with a rapid construction timetable. He understands the risks and is working to address them. The cost-sharing program has been embraced by all Cabinet officers, including Secretary Rumsfeld. We in the Congress should not agree to a measure that will disrupt this timetable. We should not slow a process that directly addresses the threat of terrorism toward embassies, which are the most visible and accessible U.S. targets overseas.

I ask my colleagues to support this amendment.

Mr. KENNEDY. Mr. President, our military is first in the world, because of the quality and training of our personnel and because of the technological sophistication of our equipment and weaponry. A large portion of the best civilian scientific minds in the Defense Department are nearing retirement age—yet the legislation before us cuts funding for the military's basic research in math and science.

Amendment No. 1401 that I am offering with the Senator from Maine and others will ensure that the Department maintains its support for scientific research and development. It includes \$10 million, to double the funding for the Department's current "SMART Scholars" program, which is essentially an ROTC program for the agency's civilian scientists. It increases by \$40 million the Department's funding of basic research in science and technology, to ensure that its investment in this field is maintained and our military technology remains the best in the world. The \$50 million total cost of the amendment is offset by a \$50 million reduction in Department-wide administrative funding.

Our amendment provides sufficient funding for the full cost of college scholarships and graduate fellowships for approximately 100 science, technology, engineering, and math students. It increases basic research on an equal basis in the Army, Navy, Air Force, DARPA, and National Defense Education Program. It is supported by more than 60 of the most prestigious institutions of higher education in America.

Defense Department-sponsored research has resulted in stunningly sophisticated spy satellites, precision-guided munitions, stealth equipment, and advanced radar. The research has also generated new applications in the civilian economy. The best known example is the Internet, originally a DARPA project.

Advances in military technology often have their source in the work of civilian scientists in Department of Defense laboratories. Unfortunately, a large percentage of these scientists are nearing retirement. Today, nearly one in three DOD civilian science, technical, engineering, and mathematical employees is eligible to retire. In 7 years, 70 percent will be of retirement age.

Another distressing fact is that the number of new scientists being produced by our major universities at the doctoral level each year has declined by 4 percent over the last decade. Many of those who do graduate are ineligible to work on sensitive defense matters, since more than a third of all science and engineering doctorate degrees awarded at American universities go to foreign students.

It is unlikely that retiring DOD scientists will be replaced by current private industry employees. According to

the National Defense Industrial Association, over 5,000 science and engineering positions are unfilled in private industry in defense-related fields.

The Nation confronts a major math and science challenge in elementary and secondary education and in higher education as well. We are tied with Latvia for 28th in the industrialized world today in math performance, and that is far from good enough. We have fallen from 3rd in the world to 15th in producing scientists and engineers. Clearly, we need a new National Defense Education Act of the size and scope passed nearly 50 years ago.

At the very least, however, the legislation before us needs to do more to maintain our military's technological advantage. The pending bill irresponsibly cuts science and technology research by 17 percent. It increases funding for the SMART civilian ROTC science program but to only one-third of the Defense Department's request. Last year, over 100 "highly rated" SMART Scholar applications were turned down because of insufficient funding. Our amendment has sufficient funds to support every one of those talented young people who want to learn and serve.

It also increases the investment in basic research in science and technology. Investments by DOD in science and technology through the 1980s helped the United States win the Cold War. But funding for basic research in the physical sciences, math and engineering has not kept pace with research in other areas. Federal funding for life sciences has risen four-fold since the 1980s. Over the same period, appropriations for the physical sciences, engineering, and mathematics have remained essentially flat. Funding for basic research fell from fiscal year 1993 to fiscal year 2004 by more than 10 percent in real terms.

The Defense Science Board has recommended that funding for Science and Technology reach 3 percent of total defense spending, and the administration and Congress have adopted this goal in the past. The Board also recommended that 20 percent of that amount be dedicated to basic research, but the pending bill would cut funding for such research by 17 percent. We must do better, and this amendment does that.

The amendment's offset reduces the defense-wide administrative fund under the Secretary of Defense. It does not affect operations and maintenance funding for the Army, Navy, or Air Force. For example, it would reduce by 2½ percent the \$2 billion that the bill gives the Secretary for his "business and financial management" transformation proposal—an area that the Government Accountability Office has deemed at "high-risk" for waste.

We can't afford not to pass this amendment, and I urge my colleagues to support it.

#### ASSOCIATION HEALTH PLANS

Mr. KENNEDY. An important new study issued last week finds that exempting association health plans from State oversight will lead to increased health insurance fraud against small businesses and their workers.

The author of the study, Assistant Professor Mila Kofman at Georgetown University, is one of the Nation's leading experts on private health insurance fraud, and the report provides evidence of the potential harm that the pending association health plan legislation will have on patients and working families.

It finds that exempting association health plans from State oversight will "create a regulatory vacuum" and have the "unintended consequence of widespread fraud threatening the coverage and financial security of millions of Americans."

The report notes the 30-year history of health insurance scams involving associations and multiemployer arrangements after the Congress exempted such arrangements from State oversight in 1974. Widespread fraud resulted from the exemption, and Congress acted to restore State authority and oversight in 1982. In the years when the Federal Government was responsible for oversight of the plans, widespread fraud took place and large numbers of businesses and workers victimized.

Insurance fraud involving such plans continues, but without State oversight and enforcement, the numbers would have been much worse. States have shut down many illegal arrangements, and saved millions of dollars for consumers in recent years. We can't afford to take away State authority now, and give plans broad exemptions from oversight.

According to a study by the Government Accountability Office, the most common way for insurance scams to proliferate is by selling coverage through associations—many of which are the same bona-fide professional and business associations that would be shielded from oversight under this legislation.

The pending bill would create large loopholes and shield plans from oversight. It relies largely on self-reporting and self-regulation, and makes it far more difficult for regulators to shut down fraudulent plans.

The bill's convoluted regulatory structure would also create widespread confusion about who actually regulates association plans—the Federal Government or States, and this confusion will invite scams to proliferate.

We need to make affordable health insurance for working families a top priority, but this study shows the serious consequences of exempting association health plans from State and oversight and enforcement. The result is predictable: mounting medical bills, greater bankruptcy, medical care denied or delayed, and coverage lost. It is wrong for Congress to turn back the clock to the days of widespread fraud against small businesses and their em-

ployees by exempting association plans from appropriate oversight and enforcement, and I urge my colleagues not to take this damaging step.

#### MEDICAL DEVICE USER FEE STABILIZATION ACT OF 2005

Mr. KENNEDY. Mr. President, I strongly support the Medical Device User Fee Stabilization Act of 2005.

The bill makes needed corrections in the Device User Fee Act we passed in 2002. Most important, it extends this worthwhile program beyond September 30. It ensures stable growth for individual user fees by limiting increases to 8.5 percent a year in 2006 and 2007, and it raises the threshold for businesses to be eligible for the reduced small business fees from \$30 million to \$100 million.

The user fee program has provided much needed support for the Food and Drug Administration over the past 3 years to expedite its review of medical devices. The FDA has improved its ability to review devices more quickly, and laid the groundwork for further progress as well. Unfortunately, however, fees on individual applications have climbed rapidly in the past 3 years—much faster than anticipated.

Our bill maintains this valuable program and limits the rate of growth in fees. It strikes a fair balance between the competing interests of FDA and the various industries. The agency is not guaranteed the growth in fees that it received under the original legislation to meet the need to expedite its reviews. It makes sense to limit fee increases in response to the concern that the fees have climbed too quickly and are discouraging innovation in these valuable devices. That is why we call the bill the User Fee Stabilization Act.

The bill also clarifies the provision in current law on the identification of the makers of single-use medical devices. Adverse event reports should not be inaccurately attributed to the wrong company, and doctors should not be misled about the source of the device.

Since many so-called single-use devices are often reprocessed and used again, the legislation requires reprocessors of single-use devices to identify their role in preparing the device. When the manufacturer of the original device is identified on the device, the reprocessor must do so as well. When the manufacturer of the original device has not done so, the bill permits the use of detachable labels on the package of the reprocessed device, so that the label can be placed in the patient's medical chart.

These provisions will become effective 12 months after the date of enactment, and they are a reasonable compromise of the interests of the FDA, the original manufacturers, and the re-processors.

I commend Chairman ENZI for his leadership in producing this much-needed legislation, and I welcome the strong, bipartisan support for the bill