

Hilberry Theatre, and the Walter P. Reuther Library of Wayne State University;

Whereas Millie thrived in the academic environment enriched by Wayne State University students;

Whereas whether discussing mathematics with teenagers in Wayne State University's Math Corps or strategizing at the United Nations Conferences on Women about the plight of sweatshop workers, Millie's capacity for connecting with people was unmatched;

Whereas Millie was inducted into the Michigan Women's Hall of Fame and was an original member of the board of the Michigan Women's Foundation;

Whereas Millie served in various leadership roles in a wide variety of national and State organizations;

Whereas Millie served on the peer review board of Blue Cross;

Whereas Millie also was an active member of the First Unitarian Universalist Church in Detroit; and

Whereas the United States mourns the death of Mildred McWilliams "Millie" Jeffrey: Now, therefore be it

Resolved, That the Senate—

(1) honors the life of Mildred McWilliams "Millie" Jeffrey and her contributions to her community and to the United States; and

(2) directs the Secretary of the Senate to transmit an enrolled copy of this resolution to the family of Millie Jeffrey.

AMENDMENTS SUBMITTED AND PROPOSED

SA 3225. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table.

SA 3226. Mr. CRAPO proposed an amendment to amendment SA 3170 proposed by Mr. GRAHAM of South Carolina to the bill S. 2400, supra.

SA 3227. Mr. GRAHAM, of South Carolina submitted an amendment intended to be proposed by him to the bill S. 2400, supra; which was ordered to lie on the table.

SA 3228. Mr. GRAHAM, of South Carolina submitted an amendment intended to be proposed by him to the bill S. 2400, supra; which was ordered to lie on the table.

SA 3229. Mr. McCAIN submitted an amendment intended to be proposed by him to the bill S. 2400, supra; which was ordered to lie on the table.

SA 3230. Ms. COLLINS submitted an amendment intended to be proposed by her to the bill S. 2400, supra; which was ordered to lie on the table.

SA 3231. Mr. GRAHAM, of Florida (for himself and Mr. NELSON, of Florida) submitted an amendment intended to be proposed by him to the bill S. 2400, supra; which was ordered to lie on the table.

SA 3232. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 2400, supra; which was ordered to lie on the table.

SA 3233. Mr. LOTT (for himself and Mr. GRAHAM, of South Carolina) submitted an amendment intended to be proposed by him to the bill S. 2400, supra; which was ordered to lie on the table.

SA 3234. Mr. NELSON, of Florida (for himself, Mrs. DOLE, Mr. CORZINE, Mr. NELSON, of Nebraska, Mr. LEAHY, Mrs. MURRAY, and Mr. GRAHAM, of Florida) submitted an amendment intended to be proposed by him to the

bill S. 2400, supra; which was ordered to lie on the table.

SA 3235. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 2400, supra; which was ordered to lie on the table.

SA 3236. Mr. TALENT submitted an amendment intended to be proposed by him to the bill S. 2400, supra; which was ordered to lie on the table.

SA 3237. Mr. CAMPBELL submitted an amendment intended to be proposed by him to the bill S. 2400, supra; which was ordered to lie on the table.

SA 3238. Mr. GRAHAM, of South Carolina submitted an amendment intended to be proposed by him to the bill S. 2400, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 3225. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table, as follows:

On page 147, after line 21, insert the following:

SEC. 717. REPORTING OF SERIOUS ADVERSE HEALTH EXPERIENCES.

(a) IN GENERAL.—The Secretary of Defense may not permit a dietary supplement containing a stimulant to be sold on a military installation unless the manufacturer of such dietary supplement submits any report of a serious adverse health experience associated with such dietary supplement to the Secretary of Health and Human Services, who shall make such reports available to the Surgeon Generals of the Armed Forces.

(b) EFFECT OF SECTION.—Notwithstanding section 201(ff)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(ff)(2)) and paragraph (3) of subsection (c), this section does not apply to a dietary supplement containing caffeine that is intended to be consumed in liquid form.

(c) DEFINITIONS.—In this section—

(1) The term "dietary supplement" has the same meaning given the term in section 201(ff) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(ff)).

(2) The term "serious adverse health experience" means an adverse event that is associated with the use of a dietary supplement in a human, without regard to whether the event is known to be causally related to the dietary supplement, that—

(A) results in—

(i) death;

(ii) a life-threatening condition;

(iii) inpatient hospitalization or prolongation of hospitalization;

(iv) a persistent or significant disability or incapacity; or

(v) a congenital anomaly, birth defect, or other effect regarding pregnancy, including premature labor or low birth weight; or

(B) requires medical or surgical intervention to prevent 1 of the outcomes described in clauses (i) through (v) in subparagraph (A).

(3) The term "stimulant" means a dietary ingredient that has a stimulant effect on the cardiovascular system or the central nervous system of a human by any means, including—

(A) speeding metabolism;

(B) increasing heart rate;

(C) constricting blood vessels; or

(D) causing the body to release adrenaline.

SA 3226. Mr. CRAPO proposed an amendment to amendment SA 3170 proposed by Mr. GRAHAM of South Carolina to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; as follows:

Strike all after the first word of the matter proposed to be inserted and insert the following:

3119. TREATMENT OF WASTE MATERIAL.

(a) AVAILABILITY OF FUNDS FOR TREATMENT.—Of the amount authorized to be appropriated by section 3102(a)(1) for environmental management for defense site acceleration completion, \$350,000,000 shall be available for the following purposes at the sites referred to in subsection (b):

(1) The safe management of tanks or tank farms used to store waste from reprocessing activities.

(2) The on-site treatment and storage of wastes from reprocessing activities and related waste.

(3) The consolidation of tank waste.

(4) The emptying and cleaning of storage tanks.

(5) Actions under section 3116.

(b) SITES.—The sites referred to in this subsection are as follows:

(1) The Idaho National Engineering and Environmental Laboratory, Idaho.

(2) The Savannah River Site, Aiken, South Carolina.

(3) The Hanford Site, Richland, Washington.

(c) This section shall become effective 1 day after enactment.

SA 3227. Mr. GRAHAM of South Carolina submitted an amendment intended to be proposed by him to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table, as follows:

On page 280, after line 22, insert the following:

SEC. 1068. RECEIPT OF PAY BY RESERVES FROM CIVILIAN EMPLOYERS WHILE ON ACTIVE DUTY IN CONNECTION WITH A CONTINGENCY OPERATION.

Section 209 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(h) This section does not prohibit a member of the reserve components of the armed forces on active duty pursuant to a call or order to active duty under a provision of law referred to in section 101(a)(13) of title 10 from receiving from any person that employed such member before the call or order to active duty any payment of any part of the salary or wages that such person would have paid the member if the member's employment had not been interrupted by such call or order to active duty."

SA 3228. Mr. GRAHAM of South Carolina submitted an amendment intended to be proposed by him to the

bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table, as follows:

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

SEC. 217. INFRASTRUCTURE SYSTEM SECURITY ENGINEERING DEVELOPMENT FOR THE NAVY.

(a) INCREASE IN AMOUNT FOR RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, NAVY.—The amount authorized to be appropriated by section 201(2) for research, development, test, and evaluation, Navy, is hereby increased by \$3,000,000.

(b) AVAILABILITY OF AMOUNT FOR INFRASTRUCTURE SYSTEM SECURITY ENGINEERING DEVELOPMENT.—Of the amount authorized to be appropriated by section 201(2) for research, development, test, and evaluation, Navy, as increased by subsection (a), \$3,000,000 shall be available for infrastructure system security engineering development.

(c) OFFSET.—(1) The amount authorized to be appropriated by section 101(5) for other procurement, Army, is hereby reduced by \$1,000,000, with the amount of the reduction to be allocated to Buffalo Landmine Vehicles.

(2) The amount authorized to be appropriated by section 102(b) for procurement for the Marine Corps is hereby reduced by \$500,000, with the amount of the reduction to be allocated to Combat Casualty Care.

(3) The amount authorized to be appropriated by section 201(1) for research, development, test, and evaluation, Army, is hereby reduced by \$1,000,000, with the amount of the reduction to be allocated to Active Coating Technology.

(4) The amount authorized to be appropriated by section 201(4) for research, development, test, and evaluation, Defense-wide activities, is hereby reduced by \$500,000, with the amount of the reduction to be allocated to Radiation Hard Complimentary Metal Oxide Semi-Conductors.

SA 3229. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

On page 60, after line 23, insert the following:

SEC. 403. EXCLUSION OF SERVICE ACADEMY PERMANENT AND CAREER PROFESSORS FROM A LIMITATION ON CERTAIN OFFICER GRADE STRENGTHS.

Section 523(b) of title 10, United States Code, is amended by adding at the end the following new paragraph:

“(8) Up to 50 permanent professors of each of the United States Military Academy and the United States Air Force Academy, and up to 50 professors of the United States Naval Academy who are career military professors (as defined in regulations prescribed by the Secretary of the Navy).”.

SA 3230. Ms. COLLINS submitted an amendment intended to be proposed by her to the bill S. 2400, to authorize ap-

propriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

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

SEC. 313. ENERGY SAVINGS PERFORMANCE CONTRACTS.

(a) CONTRACTS AUTHORIZED.—The Secretary of Defense may enter into an energy savings performance contract under this section for the sole purpose of achieving energy savings and benefits ancillary to that purpose. The Secretary may incur obligations under the contract to finance energy conservation measures so long as guaranteed savings exceed the debt service requirements.

(b) TERMS AND CONDITIONS.—

(1) CONTRACT PERIOD.—Notwithstanding any other provision of law, an energy savings performance contract may be for a period of up to 25 years beginning on the date on which the first payment is made by the Secretary pursuant to the contract. The contract need not include funding of cancellation charges (if any) before cancellation, if—

(A) the contract was awarded in a competitive manner, using procedures and methods established under this section;

(B) the Secretary determines that funds are available and adequate for payment of the costs of the contract for the first fiscal year;

(C) the contract is governed by part 17.1 of the Federal Acquisition Regulation; and

(D) if the contract contains a clause setting forth a cancellation ceiling in excess of \$10,000,000, the Secretary provides notice to Congress of the proposed contract and the proposed cancellation ceiling at least 30 days before the award of the contract.

(2) COSTS AND SAVINGS.—An energy savings performance contract shall require the contractor to incur the costs of implementing energy savings measures, including at least the cost (if any) incurred in making energy audits, acquiring and installing equipment, and training personnel, in exchange for a share of any energy savings directly resulting from implementation of such measures during the term of the contract.

(3) OTHER TERMS AND CONDITIONS.—An energy savings performance contract shall require an annual energy audit and specify the terms and conditions of any Government payments and performance guarantees. Any such performance guarantee shall provide that either the Government or the contractor is responsible for maintenance and repair services for any energy related equipment, including computer software systems.

(c) LIMITATION ON ANNUAL CONTRACT PAYMENTS.—Aggregate annual payments by the Secretary to a contractor for energy, operations, and maintenance under an energy savings performance contract may not exceed the amount that the Department of Defense would have paid for energy, operations, and maintenance in the absence of the contract (as estimated through the procedures developed pursuant to this section) during term of the contract. The contract shall provide for a guarantee of savings to the Department, and shall establish payment schedules reflecting such guarantee, taking into account any capital costs under the contract.

(d) RULEMAKING.—Not later than 90 days after the date of the enactment of this Act, the Secretary, with the concurrence of the

Federal Acquisition Regulatory Council, shall issue final rules to establish the procedures and methods for use by the Department of Defense to select, monitor, and terminate energy savings performance contracts in accordance with laws governing Federal procurement that will achieve the intent of this section in a cost-effective manner. In developing such procedures and methods, the Secretary, with the concurrence of the Federal Acquisition Regulatory Council, shall determine which existing regulations are inconsistent with the intent of this section and shall formulate substitute regulations consistent with laws governing Federal procurement.

(e) IMPLEMENTATION PROCEDURES AND METHODS.—The procedures and methods established by rule under subsection (d) shall—

(1) provide for the calculation of energy savings based on sound engineering and financial practices;

(2) allow the Secretary to request statements of qualifications, which shall, at a minimum, include prior experience and capabilities of contractors to perform the proposed types of energy savings services and financial and performance information from firms engaged in providing energy savings services;

(3) allow the Secretary to presume that a contractor meets the requirements of paragraph (2) if the contractor either—

(A) has carried out contracts with a value of at least \$1,000,000,000 with the Federal Government over the previous 10 years; or

(B) is listed by a Federal agency pursuant to section 801(b)(2) of the National Energy Policy Act (42 U.S.C. 8287(b)(2));

(4) allow the Secretary to, from the statements received, designate and prepare a list, with an update at least annually, of those firms that are qualified to provide energy savings services;

(5) allow the Secretary to select firms from such list to conduct discussions concerning a particular proposed energy savings project, including requesting a technical and price proposal from such selected firms for such project;

(6) allow the Secretary to select from such firms the most qualified firm to provide energy savings services based on technical and price proposals and any other relevant information;

(7) allow the Secretary to permit receipt of unsolicited proposals for energy savings performance contracting services from a firm that the Department of Defense has determined is qualified to provide such services under the procedures established pursuant to subsection (d) and require facility managers to place a notice in the Commerce Business Daily announcing they have received such a proposal and invite other similarly qualified firms to submit competing proposals;

(8) allow the Secretary to enter into an energy savings performance contract with a firm qualified under paragraph (7), consistent with the procedures and methods established pursuant to subsection (d); and

(9) allow a firm not designated as qualified to provide energy savings services under paragraph (4) to request a review of such decision to be conducted in accordance with procedures, substantially equivalent to procedures established under section 759(f) of title 40, United States Code, to be developed by the board of contract appeals of the General Services Administration.

(f) TRANSITION RULE FOR CERTAIN ENERGY SAVINGS PERFORMANCE CONTRACTS.—In the case of any energy savings performance contract entered into by the Secretary, or the Secretary of Energy, before October 1, 2003, for services to be provided at Department of Defense facilities, the Secretary may issue

additional task orders pursuant to such contract and may make whatever contract modifications the parties to such contract agree are necessary to conform to the provisions of this section.

(g) **PILOT PROGRAM FOR NONBUILDING APPLICATIONS.**—

(1) **IN GENERAL.**—The Secretary may carry out a pilot program to enter into up to 10 energy savings performance contracts for the purpose of achieving energy savings, secondary savings, and benefits incidental to those purposes, in nonbuilding applications.

(2) **SELECTION.**—The Secretary shall select the contract projects to demonstrate the applicability and benefits of energy savings performance contracting to a range of nonbuilding applications.

(3) **REPORT.**—Not later than three years after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the progress and results of the pilot program. The report shall include a description of projects undertaken; the energy and cost savings, secondary savings and other benefits that resulted from such projects; and recommendations on whether the pilot program should be extended, expanded, or authorized.

(h) **DEFINITIONS.**—In this section:

(1) **ENERGY SAVINGS.**—The term “energy savings” means a reduction in the cost of energy, from a base cost established through a methodology set forth in the energy savings performance contract, utilized in an existing federally owned building or buildings or other federally owned facilities as a result of—

(A) the lease or purchase of operating equipment, improvements, altered operation and maintenance, increased capacity or payload, or technical services; or

(B) the increased efficient use of existing energy sources by cogeneration or heat recovery, excluding any cogeneration process for other than a federally owned building or buildings or other federally owned facilities.

(2) **ENERGY SAVINGS PERFORMANCE CONTRACT.**—The term “energy savings performance contract” means a contract that provides for the performance of services for the design, acquisition, installation, testing, operation, and, where appropriate, maintenance and repair of an identified energy conservation measure or series of measures at one or more locations. Such contracts—

(A) may provide for appropriate software licensing agreements; and

(B) shall, with respect to an agency facility that is a public building, as defined in section 13(1) of the Public Buildings Act of 1959 (40 U.S.C. 612(1)), be in compliance with the prospectus requirements and procedures of section 7 of the Public Buildings Accountability Act of 1959 (40 U.S.C. 606).

(3) **NONBUILDING APPLICATION.**—The term “nonbuilding application” means—

(A) any class of vehicles, devices, or equipment that is transportable under its own power by land, sea, or air that consumes energy from any fuel source for the purpose of such transportability, or to maintain a controlled environment within such vehicle, device, or equipment; or

(B) any Federally owned equipment used to generate electricity or transport water.

(4) **SECONDARY SAVINGS.**—The term “secondary savings” means additional energy or cost savings that are a direct consequence of the energy savings that result from the energy efficiency improvements that were financed and implemented pursuant to the energy savings performance contract. Such secondary savings may include energy and cost savings that result from a reduction in the need for fuel delivery and logistical support, personnel cost savings and environmental benefits. In the case of electric generation

equipment, secondary savings may include the benefits of increased efficiency in the production of electricity, including revenue received by the Federal Government from the sale of electricity so produced.

(5) **SECRETARY.**—The term “Secretary” means the Secretary of Defense.

SA 3231. Mr. GRAHAM of Florida (for himself and Mr. NELSON of Florida) submitted an amendment intended to be proposed by him to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table, as follows:

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

SEC. 313. ROTARY WING NIGHT VISION GOGGLE TRAINING.

(a) **INCREASE IN AMOUNTS FOR PROCUREMENT, NAVY.**—(1) The amount authorized to be appropriated by section 102(a)(1) for aircraft procurement, Navy, is hereby increased by \$3,850,000.

(2) The amount authorized to be appropriated by section 102(a)(4) for other procurement, Navy, is hereby increased by \$150,000.

(b) **AVAILABILITY OF AMOUNTS FOR ROTARY WING NIGHT VISION GOGGLE TRAINING.**—(1) Of the amount authorized to be appropriated by section 102(a)(1) for aircraft procurement, Navy, as increased by subsection (a)(1), \$3,850,000 shall be available for the development of rotary wing night vision goggle (NVG) training.

(2) Of the amount authorized to be appropriated by section 102(a)(4) for other procurement, Navy, as increased by subsection (a)(2), \$150,000 shall be available for the development of rotary wing night vision goggle training.

(c) **OFFSET.**—Of the amount authorized to be appropriated by section 201(4) for research, development, test, and evaluation, Defense-wide activities, the amount available in Program Element PE 0305199D8Z for horizontal fusion is hereby reduced by \$4,000,000.

SA 3232. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table, as follows:

On page 280, after line 22, insert the following:

SEC. 1068. SENSE OF CONGRESS ON CONTRIBUTIONS OF AFRICAN AMERICANS TO THE ARMED FORCES.

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

(1) From the inception of our Nation, many African Americans have given their lives in service to this country in order that Americans could enjoy freedom and prosperity.

(2) Nowhere is this sacrifice more apparent than in the history of the Armed Forces of the United States, and in the current fight against the threat of terrorism within the United States and abroad.

(3) It is important to recognize the extraordinary contributions of African American

soldiers enlisted in the Armed Forces during the era of segregation, when these brave soldiers fought valiantly to ensure freedom and democracy for Americans that they were not, in many instances, able to enjoy.

(4) In September 1945, Secretary of War Robert P. Patterson appointed a board of 3 general officers, which became known as the Gillem Board, to investigate the policy of the United States Army with respect to African Americans and to prepare a new policy that would provide for the efficient use of African Americans in the Army.

(5) The April 1946 Gillem Board report, titled “Utilization of Negro Manpower in the Postwar Army Policy,” concluded that the future policy of the Army should be to “eliminate, at the earliest practicable moment, any special consideration based on race.”

(6) On October 29, 1947, the President’s Committee on Civil Rights issued a landmark report titled “To Secure These Rights”, which condemned segregation, in particular segregation in the Armed Forces. The report recommended legislation and administrative action “to end immediately all discrimination and segregation based on race, color, creed or national origin in... all branches of the Armed Services.”

(7) On July 26, 1948, President Truman signed Executive Order 9981, which stated that “there shall be equality of treatment and opportunity for all persons in the armed services without regard to race, color, religion, or national origin.” The order also established the President’s Committee on Equality of Treatment and Opportunity in the Armed Services, which included two African American members among its initial members.

(8) On April 1, 1949, Secretary of Defense Louis Johnson issued a directive to the Secretaries of the Army, Navy, and Air Force that stated that it was the policy of the Department of Defense that there should be equality of treatment and opportunity for all in the armed services, and that “qualified Negro personnel shall be assigned to fill any type of position... without regard to race.”

(9) On May 11, 1949, Secretary of Defense Louis Johnson approved the integration plans of the Air Force, but rejected those of the Army and the Navy.

(10) On June 7, 1949, Secretary of Defense Louis Johnson accepted a revised Navy integration plan.

(11) On March 13, 1950, the Army agreed to abolish its 10 percent recruitment quota for African Americans.

(12) On March 18, 1951, The Department of Defense announced that all basic training within the United States had been integrated.

(13) In October 1953, the Army announced that 95 percent of African American soldiers in the Army were serving in integrated units.

(b) **SENSE OF CONGRESS.**—It is the sense of Congress—

(1) to apologize for the racial segregation that was enforced by the United States Government upon African American soldiers who defended the United States prior to the desegregation of the Armed Forces;

(2) that the United States has been richly blessed by the contributions and sacrifices of African Americans;

(3) that the African Americans who served in the Armed Forces of the United States were heroes who were willing to see beyond their own oppression and envision a future society that would be fully inclusive of all citizens, regardless of their race; and

(4) because of the sacrifices of these heroes, our Nation has prospered and grown into a symbol of freedom emulated by countries around the world.

(c) CLAIMS NOT AUTHORIZED.—This section shall not be construed to authorize any claim against the United States and shall not be construed as a settlement of any claim against the United States.

SA 3233. Mr. LOTT (for himself and Mr. GRAHAM of South Carolina) submitted an amendment intended to be proposed by him to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table, as follows:

On page 35, between lines 6 and 7, insert the following:

SEC. 232. SENSE OF THE SENATE REGARDING FUNDING OF THE ADVANCED SHIPBUILDING ENTERPRISE UNDER THE NATIONAL SHIPBUILDING RESEARCH PROGRAM OF THE NAVY.

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

(1) The budget for fiscal year 2005, as submitted to Congress by the President, provides \$10,300,000 for the Advanced Shipbuilding Enterprise under the National Shipbuilding Research Program of the Navy.

(2) The Advanced Shipbuilding Enterprise is an innovative program to encourage greater efficiency in the national technology and industrial base.

(3) The leaders of the United States shipbuilding industry have embraced the Advanced Shipbuilding Enterprise as a method for exploring and collaborating on innovation in shipbuilding and ship repair that collectively benefits all components of the industry.

(b) SENSE OF THE SENATE.—It is the sense of the Senate—

(1) that the Senate—

(A) strongly supports the innovative Advanced Shipbuilding Enterprise under the National Shipbuilding Research Program as an enterprise between the Navy and industry that has yielded new processes and techniques that reduce the cost of building and repairing ships in the United States; and

(B) is concerned that the future-years defense program of the Department of Defense that was submitted to Congress for fiscal year 2005 does not reflect any funding for the Advanced Shipbuilding Enterprise after fiscal year 2005; and

(2) that the Secretary of Defense should continue to provide in the future-years defense program for funding the Advanced Shipbuilding Enterprise at a sustaining level in order to support additional research to further reduce the cost of designing, building, and repairing ships.

SA 3234. Mr. NELSON of Florida (for himself, Mrs. DOLE, Mr. CORZINE, Mr. NELSON of Nebraska, Mr. LEAHY, Mrs. MURRAY, and Mr. GRAHAM of Florida) submitted an amendment intended to be proposed by him to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table, as follows:

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

SEC. 313. FAMILY READINESS PROGRAM OF THE NATIONAL GUARD.

(a) AMOUNT FOR PROGRAM.—The amount authorized to be appropriated by section 301(1) for operation and maintenance for the Army is hereby increased by \$10,000,000 for the Family Readiness Program of the National Guard.

(b) OFFSET.—The amount authorized to be appropriated by section 301(1) for operation and maintenance for the Army is hereby reduced by \$10,000,000 due to excessive unobligated balances.

SA 3235. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table, as follows:

On page 280, after line 22, insert the following:

SEC. ____ . BROADCAST DECENCY ENFORCEMENT ACT OF 2004.

(a) SHORT TITLE.—This section may be cited as the “Broadcast Decency Enforcement Act of 2004”.

(b) INCREASE IN PENALTIES FOR OBSCENE, INDECENT, AND PROFANE BROADCASTS.—Section 503(b)(2) of the Communications Act of 1934 (47 U.S.C. 503(b)(2)) is amended—

(1) by redesignating subparagraphs (C) and (D) as subparagraphs (D) and (E), respectively;

(2) by inserting after subparagraph (B) the following new subparagraph:

“(C) Notwithstanding subparagraph (A), if the violator is—

“(i)(I) a broadcast station licensee or permittee; or

“(II) an applicant for any broadcast license, permit, certificate, or other instrument or authorization issued by the Commission; and

“(ii) determined by the Commission under paragraph (1) to have broadcast obscene, indecent, or profane language, the amount of any forfeiture penalty determined under this subsection shall not exceed \$275,000 for each violation or each day of a continuing violation, except that the amount assessed for any continuing violation shall not exceed a total of \$3,000,000 for any single act or failure to act.”; and

(3) in subparagraph (D), as redesignated by paragraph (1), by striking “subparagraph (A) or (B)” and inserting “subparagraph (A), (B), or (C)”.

SA 3236. Mr. TALENT submitted an amendment intended to be proposed by him to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table, as follows:

On page 131, between lines 17 and 18, insert the following:

SEC. 653. ACCEPTANCE OF FREQUENT TRAVELER MILES, CREDITS, AND TICKETS TO FACILITATE THE AIR OR SURFACE TRAVEL OF CERTAIN MEMBERS OF THE ARMED FORCES AND THEIR FAMILIES.

Section 2608 of title 10, United States Code, is amended—

(1) by redesignating subsections (g) through (k) as subsections (h) through (l), respectively; and

(2) by inserting after subsection (f) the following new subsection:

“(g) OPERATION HERO MILES.—(1) The Secretary of Defense may use the authority of subsection (a) to accept the donation of frequent traveler miles, credits, and tickets for air or surface transportation issued by any air carrier or surface carrier that serves the public and that consents to such donation, and under such terms and conditions as the air or surface carrier may specify. The Secretary shall designate a single office in the Department of Defense to carry out this subsection, including the establishment of such rules and procedures as may be necessary to facilitate the acceptance of such frequent traveler miles, credits, and tickets.

“(2) Frequent traveler miles, credits, and tickets accepted under this subsection shall be used only in accordance with the rules established by the air carrier or surface carrier that is the source of the miles, credits, or tickets and shall be used only for the following purposes:

“(A) To facilitate the travel of a member of the armed forces who—

“(i) is deployed on active duty outside the United States away from the permanent duty station of the member in support of a contingency operation; and

“(ii) is granted, during such deployment, rest and recuperative leave, emergency leave, convalescent leave, or another form of leave authorized for the member.

“(B) In the case of a member of the armed forces recuperating from an injury or illness incurred or aggravated in the line of duty during such deployment, to facilitate the travel of family members of the member to be reunited with the member.

“(3) For the use of miles, credits, or tickets under paragraph (2)(B) by family members of a member of the armed forces, the Secretary may, as the Secretary determines appropriate, limit—

“(A) eligibility to family members who, by reason of affinity, degree of consanguinity, or otherwise, are sufficiently close in relationship to the member of the armed forces to justify the travel assistance;

“(B) the number of family members who may travel; and

“(C) the number of trips that family members may take.

“(4) Notwithstanding paragraph (2), the Secretary of Defense may, in an exceptional case, authorize a person not described in subparagraph (B) of that paragraph to use frequent traveler miles, credits, or a ticket accepted under this subsection to visit a member of the armed forces described in such subparagraph if that person has a notably close relationship with the member. The frequent traveler miles, credits, or ticket may be used by such person only in accordance with such conditions and restrictions as the Secretary determines appropriate and the rules established by the air carrier or surface carrier that is the source of the miles, credits, or ticket.

“(5) The Secretary of Defense shall encourage air carriers and surface carriers to participate in, and to facilitate through minimization of restrictions and otherwise, the donation, acceptance, and use of frequent traveler miles, credits, and tickets under this section.

“(6) The Secretary of Defense may enter into an agreement with a nonprofit organization to use the services of the organization—

“(A) to promote the donation of frequent traveler miles, credits, and tickets under paragraph (1), except that amounts appropriated to the Department of Defense may not be expended for this purpose; and

“(B) to assist in administering the collection, distribution, and use of donated frequent traveler miles, credits, and tickets.

“(7) Members of the armed forces, family members, and other persons who receive air or surface transportation using frequent traveler miles, credits, or tickets donated under this subsection are deemed to recognize no income from such use. Donors of frequent traveler miles, credits, or tickets under this subsection are deemed to obtain no tax benefit from such donation.

“(8) In this subsection, the term ‘family member’ has the meaning given that term in section 411h(b)(1) of title 37.”

SA 3237. Mr. CAMPBELL submitted an amendment intended to be proposed by him to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

On page 86, between lines 9 and 10, insert the following:

SEC. 543. REQUIREMENTS FOR AWARD OF COMBAT INFANTRYMAN BADGE AND COMBAT MEDICAL BADGE WITH RESPECT TO SERVICE IN KOREA AFTER JULY 28, 1953.

(a) STANDARDIZATION OF REQUIREMENTS WITH OTHER GEOGRAPHIC AREAS.—(1) Chapter 357 of title 10, United States Code, is amended by adding at the end the following new section:

“§ 3757. Korea defense service: Combat Infantryman Badge; Combat Medical Badge

“The Secretary of the Army shall provide that, with respect to service in the Republic of Korea after July 28, 1953, eligibility of a member of the Army for the Combat Infantryman Badge or the Combat Medical Badge shall be met under criteria and eligibility requirements that, as nearly as practicable, are identical to those applicable, at the time of such service in the Republic of Korea, to service elsewhere without regard to specific location or special circumstances. In particular, such eligibility shall be established—

“(1) without any requirement for service by the member in an area designated as a ‘hostile fire area’ (or by any similar designation) or that the member have been authorized hostile fire pay;

“(2) without any requirement for a minimum number of instances (in excess of one) in which the member was engaged with the enemy in active ground combat involving an exchange of small arms fire; and

“(3) without any requirement for personal recommendation or approval by commanders in the member’s chain of command other than is generally applicable for service at locations outside the Republic of Korea.”

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“3757. Korea defense service: Combat Infantryman Badge; Combat Medical Badge.”

(b) APPLICABILITY TO SERVICE BEFORE DATE OF ENACTMENT.—The Secretary of the Army

shall establish procedures to provide for the implementation of section 3757 of title 10, United States Code, as added by subsection (a), with respect to service in the Republic of Korea during the period between July 28, 1953, and the date of the enactment of this Act. Such procedures shall include a requirement for submission of an application for award of a badge under that section with respect to service before the date of the enactment of this Act and the furnishing of such information as the Secretary may specify.

SA 3238. Mr. GRAHAM of South Carolina submitted an amendment intended to be proposed by him to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

On page 221, between the matter following line 17 and line 18, insert the following:

SEC. 915. AUTHORITIES OF THE JUDGE ADVOCATES GENERAL.

(a) DEPARTMENT OF THE ARMY.—(1) Section 3019(b) of title 10, United States Code, is amended by striking “The General Counsel” and inserting “Subject to sections 806 and 3037 of this title, the General Counsel”.

(2)(A) Section 3037 of such title is amended to read as follows:

“§ 3037. Judge Advocate General, Assistant Judge Advocate General: appointment; duties

“(a) POSITION OF JUDGE ADVOCATE GENERAL.—There is a Judge Advocate General in the Army, who is appointed by the President, by and with the advice and consent of the Senate, from officers of the Judge Advocate General’s Corps. The term of office is four years, but may be sooner terminated or extended by the President. The Judge Advocate General, while so serving, has the grade of lieutenant general.

“(b) APPOINTMENT.—The Judge Advocate General of the Army shall be appointed from those officers who at the time of appointment are members of the bar of a Federal court or the highest court of a State or Territory, and who have had at least eight years of experience in legal duties as commissioned officers.

“(c) DUTIES.—The Judge Advocate General, in addition to other duties prescribed by law—

“(1) is the legal adviser of the Secretary of the Army, the Chief of Staff of the Army, and the Army Staff, and of all officers and agencies of the Department of the Army;

“(2) shall direct and supervise the members of the Judge Advocate General’s Corps and civilian attorneys employed by the Department of the Army (other than those assigned or detailed to the Office of the General Counsel of the Army) in the performance of their duties;

“(3) shall direct and supervise the performance of duties under chapter 47 of this title (the Uniform Code of Military Justice) by any member of the Army;

“(4) shall receive, revise, and have recorded the proceedings of courts of inquiry and military commissions; and

“(5) shall perform such other legal duties as may be directed by the Secretary of the Army.

“(d) POSITION OF ASSISTANT JUDGE ADVOCATE GENERAL.—(1) There is an Assistant Judge Advocate General in the Army, who is appointed by the President, by and with the

advice and consent of the Senate, from officers of the Army who have the qualifications prescribed in subsection (b) for the Judge Advocate General. The term of office of the Assistant Judge Advocate General is four years, but may be sooner terminated or extended by the President. An officer appointed as Assistant Judge Advocate General who holds a lower regular grade shall be appointed in the regular grade of major general.

“(2) When there is a vacancy in the office of the Judge Advocate General, or during the absence or disability of the Judge Advocate General, the Assistant Judge Advocate General shall perform the duties of the Judge Advocate General until a successor is appointed or the absence or disability ceases.

“(3) When paragraph (2) cannot be complied with because of the absence or disability of the Assistant Judge Advocate General, the heads of the major divisions of the Office of the Judge Advocate General, in the order directed by the Secretary of the Army, shall perform the duties of the Judge Advocate General, unless otherwise directed by the President.

“(e) APPOINTMENTS RECOMMENDED BY SELECTION BOARDS.—Under regulations prescribed by the Secretary of Defense, the Secretary of the Army, in selecting an officer for recommendation to the President under subsection (a) for appointment as the Judge Advocate General or under subsection (d) for appointment as the Assistant Judge Advocate General, shall ensure that the officer selected is recommended by a board of officers that, insofar as practicable, is subject to the procedures applicable to selection boards convened under chapter 36 of this title.”

(B) The item relating to such section in the table of sections at the beginning of chapter 305 of such title is amended to read as follows:

“3037. Judge Advocate General, Assistant Judge Advocate General: appointment; duties.”

(b) DEPARTMENT OF THE NAVY.—(1) Section 5019(b) of title 10, United States Code, is amended by striking “The General Counsel” and inserting “Subject to sections 806 and 5148 of this title, the General Counsel”.

(2) Section 5148 of such title is amended—

(A) in subsection (b), by striking the fourth sentence and inserting the following: “The Judge Advocate General, while so serving, has the grade of vice admiral or lieutenant general, as appropriate.”; and

(B) in subsection (d)—

(i) by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively; and

(ii) by inserting after paragraph (1) the following new paragraph (2):

“(2) direct and supervise the members of the Judge Advocate General’s Corps in the performance of their duties.”

(c) DEPARTMENT OF THE AIR FORCE.—(1) Section 8019(b) of title 10, United States Code, is amended by striking “The General Counsel” and inserting “Subject to sections 806 and 8037 of this title, the General Counsel”.

(2) Section 8037 of such title is amended—

(A) in subsection (a), by striking the third sentence and inserting the following: “The Judge Advocate General, while so serving, has the grade of lieutenant general.”; and

(B) in subsection (c)—

(i) by striking “General shall,” in the matter preceding paragraph (1) and inserting “General.”; and

(ii) by redesignating paragraphs (1) and (2) as paragraphs (4) and (5), respectively, and, in each such paragraph, by inserting “shall” before the first word; and

(iii) by inserting after paragraph (1) the following new paragraphs:

“(1) is the legal adviser of the Secretary of the Air Force, the Chief of Staff of the Air Force, and the Air Staff, and of all officers and agencies of the Department of the Air Force;

“(2) shall direct and supervise the members of the Air Force designated as judge advocates and civilian attorneys employed by the Department of the Air Force (other than those assigned or detailed to the Office of the General Counsel of the Air Force) in the performance of their duties;

“(3) shall direct and supervise the performance of duties under chapter 47 of this title (the Uniform Code of Military Justice) by any member of the Air Force;”.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING HOUSING AND URBAN AFFAIRS

Mr. ALLARD. 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 Thursday, May 20, 2004, at 10 a.m. to conduct a hearing on “Oversight of the Extended Custodial Inventory Program.”

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. ALLARD. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Thursday, May 20, 2004, at 10:15 a.m. on spam.

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

COMMITTEE ON FINANCE

Mr. ALLARD. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet in open Executive Session during the session on May 20, 2004; to consider favorably reporting the nominations of John O. Colvin, to be Judge, U.S. Tax Court, renomination for a second term; Stuart A. Levey, to be Under Secretary of the Treasury for Enforcement and Juan C. Zarate, to be Assistant Secretary of the Treasury, Terrorist Financing and Financial Crimes.

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

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. ALLARD. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet for a hearing entitled “Prescription Drug Reimportation” during the session of the Senate on Thursday, May 20, 2004, at 10:00 a.m. in SD-430.

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

COMMITTEE ON INDIAN AFFAIRS

Mr. ALLARD. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Thursday, May 20, 2004, at 10:00 a.m. in Room 485 of the Russell Senate Office Building to conduct a hearing on S. 2382, the Native American Connectivity Act.

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

COMMITTEE ON THE JUDICIARY

Mr. ALLARD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a markup on Thursday, May 20, 2004, at 10:30 a.m. in Dirksen Senate Building, room 226.

I. Nominations

Henry W. Saad to be U.S. Circuit Judge for the Sixth Circuit; Jonathan W. Dudas to be Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office

II. Legislation

S. 1735, Gang Prevention and Effective Deterrence Act of 2003 [Hatch, Feinstein, Grassley, Graham, Chambliss, Cornyn, Schumer, Biden];

S. 1933, Enhancing Federal Obscenity Reporting and Copyright Enforcement (ENFORCE) Act of 2003 [Hatch, Feinstein, Cornyn];

S. 1635, A bill to amend the Immigration and Nationality Act to ensure the integrity of the L-1 visa for intracompany transferees [Chambliss];

S. 1129, Unaccompanied Alien Child Protection Act of 2003 [Feinstein, DeWine, Feingold, Kennedy, Leahy, Specter, Edwards, Durbin, Kohl, Schumer];

S. 2013, Satellite Home Viewer Extension Act of 2004 [Hatch, Leahy, DeWine, Kohl];

S. Res. 362, a resolution expressing the sense of the Senate on the dedication of the National World War II Memorial on May 29, 2004, in recognition of the duty, sacrifices, and valor of the members of the Armed Forces of the United States who served in World War II. [Graham (FL), Biden, Chambliss, Durbin, Feingold, Grassley, Hatch, Cornyn, DeWine, Edwards, Graham, (SC)]

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

COMMITTEE ON THE JUDICIARY

Mr. ALLARD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on Thursday, May 20, 2004 on “FBI Oversight: Terrorism and Other Topics” in the Dirksen Senate Office Building, room 226 immediately following the full committee markup scheduled for 10:30 a.m. in Dirksen Senate Office Building, room 226.

Witness List

Panel I: Robert S. Mueller III, Director, Federal Bureau of Investigation, Department of Justice, Washington, DC.

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

COMMITTEE ON VETERANS' AFFAIRS

Mr. ALLARD. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet during the session of the Senate on Thursday, May 20, 2004, to markup the nomination of Pamela M.

Iovino, to be Assistant Secretary of Veterans Affairs for Congressional Affairs.

The meeting will take place in S-216 in the Capitol, immediately following the first roll call vote of the Senate after 12 p.m.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. ALLARD. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on May 20, 2004 at 2:30 p.m. to hold a closed Business Meeting.

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

SUBCOMMITTEE ON CLEAN AIR, CLIMATE CHANGE, AND NUCLEAR SAFETY

Mr. ALLARD. Mr. President. I ask unanimous consent that the subcommittee on Clean Air, Climate Change, and Nuclear Safety be authorized to meet on Thursday, May 20th at 10:30 a.m. rather than 9:30 a.m. to conduct an oversight hearing on the Nuclear Regulatory Commission.

The meeting will be held in SD-406.

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

SUBCOMMITTEE ON NATIONAL PARKS

Mr. ALLARD. Mr. President, I ask unanimous consent that the Subcommittee on National Parks of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Thursday, May 20 at 2:30 p.m.

The purpose of the hearing is to receive testimony on the following bills: S. 1672, to expand the Timucuan Ecological and Historic Preserve, Florida; S. 1789 and H.R. 1616, to authorize the exchange of certain lands within the Martin Luther King, Junior, National Historic Site for lands owned by the city of Atlanta, GA. and for other purposes; S. 1808, to provide for the preservation and restoration of historic buildings at historically women's public colleges or universities; S. 2167, to establish the Lewis and Clark National Historical Park in the states of Washington and Oregon, and for other purposes; and S. 2173, to further the purposes of the Sand Creek Massacre National Historic Site Establishment Act of 2000.

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

ALBUQUERQUE BIOLOGICAL PARK TITLE CLARIFICATION ACT

On Wednesday, May 19, 2004, the Senate passed S. 213, as follows:

S. 213

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 “Albuquerque Biological Park Title Clarification Act”.

SEC. 2. PURPOSE.

The purpose of this Act is to direct the Secretary of the Interior to issue a quitclaim