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No. 132

## Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable KIRSTEN GILLIBRAND, a Senator from the State of New York.

### PRAYER

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

Let us pray.

Heavenly Father, thank You for our many freedoms. Help us to use them, not to hide behind safe walls but to make our world a better place. Teach us to live with eternity in our view and to refuse to let the world squeeze us into its mold.

Lord, give wisdom to our lawmakers. May they seek Your approval above the hollow applause of men and women. As the servants of this Nation, may they strive to be filled with Your spirit of wisdom, knowledge, and understanding. Use our Senators to reverse the spiritual and moral drift of our Nation by exemplifying righteousness, repentance, rectitude, and reconciliation in the lives they lead.

We pray in Your Holy Name. Amen.

### PLEDGE OF ALLEGIANCE

The Honorable KIRSTEN GILLIBRAND 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. BYRD).

The bill clerk read the following letter:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
Washington, DC, September 17, 2009.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby

appoint the Honorable KIRSTEN GILLIBRAND, a Senator from the State of New York, to perform the duties of the Chair.

ROBERT C. BYRD,  
President pro tempore.

Mrs. GILLIBRAND 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. REID. Madam President, following leader remarks, the Senate will be in a period for the transaction of morning business for 1 hour, with Senators allowed to speak for up to 10 minutes each. However, I ask unanimous consent that the full 30 minutes of the majority be controlled by the Senator from Pennsylvania, Mr. SPECTER.

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

Mr. REID. The majority will control the first 30 minutes, the Republicans will control the second 30 minutes. Following morning business, the Senate will begin consideration of H.R. 2996, the Interior appropriations bill. Following the managers' opening statements, the floor will be open for Senators to offer amendments. At 2 p.m., we will resume consideration of H.R. 3288, the Transportation-HUD appropriations bill, and proceed to a series of up to six rollcall votes and complete action on that bill.

I think it is important to say to everyone that we are now in a mode of doing some legislation. I appreciate very much the cooperation of all Senators, Democrats and Republicans. We are now in the mode of, when a bill comes up, people can offer amendments. For a number of years, that

simply was not the case. When there are circumstances and a decision is made not to allow amendments, I understand, after people are in the habit of being able to offer amendments, how concerned they become. We will approach that whenever it comes about, if there is a decision made to so-called fill the tree and not allow amendments.

In the way we are working, we are taking some tough votes. Democrats are offering some difficult amendments, Republicans are offering some difficult amendments. But that is OK. We are working through these bills. We could have been voting on cloture on the Transportation appropriations bill. We could have been invoking cloture on that bill this morning. It simply has not been necessary.

We have some nominations we are still working our way through. One Republican Senator has held up a nomination for quite some time. He came to me yesterday and said: You can go ahead and put that one through.

I am satisfied and confident this is the way the Senate should operate.

We have the health care bill on the horizon. If we are able to get 60 votes to proceed to it, it is going to take everyone's cooperation and patience to work through the amendments that will be necessary to go forward on that bill. I am hopeful and confident we can work through that bill. If not, we will have to go to reconciliation, which I hope we don't have to do, but if we have to, we have to do that.

Anyway, I feel good about what we have been able to accomplish this week. I repeat, it sets a pattern of how we should be legislating.

Behind me is Senator SPECTER. He came to me a number of times last year and said: Are there going to be amendments allowed? And I said yes. He said he would vote to move forward on the bill. I think there were other people who felt the same way, but they just were not as vocal as Senator SPECTER.

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



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I appreciate the good work, including that of my colleague, the senior Senator from Kentucky, who is one of the people who has stressed how important it is to have amendments. I recognize he cannot control his Senators all the time, nor can I. In spite of that, we have been able to work through legislation.

I want to get the appropriations bills done, as does Senator MCCONNELL. He and I have been members of the Appropriations Committee during our entire tenure in the Senate. It is important that we work through these bills. As of today, we will have completed five of them. We are going to do our utmost to do the conference reports before the first of October. We may have to—not may—we will have to have a short-term CR, and by the end of that short-term CR, hopefully we can complete all the appropriations bills.

#### RECOGNITION OF THE MINORITY LEADER

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

#### HEALTH CARE

Mr. MCCONNELL. Madam President, over the past few months, the American people have been sending us a clear message on health care. They want reforms that make health care more affordable and more accessible, that increase choice, and that keep government out of their health care decisions. What they don't want are so-called reforms that cut seniors' health care, force Americans off private health plans they have, cost hundreds of billions of dollars, raise taxes, and put government bureaucrats in charge of health care. But that is exactly what they would get under the plan released by the chairman of the Senate Finance Committee just yesterday. So while I appreciate the hard work of the senior Senator from Montana on this legislation—and he certainly has spent enormous amounts of time on it—I am extremely disappointed that it does not reflect the concerns Americans have been expressing for weeks about health care reform. That much is very clear.

Now it is time to let the American people study the bill themselves. Before we bring any legislation to the floor, we need to make sure the American people and all of our colleagues, every single one of them, have the time to carefully read it and evaluate its potential effects on our health care system and the economy in general. Americans got rushed on the stimulus. They will not be rushed on health care—not on an issue that affects every single American. Before we discuss or vote on any plan, we need to know what it does, how much it costs, and how it will be paid for.

Here is what we know now about the Finance Committee plan.

First, the Finance Committee proposal would cut hundreds of billions of

dollars from seniors' Medicare benefits to pay for new government programs. America's seniors want us to fix Medicare, not take money from it to pay for a new, untested, trillion-dollar government program. This bill would also break the President's promise to seniors that they will not be required to change the coverage they have. Right now, 11 million seniors are enrolled in Medicare Advantage, a program that gives them more options and choices when it comes to their health care. Ninety percent of these seniors are satisfied with their plan. The Finance Committee bill would make massive cuts to Medicare Advantage and force some seniors to give it up, something that even one of our Democratic friends just yesterday called "intolerable."

Senators from both sides of the aisle are concerned about the new burdens this bill would impose on States in the form of Medicaid expansion. Unlike the Federal Government, many States are constitutionally—in fact, I think virtually all of them are constitutionally required to have balanced budgets. This means that if politicians in Washington force them to increase spending on Medicaid, they very likely will have to cut services or raise taxes right in the middle of a recession.

The Finance Committee bill would kill jobs by forcing employers to provide insurance, regardless of whether they can afford it. While advocates of the bill say it does not contain an employer mandate, their claims just do not square with the facts. If you tell an employer that they either have to provide insurance or pay a penalty, that is a mandate.

The Finance Committee bill contains approximately \$350 billion in new taxes, and some of these taxes, such as those on medical devices ranging from MRIs to Q-tips and new taxes on insurance plans, will drive up insurance premiums and make health care even more expensive for American families. If there was one thing we thought everybody agreed on, it was that any reform should not make health care more expensive. Yet this Q-tip tax would actually increase health care costs. That is why Senators from both parties have warned that it would put thousands of jobs in jeopardy and actually deter innovation.

The Senate Finance Committee bill also contains a co-op, which is just another name for a government plan. It still gives the government far too much control over our health care system. It cuts seniors' benefits, spends hundreds of billions of dollars, and raises taxes to pay for another trillion-dollar government program. And it still does not contain the kind of commonsense reforms the American people support and Republicans have consistently recommended, such as meaningful reforms to get rid of junk lawsuits against doctors and hospitals and reforms to level the playing field when it comes to taxes on a health care plan.

There is no question that Americans want health care reform, but they want the right reforms and they want us to take the time we need to get it right. During the month of August, the American people sent us a clear message on health care. I am disappointed that many of my colleagues apparently were not listening.

#### CONSTITUTION DAY 2009

Mr. MCCONNELL. Madam President, the National Constitution Center in Philadelphia first opened its doors on July 4, 2003. Situated just steps away from the Liberty Bell and historic Independence Hall, it is the only museum in America solely dedicated to honoring America's Constitution.

Our Constitution was signed on this day—this very day—in 1787 by 39 brave, outstanding Americans. Now, 222 years later, we thank them for devising the finest system of government mankind has ever produced. By recognizing that rights flow from the people to their government and not the other way around, our Constitution is firmly dedicated to the preservation of liberty. That is why we celebrate every September 17 as Constitution Day. It is a day for all Americans to learn more about the Constitution, to understand how it works, and to appreciate how it has guided our Nation through growth and through change.

I thank the senior Senator from West Virginia, Mr. BYRD, for sponsoring this legislation 5 years ago to observe this historic day. We all know the love Senator BYRD has for his country and his country's history. He knows that you cannot truly understand how liberty is preserved in America without understanding the Constitution. Thank you, Senator, for your efforts to ensure that future generations also learn this important lesson.

On this day, we recognize citizens across the Nation who are honoring our Constitution by honoring its values and passing them along to our children and grandchildren. And we say a special thanks for the men and women in uniform who defend it. Thanks to them, the Constitution's promise will be there for the next generations of Americans.

I yield the floor.

#### RESERVATION OF LEADER TIME

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

#### MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to a period of morning business for 1 hour, with Senators permitted to speak therein for up to 10 minutes each, with the time equally divided and controlled between the two leaders or their designees, with

the majority controlling the first half and the minority controlling the second half.

The Senator from Pennsylvania.

### U.S. POLICY IN AFGHANISTAN

Mr. SPECTER. Madam President, I have sought recognition to comment about U.S. policy in Afghanistan. During the course of the August recess, and of course with my customary practice, I traveled to Pennsylvania's 67 counties to take the pulse of my constituents. While there are many problems, there was considerable concern about what our policy is going to be in Afghanistan. I note at this time, according to yesterday's New York Times, there have been 821 American servicemembers killed in Afghanistan, some \$189 billion has been appropriated for Afghanistan, and by the end of this year there will be 68,000 American military personnel and an additional 38,000 NATO troops from other countries in Afghanistan.

Madam President, I ask unanimous consent that an extensive floor statement be included in the text of the CONGRESSIONAL RECORD at the conclusion of my statement.

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

(See exhibit 1.)

Mr. SPECTER. Madam President, I intend now to summarize the substance of my concerns.

The approach on our policy has been outlined in testimony earlier this week by ADM Michael Mullen, Chairman of the Joint Chiefs of Staff, in these two statements: Our policy

... [is] to deny sanctuary to al-Qaida and the Taliban now and to generate a stable and secure Afghanistan capable of denying al-Qaida return after withdrawal of our combat forces and while we sustain partnership and commitment to political and economic development in that nation.

Admiral Mullen told the committee:

A properly resourced counterinsurgency probably means more forces, without question more time and more commitment to the protection of the Afghan people and to the development of good governance.

While I think it is laudable to want to protect the Afghan people and to provide good governance there, it is my view that is not of sufficient national interest for the United States to put our troops at risk or to expend substantial additional sums there. The principal question, as I see it, is whether Afghanistan is indispensable to be secured to prevent al-Qaida from launching another attack against the United States. If that is the purpose, that is the necessity, then we must undertake anything, whatever it costs, to stop al-Qaida from again attacking the United States.

But I believe there is a series of questions which have to be answered before we can assess whether that is an indispensable part of U.S. policy. Toward that end, I have written to the Sec-

retary of Defense, the Secretary of State, the Director of National Intelligence, and the Director of the Central Intelligence Agency on a series of questions which I think requires answers before we can make an informed judgment as to whether the expenditures in Afghanistan are in our specific and key national interests. These are the questions which I have posed for these leaders:

What are the prospects for military success in Afghanistan against al-Qaida and the Taliban? What will the requirements be in the next year as to additional U.S. troops and the cost of our involvement in Afghanistan? What may we reasonably expect NATO or other allies to contribute in troops and dollars to our efforts in Afghanistan? What other areas around the world are open to al-Qaida as potential bases for another attack on the United States? What will be done besides military action, such as nation building and stabilizing and developing Afghanistan, so that they will be prepared to handle their own problems so we can withdraw? What assistance can we reasonably expect from Pakistan in fighting al-Qaida and the Taliban and stopping both from seeking refuge by moving in and out of Pakistan? How does the questionable legitimacy of President Karzai's status as result of allegations of proof of election fraud impact on our ability to succeed in Afghanistan? How does the illegal drug trafficking and alleged involvement of high-ranking officials in the Karzai government in such drug trafficking impact on our efforts in Afghanistan? What does U.S. intelligence show as to any possible plans by al-Qaida to attack the United States or anyone else? What does U.S. intelligence show as to whether India poses a real threat to attack Pakistan? What does U.S. intelligence show as to whether Pakistan poses a real threat to attack India? What does U.S. intelligence show as to whether Pakistan could reasonably devote additional military force to assist us in the fight against the Taliban? What does U.S. intelligence show as to whether the Government of Pakistan or influential officials in the Pakistani Government would consider negotiating with India for reducing nuclear weapons or other confidence-building measures to diffuse the tension with India if actively encouraged to do so by the United States? What does U.S. intelligence show as to whether the Government of India or some influential officials in the Indian Government would consider negotiating with Pakistan for reducing nuclear weapons or other confidence-building measures to diffuse the tension with Pakistan if actively encouraged by the United States to do so?

We have learned a bitter lesson from Iraq—that we did not have answers to important questions in formulating our policy there. Had we known that Saddam Hussein did not have weapons of mass destruction, I think the United States would not have gone into Iraq.

These questions were posed by me when we had the debate on the resolution for authorizing the use of force. On October 7, 2002, I said the following:

What was the extent of Saddam Hussein's control over weapons of mass destruction? What would it cost by way of casualties to topple Saddam Hussein? What would be the consequences in Iraq? Who would govern after Saddam was toppled? What would happen in the region, the impact on the Arab world, and the impact on Israel?

The President, as Commander in Chief, as we all know, has primary responsibility to conduct war but the Constitution vests in the Congress the sole authority to declare war. Regrettably, the congressional authority and responsibility has been dissipated with what we have seen in Korea and in Vietnam and in the authorizations for the use of force in the two incursions into Iraq. We do not have the authority under separation of powers to delegate that authority. And had we asked the tough questions and had we gotten correct, honest, accurate answers, it would have been a great help to President George W. Bush in formulating a policy as to Iraq. I think now it would be a great help to President Barack Obama for the Congress to exercise our persistence in finding correct answers to these kinds of tough questions.

We have a situation with Pakistan today which gives great pause. The United States has advanced \$15.5 billion to Pakistan since 9/11. Some \$10.9 billion of that money has gone for security, and there is a real question as to whether we have gotten our monies worth. The comments from the New York Times on December 24, 2007 raised these issues:

Money has been diverted to help finance weapons systems designed to counter India, not al-Qaida or the Taliban ... the United States has paid tens of millions of dollars in inflated Pakistani reimbursement claims for fuel, ammunition and other costs.

Dr. Anthony Cordesman, of the Center for Strategic and International Studies, wrote on April 10 of this year:

Far too much of the military portion of the ... past U.S. aid to Pakistan never was used to help fight the Taliban and al-Qaida or can't be accounted for. Future aid should clearly be tied to clearly defined goals for Pakistani action and full accounting for the money.

The New York Times, on August 30 of this year, pointed out:

The United States has accused Pakistan of illegally modifying American-made missiles to expand its capability to strike land targets, a potential threat to India.

The questions which have been posed in the series of letters which I have outlined go to the issue as to whether India poses a threat to Pakistan. It is hard for me to contemplate that is a serious problem, but we ought to be informed and we ought to be putting our efforts to seeing if we cannot broker a peace treaty between India and Pakistan, which would enable us to get substantial help from Pakistan in our fight against the Taliban.

In 1995, when I was chairman of the Intelligence Committee, Senator Hank

Brown of Colorado and I visited India and Pakistan. When we were in India, we met with Prime Minister Rao, who brought up the subject of a potential nuclear confrontation between India and Pakistan and said he would like to see the subcontinent nuclear free. He knew we were en route to Pakistan to see Prime Minister Benazir Bhutto and he asked us to take up the subject with her, which we did. As a result, I wrote the following letter to President Clinton the day after we left India, and I think it is worth reading in full:

August 28, 1995.

Dear Mr. President: I think it important to call to your personal attention the substance of meetings which Senator Hank Brown and I have had in the last 2 days with Indian Prime Minister Rao and Pakistan Prime Minister Benazir Bhutto. Prime Minister Rao stated that he would be very interested in negotiations which would lead to the elimination of any nuclear weapons on the subcontinent within 10 or 15 years, including renouncing first use of such weapons. His interest in such negotiations with Pakistan would cover bilateral talks, a regional conference which would include the United States, China, and Russia, in addition to India and Pakistan. When we asked Prime Minister Bhutto when she had last talked to Prime Minister Rao, she said she had had no conversations with him during her tenure as prime minister. Prime Minister Bhutto did say that she had initiated a contact through an intermediary but that was terminated when a new controversy arose between Pakistan and India. From our conversations with Prime Minister Rao and Prime Minister Bhutto, it is my sense that both would be very receptive to discussions initiated and brokered by the United States as to nuclear weapons and also delivery missile systems. I am dictating this letter to you by telephone from Damascus so that you will have it at the earliest moment. I am also telefaxing a copy of this letter to Secretary of State Warren Christopher.

In my letter to Secretary of State Clinton, which I sent her last week, I asked her what efforts have been made to broker such a peace treaty between India and Pakistan.

I sent on to her a copy of a letter which I had written to President Clinton; if we could ease the tension between those two countries, if we could persuade Pakistan that India does not pose a threat so Pakistan would not have to marshal their forces along the Indian border but instead could aid the United States in our fight against the Taliban, it would be a very different proposition.

The suggestion has been made now to extend \$7.5 billion in additional funding to Pakistan. It seems to me that is not a good use of our money if it is to follow the same trail as the \$15.5 billion which we have expended in the immediate past. If we can get the assistance of Pakistan in fighting the Taliban, it would be one thing. If we could be assured that the money was being used for the intended purpose and not diverted for other purposes, as it appears the other \$15.5 billion was, it would be a very different picture.

In sum, it seems to me that before we ought to commit additional troops to

Afghanistan, it ought to be a matter of paramount importance, indispensable as a matter of stopping another attack by al-Qaida. But if al-Qaida can organize in some other spot, the issues raised by my questions, it would bear heavily on what our policy in Afghanistan should be.

In addition to the full text of my statement being printed in the RECORD, I ask unanimous consent that copies of my letters to Secretary of State Hillary Clinton, Secretary of Defense Robert Gates, CIA Director and the Director of National Intelligence, Dennis Blair, all be printed in the RECORD, and I yield the floor.

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

U.S. SENATE,

Washington, DC, September 9, 2009.

Hon. ROBERT M. GATES,  
Secretary of Defense, Department of Defense,  
Washington, DC.

DEAR SECRETARY GATES: Congress will be called upon to make important decisions on the war in Afghanistan, whether there is a realistic prospect of succeeding there, and the importance of Afghanistan in stopping al Qaeda from again attacking the United States. In a related matter, in evaluating foreign aid to Pakistan, Congress needs to know whether Pakistan could be persuaded to aid us in fighting the Taliban. In retrospect, important judgments were made on Iraq without sufficient accurate, factual information. I write to you, the Secretary of State, the Director of National Intelligence and the Director of the CIA (copies enclosed) on related issues within their purview.

Is U.S. success in Afghanistan critical in stopping al Qaeda from maintaining a base to plan and facilitate another attack on the United States?

What are the prospects for military success in Afghanistan against the Taliban?

What will the requirements be in the next year as to additional U.S. troops and the cost of our involvement in Afghanistan?

What may we reasonably expect NATO or other allies to contribute in troops and dollars to our efforts in Afghanistan?

What will be done besides military action, such as nation-building, in stabilizing and developing Afghanistan so that they will be prepared to handle their own problems so that we can withdraw?

What assistance can we reasonably expect from Pakistan in fighting the Taliban and stopping the Taliban from seeking refuge by moving in and out of Pakistan?

How does the questionable legitimacy of President Karzai's status as a result of allegations or proof of election fraud impact on our ability to succeed in Afghanistan?

How does the illegal drug trafficking and alleged involvement of high-ranking officials in the Karzai government in such drug trafficking impact on our efforts in Afghanistan?

Thank you for your consideration of this request. I am available to meet with you or your designee for a briefing on these questions.

Sincerely,

ARLEN SPECTER.

Enclosures.

U.S. SENATE,

Washington, DC, September 9, 2009.

Hon. HILLARY RODHAM CLINTON,  
Secretary of State,  
Washington, DC.

DEAR SECRETARY CLINTON: Congress will be called upon to make important decisions on the war in Afghanistan, whether there is a

realistic prospect of succeeding there, and the importance of Afghanistan in stopping al Qaeda from again attacking the United States. In evaluating foreign aid to Pakistan, Congress needs to know whether Pakistan could be persuaded to aid us in fighting the Taliban. In retrospect, important judgments were made on Iraq without sufficient accurate, factual information.

I am writing to the Secretary of Defense, the Director of National Intelligence and Director of the CIA (copies enclosed) to obtain information principally on military and intelligence matters. My inquiries to you are principally on foreign relation issues involving Afghanistan, Pakistan and India.

In August 1995, Senator Hank Brown and I were told by Prime Minister Rao in a visit to New Delhi that India was interested in negotiating with Pakistan to make their subcontinent free of nuclear weapons. Prime Minister Rao asked Senator Brown and me to raise this issue with Pakistan's Prime Minister Benazir Bhutto which we did. I then wrote to President Clinton urging him to broker such negotiations. Those discussions are summarized in a letter which I sent to President Clinton:

AUGUST 28, 1995.

DEAR MR. PRESIDENT: I think it important to call to your personal attention the substance of meetings which Senator Hank Brown and I have had in the last two days with Indian Prime Minister Rao and Pakistan Prime Minister Benazir Bhutto.

Prime Minister Rao stated that he would be very interested in negotiations which would lead to the elimination of any nuclear weapons on his subcontinent within ten or fifteen years including renouncing first use of such weapons. His interest in such negotiations with Pakistan would cover bilateral talks or a regional conference which would include the United States, China and Russia in addition to India and Pakistan.

When we asked Prime Minister Bhutto when she had last talked to Prime Minister Rao, she said that she had no conversations with him during her tenure as Prime Minister. Prime Minister Bhutto did say that she had initiated a contact through an intermediary but that was terminated when a new controversy arose between Pakistan and India.

From our conversations with Prime Minister Rao and Prime Minister Bhutto, it is my sense that both would be very receptive to discussions initiated and brokered by the United States as to nuclear weapons and also delivery missile systems.

I am dictating this letter to you by telephone from Damascus so that you will have it at the earliest moment. I am also telefaxing a copy of this letter to Secretary of State Warren Christopher.

Sincerely,

ARLEN SPECTER.

After returning to the United States, I discussed such a presidential initiative with President Clinton, but my suggestion was not pursued.

If the current tensions and hostilities between India and Pakistan could be eliminated or reduced, Pakistan might be persuaded to increase its military forces to aid us in the fight against the Taliban. I urge you and your Department to undertake an initiative to broker a peace treaty between India and Pakistan if you are not already doing so.

I am also interested in your view as to whether India poses a realistic threat to Pakistan which warrants Pakistan devoting military force to that potential threat, which diverts a military contribution which could aid the U.S. in our fight against the Taliban?

I am also interested in your view of a proposal for the U.S. to grant substantial foreign aid to Pakistan. I raise this question in the context of Pakistan's failure during President Musharaf's tenure to fulfill its commitments on the \$10 billion aid granted by the U.S. from September 11, 2001 to 2007. When Representative Patrick Kennedy and I raised this subject with President Musharaf in a December 2007 meeting in Islamabad, he gave a very unsatisfactory answer.

I am available to meet with you or your designee on these subjects.

Sincerely,

ARLEN SPECTER.

Enclosures.

U.S. SENATE,

Washington, DC, September 9, 2009.

Hon. DENNIS C. BLAIR,

Director of National Intelligence,  
Washington, DC.

DEAR DIRECTOR BLAIR: Congress will be called upon to make important decisions on the war in Afghanistan, whether there is a realistic prospect of succeeding there, and the importance of Afghanistan in stopping al Qaeda from again attacking the United States. In a related matter, in evaluating foreign aid to Pakistan, Congress needs to know whether Pakistan could be persuaded to aid us in fighting the Taliban. In retrospect, important judgments were made on Iraq without sufficient accurate, factual information. I write to you, the Secretary of State, the Secretary of Defense, and the Director of the CIA (copies enclosed) to obtain that information.

How important is Afghanistan to al Qaeda as a base for another attack on the U.S.?

Does al Qaeda have other bases which would be sufficient for them to plan and facilitate another attack on the United States?

What other areas are open to al Qaeda as potential bases for another attack on the United States?

What does U.S. intelligence show as to any possible plans by al Qaeda to attack the United States or anyone else?

What does U.S. intelligence show as to whether India poses a real threat to attack Pakistan?

What does U.S. intelligence show as to whether Pakistan poses a real threat to attack India?

What does U.S. intelligence show as to whether Pakistan could reasonably devote additional military force to assisting us in the fight against the Taliban?

What does U.S. intelligence show as to whether the government of Pakistan or some influential officials in the Pakistani government would consider negotiating with India for reducing nuclear weapons or other confidence-building measures to defuse the tension with India if actively encouraged by the U.S. to do so?

What does U.S. intelligence show as to whether the government of India or some influential officials in the Indian government would consider negotiating with Pakistan for reducing nuclear weapons or other confidence-building measures to defuse the tension with Pakistan if actively encouraged by the U.S. to do so?

What does U.S. intelligence show on the allegations that President Karzai and his associates acted fraudulently in the recent presidential elections?

What does U.S. intelligence show on the allegations that President Karzai and his associates are involved in illegal narcotics activity?

I am writing an identical letter to Director of the Central Intelligence Agency Leon Panetta.

Thank you for your consideration of this request. I am available to meet with you or

your designee for a briefing on these questions.

Sincerely,

ARLEN SPECTER.

Enclosures.

U.S. SENATE,

Washington, DC, September 9, 2009.

Hon. LEON PANETTA,

Director, Central Intelligence Agency,  
Washington, DC.

DEAR DIRECTOR PANETTA: Congress will be called upon to make important decisions on the war in Afghanistan, whether there is a realistic prospect of succeeding there, and the importance of Afghanistan in stopping al Qaeda from again attacking the United States. In a related matter, in evaluating foreign aid to Pakistan, Congress needs to know whether Pakistan could be persuaded to aid us in fighting the Taliban. In retrospect, important judgments were made on Iraq without sufficient accurate, factual information. I write to you, the Secretary of State, the Secretary of Defense and the Director of National Intelligence (copies enclosed) to obtain that information.

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I am writing an identical letter to Director of National Intelligence Dennis Blair.

Thank you for your consideration of this request. I am available to meet with you or your designee for a briefing on these questions.

Sincerely,

ARLEN SPECTER.

Enclosure.

EXHIBIT 1

STATEMENT OF SENATOR ARLEN SPECTER—  
U.S. POLICY REGARDING AFGHANISTAN

Mr. President: I seek recognition today to discuss our military presence in Afghanistan. We went into Afghanistan in 2001 fol-

lowing the barbaric attacks of September 11, 2001. Our forces swiftly toppled the Taliban and denied Al Qaeda leadership the safe haven it had enjoyed in Afghanistan. Both Taliban and Al Qaeda leadership survived the attack and were able to take refuge and reconstitute in the mountainous regions across the border in Pakistan.

The cost of the war has already been high: 821 American servicemembers have died (New York Times—9/16/09) and, according to the Congressional Research Service, \$189 billion appropriated to the Department of Defense, the Department of State, the U.S. Agency for International Development, and the Veterans Administration for medical costs stemming from the war in Afghanistan. By the end of this year, there will be 68,000 American military personnel and an additional 38,000 NATO troops from other countries in Afghanistan (Los Angeles Times—9/4/09).

Today, according to the commander of U.S. forces in Afghanistan, General Stanley McChrystal, the Taliban again poses a serious threat. U.S. military personnel casualties are mounting and the Pentagon is calling for a build-up of U.S. forces there. Before Congress, or at least this member, can take a position on more U.S. troops for Afghanistan, there is a need for answers to critical questions. To help gather information to allow me to make informed decisions, I sent letters last week to Secretary of Defense Robert Gates, Secretary of State Hillary Clinton, Director of National Intelligence Dennis Blair, Director of the CIA Leon Panetta and Chairman of the Joint Chiefs of Staff Michael Mullen posing questions about the current situation in Afghanistan and Pakistan, whether there is a realistic prospect of succeeding there, the importance of the mission in Afghanistan to stopping Al Qaeda from again attacking the United States, and U.S. efforts to engage other regional players such as India to ease tensions in the region [letters attached]. These questions are posed in the context that Congress did not get candid, direct answers to questions posed before the resolution authorizing the use of force in Iraq. Had we known Saddam did not have weapons of mass destruction, the United States would not have gone into Iraq.

The paramount question is whether Afghanistan is indispensable for Al Qaeda as a base for organizing another attack against the United States? If so, the United States must do whatever it takes to stop that from happening, as there is no more important national security interest than protection of our citizens. Additional questions which need to be answered include:

What are the prospects for military success in Afghanistan against Al Qaeda and the Taliban?

What will the requirements be in the next year as to additional U.S. troops and the cost of our involvement in Afghanistan?

What may we reasonably expect NATO or other allies to contribute in troops and dollars to our efforts in Afghanistan?

What other areas around the world are open to Al Qaeda as potential bases for another attack on the United States?

What will be done besides military action, such as nation-building, in stabilizing and developing Afghanistan so that they will be prepared to handle their own problems so that we can withdraw?

What assistance can we reasonably expect from Pakistan in fighting the Al Qaeda and the Taliban and stopping both from seeking refuge by moving in and out of Pakistan?

How does the questionable legitimacy of President Karzai's status as a result of allegations or proof of election fraud impact on our ability to succeed in Afghanistan?

How does the illegal drug trafficking and alleged involvement of high-ranking officials in the Karzai government in such drug trafficking impact on our efforts in Afghanistan?

What does U.S. intelligence show as to any possible plans by Al Qaeda to attack the United States or anyone else?

What does U.S. intelligence show as to whether India poses a real threat to attack Pakistan?

What does U.S. intelligence show as to whether Pakistan poses a real threat to attack India?

What does U.S. intelligence show as to whether Pakistan could reasonably devote additional military force to assisting us in the fight against the Taliban?

What does U.S. intelligence show as to whether the government of Pakistan or some influential officials in the Pakistani government would consider negotiating with India for reducing nuclear weapons or other confidence-building measures to defuse the tension with India if actively encouraged by the U.S. to do so?

What does U.S. intelligence show as to whether the government of India or some influential officials in the Indian government would consider negotiating with Pakistan for reducing nuclear weapons or other confidence-building measures to defuse the tension with Pakistan if actively encouraged by the U.S. to do so?

In prepared testimony before the Senate Armed Services Committee on September 15, 2009, Admiral Michael Mullen, Chairman of the Joint Chiefs of Staff, defined the U.S. mission in Afghanistan as:

“... to deny sanctuary to al Qaeda and the Taliban now, and to generate a stable and secure Afghanistan capable of denying al Qaeda return after the withdrawal of our combat forces, and while we sustain partnership and commitment to political and economic development in that nation.”

Admiral Mullen later told the Committee: “... a properly resourced counter-insurgency probably means more forces, without question, more time and more commitment to the protection of the Afghan people and to the development of good governance.”

While it would be desirable to protect the Afghan people and see Afghanistan develop good governance, that mission alone does not constitute, in my judgment, a vital national security interest that would warrant putting U.S. troops in harm's way. What has not yet been made clear to me is that a larger U.S. military presence in Afghanistan will further our efforts to deny Al Qaeda a base from which to organize and launch attacks against the U.S. Conversely, I worry that further growing our force in Afghanistan risks committing ourselves to a costly counter-insurgency mission focused on building Afghan governmental institutions—a mission that would require years if not decades to prosecute—when what is in our nation's best interest may be a much more streamlined counter-terrorism mission focused on pursuing Al Qaeda leadership in Pakistan, Afghanistan, and elsewhere.

#### SECURING PAKISTAN'S COOPERATION

Understanding that the Taliban and Al Qaeda reside in both Pakistan and Afghanistan, any U.S. strategy in Afghanistan must account for conditions across the border in Pakistan, and Washington must effectively engage Islamabad as well as Kabul. Questions remain, however, about Pakistan's interest in pursuing a sustained campaign against the Taliban and Al Qaeda on its own soil.

Since 2001, the U.S. has given over \$15.5 billion in overt aid to Pakistan, according to the Congressional Research Service, of which \$10.9 billion has been security related. Where

has this money gone? According to a December 24, 2007 New York Times article:

“Money has been diverted to help finance weapons systems designed to counter India, not Al Qaeda or the Taliban, the officials said, adding that the United States has paid tens of millions of dollars in inflated Pakistani reimbursement claims for fuel, ammunition and other costs.”

I raised this question during a December 27, 2007 meeting in Islamabad with then-president Pervez Musharraf. I asked Musharraf about Pakistan's record following through on its commitments on the \$10 billion in aid granted by the U.S. between September 11, 2001 and 2007 and found his response wholly inadequate. There is a new regime governing in Islamabad now, and I think it crucial that Pakistan will participate fully in the fight against Al Qaeda and the Taliban if the U.S. is to finance it.

Before the U.S. sends billions more in aid—both civil and military—to Pakistan, what assurances do we have that it will go to the intended recipients? Dr. Anthony Cordesman, of the Center for Strategic and International Studies, wrote on April 10, 2009:

“Far too much of the military portion of the . . . past U.S. aid to Pakistan never was used to help fight the Taliban and al Qaeda or can't be accounted for. Future aid should be clearly tied to clearly defined goals for Pakistani action and full accounting for the money.”

Is it possible to get Pakistan to focus on the threat posed by Al Qaeda and the Taliban in its tribal regions when Islamabad perceives an existential threat to lie next door in India? Or, will Pakistan continue to divert U.S. aid to bolster defenses along its Indian border, as alleged in an August 30, 2009 New York Times article, which said:

“The United States has accused Pakistan of illegally modifying American-made missiles to expand its capability to strike land targets, a potential threat to India . . .”

I think we need to understand that any reorientation of Islamabad's strategic calculus—specifically a change of perception that the existential threat lies to its west in the form of Al Qaeda and the Taliban rather than to the east in India—will have to emerge internally. No amount of money we give Islamabad is going to convince it otherwise. The current proposal by Senators Kerry and Lugar to spend \$7.5 billion over five years to strengthen Pakistan's civilian institutions is worth considering, but this alone would not guarantee Pakistan's cooperation in committing fully to the fight against Al Qaeda and the Taliban. More important than giving money, I believe, is the U.S. undertaking to broker a lasting peace between India and Pakistan.

#### TOWARDS AN INDIA-PAKISTAN PEACE

In August 1995, Senator Hank Brown and I were told by Prime Minister Rao in a visit to New Delhi that India was interested in negotiating with Pakistan to make their subcontinent free of nuclear weapons. Prime Minister Rao asked Senator BROWN and me to raise this issue with Pakistan's Prime Minister Benazir Bhutto which we did. I then wrote to President Clinton urging him to broker such negotiations. Those discussions are summarized in a letter which I sent to President Clinton:

AUGUST 28, 1995.

DEAR MR. PRESIDENT: I think it important to call to your personal attention the substance of meetings which Senator Hank Brown and I have had in the last two days with Indian Prime Minister Rao and Pakistani Prime Minister Benazir Bhutto.

Prime Minister Rao stated that he would be very interested in negotiations which

would lead to the elimination of any nuclear weapons on his subcontinent within ten or fifteen years including renouncing first use of such weapons. His interest in such negotiations with Pakistan would cover bilateral talks or a regional conference which would include the United States, China and Russia in addition to India and Pakistan.

When we asked Prime Minister Bhutto when she had last talked to Prime Minister Rao, she said that she had no conversations with him during her tenure as Prime Minister. Prime Minister Bhutto did say that she had initiated a contact through an intermediary but that was terminated when a new controversy arose between Pakistan and India.

From our conversations with Prime Minister Rao and Prime Minister Bhutto, it is my sense that both would be very receptive to discussions initiated and brokered by the United States as to nuclear weapons and also delivery missile systems.

I am dictating this letter to you by telephone from Damascus so that you will have it at the earliest moment. I am also telefaxing a copy of this letter to Secretary of State Warren Christopher.

Sincerely,

ARLEN SPECTER.

After returning to the United States, I discussed such a presidential initiative with President Clinton, but my suggestion was not pursued.

If the current tensions and hostilities between India and Pakistan could be eliminated or reduced, Pakistan might be persuaded to increase its military forces to aid us in the fight against the Taliban. On September 9, 2009, I wrote to Secretary Clinton to urge her to work to mediate dialogue between India and Pakistan in the hope of easing bilateral tensions to enable Pakistan to focus more intently on the problem posed by Al Qaeda and the Taliban along its western border.

#### CONCLUSION

Congress will be called upon to make important decision on the war in Afghanistan that will have consequences for years to come both in Southwestern Asia and here at home. As I said on the Senate floor on October 7, 2002, the authorization of the use of military force is a core duty of Congress which this institution must not delegate to the Executive Branch:

“... the doctrine of separation of powers precludes the Congress from delegating its core constitutional authority to the executive branch. . . . Congress may not delegate the authority to engage in war. If we authorize the President to use whatever force is necessary, that contemplates further action. While no one is going to go to court to challenge the President's authority, that is of some concern, at least to this Senator.”

Congress must ask the tough questions about what an expansion of the U.S. mission in Afghanistan would accomplish. On October 7, 2002, in the lead up to the authorization of the use of force in Iraq, I raised similar questions on the Senate floor:

“What was the extent of Saddam Hussein's control over weapons of mass destruction? What would it cost by way of casualties to topple Saddam Hussein? What would be the consequence in Iraq? Who would govern after Saddam was toppled? What would happen in the region, the impact on the Arab world, and the impact on Israel?”

In retrospect, Congress should have been more diligent and insistent on getting candid, accurate answers to such questions. It would have been a help to President George W. Bush to have had answers to these questions candidly and correctly in determining his policy. It would now be a help to President Obama to have congressional input on



posing relevant, tough questions and getting candid, correct answers. While the Constitution gives the President paramount authority as Commander-in-Chief, the Constitution gives the Congress the sole authority to declare war. That congressional authority and responsibility have not been appropriately exercised considering what has happened in Korea and Vietnam and in the resolutions authorizing the use of force in Iraq in 1991 and 2002, none of which constituted congressional declarations of war.

On the ultimate issue of increased U.S. forces: Congress should not, and this member will not, support a policy of increasing U.S. forces in Afghanistan until such policy is warranted by candid and correct factual information and preferable alternatives cannot achieve the desired objectives.

The ACTING PRESIDENT pro tempore. The Senator from Oklahoma is recognized.

Mr. INHOFE. Madam President, could I inquire as to the regular order?

The ACTING PRESIDENT pro tempore. The minority has 30 minutes remaining in morning business.

Mr. INHOFE. I ask when the majority would then be recognized?

The ACTING PRESIDENT pro tempore. The majority has 12 minutes remaining.

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

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

The bill clerk proceeded to call the roll.

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

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

Mr. INHOFE. Madam President, if the Senator controlling the remainder of the majority time would like to reserve his time, I will go ahead and start.

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

#### DEFENSE

Mr. INHOFE. Madam President, as we speak, there is an announcement coming from the White House, it is my understanding, that they are going to cancel the Eastern European sites we have been working on for such a long period of time. I think it is appropriate to quote something I saw many years ago and was foreseen by President Reagan when he was President. He said:

Since the dawn of the atomic age, we have sought to reduce the risk of war by maintaining a strong deterrent and by seeking genuine arms control. Deterrence: Making sure the adversary who thinks about attacking the United States or our allies or our vital interests concludes that the risks to him outweigh any potential gains. Once he understands that, he won't attack. We maintain the peace through our strength; weakness only invites aggression.

I wish people today would understand those words of Ronald Reagan quite some time ago and how prophetic they

were as we look right now and see the administration is talking about canceling this program.

I arranged to be in Afghanistan at the time Secretary of Defense Gates announced the budget, I believe last February, the Obama budget, so far as defense was concerned. I was very much concerned. I was concerned about what happened to the F-22. Initially, we were going to have the only fifth-generation fighter that this country has. We, initially, were going to have 750 of them. He terminated the program at 187.

I was concerned about the termination of the C-17 program. I was concerned about the termination of the Future Combat System. The Future Combat System is the only ground system that has gone through a major change in probably 50 or 60 years. So we will not have that improved ground capability for our young men and women who go into harm's way.

Also, I made the comment that I suspected at that time, when he suspended the radar site in the Czech Republic and the interception capability in Poland, that that was easing into terminating that program. I think we are finding out today he is terminating that program.

On February 3, 2009, Iran launched a satellite, on the 30th anniversary of the 1979 Islamic Revolution. On July 9 of 2008, Iran tested nine missiles, including the Shahab-3, which has a range of 1,240 miles.

I recognize the threat to Western Europe—this wouldn't quite do it. It is 1,240 miles. I think the range in order to be able to get something to Italy would be about 2,000 miles.

On the other hand, we never guess these things right. I remember so well, in 1998, the Clinton administration made a statement in response to a question I asked on August 14, 1998: How long will it be until they have the multiple-stage capability in North Korea? The White House responded it was going to be between 10 and 15 years. Seven days later, on August 13, 1998, they fired it.

This is how far off we are in our intelligence. We don't know. I don't want to guess this thing too close. Riki Ellison from the Missile Defense Advocacy Alliance said:

The Islamic Republic of Iran has just proved for the first time that it has the capability to place satellites in space by successfully launching a 3-stage liquid fueled rocket that has placed two objects in low-Earth orbit. . . Iran has demonstrated the key technologies of propulsion, staging, and guidance to deliver a weapon of mass destruction globally.

I am hoping the White House doesn't come out and say that is launching a satellite. It is the same technology, launching a nuclear warhead. This is getting very serious right now. The U.S. intelligence community has estimated Iran may have long-range ballistic missiles capable of threatening all of Western Europe and the United States by 2015.

Madam President, 2015, that sounds reminiscent of August of 1998, when they said it would be 10 to 15 years. Delaying this creates all kinds of problems for us. Our credibility in Eastern Europe is something that bothers me. I was recently in the Czech Republic. President Vaclav Klaus—they were cooperative in saying yes. The Parliament debated it and decided we could put a radar site there which would allow us to see something coming in; otherwise, we would not be able to do it. Then, next door in Poland, to have an interception capability—they agreed to do that. Parliament didn't want to do it. They were concerned about Russia's response and a lot of opposition that there might be. The thing I do not understand is why Western Europe is not lining up with us and saying we have to have those two sites. They are the ones who are naked now if we don't have that.

I am very much concerned about that. MG Vladimir Dvorkin, who is the head of the Center for Strategic Forces in Moscow, said: "Iran is actively working on a missile program," adding that Iran is "1 or 2 years" from having a nuclear weapon. This concerns me. We have those individuals we seem to be catering to, the Russians, in order to leave ourselves without a type of defensive system to protect Western Europe and the Eastern United States. It is troubling to me.

In April 2009, North Korea furthered their missile and nuclear development by a Taepodong-2 missile in the China Sea. That has a range of over 2,000—about 2,500 miles. That would reach Rome. That would reach Berlin. There has to be a concern that they have this capability, they have demonstrated this capability very clearly.

NATO leaders stated in December of 2008, last Christmas, that:

Ballistic missile proliferation poses increasing threat to allied forces, territory and populations. Missile defense forms a part of the broader response to counter this threat. We therefore recognize the substantial contribution to the protection of allies from long range ballistic missiles to be provided by a planned development of the European-based United States missile defense assets.

That is what we are talking about. In Poland, the site in Poland would include up to 10 silo-based, long-range interceptors capable of shooting down hostile missiles from Iran in their mid-course. Let's put the chart up here.

A lot of people do not realize this is very sophisticated. Our missile defense system takes into consideration three courses. For the segment here, the boost phase, we don't have anything there yet. We are supposed to be working on it. I was disturbed that one of the things that was terminated by this administration is that effort.

The terminal defense segment is one we are working on right now. The airborne laser in the boost phase is one of the programs I believe the administration is canceling. The site in Poland would include up to 10 silo-based, long-range interceptors. The radar site in

the Czech Republic would house a narrow beam midcourse tracking radar that is currently used by our missile defense system in the Pacific. These are things we know work.

I am very concerned about it. I have not heard the statement from the White House, but I have a feeling we are going to hear the same thing we heard back in 1998, and it is very troubling. This is something that can be—should be an act of desperation in terms of Western Europe at this time.

#### CAP AND TRADE

Having said that, this is some good news. That was the bad news. The good news is we have notice this morning that the Democratic caucus, as reported in Politico, is split over the bill, the cap-and-trade bill we are talking about, with coal-, oil- and manufacturing-State Democrats raising concerns that a cap-and-trade system would disproportionately spike electricity bills for consumers and businesses in their regions.

There is a recognition now that this thing we have been talking about ever since the Kyoto treaty—the threat at that time that they were talking about is now. Everyone realizes that is not what it was. Science has changed dramatically and most scientists now are saying this is something that was overstated that one time.

The cost, though, is the big thing. I quit arguing about the science a long time ago. I gave a speech from this podium not too long ago. If anyone is interested, I ask my colleagues to go to the Web site [inhofe.senate.gov](http://inhofe.senate.gov), where we listed 700 scientists who were on the other side of the issue who are now on the skeptics' side, recognizing the science is not there. David Bellamy from Great Britain is one who was always talking about—he was on Al Gore's side on this thing. After going through and restudying and reevaluating the science, he agreed everything wasn't there.

The same thing is true with leaders in France and Israel. But what we have now is something people do understand and that is the cost of this, the consistent cost. Kyoto's cost, if we lived by the emission standard, would be somewhere, according to the Wharton Econometric Survey, I think it was called back during the Kyoto days, would be between \$300 billion and \$330 billion every year. As bad as the stimulus was, at least that is a one-shot deal and the people would not have to pay for it every year. This will be every year.

Then along came McCain-Lieberman in 2003 and 2005 and the same estimates came about that it would be a \$300 billion tax increase. I remember 1993 when we had the Clinton-Gore tax increase, which was the largest tax increase in three decades.

During that time we looked at it, it was a \$32 billion tax increase: increasing inheritance taxes, marginal rates, capital gains, and all of that. That is only \$32 billion. This is 10 times that size.

Well, the White House was trying to say, and several of them on the other side in our committee—in fact, the chairman of our committee—it is going to cost a postage stamp a day. People are willing to pay for that.

Those postage stamps must be getting pretty expensive. Now we have found out there is an analysis released by the U.S. Department of Treasury that was held down, not released. Now we know what it is. They said the cost would be between \$100 and \$200 billion a year.

The cost—this is according to their figures now—to an American household would be an extra \$1,761 a year. This is their analysis. I think that is right. In fact, we have seen the CRA report that shows the cost of this—and MIT agrees with this, I might add, because they evaluated the Warner-Lieberman bill 12 months ago—right now being closer to \$366 billion a year, with a cost per family, the study has shown, in my State of Oklahoma and in the State of Texas, we would be the highest taxed. It would be \$3,300 a year per family. That is huge. I know the east coast and the west coast is a little bit more than half of that, but still it is a huge tax increase.

Finally, this report that was put together by the Department of Treasury has been released. And they admit it. So we can quit talking about some of these things that are not realistic.

We know what the cost is. We know also the likelihood of it coming up this year is most unusual. I do not think it is going to happen. The Senate majority leader stated, I think 2 days ago, that the Senate may not act on comprehensive energy and climate change legislation.

Senator BEN NELSON from Nebraska, a Democrat, I might add, said: We have enough on our plate at the moment. With the fight over health care reform, it is questionable to open another front.

The Senate majority whip, DICK DURBIN, last week added that: It is a difficult schedule. Members are already anxious about health care reform. So I do not think it is going to come up. And I frankly will be ready here to fight to make sure it does not come up when the new year comes in.

I do not think there are too many people in the Senate who want to go into their reelection in 2010 having voted for the largest tax increase in the history of America. This is exactly what it would be. Let's keep in mind, what was the largest tax increase in the history of America was the 1993 tax increase. This would be 10 times greater than that. And the people now realize that. That was good news today.

#### TRIBUTE TO SENATOR MEL MARTINEZ

Mr. INHOFE. Madam President, I wish to add my comments to a few other comments on Mel Martinez whom we all loved so much. I do not

think I have ever seen anyone since Jesse Helms who was loved by so many people as Mel Martinez. He had a way of smiling, and in talking about things in a way that others did not understand. My colleagues have already come to the floor and talked about his escape from Cuba and how he came over and how then he was able to get his father over. It is a story that America will always remember. It will always be in our history books.

He was always such a great guy. He will be missed around here.

One of the things that was not said much about him was his sense of humor. I have to say I enjoyed being around him because he was, in his own subtle way, a very humorous person. I can remember, and I have had the occasion, probably more than any other Member, going into the areas in Iraq and Afghanistan and Africa where there were hostilities. But I was making probably my 12th or 14th trip into Baghdad on a C-130. It happened to be Mel Martinez's first trip. So we were talking about: Once you get out, you are going to run over to the helicopter, and they are going to take you to the Green Zone, all of the things to anticipate. I said to him: One of the problems we are going to have is that when we leave, we have these old C-130E models. They should be re-engined. We should have J models, but we do not. Because of the cuts in the military, we have not been able to upgrade those systems.

So I said: When we climb out of here, it is going to be in a C-130E model. We are not going to be able to climb as high and as fast as we want, and there are surface-to-air missiles out there that we have to be concerned about. And, of course, they are all set up. We have very capable pilots and crews in these C-130s. So I said: We will be well taken care of if something happens. Sure enough, it happened.

The first thing you do when you get out of your helicopter in Baghdad to get on a C-130 to come back to Kuwait or wherever you might be going is you take your helmet, your life jacket, your vest off, because they are so heavy and uncomfortable—you get in there and you take them off. Well, we all did that.

I was sitting up with, as I do quite often, the pilots, when all of a sudden the explosion came, the light was there, and we deployed the heat-seeking devices that are on a C-130. Of course, that is already very loud. Someone who has never gone through that experience before would assume we were about to go down.

I ran downstairs and I saw Mel Martinez sitting there without his helmet, without his protective vest by him; he had put them back on. I said: Mel, what are you doing putting your vest and your helmet back on?

He said: Well, I assumed that we were going to be shot down. And if Kitty—that is his wife—if she found out that I did not have my vest and my helmet on, she would kill me.



Well, that is Mel Martinez. He had all of those jewels. I think he is going to be missed by a lot of us for all of the reasons we have articulated on the floor.

I yield the floor and 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. ALEXANDER. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. ALEXANDER. Madam President, how much time is remaining in morning business?

The ACTING PRESIDENT pro tempore. There is 12 minutes remaining.

### CZARS

Mr. ALEXANDER. Thank you very much. Would the Chair please let me know when I have 1 minute remaining.

Monday on the Senate floor, I expressed my concern about the number of so-called czars in the White House and in the administration. I said then that the number of czars—I believe the number is now 32—is an affront to the Constitution. It is anti-democratic. It is a poor example of what was promised to be a new era of transparency. It is a poor way to manage the government. And it is the most visible symptom of this administration's 8-month record of too many Washington takeovers.

Yesterday, the White House blog and a White House press secretary objected to what I said on Monday, pointing out that I had supported manufacturing czars and AIDS czars 6 years ago. Of course I did; I acknowledged that in my remarks on Monday. As I said Monday, there have always been some czars in the White House and in the government since Franklin D. Roosevelt was President. Some of them were appointed by Presidents, some of them were created by statute, and a few of them were confirmed by the Senate. There's never been anything like we've seen with this administration.

Also on Monday, I joined in a letter from Senator COLLINS, Senator BOND, Senator CRAPO, Senator BENNETT, and Senator ROBERTS, making clear that not every czar is a problem. In that letter, we identified at least 18 czar positions created by the Obama administration whose reported responsibilities may be undermining the constitutional oversight responsibilities of Congress or express statutory assignments of responsibility to other executive branch officials.

In this letter from Senator COLLINS, in which the rest of us joined, we said: With regard to each of these positions, we ask that you explain: the specific authorities and responsibilities of the position, including any limitations you have placed on the position to ensure that it does not encroach on the legiti-

mate statutory responsibilities of other executive branch officials.

Second, the process by which the administration examines the character and qualifications of the individuals appointed by the President to fill the position.

And, third, whether the individual occupying the position will agree to any reasonable request to appear before, or provide information to, Congress.

The letter goes on to say:

We also urge you to refrain from creating similar additional positions or making appointments to any vacant czar positions until you have fully consulted with the appropriate Congressional committees.

Finally, we ask that you reconsider your approach of centralizing authority at the White House. Congress has grappled repeatedly with the question of how to organize the Federal Government.

We went into some detail about that, and asked respectfully that the President consult carefully with Congress prior to establishing any additional czars.

I ask unanimous consent that this letter from six senators be included in the RECORD following my remarks.

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

(See exhibit 1.)

Mr. ALEXANDER. Senator COLLINS and the five of us who joined in her letter were not the only Senators to be concerned about this issue. On Wednesday, Senator FEINGOLD, the Democrat from Wisconsin, questioned President Obama's policy of policy czars and sent a letter to the President, just as we did. In that letter, Senator FEINGOLD urged the President to release information about the role and responsibility of these czars, which is what we asked him to do in our letter as well.

Senator HUTCHISON of Texas, in the Washington Post on September 13, wrote an excellent op-ed describing how the system of checks and balances is upset by an excessive number of Washington czars who are unconfirmed and unaccountable to the Congress, and who do not answer questions from those of us who are elected to ask such questions.

I ask unanimous consent that Senator FEINGOLD's letter to the President be printed in the RECORD following my remarks.

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

(See exhibit 2.)

Mr. ALEXANDER. On Monday, I pointed out that not only Senator HUTCHISON and Senator COLLINS and the other Republican Senators have these concerns. Now Senator FEINGOLD from the other side of the aisle has raised questions about these czars.

I mentioned this Monday, but I want to repeat it in case the White House press office missed it: Senator BYRD, our President Pro Tempore, widely considered by all of us in the Senate to be the constitutional conscience of this

Senate, was the first to write the president expressing concerns over the increasing appointment of White House czars.

In his letter he said:

Too often I have seen these lines of authority and responsibility become tangled and blurred, sometimes purposely, to shield information and to obscure the decision-making process.

Senator BYRD went on to say that:

The rapid and easy accumulation of power by White House staff can threaten the constitutional system of checks and balances. At the worst, White House staff have taken direction and control of problematic areas that are the statutory responsibility of Senate-confirmed officials.

Senator BYRD continues:

As Presidential assistants and advisers, these White House staffers are not accountable for their actions to Congress, to cabinet officials, and to virtually anyone but the President. They rarely testify before Congressional committees, and often shield the information and decision-making process behind the assertion of executive privilege.

In too many instances, White House staff have been allowed to inhibit openness and transparency, and reduce accountability.

Finally, I ask unanimous consent to print in the RECORD following my remarks a list of 18 new czars created by the Obama administration.

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

(See exhibit 3.)

Mr. ALEXANDER. I want to make it clear to the White House Press Office that we are focused on those 18 new czars. We recognize there have been czars before, that for the reasons Senator BYRD, Senator HUTCHISON, Senator COLLINS, and others have described. We believe this is too many, and we take seriously our responsibilities under Article II of the Constitution to confirm officials who manage the government, to ask them questions, to approve their appropriations, and to withhold their appropriations when it's appropriate.

We have these positions in the Executive Office of the President; there are 10 of them: central region czar, Dennis Ross; cyber-security czar, domestic violence czar, economic czar, energy and environment czar, and health czar. Those are some of the biggest issues facing Congress, and here are these czars with authority for policy close to the President but unaccountable to us. We have a senior director for information sharing policy, urban affairs czar, WMD policy czar, a green job czar, who resigned recently. Those are the positions in the Executive Office of the President, 10 new ones. Then there are eight more that are in departments or agencies, including: Afghanistan czar, auto recovery czar, car czar, Great Lakes czar, pay czar, Guantanamo closure czar, international climate czar, and the border czar.

I described on Monday, as Senator BYRD has said more eloquently, the problems with too many czars. The first problem is the constitutional

checks and balances described by Senator BYRD. The second problem is that this is a poor way to manage the government. When I was a young White House aide, I was taught that the job of the White House staff is to push the merely important issues out of the White House so you can reserve to the President the handful of truly Presidential issues for his attention. His job is to set the country's agenda, to see an urgent need and devise a strategy, meet the need and persuade at least half the people he is right. He can do that more effectively if the government is managed by Secretaries and Cabinet officers.

Finally, czars are anti-democratic. Czars are usually Russian, not American. Czars are usually imperialists, not Democrats. The dictionary says czars are autocratic rulers or leaders. That is not consistent with the kind of government we want. It is alien to our way of thinking.

Czars are becoming the most visible symbol of this administration's determination to have an increasing number of Washington takeovers: banks, insurance companies, student loans, car companies, even farm ponds. Some want to take over health care. Many Americans believe we have a runaway government with too many Washington takeovers, and the last thing we need are 18 new czars unaccountable to elected officials whose job it is to check and balance that government.

I am glad in a way that the White House has noticed my comments and those of Senators COLLINS, BENNETT, HUTCHISON, and others. I hope they will respond to Senator COLLINS' letter, to Senator FEINGOLD's request, and to other admonitions. We call on the administration to answer questions posed by these Senators: Who are these czars? What is their role? What is their responsibility? How were they vetted? What limitations are on their positions to make sure they don't encroach on legitimate statutory responsibilities of other executive branch officials, and will they agree to a reasonable request to appear before Congress?

I yield the floor.

#### EXHIBIT 1

U.S. SENATE, COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS,

Washington, DC, September 14, 2009.

Hon. BARACK OBAMA,  
*President of the United States, The White House, Washington, DC.*

DEAR MR. PRESIDENT: We write to express our growing concern with the proliferation of "czars" in your Administration. These positions raise serious issues of accountability, transparency, and oversight. The creation of "czars," particularly within the Executive Office of the President, circumvents the constitutionally established process of "advise and consent," greatly diminishes the ability of Congress to conduct oversight and hold officials accountable, and creates confusion about which officials are responsible for policy decisions.

To be clear, we do not consider every position identified in various reports as a "czar" to be problematic. Positions established by

law or subject to Senate confirmation, such as the Director of National Intelligence, the Homeland Security Advisor, and the Chairman of the Recovery Accountability and Transparency Board, do not raise the same kinds of concerns as positions that you have established within the Executive Office of the President that are largely insulated from effective Congressional oversight. We also recognize that Presidents are entitled to surround themselves with experts who can serve as senior advisors.

Many "czars" you have appointed, however, either duplicate or dilute the statutory authority and responsibilities that Congress has conferred upon Cabinet-level officers and other senior Executive branch officials. When established within the White House, these "czars" can hinder the ability of Congress to oversee the complex substantive issues that you have unilaterally entrusted to their leadership. Whether in the White House or elsewhere, the authorities of these advisors are essentially undefined. They are not subject to the Senate's constitutional "advise and consent" role, including the Senate's careful review of the character and qualifications of the individuals nominated by the President to fill the most senior positions within our government. Indeed, many of these new "czars" appear to occupy positions of greater responsibility and authority than many of the officials who have been confirmed by the Senate to fill positions within your Administration.

With these concerns in mind, we have identified at least 18 "czar" positions created by your Administration whose reported responsibilities may be undermining the constitutional oversight responsibilities of Congress or express statutory assignments of responsibility to other Executive branch officials. With regard to each of these positions, we ask that you explain:

The specific authorities and responsibilities of the position, including any limitations you have placed on the position to ensure that it does not encroach on the legitimate statutory responsibilities of other Executive branch officials;

The process by which the Administration examines the character and qualifications of the individuals appointed by the President to fill the position; and,

Whether the individual occupying the position will agree to any reasonable request to appear before, or provide information to, Congress.

We also urge you to refrain from creating similar additional positions or making appointments to any vacant "czar" positions until you have fully consulted with the appropriate Congressional committees.

Finally, we ask that you reconsider your approach of centralizing authority at the White House. Congress has grappled repeatedly with the question of how to organize the federal government. We have worked to improve the Department of Homeland Security and bring together the disparate law enforcement, intelligence, emergency response, and security components that form its core. We established the Director of National Intelligence to coordinate the activities of the 16 elements of the Intelligence Community, breaking down barriers to cooperation that led to intelligence failures before the terrorist attacks of September 11, 2001. The bipartisan review by the Homeland Security and Governmental Affairs Committee of the failures associated with the response to Hurricane Katrina led to fundamental reforms of the Federal Emergency Management Agency, improving our nation's preparedness and ability to respond to disasters. In each of these cases, the Congress's proposed solution did not consolidate power in a single czar locked away in a White House office. Instead,

working in a bipartisan fashion, we created a transparent framework of accountable leaders with the authorities necessary to accomplish their vital missions.

If you believe action is needed to address other failures or impediments to successful coordination within the Executive branch, we ask that you consult carefully with Congress prior to establishing any additional "czar" positions or filling any existing vacancies in these positions. We stand ready to work with you to address these challenges and to provide our nation's most senior leaders with the legitimacy necessary to do their jobs—without furthering the accountability, oversight, vetting, and transparency shortcomings associated with "czars."

Sincerely,

SUSAN M. COLLINS,  
LAMAR ALEXANDER,  
CHRISTOPHER S. BOND,  
MIKE CRAPO,  
PAT ROBERTS,  
ROBERT F. BENNETT,  
*U.S. Senators.*

EXHIBIT 2

[From the Hill's Blog Briefing Room, Sept. 16, 2009]

#### FEINGOLD QUESTIONS OBAMA 'CZARS'

(By Jordan Fabian)

A liberal senator on Wednesday questioned President Barack Obama's policy "czars" after the senior advisers have taken heat mostly from Republican lawmakers.

Sen. Russ Feingold (D-Wis.) sent a letter to the president requesting the White House release information regarding the "roles and responsibilities" of the "czars." The Senate Judiciary Committee member also requested that the president's legal advisers prepare a "judgment" on the "czars" constitutionality.

Feingold's letter represents one of the first examples of Democratic scrutiny of the president's "czars," who are not required to be confirmed by the Senate.

Sen. Robert Byrd (D-W.Va.), who has been absent from the Senate since experiencing health issues, also expressed skepticism of Obama's use of policy "czars" in February.

Republicans in Congress ramped up criticism of the the appointed advisers following the resignation of former green jobs czar Van Jones after his signature was found on a petition implying the Bush administration played a role in the 9/11 terrorist attacks and making other controversial statements.

Earlier today, Reps. Darrell Issa (Calif.) and Lamar Smith (R-Tex.), the top Republicans on the House Oversight and Government Reform Committee and the House Judiciary Committee respectively, sent a similar letter to White House counsel Greg Craig.

Energy and Environment "czar" Carol Browner, and FCC Diversity "czar" Mark Lloyd have also faced flak after they made other questionable remarks.

THE PRESIDENT OF THE UNITED STATES,  
*The White House,  
Washington, DC.*

DEAR MR. PRESIDENT: From the beginning of your administration, you have made an admirable commitment to transparency and open government. You showed the strength of your commitment by sending a memorandum to the heads of executive departments and agencies within a week of your inauguration, stating: "My administration will take appropriate action, consistent with law and policy, to disclose information rapidly in forms that the public can readily find and use."

As you know, there has been much discussion about your decisions to create and assign apparently significant policy-making

responsibilities to White House and other executive positions; many of the persons filling these positions have come to be referred to in the media and even within your administration as policy “czars.” I heard firsthand about this issue on several occasions from my constituents in recent town hall meetings in Wisconsin.

The Constitution gives the Senate the duty to oversee the appointment of Executive officers through the Appointments Clause in Article II, section 2. The Appointments Clause states that the President “shall nominate, and by and with the advice and consent of the Senate, shall appoint ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States, whose appointments are not herein otherwise proved for, and which shall be established by law.” This clause is an important part of the constitutional scheme of separation of powers, empowering the Senate to weigh in on the appropriateness of significant appointments and assisting in its oversight of the Executive Branch.

As a member of the Senate with the duty to oversee executive appointments and as the Chairman of the Senate Constitution Subcommittee, I respectfully urge you to disclose as much information as you can about these policy advisors and “czars.” Specifically, I ask that you identify these individuals’ roles and responsibilities, and provide the judgment(s) of your legal advisors as to whether and how these positions are consistent with the Appointments Clause. I hope that this information will help address some of the concerns that have been raised about new positions in the White House and elsewhere in the Executive Branch, and will inform any hearing that the Subcommittee holds on this topic.

Thank you for considering my views on this important matter. I very much appreciate your commitment to transparency and open government and look forward to your prompt response.

Sincerely,

RUSSELL D. FEINGOLD,  
*United States Senator.*

EXHIBIT 3  
CZARS

#### POSITIONS IN THE EXECUTIVE OFFICE OF THE PRESIDENT (10)

Central Region Czar: Dennis Ross  
Official Title: Special Assistant to the President and Senior Director for the Central Region

Reports to: National Security Adviser Gen. James L. Jones

Cybersecurity Czar: TBD  
Reported Duties: Will have broad authority to develop strategy to protect the nation’s government-run and private computer networks.

Reports to: National Security Adviser Gen. James L. Jones and Larry Summers, the President’s top economic advisor

Domestic Violence Czar: Lynn Rosenthal  
Official Title: White House Advisor on Violence Against Women

Reported Duties: Will advise the President and Vice President on domestic violence and sexual assault issues.

Reports to: President Obama and Vice President Biden

Economic Czar: Paul Volcker  
Official Title: Chairman of the President’s Economic Recovery Advisory Board

Reported Duties: Charged with offering independent, nonpartisan information, analysis and advice to the President as he formulates and implements his plans for economic recovery.

Reports to: President Obama

Energy and Environment Czar: Carol Browner

Official Title: Assistant to the President for Energy and Climate Change

Reported Duties: Coordinate energy and climate policy, emphasizing regulation and conservation.

Reports to: President Obama

Health Czar: Nancy-Ann DeParle

Official Title: Counselor to the President and Director of the White House Office of Health Reform

Reported Duties: Coordinates the development of the Administration’s healthcare policy agenda.

Reports to: President Obama

Senior Director for Information Sharing Policy: Mike Resnick

Reported Duties: Lead a comprehensive review of information sharing and lead an interagency policy process to identify information sharing and access priorities going forward. (Perhaps performing functions statutorily assigned to the Program Manager for the Information Sharing Environment).

Reports to: Unknown

Urban Affairs Czar: Adolfo Carrion Jr.

Official Title: White House Director of Urban Affairs

Reported Duties: Coordinating transportation and housing initiatives, as well as serving as a conduit for federal aid to economically hard-hit cities.

Reports to: President Obama

WMD Policy Czar: Gary Samore

Official Title: White House Coordinator for Weapons of Mass Destruction, Security and Arms Control

Reported Duties: Will coordinate issues related to weapons of mass destruction across the government, including: proliferation, nuclear and conventional arms control, threat reduction, and terrorism involving weapons of mass destruction.

Reports to: National Security Adviser Gen. James L. Jones

Green Jobs Czar: TBD (Van Jones—Resigned)

Official Title: Special Adviser for Green Jobs, Enterprise, and Innovation at the White House Council on Environmental Quality

Reported Duties: Will focus on environmentally-friendly employment within the administration and boost support for the idea nationwide.

Reports to: Head of Council on Environmental Quality

#### POSITIONS IN A DEPARTMENT OR AGENCY (8)

Afghanistan Czar: Richard Holbrooke

Official Title: Special Representative for Afghanistan and Pakistan

Reported Duties: Will work with CENTCOM head to integrate U.S. civilian and military efforts in the region.

Reports to: Secretary of State (position is within the Department of State)

Auto Recovery Czar: Ed Montgomery

Official Title: Director of Recovery for Auto Communities and Workers

Reported Duties: Will work to leverage government resources to support the workers, communities, and regions that rely on the American auto industry.

Reports to: Labor Secretary and Larry Summers, the President’s top economic advisor (position is within the Department of Labor)

Car Czar (Manufacturing Policy): Ron Bloom

Official Title: Counselor to the Secretary of the Treasury

Reported Duties: Leader of the White House task force overseeing auto company bailouts; worked on the restructuring of General Motors and Chrysler LLC.

Reports to: Treasury Secretary and Larry Summers, the President’s top economic advisor (position is within the Department of Treasury)

Great Lakes Czar: Cameron Davis

Official Title: Special advisor to the U.S. EPA overseeing its Great Lakes restoration plan

Reported Duties: Oversees the Administration’s initiative to restore the Great Lakes’ environment.

Reports to: Environmental Protection Agency Administrator (position is within the Environmental Protection Agency)

Pay Czar: Kenneth Feinberg

Official Title: Special Master on executive pay

Reported Duties: Examines compensation practices at companies that have been bailed out more than once by the federal government.

Reports to: Treasury Secretary (position is within the Department of the Treasury)

Guantanamo Closure Czar: Daniel Fried

Official Title: Special Envoy to oversee the closure of the detention center at Guantanamo Bay

Reported Duties: Works to get help of foreign governments in moving toward closure of Guantanamo Bay.

Reports to: Secretary of State (position is within the Department of State)

International Climate Czar: Todd Stern

Official Title: Special Envoy for Climate Change

Reported Duties: Responsible for developing international approaches to reduce the emission of greenhouse gases.

Reports to: Secretary of State (position is within the Department of State)

Special Representative for Border Affairs and Assistant Secretary for International Affairs (dubbed “Border Czar”): Alan Bersin  
Official Title: Assistant Secretary for International Affairs

Reported Duties: Will coordinate all of the Department’s border security and law-enforcement efforts.

Reports to: Homeland Security Secretary (position is within the Department of Homeland Security)

#### CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. The Senator from California.

Mrs. FEINSTEIN. Madam President, I am informed that there is 12 minutes remaining on the Democratic side for morning business. I yield back that time.

The ACTING PRESIDENT pro tempore. Time is yielded back, and morning business is closed.

#### DEPARTMENT OF THE INTERIOR, ENVIRONMENT, AND RELATED AGENCIES APPROPRIATIONS ACT, 2010

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to the consideration of H.R. 2996, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 2996) making appropriations for the Department of the Interior, environment and related agencies for the fiscal year ending September 30, 2010, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Appropriations with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of the Interior, environment, and related agencies for the fiscal year ending September 30, 2010, and for other purposes, namely:

#### TITLE I

#### DEPARTMENT OF THE INTERIOR

##### BUREAU OF LAND MANAGEMENT

##### MANAGEMENT OF LANDS AND RESOURCES

For necessary expenses for protection, use, improvement, development, disposal, cadastral surveying, classification, acquisition of easements and other interests in lands, and performance of other functions, including maintenance of facilities, as authorized by law, in the management of lands and their resources under the jurisdiction of the Bureau of Land Management, including the general administration of the Bureau, and assessment of mineral potential of public lands pursuant to Public Law 96-487 (16 U.S.C. 3150(a)), \$965,721,000, to remain available until expended, of which not to exceed \$69,336,000 is available for oil and gas management; and of which \$1,500,000 is for high priority projects, to be carried out by the Youth Conservation Corps; and of which \$3,000,000 shall be available in fiscal year 2010 subject to a match by at least an equal amount by the National Fish and Wildlife Foundation for cost-shared projects supporting conservation of Bureau lands; and such funds shall be advanced to the Foundation as a lump sum grant without regard to when expenses are incurred.

In addition, \$45,500,000 is for the processing of applications for permit to drill and related use authorizations, to remain available until expended, to be reduced by amounts collected by the Bureau and credited to this appropriation that shall be derived from \$6,500 per new application for permit to drill that the Bureau shall collect upon submission of each new application, and in addition, \$36,696,000 is for Mining Law Administration program operations, including the cost of administering the mining claim fee program; to remain available until expended, to be reduced by amounts collected by the Bureau and credited to this appropriation from annual mining claim fees so as to result in a final appropriation estimated at not more than \$965,721,000, and \$2,000,000, to remain available until expended, from communication site rental fees established by the Bureau for the cost of administering communication site activities.

##### CONSTRUCTION

For construction of buildings, recreation facilities, roads, trails, and appurtenant facilities, \$8,626,000, to remain available until expended.

##### LAND ACQUISITION

For expenses necessary to carry out sections 205, 206, and 318(d) of Public Law 94-579, including administrative expenses and acquisition of lands or waters, or interests therein, \$28,650,000, to be derived from the Land and Water Conservation Fund and to remain available until expended.

##### OREGON AND CALIFORNIA GRANT LANDS

For expenses necessary for management, protection, and development of resources and for construction, operation, and maintenance of access roads, reforestation, and other improvements on the revested Oregon and California Railroad grant lands, on other Federal lands in the Oregon and California land-grant counties of Oregon, and on adjacent rights-of-way; and acquisition of lands or interests therein, including existing connecting roads on or adjacent to such grant lands; \$111,557,000, to remain avail-

able until expended: Provided, That 25 percent of the aggregate of all receipts during the current fiscal year from the revested Oregon and California Railroad grant lands is hereby made a charge against the Oregon and California land-grant fund and shall be transferred to the General Fund in the Treasury in accordance with the second paragraph of subsection (b) of title II of the Act of August 28, 1937 (50 Stat. 876).

##### FOREST ECOSYSTEM HEALTH AND RECOVERY FUND (REVOLVING FUND, SPECIAL ACCOUNT)

In addition to the purposes authorized in Public Law 102-381, funds made available in the Forest Ecosystem Health and Recovery Fund can be used for the purpose of planning, preparing, implementing and monitoring salvage timber sales and forest ecosystem health and recovery activities, such as release from competing vegetation and density control treatments. The Federal share of receipts (defined as the portion of salvage timber receipts not paid to the counties under 43 U.S.C. 1181f and 43 U.S.C. 1181f-1 et seq., and Public Law 106-393) derived from treatments funded by this account shall be deposited into the Forest Ecosystem Health and Recovery Fund.

##### RANGE IMPROVEMENTS

For rehabilitation, protection, and acquisition of lands and interests therein, and improvement of Federal rangelands pursuant to section 401 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701), notwithstanding any other Act, sums equal to 50 percent of all moneys received during the prior fiscal year under sections 3 and 15 of the Taylor Grazing Act (43 U.S.C. 315 et seq.) and the amount designated for range improvements from grazing fees and mineral leasing receipts from Bankhead-Jones lands transferred to the Department of the Interior pursuant to law, but not less than \$10,000,000, to remain available until expended: Provided, That not to exceed \$600,000 shall be available for administrative expenses.

##### SERVICE CHARGES, DEPOSITS, AND FORFEITURES

For administrative expenses and other costs related to processing application documents and other authorizations for use and disposal of public lands and resources, for costs of providing copies of official public land documents, for monitoring construction, operation, and termination of facilities in conjunction with use authorizations, and for rehabilitation of damaged property, such amounts as may be collected under Public Law 94-579, as amended, and Public Law 93-153, to remain available until expended: Provided, That, notwithstanding any provision to the contrary of section 305(a) of Public Law 94-579 (43 U.S.C. 1735(a)), any moneys that have been or will be received pursuant to that section, whether as a result of forfeiture, compromise, or settlement, if not appropriate for refund pursuant to section 305(c) of that Act (43 U.S.C. 1735(c)), shall be available and may be expended under the authority of this Act by the Secretary to improve, protect, or rehabilitate any public lands administered through the Bureau of Land Management which have been damaged by the action of a resource developer, purchaser, permittee, or any unauthorized person, without regard to whether all moneys collected from each such action are used on the exact lands damaged which led to the action: Provided further, That any such moneys that are in excess of amounts needed to repair damage to the exact land for which funds were collected may be used to repair other damaged public lands.

##### MISCELLANEOUS TRUST FUNDS

In addition to amounts authorized to be expended under existing laws, there is hereby appropriated such amounts as may be contributed under section 307 of the Act of October 21, 1976 (43 U.S.C. 1701), and such amounts as may be advanced for administrative costs, surveys, ap-

praisals, and costs of making conveyances of omitted lands under section 211(b) of that Act, to remain available until expended.

##### ADMINISTRATIVE PROVISIONS

The Bureau of Land Management may carry out the operations funded under this Act by direct expenditure, contracts, grants, cooperative agreements and reimbursable agreements with public and private entities. Projects funded pursuant to a written commitment by a State government to provide an identified amount of money in support of the project may be carried out by the bureau upon receipt of the written commitment. Appropriations for the Bureau of Land Management (BLM) shall be available for purchase, erection, and dismantlement of temporary structures, and alteration and maintenance of necessary buildings and appurtenant facilities to which the United States has title; up to \$100,000 for payments, at the discretion of the Secretary, for information or evidence concerning violations of laws administered by the Bureau; miscellaneous and emergency expenses of enforcement activities authorized or approved by the Secretary and to be accounted for solely on the Secretary's certificate, not to exceed \$10,000: Provided, That notwithstanding 44 U.S.C. 501, the Bureau may, under cooperative cost-sharing and partnership arrangements authorized by law, procure printing services from cooperators in connection with jointly produced publications for which the cooperators share the cost of printing either in cash or in services, and the Bureau determines the cooperator is capable of meeting accepted quality standards: Provided further, That projects to be funded pursuant to a written commitment by a State government to provide an identified amount of money in support of the project may be carried out by the Bureau on a reimbursable basis. Appropriations herein made shall not be available for the destruction of healthy, unadopted, wild horses and burros in the care of the Bureau of Land Management or its contractors or for the sale of wild horses and burros that results in their destruction for processing into commercial products.

##### UNITED STATES FISH AND WILDLIFE SERVICE

##### RESOURCE MANAGEMENT

For necessary expenses of the United States Fish and Wildlife Service, as authorized by law, and for scientific and economic studies, general administration, and for the performance of other authorized functions related to such resources, \$1,244,386,000, to remain available until September 30, 2011 except as otherwise provided herein: Provided, That \$2,500,000 is for high priority projects, which shall be carried out by the Youth Conservation Corps: Provided further, That not to exceed \$22,103,000 shall be used for implementing subsections (a), (b), (c), and (e) of section 4 of the Endangered Species Act, as amended, (except for processing petitions, developing and issuing proposed and final regulations, and taking any other steps to implement actions described in subsection (c)(2)(A), (c)(2)(B)(i), or (c)(2)(B)(ii)), of which not to exceed \$11,632,000 shall be used for any activity regarding the designation of critical habitat, pursuant to subsection (a)(3), excluding litigation support, for species listed pursuant to subsection (a)(1) prior to October 1, 2009: Provided further, That of the amount available for law enforcement, up to \$400,000, to remain available until expended, may at the discretion of the Secretary be used for payment for information, rewards, or evidence concerning violations of laws administered by the Service, and miscellaneous and emergency expenses of enforcement activity, authorized or approved by the Secretary and to be accounted for solely on the Secretary's certificate: Provided further, That of the amount provided for environmental contaminants, up to \$1,000,000 may remain available until expended for contaminant sample analyses.

## CONSTRUCTION

For construction, improvement, acquisition, or removal of buildings and other facilities required in the conservation, management, investigation, protection, and utilization of fishery and wildlife resources, and the acquisition of lands and interests therein; \$39,741,000, to remain available until expended.

## LAND ACQUISITION

For expenses necessary to carry out the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 4601-4 through 11), including administrative expenses, and for acquisition of land or waters, or interest therein, in accordance with statutory authority applicable to the United States Fish and Wildlife Service, \$82,790,000, to be derived from the Land and Water Conservation Fund and to remain available until expended, of which, notwithstanding 16 U.S.C. 4601-9, not more than \$1,500,000 shall be for land conservation partnerships authorized by the Highlands Conservation Act of 2004: Provided, That none of the funds appropriated for specific land acquisition projects can be used to pay for any administrative overhead, planning or other management costs.

## COOPERATIVE ENDANGERED SPECIES CONSERVATION FUND

For expenses necessary to carry out section 6 of the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), as amended, \$85,001,000, to remain available until expended, of which \$30,307,000 is to be derived from the Cooperative Endangered Species Conservation Fund, of which \$5,146,000 shall be for the Idaho Salmon and Clearwater River Basins Habitat Account pursuant to the Snake River Water Rights Act of 2004; and of which \$54,694,000 is to be derived from the Land and Water Conservation Fund.

## NATIONAL WILDLIFE REFUGE FUND

For expenses necessary to implement the Act of October 17, 1978 (16 U.S.C. 715s), \$14,500,000.

## NORTH AMERICAN WETLANDS CONSERVATION FUND

For expenses necessary to carry out the provisions of the North American Wetlands Conservation Act, as amended (16 U.S.C. 4401-4414), \$45,147,000, to remain available until expended.

## NEOTROPICAL MIGRATORY BIRD CONSERVATION

For expenses necessary to carry out the Neotropical Migratory Bird Conservation Act, as amended, (16 U.S.C. 6101 et seq.), \$5,000,000, to remain available until expended.

## MULTINATIONAL SPECIES CONSERVATION FUND

For expenses necessary to carry out the African Elephant Conservation Act (16 U.S.C. 4201-4203, 4211-4214, 4221-4225, 4241-4246, and 1538), the Asian Elephant Conservation Act of 1997 (16 U.S.C. 4261-4266), the Rhinoceros and Tiger Conservation Act of 1994 (16 U.S.C. 5301-5306), the Great Ape Conservation Act of 2000 (16 U.S.C. 6301-6305), and the Marine Turtle Conservation Act of 2004 (16 U.S.C. 6601-6606), \$11,500,000, to remain available until expended.

## STATE AND TRIBAL WILDLIFE GRANTS

For wildlife conservation grants to States and to the District of Columbia, Puerto Rico, Guam, the United States Virgin Islands, the Northern Mariana Islands, American Samoa, and Indian tribes under the provisions of the Fish and Wildlife Act of 1956 and the Fish and Wildlife Coordination Act, for the development and implementation of programs for the benefit of wildlife and their habitat, including species that are not hunted or fished, \$80,000,000, to remain available until expended: Provided, That of the amount provided herein, \$7,000,000 is for a competitive grant program for Indian tribes not subject to the remaining provisions of this appropriation: Provided further, That \$5,000,000 is for a competitive grant program for States, territories, and other jurisdictions with approved plans, not subject to the remaining provisions of this appropriation: Provided further, That the Secretary shall, for fiscal year 2010 and each fis-

cal year thereafter, after deducting \$12,000,000 and administrative expenses, apportion the amount provided herein in the following manner: (1) to the District of Columbia and to the Commonwealth of Puerto Rico, each a sum equal to not more than one-half of 1 percent thereof; and (2) to Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands, each a sum equal to not more than one-fourth of 1 percent thereof: Provided further, That the Secretary shall, for fiscal year 2010 and each fiscal year thereafter, apportion the remaining amount in the following manner: (1) one-third of which is based on the ratio to which the land area of such State bears to the total land area of all such States; and (2) two-thirds of which is based on the ratio to which the population of such State bears to the total population of all such States: Provided further, That the amounts apportioned under this paragraph shall be adjusted equitably so that no State shall, for fiscal year 2010 and each fiscal year thereafter, be apportioned a sum which is less than 1 percent of the amount available for apportionment under this paragraph for any fiscal year or more than 5 percent of such amount: Provided further, That the Federal share of planning grants shall not, for fiscal year 2010 and each fiscal year thereafter, exceed 75 percent of the total costs of such projects and the Federal share of implementation grants shall not, for fiscal year 2010 and each fiscal year thereafter, exceed 50 percent of the total costs of such projects: Provided further, That the non-Federal share of such projects may not be derived from Federal grant programs: Provided further, That any amount apportioned in 2010 to any State, territory, or other jurisdiction that remains unobligated as of September 30, 2011, shall be reapportioned, together with funds appropriated in 2012, in the manner provided herein.

## ADMINISTRATIVE PROVISIONS

The Fish and Wildlife Service may carry out the operations of Service programs by direct expenditure, contracts, grants, cooperative agreements and reimbursable agreements with public and private entities. Appropriations and funds available to the United States Fish and Wildlife Service shall be available for repair of damage to public roads within and adjacent to reservation areas caused by operations of the Service; options for the purchase of land at not to exceed \$1 for each option; facilities incident to such public recreational uses on conservation areas as are consistent with their primary purpose; and the maintenance and improvement of aquaria, buildings, and other facilities under the jurisdiction of the Service and to which the United States has title, and which are used pursuant to law in connection with management, and investigation of fish and wildlife resources: Provided, That notwithstanding 44 U.S.C. 501, the Service may, under cooperative cost sharing and partnership arrangements authorized by law, procure printing services from cooperators in connection with jointly produced publications for which the cooperators share at least one-half the cost of printing either in cash or services and the Service determines the cooperator is capable of meeting accepted quality standards: Provided further, That the Service may accept donated aircraft as replacements for existing aircraft.

## NATIONAL PARK SERVICE

## OPERATION OF THE NATIONAL PARK SYSTEM

For expenses necessary for the management, operation, and maintenance of areas and facilities administered by the National Park Service (including expenses to carry out programs of the United States Park Police), and for the general administration of the National Park Service, \$2,261,309,000, of which \$9,982,000 for planning and interagency coordination in support of Everglades restoration and \$99,622,000 for maintenance, repair or rehabilitation projects for con-

structed assets, operation of the National Park Service automated facility management software system, and comprehensive facility condition assessments shall remain available until September 30, 2011.

## NATIONAL RECREATION AND PRESERVATION

For expenses necessary to carry out recreation programs, natural programs, cultural programs, heritage partnership programs, environmental compliance and review, international park affairs, statutory or contractual aid for other activities, and grant administration, not otherwise provided for, \$67,438,000, of which \$3,175,000 shall be for Preserve America grants as authorized by section 7302 of the Omnibus Public Land Management Act of 2009 (Public Law 111-11).

## HISTORIC PRESERVATION FUND

For expenses necessary in carrying out the Historic Preservation Act of 1966, as amended (16 U.S.C. 470), and the Omnibus Parks and Public Lands Management Act of 1996 (Public Law 104-333), \$74,500,000, to be derived from the Historic Preservation Fund and to remain available until September 30, 2011; of which \$20,000,000 shall be for Save America's Treasures grants as authorized by section 7303 of the Omnibus Public Land Management Act of 2009 (Public Law 111-11).

## CONSTRUCTION

For construction, improvements, repair or replacement of physical facilities, including a portion of the expense for the modifications authorized by section 104 of the Everglades National Park Protection and Expansion Act of 1989, \$219,731,000, to remain available until expended.

## LAND AND WATER CONSERVATION FUND

## (RESCISSION)

The contract authority provided for fiscal year 2010 by 16 U.S.C. 4601-10a is rescinded.

## LAND ACQUISITION AND STATE ASSISTANCE

For expenses necessary to carry out the Land and Water Conservation Act of 1965, as amended (16 U.S.C. 4601-4 through 11), including administrative expenses, and for acquisition of lands or waters, or interest therein, in accordance with the statutory authority applicable to the National Park Service, \$118,586,000, to be derived from the Land and Water Conservation Fund and to remain available until expended, of which \$35,000,000 is for the State assistance program and of which \$4,000,000 shall be for the American Battlefield Protection Program grants as authorized by section 7301 of the Omnibus Public Land Management Act of 2009 (Public Law 111-11).

## ADMINISTRATIVE PROVISIONS

## (INCLUDING TRANSFER OF FUNDS)

In addition to other uses set forth in section 407(d) of Public Law 105-391, franchise fees credited to a sub-account shall be available for expenditure by the Secretary, without further appropriation, for use at any unit within the National Park System to extinguish or reduce liability for Possessory Interest or leasehold surrender interest. Such funds may only be used for this purpose to the extent that the benefiting unit anticipated franchise fee receipts over the term of the contract at that unit exceed the amount of funds used to extinguish or reduce liability. Franchise fees at the benefiting unit shall be credited to the sub-account of the originating unit over a period not to exceed the term of a single contract at the benefiting unit, in the amount of funds so expended to extinguish or reduce liability.

For the costs of administration of the Land and Water Conservation Fund grants authorized by section 105(a)(2)(B) of the Gulf of Mexico Energy Security Act of 2006 (Public Law 109-432), the National Park Service may retain up to 3 percent of the amounts which are authorized to be disbursed under such section, such retained amounts to remain available until expended.

National Park Service funds may be transferred to the Federal Highway Administration (FHWA), Department of Transportation, for purposes authorized under 23 U.S.C. 204. Transfers may include a reasonable amount for FHWA administrative support costs.

#### UNITED STATES GEOLOGICAL SURVEY SURVEYS, INVESTIGATIONS, AND RESEARCH

For expenses necessary for the United States Geological Survey to perform surveys, investigations, and research covering topography, geology, hydrology, biology, and the mineral and water resources of the United States, its territories and possessions, and other areas as authorized by 43 U.S.C. 31, 1332, and 1340; classify lands as to their mineral and water resources; give engineering supervision to power permittees and Federal Energy Regulatory Commission licensees; administer the minerals exploration program (30 U.S.C. 641); conduct inquiries into the economic conditions affecting mining and materials processing industries (30 U.S.C. 3, 21a, and 1603; 50 U.S.C. 98g(1)) and related purposes as authorized by law; and to publish and disseminate data relative to the foregoing activities; \$1,104,340,000, to remain available until September 30, 2011, of which \$65,561,000 shall be available only for cooperation with States or municipalities for water resources investigations; of which \$40,150,000 shall remain available until expended for satellite operations; and of which \$7,321,000 shall be available until expended for deferred maintenance and capital improvement projects that exceed \$100,000 in cost: Provided, That none of the funds provided for the biological research activity shall be used to conduct new surveys on private property, unless specifically authorized in writing by the property owner: Provided further, That no part of this appropriation shall be used to pay more than one-half the cost of topographic mapping or water resources data collection and investigations carried on in cooperation with States and municipalities.

#### ADMINISTRATIVE PROVISIONS

From within the amount appropriated for activities of the United States Geological Survey such sums as are necessary shall be available for reimbursement to the General Services Administration for security guard services; contracting for the furnishing of topographic maps and for the making of geophysical or other specialized surveys when it is administratively determined that such procedures are in the public interest; construction and maintenance of necessary buildings and appurtenant facilities; acquisition of lands for gauging stations and observation wells; expenses of the United States National Committee on Geology; and payment of compensation and expenses of persons on the rolls of the Survey duly appointed to represent the United States in the negotiation and administration of interstate compacts: Provided, That activities funded by appropriations herein made may be accomplished through the use of contracts, grants, or cooperative agreements as defined in 31 U.S.C. 6302 et seq.: Provided further, That the United States Geological Survey may enter into contracts or cooperative agreements directly with individuals or indirectly with institutions or nonprofit organizations, without regard to 41 U.S.C. 5, for the temporary or intermittent services of students or recent graduates, who shall be considered employees for the purpose of chapters 57 and 81 of title 5, United States Code, relating to compensation for travel and work injuries, and chapter 171 of title 28, United States Code, relating to tort claims, but shall not be considered to be Federal employees for any other purposes.

#### MINERALS MANAGEMENT SERVICE

##### ROYALTY AND OFFSHORE MINERALS MANAGEMENT

For expenses necessary for minerals leasing and environmental studies, regulation of industry operations, and collection of royalties, as authorized by law; for enforcing laws and regu-

lations applicable to oil, gas, and other minerals leases, permits, licenses and operating contracts; for energy-related or other authorized marine-related purposes on the Outer Continental Shelf; and for matching grants or cooperative agreements, \$175,217,000, to remain available until September 30, 2011, of which \$89,374,000 shall be available for royalty management activities; and an amount not to exceed \$156,730,000, to be credited to this appropriation and to remain available until expended, from additions to receipts resulting from increases to rates in effect on August 5, 1993, and from cost recovery fees: Provided, That notwithstanding 31 U.S.C. 3302, in fiscal year 2010, such amounts as are assessed under 31 U.S.C. 9701 shall be collected and credited to this account and shall be available until expended for necessary expenses: Provided further, That to the extent \$156,730,000 in addition to receipts are not realized from the sources of receipts stated above, the amount needed to reach \$156,730,000 shall be credited to this appropriation from receipts resulting from rental rates for Outer Continental Shelf leases in effect before August 5, 1993: Provided further, That the term "qualified Outer Continental Shelf revenues", as defined in section 102(9)(A) of the Gulf of Mexico Energy Security Act, division C of Public Law 109-432, shall include only the portion of rental revenues that would have been collected at the rental rates in effect before August 5, 1993: Provided further, That not to exceed \$3,000 shall be available for reasonable expenses related to promoting volunteer beach and marine cleanup activities: Provided further, That notwithstanding any other provision of law, \$15,000 under this heading shall be available for refunds of overpayments in connection with certain Indian leases in which the Director of MMS concurred with the claimed refund due, to pay amounts owed to Indian allottees or tribes, or to correct prior unrecoverable erroneous payments: Provided further, That for the costs of administration of the Coastal Impact Assistance Program authorized by section 31 of the Outer Continental Shelf Lands Act, as amended (43 U.S.C. 1456a), MMS in fiscal year 2010 may retain up to 4 percent of the amounts which are disbursed under section 31(b)(1), such retained amounts to remain available until expended.

For an additional amount, \$10,000,000, to remain available until expended, which shall be derived from non-refundable inspection fees collected in fiscal year 2010, as provided in this Act: Provided, That to the extent that such amounts are not realized from such fees, the amount needed to reach \$10,000,000 shall be credited to this appropriation from receipts resulting from rental rates for Outer Continental Shelf leases in effect before August 5, 1993.

#### OIL SPILL RESEARCH

For necessary expenses to carry out title I, section 1016, title IV, sections 4202 and 4303, title VII, and title VIII, section 8201 of the Oil Pollution Act of 1990, \$6,303,000, which shall be derived from the Oil Spill Liability Trust Fund, to remain available until expended.

#### ADMINISTRATIVE PROVISION

Notwithstanding the provisions of section 35(b) of the Mineral Leasing Act, as amended (30 U.S.C. 191(b)), the Secretary shall deduct 2 percent from the amount payable to each State in fiscal year 2010 and deposit the amount deducted to miscellaneous receipts of the Treasury.

#### OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT

##### REGULATION AND TECHNOLOGY

For necessary expenses to carry out the provisions of the Surface Mining Control and Reclamation Act of 1977, Public Law 95-87, as amended, \$127,180,000, to remain available until September 30, 2011: Provided, That appropriations for the Office of Surface Mining Reclamation and Enforcement may provide for the travel

and per diem expenses of State and tribal personnel attending Office of Surface Mining Reclamation and Enforcement sponsored training.

#### ABANDONED MINE RECLAMATION FUND

For necessary expenses to carry out title IV of the Surface Mining Control and Reclamation Act of 1977, Public Law 95-87, as amended, \$39,588,000, to be derived from receipts of the Abandoned Mine Reclamation Fund and to remain available until expended: Provided, That pursuant to Public Law 97-365, the Department of the Interior is authorized to use up to 20 percent from the recovery of the delinquent debt owed to the United States Government to pay for contracts to collect these debts: Provided further, That funds made available under title IV of Public Law 95-87 may be used for any required non-Federal share of the cost of projects funded by the Federal Government for the purpose of environmental restoration related to treatment or abatement of acid mine drainage from abandoned mines: Provided further, That such projects must be consistent with the purposes and priorities of the Surface Mining Control and Reclamation Act: Provided further, That amounts provided under this heading may be used for the travel and per diem expenses of State and tribal personnel attending Office of Surface Mining Reclamation and Enforcement sponsored training.

#### ADMINISTRATIVE PROVISION

With funds available for the Technical Innovation and Professional Services program in this Act, the Secretary may transfer title for computer hardware, software and other technical equipment to State and tribal regulatory and reclamation programs.

#### BUREAU OF INDIAN AFFAIRS OPERATION OF INDIAN PROGRAMS (INCLUDING TRANSFER OF FUNDS)

For expenses necessary for the operation of Indian programs, as authorized by law, including the Snyder Act of November 2, 1921 (25 U.S.C. 13), the Indian Self-Determination and Education Assistance Act of 1975 (25 U.S.C. 450 et seq.), as amended, the Education Amendments of 1978 (25 U.S.C. 2001-2019), and the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2501 et seq.), as amended, \$2,309,322,000, to remain available until September 30, 2011 except as otherwise provided herein; of which not to exceed \$8,500 may be for official reception and representation expenses; of which not to exceed \$74,915,000 shall be for welfare assistance payments: Provided, That in cases of designated Federal disasters, the Secretary may exceed such cap, from the amounts provided herein, to provide for disaster relief to Indian communities affected by the disaster; of which, notwithstanding any other provision of law, including but not limited to the Indian Self-Determination Act of 1975, as amended, not to exceed \$154,794,000 shall be available for payments for contract support costs associated with ongoing contracts, grants, compacts, or annual funding agreements entered into with the Bureau prior to or during fiscal year 2010, as authorized by such Act, except that tribes and tribal organizations may use their tribal priority allocations for unmet contract support costs of ongoing contracts, grants, or compacts, or annual funding agreements and for unmet welfare assistance costs; of which not to exceed \$566,702,000 for school operations costs of Bureau-funded schools and other education programs shall become available on July 1, 2010, and shall remain available until September 30, 2011; of which \$25,000,000 shall be for public safety and justice programs as authorized by the Emergency Fund for Indian Safety and Health, established by section 601 of Public Law 110-293 (25 U.S.C. 443c); and of which not to exceed \$60,958,000 shall remain available until expended for housing improvement, road maintenance, attorney fees, litigation support, the Indian Self-Determination Fund, land records improvement, and



the Navajo-Hopi Settlement Program: Provided further, That notwithstanding any other provision of law, including but not limited to the Indian Self-Determination Act of 1975, as amended, and 25 U.S.C. 2008, not to exceed \$43,373,000 within and only from such amounts made available for school operations shall be available for administrative cost grants associated with ongoing grants entered into with the Bureau prior to or during fiscal year 2009 for the operation of Bureau-funded schools, and up to \$500,000 within and only from such amounts made available for administrative cost grants shall be available for the transitional costs of initial administrative cost grants to grantees that assume operation on or after July 1, 2009, of Bureau-funded schools: Provided further, That any forestry funds allocated to a tribe which remain unobligated as of September 30, 2011, may be transferred during fiscal year 2012 to an Indian forest land assistance account established for the benefit of the holder of the funds within the holder's trust fund account: Provided further, That any such unobligated balances not so transferred shall expire on September 30, 2012: Provided further, That in order to enhance the safety of Bureau field employees, the Bureau may use funds to purchase uniforms or other identifying articles of clothing for personnel.

#### CONSTRUCTION

##### (INCLUDING TRANSFER OF FUNDS)

For construction, repair, improvement, and maintenance of irrigation and power systems, buildings, utilities, and other facilities, including architectural and engineering services by contract; acquisition of lands, and interests in lands; and preparation of lands for farming, and for construction of the Navajo Indian Irrigation Project pursuant to Public Law 87-483, \$225,000,000, to remain available until expended: Provided, That such amounts as may be available for the construction of the Navajo Indian Irrigation Project may be transferred to the Bureau of Reclamation: Provided further, That not to exceed 6 percent of contract authority available to the Bureau of Indian Affairs from the Federal Highway Trust Fund may be used to cover the road program management costs of the Bureau: Provided further, That any funds provided for the Safety of Dams program pursuant to 25 U.S.C. 13 shall be made available on a nonreimbursable basis: Provided further, That for fiscal year 2010, in implementing new construction or facilities improvement and repair project grants in excess of \$100,000 that are provided to grant schools under Public Law 100-297, as amended, the Secretary of the Interior shall use the Administrative and Audit Requirements and Cost Principles for Assistance Programs contained in 43 CFR part 12 as the regulatory requirements: Provided further, That such grants shall not be subject to section 12.61 of 43 CFR; the Secretary and the grantee shall negotiate and determine a schedule of payments for the work to be performed: Provided further, That in considering grant applications, the Secretary shall consider whether such grantee would be deficient in assuring that the construction projects conform to applicable building standards and codes and Federal, tribal, or State health and safety standards as required by 25 U.S.C. 2005(b), with respect to organizational and financial management capabilities: Provided further, That if the Secretary declines a grant application, the Secretary shall follow the requirements contained in 25 U.S.C. 2504(f): Provided further, That any disputes between the Secretary and any grantee concerning a grant shall be subject to the disputes provision in 25 U.S.C. 2507(e): Provided further, That in order to ensure timely completion of construction projects, the Secretary may assume control of a project and all funds related to the project, if, within eighteen months of the date of enactment of this Act, any grantee receiving funds appropriated in this Act or in any prior Act, has not completed the planning and design phase of

the project and commenced construction: Provided further, That this appropriation may be reimbursed from the Office of the Special Trustee for American Indians appropriation for the appropriate share of construction costs for space expansion needed in agency offices to meet trust reform implementation.

#### INDIAN LAND AND WATER CLAIM SETTLEMENTS AND MISCELLANEOUS PAYMENTS TO INDIANS

For payments and necessary administrative expenses for implementation of Indian land and water claim settlements pursuant to Public Laws 99-264, 100-580, 101-618, 108-447, 109-379, 109-479, 110-297, and 111-11, and for implementation of other land and water rights settlements, \$47,380,000, to remain available until expended.

#### INDIAN LAND CONSOLIDATION, BIA

For consolidation of fractional interests in Indian lands and expenses associated with retermining and redistributing escheated interests in allotted lands, and for necessary expenses to carry out the Indian Land Consolidation Act of 1983, as amended, by direct expenditure or cooperative agreement, \$3,000,000, to remain available until expended.

#### INDIAN GUARANTEED LOAN PROGRAM ACCOUNT

For the cost of guaranteed loans and insured loans, \$8,215,000, of which \$1,629,000 is for administrative expenses, as authorized by the Indian Financing Act of 1974, as amended: Provided, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: Provided further, That these funds are available to subsidize total loan principal, any part of which is to be guaranteed or insured, not to exceed \$93,807,956.

#### ADMINISTRATIVE PROVISIONS

The Bureau of Indian Affairs may carry out the operation of Indian programs by direct expenditure, contracts, cooperative agreements, compacts and grants, either directly or in cooperation with States and other organizations.

Notwithstanding 25 U.S.C. 15, the Bureau of Indian Affairs may contract for services in support of the management, operation, and maintenance of the Power Division of the San Carlos Irrigation Project.

Appropriations for the Bureau of Indian Affairs (except the Revolving Fund for Loans Liquidating Account, Indian Loan Guaranty and Insurance Fund Liquidating Account, Indian Guaranteed Loan Financing Account, Indian Direct Loan Financing Account, and the Indian Guaranteed Loan Program account) shall be available for expenses of exhibits.

Notwithstanding any other provision of law, no funds available to the Bureau of Indian Affairs for central office oversight and Executive Direction and Administrative Services (except executive direction and administrative services funding for Tribal Priority Allocations, regional offices, and facilities operations and maintenance) shall be available for contracts, grants, compacts, or cooperative agreements with the Bureau of Indian Affairs under the provisions of the Indian Self-Determination Act or the Tribal Self-Governance Act of 1994 (Public Law 103-413).

In the event any tribe returns appropriations made available by this Act to the Bureau of Indian Affairs, this action shall not diminish the Federal Government's trust responsibility to that tribe, or the government-to-government relationship between the United States and that tribe, or that tribe's ability to access future appropriations.

Notwithstanding any other provision of law, no funds available to the Bureau, other than the amounts provided herein for assistance to public schools under 25 U.S.C. 452 et seq., shall be available to support the operation of any elementary or secondary school in the State of Alaska.

Appropriations made available in this or any other Act for schools funded by the Bureau

shall be available only to the schools in the Bureau school system as of September 1, 1996. No funds available to the Bureau shall be used to support expanded grades for any school or dormitory beyond the grade structure in place or approved by the Secretary of the Interior at each school in the Bureau school system as of October 1, 1995. Funds made available under this Act may not be used to establish a charter school at a Bureau-funded school (as that term is defined in section 1146 of the Education Amendments of 1978 (25 U.S.C. 2026)), except that a charter school that is in existence on the date of the enactment of this Act and that has operated at a Bureau-funded school before September 1, 1999, may continue to operate during that period, but only if the charter school pays to the Bureau a pro rata share of funds to reimburse the Bureau for the use of the real and personal property (including buses and vans), the funds of the charter school are kept separate and apart from Bureau funds, and the Bureau does not assume any obligation for charter school programs of the State in which the school is located if the charter school loses such funding. Employees of Bureau-funded schools sharing a campus with a charter school and performing functions related to the charter schools operation and employees of a charter school shall not be treated as Federal employees for purposes of chapter 171 of title 28, United States Code.

Notwithstanding any other provision of law, including section 113 of title 1 of appendix C of Public Law 106-113, if in fiscal year 2003 or 2004 a grantee received indirect and administrative costs pursuant to a distribution formula based on section 5(f) of Public Law 101-301, the Secretary shall continue to distribute indirect and administrative cost funds to such grantee using the section 5(f) distribution formula.

#### DEPARTMENTAL OFFICES OFFICE OF THE SECRETARY SALARIES AND EXPENSES

For necessary expenses for management of the Department of the Interior, \$118,836,000; of which not to exceed \$25,000 may be for official reception and representation expenses; and of which up to \$1,000,000 shall be available for workers compensation payments and unemployment compensation payments associated with the orderly closure of the United States Bureau of Mines: Provided, That, for fiscal year 2010 up to \$400,000 of the payments authorized by the Act of October 20, 1976, as amended (31 U.S.C. 6901-6907) may be retained for administrative expenses of the Payments in Lieu of Taxes Program: Provided further, That no payment shall be made pursuant to that Act to otherwise eligible units of local government if the computed amount of the payment is less than \$100: Provided further, That for fiscal years 2008 through 2012 the Secretary may reduce the payment authorized by 31 U.S.C. 6901-6907, as amended, for an individual county by the amount necessary to correct prior year overpayments to that county: Provided further, That for fiscal years 2008 through 2012 the amount needed to correct a prior year underpayment to an individual county shall be paid from any reductions for overpayments to other counties and the amount necessary to cover any remaining underpayment is hereby appropriated and shall be paid to individual counties using current fiscal year funds.

#### INSULAR AFFAIRS

##### ASSISTANCE TO TERRITORIES

For expenses necessary for assistance to territories under the jurisdiction of the Department of the Interior, \$81,095,000, of which: (1) \$71,815,000 shall remain available until expended for technical assistance, including maintenance assistance, disaster assistance, insular management controls, coral reef initiative activities, and brown tree snake control and research; grants to the judiciary in American Samoa for compensation and expenses, as authorized by

law (48 U.S.C. 1661(c)); grants to the Government of American Samoa, in addition to current local revenues, for construction and support of governmental functions; grants to the Government of the Virgin Islands as authorized by law; grants to the Government of Guam, as authorized by law; and grants to the Government of the Northern Mariana Islands as authorized by law (Public Law 94-241; 90 Stat. 272); and (2) \$9,280,000 shall be available until September 30, 2011 for salaries and expenses of the Office of Insular Affairs: Provided, That all financial transactions of the territorial and local governments herein provided for, including such transactions of all agencies or instrumentalities established or used by such governments, may be audited by the Government Accountability Office, at its discretion, in accordance with chapter 35 of title 31, United States Code: Provided further, That Northern Mariana Islands Covenant grant funding shall be provided according to those terms of the Agreement of the Special Representatives on Future United States Financial Assistance for the Northern Mariana Islands approved by Public Law 104-134: Provided further, That the funds for the program of operations and maintenance improvement are appropriated to institutionalize routine operations and maintenance improvement of capital infrastructure with territorial participation and cost sharing to be determined by the Secretary based on the grantee's commitment to timely maintenance of its capital assets: Provided further, That any appropriation for disaster assistance under this heading in this Act or previous appropriations Acts may be used as non-Federal matching funds for the purpose of hazard mitigation grants provided pursuant to section 404 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170c): Provided further, That at the request of the Governor of Guam, the Secretary may transfer any mandatory or discretionary funds appropriated, including those provided under Public Law 104-134, to the Secretary of Agriculture for the subsidy cost of direct or guaranteed loans, plus not to exceed 3 percent of the amount of the subsidy transferred for the cost of loan administration, for the purposes authorized by the Rural Electrification Act of 1936 and section 306(a)(1) of the Consolidated Farm and Rural Development Act for construction and repair projects in Guam, and such funds shall remain available until expended: Provided further, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: Provided further, That such loans or loan guarantees may be made without regard to the population of the area, credit elsewhere requirements, and restrictions on the types of eligible entities under the Rural Electrification Act of 1936 and section 306(a)(1) of the Consolidated Farm and Rural Development Act: Provided further, That any funds transferred to the Secretary of Agriculture shall be in addition to funds otherwise made available to make or guarantee loans under such authorities.

#### COMPACT OF FREE ASSOCIATION

For grants and necessary expenses, \$5,318,000, to remain available until expended, as provided for in sections 221(a)(2), 221(b), and 233 of the Compact of Free Association for the Republic of Palau; and section 221(a)(2) of the Compacts of Free Association for the Government of the Republic of the Marshall Islands and the Federated States of Micronesia, as authorized by Public Law 99-658 and Public Law 108-188: Provided further, That at the request of the Governor of Guam, the Secretary may transfer any mandatory or discretionary funds appropriated, including those provided under section 104(e) of Public Law 108-188, to the Secretary of Agriculture for the subsidy cost of direct or guaranteed loans, plus not to exceed 3 percent of the amount of the subsidy transferred for the cost of loan administration, for the purposes authorized

by the Rural Electrification Act of 1936 and section 306(a)(1) of the Consolidated Farm and Rural Development Act for construction and repair projects in Guam, and such funds shall remain available until expended: Provided further, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: Provided further, That such loans or loan guarantees may be made without regard to the population of the area, credit elsewhere requirements, and restrictions on the types of eligible entities under the Rural Electrification Act of 1936 and section 306(a)(1) of the Consolidated Farm and Rural Development Act: Provided further, That any funds transferred to the Secretary of Agriculture shall be in addition to funds otherwise made available to make or guarantee loans under such authorities.

#### OFFICE OF THE SOLICITOR

##### SALARIES AND EXPENSES

For necessary expenses of the Office of the Solicitor, \$65,076,000.

#### OFFICE OF INSPECTOR GENERAL

##### SALARIES AND EXPENSES

For necessary expenses of the Office of Inspector General, \$48,590,000.

#### OFFICE OF THE SPECIAL TRUSTEE FOR AMERICAN INDIANS

##### FEDERAL TRUST PROGRAMS

##### (INCLUDING TRANSFER OF FUNDS)

For the operation of trust programs for Indians by direct expenditure, contracts, cooperative agreements, compacts, and grants, \$185,984,000, to remain available until expended, of which not to exceed \$56,536,000 from this or any other Act, shall be available for historical accounting: Provided, That funds for trust management improvements and litigation support may, as needed, be transferred to or merged with the Bureau of Indian Affairs, "Operation of Indian Programs" account; the Office of the Solicitor, "Salaries and Expenses" account; and the Office of the Secretary, "Salaries and Expenses" account: Provided further, That funds made available through contracts or grants obligated during fiscal year 2010, as authorized by the Indian Self-Determination Act of 1975 (25 U.S.C. 450 et seq.), shall remain available until expended by the contractor or grantee: Provided further, That, notwithstanding any other provision of law, the statute of limitations shall not commence to run on any claim, including any claim in litigation pending on the date of the enactment of this Act, concerning losses to or mismanagement of trust funds, until the affected tribe or individual Indian has been furnished with an accounting of such funds from which the beneficiary can determine whether there has been a loss: Provided further, That, notwithstanding any other provision of law, the Secretary shall not be required to provide a quarterly statement of performance for any Indian trust account that has not had activity for at least 18 months and has a balance of \$15.00 or less: Provided further, That the Secretary shall issue an annual account statement and maintain a record of any such accounts and shall permit the balance in each such account to be withdrawn upon the express written request of the account holder: Provided further, That not to exceed \$50,000 is available for the Secretary to make payments to correct administrative errors of either disbursements from or deposits to Individual Indian Money or Tribal accounts after September 30, 2002: Provided further, That erroneous payments that are recovered shall be credited to and remain available in this account for this purpose.

#### DEPARTMENT-WIDE PROGRAMS

##### WILDLAND FIRE MANAGEMENT

##### (INCLUDING TRANSFERS OF FUNDS)

For necessary expenses for fire preparedness, suppression operations, fire science and re-

search, emergency rehabilitation, hazardous fuels reduction, and rural fire assistance by the Department of the Interior, \$979,637,000, to remain available until expended, of which not to exceed \$6,137,000 shall be for the renovation or construction of fire facilities: Provided, That such funds are also available for repayment of advances to other appropriation accounts from which funds were previously transferred for such purposes: Provided further, That persons hired pursuant to 43 U.S.C. 1469 may be furnished subsistence and lodging without cost from funds available from this appropriation: Provided further, That notwithstanding 42 U.S.C. 1856d, sums received by a bureau or office of the Department of the Interior for fire protection rendered pursuant to 42 U.S.C. 1856 et seq., protection of United States property, may be credited to the appropriation from which funds were expended to provide that protection, and are available without fiscal year limitation: Provided further, That using the amounts designated under this title of this Act, the Secretary of the Interior may enter into procurement contracts, grants, or cooperative agreements, for hazardous fuels reduction activities, and for training and monitoring associated with such hazardous fuels reduction activities, on Federal land, or on adjacent non-Federal land for activities that benefit resources on Federal land: Provided further, That the costs of implementing any cooperative agreement between the Federal Government and any non-Federal entity may be shared, as mutually agreed on by the affected parties: Provided further, That notwithstanding requirements of the Competition in Contracting Act, the Secretary, for purposes of hazardous fuels reduction activities, may obtain maximum practicable competition among: (1) local private, nonprofit, or cooperative entities; (2) Youth Conservation Corps crews, Public Lands Corps (Public Law 109-154), or related partnerships with State, local, or non-profit youth groups; (3) small or micro-businesses; or (4) other entities that will hire or train locally a significant percentage, defined as 50 percent or more, of the project workforce to complete such contracts: Provided further, That in implementing this section, the Secretary shall develop written guidance to field units to ensure accountability and consistent application of the authorities provided herein: Provided further, That funds appropriated under this head may be used to reimburse the United States Fish and Wildlife Service and the National Marine Fisheries Service for the costs of carrying out their responsibilities under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) to consult and conference, as required by section 7 of such Act, in connection with wildland fire management activities: Provided further, That the Secretary of the Interior may use wildland fire appropriations to enter into non-competitive sole source leases of real property with local governments, at or below fair market value, to construct capitalized improvements for fire facilities on such leased properties, including but not limited to fire guard stations, retardant stations, and other initial attack and fire support facilities, and to make advance payments for any such lease or for construction activity associated with the lease: Provided further, That the Secretary of the Interior and the Secretary of Agriculture may authorize the transfer of funds appropriated for wildland fire management, in an aggregate amount not to exceed \$10,000,000, between the Departments when such transfers would facilitate and expedite jointly funded wildland fire management programs and projects: Provided further, That funds provided for wildfire suppression shall be available for support of Federal emergency response actions.

#### CENTRAL HAZARDOUS MATERIALS FUND

For necessary expenses of the Department of the Interior and any of its component offices and bureaus for the response action, including associated activities, performed pursuant to the

Comprehensive Environmental Response, Compensation, and Liability Act, as amended (42 U.S.C. 9601 et seq.), \$10,175,000, to remain available until expended: Provided, That Public Law 110-161 (121 Stat. 2116) under this heading is amended by striking "in advance of or as reimbursement for remedial action or response activities conducted by the Department pursuant to section 107 or 113(f) of such Act" and inserting in lieu thereof "including any fines or penalties".

NATURAL RESOURCE DAMAGE ASSESSMENT AND RESTORATION

NATURAL RESOURCE DAMAGE ASSESSMENT FUND

To conduct natural resource damage assessment and restoration activities by the Department of the Interior necessary to carry out the provisions of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (42 U.S.C. 9601 et seq.), the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 et seq.), the Oil Pollution Act of 1990 (33 U.S.C. 2701 et seq.), and Public Law 101-337, as amended (16 U.S.C. 1911 et seq.), \$6,462,000, to remain available until expended.

WORKING CAPITAL FUND

For the acquisition of a departmental financial and business management system and information technology improvements of general benefit to the Department, \$85,823,000, to remain available until expended: Provided, That none of the funds in this Act or previous appropriations Acts may be used to establish reserves in the Working Capital Fund account other than for accrued annual leave and depreciation of equipment without prior approval of the House and Senate Committees on Appropriations: Provided further, That the Secretary may assess reasonable charges to State, local and tribal government employees for training services provided by the National Indian Program Training Center, other than training related to Public Law 93-638: Provided further, That the Secretary may lease or otherwise provide space and related facilities, equipment or professional services of the National Indian Program Training Center to State, local and tribal government employees or persons or organizations engaged in cultural, educational, or recreational activities (as defined in 40 U.S.C. 3306(a)) at the prevailing rate for similar space, facilities, equipment, or services in the vicinity of the National Indian Program Training Center: Provided further, That all funds received pursuant to the two preceding provisions shall be credited to this account, shall be available until expended, and shall be used by the Secretary for necessary expenses of the National Indian Program Training Center.

ADMINISTRATIVE PROVISION

There is hereby authorized for acquisition from available resources within the Working Capital Fund, 15 aircraft, 10 of which shall be for replacement and which may be obtained by donation, purchase or through available excess surplus property: Provided, That existing aircraft being replaced may be sold, with proceeds derived or trade-in value used to offset the purchase price for the replacement aircraft.

GENERAL PROVISIONS, DEPARTMENT OF THE INTERIOR

EMERGENCY TRANSFER AUTHORITY—INTRA-BUREAU

(INCLUDING TRANSFERS OF FUNDS)

SEC. 101. Appropriations made in this title shall be available for expenditure or transfer (within each bureau or office), with the approval of the Secretary, for the emergency reconstruction, replacement, or repair of aircraft, buildings, utilities, or other facilities or equipment damaged or destroyed by fire, flood, storm, or other unavoidable causes: Provided, That no funds shall be made available under this authority until funds specifically made available to the Department of the Interior for emergencies shall have been exhausted.

EMERGENCY TRANSFER AUTHORITY—  
DEPARTMENT-WIDE

SEC. 102. The Secretary may authorize the expenditure or transfer of any no year appropriation in this title, for the suppression or emergency prevention of wildland fires on or threatening lands under the jurisdiction of the Department of the Interior; for the emergency rehabilitation of burned-over lands under its jurisdiction; for emergency actions related to potential or actual earthquakes, floods, volcanoes, storms, or other unavoidable causes; for contingency planning subsequent to actual oil spills; for response and natural resource damage assessment activities related to actual oil spills; for the prevention, suppression, and control of actual or potential grasshopper and Mormon cricket outbreaks on lands under the jurisdiction of the Secretary, pursuant to the authority in section 1773(b) of Public Law 99-198 (99 Stat. 1658); for emergency reclamation projects under section 410 of Public Law 95-87; and shall transfer, from any no year funds available to the Office of Surface Mining Reclamation and Enforcement, such funds as may be necessary to permit assumption of regulatory authority in the event a primacy State is not carrying out the regulatory provisions of the Surface Mining Act: Provided, That appropriations made in this title for wildland fire operations shall be available for the payment of obligations incurred during the preceding fiscal year, and for reimbursement to other Federal agencies for destruction of vehicles, aircraft, or other equipment in connection with their use for wildland fire operations, such reimbursement to be credited to appropriations currently available at the time of receipt thereof: Provided further, That for wildland fire operations, no funds shall be made available under this authority until the Secretary determines that funds appropriated for "wildland fire operations" shall be exhausted within 30 days: Provided further, That all funds used pursuant to this section must be replenished by a supplemental appropriation which must be requested as promptly as possible: Provided further, That such replenishment funds shall be used to reimburse, on a pro rata basis, accounts from which emergency funds were transferred.

AUTHORIZED USE OF FUNDS

SEC. 103. Appropriations made to the Department of the Interior in this title shall be available for services as authorized by 5 U.S.C. 3109, when authorized by the Secretary, in total amount not to exceed \$500,000; purchase and replacement of motor vehicles, including specially equipped law enforcement vehicles; hire, maintenance, and operation of aircraft; hire of passenger motor vehicles; purchase of reprints; payment for telephone service in private residences in the field, when authorized under regulations approved by the Secretary; and the payment of dues, when authorized by the Secretary, for library membership in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members.

AUTHORIZED USE OF FUNDS

SEC. 104. Appropriations made in this Act under the headings Bureau of Indian Affairs and Office of the Special Trustee for American Indians and any unobligated balances from prior appropriations Acts made under the same headings shall be available for expenditure or transfer for Indian trust management and reform activities. Total funding for historical accounting activities shall not exceed amounts specifically designated in this Act for such purpose.

REDISTRIBUTION OF FUNDS

SEC. 105. Notwithstanding any other provision of law, the Secretary of the Interior is authorized to redistribute any Tribal Priority Allocation funds, including tribal base funds, to alleviate tribal funding inequities by transferring

funds to address identified, unmet needs, dual enrollment, overlapping service areas or inaccurate distribution methodologies. No federally recognized tribe shall receive a reduction in Tribal Priority Allocation funds of more than 10 percent in fiscal year 2010. Under circumstances of dual enrollment, overlapping service areas or inaccurate distribution methodologies, the 10 percent limitation does not apply.

TWIN CITIES RESEARCH CENTER

SEC. 106. Notwithstanding any other provision of law, in conveying the Twin Cities Research Center under the authority provided by Public Law 104-134, as amended by Public Law 104-208, the Secretary may accept and retain land and other forms of reimbursement: Provided, That the Secretary may retain and use any such reimbursement until expended and without further appropriation: (1) for the benefit of the National Wildlife Refuge System within the State of Minnesota; and (2) for all activities authorized by 16 U.S.C. 4602e.

PAYMENT OF FEES

SEC. 107. The Secretary of the Interior may use discretionary funds to pay private attorney fees and costs for employees and former employees of the Department of the Interior reasonably incurred in connection with *Cobell v. Salazar* to the extent that such fees and costs are not paid by the Department of Justice or by private insurance. In no case shall the Secretary make payments under this section that would result in payment of hourly fees in excess of the highest hourly rate approved by the District Court for the District of Columbia for counsel in *Cobell v. Salazar*.

ELLIS, GOVERNORS, AND LIBERTY ISLANDS

SEC. 108. Notwithstanding any other provision of law, the Secretary of the Interior is authorized to acquire lands, waters, or interests therein including the use of all or part of any pier, dock, or landing within the State of New York and the State of New Jersey, for the purpose of operating and maintaining facilities in the support of transportation and accommodation of visitors to Ellis, Governors, and Liberty Islands, and of other program and administrative activities, by donation or with appropriated funds, including franchise fees (and other monetary consideration), or by exchange; and the Secretary is authorized to negotiate and enter into leases, subleases, concession contracts or other agreements for the use of such facilities on such terms and conditions as the Secretary may determine reasonable.

PROHIBITION ON USE OF FUNDS

SEC. 109. (a) Any proposed new use of the Arizona & California Railroad Company's Right of Way for conveyance of water shall not proceed unless the Secretary of the Interior certifies that the proposed new use is within the scope of the Right of Way.

(b) No funds appropriated or otherwise made available to the Department of the Interior may be used, in relation to any proposal to store water underground for the purpose of export, for approval of any right-of-way or similar authorization on the Mojave National Preserve or lands managed by the Needles Field Office of the Bureau of Land Management, or for carrying out any activities associated with such right-of-way or similar approval.

USE OF COOPERATIVE AGREEMENTS

SEC. 110. For fiscal year 2010, and each fiscal year thereafter, the Secretary of the Interior may enter into cooperative agreements with a State or political subdivision (including any agency thereof), or any not-for-profit organization if the agreement will: (1) serve a mutual interest of the parties to the agreement in carrying out the programs administered by the Department of the Interior; and (2) all parties will contribute resources to the accomplishment of these objectives. At the discretion of the Secretary, such agreements shall not be subject to a competitive process.

## CONFORMING AMENDMENT

SEC. 111. Sections 109 and 110 of the Federal Oil and Gas Royalty Management Act (30 U.S.C. 1719 and 1720) shall, for fiscal year 2010 and each fiscal year thereafter, apply to any lease authorizing exploration for or development of coal, any other solid mineral, or any geothermal resource on any Federal or Indian lands and any lease, easement, right of way, or other agreement, regardless of form, for use of the Outer Continental Shelf or any of its resources under sections 8(k) or 8(p) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(k) and 1337(p)) to the same extent as if such lease, easement, right of way, or other agreement, regardless of form, were an oil and gas lease, except that in such cases the term "royalty payment" shall include any payment required by such lease, easement, right of way or other agreement, regardless of form, or by applicable regulation.

## PROHIBITION ON USE OF FUNDS, POINT REYES NATIONAL SEASHORE

SEC. 112. None of the funds in this Act may be used to further reduce the number of Axis or Fallow deer at Point Reyes National Seashore below the number as of the date of enactment of this Act.

## OUTER CONTINENTAL SHELF INSPECTION FEES

SEC. 113. (a) In fiscal year 2010, the Minerals Management Service (MMS) shall collect a non-refundable inspection fee, which shall be deposited in the "Royalty and Offshore Minerals Management" account, from the designated operator for facilities subject to inspection by MMS under 43 U.S.C. 1348(c) that are above the waterline, except mobile offshore drilling units, and are in place at the start of fiscal year 2010.

(b) Fees for 2010 shall be:

- (1) \$2,000 for facilities with no wells, but with processing equipment or gathering lines;
- (2) \$3,250 for facilities with one to ten wells, with any combination of active or inactive wells; and
- (3) \$6,000 for facilities with more than ten wells, with any combination of active or inactive wells.

(c) MMS will bill designated operators within 60 days of enactment of this Act, with payment required within 30 days of billing.

## YOSEMITE NATIONAL PARK AUTHORIZED PAYMENTS, AMENDMENT

SEC. 114. Section 101(a)(1) of Public Law 109-131 is amended by striking "2009" and inserting "2013".

## NORTHERN PLAINS HERITAGE AREA, AMENDMENT

SEC. 115. Section 8004 of the Omnibus Public Land Management Act of 2009 (Public Law 111-11; 123 Stat. 1240) is amended—

- (1) by redesignating subsections (g) through (i) as subsections (h) through (j), respectively;
- (2) in subsection (h)(1) (as redesignated by paragraph (1)), in the matter preceding subparagraph (A), by striking "subsection (i)" and inserting "subsection (j)"; and
- (3) by inserting after subsection (f) the following:

"(g) REQUIREMENTS FOR INCLUSION OF PRIVATE PROPERTY IN HERITAGE AREA.—

"(1) NOTIFICATION AND CONSENT REQUIREMENT.—No privately owned property shall be preserved, conserved, or promoted by the management plan for the Heritage Area until the later of the date on which—

"(A) the management entity of the Heritage Area submits to the owner of the private property a written notification of the proposed preservation, conservation, or promotion; and

"(B) the owner of the private property provides to the management entity written consent for the preservation, conservation, or promotion.

"(2) LANDOWNER WITHDRAWAL.—Private property included within the boundary of the Heritage Area shall immediately be withdrawn from the Heritage Area if the owner of the property

submits a written notice to the management entity."

## PEARL HARBOR NAVAL COMPLEX, JOINT TICKETING

SEC. 116. (a) DEFINITIONS.—In this section:

(1) HISTORIC ATTRACTION.—The term "historic attraction" mean a historic attraction within the Pearl Harbor Naval Complex, including—

(A) the USS Bowfin Submarine Museum and Park;

(B) the Battleship Missouri Memorial;

(C) the Pacific Aviation Museum-Pearl Harbor; and

(D) any other historic attraction within the Pearl Harbor Naval Complex that—

(i) the Secretary identifies as a Pearl Harbor historic attraction; and

(ii) is not administered or managed by the Secretary.

(2) MONUMENT.—The term "Monument" means the World War II Valor in the Pacific National Monument in the State of Hawaii.

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

(4) VISITOR CENTER.—The term "Visitor Center" means the visitor center located within the Pearl Harbor Naval Complex on land that is—

(A) within the Monument; and

(B) managed by the Secretary, acting through the Director of the National Park Service.

(b) FACILITATION OF ADMISSION TO HISTORIC ATTRACTIONS WITHIN PEARL HARBOR NAVAL COMPLEX.—

(1) IN GENERAL.—In managing the Monument, the Secretary may enter into an agreement with any organization that is authorized to administer or manage a historic attraction—

(A) to allow visitors to the historic attraction to gain access to the historic attraction by passing through security screening at the Visitor Center; and

(B) to allow the sale of tickets to a historic attraction within the Visitor Center by—

(i) employees of the National Park Service; or

(ii) the organization that administers or manages the historic attraction.

(2) TERMS AND CONDITIONS.—In any agreement entered into under paragraph (1), the Secretary—

(A) shall require the organization administering or managing the historic attraction to pay to the Secretary a reasonable fee to recover administrative costs of the Secretary associated with the use of the Visitor Center for public access and ticket sales;

(B) shall ensure that the liability of the United States is limited with respect to any liability arising from—

(i) the admission of the public through the Visitor Center to a historic attraction; and

(ii) the sale or issuance of any tickets to the historic attraction; and

(C) may include any other terms and conditions that the Secretary determines to be appropriate.

(3) USE OF FEES.—The proceeds of any amounts collected as fees under paragraph (2)(A) shall remain available, without further appropriation, for use by the Secretary for the Monument.

(4) LIMITATION OF AUTHORITY.—Nothing in this section authorizes the Secretary—

(A) to regulate or approve the rates for admission to a historic attraction;

(B) to regulate or manage any visitor services within the Pearl Harbor Naval Complex (other than the services managed by the National Park Service as part of the Monument); or

(C) to charge an entrance fee for admission to the Monument.

(5) PROTECTION OF RESOURCES.—Nothing in this section authorizes the Secretary or any organization that administers or manages a historic attraction to take any action in derogation of the preservation and protection of the values and resources of the Monument.

## ASSISTANCE FOR THE REPUBLIC OF PALAU

SEC. 117. (a) IN GENERAL.—Subject to subsection (c), the Secretary of the Interior shall

provide to the Government of Palau for fiscal year 2010 grants in amounts equal to the annual amounts specified in subsections (a), (c), and (d) of section 211 of the Compact of Free Association between the Government of the United States of America and the Government of Palau (48 U.S.C. 1931 note) (referred to in this section as the "Compact").

(b) PROGRAMMATIC ASSISTANCE.—Subject to subsection (c), the United States shall provide programmatic assistance to the Republic of Palau for fiscal year 2010 in amounts equal to the amounts provided in subsections (a) and (b)(1) of section 221 of the Compact.

(c) LIMITATIONS ON ASSISTANCE.—

(1) IN GENERAL.—The grants and programmatic assistance provided under subsections (a) and (b) shall be provided to the same extent and in the same manner as the grants and assistance were provided in fiscal year 2009.

(2) TRUST FUND.—If the Government of Palau withdraws more than \$5,000,000 from the trust fund established under section 211(f) of the Compact, amounts to be provided under subsections (a) and (b) shall be withheld from the Government of Palau.

## GOLDEN GATE NATIONAL RECREATION AREA, FORT BAKER AMENDMENT

SEC. 118. Section 120 of title I of H.R. 3423 (Appendix C) as enacted into law by section 1000(a)(3) of division B of Public Law 106-113 is amended by striking the last sentence.

## THEODORE ROOSEVELT NATIONAL PARK, ELK REDUCTION

SEC. 119. None of the funds made available in this Act shall be used to establish or implement a plan to reduce the number of elk in Theodore Roosevelt National Park unless such plan, notwithstanding any other provision of law, allows North Dakota residents possessing a State hunting license to be deputized by the Secretary as rangers in such numbers as the Secretary deems sufficient for purposes of culling the elk herd at the Park, and allows each such volunteer to cull one elk and remove its carcass from the Park.

## POINT REYES NATIONAL SEASHORE, EXTENSION OF PERMIT

SEC. 120. (a) Prior to the expiration on November 30, 2012 of the Drake's Bay Oyster Company's Reservation of Use and Occupancy and associated special use permit ("existing authorization") within Drake's Estero at Point Reyes National Seashore, the Secretary of the Interior shall extend the existing authorization through a lease (or other legal instrument) with the same terms and conditions, except as provided herein, for a period of 10 years from November 30, 2012: Provided, That such extended authorization is subject to the Company's compliance with all applicable laws and regulations (excepting any that would prohibit the extended authorization) and permit conditions in effect on the date of enactment of this Act with any mutually agreed modifications to such permit conditions, including the maintenance of best practices as outlined in the National Academy of Sciences report expected in fall 2009 regarding (1) shellfish farming in Drake's Estero, (2) minimizing disturbance of marine mammals, and (3) control and removal, to the extent practicable, of the tunicate "Didemnum": Provided further, That such extended authorization is subject to annual payments to the United States based on the fair market value of the use of the Federal property for the duration of such renewal.

(b) Nothing in this section shall be construed to have any application to any location other than Point Reyes National Seashore; nor shall anything in this section be cited as precedent for management of any potential wilderness outside the Seashore.

## CONTRIBUTION AUTHORITY

SEC. 121. Title 43 U.S.C. 1473, as amended by Public Law 110-161 and Public Law 111-8, is further amended by deleting "in fiscal years

2008 and 2009 only" and inserting "in fiscal years 2008, 2009 and 2010 only".

#### NATIONAL PARK SYSTEM, SPECIAL RESOURCE STUDY

SEC. 122. (a) IN GENERAL.—The Secretary of the Interior (referred to in this section as the "Secretary") shall conduct a special resource study of the national significance, suitability, and feasibility of including the Honouliuli Gulch and associated sites within the State of Hawaii in the National Park System.

(b) GUIDELINES.—In conducting the study, the Secretary shall use the criteria for the study of areas for potential inclusion in the National Park System described in section 8 of Public Law 91–383 (16 U.S.C. 1a–5).

(c) CONSULTATION.—In conducting the study, the Secretary shall consult with—

- (1) the State of Hawaii;
- (2) appropriate Federal agencies;
- (3) Native Hawaiian and local government entities;
- (4) private and nonprofit organizations;
- (5) private land owners; and
- (6) other interested parties.

(d) THEMES.—The study shall evaluate the Honouliuli Gulch, associated sites located on Oahu, and other islands located in the State of Hawaii with respect to—

- (1) the significance of the site as a component of World War II;
- (2) the significance of the site as the site related to the forcible internment of Japanese Americans, European Americans, and other individuals; and
- (3) historic resources at the site.

(e) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report describing the findings, conclusions, and recommendations of the study required under this section.

#### TITLE II

#### ENVIRONMENTAL PROTECTION AGENCY SCIENCE AND TECHNOLOGY

For science and technology, including research and development activities, which shall include research and development activities under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended; necessary expenses for personnel and related costs and travel expenses; procurement of laboratory equipment and supplies; and other operating expenses in support of research and development, \$842,799,000, to remain available until September 30, 2011.

#### ENVIRONMENTAL PROGRAMS AND MANAGEMENT

For environmental programs and management, including necessary expenses, not otherwise provided for, for personnel and related costs and travel expenses; hire of passenger motor vehicles; hire, maintenance, and operation of aircraft; purchase of reprints; library memberships in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members; administrative costs of the brownfields program under the Small Business Liability Relief and Brownfields Revitalization Act of 2002; and not to exceed \$9,000 for official reception and representation expenses, \$2,878,780,000, to remain available until September 30, 2011: Provided, That of the funds included under this heading, not less than \$478,696,000 shall be for the Geographic Programs specified in the committee report accompanying this Act.

#### OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, \$44,791,000, to remain available until September 30, 2011.

#### BUILDINGS AND FACILITIES

For construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities of, or for use by, the Environmental Protection Agency, \$35,001,000, to remain available until expended.

#### HAZARDOUS SUBSTANCE SUPERFUND (INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to carry out the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended, including sections 111(c)(3), (c)(5), (c)(6), and (e)(4) (42 U.S.C. 9611) \$1,308,541,000, to remain available until expended, consisting of such sums as are available in the Trust Fund on September 30, 2009, as authorized by section 517(a) of the Superfund Amendments and Reauthorization Act of 1986 (SARA) and up to \$1,308,541,000 as a payment from general revenues to the Hazardous Substance Superfund for purposes as authorized by section 517(b) of SARA, as amended: Provided, That funds appropriated under this heading may be allocated to other Federal agencies in accordance with section 111(a) of CERCLA: Provided further, That of the funds appropriated under this heading, \$9,975,000 shall be paid to the "Office of Inspector General" appropriation to remain available until September 30, 2011, and \$26,834,000 shall be paid to the "Science and Technology" appropriation to remain available until September 30, 2011.

#### LEAKING UNDERGROUND STORAGE TANK TRUST FUND PROGRAM

For necessary expenses to carry out leaking underground storage tank cleanup activities authorized by subtitle I of the Solid Waste Disposal Act, as amended, \$114,171,000, to remain available until expended, of which \$78,671,000 shall be for carrying out leaking underground storage tank cleanup activities authorized by section 9003(h) of the Solid Waste Disposal Act, as amended; \$35,500,000 shall be for carrying out the other provisions of the Solid Waste Disposal Act specified in section 9508(c) of the Internal Revenue Code, as amended: Provided, That the Administrator is authorized to use appropriations made available under this heading to implement section 9013 of the Solid Waste Disposal Act to provide financial assistance to federally recognized Indian tribes for the development and implementation of programs to manage underground storage tanks.

#### OIL SPILL RESPONSE

For expenses necessary to carry out the Environmental Protection Agency's responsibilities under the Oil Pollution Act of 1990, \$18,379,000, to be derived from the Oil Spill Liability trust fund, to remain available until expended.

#### STATE AND TRIBAL ASSISTANCE GRANTS

For environmental programs and infrastructure assistance, including capitalization grants for State revolving funds and performance partnership grants, \$4,954,274,000, to remain available until expended, of which \$2,100,000,000 shall be for making capitalization grants for the Clean Water State Revolving Funds under title VI of the Federal Water Pollution Control Act, as amended (the "Act"); of which \$1,387,000,000 shall be for capitalization grants for the Drinking Water State Revolving Funds under section 1452 of the Safe Drinking Water Act, as amended: Provided, That, for fiscal year 2010, to the extent that there are sufficient applications, not less than 20 percent of the funds made available for the Clean Water State Revolving Fund or Drinking Water State Revolving Fund capitalization grants shall be for projects to address green infrastructure, water or energy efficiency improvements, or other environmentally innovative activities; \$10,000,000 shall be for architectural, engineering, planning, design, construction and related activities in connection with the construction of high priority water and wastewater facilities in the area of the United

States-Mexico Border, after consultation with the appropriate border commission; \$15,000,000 shall be for grants to the State of Alaska to address drinking water and wastewater infrastructure needs of rural and Alaska Native Villages: Provided further, That, of these funds: (1) the State of Alaska shall provide a match of 25 percent; (2) no more than 5 percent of the funds may be used for administrative and overhead expenses; and (3) the State of Alaska shall make awards consistent with the State-wide priority list established in conjunction with the Agency and the U.S. Department of Agriculture for all water, sewer, waste disposal, and similar projects carried out by the State of Alaska that are funded under section 221 of the Federal Water Pollution Control Act (33 U.S.C. 1301) or the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) which shall allocate not less than 25 percent of the funds provided for projects in regional hub communities; \$150,000,000 shall be for making special project grants for the construction of drinking water, wastewater and storm water infrastructure and for water quality protection in accordance with the terms and conditions specified for such grants in the committee report accompanying this Act, and, for purposes of these grants, each grantee shall contribute not less than 45 percent of the cost of the project unless the grantee is approved for a waiver by the Agency; \$101,000,000 shall be to carry out section 104(k) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended, including grants, inter-agency agreements, and associated program support costs; \$60,000,000 shall be for grants under title VII, subtitle G of the Energy Policy Act of 2005, as amended; \$20,000,000 shall be for targeted airshed grants in accordance with the terms and conditions of the committee report accompanying this Act; and \$1,111,274,000 shall be for grants, including associated program support costs, to States, federally recognized tribes, interstate agencies, tribal consortia, and air pollution control agencies for multi-media or single media pollution prevention, control and abatement and related activities, including activities pursuant to the provisions set forth under this heading in Public Law 104–134, and for making grants under section 103 of the Clean Air Act for particulate matter monitoring and data collection activities subject to terms and conditions specified by the Administrator, of which \$49,495,000 shall be for carrying out section 128 of CERCLA, as amended, \$10,000,000 shall be for Environmental Information Exchange Network grants, including associated program support costs, \$18,500,000 of the funds available for grants under section 106 of the Act shall be for water quality monitoring activities, and, in addition to funds appropriated under the heading "Leaking Underground Storage Tank Trust Fund Program" to carry out the provisions of the Solid Waste Disposal Act specified in section 9508(c) of the Internal Revenue Code other than section 9003(h) of the Solid Waste Disposal Act, as amended, \$2,500,000 shall be for grants to States under section 2007(f)(2) of the Solid Waste Disposal Act, as amended: Provided further, That notwithstanding section 603(d)(7) of the Federal Water Pollution Control Act, the limitation on the amounts in a State water pollution control revolving fund that may be used by a State to administer the fund shall not apply to amounts included as principal in loans made by such fund in fiscal year 2010 and prior years where such amounts represent costs of administering the fund to the extent that such amounts are or were deemed reasonable by the Administrator, accounted for separately from other assets in the fund, and used for eligible purposes of the fund, including administration: Provided further, That for fiscal year 2010, and notwithstanding section 518(f) of the Act, the Administrator is authorized to use the amounts appropriated for any fiscal year under section

319 of that Act to make grants to federally recognized Indian tribes pursuant to sections 319(h) and 518(e) of that Act: Provided further, That, for fiscal year 2010, notwithstanding the limitation on amounts in section 518(c) of the Federal Water Pollution Control Act and section 1452(i) of the Safe Drinking Water Act, up to a total of 2 percent of the funds appropriated for the Clean Water State Revolving Funds and Drinking Water State Revolving Funds may be reserved by the Administrator for grants to Tribes: Provided further, That, for fiscal year 2010, notwithstanding any other provision of law, up to a total of 1.5 percent of the funds provided for the Clean Water State Revolving Funds and Drinking Water State Revolving Funds may be reserved by the Administrator for grants to territories of the United States: Provided further, That no funds provided by this appropriations Act to address the water, wastewater and other critical infrastructure needs of the colonias in the United States along the United States-Mexico border shall be made available to a county or municipal government unless that government has established an enforceable local ordinance, or other zoning rule, which prevents in that jurisdiction the development or construction of any additional colonia areas, or the development within an existing colonia the construction of any new home, business, or other structure which lacks water, wastewater, or other necessary infrastructure: Provided further, That notwithstanding the joint explanatory statement of the Committee on Appropriations of the House of Representatives accompanying Public Law 111-8, the \$300,000 made available to the Village of Crestwood for water storage improvements (as described in the table entitled "Congressionally Designated Spending" in section 430 of that joint explanatory statement) shall be made available to the City of Quincy, Illinois, for drinking water system improvements.

#### ADMINISTRATIVE PROVISIONS, ENVIRONMENTAL PROTECTION AGENCY

##### (INCLUDING RESCISSION OF FUNDS)

For fiscal year 2010, notwithstanding 31 U.S.C. 6303(1) and 6305(1), the Administrator of the Environmental Protection Agency, in carrying out the Agency's function to implement directly Federal environmental programs required or authorized by law in the absence of an acceptable tribal program, may award cooperative agreements to federally recognized Indian Tribes or Intertribal consortia, if authorized by their member Tribes, to assist the Administrator in implementing Federal environmental programs for Indian Tribes required or authorized by law, except that no such cooperative agreements may be awarded from funds designated for State financial assistance agreements.

The Administrator of the Environmental Protection Agency is authorized to collect and obligate pesticide registration service fees in accordance with section 33 of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended by Public Law 110-94, the Pesticide Registration Improvement Renewal Act.

The Administrator is authorized to transfer up to 50 percent of the funds appropriated for the Great Lakes Initiative under the heading "Environmental Programs and Management" to the head of any Federal department or agency, with the concurrence of such head, to carry out activities that would support the Great Lakes Restoration Initiative and Great Lakes Water Quality Agreement programs, projects, or activities; to enter into an interagency agreement with the head of such Federal department or agency to carry out these activities; and to make grants to governmental entities, nonprofit organizations, institutions, and individuals for planning, research, monitoring, outreach, and implementation in furtherance of the Great Lakes Restoration Initiative and the Great Lakes Water Quality Agreement.

From unobligated balances to carry out projects and activities funded through the State

and Tribal Assistance Grants Account, \$40,000,000 are permanently rescinded: Provided, That no amounts may be rescinded from amounts that were designated by Congress as an emergency requirement pursuant to the Concurrent Resolution on the Budget or the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

#### TITLE III

##### RELATED AGENCIES

##### DEPARTMENT OF AGRICULTURE

##### FOREST SERVICE

##### FOREST AND RANGELAND RESEARCH

For necessary expenses of forest and rangeland research as authorized by law, \$307,012,000, to remain available until expended: Provided, That of the funds provided, \$66,939,000 is for the forest inventory and analysis program.

##### STATE AND PRIVATE FORESTRY

For necessary expenses of cooperating with and providing technical and financial assistance to States, territories, possessions, and others, and for forest health management, including treatments of pests, pathogens, and invasive or noxious plants and for restoring and rehabilitating forests damaged by pests or invasive plants, cooperative forestry, and education and land conservation activities and conducting an international program as authorized, \$276,946,000, to remain available until expended, as authorized by law; and of which \$55,145,000 is to be derived from the Land and Water Conservation Fund.

##### NATIONAL FOREST SYSTEM

##### (INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Forest Service, not otherwise provided for, for management, protection, improvement, and utilization of the National Forest System, \$1,556,329,000, to remain available until expended, which shall include 50 percent of all moneys received during prior fiscal years as fees collected under the Land and Water Conservation Fund Act of 1965, as amended, in accordance with section 4 of the Act (16 U.S.C. 460l-6a(i)): Provided, That, through fiscal year 2014, the Secretary of Agriculture may authorize the expenditure or transfer of such sums as are necessary to the Secretary of the Interior for removal, preparation and adoption of excess wild horses and burros from National Forest System lands and for the performance of cadastral surveys to designate the boundaries of such lands.

##### CAPITAL IMPROVEMENT AND MAINTENANCE

##### (INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Forest Service, not otherwise provided for, \$513,418,000, to remain available until expended, for construction, capital improvement, maintenance and acquisition of buildings and other facilities and infrastructure; and for construction, capital improvement, decommissioning, and maintenance of forest roads and trails by the Forest Service as authorized by 16 U.S.C. 532-538 and 23 U.S.C. 101 and 205: Provided, That \$50,000,000 shall be designated for urgently needed road decommissioning, road and trail repair and maintenance and associated activities, and removal of fish passage barriers, especially in areas where Forest Service roads may be contributing to water quality problems in streams and water bodies which support threatened, endangered or sensitive species or community water sources: Provided further, That up to \$40,000,000 of the funds provided herein for road maintenance shall be available for the decommissioning of roads, including unauthorized roads not part of the transportation system, which are no longer needed: Provided further, That no funds shall be expended to decommission any system road until notice and an opportunity for public comment has been provided on each decommissioning project: Provided further, That the decommissioning of unauthorized roads not part of

the official transportation system shall be expended in response to threats to public safety, water quality, or natural resources: Provided further, That funds becoming available in fiscal year 2010 under the Act of March 4, 1913 (16 U.S.C. 501) shall be transferred to the General Fund of the Treasury and shall not be available for transfer or obligation for any other purpose unless the funds are appropriated.

##### LAND ACQUISITION

For expenses necessary to carry out the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460l-4 through 11), including administrative expenses, and for acquisition of land or waters, or interest therein, in accordance with statutory authority applicable to the Forest Service, \$67,784,000, to be derived from the Land and Water Conservation Fund and to remain available until expended.

##### ACQUISITION OF LANDS FOR NATIONAL FORESTS SPECIAL ACTS

For acquisition of lands within the exterior boundaries of the Cache, Uinta, and Wasatch National Forests, Utah; the Toiyabe National Forest, Nevada; and the Angeles, San Bernardino, Sequoia, and Cleveland National Forests, California, as authorized by law, \$1,050,000, to be derived from forest receipts.

##### ACQUISITION OF LANDS TO COMPLETE LAND EXCHANGES

For acquisition of lands, such sums, to be derived from funds deposited by State, county, or municipal governments, public school districts, or other public school authorities, and for authorized expenditures from funds deposited by non-Federal parties pursuant to Land Sale and Exchange Acts, pursuant to the Act of December 4, 1967, as amended (16 U.S.C. 484a), to remain available until expended. (16 U.S.C. 460l-516-617a, 555a; Public Law 96-586; Public Law 76-589, 76-591; and 78-310).

##### RANGE BETTERMENT FUND

For necessary expenses of range rehabilitation, protection, and improvement, 50 percent of all moneys received during the prior fiscal year, as fees for grazing domestic livestock on lands in National Forests in the 16 Western States, pursuant to section 401(b)(1) of Public Law 94-579, as amended, to remain available until expended, of which not to exceed 6 percent shall be available for administrative expenses associated with on-the-ground range rehabilitation, protection, and improvements.

##### GIFTS, DONATIONS AND BEQUESTS FOR FOREST AND RANGELAND RESEARCH

For expenses authorized by 16 U.S.C. 1643(b), \$50,000, to remain available until expended, to be derived from the fund established pursuant to the above Act.

##### MANAGEMENT OF NATIONAL FOREST LANDS FOR SUBSISTENCE USES

For necessary expenses of the Forest Service to manage Federal lands in Alaska for subsistence uses under title VIII of the Alaska National Interest Lands Conservation Act (Public Law 96-487), \$2,582,000, to remain available until expended.

##### WILDLAND FIRE MANAGEMENT

##### (INCLUDING TRANSFERS OF FUNDS)

For necessary expenses for forest fire suppression activities on National Forest System lands, for emergency fire suppression on or adjacent to such lands or other lands under fire protection agreement, hazardous fuels reduction on or adjacent to such lands, and for emergency rehabilitation of burned-over National Forest System lands and water, \$2,586,637,000, to remain available until expended: Provided, That such funds including unobligated balances under this heading, are available for repayment of advances from other appropriations accounts previously transferred for such purposes: Provided further, That such



funds shall be available to reimburse State and other cooperating entities for services provided in response to wildfire and other emergencies or disasters to the extent such reimbursements by the Forest Service for non-fire emergencies are fully repaid by the responsible emergency management agency: Provided further, That, notwithstanding any other provision of law, \$8,000,000 of funds appropriated under this appropriation shall be used for Fire Science Research in support of the Joint Fire Science Program: Provided further, That all authorities for the use of funds, including the use of contracts, grants, and cooperative agreements, available to execute the Forest and Rangeland Research appropriation, are also available in the utilization of these funds for Fire Science Research: Provided further, That funds provided shall be available for emergency rehabilitation and restoration, hazardous fuels reduction activities in the urban-wildland interface, support to Federal emergency response, and wildfire suppression activities of the Forest Service: Provided further, That of the funds provided, \$350,285,000 is for hazardous fuels reduction activities, \$11,500,000 is for rehabilitation and restoration, \$23,917,000 is for research activities and to make competitive research grants pursuant to the Forest and Rangeland Renewable Resources Research Act, as amended (16 U.S.C. 1641 et seq.), \$56,250,000 is for State fire assistance, \$9,000,000 is for volunteer fire assistance, \$17,252,000 is for forest health activities on Federal lands and \$9,928,000 is for forest health activities on State and private lands: Provided further, That amounts in this paragraph may be transferred to the "State and Private Forestry", "National Forest System", and "Forest and Rangeland Research" accounts to fund State fire assistance, volunteer fire assistance, forest health management, forest and rangeland research, the Joint Fire Science Program, vegetation and watershed management, heritage site rehabilitation, and wildlife and fish habitat management and restoration: Provided further, That up to \$15,000,000 of the funds provided under this heading for hazardous fuels treatments may be transferred to and made a part of the "National Forest System" account at the sole discretion of the Chief of the Forest Service 30 days after notifying the House and the Senate Committees on Appropriations: Provided further, That the costs of implementing any cooperative agreement between the Federal Government and any non-Federal entity may be shared, as mutually agreed on by the affected parties: Provided further, That in addition to funds provided for State Fire Assistance programs, and subject to all authorities available to the Forest Service under the State and Private Forestry Appropriation, up to \$15,000,000 may be used on adjacent non-Federal lands for the purpose of protecting communities when hazard reduction activities are planned on national forest lands that have the potential to place such communities at risk: Provided further, That funds made available to implement the Community Forest Restoration Act, Public Law 106-393, title VI, shall be available for use on non-Federal lands in accordance with authorities available to the Forest Service under the State and Private Forestry Appropriation: Provided further, That the Secretary of the Interior and the Secretary of Agriculture may authorize the transfer of funds appropriated for wildland fire management, in an aggregate amount not to exceed \$10,000,000, between the Departments when such transfers would facilitate and expedite jointly funded wildland fire management programs and projects: Provided further, That of the funds provided for hazardous fuels reduction, not to exceed \$10,000,000, may be used to make grants, using any authorities available to the Forest Service under the State and Private Forestry appropriation, for the purpose of creating incentives for increased use of biomass from national forest lands: Provided further, That funds designated for wildfire suppression shall be assessed for cost pools

on the same basis as such assessments are calculated against other agency programs.

ADMINISTRATIVE PROVISIONS, FOREST SERVICE  
(INCLUDING TRANSFERS OF FUNDS)

Appropriations to the Forest Service for the current fiscal year shall be available for: (1) purchase of passenger motor vehicles; acquisition of passenger motor vehicles from excess sources, and hire of such vehicles; purchase, lease, operation, maintenance, and acquisition of aircraft from excess sources to maintain the operable fleet for use in Forest Service wildland fire programs and other Forest Service programs; notwithstanding other provisions of law, existing aircraft being replaced may be sold, with proceeds derived or trade-in value used to offset the purchase price for the replacement aircraft; (2) services pursuant to 7 U.S.C. 2225, and not to exceed \$100,000 for employment under 5 U.S.C. 3109; (3) purchase, erection, and alteration of buildings and other public improvements (7 U.S.C. 2250); (4) acquisition of land, waters, and interests therein pursuant to 7 U.S.C. 428a; (5) for expenses pursuant to the Volunteers in the National Forest Act of 1972 (16 U.S.C. 558a, 558d, and 558a note); (6) the cost of uniforms as authorized by 5 U.S.C. 5901-5902; and (7) for debt collection contracts in accordance with 31 U.S.C. 3718(c).

Any appropriations or funds available to the Forest Service may be transferred to the Wildland Fire Management appropriation for wildland firefighting, emergency rehabilitation of burned-over or damaged lands or waters under its jurisdiction, and fire preparedness due to severe burning conditions upon notification of the Committees on Appropriations for the House of Representatives and Senate if the Secretary of Agriculture determines that all emergency fire suppression funds appropriated under the heading "Wildland Fire Management" will be fully obligated within 30 days.

Funds appropriated to the Forest Service shall be available for assistance to or through the Agency for International Development in connection with forest and rangeland research, technical information, and assistance in foreign countries, and shall be available to support forestry and related natural resource activities outside the United States and its territories and possessions, including technical assistance, education and training, and cooperation with United States and international organizations.

None of the funds made available to the Forest Service in this Act or any other Act with respect to any fiscal year shall be subject to transfer under the provisions of section 702(b) of the Department of Agriculture Organic Act of 1944 (7 U.S.C. 2257), section 442 of Public Law 106-224 (7 U.S.C. 7772), or section 10417(b) of Public Law 107-107 (7 U.S.C. 8316(b)).

None of the funds available to the Forest Service may be reprogrammed without the advance approval of the House and Senate Committees on Appropriations in accordance with the reprogramming procedures contained in title IV of this Act.

Not more than \$88,785,000 of funds available to the Forest Service shall be transferred to the Working Capital Fund of the Department of Agriculture and not more than \$19,400,000 of funds available to the Forest Service shall be transferred to the Department of Agriculture for Department Reimbursable Programs, commonly referred to as Greenbook charges. Nothing in this paragraph shall prohibit or limit the use of reimbursable agreements requested by the Forest Service in order to obtain services from the Department of Agriculture's National Information Technology Center.

Funds available to the Forest Service shall be available to conduct a program of up to \$5,000,000 for priority projects within the scope of the approved budget, of which \$2,500,000 shall be carried out by the Youth Conservation Corps and \$2,500,000 shall be carried out under the authority of the Public Lands Corps

Healthy Forests Restoration Act of 2005, Public Law 109-154.

Of the funds available to the Forest Service, \$4,000 is available to the Chief of the Forest Service for official reception and representation expenses.

Pursuant to sections 405(b) and 410(b) of Public Law 101-593, of the funds available to the Forest Service, up to \$2,000,000 may be advanced in a lump sum to the National Forest Foundation to aid conservation partnership projects in support of the Forest Service mission, without regard to when the Foundation incurs expenses, for administrative expenses or projects on or benefitting National Forest System lands or related to Forest Service programs: Provided, That, of the Federal funds made available to the Foundation, no more than \$200,000 shall be available for administrative expenses: Provided further, That the Foundation shall obtain, by the end of the period of Federal financial assistance, private contributions to match on at least one-for-one basis funds made available by the Forest Service: Provided further, That the Foundation may transfer Federal funds to Federal or a non-Federal recipient for a project at the same rate that the recipient has obtained the non-Federal matching funds: Provided further, That authorized investments of Federal funds held by the Foundation may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States.

Pursuant to section 2(b)(2) of Public Law 98-244, \$2,650,000 of the funds available to the Forest Service shall be advanced to the National Fish and Wildlife Foundation in a lump sum to aid cost-share conservation projects, without regard to when expenses are incurred, on or benefitting National Forest System lands or related to Forest Service programs: Provided, That such funds shall be matched on at least a one-for-one basis by the Foundation or its sub-recipients: Provided further, That the Foundation may transfer Federal funds to a Federal or non-Federal recipient for a project at the same rate that the recipient has obtained the non-Federal matching funds.

Funds appropriated to the Forest Service shall be available for interactions with and providing technical assistance to rural communities and natural resource-based businesses for sustainable rural development purposes.

Funds appropriated to the Forest Service shall be available for payments to counties within the Columbia River Gorge National Scenic Area, pursuant to section 14(c)(1) and (2), and section 16(a)(2) of Public Law 99-663.

An eligible individual who is employed in any project funded under title V of the Older American Act of 1965 (42 U.S.C. 3056 et seq.) and administered by the Forest Service shall be considered to be a Federal employee for purposes of chapter 171 of title 28, United States Code.

Any funds appropriated to the Forest Service may be used to meet the non-Federal share requirement in section 502(c) of the Older American Act of 1965 (42 U.S.C. 3056(c)(2)).

Funds available to the Forest Service, not to exceed \$55,000,000, shall be assessed for the purpose of performing fire, administrative and other facilities maintenance. Such assessments shall occur using a square foot rate charged on the same basis the agency uses to assess programs for payment of rent, utilities, and other support services.

Notwithstanding any other provision of law, any appropriations or funds available to the Forest Service not to exceed \$500,000 may be used to reimburse the Office of the General Counsel (OGC), Department of Agriculture, for travel and related expenses incurred as a result of OGC assistance or participation requested by the Forest Service at meetings, training sessions, management reviews, land purchase negotiations and similar non-litigation related matters. Future budget justifications for both the Forest Service and the Department of Agriculture

should clearly display the sums previously transferred and the requested funding transfers.

Funds provided to the Forest Service in this Act may be used for the purpose of expenses associated with primary and secondary schooling for the 2009–2010 school year of dependents of agency personnel stationed in Puerto Rico, at a cost not in excess of those authorized by the Department of Defense for that same area, when it is determined by the Chief of the Forest Service that public schools available in the locality are unable to provide adequately for the education of such dependents.

#### DEPARTMENT OF HEALTH AND HUMAN SERVICES

##### INDIAN HEALTH SERVICE

##### INDIAN HEALTH SERVICES

For expenses necessary to carry out the Act of August 5, 1954 (68 Stat. 674), the Indian Self-Determination Act, the Indian Health Care Improvement Act, and titles II and III of the Public Health Service Act with respect to the Indian Health Service, \$3,639,868,000, together with payments received during the fiscal year pursuant to 42 U.S.C. 238(b) and 238b for services furnished by the Indian Health Service: Provided, That funds made available to tribes and tribal organizations through contracts, grant agreements, or any other agreements or compacts authorized by the Indian Self-Determination and Education Assistance Act of 1975 (25 U.S.C. 450), shall be deemed to be obligated at the time of the grant or contract award and thereafter shall remain available to the tribe or tribal organization without fiscal year limitation: Provided further, That \$779,347,000 for contract medical care, including \$48,000,000 for the Indian Catastrophic Health Emergency Fund, shall remain available until expended: Provided further, That \$18,251,000 is provided for Headquarters operations and information technology activities and, notwithstanding any other provision of law, the amount available under this proviso shall be allocated at the discretion of the Director of the Indian Health Service: Provided further, That of the funds provided, up to \$32,000,000 shall remain available until expended for implementation of the loan repayment program under section 108 of the Indian Health Care Improvement Act: Provided further, That \$16,391,000 is provided for the methamphetamine and suicide prevention and treatment initiative and \$7,500,000 is provided for the domestic violence prevention initiative and, notwithstanding any other provision of law, the amounts available under this proviso shall be allocated at the discretion of the Director of the Indian Health Service and shall remain available until expended: Provided further, That funds provided in this Act may be used for annual contracts and grants that fall within two fiscal years, provided the total obligation is recorded in the year the funds are appropriated: Provided further, That the amounts collected by the Secretary of Health and Human Services under the authority of title IV of the Indian Health Care Improvement Act shall remain available until expended for the purpose of achieving compliance with the applicable conditions and requirements of titles XVIII and XIX of the Social Security Act, except for those related to the planning, design, or construction of new facilities: Provided further, That funding contained herein for scholarship programs under the Indian Health Care Improvement Act (25 U.S.C. 1613) shall remain available until expended: Provided further, That amounts received by tribes and tribal organizations under title IV of the Indian Health Care Improvement Act shall be reported and accounted for and available to the receiving tribes and tribal organizations until expended: Provided further, That, notwithstanding any other provision of law, of the amounts provided herein, not to exceed \$389,490,000 shall be for payments to tribes and tribal organizations for contract or grant support costs associated with contracts, grants,

self-governance compacts, or annual funding agreements between the Indian Health Service and a tribe or tribal organization pursuant to the Indian Self-Determination Act of 1975, as amended, prior to or during fiscal year 2010, of which not to exceed \$5,000,000 may be used for contract support costs associated with new or expanded self-determination contracts, grants, self-governance compacts, or annual funding agreements: Provided further, That the Bureau of Indian Affairs may collect from the Indian Health Service, tribes and tribal organizations operating health facilities pursuant to Public Law 93–638, such individually identifiable health information relating to disabled children as may be necessary for the purpose of carrying out its functions under the Individuals with Disabilities Education Act (20 U.S.C. 1400, et seq.): Provided further, That the Indian Health Care Improvement Fund may be used, as needed, to carry out activities typically funded under the Indian Health Facilities account.

##### INDIAN HEALTH FACILITIES

For construction, repair, maintenance, improvement, and equipment of health and related auxiliary facilities, including quarters for personnel; preparation of plans, specifications, and drawings; acquisition of sites, purchase and erection of modular buildings, and purchases of trailers; and for provision of domestic and community sanitation facilities for Indians, as authorized by section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a), the Indian Self-Determination Act, and the Indian Health Care Improvement Act, and for expenses necessary to carry out such Acts and titles II and III of the Public Health Service Act with respect to environmental health and facilities support activities of the Indian Health Service, \$394,757,000, to remain available until expended: Provided, That notwithstanding any other provision of law, funds appropriated for the planning, design, construction, renovation or expansion of health facilities for the benefit of an Indian tribe or tribes may be used to purchase land on which such facilities will be located: Provided further, That not to exceed \$500,000 shall be used by the Indian Health Service to purchase TRANSAM equipment from the Department of Defense for distribution to the Indian Health Service and tribal facilities: Provided further, That none of the funds appropriated to the Indian Health Service may be used for sanitation facilities construction for new homes funded with grants by the housing programs of the United States Department of Housing and Urban Development: Provided further, That not to exceed \$2,700,000 from this account and the “Indian Health Services” account shall be used by the Indian Health Service to obtain ambulances for the Indian Health Service and tribal facilities in conjunction with an existing interagency agreement between the Indian Health Service and the General Services Administration: Provided further, That not to exceed \$500,000 shall be placed in a Demolition Fund, to remain available until expended, and be used by the Indian Health Service for the demolition of Federal buildings.

##### ADMINISTRATIVE PROVISIONS, INDIAN HEALTH SERVICE

Appropriations provided in this Act to the Indian Health Service shall be available for services as authorized by 5 U.S.C. 3109 at rates not to exceed the per diem rate equivalent to the maximum rate payable for senior-level positions under 5 U.S.C. 5376; hire of passenger motor vehicles and aircraft; purchase of medical equipment; purchase of reprints; purchase, renovation and erection of modular buildings and renovation of existing facilities; payments for telephone service in private residences in the field, when authorized under regulations approved by the Secretary; uniforms or allowances therefor as authorized by 5 U.S.C. 5901–5902; and for expenses of attendance at meetings that relate to the functions or activities of the Indian Health Service.

In accordance with the provisions of the Indian Health Care Improvement Act, non-Indian patients may be extended health care at all tribally administered or Indian Health Service facilities, subject to charges, and the proceeds along with funds recovered under the Federal Medical Care Recovery Act (42 U.S.C. 2651–2653) shall be credited to the account of the facility providing the service and shall be available without fiscal year limitation. Notwithstanding any other law or regulation, funds transferred from the Department of Housing and Urban Development to the Indian Health Service shall be administered under Public Law 96–121, the Indian Sanitation Facilities Act and Public Law 93–638, as amended.

Funds appropriated to the Indian Health Service in this Act, except those used for administrative and program direction purposes, shall not be subject to limitations directed at curtailing Federal travel and transportation.

None of the funds made available to the Indian Health Service in this Act shall be used for any assessments or charges by the Department of Health and Human Services unless identified in the budget justification and provided in this Act, or approved by the House and Senate Committees on Appropriations through the reprogramming process.

Notwithstanding any other provision of law, funds previously or herein made available to a tribe or tribal organization through a contract, grant, or agreement authorized by title I or title V of the Indian Self-Determination and Education Assistance Act of 1975 (25 U.S.C. 450), may be deobligated and reobligated to a self-determination contract under title I, or a self-governance agreement under title V of such Act and thereafter shall remain available to the tribe or tribal organization without fiscal year limitation.

None of the funds made available to the Indian Health Service in this Act shall be used to implement the final rule published in the Federal Register on September 16, 1987, by the Department of Health and Human Services, relating to the eligibility for the health care services of the Indian Health Service until the Indian Health Service has submitted a budget request reflecting the increased costs associated with the proposed final rule, and such request has been included in an appropriations Act and enacted into law.

With respect to functions transferred by the Indian Health Service to tribes or tribal organizations, the Indian Health Service is authorized to provide goods and services to those entities on a reimbursable basis, including payments in advance with subsequent adjustment. The reimbursements received therefrom, along with the funds received from those entities pursuant to the Indian Self-Determination Act, may be credited to the same or subsequent appropriation account from which the funds were originally derived, with such amounts to remain available until expended.

Reimbursements for training, technical assistance, or services provided by the Indian Health Service will contain total costs, including direct, administrative, and overhead associated with the provision of goods, services, or technical assistance.

The appropriation structure for the Indian Health Service may not be altered without advance notification to the House and Senate Committees on Appropriations.

##### NATIONAL INSTITUTES OF HEALTH

##### NATIONAL INSTITUTE OF ENVIRONMENTAL HEALTH SCIENCES

For necessary expenses for the National Institute of Environmental Health Sciences in carrying out activities set forth in section 311(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, and section 126(g) of the Superfund Amendments and Reauthorization Act of 1986, \$79,212,000.

AGENCY FOR TOXIC SUBSTANCES AND DISEASE  
REGISTRY

TOXIC SUBSTANCES AND ENVIRONMENTAL PUBLIC  
HEALTH

For necessary expenses for the Agency for Toxic Substances and Disease Registry (ATSDR) in carrying out activities set forth in sections 104(i) and 111(c)(4) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended; section 118(f) of the Superfund Amendments and Reauthorization Act of 1986 (SARA), as amended; and section 3019 of the Solid Waste Disposal Act, as amended, \$76,792,000, of which up to \$1,000 to remain available until expended, is for Individual Learning Accounts for full-time equivalent employees of the Agency for Toxic Substances and Disease Registry: Provided, That notwithstanding any other provision of law, in lieu of performing a health assessment under section 104(i)(6) of CERCLA, the Administrator of ATSDR may conduct other appropriate health studies, evaluations, or activities, including, without limitation, biomedical testing, clinical evaluations, medical monitoring, and referral to accredited health care providers: Provided further, That in performing any such health assessment or health study, evaluation, or activity, the Administrator of ATSDR shall not be bound by the deadlines in section 104(i)(6)(A) of CERCLA: Provided further, That none of the funds appropriated under this heading shall be available for ATSDR to issue in excess of 40 toxicological profiles pursuant to section 104(i) of CERCLA during fiscal year 2010, and existing profiles may be updated as necessary.

OTHER RELATED AGENCIES

EXECUTIVE OFFICE OF THE PRESIDENT

COUNCIL ON ENVIRONMENTAL QUALITY AND  
OFFICE OF ENVIRONMENTAL QUALITY

For necessary expenses to continue functions assigned to the Council on Environmental Quality and Office of Environmental Quality pursuant to the National Environmental Policy Act of 1969, the Environmental Quality Improvement Act of 1970, and Reorganization Plan No. 1 of 1977, and not to exceed \$750 for official reception and representation expenses, \$3,159,000: Provided, That notwithstanding section 202 of the National Environmental Policy Act of 1970, the Council shall consist of one member, appointed by the President, by and with the advice and consent of the Senate, serving as chairman and exercising all powers, functions, and duties of the Council.

CHEMICAL SAFETY AND HAZARD INVESTIGATION  
BOARD

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses in carrying out activities pursuant to section 112(r)(6) of the Clean Air Act, as amended, including hire of passenger vehicles, uniforms or allowances therefor, as authorized by 5 U.S.C. 5901–5902, and for services authorized by 5 U.S.C. 3109 but at rates for individuals not to exceed the per diem equivalent to the maximum rate payable for senior level positions under 5 U.S.C. 5376, \$11,195,000.

OFFICE OF NAVAJO AND HOPI INDIAN  
RELOCATION

SALARIES AND EXPENSES

For necessary expenses of the Office of Navajo and Hopi Indian Relocation as authorized by Public Law 93–531, \$8,000,000, to remain available until expended: Provided, That funds provided in this or any other appropriations Act are to be used to relocate eligible individuals and groups including evictees from District 6, Hopi-partitioned lands residents, those in significantly substandard housing, and all others certified as eligible and not included in the preceding categories: Provided further, That none of the funds contained in this or any other Act may be used by the Office of Navajo and Hopi

Indian Relocation to evict any single Navajo or Navajo family who, as of November 30, 1985, was physically domiciled on the lands partitioned to the Hopi Tribe unless a new or replacement home is provided for such household: Provided further, That no relocatee will be provided with more than one new or replacement home: Provided further, That the Office shall relocate any certified eligible relocatees who have selected and received an approved homesite on the Navajo reservation or selected a replacement residence off the Navajo reservation or on the land acquired pursuant to 25 U.S.C. 640d–10.

INSTITUTE OF AMERICAN INDIAN AND ALASKA  
NATIVE CULTURE AND ARTS DEVELOPMENT

PAYMENT TO THE INSTITUTE

For payment to the Institute of American Indian and Alaska Native Culture and Arts Development, as authorized by title XV of Public Law 99–498, as amended (20 U.S.C. 56 part A), \$8,300,000.

SMITHSONIAN INSTITUTION

SALARIES AND EXPENSES

For necessary expenses of the Smithsonian Institution, as authorized by law, including research in the fields of art, science, and history; development, preservation, and documentation of the National Collections; presentation of public exhibits and performances; collection, preparation, dissemination, and exchange of information and publications; conduct of education, training, and museum assistance programs; maintenance, alteration, operation, lease agreements of no more than 30 years, and protection of buildings, facilities, and approaches; not to exceed \$100,000 for services as authorized by 5 U.S.C. 3109; and purchase, rental, repair, and cleaning of uniforms for employees, \$634,161,000, of which not to exceed \$19,117,000 for the instrumentation program, collections acquisition, exhibition reinstallation, the National Museum of African American History and Culture, and the repatriation of skeletal remains program shall remain available until expended; of which \$1,553,000 for fellowships and scholarly awards shall remain available until September 30, 2011; and including such funds as may be necessary to support American overseas research centers: Provided, That funds appropriated herein are available for advance payments to independent contractors performing research services or participating in official Smithsonian presentations.

FACILITIES CAPITAL

For necessary expenses of repair, revitalization, and alteration of facilities owned or occupied by the Smithsonian Institution, by contract or otherwise, as authorized by section 2 of the Act of August 22, 1949 (63 Stat. 623), and for construction, including necessary personnel, \$125,000,000, to remain available until expended, of which not to exceed \$10,000 is for services as authorized by 5 U.S.C. 3109.

LEGACY FUND

(INCLUDING RESCISSION OF FUNDS)

For the purpose of developing a public-private partnership to facilitate the reopening of the Arts and Industries Building of the Smithsonian Institution, \$30,000,000, to remain available until expended, for repair, renovation and revitalization of the building: Provided, That such funds shall be matched on a 1:1 basis by private donations: Provided further, That major in-kind donations that contribute significantly to the redesign and purpose of the reopened building be considered to qualify toward the total private match: Provided further, That privately contributed endowments, which are designated for the care and renewal of permanent exhibitions installed in the Arts and Industries Building, be considered as qualifying toward the total private match: Provided further, That this appropriation may be made available to the Smithsonian Institution incrementally as private funding becomes available: Provided further, That any other provision of law that adjusts the over-

all amount of the Federal appropriation for this account shall also apply to the privately contributed requirement: Provided further, That the unobligated balances provided under this heading in Public Law 110–161 and Public Law 111–8 are hereby rescinded.

NATIONAL GALLERY OF ART

SALARIES AND EXPENSES

For the upkeep and operations of the National Gallery of Art, the protection and care of the works of art therein, and administrative expenses incident thereto, as authorized by the Act of March 24, 1937 (50 Stat. 51), as amended by the public resolution of April 13, 1939 (Public Resolution 9, Seventy-sixth Congress), including services as authorized by 5 U.S.C. 3109; payment in advance when authorized by the treasurer of the Gallery for membership in library, museum, and art associations or societies whose publications or services are available to members only, or to members at a price lower than to the general public; purchase, repair, and cleaning of uniforms for guards, and uniforms, or allowances therefor, for other employees as authorized by law (5 U.S.C. 5901–5902); purchase or rental of devices and services for protecting buildings and contents thereof, and maintenance, alteration, improvement, and repair of buildings, approaches, and grounds; and purchase of services for restoration and repair of works of art for the National Gallery of Art by contracts made, without advertising, with individuals, firms, or organizations at such rates or prices and under such terms and conditions as the Gallery may deem proper, \$110,746,000, of which not to exceed \$3,386,000 for the special exhibition program shall remain available until expended.

REPAIR, RESTORATION AND RENOVATION OF  
BUILDINGS

For necessary expenses of repair, restoration and renovation of buildings, grounds and facilities owned or occupied by the National Gallery of Art, by contract or otherwise, as authorized, \$54,499,000, to remain available until expended: Provided, That of this amount, up to \$40,000,000 shall be available for repair of the National Gallery's East Building facade: Provided further, That notwithstanding any other provision of law, a single procurement for the foregoing Major Critical Project may be issued which includes the full scope of the project: Provided further, That the solicitation and contract shall contain the clause "availability of funds" found at 48 CFR 52.232.18: Provided further, That contracts awarded for environmental systems, protection systems, and exterior repair or renovation of buildings of the National Gallery of Art may be negotiated with selected contractors and awarded on the basis of contractor qualifications as well as price.

JOHN F. KENNEDY CENTER FOR THE PERFORMING  
ARTS

OPERATIONS AND MAINTENANCE

For necessary expenses for the operation, maintenance and security of the John F. Kennedy Center for the Performing Arts, \$22,500,000.

CAPITAL REPAIR AND RESTORATION

For necessary expenses for capital repair and restoration of the existing features of the building and site of the John F. Kennedy Center for the Performing Arts, \$17,447,000, to remain available until expended.

WOODROW WILSON INTERNATIONAL CENTER FOR  
SCHOLARS

SALARIES AND EXPENSES

For expenses necessary in carrying out the provisions of the Woodrow Wilson Memorial Act of 1968 (82 Stat. 1356) including hire of passenger vehicles and services as authorized by 5 U.S.C. 3109, \$10,225,000.

NATIONAL FOUNDATION ON THE ARTS AND THE  
HUMANITIES

NATIONAL ENDOWMENT FOR THE ARTS  
GRANTS AND ADMINISTRATION

For necessary expenses to carry out the National Foundation on the Arts and the Humanities Act of 1965, as amended, \$161,315,000 shall be available to the National Endowment for the Arts for the support of projects and productions in the arts, including arts education and public outreach activities, through assistance to organizations and individuals pursuant to section 5 of the Act, for program support, and for administering the functions of the Act, to remain available until expended: Provided, That funds appropriated herein shall be expended in accordance with sections 309 and 311 of Public Law 108-447.

NATIONAL ENDOWMENT FOR THE HUMANITIES  
GRANTS AND ADMINISTRATION

For necessary expenses to carry out the National Foundation on the Arts and the Humanities Act of 1965, as amended, \$161,315,000, to remain available until expended, of which \$147,015,000 shall be available for support of activities in the humanities, pursuant to section 7(c) of the Act and for administering the functions of the Act; and \$14,300,000 shall be available to carry out the matching grants program pursuant to section 10(a)(2) of the Act including \$9,500,000 for the purposes of section 7(h): Provided, That appropriations for carrying out section 10(a)(2) shall be available for obligation only in such amounts as may be equal to the total amounts of gifts, bequests, and devises of money, and other property accepted by the chairman or by grantees of the Endowment under the provisions of subsections 11(a)(2)(B) and 11(a)(3)(B) during the current and preceding fiscal years for which equal amounts have not previously been appropriated.

ADMINISTRATIVE PROVISIONS

None of the funds appropriated to the National Foundation on the Arts and the Humanities may be used to process any grant or contract documents which do not include the text of 18 U.S.C. 1913.

None of the funds appropriated to the National Foundation on the Arts and the Humanities may be used for official reception and representation expenses: Provided, That funds from nonappropriated sources may be used as necessary for official reception and representation expenses.

The Chairperson of the National Endowment for the Arts may approve grants of up to \$10,000, if in the aggregate this amount does not exceed 5 percent of the sums appropriated for grant-making purposes per year: Provided, That such small grant actions are taken pursuant to the terms of an expressed and direct delegation of authority from the National Council on the Arts to the Chairperson.

COMMISSION OF FINE ARTS

SALARIES AND EXPENSES

For expenses made necessary by the Act establishing a Commission of Fine Arts (40 U.S.C. 104), \$2,294,000: Provided, That the Commission is authorized to charge fees to cover the full costs of its publications, and such fees shall be credited to this account as an offsetting collection, to remain available until expended without further appropriation: Provided further, That the Commission is authorized to accept gifts, including objects, papers, artwork, drawings and artifacts, that pertain to the history and design of the Nation's Capital or the history and activities of the Commission of Fine Arts, for the purpose of artistic display, study or education.

NATIONAL CAPITAL ARTS AND CULTURAL AFFAIRS

For necessary expenses as authorized by Public Law 99-190 (20 U.S.C. 956a), as amended, \$9,500,000: Provided, That no organization shall receive a grant in excess of \$650,000 in a single year.

ADVISORY COUNCIL ON HISTORIC PRESERVATION  
SALARIES AND EXPENSES

For necessary expenses of the Advisory Council on Historic Preservation (Public Law 89-665, as amended), \$5,908,000: Provided, That none of these funds shall be available for compensation of level V of the Executive Schedule or higher positions.

NATIONAL CAPITAL PLANNING COMMISSION  
SALARIES AND EXPENSES

For necessary expenses, as authorized by the National Capital Planning Act of 1952 (40 U.S.C. 71-71i), including services as authorized by 5 U.S.C. 3109, \$8,507,000: Provided, That one-quarter of 1 percent of the funds provided under this heading may be used for official reception and representational expenses associated with hosting international visitors engaged in the planning and physical development of world capitals.

UNITED STATES HOLOCAUST MEMORIAL MUSEUM  
HOLOCAUST MEMORIAL MUSEUM

For expenses of the Holocaust Memorial Museum, as authorized by Public Law 106-292 (36 U.S.C. 2301-2310), \$49,122,000, of which \$515,000 for the Museum's equipment replacement program, \$1,900,000 for the museum's repair and rehabilitation program and \$1,264,000 for the museum's exhibition design and production program shall remain available until expended.

PRESIDIO TRUST

PRESIDIO TRUST FUND

For necessary expenses to carry out title I of the Omnibus Parks and Public Lands Management Act of 1996, \$17,230,000 shall be available to the Presidio Trust, to remain available until expended.

DWIGHT D. EISENHOWER MEMORIAL COMMISSION  
SALARIES AND EXPENSES

For necessary expenses, including the costs of construction design, of the Dwight D. Eisenhower Memorial Commission, \$3,000,000, to remain available until expended.

CAPITAL CONSTRUCTION

For necessary expenses of the Dwight D. Eisenhower Memorial Commission for design and construction of a memorial in honor of Dwight D. Eisenhower, as authorized by Public Law 106-79, \$16,000,000, to remain available until expended.

TITLE IV

GENERAL PROVISIONS

LIMITATION ON CONSULTING SERVICES

(INCLUDING TRANSFERS OF FUNDS)

SEC. 401. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive Order issued pursuant to existing law.

RESTRICTION ON USE OF FUNDS

SEC. 402. No part of any appropriation contained in this Act shall be available for any activity or the publication or distribution of literature that in any way tends to promote public support or opposition to any legislative proposal on which Congressional action is not complete other than to communicate to Members of Congress as described in 18 U.S.C. 1913.

PROHIBITION ON USE OF FUNDS FOR PERSONAL SERVICES

SEC. 403. None of the funds provided in this Act to any department or agency shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of such department or agency except as otherwise provided by law.

DISCLOSURE OF ADMINISTRATIVE EXPENSES

SEC. 404. Estimated overhead charges, deductions, reserves or holdbacks from programs,

projects, activities and subactivities to support government-wide, departmental, agency or bureau administrative functions or headquarters, regional or central operations shall be presented in annual budget justifications and subject to approval by the Committees on Appropriations. Changes to such estimates shall be presented to the Committees on Appropriations for approval.

GIANT SEQUOIA

SEC. 405. None of the funds in this Act may be used to plan, prepare, or offer for sale timber from trees classified as giant sequoia (*Sequoiadendron giganteum*) which are located on National Forest System or Bureau of Land Management lands in a manner different than such sales were conducted in fiscal year 2009.

MINING APPLICATIONS

SEC. 406. (a) None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to accept or process applications for a patent for any mining or mill site claim located under the general mining laws.

(b) EXCEPTIONS.—The provisions of subsection (a) shall not apply if the Secretary of the Interior determines that, for the claim concerned: (1) a patent application was filed with the Secretary on or before September 30, 1994; and (2) all requirements established under sections 2325 and 2326 of the Revised Statutes (30 U.S.C. 29 and 30) for vein or lode claims and sections 2329, 2330, 2331, and 2333 of the Revised Statutes (30 U.S.C. 35, 36, and 37) for placer claims, and section 2337 of the Revised Statutes (30 U.S.C. 42) for mill site claims, as the case may be, were fully complied with by the applicant by that date.

(c) REPORT.—On September 30, 2010, the Secretary of the Interior shall file with the House and Senate Committees on Appropriations and the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report on actions taken by the Department under the plan submitted pursuant to section 314(c) of the Department of the Interior and Related Agencies Appropriations Act, 1997 (Public Law 104-208).

(d) MINERAL EXAMINATIONS.—In order to process patent applications in a timely and responsible manner, upon the request of a patent applicant, the Secretary of the Interior shall allow the applicant to fund a qualified third-party contractor to be selected by the Bureau of Land Management to conduct a mineral examination of the mining claims or mill sites contained in a patent application as set forth in subsection (b). The Bureau of Land Management shall have the sole responsibility to choose and pay the third-party contractor in accordance with the standard procedures employed by the Bureau of Land Management in the retention of third-party contractors.

CONTRACT SUPPORT COSTS

SEC. 407. Notwithstanding any other provision of law, amounts appropriated to or otherwise designated in committee reports for the Bureau of Indian Affairs and the Indian Health Service by Public Laws 103-138, 103-332, 104-134, 104-208, 105-83, 105-277, 106-113, 106-291, 107-63, 108-7, 108-108, 108-447, 109-54, 109-289, division B and Continuing Appropriations Resolution, 2007 (division B of Public Law 109-289, as amended by Public Laws 110-5 and 110-28), and Public Laws 110-92, 110-116, 110-137, 110-149, 110-161, 110-329, 111-6, and 111-8 for payments for contract support costs associated with self-determination or self-governance contracts, grants, compacts, or annual funding agreements with the Bureau of Indian Affairs or the Indian Health Service as funded by such Acts, are the total amounts available for fiscal years 1994 through 2009 for such purposes, except that for

the Bureau of Indian Affairs, tribes and tribal organizations may use their tribal priority allocations for unmet contract support costs of ongoing contracts, grants, self-governance compacts, or annual funding agreements.

#### FOREST MANAGEMENT PLANS

SEC. 408. Prior to October 1, 2010, the Secretary of Agriculture shall not be considered to be in violation of subparagraph 6(f)(5)(A) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604(f)(5)(A)) solely because more than 15 years have passed without revision of the plan for a unit of the National Forest System. Nothing in this section exempts the Secretary from any other requirement of the Forest and Rangeland Renewable Resources Planning Act (16 U.S.C. 1600 et seq.) or any other law: Provided, That if the Secretary is not acting expeditiously and in good faith, within the funding available, to revise a plan for a unit of the National Forest System, this section shall be void with respect to such plan and a court of proper jurisdiction may order completion of the plan on an accelerated basis.

#### PROHIBITION WITHIN NATIONAL MONUMENTS

SEC. 409. No funds provided in this Act may be expended to conduct preleasing, leasing and related activities under either the Mineral Leasing Act (30 U.S.C. 181 et seq.) or the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) within the boundaries of a National Monument established pursuant to the Act of June 8, 1906 (16 U.S.C. 431 et seq.) as such boundary existed on January 20, 2001, except where such activities are allowed under the Presidential proclamation establishing such monument.

#### INTERNATIONAL FIREFIGHTER COOPERATIVE AGREEMENTS

SEC. 410. In entering into agreements with foreign countries pursuant to the Wildfire Suppression Assistance Act (42 U.S.C. 1856m) the Secretary of Agriculture and the Secretary of the Interior are authorized to enter into reciprocal agreements in which the individuals furnished under said agreements to provide wildfire services are considered, for purposes of tort liability, employees of the country receiving said services when the individuals are engaged in fire suppression: Provided, That the Secretary of Agriculture or the Secretary of the Interior should not enter into any agreement under this provision unless the foreign country (either directly or through its fire organization) agrees to assume any and all liability for the acts or omissions of American firefighters engaged in firefighting in a foreign country: Provided further, That when an agreement is reached for furnishing fire fighting services, the only remedies for acts or omissions committed while fighting fires shall be those provided under the laws of the host country, and those remedies shall be the exclusive remedies for any claim arising out of fighting fires in a foreign country: Provided further, That neither the sending country nor any legal organization associated with the firefighter shall be subject to any legal action whatsoever pertaining to or arising out of the firefighter's role in fire suppression.

#### CONTRACTING AUTHORITIES

SEC. 411. In awarding a Federal contract with funds made available by this Act, notwithstanding Federal Government procurement and contracting laws, the Secretary of Agriculture and the Secretary of the Interior (the "Secretaries") may, in evaluating bids and proposals, give consideration to local contractors who are from, and who provide employment and training for, dislocated and displaced workers in an economically disadvantaged rural community, including those historically timber-dependent areas that have been affected by reduced timber harvesting on Federal lands and other forest-dependent rural communities isolated from significant alternative employment opportunities: Provided, That notwithstanding Federal Govern-

ment procurement and contracting laws the Secretaries may award contracts, grants or cooperative agreements to local non-profit entities, Youth Conservation Corps or related partnerships with State, local or non-profit youth groups, or small or micro-business or disadvantaged business: Provided further, That the contract, grant, or cooperative agreement is for forest hazardous fuels reduction, watershed or water quality monitoring or restoration, wildlife or fish population monitoring, or habitat restoration or management: Provided further, That the terms "rural community" and "economically disadvantaged" shall have the same meanings as in section 2374 of Public Law 101-624: Provided further, That the Secretaries shall develop guidance to implement this section: Provided further, That nothing in this section shall be construed as relieving the Secretaries of any duty under applicable procurement laws, except as provided in this section.

#### PROHIBITION ON USE OF FUNDS

SEC. 412. None of the funds made available by this or any other Act may be used in fiscal year 2010 for competitive sourcing studies and any related activities involving Forest Service personnel.

#### LIMITATION ON TAKINGS

SEC. 413. Unless otherwise provided herein, no funds appropriated in this Act for the acquisition of lands or interests in lands may be expended for the filing of declarations of taking or complaints in condemnation without the approval of the House and Senate Committees on Appropriations: Provided, That this provision shall not apply to funds appropriated to implement the Everglades National Park Protection and Expansion Act of 1989, or to funds appropriated for Federal assistance to the State of Florida to acquire lands for Everglades restoration purposes.

#### HUNTERS POINT ENVIRONMENTAL CLEANUP

SEC. 414. In addition to the amounts otherwise provided to the Environmental Protection Agency in this Act, \$8,000,000, to remain available until expended, is provided to EPA to be transferred to the Department of the Navy for cleanup activities at the Treasure Island Naval Station—Hunters Point Annex.

#### EXTENSION OF GRAZING PERMITS

SEC. 415. Section 325 of Public Law 108-108 is amended by striking "fiscal years 2004-2008" and inserting "fiscal year 2010."

#### ALASKA NATIVE HEALTH CARE SERVICES

SEC. 416. (a) Notwithstanding any other provision of law and until October 1, 2011, the Indian Health Service may not disburse funds for the provision of health care services pursuant to Public Law 93-638 (25 U.S.C. 450 et seq.) to any Alaska Native village or Alaska Native village corporation that is located within the area served by an Alaska Native regional health entity.

(b) Nothing in this section shall be construed to prohibit the disbursement of funds to any Alaska Native village or Alaska Native village corporation under any contract or compact entered into prior to May 1, 2006, or to prohibit the renewal of any such agreement.

(c) For the purpose of this section, Eastern Aleutian Tribes, Inc., the Council of Athabaskan Tribal Governments, and the Native Village of Eyak shall be treated as Alaska Native regional health entities to which funds may be disbursed under this section.

#### TIMBER SALE REQUIREMENTS

SEC. 417. No timber sale in Region 10 shall be advertised if the indicated rate is deficit when appraised using a residual value approach that assigns domestic Alaska values for western red cedar. Program accomplishments shall be based on volume sold. Should Region 10 sell, in the current fiscal year, the annual average portion of the decadal allowable sale quantity called for in the current Tongass Land Management Plan

in sales which are not deficit when appraised using a residual value approach that assigns domestic Alaska values for western red cedar, all of the western red cedar timber from those sales which is surplus to the needs of domestic processors in Alaska, shall be made available to domestic processors in the contiguous 48 United States at prevailing domestic prices. Should Region 10 sell, in the current fiscal year, less than the annual average portion of the decadal allowable sale quantity called for in the Tongass Land Management Plan in sales which are not deficit when appraised using a residual value approach that assigns domestic Alaska values for western red cedar, the volume of western red cedar timber available to domestic processors at prevailing domestic prices in the contiguous 48 United States shall be that volume: (1) which is surplus to the needs of domestic processors in Alaska; and (2) is that percent of the surplus western red cedar volume determined by calculating the ratio of the total timber volume which has been sold on the Tongass to the annual average portion of the decadal allowable sale quantity called for in the current Tongass Land Management Plan. The percentage shall be calculated by Region 10 on a rolling basis as each sale is sold (for purposes of this amendment, a "rolling basis" shall mean that the determination of how much western red cedar is eligible for sale to various markets shall be made at the time each sale is awarded). Western red cedar shall be deemed "surplus to the needs of domestic processors in Alaska" when the timber sale holder has presented to the Forest Service documentation of the inability to sell western red cedar logs from a given sale to domestic Alaska processors at a price equal to or greater than the log selling value stated in the contract. All additional western red cedar volume not sold to Alaska or contiguous 48 United States domestic processors may be exported to foreign markets at the election of the timber sale holder. All Alaska yellow cedar may be sold at prevailing export prices at the election of the timber sale holder.

#### COLORADO COOPERATIVE CONSERVATION AUTHORITY

SEC. 418. Section 331 of the Department of the Interior and Related Agencies Appropriations Act, 2001, as amended, is amended in subsection (e) by striking "September 30, 2009," and inserting "September 30, 2014,".

#### NATIONAL COUNCIL ON THE ARTS MEMBERSHIP

SEC. 419. Section 6 of the National Foundation on the Arts and the Humanities Act of 1965 (Public Law 89-209, 20 U.S.C. 955), as amended, is further amended as follows:

(1) In the first sentence of subsection (b)(1)(C), by striking "14" and inserting in lieu thereof "18"; and

(2) In the second sentence of subsection (d)(1), by striking "Eight" and inserting in lieu thereof "Ten".

#### PROHIBITION ON USE OF FUNDS

SEC. 420. Notwithstanding any other provision of law, none of the funds made available in this Act or any other Act may be used to promulgate or implement any regulation requiring the issuance of permits under title V of the Clean Air Act (42 U.S.C. 7661 et seq.) for carbon dioxide, nitrous oxide, water vapor, or methane emissions resulting from biological processes associated with livestock production.

#### GREENHOUSE GAS REPORTING RESTRICTIONS

SEC. 421. Notwithstanding any other provision of law, none of the funds made available in this Act or any other Act may be used to implement any rule that requires mandatory reporting of greenhouse gas emissions from manure management systems emitting less than 25,000 tons of carbon dioxide equivalent per year.

#### CONGRESSIONALLY DIRECTED SPENDING

SEC. 422. Within the amounts appropriated in this Act, funding shall be allocated in the

amounts specified for those projects and purposes delineated in the table titled "Congressionally Directed Spending" included in the committee report accompanying this Act.

This Act may be cited as the "Department of the Interior, Environment, and Related Agencies Appropriations Act, 2010".

Mrs. FEINSTEIN. Madam President, I am pleased to join my colleague, Senator ALEXANDER, in presenting the fiscal year 2010 Interior and related agencies appropriations bill. This is the first year Senator ALEXANDER and I have worked together as chairmen and ranking member of the Interior Appropriations Subcommittee. I am very pleased to report that it could not have been a better experience. We have consulted on several occasions and worked through several different issues. As a result, I think we have produced a fair, balanced, and workable bill. I thank him very much, and his able staff, for all their hard work and cooperation.

In total, the fiscal year 2010 Interior appropriations bill provides \$32.1 billion in nonemergency discretionary spending. That amount is \$4.5 billion above the equivalent 2009 enacted level but \$225 million below the President's request. I wish to stress that. This bill is \$225 million below the President's request.

The reason is to make it consistent with the subcommittee's 302(b) allocation for both budget authority and outlays. Our allocation is substantially lower than that of the House of Representatives. Therefore, our bill is necessarily constrained. We cannot spend above our allocation. So there are going to be several items that will be conferenced in that regard.

Because the committee's report, which spells out all of the funding details, has been publicly available for more than 2 months, I won't go through each and every line item. But I would like to emphasize the great strides we have been able to make in five critical areas: water and sewer infrastructure, wildfire suppression and prevention on public land, bolstering our public land management agencies, investment in the Land and Water Conservation Fund, and helping the most vulnerable in Indian Country.

First, in these five key areas, the bill provides \$3.6 billion for water and sewer infrastructure projects. I am proud of this. That is a significant increase over last year's level of \$1.6 billion. In fact, this is the largest single commitment of funds that has ever been provided in an annual appropriations bill.

Let me say something about this. When we look at America's infrastructure, I can say that I am old enough, regretfully—I guess I am delighted I have survived—to remember when everyone could drink water out of every tap anywhere in America. You can imagine what I thought when I saw the front of the New York Times with the young lad from West Virginia with fillings all over his mouth because he couldn't drink water properly out of the tap, when there was other evidence

of people in that great State bathing in water that created skin lesions. That should not be the case in the United States. Therefore, this significant increase in water and sewer infrastructure is extraordinarily important.

Additionally, I hope we will have report language in our bill in consultation with the ranking member that will instruct EPA to put much more regulatory authority in the area of water quality so we don't run into these areas. This is something I have not yet had a chance to talk with the ranking member about, but I do intend to do that.

When we factor in the \$6 billion included in the stimulus bill in February, we are providing nearly \$10 billion this calendar year to State and local water authorities. This is a major investment in public infrastructure and one that, as a former mayor, I strongly support and am very pleased to be able, along with my ranking member, to accomplish.

This money will allow State and local water authorities to begin to tackle 1,327 wastewater and drinking water projects all across the Nation. For those who may not be aware, the Environmental Protection Agency, which administers these grants, has estimated that over a 20-year period communities will need to spend \$660 billion—not million—for drinking water and wastewater infrastructure repairs and renovations. Obviously, we can't provide that level of funding during these tough budgetary times. But what we were able to provide, with a reduced allocation, will go a long way toward helping communities tackle their crumbling infrastructure and provide residents with more reliable and cleaner water. It will also have the benefit of creating thousands of construction jobs to put more Americans back to work.

Secondly, the bill provides \$1.8 billion for wildland fire suppression activities. It is very important that we are providing that level of funding because that is the same amount that has been spent on average in each of the last 3 fiscal years. So for the first time in more than 10 years, we will be providing Federal firefighters the resources they need well before they run out of money. The fact that we are providing this level of funding is extremely important. By appropriating up front what we know is actually going to be needed based on prior experience, we allow the Forest Service and the Interior Department to break the cycle of borrowing from other accounts and then hoping Congress agrees to repay that money. We have been criticized for doing it. It is good, solid criticism. In this bill, it has been remedied.

The bill also includes \$107 million in grants to help State and local cooperators fund their own firefighting and fuels reduction efforts. That is a 2-percent increase over the 2009 level, and it provides \$556 million for hazardous fuels reduction projects on Federal

lands nationwide, a 7-percent increase over last year. That is critical.

My State is burning up, as are other States in the West. We lost 1.5 million acres last year from fire. Hazardous mitigation of fuels becomes very critical.

As important as it is to provide our Federal firefighters with the funds they need for suppression, it is just as important that we make these fuel reduction funds available so these agencies can begin to get in front of the problem and prevent these catastrophic wildland fires or at least reduce their catastrophic potential.

The money provided in this bill will allow the Forest Service and the Interior Department to treat 3.5 million acres of fire-prone Federal lands. That is 3.5 million acres of fire-prone Federal land. This will reduce the risk of catastrophic wildfires such as the one being fought right now in southern California.

Let me say something about that fire. The Station fire in southern California is still burning in the foothills of Los Angeles. The fire has swept through canyons that are drowning under decades' worth of dense vegetation. As of Tuesday, the fire has burned 160,000 acres, destroyed 183 homes and other buildings, and cost more than \$90 million to fight. More than 8,000 firefighters have battled the blaze, and, tragically, two firefighters have lost their lives.

The Station fire is now the largest fire in Los Angeles County history. It is also a reminder of how important it is to increase funding for fuels reduction and fire suppression. I am very proud this bill accomplishes both.

Third, the bill shores up our public land management agencies by providing a total of \$6 billion for basic operations and backlog maintenance of our national parks, national forests, national wildlife refuges, and on Bureau of Land Management land.

For too long we have neglected these agencies and forced program cuts on them by underfunding the fixed costs they incur every year. In this bill, fixed costs are fully funded. That is important. Included in these funds are \$2.2 billion for basic operations of our 391 national parks, an increase of \$130 million. These funds will allow the Park Service to continue utilizing the 3,000 seasonal employees who have made a real difference in the condition and enjoyment of our parks. Additional maintenance personnel, additional law enforcement officers, and additional park rangers will all be brought back as a way of enhancing the visitor experience now and preparing our parks for the centennial in 2016.

Our national parks are jewels throughout the United States of America. They cannot be allowed to grow into poor condition. They must be maintained, and they must be operated properly.

Also, I wish to point out that the funding being provided in this bill will



allow the Park Service to continue the drug eradication program started last year. I can tell you, in California, this has become a major problem, with literally hundreds of thousands of acres in our national parks taken over by Mexican cartels that have moved into the back areas and set up marijuana production facilities. They are armed. They are dangerous. It has taken the resources of combined task forces—of local, Federal, and State officers—to go in and root out these areas and also to eradicate the planting that has been done. More than \$10 million is being made available so law enforcement personnel can work with other Federal and State agencies to extricate the illegal drug operations that are increasingly invading our national parks.

This effort is not just limited to the Park Service. Included in the \$1.56 billion that this bill provides for operations of the national forests is a new \$10 million increase for the Forest Service's law enforcement program. These funds mean the Service will be able to hire up to 50 new law enforcement officers to battle the epidemic of these marijuana gardens on our public lands.

The bill also contains a \$5 million increase to begin cleaning up more than 25,000 acres of forest lands nationwide that have suffered environmental damage because of these drug—the word is “gardens.” I hate that word applied to these drug projects, so I will say “drug projects.”

Fourth, the bill increases the protection and conservation of sensitive lands by providing \$419 million through the Land and Water Conservation Fund. Of that amount, \$262 million is set aside for four Federal land management agencies for conservation of sensitive lands that provide habitat to wildlife and recreation to visitors; \$55 million is for conservation easements through the Forest Legacy Program; \$54 million is for acquisitions associated with habitat conservation plans; and \$35 million is for State grants through the Park Service's State Assistance Program.

Finally, the bill helps some of the most vulnerable among us by providing a total of \$6.6 billion for the Indian Health Service and the Bureau of Indian Affairs. That is an 11-percent increase over the 2009 enacted level. The bill includes increases of \$450 million in direct health care services; \$81 million in K–12 and college education programs; and \$83 million in law enforcement programs, which will allow for additional police officer staffing on the streets and in detention centers.

With these funds, more than 10,000 additional doctor visits will take place that would not otherwise happen. This means additional well-baby care to prevent problems before they happen. It means additional alcohol and substance abuse treatment, which is truly a plague in Indian Country. It means additional public health nursing visits so those rural areas are not left out.

Funding provided through the Bureau of Indian Affairs will improve programs and infrastructure at the Bureau's 183 schools. The \$81 million increase in education programs will allow the Bureau to substantially increase the number of schools that meet the Adequate Yearly Progress goals spelled out in No Child Left Behind. For the first time—and I am proud of this—nearly half of all schools will meet this milestone. Additional funding for law enforcement programs will allow the Bureau to increase staffing throughout Indian Country.

But it is not just funding for staff that is going to make a real difference. The bill includes a threefold increase in funds for repair and rehabilitation of detention facilities. Too often, Bureau police officers are forced to spend useless time transporting detainees, sometimes hundreds of miles, to be incarcerated in adequate detention facilities. These funds will allow the Bureau to repair several local facilities so less time is spent in transit.

All in all, I believe Senator ALEXANDER and I have been fair and conscientious in crafting this bill. I urge my colleagues to let us move forward with this measure as soon as possible.

I want my ranking member to know I am very proud of this bill, not only because it is a good bill, it is the first start we have had together. I look forward to more years where we can build our fire suppression, our care and concern for our national parks, the Smithsonian, all the 19 institutions it represents, the Kennedy Center, and all the various Departments we are concerned with in this appropriations bill.

It is necessarily dull to put forward figures, but as both of us have learned from our prior lives, budgets and appropriations condition policy. So I think this is not only a good appropriations bill, but it is a very good policy bill for the Departments that are included within the bill.

It has been a sheer delight for me to work with you, I say to Senator ALEXANDER. Now I would like to defer to the Senator for any comments he might care to make.

The ACTING PRESIDENT pro tempore. The Senator from Tennessee.

Mr. ALEXANDER. Madam President, I thank the Senator from California.

It is a joy for me to work on this legislation because, first, I care so much about it, as she does—this is about the great American outdoors, which is an essential part of our American character—and because of the privilege of working with Senator FEINSTEIN. She has the great advantage of having been a mayor of a big city and she is capable of making a decision and she is results oriented, so we are able to work easily together. It is the way I liked to work when I was Governor. She is broad-gauged and cares about this country and about its environment and its outdoors and about not only protecting and conserving the outdoors but making it possible for Americans—300 mil-

lion of us—and the people who visit us to enjoy that great American outdoors.

It is always a privilege to be in the Senate, but it is a special privilege to work on the outdoors—the great American outdoors—with Senator FEINSTEIN from California.

Last week, we celebrated the 75th anniversary of the Great Smoky Mountains National Park. I am not objective at all about the Great Smoky Mountains National Park. I grew up there, went hiking there, and I live 2 miles from its border. One reason I care about the trails so much is because I have hiked them. One reason I care about the quality of the air so much is because I breathe it. One reason I care about having enough rangers and making sure their salaries are paid is because I know them. So that helps in my objective.

But there was also a reminder. It was a beautiful day up on Newfound Gap, right on the border of North Carolina and Tennessee. Our mountains in the East are not as big as the mountains in the West. They are older, more mature. But the largest of the mountains in the Eastern United States are along the North Carolina and Tennessee border, 71 miles along the Appalachian Trail, in the Great Smoky Mountains National Park.

So there we were, at about 5,500 feet, at the place where President Franklin Delano Roosevelt, on the same day in 1940, a few years after the park was formed, dedicated the Great Smokies. But among other things on that beautiful day—and the Secretary of the Interior was there, Ken Salazar. It is good for our Western Secretary to get a good look at the Eastern park. Dolly Parton was there. She grew up in the next county, so she is our special ambassador for the Great Smokies, and there were all the Members of the Congress who were there from the area.

But when we look back 75 years, what did we see? It was 1934. So here we were, in the middle of the greatest depression in our country's history, and what were we doing? Well, in Tennessee, we had the State legislature appropriating \$2 million to buy land from families and from lumber companies to create a park. In North Carolina, they did the same thing. That only made \$4 million. Madam President, \$10 million was needed. So they collected another million dollars from the people of the area.

Schoolchildren put pennies in jars. It is a wonderful story of how they got up to \$5 million. Then one of the early leaders of the group organizing the Great Smoky Mountains National Park convinced John D. Rockefeller, Jr.,—who, I guess, is the grandfather of our Senator ROCKEFELLER—to come; and the Rockefellers gave \$5 million in honor of Laura Spelman Rockefeller, to match the \$5 million the two States and all the people had contributed.

That \$10 million bought the park and gave it to the country. This was not like almost every other park. It was

not just carved out of land the people already owned. It was given to the country in the midst of the Great Depression.

The reason I bring up that today is because it is a reminder that even in difficult times we kept our priorities right. India has its Taj Mahal. Rome has its art. England has its history. But we have the great American outdoors. If, as Ken Burns has said, our national parks are America's best idea, we in Tennessee and North Carolina think that must mean the Great Smoky Mountains are the very best idea because so many more people visit it than visit any other park in America.

But what those people did—whether it was the schoolchildren with the pennies, the Governors of the States, the legislators, the people in Asheville, NC, and Knoxville, TN, the civic leaders, whether it was the Rockefeller family—what they did also shows us the foresight of thinking ahead for the benefit of future generations.

In 1934, the assistant chief ranger of this big, new park wrote a memo to the superintendent outlining the wildlife he found there. There were 100 black bears in 1934. There are 1,600 today. There were 315 wild turkeys in 1934. The other day I saw 21 outside my window 2 miles from the park.

Seventy-five years ago in the Park, there were 12 whitetail deer in Tennessee and only 6 in North Carolina. They are all over the place today. There were no peregrine falcons, no river otters, no elk. They are there today. Twenty-five years ago, when as Governor of Tennessee I spoke at the 50th anniversary of the Great Smoky Mountains National Park, there was no Federal law controlling acid rain, there was no organization called Friends of the Smokies, but both are great successes today. Those Federal laws were passed and Friends of the Smokies has contributed \$30 million. So that celebration two weeks ago reminded us of the foresight 75 years ago. Those examples are everywhere in our culture today.

I am reading Douglas Brinkley's book about Teddy Roosevelt called "The Wilderness Warrior." It is so thick, it will break your back if you carry it around, but it is a wonderful story of how our President, Teddy Roosevelt, during his relatively short term in office, had the foresight to make sure we have many of the wildlife refuges, the national parks, the national forests, and the others we enjoy today. This bill Senator FEINSTEIN so ably described is the responsibility we have as stewards of that great tradition today, to look ahead to the future about preserving and protecting the great American outdoors; looking to the future as Teddy Roosevelt did, as the schoolchildren did in Tennessee, as John Muir did when Yosemite was created, as Lady Bird Johnson did half a century ago. As we look ahead, we should remember that we are custodians of that tradition.

What should we hope for as we work on this bill and we plan ahead? My hope of the future is that we finish cleaning up the air, so in the Great Smokies, we can celebrate the gray haze about which the Cherokee sang instead of seeing smog. I hope we do more to use our nearly 400 national park properties to teach about what it means to be an American so our children and our immigrants can know that story. I hope we can become better students of the remarkable environmental diversity of our country. Just within our Great Smoky Mountains National Park, we have 128 species of trees, as many as they have in all of Europe. I hope we do a better job of creating picturesque entrances and conservation easements to protect the wildlife and the stunning viewscapes that are not only in our parks but near our parks.

I am going to do my best—and Senator FEINSTEIN and I have talked about our concern about this, and I have shared that concern with Secretary Salazar on many occasions, including last week when he visited Tennessee—I am going to make sure we pay attention to the perils of what some conservationists are calling energy sprawl, so that in our enthusiasm for renewable energy and alternative energy, which we need, we don't place 50-story wind turbines and acres of square miles of solar thermal plants in areas that damage the treasured landscapes we have spent a century trying to protect. It doesn't make sense to destroy the environment in the name of saving the environment.

I hope we can build on the legislation, too, that Congress enacted in 2007 when we expanded exploration for natural gas and oil in the Gulf of Mexico and for the first time created what I like to call a conservation royalty that contributes one-eighth of the revenues that are collected from that drilling. One-eighth of those revenues go to the Land and Water Conservation Fund. In this case, it goes to the State side portion, which is used by communities for local parks and local greenways. Suffice it to say, the most popular parks in America are not the Great Smokies and Yosemite; the most popular parks are the city parks and the community parks and the suburban parks, the parks down the street. The Land and Water Conservation Fund is the source of funding for many of those parks and much of that open space.

In the 1960s, Congress, as a result of a report by the first Commission on American Outdoors that was chaired by Lawrence Rockefeller, recommended that we take some of the money we receive from offshore drilling and exploration and use it for the Land and Water Conservation Fund. We had never really done that, but it makes good sense. It is good stewardship. Where there is an environmental burden, which we sometimes have to authorize, we should pay for it with an environmental benefit. That is the

trade between offshore exploration and money for land and water conservation funding to create city parks.

One other thing. I hope we find additional ways, through increased private contributions as well as the kinds of Federal appropriations we talk about today, to support and care for the nearly 400 different national parks properties we have, as well as our other public lands and treasured landscapes and national forests and along our coastlines and our ridgelines in this country.

The Senator from California gave a very thorough statement of the various programs in our bill. I won't repeat all of those numbers, but I do have a handful of observations I wish to make. Obviously, we don't agree on every detail. But we are not here to agree on every detail, we are here to see whether we can produce a result. I believe we have done that. In the process, I thank Senator FEINSTEIN for addressing a number of the concerns I and many of our colleagues on the Republican side of the aisle have. She has been terrific to work with in that respect.

As she said, this bill is \$225 million below the President's budget request, even though it is substantially higher than last year's funding levels. I suppose if I were doing this all by myself, I would have spent less money, but that is not the way our system works. We each make our arguments, fight our spending battles, decide on a budget resolution, and we go from there. So I believe Chairman INOUE and the vice chairman, THAD COCHRAN, have allocated the funds made available to the Appropriations Committee by the Senate in a fair and responsible way.

Similarly, with the funds we have had to work with on the Interior bill, Chairman FEINSTEIN and I have made our best judgment and done our best to meet the many competing priorities for the varied programs here. She mentioned some of the good things in the bill, and I wish to underscore just a few.

We have continued the Centennial Initiative started under President Bush by adding over \$130 million to increase park operations in preparation for the national park centennial in 2016. This is a good time to think about the condition of our national parks. Many of us visit them, so we are familiar with their maintenance needs and their personnel needs.

Some are reading the book I mentioned about Teddy Roosevelt, and millions more, starting September 27, will see Ken Burns' film about the national parks called "The National Parks: America's Best Idea." I am confident the film will remind us of how important those parks are to our national character and how determined we are to make sure that over the next several years, as we approach the centennial, we support them properly. That includes the law enforcement rangers who ensure the safety of the public in our parks, the interpreters who explain

its history and America's history, and the biologists and scientists who teach us about the plants and animals that live there. This bill helps to expand and improve that experience.

We have also provided necessary increases to pay for the rangers who keep visitors to all of our national forests, wildlife refuges, and other public lands safe; health care professionals who provide medical care; the Indian Health Service teachers who provide education in the Indian community—Senator FEINSTEIN described that. Simply keeping pace with the inflationary pay costs and health benefits for park and forest rangers, Indian health care professionals, and other critical personnel required a \$540 million increase in funding over the last year.

Senator FEINSTEIN talked about fires. It seems as though when we read about fires or see them on television they are all in California, and our hearts go out to the families who have lost their homes and, a few, their lives as a result of these fires.

But the fires are not all in California. The national Forest Service is busy spending too much of its time on fire protection. It has an effective fire protection unit that is part of its job, but what we have been doing is paying for firefighting the way we used to pay for the Iraq war. We did it off budget. We did it a little later. I congratulate the administration and Senator FEINSTEIN for putting into this budget the amount of money we think we will actually need to fight fires this year. We have added over \$570 million compared to last year for firefighting and fire prevention programs. I hope that is enough. I hope we have made a budget that allows us to deal with that so we don't find ourselves coming back with supplementary appropriations and so we don't disrupt all of the other important programs in the Forest Service and in the Department of the Interior. As important as the firefighting function is to the U.S. Forest Service, we don't want to turn the U.S. Forest Service into the U.S. fire service.

Let me make one comment about our process. One of the major criticisms of the appropriations process in recent years has been the failure of the Senate to take up each bill individually. This denies the Members of this body an opportunity to offer amendments and help shape the final bill.

It is important to note that this is the first time in 4 years that the Interior bill has been brought to the floor of the Senate as a stand-alone measure for purposes of examination and amendment by all Senators. This is a tribute to Chairman INOUE and Vice Chairman COCHRAN, and I thank Senator REID and Senator MCCONNELL for the fact that we are here today and Senators should now come forward to offer their amendments.

This is the sixth appropriations bill to complete Senate floor action. We are nearly halfway through the process. I believe all of my colleagues share

my desire that we are able to complete all 12 individual appropriations bills through the normal order and send them to the President for his signature. It is a much fairer way to operate. It gives those of us who are elected a chance to have our say, and it saves the taxpayer a lot of money by permitting the efficient operation of the government on an orderly, budgeted basis.

Let me close by saying again how much I have enjoyed working with Senator FEINSTEIN and how much I look forward to that privilege in the future.

I thank the President, and I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from California is recognized.

Mrs. FEINSTEIN. Madam President, if I may, I wish to thank the ranking member for those very gracious remarks. They are reciprocated in whole. I think his expressions about the bill are very well taken, and we will just proceed from there.

I would like Senators to be fully aware that any amendment which proposes to increase spending in one area of the bill will need to be offset with a commensurate cut in another area. The bill is at its allocation level, and the overall effect of the bill's bottom line must remain neutral. Not to do so is to create a 60-vote point of order against the amendment. So everyone who wishes to offer an amendment should bear that in mind. I think both of us will fight vociferously to see that the financial integrity of our bill is continued.

I very much appreciate Senator ALEXANDER pointing out that this is the first time since 2005 that the full Senate has had an opportunity to consider this bill. Considering the landmarks, the vital aspects of this American government of which people are singularly proud—I mean, we don't hear much criticism about the Federal Government providing national parks or a forest service or an environmental protection agency. So this is a bill of which we are very proud.

I, too, wish to encourage Senators to come to the floor now. We wish to pass this bill as quickly as we can. The floor should be open to amendments.

With that in mind, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Nebraska is recognized.

#### AMENDMENT NO. 2394

Mr. JOHANNIS. Madam President, I call up amendment No. 2394.

The ACTING PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nebraska [Mr. JOHANNIS] proposes an amendment numbered 2394.

Mr. JOHANNIS. Madam 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: Prohibiting use of funds to fund the Association of Community Organizations for Reform Now (ACORN))

On page 240, between lines 13 and 14, insert the following:

#### PROHIBITION ON USE OF FUNDS

SEC. 4. None of the funds made available under this Act may be distributed to the Association of Community Organizations for Reform Now (ACORN) or its subsidiaries.

Mr. JOHANNIS. Madam President, I compliment both Senators who just spoke, the Senator from California and the Senator from Tennessee. You underscore why we are so proud to live in this great country and the importance of these resources.

Also, as a former Secretary of Agriculture, I know the importance of adequate funding for firefighting. Without it, our forests are in serious jeopardy. I wanted to express that.

I rise today to talk about something that is enormously important. Three days ago, I was here on the Senate floor urging my colleagues to vote in favor of an amendment I offered to another appropriations bill, the Transportation and Housing Appropriations bill. The amendment had a very specific purpose. The purpose was to prohibit funds from going to the Association of Community Organizations for Reform Now, known as ACORN.

I am very pleased to report that, in a true display of bipartisanship, 82 of my colleagues joined with me in voting in favor of protecting taxpayer dollars by voting for the amendment.

This was a significant and important vote in this body for a number of reasons. Such a strong bipartisan vote sent a very powerful message that the Senate is serious about eliminating the flow of taxpayer funds to an organization that can best be described as being in an absolute free fall when it comes to allegations of illegal activity—illegal activity that, in many respects, is funded with taxpayer dollars. Senators came to this floor a couple of days ago and they threw aside partisan loyalty in favor of prohibiting funds to an organization besieged by allegations of fraud and corruption and employee wrongdoing.

Bottom line: My colleagues—I am so proud of them—answered the call to defend taxpayers against waste, fraud, and abuse. But because of the limitations of that amendment, our job simply is not complete. Of course, in order to comply with the germaneness rules, we could only do so much with that amendment. Therefore, I come here again today to offer the same amendment to this bill.

The amendment to the T-HUD bill was a first step. The overwhelming vote on Monday stopped the flow of funds for transportation or housing funding that would otherwise go to ACORN.

At least in terms of Senate action, there is more process left there. Unfortunately, ACORN is still eligible to receive Federal dollars from innumerable sources in the Federal budget. That is

why I am here today to offer the identical amendment to the Interior Appropriations bill and to call on my colleagues again to stand up for the American taxpayers.

There is unbelievable evidence that ACORN or its estimated 360-plus affiliates could be eligible for Department of Interior funding. The following words appear in the text of this bill 193 times: contracts, grants, nonprofits, and cooperative agreements.

There are so many ways ACORN can receive funds from the Interior bill. For example, ACORN's subsidiaries openly publicize their advocacy for environmental causes.

ACORN groups are heavily involved in community redevelopment, and so is the Department of the Interior. The links are obvious. They are undeniable.

In fact, on page 66 of the bill, you can—just to pull out specific language there included for the Great Lakes restoration project that would give money to nonprofits for “planning, monitoring, and implementing.”

This is a project that President Obama has appointed a specific person to oversee. Do any of us have a certainty that ACORN won't receive any of that money? I certainly don't.

ACORN is able to tap into taxpayer moneys from so many other ways besides competitive grants. They or their web of affiliates are able to work out memoranda of understanding, cooperative agreements, and even subcontracts with the Federal Government.

Additionally, States that receive grants from the Federal Government can funnel money to ACORN affiliates, and there is very little oversight. My amendment will stop that. It will stop the money—the taxpayer dollars—being directed to this group.

The question before us today is whether my colleagues will again come to the floor and say this activity is wrong, it is damning. We need to stand and say that no money will go to a group engaged in this activity.

Last night, I was watching a news program, and yet another videotape surfaced of ACORN employee activity. It was shocking. This videotape displayed someone saying to an ACORN employee that they intended to bring underage minors into this country from other countries for the purpose of engaging in prostitution. There was active involvement by the ACORN employee in how this might happen, even to the extent of describing the contacts that this person had.

I want to say that we cannot relent, just because some taxpayer money was safeguarded, until a full government investigation is launched and completed, and if it turns out with no problem, so be it, but we cannot rest until that is done and we are assured and we can assure our citizens back home that no taxpayer money is being used in this organization.

It doesn't make sense to just stop with the Transportation and Housing Appropriations bill. We need to stand

up and prohibit all sources of Federal funding and any possibility of Federal funding going to ACORN.

I will wrap up with a statement of deep respect for what my colleagues did on Monday. I believe it was the right thing to do. It was the right thing to step in here to the floor and cast a vote and say: Enough is enough, it stops here, it stops today.

We need to do everything we can to assure our taxpayers that there is no possibility somebody can access this funding from ACORN. My hope is we will come together as we did Monday and that we will do the right thing.

With that, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from California is recognized.

Mrs. FEINSTEIN. Madam President, I will respond to the Senator from Nebraska. My belief is that we had an amendment yesterday that was passed overwhelmingly by this body, prohibiting the use of Federal funds for ACORN, period. The staff has been researching this bill. We do not believe there are any Federal funds in this bill. I believe if there were a rollcall vote, it would come out essentially the same as it did yesterday.

So I say to the distinguished Senator, both the ranking member and I would be prepared to take this amendment by unanimous consent.

Mr. JOHANNES. Madam President, this is such an important issue. This is an issue that people all across the country are watching on the Senate floor. Therefore, I feel very strongly that if there were ever an opportunity for Senators to come to the floor and cast a vote in a rollcall fashion, this is one to make a very strong statement again about ACORN not receiving this funding.

I appreciate the offer of the Senator from California, but I must insist, because of the nature of what we are dealing with—the claims of alleged wrongdoing, the history of wrongdoing with employees from this organization, the videotapes, the potential to access the funding—that we need a rollcall vote on this issue.

Mrs. FEINSTEIN. If I may, through the Chair to the Senator, to the best of our knowledge, there is no funding in this bill for ACORN. The staff is looking and has found no funding in the bill for ACORN. Therefore, there is a redundancy, and this will have to be done on every single appropriations bill, which doesn't seem to me to make very good sense. I think an 80-plus vote yesterday is a very substantial vote. I think everybody who is interested has access to know—we are trying very hard—and I hope the Senator will not be upset by what I am saying, but we are trying to move our bill, and we will take the Senator's amendment so that the amendment—if there is any funding, it still cannot be used, even without this amendment. So the Senator is covered.

Mr. JOHANNES. Madam President, speaking to my colleague from Cali-

fornia, let me say that I appreciate the Senator's offer of accepting this by unanimous consent. I appreciate the Senator's claim that she believes there is no way they can access funding. But I will tell you that I have operated a Federal Department myself—a very large department—where we administered millions and billions of dollars of grants and loans, et cetera. Once that appropriations bill is passed, the Senator knows and I know that unless there is some real trouble, we are free at the departmental level to pretty much administer the money. So there cannot be a guarantee that they won't get money out of this program.

The second thing I will offer here is this: This is not one of those issues that just comes along. This involves an organization that has had a history of very serious problems. I could not feel more strongly that the American people want us to come to the floor and cast a vote on this issue.

The final thing I want to say is this: I feel this is an important issue. There is a way to solve this problem so that I don't have to come down on every appropriations bill. We will be introducing a bill today—and we have reached out in a very bipartisan way to Democrats and Republicans, asking for people to join in this bill—that says simply that across the entire Federal Government no money for ACORN. My hope is we can pass that bill expeditiously and we can get that into effect.

I would like nothing more than to avoid having to come down here on each and every appropriations bill. Again, I appreciate the offer, but this is an important vote to constituents all across the United States. I think we owe it to them to show how we are going to vote on this issue.

Mrs. FEINSTEIN. Madam President, I wish to signal to all Members that the floor is open. Amendments will be received to this bill. I say to my colleagues, if you have an amendment to the Interior Appropriations bill, please come to the floor.

#### ORDER OF PROCEDURE

Madam President, I ask unanimous consent that the September 16 order with respect to H.R. 3288 be modified to provide that the Senate resume consideration of the bill at 2:30 p.m., with the remaining provisions still in effect. That is the housing and transportation bill. Further, as in executive session, I ask unanimous consent that at 12:30 p.m. today, the Senate proceed to executive session to consider the nomination of Gerard E. Lynch to be a U.S. Circuit Court judge for the Second Circuit; that there be 2 hours of debate with respect to the nomination, with the time equally divided and controlled by Senators LEAHY and SESSIONS or their designees; that upon the use or yielding back of time, the nomination be set aside to recur upon passage of H.R. 3288; that prior to the vote on confirmation of the nomination and the Senate resuming executive session,

there be 2 minutes of debate equally divided and controlled; that upon confirmation, the motion to reconsider the vote be considered made and laid upon the table; that no further motions be in order; that the President be immediately notified of the Senate's action; and that the Senate then resume legislative session.

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

Mrs. FEINSTEIN. Madam President, I ask unanimous consent that the vote in relation to the Johannis amendment No. 2394 occur upon disposition of the nomination of Gerard Lynch and that no amendment be in order to the amendment prior to the vote, with 2 minutes of debate equally divided prior to the vote.

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

Mrs. FEINSTEIN. Madam President, I suggest the absence of a quorum.

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

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. DORGAN. Madam President, I have just checked with the manager of the bill, Senator FEINSTEIN, and asked to speak for 5 minutes in morning business.

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

#### REMEMBERING SENATOR EDWARD M. KENNEDY

Mr. DORGAN. Madam President, the other day when our colleagues were talking about our departed colleague, Senator Ted Kennedy, I was not able to be on the Senate floor, and I did want to say just a few words about my friend Ted Kennedy.

I had the pleasure of serving in this Chamber with him for 16 years. He sat back at that desk in the row behind me, and I had many opportunities to spend time and swap stories and talk about public policy with him. I knew him before I came to the Senate. As a very young man, I worked on his brother Robert Kennedy's campaign for the Presidency, and I met Ted Kennedy then. And, I supported Ted Kennedy in his 1980 Presidential campaign and met him then.

When I came to the Senate, from time to time I was invited to go to Hyannis Port to the Kennedy compound and visited there with Senator Kennedy and his family and went sailing with him. To sail with Senator Ted Kennedy was an extraordinary experience. He was a wonderful sailor.

Many things have been said and written about Ted Kennedy over the years, and especially in recent weeks since his death. I don't need to repeat his many accomplishments here in the

Senate; my colleagues have done a great job doing that. Those accomplishments spanned 47 years and would take far too long and too much time to detail, and many have done it, as I said.

I will not repeat his love of all things Irish. Everyone understood that. He was a great Irish storyteller. No prouder Irishman in the world, I dare say, than Ted Kennedy.

I don't need to tell of his many acts of thoughtfulness and kindness, large and small, for the powerful and the powerless. They are well-known already as well and, already, much missed.

Many have talked about his wit and his love of storytelling and a good joke. That, too, was Ted Kennedy. Laughing and making people laugh was part of the hallmark of his character. Often when I think of him I think of a booming laughter that filled the entire room when he was full of joy.

I need not talk about his doggedness or his tireless work ethic or his determination, for they, too, were well-known to all of us who worked with him. Those were the pillars upon which he built success after success, often small, but then building and building, step by step, until it was consequential and often big.

Those were also the pillars on which he built decades of relationships. I think those relationships were the keys to understanding the man with whom we served—Ted Kennedy.

It didn't matter whether you were a Republican or a Democrat or an Independent. It didn't matter if you were a businessman or a janitor, young or old, White or Black, rich or poor, powerful or powerless. Ted Kennedy wanted to work with you to try to reach a compromise and see what could be achieved together. He just never, ever stopped; never gave up.

The great American essayist and author, Ralph Waldo Emerson, once said:

The characteristic of heroism is in its persistency. All men have wandering impulses, fits and starts of generosity. But when you have chosen your part, abide by it, and do not weakly try to reconcile yourself with the world.

No one I know in this Chamber was more persistent than Ted Kennedy. He chose his part; he abided by it; he didn't try to reconcile his principles to the moment or to the world; and, he fought and fought for what he believed in and what he thought was right. Sometimes it was very controversial, but he was persistent and fought long and hard until the end.

Even when he was sick and tired and worn out he fought on because he loved his country and he knew his colleagues and others loved this country as much as he did. He knew there was always that common ground, love of country, and he knew that people of good faith, regardless of party and regardless of position, could achieve great things for the country they all loved.

When he was done, he had cast more than 15,000 votes, more than 300 laws

bear the name of Senator Ted Kennedy, and he cosponsored more than 2,000 others. That doesn't include the thousands of laws he merely influenced. Much of that work was done on the Senate floor. It was his life's work.

If the Senate was his home, this Senate floor surely was his front porch, where he would let everyone know what was on his mind. When Senator Ted Kennedy, at that desk, was on the Senate floor, you may not have agreed with him, you might not have even cared about the subject before he began to speak, but you had to listen, you had to respond, and you had to take sides.

He was called the lion of the Senate by many. When he was on the floor roaring, it was quite a sight and sound to behold, a sound that moved hearts. It moved minds. It moved this very institution and, indeed, the country itself. He could be quietly persuasive, but on the Senate floor his passion literally poured out of him.

It was said long ago of Daniel Webster, another famous Senator from Massachusetts, that he was "a great cannon loaded to the lips." Well, Senator Kennedy was a great cannon loaded to the lips, and this institution will long miss that passion, those words, his spirit, his love of life, and his love of this institution and our country.

There is an old saying that all men die, but not all men live. Well, surely Ted Kennedy lived. Senator Ted Kennedy lives in our hearts and in his good works and in his life's work, and I just wanted today to join my colleagues in saying: Ted, Godspeed, rest in peace, and all Members of this Senate miss you dearly.

Madam President, I yield the floor, and I suggest the absence of a quorum.

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

The assistant legislative clerk proceeded to call the roll.

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

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

Mrs. FEINSTEIN. Madam President, I note that no colleagues are on the Senate floor. The floor is open for amendments, and I would like to urge our colleagues on both sides of the aisle, if you have an amendment, please bring it to the floor.

I thank the Chair. I suggest the absence of a quorum.

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

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. DORGAN. Madam President, we are on another spending bill, one of the spending bills we must address during

this Congress. I compliment Senator FEINSTEIN and Senator ALEXANDER for their work on this very important bill.

I also want to comment on something that was in the news today, stemming from a comment I made yesterday about some spending issues. I will do it very briefly.

This deals with the issue of the economic recovery or the stimulus package. I voted for that. I didn't vote for the TARP funds, \$700 billion for the financial bailout last fall. But I did vote for the economic recovery or the stimulus program early this year because I believed it was necessary to give the economy a boost.

Frankly, I think this economy is showing signs of beginning to recover, and that is going to be good for all Americans. There are a lot of important investments being made in this economic recovery program, investments in building and repairing roads and bridges and many other investments in infrastructure around this country that at the end of the day will both put people to work and result in important assets for this country.

Yesterday, I made a point about one particular project that is being funded with stimulus funds, and I want to make sure everyone understands the point I made. Part of some stimulus funds were dedicated to the northern border ports of entry, smaller ports of entry between the United States and Canada. The specifications for these ports of entry were developed in 2002 and 2006, under the previous administration, by the Department of Homeland Security. So when money began to be allowed under the stimulus program to invest in the northern border ports of entry, the specifications created by the previous administration were going to drive how much was spent.

As I looked into it, I realized that these requirements were completely out of balance. The requirements would create a common footprint at small ports of entry and require the expenditure of, on average, \$15 million for a small port of entry in circumstances where, on average, only five vehicles an hour were coming through the port of entry. I believed that was excessive.

That was not Secretary Napolitano's call. That was not something she did. That comes from the requirements from that agency that were developed in 2002 and 2006. So I asked Secretary Napolitano to take a look at that, and suspend the projects pending a review, and she immediately said, yesterday, let's review that, let's do a 30-day review.

First of all, I want to say thanks to the Secretary. I think that is exactly the right action. I didn't know these were the set of requirements that were going to drive that kind of funding. But, frankly, waste is waste.

Of the 22 northern border ports of entry that are slated to be demolished and rebuilt, 9 of them are in my State. Much of this money would be spent in my State. But I do not think that

much of this spending is justified because I believe those requirements must change.

I agree that we should ensure that small port of entry have adequate security. I will support investment to upgrade those facilities where it is really necessary to do so. But I do not believe it is appropriate, nor do I believe Secretary Napolitano nor my colleagues here in the Congress believe it will be appropriate upon review, to spend \$15 million on average at ports of entry where you have five vehicles an hour coming through the port. That is way out of balance. It makes no sense to me.

My comments were portrayed in some press accounts as some sort of criticism of the Congress for passing stimulus legislation aimed at economic recovery. It is not a criticism of that. A lot of that stimulus spending is necessary and is lifting the economy and creating an asset and people in jobs or putting people back to work. I think that makes sense. But it also makes a lot of sense for all of us to very carefully scrutinize how this is done, where it is done, whether it is a good investment, and whether it is fair to the taxpayers.

I will say again, I appreciate the fact that the Secretary is doing this review. I give her credit for doing that. My hope is that at the end of the review, she will conclude, as I do, that we cannot spend money that way. Those requirements that were created in 2002 or 2006 were excessive. You can have adequate security at these small ports that have five vehicles coming through per hour, without spending \$15 million to demolish and rebuild each of these facilities. It is simply too much money.

I understand that perhaps some people in my State will be a little upset if they stood to gain from nine of those ports being upgraded. I am all for making investments that are the right kinds of investments, to upgrade ports at the northern border. But I do not believe we ought to waste money, and I think that is what would happen with the requirements that were created in 2002 and 2006.

Let me make one final point. I can understand, perhaps, why someone might be tempted to create extraordinary requirements. In 2002, we were in the shadow of the terrorist attacks of 2001. I understand how that might have made somebody create a set of requirements that now seem to be way out of whack.

The fact is that we need to have a secure Northern border, but we also have to use common sense. If in 2002 and 2006 there were design specifications drawn up that today would cost \$15 million per port of entry, at facilities that receive only a few vehicles per day, I say this needs to be carefully reviewed. Let's now review those judgments and make sure that we are truly increasing border security, and that we are not wasting the taxpayers' money.

I wanted to reiterate that my statements yesterday were not a general

comment on the Economic Recovery Act. A lot of good, important investments are being made that create jobs and create real assets for this country. But I think all of us should be vigilant and look at situations such as this and where change is necessary, to require and make those changes. In this case, I believe the right kind of change could save a couple of hundred million dollars, and I think that is important. Even if that saving and less spending comes in my State, I believe that is important.

Years and years ago, a Federal courthouse was to be built in my State. I believed the amount of money that was proposed to build it was twice as much as was necessary, and here in Congress I cut the money in half. In the end, they built a perfectly good courthouse for slightly less than half of the funds that had been originally proposed. I think all of us have stewardship requirements to the taxpayer, and that is why I wanted to amplify on what I talked about yesterday.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. UDALL of New Mexico). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LEAHY. 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. LEAHY. Mr. President, what is the parliamentary situation?

The PRESIDING OFFICER. The Senate is considering H.R. 2996, Interior Department appropriations.

Mr. LEAHY. Am I correct that at 12:30 we will go to the nomination of Judge Gerard Lynch to the U.S. Court of Appeals for the Second Circuit?

The PRESIDING OFFICER. The Senator is correct.

Mr. LEAHY. Mr. President, prior to going to that, I ask unanimous consent that I be able to speak as in morning business.

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

#### TRIBUTE TO HAROLD HOWRIGAN

Mr. LEAHY. Mr. President, I rise today to remember one of Vermont's greatest citizens, dairy farmer, and American, my good friend, Harold Howrigan.

Harold passed away at the age of 85 at his home in Fairfield, VT, on September 7, 2009. He was surrounded by his loving family, long and extended and wonderful family.

Harold was a family man. This large extended family included his wife of 56 years, Ann, and three sons and two daughters, 12 grandchildren. He had an optimist's outlook on life. He had a knack for storytelling that cast a spell over everyone in his presence.

Many of his stories were about growing up in a family with nine other siblings, reared by William and Margaret



Howrigan on their hillside farm in Vermont. I can think of more than one occasion when Marcelle and I would be there. We would be listening to one of these stories, and I knew that we might be late for the next thing, but I didn't want it to end. I wanted to hear what else he had to say.

Harold was a man who seemed to accomplish more each year than most of us do in a lifetime. He built his Fairfield, VT farm to over 1,000 acres, including the land that had been worked by his family since the mid 1800s.

It is now tended by the next generation of Howrigans. I remember him as a dynamic man, as genuinely comfortable in his public duties as he was in the dairy parlor or out splitting wood. In addition to running the farm and tending to the family he loved so much, he accepted leadership roles in dozens of civic and agricultural organizations from local to national in scope. He moderated the Fairfield town meeting right up to this year. The town meeting is a sacred institution in Vermont. A town wants to make sure they have the very best and the fairest and the most knowledgeable to be their moderator. It also helps when you have somebody with an Irish sense of humor. This is a position of distinction in any Vermont town.

He was director of the St. Alban's Co-operative Creamery for 25 years and president for another 20. He was appointed by three Governors, both parties, to the Vermont Milk Commission. He was also a local and national leader among maple sugar makers. He served on University of Vermont advisory boards and on county commissions. All the while he tended the fire in the Fairfield sugar house each year and he got the cows milked each day and sang for 60 years on the choir at church. The church, of course, is named, as you would expect in a town full of Irish immigrants and descendants, St. Patrick's.

Nationally, he was a director of the National Milk Producers Federation for 20 years and chairman of the National Dairy Board. In addition to his work on dairy, he was a local and national leader for the maple industry, a prolific sugar maker. I know Marcelle and I and our children, when we were having something at the farm that called for maple syrup—and in our family, that is just about anything from English muffins to pancakes—everybody's eyes would light up if we knew it was Howrigan syrup.

Notwithstanding his prodigious service to his community, his profession and his country, his greatest impact was probably felt through his personal relationships with his family and what he considered, I think, all of Vermont, his extended family. As a friend, he was a trusted adviser on agricultural issues over several decades. I know Senator Jeffords also valued his friendship and advice and Governors consulted him regularly. But as dad and grandpa to a large, active family, he cultivated two

new generations of Vermont dairy farmers and maple sugar makers.

We could talk about all the different things he did, but it still does not give a picture of the man. He was known for a deep and spirited Irish pride, a sentiment I obviously share. I find myself comparing that other great Irish American and dear friend, Teddy Kennedy, whose recent loss I also mourn. But I also treasure the trip my wife Marcelle and I took with Harold to Ireland. There he felt he was truly in the Promised Land. We would walk about the streets of Dublin or small towns nearby. He was so proud of his family's Irish heritage, he never stopped smiling throughout his visit.

The day of his funeral, last week, Marcelle wore an Irish pin we purchased with him in Ireland. I, of course, wore a green tie in his honor. I watched his grandsons wearing some of the Irish ties Harold had owned. I listened to his son and daughter and grandchildren talk about him, capturing him in his stories and his nature. I think about the very last conversation I had with him just weeks before he died. In all these things, he never asked for anything for himself. He always asked me to watch out for other people. He led by quiet example and hard work and kindness and love.

I, along with the State of Vermont and many across the United States and across the Atlantic, will miss Harold. He was a dear friend, truly a great American. Similar to all Vermonters, I express my sympathy to his family and I say: Goodbye, Harold, my dear friend.

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

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

#### EXECUTIVE SESSION

#### NOMINATION OF GERARD E. LYNCH TO BE U.S. CIRCUIT JUDGE FOR THE SECOND CIRCUIT

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session to consider the following nomination, which the clerk will report.

The legislative clerk read the nomination of Gerard E. Lynch, of New York, to be United States Circuit Judge for the Second Circuit.

The PRESIDING OFFICER. Under the previous order, there will be 2 hours of debate, equally divided, between the Senator from Vermont and the Senator from Alabama or their designees.

The Senator from Vermont.

Mr. LEAHY. Mr. President, today the Senate finally considers the nomina-

tion of Gerard Lynch to the Second Circuit. I take particular interest in this because my own State of Vermont is part of the Second Circuit. I am a member of that bar, and I have argued cases before that court.

This is a nomination reported out of the Judiciary Committee over 3 months ago, on June 11 unanimously by voice vote. There were no dissents. When that occurred and the ranking Republican member said such glowing things about Judge Lynch, I assumed his nomination was going to be confirmed right away as we did with President Bush's nominations in similar situations. Now it is nearly 3 months later. In almost unprecedented fashion, someone who has had the strong support of both the chairman and ranking Republican of the committee is still on the Executive Calendar.

Judge Lynch has served as a highly respected Federal judge from New York for almost a decade. He has impeccable legal credentials. His nomination received the highest possible rating from the ABA's standing committee on the Federal judiciary, unanimously voted "well qualified."

The Senate can and must do a better job of restoring our tradition, a tradition followed with Republican Presidents and Democratic Presidents, of regularly considering qualified, non-controversial nominees to fill vacancies on the Federal bench without needless and harmful delays. We should not have to overcome filibusters and spend months seeking time agreements to consider these nominations. The American public wonders what is going on here.

It is imperative that we move to fill the growing number of vacancies throughout the Federal courts. These vacancies have already risen to over 90, including 21 on the circuit courts. I have been here with six Presidents. I cannot remember a time we have been this late in the year and, even though nominations have been made, nobody has been confirmed, all because of holds by the Republicans. Do they object so much to having President Obama as President that they will hold up well-qualified judges? These are supposed to be nonpartisan, outside the political area.

This alarming spike in vacancies is only further fueled by delays and inaction. In addition, 26 future vacancies have been announced. At this rate, as I said at the judicial conference this week with the Chief Justice and leaders of the Federal judiciary, the Federal judicial vacancies will soon be close to 120 unless we start acting on these nominations in a responsible and fair manner. These nominations should not be something where Republicans or Democrats might score political points. Our inaction on these nominations hurts the average American. They do not care about the politics. They want Federal courts that are going to work. They do not want cases delayed because we have vacancies in

the Federal court that we could easily be filling.

I do not think most Americans, when they go into a court, say: I am here as a Republican or a Democrat. They go in and say: I am here as a plaintiff or defendant. They are there to seek justice, not to find out there is nobody in the courthouse because the minority party does not want President Obama filling vacancies.

During the last Presidency, we worked very hard to fill vacancies. When I chaired the Senate Judiciary Committee and we had a President of the other party, we were able to reduce overall vacancies by two-thirds, from over 100 down to 34. We were able to reduce circuit court vacancies to single digits. Today, because we are blocked from getting judges through, because Republican Senators will not give this Democratic President the same courtesies we gave a Republican President, those vacancies have nearly tripled. In the 17 months I served as Senate Judiciary Committee chairman during President Bush's first term, the Senate confirmed 100 of the President's judicial nominations. So far this year, 9 months into the year, we have not confirmed a single Federal district judge or circuit judge. In fact, Judge Lynch will be the first.

Despite the fact that President Obama sent his first judicial nomination to the Senate 2 months earlier than President Bush, despite the fact that judicial nominees have the support of Republican home State Senators, despite the fact that the Judiciary Committee has reported favorably five judicial nominees to the Senate for final action, and despite the fact that judicial nominees have been pending on the Senate calendar for more than 3 months, we have not been able to reach agreement before today to vote on a single judicial nominee for either a district court or a circuit court.

The first of President Obama's nominations, that of Judge David Hamilton to the Seventh Circuit, was made in March. It has been on the Executive Calendar since early June, despite the support of the most senior of Senate Republicans, Senator LUGAR. The nomination of Judge Andre Davis on the Fourth Circuit was reported by the committee on June 4 by a vote of 16 to 3 but has yet to receive Senate consideration. We should not further delay Senate consideration of these well-respected, mainstream Federal judges.

During the last Congress, we reduced Federal judicial vacancies from 10 percent, under Republican control of the Senate during the Clinton administration, to less than half that level. We cut circuit vacancies from 32 to less than 10 last year. Ironically, during President Bush's two Presidential terms, more nominees were confirmed with a Democratic Senate majority than a Republican majority, and in less time. I am urging Republican Senators to work together with the President to fill vacancies on the Federal bench.

I hope that Republican Senators do not seek to return to the practices of the 1990s that more than doubled circuit court vacancies. The crisis they created led to public criticism of their actions by Chief Justice Rehnquist during those years. It is not a good sign that already this year Republican Senators threatened a filibuster of the Deputy Attorney General and pursued five filibusters, including one for Elena Kagan, the Solicitor General, one for Harold Koh to be the Legal Adviser to the State Department, and another that was finally broken just last week on Cass Sunstein, who heads the White House Office of Management and Budget's Office of Information and Regulatory Affairs. Nor is it a good sign that in March every Republican Senator signed a letter to the President threatening filibusters of his judicial nominees before they were even nominated.

We are supposed to be the conscience of the Nation in the Senate. If a Senator does not like a particular nominee, vote against him or her. But these are nominees that will probably pass unanimously.

I hope, instead, that both sides of the aisle will join together to treat the nominees of President Obama fairly. I made sure that we treated President Bush's nominees more fairly than President Clinton's nominees had been treated. We should continue that progress rather than ratcheting up the partisanship and holding down our productivity with respect to Senate consideration of judicial nominations. Our demonstrated ability to work together to fill judicial vacancies will go a long way toward elevating public trust in our justice system.

Another troubling sign is the refusal of every Republican Senator to cosponsor the comprehensive judgeship bill. Last week I reintroduced that legislation embodying your nonpartisan recommendations for 63 judgeships needed around the country. Not a single Republican Senator would cosponsor the bill. Even traditional cosponsors with whom I have worked for years would not join. Not one of the 18 Republican Senators whose states would benefit from additional judges yet supports the bill. For that matter, Republican Senators obstructed the hearing on a similar bill last summer, after they had requested the hearing. As we pass legislation that is leading to increased workloads in the Federal courts, we need to be cognizant of the increasing workloads and needs of the Federal courts.

Judge Gerard Lynch began his legal career as a Federal prosecutor in the U.S. Attorney's Office for the Southern District of New York, where he investigated and prosecuted white collar and political corruption cases, and argued complex criminal appeals. Through his exemplary hard work and considerable skill, he rose to be chief of the criminal division in the Southern District of New York, where he managed the office's criminal cases and supervised

well over 130 Federal prosecutors. Judge Lynch has also served as a part-time associate counsel for the Office of Independent Counsel and as a counsel to a Wall Street New York law firm.

He also has impeccable legal credentials. Judge Lynch graduated *summa cum laude* and first in his class from both Columbia Law School and Columbia University. He clerked for Justice Brennan on the Supreme Court of the United States and Judge Feinberg on the Second Circuit Court of Appeals. Judge Gerard Lynch began his legal career as a Federal prosecutor in the U.S. Attorney's Office for the Southern District of New York, where he investigated and prosecuted white collar and political corruption cases, and argued complex criminal appeals. Through his exemplary hard work and considerable skill, he rose to be chief of the criminal division in the Southern District of New York, where he managed the office's criminal cases and supervised well over 130 Federal prosecutors. Judge Lynch has also served as a part-time associate counsel for the Office of Independent Counsel and as a counsel to a Wall Street New York law firm.

He also has impeccable legal credentials. Judge Lynch graduated *summa cum laude* and first in his class from both Columbia Law School and Columbia University. He clerked for Justice Brennan on the Supreme Court of the United States and Judge Feinberg on the Second Circuit Court of Appeals.

While maintaining a full judicial caseload, Judge Lynch has also been a distinguished legal scholar who has received praise as one of the country's outstanding law professors. For over 13 years, he taught criminal law, criminal procedure, and constitutional law as the Paul J. Kellner Professor of Law at Columbia University's School of Law. For 5 years, Judge Lynch also served as the vice dean of that fine legal institution. He is nationally known as a criminal law expert and has received numerous honors, including the distinction of being the first law professor to receive Columbia University's President's award for outstanding teaching.

Judge Lynch's nomination has received numerous letters of support, including strong endorsements from public officials and law professors across the political spectrum. Otto G. Obermaier, who served as President George H.W. Bush's U.S. attorney for the Southern District of New York, supports Judge Lynch's candidacy to the Second Circuit and called him a person of "superior judgment and intelligence" who is "intellectually gifted." Professor Henry P. Monaghan, the Harlan Fiske Stone Professor of Law at Columbia University, writes that Judge Lynch "is everything you want in a judge: fair, tough-minded, enormously experienced, highly intelligent, and apolitical" and his addition to the Second Circuit would "strengthen" that court. He has the support of the Senators from New York.

I congratulate Judge Lynch and his family on his confirmation today.

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

I withdraw that request. I see the distinguished senior Senator from New York in the Chamber, a man who works so extremely hard in the Senate Judiciary Committee, who has worked night and day for Judge Lynch, who has made sure we all realize what impeccable credentials he has.

I yield to the Senator, but I ask, first, unanimous consent that if there are quorum calls, the time be divided equally.

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

The Senator from New York is recognized.

Mr. SCHUMER. Mr. President, first, I thank our chairman and leader, Senator LEAHY, for not just moving this very qualified nominee forward but for his diligence and steadfastness and patience as we try to move judges to the floor. Senator LEAHY, as everyone in this Chamber knows, is a very fair-minded person. He always goes out of his way to allow people to have their time to speak. We had this in the Judiciary Committee this morning. He has done an amazing job trying to move our judges through. I hope those on the other side of the aisle will hear his heartfelt plea that we stop all these dilatory tactics.

Having said that, today is a very good day because I am so pleased to rise in favor of the nomination of the first appointment by President Obama to a Federal appellate court that this body will consider. If Judge Gerard Lynch is any indication of the quality and temperament and intellectual firepower of judges whom President Obama intends to nominate, then my friends on both sides of the aisle should have reason to rejoice today.

As Chairman LEAHY has already noted, Judge Lynch was referred out of committee by a unanimous voice vote. Even my friend and colleague Ranking Member SESSIONS was able to support Judge Lynch despite having opposed his nomination to the district court bench in 2000.

Judge Lynch, who currently sits as a U.S. district judge in the Southern District of New York, comes to us today for confirmation much as he did in 2000 for his first confirmation: with an unimpeachable record of moderation, consistency, intelligence, and dedication to exploring all facets of complex legal questions. But since then, he has amassed an impressive record of moderation and thoroughness. In his 9 years on the bench, he has issued nearly 800 opinions, has tried nearly 90 cases to verdict, and has been overturned by the Second Circuit only 12 times—and one of those times, the Second Circuit was, in turn, reversed by the U.S. Supreme Court.

There should not be any doubt that Judge Lynch is not an ideologue. His opinions and his writings show moderation and thoughtfulness. He is pragmatic. His peers and those who prac-

tice before him have found him to be both probing and courteous—in sum, very judicial in his temperament.

In response to questions before the Senate Judiciary Committee in 2000, Judge Lynch said:

A judge who comes to the bench with an agenda, or a set of social problems he or she would like to solve, is in the wrong business.

As his record has shown, Judge Lynch is in the right business.

I have said many times that my criteria for selecting good judges are three: excellence—they should be top of the line legally; moderation—judges should not be too far right or too far left; and diversity.

As is somewhat known, despite the fact that President Bush and I clashed on Supreme Court nominees and some of these circuit court nominees, within New York and within the Second Circuit we had a very amiable arrangement where he would nominate two and then we would get—Senator Clinton and I would get to nominate one. We each had veto power on the other.

I am proud to say that Judge Lynch was one of my first choices to put on the district court bench. It was because of the recommendations of his peers, the lawyers with whom he practiced, and just how good the general legal community thought he was.

That stands true today. He still, more than ever before, meets the qualifications of excellence, moderation, and diversity.

There is no question of his excellence. He was first in both his classes at Columbia, undergraduate and law school—first, not even second or third. Pretty good. His opinions are scholarly, and one that was overturned by the Second Circuit was lauded by the panel as “a valiant effort by a conscientious district judge.”

There is also no question that Judge Lynch is, in fact, a moderate. His impressively low reversal rate should give the lie to any argument that he is outside the legal mainstream.

Now, the rap on Judge Lynch in 2000 among those 36 who voted against him was that he would be an “activist.” This view rose from out-of-context outtakes from two law review articles he had written. I repeat now what I said then: In both of these articles, then-Professor Lynch expressed the moderate view that the Constitution cannot as a practical matter remain frozen in the 18th century—the Constitution should not be expanded but it must be interpreted.

To illustrate my point about why Judge Lynch should be accepted as a paragon of moderation, I want to read two quotes.

First:

Text is the definitive expression of what was legislated.

Second:

A text should not be construed strictly, and it should not be construed leniently; it should be construed reasonably, to contain all that it fairly means.

The second quote was written by Associate Justice Antonin Scalia. The

first quote was from our nominee, Judge Lynch.

So the entirety of Judge Lynch's copious opinions and rulings bears out the conclusion that he does not intend to legislate from the bench. He has been the definition of law enforcing and justice seeking. He has ruled for the State against prisoners, but he has also ruled that the State must protect the due process rights of those it seeks to detain. He has sentenced defendants convicted of horrible crimes to life without parole, and he has also expressed concern when he thinks a sentence might be too long—while imposing the sentence in complete accordance with the law. He has issued complex and scholarly opinions in securities and antitrust cases. Judge Lynch imposed the sentence that was required by law.

In sum, Judge Lynch is excellent, and he represents moderation.

Now let me say a word about diversity. Judge Lynch obviously is not a nominee who fits this bill. But I want to note another kind of diversity that I believe deserves mention. Before he went on the bench, Judge Lynch sought out opportunities to be more than a smart professor living in an ivory tower. He spent 5 years in the U.S. Attorney's Office in the Southern District of New York as Chief of the appellate section and Chief of the Criminal Division. He worked as counsel to a prominent law firm. He took numerous pro bono cases. In short, he lived the life of a real lawyer while teaching and writing. Driven by his own conscience, he even registered for the draft during the Vietnam war rather than seek a college deferment. Very few do that. This is someone who has sought out a diversity of experiences which he now brings to the table as a judge.

I look forward to this new chapter in Judge Lynch's service to our country. I hope he will get a unanimous vote, or close to it, from the Members of this Chamber.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. BURRIS). The Senator from Pennsylvania.

Mr. CASEY. Mr. President, I ask unanimous consent that I be permitted to speak as in morning business.

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

#### HEALTH CARE REFORM

Mr. CASEY. Mr. President, as you can tell from the chart on my left, I rise today to speak about the issue that is probably the No. 1 challenge we face in the Congress today, which is debating and devising solutions for the improvement of our health care system in so many ways. I rise today to talk about some aspects of that and especially not only where we are headed in terms of focusing on both those with insurance and those without insurance but also to focus on some of the goals here.

From the beginning, both President Obama and Members of Congress have focused on a couple of priorities—first of all, to reduce costs. We cannot go forward with any health care bill that does not do that, and I think we will do that.

We have to reduce costs, but we also have to ensure choices. We have to continue to give the American people the kind of choice they should have a right to expect and give them a sense of a peace of mind in terms of what that choice will mean. We ought to make sure this bill, for example, leads to the following conclusion: You get the treatment you need from the doctor you choose. I think we can do that in the Congress.

Thirdly, I think we have to make sure, as we are controlling costs and ensuring choice, that we ensure quality and that we put both quality and prevention in the final bill. They are in the bill I voted for already this summer.

The Health, Education, Labor, and Pensions Committee, as people know, debated all summer, with hours and hours and hours of debate, accepting Republican and Democratic amendments, sometimes not agreeing, but we voted out a bill that did a lot of what I just talked about. It focused on making sure we are covering more Americans. It protected Americans who have coverage.

So many people, as the Presiding Officer knows—whether it is in the State of Illinois or the State of Pennsylvania or any State in the country—even those with insurance, are not secure, even those with insurance feel a sense of instability, a lack of control over their own destiny, sometimes because an insurance company says: We are going to deny you coverage because of a preexisting condition. Why have we permitted that? Why have we tolerated that year after year? Instead of just talking about preventing them from doing that, why haven't we literally made it illegal for an insurance company to do that? We are going to make sure this year we do not just talk about it but we legislate about it and make that part of our law.

So we will go through some of those issues, but the first thing I want to highlight is where we are headed if we do not do anything.

There are some people in Washington who, to be candid or blunt about it, want to scratch their heads for a couple more years or maybe 10 more years.

Here, as shown on this chart, is where we are headed by one estimation. The New America Foundation is the source for this information. But here we are in 2008. When you talk about the cost of an annual premium, OK, it is roughly—and actually we found out the other day that number is a little higher—we can say it is a little more than \$13,000 for family coverage. If you look between 2008 and 2016—just 8 years in that estimation, and we are already into 2009—that premium will

rise by more than 83 percent. Why should we allow that to happen when we know we can do something about it this year? So that is one way to look at this in terms of the cost of doing nothing.

Also, often people with insurance will say: Well, I have some problems with my insurance. I worry about a pre-existing condition, I worry about exorbitant out-of-pocket costs, and I am glad you are working on that and I will support that part of the bill. But they say: Look, if I have coverage, I am worried about giving millions of more Americans coverage without some adverse effect to those who have coverage.

Well, let's look at this chart for a little bit of a discussion about this topic: families paying 8 percent surcharge on premiums. If we look at this chart, what this red or red-orange part of the chart shows is a \$1,100 hidden tax to cover the cost of uncompensated care for the uninsured. So the idea that those with insurance right now are not paying for those without insurance is ridiculous. Fortunately, in Pennsylvania, that number is a little lower, but it is still 900 bucks. So the idea that somehow if we change the system, improve the existing system, build upon what works but improve the system, that somehow that is going to adversely impact in a cost sense those with insurance—the Center for American Progress did this research—this chart and others show if you have insurance today, you are paying for those without insurance. Right now you are paying for them. We know that right now.

So, if anything, broadening the number of Americans who have coverage will actually reduce costs. It will be one of the contributors, I should say, of reducing costs—not the only way but one of the ways we do that.

Let me go to the next chart which is a depiction in very simple colors, red and green, about what the existing system does adversely as it relates to women. There are a lot of things that insurance companies do today that we don't like and we have complained about, but now we can do something about it. One is a preexisting condition problem and another one is the out-of-pocket costs and another one is how often insurance policies definitively discriminate against some Americans.

This map shows in the orange or red section: gender rating allowed. In other words, insurance practices that lead to policies in States that result in discrimination against women. So you want this chart to show all in the green States where gender rating is banned.

What we would like to do with our legislation, one of the goals—and it is in our bill and in the bill we passed this summer, the Affordable Health Choices Act—is to make sure the whole country is green on this issue, green in the sense that we have banned gender rating; that an insurance company can't say, when they are trying to determine

how they make up their policy, that if you happen to be a woman, a policy would discriminate against you.

Unfortunately, Pennsylvania is a State that has permitted this discrimination, along with all of these other States. So we ought to have a national standard. Very simply: No more discriminating insurance policies against women. It is that simple, folks.

What I voted for this summer in the bill we passed was this, along with other provisions. So that is something we shouldn't just talk about for another year or 2 or 5 or 10; let's do something about this now. Let's make this practice illegal this year, and we can do it with the legislation.

The next one is an enlarged version of some language. I mentioned preexisting conditions in my remarks today, and we are going to keep mentioning this because this is a reality for millions of Americans in the individual market, the people who have to go it alone. They are not part of the big pool of people getting insurance. They have to go it alone to get insurance. They are the ones who are often most adversely affected by preexisting conditions. Why should we tolerate that?

The other point about this chart is, I purposefully put legislative language on it because a lot of people here want to say: Well, this legislation and language gets complicated. Admittedly, some of it does, but this is pretty easy. This is in the bill we passed this summer. I will just read this one sentence. Anyone can understand this. This isn't some complicated legislative language:

A group health plan and a health insurance issuer offering group or individual health insurance coverage may—

We know what they are; we know exactly what we are talking about here—not impose any preexisting condition exclusion—

That is in our bill—

with respect to such plan or coverage.

Let's do it this year. Let's make it illegal for insurance companies to do this to an individual or to a family or to those who happen to be employees of a small business.

So some of this debate gets lost in detail, but this is very simple language taken right out of the bill.

Let's go to the next one and our final chart before I conclude. I am going to spend more time on this issue, but I just wanted to spend a couple of minutes on this issue.

What happens at the end of this road with regard to health care as it pertains to children, especially children who happen to be poor or children with special needs? What will happen? At the end of the road, when we pass a bill and send it to the President and he signs it—and that is what I hope will happen, of course—will poor children and children with special needs be better off or worse off? That is still a question. That is still an open question we are debating right now.

Children are different than those of us who happen to be adults. They are not smaller versions of adults; they are different. Their treatment needs are different. We have to give them different kinds of preventive care. In Medicaid, for example, we give what they call early periodic screening and diagnostic testing, known by the acronym EPSDT. We focus on the special needs of children and give them early diagnosis, early treatment. That is what I am talking about in general. So they aren't small adults. It seems like a simple concept, but we have to say it more than we do. It is clear they have different needs, particularly the ones who are the most disadvantaged. The poor are the ones who could potentially be a lot sicker with the threat of sickness and disease. We make sure they get the highest quality care throughout their childhood. That is a resolution I introduced as a statement of policy.

So we are going to continue to debate not just a question of bringing down costs—that is central to what we are trying to do—not just a question of quality, and not only the question of enhancing choice and giving people some stability over their own lives with insurance and those who don't have insurance, giving them some affordable choices—that is all important, and we are going to spend a lot more time on those questions, but another question we have to address is, what happens at the end of the road for poor children or children with special needs?

The rule ought to be very simple: No child in those categories, no child worse off. Four words: No child worse off at the end of this.

So we will have a lot more time to continue to debate the legislation and a lot of these important issues. I think the American people want us to act. They don't want us to just debate and not get something done.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I ask unanimous consent to speak as in morning business.

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

#### MISSILE DEFENSE

Mr. MCCAIN. Mr. President, I rise today to express my deep disappointment with the administration's decision to cancel plans for fully developing missile defenses in Eastern Europe. This decision calls into question security and diplomatic commitments the United States has made to Poland and the Czech Republic. I believe it has the potential to undermine American leadership in Eastern Europe.

Given the strong and enduring relationships we have forged with the region's Nations since the end of the Cold War, we should not take steps backward in strengthening these ties. Yet I fear the administration's decision will do just that, and at a time when Eastern European nations are increasingly wary of renewed Russian aggression.

The administration's decision to abandon these sites comes at a time when the United States is in the midst of negotiations with Russia on reducing strategic nuclear weapons. Russia has long opposed the planned missile defense sites in Europe and has on numerous occasions tried to link reductions in offensive strategic nuclear arms with defensive capabilities such as missile defense. In fact, President Putin, on many occasions, has stated in very belligerent tones his opposition to this agreement that was already made between the United States and Poland and the Czech Republic.

The United States should reject the Russian attempt to further this argument and capitalize on these ongoing negotiations.

As rogue nations, including North Korea and Iran, push the nuclear envelope and work tirelessly to develop weapons capable of reaching America and its allies, we must aggressively develop the systems necessary to counter such belligerent efforts and enhance our national security, protect our troops abroad, and support our allies. Enhancing missile defense capabilities in Europe is an essential component to addressing threats we currently face and expect to face in the future. As Iran works to develop ballistic missile capabilities of all ranges, the United States must reaffirm its commitments to its allies and develop and deploy effective missile defense systems.

I wish to point out two important factors. The United States of America does not believe missile defense systems are in any way a threat to any nation. They are defensive in nature, and I believe they were a key component and factor in ending the Cold War.

Intelligence assessments apparently have changed rather dramatically since January 16. According to Eric Edelman, the Under Secretary of Defense for Policy under Secretary Gates during the Bush administration, intelligence reports on the Iranian threat as recently as January of this year were more troubling than what is being portrayed by the current administration. Mr. Edelman maintains that:

Maybe something really dramatic changed between January 16 and now in terms of what the Iranians are doing with their missile systems, but I don't think so.

You know what. I don't think so either. I think the fact is that this decision was obviously rushed. The Polish Prime Minister, according to news reports, was called at midnight. The agreement was made and ratified by these countries after consultation, discussion, and a proper process. They were not even notified of this decision. The decision to abandon the missile defense sites in Poland and the Czech Republic came as a surprise to them.

I understand that administration officials were on a plane supposedly to arrive in Poland today. I might add that Members of Congress were also not briefed on this decision prior to reading about it in the newspaper. I

was not informed. I didn't know what "new technology" was being recommended to be put in the place of the agreement. As short a time ago as August 20, the United States said:

The United States is committed to the security of Poland and of any U.S. facilities located on the territory of the Republic of Poland. . . . The United States and Poland intend to expand air and missile defense cooperation—et cetera.

We all know the Iranian ballistic missile threat is real and growing. We all know the administration is seeking the cooperation and help of the Russians. Now we will see. Now we will see.

Why was this agreement rushed into—or the abrogation of an agreement? Why the abrogation of this agreement between the United States with Poland and the United States with the Czech Republic rescinded in such a dramatic and rushed fashion? We all know the Iranian ballistic missile threat is real and growing. How many times have the "intelligence estimates" been wrong dating back to and including the Cold War? As many times as they have been right, I tell my colleagues—whether it be their assessment about the war in Iraq or whether it be the capabilities of many of our adversaries, including the Korean buildup, which we have been consistently wrong on.

The last administration reached out to the governments of Poland and the Czech Republic and asked that they make what many at the time perceived as an unpopular agreement. Despite threats from Russia, both governments recognized the importance such a defense capability would provide to their citizens and to Europe as a whole and agreed to allow the United States to place ground-based interceptors in Poland and a midcourse radar site in the Czech Republic. What are these countries going to do the next time we want to make an agreement with them, in view of the way this decision was made and announced or, shall I say, made known to the media before they were even told about it. It will be very interesting to see what we get in return.

According to a Christian Science Monitor's global news blog:

"We see this as a pragmatic decision," says Pavel Zolotaryov, deputy director of the official institute of USA-Canada Studies, suggesting that internal U.S. factors mainly account for Mr. Obama's choice. "Obama's sober approach is understandable, given the [economic] crisis, because this project would have given nothing but trouble."

If it sounds like Moscow has already discounted this sweeping strategic concession from Washington, experts suggest that's because Russia's foreign policy establishment had been expecting such a decision, at least since Obama hinted that he might give up the missile defense scheme during his summit with Russian President Dmitry Medvedev in Moscow last July.

"We've been getting signals since last Spring that made it seem almost certain that the missile defense plan would be set aside," said Fyodor Lukyanov, editor of Russia in Global Affairs, a leading Moscow foreign policy journal.

The Russians seem to have anticipated this decision. Unfortunately, the

Polish Government and the Czech Government did not. Members of Congress were certainly not informed of this decision until after reading about it in the media. That is not the way to do business. I think it sends the wrong signal to the Russians and to our friends and allies.

There are consequences with every decision. I believe the consequences of this decision may—albeit unintentionally—encourage further belligerence on the part of Russians and a distinct lack and loss of confidence on the part of our friends and allies in the word of the United States and the commitments of the United States of America.

I ask unanimous consent that articles in the Wall Street Journal and the Christian Science Monitor be printed in the RECORD.

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

[From the Wall Street Journal, Sept. 17, 2009]

**U.S. TO SHELVE NUCLEAR-MISSILE SHIELD—DEFENSE PLANS FOR POLAND, CZECH REPUBLIC TO BE DROPPED AS IRAN ROCKET THREAT DOWNGRADED; MOSCOW LIKELY TO WELCOME MOVE**

(By Peter Spiegel)

WASHINGTON.—The White House will shelve Bush administration plans to build a missile-defense system in Poland and the Czech Republic, according to people familiar with the matter, a move likely to cheer Moscow and roil the security debate in Europe.

The U.S. will base its decision on a determination that Iran's long-range missile program has not progressed as rapidly as previously estimated, reducing the threat to the continental U.S. and major European capitals, according to current and former U.S. officials.

The findings, expected to be completed as early as next week following a 60-day review ordered by President Barack Obama, would be a major reversal from the Bush administration, which pushed aggressively to begin construction of the Eastern European system before leaving office in January.

The Bush administration proposed the European-based system to counter the perceived threat of Iran developing a nuclear weapon that could be placed atop its increasingly sophisticated missiles. There is widespread disagreement over the progress of Iran's nuclear program toward developing such a weapon, but miniaturizing nuclear weapons for use on long-range missiles is one of the most difficult technological hurdles for an aspiring nuclear nation.

The Bush plan infuriated the Kremlin, which argued the system was a potential threat to its own intercontinental ballistic missiles. U.S. officials repeatedly insisted the location and limited scale of the system—a radar site in the Czech Republic and 10 interceptor missiles in Poland—posed no threat to Russian strategic arms.

The Obama administration's assessment concludes that U.S. allies in Europe, including members of the North Atlantic Treaty Organization, face a more immediate threat from Iran's short- and medium-range missiles and will order a shift towards the development of regional missile defenses for the Continent, according to people familiar with the matter. Such systems would be far less controversial.

Critics of the shift are bound to view it as a gesture to win Russian cooperation with U.S.-led efforts to seek new economic sanc-

tions on Iran if Tehran doesn't abandon its nuclear program. Russia, a permanent member of the U.N. Security Council, has opposed efforts to impose fresh sanctions on Tehran.

Security Council members, which include the U.S. and Russia, will meet with Iranian negotiators on Oct. 1 to discuss Iran's nuclear program.

Current and former U.S. officials briefed on the assessment's findings said the administration was expected to leave open the option of restarting the Polish and Czech system if Iran makes advances in its long-range missiles in the future.

But the decision to shelve the defense system is all but certain to raise alarms in Eastern Europe, where officials have expressed concerns that the White House's effort to "reset" relations with Moscow would come at the expense of U.S. allies in the former Soviet bloc. "The Poles are nervous," said a senior U.S. military official.

A Polish official said his government wouldn't "speculate" on administration decisions regarding missile defense, but said "we expect the U.S. will abide by its commitments" to cooperate with Poland militarily in areas beyond the missile-defense program.

Last week, Russian Foreign Minister Sergei Lavrov said he expected the Obama administration to drop the missile-defense plans. He said that Moscow wouldn't view the move as a concession but rather a reversal of a mistaken Bush-era policy.

Still, the decision is likely to be seen in Russia as a victory for the Kremlin. Russian President Dmitry Medvedev will meet with Mr. Obama at next week's meetings of the U.N. General Assembly and Group of 20 industrialized and developing nations.

Although a center-right government in Prague supported the Bush missile-defense plan when it was first proposed, the Czech Republic is now run by a caretaker government. A Czech official said his government was concerned an announcement by the White House on the missile-defense program could influence upcoming elections and has urged a delay. But the Obama administration has decided to keep to its original timetable.

European analysts said the administration would be forced to work hard to convince both sides the decision wasn't made to curry favor with Moscow and, instead, relied only on the program's technical merits and analysis of Iran's missile capabilities.

"There are two audiences: the Russians and the various European countries," said Sarah Mendelson, a Russia expert at the Center for Strategic and International Studies. "The task is: How do they cut through the conspiracy theories in Moscow?"

The Obama administration has been careful to characterize its review as a technical assessment of the threat posed by the Iranian regime, as well as the costs and capabilities of a ground-based antimissile system to complement the two already operating in Alaska and central California. Those West Coast sites are meant to defend against North Korean missiles.

The administration has also debated offering Poland and the Czech Republic alternative programs to reassure the two NATO members that the U.S. remains committed to their defense.

Poland, in particular, has lobbied the White House to deploy Patriot missile batteries—the U.S. Army's primary battlefield missile-defense system—manned by American troops as an alternative.

Although Polish officials supported the Bush plan, U.S. officials said they had indicated their primary desire was getting U.S. military personnel on Polish soil. Gen. Carter Hamm, commander of U.S. Army

forces in Europe, said Washington has begun talks with Polish officials about starting to rotate Europe-based American Patriot units into Poland for month-long training tours as a first step toward a more permanent presence.

"My position has been: Let's get started as soon as we can with the training rotations, while the longer-term stationing . . . is decided between the two governments," Gen. Hamm said in an interview.

For several years, the Pentagon's Missile Defense Agency has been pushing for breaking ground in Poland and the Czech Republic, arguing that construction must begin so the system would be in place to counter Tehran's emerging long-range-missile program, which intelligence assessments determined would produce an effective rocket by about 2015.

But in recent months, several prominent experts have questioned that timetable. A study by Russian and U.S. scientists published in May by the East-West Institute, an international think tank, downplayed the progress of Iran's long-range-missile program. In addition, Gen. James Cartwright, the vice chairman of the Joint Chiefs of Staff and an expert in missile defense and space-based weapons, said in a speech last month that long-range capabilities of both Iran and North Korea "are not there yet."

"We believed that the emergence of the intercontinental ballistic missile would come much faster than it did," Gen. Cartwright said. "The reality is, it has not come as fast as we thought it would come."

It is not an assessment that is shared universally. Eric Edelman, who oversaw missile-defense issues at the Pentagon as undersecretary of defense for policy in the Bush administration, said intelligence reports he reviewed were more troubling.

"Maybe something really dramatic changed between Jan. 16 and now in terms of what the Iranians are doing with their missile system, but I don't think so," Mr. Edelman said, referring to his last day in office.

There is far more consensus on Iran's ability to develop its short- and medium-range missiles, and the administration review is expected to recommend a shift in focus toward European defenses against those threats. Such a program would be developed closely with NATO.

[From the Christian Science Monitor, Sept. 17, 2009]

**RUSSIA'S RESPONSE TO U.S. MISSILE DEFENSE SHIELD SHIFT**

(By Fred Weir)

**MOSCOW HAS LONG OPPOSED A MISSILE SHIELD IN POLAND AND THE CZECH REPUBLIC. BUT THE U.S. SHOULDN'T EXPECT TOO MUCH IN RETURN**

MOSCOW.—President Barack Obama's decision to shelve plans for a missile defense shield in Eastern Europe could be seen as a major concession to Moscow. But given years of vehement opposition to the controversial plan, Russian reaction to the move appears surprisingly lukewarm.

So what does it mean for U.S.-Russia relations?

There are indications that Russia might support tougher sanctions on Iran, and fresh START talks, as well as more cooperation with the war in Afghanistan. The Kremlin also expects the U.S. to back off on expanding NATO, say Russian analysts.

"We see this as a pragmatic decision," says Pavel Zolotaryov, deputy director of the official Institute of USA-Canada Studies, suggesting that internal U.S. factors mainly account for Mr. Obama's choice. "Obama's sober approach is understandable, given the



[economic] crisis, because this project would have given nothing but trouble."

If it sounds like Moscow has already discounted this sweeping strategic concession from Washington, experts suggest that's because Russia's foreign policy establishment had been expecting such a decision, at least since Obama hinted that he might give up the missile defense scheme during his summit with Russian President Dmitry Medvedev in Moscow last July.

"We've been getting signals since last Spring that made it seem almost certain that the missile defense plan would be set aside," says Fyodor Lukyanov, editor of Russia in Global Affairs, a leading Moscow foreign policy journal.

#### NEW ARMS DEAL NOW WITHIN REACH, BUT CONCESSIONS ON IRAN?

Mr. Lukyanov says the only predictable result of key importance is that negotiations for a new strategic arms reduction treaty to replace the soon-to-expire 1991 START accord are now likely to meet the December deadline for a fresh deal.

"Now we can be sure the new START agreement will be completed on time, because the vexing issue of missile defense and how it affects the strategic balance has been removed for the time being," he says. "That's quite an important matter."

But while Russian experts say the move can only contribute to a warmer dialogue between Moscow and Washington, they say no one should expect any reciprocal concessions from the Kremlin on issues of key concern to the U.S., such as Iran.

#### WHY RUSSIA HAS OPPOSED MISSILE DEFENSE

Washington has consistently argued since news of the proposed missile defense shield emerged in 2006 that it was intended to protect Europe and the U.S. from a rogue missile attack from Iran or North Korea and not to undermine Russia's strategic deterrent.

Moscow has retorted that those threats are merely theoretical, but Russia's dependence upon its aging Soviet-era nuclear missile force for its national security would be deeply affected if the American scheme were to go forward.

"Iran isn't going to have any long-range missiles in the near future anyway," says Alexander Sharavin, director of the independent Institute of Military and Political Analysis in Moscow.

"The U.S. evidently doesn't want to quarrel with Russia, now that Moscow is collaborating in such areas of importance to the U.S. as Afghanistan," where Moscow has enabled a resupply corridor through former Soviet territory to embattled NATO forces, and offered other forms of cooperation, he says.

#### RUSSIANS EXPECT ANOTHER U.S. CONCESSION—ON NATO EXPANSION

Mr. Lukyanov says "it's possible" Russia may be more pliable on the issue of tough sanctions against Iran, a measure it has strongly resisted in the past. He says that in a recent meeting with foreign policy experts, President Medvedev introduced a new tone by remarking on his contacts with Arab leaders who are deeply worried about Iran's alleged drive to obtain nuclear weapons.

"It may be that Russia will be more amenable, but this is a deeply complicated issue," he says. "On Iran, and other regional conflicts, the differences between Moscow and Washington are deep, and that hasn't changed."

Russian experts also say they believe the Obama administration will quietly set aside the other issue that has infuriated Moscow over recent years: the effort to expand NATO into the former USSR by including Ukraine and Georgia.

"I wouldn't expect any formal statements to this effect, but it's more or less clear that

the issue of NATO enlargement is off the table for the time being," says Lukyanov.

#### POSTPONED, NOT CANCELED

So why isn't sunshine breaking and a new era of strategic accord dawning between Moscow and Washington?

"Nothing has been canceled, missile defense has just been postponed," says Lukyanov. "For awhile this topic is off the agenda, but later it will return. So, for now the political situation may improve, but the underlying pattern of relations is unlikely to change in any basic way."

And Russian hawks might see the dropping of the missile shield as weakness in Washington and press the Kremlin for even less compromise on key U.S.-Russia issues.

"I think the reaction of Russia's leadership will be positive on the whole," says Mr. Sharavin. "But Russian hawks are very likely to find faults, and use this to build up their own positions."

Who's the new right-wing prophet advising the Kremlin?

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

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. TESTER. Mr. President, I ask unanimous consent that I be permitted to speak as in morning business for up to 10 minutes and that the time be charged against Senator LEAHY's time.

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

#### FINANCIAL REGULATORY REFORM

Mr. TESTER. Mr. President, I rise to say a few words about an issue that has been front and center in my office for the past 12 months—reforming regulation of our financial markets.

I am a family farmer. In my neck of the woods, farmers usually don't sit around and talk about economic policy and Wall Street financial institutions.

But I do guarantee you that where I come from, everybody talks about common sense and why so much common sense seemed to be missing when America's financial industry almost collapsed a year ago.

Everyone in my State felt the impact of what happened when Lehman Brothers caved in, when Fannie and Freddie hit a dead end, when AIG went belly up, and when we saw daily headlines about bank mergers and bailouts.

We all paid a price because of a few greedy actors on Wall Street and no refs on the playing field. That price was \$700 billion of taxpayer money. I opposed that bailout because it rewarded the wrong people, and I was concerned about its ability to create a single job for our small businesses or help one family farmer. I think it was a bad deal for Main Street.

Last year, I asked Treasury Secretary Paulson—a former chairman of Goldman Sachs—about why this happened. His answer: "I don't know."

Where I come from, answers such as that aren't good enough, and terms such as "too big to fail" don't make any sense at all. It is time to make some changes.

After what we have been through over the past year, it is clear we need to reform the rules that keep America's financial industry on our side.

How? Well, it is going to take a lot of hard work, honesty, and common sense.

We have already started. I have teamed up with some of my friends in the Senate, from both parties, to co-sponsor the TARP Transparency Act. Our bill will better track the money being used to get the financial industry back on its feet because it is taxpayer money and because taxpayers deserve no less.

Over the course of the past year, the Senate Banking Committee has held countless hearings on regulatory modernization. The administration has put forth a good-faith effort in working with Congress in the massive legislative overhaul. Government has worked with the financial industry and consumers to outline the goals of sweeping new financial regulatory reform.

I don't believe comprehensive financial reform will guarantee we are safe from financial crises, but, if done right, it can provide folks with adequate protection, it can bring confidence back into the marketplace, and it can minimize the risk of a financial meltdown similar to the one we barely weathered last fall.

Unfortunately, there are those who don't believe comprehensive reform should be on the front burner. They are now lobbying to protect their own self-interests, their own profits, and the status quo over consumer protection.

That is why we need to use this 1-year anniversary as a reminder to act now to protect consumers and investors, to close the loopholes in our regulatory framework, and to ensure that no company is too big to fail.

We must regulate derivatives; supervise financial companies that have been outside the scope of regulation, thereby creating a level playing field; ensure that there is strong supervision of all financial firms—not just depository institutions; build on the bipartisan success of the credit card legislation and pass mortgage reform to protect consumers; combine the numerous banking regulators into a more simple, streamlined, commonsense structure that is capable of supervising 21st century financial institutions; create an entity that will protect taxpayers from future financial corporate failures and minimize the need for further government action; increase capital standards to prohibit institutions from growing too big to fail; and we must ensure that those companies selling mortgages and securities keep some skin in the game by holding onto a portion of the underlying asset to keep them honest.

As we move forward with regulatory reform, I will be working hard to eliminate any unintended consequences, specifically as it relates to community banks and credit unions.

In Montana, when we talk about the banking industry, we are talking about community banks and credit unions. They are the good actors. They don't live on the edge. They didn't get into the Wall Street shenanigans that caused this mess.

Montana's community banks and credit unions serve their towns and communities reliably and safely. We are fortunate in Montana to not have had a bank fail in over 10 years. We also have one of the lowest rates of mortgage defaults and foreclosures in the Nation. We have had very few problems as it applies to predatory subprime loans.

The community banks and credit unions are not the problem. I wish to make sure we do not place excessive fees or regulatory burdens on these small but very important institutions, such as the community banks.

Over the course of the coming weeks and months, I plan to work with Senator DODD, the chairman of the Senate Banking Committee, and all my colleagues toward commonsense reform that will increase supervision and transparency of the financial markets, that will bring back investor confidence, and that will protect consumers and safeguard us from another situation where the greed of Wall Street penalizes hard-working families.

Earlier this week, the President spoke on Wall Street. He said:

We are beginning to return to normalcy.

But he warned that:

Normalcy cannot lead to complacency.

I couldn't agree more. That is what we in Montana call common sense.

Mr. President, I yield the floor. I suggest the absence of a quorum and ask that the time during the quorum call be charged equally to both sides.

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

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 wish to speak today on President Obama's nominee for the Second Circuit Court of Appeals—a court one step below the U.S. Supreme Court—Judge Gerard Lynch.

I have carefully reviewed Judge Lynch's background and his rulings as a district court judge. He is a Columbia law graduate and a former Federal prosecutor in the Southern District of New York. For the most part, he has been a very good district judge. He is exceedingly capable and a man of high integrity.

After reviewing his record and responses to questions from the Senate Judiciary Committee, I decided to support his nomination. I do so because I believe he will adhere to his judicial oath which requires judges to administer justice without respect to persons, to do equal right to the poor and the rich, and to faithfully and impartially discharge and perform their duties under the Constitution and laws of the United States and not above it.

In responses to my questions, Judge Lynch affirmed that circuit courts

have no greater freedom than district courts to decide law outside the bounds of precedent, but they must apply the law and the precedent to which they are bound.

Judge Lynch also stated that a judge is to "apply the law impartially" and "should not identify with either side" in a case.

Even though I will support Judge Lynch and admire him and enjoyed meeting with him, I want to share some concerns about his rulings and some statements he has made over the years that I think are matters that ought not go unremarked before his confirmation.

The role of a judge is to follow the law regardless of personal politics, feelings, preferences, or ideology. I think, for the most part, he has done that in his cases.

One case that is troubling, however, is *U.S. v. Pabon-Cruz* in which Judge Lynch attempted to get around the jury process and the sentencing process because he believed a mandatory minimum sentence required by Congress of 10 years for a conviction of receiving and distributing child pornography was unduly harsh.

He announced that he would tell the jury about the penalties in the case, which is not appropriate. In its order prohibiting Judge Lynch from informing the jury about what the punishment would be in the case, the Second Circuit, on which he now seeks to sit, expressly stated that Judge Lynch's "proposed jury instruction regarding the penalties the defendant faces if convicted is a clear abuse of discretion in light of binding authority."

Judge Lynch disagreed with the Second Circuit's decision, calling it a "mistaken conclusion." Judge Lynch clearly believed he had the right to ignore precedent and established law and inform the jury about the penalties that were applicable upon their verdict of guilty so that the jurors, in effect, would have an opportunity to ignore the law and choose not to apply it because he did not think the penalty was fair, apparently.

I am disappointed by the fact that Judge Lynch appears to believe this sentence was inappropriate, but more importantly, that he should have been allowed to invite jury nullification, which is, in effect, to say to a jury: You don't find the defendant guilty if you think the punishment is inappropriate.

In response to one of my written questions, Judge Lynch said that while he accepts the ruling of the Second Circuit, he continues to believe his instincts were correct. He stated:

The rationale for this decision—

Of the Second Circuit which reversed him—

which I fully accept, in light of the ruling of the Second Circuit, was erroneous—was that unlike most cases in which the jury fully understands the seriousness of the crime charged, in that case the jury may have misperceived the relative seriousness of the two overlapping charges in the case.

Judge Lynch's actions in that case are especially disconcerting when considered in light of his written remarks criticizing the textualist approach to constitutional interpretation.

In a 2001 speech on the Supreme Court's decision in *Apprendi v. New Jersey*, Judge Lynch stated:

I would like to welcome—

Talking here about Justice Scalia and Justice Thomas—

also to a more realistic, more flexible, and in the end more honest way of protecting the constitutional values they share.

Judge Lynch, in effect, endorsed this flexible judicial philosophy and advocated it previously.

Concern over his statements in previous years contributed to my vote against his nomination to the U.S. District Court on that occasion.

In a 1997 law review article entitled "In Memoriam: William J. Brennan, Jr., American"—that is, of course, Justice William Brennan for whom he formerly clerked—Judge Lynch admonished the successors of Justice Brennan that they must also engage in constitutional interpretation "in light of their own wisdom and experience and in light of the conditions of American society today."

In that same article, Judge Lynch stated he personally believed it was a "simple necessity" that the Constitution "be given meaning for the present." Judge Lynch's praise for Brennan's "present-day meaning" approach included the opinion that Justice Brennan's "long and untiring labor to articulate the principles found in the Constitution in the way he believed made most sense today seems far more honest and honorable than the pretense that the meaning of those principles can be found in eighteenth- or nineteenth-century dictionaries."

So I have a problem with that speech from 1997 and that strong statement of adherence to the doctrine that Justice Brennan was the foremost advocate of a living constitution and that words don't have fixed meanings; that you can make them say what you want them to say to affect the result you think is appropriate today.

The Constitution is a contract with the American people. We have every right to amend it through the amendatory process, but judges don't have a right to amend it based on what they perceive it to mean. Based on what? What information have they received that makes them think they have a better idea of what the Constitution ought to mean than how it has been interpreted for 200 years?

This is a serious matter because judges are unelected. They have a lifetime appointment, and we give them that because we want unbiased, objective analyses. But it doesn't mean they are empowered to update the Constitution to make it say what they would like it to say today. They are not empowered to do that. In fact, it erodes democracy when they do that because the elective branches, those of us in

this Senate, are accountable. Judges aren't accountable.

Another of Judge Lynch's cases that bears mention is *United States v. Reyes*. In that case, a police officer asked a defendant drug dealer, who had not yet been read his Miranda rights, whether he had anything on him that could hurt the officer or his field team. Even though the defendant had not been frisked, Judge Lynch concluded the defendant was the subject of a custodial interrogation under Miranda, and that before the police officer could ask whether he had anything to endanger the officers, he had to warn him of his Miranda rights. As a result, Judge Lynch excluded from the record statements that the defendant made at that time which implicated him in the crime.

The Second Circuit—the circuit which he will now serve on—reversed Judge Lynch, holding that the public safety exception was in fact applicable and that the cases Judge Lynch had relied upon in his ruling were distinguishable. The court noted that drug dealers often have hypodermic needles or razor blades on their person that could pose a danger to police officers. Additionally, the defendant was not handcuffed at the time of the arrest and could have reached for a concealed weapon. The Second Circuit also noted that the questions asked by the officer were “sufficiently limited in scope and were not posed to elicit incriminating evidence,” and the police “cannot be faulted for the unforeseeable results of their words or actions.”

Judge Lynch has also advocated that Miranda warnings be administered for searches, which has never been the case. In a symposium commentary, Judge Lynch proposed a Miranda-type rule for searches that would invalidate consents to search unless the party whose consent is sought is first advised that he or she has the constitutional right to refuse such consent.

Well, Miranda was never required by the Constitution. It was a prophylactic protective rule the Court conjured up. Somehow the system has survived it, but it has done some damage in terms of not getting the kind of admissions and confessions you might otherwise get. That is just a fact. At any rate, to expand that now to searches, which has never been done, I think is an unhealthy approach.

You might say: Well, theoretically, if you are going to do these Miranda interviews you could do it on searches. But I would just note that Miranda itself is a protective rule, not a mandated constitutional rule.

I mentioned the foregoing issues because they are of great concern to me. It appears, notwithstanding, in the vast majority of his cases, Judge Lynch has been a very careful judge who has followed the law. He has stated that he understands that circuit judges are “bound by Supreme Court and prior circuit precedent, and their job is to apply, fairly and accurately,

the holdings and reasoning of such precedent.”

Given his commitment to do that, I will vote for him, and I hope he will continue his excellent service on the bench, but that he will interpret the law as written and will refrain from imposing personal views in his decisions.

It is unfortunate, and I am concerned also, that the President, in his nominations, is moving a number of people for the Federal bench that are clearly activists. Many of them don't have the length of time on the bench that Judge Lynch does, or his skills as a judge, frankly, and it is causing us some concern, and we will have some real debate about it.

The nomination of Judge David Hamilton for the Seventh Circuit Court of Appeals raises that issue and concern with me. The White House has said it intended to send a message with his appointment, and I would say that it did. Judge Hamilton's appointment is significant. Instead of embracing the constitutional standard of jurisprudence, Judge Hamilton has embraced President Obama's empathy standard. Indeed, he said as much in his answers to questions for the record following his confirmation hearing in the Judiciary Committee.

He rejects the idea that the role of a judge is akin to that of an umpire who calls balls and strikes in a neutral manner. Rather, he believes a judge will “reach different decisions from time to time . . . taking into account what has happened and its effect on both parties, what are the practical consequences.”

Judge Hamilton also appears to have embraced the idea of a living constitution. The last time I was at the Archives Building, I saw a parchment from 1789—not breathing. It is a document. It is a contract. It guarantees certain rights to every American, and judges aren't empowered to rewrite it, to make it say what they think it ought to say today.

In a speech in 2003, Judge Hamilton indicated a judge's role included writing footnotes to the Constitution. When Senator HATCH questioned him about these comments in a follow-up question, he retreated somewhat, but then gave a disturbing answer to the next question about judges amending the Constitution or creating new rights through case law and court decisions. This judicial philosophy has clearly impacted Judge Hamilton's rulings during his time as a district court judge. He has issued a number of controversial rulings and has been reversed in some noteworthy cases.

For example, he ruled against allowing a public, sectarian prayer in the Indiana State Legislature and was reversed by the Seventh Circuit.

He ruled against allowing religious displays in public buildings and was unanimously reversed by a panel of the Seventh Circuit.

He blocked the enforcement of a reasonable informed consent law dealing

with abortion matters for 7 years. He continued to block enforcement of that law and was eventually firmly and forcefully overruled by the Seventh Circuit for being in violation of the law.

Judges, the State, and other people spent all kinds of money, and attorney generals of the State spent money and time and effort to litigate these matters, and finally winning, but, in effect, the people of the State, for 7 years, were unable to enforce a constitutional statute their duly elected representatives had passed.

That is the power of an unelected Federal judge sometimes, and we need to be sure judges who go on the bench understand they are not allowed to do that. They are supposed to be a neutral umpire. If the case law and the Constitution say this is a good statute, they need to affirm it whether they like it or not, whether they would have voted differently or not. If he wants to be in the legislature and vote on the statutes, let him seek that office.

A Federal judge must be able to dispense rulings in a neutral fashion so the emblem that hangs over the Supreme Court, which has been embraced by the American people—equal justice under law—can be carried out in every aspect of a legal proceeding. A judge must put aside political views which may be appropriate as a legislator, executive, or an advocate, and interpret the law as it is written. He must keep his oath to uphold the Constitution first and foremost.

As I have said before, the Constitution is a contract between the American people, especially in a government of limited powers that is established by the people. It is a judge's duty to abide by the Constitution and protect and defend it and all the laws duly passed by Congress that are consistent with that Constitution. We have preserved our Nation well by insisting that our judiciary remain faithful to the plain and simple words of the Constitution and the statutes involved.

So, Mr. President, I am impressed with the skill, the legal ability of Judge Lynch, whose nomination is before us today. I have reviewed his record carefully. I have listened to his answers. I have seen some of his speeches. In a few cases, they cause me concern. But I think giving deference—and appropriate deference—to the President's nomination, he should be confirmed. I will ask my colleagues to support the confirmation.

But I want to say that all of us in this body, as well as judges, have a duty to preserve and defend our Constitution. You can erode the Constitution in a number of ways, and one way it can be changed and altered impermissibly is when judges redefine the meaning of words. So when a judge says we shouldn't resort to 18th century dictionaries, that makes me nervous. What does that mean? You just give a new definition to the word, the one that people ratified—the amendment they passed and ratified, which

had a certain meaning and was understood to have that meaning? Now that you are on the bench, and you think it shouldn't be enforced that way, and you would like to see a different result, you just sort of amend it or write a footnote to it? I don't think that is good judicial policy, and I feel an obligation—I think a number of us in this Senate do—to confirm good judges—men and women of character and ability and faithfulness to our laws and Constitution—but also raise the concerns that we have and to use every bit of our ability and strength to oppose nominees who won't be faithful to those high ideals that have made us a nation of laws and made us prosperous and free.

I thank the Chair, and I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mrs. McCASKILL). The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

#### TRANSPORTATION APPROPRIATIONS

Mr. DEMINT. Madam President, I wish to speak to an amendment of mine that is to be on the floor on the transportation bill in a few minutes. It is an amendment that would cut funding to a particular airport in Pennsylvania. I wish to discuss why we are targeting this particular cut.

As all of us know, all over America for the last several months, millions of Americans have come out to TEA parties and townhalls, expressing concern and even anger over the level of spending and borrowing and debt we are incurring here in Congress; the concern about all the new taxes we are talking about; the takeover of everything from General Motors to insurance companies. People are concerned, I think for a lot of good reasons.

The question is now, particularly after the hundreds of thousands of people gathered in front of the Capitol last Saturday from all over the country, expressing many of those same concerns: Is anybody listening? Is anyone here listening?

It reminds me of a couple of weeks ago when my 2½-year-old grandson was spending the night with my wife and me. He was sleeping in another room, and we have these intercoms that everyone knows about. He knows about the intercom and how it works, so when he got up in the morning, as usual about 6:30 or something, he said: I am up. Is anybody home?

He kept saying: Is anybody home? Is anybody home? I knew he was going to keep saying it until I got up and went in and got him up.

I think that is the question Americans are asking us here in Congress: Is anybody home? A lot of people last weekend, when I was here, said: Keep

speaking for us. Someone has to speak for us. These were not mobsters, they were not the right wing. They were Americans, moms and dads with kids in strollers, grandpas and grandmas, here from all over the country, of all political parties, who know enough to say we cannot keep spending and borrowing, and the more we spend, the more waste and fraud there is.

All of us here seem to agree, especially at campaign time: Oh, we need to cut out the waste and fraud. But no matter what we bring up to cut, even if we pick the most egregious waste the Government Accountability Office comes up with every year and says these are the most wasteful and inefficient programs, we can put them on the floor of the Senate for a vote and we cannot cut them.

Where do we begin, when all we seem to do, week after week, month after month, year after year, when all of us come in from all around the country and for every problem we see we have a new government program or an earmark or something that is supposed to fix it? Everything adds to the deficit. We never make those tough decisions about cutting anything.

My amendment actually cuts something. It was not my invention. I have learned about it over countless television documentaries on the Congressman John Murtha Airport in Johnstown, PA. It is a small airport that over the last 20 years has received \$200 million in taxpayer funds. This is an airport that only has 3 flights a day, an average of a total of 20 passengers a day. All of those three flights come to Washington and they are always mostly empty. The people who buy the tickets spend about the same amount per ticket as the taxpayers' subsidy for those tickets.

Earlier in the year, after we passed the stimulus package, another \$800,000 went to this airport to pave the alternate runway that is seldom used. After I brought up this amendment to discontinue funding—and I want to make this clear; this is on this bill, the transportation bill, and it only discontinues funding for 1 year. It is not permanent. It does not discontinue any funding related to defense or the military, so the National Guard and others continue to use it. The Defense Department can spend whatever they want on this airport. It is just that the Department of Transportation cannot spend any more money to subsidize air traffic from this airport.

It also does nothing to cut any safety funds for air traffic control. It is a couple of paragraphs that say enough is enough, this airport has received an inordinate amount of money. It has equipment it doesn't even use, millions for radar equipment that is not even staffed. Again, 3 flights a day, only to Washington, DC, with less than an average of 20 passengers a day. Most of the time there are more airport security people in this airport than there are passengers.

This is not some partisan attack. In fact, if you will remember, the bridge to nowhere, which was a Republican project, was exposed by Republicans. It helped America see an example of waste and abuse. That is what this amendment is about. It is not an attack on any party or any State, it is just an example that has been brought to light by countless media sources all over the country of us wasting money—not just one time but year after year.

If my amendment is not agreed to, another \$1.5 million of subsidies will go to this one airport because their Congressman likes to fly back and forth from a local airport. Many Americans have to drive an hour or two to get to an airport. Folks in Johnstown could drive an hour to Pittsburgh Airport if the tickets were too expensive from Johnstown. This is not a particular attack on a Congressman or a State or community. It is a beginning. It is a demonstration that here in the Senate we get the message. We are listening. We are actually home and we are going to speak for those millions of Americans who say enough is enough, we cannot keep spending and borrowing and creating debt.

For every dollar we spend here, about half of it now is borrowed. We are actually on our knees begging countries such as China to loan us some money so we can pay some of the debt that is coming due. Yet we keep creating cash for clunkers and "Fannie Travel," which is a travel promotion agency we created a couple of weeks ago. Now we are passing a spending bill that is about 23 percent over what it was last year. At a time with down economics, Americans out of jobs, we are increasing spending that much.

With this amendment we are saying we can make a tough decision. We can begin the process of starting to cut waste and fraud. But the reason so many people are going to vote against this amendment is there is a code here: I will support your spending for your State if you will support mine. I will not mess with the spending in your State if you won't mess with mine. We have been doing it for years, so we have been adding earmarks and projects in all of our States, supporting each other, and the budget and the spending get bigger and bigger and no one has the courage to say no, we have to stop.

A few of us did on the bridge to nowhere. Thanks to millions of Americans saying you are right, we were able to stop that one project. But we are still spending like there is no tomorrow.

I am asking my colleagues to agree we can cut one thing, one thing that is obviously wasteful and unfair. It is not fair to ask taxpayers all over the country to subsidize half of every ticket that is bought in a little airport in Johnstown, PA. They are not helping all the other Americans around the country or all the other small airports. Certainly small general aviation airports have gotten Federal funds but nothing to this degree.

We are not interfering with the general aviation function of this airport at all or any military use. We are just going to stop for 1 year subsidizing the tickets and hopefully helping America to focus on part of our problem here.

Part of correcting a problem is admitting you have one. I don't think we have done it yet in this Senate. My hope is on this vote a majority of the Senators will step up and say we do have a problem and this is one amendment where we can show we are beginning to turn it around. I encourage all my colleagues to vote for this amendment to cut funding for 1 year, at least cut these subsidies and at least demonstrate to America that somebody is home.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mrs. MURRAY. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

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

Mrs. MURRAY. Madam President, in a few short minutes we are going to be going to a series of votes, including a number of them on the transportation and housing bill that has been before the Senate for a week now. I want to take a few minutes to remind all of our colleagues about the importance of this bill that we will be passing here shortly this afternoon. This is a bill that has broad bipartisan support because it addresses some very real housing and transportation needs of families in every region of this country. We worked very hard with our colleague, Senator BOND, my ranking member, who has been amazingly great to work with this week. We faced some real challenges with our bill this year but together we made some important infrastructure improvements, including providing over \$75 billion for the Department of Transportation to support continued investment in our transportation infrastructure.

It includes \$11 billion for public transit and \$1.2 billion to invest in inner-city and high-speed rail.

This bill also supports the FAA's efforts to develop its next-generation air transportation system to support projected growth in air travel in coming years. It also invests \$3.5 billion for capital improvement at airports across the country.

The bill provides nearly \$46 billion for the Department of Housing and Urban Development, including \$100 million for HUD's housing counseling program that will help families who are facing foreclosure today to stay in their homes. The bill also provides more than \$18 billion for tenant-based rental or section 8, including an increase of over \$1 billion for the renewal of section 8 vouchers.

It also provides increased funding for the operation of public housing for a total level of \$4.75 billion, to make sure

our Nation's low-income families, which are also, as we all know, among the hardest hit in these tough economic times, continue to have access to safe, affordable housing.

The bill includes \$75 million for a very important program I worked on with Senator BOND, the joint HUD Veterans Affairs Supportive Housing Program. This is extremely important to our Nation's veterans. It will provide an additional 10,000 homeless veterans and their families with housing and supportive services.

The bill also addresses the needs of some of our most vulnerable citizens, by providing increased funding to support affordable housing for the elderly, disabled, those suffering from AIDS, and the Nation's homeless.

Finally, the bill provides almost \$4 billion for the Community Development Block Grant Program to support investments in public infrastructure, housing rehabilitation, and public service, assistance that is critical to our States and our local governments right now.

In summary, this bill provides assistance to those who need it most, and it directs resources in a responsible and fiscally prudent way. It will help our commuters, it will help owners, it will help the most vulnerable, and it will help our economy.

I hope all Senators will support the bill when we move to the final vote here shortly this afternoon, after we consider several amendments. Before I close, I do wish to take, again, a moment to thank my partner and friend, Senator BOND, whom it has been a pleasure to work with throughout this process, as he and I go to conference now to work hard to make sure we find the differences and fix the differences between us and the House so we can get this bill to the President.

I most importantly wish to thank all our staff, from the floor staff who have been so generous with their time and help as we have worked through this, to all the staff who worked on the transportation and housing subcommittee, including John Kamarck, Ellen Beares, Joanne Waszczak, Travis Lumpkin, Grant Lahmann, Michael Bain, Dedra Goodman, and Alex Keenan, our new staff director on transportation who has done an excellent job, and especially Matt McCardle and Mike Spahn for all their efforts during floor consideration.

I am pleased we were able to consider and debate so many amendments and have produced a strong bill. But I would be remiss if I did not single out and thank two members of our staff, Meaghan McCarthy and Rachel Milberg, for all the outstanding efforts they made over the past several months under very trying circumstances late at night working so diligently.

I wish to especially thank them for all the work they have done to assemble this bill and write the report. I know it was a daunting challenge. I am so grateful to them for all the extra ef-

fort they have had to go through under some very trying circumstances. They have done an excellent job. They are a delight to work with.

With that, I see that my ranking member is on the floor. I wish to, again, thank him for being a great partner and for all his help and support to get this bill to the floor today.

I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Madam President, the real kudos and plaudits go to my colleague, the chair, Senator MURRAY, for having worked this through.

It is also a very interesting and challenging measure. But this year, we have advanced a bill, we have had lots of amendments, we have adopted some on strong bipartisan votes. I think this is a great tribute to the way she has worked with us closely on the committee and with the cooperation of all parties on the floor.

This is a bill in which many people have good ideas, and, as I said, we voted on and took a few of them. But I join Senator MURRAY in thanking her staff: Alex Keenan, Meaghan McCarthy, Rachel Milberg, Joanne Waszczak and Travis Lumpkin for their work. They have worked very closely with us.

Thanks for the hard work on my side to Ellen Beares and Jon Kamarck. The staff contributed. And also the work of the newest member of our team who came in at a time when we were badly understaffed, Dedra Goodman. But a very special thanks to Matt McCardle for his leadership and masterful management on the floor.

This was due to a lot of unforeseen circumstances. There were lots of times when he had to carry the load, and he also did it with good humor. When I was frazzled and confused about where things may be going, Matt had it under control, and he did a truly outstanding job.

Again, I thank our colleagues for allowing us to proceed with this bill. We did not plan on being here this the eighth day, having started last Thursday. But we are very optimistic that this bill can emerge from conference as a freestanding bill and be adopted by this body. I do not want to see this wind up in an "ominous" appropriations bill that does not reflect the hard work that went into it. When our work goes into what they call an omnibus, what I call an "ominous," appropriations bill, strange things happen to it. We hope we can work this bill and keep it together as crafted. It is a critical piece of legislation.

It has vitally important safety needs for transportation, particularly in aviation. It continues, although not as robustly as I would like, the development of more transportation infrastructure. There are badly needed elements in the housing part of the bill. We have to continue housing for those people who have assisted housing, public housing authorities, particularly in this economic downturn, when so many

people are feeling the pinch, special needs from the disabled, the elderly, to veterans, who have particularly been well served by the veterans assisted in supportive housing that we have provided.

But also, as I have warned many times before, the FHA program is a high-risk program that could subject us to billions of dollars being thrown on the taxpayers' credit card. And this bill provides resources for HUD to get up the IT systems it needs, to get the people in place. It provides for more oversight. It provides increases for the inspector general to doublecheck to make sure the predatory lending which inflicted the entire economy does not transport itself into FHA-supported housing.

So we do have some more amendments. And we look forward to working on those this afternoon. We thank all our colleagues for letting us come this far. We hope to get it passed and get these badly needed appropriations enacted into law.

#### AMENDMENT NO. 2403, AS MODIFIED

I ask unanimous consent that the McCain amendment No. 2403 be modified with the changes at the desk.

The PRESIDING OFFICER. As in legislative session, without objection, it is so ordered.

The amendment (No. 2403) as modified is as follows:

#### AMENDMENT NO. 2403, AS MODIFIED

On page 318, between lines 11 and 12, insert the following:

SEC. 2 \_\_\_\_\_. None of the funds made available by this Act may be used to carry out the Brownfields Economic Development Initiative program (including with respect to any individual property described on page 138, 139, or 141 of Senate Report No. 111-69) administered by the Department of Housing and Urban Development.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. MURRAY. I ask unanimous consent that the order for the quorum call be rescinded.

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

#### LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will resume legislative session.

#### TRANSPORTATION, HOUSING AND URBAN DEVELOPMENT, AND RELATED AGENCIES APPROPRIATIONS ACT, 2010—Resumed

The PRESIDING OFFICER. The clerk will report the bill.

The assistant bill clerk read as follows:

A bill (H.R. 3288) making appropriations for the Departments of Transportation, and Housing and Urban Development, and related agencies for the fiscal year ending September 30, 2010, and for other purposes.

Pending:

Landrieu amendment No. 2365, to amend the Disaster Relief and Recovery Supplemental Appropriations Act, 2008.

McCain modified amendment No. 2403, to prohibit the use of funds to carry out the Brownfields Economic Development Initiative program administered by the Department of Housing and Urban Development.

DeMint amendment No. 2410, to limit the use of funds for the John Murtha Johnstown-Cambria County Airport.

Vitter modified amendment No. 2359, to prohibit the use of funds for households that include convicted drug dealing or domestic violence offenders or members of violent gangs that occupy rebuilt public housing in New Orleans.

Kyl motion to commit the bill to the Committee on Appropriations, with instructions to report the same back to the Senate forthwith with Kyl amendment No. 2421 (to the instructions on Kyl motion to commit the bill), relating to the American Recovery and Reinvestment Act.

#### AMENDMENT NO. 2365

The PRESIDING OFFICER. Under the previous order, there will be 2 minutes evenly divided for a vote with respect to the Landrieu amendment.

Who yields time?

Mrs. MURRAY. Madam President, it is my understanding that this amendment is accepted on both sides. I urge a voice vote.

Mr. BOND. Madam President, nobody has advised us of objections on our side.

Mrs. HUTCHISON. Madam President, I support the Landrieu amendment.

The year 2008 witnessed numerous devastating disasters: severe wildfires in California, floods in the Midwest, and the one-two punch of Hurricanes Gustav and Ike along the Gulf Coast.

Congress responded last fall by passing a natural disaster supplemental, which in addition to providing necessary FEMA and SBA funding, provided \$6.5 billion in community development block grants to support recovery.

Unfortunately, the language included a restriction that has impaired these impacted communities' ability to rebuild.

This amendment removes that restriction, providing flexibility for these funds to be used to their greatest impact in the community, helping these communities get back on their feet as quickly as possible.

Without this amendment, many communities will be unable to balance their budget priorities, jeopardizing critical projects in the recovery process, or worse yet, leading to the abandonment of projects altogether.

Communities across this Nation have been greatly impacted by natural disasters over the past several years, including the State of Texas. Tax bases have been decimated and many communities are still struggling to recover. These devastated communities want to be able to stand on their own; however, they don't currently have the resources to do so. By providing maximum flexibility of vital Federal funds, as we have for previous disasters, we remove one more barrier from their way on the road to recovery.

The PRESIDING OFFICER. Without objection, the amendment is agreed to. The amendment (No. 2365) was agreed to.

Mrs. MURRAY. I move to reconsider the vote.

Mr. BOND. I move to lay that motion on the table. The motion to lay on the table was agreed to.

#### AMENDMENT NO. 2359

The PRESIDING OFFICER. The pending business is amendment No. 2359, the Vitter amendment.

The Senator from Louisiana.

Mr. VITTER. Madam President, this amendment is very simple and straightforward. It simply says that no public housing assistance will be granted to anyone who is convicted of a crime involving drug trafficking, not simple possession but distribution, et cetera, or being a member of a violent gang. These are serious adult offenders. I don't believe we should use taxpayer funds with housing assistance, particularly in public housing projects, in that manner. It specifically focuses on New Orleans, LA, only New Orleans, where we are pouring massive amounts of Federal dollars to rebuild public housing projects in a fundamentally different, better way after Katrina, ridding those projects of the crime problem which had previously been embedded there. It is very important in terms of that recovery.

I reserve the remainder of my time.

Mr. DODD. Madam President, I rise in opposition to amendment No. 2359. Our colleague Senator LANDRIEU spoke at length last night about the reasons she opposes this amendment, which is targeted to her city of New Orleans.

I am here as the chairman of the Banking Committee, to share with you some of the reasons I believe this legislation could have benefitted from a more thorough vetting through the authorizing process.

While superficially an attractive effort to be tough on crime, the proposed amendment is likely to have serious unintended consequences while providing no apparent increase in public safety. The proposed amendment is overly broad, burdensome, and would present great difficulties for Federal, State, and local administrators to actually implement.

Representatives of public housing agencies have raised concerns about implementing this legislation. Advocates for low income families oppose this amendment.

Needless to say, we want to ensure the security of families receiving housing assistance. That is why current law already provides tools for denying or terminating assistance for drug-related and violent crimes and activities in public housing and section 8 assistance, which appears to be the amendment's objective.

I have other concerns about things that may or may not have been the objective of the amendment.

This provision only applies in New Orleans, raising questions about equal protection and the unfortunate possibility of federal law that changes from city to city.

It is a vast expansion of current Federal law. While Senator VITTER describes the amendment as applying to



rebuilt public housing, it is actually very broad. The bill extends far beyond public and assisted housing into all forms of federal housing assistance, including homeless assistance, loans, loan guarantees, or other assistance provided under a HUD housing program.

It is administratively burdensome. The legislation would put additional screening burdens on housing providers, banks, nonprofits, and others who are not currently required to, nor do they have the resources to, conduct criminal background checks. These could include cities administering CDBG, a homeless shelter whose clients vary night by night, or banks processing FHA loans.

It has unintended consequences, and I will provide some examples.

It erects barriers to helping the homeless: The language would appear to apply to homeless shelters, whose clientele change from night to night. Running checks on clients that may only be there for one day or sporadically is nearly impossible, and a waste of scarce resources. Do we really mean to prohibit assistance for these individuals—many of whom are veterans or children—because shelters won't be able to run background checks?

It puts new burdens on banks and homeowners. Every bank originating an FHA loan would have to do a criminal background check on the family buying the home, or refinancing a home. Can you imagine the burden that would create for community banks and homebuyers?

It puts new burdens on small businesses and State and local government CDBG programs. The language could actually require that State and local CDBG programs conduct background checks on small business owners receiving economic development assistance to ensure that they were not a) offenders and b) not residing in federally-subsidized housing.

It provides no room for rehabilitation. The amendment bars someone from ever getting housing assistance, including FHA loans, if they were ever convicted of selling drugs or were a member of a gang, without consideration of rehabilitation. What if that happened 15 years ago? This amendment would run counter to the goals of the Second Chance Act, which this body approved under unanimous consent to help ex-offenders get the services they need to become productive members of society.

In sum, this amendment is superficially attractive. I understand that. But the policy is ill-considered. It will unintentionally hurt homebuyers, veterans, and children without necessarily providing any additional protections. It will create very serious administrative burdens for the public and private sector, with no way to pay for those burdens. I urge my colleagues to defeat this amendment—let's approach this issue in a more thoughtful way.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Madam President, this amendment would deny housing assistance to any New Orleans household with a member of a criminal gang or someone convicted of certain drug offenses. Public housing authorities already have the ability to deny or terminate housing assistance to persons who have committed drug-related and violent crimes under current law. This amendment does far more than that. It extends to all forms of housing assistance. It is a permanent prohibition. If anyone in the family has committed these offenses ever, then that entire household would never be able to receive HUD assistance, including homeless assistance or even an FHA loan.

I am concerned that this amendment is targeted to one city, New Orleans. We should not be targeting one city or dictating housing policy city by city under this bill.

Importantly, the underlying bill provides funding to help our Nation's homeless veterans. Many of those veterans have struggled with substance abuse. If this amendment passes, those veterans will not be allowed to get assistance.

I ask my colleagues to vote against the amendment.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. VITTER. Madam President, we are not talking about drug possession, we are talking about trafficking. HUD and the housing authority have the ability to negotiate for other family members to stay in public housing and not be penalized.

The PRESIDING OFFICER. Time has expired.

The question is on agreeing to amendment No. 2359.

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD), the Senator from Louisiana (Ms. LANDRIEU), and the Senator from Pennsylvania (Mr. SPECTER) are necessarily absent.

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

The result was announced—yeas 34, nays 62, as follows:

[Rollcall Vote No. 283 Leg.]

#### YEAS—34

Alexander	Ensign	Lugar
Barrasso	Enzi	McCain
Bennett	Graham	McConnell
Brownback	Grassley	Risch
Bunning	Gregg	Sessions
Burr	Hatch	Shelby
Chambliss	Hutchison	Snowe
Coburn	Inhofe	Thune
Cochran	Isakson	Vitter
Cornyn	Johanns	Wicker
Crapo	Kyl	
DeMint	LeMieux	

#### NAYS—62

Akaka	Feinstein	Murray
Baucus	Franken	Nelson (NE)
Bayh	Gillibrand	Nelson (FL)
Begich	Hagan	Pryor
Bennet	Harkin	Reed
Bingaman	Inouye	Reid
Bond	Johnson	Roberts
Boxer	Kaufman	Rockefeller
Brown	Kerry	Sanders
Burris	Klobuchar	Schumer
Cantwell	Kohl	Shaheen
Cardin	Lautenberg	Stabenow
Carper	Leahy	Tester
Casey	Levin	Udall (CO)
Collins	Lieberman	Udall (NM)
Conrad	Lincoln	Voinovich
Corker	McCaskey	Warner
Dodd	Menendez	Webb
Dorgan	Merkley	Whitehouse
Durbin	Mikulski	Wyden
Feingold	Murkowski	

#### NOT VOTING—3

Byrd	Landrieu	Specter
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The amendment (No. 2359) was rejected.

Mrs. MURRAY. Madam President, 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.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Madam President, if I could have the attention of all Senators, a number of Senators have come to me and said they want to move quickly through the amendments this afternoon. We can't do it if Senators are leaving. I ask all Senators to please stay on the floor as we move through these last amendments.

With that, I believe the next amendment is in order.

Mr. BOND. Madam President, I urge all Members to return promptly. I know several Members on both sides have other commitments. If we are going to make those, we need to keep those 10 minute votes to at least 15 minutes. Thanks.

#### AMENDMENT NO. 2410

The PRESIDING OFFICER. The next amendment is amendment No. 2410 offered by Senator DEMINT.

The Senator from South Carolina is recognized.

Mr. DEMINT. Thank you, Madam President.

This amendment I hope is a beginning or maybe a turning point for the Senate where we identify wasteful spending and begin to make some progress toward cutting those things that we don't have to do here at the Federal level.

I heard some comments about the amendment yesterday which I don't think accurately reflect what the bill does. We do nothing to cut any defense spending or defense use of this airport. We do nothing to cut any safety aspects such as air traffic control. It is simply for 1 year of this appropriations bill which stops the funding for additional subsidies to an airport that has received \$200 million over the last 20 years and has as much subsidy per ticket as passengers pay. This has been the subject of documentaries on many media sources. We need to show America we are listening.

Please support this amendment to cut these funds for 1 year.

The PRESIDING OFFICER (Ms. KLOBUCHAR). The Senator from Pennsylvania.

Mr. CASEY. Madam President, I would urge a no vote on this amendment. It sets the wrong precedent and singles out one airport which happens to be in Cambria County, PA.

At a time when we are in the middle of a recession and with the unemployment rate in this county at 9.5 percent, and we are going to say here in Washington that we are going to vote on something that will shut down an airport—it is bad policy. We should allow this decision to be made by the Federal authority that should be making the decision, which is the Federal Aviation Administration. It is the right thing to do to oppose this amendment. I urge a “no” vote.

Mrs. MURRAY. Madam President, have the yeas and nays been ordered?

The PRESIDING OFFICER. They have not.

Mr. DEMINT. 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.

The clerk will call the roll.

The legislative clerk called the roll.

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

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD), the Senator from Louisiana (Ms. LANDRIEU), and the Senator from Pennsylvania (Mr. SPECTER), are necessarily absent.

The result was announced—yeas 43, nays 53, as follows:

[Rollcall Vote No. 284 Leg.]

#### YEAS—43

Alexander	Ensign	McCain
Barrasso	Enzi	McCaskill
Bayh	Feingold	McConnell
Bennett	Graham	Merkley
Brownback	Grassley	Murkowski
Bunning	Gregg	Risch
Burr	Hatch	Roberts
Chambliss	Hutchison	Sessions
Coburn	Inhofe	Shelby
Cochran	Isakson	Snowe
Collins	Johanns	Thune
Corker	Kohl	Vitter
Cornyn	Kyl	Wicker
Crapo	LeMieux	
DeMint	Lugar	

#### NAYS—53

Akaka	Franken	Nelson (FL)
Baucus	Gillibrand	Pryor
Begich	Hagan	Reed
Bennet	Harkin	Reid
Bingaman	Inouye	Rockefeller
Bond	Johnson	Sanders
Boxer	Kaufman	Schumer
Brown	Kerry	Shaheen
Burris	Klobuchar	Stabenow
Cantwell	Lautenberg	Tester
Cardin	Leahy	Udall (CO)
Carper	Levin	Udall (NM)
Casey	Lieberman	Voinovich
Conrad	Lincoln	Warner
Dodd	Menendez	Webb
Dorgan	Mikulski	Whitehouse
Durbin	Murray	Wyden
Feinstein	Nelson (NE)	

#### NOT VOTING—3

Byrd Landrieu Specter

The amendment (No. 2410) was rejected.

Mrs. MURRAY. Madam President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

#### AMENDMENT NO. 2403, AS MODIFIED

The PRESIDING OFFICER. The Senate will be in order. Under the previous order, there is 2 minutes equally divided prior to a vote in relation to the McCain amendment.

The Senator from Arizona.

Mr. MCCAIN. Madam President, the amendment prohibits funding for brownfields economic development initiatives. In May—and not for the first time—the President recommended termination of the brownfields economic development initiatives. You can look it up. Even the committee this time, in the RECORD, said:

The committee does not recommend an appropriation for the brownfields redevelopment program, consistent with the budget request.

On pages 138 and 139, there is \$1.3 million for brownfields redevelopment in Connecticut, Pennsylvania, and Ohio. So now we are not only going against the President's recommendations, we are going to go against the bill itself and give another \$1.3 million in pork. All I say is you cannot make it up.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. Madam President, on behalf of myself and Senator LIEBERMAN, there is no debate about whether the brownfields redevelopment program ought not to exist. It is duplicative and cut out. This is under the economic development initiative program, which supports a wide range of programs to encourage economic redevelopment, including polluted, contaminated, blighted properties. In Waterbury, CT, home of the brass capital of our country, dating back to the early 19th century, most of the business was military related during the Civil War. There were no pollution requirements back then.

Today those properties are virtually worthless because of the contamination. This is a city with a 13-percent unemployment rate. It is a hard-working blue-collar town where people put in hard labor every day. This is a chance for that community to get back on its feet. That is why it is under the economic development program.

I urge my colleagues to be supportive of a hard-working community so we can let them get back on their feet. We urge defeat of the amendment.

I ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays have been previously ordered.

The question is on agreeing to the amendment.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD), and the Senator from Louisiana (Ms. LANDRIEU) are necessarily absent.

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

The result was announced—yeas 37, nays 60, as follows:

[Rollcall Vote No. 285 Leg.]

#### YEAS—37

Barrasso	Ensign	McCain
Bayh	Enzi	McCaskill
Bennett	Feingold	McConnell
Brownback	Graham	Risch
Bunning	Grassley	Roberts
Burr	Gregg	Sessions
Chambliss	Hatch	Shelby
Coburn	Hutchison	Snowe
Cochran	Inhofe	Thune
Corker	Isakson	Vitter
Cornyn	Johanns	Wicker
Crapo	Kyl	
DeMint	LeMieux	

#### NAYS—60

Akaka	Franken	Murray
Alexander	Gillibrand	Nelson (NE)
Baucus	Hagan	Nelson (FL)
Begich	Harkin	Pryor
Bennet	Inouye	Reed
Bingaman	Johnson	Reid
Bond	Kaufman	Rockefeller
Boxer	Kerry	Sanders
Brown	Klobuchar	Schumer
Burris	Kohl	Shaheen
Cantwell	Lautenberg	Specter
Cardin	Leahy	Stabenow
Carper	Levin	Tester
Casey	Lieberman	Udall (CO)
Collins	Lincoln	Udall (NM)
Conrad	Lugar	Voinovich
Dodd	Menendez	Warner
Dorgan	Merkley	Webb
Durbin	Mikulski	Whitehouse
Feinstein	Murkowski	Wyden

#### NOT VOTING—2

Byrd Landrieu

The amendment (No. 2403), as modified, was rejected.

Mrs. MURRAY. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

#### MOTION TO RECOMMIT WITH AMENDMENT NO. 2421

The PRESIDING OFFICER. There is now 2 minutes, equally divided, prior to a vote in relation to the motion to recommit offered by the Senator from Arizona, Mr. KYL.

The Senator from Arizona.

Mr. KYL. Madam President, we can save \$11 billion without cutting a dime from this appropriations bill. It turns out there is duplication between spending in the stimulus bill that already passed and this bill.

What we do is simply send the bill back to committee to report back forthwith, to rescind the money in the stimulus bill that duplicates the Transportation and HUD financing in this bill, except for any funds that have already been obligated, which, obviously, we would go ahead and spend, and, secondly, any money relating to highway construction. That would be totally protected. Beyond that, any duplication in the stimulus bill would be rescinded.

It amounts to about \$11 billion. I think that is a great savings we can all

support. As I said, it does not take a dime out of this bill.

I ask for my colleagues' support. I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Madam President, the bill in front of us provides critical resources to the Departments of Transportation and Housing and Urban Development for investments in transit, rail, airports, and public housing. This is important for investing in jobs in our economy.

The funding in this bill has a direct impact on every community across the Nation. We should not delay this important piece of legislation.

I urge my colleagues to vote no.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Madam President, I have about 12, 13 seconds. As I said, this motion takes absolutely no money from the appropriations bill before us. What it would do is identify about \$11 billion in duplicate funding in the stimulus bill and rescind that. So you would not be voting to cut a dime out of this bill if you support my motion.

Mrs. MURRAY. I urge a "no" vote, Madam President.

The PRESIDING OFFICER. The question is on agreeing to the motion.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from Louisiana (Ms. LANDRIEU) is necessarily absent.

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

The result was announced—yeas 34, nays 64, as follows:

[Rollcall Vote No. 286 Leg.]

#### YEAS—34

Alexander	Ensign	Lugar
Barrasso	Enzi	McCain
Bennett	Graham	McConnell
Brownback	Grassley	Murkowski
Bunning	Gregg	Risch
Burr	Hatch	Roberts
Chambliss	Hutchison	Sessions
Coburn	Inhofe	Thune
Corker	Isakson	Vitter
Cornyn	Johanns	Wicker
Crapo	Kyl	
DeMint	LeMieux	

#### NAYS—64

Akaka	Cantwell	Feinstein
Baucus	Cardin	Franken
Bayh	Carper	Gillibrand
Begich	Casey	Hagan
Bennet	Cochran	Harkin
Bingaman	Collins	Inouye
Bond	Conrad	Johnson
Boxer	Dodd	Kaufman
Brown	Dorgan	Kerry
Burris	Durbin	Klobuchar
Byrd	Feingold	Kohl

Lautenberg	Nelson (FL)	Stabenow
Leahy	Pryor	Tester
Levin	Reed	Udall (CO)
Lieberman	Reid	Udall (NM)
Lincoln	Rockefeller	Voinovich
McCaskill	Sanders	Warner
Menendez	Schumer	Webb
Merkley	Shaheen	Whitehouse
Mikulski	Shelby	Wyden
Murray	Snowe	
Nelson (NE)	Specter	

#### NOT VOTING—1

Landrieu

The motion was rejected.

Mrs. MURRAY. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Washington is recognized.

#### PIPELINE SAFETY PROGRAMS

Mr. COCHRAN. Madam President, I wish to join Senator MURRAY and Senator BOND, the respective chairman and ranking member of the Transportation, HUD Appropriations Subcommittee, in a colloquy concerning the user fee funded pipeline safety programs overseen by the Pipeline and Hazardous Materials Safety Administration.

Mrs. MURRAY. I am pleased to discuss this issue with my colleagues. Pipeline safety programs are very important in my State and help ensure that tragic accidents can be prevented. I understand that the pipeline safety programs at PHMSA are funded almost exclusively through user fees.

Mr. COCHRAN. That is correct, and in order to better assess the current program priorities at PHMSA and to determine how these user fees are being allocated across the regulated community, I believe PHMSA should provide to the Committees on Appropriations a report that discloses the percentage of program funds and State grants that are dedicated to each of the following sectors: liquid pipelines, natural gas transmission pipelines, liquefied natural gas pipelines, and natural gas distribution pipelines.

Mr. BOND. I thank Senator COCHRAN for his comments and agree that PHMSA should produce a report as soon as possible on this topic. We need to ensure that pipeline safety programs are adequately funded and that Congress and the regulated industries that support these programs understand how they are funded.

Mrs. MURRAY. I agree with my colleagues and would like PHMSA to produce such a report. I thank Senator COCHRAN for bringing this issue to the attention of all Senators.

#### FUNDING ALLOCATIONS

Mr. REED. Madam President, I want to thank Senator MURRAY for her leadership on this bill and her commitment

to funding improvements in our Nation's housing and transportation infrastructure. I rise to engage the chairman of the subcommittee in a colloquy to clarify the State-by-State allocation of Federal-Aid Highway Program funding, which is shown in the committee report.

Mrs. MURRAY. I would be pleased to enter into a colloquy with the Senator.

Mr. REED. I thank the Senator. As I noted, page 46 of the committee report includes a table that shows the estimated State-by-State obligation limitation for Federal-Aid Highway Program funding. This information was prepared for the Appropriations Committee by the Federal Highway Administration based on current law and the funding level provided in this bill. It is my understanding that this table is designed to be illustrative rather than determinative of actual funding levels. Could the Senator confirm that this understanding is correct?

Mrs. MURRAY. The Senator is correct. The table included in the committee report is illustrative and does not direct the actual distribution of the funds provided under this bill.

Mr. REED. I thank the Senator, and I appreciate that clarification. As the Senator knows, I had been concerned because the table indicates that the State of Rhode Island is one of only two States, along with Maine, that would lose funding under the increased appropriation included in this bill.

I have consulted with the Federal Highway Administration, which has produced a new estimate based on more accurate assumptions. That table has been shared with the Appropriations Committee staff. Rather than a decline of over \$5 million, this estimate shows an increase of nearly \$6 million for the State of Rhode Island. In addition, no State is shown to lose funding in fiscal year 2010.

Would the Senator agree that this new table is a more accurate depiction of the distribution federal highway funds?

Mrs. MURRAY. I agree that the table the Senator refers to reflects the Federal Highway Administration's current estimate of how Federal-Aid Highway Program funding included in this bill would be distributed under current law.

Mr. REED. Again, I thank the chairman for her leadership on this bill and for her help in clarifying this matter. For the benefit of all senators, I would ask unanimous consent that the Federal Highway Administration table we have discussed be printed in the RECORD.

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

#### UNITED STATES DEPARTMENT OF TRANSPORTATION FEDERAL HIGHWAY ADMINISTRATION—ESTIMATED DISTRIBUTION OF FEDERAL-AID HIGHWAY PROGRAM OBLIGATION LIMITATION

[FY 2010 distribution estimated based on FY 2009 contract authority and the FY 2010 Senate-reported appropriations bill]

State—	FY 2009 enacted	FY 2010 Senate bill	Difference
Alabama—	\$664,181,764—	\$686,900,890—	\$22,719,126
Alaska—	290,717,063—	299,809,478—	9,092,415

UNITED STATES DEPARTMENT OF TRANSPORTATION FEDERAL HIGHWAY ADMINISTRATION—ESTIMATED DISTRIBUTION OF FEDERAL-AID HIGHWAY PROGRAM OBLIGATION LIMITATION—  
Continued

(FY 2010 distribution estimated based on FY 2009 contract authority and the FY 2010 Senate-reported appropriations bill)

State—	FY 2009 enacted	FY 2010 Senate bill	Difference
Arizona—	672,374,585—	694,856,314—	22,481,729
Arkansas—	410,847,021—	424,892,224—	14,045,203
California—	3,002,777,749—	3,107,386,662—	104,608,913
Colorado—	451,065,359—	466,804,480—	15,739,121
Connecticut—	422,828,746—	437,264,323—	14,435,577
Delaware—	129,898,054—	134,437,981—	4,539,927
District of Columbia—	126,772,019—	131,372,586—	4,600,567
Florida—	1,690,108,775—	1,745,663,364—	55,554,589
Georgia—	1,143,842,745—	1,181,764,488—	37,921,743
Hawaii—	136,011,037—	140,890,088—	4,879,051
Idaho—	244,839,686—	253,048,264—	8,208,578
Illinois—	1,121,712,771—	1,160,076,519—	38,363,748
Indiana—	852,499,523—	880,696,895—	28,197,372
Iowa—	384,432,661—	397,991,958—	13,559,297
Kansas—	327,579,516—	339,365,197—	11,785,681
Kentucky—	568,095,523—	587,416,393—	19,320,870
Louisiana—	555,575,744—	574,865,033—	19,289,289
Maine—	141,822,084—	146,996,546—	5,174,462
Maryland—	518,543,985—	536,780,813—	18,236,828
Massachusetts—	531,894,794—	550,976,349—	19,081,555
Michigan—	926,977,662—	959,052,590—	32,074,928
Minnesota—	523,448,534—	541,421,862—	17,973,328
Mississippi—	389,213,117—	402,777,975—	13,564,858
Missouri—	762,024,021—	787,964,042—	25,940,021
Montana—	315,817,904—	326,328,233—	10,510,329
Nebraska—	244,575,447—	253,237,541—	8,662,094
Nevada—	256,097,971—	264,815,350—	8,717,379
New Hampshire—	146,151,389—	151,261,615—	5,110,226
New Jersey—	859,742,154—	889,143,627—	29,401,473
New Mexico—	310,184,441—	320,814,509—	10,630,068
New York—	1,450,156,103—	1,501,247,422—	51,091,319
North Carolina—	930,622,868—	962,100,250—	31,477,382
North Dakota—	207,347,401—	214,686,636—	7,339,235
Ohio—	1,147,361,001—	1,186,456,027—	39,095,026
Oklahoma—	504,786,983—	522,318,817—	17,531,834
Oregon—	372,563,076—	385,730,512—	13,167,436
Pennsylvania—	1,443,922,086—	1,494,303,625—	50,381,539
Rhode Island—	163,809,919—	169,786,620—	5,976,701
South Carolina—	548,969,028—	567,442,319—	18,473,291
South Dakota—	217,374,734—	224,862,704—	7,487,970
Tennessee—	704,208,483—	728,011,969—	23,803,486
Texas—	2,868,608,137—	2,964,113,622—	95,505,485
Utah—	259,427,213—	268,373,350—	8,946,137
Vermont—	134,115,890—	138,995,286—	4,879,396
Virginia—	859,531,139—	888,675,696—	29,144,557
Washington—	556,453,022—	576,378,211—	19,925,189
West Virginia—	350,067,330—	361,686,708—	11,619,378
Wisconsin—	642,654,090—	663,976,975—	21,322,885
Wyoming—	215,495,030—	223,007,830—	7,512,800
Subtotal—	32,700,127,377—	33,819,228,768—	1,119,101,391
Non-Formula programs—	7,999,872,623—	7,287,771,232—	(712,101,391)
Total—	40,700,000,000—	41,107,000,000—	407,000,000

Mr. CARDIN. Madam President, I rise today to express my support for the Senate amendment to H.R. 3288 and to thank my colleagues on the Transportation, Housing & Urban Development, and Related Agencies Appropriations Subcommittee for their fine work in crafting a bill that meets the priorities of the Nation while remaining fiscally responsible.

I would particularly like to thank my colleagues for the provision of \$150 million for capital and preventive maintenance of the Washington Metropolitan Transit Authority's Metro System. The Metro system is sometimes known as "America's Subway" and for good reason. Many Metrorail stations were built at the request of the Federal Government and nearly half of all stations are located at Federal facilities. Federal employees comprise 40 percent of WMATA's peak ridership. WMATA also plays a critical role for ensuring the continuity of Federal Government operations during an emergency. The Federal Government's interest in Metro is clear.

I am sure you all recall the tragic Metrorail accident on June 23 of this year that took the lives of nine individuals. We cannot allow another such tragedy to occur. I appreciate the committee making a commitment to the

safety of the 100 million passengers who travel on Metro each year.

Mass transit is critically important in Maryland as we look for ways of reduce energy and greenhouse gas emissions. The committee has funded two important mass transit projects in Maryland, the purple line in suburban Washington and Baltimore's red line. The purple line is a proposed 16-mile light rail or bus rapid transit line extending from Bethesda in Montgomery County to New Carrollton in Prince George's County. The Baltimore red line is a proposed 14-mile light rail rapid transit line extending from the Woodlawn area of Baltimore County, MD, through downtown Baltimore City to the Johns Hopkins Bayview Medical Campus in East Baltimore. Each project will ease traffic congestion, reduce carbon emissions, conserve energy, and improve the quality of life for many Marylanders.

Maryland has a number of military installations throughout the State. Consequently, several communities will be affected by the upcoming round of base realignment and closures, BRAC. I would like to thank the committee for taking this into consideration and providing funding for BRAC-related improvements at Andrews Air Force Base in Prince George's County,

near Fort Meade in Anne Arundel County, near Aberdeen Proving Grounds in Harford County, and in the vicinity of the National Navy Medical Center in Montgomery County. Nearly 50,000 new residents will arrive in Maryland as a result of BRAC. I appreciate the committee's help to make sure Maryland's transportation infrastructure is well-prepared for this population influx.

I would also like to thank the committee for funding two important economic development initiative projects in Maryland, the Harriett Tubman Underground Railroad Park and Visitors Center and the Maryland Food Bank.

Harriett Tubman was born on Maryland's Eastern Shore. It was from there that she escaped from slavery and went on to become one of the leaders of the Underground Railroad. Funding for the Harriett Tubman Underground Railroad Park and Visitors Center will support the continued design, engineering, and site preparation for the joint State-Federal Visitors Center at the State park and envisioned Federal park. The project is in rural Dorchester County. Tourism is a growing part of the economy and is viewed by the State and county economic development officials as the economic future of the area. The adjacent Blackwater

National Wildlife Refuge is already a major attraction for eco-tourists. This Visitors Center will serve as a focal point of a growing tourism economy in the region while also celebrating one of America's true heroes.

The Maryland Food Bank provides food to 900 soup kitchens, food pantries, shelters, and other community-based organizations across the State. These agencies, in turn, feed hundreds of thousands of hungry Marylanders each year. Last year, the Maryland Food Bank distributed 14.3 million pounds of food. The dire state of the economy has placed increased demands on the food bank. Critical infrastructure needs must be met in order to sustain and expand services to meet the growing need. I am grateful that the committee has provided funds through this bill to meet those needs. This funding will greatly benefit Maryland's hungry families.

In closing, again let me say how much I appreciate the work of Senator MURRAY, Senator BOND, and their staffs along with the rest of the subcommittee. They have crafted a bill that adequately provides for critical transportation infrastructure, addresses housing needs for America's most vulnerable populations, and injects economic drivers into underserved communities, all while remaining 2 percent under the President's requested budget. I find that quite impressive and I support this bill.

Ms. COLLINS. Madam President, I rise to speak in support of provisions I authored in the fiscal year 2010 Transportation-HUD appropriations bill that would increase safety, save energy, and decrease emissions by creating a 1-year pilot project to allow trucks weighing up to 100,000 pounds to travel on Maine's interstates. This provision also requires an analysis by the U.S. Department of Transportation and the State of Maine to study the effects of the increase on safety, road and bridge durability, energy use, and commerce. The U.S. Department of Transportation will report its findings to Congress. This Maine pilot project does not have any impact on other States' weight laws and regulations.

By way of background, let me explain why this pilot project is needed. Under current law, trucks weighing 100,000 pounds are allowed to travel on the portion of Interstate 95 designated as the Maine Turnpike, which runs from Maine's border with New Hampshire to Augusta, our capital city. At Augusta, the turnpike designation ends, but I-95 proceeds another 200 miles north to Houlton. At Augusta, however, heavy trucks must exit the modern four-lane, limited-access highway and are forced onto smaller, two-lane secondary roads that pass through cities, towns, and villages. The same problem occurs for Maine's other interstates like 295 out of Portland and 395 in the Bangor-Brewer area.

Trucks weighing up to 100,000 pounds are already permitted on interstate

highways in New Hampshire, Massachusetts, and New York as well as the Canadian Provinces of New Brunswick and Quebec. The weight limit disparity on various segments of Maine's Interstate Highway System is a significant impediment to commerce, increases wear-and-tear on our secondary roads, and, most important, puts our people needlessly at risk.

Diverting trucks onto these secondary roads raises critical safety concerns. In fact, there have been several accidents, some of which have tragically resulted in death, which have occurred after these large trucks were diverted onto secondary roads and through smaller communities. For example, in May 2007, a 17-year-old high school student from Hampden, ME, lost her life when her car was struck by a heavy truck on route 9. The truck driver could not see the car turning onto that two-lane road as he rounded a corner. Interstate 95 runs less than three-quarters of a mile away, but Federal law prevented the truck from using that modern, divided highway, a highway that was designed to provide ample views of the road ahead.

A year earlier, Lena Gray, an 80-year-old resident of Bangor, was struck and killed by a tractor-trailer as she was crossing a downtown street. Again, that accident would not have occurred had that truck been allowed to use I-95, which runs directly through Bangor.

In June 2004, Wilbur Smith Associates, a nationally recognized transportation consulting firm, completed a study to examine the impact a federal weight exemption on non-exempt portions of Maine's Interstate Highway System would have on safety, pavement, and bridges. The study found that extending the current truck weight exemption on the Maine Turnpike to all interstate highways in Maine would result in a decrease of 3.2 fatal crashes per year. The study also found that the fatal accident rate on the secondary roads was 10 times higher than on the turnpike, and the injury accident rate was seven times higher.

While improving safety is the key objective, a uniform truck weight limit of 100,000 pounds on Maine's interstate highways also would reduce highway miles, as well as the travel time, necessary to transport freight through Maine, resulting in economic and environmental benefits. Moreover, Maine's extensive network of local roads would be better preserved without the wear and tear of heavy truck traffic.

Interstate 95 north of Augusta, ME, where trucks are currently limited at 80,000 pounds, was originally designed and built for military freight movements to Loring Air Force Base at weights much heavier than 100,000 pounds. Raising the truck weight limit would keep heavy trucks on the interstates, which are designed to carry more weight than the rural State roads.

The argument that 100,000 pound trucks would cause greater road dete-

rioration is misguided. Current Maine law requires that vehicles carrying up to 100,000 pounds on State roads be six-axle combination vehicles. Current Federal law requires that vehicles carrying 80,000 pounds be five-axle. Contrary to erroneous assumptions, six-axle 100,000 pound vehicles are not longer, wider or taller than the five-axle 80,000 pound vehicles. The six-axle 100,000 pound vehicles, which include an additional set of brakes, allow for greater weight distribution thereby not increasing road wear and tear. Further, stopping distances and safety are in no way diminished, and preliminary data from studies conducted by the Maine State Police support this statement. That is why Maine's Commissioner of Public Safety, the Maine State Troopers Association, and the Maine Association of Police all support this pilot project.

A higher weight limit in Maine will not only preserve our rapidly deteriorating roads, but will provide economic relief to an already struggling trucking industry. Trucks weighing up to 100,000 pounds are permitted on interstate highways in New Hampshire, Massachusetts, and New York as well as the Canadian provinces of New Brunswick and Quebec. Maine truck drivers and the businesses they serve are at a competitive disadvantage.

Last year, I met with Kurt Babineau, a small business owner and second generation logger and trucker from Maine. Like so many of our truckers, Kurt has been struggling with the increasing costs of running his operation. All of the pulpwood his business produces is transported to Verso Paper in Jay, ME, a 165-mile roundtrip. This would be a considerably shorter trip if his trucks were permitted at 100,000 pounds to remain on Interstate 95. Instead, his trucks must travel a less direct route through cities and towns. Kurt estimated that permitting his trucks to travel on all of Interstate 95 would save him 118 gallons of fuel each week. At last year's diesel cost of approximately \$4.50 a gallon, and including savings from his drivers spending less time on the trip, he could have saved more than \$700 a week, and more than \$33,000 and 5,600 gallons of fuel annually. These savings would not only be beneficial to Kurt's bottom line, but also to his employees, his customers, and to our nation as we look for ways to decrease the overall fuel consumption.

An increase of the Federal truck weight limit in Maine is widely supported by public officials throughout Maine, including the Governor, the Maine Association of Police, and the Maine Department of Public Safety, which includes the State Bureau of Highway Safety, the Maine State Police, and the Bureau of Emergency Communications. I have several letters of support from these officials and organizations, which I will submit for the record with my statement. The Maine

Legislature also has expressed its support for the change having passed resolutions over the past several years calling on Congress to raise the Federal truck weight limit to 100,000 pounds in Maine. I urge my colleagues to support this important provision in the Fiscal Year 2010 THUD appropriations bill.

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

STATE OF MAINE,

Augusta, Maine, September 10, 2009.

Hon. DANIEL INOUE, *Chair,*

Hon. THAD COCHRAN, *Ranking Member,*  
*Appropriations Committee, U.S. Senate, Wash-*  
*ington, DC.*

Hon. PATTY MURRAY, *Chair,*

Hon. CHRISTOPHER S. BOND, *Ranking Member,*  
*Subcommittee on Transportation, HUD and Related*  
*Agencies, U.S. Senate, Washington,*  
*DC.*

DEAR SENATORS INOUE, COCHRAN, MURRAY AND BOND: As the FY 2010 Transportation-HUD Appropriations bill nears debate in the U.S. Senate, I would like to again express my strong and unwavering support for Section 194 of the bill, which would permit the state of Maine to conduct a one-year pilot program to assess the benefits of allowing increased weight limits for heavy vehicles traveling on any part of Maine's Interstate highway system. My support is grounded in my conviction that this pilot will establish that the higher weight limits on Maine's Interstates will improve the safety and efficiency of heavy vehicles operating on Maine Roads.

Currently, on Maine's Interstate highway system, higher state truck weight limits may be enforced only on Interstate 95 beginning in Kittery and on the Maine Turnpike portion of I-95, which ends in Augusta. Lower federal truck weight limits are enforced on all other Maine Interstate highways. As you know, only the United States Congress can change Interstate truck weight limits, and MaineDOT has been working with the Maine Congressional delegation for some time to pass a federal law to rectify this problem. The current situation negatively impacts the safety of Maine's highways, the health of Maine's economy, and the durability of its highways and bridges. Thus, I strongly support inclusion of section 194 in the FY 2010 DOT-HUD Appropriations Bill.

Maine has a long history of allowing trucks at 100,000-lbs. gross vehicle weight (GVW) to operate on the Maine Turnpike portion of I-95 south of Augusta, with a record of positive economic, environmental and safety outcomes. An extension of this practice to the remainder of the Maine Interstate highway system would divert 100,000-lb. trucks from secondary roads lined with numerous schools, intersections, driveways and traffic lights, and put them on the highway infrastructure that is designed to handle such demands.

A MaineDOT Engineering Opinion signed in June 2008 by five of our top bridge and infrastructure engineers, including the department's Chief Engineer with more than 50 years of highway engineering experience, stated that, "... it is the professional opinion of the undersigned that Maine's interstate system can support the addition of the 100,000-lb. GVW vehicles to Maine's interstate traffic stream, without any noticeable or significant damage to the system's infrastructure."

More specifically, MaineDOT study findings indicated that an Interstate truck weight exemption would save the State of Maine between \$1.3 million and \$2 million annually in bridge and pavement costs. A

companion 2004 Maine DOT study of the currently exempted Maine Turnpike estimated that the federal truck weight exemption on that highway, which allows higher state weight limits, saves the state between \$2.1 million and \$3.2 million annually in bridge and pavement costs. Also, the increased pavement consumption of a six-axle combination truck compared with the five-axle truck is relatively small due to the advantage of adding an axle to offset the weight increase and to the reduced number of trips by the loaded vehicle. A federal truck weight exemption would annually remove an estimated 7.8 million loaded truck-miles of travel from Maine's primary and secondary road system, diverting the traffic to the safer Interstate highway system.

From an environmental standpoint, the federal truck weight exemption would reduce Maine's and the nation's dependence on foreign oil by eliminating the need to divert to less direct routes, thereby reducing overall fuel usage. In addition, increasing payload capacities reduces the number of truck-miles traveled for a given load, thereby reducing fuel usage. Fewer trucks on the road and lower fuel usage also result in lower emissions—a direct environmental benefit.

Also, the State of Maine just completed a study entitled "Estimating Fuel Consumption and Emissions in Maine: A Comparative Analysis for a Six-Axle, 100,000-lb. Vehicle." The study was prepared by the American Transportation Research Institute. Preliminary findings included significant efficiency improvements and trip-specific emissions improvements in the comparison of two different parallel routes—an Interstate route and a state highway route. Efficiency improvements measured in miles per gallon were determined to be 14-21 percent on the Interstate route. Emissions were also expected to decrease by 6-11 percent for CO<sub>2</sub> and 3-8 percent for NO<sub>x</sub> and MNHC on the Interstate.

In summary, enacting a federal truck weight limit exemption on the currently non-exempt Maine Interstate highway system would:

Reduce truck crashes on Maine's highways;  
Reduce the number of trucks necessary to haul a given load;

Allow heavy truck traffic on the much safer Interstate highway system;

Divert many through-trucks from congested town centers with schools, gas stations, intersections, crosswalks, etc.;

Reduce regional transportation costs, making Maine industry more competitive with its neighbors and enhancing interstate and international trade;

Reduce net fuel consumption; and  
Save \$1.3 to \$2.0 million annually in infrastructure costs by reducing impacts.

As Senate action on the FY 2010 DOT-HUD Appropriations Bill moves forward, I want to voice my strong support for Section 194, which will promote safer and more efficient truck movement on Maine's highways.

Sincerely,

JOHN E. BALDUCCI,  
*Governor.*

STATE OF MAINE,  
DEPARTMENT OF PUBLIC SAFETY,  
Augusta, ME, September 9, 2009.

Hon. SUSAN COLLINS,  
*U.S. Senate, Senate Office Building,*  
*Washington, DC.*

DEAR SENATOR COLLINS: On behalf of the Maine Department of Public Safety, I am writing in support of your efforts to include a one year pilot program in the FY2010 Transportation, Housing and Urban Development Appropriations Bill to allow trucks weighing up to 100,000 pounds to operate the entire length of the Interstate Highway here

in Maine. We strongly believe that such a program will allow all Mainers to travel more efficiently and especially more safely along our rural roads if this were to occur.

Last year in Maine, 155 people tragically died on Maine's highways. 23 of these deaths involved large trucks. We also know that of these 23 deaths, more than 80% occurred on our rural roads. We attribute many of these deaths to the fact that large trucks are forced by current Federal law and policy to exit our safe, divided 4-6 lane interstate highway at Augusta, a mere 100 miles into Maine, and travel along two lane rural roads. Many of these trucks are then forced to travel six to eight hours or more along our rural roads to reach their destinations instead of being allowed to travel along the divided highway.

These roads pass through our villages, our towns, past churches, schools, shopping centers, parks and Little League fields. Unlike our major highway that limits access, thereby cutting down on collisions, these rural roads have thousands of locations where roads cross, people enter from parking lots and private driveways and young children, adults and elderly people walk, bike and run.

Each time you add an access point to these roads, you increase the potential for a tragic accident to occur. Each time a truck is forced to travel along an undivided highway, the potential for other vehicles to cross over into its lane, to unexpectedly pull out in front of the truck, for a young child to run into the roadway or for a bicycle to swerve into the lane of travel, increases dramatically. Each of these incidents is a tragedy waiting to happen.

The Maine Department of Public Safety, which includes the State Bureau of Highway Safety, the Maine State Police and the Bureau of Emergency Communications, strongly supports your proposal. State and Federal Motor Carrier statistics that have been gathered over the years tell us that every time you can get a large truck off a small rural road and onto a divided limited access highway, the chance to avoid accidents and prevent death greatly increases. The proposed bill is a smart, practical and well reasoned approach to this problem. The Maine Department of Public Safety wholeheartedly supports your efforts.

Please feel free to contact me at my office at 207 626 3800 if there is any further information I can provide to you in support of your efforts. Thank you for your time and dedication to the efforts to make Maine's roads safer for all of our citizens and visitors.

Sincerely yours,

ANNE H. JORDAN, ESQ.  
*Commissioner of Pub Safety, State of Maine.*

STATE OF MAINE, DEPARTMENT OF  
PUBLIC SAFETY—MAINE STATE POLICE

Augusta, ME, September 10, 2009.

Hon. SUSAN COLLINS,  
*U.S. Senate, Dirksen Senate Office Building,*  
*Washington, DC.*

DEAR SENATOR COLLINS: I am writing on behalf of the Maine State Police to support your efforts to increase gross vehicle weights on Maine's non-exempt Interstate highway system. The changes you propose will not only benefit the economy of the State of Maine, but will significantly improve the safety of Maine's roads.

As you know, Maine allows gross vehicle weights of up to 100,000 lbs. on six-axle tractor semitrailers on state highways. As a result, when they reach the non-exempt portions of Maine's Interstate highway system heavy combination trucks that would travel on the Interstate system are diverted to the state highway system. This results in 100,000 lbs. trucks traveling through busy downtown



areas, through population centers, through congested intersections and next to schools and playgrounds.

A June 2004 report prepared for the Maine Department of Transportation (MaineDOT) concluded that allowing 100,000 lbs. trucks on the non-exempt Interstate Highways in Maine would result in fewer crashes. This report indicates that the crash rates on non-Interstate facilities in the study network are more than 2 1/2 times higher than the crash rate on the non-exempt Interstate System. In addition, the fatal crash rate on non-Interstate facilities is nearly 10 times the fatal crash rate on Interstate facilities while incapacitating injury crashes are more than twice as prevalent. National studies have found a strong relationship between road class and crash risk. Findings from these reports indicate that trucks traveling on rural interstates are 3 to 4 times less likely to have a fatal crash than trucks traveling on rural state and county highways.

Safety is a primary concern of the Maine State Police. Given that the Interstate highway system is the safest road network for heavy vehicle operations, we fully support your efforts to allow 100,000 lbs. six-axle semi-trailers on the non-exempt portion of Maine's Interstate highway system.

Sincerely,

COL. PATRICK J. FLEMING,  
Chief, Maine State Police.

MAINE STATE TROOPERS ASSOCIATION,  
Augusta, ME, September 11, 2009.

Hon. SUSAN COLLINS,  
Dirksen Senate Office Building,  
Washington, DC.

DEAR SENATOR COLLINS: I last wrote to you in 2005 in support of your efforts to increase the gross vehicle weights to 100,000 lbs. on Maine's non-exempt Interstate highway system. At that time, I wrote in my capacity as Chief of the Maine State Police. After retiring in 2007, I moved into the private sector as a labor consultant providing services to, amongst others, the Maine State Troopers Association (MSTA). It is on their behalf that I write today. I might add that my personal sentiments in support of your efforts have not wavered and if anything have strengthened.

The statistics continue to support the increase, both from an economic, and to my mind most importantly, a public safety standpoint. The proposed one year pilot program will provide an opportunity for due diligence on the part of policy makers and policy implementers by way of an analytical survey of the results of moving heavy trucks off the secondary roads and on to the Interstate system which was engineered for such traffic. This also will allow for policy decisions to be made based on facts and not simply emotion or speculation.

MSTA's members are on the front line of Maine's highway safety efforts and are responsible for enforcing State and Federal commercial vehicle laws and regulations. They see no down side to this proposal. And as compelling as the data is, intuitively it just makes sense. While the naysayers believe it will increase risk, no data supports that notion.

Safety remains the primary concern of Maine's Troopers as it did in 2005. For that reason we offer our support in your efforts to move 100,000 lb. six-axle semi-trailers on the non-exempt portion of Maine's Interstate system. Thank you for your efforts on this important initiative.

Sincerely,

CRAIG A. POULIN,  
Executive Director, MST A.

MAINE ASSOCIATION OF POLICE, SOUTH  
PORTLAND, ME, SEPTEMBER 9, 2009.  
Senator SUSAN COLLINS,  
Dirksen Senate Office Building,  
Washington, DC.

DEAR SENATOR COLLINS, The Maine Association of Police offers and urges support of your efforts to include a one year pilot project in the FY 2010 Transportation, Housing and Urban Development Appropriations bill to allow trucks weighing up to one hundred thousand pounds to utilize the full length of Maine's interstate highway system.

Currently, federal law prohibits trucks weighing more than eighty thousand pounds from traveling the I-95 corridor from the city of Augusta, north. Because the Maine Turnpike, also designated as I-95, is a private, toll road, this prohibition does not exist from the New Hampshire border to Augusta.

This inconsistency creates a situation in which commercial vehicles not conforming to the federal weight restriction are forced to leave the interstate system and travel state secondary roads. As law enforcement first responders, this forced departure from the interstate system is of great concern. Given the nature and daily use of secondary roads vital to Maine citizens, this restriction creates an unnecessary risk by forcing these commercial vehicles off of a system that is specifically designed and engineered for this type of commercial traffic.

The pilot project also provides for the diligent study of the impacts that this temporary change will have on Maine's interstate system to address concerns that many would have as to the long term impact of commercial traffic. An unintended side benefit also provides an opportunity for Maine Law Enforcement to gauge the impact of removing this traffic from secondary roads through crash reporting and other statistical data. It also affords law enforcement a clear venue to direct enforcement and safety operations as they relate to commercial vehicle issues.

The one year pilot project provided by this current budget takes a common sense approach to address an important issue in Maine that has gone unattended. It provides the opportunity to study the balance between an effective and efficient commerce system, fuel efficiency and environmental impacts, but most of all, the safety of Maine citizens and those who visit our great state. We look forward to the committee's support of your efforts in making this opportunity a reality.

Sincerely,

PAUL GASPAR,  
Executive Director.

SEPTEMBER 11, 2009.

Hon. SUSAN COLLINS,  
U.S. Senate, Dirksen Senate Office Building,  
Washington, DC.

DEAR SENATOR COLLINS: On behalf of the Coalition for Transportation Productivity (CTP) and its 120 members nationwide, I am writing to express strong support for Section 194 of the FY 2010 Transportation-HUD Appropriations Bill now pending before the Senate. This provision would enable the state of Maine to conduct a one-year pilot program to test the impact of allowing 100,000 pound, six-axle single-trailer trucks to access Maine's interstate highway network.

CTP was organized to promote the passage of federal legislation giving each state the option to increase its interstate vehicle weight limit to 97,000 pounds for six-axle trucks if the state determines that the infrastructure of these roads can safely accommodate the heavier loads. Maine officials have determined that their state roads are fully

capable of handling these loads. It is important to note that highway safety, environmental performance and economic productivity would all be improved by allowing this pilot program to occur.

Increasing the interstate weight limit would allow businesses and shippers to carry a specific amount of freight using fewer trucks. This is especially significant for highway safety because accident rates among heavy vehicles are strongly tied to the vehicle miles traveled (VMT), and consolidating freight would reduce VMTs to make roads safer. It is important to note that since the United Kingdom raised its gross vehicle weight limit for six-axle vehicles in 2001, fatal truck-related accident rates have declined by 35 percent. More freight has been shipped, while the number of VMTs to deliver a ton of freight has declined.

Moreover, the current interstate weight limit often forces trucks to travel on rural roads that often wind through towns, passing schools and private driveways, where accidents are more likely to occur. The provision would put these trucks on better-engineered, divided interstate highways, where they can safely and efficiently transport goods.

Allowing six-axle vehicles to carry more weight would also yield cleaner air and greener shipping by cutting fuel use and carbon emissions. A 2008 American Transportation Research Institute study found that six-axle trucks carrying about 100,000 pounds get 17 percent more ton-miles per gallon than five-axle trucks carrying 80,000 pounds. More efficient shipping means a smaller carbon footprint.

Finally, raising the interstate vehicle weight limit will have widespread economic benefits. At a point when many producers are facing tough economic times and smaller budgets, the provision will enable them to reduce the number of weekly shipments—cutting costs, spurring investment and protecting valuable jobs.

Furthermore, producers in Maine and across the country are currently at a productivity disadvantage because Canada, Mexico and most European countries now have higher truck weight limits. Harmonizing weight limits with our major trading partners will ease the cost of moving U.S. goods into international markets and stop costly freight consolidation at our ports and border crossings. With Canada's higher weight limits, the provision in Maine would help Northeastern producers compete for market share and efficiently export goods.

It is a fact that allowing heavier, more efficient trucks to operate on our nation's interstates would improve safety, reduce environmental impact and strengthen the economy. CTP applauds Sen. Collins for introducing the provision.

Sincerely,

JOHN RUNYAN,  
Executive Director.

AMERICAN TRUCKING ASSOCIATIONS,  
Washington, DC.

Hon. DANIEL INOUE,  
Chairman, Committee on Appropriations,  
U.S. Senate, Washington, DC.

DEAR CHAIRMAN INOUE: The American Trucking Associations supports Senator Collins' efforts to secure a 1 year pilot program in the Fiscal Year 2010 Transportation and Housing and Urban Development Appropriations bill that would allow for more productive vehicles to be operated on Maine's interstate highways. The inclusion of this provision will improve safety, reduce greenhouse gas emissions, and benefit Maine's economy.

Under current law, six axle vehicles with a gross vehicle weight of 100,000 lbs are allowed to operate on the Maine Turnpike (I-95) from

the New Hampshire border to Augusta, ME. Upon reaching Augusta, however, the federal weight preemption on the Interstate Highway System forces trucks weighing more than 80,000 lbs off of I-95 onto smaller secondary roads which are less safe than Interstates. The removal of the federal prohibition would allow trucks on the roads that are best suited for them.

This pilot project is also an effective strategy for mitigating the impacts of carbon dioxide on climate change due to the reduction in fuel use as a result of fewer trips needed to deliver a given amount of freight. A recent study found that more productive vehicles could reduce fuel usage up to 39% with similar reductions in greenhouse gas emissions.

Furthermore, the allowance of more productive vehicles on the Interstate will help to alleviate Maine's current economic disadvantage. Jurisdictions surrounding Maine all have significantly higher weight limits on their highways. New Hampshire and Massachusetts both allow trucks up to 99,000 lbs. and Canada allows for truck weights greater than 100,000 lbs. Maine's inability to allow for higher weight limits has made it a virtual island unto itself.

ATA encourages the Committee to include the Maine pilot project as part of the final FY 2010 THUD Appropriations bill. This is good public policy and we commend Senator Collins for her efforts to address Maine's needs.

TIMOTHY P. LYNCH,  
Senior Vice President,  
Office of Legislative Affairs

Mr. DODD. Madam President, several of my colleagues offered amendments that would prohibit funding for individual transportation and housing projects in the underlying bill, including several important projects for Connecticut. I question the judgment of my colleagues who attack specific programs without regard for the purpose these projects serve or the impact they will have in the community. I also question the notion that Washington knows better than the communities and States which projects will provide critical services, stimulate their local economies, and preserve jobs.

I would like to take this opportunity to explain some of the critical funding for Connecticut in this important legislation.

In my State of Connecticut, home to some of America's most frustrating traffic congestion, transit is the future of transportation. Investments in sustainable development have resulted in the creation of job centers and residential communities built around transit stations, all the while serving to clear space on the roads. This transportation funding bill includes \$4 million for improvements to the New Haven-Hartford-Springfield rail line, which would establish both faster intercity and commuter rail service between New Haven, Hartford, and Springfield, provide residents of central Connecticut with better access to southwest Connecticut, New York City, western Massachusetts, and Vermont. It also includes nearly \$10 million in transit-related projects across the State, including the development of the Thompsonville Intermodal Transportation Center in Enfield, a passenger

rail station in West Haven, the Bridgeport Intermodal Center, and expanding transit services and access in Stamford. Transit projects such as these connect Connecticut residents with jobs and make it possible for the regional economies to grow.

Sustainable development and livable communities depend on helping towns and regions across Connecticut invest in their transportation, housing, land use, and economic development needs. That is, for example, this bill includes \$1.5 million in funding for the city of Waterbury for the development of brownfield properties and the Naugatuck River Greenway. This community faces a 12.7 percent unemployment rate and millions of square feet of unused, factory space contaminated by generations of brass production and industrial uses. Funding for development of former brownfield sites in Waterbury has been a target on this Senate floor. An amendment was offered to strip away this project's funding. For Members of this body who have never visited Waterbury, I welcome them to walk the streets of this city and question whether this community needs Federal assistance to redevelop properties that have been long-contaminated, abandoned, and blighted. There have been investments on the local and State level to provide this city with the tools they need to thrive. It is only just that the Federal Government do the same.

Our ability to foster economic growth through sustainable development in Connecticut depends on our ability to have affordable housing and assist homeowners struggling to keep their homes in this financial downturn. By providing the resources to keep people in their homes and assistance to communities to expand affordable housing, we can truly strengthen our economy. That is why this bill includes critical funding for housing and foreclosure programs across Connecticut. The bill makes investments in regions, including funds for the Southeastern Connecticut Housing Alliance in Norwich to provide technical assistance to communities in New London County to increase affordable housing and support for the Urban League of Southern Connecticut to provide for foreclosure prevention assistance programs to all of Connecticut. In central Connecticut, funding will support foreclosure prevention and homeownership initiatives in Middletown.

This bill provides nearly \$17 million for the State of Connecticut, representing investments in critical programs and services to help the people of my State. This bill supports local officials and organizations that know best the needs of their communities. It represents jobs and economic growth and I am proud to support it.

Madam President, I was pleased to join with my colleagues Senator MURRAY and Senator BOND to provide much-needed funding to avoid terminations of section 8 housing voucher

assistance to families across the country. The Census Department's recently released poverty figures show that in 2008—before the full brunt of the current recession—nearly one in five American children lived in poverty. Given the challenges confronting the economy and our families, housing assistance programs like section 8 vouchers could not be more important.

Senators MURRAY and BOND have worked hard in recent years to ensure that the section 8 voucher program is adequately funded. Unfortunately, initial budget estimates that they received from the Bush administration last year proved to be too low to accommodate the needs of the program. In recent months, we have seen newspaper accounts of section 8 funding shortfalls in communities around the country, with families worried that they would have their housing assistance reduced or terminated altogether. The funds provided by this amendment will help ease the minds of many families.

I am also pleased that these funds have been identified from within the section 8 voucher account itself, so this solution is also budget-neutral.

I would be remiss if I did not thank Senators MURRAY and BOND for their good work in assembling this challenging bill. The Transportation-HUD appropriations bill is responsible for funding our national transportation infrastructure, vital housing assistance and funding to combat homelessness, and aid to our hard-pressed cities and towns. In this bill, the Senators have been able to provide valuable HUD funding increases for priorities such as public housing, section 8 assistance, and community development block grants. I also appreciate the bill's strong funding for transportation, and particularly public transportation programs.

Finally, I would like to thank my colleagues for the \$100 million they provided for competitive capital grants to transit agencies seeking to reduce energy consumption and greenhouse gas emissions. Senator SHELBY and I worked with the managers to include these grants in the economic recovery bill earlier this year. We appreciate their continued support for this initiative.

Mrs. MURRAY. Madam President, we are now on final passage. I urge all of our colleagues to vote yes.

Mr. BOND. Madam President, I join with my colleague in thanking all Members and urging an aye vote.

The PRESIDING OFFICER. Under the previous order, the committee amendment in the nature of a substitute is agreed to. The motion to reconsider is considered made and laid on the table.

The question is on the engrossment of the committee amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

Mrs. MURRAY. I yield back our time and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is, shall the bill as amended pass:

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Louisiana (Ms. LANDRIEU) is necessarily absent.

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

The result was announced—yeas 73, nays 25, as follows:

[Rollcall Vote No. 287 Leg.]

#### YEAS—73

Akaka	Franken	Nelson (NE)
Alexander	Gillibrand	Nelson (FL)
Baucus	Gregg	Pryor
Begich	Hagan	Reed
Bennet	Harkin	Reid
Bennett	Hatch	Roberts
Bingaman	Hutchison	Rockefeller
Bond	Inouye	Sanders
Boxer	Johanns	Schumer
Brown	Johnson	Shaheen
Brownback	Kaufman	Shelby
Burris	Kerry	Snowe
Byrd	Klobuchar	Specter
Cantwell	Kohl	Stabenow
Cardin	Lautenberg	Tester
Carper	Leahy	Udall (CO)
Casey	Levin	Udall (NM)
Cochran	Lieberman	Voinovich
Collins	Lincoln	Warner
Conrad	Lugar	Webb
Dodd	Menendez	Whitehouse
Dorgan	Merkley	Wicker
Durbin	Mikulski	Wyden
Feingold	Murkowski	
Feinstein	Murray	

#### NAYS—25

Barrasso	DeMint	McCain
Bayh	Ensign	McCaskill
Bunning	Enzi	McConnell
Burr	Graham	Risch
Chambliss	Grassley	Sessions
Coburn	Inhofe	Thune
Corker	Isakson	Vitter
Cornyn	Kyl	
Crapo	LeMieux	

#### NOT VOTING—1

Landrieu

The bill, H.R. 3288, as amended, was passed, as follows:

(The bill will be printed in a future edition of the RECORD.)

Mrs. MURRAY. Madam President, I move to reconsider the vote and lay that motion upon the table.

The motion to lay upon the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senate insists on its amendment and requests a conference with the House on the disagreeing votes of the two Houses.

The chair appointed Mrs. MURRAY, Mr. BYRD, Ms. MIKULSKI, Mr. KOHL, Mr. DURBIN, Mr. DORGAN, Mr. LEAHY, Mr. HARKIN, Mrs. FEINSTEIN, Mr. JOHNSON, Mr. LAUTENBERG, Mr. SPECTER, Mr. INOUE, Mr. BOND, Mr. SHELBY, Mr. BENNETT, Mrs. HUTCHISON, Mr. BROWNBACK, Mr. ALEXANDER, Ms. COLLINS, Mr. VOINOVICH, and Mr. COCHRAN, conferees on the part of the Senate.

#### EXECUTIVE SESSION

#### NOMINATION OF GERARD E. LYNCH TO BE UNITED STATES CIRCUIT JUDGE FOR THE SECOND CIRCUIT—Continued

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session to vote on the nomination of Gerard E. Lynch, of New York, to be U.S. circuit judge for the Second Circuit.

There is 2 minutes of debate equally divided.

The Senator from Vermont is recognized.

Mr. LEAHY. Madam President, it is Constitution Day. Two hundred twenty-two years ago today, the Constitutional Convention finished its work and proposed our fundamental charter.

With this vote, the Senate will finally begin fulfilling one of its most important constitutional duties by granting consent to the President's lifetime appointment to the Federal judiciary. This is the first Federal circuit court judge the Senate has confirmed all year. The Senate has yet to confirm a single district court judge. Judicial vacancies have spiked and could approach 120 soon.

We all know Judge Lynch is an outstanding judge and will make an excellent circuit judge. His nomination has been on the calendar awaiting Senate action for more than 3 months. I am glad his wait is finally over. The President made a good nomination, and the Senate should grant consent so that Judge Lynch's appointment may finally proceed.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Madam President, this nominee is a brilliant lawyer and an excellent, hard-working judge. He has made a number of speeches in the past which evidenced an activist philosophy. I voted against him in 1997 when he came up. And absent one or two opinions since then, it seems he has done an excellent job on the bench.

I remain concerned that we are seeing a pattern of nominees who believe they have the power to amend the Constitution. One—not this one—has said he can make footnotes to the Constitution. But this nominee is a man of good integrity, a proven record on the bench, and I will support the nomination.

I yield the floor.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Gerard E. Lynch, of New York to be U.S. Circuit Judge for the Second Circuit?

Mr. SESSIONS. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be.

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from Louisiana (Ms. LANDRIEU) is necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from Wyoming (Mr. ENZI).

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

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

[Rollcall Vote No. 288 Ex.]

#### YEAS—94

Akaka	Feingold	Mikulski
Alexander	Feinstein	Murkowski
Barrasso	Franken	Murray
Baucus	Gillibrand	Nelson (NE)
Bayh	Graham	Nelson (FL)
Begich	Grassley	Pryor
Bennet	Gregg	Reed
Bennett	Hagan	Reid
Bingaman	Harkin	Risch
Bond	Hatch	Roberts
Boxer	Hutchison	Rockefeller
Brown	Inouye	Sanders
Brownback	Isakson	Schumer
Burr	Johanns	Sessions
Burris	Johnson	Shaheen
Byrd	Kaufman	Shelby
Cantwell	Kerry	Snowe
Cardin	Klobuchar	Specter
Carper	Kohl	Stabenow
Casey	Kyl	Tester
Chambliss	Lautenberg	Thune
Cochran	LeMieux	Udall (CO)
Collins	Leahy	Udall (NM)
Conrad	Levin	Vitter
Corker	Lieberman	Voinovich
Cornyn	Lincoln	Warner
Crapo	Lugar	Webb
DeMint	McCain	Whitehouse
Dodd	McCaskill	Wicker
Dorgan	McConnell	Wyden
Durbin	Menendez	
Ensign	Merkley	

#### NAYS—3

Bunning Coburn Inhofe

#### NOT VOTING—2

Enzi Landrieu

The PRESIDING OFFICER. Under the previous order, the motion to reconsider is considered made and laid on the table. The President will be immediately notified of the Senate's action.

#### LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will resume legislative session.

#### DEPARTMENT OF THE INTERIOR, ENVIRONMENT, AND RELATED AGENCIES APPROPRIATIONS ACT, 2010—Continued

AMENDMENT NO. 2394

The PRESIDING OFFICER. There are now 2 minutes of debate prior to a vote in relation to amendment No. 2394 offered by the Senator from Nebraska, Mr. JOHANNES.

The Senator from Nebraska.

Mr. JOHANNES. Madam President, this morning I presented the argument on this amendment to the Senate. The question was raised: We don't think there is money that comes out of this budget relative to this organization, ACORN. I went back to the office and did some research. This is a bill that controls hundreds of grant programs. After studying that, it appears I was right. ACORN gets money out of this appropriations.

Moments ago my staff brought me information that would suggest that

ACORN has, in fact, received funding. The EPA is a part of this bill. If Members go to this bill at page 182, they will see the EPA is there. We went to the EPA Web site. Here is what the Web site says, referencing a grant program, that it is a collaboration of non-profit organizations led by Ellis Hamilton.

Mr. LEAHY. Madam President, these videotapes that are the excuse for this amendment understandably have offended most who have heard about them, including me. I detest the stupidity and crassness that they depict. If people have acted improperly, they should be fired, and if they have acted illegally, they should be prosecuted. Period. The Obama administration has been equally critical.

ACORN is not the reason for my vote. There is not even an ACORN office in my entire State. Nor, for that matter, is there any reason to believe that this group ever has or ever would have any interest or expertise in applying for competitive grants under the programs funded in this Interior appropriations bill.

Everyone—except perhaps many of the casual observers who are the target audience of the orchestrated anti-ACORN frenzy—knows that score-at-any-price partisanship is being mixed in an unseemly way with public policy.

For more than a year—since long before these videotapes were made—it has been well known that a partisan project has been launched to demonize ACORN. ACORN in several ways has made easy work of that.

To me, this knee-jerk injection of politics into the competitive grant process is the real issue here. Congress should not compound the wrongful and stupid actions depicted on these videos by deciding to set political standards for competitive Federal grants. Federal agencies use a nonpartisan review process to award grants to the most competitive applicants. Just as I would be against banning other specific organizations on the right or on the left from applying for competitive grants, I believe it is harmful, even though popular, to approve an amendment such as this.

It is unseemly to allow use of a partisan playbook to run roughshod over long-established competitive grant procedure. The admittedly few votes that were cast against this amendment, against the tide of popular opinion, have at least made it more likely that in calmer moments months or years from now, there may at least be some thought invested before Congress again acts to inject raw political partisanship from the left or from the right—into the competitive grant mechanisms of Federal agencies.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Madam President, as chairman of the committee, I urge a “no” vote on this amendment. We voted on this yesterday. The vote was compelling, 87 to 7. To the best of our

knowledge—and the staff has scrubbed the bill—there is no money for ACORN in the Interior appropriations bill. To do this is to set a precedent to do this on every single appropriations bill. This morning I said to the distinguished Senator from the great State of Nebraska: We will take this amendment. He refused. I guess all of this is really to show people. It is unnecessary. It delays. This is an important bill. We would like to get it passed. Please vote no.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. JOHANNIS. I ask unanimous consent for an additional 30 seconds.

Mrs. FEINSTEIN. I object.

The PRESIDING OFFICER. Objection is heard.

The majority leader.

Mr. REID. Madam President, I wish to inform all Members, this will be the last vote today. Tomorrow is a Jewish holiday. We will not be in session tomorrow. We will be in session Monday for Senators to offer amendments on the Interior appropriations bill. There will be no votes on Monday. There will be a vote or two prior to the caucus on Tuesday. Members with a pent-up desire to offer amendments, the floor will be theirs all day Monday. We will come in as early as they want to start offering amendments. We need to move forward on these appropriations bills. I appreciate everyone's cooperation getting this Transportation bill done. This is the fifth one we have completed. We have seven more to go.

Mr. JOHANNIS. I ask for the yeas and nays on amendment No. 2394.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

The question is on agreeing to the amendment.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Louisiana (Ms. LANDRIEU) and the Senator from Washington (Mrs. MURRAY) are necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from Wyoming (Mr. ENZI).

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

The result was announced—yeas 85, nays 11, as follows:

[Rollcall Vote No. 289 Leg.]

YEAS—85

Alexander	Cardin	Franken
Barrasso	Carper	Graham
Baucus	Chambliss	Grassley
Bayh	Coburn	Gregg
Begich	Cochran	Hagan
Bennet	Collins	Hatch
Bennett	Conrad	Hutchinson
Bond	Corker	Inhofe
Boxer	Cornyn	Inouye
Brown	Crapo	Isakson
Brownback	DeMint	Johanns
Bunning	Dodd	Johnson
Burr	Dorgan	Kaufman
Byrd	Ensign	Kerry
Cantwell	Feingold	Klobuchar

Kohl	Murkowski	Specter
Kyl	Nelson (NE)	Stabenow
Lautenberg	Nelson (FL)	Tester
LeMieux	Pryor	Thune
Levin	Reed	Udall (CO)
Lieberman	Reid	Udall (NM)
Lincoln	Risch	Vitter
Lugar	Roberts	Voinovich
McCain	Rockefeller	Warner
McCaskill	Schumer	Webb
McConnell	Sessions	Wicker
Menendez	Shaheen	Wyden
Merkley	Shelby	
Mikulski	Snowe	

NAYS—11

Akaka	Durbin	Leahy
Bingaman	Feinstein	Sanders
Burris	Gillibrand	Whitehouse
Casey	Harkin	

NOT VOTING—3

Enzi	Landrieu	Murray
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The amendment (No. 2394) was agreed to.

Mrs. FEINSTEIN. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. INOUE. Madam President, I submit pursuant to Senate rules a report, and I ask unanimous consent that it be printed in the RECORD.

#### DISCLOSURE OF CONGRESSIONALLY DIRECTED SPENDING ITEMS

I certify that the information required by rule XLIV of the Standing Rules of the Senate related to congressionally directed spending items has been identified in the committee report which accompanies H.R. 2996 and that the required information has been available on a publicly accessible congressional website at least 48 hours before a vote on the pending bill.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. BROWN. Madam President, I ask unanimous consent to speak as in morning business for up to 10 minutes.

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

Mrs. FEINSTEIN. Madam President, before the Senator begins, I wonder if I might simply say that the floor is open for any amendments to the bill. So if Members are in their offices and would like to come down and present an amendment, following Senator BROWN would be a good time.

Thank you, Madam President.

Mr. BROWN. Madam President, I thank the senior Senator from California for her indulgence and her good work on this legislation and for her leadership generally.

#### HEALTH CARE REFORM

Madam President, I come to the floor almost every day to share letters from constituents in Ohio that tell a story about how they have worked within the health care system. Some of these stories will break your heart. Some of these stories are all too common in my State and around the country. Whether it is in Lima or Toledo or Ravenna or Saint Clairsville, people who oftentimes thought they had good insurance, who had paid their premium month after month, year after year, had gotten very sick, spent a lot of money on biologic drugs and on hospital stays and then their insurance

was canceled so their insurance was not there when they needed it, even though they paid month after month after month.

Let me take 5 minutes to share three or four of these letters from people around Ohio.

The first one comes from Robert and Shirley from Clinton County. Clinton County is Wilmington, OH, just 60, 75 miles or so northeast of Cincinnati. Robert writes:

I recently retired after working 38 years in the same company, where we paid for our medical coverage under the company plans.

After retirement they grouped me and my wife in a retired group and our price plan went up tremendously.

My wife and I are both 57 years of age and until recently we were both really healthy.

Recently I was diagnosed with type 2 Diabetes, and my wife was diagnosed with type 1 Diabetes and [then] developed other medical conditions.

As so often occurs, diabetes, unfortunately, leads to other medical conditions.

Robert writes:

I would like to share some numbers with you:

My retirement income is: \$1,680.00 per month.

My medical insurance is: \$1,253.00 per month.

My [drug plan] is: \$251.00 per month.

My dental is: \$45.00 per month.

That means he is paying \$1,549 a month for drugs, dental care, and medical insurance. His retirement income is \$1,680 a month.

He then writes:

I must say that my wife and I are very disappointed in the way that some Democrats are going to the backing of the "Party Of NO," without taking into consideration the Democratic Party has always been for the working man and woman.

What Robert writes is that too often people in this situation—they retire and, in his case, he had worked for a company for 38 years. They had been relatively healthy. Then they got sick. They have paid into insurance all these years. It sounds like insurance companies have found them pretty profitable over the years because they have not been sick. All of a sudden, when they get sick—they are retired—their insurance costs have gone up so dramatically.

That is not what insurance is supposed to do.

What our legislation will do is give people, particularly those at those ages between 57 and 65—because we are leaving Medicare alone. We are going to actually make Medicare better because we are going to close that doughnut hole so people with expensive drugs can get more assistance from the government from the Medicare plan. So we make Medicare better.

But in this 8 years, for Robert and Shirley, between retirement and Medicare, somebody has to help them a little more. They have paid their dues. They have paid into insurance. He has worked 38 years at the same company.

Our legislation will allow them to go into the exchange, the insurance ex-

change. They will then be able to choose among an Ohio company such as Medical Mutual or Aetna or CIGNA or the public option. They will have a choice and they then make their decision based on what plan works for them. If their income is only \$1,500 a month, \$1,600 a month, as Robert's and Shirley's income is, then they will get some assistance for paying for that insurance so they can have much better insurance.

Valorie, from Geauga County, says:

I have always been concerned about the availability for affordable health care for those less fortunate than my husband and myself. But never has this necessity been driven home than this past February when we both lost our jobs due to the economy. Once my severance package runs out, I will not be able to pick up health insurance for my husband and myself. We are both close to 60. We will probably have a difficult time finding jobs. I am grateful the President enabled us to have COBRA benefits we could afford, but they will soon expire. What will we do after that?

COBRA gives you, after you lose your job, an opportunity to continue your health insurance for a year and a half. You pay the part of the health insurance you were paying when you were employed but, unfortunately, you have to pay the employer's side of the health insurance also, even though your income has dropped to close to nothing. President Obama, in the stimulus package we passed back in February, included assistance for people in COBRA where the government, I believe for a year, paid 60 percent of those COBRA costs, allowing people to keep their health care. But once COBRA expires, as Valorie says, they have problems.

I am worried and I pray that neither of us becomes ill because we cannot now afford our medical visits. I know there are others in the same predicament. It is my hope Congress can work on some reasonable solutions for all who need affordable health insurance.

Valorie is not much different from Robert and Shirley in that she is close to retirement but not yet Medicare age; not for another half decade or so for Valorie, and she doesn't have much income now. She has lost her job. Her husband lost his job. She could benefit greatly from going into either the public option—but it is her choice—or Aetna or CIGNA or Medical Mutual or any of the other private insurance plans, and she would look at which one works for her best. She would get some assistance in paying her premiums, but she would be paying less because those plans would have less cost than certainly she could get in the private market which always charges more money.

The third letter is from Kimberlee from Perrysburg, OH, a Toledo suburb. Perrysburg has more solar energy jobs than any other city in the country. I just add that for a little commercial for Perrysburg and my State. Kimberlee says:

I am a 52-year-old woman and stroke survivor. I am still in the recovery process, but my left side is still paralyzed. I can no longer

attend physical therapy because my insurance stopped. I can't afford private medical insurance. I am on Medicaid, but Medicaid doesn't cover all of my needed physical therapy. I now have to do my therapy at home just as I was starting to make real improvement with my physical therapy. In a short time without therapy a person will lose everything they tried so hard to gain. Wouldn't it be better to continue the therapy until recovery is made. In the long run, wouldn't it be less costly to the public?

Kimberlee is right. Most of us in this body are lucky enough to be pretty healthy. We have good insurance. We aren't in jobs that age us quickly like my father-in-law who worked in a utility company plant for years and wore his body out in so many ways. It is hard for us to empathize with somebody like Kimberlee. She is 52 years old, a stroke survivor, needs physical therapy and can't afford to get it. What kind of health care system is this? For somebody who has worked hard, is 52, has had a stroke, wants to do what she needs to do in physical therapy—and that is no fun. Anybody who has had it knows it is not a vacation; it is hard work. She wants to do that. She can't get the treatment. Likely she will get sicker. If we can't pass this health insurance reform—we will pass it, but if we can't, it means her life will be more and more difficult and probably more expensive ultimately for the health care system because she will end up more likely back in the hospital with more physical problems than she had earlier.

The last letter I wish to share, and then turn the floor back to the senior Senator from California, is from Alice from Franklin County in central Ohio. It is the county where the State capitol is located in Columbus. She writes:

When I was between jobs, I purchased individual coverage for my family. It was difficult to navigate and confusing, but COBRA is much too expensive for the average person, including me. I am a woman in my 30s. One insurance company discouraged me from getting a maternity rider for the policy. Without this rider I would not be covered if I became pregnant. I managed to avoid getting pregnant during this period, but consider if I had. How many people must be in this situation? What about for my brother-in-law and his wife? Both are schoolteachers. They decided it was better for her to stay home with their daughter and newborn, but they couldn't afford to put his wife on a health plan. Right after the baby was born, my sister-in-law had a seizure and was diagnosed with a brain tumor. They got most of it. She seems fine, but I can't imagine what that is going to cost. They have two babies and a house they bought a couple of years ago. Now they will probably have hundreds of thousands of dollars in medical bills. The current system is bankrupting families. I don't know why the opposition can't see how this is dragging people down.

That is kind of the whole point. These are people who are working, doing things right. Both were schoolteachers. They decided that she would stay home with the two young children. They bought a house. They are going to be faced with hundreds of thousands of dollars in medical bills. How many people in this country—we

know this—how many people in this country end up, because of health care costs, because they had insurance that wasn't quite really insurance, because the insurance got canceled when they got sick or had a really expensive treatment—how many people like that end up in bankruptcy because they don't have enough insurance or they have the wrong kind of insurance and they got unlucky and got sick. It doesn't make sense for us, in a country where people do things right—they are working hard, they are playing by the rules, they are paying their taxes, contributing to society, and they are public schoolteachers, and then somehow their insurance doesn't work well enough for them and they go into bankruptcy. What purpose does that serve for any of us in this great country?

These health care bankruptcies will drop dramatically in number, will almost be eliminated with this health care bill. People occasionally may fall through the cracks, but once we pass our health insurance reform, we are not going to read in the paper anymore that people have had to file for bankruptcy because they got sick and their insurance didn't work. That is reason enough to vote for this legislation.

I ask my colleagues to work together in as bipartisan a way as possible to pass this legislation. The Health, Education, Labor and Pensions Committee, on the bill we wrote this July, accepted 161 Republican amendments. There is a lot of bipartisanship to a lot of this bill. The big question is the very great philosophical differences. Most Democrats support a public option. We think people should have more choice, make insurance companies more honest. Republicans philosophically don't support the public option. They think it is too much government. But most Republicans also didn't support the creation of Medicare. I think in the end, a lot of Republicans will join us because they want to be on the right side of history. They want to be part of something that is going to make a big, positive difference in the lives of tens of millions of Americans.

I thank the Chair and I yield the floor.

**THE PRESIDING OFFICER.** The Senator from California.

Mrs. FEINSTEIN. Madam President, it is my understanding that the distinguished ranking member of the Judiciary Committee wishes to speak as in morning business and I certainly have no objection.

**THE PRESIDING OFFICER.** The Senator from Alabama.

#### MISSILE DEFENSE

Mr. SESSIONS. Madam President, I wish to thank the Senator from California. Her courtesy is legendary in this body and I thank her for that.

I am taken aback and flabbergasted by the Obama administration's decision announced today to cancel the European missile defense site. I ask, what does that mean? What will be the con-

sequences of that decision? I wish to share a few remarks about it and note that this shift is contrary to the sense-of-the-Senate language that we included in the Defense bill passed a few weeks ago by this Senate. It is a very significant decision. I want to give it more thought. I don't want to overstate the problem. However, I wish to be on record today as saying this is a surprising decision, one that I have been involved in the discussion of for quite a number of years, and I feel as if it is a big error.

What happens? We asked our allies in Central Europe, Poland, and the Czech Republic to stand with us and to agree to place a radar in the Czech Republic and to place our defensive missile interceptors in Poland. The heads of those governments agreed to that. There was a lot of opposition here in the United States to the proposal. Likewise, there was opposition expressed in Poland and the Czech Republic from the traditional European left, many of them Marxists or hard-line leftists who have opposed the West's and the world's defense program for many years. However, that opposition was overruled and these nations were proud to be and to stand with the United States of America. It did not bother them that their big neighbor, Russia, objected. They are a sovereign nation of which they are quite proud. They were proud to make a decision and reach an agreement with the United States of America that could defend this country from limited missile attack from a rogue nation such as Iran. If Iran were to launch a missile attack that could reach the United States, its path would take it over Europe, and European nations were not immune to the threat of such an attack on their soil.

So they felt they were participating both in the defense of Europe and in the defense of the United States, and it was a good government public interest decision that they were pleased to participate in and stood up with us. We made a commitment to Poland and the Czech Republic, of course, when we asked them to do this and go through this process to build a system.

For years, we have been moving forward with that plan in mind in the Senate. This year, we had quite a bit of discussion about it in the Senate and we reached an agreement that I think pretty much stated flatly what our position. There were some who objected, and this is how we modified the language to finally state:

It is the sense of the Senate that (1) the United States Government should continue developing and planning for the proposed deployment of elements of a Ground-based Midcourse Defense system, including a midcourse radar in the Czech Republic and Ground-based interceptors in Poland, consistent with the Duncan Hunter National Defense Act of 2009.

Paragraph 2 says:

In conjunction with the continued development of the planned Ground-based Midcourse Defense system, the United States should

work with its North Atlantic Treaty Organization allies to explore a range of options and architectures to provide missile defenses for Europe and the United States against current and future Iranian ballistic missile capabilities.

Any alternative system that the United States Government considers deploying in Europe to provide for the defense of Europe and a redundant defense of the United States against future long-range Iranian missile threats should be at least as capable and cost-effective as the proposed European deployment of the Ground-based Midcourse Defense system; and any missile defense capabilities deployed in Europe should, to the extent practical, be interoperable with United States and North Atlantic Treaty Organization.

Indeed, NATO endorsed this program.

For a while, some of our Members said, Well, I am not too sure about this. What does NATO say? NATO did endorse it. This action of backing down from our European-site Missile Defense system sends an overt signal to our allies that we don't fulfill our commitments, and it is bound to make our allies in Central Europe particularly nervous. This decision sends a message from the administration that we reward bad behavior.

The defense of this decision to abandon this program is that we are not doing this to curry favor with Russia, but that clearly is a State Department goal in this process because the Russians have objected to the deployment of this system—although it had virtually no capability with 10 interceptors in Poland to in any way defend against the massive arsenal that the old Soviet Union developed and that Russia now maintains.

So it does appear to be an attempt to placate Russia at the expense of our great allies, the Czech Republic and Poland. And we are walking away from a bipartisan commitment to national missile defense on a European site, as I noted, included in the National Defense Authorization Act for 2010. We accepted the sense-of-the-Senate language unanimously because both parties agreed to this. Senator LIEBERMAN and I were the primary sponsors, along with Senator BEGICH and others on the Democratic side, and a strong contingent of Republicans.

Let me say this about the whole system. I am worried—and I hope my colleagues will take this point under consideration. We have spent approximately \$20 billion developing something many people believed would never work; that is, the ability to intercept in space an incoming ICBM missile and hit it bullet to bullet. We don't even deploy or utilize explosives. The kinetic energy is so great that it destroys the target when it hits. Our military experts have said that if North Korea were to be able to successfully launch a missile, they believe they could knock it down. We are improving our system as we have a number of them deployed, and we plan to deploy more. Yet this year's budget was a stunning retrenchment in our missile defense system. Let me summarize the things that occurred.



Even though this language contemplated moving forward in Europe, this is what we did regarding the United States. For quite a number of years, we planned to deploy 44 interceptor missiles—most in Alaska and a number in California. We talked about what to do about the Iranian threat, to provide redundant coverage for those missiles coming over from the east. We agreed that we would seek the agreement of Poland and the Czech Republic to base assets there. Fifty-four interceptors were to be deployed, 10 at the European site and 44 on the West Coast of the United States. What happened in this year's budget was that the 44 to be deployed in Alaska and California have been cut to 30.

The next technological advance to our missile defense system, the MEV—multikill vehicle—would be the warhead which could take out multiple incoming missiles with one missile. We think that was very capable technology that would be developed. That was zeroed out.

We had an additional system of a smaller but very high-speed interceptor, called a kinetic energy interceptor, KEI, that has been on the drawing board for a number of years and is showing a great deal of promise. That was zeroed out after years of funding.

We had plans and were working on the airborne laser, ABL, an amazing technology that our Defense Department believes will work—and we will test it this year. The airborne laser can knock down missiles, particularly in their ascent phase from an airplane. That missile system, after this year, will be zeroed out.

The 10 missiles we intended to base in Central Europe have been eliminated, it appears. At least that has been the President's recommendation and decision that we heard about today.

So I would say this: We believe, looking carefully at the numbers and putting in some extra loose change, for \$1 billion, we could fully deploy the full system—with the full compliment of 44 missiles in the United States and 10 in Europe. We have spent over \$20 billion to get to this point. So it is unthinkable to me that we would eliminate any future advancements in the system. I think, from a cost point of view, it is an unwise decision.

I am concluding that money is not the problem. I can only conclude that the Obama administration has decided that they agree with the naysayers who opposed President Reagan when he said this could ever be a successful system. They opposed it, and it looks like a political decision to me. Some sort of judgment decision to cancel this is involved here more than a dollars-and-cents issue because in the scheme of a \$500 billion-plus defense budget, \$1 billion over several years to complete the system as planned is not the kind of budget-breaking number that should cause us to change our policy.

Senator LIEBERMAN and I had offered this sense of the Senate amendment,

and it passed the Senate just a few weeks ago. I believe it is the right policy. I think the administration is trying to do some, perhaps, good things. They think maybe they are attempting to placate or somehow reach out to Russia and gain some strategic advantage from that—although the Secretary of Defense, I understand, today said it didn't have anything to do with the Russian foreign policy, and I am not sure the administration acknowledges that either. "The Czech premier, Jan Fischer, said Thursday"—this is in an Associated Press article—"that President Barack Obama told him Washington had decided to scrap the plan that had deeply angered Russia." It seems to me that is a part of it.

Let's go to the core of this Russian objection. As I have said on the floor, Russia knows this system poses no threat to their massive arsenal. They know that. Their objection to this system has been, in my view, a political objection, a foreign policy bluster and gambit to try to create a problem with the United States and extract something from us. They consistently oppose it.

Let's note the Reuters news article today by Michael Stott, which is an analysis of this. The headline of the article is "Demise of U.S. shield may embolden Russia hawks." In other words, this weakness, this retreat, this backing down may well encourage them to believe that if they are more confrontational on other matters, they may gain more than by being nice to this administration.

The lead paragraph said:

Washington hopes that by backing away from an anti-missile system in east Europe, it will get Russian cooperation on everything from nuclear weapons cuts to efforts to curb Iranian and North Korean nuclear ambitions.

But will Moscow keep its side of the bargain?

That is a good question.

Mr. Stott goes on in his perceptive article to say:

With the shield now on the back burner, both sides believe a deal cutting long-range nuclear arsenals can be inked this year and Russia has already agreed to allow U.S. military cargos to transit across its territory en route to Afghanistan.

That is something we have been asking them for some time, and they have dangled it out there. Apparently, a valuable but not critical ability to transport cargo may have been gained from this.

The author says:

Russian diplomacy is largely a zero-sum game and relies on projecting hard power to forced gains, as in last year's war with Georgia over the rebel regions of Abkhazia and South Ossetia or the gas dispute with Ukraine at the start of the year.

Western concepts of "win-win" deals and Obama's drive for 21st century global partnerships are not part of its vocabulary.

The Western idea that if you cut a deal, both sides will benefit—that is not the way the Russians think.

Continuing:

Diplomats here say Moscow hardliners could read the shield backdown as a sign of Washington's weakness. Far from doing the bidding of the United States, they may instead press for further gain to shore up Russian power in the former Soviet bloc.

That is the Czech Republic, Ukraine, Georgia, Poland, the Baltics, Latvia, Estonia, Lithuania, and Hungary.

The author goes on to say:

Ukraine, Georgia, and other Kremlin foes in the ex-Soviet Union may be the first to feel the consequences.

Poland and the Czech Republic are also nervous. In Warsaw, the timing of the U.S. move is particularly delicate as it coincides with the 70th anniversary of the Soviet invasion of eastern Poland.

Analysts are particularly concerned about Ukraine, which faces a presidential election next January. Most of Russia's vast gas exports flow through its territory and the country reluctantly hosts a large Russian naval base.

I don't know what the geopolitical goals are here. I think it is a mistake not to deploy this system we committed to deploying. I believe we are not going to be able to rely on the good faith of the Russians, and I think they may misread what we have done. Instead of leading to further accommodation, it may lead to emboldening them to go forward with further demands against the United States.

I thank the Chair and yield the floor.  
The PRESIDING OFFICER. The Senator from California is recognized.

#### MORNING BUSINESS

Mrs. FEINSTEIN. Madam President, I ask unanimous consent that the Senate proceed to a period of morning business, with Senators permitted to speak therein for up to 10 minutes each.

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

Mrs. FEINSTEIN. Madam 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. ALEXANDER. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

#### ENERGY SPRAWL AND THE GREEN ECONOMY

Mr. ALEXANDER. Madam President, Secretary of the Interior Ken Salazar recently announced plans to cover 1,000 square miles of land in Nevada, Arizona, California, Colorado, New Mexico, and Utah with solar collectors to generate electricity. He is also talking about generating 20 percent of our electricity from wind. This would require building about 186,000 50-story wind turbines that would cover an area the size of West Virginia, not to mention 19,000 new miles of high-voltage transmission lines.

Is the Federal Government showing any concern about this massive intrusion into the natural landscape? Not at

all. I fear we are going to destroy the environment in the name of saving the environment.

The House of Representatives has passed climate legislation that started out as an attempt to reduce carbon emissions. It has morphed into an engine for raising revenues by selling carbon dioxide emission allowances and promoting renewable energy.

The bill requires electric utilities to get 20 percent of their power mostly from wind and solar by 2020. These renewable energy sources are receiving huge subsidies all to supposedly create jobs and hurry us down the road to an America running on wind and sunshine, as described in President Obama's inaugural address.

Yet all this assumes renewable energy is a free lunch, a benign so-called sustainable way of running the country with minimal impact on the environment. That assumption experienced a rude awakening on August 26 when the Nature Conservancy published a paper entitled "Energy Sprawl or Energy Efficiency: Climate Policy Impacts on Natural Habitat for the United States of America."

The report by this venerable environmental organization posed a simple question: How much land is required for the different energy sources that power the country? The answers deserve far greater public attention.

By far, nuclear energy is the least land intensive. It requires only 1 square mile for one reactor, that is to produce 1 million megawatt hours per year, enough electricity for about 90,000 homes. Geothermal energy, which taps the natural heat of the Earth, requires 3 square miles. The most landscape consuming are the biofuels ethanol and biodiesel, which require up to 500 square miles to produce the same amount of energy. Coal, on the other hand, requires 4 square miles, mainly for mining and extraction. Solar thermal heating, a fluid with large arrays of mirrors and using it to power a turbine takes 6 square miles. Natural gas needs 8 and petroleum needs 18. Wind farms require over 30 square miles.

This sprawl has been missing from our energy discussions. In my home State of Tennessee, we just celebrated the 75th anniversary of the Great Smoky Mountains National Park, America's most visited national park. Yet there are serious proposals by energy developers to cover mountains all along the Appalachian chain from Georgia through the foothills of the Smoky Mountains through the Blue Ridge Mountains of Virginia, all the way up to the White Mountains of New Hampshire with 50-story wind turbines because the wind blows strongest across mountaintops. I can tell from the Presiding Officer's smile that she is thinking of the strong winds on the White Mountains which are among the strongest in the entire United States of America.

Let's put this into perspective. We could line 300 miles of mountaintops

from Chattanooga, TN, to Bristol, VA, with wind turbines and still only produce one-quarter of the electricity we get from one reactor on 1 square mile at the Tennessee Valley Authority's Watts Bar nuclear plant.

The 1,000-square mile solar project proposed by Mr. Salazar would generate on a continuous basis 35,000 megawatts of electricity. You could get the same output from 30 new nuclear reactors that would fit comfortably on existing nuclear sites. And this does not count the thousands of miles of transmission lines that will be needed to carry the newly generated solar power through and to population centers.

There is one more consideration. Solar collectors must be washed down once a month or they collect too much dirt to be effective. They also need to be cooled by water. Where amid the desert and the scrubland will we find all that water? No wonder the Wildlife Conservancy and other environmentalists are already opposing solar projects on some western lands.

Renewable energy is not a free lunch. It is an unprecedented assault on the American landscape. Before we find ourselves engulfed in energy sprawl, it is imperative we take a closer look at the advantages of nuclear power.

Madam President, I ask unanimous consent to have printed in the RECORD a summary of the Nature Conservancy paper entitled "Energy Sprawl or Energy Efficiency," which was published on August 26.

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

#### ABSTRACT

Concern over climate change has led the U.S. to consider a cap-and-trade system to regulate emissions. Here we illustrate the land-use impact to U.S. habitat types of new energy development resulting from different U.S. energy policies. We estimated the total new land area needed by 2030 to produce energy, under current law and under various cap-and-trade policies, and then partitioned the area impacted among habitat types with geospatial data on the feasibility of production. The land-use intensity of different energy production techniques varies over three orders of magnitude, from 1.9–2.8 km<sup>2</sup>/TW hr/yr for nuclear power to 788–1000 km<sup>2</sup>/TW hr/yr for biodiesel from soy. In all scenarios, temperate deciduous forests and temperate grasslands will be most impacted by future energy development, although the magnitude of impact by wind, biomass, and coal to different habitat types is policy-specific. Regardless of the existence or structure of a cap-and-trade bill, at least 206,000 km<sup>2</sup> will be impacted without substantial increases in energy efficiency, which saves at least 7.6 km<sup>2</sup> per TW hr of electricity conserved annually and 27.5 km<sup>2</sup> per TW hr of liquid fuels conserved annually. Climate policy that reduces carbon dioxide emissions may increase the areal impact of energy, although the magnitude of this potential side effect may be substantially mitigated by increases in energy efficiency. The possibility of widespread energy sprawl increases the need for energy conservation, appropriate siting, sustainable production practices, and compensatory mitigation offsets.

#### INTRODUCTION

Climate change is now acknowledged as a potential threat to biodiversity and human well-being, and many countries are seeking to reduce their emissions by shifting from fossil fuels to other energy sources. One potential side effect with this switch is the increase in area required by some renewable energy production techniques. Energy production techniques vary in the spatial extent in which production activities occur, which we refer to as their energy sprawl, defined as the product of the total quantity of energy produced annually (e.g., TW lu/yr) and the land-use intensity of production (e.g. km<sup>2</sup> of habitat per TW hr/yr). While many studies have quantified the likely effect of climate change on the Earth's biodiversity due to climate-driven habitat loss, concluding that a large proportion of species could be driven extinct, relatively few studies have evaluated the habitat impact of future energy sprawl. It is important to understand the potential habitat effects of energy sprawl, especially in reference to the loss of specific habitat types, since habitats vary markedly in the species and ecosystem processes they support.

Within the United States, the world's largest cumulative polluter of greenhouse gases, concern over climate change has led to the consideration of a cap-and-trade system to regulate emissions, such as the previously proposed Lieberman-Warner Climate Security Act (S. 2191) and the Low Carbon Economy Act (S. 1766). Major points of contention in structuring a cap-and-trade system are the feasibility and desirability of carbon capture and storage (CCS) at coal plants, the creation of new nuclear plants, and whether to allow international offset programs that permit U.S. companies to meet obligations abroad. The rules of a cap-and-trade system, as well as technological advances in energy production and changes in the price of fossil fuels, will affect how the U.S. generates energy. In this study we take scenarios of a cap-and-trade system's effect on United States energy production and evaluate each scenario's impact on habitat due to energy sprawl. Our scenarios are based on the Energy Information Administration (EIA) forecast of energy production in 2030 under current law (the "Reference Scenario"), including the renewable fuel standard of the Energy Independence and Security Act of 2007, and under three cap-and-trade scenarios: the "Core Cap-and-Trade Scenario", where the full Lieberman-Warner Climate Change Act is implemented; the "Few Options Scenario", where international offsets are not allowed and where new nuclear production and coal production with CCS are not possible; and the "CCS Scenario", where Congress enacts the Low Carbon Economy Act, a cap-and-trade system more favorable to coal with CCS.

Under each scenario, we first estimate the total new land area in the U.S. needed to produce energy for each production technique as a function of the amount of energy needed and the land-use intensity of production. We examine the effect of U.S. climate policy on future energy sprawl using energy scenarios based on proposed legislation, building on a body of literature on this topic. Note that our analysis focuses only on U.S. land-use implications, ignoring other, potentially significant international land-use implications of U.S. climate policy. Second, we use available information on where new energy production facilities would be located to partition this area among major habitat types. We calculate the new area directly impacted by energy development within each major habitat type, but do not attempt to predict where within each major habitat

type energy development will take place, nor possible indirect effects on land-use regionally or globally due to altered land markets. Our analysis provides a broad overview of what change in the energy sector will mean for area impacted in different natural habitat types, recognizing that such a broad analysis will inevitably have to simplify parts of a complex world.

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

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

Mr. ENSIGN. I ask unanimous consent to speak as in morning business.

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

#### FIX HOUSING FIRST

Mr. ENSIGN. Mr. President, my home State of Nevada has seen devastating effects from this recession. The foreclosure crisis has turned neighborhoods across my State literally almost into ghost towns. I have long argued the crash of the housing market has been at the root of our economic crisis. We have to focus on fixing the housing problem in this country if we want the economy to turn around.

In February, I offered a bill called the Fix Housing First Act. This would have fixed the housing problem; it would have turned the housing market around in this country. I believe it would have created jobs all across this country, including in my home State of Nevada.

My Fix Housing First Act would have let American home owners refinance their mortgages at around a 4-percent interest rate in a 30-year fixed mortgage. This would have meant an average of around \$300 to \$400 savings per month for the average homeowner in the United States and back in my home State of Nevada.

Additionally, my bill included a provision, produced by Senator JOHNNY ISAKSON from Georgia, that was a \$15,000 home buyer tax credit to incentivize home ownership. The tax credit would have been a stepping stone for our country to begin to come out of the housing crisis. While my bill was defeated along party lines, we were able to pass an \$8,000 first-time home buyer tax credit, sponsored by myself and Senator BEN CARDIN, from Maryland.

Today I join my colleagues in a bipartisan manner to extend this \$8,000 first time home buyer tax credit for another 6 months, until June of next year. Unless Congress acts, this \$8,000 is set to expire at the end of November. There is evidence that is showing the tax credit is working. If we do not extend this tax credit, homes will not be saved, and they will likely go into foreclosure.

We in the Senate need to act in a bipartisan fashion to extend the first-time home buyer tax credit of \$8,000. It is the right thing to do to get housing back on the track, especially in States such as Nevada, Florida, California, and Arizona. These states are still suffering when it comes to the housing industry. Housing is at the root of a lot of the economic problems we have in this country.

I encourage this body to act. Chairman Bernanke said the other day the recession is over. At 9.7 percent unemployment rate in this country, I don't think the recession looks to be over to those people still out of a job. My State of Nevada has over a 12-percent unemployment rate. Clark County, where Las Vegas is, has over a 13-percent unemployment rate. I don't think folks living there think the recession is over.

We need to continue to work to fix this economy, and this first-time home buyer tax credit is a good place to start.

I yield the floor.

#### 100TH ANNIVERSARY OF CRAGIN & PIKE INSURANCE COMPANY

Mr. REID. Mr. President, Cragin & Pike Insurance began on a hot, dusty day in August of 1909 when Peter Buol proudly opened his "Real Estate and Insurance Office" on what is now Main Street in Las Vegas. Buol eventually sold his business to Ernie Cragin and William Pike, whose names combined to brand the new company.

Ernie Cragin served as Las Vegas's mayor for 25 years and was instrumental in establishing Helldorado Days and bringing in the Army's Aerial Gunners School, now known as Nellis Air Force Base. William Pike saw to the legalization of gambling and the construction of the Hoover Dam. Their combined efforts have contributed to the political, economic, and environmental history of the southern Nevada community.

After Pike passed away, Cragin brought in Paul McDermott as a partner, and following the unexpected passing of Cragin, McDermott partnered with Frank Kerestesi. McDermott and Kerestesi carried on the Cragin & Pike Insurance name and became well known throughout the valley with their catchy jingle that played on local radio stations. Both men were active in the community, especially with the establishment and growth of the University of Nevada, Las Vegas, UNLV.

Cragin & Pike are celebrating their 100th anniversary of continuous business in southern Nevada this year. Their dedicated, professional staff continues to offer Las Vegas businesses the very best in personal service and attention. On behalf of all Nevadans, I am pleased to extend my best wishes to Cragin & Pike for another 100 years of success in Nevada.

#### RECOGNIZING STEEL DAY 2009

Mr. DURBIN. Mr. President, I rise today to recognize the critical role of structural steel in our nation's infrastructure and industrial economy.

On September 18, 2009, Steel Day will be celebrated through events hosted nationwide. These events recognize the many employment opportunities the structural steel industry has provided to American workers and the contribution structural steel has made to our construction industry as a safe, strong and effective building material.

The structural steel industry is a major employer in Illinois and other States across the country. Today, the United States has three major steel mills and more than 2,600 steel fabricators, which together employ over 250,000 Americans.

Roughly 98 percent of structured steel in a building can be recovered and recycled and 93 percent of all columns and beams produced at U.S. steel mills are composed of recycled materials. In fact, interest in domestic steel as a building material has been bolstered by its desirable status in LEED certification, a rating system developed by the US Green Building Council.

Improvements in the technology used to create and erect steel projects have lowered construction costs and improved onsite safety, resulting in increased demand worldwide. In light of these economic, environmental, and safety factors, it is no surprise that there is currently a three-to-one preference for using structural steel in the construction of multistory residential and nonresidential buildings.

I congratulate the structural steel industry on Steel Day. Steel has featured prominently in America's past and present and will undoubtedly play an important role in our Nation's future.

#### REMEMBERING SENATOR EDWARD M. KENNEDY

Mr. SPECTER. Mr. President, I have sought recognition to pay respect to the life and character of our dear friend Ted Kennedy. A man as much a part of this institution as the very walls of the Capitol, Ted has earned his place in the world's history books and will never be forgotten.

I consider myself privileged to have worked with Ted on several important issues, ranging from hate crimes legislation, to our time together on the Judiciary Committee. Ted was responsible for the Matthew Shepard Hate Crimes Act, an important piece of legislation providing protection for vulnerable Americans that I was proud to cosponsor. He was instrumental in the passage of SCHIP, a program that now insures the health of millions of children across the country. The impact Ted Kennedy had on civil rights legislation throughout his career is simply immeasurable. Countless programs now serving the American people could not

exist today if not for the hard work and determination of Ted Kennedy.

One of my most vivid memories working with Senator Kennedy was during the now well known confirmation hearings of Robert Bork for the Supreme Court. Ted spoke eloquently and with conviction against Judge Bork's nomination, fearing the erosion of civil rights that would occur were he confirmed. Ted refused to let this erosion of rights take place, and I am proud to have joined him in his fight against the nomination of Robert Bork.

Ted proved through his actions, both on and off the Senate floor, that he was, above all, a man of compassion. The single unifying theme of Ted's distinguished body of work was his clear commitment to the people of this great country. His love for the American people was clear through the legislation he so strongly supported. Ted's greatest concern was for the well-being of every American, and he made it his mission to ensure the underprivileged received the fair treatment they deserved.

In his lifetime, Ted Kennedy was able to accomplish more than most men could ever dream of accomplishing. I have no doubt that if we were lucky enough to have him with us today, he would continue to add even greater accomplishments to his already impressive resume. Ted will be deeply missed.

#### ENUMERATED POWERS ACT

Mr. HATCH. Mr. President, I rise on this Constitution Day to urge support for S. 1319, the Enumerated Powers Act. My friend and Judiciary Committee colleague from Oklahoma, Senator COBURN, introduced the bill in June, and I am proud to be a cosponsor. It would create a mechanism by which we can highlight and, if necessary, debate whether we actually have the power to do what we do.

Today, the prevailing view seems to be that Congress can do anything we want to do, any time, and in any way. There are always problems to solve, good ideas to implement, money to spend, activities to regulate, agendas to pursue, or constituencies to please. But those are merely the ends and, in our system of government at least, the ends cannot not justify the means. Not if we truly value our liberty. Our liberty requires that government be limited, that government's actions have legal authority, ultimately rooted in the Constitution itself.

The Constitution, for example, does not grant Congress all legislative authority. Article I gives Congress only "legislative powers herein granted." Those powers are listed, or enumerated, in article I, section 8. The 10th amendment affirms that the Federal Government has only powers that are affirmatively delegated to it. James Madison explained in *The Federalist* No. 45 that these powers delegated to the Federal Government are "few and defined." Why all this emphasis on def-

inition and limitation, especially of the Federal Government? Because individual liberty requires limited government.

In *The Federalist* No. 51, Madison wrote that "if men were angels, no government would be necessary." In other words, some government is necessary to have any liberty at all. But Madison went right on to write that "if angels were to govern men, neither external nor internal controls on government would be necessary." In other words, unlimited government makes liberty impossible. The truth is that men are not angels and angels do not govern men. Acknowledging that truth, America's Founders in their genius created a system of limited government to maximize ordered liberty.

I realize that such notions as definition and limitation are not in fashion today. Many today think these ideas passe, antiquated, or—and this is my personal favorite—archaic. Limited government is fine when we have no major problems to solve, when there are no big crises looming large. But today we face the worst economic crisis since the Great Depression and many Americans want government to be robust and full-throated. We want government to come to the rescue, to set things right, to make everything OK. I realize that today saying no is not popular, whether for individuals or for the government.

So we have to make the same basic, fundamental choice that America's Founders did. How much do we prize liberty? The laws of human nature and, therefore, of government have not changed. Men have not become angels and angels do not govern men. That condition will never exist. Ordered liberty will always require limited government, and so we must repeatedly ask whether, and how much, we prize liberty.

This bill embodies these principles by requiring that each of Congress state its constitutional authority. In other words, each act of Congress must state the very condition that indicates it is consistent with limited government. Congress has no authority to act, Congress has no authority to exist at all, unless that authority is derived from the Constitution. It is no less important than that. So this bill would require that each act of Congress state the one condition that is necessary for that act of Congress to be legitimate—authority derived from the Constitution.

That statement alone would be important but purely symbolic. Virtually everyone could ignore it. So this bill would create a mechanism for challenging and even debating whether an act of Congress is indeed authorized by the Constitution. It does not require such a debate for every act of Congress but provides for a point of order that can result in such a debate. That debate would focus everyone's attention on the absolutely necessary connection between Congress' actions and the Con-

stitution and, ultimately, on the Constitution itself.

In the landmark case of *Marbury v. Madison*, Chief Justice John Marshall wrote that "[t]he powers of the legislature are defined, and limited; and that those limits may not be mistaken, or forgotten, the constitution is written." A written Constitution that delegates enumerated powers to Congress is central to limited government and, therefore, central to our liberty. If we prize liberty, we must prize limitations on government. Chief Justice Marshall later wrote in *McCulloch v. Maryland* that "this government is acknowledged by all to be one of enumerated powers. The principle that it can exercise only the powers granted to it . . . is now universally admitted."

That was then. How about today? Do we still believe that ordered liberty requires limited government? Do we still believe that Congress may only do what the Constitution authorizes us to do? Or do we believe that Congress needs no more than a good idea powered by a good intention? Are the principles embraced by Madison, by Marshall, still universally admitted today? If so, then this bill is an important way to prove it. On this Constitution Day, I urge my colleagues once again to embrace those principles of limited government and to demonstrate it by supporting this bill. Policy ideas and political positions shape our legislative activity, the Constitution should do so as well. I applaud my colleague from Oklahoma, Senator COBURN, for introducing this bill and offering this opportunity to raise these principles closer to the position of importance they deserve.

#### CONSTITUTION DAY 2009

Mr. LEAHY. Mr. President, today marks the 222nd anniversary of the signing of the Constitution by the States that assembled in Philadelphia. The constitutional design of our three branches of Government has provided for collaboration in protecting this fundamental balance. Earlier this week, when I addressed the Chief Justice and the Judicial Conference of the United States, I noted the anniversary of the signing of our Constitution. This anniversary deserves more attention than it has received, and I was heartened to see that one of Vermont's great newspapers, *The Caledonian-Record*, also saw fit to note this anniversary in a recent editorial. The *Caledonian-Record* noted, "Our Constitution is timeless and the most relevant guide to continuing our freedoms. Millions of Americans have died in its defense. Celebrate it!"

As chairman of the Senate Judiciary Committee I am constantly reminded of the Constitution's continued importance and relevance to our daily lives. From the first amendment, which protects newspapers like *The Caledonian-Record*, to the rights of Americans to vote, the Constitution is the cornerstone of our democracy. We all must

remember how fortunate we are to enjoy the rights our Founders embedded in our guiding document.

I ask unanimous consent that the editorial be printed in the RECORD.

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

[From The Caledonian-Record, Sept. 14, 2009]

IT'S CONSTITUTION WEEK: CELEBRATE OUR FREEDOMS

Every year, America's newspapers celebrate the United States Constitution by focusing on the document, with features and editorials that acknowledge the central place in America's freedoms that the Constitution possesses. We do it to assure that Americans, in the rush of making a living, of raising children, of growing up or growing old, and of all of the other distractions of our lives, do not forget the vision and the wisdom that almost miraculously guided our Founding Fathers in composing this document. It is as important today, indeed, probably more important, than it was in 18th century America.

This is Constitution Week. It is fitting that it should immediately follow the national commemoration of the worst, most deadly domestic terrorism attack in our history, Sept. 11, 2001. That attack, literally brought home that nowhere in the world are freedom loving people safe from the militant insanity of ideologically driven terrorists, in this case of radical Islamists. In previous epochal events, they were Nazis, Japanese imperialists, Marxists, and others. In every case, the adjuration that arose from 9/11 applies, and never more strongly than in reverence of the Constitution, "Never forget!"

For the last 200-plus years, there have been, and are now, those who would like to change our Constitution in ways that occupy the whole continuum, from updating its grammar to totally destroying it in the name of social action and the progressive insistence that only the evolution of the present to the future is relevant, that a document so old is a totally irrelevant relic.

Not so! Our Constitution is timeless and the most relevant guide to continuing our freedoms. Millions of Americans have died in its defense. Celebrate it!

#### 2009 DAVIDSON FELLOW AWARD RECIPIENTS

Mr. GRASSLEY. Mr. President, it is my distinct pleasure to bring before the Senate today the achievements of some of the most brilliant, inventive young minds in the United States. I take this time to acknowledge the 19 recipients of the 2009 Davidson Fellows Award, a scholarship awarded to exceptional students to assist them in furthering their education. These scholarships are given by the Davidson Institute for Talent Development to profoundly gifted individuals under the age of 18 who have completed academically rigorous projects that demonstrate a potential to make a significant, positive contribution to society. This year's recipients achieved academic distinction in the areas of science, literature, philosophy, out-of-the-box thinking, technology, and music. These young individuals are more than deserving of this honor and our recognition. I would like to take a few moments to describe what each recipient has accomplished.

In the realm of science, we have eleven remarkable young people, including Eric Sherman, from Ephrata, PA, who developed a technique that allows scientists to identify potential bone marrow donors for 6 percent of the cost and 1 percent of the time of traditional techniques. Using polymerase chain reaction and cycle sequencing, he sequenced the genes that determine a person's Human Leukocyte Antigen type. Eric then wrote a computer program to analyze the DNA sequence and return possible antigen matches. This technique can potentially be used to identify donors for other transplantable organs, such as kidney, liver, and lung, creating the opportunity to save hundreds of lives and millions of dollars each year. Eric is 15 years old.

A 17-year-old young woman from Albuquerque, NM, Erika DeBenedictis researched methods of identifying low-energy paths for spacecraft. By carefully planning the route a spacecraft will take, it is possible to reduce the amount of fuel needed by utilizing the natural gravity and motion of planets in the solar system. Erika developed an itinerary-based algorithm to reach specified destinations, which streamlines the process of finding low-energy paths. Such orbits are particularly useful for heavy spacecraft, in which self-propulsion is especially difficult. Use of low-energy paths would allow these spacecraft to reach previously impractical destinations.

A 17-year-old young man from Rochester, MI, Rahul Pandey created a negative index refraction lens made of metamaterials. Metamaterials have the unique property to bend electromagnetic waves of a certain frequency backward, so an image is possible on the opposite side of a lens. He modeled the energy flow of negative index materials in terms of lens geometry, refractive index, focal length, and source distance, finding a perfectly linear relationship. Rahul's work has applications in stealth technology, antenna elements, radio frequency signal switching, and lenses that do not adhere to the diffraction limit.

Aditya Palepu, from Oakton, VA, developed a pattern classification algorithm that extracts linear and Gaussian relationships from raw data using a bottom-up approach. Given any data set, all possible models are generated, iteratively weeded down, and refined to better fit the data. This algorithm is effective on benchmark Iris data and synthetic distributions, and was designed so the model library can be expanded to more data sets. Aditya's work has applications in facial/object recognition, data mining, trend analysis, and was used to classify a Washington, DC crime database revealing the clustering of criminal activity. Aditya is 17 years old.

From Woodbury, MN, Prithwis Mukhopadhyay researched the molecular mechanism by which carrageenan may induce pre-malignant cell transformation. Carrageenan is an FDA-ap-

proved food additive found in dairy products, processed meats, dog food, infant formula, and cosmetics. Using mammary epithelial cells, he found carrageenan reduced ASB activity and increased sulfated sGAG, especially chondroitin sulfate, which induced cell migration and pre-malignant transformation. At 16 years old, Prithwis' work shows how carrageenan influences breast cancer cell proliferation and migration.

Fiona Wood, from North Haven, CT, explored the brain's ability to perceive and measure interval time using late-spiking (LS) neurons. She created the first biophysically realistic computational model of an LS neuron, and used it to construct neural networks that can accurately and realistically encode time. For all animals, an ability to perceive and measure time is essential for a wide variety of tasks. Fiona's work can lead to better understanding of brain diseases in which interval time encoding is impaired, such as Parkinson's, Huntington's, and schizophrenia. Fiona is 17 years old.

A 17-year-old young man from Winston Salem, NC, Darren Zhu worked to develop more efficient data storage technologies by exploring nanofabrication methods for spintronics. Spintronics, or spin-based electronics, are inherently more powerful than electronics, as they exploit electron spin and subsequently are more sensitive than integrated circuit technology. He incorporated molecular self-assembled monolayers, or SAMs, into spintronics and performed surface analyses to find that isocyanide-based SAMs are a viable candidate for implementation in nanoscale spintronics fabrication. Darren's work has strong applications in nanotechnology, specifically in the field of nanolithography.

A 16-year-old young man from Addison, TX, Roman Stolyarov designed and produced an omnidirectional dielectric mirror for visible light using a unique one-step fabrication process. The mirror is composed of 12 ultrathin alternating layers of two chalcogenide glasses, which were deposited by thermal evaporation onto a transparent silicon dioxide glass substrate. Simulations show that doubling the number of alternating layers would produce near perfect reflectivity, a phenomenon impossible for silvered mirrors, given their inherent losses in the visible spectrum. Roman's process will allow for rapid manufacturing of wavelength specific mirrors with applications in radar filtration and fiber technologies.

From Teaneck, NJ, Yael Dana Neugut studied arsenic metabolism and renal function in an arsenic-exposed population in Bangladesh. She found that the association between urinary excretion of arsenic metabolites and creatinine is likely due to their shared metabolic pathway, and that creatine may be an effective way to prevent and treat long-term exposure to arsenic.

More than 100 million people worldwide are chronically exposed to high levels of arsenic and are at risk of serious diseases, such as cancer and heart disease. A randomized trial of creatine supplementation is currently underway in Bangladesh. Yael is 17 years old.

A 17-year-old young man from East Setauket, NY, Jason Karelis studied an enzyme called MenD that plays a role in the biosynthesis of a lipid called menaquinone in *Staphylococcus aureus*, the bacterium that causes staph infections. Menaquinone is an electron carrier crucial to *S. aureus*. Jason constructed a mutant strain of *S. aureus* with a disrupted MenD gene and observed its growth on media only with menaquinone added, evidence that MenD is vital for *S. aureus*. Staph infections are a major public health concern and Jason's work provides a platform for a new class of antibiotics.

From Hilo, HI, Nolan Kamitaki designed a computer simulation to determine how viral characteristics and medical supply distribution patterns affect an epidemic's spread across a social network. Starting with a particle-based simulation to analyze basic interaction rates, he moved to a small world network, modeling an epidemic's spread across a population. Nolan's findings showed that children, due to their greater degree of social connection, are most useful for prevention and are the most effective recipients of medical processes. Nolan is 16 years old.

In the area of literature, we have a young woman from North Potomac, MD. Amy Levine, a 16-year-old, examines the shades of gray between black and white in her literature collection, *Grayscale Unraveled*. She demonstrates how life choices that have the greatest impact initially do not appear to be choices at all, but have the potential to be the most transformative. Amy's portfolio explores the small yet important events that determine who we are and how we live, while breaking down the black and white decisions people make to show the grayscale that describes the world.

Also in the area of literature, we have Nicole Rhodes, a 17-year-old from Vancouver, WA, who created the portfolio *The Dictionary of Distance* to explore different facets of distance in writing. She considers the distance between a piece's narrator and characters, the space between the author and the work, and the space separating characters and other elements to determine how distance alters memory. Through this examination, Nicole is able to analyze the writing process, the writer's perspective, and the final written product. Her portfolio includes a variety of forms, styles, and subjects, united in this investigation.

From Indianapolis, IN, Doreen Xu explores the foundation of evil in her philosophy portfolio, *The Roots of Evil*. She delves into the human psyche to examine several distinct sources of evil, concluding that all human evil is

caused by frustrated human desire. Doreen explores this newly defined dimension of evil with an enlightened perspective, fostering a new method of viewing evil. She hopes this will allow evil to be more effectively combated, leading to a more progressive and harmonious global society. Doreen is 16 years old.

The first recipient in the world of music is Melody Lindsay, from Honolulu, HI, who believes we celebrate mankind's best achievements through music. In her portfolio, *Harping Around the World: Cultural Leadership for the 21st Century*, she draws on her experience as a harpist to connect with audiences. She is particularly interested in inspiring young people to discover and pursue their own passion for classical music. Melody, at age 17, has performed on and serves as a Cultural Ambassador for NPR's "From the Top" and was a Focus on Youth Performer for the ninth and tenth World Harp Congresses.

From La Crescenta, CA, Connie Kim-Sheng seeks to convey the insights of classical composers in her portfolio, *Inspired by Beauty: Piano Masterworks*. Her performance of pieces by Bach, Beethoven, Chopin, Debussy, and Ginastera provide musical texts that illuminate the span of human feeling and experience, demonstrating a multitude of complex harmonies. At 17 years old, Connie has performed on NPR's "From the Top," and for audiences in Sydney, Australia; Calgary, Canada; and Los Angeles. Through her music, Connie hopes to encourage greater respect for cooperation and pluralism in society.

A 13-year-old young woman from San Diego, CA, Sarina Zhang strives to show the beauty and emotional value of classical music in her portfolio, *Reaching out to the World with the Magic of Music*. Through performance, she strives to connect with her audience, moving them with the simple truth of classical music. A pianist and cellist attending The Juilliard Pre-College Division, she has been featured on NPR's "From the Top," performed at Carnegie Hall, and toured internationally with the San Diego Civic Youth Orchestra.

For exemplary works in the category of "Outside the Box," recipients include Allison Ross from Mercer Island, WA. She created a portfolio, *African and Western Heroes' Journeys in Literature: An Exemplification*. Against the backdrop of August Wilson's fiction and the constructs of Joseph Campbell's Hero's Cycle, she explores the relationship between classical Western and African hero mythologies. Allison, at 16, investigates the derivations, common motives and cultural differences between the two traditions offering original narratives and critical analysis. Through this work, Allison hopes that others will share her enthusiasm for exploring themes that unite our heritages.

And finally, in his "Outside the Box" project, a 15-year-old young man from

Cupertino, CA, Anshul Samar seeks to make learning a side effect of fun with his project, *Igniting Interest in Chemistry with Elementeo Chemistry Card Game*. In Elementeo, players battle with their element army, activate reactions, create compounds, and conquer opponents using black holes and slippery bases. Anshul hopes that by introducing young people to chemistry in a fun and interactive manner, they will discover a passion for science and pursue it throughout their lives.

These brilliant young men and women are essential for the success of their generation. It is our duty to recognize, support, and nurture their progression through academia as they mature into the leaders of their generation. We should consider ourselves privileged that some of the triumphs of these ingenious young minds have already born fruit. I would like to thank the Davidson Institute for making such scholarships available and for taking the time to seek out these worthy candidates. I would also like to thank each winner and applicant of the Davidson Award for showing to us the promise and potential your generation holds. We can rest assured that our future is in good hands.

#### TRIBUTE TO ERNIE HARWELL

Mr. LEVIN. Mr. President, today I pay tribute to the man whose voice was the sound of summer, to the man who guided Michiganders through baseball seasons for more than 40 years. I rise in tribute to Ernie Harwell.

For those who love baseball and the Detroit Tigers, Ernie Harwell's easy Georgia drawl on a summer evening has been a tonic after a hard day's toil. He has been our eyes and ears at the corner of Michigan and Trumbull and, later, at the team's new downtown ballpark. Since 1960, when Ernie broadcast his first Tigers game, until today, perhaps no person, no player nor manager, has been more closely identified with Tigers baseball. Certainly none has formed so strong an emotional tie with the fans of our team.

Ernie grew up in Atlanta, and he often tells fans that as a boy he was tongue-tied, coping with a speech impediment, but with therapy and hard work, he turned his voice into a tool so powerful it brought the game to life. His first broadcasting job was with the minor league team in his hometown, but in 1948, when broadcasting legend Red Barber of the Brooklyn Dodgers fell ill, Dodgers general manager Branch Rickey called down to Atlanta. He asked if he could bring up young Ernie to fill Barber's seat at Ebbets Field. OK, the Atlanta general manager replied, but you will have to give me something in return. And so Ernie became the first and so far only broadcaster in baseball history to be included in a trade, sent to Brooklyn for a minor league catcher.

That was one of Branch Rickey's finest deals. In Brooklyn and then in Baltimore, Ernie honed his craft and won



the admiration of fans. He was the television broadcaster for one of the most famous moments in baseball history, Bobby Thompson's "Shot Heard Round the World" in 1951. The national networks began to tap his talent for other events, such as pro and college football games and the Masters golf tournament.

And then, in 1960, he came to Detroit.

It is hard to describe to those who aren't from Michigan or fans of the Tigers just what Ernie Harwell meant to us over the next five decades. His voice on the radio guided us through good seasons and bad, through our city's times of prosperity and of tragedy. Through that ebb and flow he was a constant, his voice never too excited, never too downcast. We rejoiced when he told us an opposing batter took strike three "like the house by the side of the road," chuckled as he reported a foul ball had become a souvenir for a fan from Detroit or Howell or Warren or Lansing, or another town Michigan fans recognized. In the first days of every March, at the opening of his very first broadcast of spring training, Ernie announced the official end of Michigan winter with a reading from the Song of Solomon:

"For lo, the winter is past, the rain is over and gone; the flowers appear on the earth; the time of the singing of birds is come, and the voice of the turtle is heard in our land."

But over the decades, Ernie became more to us than just a welcome voice on the radio. He became a friend. For as good as he was behind the microphone, he is an even better man, and the quality of his character shone brightly, on his broadcasts and on the countless times he greeted fans with a hearty hello, or treated a clubhouse attendant with the same respect and affection as the million-dollar ballplayer. We came to respect and honor his voice, but to cherish his great heart.

This beloved friend is hurting now. His illness, he tells us without a trace of bitterness, will soon take him from us. But as he faces what he calls the end of his journey, the greatness of his heart has once again shined forth.

Last night, the Tigers took a break from the heat of another pennant race to pay tribute to this legend and friend. Amid the cheers and tears, Ernie once again put the fans first. Here is what he said:

"In my almost 92 years on this earth, the good Lord has blessed me with a great journey, and the blessed part of that journey is it's going to end here in the great state of Michigan.

"I deeply appreciate the great people of Michigan. I love their grit. I love the way they face life. I love the family values they have. And you Tiger fans are the greatest fans of all. No question about that."

There is an example of true courage and grace for all of us to try to follow.

Soon, this great voice will be silenced, a great heart stilled. But Ernie Harwell's love of the game, his human-

ity, his courage, will remain with us always. I treasure the moments I have spent with him. I thank him for the hours of joy he has given me, my wife and children, and the people of Michigan. I wish him and his beloved wife Lulu all the joy they deserve.

#### HONORING OUR ARMED FORCES

SERGEANT FIRST CLASS JARED C. MONTI

Mr. KERRY. Mr. President, I hope the Senate will take time today not just to remember but to honor the sacrifice and courage of SFC Jared C. Monti of Raynham, MA. It is a solemn privilege to do so for a man who has been awarded our Nation's highest military decoration—the Medal of Honor.

Sergeant Monti joins an elite group of Americans who have received the Medal of Honor. Just 3,447 before him—all soldiers, sailors, marines, and airmen of uncommon courage, valor, and gallantry—have been so honored. He is the sixth to be awarded the Medal of Honor for the wars in Afghanistan and Iraq.

Millions of Americans have defended our Nation's liberty for more than two centuries. But these 3,447 and now Sergeant Monti—risked their lives above and beyond the call of duty. And 617, like Sergeant Monti, gave their lives for the cause of America's freedom.

Our soldiers, sailors, marines, and airmen perform acts of bravery every day. But some of those acts, like Sergeant Monti's on June 26, 2006, exceed even our country's highest expectations.

During his more than 12 years in the Army, Sergeant Monti was recognized by his superiors as a man with a career of unlimited potential ahead of him. But Sergeant Monti's final act of bravery, on that fateful day in June 2006, also showed him to be a selfless leader with uncommon courage.

Sergeant Monti was leading a patrol of 16 troops on a mountain range in Afghanistan when attacked by a Taliban force of more than 50 fighters. Sergeant Monti not only prevented the Taliban force from overrunning his unit but also positioned his forces to disrupt a flanking attempt.

The sergeant managed to call in air support which eventually forced the enemy to retreat and prevented the patrol from being overrun against overwhelming odds.

When he realized one of his fellow soldiers was missing, he went searching for him. He found him lying wounded and exposed in the open ground. Sergeant Monti exposed himself to heavy enemy fire three times trying to rescue the wounded soldier. On the third attempt, the sergeant was mortally wounded.

Sergeant Monti's ability to act quickly and decisively in the midst of enemy fire is testimony to his leadership, without which his patrol's casualty rate that day would have been substantially higher.

Courage is one of the virtues we as Americans admire most. That is why the highest military decoration—and one of the oldest—our country bestows on its soldiers is the Medal of Honor. It has been awarded only to the few possessing a special brand of courage, heroism, and patriotism, Americans like Sergeant Monti.

Sergeant Monti was an extraordinary American and an extraordinary soldier, one of extraordinary gallantry. By his actions, he has taken his rightful place in the revered company of our country's most selfless heroes.

By tradition, Medal of Honor winners are shown the highest respect with salutes by all ranks, from the Commander in Chief on down. It is a fitting tradition for we stand in awe of these brave warriors. So I am proud to join all those saluting Sergeant Monti this day, including the Commander in Chief. And on behalf of a grateful nation and his home State of Massachusetts, we also salute his parents, Paul and Janet, and express our gratitude to them for their sacrifice which cannot be expressed in words.

#### ADDITIONAL STATEMENTS

##### COMMENDING LEONID NEVZLIN

• Mr. LIEBERMAN. Mr. President, I wish to pay tribute to Leonid Nevzlin on his recent appointment to serve as international chair of the United Jewish Communities UJC/ Jewish Federations of North America 2009 General Assembly in Washington, DC, beginning on November 8 of this year. Leonid's leadership in the Jewish community and his commitment to so many philanthropic causes around the world make him a natural for this important role. I am pleased to commend him today on this honor.

The UJC/Jewish Federations of North America plays an extraordinary role in inspiring a spirit of philanthropy and service. It has brought notable energy to the Save Darfur movement and continues to promote effective lobbying on a broad range of social justice issues. The UJC's General Assembly, which is held annually, is an event that brings people from across North America and the world together to discuss and to plan the organization's important work.

Leonid Nevzlin has shown a steadfast commitment to human rights, social justice, and democracy in his life and philanthropic work. Born and educated in Russia, Leonid began his philanthropic efforts by establishing the Moscow Jewish Cultural Center and worked to develop a number of Jewish educational programs that serve communities throughout Russia. As president of the Russian Jewish Congress, Leonid showed his leadership on a range of noteworthy causes, including preserving Jewish culture.

Leonid continued this service when he moved to Israel and established a

charitable foundation dedicated to preserving and promoting Jewish heritage globally. Among other initiatives, Leonid founded a research center at Hebrew University in Jerusalem that adopts a multidisciplinary approach to the study of Jewish history. He has carried his commitment to education and cross-cultural exchange beyond universities and continues to have a meaningful impact on Jewish communities worldwide through the Jewish People Policy Planning Institute, the Birthright Israel and Masa Israel Journey Programs, and his leadership in the redevelopment of Beit Hatfutsot, the Museum of the Jewish People, in Tel Aviv.

The Torah tells us that “Deeds of giving are the very foundation of the world.” Leonid Nevzlin has built a strong foundation for so many Jewish communities around the world through his deeds of giving. He inspires us with his philanthropic and entrepreneurial spirit, and I congratulate him today on a well-deserved appointment.●

#### MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mrs. Neiman, 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 12:17 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has agreed to the following bills, in which it requests the concurrence of the Senate:

H.R. 1713. An act to name the South Central Agricultural Research Laboratory of the Department of Agriculture in Lane, Oklahoma, and the facility of the United States Postal Service located at 310 North Perry Street in Bennington, Oklahoma, in honor of former Congressman Wesley “Wes” Watkins.

H.R. 3246. An act to provide for a program of research, development, demonstration, and commercial application in vehicle technologies at the Department of Energy.

#### ENROLLED BILL SIGNED

The President pro tempore (Mr. BYRD) reported that he had signed the following enrolled bill, which was previously signed by the Speaker of the House:

H.R. 1243. An act to provide for the award of a gold medal on behalf of Congress to Arnold Palmer in recognition of his service to the Nation in promoting excellence and good sportsmanship in golf.

#### MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 1713. An act to name the South Central Agricultural Research Laboratory of the Department of Agriculture in Lane, Oklahoma, and the facility of the United States Postal Service located at 310 North Perry Street in Bennington, Oklahoma, in honor of former Congressman Wesley “Wes” Watkins; to the Committee on Homeland Security and Governmental Affairs.

H.R. 3246. An act to provide for a program of research, development, demonstration and commercial application in vehicle technologies at the Department of Energy; to the Committee on Energy and Natural Resources.

#### MEASURES READ THE FIRST TIME

The following bill was read the first time:

S. 1687. A bill to prohibit the Federal Government from awarding contracts, grants, or other agreements to, providing any other Federal funds to, or engaging in activities that promote the Association of Community Organizations for Reform Now.

#### 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-3024. A communication from the Senior Trial Attorney, Federal Railroad Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Track Safety Standards; Continuous Welded Rail (CWR)” (RIN2130-AB90) as received during adjournment of the Senate in the Office of the President of the Senate on September 2, 2009; to the Committee on Commerce, Science, and Transportation.

EC-3025. A communication from the Trial Attorney, Federal Railroad Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “State Highway—Rail Grade Crossing Action Plans” (RIN2130-AC05) received in the Office of the President of the Senate on September 10, 2009; to the Committee on Commerce, Science, and Transportation.

EC-3026. A communication from the Deputy Assistant General Counsel for Regulation and Enforcement, Office of the Secretary of Transportation, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Procedures for Transportation Workplace Drug and Alcohol Testing Programs” (RIN2105-AD89) as received during adjournment of the Senate in the Office of the President of the Senate on August 10, 2009; to the Committee on Commerce, Science, and Transportation.

EC-3027. A communication from the Senior Attorney and Advisor, Office of the Secretary of Transportation, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Administrative Wage Garnishment” (RIN2105-AD78) as received during adjournment of the Senate in the Office of the President of the Senate on August 10, 2009; to the Committee on Commerce, Science, and Transportation.

EC-3028. A communication from the Program Analyst, National Highway Traffic Safety Administration, Department of Transportation, transmitting, pursuant to

law, the report of a rule entitled “Federal Motor Vehicle Safety Standards; Door Locks and Door Retention Components” (RIN2127-AK35) as received during adjournment of the Senate in the Office of the President of the Senate on August 10, 2009; to the Committee on Commerce, Science, and Transportation.

EC-3029. A communication from the Program Analyst, National Highway Traffic Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Requirements and Procedures for Consumer Assistance to Recycle and Save Program” ((RIN2127-AK54)(49 CFR Part 599)) as received during adjournment of the Senate in the Office of the President of the Senate on August 10, 2009; to the Committee on Commerce, Science, and Transportation.

EC-3030. A communication from the Program Analyst, National Highway Traffic Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Requirements and Procedures for Consumer Assistance to Recycle and Save Program” ((RIN2127-AK53)(49 CFR Parts 512 and 599)) as received during adjournment of the Senate in the Office of the President of the Senate on August 10, 2009; to the Committee on Commerce, Science, and Transportation.

EC-3031. A communication from the Program Analyst, National Highway Traffic Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Federal Motor Vehicle Safety Standards; Air Brake Systems” (RIN2127-AJ37) as received during adjournment of the Senate in the Office of the President of the Senate on August 10, 2009; to the Committee on Commerce, Science, and Transportation.

EC-3032. A communication from the Deputy Chief Counsel of Regulations and Security Standards, Transportation Security Administration, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled “Air Cargo Screening” (RIN1652-AA64) received in the Office of the President of the Senate on September 9, 2009; to the Committee on Commerce, Science, and Transportation.

EC-3033. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report relative to the United States Merchant Marine Academy’s Board of Visitors; to the Committee on Commerce, Science, and Transportation.

EC-3034. A communication from the Acting Administrator, Transportation Security Administration, Department of Homeland Security, transmitting, pursuant to law, a report relative to the Administration’s intent to enter into a contract with Trinity Technology Group, for screening services at (7) Montana airports; to the Committee on Commerce, Science, and Transportation.

EC-3035. A communication from the Acting Under Secretary for Industry and Security, Department of Commerce, transmitting, pursuant to law, a report relative to the clarification of license requirements for transfers (in country) to persons listed on the Entity List; to the Committee on Commerce, Science, and Transportation.

EC-3036. A communication from Chairman of the National Transportation Safety Board, transmitting, pursuant to law, a report relative to the OMB’s request for the Board’s views on H.R. 3371, the “Airline Safety and Pilot Training Improvement Act of 2009”; to the Committee on Commerce, Science, and Transportation.

EC-3037. A communication from the Chair of the Council on Environmental Quality, Executive Office of the President, transmitting, pursuant to law, a report relative to

the Ocean Policy Task Force report regarding the nation's ocean policy; to the Committee on Commerce, Science, and Transportation.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HARKIN, from the Committee on Health, Education, Labor, and Pensions, without amendment:

S. 1679. An original bill to make quality, affordable health care available to all Americans, reduce costs, improve health care quality, enhance disease prevention, and strengthen the health care workforce.

## EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of nominations were submitted:

By Mr. KERRY for the Committee on Foreign Relations.

\*David C. Jacobson, of Illinois, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Canada.

Nominee: David C. Jacobson.

Post: Ambassador to Canada.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Donor, Recipient, date, and amount:

David Jacobson: SNR PAC, 3/2/2000, \$265; Wesley Clark, 11/25/2003, \$1,000; Wesley Clark, 10/31/2003, \$250; Barack Obama, 3/5/2004, \$250; John Kerry, 4/26/2004, \$1,000; Kerry Victory 2004, 7/20/2004, \$1,600; John Kerry, 10/22/2004, \$1,000; Barack Obama for Illinois, 2/24/2005, \$1,000; Matthew Brown, 3/28/2005, \$500; Debbie Stabenow, 3/31/2005, \$250; DSCC, 9/6/2005, \$2,000; Citizens for Joe Biden, 11/22/2005, \$2,000; Claire McCaskill, 12/31/2005, \$1,000; Matthew Brown, 1/25/2006, \$500; Nick Lampson, 2/15/2006, \$250; SNR PAC, 3/15/2006, \$1,400; Dan Seals, 3/19/2006, \$250; Dick Durbin, 6/28/2006, \$1,000; Joe Biden, 6/30/2006, \$900; DSCC, 10/13/2006, \$2,500; Dan Seals, 11/4/2006, \$250; Dan Seals, 11/4/2006, \$250; Dick Durbin, 3/29/2007, \$1,100; Dick Durbin, 3/29/2007, \$900; Barack Obama, 3/30/2007, \$2,300; Harry Reid, 3/31/2007, \$1,000; Tom Udall, 12/30/2007, \$1,000; Dick Durbin, 1/8/2008, \$500; Dick Durbin, 5/16/2008, \$900; Senate 08/Bruce Lunsford, 5/16/2008, \$1,000; Joe Biden, 6/23/2008, \$300; Joe Biden, 6/23/2008, \$200; Obama Victory Fund, 7/1/2008, \$2,300; Hillary Clinton, 7/14/2008, \$500.

Julie Jacobson: Barack Obama, 7/14/2004, \$500; Debbie Stabenow, 8/9/2005, \$500; Progressive Choices PAC, 7/24/2006, \$250; Barack Obama, 6/28/2007, \$1,000; Barack Obama, 12/17/2007, \$1,300; Obama Victory Fund, 7/1/2008, \$2,300.

Wynne Jacobson: None.

Jeremy Jacobson: None.

Winifred Jacobson: Deceased.

Jerry Jacobson: Deceased.

Jamie Wainwright: None.

David Wainwright: None.

Robin Nichols: DSCC, 10/17/2006, \$500; Dan Seals, 3/3/2006, \$300; Dan Seals, 10/20/2007, \$500; Wesley Clark, 11/25/2003, \$500; Wesley Clark, 1/27/2004, \$200; Dan Seals, 6/16/2006, \$500; Dan Seals, 7/24/2008, \$500; Dan Seals, 6/30/2008, \$500; Joe Biden, 11/18/2005, \$200; Barack Obama, 6/28/2007, \$1,000; John Kerry, 5/25/2004, \$500.

Jay Nichols: Dan Seals, 6/30/2008, \$500; Dan Seals, 9/21/2008, \$500; Obama Victory Fund, 7/1/2008, \$500; Obama Victory Fund, 9/18/2008, \$500; Barack Obama, 7/31/2008, \$500; Barack Obama, 9/30/2008, \$500.

\*Alan D. Solomont, of Massachusetts, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Spain, and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to Andorra.

Nominee: Alan D. Solomont.

Post: Spain and Andorra.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Contributions, amount, date and donee: \$2,300.00, 2/16/2007, Allen, Tom for Senate; \$1,000.00, 6/17/2005, Allen, Tom for Congress; \$2,000.00, 5/4/2007, Ameripac: The Fund for a Greater America; \$2,300.00, 6/8/2007, Born Fighting PAC; (\$1,900.00), 6/1/2006, Brown, Matt for US Senate (Refund); \$900.00, 6/12/2005, Brown, Matthew for US Senate; \$2,000.00, 4/13/2005, Brown, Matthew for US Senate; \$2,000.00, 9/20/2005, Byrd, Friends of Robert C; \$5,000.00, 3/30/2005, Campaign for Our Country; \$2,100.00, 3/9/2005, Cantwell, Friends of Maria; \$2,000.00, 6/12/2005, Capuano for Congress; \$1,500.00, 9/6/2006, Cardin, Ben for Senate; \$1,000.00, 5/10/2005, Carper for Senate; (\$300.00), 1/18/2006, Casey, Bob for Pennsylvania (Refund); \$2,500.00, 5/22/2005, Casey, Bob for Pennsylvania—\$2,100 Casey, Bob for Pennsylvania; \$400 Casey, Bob for Pennsylvania; \$1,000.00, 5/1/2008, Childers for Congress; (\$200.00), 7/26/2005, Clinton, Friends of Hillary (Refund)\*; (\$1,600.00), 7/13/2005, Clinton, Friends of Hillary (Refund)\*\*; \$200.00, 6/20/2005, Clinton, Hillary, Friends of; \$1,000.00, 11/27/2005, DeLahunt for Congress; \$250.00, 6/29/2007, Democracy for America; \$25,000.00, 3/31/2005, Democratic Congressional Campaign Committee; \$28,500.00, 3/31/2007, Democratic Congressional Campaign Committee; \$5,000.00, 6/14/2005, Democratic Senatorial Campaign Committee; \$10,000.00, 5/17/2007, Democratic Senatorial Campaign Committee; \$10,000.00, 6/20/2005, DNC Services Corp/Democratic National Committee; \$10,000.00, 6/29/2007, DNC Services Corp/Democratic National Committee; \$10,000.00, 4/3/2007, DNC Services Corp/Democratic National Committee; \$2,500.00, 4/15/2005, Durbin, Friends of Dick Committee; \$1,000.00, 6/6/2005, Emily's List; \$1,000.00, 6/29/2007, Feder, Judy for Congress; \$1,000.00, 3/29/2007, Finegold, Barry for Congress; \$1,300.00, 6/26/2007, Finegold, Barry for Congress; \$2,300.00, 6/9/2007, Footlik for Congress; \$1,000.00, 7/6/2006, Frank, Barney Frank for Congress; \$1,000.00, 11/15/2008, Franken, Al; \$2,100.00, 10/9/2005, Harkin, Citizens for\*; \$300.00, 3/1/2007, Harkin, Citizens for; \$2,300.00, 5/10/2007, Hodes, Paul for Congress; \$5,000.00, 12/16/2005, Hopefund, Inc.; \$2,000.00, 3/3/2005, Kennedy for Senate 2012; \$4,200.00, 1/11/2007, Kerry, John for Senate; \$500.00, 10/23/2005, KIDSPAC; (\$2,100.00), 9/18/2006, Lampson, Nick for Congress (Refund); \$4,200.00, 8/16/2006, Lampson, Nick Lampson for Congress; \$1,000.00, 5/11/2007, Levin, Carl Friends of; \$2,100.00, 6/1/2005, Lieberman, Friends of Joe; \$2,300.00, 3/29/2007, Markey Committee; \$2,000.00, 6/24/2005, Markey Committee; (\$2,000.00), 12/26/2005, Markey Refund; \$5,000.00, 2/14/2005, McAuliffe, Friends of Chairman; \$2,000.00, 4/24/2005, McGovern, Re-Elect Committee; \$1,000.00, 5/5/2006, McCaskill, Claire for US Senate; \$2,000.00, 5/5/2005, Meehan, Marty for Congress; \$1,000.00, 5/8/2008, Merkley, Jeff for Oregon; \$1,000.00, 5/15/2006, Moore, Bean Moore JT. Committee—\$500 Melissa Bean, \$500 Dennis Moore; \$1,000.00, 11/1/2005, Nadler for Congress; \$1,000.00, 4/17/2005, Neal, Richard E. Committee; \$1,000.00, 11/21/2005, Nelson, Bill for US Senate; \$2,100.00, 1/26/2007, Obama Exploratory Committee; \$2,500.00, 3/30/2007, Obama

for America; (\$248.12), 11/3/2008, Obama Refund; \$2,000.00, 6/4/2005, Obey, Dave, A Lot of People for; \$1,000.00, 4/2/2007, O'Brien, David for Congress; \$2,300.00, 3/5/2007, Olver, John Citizens for; \$4,200.00, 11/1/2005, Pelosi, Nancy for Congress; \$4,200.00, 1/4/2006, Pelosi, Nancy for Congress (Refund); \$2,300.00, 5/18/2007, Reed Committee; \$1,000.00, 2/15/2007, Richardson for President; \$1,300.00, 6/26/2007, Richardson for President; \$2,300.00, 8/24/2007, Schwartz, Allyson for Congress\*; \$1,000.00, 3/7/2005, Schwartz, Allyson for Congress; \$2,000.00, 6/1/2005, Stabenow for US Senate\*; \$1,000.00, 3/31/2007, Tsongas, Nicki for Congress; \$1,000.00, 6/20/2005, Udall for Colorado; \$1,300.00, 6/26/2007, Udall for Colorado; \$1,000.00, 3/31/2007, Udall for Colorado; \$2,100.00, 1/22/2007, Vilsack, Tom for President; \$1,000.00, 11/25/2007, Warner, Friends of Mark\*; \$500.00, 11/13/2005, Welch for Congress; \$1,000.00, 4/25/2007, Welch for Congress.

\*Recorded incorrectly on FEC website as (\$100).

\*\*Recording incorrectly on FEC website as a contribution made by Susan Solomont; should be attributed to Alan Solomont.

2. Spouse: Susan Lewis Solomont: \$1,000.00, 9/28/2007, Allen, Tom for Senate; \$1,000.00, 3/21/2006, Allen, Tom for Congress; \$1,000.00, 1/29/2006, Bingham, Jeff A Lot of People For; \$1,000.00, 9/25/2005, Brown, Matt for US Senate\*; \$250.00, 1/29/2006, Brown, Matt Friends of (RI); \$1,000.00, 12/16/2006, Campaign for Our Country; \$2,000.00, 3/21/2006, Cardin, Ben for Senate; (\$1,500.00), 9/6/2006, Cardin, Ben for Senate (Refund); \$2,100.00, 5/1/2005, Clinton, Hillary, Friends of \*\*\*; \$25,000.00, 3/7/2006, Democratic Congressional Campaign Committee—\$9,000 Dem. Congressional Campaign Comte, \$6,000 Dem. Congressional Campaign Comte; \$10,000 Dem. Congressional Campaign Comte; \$28,500.00, 6/18/2007, Democratic Congressional Campaign Committee; \$7,500.00, 3/20/2008 Democratic Congressional Campaign Committee; \$10,000.00, 2/28/2006, DNC Services Corp/Democratic National Committee; \$28,500.00, 3/28/2008 DNC Services Corp/Democratic National Committee; \$1,000.00, 2/7/2008 Durbin, Friends of Dick; \$1,000.00, 9/28/2007, Footlik for Congress; \$2,000.00, 2/21/2006, Ford, Harold Ford Jr. for Tennessee; \$2,300.00, 11/2/2007, Franken, Al for Senate; \$2,000.00, 9/19/2005, Harkin, Friends of Tom; \$4,600.00, 3/1/2007, Harkin, Friends of Tom; \$1,000.00, 3/21/2006, Hodes, Paul for Congress; \$1,000.00, 10/5/2007, Hodes, Paul for Congress; \$5,000.00, 3/21/2006, Hopefund Inc.; \$20,000.00, 9/29/2006, House and Senate Victory Fund \*\*—\$10,000 DSCC, \$10,000 DCCC, —\$2,000.00, 3/3/2005, Kennedy for Senate 2012; \$1,000.00, 3/7/2006, Kennedy, Friends of Patrick; \$2,300.00, 7/26/2007, Kennedy, Friends of Patrick; \$4,200.00, 1/11/2007, Kerry, John for Senate; \$4,200.00, 12/31/2005, Lampson, Nick for Congress—\$2,100 Lampson, Nick for Congress, \$2,100 Lampson, Nick for Congress; (\$4,200.00) 9/6/2006, Lampson, Nick for Congress (Refund); \$2,000.00, 12/22/2005, Markey Committee; \$2,000.00, 3/29/2006, Nelson, Bill for U.S. Senate; \$2,100.00, 1/26/2007, Obama Exploratory Committee; \$2,500, 3/30/2007, Obama for America; \$2,000.00, 6/4/2005, Obey, Dave, A Lot of People For; \$2,000.00, 3/12/2005, Olver, Citizens for John for Congress; \$4,200.00, 12/31/2005, Pelosi, Nancy for Congress; \$1,000.00, 9/28/2007, Pingree for Congress; \$1,000.00, 10/26/2007, Polis, Jay for Congress; \$2,300.00, 7/12/2007, Reed Committee; \$1,000.00, 11/21/2007, Reed Committee; \$2,300.00, 9/30/2007, Richardson for President; \$2,300.00, 11/19/2007, Rockefeller, Friends of Jay; \$1,000.00, 12/29/2006, Sanders, Congressman Bernie for Senate; \$250.00, 3/21/2006, Schultz, Debbie Wasserman-Schultz for Congress; \$2,000.00, 8/29/2005, Schwartz, Allyson for Congress; \$2,300.00, 9/20/2007, Shaheen, Jeanne for Senate; \$2,300.00, 11/26/07, Shaheen, Jeanne for Senate; \$2,000.00, 12/28/2005, Stabenow, Debbie for U.S. Senate;

\$1,000.00, 3/18/2005, Stabenow, Debbie for U.S. Senate; \$1,000.00, 3/29/2006, Stabenow, Debbie for U.S. Senate; \$1,000.00, 3/21/2006, Tester, Jon Tester for Senate (MT); \$1,000.00, 3/29/2006, Tierney, John for Congress; \$1,000.00, 10/26/2007, Tsongas, Nicki for Congress; \$2,300.00, 9/2/2007, Tsongas, Nicki for Congress; \$2,300.00, 3/1/2007, Tsongas, Nicki for Congress; (\$2,300.00), 5/7/2009, Tsongas, Nicki for Congress (Refund); \$2,100.00, 1/29/2006, Udall for Congress; \$2,100.00, 1/22/2007, Vilsack, Tom for President; \$500.00, 3/21/2006, Welch, for Congress.

\*Recorded incorrectly on FEC website as \$900.

\*\*Recorded incorrectly on FEC website as contribution made by Alan Solomont; should be attributed to Susan Solomont.

\*\*\*Recorded incorrectly on FEC website as \$1700.5

3. Children and Spouses: Rebecca Solomont: \$2,300.00, 7/14/2008, Clinton, Hillary for President; \$2,000.00, 9/3/2006, Ford, Harold Ford for Senate; \$2,000.00, 7/14/2008, Markey Committee; \$2,300.00, 3/30/2007, Obama for America; \$2,300.00, 3/31/2007, Obama for America; \$2,500.00, 7/21/2008, Reid, Friends of Harry. Stephanie Solomont: None.

4. Parents: Joseph Solomont: Deceased; Ethel Solomont: Deceased.

5. Grandparents: Deceased.

6. Brothers and Spouses: David and Joan Solomont: None. Jay and Deborah Solomont: None. Ahron and Sheera Solomont: None.

\*Lee Andrew Feinstein, of Virginia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Poland.

Nominee: Lee Feinstein.

Post: Ambassador to Poland.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Contributions, amount, date and donee:

Self: \$2300, Aug. 2008, Obama for America.

2. Spouse: n/a.

3. Children and Spouses: n/a.

4. Parents: n/a.

5. Grandparents: n/a.

6. Brothers and Spouses: Michael Feinstein: \$50, 2008, Obama for America; \$100, 2008, Obama for America; \$50, 2008, Obama for America; Alan Feinstein: \$250, 2007, Rockville Center Dem. Party.

7. Sisters and Spouses: Merril Feinstein: \$50, 2008, Hillary Clinton for Pres.

\*Barry B. White, of Massachusetts, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Norway

Nominee: Barry B. White.

Post: Ambassador to the Kingdom of Norway.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Candidate, office, date, and amount:

Self: Patrick Murphy, Congress, March 2008, \$250; Chris Gregoire, Governor, April 2008, \$250; Nat'l Jewish Dem. Committee, Committee, June 2008, \$2,000; John Kerry, Senate, July 2008, \$1,000; Obama Victory Fund, Committee, July 2008, \$10,000; Mark Warner, Senate, August 2008, \$1,000; Scott Kleeb, Senate, September 2008, \$250; Tom Allen, Senate, September 2008, \$500; John Olver, Congress, October 2008, \$250; Jeanne Shaheen, Senate, October 2008, \$1,000; Pat-

rick Murphy, Senate, October 2008, \$250; Paul Hodes, Congress, October 2008, \$270; Obama Victory, President, September 2008, \$2,000; DNC Services, Committee, September 2008, \$2,000; Mark Begich, Senate, October 2008, \$250; Obama for America, President, October 2008, (-\$2300); Barney Frank, Congress, April 2008, \$1,000; Niki Tsongas, Congress, March 2008, \$1,000; N.H. Dem Party, Committee, December 2007, \$1,000; Paul Hodes, Congress, September 2007, \$1,000; Obama for America, President, March 2007, \$2,300; Niki Tsongas, Congress, June 2007, \$1,000; Niki Tsongas, Congress, October 2007, \$1,300; Hillary Clinton, President, July 2008, \$1,000; Niki Tsongas, Congress, March 2007, \$1,000; Niki Tsongas, Congress, March 2007, \$300; MA Democratic State Committee, Committee, April 2006, \$500; HopeFund, Committee, March 2006, \$1,350; Edward Kennedy, Senate, March 2006, \$1,000; Keeping America's Promise, Committee, March 2006, \$1,000; Rob Simmons, Congress, June 2006, \$1,000; Jon Tester, Senate, July 2006, \$1,000; Bill Delahunt, Congress, August 2006, \$1,000; Obama 2010, Senate, September 2006, \$1,000; Nancy Johnson, Congress, November 2006, \$1,000; Richard Neal, Congress, November 2006, \$1,000; John Larson, Congress, November 2006, \$1,000; Ed Markey, Congress, October 2006, \$1,000; Jeb Bradley, Congress, November 2006, \$1,000; Barney Frank, Congress, October 2006, \$1,000; HopeFund, Committee, March 2006, \$1,350; Paul Hodes, Congress, October 2006, \$500; Campaign for Country, Committee, April 2006, \$1,000; Edward Kennedy, Senate, March 2005, \$1,000; Edward Kennedy, Senate, March 2005, \$1,000; HopeFund, Committee, September 2005, \$1,000; Campaign for Country, Committee, December 2005, \$1,000; Nat'l Jewish Dem Committee, Committee, September 2005, \$500.

\*Attributed by the DNC mistakenly as \$5,400 for the DNC and \$4,600 for Obama for America. When the mistake was discovered, Obama for America refunded me \$2,300 in October, 2008. It is on the FEC report as a refund to Mr. Barry White.

\*\*FEC filings show this as a contribution of \$900 but it was \$1000.

2. Spouse: Eleanor G. White: MA Democratic State Committee, Committee, May 2009, \$500; Jon Tester, Senate, March 2009, -\$1,000; Niki Tsongas, Congress, March 2009, \$500; GREBPAC, Committee, -February 2009, \$500; Barney Frank, Congress, April 2008, \$1,000; GREBPAC, Committee, March 2008, \$250; Hillary Clinton, President, July 2008, \$1,000; Niki Tsongas, Congress, October 2008, \$125; Barney Frank, Congress, October 2007, \$250; Barney Frank, Congress, October 2007, \$250; Niki Tsongas, Congress, March 2007, \$1,000; GREBPAC, Committee, March 2007, \$250; Obama, President, June 2007, \$2,300; Niki Tsongas, Congress, June 2007, \$1,300; Niki Tsongas, Congress, October 2007, \$500; Obama, President, June 2007, \$1,300; Barney Frank, Congress, October 2006, \$250.

3. Children and Spouses: Joshua and Nicole White: none; Adam White: none; Benjamin White: Joe Biden, President, 2008, \$25; Obama, President, 2008, \$100.

4. Parents: Harold and Rosalyn White—deceased.

5. Grandparents: Louis and Sadie Schneider—deceased; Joseph and Bessie White—deceased.

6. Brothers and Spouses: Alan White and Christiana Taylor, none; Michael White and Elizabeth White: Obama, President, May 2007, \$2,000; John Morrison, Senate, April 2005, \$250; Don Young, Congress, October 2007, \$500; Maria Cantwell for Senate, Senate, July 2006, \$500; Nick Lampkin, Congress, Uncertain, \$500; Jon Tester, Senate, Uncertain, \$250.

\*Michael H. Posner, of New York, to be Assistant Secretary of State for Democracy, Human Rights, and Labor.

\*Robert D. Hormats, of New York, to be an Under Secretary of State (Economic, Energy, and Agricultural Affairs).

\*Robert D. Hormats, of New York, to be United States Alternate Governor of the International Bank for Reconstruction and Development for a term of five years; United States Alternate Governor of the Inter-American Development Bank for a term of five years; United States Alternate Governor of the African Development Bank for a term of five years; United States Alternate Governor of the African Development Fund; United States Alternate Governor of the Asian Development Bank; and United States Alternate Governor of the European Bank for Reconstruction and Development.

\*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. HARKIN:

S. 1679. An original bill to make quality, affordable health care available to all Americans, reduce costs, improve health care quality, enhance disease prevention, and strengthen the health care workforce; from the Committee on Health, Education, Labor, and Pensions; placed on the calendar.

By Mr. WHITEHOUSE:

S. 1680. A bill to amend titles XVIII and XIX of the Social Security Act to provide the authorized representative of a deceased beneficiary full access to information with respect to the deceased beneficiary's benefits under the Medicare and Medicaid programs; to the Committee on Finance.

By Mr. LEAHY (for himself, Mr. FEINGOLD, Ms. CANTWELL, Mr. DURBIN, Mr. SCHUMER, and Mrs. FEINSTEIN):

S. 1681. A bill to ensure that health insurance issuers and medical malpractice insurance issuers cannot engage in price fixing, bid rigging, or market allocations to the detriment of competition and consumers; to the Committee on the Judiciary.

By Ms. CANTWELL (for herself and Mr. NELSON of Florida):

S. 1682. A bill to provide the Commodity Futures Trading Commission with clear antimarket manipulation authority, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. BENNET:

S. 1683. A bill to apply recaptured taxpayer investments toward reducing the national debt; to the Committee on Banking, Housing, and Urban Affairs.

By Mrs. FEINSTEIN (for herself and Mrs. BOXER):

S. 1684. A bill to establish guidelines and incentives for States to establish criminal arsonist and criminal bomber registries and to require the Attorney General to establish a national criminal arsonist and criminal bomber registry program, and for other purposes; to the Committee on the Judiciary.

By Mr. SANDERS (for himself, Mr. LEAHY, Mr. WHITEHOUSE, and Mr. DODD):

S. 1685. A bill to provide an emergency benefit of \$250 to seniors, veterans, and persons with disabilities in 2010 to compensate for the lack of a cost-of-living adjustment for such year, and for other purposes; to the Committee on Finance.

By Mr. FEINGOLD (for himself, Mr. DURBIN, Mr. TESTER, Mr. UDALL of

New Mexico, Mr. BINGAMAN, Mr. SANDERS, Mr. AKAKA, Mr. WYDEN, Mr. MENENDEZ, and Mr. MERKLEY):

S. 1686. A bill to place reasonable safeguards on the use of surveillance and other authorities under the USA PATRIOT Act, and for other purposes; to the Committee on the Judiciary.

By Mr. JOHANNES (for himself, Mr. VITTER, Mr. CHAMBLISS, Mr. BROWNBACK, Mr. INHOFE, Mr. BURR, Mrs. HUTCHISON, Mr. BARRASSO, Mr. HATCH, Mr. ENZI, Mr. ISAKSON, Mr. ROBERTS, Mr. BENNETT, Mr. ENSIGN, Mr. CRAPO, Mr. SHELBY, Mr. THUNE, Mr. GREGG, Mr. BUNNING, Mr. DEMINT, and Mr. GRAHAM):

S. 1687. A bill to prohibit the Federal Government from awarding contracts, grants, or other agreements to, providing any other Federal funds to, or engaging in activities that promote the Association of Community Organizations for Reform Now; read the first time.

By Mr. BENNETT (for himself, Mr. ENZI, Mr. BUNNING, and Mr. CRAPO):

S. 1688. A bill to prevent congressional reapportionment distortions by requiring that, in the questionnaires used in the taking of any decennial census of population, a checkbox or other similar option be included for respondents to indicate citizenship status or lawful presence in the United States; to the Committee on Homeland Security and Governmental Affairs.

By Mr. BINGAMAN (for himself and Mr. UDALL of New Mexico):

S. 1689. A bill to designate certain land as components of the National Wilderness Preservation System and the National Landscape Conservation System in the State of New Mexico, and for other purposes; to the Committee on Energy and Natural Resources.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. HARKIN (for himself, Mr. GRASSLEY, Mrs. LINCOLN, Mr. CHAMBLISS, Mr. LUGAR, Mr. LEAHY, Ms. KLOBUCHAR, Mr. CORNYN, Mr. BROWN, Mr. CONRAD, Mr. FRANKEN, Mrs. HUTCHISON, Mr. BAUCUS, Mr. CASEY, Ms. STABENOW, Mr. BENNETT, Mr. JOHANNES, Mr. ROBERTS, Mr. NELSON of Nebraska, Mr. COCHRAN, Mr. THUNE, and Mrs. GILLIBRAND):

S. Res. 273. A resolution commemorating Dr. Norman Borlaug, recipient of the Nobel Peace Prize, Congressional Gold Medal, Presidential Medal of Freedom, and founder of the World Food Prize; considered and agreed to.

By Mr. MENENDEZ (for himself, Mrs. GILLIBRAND, and Mr. HARKIN):

S. Res. 274. A resolution supporting the goals and ideals of Peace Day; considered and agreed to.

## ADDITIONAL COSPONSORS

S. 162

At the request of Mr. FEINGOLD, the name of the Senator from Idaho (Mr. RISCH) was added as a cosponsor of S. 162, a bill to provide greater accountability of taxpayers' dollars by curtailing congressional earmarking, and for other purposes.

S. 254

At the request of Mrs. LINCOLN, the name of the Senator from Colorado

(Mr. UDALL) was added as a cosponsor of S. 254, a bill to amend title XVIII of the Social Security Act to provide for the coverage of home infusion therapy under the Medicare Program.

S. 461

At the request of Mrs. LINCOLN, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 461, a bill to amend the Internal Revenue Code of 1986 to extend and modify the railroad track maintenance credit.

S. 604

At the request of Mr. SANDERS, the names of the Senator from Vermont (Mr. LEAHY) and the Senator from California (Mrs. BOXER) were added as cosponsors of S. 604, a bill to amend title 31, United States Code, to reform the manner in which the Board of Governors of the Federal Reserve System is audited by the Comptroller General of the United States and the manner in which such audits are reported, and for other purposes.

S. 607

At the request of Mr. UDALL of Colorado, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. 607, a bill to amend the National Forest Ski Area Permit Act of 1986 to clarify the authority of the Secretary of Agriculture regarding additional recreational uses of National Forest System land that are subject to ski area permits, and for other purposes.

S. 619

At the request of Mr. SANDERS, his name was added as a cosponsor of S. 619, a bill to amend the Federal Food, Drug, and Cosmetic Act to preserve the effectiveness of medically important antibiotics used in the treatment of human and animal diseases.

S. 658

At the request of Mr. PRYOR, his name was added as a cosponsor of S. 658, a bill to amend title 38, United States Code, to improve health care for veterans who live in rural areas, and for other purposes.

S. 769

At the request of Mrs. LINCOLN, the name of the Senator from Idaho (Mr. RISCH) was added as a cosponsor of S. 769, a bill to amend title XVIII of the Social Security Act to improve access to, and increase utilization of, bone mass measurement benefits under the Medicare part B program.

S. 823

At the request of Ms. SNOWE, the name of the Senator from Missouri (Mr. BOND) was added as a cosponsor of S. 823, a bill to amend the Internal Revenue Code of 1986 to allow a 5-year carryback of operating losses, and for other purposes.

S. 934

At the request of Mr. HARKIN, the names of the Senator from New Jersey (Mr. MENENDEZ), the Senator from Maryland (Ms. MIKULSKI) and the Senator from Minnesota (Mr. FRANKEN)

were added as cosponsors of S. 934, a bill to amend the Child Nutrition Act of 1966 to improve the nutrition and health of schoolchildren and protect the Federal investment in the national school lunch and breakfast programs by updating the national school nutrition standards for foods and beverages sold outside of school meals to conform to current nutrition science.

S. 1042

At the request of Mr. KOHL, the name of the Senator from New York (Mrs. GILLIBRAND) was added as a cosponsor of S. 1042, a bill to prohibit the use of funds to promote the direct deposit of Veterans and Social Security benefits until adequate safeguards are established to prevent the attachment and garnishment of such benefits.

S. 1210

At the request of Mr. KAUFMAN, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 1210, a bill to establish a committee under the National Science and Technology Council with the responsibility to coordinate science, technology, engineering, and mathematics education activities and programs of all Federal agencies, and for other purposes.

S. 1304

At the request of Mr. GRASSLEY, the names of the Senator from South Dakota (Mr. JOHNSON) and the Senator from Oregon (Mr. WYDEN) were added as cosponsors of S. 1304, a bill to restore the economic rights of automobile dealers, and for other purposes.

S. 1319

At the request of Mr. COBURN, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 1319, a bill to require Congress to specify the source of authority under the United States Constitution for the enactment of laws, and for other purposes.

S. 1446

At the request of Mrs. GILLIBRAND, the names of the Senator from Alaska (Mr. BEGICH) and the Senator from Hawaii (Mr. INOUE) were added as cosponsors of S. 1446, a bill to amend title XIX of the Social Security Act to provide incentives for increased use of HIV screening tests under the Medicaid program.

S. 1536

At the request of Mr. SCHUMER, the name of the Senator from Minnesota (Ms. KLOBUCHAR) was added as a cosponsor of S. 1536, a bill to amend title 23, United States Code, to reduce the amount of Federal highway funding available to States that do not enact a law prohibiting an individual from writing, sending, or reading text messages while operating a motor vehicle.

S. 1538

At the request of Mr. ROCKEFELLER, the name of the Senator from Hawaii (Mr. INOUE) was added as a cosponsor of S. 1538, a bill to establish a black

carbon and other aerosols research program in the National Oceanic and Atmospheric Administration that supports observations, monitoring, modeling, and for other purposes.

S. 1539

At the request of Mr. ROCKEFELLER, the name of the Senator from Hawaii (Mr. INOUE) was added as a cosponsor of S. 1539, a bill to authorize the National Oceanic and Atmospheric Administration to establish a comprehensive greenhouse gas observation and analysis system, and for other purposes.

S. 1553

At the request of Mr. GRASSLEY, the name of the Senator from Kansas (Mr. ROBERTS) was added as a cosponsor of S. 1553, a bill to require the Secretary of the Treasury to mint coins in commemoration of the National Future Farmers of America Organization and the 85th anniversary of the founding of the National Future Farmers of America Organization.

S. 1643

At the request of Ms. SNOWE, the name of the Senator from New Hampshire (Mr. GREGG) was added as a cosponsor of S. 1643, a bill to amend the Internal Revenue Code of 1986 to allow a credit for the conversion of heating using oil fuel to using natural gas or biomass feedstocks, and for other purposes.

S. 1660

At the request of Ms. KLOBUCHAR, the name of the Senator from Idaho (Mr. RISCH) was added as a cosponsor of S. 1660, a bill to amend the Toxic Substances Control Act to reduce the emissions of formaldehyde from composite wood products, and for other purposes.

S. RES. 226

At the request of Mrs. GILLIBRAND, the name of the Senator from New Mexico (Mr. UDALL) was added as a cosponsor of S. Res. 226, a resolution designating September 2009 as "Gospel Music Heritage Month" and honoring gospel music for its valuable contributions to the culture of the United States.

S. RES. 272

At the request of Mr. HARKIN, the name of the Senator from New York (Mrs. GILLIBRAND) was added as a cosponsor of S. Res. 272, a resolution commemorating Dr. Norman Borlaug, recipient of the Nobel Peace Prize, Congressional Gold Medal, Presidential Medal of Freedom, and founder of the World Food Prize.

AMENDMENT NO. 2394

At the request of Mr. JOHANNIS, the names of the Senator from Georgia (Mr. ISAKSON), the Senator from Oklahoma (Mr. INHOFE), the Senator from Kansas (Mr. BROWNBACK), the Senator from North Carolina (Mr. BURR), the Senator from Utah (Mr. BENNETT), the Senator from Kansas (Mr. ROBERTS), the Senator from Wyoming (Mr. BARRASSO), the Senator from Kentucky (Mr. BUNNING), the Senator from Wyo-

ming (Mr. ENZI), the Senator from South Carolina (Mr. DEMINT), the Senator from Texas (Mrs. HUTCHISON) and the Senator from South Dakota (Mr. THUNE) were added as cosponsors of amendment No. 2394 proposed to H.R. 2996, a bill making appropriations for the Department of the Interior, environment, and related agencies for the fiscal year ending September 30, 2010, and for other purposes.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LEAHY (for himself, Mr. FEINGOLD, Ms. CANTWELL, Mr. DURBIN, Mr. SCHUMER, and Mrs. FEINSTEIN):

S. 1681. A bill to ensure that health insurance issuers and medical malpractice insurance issuers cannot engage in price fixing, bid rigging, or market allocations to the detriment of competition and consumers; to the Committee on the Judiciary.

Mr. LEAHY. Mr. President, our Nation's antitrust laws exist to protect consumers. These laws promote competition, which ensures that consumers will pay lower prices, and receive more choices of higher quality products. The vast majority of the companies doing business in the U.S. are subject to the Federal antitrust laws.

A few industries have used their influence to obtain a special, statutory exemption from the antitrust laws, and the insurance industry is one of them. In the markets for health insurance and medical malpractice insurance, patients and doctors are paying the price, as costs continue to increase at an alarming rate. As the insurance industry prospers behind its exemption, patients and small businesses suffer. I am pleased to introduce today the Health Insurance Industry Antitrust Enforcement Act of 2009, which will repeal the antitrust exemption for health insurance and medical malpractice insurance providers.

The health care industry is the subject of a great deal of debate. There are many proposals to bring competition to health insurance providers. While we are debating these solutions, we should not lose sight of the fact that the health insurance industry currently does not have to play by the same, good-competition rules as other industries. That is wrong, and this legislation corrects it.

The lack of affordable health insurance plagues families throughout our country, and the rising prices that hospitals and doctors pay for medical malpractice insurance drains resources that could otherwise be used to improve patient care. Antitrust oversight in these industries will provide consumers with the confidence that insurance companies are operating in a competitive marketplace.

There is simply no justification for health insurance and medical malpractice insurance companies to be exempt from Federal laws prohibiting

price fixing. Subjecting health and medical malpractice insurance providers to the antitrust laws will enable customers to feel confident that the price they are being quoted is the product of a fair marketplace. This bill will prohibit the most egregious anti-competitive conduct—price fixing, bid rigging and market allocations—conduct that harms consumers and drives up health care costs.

In the 110th Congress, I introduced a much broader repeal of the McCarran-Ferguson Act with Senator Lott. While Congress did not reach consensus on that legislation, surely in this environment of rising health care costs, we can agree on this more narrowly tailored repeal. Insurers should not object to being subject to the same antitrust laws as everyone else. If they are operating in an appropriate way, they should have nothing to fear. American families, doctors and hospitals rely on insurance. It is important to ensure that the prices they pay for this insurance are established in a fair and competitive way.

I look forward to repealing the antitrust exemption in the health insurance and medical malpractice insurance industries.

Mr. President, 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. 1681

*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 "Health Insurance Industry Antitrust Enforcement Act of 2009".

#### SEC. 2. PURPOSE.

It is the purpose of this Act to ensure that health insurance issuers and medical malpractice insurance issuers cannot engage in price fixing, bid rigging, or market allocations to the detriment of competition and consumers.

#### SEC. 3. PROHIBITION OF ANTI-COMPETITIVE ACTIVITIES.

Notwithstanding any other provision of law, nothing in the Act of March 9, 1945 (15 U.S.C. 1011 et seq., commonly known as the "McCarran-Ferguson Act") shall be construed to permit health insurance issuers (as defined in section 2791 of the Public Health Service Act (42 U.S.C. 300gg-91) or issuers of medical malpractice insurance to engage in any form of price fixing, bid rigging, or market allocations in connection with the conduct of the business of providing health insurance coverage (as defined in such section) or coverage for medical malpractice claims or actions.

#### SEC. 4. APPLICATION TO ACTIVITIES OF STATE COMMISSIONS OF INSURANCE AND OTHER STATE INSURANCE REGULATORY BODIES.

Nothing in this Act shall apply to the information gathering and rate setting activities of any State commission of insurance, or any other State regulatory entity with authority to set insurance rates.

By Ms. CANTWELL (for herself and Mr. NELSON, of Florida):

1682. A bill to provide the Commodity Futures Trading Commission with



clear antimarket manipulation authority, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

Ms. CANTWELL. Mr. President, I rise today to introduce the Commodities Market Manipulation Prevention Act of 2009.

When bad-actors like Enron and Amaranth Advisors, LLC, manipulate commodities prices, it means that Americans pay more for commodities like oil, gasoline, heating oil, food, and natural gas. Unfortunately, current law does not protect our economy with a tough enough standard to prevent, deter, and enforce illegal market manipulation in critical commodity futures markets.

Current law makes it very difficult for the Commodities Futures Trading Commission to prosecute market manipulation cases. This is because current law requires the CFTC to meet a more rigorous standard to prove market manipulation than other financial market regulatory agencies such as the Securities and Exchange Commission, the Federal Energy Regulatory Commission, and the Federal Trade Commission.

Specifically, the Commodities Exchange Act requires the CFTC to prove "specific intent" to manipulate. That is a very difficult standard to reach. You would have to have a pretty dumb individual to, for example, write in an e-mail that you specifically intend to manipulate prices. But that's what current law currently requires the CFTC to prove.

In addition, CFTC case law also requires that it prove an artificial price exists, that the defendant had market power to move the price, and that he or she actually did cause the artificial price. Particularly in today's complex markets, proving "artificial price" can be a daunting task, which more often than not comes down to a "battle of the experts" in court. Because these requirements are so onerous, the CFTC often ends up moving to a lesser charge of "attempted manipulation," which requires only proving intent and some act showing that intent. This is still a high standard, but is much easier than proving a full manipulation case.

As a result, Federal courts have recognized that, with the CFTC's weaker anti-manipulation standard, market "manipulation cases generally have not fared well." In fact, the standard is so weak that in the CFTC's 35-year history, it has only successfully prosecuted and won one single case of manipulation. That case is currently on appeal in Federal court.

The Securities and Exchange Commission, on the other hand, under section 10(b) of the Securities and Exchange Act of 1934, has a different, easier-to-prove manipulation standard that it has employed successfully for over 75 years. Basically, the SEC does not need to prove specific intent, as the CFTC does. The SEC just has to prove that the defendant acted "recklessly."

This legislation would give the CFTC the same anti-manipulation standard currently employed by the SEC. This means that the CFTC would be empowered to prove a manipulation case under the same "reckless conduct" standard that the SEC, FERC, and FTC employ, in contrast to its current difficult-to-prove "specific intent" standard. That is, this legislation will repeal the affirmative rule that says you are allowed to act recklessly in the commodity futures markets as long as you have no specific intent to do harm.

Congress also recently granted this same authority to the FERC in 2005 and the FTC in 2007 in legislation I wrote that carefully tracked section 10(b) of the Securities and Exchange Act of 1934 to ensure the FERC and FTC would interpret and enforce their new market manipulation authorities consistent with the SEC. This legislation also carefully tracks section 10(b) of the Securities Exchange Act of 1934 in part because Federal case law is clear that when the Congress uses language identical to that used in another statute, Congress intended for the courts and the Commission to interpret the new authority in a similar manner.

In the words of the Supreme Court from the 1904 case of *Kepner v. United States*, "when a statute uses words whose meaning under the judicial decisions has become well-known and well-settled, it will be presumed that the Legislature used such words in the sense justified by long judicial sanction." In the 75 years since the enactment of the Securities and Exchange Act of 1934, a substantial body of case law has developed over the last half century around section 10(b). This will provide certainty in how this legislation will be interpreted and applied by the Courts and the CFTC.

In fact, the Supreme Court has compared this body of law to "a judicial oak which has grown from little more than a legislative acorn." So it's worth noting that courts have held that the SEC's manipulation authority is not intended to catch sellers who take advantage of the natural market forces of supply and demand; only those who attempt to affect the market or prices by artificial means unrelated to the natural forces of supply and demand.

In this country, our current standard in the futures arena just isn't working. It is not sufficient to fully prosecute and deter abuses in the markets. We need to get the right standard to prevent, deter, and enforce market manipulation in these markets.

Mr. President, 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. 1682

*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 "Derivatives Market Manipulation Prevention Act of 2009".

#### SEC. 2. CIVIL PENALTIES FOR MARKET MANIPULATION.

Subsection (c) of section 6 of the Commodity Exchange Act (7 U.S.C. 9, 15) is amended to read as follows:

"(c) PROHIBITION REGARDING MARKET MANIPULATION AND FALSE INFORMATION.—

"(1) PROHIBITION REGARDING MARKET MANIPULATION.—It shall be unlawful for any person, directly or indirectly, to use or employ, or attempt to use or employ, in connection with a swap, or a contract of sale of a commodity, in interstate commerce, or for future delivery on or subject to the rules of any registered entity, any manipulative or deceptive device or contrivance, in contravention of such rules and regulations as the Commission shall promulgate by not later than 1 year after the date of enactment of the Derivatives Market Manipulation Prevention Act of 2009.

"(2) PROHIBITION REGARDING FALSE INFORMATION.—It shall be unlawful for any person to report information relating to any registration application, any report filed with the Commission, or any other information relating to a swap, or a contract of sale of a commodity, in interstate commerce, or for future delivery on or subject to the rules of any registered entity, or to omit any material fact that is required to be stated in any application or report if the person knew, or reasonably should have known, the information to be false or misleading.

"(3) ENFORCEMENT.—

"(A) AUTHORITY OF COMMISSION.—If the Commission has reason to believe that any person is violating or has violated this subsection, or any other provision of this Act (including any rule, regulation, or order promulgated in accordance with this subsection or any other provision of this Act), the Commission may serve upon the person a complaint.

"(B) CONTENTS OF COMPLAINT.—A complaint under subparagraph (A) shall—

"(i) contain a description of the charges against the person that is the subject of the complaint; and

"(ii) have attached or contain a notice of hearing that specifies the date and location of the hearing regarding the complaint.

"(C) HEARING.—A hearing described in subparagraph (B)(ii)—

"(i) shall be held not later than 3 days after the date on which the person described in subparagraph (A) receives the complaint;

"(ii) shall require the person to show cause regarding why—

"(I) an order should not be made—

"(aa) to prohibit the person from trading on, or subject to the rules of, any registered entity; and

"(bb) to direct all registered entities to refuse all privileges to the person until further notice of the Commission; and

"(II) the registration of the person, if registered with the Commission in any capacity, should not be suspended or revoked; and

"(iii) may be held before—

"(I) the Commission; or

"(II) an administrative law judge designated by the Commission, under which the administrative law judge shall ensure that all evidence is recorded in written form and submitted to the Commission.

"(4) SUBPOENA.—For the purpose of securing effective enforcement of the provisions of this chapter, for the purpose of any investigation or proceeding under this chapter, and for the purpose of any action taken under section 12(f) of this title, any member of the Commission or any Administrative Law Judge or other officer designated by the Commission (except as provided in paragraph (6)) may administer oaths and affirmations,

subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, or other records that the Commission deems relevant or material to the inquiry.

“(5) WITNESSES.—The attendance of witnesses and the production of any such records may be required from any place in the United States, any State, or any foreign country or jurisdiction at any designated place of hearing.

“(6) SERVICE.—A subpoena issued under this section may be served upon any person who is not to be found within the territorial jurisdiction of any court of the United States in such manner as the Federal Rules of Civil Procedure prescribe for service of process in a foreign country, except that a subpoena to be served on a person who is not to be found within the territorial jurisdiction of any court of the United States may be issued only on the prior approval of the Commission.

“(7) REFUSAL TO OBEY.—In case of contumacy by, or refusal to obey a subpoena issued to, any person, the Commission may invoke the aid of any court of the United States within the jurisdiction in which the investigation or proceeding is conducted, or where such person resides or transacts business, in requiring the attendance and testimony of witnesses and the production of books, papers, correspondence, memoranda, and other records. Such court may issue an order requiring such person to appear before the Commission or member or Administrative Law Judge or other officer designated by the Commission, there to produce records, if so ordered, or to give testimony touching the matter under investigation or in question.

“(8) FAILURE TO OBEY.—Any failure to obey such order of the court may be punished by the court as a contempt thereof. All process in any such case may be served in the judicial district wherein such person is an inhabitant or transacts business or wherever such person may be found.

“(9) EVIDENCE.—On the receipt of evidence under paragraph (3)(C)(iii)(II), the Commission may—

“(A) prohibit the person that is the subject of the hearing from trading on, or subject to the rules of, any registered entity and require all registered entities to refuse the person all privileges on the registered entities for such period as the Commission may require in the order;

“(B) if the person is registered with the Commission in any capacity, suspend, for a period not to exceed 180 days, or revoke, the registration of the person;

“(C) assess such person—

“(i) a civil penalty of not more than an amount equal to the greater of—

“(I) \$140,000; or

“(II) triple the monetary gain to such person for each such violation; or

“(ii) in any case of manipulation or attempted manipulation in violation of this subsection, subsection (d), or section 9(a)(2), a civil penalty of not more than an amount equal to the greater of—

“(I) \$1,000,000; or

“(II) triple the monetary gain to the person for each such violation; and

“(D) through an order of the Commission, require restitution to customers of damages proximately caused by violations of the person.

“(10) ORDERS.—

“(A) NOTICE.—The Commission shall provide to a person described in paragraph (9)(A) and the appropriate governing board of the registered entity notice of the order described in paragraph (9)(A) by—

“(i) registered mail;

“(ii) certified mail; or

“(iii) personal delivery.

“(B) REVIEW.—

“(i) IN GENERAL.—A person that has received notice of an order by the Commission may obtain a review of the order or such other equitable relief as determined to be appropriate by a court described in clause (ii).

“(ii) PETITION.—To obtain a review or other relief under clause (i), a person may, not later than 15 days after the date of receipt of a notice under clause (i), file a written petition to set aside the order with the United States Court of Appeals—

“(I) for the circuit in which the petitioner carries out the business of the petitioner; or

“(II) in the case of an order denying registration, the circuit in which the principal place of business of the petitioner is located, as listed on the application of the petitioner.

“(C) PROCEDURE.—

“(i) DUTY OF CLERK OF APPROPRIATE COURT.—The clerk of the appropriate court under subparagraph (B)(ii) shall transmit to the Commission a copy of a petition filed under subparagraph (B)(ii).

“(ii) DUTY OF COMMISSION.—In accordance with section 2112 of title 28, United States Code, the Commission shall file in the appropriate court described in subparagraph (B)(ii) the record theretofore made.

“(iii) JURISDICTION OF APPROPRIATE COURT.—Upon the filing of a petition under subparagraph (B)(ii), the appropriate court described in subparagraph (B)(ii) shall have jurisdiction to affirm, set aside, or modify the order of the Commission, and the findings of the Commission as to the facts, if supported by the weight of evidence, shall in like manner be conclusive.”

#### SEC. 3. CEASE AND DESIST ORDERS, FINES.

Section 6(d) of the Commodity Exchange Act (7 U.S.C. 13b) is amended to read as follows:

“(d) If any person (other than a registered entity), directly or indirectly, is using or employing, or attempting to use or employ, in connection with a swap, or a contract of sale of a commodity, in interstate commerce, or for future delivery on or subject to the rules of any registered entity, any manipulative or deceptive device or contrivance, in contravention of such rules and regulations as the Commission shall promulgate by not later than 1 year after the date of enactment of the Derivatives Market Manipulation Prevention Act of 2009, the Commission may, upon notice and hearing, and subject to appeal as in other cases provided for in sections 9 and 15 of this title, make and enter an order directing that such person shall cease and desist therefrom and, if such person thereafter and after the lapse of the period allowed for appeal of such order or after the affirmance of such order, shall fail or refuse to obey or comply with such order, such person shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than the higher of \$140,000 or triple the monetary gain to such person, or imprisoned for not less than six months nor more than one year, or both, except that if such failure or refusal to obey or comply with such order involves any offense within subsection (a) or (b) of section 13 of this title, such person shall be guilty of a felony and, upon conviction thereof, shall be subject to the penalties of said subsection (a) or (b): Provided, That any such cease and desist order against any respondent in any case of under this subsection shall be issued only in conjunction with an order issued against such respondent under sections 9 and 15 of this title. Each day during which such failure or refusal to obey or comply with such order continues shall be deemed a separate offense.”

#### SEC. 4. MANIPULATIONS; PRIVATE RIGHTS OF ACTION.

Section 22(a)(1) of the Commodity Exchange Act (7 U.S.C. 25(a)(1)) is amended by striking subparagraph (D) and inserting the following:

“(D) who purchased or sold a contract referred to in subparagraph (B) hereof if the violation constitutes the use or employment of, or an attempt to use or employ, in connection with a swap, or a contract of sale of a commodity, in interstate commerce, or for future delivery on or subject to the rules of any registered entity, any manipulative device or contrivance in contravention of such rules and regulations as the Commission shall promulgate by not later than 1 year after the date of enactment of the Derivatives Market Manipulation Prevention Act of 2009.”

#### SEC. 5. DEFINITION OF SWAP.

Section 1a of the Commodity Exchange Act (7 U.S.C. 1a) is amended by adding at the end the following:

“(35) SWAP.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the term ‘swap’ means any agreement, contract, or transaction that—

“(i) is a put, call, cap, floor, collar, or similar option of any kind for the purchase or sale of, or based on the value of, one or more interest or other rates, currencies, commodities, securities, instruments of indebtedness, indices, quantitative measures, or other financial or economic interests or property of any kind;

“(ii) provides for any purchase, sale, payment, or delivery (other than a dividend on an equity security) that is dependent on the occurrence, non-occurrence, or the extent of the occurrence of an event or contingency associated with a potential financial, economic, or commercial consequence;

“(iii) provides on an executory basis for the exchange, on a fixed or contingent basis, of one or more payments based on the value or level of one or more interest or other rates, currencies, commodities, securities, instruments of indebtedness, indices, quantitative measures, or other financial or economic interests or property of any kind, or any interest therein or based on the value thereof, and that transfers, as between the parties to the transaction, in whole or in part, the financial risk associated with a future change in any such value or level without also conveying a current or future direct or indirect ownership interest in an asset (including any enterprise or investment pool) or liability that incorporates the financial risk so transferred, including any agreement, contract, or transaction commonly known as an interest rate swap, a rate floor, rate cap, rate collar, cross-currency rate swap, basis swap, currency swap, foreign exchange swap, total return swap, equity index swap, equity swap, debt index swap, debt swap, credit spread, credit default swap, credit swap, weather swap, energy swap, metal swap, agricultural swap, emissions swap, or commodity swap;

“(iv) is an agreement, contract, or transaction that is, or in the future becomes, commonly known to the trade as a swap; or

“(v) is any combination or permutation of, or option on, any agreement, contract, or transaction described in any of clauses (i) through (iv);

“(B) EXCLUSIONS.—The term ‘swap’ does not include:

“(i) any contract of sale of a commodity for future delivery or security futures product traded on or subject to the rules of any board of trade designated as a contract market under section 5 or 5f;

“(ii) any sale of a nonfinancial commodity for deferred shipment or delivery, so long as such transaction is physically settled;

“(iii) any put, call, straddle, option, or privilege on any security, certificate of deposit, or group or index of securities, including any interest therein or based on the value thereof, that is subject to the Securities Act of 1933 (15 U.S.C. 77a et seq.) and the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.);

“(iv) any put, call, straddle, option, or privilege relating to foreign currency entered into on a national securities exchange registered pursuant to section 6(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78f(a));

“(v) any agreement, contract, or transaction providing for the purchase or sale of one or more securities on a fixed basis that is subject to the Securities Act of 1933 (15 U.S.C. 77a et seq.) and the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.);

“(vi) any agreement, contract, or transaction providing for the purchase or sale of one or more securities on a contingent basis that is subject to the Securities Act of 1933 (15 U.S.C. 77a et seq.) and the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.), unless such agreement, contract, or transaction predicates such purchase or sale on the occurrence of a bona fide contingency that might reasonably be expected to affect or be affected by the creditworthiness of a party other than a party to the agreement, contract, or transaction;

“(vii) any note, bond, or evidence of indebtedness that is a security as defined in section 2(a) of the Securities Act of 1933 (15 U.S.C. 77b(a));

“(viii) any agreement, contract, or transaction that is—

“(I) based on a security; and

“(II) entered into directly or through an underwriter (as defined in section 2(a) of the Securities Act of 1933) (15 U.S.C. 77b(a)) by the issuer of such security for the purposes of raising capital, unless such agreement, contract, or transaction is entered into to manage a risk associated with capital raising; or

“(ix) any agreement, contract, or transaction a counterparty of which is a Federal Reserve bank, the United States government or an agency of the United States government that is expressly backed by the full faith and credit of the United States.

“(C) **RULE OF CONSTRUCTION REGARDING MASTER AGREEMENTS.**—The term ‘swap’ shall be construed to include a master agreement that provides for an agreement, contract, or transaction that is a swap pursuant to subparagraph (A), together with all supplements to any such master agreement, without regard to whether the master agreement contains an agreement, contract, or transaction that is not a swap pursuant to subparagraph (A), except that the master agreement shall be considered to be a swap only with respect to each agreement, contract, or transaction under the master agreement that is a swap pursuant to subparagraph (A).”

#### SEC. 6. EFFECTIVE DATE.

(a) **IN GENERAL.**—The amendments made by sections 2, 3, and 4 shall take effect on the date on which the final rule promulgated by the Commodity Futures Trading Commission pursuant to the Derivatives Market Manipulation Prevention Act of 2009 takes effect.

(b) **DEFINITION OF SWAP.**—The amendment made by section 5 shall take effect on the date of enactment of this Act.

By Mrs. FEINSTEIN (for herself and Mrs. BOXER):

S. 1684. A bill to establish guidelines and incentives for States to establish criminal arsonist and criminal bomber registries and to require the Attorney General to establish a national criminal

arsonist and criminal bomber registry program, and for other purposes; to the Committee on the Judiciary.

Mrs. FEINSTEIN. Mr. President, today I am pleased to join with Senator BOXER in introducing the Managing Arson Through Criminal History, MATCH, Act of 2009. This bill is a companion to a bill introduced in the House of Representatives by Representatives BONO MACK and SCHIFF.

The bill would establish Federal and State arson registries; require convicted arsonists and bombers to register and update certain specified information for 5 years after a first conviction, 10 years after a second conviction, and for life after a third conviction; and authorize grants and incentives through the Department of Justice so that these registries will be operational within 3 years.

Southern California just went through one of the worst fire disasters in its history. The Station Fire destroyed 160,500 acres, destroyed more than 80 homes and threatened more than 12,000 homes. Right now, the fire is still burning in wilderness areas on its eastern flank in the Angeles National Forest.

Two firefighters, Fire Captain Tedmund “Ted” Hall, 47, of San Bernardino County, and Firefighter Specialist Arnaldo “Arnie” Quinones, 34, of Palmdale, served with dedication and courage. They were killed August 30th when their truck slipped off a winding dirt road high in the Angeles National Forest. Officials believe the truck might have been overrun by flames from the wildfire.

Though the incident is still under investigation, officials believe that Hall and Quinones may have ordered dozens of people to seek shelter while they fought through active flames to search for an escape route.

There is no doubt that the Station Fire, the largest wildfire in the history of Los Angeles County, was the result of arson after investigators examined forensic evidence from scorched landscape off Angeles Crest Highway. The spot is believed to be the source of origin of the Station fire and investigators have found incendiary material near the site.

This was a disaster of massive proportions—preliminary estimates indicate that these fires will cost \$100 million. In these tough economic times, this cost and its effect on the economy of California is enormous and will have an impact for years to come.

Although the Federal Government may foot 80 to 90 percent of the bill for fighting the fire, which broke out in national parkland, the state's share will hit at a time when California is in the grip of a fiscal crisis.

Unfortunately, this is not the first or last time that a wildfire in California is started by an arsonist. It doesn't need to be that way. The bill that I introduce today—the MATCH Act would assist fire investigators and law enforcement officials by giving them up-

to-date information on potential arsonists and bombers.

The bill would require convicted arsonists and bombers to register and regularly update their personal information in a new arsonist registry. In the future this will allow law enforcement and fire investigators to have an accessible database they can use to either find or rule out people of interest.

This will allow them to more easily complete their investigations, find the person responsible, and ensure that more wildfires won't get started intentionally.

This bill represents common-sense legislation that will help law enforcement officers do their jobs. Hundreds of firefighters worked on controlling the Station Fire. We owe it to these brave men and women who put their lives on the line—and others like them who will do so in the future—to give fire investigators this important new tool, so they can help bring arsonists and bombers to justice.

I urge my colleagues to support this important legislation.

Mr. President, 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. 1684

*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 “Managing Arson Through Criminal History (MATCH) Act of 2009”.

#### SEC. 2. CRIMINAL ARSONIST AND CRIMINAL BOMBER REGISTRATION AND NOTIFICATION PROGRAM.

(a) **REGISTRY REQUIREMENTS FOR JURISDICTIONS.**—

(1) **JURISDICTION TO MAINTAIN A REGISTRY.**—Each jurisdiction shall establish and maintain a jurisdiction-wide arsonist and bomber registry in accordance with this section.

(2) **GUIDELINES AND REGULATIONS.**—The Attorney General shall issue guidelines and regulations to carry out this section.

(b) **REGISTRY REQUIREMENTS FOR CRIMINAL ARSONISTS AND BOMBERS.**—

(1) **IN GENERAL.**—A criminal arsonist or criminal bomber shall register, and shall keep the registration current in accordance with paragraph (3), in each jurisdiction in which the criminal arsonist or criminal bomber resides, is an employee, or is a student.

(2) **INITIAL REGISTRATION.**—A criminal arsonist or criminal bomber shall initially register—

(A) in addition to any jurisdiction described in paragraph (1), in the jurisdiction in which the criminal arsonist or criminal bomber was convicted; and

(B)(i) before completing a sentence of imprisonment with respect to the arson offense or bombing offense giving rise to the registration requirement; or

(ii) not later than 5 business days after being sentenced for the arson offense or bombing offense giving rise to the registration requirement, if the criminal arsonist or criminal bomber is not sentenced to a term of imprisonment.

(3) **KEEPING THE REGISTRATION CURRENT.**—

(A) **IN GENERAL.**—Not later than 10 business days after each change of name, residence,

employment, or student status, a criminal arsonist or criminal bomber shall appear in person in at least 1 jurisdiction described in paragraph (1) and inform the jurisdiction of all changes in the information required for that criminal arsonist or criminal bomber in the arsonist and bomber registry involved.

(B) PROVISION TO OTHER JURISDICTIONS.—A jurisdiction receiving information under subparagraph (A) shall immediately provide the revised information to all other jurisdictions in which the criminal arsonist or criminal bomber is required to register.

(4) APPLICATION OF REGISTRATION REQUIREMENTS.—

(A) IN GENERAL.—Except as provided in the guidelines established under subparagraph (B), the requirements of this section, including the duties to register and to keep a registration current, shall apply only to a criminal arsonist or criminal bomber who was—

(i) convicted of an arson offense or a bombing offense on or after the date of enactment of this Act; and

(ii) notified of the duties and registered in accordance with subsection (f).

(B) APPLICATION TO CRIMINAL ARSONISTS OR CRIMINAL BOMBERS UNABLE TO COMPLY WITH PARAGRAPH (2)(B).—

(i) GUIDELINES.—The Attorney General shall establish guidelines in accordance with this subparagraph for each jurisdiction for—

(I) the application of the requirements of this section to criminal arsonists or criminal bombers convicted before the date of the enactment of this Act, or the date of the implementation of this section in such a jurisdiction; and

(II) the registration of any criminal arsonist or criminal bomber described in subclause (I) who is otherwise unable to comply with paragraph (2)(B).

(ii) INFORMATION REQUIRED TO BE INCLUDED IN REGISTRY.—With respect to each criminal arsonist or criminal bomber described in clause (i) convicted of an arson offense or bombing offense during the 10-year period ending on the date of enactment of this Act, the guidelines under clause (i) shall provide for the inclusion in the arsonist and bomber registry of each applicable jurisdiction (and, in accordance with subsection (j), the provision by the jurisdiction to each entity described in subsection (j)) of—

(I) the name of the criminal arsonist or criminal bomber (including any alias used by the individual);

(II) the Social Security number of the individual;

(III) the most recent known address of the residence at which the individual has resided;

(IV) a physical description of the individual;

(V) the text of the provision of law establishing the arson offense or bombing offense giving rise to the duty of the individual to register;

(VI) a set of fingerprints and palm prints of the individual;

(VII) a photocopy of a valid driver's license or identification card issued to the individual by a jurisdiction, if available; and

(VIII) any other information required by the Attorney General.

(iii) NOTICE REQUIRED.—The guidelines under clause (i) shall require notice to each criminal arsonist or criminal bomber included in an arsonist and bomber registry pursuant to this subparagraph of such inclusion.

(5) STATE PENALTY FOR FAILURE TO COMPLY.—Each jurisdiction, other than a Federally recognized Indian tribe, shall provide a criminal penalty that includes a maximum term of imprisonment that is greater than 1 year for the failure of a criminal arsonist or

criminal bomber to comply with the requirements of this section.

(6) AUTHORITY TO EXEMPT CERTAIN INDIVIDUALS FROM REGISTRY REQUIREMENTS.—A jurisdiction may exempt a criminal arsonist or criminal bomber who has been convicted of an arson offense or a bombing offense for the first time from the registration requirements under this section in exchange for the substantial assistance of the individual in the investigation or prosecution of another person who has committed a criminal offense. The Attorney General shall ensure that any regulations promulgated under this section include guidelines establishing criteria regarding when it is appropriate to exempt an individual from the registration requirements under this section.

(c) INFORMATION REQUIRED IN REGISTRATION.—

(1) PROVIDED BY ARSONIST OR BOMBER.—A criminal arsonist or criminal bomber shall provide to the appropriate officer of a jurisdiction in which the individual is required to register for inclusion in the arsonist and bomber registry of the jurisdiction—

(A) the name of the individual (including any alias used by the individual);

(B) the Social Security number of the individual;

(C) the address of each residence at which the individual resides or will reside;

(D) the name and address of any place where the individual is an employee or will be an employee;

(E) the name and address of any place where the individual is a student or will be a student;

(F) the license plate number and a description of any vehicle owned or operated by the individual; and

(G) any other information required by the Attorney General.

(2) PROVIDED BY THE JURISDICTION.—The jurisdiction in which a criminal arsonist or criminal bomber registers shall ensure that the arsonist and bomber registry of the jurisdiction includes—

(A) a physical description of the individual;

(B) the text of the provision of law establishing the arson offense or bombing offense giving rise to the duty of the individual to register;

(C) the criminal history of the individual, including the date of all arrests and convictions, the status of parole, probation, or supervised release, registration status, and the existence of any outstanding arrest warrants for the individual;

(D) a current photograph of the individual;

(E) a set of fingerprints and palm prints of the individual;

(F) a photocopy of a valid driver's license or identification card issued to the individual by a jurisdiction; and

(G) any other information required by the Attorney General.

(d) DURATION OF REGISTRATION REQUIREMENT; EXPUNGING REGISTRIES OF INFORMATION FOR CERTAIN JUVENILE CRIMINALS.—

(1) DURATION OF REGISTRATION REQUIREMENT.—A criminal arsonist or criminal bomber shall keep the registration information provided under subsection (c) current in accordance with subsection (b)(3) for the full registration period.

(2) EXPUNGING REGISTRIES OF INFORMATION FOR CERTAIN JUVENILE CRIMINALS.—

(A) IN GENERAL.—In the case of a criminal arsonist or criminal bomber described in subparagraph (B), a jurisdiction shall expunge the arson and bomber registry of the jurisdiction of information relating to the criminal arsonist or criminal bomber on the date that is 5 years after the last day of the full registration period for the criminal arsonist or criminal bomber.

(B) CRIMINAL ARSONIST OR BOMBER DESCRIBED.—A criminal arsonist or criminal bomber described in this subparagraph is a criminal arsonist or criminal bomber who—

(i) was a juvenile tried as an adult for the arson offense or bombing offense giving rise to the duty of the individual to register under this section; and

(ii) was not convicted of any other felony during the period beginning on the first day of the full registration period for the criminal arsonist or criminal bomber and ending on the last day of the 5-year period described in subparagraph (A).

(C) APPLICATION TO OTHER DATABASES.—The Attorney General shall establish a process to ensure that each entity that receives information under subsection (j) with respect to a criminal arsonist or criminal bomber described in subparagraph (B) shall expunge the applicable database of the information on the date that is 5 years after the last day of the full registration period for the criminal arsonist or criminal bomber.

(e) ANNUAL VERIFICATION.—Not less than once during each calendar year during the full registration period, a criminal arsonist or criminal bomber required to register under this section shall—

(1) appear in person at not less than 1 jurisdiction in which the individual is required to register;

(2) allow the jurisdiction to take a photograph of the individual; and

(3) while present at the jurisdiction, verify the information in each arsonist and bomber registry in which the individual is required to be registered.

(f) DUTY TO NOTIFY CRIMINAL ARSONISTS AND CRIMINAL BOMBERS OF REGISTRATION REQUIREMENTS AND TO REGISTER.—

(1) IN GENERAL.—An appropriate officer shall, shortly before release of a criminal arsonist or criminal bomber from custody, or, if the individual is not in custody, immediately after the sentencing of the individual for the arson offense or bombing offense giving rise to the duty of the individual to register—

(A) inform the individual of the duties of the individual under this section and explain those duties in a manner that the individual can understand in light of the native language, mental capability, and age of the individual;

(B) ensure that the individual understands the registration requirement, and if so, require the individual to read and sign a form stating that the duty to register has been explained and that the individual understands the registration requirement;

(C) if the individual is unable to understand the registration requirements, sign a form stating that the individual is unable to understand the registration requirements; and

(D) ensure that the individual is registered in accordance with this section.

(2) NOTIFICATION OF CRIMINAL ARSONISTS AND CRIMINAL BOMBERS WHO CANNOT COMPLY WITH PARAGRAPH (1).—The Attorney General shall prescribe rules to ensure the notification and registration in accordance with this section of criminal arsonists and criminal bombers who cannot be registered in accordance with paragraph (1).

(g) ACCESS TO INFORMATION THROUGH THE INTERNET.—

(1) IN GENERAL.—Except as provided in this subsection, each jurisdiction shall make available on the Internet, in a manner that is readily accessible to law enforcement personnel and fire safety officers located in the jurisdiction, all information about each criminal arsonist and criminal bomber in the arsonist and bomber registry of the jurisdiction.

(2) COORDINATION WITH NATIONAL DATABASE.—Each jurisdiction shall—

(A) ensure that the Internet site of the jurisdiction described in paragraph (1) includes all field search capabilities needed for full participation in the national Internet site established under subsection (i); and

(B) participate in the national Internet site established under subsection (i) in accordance with regulations promulgated by the Attorney General under this section.

(3) PROHIBITION ON ACCESS BY THE PUBLIC.—Information about a criminal arsonist or criminal bomber shall not be made available on the Internet to the public under paragraph (1).

(4) MANDATORY EXEMPTIONS.—A jurisdiction shall exempt from disclosure on the Internet site of the jurisdiction described in paragraph (1)—

(A) any information about a criminal arsonist or criminal bomber involving conviction for an offense other than the arson offense or bombing offense giving rise to the duty of the individual to register;

(B) if the criminal arsonist or criminal bomber is participating in a witness protection program, any information about the individual the release of which could jeopardize the safety of the individual or any other person; and

(C) any other information identified as a mandatory exemption from disclosure by the Attorney General.

(5) OPTIONAL EXEMPTIONS.—A jurisdiction may exempt from disclosure on the Internet site of the jurisdiction described in paragraph (1)—

(A) the name of an employer of a criminal arsonist or criminal bomber; and

(B) the name of an educational institution where a criminal arsonist or criminal bomber is a student.

(6) CORRECTION OF ERRORS.—The Attorney General shall establish guidelines to be used by each jurisdiction to establish a process to seek correction of information included in the Internet site of the jurisdiction described in paragraph (1) if an individual contends the information is erroneous. The guidelines established under this paragraph shall establish the period, beginning on the date on which an individual has knowledge of the inclusion of information in the Internet site, during which the individual may seek the correction of the information.

(7) WARNING.—An Internet site of a jurisdiction described in paragraph (1) shall include a warning that—

(A) information on the site is to be used for law enforcement purposes only and may only be disclosed in connection with law enforcement purposes; and

(B) any action in violation of subparagraph (A) may result in a civil or criminal penalty.

(h) NATIONAL CRIMINAL ARSONIST AND CRIMINAL BOMBER REGISTRY.—

(1) IN GENERAL.—The Attorney General shall maintain a national database at the Bureau of Alcohol, Tobacco, Firearms, and Explosives that includes relevant information for each criminal arsonist or criminal bomber (including any information provided under subsection (j)). The database shall be known as the National Criminal Arsonist and Criminal Bomber Registry.

(2) ELECTRONIC FORWARDING.—The Attorney General shall ensure (through the national registry maintained under this subsection or otherwise) that updated information about a criminal arsonist or criminal bomber is immediately transmitted by electronic forwarding to all relevant jurisdictions.

(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Attorney General to carry out this sub-

section such sums as may be necessary for each of fiscal years 2010 through 2014.

(i) NATIONAL ARSONIST AND BOMBER INTERNET SITE.—

(1) IN GENERAL.—The Attorney General shall establish and maintain a national arsonist and bomber Internet site. The Internet site shall include relevant information for each criminal arsonist or criminal bomber. The Internet site shall allow law enforcement officers and fire safety officers to obtain relevant information for each criminal arsonist or criminal bomber by a single query for any given zip code or geographical radius set by the user in a form and with such limitations as may be established by the Attorney General and shall have such other field search capabilities as the Attorney General may provide.

(2) PROHIBITION ON ACCESS BY THE PUBLIC.—Information about a criminal arsonist or criminal bomber shall not be made available on the Internet to the public under paragraph (1).

(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Attorney General to carry out this subsection such sums as may be necessary for each of fiscal years 2010 through 2014.

(j) NOTIFICATION PROCEDURES.—

(1) IN GENERAL.—Immediately after a criminal arsonist or criminal bomber registers in the arsonist and bomber registry of a jurisdiction, or updates a registration in the arsonist and bomber registry of a jurisdiction, an appropriate officer of the jurisdiction shall provide the information in the arsonist and bomber registry (other than information exempted from disclosure by this section or the Attorney General) about the individual to the entities described in paragraph (2).

(2) ENTITIES.—The entities described in this paragraph are—

(A) the Attorney General;

(B) appropriate law enforcement agencies (including probation agencies, if applicable) in each area in which the criminal arsonist or criminal bomber resides, is an employee, or is a student;

(C) each jurisdiction in which the criminal arsonist or criminal bomber resides, is an employee, or is a student; and

(D) each jurisdiction from or to which a change of residence, employment, or student status occurs.

(k) ACTIONS TO BE TAKEN WHEN CRIMINAL ARSONIST OR CRIMINAL BOMBER FAILS TO COMPLY.—

(1) JURISDICTIONS.—An appropriate officer of a jurisdiction shall—

(A) notify the Attorney General and appropriate law enforcement agencies if a criminal arsonist or criminal bomber fails to comply with the requirements of the arsonist and bomber registry of the jurisdiction; and

(B) revise the arsonist and bomber registry of the jurisdiction to reflect the nature of the failure.

(2) ENSURING COMPLIANCE.—If a criminal arsonist or criminal bomber fails to comply with the requirements of the arsonist and bomber registry of a jurisdiction, an appropriate officer of the jurisdiction, the Attorney General, and any law enforcement agency notified under paragraph (1)(A) shall take any appropriate action to ensure compliance.

(l) DEVELOPMENT AND AVAILABILITY OF REGISTRY MANAGEMENT AND WEBSITE SOFTWARE.—

(1) DUTY TO DEVELOP AND SUPPORT.—In consultation with the jurisdictions, the Attorney General shall develop and support software to enable jurisdictions to establish and operate arsonist and bomber registries and Internet sites described in subsection (g).

(2) CRITERIA.—The software described in paragraph (1) shall facilitate—

(A) immediate exchange of information among jurisdictions;

(B) access over the Internet to appropriate information, including the number of registered criminal arsonists or criminal bombers in each jurisdiction;

(C) full compliance with the requirements of this section; and

(D) communication of information as required under subsection (j).

(3) DEADLINE.—Not later than 2 years after the date of enactment of this Act, the Attorney General shall make available to jurisdictions a fully operational edition of the software described in paragraph (1).

(m) PERIOD FOR IMPLEMENTATION BY JURISDICTIONS.—

(1) DEADLINE.—A jurisdiction shall implement this section not later than the later of—

(A) 3 years after the date of enactment of this Act; or

(B) 1 year after the date on which the software described in subsection (1) is made available to the jurisdiction.

(2) EXTENSIONS.—The Attorney General may make not more than 2 1-year extensions of the deadline under paragraph (1) for a jurisdiction.

(3) FAILURE OF JURISDICTION TO COMPLY.—For any fiscal year after the expiration of the deadline specified in paragraph (1) (including any extension under paragraph (2)), that a jurisdiction fails to substantially implement this section, as determined by the Attorney General, the jurisdiction shall not receive 10 percent of the funds that would otherwise be allocated for that fiscal year to the jurisdiction under subpart 1 of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3750 et seq.).

(n) ELECTION BY INDIAN TRIBES.—

(1) ELECTION.—

(A) IN GENERAL.—A federally recognized Indian tribe may, by resolution or other enactment of the tribal council or comparable governmental body, elect to carry out this section as a jurisdiction subject to its provisions.

(B) IMPLEMENTATION.—A federally recognized Indian tribe that, as of the date that is 1 year after the date of enactment of this Act, has not made an election described in subparagraph (A) shall, by resolution or other enactment of the tribal council or comparable governmental body, enter into a cooperative agreement to arrange for a jurisdiction to carry out any function of the tribe under this section until such time as the tribe elects to carry out this section.

(2) COOPERATION BETWEEN TRIBAL AUTHORITIES AND OTHER JURISDICTIONS.—

(A) NONDUPLICATION.—A federally recognized Indian tribe subject to this section is not required to duplicate functions under this section that are fully carried out by 1 or more jurisdictions within which the territory of the tribe is located.

(B) COOPERATIVE AGREEMENTS.—A federally recognized Indian tribe, through cooperative agreements with 1 or more jurisdictions within which the territory of the tribe is located, may—

(i) arrange for the tribe to carry out any function of the jurisdiction under this section with respect to criminal arsonists or criminal bombers subject to the jurisdiction of the tribe; and

(ii) arrange for the jurisdiction to carry out any function of the tribe under this section with respect to criminal arsonists and criminal bombers subject to the jurisdiction of the tribe.

(3) **LAW ENFORCEMENT AUTHORITY IN INDIAN COUNTRY.**—Enforcement of this section in Indian country, as defined in section 1151 of title 18, United States Code, shall be carried out by the Federal Government, tribal governments, and State governments under jurisdictional authorities in effect on the date of enactment of this Act.

(o) **IMMUNITY FOR GOOD FAITH CONDUCT.**—The Federal Government, a jurisdiction, a political subdivision of a jurisdiction, and an agency, officer, employee, and agent of the Federal Government, a jurisdiction, or a political subdivision of a jurisdiction shall not be held liable in any Federal or State court for any good faith conduct to carry out this section.

(p) **CRIMINAL ARSONIST AND CRIMINAL BOMB-ER MANAGEMENT ASSISTANCE PROGRAM.**—

(1) **IN GENERAL.**—The Attorney General shall establish and implement a Criminal Arsonist and Bomber Management Assistance program (in this subsection referred to as the “Assistance Program”), under which the Attorney General may make grants to jurisdictions to offset the costs of implementing this section.

(2) **APPLICATION.**—A jurisdiction desiring a grant under this subsection for a fiscal year shall submit to the Attorney General an application in such form and containing such information as the Attorney General may require.

(3) **INCREASED GRANT PAYMENTS FOR PROMPT COMPLIANCE.**—

(A) **IN GENERAL.**—A jurisdiction that, as determined by the Attorney General, has substantially implemented this section not later than 2 years after the date of enactment of this Act is eligible for a bonus payment in addition to the amount of a grant to the jurisdiction under paragraph (1). The Attorney General may make a bonus payment to a jurisdiction for the first fiscal year beginning after the date on which the Attorney General determines the jurisdiction has substantially implemented this section.

(B) **AMOUNT.**—A bonus payment under this paragraph shall be—

(i) if the Attorney General determines that the jurisdiction has substantially implemented this section not later than the date that is 1 year after the date of enactment of this Act, in an amount equal to 10 percent of the amount of a grant to the jurisdiction under paragraph (1) for the fiscal year in which the bonus payment is made; and

(ii) if the Attorney General determines that the jurisdiction has substantially implemented this section after the date that is 1 year after the date of the enactment of this Act, and not later than 2 years after the date of enactment of this Act, in an amount equal to 5 percent of the amount of a grant to the jurisdiction under paragraph (1) for the fiscal year in which the bonus payment is made.

(4) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Attorney General to carry out this subsection such sums as may be necessary for each of fiscal years 2010 through 2014.

(q) **DEFINITIONS.**—In this section:

(1) **ARSONIST AND BOMBER REGISTRY.**—The term “arsonist and bomber registry” means a registry of criminal arsonists and criminal bombers, and a notification program, maintained by a jurisdiction under this section.

(2) **ARSON OFFENSE.**—The term “arson offense” means any criminal offense for committing arson, attempting arson, or conspiracy to commit arson in violation of the laws of the jurisdiction in which the offense was committed or the laws of the United States.

(3) **BOMBING OFFENSE.**—The term “bombing offense” means any criminal offense for committing a bombing, attempting a bombing, or conspiracy to commit a bombing in viola-

tion of the laws of the jurisdiction in which the offense was committed or the laws of the United States.

(4) **CRIMINAL ARSONIST.**—The term “criminal arsonist”—

(A) means an individual who is convicted of an arson offense; and

(B) does not include a juvenile who is convicted of an arson offense unless the juvenile was tried as an adult for the arson offense.

(5) **CRIMINAL BOMBER.**—The term “criminal bomber”—

(A) means an individual who is convicted of a bombing offense; and

(B) does not include a juvenile who is convicted of a bombing offense unless the juvenile was tried as an adult for the bombing offense.

(6) **CRIMINAL OFFENSE.**—The term “criminal offense” means a Federal, State, local, tribal, foreign, or military offense (to the extent specified by the Secretary of Defense under section 115(a)(8)(C)(i) of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1998 (Public Law 105-119; 10 U.S.C. 951 note)) or other criminal offense.

(7) **EMPLOYEE.**—The term “employee” includes an individual who is self-employed or works for any other entity, whether compensated or not.

(8) **FIRE SAFETY OFFICER.**—The term “fire safety officer” means an individual serving in an official capacity as a firefighter, fire investigator, or other arson investigator, as defined by the jurisdiction for the purposes of this section.

(9) **FULL REGISTRATION PERIOD.**—

(A) **IN GENERAL.**—The term “full registration period” means the period—

(i) beginning on the later of—

(I) the date on which an individual is convicted of an arson offense or bombing offense;

(II) the date on which an individual is released from custody for conviction of an arson offense or bombing offense; or

(III) the date on which an individual is placed on parole, supervised release, or probation for an arson offense or bombing offense; and

(ii) ending—

(I) for an individual who has been convicted of an arson offense or bombing offense for the first time, 5 years after the date described in clause (i);

(II) for an individual who has been convicted of an arson offense or bombing offense for the second time, 10 years after the date described in clause (i); and

(III) for an individual who has been convicted of an arson offense or bombing offense more than twice, on the date on which the individual dies.

(B) **EXCLUSION OF TIME IN CUSTODY.**—Any period during which an individual is in custody shall not be included in determining the end of the period under subparagraph (A).

(10) **JURISDICTION.**—The term “jurisdiction” means—

(A) a State;

(B) the District of Columbia;

(C) the Commonwealth of Puerto Rico;

(D) Guam;

(E) American Samoa;

(F) the Commonwealth of the Northern Mariana Islands;

(G) the Virgin Islands; and

(H) to the extent provided in and subject to the requirements of subsection (o), a federally recognized Indian tribe.

(11) **LAW ENFORCEMENT OFFICER.**—The term “law enforcement officer” has the meaning given that term in section 1204 of the Omnibus Crime Control and Safe Street Act of 1968 (42 U.S.C. 3796b).

(12) **RESIDES.**—The term “resides” means the location of the home of an individual or

other place where an individual habitually lives.

(13) **STUDENT.**—The term “student” means an individual who enrolls in or attends an educational institution (whether public or private), including a secondary school, trade or professional school, and institution of higher education.

By Mr. FEINGOLD (for himself, Mr. DURBIN, Mr. TESTER, Mr. UDALL, of New Mexico, Mr. BINGAMAN, Mr. SANDERS, Mr. AKAKA, Mr. WYDEN, Mr. MENENDEZ, and Mr. MERKLEY):

S. 1686. A bill to place reasonable safeguards on the use of surveillance and other authorities under the USA PATRIOT Act, and for other purposes; to the Committee on the Judiciary.

Mr. FEINGOLD. Mr. President, I am pleased today to introduce the Judicial Use of Surveillance Tools In Counterterrorism Efforts, or JUSTICE, Act of 2009. I have had the privilege of working closely on this bill with Senator DURBIN, as I have on so many of these issues over the years, and I welcome the support of Senators TESTER, TOM UDALL, BINGAMAN, SANDERS, AKAKA and WYDEN. I am also pleased that the bill has the support of organizations and activists across the political spectrum, from former Republican Congressman Bob Barr to the American Civil Liberties Union to the American Library Association.

At the end of this year, three provisions of the USA PATRIOT Act will sunset unless Congress acts to reauthorize them. In my view, Congress should take this opportunity to revisit not just those three provisions, but rather a broad range of surveillance laws enacted in recent years to assess what additional safeguards are needed.

The JUSTICE Act does just that: It takes a comprehensive approach to fixing the Patriot Act and the FISA Amendments Act, once and for all. It permits the government to conduct necessary surveillance, but within a framework of accountability and oversight. It ensures both that our government has the tools to keep us safe, and that the privacy and civil liberties of innocent Americans will be protected. Because we can and must do both. These are not mutually exclusive goals.

Indeed, the Department of Justice just this week acknowledged as much in a letter setting forth its views on Patriot Act reauthorization. The Department said: “We also are aware that Members of Congress may propose modifications to provide additional protection for the privacy of law abiding Americans. As President Obama said in his speech at the National Archives on May 21, 2009, ‘We are indeed at war with al Qaeda and its affiliates. We do need to update our institutions to deal with this threat. But we must do so with an abiding confidence in the rule of law and due process; in checks and balances and accountability.’ Therefore, the Administration is willing to consider such ideas, provided



that they do not undermine the effectiveness of these important authorities.”

I welcome the administration’s openness to potential reforms of the Patriot Act and look forward to working together as the reauthorization process moves forward this fall.

But I remain concerned that critical information about the implementation of the Patriot Act has not been made public—information that I believe would have a significant impact on the debate. During the debate on the Protect America Act and the FISA Amendments Acts in 2007 and 2008, critical legal and factual information remained unknown to the public and to most members of Congress—information that was certainly relevant to the debate and might even have made a difference in votes. And during the last Patriot Act reauthorization debate in 2005, a great deal of implementation information remained classified. This time around, we must find a way to have an open and honest debate about the nature of these government powers, while protecting national security secrets.

As a first step, the Justice Department’s letter made public for the first time that the so-called ‘lone wolf’ authority—one of the three expiring provisions—has never been used. That was a good start, since this is a key fact as we consider whether to extend that power. But there also is information about the use of Section 215 orders that I believe Congress and the American people deserve to know. I do not underestimate the importance of protecting our national security secrets. But before we decide whether and in what form to extend these authorities, Congress and the American people deserve to know at least basic information about how they have been used. So I hope that the administration will consider seriously making public some additional basic information, particularly with respect to the use of Section 215 orders.

There can be no question that statutory changes to our surveillance laws are necessary. Since the Patriot Act was first passed in 2001, we have learned important lessons, and perhaps the most important of all is that Congress cannot grant the government overly broad authorities and just keep its fingers crossed that they won’t be misused. Congress has the responsibility to put appropriate limits on government authorities—limits that allow agents to actively pursue criminals, terrorists and spies, but that also protect the privacy of innocent Americans.

This lesson was most clear in the context of National Security Letters. In reports issued in 2007 and 2008, the Department of Justice Inspector General carefully documented rampant misuse and abuse of the National Security Letter, NSL, authority by the FBI. The Inspector General found—as he put it—“widespread and serious misuse of

the FBI’s national security letter authorities. In many instances, the FBI’s misuse of national security letters violated NSL statutes, Attorney General Guidelines, or the FBI’s own internal policies.” After those Inspector General reports, there can no longer be any doubt that granting overbroad authority leads to abuses. The FBI’s apparently lax attitude and in some cases grave misuse of these potentially very intrusive authorities is attributable in no small part to the USA PATRIOT Act. That flawed legislation greatly expanded the NSL authorities, essentially granting the FBI a blank check to obtain some very sensitive records about Americans, including people not under any suspicion of wrong-doing, without judicial approval. Congress gave the FBI very few rules to follow, and failed to adequately remedy those shortcomings when it considered the NSL statutes as part of the Patriot Act reauthorization process in 2005.

The JUSTICE Act, like the bipartisan National Security Letter Reform Act that I introduced in the 110th Congress, would finally provide the statutory safeguards needed to protect against abuse of NSLs. And it would remedy First Amendment violations in the NSL statutes that were identified last year by the U.S. Court of Appeals for the Second Circuit, in a decision where Justice Sotomayor participated on the panel.

Specifically, the JUSTICE Act restricts the types of records that can be obtained without a court order to those that are the least sensitive and private, and it ensures that the FBI can only use NSLs to obtain information about individuals with some nexus to a suspected terrorist or spy. It makes sure that the FBI can no longer obtain the sensitive records of individuals three or four times removed from a suspect, most of whom would be entirely innocent. It follows the road map laid out by the Second Circuit to make sure the gag orders that accompany NSLs do not violate the First Amendment.

It prevents the use of so-called “exigent letters,” which the IG found the FBI was using in violation of the NSL statutes. It requires additional congressional reporting on NSLs, and it requires the FBI to establish a compliance program and tracking database for NSLs. And it requires the Attorney General to issue minimization procedures for information obtained through NSLs, so that information obtained about Americans is subject to enhanced protections and the FBI does not retain information obtained in error.

The JUSTICE Act also fixes Section 215, one of the most controversial provisions of the Patriot Act and one of the three that is subject to the 2009 sunset. This provision permits the government to obtain court orders for Americans’ business records under the Foreign Intelligence Surveillance Act; it is often referred to as the “library” provision, although it covers all types of business records.

On Section 215, the legislation establishes a standard of individualized suspicion for obtaining a FISA business records order, requiring that the government be able to demonstrate the records have some nexus to terrorism or espionage, and it creates procedural protections to prevent abuses. The bill also ensures robust, meaningful and constitutionally sound judicial review of both National Security Letters and Section 215 business records orders, and the gag orders that accompany them.

The bill also ensures that Americans can feel safe in their homes by placing reasonable checks on the so-called “sneak and peek” search warrant provision of the Patriot Act. It would eliminate the overbroad catch-all provision that allows these searches to be used in virtually any criminal case, and it would shorten the presumptive time limits for notification that the search occurred. It also would create a statutory exclusionary rule, in recognition of the strong Fourth Amendment interests at stake with regard to this extraordinary exception to the usual requirement that law enforcement knock and announce themselves before executing a search warrant.

The JUSTICE Act also includes a number of reasonable safeguards to protect Americans’ private communications. It permits the FBI to use roving wiretaps under FISA, but provides safeguards to protect innocent Americans from unnecessary surveillance. It ensures that the FBI does not obtain sensitive information about Americans’ Internet usage without satisfying an appropriate standard, and subjects those authorities, called “pen registers and trap and trace devices”, to new procedural checks. It provides new safeguards for the Patriot Act provision on computer trespass, which allows computer owners who are subject to hacking to give the government permission to monitor individuals on their systems without a warrant.

The bill also addresses the FISA Amendments Act, FAA, which granted the government new, over-expansive surveillance authorities and provided immunity to any companies that cooperated with the blatantly illegal warrantless wiretapping program that went on for more than five years—and that the prior administration repeatedly misled Congress about. That legislation became law last year over my strong objection, but it is not too late for Congress to fix it.

I offered several amendments to the FISA Amendments Act on the Senate floor—amendments that would have helped to make sure that the privacy of Americans’ communications are properly protected. And now those amendments are part of the JUSTICE Act.

First, the bill would ensure that the FISA Amendments Act cannot be used to authorize the government to collect the content of all communications between the U.S. and the rest of the world. Under the FAA, millions upon millions of communications between

innocent Americans and their friends, families, or business associates overseas could legally be collected, with absolutely no suspicion of any wrongdoing. The JUSTICE Act would ensure such bulk collection will never occur.

Second, the JUSTICE Act would include a meaningful prohibition on the practice of reverse targeting—namely, wiretapping a person overseas when what the government is really interested in is listening to an American here at home with whom the foreigner is communicating. It would do so by requiring the government to obtain a court order whenever a significant purpose of the surveillance is to acquire the communications of an American in the U.S.

Third, the bill would create potential consequences if the government initiates surveillance under the FAA using procedures that have not been approved by the FISA Court, and the FISA Court later finds that those procedures were unlawful. Say, for example, the FISA Court determines that the procedures were not even reasonably designed to wiretap foreigners outside the U.S., rather than Americans here at home. Under the bill, the FISA Court would have the discretion to place limits on how the illegally obtained information on Americans can be retained and used.

Fourth, this bill includes a provision that will help protect the privacy of Americans whose international communications will be collected in vast new quantities. On the Senate floor last year, I joined with Senator WEBB and Senator TESTER to offer an amendment to provide real protections for the privacy of Americans, while also giving the government the flexibility it needs to wiretap terrorists overseas. And that amendment is in this bill.

And finally with respect to the FAA, the bill would repeal the grant of immunity to any companies that participated in the illegal NSA wiretapping program. Senator DODD was a leader on this during debate on the FAA and deserves a great deal of credit for drawing attention to this issue. Granting immunity seriously undercut our statutory scheme, which relies on both the government and the private sector to follow the law in implementing surveillance techniques. That is exactly why the surveillance laws have long provided liability protection for companies that cooperate with a government request for assistance, as long as they receive either a court order or a certification from the Attorney General that no court order is needed and the request meets all statutory requirements. But if requests are not properly documented, companies are supposed to refuse the government's request, and they are subject to liability if they instead decide to cooperate.

This framework, which has been in place for 30 years, protects companies that comply with legitimate government requests while also protecting the privacy of Americans' communica-

tions from illegitimate snooping. Granting companies that allegedly cooperated with an illegal program the retroactive immunity that was in the FAA undermines the law that has been on the books for decades—a law that was designed to prevent exactly the type of abuses that occurred. Repealing that provision helps bolster the statutory framework that has for so long helped to protect the privacy of Americans' communications.

The JUSTICE Act also provides additional congressional and judicial oversight of the Foreign Intelligence Surveillance Act. It ensures that the FBI provides some limited public reporting regarding its secret intelligence surveillance authority under FISA. It would give courts more authority to oversee the process for determining whether and how criminal defendants against whom FISA-derived evidence is being used should get access to the underlying applications and orders so they can mount a challenge.

The last title of the bill simply ensures that the law labels as terrorists only those people who truly wish to do this country harm—not domestic protesters who engage in civil disobedience or people who provide humanitarian assistance.

These concerns are not new. “Sneak and peek” searches, the need for reasonable limits on the FBI's use of roving wiretaps, access to business records, and the overly expansive computer trespass authority were all issues I first raised in the fall of 2001 as some of the reasons why I believed the PATRIOT Act was flawed and threatened fundamental constitutional rights and protections. Eight years later, it is time to finally get this right. Again and again, the previous administration requested and the Congress provided vast new surveillance authorities with minimal checks and balances. Many of these new tools were appropriate, and passage of this bill would leave in place surveillance authorities that are dramatically broader than what existed prior to 9/11. But what has been missing—what this bill finally provides—is the assurances that these new authorities are tailored to our national security needs and subject to proper oversight. Every single one of the changes in this bill is reasonable, measured and justifiable. I urge my colleagues to support it.

Mr. BENNETT (for himself, Mr. ENZI, Mr. BUNNING, and Mr. CRAPO):

S. 1688. A bill to prevent congressional reapportionment distortions by requiring that, in the questionnaires used in the taking of any decennial census of population, a checkbox or other similar option be included for respondents to indicate citizenship status or lawful presence in the United States; to the Committee on Homeland Security and Governmental Affairs.

Mr. BENNETT. Mr. President, I am pleased to rise today to introduce this

important legislation, The Fairness in Representation Act, with my colleagues Senators ENZI and BUNNING. Next year's decennial census will be an enormous and expensive effort to complete the constitutionally mandated “actual enumeration.” I am proud of our Census department and the many people around the nation that will work together to produce what we hope and expect will be a fair and accurate census.

Unfortunately, current 2010 Census questionnaires lack a critical question: Are you a U.S. citizen? How are we to accurately apportion representation in the House of Representatives and the Electoral College when no count of legal residents exists? Article 1 Section 2 of the U.S. Constitution mandates that a census be taken every 10 years expressly for the purpose of apportioning seats in the House of Representatives. However apportionment is based on each State's total population—including illegal aliens—relative to the rest of the country. Currently our census doesn't give us a count of the legal residents of this country. In the 1964 Supreme Court ruling, *Wesberry v. Sanders* the Court states that “The House of Representatives, the [Constitutional] Convention agreed, was to represent the people as individuals and on a basis of complete equality for each voter.” By counting citizens, legal residents and illegals alike, we are in effect eroding the power of the vote of those citizens who live in areas with fewer non-citizens. The large number of non-citizens in a district erases the principle of “one man, one vote” because it takes fewer votes to be elected to Congress.

The political costs of this broken system are great. I have drafted this legislation to require the decennial census to include a question regarding citizenship. The legislation will further direct the census to make such adjustments in the total population figures as may be necessary, in order that those who are not U.S. citizens or are not lawfully present in the U.S. are not counted in tabulating population for the purposes of apportionment. Apportionment of congressional seats and the Electoral College will be based on the legal population, rather than unfairly advantaging those communities with high illegal populations. I urge my colleagues to support this legislation that will correct an inexcusable error and return our representation system to its constitutional roots.

By Mr. BINGAMAN (for himself and Mr. UDALL, of New Mexico):  
S. 1689. A bill to designate certain land as components of the National Wilderness Preservation System and the National Landscape Conservation System in the State of New Mexico, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. BINGAMAN. Mr. President, I am pleased to rise today with my colleague

Senator TOM UDALL to introduce the Organ Mountains-Desert Peaks Wilderness Act. This legislation will designate approximately 259,000 acres of wilderness in Doña Ana County, including the iconic Organ Mountains that overlook the City of Las Cruces. The legislation will also establish two Conservation Areas in Doña Ana County—the 86,600-acre Organ Mountains National Conservation Area on the east side of Las Cruces, and the 75,600-acre Desert Peaks National Conservation Area to the west, which adjoins the Prehistoric Trackways National Monument to its south.

The Organ Mountains are among the many scenic landscapes in Doña Ana County that define Southern New Mexico and the rich culture of its people. In addition to protecting the viewshed of the Organ Mountains from future development, this proposal seeks to preserve other important landscapes such as the Doña Ana Mountains, Robledo Mountains, and the ancient volcanic cinder cones and grasslands of the Potrillo Mountains. Many visitors also come to explore the caves, limestone cliffs, and winding canyons of the proposed Desert Peaks National Conservation Area.

While the public lands protected by this bill are important for their scenic and recreational values, they also represent a valuable economic resource for county residents, through ranching, hunting, and tourism that takes place here. This proposal will preserve healthy habitat for game and sensitive species; quality grazing land; and cultural resources like petroglyphs and historical features. Even those who may never visit these areas will benefit from their protection by consuming the clean water that these major watersheds provide to the people living in the valleys below.

This proposal is the culmination of over 2 years of consensus building accomplished by listening to input from a broad spectrum of the community. As a result, the proposal that has been developed meets the goals of conserving our treasured landscapes in Doña Ana County while addressing the valid concerns raised by frequent users of our public lands. I would like to take a moment to mention a couple of important changes we have made to the bill based on the input we received from the community to address both border security concerns as well as access issues for the ranchers who graze cattle in the region.

Doña Ana County shares its southern border with Mexico, and national security issues are always an important factor to consider in any legislation that involves border counties. For example, currently the West Potrillo Mountains Wilderness Study Area comes as close as a half mile in some places from the U.S.-Mexico border, which has created challenges for both the Department of Interior and the Department of Homeland Security to meet the goals of their distinct, yet

equally important missions. This legislation seeks to provide additional flexibility for Customs and Border Patrol to accomplish its mission of border enforcement by releasing from Wilderness Study Area status more than 16,000 acres along the southern border. By assisting Border Patrol with its mission, the Bureau of Land Management will be better suited to meet its goals of natural resource protection as well.

With regard to ranching, access to water infrastructure is critical in the hot climate of southern New Mexico. To this end, we worked closely with all grazing permittees in the area to ensure all roads that lead to water improvements, like windmills, solar wells, water troughs and pipelines, were excluded from new wilderness areas. Other major infrastructure, like corrals, have also been excluded, and the congressional grazing guidelines that are referred to in this legislation will provide ranchers with the ability to use motorized vehicles to maintain stock ponds, fences, and other improvements in wilderness areas and to respond to emergencies. It is my belief that this approach will allow for the protection of these public lands while ensuring that ranching will continue.

My constituents in Doña Ana County have long expressed their desire to strike a balance between development and the preservation of the public lands that they grew up enjoying or that attracted them to the area in the first place. As such, this proposal is supported by a wide array of constituencies ranging from conservation and sportsmen's groups, city and county officials, to the Hispano Chamber of Commerce. With enactment of this bill, it is my hope that while Doña Ana County continues to prosper and grow, our unique places will be protected for generations to come. I am pleased that Senator UDALL has cosponsored this bill, and I urge all my colleagues to support the passage of this legislation.

Mr. President, 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. 1689

*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 “Organ Mountains-Desert Peaks Wilderness Act”.

#### SEC. 2. DEFINITIONS.

In this Act:

(1) **CONSERVATION AREA.**—The term “Conservation Area” means each of the Organ Mountains National Conservation Area and the Desert Peaks National Conservation Area established by section 4(a).

(2) **MANAGEMENT PLAN.**—The term “management plan” means the management plan for the Conservation Areas developed under section 4(d).

(3) **SECRETARY.**—The term “Secretary” means the Secretary of the Interior.

(4) **STATE.**—The term “State” means the State of New Mexico.

#### SEC. 3. DESIGNATION OF WILDERNESS AREAS.

(a) **IN GENERAL.**—In accordance with the Wilderness Act (16 U.S.C. 1131 et seq.), the following areas in the State are designated as wilderness and as components of the National Wilderness Preservation System:

(1) **ADEN LAVA FLOW WILDERNESS.**—Certain land administered by the Bureau of Land Management in Doña Ana County comprising approximately 27,650 acres as generally depicted on the map entitled “Potrillo Mountains Complex” and dated September 16, 2009, which shall be known as the “Aden Lava Flow Wilderness”.

(2) **BROAD CANYON WILDERNESS.**—Certain land administered by the Bureau of Land Management in Doña Ana County comprising approximately 13,900 acres as generally depicted on the map entitled “Desert Peaks National Conservation Area” and dated September 16, 2009, which shall be known as the “Broad Canyon Wilderness”.

(3) **CINDER CONE WILDERNESS.**—Certain land administered by the Bureau of Land Management in Doña Ana County comprising approximately 16,950 acres as generally depicted on the map entitled “Potrillo Mountains Complex” and dated September 16, 2009, which shall be known as the “Cinder Cone Wilderness”.

(4) **ORGAN MOUNTAINS WILDERNESS.**—Certain land administered by the Bureau of Land Management in Doña Ana County comprising approximately 19,400 acres as generally depicted on the map entitled “Organ Mountains National Conservation Area” and dated September 16, 2009, which shall be known as the “Organ Mountains Wilderness”.

(5) **POTRILLO MOUNTAINS WILDERNESS.**—Certain land administered by the Bureau of Land Management in Doña Ana and Luna counties comprising approximately 143,450 acres as generally depicted on the map entitled “Potrillo Mountains Complex” and dated September 16, 2009, which shall be known as the “Potrillo Mountains Wilderness”.

(6) **ROBLEDO MOUNTAINS WILDERNESS.**—Certain land administered by the Bureau of Land Management in Doña Ana County comprising approximately 17,000 acres as generally depicted on the map entitled “Desert Peaks National Conservation Area” and dated September 16, 2009, which shall be known as the “Robledo Mountains Wilderness”.

(7) **SIERRA DE LAS UVAS WILDERNESS.**—Certain land administered by the Bureau of Land Management in Doña Ana County comprising approximately 11,100 acres as generally depicted on the map entitled “Desert Peaks National Conservation Area” and dated September 16, 2009, which shall be known as the “Sierra de las Uvas Wilderness”.

(8) **WHITETHORN WILDERNESS.**—Certain land administered by the Bureau of Land Management in Doña Ana and Luna counties comprising approximately 9,600 acres as generally depicted on the map entitled “Potrillo Mountains Complex” and dated September 16, 2009, which shall be known as the “Whitethorn Wilderness”.

(b) **MANAGEMENT.**—Subject to valid existing rights, the wilderness areas designated by subsection (a) shall be administered by the Secretary in accordance with this Act and the Wilderness Act (16 U.S.C. 1131 et seq.), except that any reference in the Wilderness Act to the effective date of that Act shall be considered to be a reference to the date of enactment of this Act.

(c) **INCORPORATION OF ACQUIRED LAND AND INTERESTS IN LAND.**—Any land or interest in land that is within the boundary of a wilderness area designated by subsection (a) that is acquired by the United States shall—

(1) become part of the wilderness area within the boundaries of which the land is located; and

(2) be managed in accordance with—

(A) the Wilderness Act (16 U.S.C. 1131 et seq.);

(B) this Act; and

(C) any other applicable laws.

(d) **GRAZING.**—Grazing of livestock in the wilderness areas designated by subsection (a), where established before the date of enactment of this Act, shall be administered in accordance with—

(1) section 4(d)(4) of the Wilderness Act (16 U.S.C. 1133(d)(4)); and

(2) the guidelines set forth in Appendix A of the Report of the Committee on Interior and Insular Affairs to accompany H.R. 2570 of the 101st Congress (H. Rept. 101-405).

(e) **MILITARY OVERFLIGHTS.**—Nothing in this section restricts or precludes—

(1) low-level overflights of military aircraft over the wilderness areas designated by subsection (a), including military overflights that can be seen or heard within the wilderness areas;

(2) flight testing and evaluation; or

(3) the designation or creation of new units of special use airspace, or the establishment of military flight training routes, over the wilderness areas.

(f) **BUFFER ZONES.**—

(1) **IN GENERAL.**—Nothing in this section creates a protective perimeter or buffer zone around any wilderness area designated by subsection (a).

(2) **ACTIVITIES OUTSIDE WILDERNESS AREAS.**—The fact that an activity or use on land outside any wilderness area designated by subsection (a) can be seen or heard within the wilderness area shall not preclude the activity or use outside the boundary of the wilderness area.

(g) **POTENTIAL WILDERNESS AREA.**—

(1) **ROBLEDO MOUNTAINS POTENTIAL WILDERNESS AREA.**—

(A) **IN GENERAL.**—Certain land administered by the Bureau of Land Management, comprising approximately 100 acres as generally depicted as “Potential Wilderness” on the map entitled “Desert Peaks National Conservation Area” and dated September 16, 2009, is designated as a potential wilderness area.

(B) **DESIGNATION AS WILDERNESS.**—

(i) **IN GENERAL.**—On the date on which the Secretary publishes in the Federal Register the notice described in clause (ii), the potential wilderness area designated under subparagraph (A) shall be—

(I) designated as wilderness and as a component of the National Wilderness Preservation System; and

(II) incorporated into the Robledo Mountains Wilderness designated by subsection (a)(6).

(ii) **NOTICE.**—The notice referred to in clause (i) is notice that—

(I) the communications site within the potential wilderness area designated under subparagraph (A) is no longer used;

(II) the associated right-of-way is relinquished or not renewed; and

(III) the conditions in the potential wilderness area designated by subparagraph (A) are compatible with the Wilderness Act (16 U.S.C. 1131 et seq.).

(h) **RELEASE OF WILDERNESS STUDY AREAS.**—Congress finds that, for purposes of section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782(c)), the public land in Doña Ana County administered by the Bureau of Land Management not designated as wilderness by subsection (a)—

(1) has been adequately studied for wilderness designation;

(2) is no longer subject to section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782(c)); and

(3) shall be managed in accordance with—

(A) the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.);

(B) this Act; and

(C) any other applicable laws.

#### **SEC. 4. ESTABLISHMENT OF NATIONAL CONSERVATION AREAS.**

(a) **ESTABLISHMENT.**—The following areas in the State are established as National Conservation Areas:

(1) **ORGAN MOUNTAINS NATIONAL CONSERVATION AREA.**—Certain land administered by the Bureau of Land Management in Doña Ana County comprising approximately 86,650 acres as generally depicted on the map entitled “Organ Mountains National Conservation Area” and dated September 16, 2009, which shall be known as the “Organ Mountains National Conservation Area”.

(2) **DESERT PEAKS NATIONAL CONSERVATION AREA.**—Certain land administered by the Bureau of Land Management in Doña Ana County comprising approximately 75,600 acres, as generally depicted on the map entitled “Desert Peaks National Conservation Area” and dated September 16, 2009, which shall be known as the “Desert Peaks National Conservation Area”.

(b) **PURPOSES.**—The purposes of the Conservation Areas are to conserve, protect, and enhance for the benefit and enjoyment of present and future generations the cultural, archaeological, natural, geological, historical, ecological, wildlife, educational, recreational, and scenic resources of the Conservation Areas.

(c) **MANAGEMENT.**—

(1) **IN GENERAL.**—The Secretary shall manage the Conservation Areas—

(A) in a manner that conserves, protects, and enhances the resources of the Conservation Areas; and

(B) in accordance with—

(i) the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.);

(ii) this Act; and

(iii) any other applicable laws.

(2) **USES.**—

(A) **IN GENERAL.**—The Secretary shall allow only such uses of the Conservation Areas that the Secretary determines would further the purposes described in subsection (b).

(B) **USE OF MOTORIZED VEHICLES.**—

(i) **IN GENERAL.**—Except as needed for administrative purposes or to respond to an emergency, the use of motorized vehicles in the Conservation Areas shall be permitted only on roads designated for use by motorized vehicles in the management plan.

(ii) **NEW ROADS.**—No additional road shall be built within the Conservation Areas after the date of enactment of this Act unless the road is necessary for public safety or natural resource protection.

(C) **GRAZING.**—The Secretary shall permit grazing within the Conservation Areas, where established before the date of enactment of this Act—

(i) subject to all applicable laws (including regulations) and Executive orders; and

(ii) consistent with the purposes described in subsection (b).

(D) **UTILITY RIGHT-OF-WAY UPGRADES.**—Nothing in this section precludes the Secretary from renewing or authorizing the upgrading (including widening) of an existing utility right-of-way through the Organ Mountains National Conservation Area—

(i) in accordance with—

(I) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

(II) any other applicable law; and

(ii) subject to such terms and conditions as the Secretary determines to be appropriate.

(d) **MANAGEMENT PLAN.**—

(1) **IN GENERAL.**—Not later than 3 years after the date of enactment of this Act, the Secretary shall develop a management plan for each of the Conservation Areas.

(2) **CONSULTATION.**—The management plans shall be developed in consultation with—

(A) State, tribal, and local governments; and

(B) the public.

(3) **CONSIDERATIONS.**—In preparing and implementing the management plans, the Secretary shall consider the recommendations of Indian tribes and pueblos on methods for—

(A) ensuring access to, and protection for, traditional cultural and religious sites in the Conservation Areas; and

(B) enhancing the privacy and continuity of traditional cultural and religious activities in the Conservation Areas.

(e) **INCORPORATION OF ACQUIRED LAND AND INTERESTS IN LAND.**—Any land or interest in land that is within the boundary of a Conservation Area designated by subsection (a) that is acquired by the United States shall—

(1) become part of the Conservation Area within the boundaries of which the land is located; and

(2) be managed in accordance with—

(A) this Act; and

(B) any other applicable laws.

(f) **TRANSFER OF ADMINISTRATIVE JURISDICTION.**—On the date of enactment of this Act, administrative jurisdiction over the approximately 2,050 acres of land generally depicted as “Transfer from DOD to BLM” on the map entitled “Organ Mountains National Conservation Area” and dated September 16, 2009, shall—

(1) be transferred from the Secretary of Defense to the Secretary;

(2) become part of the Organ Mountains National Conservation Area; and

(3) be managed in accordance with—

(A) this Act; and

(B) any other applicable laws.

#### **SEC. 5. GENERAL PROVISIONS.**

(a) **MAPS AND LEGAL DESCRIPTIONS.**—

(1) **IN GENERAL.**—As soon as practicable after the date of enactment of this Act, the Secretary shall file maps and legal descriptions of the Conservation Areas and the wilderness areas designated by section 3(a) with—

(A) the Committee on Energy and Natural Resources of the Senate; and

(B) the Committee on Natural Resources of the House of Representatives.

(2) **FORCE OF LAW.**—The maps and legal descriptions filed under paragraph (1) shall have the same force and effect as if included in this Act, except that the Secretary may correct errors in the maps and legal descriptions.

(3) **PUBLIC AVAILABILITY.**—The maps and legal descriptions filed under paragraph (1) shall be on file and available for public inspection in the appropriate offices of the Bureau of Land Management.

(b) **NATIONAL LANDSCAPE CONSERVATION SYSTEM.**—The Conservation Areas and the wilderness areas designated by section 3(a) shall be administered as components of the National Landscape Conservation System.

(c) **FISH AND WILDLIFE.**—Nothing in this Act affects the jurisdiction of the State with respect to fish and wildlife located on public land in the State, except that the Secretary, after consultation with the New Mexico Department of Game and Fish, may designate zones where, and establish periods during which, hunting, or fishing shall not be allowed for reasons of public safety, administration, the protection for nongame species

and their habitats, or public use and enjoyment.

(d) WITHDRAWALS.—

(1) IN GENERAL.—Subject to valid existing rights, the Federal land within the Conservation Areas, the wilderness areas designated by section 3(a), and the approximately 6,300 acres of land generally depicted as “Parcel B” on the map entitled “Organ Mountains National Conservation Area” and dated September 16, 2009, including any land or interest in land that is acquired by the United States after the date of enactment of this Act within such areas, is withdrawn from—

(A) entry, appropriation, or disposal under the public land laws;

(B) location, entry, and patent under the mining laws; and

(C) operation of the mineral leasing, mineral materials, and geothermal leasing laws.

(2) LIMITED WITHDRAWAL.—The approximately 1,300 acres of land generally depicted as “Parcel A” on the map entitled “Organ Mountains National Conservation Area” and dated September 16, 2009, is withdrawn in accordance with paragraph (1), except from disposal under the Act of June 14, 1926 (commonly known as the “Recreation and Public Purposes Act” (43 U.S.C. 869 et seq.)).

**SEC. 6. PREHISTORIC TRACKWAYS NATIONAL MONUMENT BOUNDARY ADJUSTMENT.**

Section 2103(b) of the Omnibus Public Land Management Act of 2009 (16 U.S.C. 431 note; Public Law 111–11; 123 Stat. 1097) is amended by striking “December 17, 2008” and inserting “July 30, 2009”.

**SEC. 7. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated such sums as are necessary to carry out this Act.

Mr. UDALL of New Mexico. Mr. President, today I join Senator BINGAMAN in introducing Organ Mountains-Desert Peaks Wilderness Act. The bill celebrates and preserves a portion of the unique and delicate landscape of southern New Mexico. Wilderness and conservation areas in Dona Ana and Luna Counties will protect a vast number of archeological sites and riparian areas, maintain habitat and migration corridors for wildlife, and preserve some of the only Chihuahuan Desert in the United States.

Set in the heart of Dona Ana County, Las Cruces is New Mexico's second largest city, and growing. The citizens of Las Cruces and the surrounding communities want to ensure that the area will continue to develop in a way that preserves the surrounding pristine landscapes including the iconic Organ Mountains. The Organ Mountains-Desert Peaks Wilderness Act is consistent with the city and County's long-term growth plan, and will act to maintain growth patterns in a way that will allow all citizens to enjoy the impressive views and landscapes surrounding Las Cruces.

The Organ Mountains Wilderness and NCA, just one portion of this comprehensive legislation, will keep these impressive peaks available for the enjoyment of southern New Mexicans, and all who visit the area. This mountain range is strikingly unique and gives great character and identity to other surrounding landscape and to the city of Las Cruces itself. A vast range

of individual and public and private organizations came together to work on the protection of the Organ Mountains and the seven other wilderness areas included in the bill. Hunters, anglers and conservationists worked with ranchers and city and county officials to determine what areas were in greatest need of protection. Nearby military facilities worked with the Bureau of Land Management on land exchanges that are reflected in the bill and will benefit the public and military entities. Recommendations from the Border Patrol on how to ensure that the new wilderness fit into their homeland security efforts were incorporated into the bill. Years of negotiation and cooperation have resulted in the legislation being introduced today.

In total, the Organ Mountains-Desert Peaks Wilderness Act will protect 421,344 acres of desert landscape including 162,270 acres of National Conservation Area, and 259,071 acres of Wilderness Area. This area of rare and beautiful landscapes will be valued for generations. From the jagged basalt lava flows of the Cinder Cone Wilderness to the roaming hawks and scrambling javelinas of the Robledo Mountains, this unique piece of southern New Mexico has abundant natural value for its citizens.

With this legislation, we build upon the work of conservation greats like Aldo Leopold, a man who saw the beauty of New Mexico's untamed wilderness lands and sought to preserve them for future generations. It was Mr. Leopold who said, “Conservation is a state of harmony between men and land.” With the Organ Mountains-Desert Peaks Wilderness Act, we move a step closer to achieving that state of perfect harmony. I thank Senator BINGAMAN for his work to preserve this landscape and urge my colleagues to support this important bill.

**SUBMITTED RESOLUTIONS**

**SENATE RESOLUTION 273—COMMEMORATING DR. NORMAN BORLAUG, RECIPIENT OF THE NOBEL PEACE PRIZE, CONGRESSIONAL GOLD MEDAL, PRESIDENTIAL MEDAL OF FREEDOM, AND FOUNDER OF THE WORLD FOOD PRIZE**

Mr. HARKIN (for himself, Mr. GRASSLEY, Mrs. LINCOLN, Mr. CHAMBLISS, Mr. LUGAR, Mr. LEAHY, Ms. KLOBUCHAR, Mr. CORNYN, Mr. BROWN, Mr. CONRAD, Mr. FRANKEN, Mrs. HUTCHISON, Mr. BAUCUS, Mr. CASEY, Ms. STABENOW, Mr. BENNET, Mr. JOHANNES, Mr. ROBERTS, Mr. NELSON of Nebraska, Mr. COCHRAN, Mr. THUNE, and Mrs. GILLIBRAND) submitted the following resolution; which was considered and agreed to:

S. RES. 273

Whereas Dr. Norman E. Borlaug was born on March 25, 1914, of Norwegian parents on a farm in Cresco, Iowa, and was educated in a 1-room school house throughout grades 1 through 8;

Whereas Dr. Borlaug attended the University of Minnesota, where he earned a Ph.D. degree in Plant Pathology;

Whereas, beginning in 1944, Dr. Borlaug spent 2 decades in rural Mexico working to assist the poorest farmers through a pioneering Rockefeller Foundation program;

Whereas Dr. Borlaug's research and innovative “shuttle breeding” in Mexico enabled him to develop a new approach to agriculture and a new disease-resistant variety of wheat with triple the output of grain;

Whereas this breakthrough achievement in plant production enabled Mexico to become self-sufficient in wheat by 1956, and concurrently raised the living standard for thousands of poor Mexican farmers;

Whereas Dr. Borlaug was asked by the United Nations to travel to India and Pakistan in the 1960s, as South-Asia and the Middle East faced an imminent widespread famine, where he eventually helped convince those 2 warring governments to adopt his new seeds and new approach to agriculture to address this critical problem;

Whereas, Dr. Borlaug brought miracle wheat to India and Pakistan, which helped both countries become self-sufficient in wheat production, thus saving hundreds of millions of people from hunger, famine, and death;

Whereas Dr. Borlaug and his team trained young scientists from Algeria, Tunisia, Egypt, Jordan, Iraq, Turkey, and Afghanistan in this same new approach to agriculture, which introduced new seeds but also put emphasis on the use of fertilizer and irrigation, thus increasing yields significantly in those countries as well;

Whereas Dr. Borlaug's approach to wheat was adapted by research scientists working in rice, which spread the Green Revolution to Asia, feeding and saving millions of people from hunger and starvation;

Whereas Dr. Borlaug was awarded the Nobel Peace Prize in 1970 as the “Father of the Green Revolution” and is only 1 of 5 people to have ever received the Nobel Peace Prize, Presidential Medal of Freedom, and Congressional Gold Medal;

Whereas Dr. Borlaug headed the Sasakawa Global 2000 program to bring the Green Revolution to 10 countries in Africa, and traveled the world to educate the next generation of scientists on the importance of producing new breakthrough achievements in food production;

Whereas Dr. Borlaug tirelessly promoted the potential that biotechnology offers for feeding the world, while also preserving biodiversity, in the 21st century when the global population is projected to rise to 9,000,000,000 people;

Whereas Dr. Borlaug continued his role as an educator as a Distinguished Professor at Texas A&M University, while also working at the International Center for the Improvement of Wheat and Maize in Mexico;

Whereas Dr. Borlaug founded the World Food Prize, called by several world leaders “The Nobel Prize for Food and Agriculture”, which is awarded in Iowa each October so as to recognize and inspire Nobel-like achievements in increasing the quality, quantity, and availability of food in the world;

Whereas the Senate designated October 16 as World Food Prize Day in America in honor of Dr. Borlaug; and

Whereas it is written of Dr. Borlaug that throughout all of his work he saved 1,000,000,000 lives, thus making him widely known as saving more lives than any other person in human history: Now, therefore, be it

*Resolved*, That—

(1) the Senate has received with profound sorrow and deep regret the announcement of the passing of Dr. Norman Borlaug; and

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

# SENATE RESOLUTION 274—SUPPORTING THE GOALS AND IDEALS OF PEACE DAY

Mr. MENENDEZ (for himself, Mrs. GILLIBRAND, and Mr. HARKIN) submitted the following resolution; which was considered and agreed to:

S. RES. 274

Whereas, beginning in 2002, the United Nations has designated September 21 of each year as the International Day of Peace, which is known in the United States as Peace Day;

Whereas the United Nations dedicates the International Day of Peace to the cessation of hostilities and nonviolence, and calls upon all Nations and people to commemorate the day appropriately, including through educational efforts, and public awareness;

Whereas Peace Day activities around the world include vaccination campaigns, peace walks, concerts, peace-related discussions and debates, poetry readings, mass prayer ceremonies, art exhibitions, memorial services, school assemblies, and sporting events;

Whereas, on Peace Day 2006, the World Food Programme carried out a 60-ton food drop in Southern Sudan;

Whereas, on Peace Day 2007, the Peace One Day organization worked alongside the United Nations Children's Fund (UNICEF), the World Health Organization (WHO), and the Afghan Ministry of Public Health to vaccinate 1,400,000 children of Afghanistan against the polio virus and, on Peace Day 2008, approximately 14,000 health workers and volunteers delivered polio vaccinations to 1,600,000 children under the age of 5 in 6 Afghan provinces;

Whereas, on Peace Day 2007, Star Syringe vaccinated children in rural areas against measles, diphtheria, tuberculosis, hepatitis, and whooping cough in 20 locations, including Uganda, India, Ethiopia, and Indonesia;

Whereas, on Peace Day 2007, in the conflict-torn South Kivu province of the Democratic Republic of Congo, UNICEF and other organizations provided insecticide-treated mosquito nets to protect 600,000 children from malaria, and also provided vitamin A, de-worming medication, and measles immunizations;

Whereas, on Peace Day 2007, there were 82 Peace Day initiatives in Afghanistan alone, involving more than 30 United Nations agencies, government departments, radio stations, and civil society organizations, and including arms handover ceremonies, community prayers for peace, painting schools white, educational activities, and a Peace Walk through the streets of Herat, Afghanistan;

Whereas the Peace One Day organization provides free educational materials to schools in the United States and worldwide that enable young people to prepare for and participate in Peace Day activities, learn the skills needed to resolve conflicts peacefully, and cultivate a sense of active global citizenship; and

Whereas the "One Day One Goal" initiative promotes soccer matches in all member states of the United Nations on Peace Day, and "One Day One Goal" soccer matches reflect cooperation, unity, and the power of soccer to bring people together as part of Peace Day in many countries, including Iraq, Uganda, Afghanistan, Burundi, Cambodia, the United Arab Emirates, the Côte d'Ivoire, the United States, and the United Kingdom: Now, therefore, be it

*Resolved*, That the Senate—

(1) expresses its support for the goals and ideals celebrated on Peace Day, which is observed each year on September 21;

(2) supports continuing efforts to raise global awareness of the goals of Peace Day and to engage all sectors of society in the peaceful observance of the International Day of Peace, in accordance with United Nations General Assembly Resolution 55/282 of September 7, 2001, including work with United Nations agencies and non-governmental organizations to promote life-saving and humanitarian activities on Peace Day; and

(3) encourages people in the United States to observe Peace Day, September 21, 2009, with appropriate programs, ceremonies, and educational activities, in order to raise awareness of the need for peaceful resolution of conflicts of all kinds.

## AMENDMENTS SUBMITTED AND PROPOSED

SA 2423. Mr. BROWNBACK (for himself and Mr. ROBERTS) submitted an amendment intended to be proposed by him to the bill H.R. 2996, making appropriations for the Department of the Interior, environment, and related agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table.

SA 2424. Mr. McCAIN submitted an amendment intended to be proposed by him to the bill H.R. 2996, supra; which was ordered to lie on the table.

SA 2425. Mr. McCAIN submitted an amendment intended to be proposed by him to the bill H.R. 2996, supra; which was ordered to lie on the table.

SA 2426. Mr. McCAIN submitted an amendment intended to be proposed by him to the bill H.R. 2996, supra; which was ordered to lie on the table.

SA 2427. Mr. McCAIN submitted an amendment intended to be proposed by him to the bill H.R. 2996, supra; which was ordered to lie on the table.

SA 2428. Mr. McCAIN submitted an amendment intended to be proposed by him to the bill H.R. 2996, supra; which was ordered to lie on the table.

SA 2429. Mr. McCAIN submitted an amendment intended to be proposed by him to the bill H.R. 2996, supra; which was ordered to lie on the table.

SA 2430. Mr. McCAIN submitted an amendment intended to be proposed by him to the bill H.R. 2996, supra; which was ordered to lie on the table.

SA 2431. Mr. McCAIN submitted an amendment intended to be proposed by him to the bill H.R. 2996, supra; which was ordered to lie on the table.

SA 2432. Mr. McCAIN submitted an amendment intended to be proposed by him to the bill H.R. 2996, supra; which was ordered to lie on the table.

SA 2433. Mr. McCAIN submitted an amendment intended to be proposed by him to the bill H.R. 2996, supra; which was ordered to lie on the table.

SA 2434. Mr. McCAIN submitted an amendment intended to be proposed by him to the bill H.R. 2996, supra; which was ordered to lie on the table.

SA 2435. Mr. McCAIN submitted an amendment intended to be proposed by him to the bill H.R. 2996, supra; which was ordered to lie on the table.

SA 2436. Mr. McCAIN submitted an amendment intended to be proposed by him to the bill H.R. 2996, supra; which was ordered to lie on the table.

SA 2437. Mr. McCAIN submitted an amendment intended to be proposed by him to the bill H.R. 2996, supra; which was ordered to lie on the table.

SA 2438. Mr. McCAIN submitted an amendment intended to be proposed by him to the bill H.R. 2996, supra; which was ordered to lie on the table.

SA 2439. Mr. McCAIN submitted an amendment intended to be proposed by him to the bill H.R. 2996, supra; which was ordered to lie on the table.

SA 2440. Mr. VITTER submitted an amendment intended to be proposed by him to the bill H.R. 2996, supra; which was ordered to lie on the table.

SA 2441. Mr. DORGAN submitted an amendment intended to be proposed by him to the bill H.R. 2996, supra; which was ordered to lie on the table.

SA 2442. Mr. JOHNSON submitted an amendment intended to be proposed by him to the bill H.R. 2996, supra; which was ordered to lie on the table.

SA 2443. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill H.R. 2996, supra; which was ordered to lie on the table.

SA 2444. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill H.R. 2996, supra; which was ordered to lie on the table.

## TEXT OF AMENDMENTS

SA 2423. Mr. BROWNBACK (for himself and Mr. ROBERTS) submitted an amendment intended to be proposed by him to the bill H.R. 2996, making appropriations for the Department of the Interior, environment, and related agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 190, line 10, insert before the period at the end the following: “: *Provided further*, That, notwithstanding the joint explanatory statement of the Committee on Appropriations of the House of Representatives accompanying the Consolidated Appropriations Act, 2008 (Public Law 110-161; 121 Stat. 1844), \$170,800 shall be made available to the city of Prescott for a wastewater treatment plant construction project and \$129,200 shall be made available to the city of Wichita for a storm water technology pilot project: *Provided further*, That, notwithstanding the joint explanatory statement of the Committee on Appropriations of the House of Representatives accompanying the Omnibus Appropriations Act, 2009 (Public Law 111-8; 123 Stat. 524), the amount of \$185,000 made available to the city of Manhattan for the sewer mainline extension project (as described in the table entitled ‘Congressionally Designated Spending’ contained in section 430 of that joint explanatory statement) shall be made available to the city of Manhattan for a water mainline extension project: *Provided further*, That, notwithstanding the joint explanatory statement of the Committee on Appropriations of the House of Representatives accompanying the Omnibus Appropriations Act, 2009 (Public Law 111-8; 123 Stat. 524), the amount of \$290,000 made available to the Riley County Board of Commissioners for the Konza Sewer Main Extension project (as described in the table entitled ‘Congressionally Designated Spending’ contained in section 430 of that joint explanatory statement) shall be made available to the city of Manhattan for the Konza Water Main Extension project”.

SA 2424. Mr. McCAIN submitted an amendment intended to be proposed by him to the bill H.R. 2996, making appropriations for the Department of the Interior, environment, and related agencies for the fiscal year ending September 30, 2010, and for other purposes;



which was ordered to lie on the table; as follows:

On page 240, between lines 13 and 14, insert the following:

SEC. 4 \_\_\_\_\_. None of the funds made available by this Act may be used to construct a drinking water reservoir in Fayette County, Alabama.

**SA 2425.** Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill H.R. 2996, making appropriations for the Department of the Interior, environment, and related agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 240, between lines 13 and 14, insert the following:

SEC. 4 \_\_\_\_\_. None of the funds made available by this Act may be used for the Sewall-Belmont House in Washington, District of Columbia.

**SA 2426.** Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill H.R. 2996, making appropriations for the Department of the Interior, environment, and related agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 240, between lines 13 and 14, insert the following:

SEC. 4 \_\_\_\_\_. None of the funds made available by this Act may be used for an interpretive center at the California National Historic Trail in Nevada.

**SA 2427.** Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill H.R. 2996, making appropriations for the Department of the Interior, environment, and related agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 240, between lines 13 and 14, insert the following:

SEC. 4 \_\_\_\_\_. None of the funds made available by this Act may be used for rat eradication at the Palmyra Atoll National Wildlife Refuge in Hawaii.

**SA 2428.** Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill H.R. 2996, making appropriations for the Department of the Interior, environment, and related agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 240, between lines 13 and 14, insert the following:

SEC. 4 \_\_\_\_\_. None of the funds made available by this Act may be used for a National Conservation Training Center in West Virginia.

**SA 2429.** Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill H.R. 2996, making appropriations for the Department of the Interior, environment, and related agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 240, between lines 13 and 14, insert the following:

SEC. 4 \_\_\_\_\_. None of the funds made available by this Act may be used to manage excess sewage flows of the city of Plattsmouth, Nebraska.

**SA 2430.** Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill H.R. 2996, making appropriations for the Department of the Interior, environment, and related agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 240, between lines 13 and 14, insert the following:

SEC. 4 \_\_\_\_\_. None of the funds made available by this Act may be used to relocate a Forest Service dispatch center in the Black Hills National Forest, South Dakota.

**SA 2431.** Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill H.R. 2996, making appropriations for the Department of the Interior, environment, and related agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 240, between lines 13 and 14, insert the following:

SEC. 4 \_\_\_\_\_. None of the funds made available by this Act may be used for the State of Vermont for the Vermont Wood Products Collaborative.

**SA 2432.** Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill H.R. 2996, making appropriations for the Department of the Interior, environment, and related agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 240, between lines 13 and 14, insert the following:

SEC. 4 \_\_\_\_\_. None of the funds made available by this Act may be used for the town of Moorefield, West Virginia, for wastewater treatment facility upgrades.

**SA 2433.** Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill H.R. 2996, making appropriations for the Department of the Interior, environment, and related agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 192, between lines 6 and 7, insert the following:

#### GENERAL PROVISIONS, ENVIRONMENTAL PROTECTION AGENCY

SEC. 2 \_\_\_\_\_. None of the funds made available by this Act may be used for any targeted infrastructure assistance grant under the State and Tribal Assistance Grants program.

**SA 2434.** Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill H.R. 2996, making appropriations for the Department of the Interior, environment, and related agencies for the fiscal year ending September 30, 2010, and for other purposes;

which was ordered to lie on the table; as follows:

On page 186, line 7, strike “\$15,000,000” and insert “\$10,000,000”.

**SA 2435.** Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill H.R. 2996, making appropriations for the Department of the Interior, environment, and related agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 134, line 16, before the period, insert the following “: *Provided*, That none of the funds made available under this Act may be used for a tropical botanical garden in the State of Hawaii”.

**SA 2436.** Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill H.R. 2996, making appropriations for the Department of the Interior, environment, and related agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 129, lines 1 through 4, strike “, of which” and all that follows through “of 2004”.

**SA 2437.** Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill H.R. 2996, making appropriations for the Department of the Interior, environment, and related agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 190, lines 2 through 10, strike “: *Provided further*,” and all that follows through “drinking water system improvements”.

**SA 2438.** Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill H.R. 2996, making appropriations for the Department of the Interior, environment, and related agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 195, line 3, before the period, insert the following “: *Provided further*, That none of the funds made available under this Act may be used for trail improvements on the Reno-to-Reno Rim Trail in the State of Nevada”.

**SA 2439.** Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill H.R. 2996, making appropriations for the Department of the Interior, environment, and related agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 134, line 16, before the period, insert the following “: *Provided*, That none of the funds made available under this Act may be used to carry out the Native Hawaiian culture and arts program in the State of Hawaii”.

**SA 2440.** Mr. VITTER submitted an amendment intended to be proposed by

him to the bill H.R. 2996, making appropriations for the Department of the Interior, environment, and related agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

#### FUNDING LIMITATION

SEC. \_\_\_\_\_. None of the funds made available by this Act may be obligated for the purpose of implementing directives or policies of the Federal Government at the direction of the Assistant to the President for Energy and Climate Change (commonly known as the "White House Climate Change Czar").

**SA 2441.** Mr. DORGAN submitted an amendment intended to be proposed by him to the bill H.R. 2996, making appropriations for the Department of the Interior, environment, and related agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 173, strike line 12 and all that follows through page 174, line 5, and insert the following:

"(g) REQUIREMENTS FOR INCLUSION AND REMOVAL OF PROPERTY IN HERITAGE AREA.—

"(1) PRIVATE PROPERTY INCLUSION.—No privately owned property shall be included in the Heritage Area unless the owner of the private property provides to the management entity a written request for the inclusion.

"(2) PROPERTY REMOVAL.—

"(A) PRIVATE PROPERTY.—At the request of an owner of private property included in the Heritage Area pursuant to paragraph (1), the private property shall be immediately withdrawn from the Heritage Area if the owner of the property provides to the management entity a written notice requesting removal.

"(B) PUBLIC PROPERTY.—On written notice from the appropriate State or local government entity, public property included in the Heritage Area shall be immediately withdrawn from the Heritage Area."

**SA 2442.** Mr. JOHNSON submitted an amendment intended to be proposed by him to the bill H.R. 2996, making appropriations for the Department of the Interior, environment, and related agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 190, line 10, insert before the period at the end the following: "Provided further, That, notwithstanding the joint explanatory statement of the Committee on Appropriations of the House of Representatives accompanying Public Law 111-8 (123 Stat. 524), the amount of \$400,000 made available to the City of Lake Norden, South Dakota, for wastewater infrastructure improvements (as described in the table entitled 'Congressionally Designated Spending' contained in section 430 of that joint explanatory statement) shall be made available to the City of Lake Norden, South Dakota, for drinking water infrastructure improvements'".

**SA 2443.** Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill H.R. 2996, making appropriations for the Department of the Interior, environment, and related agencies for the fiscal year ending Sep-

tember 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 190, line 10, insert before the period at the end the following: "Provided further, That, notwithstanding the joint explanatory statement of the Committee on Appropriations of the House of Representatives accompanying the Consolidated Appropriations Act, 2008 (Public Law 110-161; 121 Stat. 1844), from funds made available by that Act for the State and Tribal Assistance Grants program, \$170,800 shall be made available to the city of Prescott for a wastewater treatment plant construction project and \$129,200 shall be made available to the city of Wichita for a storm water technology pilot project: *Provided further, That, notwithstanding the joint explanatory statement of the Committee on Appropriations of the House of Representatives accompanying the Omnibus Appropriations Act, 2009 (Public Law 111-8; 123 Stat. 524), the amount of \$185,000 made available to the city of Manhattan for the sewer mainline extension project (as described in the table entitled 'Congressionally Designated Spending' contained in section 430 of that joint explanatory statement) shall be made available to the city of Manhattan for a water mainline extension project: *Provided further, That, notwithstanding the joint explanatory statement of the Committee on Appropriations of the House of Representatives accompanying the Omnibus Appropriations Act, 2009 (Public Law 111-8; 123 Stat. 524), the amount of \$290,000 made available to the Riley County Board of Commissioners for the Konza Sewer Main Extension project (as described in the table entitled 'Congressionally Designated Spending' contained in section 430 of that joint explanatory statement) shall be made available to the city of Manhattan for the Konza Water Main Extension project'".**

**SA 2444.** Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill H.R. 2996, making appropriations for the Department of the Interior, environment, and related agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 240, between lines 13 and 14, insert the following:

SEC. 4 \_\_\_\_\_. Section 404(c) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7624(c)) is amended—

(1) in paragraph (1), by striking "Agricultural Research Service" and inserting "Agricultural Research Service and the Forest Service"; and

(2) by adding at the end the following:

"(3) AUTHORITY OF SECRETARY.—To carry out a cooperative agreement with a private entity under paragraph (1), the Secretary may rent to the private entity equipment, the title of which is held by the Federal Government."

#### NOTICE OF HEARING

##### COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Subcommittee on Public Lands and Forests.

The hearing will be held on Thursday, October 1, 2009, at 2:30 p.m., in

room SD-366 of the Dirksen Senate Office Building.

The purpose of the hearing is to receive testimony on managing Federal forests in response to climate change, including for natural resource adaptation and carbon sequestration.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send it to the Committee on Energy and Natural Resources, United States Senate, Washington, DC 20510-6150, or by email to: allison.seyferth@energy.senate.gov.

For further information, please contact Scott Miller at (202) 224-5488 or Allison Seyferth at (202) 224-4905.

#### AUTHORITY FOR COMMITTEES TO MEET

##### COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mrs. FEINSTEIN. 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 September 17, 2009, at 2:15 p.m., in room SD-366 of the Dirksen Senate Office Building.

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

##### COMMITTEE ON FOREIGN RELATIONS

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, September 17, 2009, at 10 a.m., to hold a hearing entitled "Countering the Threat of Failure in Afghanistan."

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

##### COMMITTEE ON INDIAN AFFAIRS

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet during the session of the Senate September 17, 2009, at 2:15 p.m. in Room 628 of the Dirksen Senate Office Building.

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

##### COMMITTEE ON THE JUDICIARY

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate, on September 17, 2009, at 10 a.m. in SD-226 of the Dirksen Senate Office Building, to conduct an executive business meeting.

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

##### COMMITTEE ON VETERANS' AFFAIRS

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet during the session of the Senate on September 17, 2009. The Committee will meet in room 418 of the Russell Senate Office Building beginning at 9:30 a.m.

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

## SELECT COMMITTEE ON INTELLIGENCE

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on September 17, 2009, at 2:30 p.m.

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

## SUBCOMMITTEE ON CRIME AND DRUGS

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that the Committee on the Judiciary, Subcommittee on Crime and Drugs, be authorized to meet during the session of the Senate, on September 17, 2009, at 2 p.m. in room SD-226 of the Dirksen Senate Office Building, to conduct a hearing entitled "Evaluating S. 1551: The Liability for Aiding and Abetting Securities Violations Act of 2009."

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

AD HOC SUBCOMMITTEE ON CONTRACTING  
OVERSIGHT

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that the Ad Hoc Subcommittee on Contracting Oversight of the Committee on Homeland Security and Governmental Affairs be authorized to meet during the session of the Senate on September 17, 2009, at 2:30 p.m. to conduct a hearing entitled, "Improving Transparency and Accessibility of Federal Contracting Databases."

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

## PRIVILEGES OF THE FLOOR

Mrs. FEINSTEIN. Madam President, I ask unanimous consent that Tomer Hasson, an environmental legislative fellow in my office, be granted floor privileges for the pendency of H.R. 2996, the Interior appropriations bill.

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

COMMEMORATING DR. NORMAN  
BORLAUG

Mr. REID. Mr. President, I ask unanimous consent that we proceed to S. Res. 273.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 273) commemorating Dr. Norman Borlaug, recipient of the Nobel Peace Prize, the Congressional Gold Medal, Presidential Medal of Freedom, and founder of the World Food Prize.

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. I ask unanimous consent the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and any statements be printed in the RECORD.

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

The resolution (S. Res. 273) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

## S. RES. 273

Whereas Dr. Norman E. Borlaug was born on March 25, 1914, of Norwegian parents on a farm in Cresco, Iowa, and was educated in a 1-room school house throughout grades 1 through 8;

Whereas Dr. Borlaug attended the University of Minnesota, where he earned a Ph.D. degree in Plant Pathology;

Whereas, beginning in 1944, Dr. Borlaug spent 2 decades in rural Mexico working to assist the poorest farmers through a pioneering Rockefeller Foundation program;

Whereas Dr. Borlaug's research and innovative "shuttle breeding" in Mexico enabled him to develop a new approach to agriculture and a new disease-resistant variety of wheat with triple the output of grain;

Whereas this breakthrough achievement in plant production enabled Mexico to become self-sufficient in wheat by 1956, and concurrently raised the living standard for thousands of poor Mexican farmers;

Whereas Dr. Borlaug was asked by the United Nations to travel to India and Pakistan in the 1960s, as South-Asia and the Middle East faced an imminent widespread famine, where he eventually helped convince those 2 warring governments to adopt his new seeds and new approach to agriculture to address this critical problem;

Whereas, Dr. Borlaug brought miracle wheat to India and Pakistan, which helped both countries become self-sufficient in wheat production, thus saving hundreds of millions of people from hunger, famine, and death;

Whereas Dr. Borlaug and his team trained young scientists from Algeria, Tunisia, Egypt, Jordan, Iraq, Turkey, and Afghanistan in this same new approach to agriculture, which introduced new seeds but also put emphasis on the use of fertilizer and irrigation, thus increasing yields significantly in those countries as well;

Whereas Dr. Borlaug's approach to wheat was adapted by research scientists working in rice, which spread the Green Revolution to Asia, feeding and saving millions of people from hunger and starvation;

Whereas Dr. Borlaug was awarded the Nobel Peace Prize in 1970 as the "Father of the Green Revolution" and is only 1 of 5 people to have ever received the Nobel Peace Prize, Presidential Medal of Freedom, and Congressional Gold Medal;

Whereas Dr. Borlaug headed the Sasakawa Global 2000 program to bring the Green Revolution to 10 countries in Africa, and traveled the world to educate the next generation of scientists on the importance of producing new breakthrough achievements in food production;

Whereas Dr. Borlaug tirelessly promoted the potential that biotechnology offers for feeding the world, while also preserving biodiversity, in the 21st century when the global population is projected to rise to 9,000,000,000 people;

Whereas Dr. Borlaug continued his role as an educator as a Distinguished Professor at Texas A&M University, while also working at the International Center for the Improvement of Wheat and Maize in Mexico;

Whereas Dr. Borlaug founded the World Food Prize, called by several world leaders "The Nobel Prize for Food and Agriculture", which is awarded in Iowa each October so as to recognize and inspire Nobel-like achievements in increasing the quality, quantity, and availability of food in the world;

Whereas the Senate designated October 16 as World Food Prize Day in America in honor of Dr. Borlaug; and

Whereas it is written of Dr. Borlaug that throughout all of his work he saved 1,000,000,000 lives, thus making him widely known as saving more lives than any other person in human history: Now, therefore, be it

*Resolved*, That—

(1) the Senate has received with profound sorrow and deep regret the announcement of the passing of Dr. Norman Borlaug; and

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

## PEACE DAY

Mr. REID. I ask unanimous consent that the Senate now proceed to S. Res. 274.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 274) supporting the goals and ideals of Peace Day.

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. I ask unanimous consent the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and any statements be printed in the RECORD.

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

The resolution (S. Res. 274) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

## S. RES. 274

Whereas, beginning in 2002, the United Nations has designated September 21 of each year as the International Day of Peace, which is known in the United States as Peace Day;

Whereas the United Nations dedicates the International Day of Peace to the cessation of hostilities and nonviolence, and calls upon all Nations and people to commemorate the day appropriately, including through educational efforts, and public awareness;

Whereas Peace Day activities around the world include vaccination campaigns, peace walks, concerts, peace-related discussions and debates, poetry readings, mass prayer ceremonies, art exhibitions, memorial services, school assemblies, and sporting events;

Whereas, on Peace Day 2006, the World Food Programme carried out a 60-ton food drop in Southern Sudan;

Whereas, on Peace Day 2007, the Peace One Day organization worked alongside the United Nations Children's Fund (UNICEF), the World Health Organization (WHO), and the Afghan Ministry of Public Health to vaccinate 1,400,000 children of Afghanistan against the polio virus and, on Peace Day 2008, approximately 14,000 health workers and volunteers delivered polio vaccinations to 1,600,000 children under the age of 5 in 6 Afghan provinces;

Whereas, on Peace Day 2007, Star Syringe vaccinated children in rural areas against measles, diphtheria, tuberculosis, hepatitis, and whooping cough in 20 locations, including Uganda, India, Ethiopia, and Indonesia;

Whereas, on Peace Day 2007, in the conflict-torn South Kivu province of the Democratic Republic of Congo, UNICEF and other

organizations provided insecticide-treated mosquito nets to protect 600,000 children from malaria, and also provided vitamin A, de-worming medication, and measles immunizations;

Whereas, on Peace Day 2007, there were 82 Peace Day initiatives in Afghanistan alone, involving more than 30 United Nations agencies, government departments, radio stations, and civil society organizations, and including arms handover ceremonies, community prayers for peace, painting schools white, educational activities, and a Peace Walk through the streets of Herat, Afghanistan;

Whereas the Peace One Day organization provides free educational materials to schools in the United States and worldwide that enable young people to prepare for and participate in Peace Day activities, learn the skills needed to resolve conflicts peacefully, and cultivate a sense of active global citizenship; and

Whereas the "One Day One Goal" initiative promotes soccer matches in all member states of the United Nations on Peace Day, and "One Day One Goal" soccer matches reflect cooperation, unity, and the power of soccer to bring people together as part of Peace Day in many countries, including Iraq, Uganda, Afghanistan, Burundi, Cambodia, the United Arab Emirates, the Côte d'Ivoire, the United States, and the United Kingdom: Now, therefore, be it

*Resolved*, That the Senate—

(1) expresses its support for the goals and ideals celebrated on Peace Day, which is observed each year on September 21;

(2) supports continuing efforts to raise global awareness of the goals of Peace Day and to engage all sectors of society in the peaceful observance of the International Day of Peace, in accordance with United Nations General Assembly Resolution 55/282 of September 7, 2001, including work with United Nations agencies and non-governmental organizations to promote life-saving and humanitarian activities on Peace Day; and

(3) encourages people in the United States to observe Peace Day, September 21, 2009, with appropriate programs, ceremonies, and educational activities, in order to raise awareness of the need for peaceful resolution of conflicts of all kinds.

#### MEASURE READ THE FIRST TIME—S. 1687

Mr. REID. Mr. President, I understand that there is a bill at the desk. I ask for its first reading.

The PRESIDING OFFICER. The clerk will report.

A bill (S. 1687) to prohibit the Federal Government from awarding contracts, grants, or other agreements, or providing other Federal funds to or engaging in activities that promote the Association of Community Organizations for Reform Now.

Mr. REID. I ask for a second reading but object to my own request.

The PRESIDING OFFICER. Objection is heard. The bill will be read for the second time the next legislative day.

#### APPOINTMENTS

The PRESIDING OFFICER. The Chair announces, on behalf of the majority leader, pursuant to P.L. 110-229, the appointment of the following to be members of the Commission to Study the Potential Creation of a National

Museum of the American Latino: Dr. Emma Sepulveda of Nevada vice Katherine Archuleta of Colorado.

The Chair announces, on behalf of the minority leader, pursuant to the provisions of S. Res. 105, adopted April 13, 1989, as amended by S. Res. 149, adopted October 5, 1993, as amended by Public Law 105-275, adopted October 21, 1998, further amended by S. Res. 75, adopted March 25, 1999, amended by S. Res. 383, adopted October 27, 2000, and amended by S. Res. 355, adopted November 13, 2002, and further amended by S. Res. 480, adopted November 21, 2004, the appointment of the following Senator as a member of the Senate National Security Working Group for the 111th Congress: the Honorable LINDSEY GRAHAM of South Carolina (co-chairman).

Mr. REID. 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. REID. 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. REID. Mr. President, first of all, I appreciate very much the patience of the Presiding Officer and all the staff.

In prior years, before you arrived in the Senate, I used to spend a lot of time on the floor when I was the whip and we had one of the staff here who talked about how Senate time was dog time—1 minute is really 7 minutes. In fact, as his going away gift to me, my friend Jack, who was right down here, before he retired gave me a dog chain as a souvenir. I kept it in my desk here for years. But sometimes things take a long time to get worked out. It may not seem like much, but it took a long time to get this done.

#### NOMINATION OF ERROLL SOUTHERS

Mr. REID. Mr. President, as in executive session, I ask unanimous consent that the nomination of Erroll Southers to be Assistant Secretary of Homeland Security be referred to the Committee on Commerce, Science, and Transportation; that upon the reporting out or discharge of the nomination, it then be referred to the Homeland Security and Governmental Affairs Committee for a period not to exceed 30 calendar days; that if the Homeland Security and Governmental Affairs Committee has not reported the nomination at that time, then the Committee be discharged and the nomination be placed on the Executive Calendar.

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

#### ORDERS FOR MONDAY, SEPTEMBER 21, 2009

Mr. REID. Mr. President, I ask unanimous consent that when the Senate

completes its business today, it adjourn until 2 p.m. on Monday, September 21; that following the prayer and the pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate proceed to a period of morning business until 3 p.m., with Senators permitted to speak therein for up to 10 minutes each; that following morning business, the Senate resume consideration of Calendar No. 98, H.R. 2996, Interior appropriations.

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

#### PROGRAM

Mr. REID. Mr. President, there will be no rollcall votes on Monday, as previously announced. Senators should expect the next vote to begin before the caucus on Tuesday.

#### ADJOURNMENT UNTIL MONDAY, SEPTEMBER 21, 2009, AT 2 P.M.

Mr. REID. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that it stand adjourned under the previous order.

There being no objection, the Senate, at 7:15 p.m., adjourned until Monday, September 21, 2009, at 2 p.m.

#### NOMINATIONS

Executive nominations received by the Senate:

##### FEDERAL RESERVE SYSTEM

BEN S. BERNANKE, OF NEW JERSEY, TO BE CHAIRMAN OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM FOR A TERM OF FOUR YEARS. (REAPPOINTMENT)

##### DEPARTMENT OF HOMELAND SECURITY

ERROLL G. SOUTHERS, OF CALIFORNIA, TO BE AN ASSISTANT SECRETARY OF HOMELAND SECURITY, VICE EDMUND S. HAWLEY, RESIGNED.

##### DEPARTMENT OF JUSTICE

MICHAEL J. MOORE, OF GEORGIA, TO BE UNITED STATES ATTORNEY FOR THE MIDDLE DISTRICT OF GEORGIA FOR THE TERM OF FOUR YEARS, VICE MAXWELL WOOD.

CARMEN MILAGROS ORTIZ, OF MASSACHUSETTS, TO BE UNITED STATES ATTORNEY FOR THE DISTRICT OF MASSACHUSETTS FOR THE TERM OF FOUR YEARS, VICE MICHAEL J. SULLIVAN.

EDWARD J. TARVER, OF GEORGIA, TO BE UNITED STATES ATTORNEY FOR THE SOUTHERN DISTRICT OF GEORGIA FOR THE TERM OF FOUR YEARS, VICE EDMUND A. BOOTH, JR.

##### FOREIGN SERVICE

THE FOLLOWING-NAMED PERSONS OF THE AGENCIES INDICATED FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF THE CLASSES STATED.

FOR APPOINTMENT AS FOREIGN SERVICE OFFICER OF CLASS TWO, CONSULAR OFFICER AND SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

##### DEPARTMENT OF STATE

Laurie M. Major, of Maine

FOR APPOINTMENT AS FOREIGN SERVICE OFFICER OF CLASS THREE, CONSULAR OFFICER AND SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

##### DEPARTMENT OF COMMERCE

Robyn F. Kessler, of Ohio

##### DEPARTMENT OF STATE

Sarah Audrey Nelson, of Virginia

FOR APPOINTMENT AS FOREIGN SERVICE OFFICER OF CLASS FOUR, CONSULAR OFFICER AND SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA, EFFECTIVE JUNE 29, 2009.

## DEPARTMENT OF STATE

CHAD R. NORBERG, OF FLORIDA

THE FOLLOWING-NAMED MEMBERS OF THE FOREIGN SERVICE TO BE CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

## DEPARTMENT OF COMMERCE

ERIC G. CROWLEY, OF COLORADO  
EMILY V. GEREFFI, OF VIRGINIA  
DAMIAN J. FELTON, OF VIRGINIA  
NANCY KREMERS, OF THE DISTRICT OF COLUMBIA  
LISA WANG, OF VIRGINIA

## DEPARTMENT OF STATE

FAREED A. ABDULLAH, OF GEORGIA  
ROBERT ADELSON, JR., OF NEW YORK  
JUANITA L. AGUIRRE, OF TEXAS  
MICHAEL AHN, OF CALIFORNIA  
TYSON DALE AIKEN, OF VIRGINIA  
MAYRA ALEJANDRA ALVARADO TORRES, OF CALIFORNIA  
JERRAD U. ANDERSON, OF VIRGINIA  
KRISTER BERNT ANDERSON, OF MINNESOTA  
ALICIA M. ANDREWS, OF VIRGINIA  
MICHAEL C. ANNESSE, OF VIRGINIA  
CAROLYN M. AUZENNE, OF VIRGINIA  
PAMELA L. AUZENNE, OF LOUISIANA  
TERESA S. BALL, OF TENNESSEE  
BRANDON C. BARIHENTZ, OF KANSAS  
BRANDON A. BATEMAN, OF VIRGINIA  
DAWN ELIZABETH BEAUPAIN, OF VIRGINIA  
ALBERT J. BECCACCIO, OF VIRGINIA  
LAUREN BISHOP, OF VIRGINIA  
MELANI M. BLECK, OF VIRGINIA  
AJA C. BONSU, OF THE DISTRICT OF COLUMBIA  
COREY BORDENKECHER, OF INDIANA  
GABRIELLE ELIZABETH BRADEN, OF THE DISTRICT OF COLUMBIA  
ANNE BRAGHETTA, OF CALIFORNIA  
BRIGETTE BUCHET, OF MARYLAND  
ROBERT H. BURNETT, OF TENNESSEE  
SUZANNE L. BYRNE, OF VIRGINIA  
ALYSSA M. CARALLA, OF GEORGIA  
CHRISTIAN H. CARDONA, OF NEW YORK  
MARCUS BLAIR CARPENTER, OF THE DISTRICT OF COLUMBIA  
MARQUITA LEVONNE CASH, OF VIRGINIA  
MARK STUART CHAMBERLAIN, OF VIRGINIA  
ERIN JORDAN CLANCY, OF CALIFORNIA  
TRAVIS JOHN COBERLY, OF KANSAS  
DESIRE MICHELLE CORMIER, OF CALIFORNIA  
ROYCE S. CRAYTON, OF VIRGINIA  
JUAN CARLOS CRUZ, OF FLORIDA  
DARREN DAPAS, OF NEW JERSEY  
LAURA SONNET DAVIS, OF THE DISTRICT OF COLUMBIA  
KAREN A. DICKERSON, OF MARYLAND  
TRENTON BROWN DOUTHETT, OF OHIO  
SADIE ELEN DWORAK, OF NEW HAMPSHIRE  
PAULA VILLANOVA ENCARNACAO, OF MARYLAND  
JOHANNA LOUISE FERNANDO, OF VIRGINIA  
KYLE FIELDING, OF WASHINGTON  
ERIK T. FINCH, OF TEXAS  
COLIN FISHWICK, OF WASHINGTON  
JANET M. FLATLEY, OF FLORIDA  
JOAN H. FLYNN, OF VIRGINIA  
TIMOTHY J. FUNKE, OF VIRGINIA  
JOSEPH GIORDONO-SCHOLZ, OF CALIFORNIA  
ANGELA C. GJERTSON, OF THE DISTRICT OF COLUMBIA  
CATHRYN MARGARET GLEASMAN, OF TEXAS  
BRYAN F. GRANT, OF VIRGINIA  
CATHERINE GRIFFITH, OF VIRGINIA  
EMILY ELIZABETH GUEST, OF VIRGINIA  
LORIANA GUIDI, OF VIRGINIA  
CASSANDRA HAGAR, OF TEXAS  
JAMES J. HAGENGRUBER, OF WASHINGTON  
KATHRYN FAYE HARPER, OF CALIFORNIA  
CRAIG S. HEALY, OF ILLINOIS  
GREGORY P. HENRY, OF VIRGINIA  
PATRICIA ADRIENNE HILL, OF MASSACHUSETTS  
ROBERT G. HOLMAN, JR., OF MARYLAND  
LAUREN D. HOLMES, OF NORTH CAROLINA  
KATHLEEN INGRID HOSIE, OF THE VIRGIN ISLANDS  
LYNN M. HOUGHTON, OF VIRGINIA  
MATTHEW JOHNSON, OF VIRGINIA  
YOSHIKO K. KARLSEN, OF CALIFORNIA  
GEORGE C. KAUFFER, OF VIRGINIA  
CHRISTOPHER K. KING, OF VIRGINIA  
LAWRENCE JOSEPH KORB, JR., OF CONNECTICUT  
LORRAINE J. KRAMER, OF VIRGINIA  
REBECCA M. LABANCZ, OF VIRGINIA  
DEVAN TERESE LANGFORD, OF MARYLAND  
JOHN F. LAPLUME, OF VIRGINIA

L. MICHAEL LEDBETTER, JR., OF VIRGINIA  
ELIZABETH ERIN ANDERSON LEE, OF WEST VIRGINIA  
KUANG YANG LI, OF VIRGINIA  
FRANCES C. LIN, OF CALIFORNIA  
SCOTT HAMILTON LINTON, OF COLORADO  
JONATHAN L. LOW, OF THE DISTRICT OF COLUMBIA  
W. GARY LOWMAN, JR., OF FLORIDA  
AMANDA LUGO, OF TEXAS  
MATTHEW R. MALOY, OF MONTANA  
ARYANI ELISABETH MANRIN, OF PENNSYLVANIA  
IZAAK MARTIN, OF VIRGINIA  
JOHN MCDANIEL, OF TEXAS  
KELLY MCGUIRE, OF TEXAS  
RYAN E. MCKEAN, OF WISCONSIN  
ROBERT E. MELVIN, OF TEXAS  
DAVID B. MILLAR, OF THE DISTRICT OF COLUMBIA  
BEAU J. MILLER, OF MICHIGAN  
SHANAZ MOHAMED, OF THE DISTRICT OF COLUMBIA  
STEPHANIE MOLNAR, OF NEW JERSEY  
ROBERT E. MORGAN, OF TEXAS  
CHAD WILLIAM MORRIS, OF VIRGINIA  
MILESSA NICOLE MUCHMORE, OF NEW MEXICO  
MARK ROBERT NAYLOR, OF IOWA  
PATRICIA NEARY, OF VIRGINIA  
THOMAS ANDREW NIBLOCK, OF IOWA  
NATANYA NOBEL, OF MARYLAND  
ERIN O. O'NEILL, OF VIRGINIA  
ALEXANDER R. ORR, OF NEW JERSEY  
GERALD A. O'SHEA, OF VIRGINIA  
BENNY A. PADILLA, OF CALIFORNIA  
CHRISTOPHER JOHN PANUSKA, OF THE DISTRICT OF COLUMBIA  
KEVIN J. PARNELL, OF VIRGINIA  
ANDREW J. PARTIN, OF NEW HAMPSHIRE  
EMILY PERTOSO, OF VIRGINIA  
JESSICA BRIANNA PFLEIDERER, OF MINNESOTA  
JULIAN I. PHILLIPPI, OF MASSACHUSETTS  
ALISANDE L. PIPKIN, OF NEW YORK  
PEDRO A. PLA-DAVILA, OF VIRGINIA  
RICHARD JOHN POLNEY, OF NEVADA  
THOMAS LEE RADKE, OF MISSOURI  
HEIDI M. RAMSAY, OF CALIFORNIA  
KATHERINE RAY, OF OREGON  
NANCY PARQUHAR RHODES, OF TEXAS  
JUSTO L. RIVERA, OF VIRGINIA  
LASHANDA LELIA ROBERTS, OF MARYLAND  
CHRISTOPHER RYAN RODRIGUEZ, OF VIRGINIA  
TYLER J. ROGSTAD, OF MINNESOTA  
JOSEPH SCHALLER, OF NEW YORK  
JANET B. SCOTT, OF VIRGINIA  
KIMBERLY SCRIVNER, OF NEVADA  
PAUL D. SHAFPER, OF MARYLAND  
JODI H. SHOUSE, OF VIRGINIA  
AARON M. SINGLETERRY, OF WASHINGTON  
MONICA M. SLAKEY, OF CALIFORNIA  
STEPHEN B. SLICK, OF VIRGINIA  
TAMMY LING SMITH, OF WASHINGTON  
CHRISTINE SORENSON, OF VIRGINIA  
JULIA E. SPEER, OF THE DISTRICT OF COLUMBIA  
GEOFF SPENCER, OF ARIZONA  
DANETTE I. SULLIVAN, OF TENNESSEE  
SUSAN M. SWARTZ, OF MARYLAND  
VANESSA ANNE TANTILLO, OF ILLINOIS  
MICHAEL CHARLES TAPLEY, OF TEXAS  
AMY L. TERRILL, OF VIRGINIA  
BRETT FORSTER THURMAN, OF MICHIGAN  
ROBERT EMIL TIBBETTS, OF MARYLAND  
GRETCHEN L. TIETJE, OF TEXAS  
NICOLE A. TOBIN, OF KANSAS  
EMERITA F. TORRES, OF NEW YORK  
MICHELLE T. TRAN, OF KANSAS  
MATTHEW UPTON TRUMBULL, OF VIRGINIA  
JOHN MICHAEL VASSALLO, OF VIRGINIA  
JOHN S. VELA, OF VIRGINIA  
DANIEL VILLANUEVA, OF FLORIDA  
JOHN WALESIEWICZ, OF VIRGINIA  
DAMIAN WAMPLER, OF NEW YORK  
CORY A. WEISS, OF VIRGINIA  
MATTHEW WESTBROOK, OF VIRGINIA  
JUSTIN DREW WITT, OF VIRGINIA  
STACEY E.V. WOOD, OF CALIFORNIA  
CHRISTOPHER D. WOOSLEY, OF VIRGINIA  
RUSSELL A. ZALIZNIAK, OF FLORIDA  
VICKI LEIGH ZERFOSS, OF VIRGINIA  
MARIA A. ZUNIGA, OF VIRGINIA  
MARIA A. ZUNGIA, OF VIRGINIA

## IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be vice admiral*

VICE ADM. BRUCE W. CLINGAN

## IN THE ARMY

THE FOLLOWING NAMED INDIVIDUAL FOR REGULAR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY JUDGE ADVOCATE GENERAL'S CORPS UNDER TITLE 10, U.S.C., SECTIONS 531 AND 3064:

*To be major*

DEREK D. BROWN

THE FOLLOWING NAMED INDIVIDUALS FOR REGULAR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY MEDICAL SERVICE CORPS UNDER TITLE 10, U.S.C., SECTIONS 531 AND 3064:

*To be major*STEPHANIE LATIMER  
OANH K. TRAN

THE FOLLOWING NAMED INDIVIDUALS FOR REGULAR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY NURSE CORPS UNDER TITLE 10, U.S.C., SECTIONS 531 AND 3064:

*To be major*MICHELLE H. MARTIN  
MARGARET A. MOSLEY

THE FOLLOWING NAMED INDIVIDUALS FOR REGULAR APPOINTMENT TO THE GRADES INDICATED IN THE UNITED STATES ARMY MEDICAL CORPS UNDER TITLE 10, U.S.C., SECTIONS 531 AND 3064:

*To be lieutenant colonel*ROBERT E. POWERS  
NINO A. VIDIC*To be major*LISA A. DAVIS  
MARK A. DOANE  
TAN D. PHAM  
TIMOTHY M. RUFFF  
IMRAN A. SETHI  
UZMA M. SHARIF  
MYSORE S. SHILPA

## IN THE NAVY

THE FOLLOWING NAMED INDIVIDUALS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY RESERVE UNDER TITLE 10, U.S.C., SECTION 12203:

*To be captain*NERU B. BARNEA  
WILLIAMS O. VOELKER

THE FOLLOWING NAMED OFFICERS FOR REGULAR APPOINTMENT IN THE GRADE INDICATED IN THE REGULAR NAVY UNDER TITLE 10, U.S.C., SECTION 531:

*To be lieutenant commander*ANITA AMINOSHARIAE  
DENNY MARTIN

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE GRADES INDICATED IN THE REGULAR NAVY UNDER TITLE 10, U.S.C., SECTION 531:

*To be commander*TRACY D. EMERSON  
CHRIS A. MINO*To be lieutenant commander*JOSEPH D. AYERS  
JAMES M. T. CONNOLLY  
DEREK A. NELSON  
DAVID K. SHELLINGTON

## CONFIRMATION

Executive nomination confirmed by the Senate, Thursday, September 17, 2009:

## THE JUDICIARY

GERARD E. LYNCH, OF NEW YORK, TO BE UNITED STATES CIRCUIT JUDGE FOR THE SECOND CIRCUIT.