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Senate

The Senate met at 2 p.m. and was called to order by the Honorable JIM WEBB, a Senator from the Commonwealth of Virginia.

PRAYER

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

Let us pray.

Most holy and gracious God, who turns the shadow of night into morning, satisfy us with Your mercy that we may rejoice and be glad this day. Lift the light of Your countenance upon our lawmakers. Calm every troubled thought and guide their feet into the way of peace. Lord, perfect Your strength in their weakness and help them to serve You in the spirit that honors Your Name. Guide their debates to expose truth, to produce creative compromise, and to bring solutions that will keep America strong. May they use their talents to restore and renew our Nation and world. We pray in Your holy Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JIM WEBB 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 legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, March 2, 2009.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JIM WEBB, a Senator from the Commonwealth of Virginia, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. WEBB 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. Mr. President, following the remarks of the two leaders, the Senate will consider the Omnibus appropriations bill. The bill will be open for debate and amendments. There will be no rollcall votes today as we announced previously. Senators should expect the next vote to occur prior to the caucus luncheons tomorrow. There will be a joint meeting of Congress on Wednesday at 11 a.m. British Prime Minister Gordon Brown will address Members of Congress in the Hall of the House of Representatives. Senators are encouraged to gather in the Senate Chamber at 10:30, those who wish to, to proceed to the House as a body so we can get there in time for the 11 o'clock session.

GOOD FAITH

Mr. REID. Mr. President, as a majority, we have done a good job of showing that the Senate can act in a reasonable manner. We have had amendments. We have shown good faith by allowing amendments on basically everything. This bill that is now before us is a big bill. I know there will be speeches given about how big it is. But keep in mind what is in the bill. Last year, we couldn't work anything out with the President, so we funded everything except Defense, Homeland Security, and military construction with a continuing resolution that took us until March 6. March 6 is upon us. The reason I am talking about the bill being the size it is, remember, it includes appropriations for the year dealing with Agriculture—extremely important—Commerce, Energy, Treasury, Interior, Labor, legislative branch—I was chairman of that subcommittee for a long time, and very important items are included in that—State Department. Of course, there are lots of other things that go into those. I have just mentioned the main name on the bill that is in the omnibus.

This process has been as open as anything could be. The full committee was open. Each one of the subcommittees had full input by all ranking members. It is time we move on to get into a regular process where we have not 9 bills but 12 bills that we bring before the Senate. That is what I intend to do.

As we have shown good faith, I think the Republicans have shown good faith. Although there are some amendments I wish they had not offered, that is how things work out here. On this bill, we have to make sure that reciprocity is also the same. We have shown good faith. I have had a lot of people come to me and say: Look, this bill is so important. Let's not have any amendments. Let's go ahead and get 60 votes and get it out of here. I think that is not the right thing to do. As I have announced, there will be amendments. As much as we can, we are not going to have a bunch of amendments pending because we are working on a very short timeframe, and we will work as closely as we can with the minority. We have two terrific managers of this bill, Senators INOUYE and COCHRAN.

I was told Senator MCCAIN was going to be here to offer an amendment. I was told he was going to offer an amendment and that we would have a CR and not the omnibus. That is a reasonable amendment to offer. I think that is appropriate. We will need a little time to talk about that. But I think

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

that is appropriate. I believe in reciprocity and good faith. I had a conversation the other day with the Republican leader. He didn't mention who was going to offer the amendment, but both of us thought there would be such an amendment offered.

I look forward to completing this legislation. We need to do it by Thursday. I hope we can work our way through this. If it is the CR amendment—and I have no other information other than staff told me walking in that that was going to be the case—I think that is an amendment that will take a little bit of time for us to discuss. There is not much to look at. It is probably one line long. I think I have made myself clear. This is an important piece of legislation for our country. It is an important piece of legislation for the Senate so we can get back to our regular appropriations process. We have done a good job of cutting, significantly, Government-directed spending. I have been on the record some time ago saying we have a constitutional obligation to make sure we are involved in how the country spends its money. We shouldn't leave how it is spent to bureaucrats in big offices here in Washington, made up of people who I don't think know my State as well as I do.

We should have a good, stout debate on a number of issues in the next few days and hopefully move on to other matters next week.

RECOGNITION OF THE MINORITY LEADER

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

AMENDMENT PROCESS

Mr. MCCONNELL. Mr. President, I listened carefully to the remarks of my friend the majority leader about the amendment process. I certainly commend him for the way in which we have operated this year. As he well knows, 41 Republicans signed a letter to him a couple months ago indicating this is an issue about which Republican Members, regardless of their particular political philosophy—and we do have lots of different philosophies represented in those 41 Members—felt very strongly about. I commend the majority leader for responding. I think it has given the Senate an opportunity to operate again such as it did in the past. I think Members are, by and large, on both sides of the aisle, comfortable with voting. People send us here to vote. My 41 Republicans represent half the American population, and they are certainly entitled to have their say. I think we are operating in a way that is widely accepted and popular on both sides of the aisle.

OMNIBUS APPROPRIATIONS

Mr. MCCONNELL. With regard to the bill before us, the Omnibus appropriations bill that arrived from the House certainly is an important piece of legislation, but it is not an emergency. Congress approves it every year. There is no need to rush something Congress approves every year. In fact, in January I recommended several times to the President and to the Democratic leaders in Congress that we move the omnibus before the stimulus. By determining what we would fund in an omnibus first, Democratic leaders would have been encouraged to be more timely, temporary, and targeted as they put together the stimulus. Instead, we have had the order reversed. The result is that now we have significant double spending showing up in both the stimulus and in the omnibus. We have known about the Friday deadline for months, so no one should suddenly point to it now as a reason to rush $410 billion in spending.

Americans are getting whiplash from all the spending we are doing around here. Let me say that again. Americans are getting whiplash from all the spending we are doing around here. We need to slow down and consider the consequences of every dollar we spend. What we know about this bill already is cause for serious concern. As I said, it adds money for 122 programs. It adds money for 122 programs that were already in the stimulus. It represents an 8-percent increase over last year's bill.

Much of the funding it adds or eliminates calls for scrutiny. The new administration has repeatedly criticized Congress for rushing through legislation before the public has a chance to review it. During his campaign, the President said he wouldn't sign any nonemergency spending bill the American people had not had at least 5 days to review on the White House Web site. There is no reason for us to rush this massive bill when the White House has already promised it would not sign it without the requisite 5-day review. I would suggest, as we begin this debate, that the House prepare a short-term continuing resolution. There is no reason for either the Senate or the American people to feel artificially rushed, particularly on a bill of this magnitude.

It may seem quaint to some people, but a month ago many of us were concerned about a $1.2 trillion deficit. Then we watched it grow, as we passed a $1 trillion stimulus bill and a $33 billion bill for SCHIP. Then last week the President proposed a $3.6 trillion budget, including a $634 billion ''downpayment'' on health care reform and a major tax increase on small businesses. We expect to be asked to spend $1 to $2 trillion to stabilize the financial sector, and we have been told the administration's housing plan, which is set to start this week, will cost a quarter of a trillion dollars.

We need to step back, look at the bigger picture, and think about what we are doing. That means slowing down before we spend another $410 billion.

I yield the floor.

The ACTING PRESIDENT pro tempore. The majority leader.

Mr. REID. Mr. President, as I have indicated, the omnibus bill has been fully vetted by the various committees, Democrats and Republicans alike. As to the issue the Republican leader raised, that people need more time to review this, this has been on the Web site for well more than a week. People could look at it and have it memorized by now. We also know the issues the Republican leader raised, that President Obama is talking about health care. Does anyone think that we can not do anything dealing with health care? People have said: How much is it going to cost to try to take care of health care?

How much is it going to cost to do nothing about health care? Fifty million people have no health insurance and millions of others are uninsured. If they have a private physician, every time they get sick and hurt, they go right to the emergency room. The highest priced medical care rendered anyplace in the Nation is in these emergency rooms. It drives up taxes, the cost of a doctor, the cost of hospitalization and, of course, insurance premiums. So we have to do something with health care.

Energy? We are importing 70 percent of our oil. We have to do something about energy. Education? We are failing American children by not doing more for education. So these issues we are going to take up in the future should have nothing to do with getting this most important legislation passed.

We are looking forward to moving this matter as quickly as possible. It is something that is important for the country because we have a lot of issues we need to get to after we fund the Government—something we should have done last year but we could not because of the difficulty we had working with President Bush.

I think what Senator INOUYE and Senator COCHRAN have done is in keeping with the traditions of this body in meeting the needs of the American people. There is no wasteful spending in this most important piece of legislation. It is important to all 50 States. I am hopeful and confident we will pass this in the next few days.

RESERVATION OF LEADER TIME

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

OMNIBUS APPROPRIATIONS ACT, 2009

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to the consideration of H.R. 1105, which the clerk will report by title.

The legislative clerk read as following:

A bill (H.R. 1105) making omnibus appropriations for the fiscal year ending September 30, 2009, and for other purposes.

The ACTING PRESIDENT pro tempore. The Senator from Hawaii.

Mr. INOUYE. Mr. President, I rise today in support of H.R. 1105, the Omnibus Appropriations Act of 2009. This is a measure that should have been completed last year but was not because of the previous administration's unwillingness to negotiate in good faith. But today we have the opportunity to put partisanship behind us and to continue the task of rebuilding our economy, reinvesting in America and, frankly, making our Government work again.

I want to point out that today is March 2. We are now almost halfway through the fiscal year. Except for Defense, Veterans, and Homeland Security, our executive branch agencies are all still operating on a continuing resolution.

Under the continuing resolution, no new programs can begin. Funding levels are held to last year's level. This means that even things such as price increases due to inflation and the cost of civil servant pay raises must be absorbed within the existing agency funding levels.

Many worthy initiatives which were approved by the Appropriations Committee are being held at artificially low spending totals. And, as we all know, the continuing resolution will expire on Friday—this Friday.

It is not in the best interests of the taxpayer or the agencies we are funding to operate the Federal Government on autopilot. A yearlong continuing resolution does not allow a Federal agency any flexibility to address changing priorities. Passage of H.R. 1105 begins the process of returning our Departments and agencies to a more regular order. We simply must complete this bill this week—in fact, this Thursday.

The 2009 omnibus bill has strong support from both sides of the aisle, including the vice chairman of the Appropriations Committee, Senator THAD COCHRAN. Further, the distinguished minority leader was accurate with his comments in January that this bill has been fully vetted and is ready for immediate passage.

This measure is not, as some have suggested, duplicative of the spending provided by the recently enacted American Recovery and Reinvestment Act. This argument misses the point entirely. The purpose of the recovery package is to jump-start economic growth by making significant investments above the annual budget. The omnibus is the baseline budget.

But equally important to the funding contained in the bill is the fact that the omnibus bill will provide much needed guidance to executive branch agencies that have been operating without such guidance under the continuing resolution. In addition, there are a number of new initiatives across the Government that cannot be implemented without passage of this bill.

So it is my sincere hope this is the last omnibus bill we will see for some time to come, as it is my intention as chairman of the Appropriations Committee to pass each of our annual appropriations measures through the regular order. But having said that, it is clearly impossible for fiscal year 2009, and for all the reasons mentioned above, there is no doubt that this bill is far superior to yet another continuing resolution.

The $410 billion in spending contained in this measure will accomplish a number of objectives, including giving extra momentum to the American Recovery and Reinvestment Act, by funding additional projects and, therefore, saving thousands of additional jobs. In this time of economic crisis, nothing is more important than keeping America working.

I will offer a few examples of the kinds of initiatives that I included in this 2009 omnibus.

Energy security: There is perhaps no issue more critical to the future safety and prosperity of our Nation than energy security. This omnibus bill invests in America's security by prioritizing research and development of renewable energy and energy efficiency, including solar power, biofuels, vehicle technologies, energy-efficient buildings, and advanced energy research.

Law enforcement: In the absence of strong support for law enforcement, the current economic downturn threatens to increase violent crime throughout our Nation. As cash-strapped States struggle with tight budgets, this bill will help keep Americans safe by supporting the Community Oriented Policing Services or the COPS Program, and the Byrne Justice Assistance Grants, which help State and local law enforcement fight and prevent crime in communities across America.

Public health and safety: In the wake of disturbing incidents of compromised food safety that have jeopardized the health of our citizens, we have significantly increased investments for the Food and Drug Administration to strengthen the Food Safety and Inspection efforts. This bill will also protect the health and well-being of Americans by cleaning our air and our water. It contains investments significantly above the former administration's inadequate request for clean drinking water and wastewater, cleaning up hazardous waste and toxic sites, and for the implementation of the Clean Air Act.

Health care: Millions of Americans are struggling to gain access to quality affordable health care, particularly during these difficult economic times. This measure will give scores of Americans better access to health care through State access health grants and State high-risk insurance pools and by supporting community health centers and rural health facilities.

Education: As our economy struggles to regain its footing, millions of Americans are understandably fearful they will not be able to afford to pay for their children's college education. This measure provides $1.9 billion to support student financial aid programs, including Perkins loans and Federal supplemental educational opportunity grants.

Every day, thousands of Americans are losing their jobs—every day. Every day, State and local governments see increased demand and decreased resources. Every day, projects that could provide good jobs for working Americans are delayed or canceled due to an inability to properly fund them.

This Omnibus appropriations act will provide resources, guidance, and new initiatives at a time when they are desperately needed. I urge my colleagues to join me in supporting the passage of this measure.

Mr. President, I have two documents, one relating to reasons why this omnibus bill should be enacted and the other a copy of a press release made a few weeks ago. I ask unanimous consent that these two documents be printed in the RECORD.

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

25 REASONS WHY THE FY 2009 OMNIBUS SHOULD BE ENACTED

FUNDING IMPACTS ON EXISTING CRITICAL PROGRAMS

Safety of consumer goods and products

(1) Food and Medical Product Safety Inspections: H.R. 1105, the Omnibus Appropriations Act of 2009, would provide the Food and Drug Administration with an increase of nearly $325 million, of which $150 million is included in the current Continuing Resolution (CR). If H.R. 1105 is not enacted into law, the proposed increased funding level for the FDA would be reduced by $175 million. This reduction in funding would significantly decrease the number of food and medical product safety inspections, both domestic and overseas, that FDA could perform. [Division A—AGRICULTURE]

(2) Consumer Product Safety: H.R. 1105 would provide the Consumer Product Safety Commission (CPSC) with an increase of $25.4 million, or 32 percent, above the FY 2008 enacted level. Without this funding increase, the CPSC would not be able to implement many of the reforms and new directives contained in the newly-enacted Consumer Product Safety Improvement Act of 2008 to make children's products safer, such as the consumer complaint database, an overseas presence, and increased Inspector General staffing, and CPSC staffing generally. [Division D—FINANCIAL SERVICES]

Keeping families in their homes

(3) Families Will Lose Housing: H.R. 1105 includes over $15 billion for the renewal of Section 8 Tenant-Based vouchers. This program provides housing for eligible families that cannot afford housing. As the economy has worsened, an increasing number of families are in need of affordable housing options. The FY 2009 Omnibus Appropriations bill would provide an increase of $340 million over the FY 2008 enacted level. If H.R. 1105 is not enacted into law, nearly 45,000 families could lose their housing from the Section 8 tenant-based account being flat-funded. [Division I—TRANSPORTATION/HUD]

(4) The Federal Housing Administration (FHA) will have to stop helping families facing foreclosure to refinance into affordable mortgages: The FY 2009 Omnibus appropriations bill would increase the volume cap for

FHA loan guarantees to $315 billion, from the FY 2008 enacted level of $185 billion. In the absence of this increase, FHA's increasingly central role in addressing the foreclosure crisis will cause it to reach the lower cap before the close of the current fiscal year. At that point, new homebuyers, and distressed current homeowners needing to refinance, will be unable to access safe, affordable FHA-guaranteed home mortgages. [Division I—TRANSPORTATION/HUD]

(5) Single-Family Guaranteed Housing Loans: The CR provides for a level of $5.2 billion for Section 502 guaranteed rural housing loans. H.R. 1105 would provide for a level of $6.2 billion. Demand for this program is rising at a substantial rate. Given the role of housing markets in the current economic downturn, increased funding for these housing loans will help ease the credit shortfall by allowing current borrowers to refinance existing Rural Housing Service (RHS) loans, and to refinance non-RHS loans if the borrower would now be eligible for an RHS direct loan. The additional $1.0 billion in guaranteed rural housing loans also would increase the availability of funding for potential borrowers seeking home ownership, thereby removing existing vacant housing from the market which will in turn help to stabilize the overall housing market. [Division A—AGRICULTURE]

Fighting crime

(6) Federal Law Enforcement Efforts through the Department of Justice (DOJ): H.R. 1105 would increase funding to the Department of Justice by $2.7 billion above the enacted level. If the FY 2009 Omnibus is not enacted, $550 million less would be provided for the FBI to protect our Nation and our communities from terrorism and violent crime. The FBI would have to institute an immediate hiring freeze of agents, analysts, and support staff. This will mean 650 fewer FBI special agents, and 1,250 fewer intelligence analysts and other professionals fighting crime and terrorism on U.S. soil. In terms of the Drug Enforcement Administration (DEA), failure to pass the FY 2009 Omnibus would result in $52 million less for the DEA to target and stem the flow of illegal narcotics seeping into our Nation and our communities. The DEA would have to institute an immediate hiring freeze of agents, as well as a 13 day furlough of all agents. As a result, DEA will carry out 90 fewer raids against drug production and trafficking organizations. [Division B—COMMERCE, JUSTICE, SCIENCE]

(7) Anti-terrorist Enforcement Programs at the Department of Treasury: Funding of $153.3 million, an $11 million increase above the FY 2008 enacted level, for the Office of Terrorism and Financial Intelligence and the Financial Crimes Enforcement Network will make key enhancements to tracking, detection and prevention of terrorist financing, enforcement of economic sanctions against terrorist networks, and coordination of enforcement with other countries. [Division D—FINANCIAL SERVICES]

Protecting the public

(8) U.S. Attorneys: H.R. 1105 would provide an additional $76.5 million for our U.S. Attorneys. If the FY 2009 Omnibus is not enacted into law, the lack of increased funding would require layoffs of 850 positions, including 451 attorneys, or furloughing all U.S. Attorney staff for 16 days. Either option would result in U.S. Attorneys cutting prosecution caseload by 11,275 cases. U.S. Attorneys are the Nation's prosecutors responsible for prosecuting violent gun, drug and gang crimes, child exploitation, public corruption, money laundering and terrorism cases before U.S federal courts. [Division B—COMMERCE, JUSTICE, SCIENCE]

(9) Security Requirements for Protecting the President and Vice President: The FY 2009 Omnibus bill would provide an additional $100 million in urgently needed funding for the U.S. Secret Service to meet the increased security requirements for President Obama and Vice President Biden. Funding is provided for additional agents, intelligence personnel, associated training, and for improved White House and Secret Service communications. [Division J—FURTHER PROVISIONS]

(10) Enforcement of Securities Laws: Inadequate resources for the Securities and Exchange Commission would hamper their ability to undertake vigorous enforcement of securities laws to help bolster the integrity of the financial markets, just when such enforcement is needed most. [Division D—FINANCIAL SERVICES]

(11) Worldwide Security Protection: H.R. 1105 would provide $1.12 billion for the Department of State's (DOS) Worldwide Security Protection for non-capital security upgrades, an increase of $355 million above the FY 2008 enacted level. This account funds all the Diplomatic Security agents at every post world-wide, armored vehicles, and training. If H.R. 1105 is not enacted into law, DOS would be unable to hire additional personnel to increase protection at high-threat embassies overseas or to add oversight of security contractors in Iraq, Afghanistan and Israel-West Bank. [Division H—STATE]

(12) Nuclear Nonproliferation Programs: H.R. 1105 would increase funding for the National Nuclear Security Administration's nuclear nonproliferation programs by $146 million over FY 2008. This increased funding is critical to the United States' efforts to secure weapons grade nuclear material around the world that could be used by terrorists. [Division C—ENERGY]

Environmental and natural resources

(13) Fixed costs associated with programs of the Department of Interior (DOI) and the Environmental Protection Agency (EPA): H.R. 1105 would provide an additional $1.0 billion in funding for the programs included under the Interior title of the Omnibus appropriations bill. Of that amount, 68 percent is attributable to fixed and other inflationary costs. If H.R. 1105 is not enacted into law, DOI, EPA, the Forest Service and the Indian Health Service would be required to cut current services further to absorb those fixed costs. [Division E—INTERIOR]

(14) Weather and Climate Satellites: H.R. 1105 would provide an increase in $309 million in funding for the National Oceanic and Atmospheric Administration's (NOAA) weather and climate satellites. Without this increase in funding, there will be $235 million less in funding for the next generation of weather satellites to provide warnings and protect communities from severe weather. The procurement for these critical new satellites would have to be paused in 2009, delaying construction of the new satellites and resulting in severe gaps in forecasting coverage in future years. This means that communities would not get accurate weather reporting, and would not be warned of incoming natural disasters. Further, there would be $74 million less in funding for satellite climate sensors. There will be no funding under a full-year CR to restore critical climate modeling equipment that was removed by the previous Administration from the next generation polar orbiting satellites. These sensors will help us better understand and predict changes in the Earth's climate. [Division B—COMMERCE, JUSTICE, SCIENCE]

(15) Diesel Emission Reduction Act Grants: The FY 2009 Omnibus would provide $60 million for the national Diesel Emission Reduction Act grant program, a 22 percent increase over the FY 2008 enacted level of $49 million. These grants are used to replace or retrofit aging diesel engines, particularly for heavy trucks and school buses, reducing air pollution and improving public health. [Division E—INTERIOR]

(16) Hazardous Fuels: The FY 2009 omnibus would provide $531 million for the Forest Service and Department of the Interior to fund hazardous fuels reduction projects, an increase of $21 million over the FY 2008 enacted level of $510 million for both agencies. These funds are used for forest thinning projects on Federal lands that reduce the frequency and severity of catastrophic wildfires, protecting public safety and natural resources. These funds will also help reduce the skyrocketing cost of fighting wildfires; last year, the Federal government alone spent nearly $2 billion fighting wildfires. [Division E—INTERIOR]

Health

(17) Influenza Pandemic: H.R. 1105 would provide approximately $500 million to prepare for and respond to an influenza pandemic. Funds are available for the development and purchase of vaccine, antivirals, necessary medical supplies, diagnostics, and other surveillance tools. [Division F—LABOR/HHS]

(18) Global Health and Child Survival (GHCS): H.R. 1105 would provide $7.114 billion for Global Health and Child Survival, an increase of $737 million above the FY 2008 enacted level. Without the additional resources proposed in the FY 2009 Omnibus, USAID would not be able to expand the malaria programs in Africa where a million people, mostly children, die from malaria annually. In addition, without the Omnibus bill, funding for family planning services would be reduced by $63 million, limiting access for poor women. Further, funding for life-saving immunization programs would be reduced by $48 million, resulting in higher maternal and infant mortality for entirely preventable illnesses. [Division H—STATE]

(19) HIV/AIDS: The FY 2009 Omnibus would provide a total of $5.509 billion for programs to combat HIV/AIDS, $459 million above the FY 2008 level. Without the additional funding in FY 2009, the United States will not be on target to meet the goals set in the PEPFAR Reauthorization Act to increase treatment to 3 million people (up from 2 million people currently served), 12 million infections prevented (up from 10 million) and care for 12 million (up from 10 million), including 5 million Orphans/Vulnerable Children (up from 4 million). [Division H—STATE]

Science and research and education

(20) America Competes Act—Department of Energy's (DOE) Office of Science: H.R. 1105 would provide an increase of $754 million above the FY 2008 enacted level for DOE's Office of Science. The funding level provided in the FY 2009 Omnibus is in response to passage of the America Competes Act, and the expressed goal of doubling the U.S. investment in science over 10 years. Without this funding increase, Congress would fail to advance the bipartisan vision of the America Competes Act. [Division C—ENERGY].

(21) America Competes Act—the National Institute of Standards and Technology (NIST) and the National Science Foundation (NSF): H.R. 1105 would provide an increase of $426 million in funding for activities authorized by the America Competes Act, of which $63 million in funding would be for NIST and $363 million in funding would be for NSF. Without the funding increase for NIST, the United States' ability both to keep up with advancements in industry technology and to compete in the global economy are hampered. Without the funding increase for NSF, fewer research grants will be awarded, engaging a smaller workforce of scientists,

technicians, engineers, and mathematicians. [Division B—COMMERCE, JUSTICE, SCIENCE]

(22) Development of the next U.S. Human Space Transportation Vehicle: H.R. 1105 would provide an additional $650 million above the level of funding provided by the CR for the National Aeronautics and Space Administration's (NASA) Constellation program, which is the development of the next U.S. human space transportation vehicle (called Orion and Ares). Without this increase in funding, NASA will be required to cut over 4,000 jobs in 2009. Layoff notices for employees in Florida, Texas, Mississippi, Alabama, Utah, and Louisiana will be mailed in March, and layoffs will begin in May. In addition, the lack of increased funding will have long term impact on the actual development of Orion and Ares which will be delayed by over 6 months, exacerbating the 5-year gap in time during which the United States will not have its own vehicle to access space after the Space Shuttle is retired. [Division B—COMMERCE, JUSTICE, SCIENCE]

Infrastructure and workforce investments

(23) Endangering Continuation of Amtrak Route and Wage Agreement: A full year CR would hold Amtrak operating assistance at $475 million instead of the $550 million provided in the FY 2009 Omnibus. This funding reduction could endanger the continuation of all existing Amtrak routes and would eliminate funding for the labor settlement payment owed to all Amtrak wage employees under their collective bargaining agreement. [Division I—TRANSPORTATION/HUD]

(24) Worsening the Shortage of Fully Trained Air Traffic Controllers: The Federal Aviation Administration (FAA) faces a crisis in maintaining an adequate workforce of trained air traffic controllers. Without the increases provided in the FY 2009 omnibus, the FAA would be forced to freeze or reduce the number of new air traffic controllers the agency can bring on board and train—worsening the experience shortage we already have in our air traffic control towers. [Division I—TRANSPORTATION/HUD]

(25) Committee funding for U.S. Senate: At the beginning of the 111th Congress, Democratic Leadership committed to holding the minority harmless at the FY 2008 funding level, and using that funding level as the FY 2009 baseline for funding a 60/40 Democratic/Republican split. This agreement would prevent significant reductions in force throughout the Republican Committee structure. The FY 2009 bill provides an additional $8.4 million in committee funding. Without this funding increase, minority staffing levels will need to be reduced. [Division G—LEGISLATIVE BRANCH]

HOUSE AND SENATE APPROPRIATIONS COMMITTEES ANNOUNCE ADDITIONAL REFORMS IN COMMITTEE EARMARK POLICY

INITIATIVES BUILD ON UNPRECEDENTED TRANSPARENCY INSTITUTED IN THE 110TH CONGRESS

(For Immediate Release, Tuesday, Jan. 6, 2009)

WASHINGTON.—Today, Rep. Dave Obey (D–WI), Chairman of the House Appropriations Committee, and Sen. Daniel K. Inouye (D–HI), incoming Chairman of the Senate Appropriations Committee, announced three significant changes to further increase transparency and reduce funding levels for earmarks, building on reforms brought about in the last Congress.

Previously implemented reforms:

2007 Moratorium: In January of 2007, Democrats imposed a one-year moratorium on earmarks for 2007 until a reformed process could be put in place.

Rules for Transparency: Under the 2007 rules, each bill must be accompanied by a list identifying each earmark that it includes and which member requested it. Those lists are available online before the bill is ever voted on. In the House, each earmark on those lists is backed up by a public letter from the requesting member identifying the earmark, the entity that will receive the funds and their address, what the earmark does, and a certification that neither the requesting member nor their spouse will benefit from it financially. In the Senate, each Senator is required to send the committee a letter providing the name and location of the intended recipient, the purpose of earmark, and a letter certifying that neither the Senator nor the Senator's immediate family has a financial interest in the item requested. The certification is available on the internet at least 48 hours prior to a floor vote on the bill.

Significant Reductions: In the 2008 bills, the total dollar amount earmarked or non-project-based accounts in appropriations bills was reduced by 43%.

Other Measures: Earmarks produced by conference committees, not in the original House or Senate bills, are clearly identified with an asterisk. Members are able to offer floor amendments on earmarks under the rules of the House and Senate.

In our continuing effort to provide unprecedented transparency to the process, new reforms to begin with the 2010 bills include:

Posting Requests Online: To offer more opportunity for public scrutiny of member requests, members will be required to post information on their earmark requests on their Web sites at the time the request is made explaining the purpose of the earmark and why it is a valuable use of taxpayer funds.

Early Public Disclosure: To increase public scrutiny of committee decisions, earmark disclosure tables will be made publically available the same day as the House or Senate Subcommittee rather than Full Committee reports their bill or 24 hours before Full Committee consideration of appropriations legislation that has not been marked up by a Senate Subcommittee.

Further Cuts: Earmarks will be further reduced to 50% of the 2006 level for non-project-based accounts. In FY 2008, earmark funding levels were reduced by 43% below the 2006 level. Earmarks will be held below 1% of discretionary spending in subsequent years.

''Today we build on the unprecedented reforms made to earmarks since Democrats took control of the Congress in 2007,'' said Obey and Inouye. ''These reforms mean that earmarks will be funded at a level half as high as they were in 2006, face greater public scrutiny, and members of Congress will have more time and access to more information before they vote on bills and as they prepare amendments.''

Mr. INOUYE. Mr. President, I ask unanimous consent that I may yield to the vice chairman of this committee with the understanding that I will hold the floor.

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

The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I am pleased to join my friend, the distinguished Senator from Hawaii, in presenting the 2009 Omnibus Appropriations Act to the Senate. This bill contains the nine regular appropriations bills that have not been enacted and accounts for nearly half of all regular discretionary spending for the 2009 fiscal year.

I am supporting the approval of this bill by the Senate even though the process that has brought us to this point has left a lot to be desired.

I also share with those on my side of the aisle the concerns about the level of discretionary spending contained in this bill, which is $20 billion over President Bush's request.

I voted against the budget resolution that established the discretionary spending allocations for this bill, and I voted in favor of Senator GREGG's motion to instruct the conferees on the budget resolution to lower the discretionary caps to more modest levels. That motion was defeated by one vote, and the conference report on the budget resolution was adopted.

I commend my distinguished friend from Hawaii for resisting pressures to add controversial new policy matter to this bill. This is new legislation as opposed to a conference report, and as such any number of policy riders could have been included in the bill. A few provisions, such as language dealing with the Endangered Species Act, were included, but, largely, the bill stays within the legislation represented by the House and Senate bills.

Of the nine bills in this omnibus measure, none were ever considered on the floors of the House or the Senate. Two of the bills were never marked up in the Senate committee, and six of the bills were not marked up in the House committee. But I can assure the Senate that the content of the legislation before us is consistent with the parameters established by the individual House and Senate bills, even though some of those bills were never presented formally to either body.

Previous omnibus bills have been comprised of individual bills reported by the House and the Senate committees, and generally of bills that were passed by at least one of the legislative bodies. The bill before us today is a new kind of legislative document which I hope we will not see replicated in the future.

Last year, the bicameral leadership made a conscious decision not to engage President Bush on spending issues and to avoid taking votes on extending the ban on Outer Continental Shelf oil and gas leasing. Perhaps that decision had some political benefits for some Members, but procedurally and substantively, it had detrimental impacts.

First of all, the moratorium on Outer Continental Shelf oil and gas leasing has been removed from the Interior appropriations bill. Second, for the last 6 months, most Federal agencies have been compelled to operate at funding levels very similar to those they would have received had we simply enacted the individual bills in a form that President Bush would have signed.

Today, we could be discussing the merits of supplemental appropriations if they had been needed rather than starting from scratch halfway through the fiscal year. Had we enacted the appropriations bills last fall, agencies

would have been carrying out their responsibilities with approved levels of funding.

Funding for buildings, roads, trails, and water projects would have provided jobs and would have been obligated by now. To the extent those activities might have helped stimulate the economy, they would have been very beneficial. Instead, due to inaction by Congress, agencies have been in a holding pattern for nearly half of the fiscal year under the terms of the continuing resolution.

Two weeks ago, Congress sent to the President a huge stimulus bill. It contains some $311 billion in appropriations for a variety of programs. We had a vigorous debate about the bill in the Senate, and it passed with the minimum number of votes required. I voted against the stimulus bill in part because the bill included large amounts of funding for programs that are not immediately stimulative such as health information technology and broadband deployment. These would have been more appropriately considered in the context of a Presidential budget and at the more measured pace of the annual appropriations process. We will be living with the impacts of these decisions made in the stimulus bill—all made in great haste—for years to come. It is fair to ask to what degree does the omnibus bill duplicate the stimulus bill.

There is no question that the order in which we are considering the stimulus and the omnibus is exactly backward. We should have used the stimulus bill to supplement regular appropriations, not the other way around.

There are a number of accounts and programs funded in this omnibus bill that are also funded in the stimulus bill. In most cases the omnibus funds those programs at or near prior year levels, and one can argue the stimulus funding for those programs was a deliberate supplement. In other cases, the omnibus funds the same accounts contained in the stimulus but for different purposes. There are a few programs in the omnibus that, quite frankly, should have been scaled back based on the contents of the stimulus bill. So despite the unconventional and unfortunate process by which this bill was produced, it does represent a product that was fairly negotiated.

Some would like us to enact a continuing resolution for the remainder of the year that holds programs to their fiscal year 2008 funding levels, thereby saving billions of dollars. But knowing the impact that a full-year continuing resolution would have on individual programs, I don't think the majority would propose such a measure, and I don't think the President would sign it either.

Another possible outcome would be a modified continuing resolution similar to that enacted for fiscal year 2007—something that would eliminate all manner of congressional directives and oversight mechanisms but spend no less money than we are currently considering. Surely there are other possible outcomes. But, in my view, continued uncertainty in the day-to-day operations of the Federal Government at a time of national crisis is not worth the marginal and highly speculative gains that might come from defeating this bill.

We now have received a preliminary budget from the new President. In a few weeks, we will be considering the budget resolution for fiscal year 2010, and we will be debating such things as appropriate discretionary spending levels. I look forward to a debate on that as there is much in the President's budget request worth debating.

But it is time to put the fiscal year 2009 budget to rest. I am committed to do everything in my power not to repeat the dismal process that has brought us to this juncture, and I know the chairman of the committee, the distinguished Senator from Hawaii, shares that commitment. Neither of us wants to deny Senators the opportunity to help shape appropriations bills in the early parts of the process through amendment and discussion of alternatives. Neither of us wants to hide anything from the scrutiny of the legislative process, and neither of us wants Members to have to pass judgment on nine appropriations bills all at once rather than individually.

I thank the distinguished Senator from Hawaii for the job he has done as chairman of the Appropriations Committee. He is leading the committee through a trying time, but he is doing it in the very best sense of bipartisanship and establishing working relationships that will serve the interests of not only the Senate but of the American people. These are relationships our committee can contribute to in the future, and I know they will under his leadership. I look forward to continuing to work with him to achieve timely and open consideration of other appropriations bills.

I thank the distinguished Senator for yielding to me.

The ACTING PRESIDENT pro tempore. The Senator from Hawaii.

Mr. INOUYE. I thank my distinguished vice chairman for his remarks.

Mr. President, I submit pursuant to Senate rules a report, and I ask unanimous consent that it be printed in the RECORD.

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

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 explanatory statement offered by the Chairman of the Committee on Appropriations of the House of Representatives which accompanies the bill H.R. 1105 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. Additional information is provided below to augment or correct the explanatory statement.

CONGRESSIONALLY DIRECTED SPENDING ITEMS

Account	Project	Funding	Member
SUBCOMMITTEE ON AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES			
Animal, Plant, Health Inspection Service	State of Delaware's Department of Agriculture, Dover, Delaware, for a full-service, fully functional, modern animal health diagnostic laboratory	$69,000	Kaufman
Special Research Grants	University of Delaware, Newark, Delaware, to upgrade Delmarva's avian flu diagnostic and biocontainment facilities to combine Delaware and Maryland's laboratory information management system.	$94,000	Kaufman
Special Research Grants	University of Delaware, Newark, Delaware, to continue the work of the Institute for Soil and Environmental Quality (ISEQ) by supporting programs and acquiring equipment that is essential for Critical Zone research.	$70,000	Kaufman
Special Research Grants	National Beef Cattle Genetic Evaluation Consortium, (of which Cornell University is a part), to analyze beef records of seedstock cattle throughout the country.	$655,000	Gillibrand
Special Research Grants	Agribusiness research through the Viticulture Consortium, Cornell University and University of California	$1,454,000	Gillibrand
Special Research Grants	Apple fire blight, Cornell University/New York State Agricultural Experiment Station, University of Michigan	$346,000	Gillibrand
Special Research Grants	Virginia Tech Research Grant—Biodesign and Processing	$868,000	Warner
Research Education/Federal Admin.	High Value Horticulture and Forestry Crops (VA)	$502,000	Warner
Special Research Grants	Aquaculture	$139,000	Warner
Special Research Grants	Fish and Shellfish Technologies (Virginia)	$331,000	Warner
Special Research Grants	Sustainable Engineered Materials from Renewable Resources—Virginia Tech University	$485,000	Warner
SUBCOMMITTEE ON COMMERCE, JUSTICE, SCIENCE, AND RELATED AGENCIES			
Procurement, Acquisition and Construction/National Oceanic and Atmospheric Administration	University of Delaware, Newark, Delaware, for a real-time satellite receiving station	$750,000	Kaufman
COPS Technology/Department of Justice	City of Newark Police Department, Newark, Delaware, for video surveillance cameras in downtown area	$115,420	Kaufman
COPS Technology/Department of Justice	Delaware State University, Dover, Delaware, to continue work on the Crime Scene and Evidence Tracking Project which develops and tests day-to-day law enforcement and public safety application.	$2,000,000	Kaufman
COPS Technology/Department of Justice	Delaware State Police, Dover, Delaware, to perform preliminary engineering assessments before message switcher upgrades	$100,000	Kaufman
COPS Technology/Department of Justice	Delaware State Police, Dover, Delaware, for the purchase and installation of in-car cameras and related equipment	$500,000	Kaufman
COPS Technology/Department of Justice	Delaware State Police, Dover, Delaware, for the purchase of a mobile gunshot locator system	$250,000	Kaufman
COPS Technology/Department of Justice	New Castle County Police Department, New Castle, Delaware, for a program to increase the efficiency and effectiveness of license plate scanning technology.	$200,000	Kaufman
Juvenile Justice/Department of Justice	Jobs for Delaware Graduates, Inc., Dover, Delaware, to expand services delivered to at-risk middle and high school students	$1,353,000	Kaufman
Juvenile Justice/Department of Justice	University of Delaware, Newark, Delaware, for the Center for Drug and Alcohol Studies, to continue a statewide survey of youth that provides estimates and trends in student substance abuse, crime, and gambling.	$65,000	Kaufman
National Institute of Standards and Technology	Nanoscale fabrication and measurement project at the University at Albany (SUNY), College of Nanoscale Science and Engineering (CNSE)	$1,000,000	Gillibrand
Byrne Discretionary Grants/Department of Justice	Real Estate Fraud Unit in the Kings County District Attorney's Office for the investigation and prosecution of deed theft, mortgage fraud, and related real estate-based crimes, Kings County, New York.	$875,000	Gillibrand
COPS Methamphetamine/Department of Justice	City of Rochester, Rochester, New York, to intensify patrols, improve the tracking of narcotics shipments, provide technical support and enhance local crime prevention programs for at-risk youth.	$675,000	Gillibrand
National Aeronautics and Space Administration	Binghamton University to develop a focused research and development initiative on large area flexible solar cell modules, Binghamton, New York	$500,000	Gillibrand
Byrne Discretionary Grants/Department of Justice	Information-sharing database to analyze gang related crime in the Oneida County District Attorney's Office, Utica, New York	$215,000	Gillibrand
COPS Technology/Department of Justice	Countywide interoperable public safety communications system, Rockland and Westchester Counties, New York	$1,670,000	Gillibrand
COPS Technology/Department of Justice	City of Yonkers Police Department to reduce non-emergency 3–1–1 calls through the creation of a new public hotline	$400,000	Gillibrand
Byrne Discretionary Grants/Department of Justice	Oliver Hill Courts Building security upgrades	$400,000	Warner
Juvenile Justice/Department of Justice	City of Chesapeake gang deterrence program	$100,000	Warner
Operations, Research and Facilities/National Oceanic and Atmospheric Administration	Assistance to MD/VA watermen affected by Blue Crab harvest restrictions	$10,000,000	Warner
Byrne Discretionary Grants/Department of Justice	Northern Virginia Gang Task Force	$2,500,000	Warner
Byrne Discretionary Grants/Department of Justice	Northwest Virginia Regional Drug Task Force	$750,000	Warner
COPS Technology/Department of Justice	City of Radford Police Force relocation	$250,000	Warner
COPS Technology/Department of Justice	Virginia State Police SWVA Drug Task Force	$250,000	Warner
Juvenile Justice/Department of Justice	An Achievable Dream Newport News	$700,000	Warner
Science/National Aeronautics and Space Administration	NASA Wallops Island Flight Facility—Launch Pad Improvements	$14,000,000	Warner
Space/National Aeronautics and Space Administration	NASA Wallops Island Flight Facility—Small Satellites and unmanned aerial systems	$5,000,000	Warner
Operations, Research and Facilities/National Oceanic and Atmospheric Administration	Oyster Restoration in Chesapeake Bay	$2,000,000	Warner
Operations, Research and Facilities/National Oceanic and Atmospheric Administration	VIMS—Virginia Trawl Survey	$150,000	Warner
Cross Agency Support/National Aeronautics and Space Administration	Accomack and Northhampton Counties—Broadband deployment (Eastern Shore)	$2,000,000	Warner
Operations, Research and Facilities/National Oceanic and Atmospheric Administration	Virginia Institute of Maine Science, Virginia Trawl Survey, Glouchester, VA	$150,000	John Warner, Webb
Byrne Discretionary Grants/Department of Justice	City of Vancouver, new records management system, Vancouver, WA	$500,000	Murray only
Byrne Discretionary Grants/Department of Justice	National Council of Juvenile and Family Court Judges, Child Abuse Training Programs for Judicial Personnel: Victims Act Model Courts Project, Reno, Nevada.	$920,000	Reid, Ensign, Reed, Schumer, Sessions, Smith, Voinovich, Whitehouse, Wyden, Bennett, Biden, Hatch, Kennedy, Kerry, Landrieu, Lautenberg, Leahy
Byrne Discretionary Grants/Department of Justice	National Crime Prevention Council, Arlington, Virginia	$500,000	Kohl, Leahy, Reed, Crapo, Whitehouse only
Byrne Discretionary Grants/Department of Justice	Safe Streets Campaign, Pierce County Regional Gang Prevention Initiative, Tacoma, Washington	$1,000,000	Murray
SUBCOMMITTEE ON ENERGY AND WATER DEVELOPMENT			
Investigations	Army Corps of Engineers Wave Data Study Coastal Field Data Collection Project, Delaware, for the collection and analysis of coastal weather and sea condition data.	$500,000	Kaufman
Investigations	Army Corps of Engineers Christina River Watershed Feasibility Study, New Castle County, Delaware, to continue investigations for flood damage reduction, ecosystem restoration, water quality control, and other related purposes.	$287,000	Kaufman
Investigations	Army Corps of Engineers White Clay Creek Flood Plain Management Services study, New Castly, Delaware, to continue a study to evaluate flooding and flooding damage as a result of tropical storms.	$200,000	Kaufman
Operation and Maintenance	Army Corps of Engineers Harbor of Refuge project, Lewes, Delaware, to perform stability analysis, condition surveys, and repairs	$235,000	Kaufman
Operation and Maintenance	Army Corps of Engineers Indian River Inlet and Bay project, Sussex County, Delaware, to survey and analyze scour holes	$235,000	Kaufman
Operation and Maintenance	Army Corps of Engineers Intracoastal Waterway project, Delaware River to Chesapeake Bay in New Castle County, Delaware, for maintenance and dredging (Multi-State; Delaware request was $5,150,000).	$13,710,000	Kaufman
Operation and Maintenance	Army Corps of Engineers Mispillon River Project, Kent and Sussex Counties, Delaware, for maintenance dredging and field inspections	$249,000	Kaufman
Operation and Maintenance	Army Corps of Engineers Wilmington Harbor project, Wilmington Harbor to Newport, Delaware, for aggressive management and capacity restoration of federal disposal areas and chemical sediment testing.	$3,479,000	Kaufman
Department of Energy—Energy Efficiency and Renewable Energy	Delaware State University, Dover, Delaware, for the Center for Hydrogen Storage Research for research and development of a hydrogen storage system.	$1,427,250	Kaufman
Department of Energy—Energy Efficiency and Renewable Energy	University of Delaware Lewes Campus, Lewes, Delaware, for a wind turbine model and pilot project for alternative energy	$1,427,250	Kaufman
Expenses	Delaware River Basin Commission, (headquartered in) West Trenton, New Jersey, for water quality, monitoring and assessment, habitat restoration, drought coordination, public sewer water supply protection, and integrated water resource planning.	$715,000	Kaufman
Investigations	Army Corps of Engineers to manage the Upper Delaware River Watershed, New York	$96,000	Gillibrand

CONGRESSIONALLY DIRECTED SPENDING ITEMS—Continued

Account	Project	Funding	Member
Construction	Fire Island Inlet to Montauk Point for the New York Hurricane Protection and Storm Damage Reduction Project	$2,010,000	Gillibrand
Department of Energy—Energy Efficiency and Renewable Energy	Landfill Gas Utilization Plant Count of Chautauqua at the county landfill in Ellery, New York	$1,903,000	Gillibrand
Department of Energy—Office of Science	For work to be done in Otsego, New York, on supercapacitors at Sandia National Laboratories	$1,500,000	Gillibrand
Investigations	Army Corps of Engineers' Forge River Watershed Project, Long Island, New York	$119,000	Gillibrand
Operation and Maintenance	Appomattox River	$527,000	Warner
Construction	Combined Sewer Overflow Lynchburg	$287,000	Warner
Construction	Combined Sewer Overflow Richmond	$287,000	Warner
Construction	James River Deepwater Turning Basin	$766,000	Warner
Investigations	Upper Rappahannock River (Phase II)	$96,000	Warner
Investigations	AIWW—Bridge Replacement at Deep Creek	$478,000	Warner
Investigations	Chowan River Basin, Virginia	$96,000	Warner
Investigations	Dismal Swamp and Dismal Canal	$59,000	Warner
Operation and Maintenance	Norfolk Harbor and Channels	$9,808,000	Warner
Construction	Norfolk Harbor and Channels—Deepening	$478,000	Warner
Operation and Maintenance	Rudee Inlet	$344,000	Warner
Investigations	Vicinity of Willoughby Spit, Norfolk VA	$287,000	Warner
Construction	Virginia Beach Hurricane Protection	$1,340,000	Warner
Investigations	Belle View/New Alexandria Flood Plain Management Services Program Studies	$200,000	Warner
Investigations	Four Mile Run Restoration	$239,000	Warner
Construction	Roanoke River (Upper Basin)	$1,029,000	Warner
Department of Energy—Fossil Energy Research and Development	Center for Advanced Separation Technologies	$2,854,500	Warner
Investigations	Clinch River Watershed	$96,000	Warner
Construction	Grundy Flood Control Project	$8,000,000	Warner
Investigations	New River, Claytor Lake	$96,000	Warner
Construction	Chesapeake Bay Oyster Recovery	$2,000,000	Warner
Construction	Non-Native Oyster EIS	$328,000	Warner
Construction	Tangier Island, Accomack County	.....	Warner
Construction	Village of Oyster Northampton County VA	.....	Warner
SUBCOMMITTEE ON FINANCIAL SERVICES AND GENERAL GOVERNMENT			
Small Business Administration, Salaries and Expenses	New Castle County Chamber of Commerce for an Emerging Enterprise Center, business incubator	$499,000	Kaufman
Small Business Administration, Salaries and Expenses	Virginia's Center for Innovative Technology, Mine safety technology and communication improvements, Herndon, VA	$237,500	Warner
SUBCOMMITTEE ON DEPARTMENT OF THE INTERIOR, ENVIRONMENT, AND RELATED AGENCIES			
Environmental Protection Agency, State and Tribal Assistance Grants Program	City of Wilmington, Delaware, for the Wilmington Wastewater Treatement Plant Headworks Upgrade	$300,000	Kaufman
Environmental Protection Agency, State and Tribal Assistance Grants Program	Government of New Castle County, New Castle Delaware, for Old Shellpot Interceptor upgrades	$698,000	Kaufman
Forest Service, State and Private Forestry (Forest Legacy Program)	Delaware Department of Agriculture—Forest Service, Camden, Delaware, for the purchase of forestland to be added to Redden State Forest	$2,000,000	Kaufman
Environmental Protection Agency, State and Tribal Assistance Grants Program	Town of Onancock Wastewater Treatment Plant	$500,000	Warner
Forest Service, Land Acquisition	Appalachian Trail Right of Way and Greenway Acquisition—(Listed as "land acquisitions in the George Washington and Jefferson National Forest"	$1,775,000	Warner
National Park Service, Land Acquisition	Shenandoah Valley Battlefields Foundation	$1,985,000	Warner
Fish and Wild Service, Land Acquisition	Rappahannock River Valley National Wildlife Refuge	$1,500,000	Warner
Environmental Protection Agency, State and Tribal Assistance Grants Program	City of Lynchburg Combined Sewer Overflow	$500,000	Warner
Environmental Protection Agency, State and Tribal Assistance Grants Program	City of Opa Locka, Wastewater System Improvements	$500,000	Nelson, Bill
Environmental Protection Agency, State and Tribal Assistance Grants Program	Palm Beach County, Lake Region Water Treatment Plant	$500,000	Martinez
Environmental Protection Agency, State and Tribal Assistance Grants Program	Southwest Florida Water Management District, Upper Peace River Restoration of the West-Central Florida Water Action Restoration Plan	$500,000	Martinez
SUBCOMMITTEE ON DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES			
Elementary & Secondary Education (includes FIE)	Delaware Department of Education, Dover, Delaware, for the Starting Stronger for Student Success program to eliminate school-entry readiness gaps.	$190,000	Kaufman
Elementary & Secondary Education (includes FIE)	Delaware Department of Education, Dover, Delaware, to increase the English proficiency of English Language Learners by providing high quality instructional programs.	$190,000	Kaufman
Elementary & Secondary Education (includes FIE)	Metropolitan Wilmington Urban League, Wilmington, Delaware, to expand the "Achievement Matters!" project to more students	$190,000	Kaufman
Centers for Disease Control and Prevention (CDC)	Delaware Division of Public Health, Dover, Delaware, to assist in implementing several key recommendations of a state task force on infant mortality.	$190,000	Kaufman
Health Resources and Services Administration (HRSA)—Health Facilities and Services	Beebe Medical Center, Lewes, Delaware, for the construction of a new School of Nursing	$476,000	Kaufman
Health Resources and Services Administration (HRSA)—Health Facilities and Services	Christiana Care Health System, Wilmington, Delaware, to renovate and expand Wilmington Hospital's Emergency Department	$285,000	Kaufman
Health Resources and Services Administration (HRSA)—Health Facilities and Services	St. Francis Hospital Foundation, Wilmington, Delaware, to make capital infrastructure improvements	$285,000	Kaufman
Health Resources and Services Administration (HRSA)—Health Facilities and Services	University of Delaware, Newark, Delaware, for the Delaware Biotechnology Institute for high-end, state-of-the-art research equipment	$190,000	Kaufman
Health Resources and Services Administration (HRSA)—Health Facilities and Services	Wesley College, Dover, Delaware, for the expansion of the nursing school program	$333,000	Kaufman
Health Resources and Services Administration (HRSA)—Health Facilities and Services	Westchester County Department of Labs & Research, Valhalla, New York, for construction, renovation, and equipment	$809,000	Gillibrand
Administration on Aging (AOA)	Town of North Hempstead, New York, for the Project Independence naturally occurring retirement communities demonstration project	$333,000	Gillibrand
Health Resources and Services Administration (HRSA)—Health Facilities and Services	Staten Island University Hospital, Staten Island, New York, for construction, renovation, and equipment for the emergency department	$476,000	Gillibrand
Employment and Training Administration (ETA)—Training & Employment Services (TES)	United Auto Workers Region 9, Local 624, New York, for incumbent worker training	$428,000	Gillibrand
Employment and Training Administration (ETA)—Training & Employment Services (TES)	Manufacturers Association of Central New York, Syracuse, New York, to improve employment and training in the manufacturing sector	$285,000	Gillibrand
Health Resources and Services Administration (HRSA)—Health Facilities and Services	Greater Hudson Valley Family Health Center, Inc., Newburgh, New York, for construction, renovation, and equipment	$476,000	Gillibrand
Institute for Museum and Library Services	George Eastman House International Museum of Photography and Film, Rochester, New York, for educational programs	$381,000	Gillibrand
Health Resources and Services Administration (HRSA)—Health Facilities and Services	Catholic Health System, Buffalo, New York, for telemedicine equipment for acute stroke assessment	$143,000	Gillibrand
Higher Education (includes FIPSE)	Dowling College, Oakdale, New York, to create and establish a school of Banking and Financial Services	$190,000	Gillibrand
Higher Education (includes FIPSE)	Union Graduate College, Schenectady, New York, for program support of a Masters degree in Emerging Energy Systems	$285,000	Gillibrand
Higher Education (includes FIPSE)	St. Bonaventure University, St. Bonaventure, New York, for the Father Mychal Judge program, which may include student scholarships and travel costs for student exchanges and visiting professorships.	$285,000	Gillibrand
Administration for Children and Families (ACF)—Social Services	Nassau County Coalition Against Domestic Violence, Inc., Hempstead, New York, to provide legal services to low-income victims of domestic violence.	$381,000	Gillibrand
Health Resources and Services Administration (HRSA)—Health Facilities and Services	Niagara University, Niagara Falls, New York, for the Nursing Leadership project	$95,000	Gillibrand
Health Resources and Services Administration (HRSA)—Health Facilities and Services	Cold Spring Harbor Laboratory, Cold Spring Harbor, New York, for The Women's Cancer Genomics Center	$714,000	Gillibrand
Higher Education (includes FIPSE)	Virginia Department of Correctional Education—Transition Program for Incarcerate Youth	$95,000	Warner
Health Resources and Services Administration (HRSA)—Health Facilities and Services	Hampton University—Proton Beam Therapy Facility—Cancer Treatment Initiative	$571,000	Warner
Substance Abuse and Mental Health Services Administration (SAMHSA)—Substance Abuse Treatment	Arlington Mental Health and Substance Abuse Crisis Intervention and Diversion Program	$143,000	Warner
Elementary & Secondary Education (includes FIE)	Boys & Girls Club of Greater Washington (Virginia Clubs)	$95,000	Warner
Elementary & Secondary Education (includes FIE)	Child and Family Network Centers—Leveling the Playing Field (SEFS)	$95,000	Warner
Health Resources and Services Administration (HRSA)—Health Facilities and Services	Inova Health System; Claude Moore Health Education Center	$523,000	Warner

Employment and Training Administration (ETA)—Training & Employment Services (TES)	NW Works—Autism Inclusion Initiative	$95,000	Warner
Elementary & Secondary Education (includes FIE)	Dinwiddie County Public Schools Library/Media Program	$95,000	Warner
Elementary & Secondary Education (includes FIE)	The Institute for Advanced Learning and Research—The STEM Mobile Learning Laboratory Project	$95,000	Warner
Higher Education (includes FIPSE)	Dickenson County Industrial Development Authority Clintwood, VA	$95,000	Warner
Health Resources and Services Administration (HRSA)—Health Facilities and Services	Norton Community Hospital—Women's Center/Technology Enhancement Project	$95,000	Warner
Substance Abuse and Mental Health Services Administration (SAMHSA)—Substance Abuse Treatment	Virginia Department of Mental Health, Mental Retardation, and Substance Abuse Services, Richmond, VA, to provide treatment services for addiction to prescription pain medication.	$285,000	Warner
Health Resources and Services Administration (HRSA)—Health Facilities and Services	Eastern Shore Rural Health System—Onley Community Health Center	$476,000	Warner
Higher Education (includes FIPSE)	The Virginia Foundation for Community College Education—Great Expectations Program	$95,000	Warner

SUBCOMMITTEE ON TRANSPORTATION AND HOUSING AND URBAN DEVELOPMENT, AND RELATED AGENCIES

Buses and Bus Facilities	University of Delaware, Newark, Delaware, for an Automotive-Based Fuel Cell Hybrid Bus Program	$475,000	Kaufman
Interstate Maintenance Discretionary	Delaware Department of Transportation Newark Toll Plaza, Newark, Delaware, to improve the toll facility to incorporate highway speed E–Z Pass toll lanes.	$2,375,000	Kaufman
Interstate Maintenance Discretionary	Delaware Department of Transportation, Dover, Delaware, to add a fifth lane to I–95/SR–1 interchange	$1,900,000	Kaufman
Transportation, Community and System Preservation	Delaware Department of Transportation, Dover, Delaware, to replace the bridge along SR–1 over the Indian River Inlet	$1,900,000	Kaufman
Economic Development Initiatives	Delaware Children's Museum, Wilmington, Delaware, for construction	$190,000	Kaufman
Economic Development Initiatives	Easter Seals Delaware & Maryland's Eastern Shore, New Castle County, Delaware, to expand the existing facility	$142,500	Kaufman
Economic Development Initiatives	St. Michael's School and Nursery, Wilmington, Delaware, for HVAC replacement	$285,000	Kaufman
Economic Development Initiatives	Ministry of Caring, Wilmington, Delaware, for handicap accessibility to a women's homeless shelter	$475,000	Kaufman
Economic Development Initiatives	Wilmington Housing Authority for exterior façade repair of fire damage to low-income housing	$475,000	Kaufman
Transportation, Community and System Preservation	Main Street Multimodal Access and Revitalization Project, Buffalo, New York	$950,000	Gillibrand
Economic Development Initiatives	Development of a pedestrian bridge in Poughkeepsie, New York	$950,000	Gillibrand
Federal Lands (Public Lands Highways)	New York State Department of Transportation for the Fort Drum Connector (I–81 to Fort Drum North Gate), New York	$1,425,000	Gillibrand
Surface Transportation Priorities	Establishment of railroad quiet zones in the Town of Hamburg, New York	$475,000	Gillibrand
Buses and Bus Facilities	Niagara Falls International Railway Station/Intermodal Transportation Center, City of Niagara Falls, New York	$950,000	Gillibrand
Surface Transportation Priorities	Campus loop road extension for St. John Fisher College, Monroe County, New York	$475,000	Gillibrand
Alternatives Analysis	New York State Metropolitan Transportation Authority for the West of Hudson Regional Transit Access Project	$1,900,000	Gillibrand
Surface Transportation Priorities	New York State Department of Transportation for New York State Route 12 in Broome, Chenango, Madison, Oneida, and Herkimer Counties, New York.	$475,000	Gillibrand
Surface Transportation Priorities	Town of Clarkstown, New City Hamlet, New York, to revitalize South Main Street	$475,000	Gillibrand
Capital Investment Grants	New York State Metropolitan Transportation Authority for the Second Avenue Subway—Phase I, New York, New York	$277,697,000	Gillibrand
Capital Investment Grants	New York State Metropolitan Transportation Authority for the Long Island Rail road East Side Access, New York	$209,623,898	Gillibrand
Surface Transportation Priorities	Gate and Intersection Improvements at Fort Lee, VA	$1,425,000	Warner, Mark
Interstate Maintenance Discretionary	I–95/Fairfax County Parkway Interchange, VA	$1,900,000	Warner, Mark
Surface Transportation Priorities	Route 1/Route 123 Interchange Improvements, VA	$950,000	Warner, Mark
Transportation, Community, and System Preservation	US 17/Dominion Blvd Widening (Cedar Rd to Great Bridge Blvd) and Drawbridge Replacement (over Atlantic Intercoastal Waterway), Chesapeake, VA.	$237,500	Warner, Mark, Webb
Federal Lands—Highways	US Route 1/VA Route 619 Traffic Circle/Interchange, at the entrance of USMC Quantico Marine Corps Base, Prince William County, VA	$1,187,500	Warner, Mark
Capital Investment Grants	VRE Rolling Stock, VA	$5,000,000	Warner, Mark
Buses	Greater Richmond Transit Company (GRTC) Bus Replacement, VA	$617,500	Warner, Mark
Buses	Southside Bus Facility Replacement in Hampton Roads, VA	$1,235,000	Warner, Mark
Buses	WMATA Bus and Bus Facility Safety Initiative, MD	$475,000	Warner, Mark
Capital Investment Grants	Dulles Corridor Metrorail, VA	$29,100,000	Warner, Mark
Capital Investment Grants	Norfolk LRT, VA	$23,592,108	Warner, Mark
Capital Investment Grants	Largo Metrorail Extension, DC/MD	$34,700,000	Warner, Mark
Capital Investment Grants	Improvements to the Rosslyn Metro Station, VA	$2,000,000	Warner, Mark
Capital Investment Grants	BRT, Potomac Yard-Crystal City, City of Alexandria and Arlington County, VA	$1,000,000	Warner, Mark
Economic Development Initiatives	Boys and Girls Club of Fauquier County, VA, for facility renovations in support of the new building, including making the building handicap accessible.	$198,000	Warner, Mark
Economic Development Initiatives	Newport News, VA, for acquisition, demolition and relocation activities, and capital improvements of dilapidated housing	$432,250	Warner, Mark
Surface Transportation Priorities	Railroad Grade Separation Undercrossing, Livingston, MT	$332,500	Tester
Buses and Bus Facilities	Greater Minnesota Transit Capital, MN	$2,850,000	Klobuchar
Transportation, Community, and System Preservation	Pinon Hills Boulevard East and Animas River Bridge, NM	$895,375	Bingaman
Airport Improvement Program	Des Moines International Airport, Runway 13R/31L Land Acquisition, IA	$475,000	Grassley
Interstate Maintenance Discretionary	Pedestrian Bridges over I–80, Iowa City, Johnson County, IA	$475,000	Grassley
Surface Transportation Priorities	Highway 169 Corridor Project Environmental Assessment, Preliminary Engineering and Planning, Humbodlt, IA	$760,000	Grassley
Surface Transportation Priorities	Wapsi Great Western Line Trail, Mitchell County, IA	$570,000	Grassley
Transportation, Community and System Preservation	24th Street/23rd Avenue Corridor Improvement, Council Bluffs, IA	$237,000	Grassley
Transportation, Community and System Preservation	4-Laning of US 20 from Sac-Calhoun County Line to Molville, IA	$570,000	Grassley
Transportation, Community and System Preservation	Mississippi Drive Corridor, Muscatine, IA	$475,000	Grassley
Surface Transportation Priorities	North Access Road at Jacksonville International Airport, FL	$570,000	Martinez
Transportation, Community and System Preservation	Design and Construction for the Widening of US 331, Walton County, FL	$237,500	Martinez
Transportation, Community and System Preservation	I–12 Interchange at LA–16, Denham Springs, LA	$950,000	Vitter
FTA Priority Consideration	Gainesville-Haymarket Virginia Railway Express (VRE), VA	.....	Webb

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

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

The legislative clerk proceeded to call the roll.

Mr. MCCAIN. Mr. 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. MCCAIN. Mr. President, we are looking right now at a $410 billion piece of legislation approved by the House last week, largely on party lines, that we are beginning to debate today. It is 1,123 pages. It is interesting that it is accompanied by a 1,844-page statement of managers. Put them together, and we have 2,967 pages of legislation. Not surprisingly, the measure has unnecessary and wasteful earmarks. So much for the promise of change. So much for the promise of change. This may be—in all the years I have been coming to this floor to complain about the earmark, porkbarrel corruption that this system has bred, this may be probably the worst—probably the worst.

I just went through a campaign where both candidates promised change in Washington; promised change from the wasteful, disgraceful, corrupting practice of earmark, porkbarrel spending. We have former Members of Congress residing in Federal prison. We have former congressional staffers under indictment and in prison. So what are we doing here? Not only is this business as usual, but this is an outrageous insult to the American people.

Today we find out that the unemployment rate in the great State of California just went over 10 percent. It just went over 10 percent. So what are we going to do? We are going to spend $1.7 million for pig odor research in Iowa. We are going to spend $2 million for the promotion of astronomy in Hawaii. Why do we need—I ask the Senator from Hawaii: Why do we need to spend $2 million to promote astronomy in Hawaii when unemployment is going up and the stock market is tanking? Do we really need to continue this wasteful process?

This includes $6.6 million for termite research in New Orleans; $2.1 million for the Center for Grape Genetics in New York. You will notice there is a State or a district or a town or a location associated with all of these projects. You will notice that because that is what it is: $1.7 million for a honey bee factory in Weslaco, TX. Forgive me if I mispronounced the name of the town in Texas.

So here we are. Here we are promising the American people hope and change, and what do we have? Business as usual. What does the administration say? What does the administration say? Mr. Peter Orzag—an individual I don't know—brushed off questions during his appearance on ''This Week'' about whether the President would sign a spending bill that contains 9,000 earmarks—9,000 earmarks. Noting that during the campaign President Obama said he would work to limit earmarks and make them more transparent, his response was: This is last year's business. We want to just move on.

Last year's business? The President will sign this appropriations bill into law. It is the President's business. It is the business of the President of the United States. It is the business of the President of the United States to do what he said. When we were in debate seeking the support of the American people, he stated he would work to eliminate—eliminate—earmarks.

Last September, President Obama said during the debate in Oxford, MS:

> We need earmark reform and when I am President, I will go line-by-line to make sure we are not spending money unwisely.

That is the quote of the promise the President of the United States made to the American people in a debate with me in Oxford, MS.

So what is brought to the floor today? Nine thousand earmarks, billions and billions of dollars of unneeded and wasteful spending, and the President's budget person says: This is last year's business. We want to just move on. That is insulting to the American people.

White House Chief of Staff Rahm Emanuel appeared on ''Face the Nation.'' According to the New York Times, Mr. Emanuel said:

> Mr. Obama was not happy with the large number of earmarks in this bill, but—

Mr. Emanuel said—

> the President kept lawmakers from adding a single earmark to this $287 billion stimulus package and a $32.8 billion plan to the State Children's Health Insurance Program.

By the way, that statement is disingenuous on its face.

So I guess we are doing last year's business. Does that mean last year's President will sign this porkbarrel bill? I wish to freely acknowledge—I wish to freely acknowledge that Republicans were guilty of this as well. I have said time after time there are three kinds of Members of Congress: Republican Members, Democrat Members, and appropriators.

If it sounds as if I am angry, it is because I am. The American people today want the Congress to act in a fiscally responsible manner, and they don't want us to continue this corrupting practice.

My colleague from Oklahoma is here. He calls it a gateway drug—a gateway drug. I am not going to pick up this managers' package. Look at this. Look at this. Look at this. Have we had a single one of these projects authorized? Has any of them gone through the authorizing committee? Have any of these projects been examined for whether they are better or worse or more meritorious than others? No. They are in there because of the political clout and seniority of Members of Congress. That is what this is all about—political influence.

Maybe one could argue when this economy was good and we were in a surplus this kind of wasteful spending could be brushed aside; that it was somehow, in the view of some, acceptable. It is not now. It is not now. There are millions of Americans out of work, unemployment is climbing, and the stock market is tanking.

So what do we do in response to that, as every American family is having to tighten their belts, sitting around the kitchen table figuring out how they are either going to keep a job or get health insurance, keep their families together and stay in their homes? We are going to spend $333,000 for the design and construction of a school sidewalk in Franklin, TX. Now, maybe that Franklin, TX, school needs a sidewalk. Maybe other places need a sidewalk too.

We are going to spend $951,500 for a sustainable Las Vegas. What does that mean? What does sustainable Las Vegas mean?

We are going to spend $143,000 for Nevada Humanities to develop and expand an online encyclopedia.

Is there no place besides Nevada that they need to expand an online encyclopedia? There hasn't been a lot of coverage on the $200,000 for a tattoo removal violence outreach program in the L.A. area. Is that program also needed in other areas? Why did we pick out L.A.? There is $238,000 for the Polynesian Voyaging Society in Honolulu, HI. We have $238,000 for the Polynesian Voyaging Society in Honolulu, HI, when people are out of a job. There is $100,000 for the regional robotics training center in Union, SC. There is $238,000 for the Alaska PTA. There is $150,000 for a rodeo museum in South Dakota.

Americans are angry, Mr. President, and they are going to know a lot more about this bill before we have a final vote. They are going to know a lot more about it. Americans are going to be angry. Americans are angry now at what we have done. The approval rating of Congress is incredibly low. So we will be going through a lot of this.

By the way, there is an outfit called PMA. A lot of Americans haven't heard of PMA. It is a lobbying organization. Contained within this legislation are 14 earmarks that the managers of the bill put in, and these 14 earmarks total nearly $9.7 million. Guess to whom they are directed—clients of the PMA Group. The PMA Group, for the benefit of my colleagues, is a lobbying group, a firm recently forced to close its doors after being raided by the FBI for suspicious campaign donation practices. The firm is under investigation. So what did they do? They went out and got $9.7 million worth of your taxpayer dollars, totaling $9.7 million, after being raided by the FBI for suspicious campaign donation practices. They remain under investigation. Do you think maybe we could take that out?

I have long spoken about a broken appropriations process, vulnerable to

corruption and abuse, and the allegations against the PMA Group and some Members of Congress stand as a testament to the urgent need for reform. How could we allow these provisions to move forward while their principal sponsor is under Federal investigation? How do we do that?

Mr. President, we will be talking a lot more in the days ahead as we go through this legislation. I hope the American people will rise up and demand that what we need to do is just have a continuing resolution, continue with the spending levels that were part of the continuing resolution. If this is a ''change,'' then let's start implementing change.

If there is any testament to business as usual here in the Congress of the United States, it is this bill before us. Americans all over this country hope for change. They hope the corruption, earmarking, and porkbarrel practices will stop. What are we giving them? We are giving them a slap in the face, that is what we are giving them.

I know my colleague from Oklahoma is here. I will be glad to hear the explanation from my colleagues, the distinguished managers of the bill, as to why 14 earmark projects obtained by the PMA Group, which has been shut down and is under FBI investigation, why we need $1.7 million for pig odor research in Iowa, and why we have 1,100 pages of the managers' statement. A managers' statement is supposed to be a description of the bill. What has happened over the years is that we have stuck in more and more provisions in the managers' statement which then, according to the agencies of Government, have the force of law. So we get tens of billions of dollars of unnecessary and wasteful earmarks. So much for the promise of change.

I yield the floor.

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

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

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

The legislative clerk proceeded to call the roll.

Mr. COBURN. Mr. 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. COBURN. Mr. President, before we get started——

Mr. INOUYE. Will the Senator yield?

Mr. COBURN. Yes, I am happy to yield to the chairman.

Mr. INOUYE. Is the Senator going to propose an amendment?

Mr. COBURN. I will not at this time.

Mr. INOUYE. Thank you.

Mr. COBURN. Mr. President, it is interesting—and the American people ought to pay attention to this—what we have right now is a bill that is $410 billion. It is $363 million a page. And now we have instructions from the majority leader that no amendments are allowed to be offered. That is what the intent of the quorum call was. That is why the honorable chairman asked me that question. The only way I can talk on the floor is if I agree not to offer an amendment to $410 billion worth of spending, at $363 million per page. What are we coming to? Now we can't offer amendments. I reached out to Senator REID and said I would work with him on packaging amendments in a way that would not delay this bill, in a way that we can still have a good debate and lots of amendments offered. My goodness, you have 57 votes. You can win almost any vote here. Why do you not want to have amendments? They don't want to have amendments because they really don't want the American people to know what is in this bill. That is why.

This bill represents the spending for all of these agencies we have not sent the money to this fiscal year. But it also represents the worst excesses of Congress. It represents parochialism ahead of principle. It represents putting politicians first and putting the people last. That is what this bill represents. It represents the exact opposite of what our President said he wanted, which was ''change you can believe in.'' Now we have change that is exactly what we saw before President Obama became President. We have the same standard of behavior. Tons of earmarks are in this bill. That is a totally different question. This bill has grown by over $32 billion from the same period last year, of which we just increased most of these agencies on an average of around 80 percent with the stimulus bill. Now we are going to increase it another 8.4 percent, and we are not supposed to offer amendments. We are not supposed to take out things that are obviously quid pro quo in terms of earmarks and campaign contributions, as the Senator from Arizona just mentioned, from the donors we are seeing who are being investigated right now.

The way to get our Government back is to have free and honest debate in the greatest deliberative body in the world, which is supposed to be the U.S. Senate. Now we cannot offer amendments on a bill that is almost half of the entire discretionary spending of the country because we are not sure they want to take a vote on a bill. I have not been bashful about what I want to do.

There is an Emmett Till bill that we passed under controversy here. We got it passed. There is not one penny for funding for the Emmett Till Unsolved Civil Rights Crimes in this bill, which your side totally promised would be in this spending. You are abandoning Alvin Sykes and all these families who had unsolved civil rights crimes over the last 30, 40 years in this country and reneging on a promise that said you would put the money in the Justice Department. Yet there is not a penny there. We are high and mighty when it comes to authorizing and when we promise we will do the right thing. But when it comes down to it, we would rather give earmarks for pig smell than fund the solution for unsolved civil rights crimes. I tell you, by doing that, I think we have dishonored a great number of people who worked hard to make sure that bill got passed, the least of which is not Alvin Sykes, a man who has dedicated the last 10 years of his life to seeing that justice was not denied to these families. Here we have a bill which we made promise after promise that we would take care of, and we have done nothing. Of course nobody wants to change this bill. They don't want to change the bill because we are running up to a deadline we have known about since the fiscal year started. No, you cannot change the bill because we will have to extend the CR. There are a lot of benefits to extending the CR: One, we save our grandkids $38 billion—that is one of the benefits—and two, we don't reward behavior that causes us to be less than honorable.

There are 8,570 earmarks in this bill. I am not opposed to earmarks if they are authorized and go through a committee and Senators say they are a priority. But the average American, when they look at all these earmarks, is going to say: How in the world is that a priority? Yet we spend $7.7 billion out of that $30 billion—increased spending—so we can help Senators get reelected and so they will look good at home.

Mr. President, I worry about our Republic. You should be worried too. In the face of the greatest economic difficulty we have seen in over half a century in this country, the status quo has not changed in the Senate. We have not called up the courage to do what is best for this country. What we have done is relied on what is best for the politicians. I worry about what our kids are going to see, what standards of living they are going to have, because it is exactly this behavior that will mortgage their future, and it is not just the dollars, it is the misdirection of funds against a standard that common sense would say is not a priority now. We ought to be doing what is most important for this country first and what is best for the politicians last. This bill has it wrong. It has it backward.

I told the majority leader a moment ago that I would work with him to make sure we didn't obstruct. But maybe we should obstruct this bill, we should stop this bill. Based on the waste in it, the lack of oversight, lack of metrics in the programs, the earmarks in it, and the outright greed for the special class in this country—and that special class is the connected class of the politician. That is who benefits most from this bill. It makes me want to vomit.

You should worry about process in this Chamber because process is the thing that creates transparency. The American people are going to get to see—if we get an opportunity to offer amendments—what is really in this bill.

I will finish my rant by saying that I wonder what the Senators before us, 50 and 100 years ago, would say about what is going on with process in this Chamber right now. You have the votes to defeat anything. Yet you don't want to have an amendment that you have to take a vote on that says this is a priority or this isn't a priority.

To me, I think that lacks honor, I know it lacks courage, and it lacks the dignity this institution deserves.

I yield the floor.

The PRESIDING OFFICER (Mrs. HAGAN). The Senator from Hawaii.

Mr. INOUYE. Madam President, does the Senator from Texas wish to speak?

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. Madam President, I thank the distinguished bill managers for the opportunity to speak by unanimous consent as in morning business for up to 10 minutes.

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

TEXAS INDEPENDENCE DAY

Mr. CORNYN. Madam President, I rise to speak on behalf of Texas Independence Day, March 2. On this date in 1836, delegates from 59 Texas settlements in what was then Mexico declared their independence from that country and their determination to live in liberty. The delegates who met in this small town known as Washington-on-the-Brazos were a diverse group. Two of the delegates were native Mexicans, Jose Francisco Ruiz and Jose Antonio Navarro. The rest were immigrants from Europe, from Mexico, and, yes, from the United States. Two-thirds of the delegates were less than 40 years old.

Several of the delegates had political experience, men such as Sam Houston, who had been Governor of the State of Tennessee. He, Robert Potter, and Samuel Carson had all served in the Congress. Richard Ellis had participated in the constitutional convention of the State of Alabama, and Martin Parmer had done the same in Missouri.

These delegates, and the people they represented, had a clear goal. They wanted freedom. In this case, the freedom guaranteed to them under the Mexican Constitution but which had been lost under the dictatorship of then-President Antonio Lopez de Santa Anna.

The Texas delegates modeled their declaration of independence on the one signed in Philadelphia 60 years earlier. They expressed their grievances, their determination to protect their freedoms, and their vision for a new nation—the Republic of Texas.

The ''Unanimous Declaration of Independence by the Delegates of the People of Texas'' was signed by those 59 delegates on March 2. Five copies were sent to the towns of Bexar, Goliad, Nacogdoches, Brazoria, and San Felipe. Because there were no printing presses in Washington-on-the-Brazos, the printer in San Felipe was ordered to print 1,000 copies in handbill form. The original copy was sent to the U.S. Department of State in Washington, where it would stay for six decades before being returned to the State where it was written.

Even as the delegates signed this historic document, they knew their love of liberty might demand the ultimate sacrifice. At that moment, less than 200 miles to the west, Santa Anna's army was laying siege to the Alamo. Just days earlier, its young commander, William Barret Travis, sent out this letter. He wrote:

Fellow citizens & compatriots—I am besieged, by a thousand or more of the Mexicans under Santa Anna—I have sustained a continual Bombardment & cannonade for 24 hours & have not lost a man—The enemy has demanded a surrender at discretion, otherwise, the garrison are to be put to the sword, if the forth is taken—I have answered the demand with a cannon shot, & our flag still waves proudly from the walls—I shall never surrender or retreat. Then, I call on you in the name of Liberty, of patriotism and everything dear to the American character, to come to our aid, with all dispatch—The enemy is receiving reinforcements daily & will no doubt increase to three or four thousand in four or five days. If this call is neglected, I am determined to sustain myself as long as possible & die like a soldier who never forgets what is due to his own honor & that of his country—Victory or Death!

Madam President, death came to the defenders of the Alamo, but victory came to the people of Texas shortly thereafter. On April 21 of that year, Sam Houston and about 900 Texas soldiers defeated the larger Mexican Army at the Battle of San Jacinto. The surprise attack was so successful. It lasted all of 18 minutes, and the next day, Santa Anna himself was captured. By this victory, Texans won the independence they had declared less than 2 months earlier.

Sam Houston went on to serve as President of the Republic of Texas, after serving as Governor of Tennessee, a Member of the House of Representatives from Tennessee, then as President of the Republic of Texas. And after statehood, he served right here in the Senate as one of the first two Senators from our State.

I am honored to hold the same seat in this body that was first held by Sam Houston. He served here for 13 years. He was a champion of Native Americans and raised his voice against secession and Civil War.

Today, Texans honor the courage and sacrifices of those who won our independence and those who have followed in their footsteps to this day.

In the past year alone, I have had the honor to present a Bronze Star to a native of Harlingen, TX, who helped lead the breakout from a beachhead in Anzio during World War II. I was honored to present a Purple Heart to a resident of Seguin who was severely wounded by mortar fire in Korea. I have seen tears of sorrow and of pride of those who have lost loved ones in Iraq. And I have honored young men and women who even now are completing their first year of study at our Nation's service academies.

All these heroes and their families have paid the ultimate tribute to those who stood for freedom 173 years ago. In remembrance of all those who have risked their lives to keep Texas and the United States a land of liberty, I close with the words of our State song:

God bless you Texas! And keep you brave and strong, That you may grow in power and worth, Thro'out the ages long.

Madam President, I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 592

Mr. MCCAIN. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Arizona [Mr. MCCAIN] proposes an amendment numbered 592.

(Purpose: To continue funding at fiscal year 2008 levels through the end of fiscal year 2009)

Strike all after the enacting clause and insert the following:

SECTION 1. CONTINUING 2008 FUNDING LEVELS.

Section 106(3) of Public Law 110–329 is amended by striking ''March 6, 2009'' and inserting ''September 30, 2009''.

Mr. MCCAIN. Madam President, this amendment is very simple and straightforward. Instead of the bloated, earmark-filled $410 billion Omnibus appropriations bill and statement of managers totalling 2,967 pages that no Member could possibly have read given the sheer volume, this amendment would provide for a long-term CR to fund the Federal Government through the end of this fiscal year. It is a one-page amendment. It approaches fiscally responsible discipline in an expeditious way which is why just 2 years ago we agreed to nearly the exact same approach when we agreed by a vote of 81 to 15, on February 14, 2007, to revise the continuing appropriations resolution 2007.

I note no Member of the majority voted in opposition to that approach which, similar to the amendment I am proposing, funded nearly all the agencies of the Federal Government, except the Department of Defense and the Department of Homeland Security which had been enacted as regular appropriations bills. The only difference today is the MILCON–VA funding was approved last year and is not part of this continuing resolution, that and the fact that the majority is in control of the House, Senate, and White House.

When are we going to grasp the seriousness of the economic situation confronting us? We learned Friday that the GDP sank 6.2 percent in the last

quarter of 2008, far worse than what was expected. With the economy contracting by the fastest pace in a quarter century, this needs to serve as a wakeup call. We cannot afford literally to continue under this same status quo.

Let's consider some cold, hard facts. The current national debt is $10.7 trillion. The 2009 projected deficit is $1.2 trillion. The total cost of the economic stimulus enacted 2 weeks ago is $1.24 trillion. That is $789 billion plus interest. TARP I and II, $700 billion; TARP III, $250 billion to $750 billion or more; the President's budget request for 2010, $3.6 trillion. And now here we are debating a pork-filled $410 billion Omnibus appropriations bill to fund the Federal Government through the second half of the fiscal year at a funding level that is nearly 10 percent greater than spending for the last fiscal year, which, according to the ranking minority of the House Appropriations Committee, represents the largest increase in annual discretionary spending since the Carter administration.

Combine the total costs of this omnibus with the Defense and Homeland Security and Military Construction bills passed last year, and spending for fiscal year 2009 will top $1 trillion.

Now let's consider the impact of the funding increases in this bill, combined with the billions of dollars provided to these agencies in the stimulus. According to a document prepared by the House Appropriations Committee minority, the combined cost of the omnibus and the recently passed stimulus bill results in the following increases in this year's spending in billions of dollars: Agriculture, the percent increase over last year is 45 percent. That is $26.1 billion. Commerce, State and Justice—this is with the stimulus and the bill before us, with its 1,100 pages of managers' statement—is a 41 percent increase. Energy and water, a 151 percent increase; financial services, 43 percent; Interior, 45 percent; Labor-HHS, 91 percent; legislative branch, 12 percent; State and foreign ops, 13 percent; Transportation, 139 percent—a total of an 80-percent increase over last year's spending.

We are committing generational theft because we are going to ask our kids and our grandkids to pay this bill.

While I wish to say it is time to put a halt to business as usual, I find myself thinking this level of funding defies that description. It is beyond anything I have ever witnessed and is extremely alarming. That is why we should adopt this long-term continuing resolution that will effectively freeze spending to last year's level and eliminate wasting an additional $7.7 billion on more than 9,000 wasteful earmarks.

Just as the chairman of the Appropriations Committee, Senator BYRD, said during the February 2007 debate on a continuing resolution, it is a fiscally disciplined resolution, and so is this one. During the week, there will be many discussions on the floor about the questionable funding contained in this omnibus spending bill. It is difficult even for me to grasp the level of unnecessary spending proposed in this bill. It may be the most egregious pork-barrel spending I have witnessed in all my years here.

Over the past few days, I have been listing a top 10 each day of some of the most stunning provisions. I have been twittering. Remarkably, it would take me almost 3 years to list every earmark—if I continued to list the top 10—until all the more than 9,000 were mentioned. I state this to put some perspective on the enormity of this level of earmarking.

I have been through some of them before, but they make you laugh and they make you cry: $190,000 for the Buffalo Bill Historical Center in Cody, WY; $951,500 for the Oregon Solar Highway.

Some of these projects may be worthwhile. They may be projects we all need. If they are, they should go through the process of authorization and appropriation. They are not. They are inserted in an appropriations bill in a fashion that no Member of this body has read this managers' statement or this bill. That is what is wrong with it.

There will be arguments in favor of a certain earmark. There will be an argument for $6.6 million for termite research in New Orleans. Then why didn't it go through the proper authorizing committee and then have the funds appropriated? That is what is required by the procedures of the Senate, which have been violated more and more and more. And unfortunately, what happens when you commit any egregious breach, when you engage in activities that are unethical, they grow and they grow. And I say—and I say again—this is serious stuff. We have former Members of Congress and their staffs residing in Federal prison.

The Senator from North Dakota and I spent a couple of years investigating Mr. Abramoff, and we did so under the authorizing committee of the Indian Affairs Committee—what some view as an obscure committee—and we uncovered these egregious activities of ripping off Native Americans of millions of dollars; of the incestuous relationship between staffers and Members of Congress and this process. We confined our activities to Native Americans. There was much more evidence of wrongdoing. But because we were the Indian Affairs Committee, we kept our investigation to those.

I don't know how many people are now in prison, but I know recent indictments have come down. So this is not trivial stuff we are talking about. This is corruption. And when we do things such as this, then it encourages a practice.

I asked earlier in my comments how in the world could we appropriate items which had been lobbied for by a group called PMA, whose offices were raided by the Federal Bureau of Investigation? How can we insert their earmarks into an appropriations bill? I don't get it.

My amendment is simple. It goes back to a continuing resolution and funds the activities of the Government at last year's levels, which obviously were sufficient last year. We need to do some belt tightening, I don't think there is any doubt about that. We are asking every American family to do that today. And every American family is having to do it today as we face an unprecedented economic distress which is affecting literally every family in America. It is a great and ongoing tragedy. It seems to me that we, as a Congress, can at least not increase the spending over last year's level as Americans have lost at least half of their savings in the stock market in the last year.

I hope we will approve this amendment, and I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

HEALTH CARE REFORM

Mr. WYDEN. Madam President, I thank the distinguished chairman of the committee for the chance to speak at this time. I am going to talk a bit about the cause of health care reform, and I know the chairman has been a leader in this area lo these many years.

For some time, the planets have started to align for the cause of health reform, and today the President put in place some stars in Kathleen Sebelius and Nancy-Ann DeParle for key assignments in this health reform effort. Both of them bring extraordinary qualifications to their positions.

Kathleen Sebelius is a renowned expert on the cause of insurance reform. This is going to be especially important because the insurance model today is fundamentally flawed. It is all about cherry-picking—taking healthy people and sending sick people over to government programs more fragile than they are. Under Kathleen Sebelius, I am of the view we will reinvent that insurance system. Private insurers will compete on the basis of price, benefit, and quality.

I believe we will have bipartisan support for that effort. The President has talked about it. Chairman BAUCUS has it in his white paper. Chairman KENNEDY has long advocated this very different model of private insurance. I am pleased to say in our bipartisan Healthy Americans Act, which Senator BENNETT and I have sponsored, we include it as well. With Kathleen Sebelius and her expertise in the insurance field, we will be in a position to get it done and get it done with bipartisan support.

Nancy-Ann DeParle brings the same qualifications to the task of fixing health care. She is an expert in health care numbers. She was involved what was then the Health Care Finance Administration. But what I like the most about Nancy-Ann DeParle is that she has always understood that enduring solutions to big questions—such as fixing health care—are going to require that we bring together bipartisan support for those efforts.

To his credit, the President has emphasized how important it is to have bipartisan support for this challenge. I believe at this point Democrats and Republicans can come together and end the gridlock over health care reform. I think we are now seeing emerge a bipartisan consensus that each party has been right on fundamentals with respect to health care.

Democrats have been right about the proposition that you cannot fix the system without covering everybody. If you don't cover everybody, the people who are uninsured shift their bills to the insured, and they shift the most expensive bills. So my view is my party has been right on the question of coverage, and it is time to get all Americans good quality, affordable health care.

I also believe Republicans have contributed significantly because we do need a strong private sector, one that encourages innovation, one that steers clear of price controls and a one-size-fits-all Federal solution. So I think there is opportunity now for private sector choices as well as expanding coverage. Again, President Obama has included that kind of thinking, Chairman BAUCUS has, Chairman KENNEDY has, and we have it in the Healthy Americans Act as well.

Some are saying—and we have heard this repeatedly in recent weeks—that our country, with our fragile economy, can't afford health care reform. I am of the view that our economy can't afford the status quo. If you think about what is going on in North Carolina, the reason people's take-home pay doesn't go up is because it is all going to health care. The fact is that fixing the economy and fixing health care are two sides of the same coin. The Obama administration—particularly Peter Orszag, the Budget Director—has long recognized this.

The President was right to say that after 60 years of talking about health care, he didn't want to wait until year 61 to get something done; he wanted to do it this year. Today, by appointing Kathleen Sebelius and Nancy-Ann DeParle, he got these efforts off to a very strong start.

This Thursday we will have a health care summit. Proponents, opponents, and those of differing views will be around the table. Again, the President has made the right call by inviting some who haven't been advocates for health care reform in the past. But I think we are seeing a dramatic departure from a lot of the positions of the past, and that is what is going to make Thursday's session very exciting and I believe very productive.

For example, in 1993 and 1994, when our country debated health care reform under the Clinton plan, the business community said, We can't afford to fix health care. Now the business community—businesses small and large and of all philosophies—are saying, We can't afford the status quo. Chairman BAUCUS and Chairman KENNEDY and their ranking minority members, CHUCK GRASSLEY and MIKE ENZI, have a long record of being able to work in a bipartisan fashion to build on those new sentiments coming from the business community.

I believe Senator BENNETT and I, with the 13 Senators who are part of the Healthy Americans Act coalition, can bring to the President, can bring to our chairs and ranking minority members, some ideas that can pick up bipartisan support. They know we are anxious to work with them and to work with them quickly. To stick to the President's timetable is going to require that kind of bipartisan goodwill, and I believe it is now there.

I believe that the health care challenge in this country, with exploding costs and demographics that are relentless, requires a lot of the old thinking be set aside. I believe it is doable. In the course of the last 2 years, I have had a chance to visit more than 80 of our colleagues in their offices, to listen to them, to get their thoughts on what needs to be done in health care, and to a person, I found a desire to act and to act now.

I think, as the President knows, you can't have a town meeting—whether it is North Carolina or Oregon, or anywhere else in this country—without health care dominating the discussion. So this Thursday provides an opportunity to bring people together. We will have the nominations of Kathleen Sebelius and Nancy-Ann DeParle going forward. I am certain they are going to be approved with very substantial bipartisan support, and then we will be down to the task of writing legislation.

On the key issues there is agreement among reformers. Clearly, you have to cover everybody to stop cost shifting. You have to change the insurance model so that instead of spending time scouring out the bad risks and taking only healthy people, there is a different model of private insurance where plans compete on the basis of price, benefit and quality. We are going to come together and make sure we are purchasing value for our health care dollar.

Dr. Orszag has pointed out on many occasions that something like 30 percent of the health care dollar goes for services of little or no value. That is these services don't help patients get healthier. Chairman BAUCUS and Chairman KENNEDY have some good ideas for changing that as well.

I think, finally, there will be a very sharp new focus on prevention and wellness. When Senator BENNETT and I were talking about the Healthy Americans Act, we thought there were a number of key areas we felt strongly about. But what we felt most strongly about was getting a new emphasis on prevention and wellness. That is why we called it the Healthy Americans Act—because to a great extent, Madam President, we don't have health care at all in this country. We have sick care.

Medicare Part A, the biggest health care program in our country, will pay thousands of dollars for senior citizens' hospital bills, and Medicare Part B, on the other hand, will not do anything to award prevention and to keep people healthy. So in the Healthy Americans Act we say seniors who make efforts to lower their blood pressure or lower their cholesterol will get lower Part B premiums.

The fact is, the entire health system does little to encourage prevention. For example, with the typical workers changing their jobs every few years—right now the workers, by the time they are 40, change their jobs 11 times—there is not a great incentive for private insurers to invest in prevention. So what the President seeks to do—and Chairman BAUCUS, Chairman KENNEDY, Senator BENNETT, myself, distinguished chairman of the Appropriations Committee who is part of our legislation—we are saying let's make health coverage portable so you can take it from place to place as you change your job, and in the future private insurance companies will have an incentive to invest in wellness and prevention and good health care because people will be staying with them. In today's system, when workers jump from one job to another every year or year and a half there is no incentive for the insurance company to invest in your health.

Madam President, I said the planet was aligning for the cause of health reform. With the appointment of two true stars, Kathleen Sebelius and Nancy-Ann DeParle, the President took another significant step toward achieving our goal today. I believe, after 60 years of bickering about this subject—it literally goes back to the 81st Congress with Harry Truman—there is new momentum for an enduring fix for the challenges of American health care. To make an enduring solution to those challenges requires that Democrats and Republicans come together. I think that is going to be possible with both parties having the ability to secure major objectives they have worked for in the past.

With Thursday's summit coming up, I think the American people will see that now the hard work is going to go forward. This time, after years and years of polarizing debates, there is going to be an opportunity to come together. I believe the Congress, with the leadership of President Obama, is going to take that opportunity.

I yield the floor.

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

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

Mr. KYL. Madam President, I would like to speak to the fiscal year 2009 appropriations bill, or what we call the

Omnibus appropriations bill, that is before us right now, beginning with a general discussion and then some of the concerns that many of us on the Republican side have with this legislation.

As I think most folks know, this is the second half of funding for the fiscal year we are in right now. The first half went through March—or basically through the end of this coming week—and then the second half of the year we said we would do late, and that is this legislation. I will discuss more of the process later, but the reason this was done in two pieces, I think, is twofold.

First of all, the majority was not able to get the entire bill done last year, either intentionally or because it represented a lot of work—although that is the way we do it every other year—and second, I think there was a feeling there was a good likelihood they would add to their numbers on the majority side and potentially have a Democratic President, and so there may be some policy changes and other changes they would want to make in the legislation that they would have an easier chance to get passed than if they had done that when there were more Republicans in this body, for example, and a Republican President who could veto the bill.

I say that because some of the things that are in this bill clearly represent changes from what was going to be the funding for this fiscal year until this special process was indulged. I do think and hope my colleagues on the Democratic side appreciate one of the reasons Republicans have concerns about this are these changes that have been made.

In general terms, the $410 billion funding level is $32 billion or 8 percent higher than the fiscal year 2008 enacted level. At a time when we are suffering from pretty tough economic times, this is a pretty healthy increase in spending over last year. According to the House Republican appropriators, if you exempt the 9/11 funding in the bill, it is the largest increase in annual discretionary spending since the Carter administration. The bill is long—it is 1,124 pages long—and in addition to that there is a 1,000-page joint explanatory statement.

I confess I have not gotten through all of those things. But staff have tried to read through it and have identified some of the things I want to discuss this afternoon.

If you add the bills we did pass to fund the Government for the entire year—the Defense bill, Homeland Security and Military Construction—then the total of the discretionary funding for the year will exceed $1 trillion for the first time in the history of the United States.

So it is a big spending bill. The total, as I said, is about $21 billion above President Bush's fiscal year 2009 request.

Some of the spending concerns specifically are the following: Probably the biggest is the fact that when we did the so-called stimulus bill, we spent almost $1 trillion. Much of that was spent on programs that are actually imbedded in this Omnibus appropriations bill. Constituents may be a little bit confused on that point. We know they know we have an appropriations bill that got us started on the year 2009.

They know we had this $1 trillion-plus so-called stimulus bill. So why are we doing an Omnibus appropriations bill on top of that? It is a good question, especially in those areas where there is duplicative funding, which there is a lot of. There are 122 programs that already received hundreds of billions of dollars in the stimulus bill. You would think they would not be included in this bill, so that you had duplicate spending.

But, no, they were both in the stimulus bill and also in this bill. According to, again, the House Appropriations Committee Republicans, the omnibus and stimulus together include $680 billion for new programs. There are also program expansions, there is one-time spending. If you add all these things together, you have an 80-percent increase in the funds for those accounts over the 2008 level. Think of that, an 80-percent increase.

Now, you can even rationalize maybe a 6- or 8-percent increase over the previous year. But an 80-percent increase? That is obviously way too much. Just a couple of examples of things that got into this bill. There is $15 million for beginning of a study for a new House office building. I served time in the House of Representatives, and actually worked in two different office buildings in the House. Working in the Rayburn House Office Building, a beautiful new building, there is plenty of room.

I think we would all like bigger space, but is that something we want to be spending money on this year, given our current economic environment and the fact that we just got through funding the new Congressional Visitor Center, which was massively over budget?

But more important than some of these spending items are the policy concerns. These are the areas of the bill that certainly Republicans would not have agreed to as part of the process: School Choice for the District of Columbia. This bill effectively eliminates the School Choice Program by prohibiting any student from participating in the program after the 2009–2010 school year unless Congress reauthorizes the program and the DC Council approves the bill. So you are setting up two big roadblocks to the continuation of what has been a very popular program for folks in the District of Columbia.

A provision on greenhouse gas emissions. This bill, with this provision, taxes a large step toward allowing the Endangered Species Act to literally be used to regulate greenhouse gas emissions, although it was obviously never intended for that purpose.

Specifically, it allows the Interior Department to withdraw two specific Endangered Species Act rules within 60 days of enactment without any public notice or comment. The practical effect of this rule withdrawal is that any acts that increase carbon dioxide or greenhouse gas emissions, which means almost anything we do, since, of course, we breathe carbon dioxide, would be subject to a lawsuit if it did not first consult the U.S. Fish and Wildlife Service on mitigation against potential impacts of climate change and harm to polar bears. That is the specific rule we are talking about.

Examples of actions subject would include construction projects, energy production, agricultural practices, to name a few. This is a radical departure from anything we have done in the past. It is a policy change that most Republicans simply cannot agree with.

There is something called nominal drug pricing, which would allow Planned Parenthood and other organizations to buy certain drugs for nominal prices and then resell those drugs at a profit. This is not what they are in business to do.

There is a very controversial section on family travel to Cuba. Section 620 and 621 of the Financial Services Division weakens the existing travel restrictions to Cuba. Now, that is the kind of serious policy which we need to have a serious policy debate about in this Congress. Is that the kind of thing we want to include in this appropriations bill? I think not.

The so-called Kemp-Kasten: Section 7079(b). This is a section we have had in the law forever. This particular section includes language which would undermine this longstanding Kemp-Kasten language. I said ''forever.'' It has been since 1984. It is a provision that denies Federal funding for organizations that are involved with coercive abortions. While the Kemp-Kasten provisions are still intact in the omnibus, an exemption is created for a very important organization, the U.S. Population Fund or the UNFPA, which is a controversial program that the United States has not funded in the past due to its past involvement with China's one-child policy. Again, it is a very important change in policy. If we are going to do things such as that, we should debate it on the floor of the House and Senate and make a decision, not just fold them into an appropriations bill.

Finally, we hear a lot on the earmarks these days. I was surprised to learn this bill includes earmarks totalling about $7.7 billion, 8,750 earmarks, allegedly. Nobody argues that every single expenditure Congress directs is inappropriate, especially if they have already been authorized. But I suspect that in these 8,750 earmarks, there is an awful lot that does not represent authorized spending by the Congress.

I would note that the three security-related appropriations bills enacted last fall added another $6.6 billion in earmarks, which would bring the total

in this bill to $14.3 billion in disclosed earmarks. That is not acceptable.

The President supported an amendment to the budget resolution for 2009, the so-called DeMint amendment, with Senator MCCAIN and Senator Clinton, to establish an earmark moratorium for fiscal year 2009. The vote on that failed 29 to 71. But I would hope the President, as a result of his position on this, would weigh in.

Finally, I mentioned in the very beginning the process, how we got to this point. Why are we considering, after a recordbreaking stimulus bill of over $1 trillion, why are we passing another appropriations bill now, before we have done a budget for this year and before we do the appropriations bills for the coming year? Well, it is because last year the Congress did not fund the entire year of Federal agency funding. Congress only funded the first 6 months.

Some people like to blame President Bush for this. President Bush had nothing to do with it. He was the President. He does not write the appropriations bills. He does not pass the appropriations bills in the Congress. I really think, as I said, it was a combination of factors.

For one thing, some bills, at least one that I know—well, two—the Interior bill and the legislative branch bill—were never passed out of committee. President Bush had nothing to do with that. It is a failure of Congress to get these bills passed out of the committee. Remember that the Interior bill never got out of Committee in either the House or Senate because the majority was worried about taking the offshore drilling, the so-called oil shale and OCS oil exploration and drilling votes.

That bill got out of neither committee. It had nothing to do with the President. Given the delay in bringing the omnibus bill to the floor; in other words, waiting until the very week in which the resolution that funded the first half of the Government expires, we are clearly taking a chance that either we are going to rush through this and not give it appropriate time or we are going to have a continuing resolution of at least some length of time. I presume it should not have to be for very long, but I would find it very doubtful that we could pass this bill, especially with the other things we have to do tomorrow, before the end of Thursday evening of this week. So there will be a lot of amendments, obviously, proposed to it. I think we should expect right now we will have to at least extend for a few days the funding for the second half of the year.

My own thought would be we should actually have something like a continuing resolution for the remainder of the year, especially if the price for not doing that is to adopt these many policy changes which are serious, significant, and require a lot more debate on the Senate floor than simply having been included in an appropriations bill, that would not enable them to get the kind of debate that I think ordinarily would attend to them.

This is the outline of the bill we have before us. Obviously, we are going to have a lot of amendments to it. Some will deal with the amounts of money in the bill, others will deal with the policy that is embedded in the bill. I hope my colleagues on both sides of the aisle would be willing to allow this debate, a fulsome debate, with the amendments that need to be offered, in order to conclude the bill in a responsible fashion.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. DURBIN. Madam President, I ask unanimous consent to speak as in morning business.

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

PEACEFUL REUNIFICATION OF CYPRUS

Mr. DURBIN. Madam President, in the last few decades we have seen historic changes around the world—the end of apartheid in South Africa, the peaceful collapse of the Soviet Union, the dismantling of the Berlin Wall, a wave of democratization across Eastern Europe and Latin America. My mother's homeland, her land of birth, the country of Lithuania, was once occupied by Nazis and then the Soviets. Today, it is a free, prosperous, democratic nation. These have all been moments of hope and inspiration. Yet, sadly, despite so much progress, we continue to be challenged by a number of longstanding internal conflicts in different corners of the world. From Sudan, to Kashmir, to Sri Lanka, internal divisions in the historical grievances have led to divided people and unnecessary human suffering.

Recently, during the Presidents Day break 2 weeks ago, I had the opportunity to visit one such impasse that today shows at least the promise for resolution—the island of Cyprus. U.N. peacekeepers first came to Cyprus in 1964 due to intercommunal fighting. Since 1974, Cyprus has been divided into the government-controlled two-thirds of the island and the remaining one-third of the island which is administered by Turkish Cypriots. The Republic of Cyprus, which joined the European Union in 2004, continues to be the only internationally recognized government on the island.

Tragically, Cyprus has been divided now for more than 30 years, with the U.N. buffer zone separating the entire island, the so-called green line. Violence today is rare, thank goodness, but the long-term impacts of the separation are stark—displaced people, memories of family members killed in earlier violence, and lost property rights. Quite simply, a people who share a common island have been unnecessarily divided for far too long.

In recent years, a number of important steps have been taken to improve relations toward eventual reunification. Crossing points between the two sides have opened. Thousands of people pass peacefully between the two sides of the island without incident.

A Committee on Missing Persons comprised of scientists from both the Turkish and Greek Cypriot communities has been established. Of all the things we visited during the course of the 48 hours, an intensive visitation on the island of Cyprus, it is a cruel irony that one of the most hopeful was this Committee on Missing Persons. This is what they do. They have identified some 2,000 missing people, in some 40 years or more, 1,500 on the Greek side, 500 on the Turkish side, and they are trying to find the remains of their loved ones who have been gone for so long. They take DNA samples from all members of the family, and then they wait for anonymous, confidential reports of grave sites. They send their archeologists out to excavate the grave sites, bring the skeletal remains into a laboratory, where scientists, both Turkish and Greek, try to reassemble skeletons and then take DNA samples and link them with families who reported missing persons. So far, over 130 of those missing persons have been identified. They have been brought back to their families. There has been a moment of closure and peace.

One would think, because these people disappeared in the most tumultuous and violent times, that, in fact, this would be another excuse, another opportunity for exploitation politically. But it doesn't happen. These families, after waiting for decades, have finally come to closure with the death of their loved one and really want to look forward. It is a very sober and dignified program and one that gives me some hope for this island, that people whose lives have been touched with violence can still find their way to peaceful resolution in their own minds when they finally are given the remains of someone they love. Thus far, no politician has taken advantage of these identifications to further more division or mistrust.

Most importantly, today there are two leaders who are extraordinary. Demetris Christofias is the President of the Republic of Cyprus. Mehmet Ali Talat leads the other side of the island on the Turkish side. They are engaged in serious negotiations to reunify the island. I had a chance to meet with both of them, speak to them at length. At great political risk, they are sitting down to try to work out their difficulties. They need help. They need the support of the Greek and Turkish Governments because although they may not have a direct presence—in the case of Turkey, their troops are there, and there is a direct presence—there is a community of interest between the

Turkish Cypriots and Turkey and the Greek Cypriots and Greece. The support of those two nations can be very helpful in bringing the peaceful reunification of the island.

Christofias and Ali Talat are friends. They have made a peaceful and lasting agreement, or at least they have worked for one which unifies the island their top priority, and it should be one we encourage and support. Their efforts are brave and forward-thinking. They are to be commended for working to make history for the people of Cyprus.

While the negotiations are a Cypriot-led process, the United Nations has a representative and special adviser, Alexander Downer, whom I met with and who is trying to find ways to bring the two sides together. He is an important symbol of the world's interest in the effort to find lasting peace on the island. We need to support his work.

After visiting Cyprus, I had the opportunity to visit both Greece and Turkey, two key NATO allies and friends of the United States. I was heartened there by leaders in both countries expressing hope for the peaceful reunification of the island of Cyprus.

These are important and inspiring steps forward, but there is still a great deal to be done toward final agreement. Many issues still need to be negotiated, and there is room for more confidence-building measures such as the Committee on Missing Persons and the opening of more crossing points. I am also concerned that failure to reach some kind of agreement this year may result in missing one of the most hopeful, perhaps last great opportunities in recent times to reunify the island.

For more than a generation, the situation in Cyprus has left an island and a region divided. People have died. Families have been separated. There has been a great deal of pain inflicted on the people of this island.

Cyprus, Greece, and Turkey are all friends of the United States and important to the region. While this is a Cypriot-led process and negotiation, I wish to express my strong hope and support for the current negotiations to bring peaceful and enduring settlement to the island.

One of the last visits I made, as I left Turkey, was to stop in Istanbul and meet with the Ecumenical Patriarch, the leader of the Greek Orthodox church. The Patriarch represents a church that has been in Istanbul for 17 centuries. There are now about 5,000 Greek Orthodox left in Istanbul. It is a small and dwindling community. But Istanbul as a city has a great symbolic importance to the patriarch and his church. He told me one of his highest priorities was the closing of the Halki Seminary 38 years ago. I told him I would reach out to the Turkish side in the hopes that they would meet with the patriarch and reopen discussions about this issue. I recently spoke to Secretary of State Hillary Clinton about this as well. I know she is headed to the Middle East. I hope she will raise it.

This gentle man, the Ecumenical Patriarch, is asking for a chance for a seminary class so that his priests and bishops can be trained and prepared for the priesthood and for the hierarchy of his church. It is not an unreasonable request. I hope there is a way we can find within the constitution, within the laws, within the treaties involving Turkey to give them this opportunity. This gentle man, who prays for peace every day, should be rewarded with the reopening of his seminary. I hope the leaders of Turkey in Ankara, who were kind enough to meet with me, will find a way after decades to reopen these negotiations.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

REALITIES IN CUBA

Mr. MENENDEZ. Madam President, there will be parts of my comments that, for historical purposes, will be said in Spanish, and then I will translate them into English, so I ask unanimous consent that be permitted.

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

Mr. MENENDEZ. Madam President, February 16 of this year marked 50 years since the revolution in Cuba that brought Fidel Castro and his brother, Raul, to power. Some have used this anniversary as an opportunity to put forth some romantic views of the revolution. So I have come to the floor to talk about the realities of the situation in Cuba. The reality is that this golden anniversary for the Castros is an impoverished anniversary for the rest of the country.

Over the course of 50 years, the tides of romanticism have come and gone, but they have always crashed hard against the rocks of reality. All the pictures of Che Guevara on T-shirts cannot hide the brutality of the declaration he made before the United Nations in 1964. He said then:

hemos fusilado, fusilamos y seguiremos fusilando mientras sea necesario—

Translated that means:

[W]e have executed people, we execute people now and we will continue executing people for as long as we deem necessary.

No words better sum up the character of the revolution. The Cuban regime has bent and gilded the spirit of their people over a rotten core of brutality, depravation, and fear.

Here are the realities of the last five decades on the island:

According to the Free Society Project of the Cuban Archive, which has verification for every case, the number of people the regime has murdered or abducted numbers in the thousands, if not the tens of thousands. Hundreds of thousands of children have been separated from their parents. Millions of men, women, and young people have been forced into the fields to cut sugarcane and perform other hard labor against their will.

Here are the realities of Cuba today:

The Government is, pure and simple, a brutal dictatorship. Every now and then, the regime stages meaningless elections with 609 candidates, all 609 chosen by the regime, vying for only 609 seats in a National Assembly that does not do anything without the approval of the Castro brothers.

Despite fertile soil and perfect climate, as well as significant financial assistance, access to food is tightly rationed. The average Cuban worker lives on an income of less than $1 a day.

World Bank statistics show that fewer people have telephones, televisions, computers, and cars than in almost any other country in Latin America. The regime makes sure as few people as possible can use the Internet, so that the percentage of people who have access in Cuba is less than in Haiti.

The regime's claims about great progress in health care and education are immediately undermined by the costs paid—in lives lost, economic opportunities stolen, and freedoms denied. The island was not rich in 1959. Yet Cubans have fewer opportunities to get ahead than they did 50 years ago.

Across a wide variety of indicators of human development, Cuba has watched other countries in Latin America make similar or even greater gains. This poverty has an enormous cost. The widespread desperation of families has forced far too many young girls and boys into becoming sex workers, even though defenders of the revolution constantly cite the elimination of prostitution as one of its supposed accomplishments. In fact, a few years ago, Cuba was listed by Voyeur Magazine as the sex tourism hotspot of the world. So much for that success of the revolution of eliminating prostitution.

The Castro revolution has been most adept not at spreading education and prosperity but at instilling penetrating fear and terror, perpetuating their own power through a Stalinist police state.

The Cuban security forces were trained to torture by the dreaded Stasi of East Germany and carry on that legacy today. If you doubt that, ask Senator MCCAIN about one of his torturers in Vietnam, a Cuban agent.

The world has expressed outrage at the treatment of detainees in the prison at Guantanamo Bay, and President Obama announced he would close it within a year. When the news of that decision reached Juan Carlos Herrera Acosta, who has spent more than 6 years in jail for his political views, he said:

¿Cuándo el mundo abrirá sus ojos y dirá que hay que cerrar los otros guantánamos que existen en Cuba?

Translated that means:

When will the world open its eyes and say that it's time to close the other Guantanamos in Cuba?

There is no excuse for turning a blind eye to the 300 other prisons on the island, prisons that make Guantanamo Bay look tame by comparison.

Armando Valladares, who wrote the prize-winning book ''Against All

Hope,'' was imprisoned in the infamous Isla de Pinos in 1960 for his opposition to communism. He lived through the hell of Castro's jail, suffering violence, forced labor, and solitary confinement.

His writings were smuggled out, read throughout the world, and he was finally released after intense international pressure, 22 years after he was taken prisoner. Here are some of his memories of his captivity:

I recall the two sergeants, Porfirio and Matanzas, plunging their bayonets into Ernesto Diaz Madruga's body. . . . Boitel, denied water, after more than fifty days on a hunger strike, because Castro wanted him dead; Clara, Boitel's poor mother, beaten by Lieutenant Abad in a Political Police station just because she wanted to find out where her son was buried. . . . Officers . . . threatened family members if they cried at a funeral.

I remember Estebita and Piri dying in blackout cells, the victims of biological experimentation. . . . So many others murdered in the forced-labor fields, quarries and camps. A legion of specters, naked, crippled, hobbling and crawling through my mind, and the hundreds of men mutilated in the horrifying searches [they went through].

Eduardo Capote's fingers chopped off by a machete. Concentration camps, tortures, women beaten. . . .

And in the midst of that apocalyptic vision of the most dreadful and horrifying moments in my life, in the midst of the gray, ashy dust and the orgy of beatings and blood, prisoners beaten to the ground, a man emerged, the skeletal figure of a man wasted by hunger with white hair, blazing blue eyes, and a heart overflowing with love, raising his arms to the invisible heaven and pleading for mercy for his executioners.

''Forgive them, Father, for they know not what they do.'' And a burst of machine-gun fire ripping open his chest.

Those are Armando Valladares' live memories of the 22 years he spent in Castro's jails.

This has been going on since 1959, but, unfortunately, it is not a thing of the past.

In 2003, armed security forces raided 22 libraries and sent 14 librarians to jail with terms of up to 26 years in prison, simply because they established a library in their community. Oh how dreadful is the power of a book that could cause those people who created libraries to spend a quarter of a century in prison.

That year, it rounded up 75 journalists, human rights activists and opposition leaders and gave them summary trials and sent them to jail for up to 28 years.

To put a human face on this, because sometimes we talk about dictatorships and the consequences of their actions and we talk about people in mass numbers—but these are the faces: Oswaldo Paya; Marta Beatriz Roque; Oscar Espinosa Chepe; Armando Valladares, whom I quoted; and others who actually languish inside the jails in Cuba and who have been beaten and/or who ultimately have been harassed in the pursuit of peaceful civil society movements.

In 2003, Fidel Castro ordered one of the most sweeping, brutal crackdowns on opposition figures in years—a roundup of 75 dissidents and their summary trials.

In that black spring, his agents took away Marta Beatriz Roque. She is an economist, a leader of a group called the Assembly for Promoting Civil Society, a coalition of nongovernmental organizations dedicated to peaceful democratic change on the island. In 2003, she was sentenced to 20 years behind bars for the crime of wanting peaceful change, for the crime of speaking her mind.

In prison, her diabetes and blood pressure made her so ill that the regime let her leave her tiny cell. But they did not let her go far. Two years later, the Government sent a mob to attack her as she was traveling to meet a U.S. diplomat. They beat her. And when she tried to leave to get medical care, they trapped her in her home. She was 60 years old.

Now, every day of her life, she knows she could wake up and be thrown in a cell once more, left to die for the crime of thinking independent thoughts, for the crime of asking for change.

During the crackdown in the spring of 2003, Fidel Castro also arrested Dr. Oscar Elias Biscet. Dr. Biscet founded the Lawton Foundation for Human Rights, one of the first independent civic groups in Havana.

On February 27, 1999, he was arrested for hanging the national flag sideways at a press conference, and he was sentenced to 3 years in jail. He was protesting the forced abortions he was ordered to perform. After his release, he organized seminars on the Universal Declaration of Human Rights for Cubans. And he was arrested again in December of 2002 for organizing these seminars.

In April of 2003, he was sentenced to 25 years in jail and sent to a special state prison. I have, in the Chamber, this picture of his jail cell. His dark, damp cell is barely bigger than he is. In 2007, he was awarded the Presidential Medal of Freedom, the highest civilian honor this country gives to anyone. But he still has not won something far more important: his own freedom. He still languishes in a cell like this.

It is a myth that detentions of activists has dropped off since Raul Castro, Fidel Castro's brother, took power. More than 1,500 were rounded up last year, according to the Cuban Commission on Human Rights and National Reconciliation, an independent observer group. They may be released temporarily, but they are always subject to rearrest.

Multiple human rights organizations confirm that the Cuban regime is still holding more than 200 political prisoners whom we know of—independent journalists, economists, human rights workers, and doctors all jailed for speaking their minds.

In the United States, we saw an election last year that was all about a powerful call for change. The year before, 70 young Cuban youth were walking down the streets of Havana and detained simply for wearing a white wristband that has one simple word on it: ''CAMBIO''—''Change.'' All they did was wear a simple, white wristband to express what they wanted to see.

While in the United States, the mantra of change can get you elected to the Presidency of the United States. In Cuba, the mere suggestion of change can get you arrested. What an irony.

The dictatorship maintains a network of spies on every single block. It is called ''El Comite por la Defensa de la Revolucion.'' It is a block-watch organization in every city, in every village, in every hamlet. If they suspect you, first, you will find yourself quietly demoted at work. Then you will lose your job. You will wake up one morning and your house will be covered in graffiti calling your family worms. You will walk outside and four former friends will now spit in your path.

The case of Adolfo Fernandez Sainz could hardly be more representative. He is a journalist forced to spend 15 years of his life behind bars, in part for the crime of owning the novel by George Orwell, ''1984.'' Fifteen years of his life behind bars.

But the saddest proof that a country is operated like a prison is when people are shot trying to escape. It was a hallmark of Soviet Russia and East Germany, Communist Hungary and Czechoslovakia, but today the Caribbean is the Cuban's Berlin Wall. All boats and building materials belong to the State, so taking a shipment to the waters or even building a raft can be considered crimes, often punishable by death. Cuban planes have attacked ships from the air. The Cuban Navy has attacked ships from the sea, surrounding boats, sinking them, sending men, women, and children to the bottom of the ocean.

The Cuba Archive has documented almost 250 cases of assassinations as people fled, in addition to the countless thousands who have died at sea, either drowning or being killed by sharks. Those Florida Straits, as people searched for freedom, are the burial grounds of so many that we don't know.

Cubans know the risks, and yet they continue to seek freedom. Since 2005, the Washington Post cites the number who have fled to America or sought to flee to America at 80,000—some of the country's best and brightest, risking arrest and death, leaving under the cover of darkness. Since 1959, according to the Center for the Study of International Migrations, nearly 1.7 million Cubans have been forced into exile.

For those who cannot leave, there is another sign of despair on the island. The World Health Organization data reveals a sad fact: that Cuba has one of the highest suicide rates in the hemisphere.

For over five decades we have seen democracy take hold in every country on the Western Hemisphere but one—one island, suspended in the past, resisting the tide of history, its people

waiting for something to change. In 1962, the United States restricted commerce within travel to Cuba. It stands as a legal, political, and moral statement that we reject the dictatorship's abuses and it serves as a way to weaken the regime. At the beginning, it was embargoed in name only. U.S. foreign subsidiaries were allowed to freely commerce with Cuba and it wasn't until the mid-1980s that these loopholes were closed. The Cuba Democracy Act and later the Libertad Act caused the Cuban regime to downsize what had become the third largest military per capita in the Western Hemisphere. That was good for the Cuban people and good for the hemisphere because Castro could no longer send his troops to promote revolution and to destabilize Latin American countries.

But that came about not out of ideological change by the Castro brothers; it came about as a result of economic necessity. The U.S. dollar—the most hated symbol of the revolution and illegal to own for quite some time—is now eagerly sought by the regime, creating a divide in Cuba. It is a divide between those who have access to U.S. dollars from their families and can use them at state-run dollar stores with prices that gouge those Cubans—and millions who have no family to send them dollars and chafe at that disparity. They question a regime that doesn't allow the freedom to work at jobs such as tourism and others, that might give them access to those dollars. This conflict exists because these circumstances came about not as a change in Castro's ideology; they came about because of economic necessity. Economic necessity, not ideological change, further drove the regime to accept international investment—specifically, in tourism and mining—something that was also previously illegal. This has created resentment by Cubans who are sent to work at these establishments by a state employment agency; and where the Cuban who goes to work at these foreign companies, their labor is sent there, they have to go work there, they get paid in worthless Cuban pesos, while the state gets paid in dollars for their labor. They get a fraction of the cost of their labor.

In addition, foreign companies summarily fire workers without recourse and get new workers from the state employment agency—no questions asked. Cubans have been denied access to visit these hotels in their own country and now—only now—are they told they can do so if they can pay hundreds of dollars a night when they make less than a dollar a day.

Notwithstanding these economic challenges that have created pressure for change in Cuba, opponents of the embargo are quick to point out that it has been in place for many years and the Castros remain in power. They seem very confident that allowing more American money to flow into Cuba will magically topple the regime. The truth is their prediction about cause and effect runs completely contrary to what has actually happened there. Over the years, millions of Europeans, Canadians, Mexicans, South and Central Americans, among others, have visited Cuba, invested in Cuba, spent billions of dollars, signed trade agreements, and engaged politically. And what has been the result of all of that money and all of that engagement? The regime has not opened up; on the contrary, it has used resources to become more oppressive. Foreign funds often temporarily reach the hands of Cuban families, but they are then forced to spend those dollars in government-run dollar stores so that the money ultimately winds up in the hands of the Cuban Government and many suspect in the secret bank accounts of the Communist Party elite.

So allowing Americans to sit on beaches which Cubans cannot visit unless they work there; smoking a Cuban cigar for which a worker gets slave wages, sipping a Cuba libre, which is an oxymoron, will not bring the Cuban people their liberty. When the government isn't manipulating international aid, it sometimes rejects it altogether, as it did during last year's hurricane season, further punishing its people.

So I ask those who argue that lifting the economic embargo on Cuba means the demise of the Castro regime—nothing I would want to see more—why, then, has lifting the embargo been the No. 1 foreign policy objective of the Castro regime? Does it seek its own demise after 50 years? Certainly not. What it seeks is the economic viability to continue to perpetuate itself.

But beyond the practical realities, I think there is also a broader principle at stake. Now, as power has passed somewhat—because Fidel is still alive—from Fidel to Raul, from one dictator to another, are we to declare that their tyranny outlasted our will to resist it? When a murderer escapes the police and is a fugitive, do we declare them innocent after a few years because we haven't caught them? Should we suddenly say it is too much for the Cuban people to be able to decide for themselves what course their nation will take? Should we decide to suddenly legitimize the behavior of the regime and strengthen its ability to continue perpetuating crimes? Which one of the freedoms we seek for the Cuban people as a condition of our full engagement as a country are we willing to deny them? Which one—free speech, free association, freedom of religion, freedom to politically organize and elect their own leadership? Which one? Which one of those freedoms that we are willing to say to the Cuban people they cannot enjoy are we willing to give up?

I have also heard the suggestion from opponents of legal restrictions on Cuba that the United States has dealt with other brutal dictatorships more openly than this one. Those who make that argument must have a strange definition of a successful policy. If we consider prison camps and child labor, forced abortions and slavery, violent suppression of protest, Tiananmen Square, ethnic cleansing of Tibet, and denial of human rights, be it in China or anywhere around the world, anywhere these violations are happening, if we are willing to accept that as successful engagement, I believe we are deeply mistaken. The disregard of human rights violations for the sake of economic gain in the past is never an argument to do it again in the future.

A full and open discussion of the real situation in Cuba is timely for more reasons than the fiftieth anniversary of Castro's revolution. It is timely because in this Omnibus appropriations bill that we have before us there are some who have attempted to sneak in changes to our current policy. But perhaps the greatest irony of all is that this bill includes three important foreign policy changes with respect to Cuba that have not been subjected to debate in this body. They have not been questioned for their impact on both our national interests and our national security. They have not gone through the Foreign Relations Committee. They have not been subjected to a vote on the floor of either the House of Representatives or the Senate. These modifications deserve a full examination. They should be subjected to vigorous debate. We should gather evidence, bring a wide range of voices to the table, and make careful and thoughtful considerations of their implications. But this isn't what is taking place. Instead, this body is being asked to swallow these changes in the crudest process I can imagine: without analysis, without inclusion, and without debate.

Now, supporters of these modifications claimed that they are carrying them out in the hopes of fostering democratic change in Cuba, even as they do so in a way that silences democratic debate in our country. The United States cannot claim to be a model for democratic process and inclusive change if we find ourselves resorting to such undemocratic means. Jamming these foreign policy changes in an Omnibus appropriations package by a handful of Members at the exclusion of the rest of this body, not to mention the rest of the other body, and not to mention the executive branch, whose jurisdictions these changes fall within, is simply not democratic.

These changes come in the same week that the Senate Foreign Relations Committee's ranking member, and my very dear, distinguished colleague from Indiana, Senator LUGAR, produced a staff trip report. I have seen it quoted as the ''committee's report.'' It is the staff trip report, and I respect that it has some value, but it is not the full committee's undertaking and approval.

The memo suggests some of the very things we see in this omnibus. But instead, in my view of a responsible report, this document presents a loose

set of recommendations based upon a few days of observations on the island by a single source, and none of it quotes the fact that there was an engagement with one human rights activist, with one political dissident, with one democracy activist, with one independent journalist—not one.

Now I ask my colleagues: Does it make any sense that we would see such a basis for a report based upon what are clearly superficial observations, followed by sweeping and untested recommendations about how we should engage with the last totalitarian dictatorship in the Western Hemisphere? Let me point out a few of the main contradictions in that report.

First, the lack of focus on democracy and human rights in the memo was astonishing to me. In a literal and in a legal sense, support for Cuba's prodemocracy movement is at the core of United States policy toward Cuba. It is represented in law under the Cuban Liberty and Democratic Solidarity Act of 1996. The report doesn't even mention the centrality of representative democracy in United States policy toward Cuba and the entire hemisphere. By the same token, the memo does not even mention that the United States of America is the world's—the world's—largest provider of humanitarian assistance to the people of Cuba through both individual assistance and nongovernmental organizations.

This fact makes it indisputably clear: The focus of United States policy is the Cuban people—not its regime—advocating for their freedom and empowering them to bring change.

The way the memo addresses the economic situation on the island is no less of an enormous flaw. On the one hand, this memo claims that economic sanctions have been ineffective, but on the other hand, it says: ''Popular dissatisfaction with Cuba's economic situation is the regime's vulnerability.''

What a contradiction. But it would be even more of a contradiction for the United States to do anything to rescue the regime by improving its economic portion, therefore neutralizing its vulnerability. This report says that ''popular dissatisfaction [that people's dissatisfaction] with Cuba's economic situation is the regime's vulnerability.'' But it would be even more of a contradiction for the U.S. to do anything to rescue the regime by improving its economic fortunes, therefore neutralizing its vulnerability.

Yet that is exactly what one of the recommendations in the memo that is included in the omnibus would do. That suggested policy change would give the Cuban regime financial credit to purchase agricultural products from the United States. On its face, that would seem like a concession to American farmers. We certainly want to see American farmers sell all over the world. But let's think about this for a moment.

Anyone applying for even a small loan in our country right now has to undergo—if their credit record is poor, they would be rejected for that loan. Well, Cuba's credit history is horrible. The Paris Club of creditor nations recently announced that Cuba has failed to pay almost $30 billion in debt. Among poor nations, that is the worst credit record in the world. So I ask: If the Cuban Government has put off paying those it already owes $30 billion, why does anybody think it would meet new financial obligations to American farmers?

Considering the serious economic crisis we are facing right now, we need to focus on solutions for hard-working Americans, not subsidies for brutal dictatorships.

We should evaluate how to encourage the regime to allow a legitimate opening—not in terms of cell phones and hotel rooms that Cubans can't afford to own, but in terms of the right to organize, the right to think and speak what they believe.

However, what we are doing with this omnibus bill is far from evaluation. The process by which these changes have been forced upon this body is so deeply offensive to me and so deeply undemocratic that it puts the Omnibus appropriations package in jeopardy, despite all the other tremendously important funding this bill would provide.

The real reason why so many—and we have seen this barrage of reports that come particularly from outside of this body, whose work, by the way, is often subsidized by business interests—advocate Cuba policy change is about money and commerce; it is not about freedom and democracy.

It makes me wonder why those who spend hours and hours in Havana listening to Fidel Castro's soliloquies cannot find minutes for human rights and democracy advocates. It makes me wonder why those who go and enjoy the sun of Cuba will not shine the light of freedom on its jails full of political prisoners. It makes me wonder how they advocate for labor rights in the United States but are willing to accept forced labor in Cuba. They talk about democracy in Burma, but they are willing to sip rum with Cuba's dictators.

There is another report that came out last week, which I hope this body does not vote on the omnibus bill without reading. It is the State Department's 2008 Human Rights Report. I want to read from it at length, in case my colleagues don't have the opportunity. It says, referring to Cuba's human rights situation:

> The government continued to deny its citizens their basic human rights and committed numerous, serious abuses. The government denied citizens the right to change their government. . . . As many as 5,000 citizens served sentences for ''dangerousness,'' without being charged with any specific crime. The following human rights problems were reported: beatings and abuse of detainees and prisoners, including human rights activists, carried out with impunity; harsh and life-threatening prison conditions, including denial of medical care; harassment, beatings, and threats against political opponents by government-recruited mobs, police, and State security officials; arbitrary arrest and detention of human rights advocates and members of independent professional organizations; denials of fair trials; and interference with privacy, including pervasive monitoring of all private communications.

It goes on to say:

> There were also severe limitations on freedom of speech and press; denial of peaceful assembly and association; restrictions on freedom of movement, including selective denial of exit permits to citizens and the forcible removal of persons from Havana to their hometowns; restrictions on freedom of religion; and refusal to recognize domestic human rights groups or permit them to function legally. Discrimination against persons of African descent, domestic violence, underage prostitution, trafficking in persons, and severe restrictions on worker rights, including the right to form independent unions, were also a problem.

That is the end of the quote from the latest State Department Report on Human Rights—in this case talking about Cuba.

President Obama often repeats what Martin Luther King understood—that injustice anywhere is a threat to justice everywhere. The people of Cuba have never given up on their aspirations for democracy and economic freedom. Now is not the time to give up on them. Because we can't do everything doesn't mean we should not do everything we can.

A new American President does mean an opportunity for change. President Obama, who saw repression in Indonesia when he was a child, promises us this. He said this in a speech in Florida as a candidate:

> My policy toward Cuba will be guided by one word: libertad [that means freedom]. And the road to freedom for all Cubans must begin with justice for Cuba's political prisoners, the rights of free speech, a free press and freedom of assembly; and it must lead to elections that are free and fair.

So here is what I think we can do to help that happen. Much has been written about seeking change in our policy. Let me offer some changes as well, as someone who has followed this his whole life.

In exchange for more liberal remittances to Cuban families, let us insist that the Cuban regime not charge 20 percent of every dollar sent to Cuba. Say I have family in Cuba and I want to send them money to help them out in desperate times, and I send them $100. The Cuban regime takes $20 of that. Why? If you go to Western Union and send money anyplace in the world, it's maybe 3, 4, or 5 percent—not 20. The regime is taking money for itself, denying Cuban families the very opportunity to have more.

Let us also allow remittances, via license, to human rights activists, democracy activists, and other civil society advocates.

Some suggest that there be cooperation with Cuba on narcotics trafficking. Well, let them hand over the 200 fugitives from the United States that the FBI knows are in Cuba, including JoAnne Chesimard, the convicted killer of New Jersey State

Trooper Werner Foerster. Let her come back to the United States and face justice. There are 200 of them.

In exchange for more frequent visits from Cuban-American families who bring money and resources to the island, let us insist that the Cuban regime permit those who want to travel to Cuba and visit human rights activists, democracy activists, independent journalists, and other civil society advocates, be given visas as well.

Today, Members of Congress and others who want to promote democracy and human rights in Cuba, as we do in organizations throughout the world, are routinely denied entrance into Cuba. Those who want to sit with Castro and let him speak for hours about the revolution get a visa. Those who want to go talk to these people in the photos, who languish inside either Cuba's jails or are detained in their homes and are struggling to create democracy, no, you cannot get a visa. They are happy to accept those who bring dollars but not those who speak truth to power.

Let us have the United States offer more visitor and student visas for eligible Cubans to come to the United States to see and live our way of life. Having Americans travel to Cuba could never be as powerful as having Cuban youth see the greatness of our country and its pluralistic, diverse representative democracy. That taste of freedom would be infectious.

In return, we simply seek a commitment from Cuba to accept their citizens' return, and to guarantee the issuance of exit permits for all qualified migrants.

Cuba is one of the few countries in the world that will not permit its citizens to travel even when they have a legitimate visa to do so. And when they give them license to leave, they must pay to do so.

If we want to facilitate the sales of food to Cuba, let us insist they be sold in open markets, available to all Cubans, without it being part of Castro's food rationing plan—a plan meant to further control the Cuban people.

For those who disagree with our policies toward Cuba, let them ask themselves:

What are they doing to promote democracy, human rights, and civil society in Cuba?

What are they doing to support Antunez, Oswaldo Paya, Marta Beatriz Roque, and Oscar Elias Biscet?

What are they doing to cast an international spotlight on Cuba's valiant human rights activists, Cuba's equivalents of Aleksandr Solzhenitsyn, Vaclav Havel, or Lech Walesa?

Do they sit back as they languish in jail or are harassed or do they invite them to their embassies in Cuba, to speak in their countries about their struggles for freedom? Do they raise the issue of human rights in Cuba with the Castro regime? Do they cast a spotlight on these people, as we did in Poland with Lech Walesa, or in the former Czechoslovakia with Vaclav Havel, and with Solzhenitsyn?

In pursuing any proposal or policy change, we have to recognize, as President Obama made clear to repressive regimes throughout the world in his inaugural address, that we extend a hand if they are willing to unclench their fist. However, if the omnibus bill is signed by the President as is, he will be extending a hand while the Castro regime maintains its iron-handed clenched fist.

During his Presidential campaign, then-Senator Obama promised this. He said:

> I will maintain the embargo. It provides us with the leverage to present the regime with a clear choice: If you take significant steps toward democracy, beginning with the freeing of all political prisoners, we will take steps to begin normalizing relations.

He said:

> That's the way to bring about real change in Cuba—through strong, smart and principled diplomacy.

That was the policy that Americans understood he would pursue when they voted for him.

I believed then that Candidate Obama meant what he said, and I believe now that President Obama intends to remain true to his word.

Following our conscience and our laws, we simply cannot let up our pressure on the regime without seeing symbols of progress.

The United States and the international community must continue to work diligently to help bring freedom to Cuba. But we cannot forget how many valiant efforts have come within Cuba itself, how decades of fear and repression have also led to acts of courage. I stand here today in solidarity with all of those brave Cubans who have sacrificed and shown remarkable courage so that one day the Cuban people will finally know the basic blessings of liberty that we are entitled to as human beings and that we in this Nation enjoy.

Just days ago, 130 Cubans kept vigil outside of the Placetas Hospital, waiting for news about the condition of a young activist, Iris Tamara Perez Aguilara, who had gone into hypoglycemic shock after a hunger strike to protest the regime.

This is not the best picture, but it is what we got out of Cuba. It is a picture of some of them talking about:

In this home live those who are having a hunger strike for peaceful change and for respect for human rights and specifically talking against the torture of one of their colleagues.

She has been joined in her hunger strike by her husband Jorge Luis Garcia Perez ''Antunez,'' along with Segundo Rey Cabrera and Diosiris Santana Perez. They have avowed to continue their protest until the torture of political prisoner Mario Alberto Perez Aguilera, held at the Santa Clara Provincial Prison, ceases immediately. They will continue their protest until he is taken out of a tiny solitary confinement cell, until he is no longer beaten and forced to starve, until the regime allows Antunez's sister, Caridad Garcia Perez, to rebuild her home destroyed by the hurricanes last year, which they have not allowed as further punishment to these activists.

Imagine that: Your home is lost in a hurricane. You want to rebuild it, and the regime stops you from being able to rebuild the home as further punishment because of your peaceful efforts to try to create change and respect for human rights in the country.

When Iris emerged from the hospital the other day, the Cuban citizens waiting outside surrounded her to express their thanks and support for what she was doing. They hoped she would keep up her work for an organization named after an American pioneer they deeply admire. It is called the el Movimiento Feminista de Derechos Civiles Rosa Parks—the Rosa Parks women's civil rights movement.

The hundreds of political prisoners and all Cubans who live with the daily chains of political repression have shown their commitment that Cuba will change, and this change will come from within, from the Cuban people. But they need our help. We must continue to fight here to do what we can to empower them. We must continue to acknowledge them when they empower themselves.

Let me close with what President Obama has quoted. He quoted Jose Marti who once wrote:

> It is not enough to come to the defense of freedom with epic and intermittent efforts when it is threatened at moments that appear critical. Every moment is critical for the defense of freedom.

This year, 50 years later, Cuba is still in the cold winter of poverty and oppression. But I hold up hope that people all around the world, and most importantly within Cuba itself, will use this remarkable moment and every moment, as they are doing, as these men and women are doing, to bring about a new birth of freedom, to rise up in a groundswell that will thaw the frost of tyranny and bring about a spring of hope and change—change the Cuban people can believe in, change that they are praying for.

I yield the floor.

The PRESIDING OFFICER (Mr. WARNER). The majority leader.

Mr. REID. Mr. President, before my friend leaves the floor, I have had the opportunity to listen to not all but 80 percent of what he said. I had meetings going on in my office, and I had not been able to watch it all.

As the distinguished Senator from New Jersey knows, I have locked arms with Congressman and now Senator from New Jersey for many years. In fact, my votes in years past have not always been in the majority, but they have always been something I felt comfortable doing and still feel comfortable doing.

I appreciate the statement made by my friend from New Jersey. I am committed to work with him to see what

we can do to resolve the injustice that is taking place 90 miles off the shore of America and, once and for all, give those people who live in Las Vegas—people do not realize the largest number of Cuban Americans live in Florida, next is New Jersey, and, surprisingly, next is Nevada.

I worked with my friends there, Tony Alamo and many others, over the years to try to bring justice to an unjust system. I appreciate very much the statement made by my friend from New Jersey. I look forward to working with him on all other issues.

Mr. MENENDEZ. Mr. President, will the majority leader yield for a moment?

Mr. REID. Yes.

Mr. MENENDEZ. I wish to thank the distinguished majority leader for his longtime support for the Cuban people, for taking the votes and positions when it is not within the popular mainstream. And I appreciate his expression of support today as a continuation of that long history. He has my personal admiration. More importantly, those who are struggling for freedom and democracy inside Cuba appreciate it as well.

Mr. REID. Mr. President, Virginia, Nevada, New Jersey, and the other 47 States are well served by my friend from New Jersey.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. WICKER. Mr. President, tomorrow I will rise to offer a pro-life and pro-child amendment to the fiscal year 2009 Omnibus Appropriations Act. But more than that, it will be an amendment that is profreedom that follows in the line of reasoning of my friend and my colleague from New Jersey. It is anti-oppression, prowoman and anticoercion.

My amendment tomorrow will restore the Kemp-Kasten anticoercion population control provision that has been a fundamental part of our foreign policy for almost a quarter of a century.

Since 1985, the Kemp-Kasten provision has denied Federal funding to organizations or programs that, as determined by the President, support or participate in a program of coercive abortion or involuntary sterilization. Should my amendment be adopted, then President Obama would be able to make an official determination as to whether organizations engage in such coercive practices.

The Kemp-Kasten amendment has been included in appropriations bills without substantial changes for 23 years, until today. Perhaps at this point it would be helpful to my colleagues if I outlined the differences between the Mexico City policy and the Kemp-Kasten provision.

Already, as one of his very first acts as President, President Obama chose to nullify the so-called Mexico City policy. The Mexico City policy said the United States would not federally fund groups that promote or provide abortion as a method of family planning. According to a Gallup poll released last month, overturning this pro-life policy was the least popular of the President's actions in his first week in office. Only 35 percent supported funding groups that promote or provide abortions as a method of family planning, and 58 percent oppose this new Obama administration policy.

I disagreed with President Obama on his Mexico City policy. I think most Americans, frankly, disagree with President Obama on this Mexico City decision. I think most Americans would rather not spend taxpayer dollars on international organizations that promote abortion as a method of family planning.

Having said that, I am not surprised by the President's decision. He ran, frankly, as a pro-abortion candidate. Senator MCCAIN ran as a pro-life candidate. I think the decision in the election came down to other issues. Elections have consequences, but can we not all agree that forced abortion is wrong? Can we not all agree that coerced sterilization is wrong? That is what Kemp-Kasten has stood for for almost a quarter of a century.

Regardless of how Senators come down on the pro-life or pro-choice debate, can we not all at least agree on this one proposition, that the United Nations should not be able to spend American tax dollars on coercion in the name of family planning? That is the issue dealt with in Kemp-Kasten, and that is the only issue addressed in my amendment.

Here is what the bill language currently does. It purports to retain Kemp-Kasten, but then goes on to direct funds to the United Nations Population Fund ''notwithstanding any other provision of law.'' ''Notwithstanding any other provision of law''—these six words, in effect, nullify the Kemp-Kasten anticoercion provision. It is either contradictory or purposely deceptive that one portion of the omnibus bill purports to retain Kemp-Kasten while another paragraph has the real effect of gutting Kemp-Kasten.

One might inquire: Why does the majority party not trust a President of their own party to make a determination about whether U.N. funds are provided to coercive abortion programs? Surely a majority of this body does not favor funding UNFPA even if the organization is engaging in coercion. Surely we can all agree on that. Perhaps not.

The truth is, the U.N. Population Fund, UNFPA, has actively supported, comanaged, and whitewashed pervasive crimes against women in the guise of family planning. Just last year, the U.S. State Department found, once again, that the UNFPA violated the anticoercion provision of Kemp-Kasten and, accordingly, reprogrammed all funding originally earmarked to the UNFPA to other maternal health care and family planning projects.

The most recent State Department report on UNFPA activities in China shows that UNFPA funds are, indeed, funneled to Chinese agencies that coercively enforce the one-child policy.

What has changed in less than a year? Are we to believe that all these organizations have suddenly shifted their policies? This bill gives UNFPA a 25-percent funding increase and a deadly exception.

What has really changed is that we have a new administration with a pro-abortion agenda. I don't think coerced abortions were what the American people voted for last November. Creating this exception specifically for UNFPA makes a mockery of longstanding U.S. policy to protect human rights abroad. If we cannot stop the abuse in other parts of the globe, at the very least we should not be encouraging abuse with U.S. funds. We should be pressing the UNFPA to conform to human rights standards, instead of trying to change human rights standards to conform to the oppressive Chinese population control program.

By creating a loophole for UNFPA, we regrettably send a message to oppressive governments that coercive abortion is not a serious concern for American citizens. This message could not be further from the truth.

I urge my colleagues tomorrow to support the Wicker amendment and continue our longstanding policy against coercive abortion. Let's continue the time-honored Kemp-Kasten policy.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. THUNE. 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. THUNE. Mr. President, I ask unanimous consent that two amendments that I have filed at the desk to H.R. 1105 be called up and made pending.

The PRESIDING OFFICER. Is there objection?

Mr. INOUYE. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. THUNE. Thank you, Mr. President. If I might speak to one or both of these amendments, one in particular right now that I would like to reference, let me start by saying that H.R. 1105, which is under consideration now by the Senate, is yet another voluminous document, not unlike the stimulus bill we considered a couple of weeks ago. This one actually is 1,122 pages long and represents over $400 billion of spending by our Government. The fact that it is this long and represents several hundred million dollars per page here of spending would suggest that it ought to be legislation that is given a lot of consideration in the Senate, on which many amendments can be offered and different points of

view expressed. It would appear that process is going to be short-circuited on this bill and that we are not going to have the opportunity to offer amendments to it.

With regard to the general bill itself, I would simply point out what a number of my colleagues already have; that is, this appropriations bill, although having passed a trillion-dollar stimulus bill a couple of weeks ago, still represents over an 8-percent increase over the previous year's level.

So 2009, fiscal year 2009, which we are currently in, this is work that did not get completed last year by September 30, which is the end of the fiscal year. So we passed a continuing resolution that expires on March 6; therefore, the reason we have to be before the Senate trying to pass nine appropriations bills that were not completed in the form of this 1,122-page Omnibus appropriations bill. But an 8.3-percent increase over the same nine appropriations bills that were passed last fiscal year, after having already passed over $1 trillion in the stimulus bill, much of which will be directed to the agencies that will receive the plussed-up funding under this bill. But over 8 percent is more than twice the rate of inflation. So having passed a trillion-dollar stimulus bill, we are now coming on the heels of that and taking up a piece of legislation that is going to increase Federal spending by over 8 percent over last year's spending level.

That would suggest that this is something we ought to take a little time with because many of the agencies that are funded under this appropriations bill already received huge infusions of new funding in the stimulus bill. The Labor, Health, and Human Services-Education bill, along with the stimulus bill, and the funding that is included in this bill, will receive a 99-percent increase in funding over last year. There is another appropriations account that will get a 150-percent increase over last year's appropriated level. These are gargantuan increases in funding.

It would seem to me that we ought to at least be able to bring this appropriations bill in at last year's level. There is going to be an amendment, perhaps one already offered by Senator MCCAIN, to extend the continuing resolution which would save taxpayers over $32 billion because that would represent the 8.3-percent increase that is included in this bill on top of all the additional funding that many of these agencies are going to receive as a result of the stimulus bill.

I regret the fact that the majority is not going to allow us to offer amendments to this bill. It would appear they want to move this quickly. I can see the rationale for that, when you are spending this amount of money in this short of a time period. The more the American people have an opportunity to see what is in it, the more concerned and the more resistance would build and you would see a tremendous at-the-grassroots level movement to try and stop this kind of spending spree we have seen in Washington. I would hope the process will be opened whereby Members on both sides can offer amendments to this bill that can be considered and perhaps voted on and maybe even bring some fiscal sanity to it by getting us back into a form that actually would save the American taxpayers a significant amount of money, after we have just asked the American taxpayers and our children and grandchildren to fund a stimulus bill to the tune of over $1 trillion with interest and much more than that, over $3 trillion, if much of the spending in that bill is continued and not terminated in the 2-year period for which it was intended.

I wanted to speak to an amendment that I have filed at the desk and asked to have made pending, which was objected to by the majority—again, an indication of how amendments are going to go on this piece of legislation. I offer this amendment because last week 87 Members of the Senate voted to uphold our first amendment rights by supporting a statutory prohibition of the so-called fairness doctrine. This amendment was accepted as part of the DC voting rights bill, which is currently awaiting action by the House of Representatives.

My concern is that once the House considers this bill, whenever it may be that the Senate and House versions get conferenced together, that provision will no longer be part of the final DC voting rights bill. I am hopeful the DeMint amendment is retained in the final version of the DC Voting Rights Act, but I am fearful it will be stripped out behind closed doors.

I filed an amendment at the desk to the Omnibus appropriations bill that would prohibit the FCC from using any funds to reinstate the fairness doctrine during the remainder of fiscal year 2009. If this amendment is accepted to the omnibus bill, the 87 Senators who last week supported this prohibition will have assurances that the fairness doctrine will not be reinstated for the remainder of this year, regardless of whether the DeMint amendment remains part of the DC voting rights legislation.

By way of background, many of my colleagues heard this discussion last week, but the so-called fairness doctrine has a long and infamous history. The FCC promulgated the fairness doctrine in 1949 to ensure that contrasting viewpoints would be presented on radio and television. In 1985, the FCC began repealing the doctrine after concluding that it actually had the opposite effect. They concluded then what we all know today: that the fairness doctrine resulted in broadcasters limiting coverage of controversial issues of public importance. Recently, many on the left have advocated reinstating the doctrine, arguing that broadcasters, including talk radio, should present both sides of any issue because they use the public airwaves. However, recent calls to reinstate the fairness doctrine fail to take into account several considerations.

The first is, in reality the fairness doctrine resulted in less, not more, broadcasting of issues of importance to the public. Because airing controversial issues subjected broadcasters to regulatory burdens and potentially severe liabilities, they simply made the rational choice not to air any such content at all.

Second, the number of radio and TV stations and the development of newer broadcast media such as cable and satellite TV and satellite radio have grown dramatically in the past 50 years. In 1949, there were 51 television and about 2,500 radio stations. In 1985, there were 1,200 television and 9,800 radio stations. Today there are nearly 1,800 television and nearly 14,000 radio stations. There is simply no scarcity to justify content regulation like the fairness doctrine.

The third observation is that the development of new media, social networking, and access to the Internet has changed media forever. Supporters of government-mandated balance either ignore the multiple new sources of media or reveal their true intention, which is to regulate content of all forms of communication and ultimately stifle certain viewpoints on certain media such as talk radio.

The fourth observation I would make is this: Broadcast content is driven by consumer demand. Consumers of media show whether they are being served well by broadcasters when they choose either to tune in or turn off the programming that is being offered. The fairness doctrine runs counter to individual choice and freedom to choose what we listen to or see on the air or read on the Internet. The fairness doctrine should not be reinstated.

Last week, the Senate acted in a strong bipartisan manner in opposition to the fairness doctrine. What I am asking the Senate to do is to consider one additional measure to ensure that our first amendment rights are protected and that consumers have the freedom to choose what they see and hear over our airwaves. This amendment ensures that the FCC does not use any resources to reinstate the fairness doctrine through the end of the fiscal year until a more permanent solution can be reached through a statutory prohibition.

It is a very straightforward amendment and one that follows along the lines of the debate held last week. I wish I was confident that the prohibition on reinstatement of the fairness doctrine that was included last week in the DC voting rights bill would be retained in the conference with the House. I have reason to believe that will be stripped out, and this is one additional way in which this body can weigh in and ensure that the fairness doctrine is not reinstated, not put back into effect, and that American consumers have the freedom to choose

what they want to see and what they want to hear over our airwaves.

I hope at some point I will be able to get it pending, to perhaps have a vote on it. It would be unfortunate on a bill of this consequence and magnitude, when, again, we are talking about 1,122 pages of this legislation, all of which is spending another $400-some billion—$410 billion or thereabouts in additional spending on top of the $1 trillion stimulus passed a couple weeks ago—that we would have an opportunity at least to offer amendments, to debate amendments, to get amendments voted on, and this is one that I would like to have a vote on. It would certainly be my sincere hope that the majority at some point would open the door to those of us on both sides who would like to have amendments voted on which, frankly, could improve the bill. There will be others that will be offered and, hopefully, considered which will get at the overall size and cost of the bill which, as an 8.3-percent increase over last year's appropriated level, last year's spending level, a $32 billion increase over last year's level, is an enormous amount of money in light of all the spending that is going on around here.

I might mention as well, that is the largest 1-year hike in annual appropriated spending since the Carter administration. What we are talking about is 8 percent, over 8 percent, more than twice the rate of inflation, but also the largest 1-year hike in annual appropriated spending since the Carter administration. That is, again, on the heels of $1 trillion spent a couple of weeks earlier, much of which was directed at these very same agencies of Government that will receive funding under this 1,122-page bill.

We need to open this process. We need to be able to offer amendments. We need to get amendments voted on. It would certainly be my hope that would be the case.

I have one other amendment which I will speak to perhaps tomorrow which would move some money from one account to another to fund something that was a very important priority the Congress established last year during the PEPFAR debate. I offered, along with Senators DORGAN and KYL, Senator Clinton and a number of others, an amendment that carved a couple billion out of that $50 billion authorization for needs on Native American reservations; specifically directed to law enforcement, which is a security issue; to health care, which is something that is desperately lacking on many reservations; and at water development—all critical needs and all important priorities and things we ought to be concerned with.

I would move money from another account in this bill to actually provide funding for the authorization that Congress created as part of the PEPFAR bill a year ago. This ought to be a priority for the Congress. We are talking about spending this amount of money and funding all these various accounts and agencies. We certainly ought to find room to fund some of the priorities that were created as a result of the PEPFAR legislation.

I will be offering that amendment as well and will also be requesting that it be made pending and that we have an opportunity to vote on it. It would seem to me that many of the other amendments that Members on our side would like to offer, as well as Members on the other side would like to offer, ought to be able to be put before the Senate and voted upon in an attempt to try to make this bill stronger and better. We all have different ideas about how to make this a better bill. I hope the majority will allow us to do that.

I yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. REID. Mr. President, I ask unanimous consent that when the Senate resumes consideration of H.R. 1105 tomorrow, Tuesday, March 3, the time until 11:45 a.m. be for debate with respect to the McCain amendment No. 592, with the time equally divided and controlled between Senators INOUYE and MCCAIN or their designees, with no amendment in order to the amendment prior to a vote in relation to the amendment; that at 11:45 a.m., the Senate proceed to a vote in relation to the amendment No. 592.

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

Mr. REID. Mr. President, while I have two of my Republican colleagues on the floor, and others, of course, listening, I have been told by the Republican leadership there is a number of extremely important amendments from the minority's perspective. No. 1 is this amendment that Senator MCCAIN has offered. Another one that comes to my mind is one that a number of people on the other side of the aisle have talked about often, which would lower the amount of spending to the CR level. I do not how much money that is. So we are waiting for someone to offer that.

We heard a presentation made by Senator WICKER this afternoon that he has an abortion-related amendment. We understand Senator VITTER has an abortion-related amendment. I have had several conversations today with Dr. COBURN, and he has been very constructive in working with us in coming up with four amendments, none of which I like. But there are four amendments, and we are going to work our way through these, where people have ample time to talk about them, as soon as we can.

But I thought it was important, before we have our caucus tomorrow, to at least get this one amendment the minority feels very strongly about. We will work our way through this and see what happens tomorrow.

There is no end to amendments that could be offered on this bill. This is a very big bill. It is nine subcommittees. I hope everyone would focus on what would happen if we could pass this bill. It would be good for the institution. We could get back to a process where we do 12 individual appropriations bills. That would be so important because this is not the way to legislate, having these great big bills. We have done it in the last several years, and it is not in keeping with—I am no longer a member of the Appropriations Committee, but I was on the Appropriations Committee for a quarter of a century, or something like that. It is a wonderful committee. But it has not been doing the job it is supposed to do for this institution.

So I hope we, by the end of this week, can pass this omnibus bill. I want to make sure the minority has the opportunity to offer amendments. But as I have indicated, there will come a time sometime when we will have to stop amending and try to get the matter passed. But that will come at a later time.

Mr. THUNE. Mr. President, will the leader yield for a question?

Mr. REID. Mr. President, I am happy to.

Mr. THUNE. Mr. President, I will simply ask, through the Chair, if I might: The leader talked about being able to offer amendments. I have filed a couple amendments. Is there some point at which—you mentioned the one amendment you have an agreement on now that will be voted on tomorrow—where other amendments will be able to be made pending and voted on, that Members will be able to get their amendments actually—

Mr. REID. The answer, through the Chair to my friend from South Dakota, is, yes, we are going to try to get to as many amendments as we can. With a bill as complex as this, we cannot stack up endless amendments, so we are going to have to work out a process where if we stack amendments, they will have to be few in number. And ''few'' is in the eye of the beholder. But the answer to the Senator's question: There is no reason that I know of—I do not know the subject matter of the Senator's amendment or amendments—but I have no reason to believe that we should not be able to get to his amendment.

Mr. THUNE. I thank the Chair.

Mr. REID. The point I am trying to make is, we are not trying to avoid voting on tough amendments. I have outlined to you some pretty difficult amendments. Dr. COBURN did not think up his amendments riding the subway over from his office in one of the office buildings. A lot of thought has gone into his amendments, and they are very difficult amendments. I would like to avoid them, but I do not see any reason how I can do that. So in answer: I repeat, there will be time for amendments. It is just a question of when there will be enough time. Certainly tomorrow. And I hope we can work through these on Wednesday and have a better feel where we need to go.

Mr. THUNE. Through the Chair, I thank the leader for his answer. And I will be available. Mine are filed, and I would love to get them actually up.

Mr. ALEXANDER. Mr. President, I understand the majority leader may want to close, and I am happy to wait until he does, if he wishes.

Mr. REID. Mr. President, I have been told we can do what we call wrap-up. It will take a minute or two. If my friend from Tennessee would withhold, we will rip right through this.

Mr. ALEXANDER. Mr. President, I will be delighted.

The PRESIDING OFFICER. The majority leader is recognized.

MORNING BUSINESS

Mr. REID. Mr. President, I now ask unanimous consent that the Senate proceed to a period of morning business, with Senators allowed to speak for up to 10 minutes each.

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

IDAHOANS SPEAK OUT ON HIGH ENERGY PRICES

Mr. CRAPO. Mr. President, in mid-June, I asked Idahoans to share with me how high energy prices are affecting their lives, and they responded by the hundreds. The stories, numbering well over 1,200, are heartbreaking and touching. While energy prices have dropped in recent weeks, the concerns expressed remain very relevant. To respect the efforts of those who took the opportunity to share their thoughts, I am submitting every e-mail sent to me through an address set up specifically for this purpose to the CONGRESSIONAL RECORD. This is not an issue that will be easily resolved, but it is one that deserves immediate and serious attention, and Idahoans deserve to be heard. Their stories not only detail their struggles to meet everyday expenses, but also have suggestions and recommendations as to what Congress can do now to tackle this problem and find solutions that last beyond today. I ask unanimous consent to have today's letters printed in the RECORD.

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

I am writing to you to help you see the impact that the recent rise in energy costs in this country has done to my family and many other hard working, middle class families in this great State. My wife of ten years and I have been blessed with four wonderful children and have chosen Idaho like our fathers before us as the place we want to raise our children. We love the outdoor recreation that this area affords us. We like to camp and enjoy many motorized recreational activities. We also live in an area where driving is needed for my employment and necessary for everyday survival. Idaho does not have a large amount of public transportation. Our population base does not support it. With many kids I drive a Suburban which is out of necessity, not indulgence as many may think. We need the four-wheel drive for our winters here and the room for all of our children. It is a great way to have one vehicle for all seasons.

Please begin to drill offshore and in ANWR right away. I believe that with increased production and additional refineries we can make a lasting positive effect on the supplies of oil and gasoline in this country for generations to come. I also plead with you to build more nuclear plants which offer the most clean, high output energy we can produce. We are way behind in this area also considering other countries who generate most of their power with Nuclear Energy. I believe we should take care of our own needs and when I hear that we have more oil reserves than all of the Middle East combined I feel as though our enemies are within not without. If Congress is waiting for a time to act on this, it is now. If our reserves are available and silly legislation is keeping us from them, we need a new group of leaders who are willing to protect the interests of U.S. citizens over all else. Our country is strong but we need affordable energy to stay ahead of the game. I do not mean subsidized energy, for that will only be paid in taxes instead of at the pump. Increase the supplies and sell it to us, and restrict sales to other outside countries. Allow less regulation on refineries, and drilling rigs to promote U.S. companies involvement in increasing the supplies needed now.

SCOTT, *Idaho Falls.*

I do not need to tell you a story—they are all the same everywhere. We need to drill in the United States now. We are crippled by our own inaction. The longer we do nothing the longer there will be no relief in sight for high fuel and natural gas prices. We have not seen the worst I am sure. We also need to build oil refineries, nuclear power plants, liquefy coal and expand wind farms. We need to stop diverting precious farm land to ethanol production. Ethanol has turned out to be a huge, wasteful mistake. It uses far too many non-renewable resources to produce a gallon. The net effect is nothing in terms of reducing our dependence on foreign oil and look how it has affected the price of food and will continue to do so. To summarize: Drill here, drill now, pay less. Thank you sir for asking Idahoans for their opinion.

PAM, *Homedale.*

I listen every day to the news, telling me how much oil prices rose overnight and how much of an increase I will expect to see at the pump. Each time I hear a one cent or two cent rise, I panic. Not for myself, but for my family. My parents own a ranch in small town Idaho, where fuel prices exceed even our big city imaginations.

I wonder how they will afford to fill the tractors to plow fields to make the corn that our nation loves to consume. I wonder how they will be able to haul the cows to market in order to sell them for pennies, barely enough to cover the fuel of hauling them.

Then I hear the government saying they should switch from diesel trucks to smaller cars . . . I have never seen a hybrid that can pull a stock trailer with 12 cows. I hear the government say no more drilling in Alaska, yet they also say we will run out of oil soon. I listen to economists say that our economy is on the downfall. Gas prices rise, food prices rise, Idaho minimum wage stays the same, they continue to develop on the farmland that could provide food for cheaper prices. What are you doing in Washington that is helping middleman America? Nothing and, by doing so, you are killing the America dream one gas pump at a time.

You ask for opinions, but where's the change? By allowing oil companies to monopolize the industry, the American people have no way of overcoming the fuel shortage.

Ways you can help:

Open oil reserves in Alaska.

Put a price cap on the cost of fuel, forcing lower profit margins for big business oil companies.

Provide an incentive for creating alternate fuel sources that can meet the needs of ALL Americans (including farmers and ranchers).

Make hybrid cars more affordable and give incentives to those who want to purchase one.

Stop giving economic stimulus checks for $600 to the richest and only $300 to the poor/middleman. The middle American needs the $600 more than the person that made $30,000 last year.

TERRA.

The only real solution to high energy prices is to consume less. I am using less diesel myself by planning trips carefully, carpooling, walking and biking. I see many others in Boise doing the same. I support a higher federal tax on carbon-producing energy sources, with the revenue used to support rail shipping and travel and transit.

MARILEE, *Boise.*

Wow, it almost sounds like you are running a commercial for the oil and gas or the nuclear industry. Yes, energy price increases have hurt all Americans, but part of the blame lies with the oil/gas and nuclear industry as well as the average Joe, who have continued to buy gas-guzzling vehicles, buy huge homes that are 40–60 miles from their work location. The oil and gas industry has done little to expand capacity and have repeated huge profits in recent history.

I have a diesel pickup that rarely moves, only when pulling the horse trailer or hauling the flat bed trailer to move hay, etc. I use coupons at the store whenever possible because of the rising food costs, and we have cut back on going out to dinner, movies, etc.

But drilling oil in the Arctic or off the coast is not going to solve the problem; the Alaska Pipeline was supposed to solve the oil crises when it was built.

Every day I commute from Nampa to Boise. I wish I could find someone to commute with or work from home, but the work just does not allow it. But I know lots of people speeding done the highway, who are driving alone in their cars to the same work location, and Idaho has done virtually nothing to conserve fuel, no HOV lanes, no rapid transit, metered on ramps, fact is the Idaho legislature is doing everything they can to prevent finding ways to conserve previous recourses and the U.S. Congress has done little to help. Congress has repeatedly voted not to increase the average fuel economy of vehicles until recently or assist with mass transit projects. Our rail system is falling apart, and Congress is not helping. Moving products by rail is one of the most economical ways to move material.

Yes, we need to get a handle on high fuel prices, but the best way is to reduce demand. I would support limited drilling for oil and gas, and development of nuclear energy but relaxing regulations is not the way, we need to ensure lots of oversight to make sure it is done right. I have seen hundreds of dead migratory birds caught in oil overflow ponds at drilling sites. I have witnessed the mining industry use toxic waste product as a soil binder on county roads. I have seen companies contracted to build interstate highways steal sand and gravel from the U.S. government, so I have no faith in industry.

So, please, find a real solution that works. Thanks.

ROB, *Nampa.*

I am writing in regards to your request on how the energy prices have affected our

household. It is hitting us hard, my husband works construction and is not getting the hours that he got last year so we are on a lower budget than ever. We used to do a little traveling, not far but weekend trips to livestock shows and to see friends, but now a trip to the grocery store is about all we get to do. No quick trips to the store, if we need something it waits until we have a good list. We used to eat out a couple times a week since we both work, and that does not happen often either anymore. We have sold all but a handful of our animals (South African Meat Goats and dairy goats) due to what the feed increases are.

The other thing that is amazing to us is that, in 1991, when we bought a Geo Metro, it got 60 mpg easily. Why is it that the manufacturers cannot do that now unless it is a ''hybrid''. If they could do it 17 year ago, what is the problem now? This is just my 2 cents.

LAURI, *Blackfoot*.

Thank you for asking for our input. The energy crisis is hitting our family particularly hard because of the slowdown in the economy. I am a self-employed architect, and, though we had a good year last year, the slowdown has brought our firm to a standstill. I share this because as the fuel prices rise, they affect every sector of our economy. Because our work has decreased, this means even more money needs to go to higher fuel and utility costs, money which we do not have right now.

I suggest that instead of Congress blaming the President for not having an energy policy that they look themselves in the mirror and ask themselves why they continue to vote in such a way that keeps us in bondage to oil from overseas. If Congress could address this one issue in a unified manner, maybe then their job approval rating would not be lower than the President's job approval rating as it is right now.

The bottom line is this: we must become energy independent from countries that support terrorism and are not in the best interests of the US. This means increasing US Oil drilling, production, refining, distribution, and increasing our research (working with Oil companies) to create alternatives to oil to run our country: such as hydrogen fuel cells, electric hybrids, etc. We must be able to drill in ANWR, oil shale in Colorado, Utah, and North Dakota; oil in Wyoming, oil in the Gulf, etc. At the same time, we need to transition out of using oil into other energy sources: nuclear, etc. No decision now is still making the decision to procrastinate. Procrastination is not an option.

BRIAN, *Boise*.

As an average American citizen making just under $30,000 a year, skyrocketing gas prices are hurting the pocketbook. A full tank of gas is costing around $55, which is just crazy to think. It is hard to imagine that just ten years ago gas prices in the state of Idaho averaged $.96 a gallon. With a recession looming, the dollar growing weaker by the day, and unemployment rates on the rise it is a scary time for America. One solution that I can see to help with the gas prices is by suspending all sales of oil on the futures market. It is evident that forecasts by the speculators are driving the prices sky high. While investors are making money on these hedge fund investments, millions of Americans are suffering from paying these high prices. My solution would be to suspend all oil sales on the futures market for 3 to 6 months just to see what effect it would have. I believe it is the speculators that are driving the prices with their forecasting of a bad hurricane season or low supply of oil available they are the ones that are the problem. They are the reason for the high prices of oil. By suspending the sale of oil on the futures market this would take them out of the equation and hopefully stabilize the prices. Even by just setting a limit on prices of oil sales per barrel would help stabilize the high prices of gasoline. Overall this is just another example of the rich getting richer and the poor getting poorer.

KENNETH.

I appreciate the opportunity to share how fuel prices are impacting our family. We are one of the many that own a diesel truck and have been impacted in a very big way. We purchased our diesel in the summer of 2005 and the price of fuel was $2.11/gal and, as you know, today it is $4.85/gal. That is a 130% increase in the cost of fuel! And to further compound the increase in cost, tighter emissions restrictions have been implemented. When we purchased out truck we were able to get 23 mpg and now that the ultra low sulfur fuel has been mandated our economy has dropped to 17 mpg. That is a 26% reduction in economy. As an engineer, I have a difficult time seeing the reasoning behind reducing the pollutants per gallon to only decrease mileage which ultimately increase the amount of pollutant per mile driven. This is very apparent on the new diesel trucks which are struggling to get 12 mph because of the emission controls. I have to ask the question is more than a 50% reduction in pollutants to justify the 50% reduction in economy. There is something that could be done right now and that is to relax the emission on diesel fuel so many families and the trucking industry would get an immediate increase in economy. We saw this during Katrina when the restrictions were lifted, our economy went back up to 23 mpg. Americans would see this relief immediately.

Our family has taken many measures to help offset the cost of the increasing fuel prices. We have basically parked our truck and become a one car family. We cancelled our kids swimming lessons and our spring/summer outdoor activities (camping, fishing, and hunting) to reduce the cost of fuel. In addition to limiting our driving we have stopping eating out (fast food and sit down) and other non-essential activities. We are fortunate to have planned extra budget for unaccounted costs, however, the increase fuel costs have taken all the extra and we as a family are extremely concerned that Congress is unwilling to act and make the difficult choice.

What has to happen to have Congress understand the simple principle of supply and demand? I, like many Americans, would like to be able to use a cleaner energy source but, until one is viable with a sound delivery network in place, we have to use the one we have and that is oil. And with the world's political climate, we also strongly believe it is a matter of national security to become less dependent on others for oil.

We strongly support expanding oil exploration and production in the United States. We also strongly support drilling in protected areas of Alaska. We agree with Ted Stevens when he points out that we as Americans would have that million barrels a day right now if President Clinton would not have vetoed the bill. People that are against drilling in Alaska simply do not understand how little an impact is has on the area. I challenge any person to visit the North Slope and see the operations there and see how exploration is done with little to no impacts with ice roads and the modern techniques. As an Idaho family, we strongly support all measures that will increase the domestic supply of oil. Thank you for your hard work in this effort.

CORTNEY and LORI, *Star*.

You asked for a line or two as to how the energy expenses have affected our lives. Certainly via the pocketbook, but equally in lifestyle and choices we make. I have reached a time in my life that I wanted to see some of our country that I have not yet been privileged to see. I wanted to drive across Montana and see the Big Horn Battlefield and on to the Black Hills. Drop into Nebraska to see family, then who knows wherever we ended up. Not now. I cannot afford to spend a thousand dollars or more on fuel. I realize that there are new automobiles that are more fuel efficient, only $20,000–$30,000+) but if we find ourselves upside down now on a Ford F150 truck that gets 15–18 MPG and nobody wants to buy it because it cannot get 30+ MPG you adjust. Trips now will consist of short radius excursions. Long distance is out. Such ventures are not economically possible. Fuel expense as a percentage of my income has risen notably. The more affluent folks can fill their tanks and shake it off. Some of us feel more than a pinch.

We also are associated with property under the current CRP program in Power County. Once CRP is removed and the land is resolved to be put into production it will take 3–4 years to prepare the ground for planting. All with no return income in return. Dry land farming has never been a high profit endeavor, but with the expense of the machinery and the 100+% increase in fuel, the small farmer will undoubtedly be out of business—out of business being the operative phrase here.

I worry for our country if we are indeed slaves to foreign oil and big money refuses to allow a phase-out. We are not a nation of sheep, or are we? We have the technology to fuel our autos using water for crying out loud. Why is not this technology in use? Who is stopping it from becoming an affordable reality? I have asked such questions before of our representatives and have never received a response. Maybe you could be the first. Thanks for listening.

DAN, *Idaho Falls*.

Unfortunately our family has had to cancel our vacation and any other fishing trips this year. In fact, we will not venture out to any of Idaho's beautiful cities this summer. The cost of fuel and food and our daughter's education have us questioning if we will be able to make ends meet. New technology for transportation will come too late for most working citizens, That is why we need to drill for oil now before the platforms have other countries flags flying.

RANDY.

The story is the failure of Congress to act in the interest of the American public. Congress continually is bowing to the environmentalist (how they became the majority is beyond me). The current gas price just shows another failure of government. There is an old saying ''Lead, follow or get out of the way''—[it seems like our country is failing on all three.]

When you sit down at dinner tonight, think about the 85-year-old couple who retired 20 years ago and are drawing Social Security in the amount of $980 month. How would you put food on the table, pay for health care, housing, transportation and enjoy your golden years. The story is the failure of Congress to act beyond personal interest.

DEAN.

ADDITIONAL STATEMENTS

TRIBUTE TO BETSY J. KEELING

• Mr. CARPER. Mr. President, I am pleased to ask my colleagues to join

me in recognizing Ms. Betsy J. Keeling as she retires after nearly 32 years of Federal service, which included working for 6 years in the U.S. Senate. Her dedicated public service and tireless commitment to keeping appropriate congressional committees fully and currently informed of the activities of her agency should be recognized and appreciated by all in this Chamber.

A native of Nashville, TN, Ms. Keeling graduated from the University of Tennessee in 1977. She then joined the staff of our esteemed former majority leader, Senator Howard Baker of Tennessee, in June of 1977, where she served as an office manager, formulating the Senator's office budget and supervising 30 full-time employees with a variety of responsibilities.

In August of 1983 she joined the office of Commissioner Frederick Bernthal of the U.S. Nuclear Regulatory Commission, NRC. As his administrative assistant, she handled all day-to-day operations of the office and managed work flow within the Commissioner's office.

At the end of Commissioner Bernthal's term in June of 1988, Ms. Keeling joined the staff of NRC's Office of Congressional Affairs. She served as a congressional affairs officer for almost 12 years and was then promoted to senior congressional affairs officer in 2000. She served in that capacity until September of 2005. As a senior congressional affairs officer, she assisted in formulating congressional relations policy and programs, performed liaison duties, analyzed legislation and coordinated congressional briefings and hearings.

Ms. Keeling was recognized for her outstanding service by the NRC with a Meritorious Service Award, the agency's second-highest award given to its employees, in 2003. She received this award ''in recognition of her exceptional versatility, dedicated service, and adroit handling of Congressional affairs.'' Ms. Keeling was also the recipient of numerous performance and special achievement awards throughout her career at the NRC.

In September 2005, Ms. Keeling was appointed associate director for congressional affairs in NRC's Office of Congressional Affairs. She has been in this position since that time and it is from this position that Ms. Keeling retired from Federal service on February 27, 2009. She will be returning to her beloved State of Tennessee to be with her family and friends in Nashville.

Mr. President, I am pleased to ask my colleagues to join me in congratulating Ms. Keeling on her retirement and thanking her for her service to the U.S. Senate and her country through her work at the Nuclear Regulatory Commission.●

MEASURES DISCHARGED

The following measure was discharged from the Committee on Health, Education, Labor, and Pensions by unanimous consent, and referred as indicated:

S. 473. A bill to establish the Senator Paul Simon Study Abroad Foundation; to the Committee on Foreign Relations.

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. LEVIN (for himself, Mr. WHITEHOUSE, Mrs. MCCASKILL, and Mr. NELSON of Florida):

S. 506. A bill to restrict the use of offshore tax havens and abusive tax shelters to inappropriately avoid Federal taxation, and for other purposes; to the Committee on Finance.

By Mr. AKAKA (for himself, Ms. MURKOWSKI, Mr. INOUYE, and Mr. BEGICH):

S. 507. A bill to provide for retirement equity for Federal employees in nonforeign areas outside the 48 contiguous States and the District of Columbia, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

By Mr. ENSIGN (for himself and Mr. REID):

S. 508. A bill to provide for the conveyance of certain Bureau of Land Management land in the State of Nevada to the Las Vegas Motor Speedway, and for other purposes; to the Committee on Energy and Natural Resources.

By Mrs. MURRAY:

S. 509. A bill to authorize a major medical facility project at the Department of Veterans Affairs Medical Center, Walla Walla, Washington, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. DURBIN (for himself, Ms. MURKOWSKI, Ms. MIKULSKI, Mr. CARDIN, Mr. WHITEHOUSE, Mr. DODD, Mr. BROWN, Mr. BURRIS, and Mr. PRYOR):

S.J. Res. 12. A joint resolution proclaiming Casimir Pulaski to be an honorary citizen of the United States posthumously; considered and passed.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mrs. SHAHEEN (for herself and Mr. VOINOVICH):

S. Res. 60. A resolution commemorating the 10-year anniversary of the accession of the Czech Republic, the Republic of Hungary, and the Republic of Poland as members of the North Atlantic Treaty Organization; to the Committee on Foreign Relations.

By Mr. VOINOVICH (for himself and Mr. BROWN):

S. Res. 61. A resolution commending the Columbus Crew Major League Soccer Team for winning the 2008 Major League Soccer Cup; to the Committee on the Judiciary.

By Mr. CASEY (for himself, Ms. SNOWE, Ms. LANDRIEU, Mr. PRYOR, Mr. LAUTENBERG, Mr. SANDERS, and Mr. DORGAN):

S. Con. Res. 9. A concurrent resolution supporting the goals and ideals of Multiple Sclerosis Awareness Week; considered and agreed to.

ADDITIONAL COSPONSORS

S. 144

At the request of Mr. KERRY, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 144, a bill to amend the Internal Revenue Code of 1986 to remove cell phones from listed property under section 280F.

S. 182

At the request of Mrs. GILLIBRAND, her name was added as a cosponsor of S. 182, a bill to amend the Fair Labor Standards Act of 1938 to provide more effective remedies to victims of discrimination in the payment of wages on the basis of sex, and for other purposes.

S. 254

At the request of Mrs. LINCOLN, the name of the Senator from Hawaii (Mr. INOUYE) 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. 277

At the request of Mrs. SHAHEEN, her name was added as a cosponsor of S. 277, a bill to amend the National and Community Service Act of 1990 to expand and improve opportunities for service, and for other purposes.

S. 388

At the request of Ms. MIKULSKI, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. 388, a bill to extend the termination date for the exemption of returning workers from the numerical limitations for temporary workers.

S. 428

At the request of Mr. DORGAN, the names of the Senator from Iowa (Mr. HARKIN), the Senator from Illinois (Mr. DURBIN) and the Senator from Montana (Mr. BAUCUS) were added as cosponsors of S. 428, a bill to allow travel between the United States and Cuba.

S. 456

At the request of Mr. DODD, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 456, a bill to direct the Secretary of Health and Human Services, in consultation with the Secretary of Education, to develop guidelines to be used on a voluntary basis to develop plans to manage the risk of food allergy and anaphylaxis in schools and early childhood education programs, to establish school-based food allergy management grants, and for other purposes.

S. 473

At the request of Mr. DURBIN, the names of the Senator from Ohio (Mr. VOINOVICH), the Senator from Pennsylvania (Mr. CASEY) and the Senator from Connecticut (Mr. DODD) were added as cosponsors of S. 473, a bill to establish the Senator Paul Simon Study Abroad Foundation.

S. 484

At the request of Mrs. FEINSTEIN, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 484, a bill to amend title II of the Social Security Act to repeal the Government pension offset and windfall elimination provisions.

S. 492

At the request of Mr. JOHNSON, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 492, a bill to amend the Social Security Act and the Internal Revenue Code of 1986 to exempt certain employment as a member of a local governing board, commission, or committee from Social Security tax coverage.

S. CON. RES. 4

At the request of Mr. NELSON of Florida, the names of the Senator from Connecticut (Mr. LIEBERMAN), the Senator from Pennsylvania (Mr. CASEY), the Senator from New Jersey (Mr. LAUTENBERG) and the Senator from Georgia (Mr. ISAKSON) were added as cosponsors of S. Con. Res. 4, a concurrent resolution calling on the President and the allies of the United States to raise the case of Robert Levinson with officials of the Government of Iran at every level and opportunity, and urging officials of the Government of Iran to fulfill their promises of assistance to the family of Robert Levinson and to share information on the investigation into the disappearance of Robert Levinson with the Federal Bureau of Investigation.

S. RES. 20

At the request of Mr. VOINOVICH, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. Res. 20, a resolution celebrating the 60th anniversary of the North Atlantic Treaty Organization.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LEVIN (for himself, Mr. WHITEHOUSE, Mrs. MCCASKILL, and Mr. NELSON of Florida):

S. 506. A bill to restrict the use of offshore tax havens and abusive tax shelters to inappropriately avoid Federal taxation, and for other purposes; to the Committee on Finance.

Mr. LEVIN. Mr. President, America has been knocked flat on its back by the current financial crisis, but the American fighting spirit hasn't given up. We are battling back.

Congress recently passed an $800 billion recovery bill to jumpstart the economy with new jobs and investments. That $800 billion is on top of the $700 billion we set aside earlier to revive the credit markets and recapitalize the financial institutions that got us into this mess. Those steps weren't easy to take and represent a lot of money going out the door.

That is why, today, I am introducing the Stop Tax Haven Abuse Act, along with Senators WHITEHOUSE, MCCASKILL and BILL NELSON, to stop tax cheats who drain our treasury of funds needed to pay for our recovery. The bill's target is offshore tax abuses that rob the U.S. Treasury of an estimated $100 billion each year, reward tax dodgers using offshore secrecy laws to hide money from Uncle Sam, and offload the tax burden onto the backs of middle income families who play by the rules.

It is time for Congress and this administration to take a stand against offshore tax evasion. It is unfair; we can't afford it; and there is a whole lot more we can do to stop it.

The bill we are introducing today is an improved version of the Stop Tax Haven Abuse Act that I introduced in February 2007, with Senator Coleman and then Senator Obama, and that Congressmen LLOYD DOGGETT and Rahm Emanuel introduced in the House with the support of 47 cosponsors. No action was taken last Congress on either bill, even though evidence has continued to pour in about the extensive and serious nature of offshore tax dodging.

In July 2008, for example, the Senate Permanent Subcommittee on Investigations, which I chair, held two days of hearings and released a report that broke through the wall of secrecy that normally surrounds banks located in tax haven jurisdictions. The Subcommittee presented multiple case histories exposing how two such banks, UBS AG of Switzerland and LGT Bank of Liechtenstein, used an array of secrecy tricks to help U.S. clients hide assets and dodge U.S. taxes.

The hearing showed, for example, that UBS had opened Swiss accounts for an estimated 19,000 U.S. clients with nearly $18 billion in assets, and did not report any of those accounts to the U.S. Internal Revenue Service. A UBS private banker based in Switzerland pled guilty to conspiring to helping a U.S. billionaire hide $200 million and evade $7.2 million in tax, and provided sworn deposition testimony to the Subcommittee about how UBS Swiss bankers sought and serviced clients right here in the United States. A more senior UBS official asserted his Fifth Amendment rights at the hearing rather than answer questions about UBS conduct.

The Subcommittee investigation also presented seven case histories of U.S. persons who had secretly stashed millions of dollars in accounts at LGT Bank, a private bank owned by the Liechtenstein royal family. These case histories unfolded like spy novels, with secret meetings, hidden funds, shell corporations, and complex offshore transactions spanning the globe from the United States to Liechtenstein, Switzerland, the British Virgin Islands, Australia, and Hong Kong. What the case histories had in common were officials from LGT Bank and its affiliates acting as willing partners to move a lot of money into LGT accounts, while obscuring the ownership and origin of the funds from tax authorities, creditors, and courts.

A former LGT employee, now in hiding for disclosing LGT client information, provided videotaped testimony during the hearing describing a long list of secrecy tricks and deceptive practices used by LGT to conceal client assets. They included using code names for LGT clients; requiring bankers to use outside pay phones to call clients to prevent those calls from being traced back to the bank; establishing offshore shell corporations which clients could use to route money into and out of their LGT accounts without incriminating wire transfers; and creating elaborate offshore structures involving foundations, trusts, and corporations to conceal client ownership of assets. In addition, four U.S. persons asserted their Fifth Amendment rights at the hearing and declined to answer questions about their LGT accounts.

More than 150 U.S. taxpayers are now under investigation by the IRS for having undeclared Liechtenstein accounts. The IRS is not labouring alone. Nearly a dozen countries have investigations underway into possible tax evasion involving Liechtenstein accounts. Germany, for example, is working through a list of 600 to 700 German taxpayers with LGT accounts, including a prominent businessman who allegedly used LGT accounts to evade $1.5 million in taxes.

LGT was invited to the July Subcommittee hearings to defend its actions, but chose not to appear. UBS, to its credit, appeared and announced at the hearings that it would take responsibility for its actions. It apologized for past compliance failures, promised to close all 19,000 Swiss accounts unless the U.S. accountholder agreed to disclose the account to the IRS, and announced it would no longer offer U.S. clients the option of opening Swiss accounts that are not disclosed to the IRS. A few months later, Liechtenstein signed its first tax information exchange agreement with the United States, and LGT announced its intention to change its business model and begin cooperating with foreign tax authorities.

The actions taken by UBS and LGT have reverberated around the tax haven world, raising questions about whether the game is finally up and the international community is ready to take action to put an end to offshore secrecy and tax abuses. Some banks, like Credit Suisse, Switzerland's largest bank after UBS, have decided to follow UBS' lead and stop offering hidden Swiss bank accounts to U.S. clients. But many other tax haven banks continue their secret ways and continue to engage in practices that facilitate tax evasion.

The United States Government is continuing its efforts to combat offshore secrecy. In November 2008, the U.S. Department of Justice, DOJ, indicted a senior UBS official, then head of the UBS private bank, for conspiring to help other U.S. clients dodge U.S. taxes. Because he has refused to face the charges, he remains a fugitive from justice in Switzerland. In February, DOJ indicted UBS itself, again for conspiring to help U.S. clients dodge U.S. taxes. That criminal prosecution was then deferred, because UBS admitted to the underlying facts, paid a $780 million fine, turned over the names of at least 250 clients with Swiss accounts,

and promised to no longer open Swiss accounts for U.S. clients without notifying the IRS. A U.S. indictment of a major bank is rare; an indictment of a major bank for helping clients evade U.S. taxes may be unprecedented.

In addition to filing these criminal prosecutions, DOJ served UBS with a John Doe summons seeking the names of the other 19,000 U.S. clients with Swiss accounts hidden from the IRS. UBS said at the Subcommittee hearing in July that it was ready to cooperate, but virtually none of the information requested by the John Doe summons has been turned over, primarily because the Swiss Government has taken the position that turning over this client account information would violate Swiss secrecy laws. DOJ has asked the U.S. court that approved the summons to enforce it, and a trial to resolve the issue is now scheduled for July 2009, one year after the initial request for the information. The fact that the United States is having such a difficult time getting the client names, despite catching UBS red-handed and obtaining its admission of wrongdoing, shows how tough the offshore tax evasion problem is.

It is worth noting that Switzerland is refusing to allow UBS to provide the names of potential U.S. tax cheats, while at the same time attempting to claim it is not a tax haven and it is not a secrecy jurisdiction. It is also worth noting that top Swiss government officials have now formed a ''strategic delegation'' charged with defending Swiss bank secrecy against efforts by the United States, European Union, and other countries to change Swiss practices.

Right now, tax haven governments and tax haven banks often dress up their secrecy laws and banking practices with phrases like ''financial privacy'' and ''wealth management.'' Some enter into tax treaties and tax information exchange agreements with the United States, while setting up procedures that deny or delay providing information essential for effective tax enforcement. They also use their secrecy laws and practices to hide, not only the wrongdoing of the taxpayers, but also the actions of the tax haven participants who aid and abet the wrongdoing.

Secrecy breeds tax evasion. Tax evasion eats at the fabric of society, not only by starving health care, education, and other needed government services of resources, but also by undermining trust—making honest folks feel like they are being taken advantage of when they pay their fair share.

We can fight back against offshore secrecy jurisdictions and offshore tax abuses if we summon the political will. Our bill offers powerful new tools to tear down the tax haven secrecy walls in favour of transparency, cooperation, and tax compliance. To tear down those secrecy walls, protect honest taxpayers, and obtain the revenues essential for critical needs, I hope my colleagues will act during this Congress to enact our legislation to shut down the $100 billion in offshore tax abuses.

The Stop Tax Haven Abuse Act is the product of years of work. My Subcommittee, through reports and hearings, has exposed numerous abusive practices involving offshore tax havens as well as home-grown abusive tax shelters. In the 109th Congress, we confronted these twin threats to our treasury by introducing S. 1565, the Tax Shelter and Tax Haven Reform Act. In the 110th Congress, we introduced an improved version of that legislation, S. 681, reflecting not only the Subcommittee's additional investigative work but also innovative ideas to end the use of tax havens and to stop unethical tax advisers from aiding and abetting U.S. tax evasion.

Today's bill is very similar to S. 681, but with three new additions. A new Section 103 addresses the tax dodging that occurs when a business incorporates in a tax haven, pretending to be a foreign corporation for U.S. tax purposes, while, in reality, being managed and controlled from the United States. A new Section 108 seeks to put an end to financial gimmicks being used by offshore hedge funds and others to dodge payment of U.S. taxes on U.S. stock dividends. A new Section 109 expands reporting requirements for U.S. persons who benefit from a passive foreign investment corporation. These new sections offer powerful new tools to combat offshore tax abuse.

I will now describe some of the tax abuses that need to be addressed and explain what our bill would do to stop them. First, I will look at the offshore tax problem and then at some of our home-grown abusive tax shelters.

TAX HAVEN ABUSES

A tax haven is a foreign jurisdiction that maintains corporate, bank, and tax secrecy laws and industry practices that make it very difficult for other countries to find out whether their citizens are using the tax haven to cheat on their taxes. In effect, tax havens sell secrecy to attract clients to their shores. They peddle secrecy the way other countries advertise high quality services. That secrecy is used to cloak tax evasion and other misconduct, and it is that offshore secrecy that is targeted in our bill.

The Tax Justice Network, an international non-profit organization dedicated to fighting tax evasion, has estimated that wealthy individuals worldwide have stashed $11.5 trillion of their assets in offshore tax havens. The IMF has estimated that, in 2000 alone, $1.7 trillion in investments were sent through offshore tax havens. A series of 2007 Tax Notes articles estimated that over $1.5 trillion in hidden assets were located in just four tax havens, Guernsey, Jersey, Isle of Man, and Switzerland, characterizing those assets as beneficially owned by nonresident individuals likely avoiding tax in their home jurisdictions. At one Subcommittee hearing, a former owner of an offshore bank in the Cayman Islands testified that he believed 100 percent of his former bank clients were engaged in tax evasion. He said that almost all were from the United States and had taken elaborate measures to avoid IRS detection of their money transfers. He also expressed confidence that the offshore government that licensed his bank would vigorously defend client secrecy in order to continue attracting business.

In connection with a hearing held in August 2006, the Subcommittee released a staff report with six case studies describing how U.S. individuals use offshore tax havens to evade U.S. taxes. In one case, two brothers from Texas, Sam and Charles Wyly, established 58 offshore trusts and corporations, and operated them for more than 13 years without alerting U.S. authorities. To move funds abroad, the brothers transferred over $190 million in stock option compensation they had received from U.S. publicly traded companies to the offshore corporations. They claimed that they did not have to pay tax on this compensation, because, in exchange, the offshore corporations provided them with private annuities which would not begin to make payments to them until years later. In the meantime, the brothers directed the offshore corporations to cash in the stock options and start investing the money. The brothers failed to disclose these offshore stock transactions to the SEC despite their position as directors and major shareholders in the relevant companies.

The Subcommittee was able to trace more than $600 million in stock option proceeds that the brothers invested in various ventures they controlled, including two hedge funds, an energy company, and an offshore insurance firm. They also used the offshore funds to purchase real estate, jewelry, and artwork for themselves and their family members, claiming they could use these offshore dollars to advance their personal and business interests without having to pay any taxes on the offshore income. The Wylys were able to carry on these tax maneuvers in large part because all of their activities were shrouded in offshore secrecy.

In another of the case histories, six U.S. taxpayers relied on phantom stock trades between two offshore shell companies to generate fake stock losses which were then used to shelter billions in income. This offshore tax shelter scheme, known as the POINT Strategy, was devised by Quellos, a U.S. securities firm headquartered in Seattle; coordinated with a European financial firm known as Euram Advisers; and blessed by opinion letters issued by two prominent U.S. law firms, Cravath Swaine and Bryan Cave. The two offshore shell companies at the center of the strategy, known as Jackstones and Barneville, supposedly created a stock portfolio worth $9.6 billion. However, no cash or stock transfers ever took place. Moreover, the shell companies

that conducted these phantom trades were so shrouded in offshore secrecy that no one would admit to knowing who owns them. One U.S. taxpayer used the scheme to shelter about $1.5 billion from U.S. taxes. Another sought to shelter about $145 million. Both have since agreed to settle with the IRS.

The persons examined by the Subcommittee are far from the only U.S. taxpayers engaging in these types of offshore tax abuses. Two experts, Joseph Guttentag and Professor Reuven Avi-Yonah, have estimated that U.S. individuals are using offshore tax schemes to avoid payment of $40 to $70 billion in taxes each year.

Corporations are also using tax havens to avoid payment of U.S. taxes. Data released by the Commerce Department indicates that, as of 2001, almost half of all foreign profits of U.S. corporations were in tax havens. A study released by the journal Tax Notes in September 2004 found that American companies were able to shift $149 billion of profits to 18 tax haven countries in 2002, up 68 percent from $88 billion in 1999. Professor Kimberly Clausing has estimated that corporate offshore abuses utilizing transfer pricing schemes resulted in $60 billion in lost U.S. tax revenues in 2004, and other experts have estimated similar amounts.

Corporate use of tax haven jurisdictions is also widespread. In January 2009, Senator DORGAN and I released a report by the Government Accounting Office (GAO) which shows that out of the 100 largest U.S. publicly traded corporations, 83 have subsidiaries in tax havens. Of the 100 largest federal contractors, 63 have tax haven subsidiaries. Using data from their corporate filings with the Securities and Exchange Commission, GAO listed the number of tax haven subsidiaries for each of these corporations. GAO determined, for example, that Morgan Stanley has 273 tax haven subsidiaries, while Citigroup has 427, with 90 in the Cayman Islands alone. News Corp. has 152, while Procter and Gamble has 83, Pfizer has 80, Oracle has 77, and Marathon Oil has 76. My Subcommittee is currently engaged in an effort to understand why so many of these corporations have so many tax haven affiliates. To do that we are going to have to battle secrecy laws in 50 different jurisdictions.

Here's just one simplified example of the gimmicks being used by corporations to transfer taxable income from the United States to tax havens to escape taxation. Suppose a profitable U.S. corporation establishes a shell corporation in a tax haven. The shell corporation has no office or employees, just a mailbox address. The U.S. parent transfers a valuable patent to the shell corporation. Then, the U.S. parent and all of its subsidiaries begin to pay a hefty fee to the shell corporation for use of the patent, reducing its U.S. income through deducting the patent fees and thus shifting taxable income out of the United States to the shell corporation. The shell corporation declares a portion of the fees as profit, but pays no U.S. tax since it is a tax haven resident. The icing on the cake is that the shell corporation can then ''lend'' the income it has accumulated from the fees back to the U.S. parent for its use. The parent, in turn, pays ''interest'' on the ''loans'' to the shell corporation, shifting still more taxable income out of the United States to the tax haven. This example highlights just a few of the tax haven ploys being used by some U.S. corporations to escape paying their fair share of taxes here at home.

Our Subcommittee's 2008 investigation into tax haven banks and our 2006 investigation into offshore abuses also highlight the extent to which offshore secrecy rules make it possible for taxpayers to participate in illicit activity with little fear of getting caught. Through a series of case studies, the Subcommittee has shown how U.S. taxpayers, with the help of offshore financial institutions, service providers, legal counsel, and tax professionals, set up financial accounts and entities in secrecy jurisdictions to hide assets and dodge taxes. The case studies showed how some U.S. persons created complex offshore structures to hide their ownership of offshore bank accounts. Others formed offshore entities which they claimed were independent but, in fact, exercised control over them through compliant offshore trustees, officers, directors, and corporate administrators. Because of offshore secrecy laws and practices, offshore businesses could and did take steps to protect their U.S. clients' identities and financial information from U.S. tax and regulatory authorities, making it extremely difficult, if not impossible, for U.S. law enforcement authorities to get the information needed to enforce U.S. tax laws.

The extent of the offshore tax abuses documented by years of Subcommittee reports and hearings demonstrates the importance of obtaining new tools to combat offshore secrecy and restore the ability of U.S. tax enforcement to pursue offshore tax cheats. I'd now like to describe the key measures in the Stop Tax Havens Act providing those new enforcement tools. They include new legal presumptions to overcome offshore secrecy barriers, special measures to combat persons who impede U.S. tax enforcement, treatment of offshore corporations as domestic corporations when controlled by U.S. persons, elimination of the offshore dividend tax loophole, greater disclosure of offshore transactions, and more.

PRESUMPTIONS RELATED TO OFFSHORE SECRECY JURISDICTIONS

The 2006 Subcommittee staff report provided six case histories detailing how U.S. taxpayers are using offshore tax havens to avoid payment of the taxes they owe. These case histories examined an Internet based company that helped persons obtain offshore entities and accounts; U.S. promoters that designed complex offshore structures to hide client assets, even providing clients with a how-to manual for going offshore; U.S. taxpayers who diverted business income offshore through phony loans and invoices; a one-time tax dodge that deducted phantom offshore stock losses from real U.S. stock income to shelter that income from U.S. taxes; and the 13–year offshore empire built by Sam and Charles Wyly. Each of these case histories presented the same fact pattern in which the U.S. taxpayer, through lawyers, banks, or other representatives, set up offshore trusts, corporations, or other entities which had all the trappings of independence but, in fact, were controlled by the U.S. taxpayer whose directives were implemented by compliant offshore personnel acting as the trustees, officers, directors or nominee owners of the offshore entities.

In the case of the Wylys, the brothers and their representatives communicated Wyly directives to a so-called trust protector who then relayed the directives to the offshore trustees. In the 13 years examined by the Subcommittee, the offshore trustees never once rejected a Wyly request and never once initiated an action without Wyly approval. They simply did what they were told. A U.S. taxpayer in another case history told the Subcommittee that the offshore personnel who nominally owned and controlled his offshore entities, in fact, always followed his directions, describing himself as the ''puppet master'' in charge of his offshore holdings.

When the Subcommittee discussed these case histories with financial administrators from the Isle of Man, the regulators explained that none of the offshore personnel were engaged in any wrongdoing, because their laws permit foreign clients to transmit detailed, daily instructions to offshore service providers on how to handle offshore assets, so long as it is the offshore trustee or corporate officer who gives the final order to buy or sell the assets. They explained that, under their law, an offshore entity is considered legally independent from the person directing its activities so long as that person follows the form of transmitting ''requests'' to the offshore personnel who retain the formal right to make the decisions, even though the offshore personnel always do as they are asked.

The Subcommittee case histories illustrate what the tax literature and law enforcement experience have shown for years: that the business model followed in all offshore secrecy jurisdictions is for compliant trustees, corporate administrators, and financial institutions to provide a veneer of independence while ensuring that their U.S. clients retain complete and unfettered control over ''their'' offshore assets. That's the standard operating procedure offshore. Offshore service

providers pretend to own or control the offshore trusts, corporations, and accounts they help establish, but what they really do is whatever their clients tell them to do. In truth, the independence of offshore entities is a legal fiction, and it is past time to pull back the curtain on the reality hiding behind the legal formalities.

The reality behind these offshore practices makes a mockery of U.S. laws that normally view trusts and corporations as independent entities. They invite game-playing and tax evasion. To combat these offshore abuses, our bill takes them head on in a number of ways.

Section 101—Rebuttable evidentiary presumptions and initial list of offshore secrecy jurisdictions

The first section of our bill, Section 101, tackles this issue by creating several rebuttable evidentiary presumptions that would strip the veneer of independence from the U.S. person involved with offshore entities, transactions, and accounts, unless that U.S. person presents clear and convincing evidence to the contrary. These presumptions would apply only in civil judicial or administrative tax or securities enforcement proceedings examining transactions, entities, or accounts in offshore secrecy jurisdictions. These presumptions would put the burden of producing evidence from the offshore secrecy jurisdiction on the taxpayer who chose to do business there, and who has access to the information, rather than on the federal government which has little or no practical ability to get the information. The creation of these presumptions implements a bipartisan recommendation in the August 2006 Subcommittee staff report on tax haven abuses.

The bill would establish three evidentiary presumptions that could be used in a civil tax enforcement proceeding: (1) a presumption that a U.S. taxpayer who ''formed, transferred assets to, was a beneficiary of, or received money or property'' from an offshore entity, such as a trust or corporation, is in control of that entity; (2) a presumption that funds or other property received from offshore are taxable income, and that funds or other property transferred offshore have not yet been taxed; and (3) a presumption that a financial account controlled by a U.S. taxpayer in a foreign country contains enough money—$10,000—to trigger an existing statutory reporting threshold and allow the IRS to assert the minimum penalty for nondisclosure of the account by the taxpayer.

In addition, the bill would establish two evidentiary presumptions applicable to civil proceedings to enforce U.S. securities laws. One would specify that if a director, officer, or major shareholder of a U.S. publicly traded corporation were associated with an offshore entity, that person would be presumed to control that offshore entity. The second provides that securities nominally owned by an offshore entity are presumed to be beneficially owned by any U.S. person who controlled the offshore entity.

These presumptions are rebuttable, which means that the U.S. person who is the subject of the proceeding could provide clear and convincing evidence to show that the presumptions were factually inaccurate. To rebut the presumptions, a taxpayer could establish, for example, that an offshore corporation really was controlled by an independent third party, or that money sent from an offshore account really represented a nontaxable gift instead of taxable income. If the taxpayer wished to introduce evidence from a foreign person, such as an offshore banker, corporate officer, or trust administrator, to establish those facts, that foreign person would have to actually appear in the U.S. proceeding in a manner that would permit cross examination in order for the taxpayer to rebut the presumption. A simple affidavit from an offshore resident who refused to submit to cross examination in the United States would be insufficient.

There are several limitations on these presumptions to ensure their operation is fair and reasonable. First, the evidentiary rules in criminal cases would not be affected by this bill which would apply only to civil proceedings. Second, because the presumptions apply only in enforcement ''proceedings,'' they would not directly affect, for example, a person's reporting obligations on a tax return or SEC filing. The presumptions would come into play only if the IRS or SEC were to challenge a matter in a formal proceeding. Third, the bill does not apply the presumptions to situations where either the U.S. person or the offshore entity is a publicly traded company, because in those situations, even if a transaction were abusive, IRS and SEC officials are generally able to obtain access to necessary information. Fourth, the bill recognizes that certain classes of offshore transactions, such as corporate reorganizations, may not present a potential for abuse, and accordingly authorizes Treasury and the Securities and Exchange Commission to issue regulations or guidance identifying such classes of transactions, to which the presumptions would then not apply.

An even more fundamental limitation on the presumptions is that they would apply only to transactions, accounts, or entities in offshore jurisdictions with secrecy laws or practices that unreasonably restrict the ability of the U.S. government to get needed information and which do not have effective information exchange programs with U.S. law enforcement. The bill requires the Secretary of the Treasury to identify those offshore secrecy jurisdictions, based upon the practical experience of the IRS in obtaining needed information from the relevant country.

To provide a starting point for Treasury, the bill presents an initial list of 34 offshore secrecy jurisdictions. This list is taken from actual IRS court filings in court proceedings in which the IRS sought permission to obtain information about U.S. taxpayers active in the named jurisdictions. The bill thus identifies the same jurisdictions that the IRS has already named publicly as probable locations for U.S. tax evasion. Federal courts all over the country have consistently found, when presented with the IRS list and supporting evidence, that the IRS had a reasonable basis for concluding that U.S. taxpayers with financial accounts in those countries presented a risk of tax noncompliance. In every case, the courts allowed the IRS to collect information about accounts and transactions in the listed offshore jurisdictions.

The bill also provides Treasury with the authority to add or remove jurisdictions from the initial list so that the list can change over time and reflect the actual record of experience of the United States in its dealings with specific jurisdictions around the world. The bill provides two tests for Treasury to use in determining whether a jurisdiction should be identified as an ''offshore secrecy jurisdiction'' triggering the evidentiary presumptions: (1) whether the jurisdiction's secrecy laws and practices unreasonably restrict U.S. access to information, and (2) whether the jurisdiction maintains a tax information exchange process with the United States that is effective in practice.

If offshore jurisdictions make a decision to enact secrecy laws and support industry practices furthering corporate, financial, and tax secrecy, that's their business. But when U.S. taxpayers start using those offshore secrecy laws and practices to evade U.S. taxes to the tune of $100 billion per year, that's our business. We have a right to enforce our tax laws and to expect that other countries will not help U.S. tax cheats achieve their ends.

The aim of the presumptions created by the bill is to eliminate the unfair advantage provided by offshore secrecy laws that for too long have enabled U.S. persons to conceal their misconduct offshore and game U.S. law enforcement. These presumptions would allow U.S. law enforcement to establish what we all know from experience is normally the case in an offshore jurisdiction—that a U.S. person associated with an offshore entity controls that entity; that money and property sent to or from an offshore entity involves taxable income; and that an offshore account that wasn't disclosed to U.S. authorities should have been. U.S. law enforcement can establish these facts presumptively, without having to pierce the secrecy veil. At the same time, U.S. persons who chose to transact their affairs through an offshore secrecy jurisdiction are given the opportunity to lift the veil of secrecy and demonstrate that the presumptions are factually wrong.

We believe these evidentiary presumptions will provide U.S. tax and securities law enforcement with powerful new tools to shut down tax haven abuses.

Section 102—Special measures where U.S. tax enforcement is impeded

Section 102 of the bill is another innovative approach to combating tax haven abuses. This section would build upon existing Treasury authority to apply an array of sanctions to counter specific foreign money laundering threats by extending that same authority to counter specific foreign tax administration threats.

In 2001, the Patriot Act gave Treasury the authority under 31 U.S.C. 5318A to require domestic financial institutions and agencies to take special measures with respect to foreign jurisdictions, financial institutions, or transactions found to be of ''primary money laundering concern.'' Once Treasury designates a foreign jurisdiction or financial institution to be of primary money laundering concern, Section 5318A allows Treasury to impose a range of requirements on U.S. financial institutions in their dealings with the designated entity—from requiring U.S. financial institutions, for example, to provide greater information than normal about transactions involving the designated entity, to prohibiting U.S. financial institutions from opening accounts for that foreign entity.

This Patriot Act authority has been used sparingly, but to telling effect. In some instances Treasury has employed special measures against an entire country, such as Burma, to stop its financial institutions from laundering funds through the U.S. financial system. More often, Treasury has used the authority surgically, against a single problem financial institution, to stop laundered funds from entering the United States. The provision has clearly succeeded in giving Treasury a powerful tool to protect the U.S. financial system from money laundering abuses.

The bill would authorize Treasury to use that same tool to require U.S. financial institutions to take the same special measures against foreign jurisdictions or financial institutions found by Treasury to be ''impeding U.S. tax enforcement.'' Treasury could, for example, in consultation with the IRS, Secretary of State, and the Attorney General, require U.S. financial institutions that have correspondent accounts for a designated foreign bank to produce information on all of that foreign bank's customers. Alternatively, Treasury could prohibit U.S. financial institutions from opening accounts for a designated foreign bank, thereby cutting off that foreign bank's access to the U.S. financial system. These types of sanctions could be as effective in ending the worst tax haven abuses as they have been in curbing money laundering.

In addition to extending Treasury's ability to impose special measures against foreign entities impeding U.S. tax enforcement, the bill would add one new measure to the list of possible sanctions that could be applied to foreign entities: it would allow Treasury to instruct U.S. financial institutions not to authorize or accept credit card transactions involving a designated foreign jurisdiction or financial institution. Denying tax haven banks the ability to issue credit cards for use in the United States, for example, would be a powerful new way to stop U.S. tax cheats from obtaining access to funds hidden offshore.

Section 103—Deny tax benefits for foreign corporations managed and controlled in the United States

In July 2008, the Senate Finance Committee held a hearing detailing findings made by GAO when it went to the Cayman Islands to look at the infamous Ugland House, a five-story building that is the official address for over 18,800 registered companies. GAO's review seems to indicate that the Cayman Islands has more registered businesses than residents, with a mutual fund or hedge fund for every five residents, and two registered companies for every resident.

GAO also determined that about half of the alleged Ugland House tenants—around 9,000 entities—have a billing address in the United States and were not actual occupants of the building. In fact, GAO determined that none of the nearly 19,000 companies registered at the Ugland House was an actual occupant. GAO found that the only true occupant of the building is a Cayman law firm, Maples and Calder. According to the GAO: ''Very few Ugland House registered entities have a significant physical presence in the Cayman Islands or carry out business in the Cayman Islands. According to Maples and Calder partners, the persons establishing these entities are typically referred to Maples by counsel from outside the Cayman Islands, fund managers, and investment banks. As of March 2008 the Cayman Islands Registrar reported that 18,857 entities were registered at the Ugland House address. Approximately 96 percent of these entities were classified as exempted entities under Cayman Islands law, and were thus generally prohibited from carrying out domestic business within the Cayman Islands.''

Section 103 of the bill is a new addition to the Stop Tax Haven Abuse Act designed to address the Ugland House problem. It focuses on the situation where a corporation is incorporated in a tax haven as a mere shell operation with little or no physical presence or employees in the jurisdiction. The shell entity pretends it is operating in the tax haven, even though its key personnel and decisionmakers are in the United States. The objective of this set up is to enable the owners of the shell entity to take advantage of all of the benefits provided by U.S. legal, educational, financial, and commercial systems, and at the same time avoid paying U.S. taxes.

My Subcommittee has seen numerous companies exploit this situation, declaring themselves to be foreign corporations, even though they really operate out of the United States. For example, thousands of hedge funds whose financial experts live in Connecticut, New York, Texas, or California play this game to escape taxes and avoid regulation. In an October 2008 Subcommittee hearing, three sizeable hedge funds, Angelo Gordon, Highbridge Capital, and Maverick Capital, admitted that, although all they claimed to be based in the Cayman Islands, none had an office or a single full time employee in that jurisdiction. Instead, their offices and key decisionmakers were located and did business right here in the United States.

Section 103 will put an end to such corporate fictions and offshore tax dodging. It states that if a corporation is publicly traded or has aggregate gross assets of $50 million or more, and its management and control occurs primarily in the United States, that corporation will be treated as a U.S. domestic corporation for income tax purposes.

To implement this provision, Treasury is directed to issue regulations to guide the determination of when management and control occur primarily in the United States, looking at whether ''substantially all of the executive officers and senior management of the corporation who exercise day-to-day responsibility for making decisions involving strategic, financial, and operational policies of the corporation are located primarily within the United States.''

This new section relies on the same principles regarding the true location of ownership and control of a company that underlie the corporate inversion rules adopted in the American Jobs Creation Act of 2005. Those inversion rules, however, do not address the fact that some entities directly incorporate in foreign countries and manage their businesses activities from the United States. Section 103 seeks to level the playing field and ensure that entities which incorporate directly in another country are subject to a similar management and control test. Section 103 is also similar in concept to the substantial presence test in the income tax treaty between the United States and the Netherlands, which looks to the primary place of management and control to determine corporate residency.

Section 103 also provides an exception for foreign corporations with U.S. parents. This exception from the $50 million gross assets test recognizes that, within a multinational operation, strategic, financial, and operational decisions are often made from a global or regional headquarters location and then implemented by affiliated foreign corporations. Where such decisions are undertaken by a parent corporation

that is actively engaged in a U.S. trade or business and is organized in the United States—and is, therefore, already a domestic corporation—the bill generally will not override existing U.S. taxation of international operations. At the same time, this exception makes it clear that the mere existence of a U.S. parent corporation is not sufficient to shield a foreign corporation from also being treated as a domestic corporation under this section. The section also creates an exception for private companies that once met the section's test for treatment as a domestic corporation but, during a later tax year, fell below the $50 million gross assets test, do not expect to exceed that threshold again, and are granted a waiver by the Treasury Secretary.

Section 103 is intended to stop, in particular, the outrageous tax dodging that now goes on by too many hedge funds and investment management businesses that structure themselves to appear to be foreign entities, even though their key decisionmakers—the folks who exercise control of the company, its assets, and investment decisions—live and work right here in the United States. Too many hedge funds establish a structure of offshore entities, often including master and feeder funds, that make it appear as if the hedge fund's assets and investment decisions are offshore, when, in fact, the funds are being managed and controlled by investment experts located in the United States. It is unacceptable that such companies utilize U.S. offices, personnel, laws, and markets to make their money, but then stiff Uncle Sam and offload their tax burden onto competitors who play by the rules.

To put an end to this charade, Section 103 specifically directs Treasury regulations to specify that, when corporate assets are being managed primarily on behalf of investors and the investment decisions are being made in the United States, the management and control of that corporation shall be treated as occurring primarily in the United States, and that corporation shall be subject to U.S. taxes in the same manner as any other U.S. corporation.

If enacted into law, Section 103, the Ugland House provision, would put an end to the unfair situation where some U.S.-based companies pay their fair share of taxes, while others who set up a shell corporation in a tax haven are able to defer or escape taxation, despite the fact that their foreign status is nothing more than a paper fiction.

Section 104—Extension of time for offshore audits

Section 104 of the bill addresses a key problem faced by the IRS in cases involving offshore jurisdictions—completing audits in a timely fashion when the evidence needed is located in a jurisdiction with secrecy laws. Currently, in the absence of fraud or some other exception, the IRS has three years from the date a tax return is filed to complete an audit and assess any additional tax. Because offshore secrecy laws slow down, and sometimes impede, efforts by the United States to obtain offshore financial and beneficial ownership information, the bill gives the IRS an extra three years to complete an audit and assess a tax on transactions involving an offshore secrecy jurisdiction. Of course, in the event that a case turns out to involve actual fraud, this provision of the bill is not intended to limit the rule giving the IRS unlimited time to assess tax in such cases.

Section 105—Increased disclosure of offshore accounts and entities

Offshore tax abuses thrive in secrecy. Section 105 attempts to pierce that secrecy by creating two new disclosure mechanisms requiring third parties to report on offshore transactions undertaken by U.S. persons.

The first disclosure mechanism focuses on U.S. financial institutions that open a U.S. account in the name of an offshore entity, such as an offshore trust or corporation, and learn from an anti-money laundering due diligence review, that a U.S. person is the beneficial owner behind that offshore entity. In the Wyly case history examined by the Subcommittee, for example, three major U.S. financial institutions opened dozens of accounts for offshore trusts and corporations which they knew were associated with the Wyly family.

Under current anti-money laundering law, all U.S. financial institutions are supposed to know who is behind an account opened in the name of, for example, an offshore shell corporation or trust. They are supposed to obtain this information to safeguard the U.S. financial system against misuse by terrorists, money launderers, and other criminals.

Under current tax law, a bank or securities broker that opens an account for a U.S. person is also required to give the IRS a 1099 form reporting any capital gains or other reportable income earned on the account. However, the bank or securities broker need not file a 1099 form if the account is owned by a foreign entity not subject to U.S. tax law. Problems arise when an account is opened in the name of an offshore entity that is nominally not subject to tax, but which the bank or broker knows, from its anti-money laundering review, is owned or controlled by a U.S. person who is subject to tax. The U.S. person should be filing a tax return with the IRS reporting the income of the ''controlled foreign corporation.'' However, since he or she knows it is difficult for the IRS to connect an offshore accountholder to a particular taxpayer, he or she may feel safe in not reporting that income. That complacency might change, however, if the U.S. person knew that the bank or broker who opened the account and learned of the connection had a legal obligation to report any account income to the IRS.

Under current law, the way the regulations are written and typically interpreted, the bank or broker can treat an account opened in the name of a foreign corporation as an account that is held by an independent entity that is separate from the U.S. person, even if it knows that the foreign corporation is merely holding title to the account for the U.S. person, who exercises complete authority over the corporation and benefits from any income earned on the account. Many banks and brokers contend that the current regulations impose no duty on them to file a 1099 or other form disclosing that type of account to the IRS.

The bill would strengthen current law by expressly requiring a bank or broker that knows, as a result of its anti-money laundering due diligence or otherwise, that a U.S. person is the beneficial owner of a foreign entity that opened an account, to disclose that account to the IRS by filing a 1099 or equivalent form reporting the account income. This reporting obligation would not require banks or brokers to gather any new information—financial institutions are already required to perform anti-money laundering due diligence for accounts opened by offshore shell entities. The bill would instead require U.S. financial institutions to act on what they already know by filing the relevant form with the IRS.

This section would require such reports to the IRS from two sets of financial institutions. The first set are financial institutions which are located and do business in the United States, supply 1099 and other forms to the IRS, and open U.S. accounts for foreign entities which the financial institution knows are beneficially owned by U.S. persons. The second set are foreign financial institutions which are located and do business outside of the United States, but are voluntary participants in the Qualified Intermediary Program, and have agreed to provide information to the IRS about certain accounts. Under this section, if a foreign financial institution has an account under the QI Program, and the accountholder is a non-U.S. entity that is controlled or beneficially owned by a U.S. person, then that foreign financial institution would have to report to the IRS any U.S. securities or other reportable assets or income in that account.

The second disclosure mechanism created by Section 105 targets U.S. financial institutions that open foreign bank accounts or set up offshore corporations, trusts, or other entities for their U.S. clients. Our investigations have shown that it is common for private bankers and brokers in the United States to provide these services to their wealthy clients, so that the clients do not even need to leave home to set up an offshore structure. The offshore entities can then open both offshore and U.S. accounts and supposedly

be treated as foreign account holders for tax purposes.

A Subcommittee investigation learned, for example, that Citibank Private Bank routinely offered to its clients private banking services which included establishing one or more offshore shell corporations—which it called Private Investment Corporations or PICs—in jurisdictions like the Cayman Islands. The paperwork to form the PIC was typically completed by a Citibank affiliate located in the jurisdiction, such as Cititrust, which is a Cayman trust company. Cititrust could then help the PIC open offshore accounts, while Citibank could help the PIC open U.S. accounts.

Section 105 would require any U.S. financial institution that directly or indirectly opens a foreign account or establishes a foreign corporation or other entity for a U.S. customer to report that action to the IRS. The bill authorizes the regulators of banks and securities firms, as well as the IRS, to enforce this filing requirement. Existing tax law already requires U.S. taxpayers that take such actions to report them to the IRS, but many fail to do so, secure in the knowledge that offshore secrecy laws limit the ability of the IRS to find out about the establishment of new offshore accounts and entities. That's why our bill turns to a third party—the financial institution—to disclose the information. Placing this third party reporting requirement on the private banks and brokers will make it more difficult for U.S. clients to hide their offshore transactions.

Section 106—Closing foreign trust loopholes

Section 106 of our bill strengthens the ability of the IRS to stop offshore trust abuses by making narrow but important changes to the Revenue Code provisions dealing with taxation of foreign trusts. The rules on foreign trust taxation have been significantly strengthened over the past 30 years to the point where they now appear adequate to prevent or punish many of the more serious abuses. However, the Subcommittee's 2006 investigation found a few loopholes that are still being exploited by tax cheats and that need to be shut down.

The bill would make several changes to close these loopholes. First, our investigation showed that U.S. taxpayers exercising control over a supposedly independent foreign trust commonly used the services of a liaison, called a trust ''protector'' or ''enforcer,'' to convey their directives to the supposedly independent offshore trustees. A trust protector is typically authorized to replace a foreign trustee at will and to advise the trustees on a wide range of trust matters, including the handling of trust assets and the naming of trust beneficiaries. In cases examined by the Subcommittee, the trust protector was often a friend, business associate, or employee of the U.S. person exercising control over the foreign trust. Section 105 provides that, for tax purposes, any powers held by a trust protector shall be attributed to the trust grantor.

A second problem addressed by our bill involves U.S. taxpayers who establish foreign trusts for the benefit of their families in an effort to escape U.S. tax on the accumulation of trust income. Foreign trusts can accumulate income tax free for many years. Previous amendments to the foreign trust rules have addressed the taxation problem by basically disregarding such trusts and taxing the trust income to the grantors as it is earned. However, as currently written, this taxation rule applies only to years in which the foreign trust has a named ''U.S. beneficiary.'' In response, to avoid the reach of the rule, some taxpayers have begun structuring their foreign trusts so that they operate with no named U.S. beneficiaries.

For example, the Subcommittee's investigation into the Wyly trusts discovered that the foreign trust agreements had only two named beneficiaries, both of which were foreign charities, but also gave the offshore trustees ''discretion'' to name beneficiaries in the future. The offshore trustees had been informed in a letter of wishes from the Wyly brothers that the trust assets were to go to their children after death. The trustees also knew that the trust protector selected by the Wylys had the power to replace them if they did not comply with the Wylys' instructions. In addition, during the life of the Wyly brothers, and in accordance with instructions supplied by the trust protector, the offshore trustees authorized millions of dollars in trust income to be invested in Wyly business ventures and spent on real estate, jewelry, artwork, and other goods and services used by the Wylys and their families. The Wylys plainly thought they had found a legal loophole that would let them enjoy and direct the foreign trust assets without any obligation to pay taxes on the money they used.

To stop such foreign trust abuses, the bill would make it impossible to pretend that this type of foreign trust has no U.S. beneficiaries. The bill would shut down the loophole by providing that: (1) any U.S. person actually benefiting from a foreign trust is treated as a trust beneficiary, even if they are not named in the trust instrument; (2) future or contingent U.S. beneficiaries are treated the same as current beneficiaries; and (3) loans of foreign trust assets or property such as real estate, jewelry and artwork (in addition to loans of cash or securities already covered by current law) are treated as trust distributions for tax purposes.

Section 10—Legal opinion protection from penalties

Section 107 of the bill takes aim at legal opinions that are used to try to immunize taxpayers against penalties for tax shelter transactions with offshore elements. The Subcommittee investigations have found that tax practitioners sometimes tell potential clients that they can invest in an offshore tax scheme without fear of penalty, because they will be given a legal opinion that will shield the taxpayer from any imposition of the 20 percent accuracy related penalties in the tax code. Current law does, in fact, allow taxpayers to escape these penalties if they can produce a legal opinion letter stating that the tax arrangement in question is ''more likely than not'' to survive challenge by the IRS. The problem with such opinions where part of the transaction occurs in an offshore secrecy jurisdiction is that critical assumptions of the opinions are often based on offshore events, transactions and facts that are hidden and cannot be easily ascertained by the IRS. Legal opinions based on such assumptions should be understood by any reasonable person to be inherently unreliable.

The bill therefore provides that, for any transaction involving an offshore secrecy jurisdiction, the taxpayer would need to have some other basis, independent of the legal opinion, to show that there was reasonable cause to claim the tax benefit. The ''more likely than not'' opinion would no longer be sufficient in and of itself to shield a taxpayer from all penalties if an offshore secrecy jurisdiction is involved. This provision, which is based upon a suggestion made by IRS Commissioner Mark Everson at our August 2006 hearing, is intended to force taxpayers to think twice about entering into an offshore scheme and to stop thinking that an opinion by a lawyer is all they need to escape any penalty for nonpayment of taxes owed. By making this change, we would also provide an incentive for taxpayers to understand and document the complete facts of the offshore aspects of a transaction before claiming favorable tax treatment.

To ensure that this section does not impede legitimate business arrangements in offshore secrecy jurisdictions, the bill authorizes the Treasury Secretary to issue regulations exempting two types of legal opinions from the application of this section. First, the Treasury Secretary could exempt all legal opinions that have a confidence level substantially above the more-likely-than-not level, such as opinions which express confidence that a proposed tax arrangement ''should'' withstand an IRS challenge. ''More-likely-than-not'' opinion letters are normally viewed as expressing confidence that a tax arrangement has at least a 50 percent chance of surviving IRS review, while a ''should'' opinion is normally viewed as expressing a confidence level of 70 to 75 percent. This first exemption is intended to ensure that legal opinions on arrangements that are highly likely to survive IRS review would continue to shield taxpayers from the 20 percent penalty.

Second, the Treasury Secretary could exempt legal opinions addressing classes of transactions, such as corporate reorganizations, that do not present

the potential for abuse. These exemptions would ensure that taxpayers who obtain legal opinions for these classes of transactions would also be protected from tax code penalties.

Finally, in drafting such regulations, it is intended that the Secretary of the Treasury take into account the function of the ''more likely than not'' standard in the context of corporations that are independently audited and subject to accounting rules requiring disclosure of uncertain tax positions. It is intended that the regulations issued under this bill provision be coordinated with the objectives of those accounting rules to ensure consistent guidance for detecting and stopping abusive transactions without disrupting the financial accounting of legitimate transactions.

Section 108—Closing the dividend tax loophole

Section 108 of this bill is the second new addition to the Stop Tax Haven Abuse Act. It is aimed at closing down a tax loophole that has enabled offshore hedge funds and others to use complex financial gimmicks, including transactions involving equity swaps and offshore stock loans, to dodge billions of dollars in U.S. taxes over the last ten years. This loophole contributes to the estimated $100 billion in unpaid taxes that Uncle Sam loses each year from offshore tax abuses. With financial disasters hitting this country from every direction, we can no longer afford to ignore this offshore tax dodge. It is time to shut it down.

The section is straightforward. It amends the Internal Revenue Code to make it clear that non-U.S. persons cannot escape payment of U.S. taxes on U.S. stock dividends by participating in structured financial transactions that recast taxable stock dividend payments as allegedly tax-free ''dividend equivalent'' or ''substitute dividend'' payments. The bill eliminates this offshore tax dodge by requiring that dividend, dividend equivalent, and substitute dividend payments made to non-U.S. persons all receive the same tax treatment—as taxable income subject to withholding.

Right now, foreigners who invest in the United States enjoy a minimal tax burden. For example, non-U.S. persons who deposit money with a U.S. bank or securities firm pay no U.S. taxes on the interest earned. They pay no U.S. taxes on capital gains. U.S. citizens do pay taxes on that income, but the tax code lets foreign investors operate without tax in an effort to attract foreign investment.

But there is one tax on the books that even foreign investors are supposed to pay. If they buy stock in a U.S. company, and that stock pays a dividend, the non-U.S. stockholder is supposed to pay a tax on the dividend. The general tax rate is 30%, unless their country of residence has negotiated a lower rate with the United States, typically 15%.

In addition, to make sure those dividend taxes are paid, U.S. law requires the person or entity paying a stock dividend to a non-U.S. person to withhold the tax owed Uncle Sam before any part of the dividend leaves the United States. If the ''withholding agent'' fails to retain and remit the dividend tax to the IRS, and the tax is not paid by the dividend recipient, the tax code makes the withholding agent equally liable for the unpaid taxes. That's the law. But the reality is that many non-U.S. stockholders never pay the dividend taxes they owe.

An investigation conducted by the Permanent Subcommittee on Investigations, which I chair, resulted in a staff report and hearing in September 2008, which showed that foreign entities, primarily offshore hedge funds and foreign financial institutions, use two common schemes to dodge their dividend tax obligations to the U.S. government—equity swaps and stock loans.

Swaps sound complicated, but they are essentially a financial bet—in the case of equity swaps a bet on the future of a stock price. Under the swap, a financial institution promises to pay, say, a hedge fund an amount equal to any price appreciation in the stock price and the amount of any dividend paid during the term of the swap. The payment reflecting the dividend is referred to as a ''dividend equivalent.'' In return, the hedge fund agrees to pay the financial institution an amount equal to any price depreciation in the stock price. The financial institution hedges its risk by holding the physical shares of stock that were ''sold'' to it by the hedge fund. It also charges a fee, which usually includes a portion of the tax savings that the hedge fund will obtain by dodging the withholding tax.

The swap gives the hedge fund the same economic risks and rewards that it had when it owned the physical shares of the stock. So why hold a swap instead of the stock inself? Because under the tax code, dividend payments are taxed, but dividend equivalent payments made under a swap are not.

Dividend equivalent payments made under a swap are tax free, because, in 1991, the IRS issued a series of regulations to determine what types of income will be treated as coming from the United States and therefore taxable. These so-called ''source'' rules treat U.S. stock dividends as U.S. source income, because the money comes from a U.S. corporation. But the 1991 regulation takes the opposite approach with respect to swaps. It deems swap agreements to be ''notional principal contracts'' and says that the ''source'' of any payment made under that contract is to be determined, not by where the money came from, but by where it ends up. In other words, the payment's source is the country where the payment recipient resides.

That approach turns the usual meaning of the word, ''source,'' on its head. Instead of looking to the origin of the payment to determine its ''source,'' the IRS swap rule looks to its end point—who receives it. That ''source'' is not really a ''source'' by any known definition of the word. It is the opposite—not the point of origin but the end point.

The result is that when a financial institution makes a dividend equivalent payment to an offshore client under a swap agreement, the tax code provides that the payment is from an offshore ''source.'' So the swap payment is free of any U.S. tax. In our example, the U.S. financial institution makes the swap payment to the offshore hedge fund, minus its fee, and stiffs Uncle Sam for the amount of taxes that should have been sent to the IRS. The swap is then terminated, and the stock is ''sold'' back to the hedge fund. Under this gimmick, the hedge fund ends up in the same position as before the swap, as a stockholder, except it has pocketed a dividend payment without paying any U.S. tax.

Stock loans are also used to dodge dividend taxes. These transactions pile a stock loan on top of a swap to achieve the same allegedly tax-free result.

The first step is that the client with an upcoming dividend lends its stock to an offshore corporation controlled by the financial institution. This offshore corporation promises, as part of the loan agreement, to forward any dividend payments back to the client.

The next step is that offshore corporation enters into a swap with the financial institution that controls it, referencing the same type of stock and number of shares that is the subject of the stock loan. Essentially, two related parties are placing a bet on the stock, which makes no economic sense except, once that stock pays the dividend, the swap arrangement allows the financial institution to send it as an allegedly tax-free dividend equivalent payment to the offshore corporation it controls. The offshore corporation then forwards the same amount to the client. Because the payment is sent to the client as part of a stock loan agreement, it is called a ''substitute dividend.'' The tax code treats substitute dividends in the same way as the underlying dividend. So if the underlying dividend came from a U.S. corporation, the substitute dividend would normally be taxed as U.S. source income.

But in this transaction, the parties claim the substitute dividend is tax-free by invoking the wording of an obscure IRS Notice 97–66 never intended to be applied to this situation. That notice says that when two parties in a stock loan are outside of the United States and subject to the same dividend tax rate, they don't have to pay the dividend tax when passing on a substitute dividend. The assumption is that the tax was already paid by another party in the lending transaction. Some tax lawyers have seized on the wording to claim that this IRS Notice, which was intended to prevent overwithholding, could be used to eliminate

dividend withholding entirely, so long as one offshore party passes on a substitute dividend to another offshore party subject to the same dividend tax rate. The IRS testified at the Subcommittee hearing that Notice 97–66 was never intended to be interpreted that way, but in the ten years since it was issued and abusive stock loans have exploded, the IRS has never put that in writing.

The end result in our example is that the client pockets a substitute dividend payment—minus the financial institution's fee—without paying any tax. The stock loan is terminated, and the stock is returned to the client. The big advantage of this approach over a swap is that the client doesn't have to explain why he got his stock back after the transaction. The stock was, after all, only on loan.

Tax dodging was clearly the economic purpose of the two transactions just described. While there are many types of legitimate swap and stock loan transactions, the Subcommittee investigation found that in these cases, such transactions were conducted primarily to dodge U.S. taxes and not for legitimate business purposes. In some of the most extreme examples, the client owned U.S. stock both before and after each transaction. Neither the swap nor the stock loan altered the client's market risk. The only risk involved in either transaction was that Uncle Sam would catch on and assess the dividend taxes that should have been paid but weren't.

To make it harder for Uncle Sam to catch on and prove what is going on, financial institutions have added more complexity, more bells and whistles, to these so-called ''dividend enhancement'' transactions. But the purpose of the transactions remains the same—to enable clients to escape paying the taxes they owe.

In the September 2008 hearing and report released by the Subcommittee, we described how specific financial institutions and hedge funds used swaps and stock loans to duck U.S. stock dividend taxes. We disclosed, for example, that Morgan Stanley helped clients, from 2000 to 2007, dodge payment of U.S. dividend taxes of over $300 million. Lehman Brothers estimated that in one year alone, 2004, it helped clients dodge U.S. dividend taxes amounting to perhaps $115 million. UBS enabled clients, from 2004 to 2007, dodge $62 million in dividend taxes, but last year stopped offering the Cayman stock loans that produced that figure. Maverick Capital, which runs several offshore hedge funds, disclosed that its offshore hedge funds used dividend enhancement products sold by multiple firms to escape dividend taxes from 2000 to 2007, totaling nearly $95 million. Citigroup even admitted to the IRS that it had failed to withhold dividend taxes on certain swap transactions from 2003 to 2005, and voluntarily paid missing taxes totaling $24 million. The Subcommittee investigation documented, in short, a whole swath of unpaid dividend taxes from just a handful of firms.

Section 108, if enacted into law, would prevent non-U.S. persons from avoiding their U.S. dividend tax obligations by recasting dividend payments as allegedly tax-free dividend equivalent or substitute dividend payments. Instead, all payments of dividend-based amounts would be treated consistently.

The section also authorizes the Treasury Secretary to issue regulations addressing several related issues. Treasury is directed, for example, to issue regulations to reduce possible over-withholding on dividend equivalents or substitute dividends, but only where the taxpayer can establish that the tax was previously withheld from an earlier payment. Treasury is also directed to issue regulations to impose withholding when dividend equivalent payments are netted with other payments under a swap contract, when dividend equivalent payments are made under other financial instruments, such as an option or forward contract, or when a substitute dividend is netted with fees and other payments. Finally, the section makes it clear that nothing in the legislation should be construed to limit the authority of the IRS Commissioner to collect taxes, interest, and penalties on dividend equivalent or substitute dividend payments made prior to the date of enactment of the bill.

Let me be clear. I do not oppose structured finance transactions used for legitimate purposes, including swaps and stock loans that facilitate capital flows, reduce capital needs, or spread risk. What I oppose, and what Section 108 would stop is the misuse of financial transactions to undermine the tax code, rob the U.S. treasury, and force honest Americans who play by the rules to shoulder the country's tax burden. What this section is intended to stop are dividend-based transactions whose economic purpose is nothing more than tax dodging.

Section 109—PFIC Reporting Requirement

Section 109 is the third and final new addition to the Stop Tax Haven Abuse Act. The purpose of this provision to strengthen disclosure requirements for foreign corporations used as the personal investment vehicles of U.S. individuals. These corporations are sometimes established in offshore secrecy jurisdictions, making it particularly difficult for the IRS to detect them and establish links to the U.S. beneficiaries.

The tax obligations of these corporations, known as passive foreign investment corporations or PFICs, are set out in Sections 1291–1298 of the tax code. U.S. persons who are direct or indirect shareholders of a PFIC are currently required to complete a Form 8621 providing certain information about the PFIC to the IRS. While the IRS has issued proposed regulations governing PFIC reporting, they have not yet been finalized.

Section 109 of the bill would codify the PFIC reporting requirements set out in the proposed regulations, with one additional requirement. Specifically, PFIC reporting would be required not only by U.S. persons who have an ownership interest in a PFIC, but also by any U.S. person who, directly or indirectly, causes the PFIC to be formed, or who sent assets to or received assets from the PFIC during the relevant tax year.

The need for expanded reporting obligations was highlighted during the Subcommittee's investigative work which showed that, in too many cases, ownership requirements were not enough to trigger reporting obligations for offshore corporations. For example, the Subcommittee found numerous instances in which a U.S. person asked an offshore service provider to form an offshore corporation, lodge ownership of the new corporation in one or more offshore shell companies under the provider's control, and then operate the new corporation as the U.S. person directed, despite the absence of any direct ownership interest. This arrangement, which may have been designed to evade tax or other legal obligations that attach to corporations directly or indirectly owned by a U.S. person, nevertheless provided U.S. persons with beneficial interests in offshore corporations that effectively operated at their discretion.

To ensure that such offshore corporations are subject to the same reporting requirements as PFICs in which a U.S. person is a direct or indirect shareholder, the new Section 109 would require Forms 8621 to be filed by any U.S. person who formed a PFIC, sent assets to it, received assets from it, was a beneficial owner of it, or had beneficial interests in it. This expanded reporting requirement is intended to prevent any U.S. person who established, capitalized, or profited from a beneficial interest in a PFIC—whether or not that beneficial interest was evidenced by legal documentation—from arguing that they had no reporting obligation for that PFIC, because they lacked a formal ownership interest in it.

Finally, Section 109 is intended to require reporting by U.S. persons who have a beneficial interest in a PFIC; it is not intended to impose reporting requirements on persons who perform ministerial tasks associated with a PFIC, including tasks associated with a PFIC's formation, management, contributions or distributions.

Section 201—Stronger penalty for failure to make required securities disclosures

In addition to tax abuses, the 2006 Subcommittee investigation into the Wyly case history uncovered a host of troubling transactions involving U.S. securities held by the 58 offshore trusts and corporations associated with the two Wyly brothers. Over the course of a number of years, the Wylys had obtained about $190 million in stock options as compensation from three U.S. publicly traded corporations at which

they were directors and major shareholders. Over time, the Wylys transferred these stock options to the network of offshore entities they had established.

The investigation found that, for years, the Wylys had generally failed to report the offshore entities' stock holdings or transactions in their filings with the Securities and Exchange Commission (SEC). They did not report these stock holdings on the ground that the 58 offshore trusts and corporations functioned as independent entities, even though the Wylys continued to direct the entities' investment activities. The public companies where the Wylys were corporate insiders also failed to include in their SEC filings information about the company shares held by the offshore entities, even though the companies knew of their close relationship to the Wylys, that the Wylys had provided the offshore entities with significant stock options, and that the offshore entities held large blocks of the company stock. On other occasions, the public companies and various financial institutions failed to treat the shares held by the offshore entities as affiliated stock, even though they were aware of the offshore entities' close association with the Wylys. The investigation found that, because both the Wylys and the public companies had failed to disclose the holdings of the offshore entities, for 13 years federal regulators had been unaware of those stock holdings and the relationships between the offshore entities and the Wyly brothers.

Corporate insiders and public companies are already obligated by current law to disclose stock holdings and transactions of offshore entities affiliated with a company director, officer, or major shareholder. Current penalties, however, appear insufficient to ensure compliance in light of the low likelihood that U.S. authorities will learn of transactions that take place in an offshore jurisdiction. To address this problem, Section 201 of our bill would establish a new monetary penalty of up to $1 million for persons who knowingly fail to disclose offshore stock holdings and transactions in violation of U.S. securities laws.

Sections 202 and 203—Anti-money laundering programs for hedge funds and company formation agents

The Subcommittee's August 2006 investigation showed that the Wyly brothers used two hedge funds and a private equity fund controlled by them to funnel millions of untaxed offshore dollars into U.S. investments. In addition, multiple Subcommittee investigations provide extensive evidence on the role played by U.S. company formation agents in assisting U.S. persons to set up offshore structures. Moreover, a Subcommittee hearing in November 2006 disclosed that U.S. company formation agents are forming U.S. shell companies for numerous unidentified foreign clients. Some of those U.S. shell companies were later used in illicit activities, including money laundering, terrorist financing, drug crimes, tax evasion, and other misconduct. Because hedge funds, private equity funds, and company formation agents are as vulnerable as other financial institutions to money launderers seeking entry into the U.S. financial system, the bill contains two provisions aimed at ensuring that these groups know their clients and do not accept or transmit suspect funds into the U.S. financial system.

Currently, unregistered investment companies, such as hedge funds and private equity funds, are the only class of financial institutions under the Bank Secrecy Act that transmit substantial offshore funds into the United States, yet are not required by law to have anti-money laundering programs, including Know Your Customer, due diligence procedures, and procedures to file suspicious activity reports. There is no reason why this sector of our financial services industry should continue to serve as a gateway into the U.S. financial system for substantial funds of unknown origin.

Seven years ago, in 2002, the Treasury Department proposed anti-money laundering regulations for these companies, but never finalized them. In 2008, the Department withdrew them with no explanation. Section 202 of the bill would require Treasury to issue final anti-money laundering regulations for unregistered investment companies within 180 days of the enactment of the bill. Treasury would be free to draw upon its 2002 proposal, but the bill would also require the final regulations to direct hedge funds and private equity funds to exercise due diligence before accepting offshore funds and to comply with the same procedures as other financial institutions if asked by federal regulators to produce records kept offshore.

In addition, Section 203 of the bill would add company formation agents to the list of persons subject to anti-money laundering obligations. For the first time, those engaged in the business of forming corporations and other entities, both offshore and in the 50 States, would be responsible for knowing the identity of the person for whom they are forming the entity. The bill also directs Treasury to develop anti-money laundering regulations for this group. Treasury's key anti-money laundering agency, the Financial Crimes Enforcement Network, testified before the Subcommittee in 2006, that it was considering drafting such regulations but has yet to do so.

We expect and intend that, as in the case of all other entities required to institute anti-money laundering programs, the regulations issued in response to this bill would instruct hedge funds, private equity funds, and company formation agents to adopt risk-based procedures that would concentrate their due diligence efforts on clients that pose the highest risk of money laundering.

Section 204—IRS John Doe summons

Section 204 of the bill focuses on an important tool used by the IRS in recent years to uncover taxpayers involved in offshore tax schemes, known as the John Doe summons. Section 204 would make three technical changes to make the use of John Doe summons more effective in offshore and other complex investigations.

A John Doe summons is an administrative IRS summons used to request information in cases where the identity of a taxpayer is unknown. In cases involving a known taxpayer, the IRS may issue a summons to a third party to obtain information about the U.S. taxpayer, but must also notify the taxpayer who then has 20 days to petition a court to quash the summons to the third party. With a John Doe summons, however, IRS does not have the taxpayer's name and does not know where to send the taxpayer notice, so the statute substitutes a procedure in which the IRS must instead apply to a court for advance permission to serve the summons on the third party. To obtain approval of the summons, the IRS must show the court, in public filings to be resolved in open court, that: (1) the summons relates to a particular person or ascertainable class of persons, (2) there is a reasonable basis for concluding that there is a tax compliance issue involving that person or class of persons, and (3) the information sought is not readily available from other sources.

In recent years, the IRS has used John Doe summonses to try to obtain information about taxpayers operating in offshore secrecy jurisdictions. For example, as indicated earlier, the IRS obtained court approval to serve a John Doe summons on the Swiss bank, UBS, to obtain the names of an estimated 19,000 U.S. clients who opened UBS accounts in Switzerland without disclosing those accounts to the IRS. This is a landmark effort to try to overcome Swiss secrecy laws. In earlier years, the IRS obtained court approval to issue John Doe summonses to credit card associations, credit card processors, and credit card merchants, to collect information about taxpayers using credit cards issued by offshore banks. This information has led to many successful cases in which the IRS identified funds hidden offshore and recovered unpaid taxes.

Currently, however, use of the John Doe summons process is time consuming and expensive. For each John Doe summons involving an offshore secrecy jurisdiction, the IRS has had to establish in court that the involvement of accounts and transactions in offshore secrecy jurisdictions meant there was a significant likelihood of tax compliance problems. To relieve the IRS of the need to make this same proof over and over in court after court, the bill would provide that, in any John Doe summons proceeding involving a class defined in terms of accounts or transactions in an offshore secrecy jurisdiction, the court may presume that the

case raises tax compliance issues. This presumption would then eliminate the need for the IRS to repeatedly establish in court the obvious fact that accounts, entities, and transactions involving offshore secrecy jurisdictions raise tax compliance issues.

Second, for a smaller subset of John Doe cases, where the only records sought by the IRS are offshore bank account records held by a U.S. financial institution where that offshore bank has an account, the bill would relieve the IRS of the obligation to get prior court approval to serve the summons. Again, the justification is that offshore bank records are highly likely to involve accounts that raise tax compliance issues so no prior court approval should be required. Even in this instance, however, if a U.S. financial institution were to decline to produce the requested records, the IRS would have to obtain a court order to enforce the summons.

Finally, the bill would streamline the John Doe summons approval process in large ''project'' investigations where the IRS anticipates issuing multiple summonses to definable classes of third parties, such as banks or credit card associations, to obtain information related to particular taxpayers. Right now, for each summons issued in connection with a project, the IRS has to obtain the approval of a court, often having to repeatedly establish the same facts before multiple judges in multiple courts. This repetitive exercise wastes IRS, Justice Department, and court resources, and fragments oversight of the overall IRS investigative effort.

To streamline this process and strengthen court oversight of IRS use of John Doe summons, the bill would authorize the IRS to present an investigative project, as a whole, to a single judge to obtain approval for issuing multiple summonses related to that project. In such cases, the court would retain jurisdiction over the case after approval is granted, to exercise ongoing oversight of IRS issuance of summonses under the project. To further strengthen court oversight, the IRS would be required to file a publicly available report with the court on at least an annual basis describing the summonses issued under the project. The court would retain authority to restrict the use of further summonses at any point during the project. To evaluate the effectiveness of this approach, the bill would also direct the Government Accountability Office to report on the use of the provision after five years.

Section 205—FBAR investigations and suspicious activity reports

Section 205 of the bill would make several changes to Title 31 of the U.S. Code needed to reflect the IRS' new responsibility for enforcing the Foreign Bank Account Report (FBAR) requirements and to clarify the right of access to Suspicious Activity Reports by IRS civil enforcement authorities.

Under present law, a person controlling a foreign financial account with over $10,000 is required to check a box on his or her income tax return and, under Title 31, also file an FBAR form with the IRS. Treasury's Financial Crimes Enforcement Network (FinCEN), which normally enforces Title 31 provisions, recently delegated to the IRS the responsibility for investigating FBAR violations and assessing FBAR penalties. Because the FBAR enforcement jurisdiction derives from Title 31, however, and most of the information available to the IRS is tax return information, IRS routinely encounters difficulties in using available tax information to fulfill its new role as FBAR enforcer. The tax disclosure law permits the use of tax information only for the administration of the internal revenue laws or ''related statutes.'' This rule is presently understood to require the IRS to determine, at a managerial level and on a case by case basis, that the Title 31 FBAR law is a ''related statute.'' Not only does this necessitate repetitive determinations in every FBAR case investigated by the IRS before each agent can look at the potential non-filer's income tax return, but it prevents the use by IRS of bulk data on foreign accounts received from tax treaty partners to compare to FBAR filing records to find non-filers.

One of the stated purposes for the FBAR filing requirement is that such reports ''have a high degree of usefulness in . . . tax . . . investigations or proceedings.'' 31 U.S.C 5311. If one of the reasons for requiring taxpayers to file FBARs is to use the information for tax purposes, and if IRS is to be charged with FBAR enforcement because of the FBARs' connection to taxes, common sense dictates that the FBAR statute should be considered a related statute for tax disclosure purposes, and the bill changes the related statute rule to say that.

The second change made by Section 205 is a technical amendment to the wording of the penalty provision. Currently the penalty is determined in part by the balance in the foreign bank account at the time of the ''violation.'' The violation is interpreted to have occurred on the due date of the FBAR return, which is June 30 of the year following the year to which the report relates. The statute's use of this specific June 30th date can lead to strange results if money is withdrawn from the foreign account after the reporting period closed but before the return due date. To eliminate this unintended problem, the bill would instead gauge the penalty by using the highest balance in the account during the reporting period.

The third part of section 205 relates to Suspicious Activity Reports, which financial institutions are required to file with FinCEN whenever they encounter suspicious transactions. FinCEN is required to share this information with law enforcement, but currently does not permit IRS civil investigators access to the information. However, if the information that is gathered and transmitted to Treasury by the financial institutions at great expense is to be effectively utilized, its use should not be limited to the relatively small number of criminal investigators, who can barely scratch the surface of the large number of reports. In addition, sharing the information with civil tax investigators would not increase the risk of disclosure, because they operate under the same tough disclosure rules as the criminal investigators. In some cases, IRS civil agents are now issuing an IRS summons to a financial institution to get access, for a production fee, to the very same information the financial institution has already filed with Treasury in a SAR. The bill changes those anomalous results by making it clear that ''law enforcement'' includes civil tax law enforcement.

Overall, Titles I and II of our bill include a host of innovative measures to strengthen the ability of federal regulators to combat offshore tax haven abuses. We believe these new tools merit Congressional attention and enactment this year if we are going to begin to make a serious dent in the $100 billion in annual lost tax revenue from offshore tax abuses that forces honest taxpayers to shoulder a greater tax burden than they would otherwise have to bear.

Until now, I've been talking about what the bill would do combat offshore tax abuses. Now I want to turn to what the bill would do to combat abusive tax shelters and their promoters who use both domestic and offshore means to achieve their ends.

ABUSIVE TAX SHELTERS

Abusive tax shelters are complicated transactions promoted to provide tax benefits unintended by the tax code. They are very different from legitimate tax shelters, such as deducting the interest paid on a home mortgage or Congressionally approved tax deductions for building affordable housing. Some abusive tax shelters involve complicated domestic transactions; others make use of offshore shenanigans. All abusive tax shelters are marked by one characteristic: there is no real economic or business rationale other than tax avoidance. As Judge Learned Hand wrote in Gregory v. Helvering, they are ''entered upon for no other motive but to escape taxation.''

Abusive tax shelters are usually tough to prosecute. Crimes such as terrorism, murder, and fraud produce instant recognition of the immorality involved. Abusive tax shelters, by contrast, are often ''MEGOs,'' meaning ''My Eyes Glaze Over.'' Those who cook up these concoctions count on their complexity to escape scrutiny and public ire. But regardless of how complicated or eye-glazing, the hawking of abusive tax shelters by tax professionals like accountants, bankers, investment advisers, and lawyers to

thousands of people like late-night, cut-rate T.V. bargains is scandalous, and we need to stop it.

My Subcommittee has spent years examining the design, sale, and implementation of abusive tax shelters. Our first hearing on this topic in recent years was held in January 2002, when the Subcommittee examined an abusive tax shelter purchased by Enron. In November 2003, the Subcommittee held two days of hearings and released a staff report that pulled back the curtain on how even some respected accounting firms, banks, investment advisors, and law firms had become engines pushing the design and sale of abusive tax shelters to corporations and individuals across this country. In February 2005, the Subcommittee issued a bipartisan report that provided further details on the role these professional firms played in the proliferation of these abusive shelters. Our Subcommittee report was endorsed by the full Committee on Homeland Security and Governmental Affairs in April 2005.

In 2006, the Subcommittee released a staff report entitled, ''Tax Haven Abuses: The Enablers, the Tools, and Secrecy,'' which disclosed how financial and legal professionals designed and sold yet another abusive tax shelter known as the POINT Strategy, which depended on secrecy laws and practices in the Isle of Man to conceal the phantom nature of securities trades that lay at the center of this tax shelter transaction. Most recently, in 2008, the Subcommittee released a staff report and held a hearing on how financial firms have designed and sold complex financial transactions, referred to as dividend enhancement transactions, to help offshore hedge funds and others escape payment of U.S. taxes on U.S. stock dividends.

The Subcommittee investigations have found that many abusive tax shelters are not dreamed up by the taxpayers who use them. Instead, most are devised by tax professionals, such as accountants, bankers, investment advisors, and lawyers, who then sell the tax shelter to clients for a fee. In fact, as our 2003 investigation widened, we found a large number of tax advisors cooking up one complex scheme after another, packaging them up as generic ''tax products'' with boiler-plate legal and tax opinion letters, and then undertaking elaborate marketing schemes to peddle these products to literally thousands of persons across the country. In return, these tax shelter promoters were getting hundreds of millions of dollars in fees, while diverting billions of dollars in tax revenues from the U.S. Treasury each year.

For example, one shelter investigated by the Subcommittee and featured in the 2003 hearings has since become part of an IRS effort to settle cases involving a set of abusive tax shelters known as ''Son of Boss.'' Following our hearing, more than 1,200 taxpayers admitted wrongdoing and agreed to pay back taxes, interest and penalties totaling more than $3.7 billion. That's billions of dollars the IRS has collected on just one type of tax shelter, demonstrating both the depth of the problem and the potential for progress. The POINT shelter featured in our 2006 hearing involved another $300 million in tax loss on transactions conducted by just six taxpayers. The offshore dividend tax scams we examined in 2008 meant additional billions of dollars in unpaid taxes over a ten year period.

Titles III and IV of the bill we are introducing today contain a number of measures to curb abusive tax shelters. First, they would strengthen the penalties imposed on those who aid or abet tax evasion. Second, they would prohibit the issuance of tax shelter patents. Several provisions would deter bank participation in abusive tax shelter activities by requiring regulators to develop new examination procedures to detect and stop such activities. Others would end outdated communication barriers between the IRS and other enforcement agencies such as the SEC, bank regulators, and the Public Company Accounting Oversight Board, to allow the exchange of information relating to tax evasion cases. The bill also provides for increased disclosure of tax shelter information to Congress.

In addition, the bill would simplify and clarify an existing prohibition on the payment of fees linked to tax benefits; and authorize Treasury to issue tougher standards for tax shelter opinion letters. Finally, the bill would codify and strengthen the economic substance doctrine, which eliminates tax benefits for transactions that have no real business purpose apart from avoiding taxes.

Let me be more specific about these key provisions to curb abusive tax shelters.

Sections 301 and 302—Strengthening tax shelter penalties

Title III of the bill strengthens two very important penalties that the IRS can use in its fight against the professionals who make complex abusive shelters possible. Three years ago, the penalty for promoting an abusive tax shelter, as set forth in Section 6700 of the tax code, was the lesser of $1,000 or 100 percent of the promoter's gross income derived from the prohibited activity. That meant in most cases the maximum fine was just $1,000.

Many abusive tax shelters sell for $100,000 or $250,000 apiece. Our investigation uncovered some tax shelters that were sold for as much as $2 million or even $5 million apiece, as well as instances in which the same cookie-cutter tax opinion letter was sold to 100 or even 200 clients. There are huge profits to be made in this business, and a $1,000 fine is laughable.

The Senate acknowledged that in 2004, when it adopted the Levin-Coleman amendment to the JOBS Act, S. 1637, raising the Section 6700 penalty on abusive tax shelter promoters to 100 percent of the fees earned by the promoter from the abusive shelter. A 100 percent penalty would have ensured that the abusive tax shelter hucksters would not get to keep a single penny of their ill-gotten gains. That figure, however, was cut in half in the conference report, setting the penalty at 50 percent of the fees earned and allowing the promoters of abusive shelters to keep half of their illicit profits.

While a 50 percent penalty is an obvious improvement over $1,000, this penalty still is inadequate and makes no sense. Why should anyone who pushes an illegal tax shelter that robs our Treasury of needed revenues get to keep half of their ill-gotten gains? What deterrent effect is created by a penalty that allows promoters to keep half of their fees if caught, and of course, all of their fees if they are not caught?

Effective penalties should make sure that the peddler of an abusive tax shelter is deprived of every penny of profit earned from selling or implementing the shelter and then is fined on top of that. Section 301 of this bill would do just that by increasing the penalty on tax shelter promoters to an amount equal to up to 150 percent of the promoters' gross income from the prohibited activity.

A second penalty provision in the bill addresses what our investigations have found to be a key problem: the knowing assistance of accounting firms, law firms, investment firms, banks, and others to help taxpayers understate their taxes. In addition to those who meet the definition of ''promoters'' of abusive shelters, there are many other types of professional firms that aid and abet the use of abusive tax shelters and enable taxpayers to carry out the abusive tax schemes. For example, law firms are often asked to write ''opinion letters'' to help taxpayers head off IRS questioning and fines that they might otherwise confront for using an abusive shelter. Currently, under Section 6701 of the tax code, these aiders and abettors face a maximum penalty of only $1,000, or $10,000 if the offender is a corporation. This penalty, too, is a joke. When law firms are getting $50,000 for each of these cookie-cutter opinion letters, it provides no deterrent whatsoever. A $1,000 fine is like a jaywalking ticket for robbing a bank.

Section 302 of the bill would strengthen Section 6701 of the tax code by subjecting aiders and abettors to a maximum fine up to 150 percent of the aider and abettor's gross income from the prohibited activity. This penalty would apply to all aiders and abettors, not just tax return preparers.

Again, the Senate has recognized the need to toughen this critical penalty. In the 2004 JOBS Act, Senator Coleman and I successfully increased this fine to 100 percent of the gross income derived from the prohibited activity. Unfortunately, the conference report completely omitted this change, allowing

many aiders and abettors to continue to profit without penalty from their wrongdoing.

If further justification for toughening these penalties is needed, one document uncovered by our investigation shows the cold calculation engaged in by a tax advisor facing low fines. A senior tax professional at accounting giant KPMG compared possible tax shelter fees with possible tax shelter penalties if the firm were caught promoting an illegal tax shelter. This senior tax professional wrote the following: ''[O]ur average deal would result in KPMG fees of $360,000 with a maximum penalty exposure of only $31,000.'' He then recommended the obvious: going forward with sales of the abusive tax shelter on a cost-benefit basis.

Section 303—Prohibition on tax shelter patents

Section 303 of our bill addresses the growing problem of tax shelter patents, which has the potential for significantly increasing abusive tax shelter activities.

In 1998, a federal appeals court ruled for the first time that business methods can be patented and, since then, various tax practitioners have filed applications to patent a variety of tax strategies. The U.S. Patent Office has apparently issued over 70 tax strategy patents to date, up from 49 in 2007, and with many more on the way. These patents were issued by patent officers who, by statute, have a background in science and technology, not tax law, and know little to nothing about abusive tax shelters.

Issuing these types of patents raises multiple public policy concerns. Patents issued for aggressive tax strategies, for example, may enable unscrupulous promoters to claim the patent represents an official endorsement of the strategy and evidence that it would withstand IRS challenge. Patents could be issued for blatantly illegal tax shelters, yet remain in place for years, producing revenue for the wrongdoers while the IRS battles the promoters in court. Patents for tax shelters found to be illegal by a court would nevertheless remain in place, creating confusion among users and possibly producing illicit income for the patent holder.

Another set of policy concerns relates to the patenting of more routine tax strategies. If a single tax practitioner is the first to discover an advantage granted by the law and secures a patent for it, that person could then effectively charge a toll for all other taxpayers to use the same strategy, even though as a matter of public policy all persons ought to be able to take advantage of the law to minimize their taxes. Companies could even patent a legal method to minimize their taxes and then refuse to license that patent to their competitors in order to prevent them from lowering their operating costs. Tax patents could be used to hinder productivity and competition rather than foster it.

The primary rationale for granting patents is to encourage innovation, which is normally perceived to be a sufficient public benefit to justify granting a temporary monopoly to the patent holder. In the tax arena, however, there has historically been ample incentive for innovation in the form of the tax savings alone. The last thing we need is a further incentive for aggressive tax shelters. That's why Section 303 would prohibit the patenting of any ''tax planning invention'' that is ''designed to reduce, minimize, determine, avoid or defer ? tax liability.'' The wording of this section has been updated since the Stop Tax Haven Abuse Act of 2007, to reflect the bipartisan consensus that was reached on this provision in S. 2369, a Baucus-Grassley-Levin bill to bar tax patents, introduced but not acted upon in the 110th Congress.

Section 304—Fees contingent upon obtaining tax benefits

Another finding of the Subcommittee investigations is that some tax practitioners are circumventing current state and federal constraints on charging tax service fees that are dependent on the amount of promised tax benefits. Traditionally, accounting firms charged flat fees or hourly fees for their tax services. In the 1990s, however, they began charging ''value added'' fees based on, in the words of one accounting firm's manual, ''the value of the services provided, as opposed to the time required to perform the services.'' In addition, some firms began charging ''contingent fees'' that were calculated according to the size of the paper ''loss'' that could be produced for a client and used to offset the client's other taxable income—the greater the so-called loss, the greater the fee.

In response, many states prohibited accounting firms from charging contingent fees for tax work to avoid creating incentives for these firms to devise ways to shelter substantial sums. The SEC and the American Institute of Certified Public Accountants also issued rules restricting contingent fees, allowing them in only limited circumstances. Recently, the Public Company Accounting Oversight Board issued a similar rule prohibiting public accounting firms from charging contingent fees for tax services provided to the public companies they audit. Each of these federal, state, and professional ethics rules seeks to limit the use of contingent fees under certain, limited circumstances.

The Subcommittee investigation found that tax shelter fees, which are typically substantial and sometimes exceed $1 million, are often linked to the amount of a taxpayer's projected paper losses which can be used to shelter income from taxation. For example, in four tax shelters examined by the Subcommittee in 2003, documents show that the fees were equal to a percentage of the paper loss to be generated by the transaction. In one case, the fees were typically set at 7 percent of the transaction's generated ''tax loss'' that clients could use to reduce other taxable income. In another, the fee was only 3.5 percent of the loss, but the losses were large enough to generate a fee of over $53 million on a single transaction. In other words, the greater the loss that could be concocted for the taxpayer or ''investor,'' the greater the profit for the tax promoter. Think about that—greater the loss, the greater the profit. How's that for turning capitalism on its head!

In addition, evidence indicated that, in at least one instance, a tax advisor was willing to deliberately manipulate the way it handled certain tax products to circumvent contingent fee prohibitions. An internal document at an accounting firm related to a specific tax shelter, for example, identified the states that prohibited contingent fees. Then, rather than prohibit the tax shelter transactions in those states or require an alternative fee structure, the memorandum directed the firm's tax professionals to make sure the engagement letter was signed, the engagement was managed, and the bulk of services was performed ''in a jurisdiction that does not prohibit contingency fees.''

Right now, the prohibitions on contingent fees are complex and must be evaluated in the context of a patchwork of federal, state, and professional ethics rules. Section 304 of the bill would establish a single enforceable rule, applicable nationwide, that would prohibit tax practitioners from charging fees calculated according to a projected or actual amount of tax savings or paper losses.

Section 305—Deterring financial institution participation in abusive tax shelter activities

The bill would also help fight abusive tax shelters that are disguised as complex investment opportunities and use financing or securities transactions provided by financial institutions. In reality, tax shelter schemes lack the economic risks and rewards associated with a true investment. These phony transactions instead often rely on the temporary use of significant amounts of money in low risk schemes mischaracterized as real investments. The financing or securities transactions called for by these schemes are often supplied by a bank, securities firm, or other financial institution.

Currently the tax code prohibits financial institutions from providing products or services that aid or abet tax evasion or that promote or implement abusive tax shelters. The agencies that oversee these financial institutions on a daily basis, however, are experts in banking and securities law and generally lack the expertise to spot tax issues. Section 305 would crack down on financial institutions' illegal tax shelter activities by requiring federal bank regulators and the

SEC to work with the IRS to develop examination techniques to detect such abusive activities and put an end to them.

These examination techniques would be used regularly, preferably in combination with routine regulatory examinations, and the regulators would report potential violations to the IRS. The agencies would also be required to prepare joint reports to Congress in 2010 and 2013 on preventing the participation of financial institutions in tax evasion or tax shelter activities.

Section 306—Ending communication barriers between enforcement agencies

During hearings before the Permanent Subcommittee on Investigations on tax shelters in November 2003, IRS Commissioner Mark Everson testified that his agency was barred by Section 6103 of the tax code from communicating information to other federal agencies that would assist those agencies in their law enforcement duties. He pointed out that the IRS was barred from providing tax return information to the SEC, federal bank regulators, and the Public Company Accounting Oversight Board (PCAOB)—even, for example, when that information might assist the SEC in evaluating whether an abusive tax shelter resulted in deceptive accounting in a public company's financial statements, might help the Federal Reserve determine whether a bank selling tax products to its clients had violated the law against promoting abusive tax shelters, or help the PCAOB judge whether an accounting firm had impaired its independence by selling tax shelters to its audit clients.

Another example demonstrates how harmful these information barriers are to legitimate law enforcement efforts. In 2004, the IRS offered a settlement initiative to companies and corporate executives who participated in an abusive tax shelter involving the transfer of stock options to family-controlled entities. Over a hundred corporations and executives responded with admissions of wrongdoing. In addition to tax violations, their misconduct may be linked to securities law violations and improprieties by corporate auditors or banks, but the IRS has informed the Subcommittee that it is currently barred by law from sharing the names of the wrongdoers with the SEC, banking regulators, or PCAOB. The same is true for the offshore dividend tax shelters exposed in the Subcommittee's 2008 hearing. The IRS knows who the offending banks and investment firms are that designed and sold questionable dividend enhancement transactions to offshore hedge funds and others, but it is barred by Section 6103 of the tax code from providing detailed information or documents to the SEC or banking regulators who oversee the relevant financial institutions.

These communication barriers are outdated, inefficient, and ill-suited to stopping the torrent of tax shelter abuses now affecting or being promoted by so many public companies, banks, investment firms, and accounting firms. To address this problem, Section 306 of this bill would authorize the Treasury Secretary, with appropriate privacy safeguards, to disclose to the SEC, federal banking agencies, and the PCAOB, upon request, tax return information related to abusive tax shelters, inappropriate tax avoidance, or tax evasion. The agencies could then use this information only for law enforcement purposes, such as preventing accounting firms, investment firms, or banks from promoting abusive tax shelters, or detecting accounting fraud in the financial statements of public companies.

Section 307—Increased disclosure of tax shelter information to Congress

The bill would also provide for increased disclosure of tax shelter information to Congress. Section 307 would make it clear that companies providing tax return preparation services to taxpayers cannot refuse to comply with a Congressional document subpoena by citing Section 7216, which prohibits tax return preparers from disclosing taxpayer information to third parties. Several accounting and law firms raised this claim in response to document subpoenas issued by the Permanent Subcommittee on Investigations, contending they were barred by the nondisclosure provision in Section 7216 from producing documents related to the sale of abusive tax shelters to clients for a fee.

The accounting and law firms maintained this position despite an analysis provided by the Senate legal counsel showing that the nondisclosure provision was never intended to create a privilege or to override a Senate subpoena, as demonstrated in federal regulations interpreting the provision. This bill would codify the existing regulations interpreting Section 7216 and make it clear that Congressional document subpoenas must be honored.

Section 307 would also ensure Congress has access to information about decisions by Treasury related to an organization's tax exempt status. A 2003 decision by the D.C. Circuit Court of Appeals, Tax Analysts v. IRS, struck down certain IRS regulations and held that the IRS must disclose letters denying or revoking an organization's tax exempt status. The IRS has been reluctant to disclose such information, not only to the public, but also to Congress, including in response to requests by the Subcommittee.

For example, in 2005, the IRS revoked the tax exempt status of four credit counseling firms, and, despite the Tax Analysts case, claimed that it could not disclose to the Subcommittee the names of the four firms or the reasons for revoking their tax exemption. Our bill would make it clear that, upon receipt of a request from a Congressional committee or subcommittee, the IRS must disclose documents, other than a tax return, related to the agency's determination to grant, deny, revoke or restore an organization's exemption from taxation.

Section 308—Tax shelter opinion letters

As part of Circular 230, the Treasury Department has issued standards for tax practitioners who provide opinion letters on the tax implications of potential tax shelters. Section 308 of the bill would provide express statutory authority for these and even clearer regulations.

The public has traditionally relied on tax opinion letters to obtain informed and trustworthy advice about whether a tax-motivated transaction meets the requirements of the law. The Permanent Subcommittee on Investigations has found that, in too many cases, tax opinion letters no longer contain disinterested and reliable tax advice, even when issued by supposedly reputable accounting or law firms. Instead, some tax opinion letters have become marketing tools used by tax shelter promoters and their allies to sell clients on their latest tax products. In many of these cases, financial interests and biases were concealed, unreasonable factual assumptions were used to justify dubious legal conclusions, and taxpayers were misled about the risk that the proposed transaction would later be designated an illegal tax shelter. Reforms are essential to address these abuses and restore the integrity of tax opinion letters.

The Treasury Department recently adopted standards that address a number of the abuses affecting tax shelter opinion letters; however, the standards could be stronger yet. Our bill would authorize Treasury to issue standards addressing a wider spectrum of tax shelter opinion letter problems, including: preventing concealed collaboration among supposedly independent letter writers; avoiding conflicts of interest that would impair auditor independence; ensuring appropriate fee charges; preventing practitioners and firms from aiding and abetting the understatement of tax liability by clients; and banning the promotion of potentially abusive tax shelters. By addressing each of these areas, a beefed-up Circular 230 could help reduce the ongoing abusive practices related to tax shelter opinion letters.

TITLE IV—ECONOMIC SUBSTANCE

Finally, Title IV of the bill incorporates a Baucus-Grassley proposal which would strengthen legal prohibitions against abusive tax shelters by codifying in federal tax statutes for the first time what is known as the economic substance doctrine. This anti-tax abuse doctrine was fashioned by federal courts evaluating transactions that appeared to have little or no business purpose or economic substance apart from tax avoidance. It has become a powerful analytical tool used by courts to invalidate abusive tax shelters. At the same time, because there is no statute underlying this doctrine and the courts have developed

and applied it differently in different judicial districts, the existing case law has many ambiguities and conflicting interpretations.

This language was developed under the leadership of Senators BAUCUS and GRASSLEY, the Chairman and Ranking Member of the Finance Committee. The Senate has voted on multiple occasions to enact the economic substance doctrine into law, but House conferees have rejected it each time. Since no tax shelter legislation would be complete without addressing this issue, Title IV of this comprehensive bill proposes once more to include the economic substance doctrine in the tax code.

CONCLUSION

The eyes of some people may glaze over when tax shelters and tax havens are discussed, but unscrupulous taxpayers and tax professionals see illicit dollar signs. Our commitment to crack down on their tax abuses must be as strong as their determination to get away with ripping off America and American taxpayers.

Our bill provides powerful tools to end offshore tax haven and tax shelter abuses. Offshore tax abuses alone contribute nearly $100 billion to the $345 billion annual tax gap, which represents taxes owed but not paid. With the financial crisis facing our country today and the long list of expenses we're incurring to try to end that crisis, it is past time for taxes owing to the people's Treasury to be collected. And it is long past time for Congress to stop tax cheats from shifting their taxes onto the shoulders of honest Americans.

I am optimistic that under the leadership of the new Obama Administration and with the support of the Senate Finance Committee that we can finally tackle this massive problem.

By Mr. AKAKA (for himself, Ms. MURKOWSKI, Mr. INOUYE, and Mr. BEGICH):

S. 507. A bill to provide for retirement equity for Federal employees in nonforeign areas outside the 48 contiguous States and the District of Columbia, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

Mr. AKAKA. Mr. President, today I join with my good friend from Hawaii, Senator DANIEL INOUYE, and my friends from Alaska, Senators LISA MURKOWSKI and MARK BEGICH, to reintroduce legislation to ensure retirement equity for Federal workers in Hawaii, Alaska, and the U.S. Territories.

For years, Federal employees in my home State of Hawaii and in other nonforeign areas have been disadvantaged when it comes to their retirement due to a lack of locality pay. Federal workers in those areas may receive a nonforeign cost of living allowance, COLA, based on the difference in the cost of living between those areas and the District of Columbia. However, this pay adjustment does not count toward their retirement.

The inequity in retirement benefits for Federal workers in Hawaii, Alaska, and the U.S. Territories hinders efforts to recruit and retain Federal workers in these areas, and it has led to several lawsuits against the Federal government. Most recently, on January 30, 2008, Judge Phillip M. Pro in the U.S. District Court in Honolulu issued a decision on this in Matsuo v. the Office of Personnel Management. In his ruling, Judge Pro acknowledged the disparity saying that Congress discharged its legislative responsibilities imperfectly and recommended that Congress correct the incongruity made so evident by this case.

Under the Federal Employee Pay Comparability Act, FEPCA, of 1990, Federal employees in Alaska, Hawaii, and the Territories were excluded from receiving locality pay, which is adjusted for local labor markets across the country to help close the gap between private sector and public sector wages. The first year FEPCA was implemented, in 1994, Federal employees in Alaska, Hawaii, and the Territories were denied a pay raise so that Federal employees in the 48 contiguous States could receive their first locality pay allowance. Every year since 1994, Federal employees outside of the continental United States have been denied approximately one percent of the average annual pay raise, which goes toward locality pay rates.

As you can imagine, this issue has caused Federal employees in the nonforeign areas great concern for years, but there has never been enough support for any proposed solution. In the past two years, however, we have laid the groundwork for the solution represented by this bipartisan bill. The previous Administration submitted a legislative proposal to phase-out nonforeign COLA and phase-in locality pay. That proposal provided a good starting point, but did not address numerous important issues, including the impact such a change would have on postal employees, employees who receive special rates, members of the Senior Executive Service, and others who are in agency-specific personnel systems or those who do not receive locality pay, such as employees under the National Security Personnel System at the Department of Defense.

My Federal Workforce Subcommittee, in collaboration with Senators Stevens, INOUYE, and MURKOWSKI, worked extensively with Federal employees in Hawaii, Alaska, and the Territories and with the Office of Personnel Management, OPM, and other Federal agencies to craft a comprehensive solution, which we introduced as the Non-Foreign Area Retirement Equity Assurance Act last year.

We also have worked with OPM to help ensure that affected Federal employees understand the proposal. After we introduced the bill, my Subcommittee held a series of meetings in Hawaii with representatives from OPM, the Postal Service, and DoD to educate Federal employees on the impact of the legislation and listen to their concerns. I also chaired a field hearing in Honolulu, Hawaii, where the Administration presented its formal opinion on the legislation and Federal employee representatives from Hawaii, Alaska, Guam, and other Territories were invited to express their thoughts on the legislation. While there are still divergent views on this proposal, the vast majority of employees who I have heard from support it.

As the bill moved through the Senate, I agreed to a few modifications of the bill to address particular concerns. The Senate passed the amended version by unanimous consent in October 2008. Unfortunately, the 110th Congress adjourned before the House could take action on the bill.

Today, we are reintroducing a similar version of the Non-Foreign AREA Act that passed the Senate by unanimous consent only a few months ago in the hopes that we can move quickly to address this growing inequity. This bill is not a windfall or a pay raise for Federal employees. Since 1994, Federal employees in Alaska, Hawaii, and the Territories have been denied pay and retirement equity and this bill seeks to correct the long-time inequity, prevent further lawsuits, and protect employees take-home pay in the process.

As we all know, the declining economy is making it hard on working men and women to pay their bills and stay afloat. While locality rates have increased in recent years, non-foreign COLA rates have been gradually declining. COLA rates are expected to drop again this year in Alaska, Hawaii, and the Territories. Unless Congress acts soon, Federal employees in these areas will see their pay further adversely affected. In the current economic climate, we must be careful to do no harm.

I continue to encourage employees in Alaska, Hawaii, and in the Territories to write us with their questions and concerns on our legislation. My goal remains to ensure that Federal workers in the non-foreign areas are not disadvantaged when it comes to their pay and retirement.

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 placed in the RECORD, as follows:

S. 507

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 ''Non-Foreign Area Retirement Equity Assurance Act of 2009'' or the ''Non-Foreign AREA Act of 2009''.

SEC. 2. EXTENSION OF LOCALITY PAY.

(a) LOCALITY-BASED COMPARABILITY PAYMENTS.—Section 5304 of title 5, United States Code, is amended—

(1) in subsection (f)(1), by striking subparagraph (A) and inserting the following:

''(A) each General Schedule position in the United States, as defined under section

5921(4), and its territories and possessions, including the Commonwealth of Puerto Rico and the Commonwealth of the Northern Mariana Islands, shall be included within a pay locality;'';

(2) in subsection (g)—

(A) in paragraph (2)—

(i) in subparagraph (A), by striking ''and'' after the semicolon;

(ii) in subparagraph (B) by striking the period and inserting ''; and''; and

(iii) by adding after subparagraph (B) the following:

''(C) positions under subsection (h)(1)(C) not covered by appraisal systems certified under section 5382; and''; and

(B) by adding at the end the following:

''(3) The applicable maximum under this subsection shall be level II of the Executive Schedule for positions under subsection (h)(1)(C) covered by appraisal systems certified under section 5307(d).''; and

(3) in subsection (h)(1)—

(A) in subparagraph (B) by striking ''and'' after the semicolon;

(B) by redesignating subparagraph (C) as subparagraph (D);

(C) by inserting after subparagraph (B) the following:

''(C) a Senior Executive Service position under section 3132 or 3151 stationed within the United States, but outside the 48 contiguous States and the District of Columbia in which the incumbent was an individual who on the day before the date of enactment of the Non-Foreign Area Retirement Equity Assurance Act of 2009 was eligible to receive a cost-of-living allowance under section 5941; and'';

(D) in clause (iv) in the matter following subparagraph (D), by inserting '', except for members covered by subparagraph (C)'' before the semicolon; and

(E) in clause (v) in the matter following subparagraph (D), by inserting '', except for members covered by subparagraph (C)'' before the semicolon.

(b) ALLOWANCES BASED ON LIVING COSTS AND CONDITIONS OF ENVIRONMENT.—Section 5941 of title 5, United States Code, is amended—

(1) in subsection (a), by adding after the last sentence ''Notwithstanding any preceding provision of this subsection, the cost-of-living allowance rate based on paragraph (1) shall be the cost-of-living allowance rate in effect on the date of enactment of the Non-Foreign Area Retirement Equity Assurance Act of 2009, except as adjusted under subsection (c).'';

(2) by redesignating subsection (b) as subsection (d); and

(3) by inserting after subsection (a) the following:

''(b) This section shall apply only to areas that are designated as cost-of-living allowance areas as in effect on December 31, 2009.

''(c)(1) The cost-of-living allowance rate payable under this section shall be adjusted on the first day of the first applicable pay period beginning on or after—

''(A) January 1, 2010; and

''(B) January 1 of each calendar year in which a locality-based comparability adjustment takes effect under section 4 (2) and (3) of the Non-Foreign Area Retirement Equity Assurance Act of 2009.

''(2)(A) In this paragraph, the term 'applicable locality-based comparability pay percentage' means, with respect to calendar year 2010 and each calendar year thereafter, the applicable percentage under section 4 (1), (2), or (3) of Non-Foreign Area Retirement Equity Assurance Act of 2009.

''(B) Each adjusted cost-of-living allowance rate under paragraph (1) shall be computed by—

''(i) subtracting 65 percent of the applicable locality-based comparability pay percentage from the cost-of-living allowance percentage rate in effect on December 31, 2009; and

''(ii) dividing the resulting percentage determined under clause (i) by the sum of—

''(I) one; and

''(II) the applicable locality-based comparability payment percentage expressed as a numeral.

''(3) No allowance rate computed under paragraph (2) may be less than zero.

''(4) Each allowance rate computed under paragraph (2) shall be paid as a percentage of basic pay (including any applicable locality-based comparability payment under section 5304 or similar provision of law and any applicable special rate of pay under section 5305 or similar provision of law).''.

SEC. 3. ADJUSTMENT OF SPECIAL RATES.

(a) IN GENERAL.—Each special rate of pay established under section 5305 of title 5, United States Code, and payable in an area designated as a cost-of-living allowance area under section 5941(a) of that title, shall be adjusted, on the dates prescribed by section 4 of this Act, in accordance with regulations prescribed by the Director of the Office of Personnel Management under section 8 of this Act.

(b) AGENCIES WITH STATUTORY AUTHORITY.—

(1) IN GENERAL.—Each special rate of pay established under an authority described under paragraph (2) and payable in a location designated as a cost-of-living allowance area under section 5941(a)(1) of title 5, United States Code, shall be adjusted in accordance with regulations prescribed by the applicable head of the agency that are consistent with the regulations issued by the Director of the Office of Personnel Management under subsection (a).

(2) STATUTORY AUTHORITY.—The authority referred to under paragraph (1), is any statutory authority that—

(A) is similar to the authority exercised under section 5305 of title 5, United States Code;

(B) is exercised by the head of an agency when the head of the agency determines it to be necessary in order to obtain or retain the services of persons specified by statute; and

(C) authorizes the head of the agency to increase the minimum, intermediate, or maximum rates of basic pay authorized under applicable statutes and regulations.

(c) TEMPORARY ADJUSTMENT.—Regulations issued under subsection (a) or (b) may provide that statutory limitations on the amount of such special rates may be temporarily raised to a higher level during the transition period described in section 4 ending on the first day of the first pay period beginning on or after January 1, 2012, at which time any special rate of pay in excess of the applicable limitation shall be converted to a retained rate under section 5363 of title 5, United States Code.

SEC. 4. TRANSITION SCHEDULE FOR LOCALITY-BASED COMPARABILITY PAYMENTS.

Notwithstanding any other provision of this Act or section 5304 or 5304a of title 5, United States Code, in implementing the amendments made by this Act, for each non-foreign area determined under section 5941(b) of that title, the applicable rate for the locality-based comparability adjustment that is used in the computation required under section 5941(c) of that title shall be adjusted effective on the first day of the first pay period beginning on or after January 1—

(1) in calendar year 2010, by using ⅓ of the locality pay percentage for the rest of United States locality pay area;

(2) in calendar year 2011, by using ⅔ of the otherwise applicable comparability payment approved by the President for each non-foreign area; and

(3) in calendar year 2012 and each subsequent year, by using the full amount of the applicable comparability payment approved by the President for each non-foreign area.

SEC. 5. SAVINGS PROVISION.

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

(1) the application of this Act to any employee should not result in a decrease in the take home pay of that employee;

(2) in calendar year 2012 and each subsequent year, no employee shall receive less than the Rest of the U.S. locality pay rate;

(3) concurrent with the surveys next conducted under the provisions of section 5304(d)(1)(A) of title 5, United States Code, beginning after the date of the enactment of this Act, the Bureau of Labor Statistics should conduct separate surveys to determine the extent of any pay disparity (as defined by section 5302 of that title) that may exist with respect to positions located in the State of Alaska, the State of Hawaii, and the United States' territories, including American Samoa, Guam, Commonwealth of the Northern Mariana Islands, Commonwealth of Puerto Rico, and the United States Virgin Islands;

(4) if the surveys under paragraph (3) indicate that the pay disparity determined for the State of Alaska, the State of Hawaii, or any 1 of the United States' territories including American Samoa, Guam, Commonwealth of the Northern Mariana Islands, Commonwealth of Puerto Rico, and the United States Virgin Islands exceeds the pay disparity determined for the locality which (for purposes of section 5304 of that title) is commonly known as the ''Rest of the United States'', the President's Pay Agent should take appropriate measures to provide that each such surveyed area be treated as a separate pay locality for purposes of that section; and

(5) the President's Pay Agent will establish 1 locality area for the entire State of Hawaii and 1 locality area for the entire State of Alaska.

(b) SAVINGS PROVISIONS.—

(1) IN GENERAL.—During the period described under section 4 of this Act, an employee paid a special rate under 5305 of title 5, United States Code, who the day before the date of enactment of this Act was eligible to receive a cost-of-living allowance under section 5941 of title 5, United States Code, and who continues to be officially stationed in an allowance area, shall receive an increase in the employee's special rate consistent with increases in the applicable special rate schedule. For employees in allowance areas, the minimum step rate for any grade of a special rate schedule shall be increased at the time of an increase in the applicable locality rate percentage for the allowance area by not less than the dollar increase in the locality-based comparability payment for a non-special rate employee at the same minimum step provided under section 4 of this Act, and corresponding increases shall be provided for all step rates of the given pay range.

(2) CONTINUATION OF COST OF LIVING ALLOWANCE RATE.—If an employee, who the day before the date of enactment of this Act was eligible to receive a cost-of-living allowance under section 5941 of title 5, United States Code, would receive a rate of basic pay and applicable locality-based comparability payment which is in excess of the maximum rate limitation set under section 5304(g) of title 5, United States Code, for his position (but for that maximum rate limitation) due to the operation of this Act, the employee shall

continue to receive the cost-of-living allowance rate in effect on December 31, 2009 without adjustment until—

(A) the employee leaves the allowance area or pay system; or

(B) the employee is entitled to receive basic pay (including any applicable locality-based comparability payment or similar supplement) at a higher rate,

but, when any such position becomes vacant, the pay of any subsequent appointee thereto shall be fixed in the manner provided by applicable law and regulation.

(3) LOCALITY-BASED COMPARABILITY PAYMENTS.—Any employee covered under paragraph (2) shall receive any applicable locality-based comparability payment extended under section 4 of this Act which is not in excess of the maximum rate set under section 5304(g) of title 5, United States Code, for his position including any future increase to statutory pay limitations under 5318 of title 5, United States Code. Notwithstanding paragraph (2), to the extent that an employee covered under that paragraph receives any amount of locality-based comparability payment, the cost-of-living allowance rate under that paragraph shall be reduced accordingly, as provided under section 5941(c)(2)(B) of title 5, United States Code.

SEC. 6. APPLICATION TO OTHER ELIGIBLE EMPLOYEES.

(a) IN GENERAL.—

(1) DEFINITION.—In this subsection, the term ''covered employee'' means—

(A) any employee who—

(i) on the day before the date of enactment of this Act—

(I) was eligible to be paid a cost-of-living allowance under 5941 of title 5, United States Code; and

(II) was not eligible to be paid locality-based comparability payments under 5304 or 5304a of that title; or

(ii) on or after the date of enactment of this Act becomes eligible to be paid a cost-of-living allowance under 5941 of title 5, United States Code; or

(B) any employee who—

(i) on the day before the date of enactment of this Act—

(I) was eligible to be paid an allowance under section 1603(b) of title 10, United States Code;

(II) was eligible to be paid an allowance under section 1005(b) of title 39, United States Code;

(III) was employed by the Transportation Security Administration of the Department of Homeland Security and was eligible to be paid an allowance based on section 5941 of title 5, United States Code; or

(IV) was eligible to be paid under any other authority a cost-of-living allowance that is equivalent to the cost-of-living allowance under section 5941 of title 5, United States Code; or

(ii) on or after the date of enactment of this Act—

(I) becomes eligible to be paid an allowance under section 1603(b) of title 10, United States Code;

(II) becomes eligible to be paid an allowance under section 1005(b) of title 39, United States Code;

(III) is employed by the Transportation Security Administration of the Department of Homeland Security and becomes eligible to be paid an allowance based on section 5941 of title 5, United States Code; or

(IV) is eligible to be paid under any other authority a cost-of-living allowance that is equivalent to the cost-of-living allowance under section 5941 of title 5, United States Code.

(2) APPLICATION TO COVERED EMPLOYEES.—

(A) IN GENERAL.—Notwithstanding any other provision of law, for purposes of this Act (including the amendments made by this Act) any covered employee shall be treated as an employee to whom section 5941 of title 5, United States Code (as amended by section 2 of this Act), and section 4 of this Act apply.

(B) PAY FIXED BY STATUTE.—Pay to covered employees under section 5304 or 5304a of title 5, United States Code, as a result of the application of this Act shall be considered to be fixed by statute.

(C) PERFORMANCE APPRAISAL SYSTEM.—With respect to a covered employee who is subject to a performance appraisal system no part of pay attributable to locality-based comparability payments as a result of the application of this Act including section 5941 of title 5, United States Code (as amended by section 2 of this Act), may be reduced on the basis of the performance of that employee.

(b) POSTAL EMPLOYEES IN NON-FOREIGN AREAS.—

(1) IN GENERAL.—Section 1005(b) of title 39, United States Code, is amended—

(A) by inserting ''(1)'' after ''(b)'';

(B) by striking ''Section 5941,'' and inserting ''Except as provided under paragraph (2), section 5941'';

(C) by striking ''For purposes of such section,'' and inserting ''Except as provided under paragraph (2), for purposes of section 5941 of that title,''; and

(D) by adding at the end the following:

''(2) On and after the date of enactment of the Non-Foreign Area Retirement Equity Assurance Act of 2009—

''(A) the provisions of that Act and section 5941 of title 5 shall apply to officers and employees covered by section 1003(b) and (c) whose duty station is in a nonforeign area; and

''(B) with respect to officers and employees of the Postal Service (other than those officers and employees described under subparagraph (A)) section 6(b)(2) of that Act shall apply.''.

(2) CONTINUATION OF COST OF LIVING ALLOWANCE.—

(A) IN GENERAL.—Notwithstanding any other provision of this Act, any employee of the Postal Service (other than an employee covered by section 1003 (b) and (c) of title 39, United States Code, whose duty station is in a nonforeign area) who is paid an allowance under section 1005(b) of that title shall be treated for all purposes as if the provisions of this Act (including the amendments made by this Act) had not been enacted, except that the cost-of-living allowance rate paid to that employee—

(i) may result in the allowance exceeding 25 percent of the rate of basic pay of that employee; and

(ii) shall be the greater of—

(I) the cost-of-living allowance rate in effect on December 31, 2009 for the applicable area; or

(II) the applicable locality-based comparability pay percentage under section 4.

(B) RULE OF CONSTRUCTION.—Nothing in this Act shall be construed to—

(i) provide for an employee described under subparagraph (A) to be a covered employee as defined under subsection (a); or

(ii) authorize an employee described under subparagraph (A) to file an election under section 7 of this Act.

SEC. 7. ELECTION OF ADDITIONAL BASIC PAY FOR ANNUITY COMPUTATION BY EMPLOYEES.

(a) DEFINITION.—In this section the term ''covered employee'' means any employee—

(1) to whom section 4 applies;

(2) who is separated from service by reason of retirement under chapter 83 or 84 of title 5, United States Code, during the period of January 1, 2010, through December 31, 2012; and

(3) who files an election with the Office of Personnel Management under subsection (b).

(b) ELECTION.—

(1) IN GENERAL.—An employee described under subsection (a) (1) and (2) may file an election with the Office of Personnel Management to be covered under this section.

(2) DEADLINE.—An election under this subsection may be filed not later than December 31, 2012.

(c) COMPUTATION OF ANNUITY.—

(1) IN GENERAL.—Except as provided under paragraph (2), for purposes of the computation of an annuity of a covered employee any cost-of-living allowance under section 5941 of title 5, United States Code, paid to that employee during the first applicable pay period beginning on or after January 1, 2010 through the first applicable pay period ending on or after December 31, 2012, shall be considered basic pay as defined under section 8331(3) or 8401(4) of that title.

(2) LIMITATION.—The amount of the cost-of-living allowance which may be considered basic pay under paragraph (1) may not exceed the amount of the locality-based comparability payments the employee would have received during that period for the applicable pay area if the limitation under section 4 of this Act did not apply.

(d) CIVIL SERVICE RETIREMENT AND DISABILITY RETIREMENT FUND.—

(1) EMPLOYEE CONTRIBUTIONS.—A covered employee shall pay into the Civil Service Retirement and Disability Retirement Fund—

(A) an amount equal to the difference between—

(i) employee contributions that would have been deducted and withheld from pay under section 8334 or 8422 of title 5, United States Code, during the period described under subsection (c) of this section if the cost-of-living allowances described under that subsection had been treated as basic pay under section 8331(3) or 8401(4) of title 5, United States Code; and

(ii) employee contributions that were actually deducted and withheld from pay under section 8334 or 8422 of title 5, United States Code, during that period; and

(B) interest as prescribed under section 8334(e) of title 5, United States Code, based on the amount determined under subparagraph (A).

(2) AGENCY CONTRIBUTIONS.—

(A) IN GENERAL.—The employing agency of a covered employee shall pay into the Civil Service Retirement and Disability Retirement Fund an amount for applicable agency contributions based on payments made under paragraph (1).

(B) SOURCE.—Amounts paid under this paragraph shall be contributed from the appropriation or fund used to pay the employee.

(3) REGULATIONS.—The Office of Personnel Management may prescribe regulations to carry out this section.

SEC. 8. REGULATIONS.

(a) IN GENERAL.—The Director of the Office of Personnel Management shall prescribe regulations to carry out this Act, including—

(1) rules for special rate employees described under section 3;

(2) rules for adjusting rates of basic pay for employees in pay systems administered by the Office of Personnel Management when such employees are not entitled to locality-based comparability payments under section 5304 of title 5, United States Code, without regard to otherwise applicable statutory pay limitations during the transition period described in section 4 ending on the first day of the first pay period beginning on or after January 1, 2012; and

(3) rules governing establishment and adjustment of saved or retained rates for any

employee whose rate of pay exceeds applicable pay limitations on the first day of the first pay period beginning on or after January 1, 2012.

(b) OTHER PAY SYSTEMS.—With the concurrence of the Director of the Office of Personnel Management, the administrator of a pay system not administered by the Office of Personnel Management shall prescribe regulations to carry out this Act with respect to employees in such pay system, consistent with the regulations issued by the Office under subsection (a).

SEC. 9. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided by subsection (b), this Act (including the amendments made by this Act) shall take effect on the date of enactment of this Act.

(b) LOCALITY PAY AND SCHEDULE.—The amendments made by section 2 and the provisions of section 4 shall take effect on the first day of the first applicable pay period beginning on or after January 1, 2010.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 60—COMMEMORATING THE 10-YEAR ANNIVERSARY OF THE ACCESSION OF THE CZECH REPUBLIC, THE REPUBLIC OF HUNGARY, AND THE REUPBLIC OF POLAND AS MEMBERS OF THE NORTH ATLANTIC TREATY ORGANIZATION

Mrs. SHAHEEN (for herself and Mr. VOINOVICH) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 60

Whereas, on March 12, 1999, the Czech Republic, the Republic of Hungary, and the Republic of Poland formally joined the North Atlantic Treaty Organization (NATO);

Whereas, in March 2009, NATO will celebrate the 10-year anniversary of the accession of the Czech Republic, Hungary, and Poland as members of the alliance;

Whereas representatives of the governments of the Czech Republic, Hungary, and Poland will be in attendance as NATO celebrates its 60th anniversary at a summit to be held on April 4, 2009, in Germany and France;

Whereas the security of the United States and its NATO allies have been enhanced by the integration of the Czech Republic, Hungary, and Poland into the NATO alliance;

Whereas the Czech Republic, Hungary, and Poland have been integral to the NATO mission of promoting a Europe that is whole, undivided, free, and at peace;

Whereas the membership of the Czech Republic, Hungary, and Poland has strengthened the ability of NATO to perform a full range of missions throughout the world;

Whereas the Czech Republic, Hungary, and Poland continue to provide crucial support and participation in the NATO International Security Assistance Force in Afghanistan, as NATO struggles to help the people of Afghanistan create the conditions necessary for security and successful development and reconstruction;

Whereas the Czech Republic, Hungary, and Poland helped support NATO efforts to stabilize and secure the Balkans region by contributing to the NATO-led Kosovo Force;

Whereas the Czech Republic, Hungary, Poland, and all NATO members share a strong mutual commitment to defense, regional security, development, and human rights, throughout Europe and beyond; and

Whereas the Czech Republic, Hungary, and Poland have done much to help NATO meet the global challenges of the 21st century, including the threat of terrorism, the spread of weapons of mass destruction, instability caused by failed states, and threats to global energy security: Now, therefore, be it

Resolved, That the Senate—

(1) celebrates the 10th anniversary of the accession of the Czech Republic, the Republic of Hungary, and the Republic of Poland as members of the North Atlantic Treaty Organization (NATO);

(2) congratulates the people of the Czech Republic, Hungary, and Poland on their accomplishments as members of free democracies and partners in European stability and security;

(3) expresses appreciation for the continuing and close partnership between the United States Government and the Governments of the Czech Republic, Hungary, and Poland; and

(4) urges the United States Government to continue to seek new ways to deepen and expand its important relationships with the Governments of the Czech Republic, Hungary, and Poland.

SENATE RESOLUTION 61—COMMENDING THE COLUMBUS CREW MAJOR LEAGUE SOCCER TEAM FOR WINNING THE 2008 MAJOR LEAGUE SOCCER CUP

Mr. VOINOVICH (for himself and Mr. BROWN) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 61

Whereas, on Sunday, November 23, 2008, the Columbus Crew defeated the New York Red Bulls by a score of 3-1 to win the 2008 Major League Soccer (MLS) Cup;

Whereas the Columbus Crew led the league with a record of 17 wins, 7 losses, and 6 draws and scored 50 regular season goals and 8 playoff goals;

Whereas Columbus Crew head coach Sigi Schmid was named the 2008 MLS Coach of the Year and became the first MLS Coach to win an MLS Cup with two different teams;

Whereas Columbus Crew forward Guillermo Barros Schelotto was named the 2008 MLS Most Valuable Player and led the league with 19 regular season assists and 6 playoff assists;

Whereas Columbus Crew defender Chad Marshall was named the 2008 MLS Defender of the Year;

Whereas Columbus Crew forward Alejandro Moreno led the team in scoring with 9 regular season goals and 1 playoff goal;

Whereas Columbus Crew goalkeeper Will Hesmer had 17 wins, 97 saves, and 10 shutouts in 29 regular season games;

Whereas Alejandro Moreno, Chad Marshall, and Frankie Hejduk all scored goals in the MLS Cup Championship game;

Whereas the Columbus Crew was the winner of the 2008 MLS Supporters' Shield for being the team with the best regular season record;

Whereas Columbus Crew Captain Frankie Hejduk led the team to its first MLS Cup since the team's creation in 1994; and

Whereas the Columbus Crew, along with its supporters, has energized Columbus and brought great pride to the State of Ohio: Now, therefore, be it

Resolved, That the Senate—

(1) congratulates the Columbus Crew on winning the 2008 Major League Soccer Cup;

(2) recognizes the achievements of Sigi Schmid, Chad Marshall, Guillermo Barros Schelotto, and the other members of the Columbus Crew for their tireless work ethic and championship form;

(3) salutes the support of the Columbus Crew fan groups, including the Hudson Street Hooligans, the Crew Union, La Turbina Amarilla, and the rest of the Nordecke for unwavering dedication to the Columbus Crew; and

(4) expresses the hope that the Columbus Crew and Major League Soccer will continue to inspire soccer fans and players throughout Ohio, the United States, and the world.

SENATE CONCURRENT RESOLUTION 9—SUPPORTING THE GOALS AND IDEALS OF MULTIPLE SCLEROSIS AWARENESS WEEK

Mr. CASEY (for himself, Ms. SNOWE, Ms. LANDRIEU, Mr. PRYOR, Mr. LAUTENBERG, Mr. SANDERS, and Mr. DORGAN) submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 9

Whereas multiple sclerosis can impact men and women of all ages, races, and ethnicities;

Whereas more than 400,000 people in the United States live with multiple sclerosis;

Whereas approximately 2,500,000 people worldwide have been diagnosed with multiple sclerosis;

Whereas it is estimated that between 8,000 and 10,000 children and adolescents are living with multiple sclerosis;

Whereas every hour of every day, someone is newly diagnosed with multiple sclerosis;

Whereas the exact cause of multiple sclerosis is still unknown;

Whereas the symptoms of multiple sclerosis are unpredictable and vary from person to person;

Whereas there is no laboratory test available for multiple sclerosis;

Whereas multiple sclerosis is not genetic, contagious, or directly inherited, but studies show that there are genetic factors that indicate that certain individuals are susceptible to the disease;

Whereas multiple sclerosis symptoms occur when an immune system attack affects the myelin in nerve fibers of the central nervous system, damaging or destroying it and replacing it with scar tissue, thereby interfering with, or preventing the transmission of, nerve signals;

Whereas in rare cases, multiple sclerosis is so progressive that it is fatal;

Whereas there is no known cure for multiple sclerosis;

Whereas the Multiple Sclerosis Coalition, an affiliation of multiple sclerosis organizations dedicated to the enhancement of the quality of life for all those affected by multiple sclerosis, recognizes and celebrates Multiple Sclerosis Awareness Week;

Whereas the Multiple Sclerosis Coalition's mission is to increase opportunities for cooperation and provide greater opportunity to leverage the effective use of resources for the benefit of the multiple sclerosis community;

Whereas the Multiple Sclerosis Coalition recognizes and celebrates Multiple Sclerosis Awareness Week during 1 week in March every calendar year;

Whereas the goals of Multiple Sclerosis Awareness Week are to invite people to join the movement to end multiple sclerosis, encourage everyone to do something to demonstrate a commitment to moving toward a world free of multiple sclerosis, and to acknowledge those who have dedicated their time and talent to help promote multiple sclerosis research and programs; and

Whereas in 2009, Multiple Sclerosis Awareness Week is recognized during the week of March 2nd through March 8th: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) supports the goals and ideals of Multiple Sclerosis Awareness Week;

(2) encourages States, territories, and possessions of the United States and local communities to support the goals and ideals of Multiple Sclerosis Awareness Week;

(3) encourages media organizations to participate in Multiple Sclerosis Awareness Week and help educate the public about multiple sclerosis;

(4) commends the efforts of the States, territories, and possessions of the United States and local communities that support the goals and ideals of Multiple Sclerosis Awareness Week;

(5) recognizes and reaffirms the commitment of the people of the United States to combating multiple sclerosis by promoting awareness about the causes and risks of multiple sclerosis, and by promoting new education programs, supporting research, and expanding access to medical treatment; and

(6) recognizes all people in the United States living with multiple sclerosis, expresses gratitude to their family members and friends who are a source of love and encouragement to them, and salutes the health care professionals and medical researchers who provide assistance to those living with multiple sclerosis and continue to work to find cures and improve treatments.

AMENDMENTS SUBMITTED AND PROPOSED

SA 592. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill H.R. 1105, making omnibus appropriations for the fiscal year ending September 30, 2009, and for other purposes.

SA 593. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill H.R. 1105, supra; which was ordered to lie on the table.

SA 594. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 1105, supra; which was ordered to lie on the table.

SA 595. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 1105, supra; which was ordered to lie on the table.

SA 596. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 1105, supra; which was ordered to lie on the table.

SA 597. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 1105, supra; which was ordered to lie on the table.

SA 598. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 1105, supra; which was ordered to lie on the table.

SA 599. Ms. MURKOWSKI (for herself, Mr. BEGICH, Mr. INHOFE, Mr. VITTER, and Mr. BROWNBACK) submitted an amendment intended to be proposed by her to the bill H.R. 1105, supra; which was ordered to lie on the table.

SA 600. Ms. MURKOWSKI submitted an amendment intended to be proposed by her to the bill H.R. 1105, supra; which was ordered to lie on the table.

SA 601. Mr. VITTER submitted an amendment intended to be proposed by him to the bill H.R. 1105, supra; which was ordered to lie on the table.

SA 602. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill H.R. 1105, supra; which was ordered to lie on the table.

SA 603. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill H.R. 1105, supra; which was ordered to lie on the table.

SA 604. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill H.R. 1105, supra; which was ordered to lie on the table.

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SA 606. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill H.R. 1105, supra; which was ordered to lie on the table.

SA 607. Mr. WICKER submitted an amendment intended to be proposed by him to the bill H.R. 1105, supra; which was ordered to lie on the table.

SA 608. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 1105, supra; which was ordered to lie on the table.

SA 609. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 1105, supra; which was ordered to lie on the table.

SA 610. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 1105, supra; which was ordered to lie on the table.

SA 611. Mr. THUNE (for himself and Mr. DEMINT) submitted an amendment intended to be proposed by him to the bill H.R. 1105, supra; which was ordered to lie on the table.

SA 612. Mr. THUNE submitted an amendment intended to be proposed by him to the bill H.R. 1105, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 592. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill H.R. 1105, making omnibus appropriations for the fiscal year ending September 30, 2009, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. CONTINUING 2008 FUNDING LEVELS.

Section 106(3) of Public Law 110–329 is amended by striking ''March 6, 2009'' and inserting ''September 30, 2009''.

SA 593. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill H.R. 1105, making omnibus appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . PROHIBITION ON THE USE OF FUNDS.

None of the funds in this Act may be used for any project listed in the statement of managers that is not listed and specifically provided for in this Act.

SA 594. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 1105, making omnibus appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the end of Division I, Title I, insert the following:

SEC. . Notwithstanding any other provision of this Act, none of the funds appropriated or otherwise made available in Division I, Title I of this Act, for the Department of Transportation may be available for the Pleasure Beach Water Taxi Service in Connecticut, and the amount made available under such title is reduced by $1,900,000.

SA 595. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 1105, making omnibus appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the end of Division A, Title I, insert the following:

SEC. . Notwithstanding any other provision of this Act, none of the funds appropriated or otherwise made available in Division A, Title I of this Act, for the Agricultural Research Service under the heading ''Salaries and Expenses'' may be available for swine odor and manure management research in Ames, Iowa, and the amount made available under such heading is reduced by $1,791,000.

SA 596. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 1105, making omnibus appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 1120, between lines 6 and 7, insert the following:

PROHIBITION ON NO-BID EARMARKS

SEC. 414. (a) Notwithstanding any other provision of this Act, none of the funds appropriated or otherwise made available by this Act may be used to make any payment in connection with a contract unless the contract is awarded using competitive procedures in accordance with the requirements of section 303 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253), section 2304 of title 10, United States Code, and the Federal Acquisition Regulation.

(b) Notwithstanding any other provision of this Act, none of the funds appropriated or otherwise made available by this Act may be awarded by grant or cooperative agreement unless the process used to award such grant or cooperative agreement uses competitive procedures to select the grantee or award recipient.

SA 597. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 1105, making omnibus appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VII in Division A, before the short title, insert the following:

SEC. 7____. Any State Conservationist of the Natural Resources Conservation Service of the Department of Agriculture may use funds received by the State Conservationist during fiscal year 2009 for purposes of the environmental quality incentives program established under chapter 4 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3839aa et seq.) to carry out the watershed rehabilitation program under section 14 of the Watershed Protection and Flood Prevention Act (16 U.S.C. 1012).

SA 598. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 1105, making omnibus appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 135, line 6, strike the period and insert ''of which $12,000,000 shall be available for the Emmett Till Unsolved Civil Rights

Crime Act established under Public Law 110-344.''.

SA 599. Ms. MURKOWSKI (for herself, Mr. BEGICH, Mr. INHOFE, Mr. VITTER, and Mr. BROWNBACK) submitted an amendment intended to be proposed by her to the bill H.R. 1105, making omnibus appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 541, strikes lines 1 through 10 and insert the following:

(1) the Secretary of the Interior and the Secretary of Commerce may withdraw or repromulgate the rule described in subsection (c)(1) in accordance with each requirement described in subchapter II of chapter 5, and chapter 7, of title 5, United States Code (commonly known as the ''Administrative Procedure Act''), except that the public comment period shall be for a period of not less than 60 days; and

(2) the Secretary of the Interior may withdraw or repromulgate the rule described in subsection (c)(2) in accordance with each requirement described in subchapter II of chapter 5, and chapter 7, of title 5, United States Code (commonly known as the ''Administrative Procedure Act''), except that the public comment period shall be for a period of not less than 60 days.

SA 600. Ms. MURKOWSKI submitted an amendment intended to be proposed by her to the bill H.R. 1105, making omnibus appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 494, line 15, strike ''are rescinded'' and insert ''are rescinded: *Provided further*, that $5,000,000, to be derived from the Forest Management account, shall be made available to fund the Tongass Timber Fund in the same manner in which the Tongass Timber Fund has been funded during prior fiscal years''.

SA 601. Mr. VITTER submitted an amendment intended to be proposed by him to the bill H.R. 1105, making omnibus appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table as follows:

At the appropriate place, insert the following:

SEC. ____. None of the funds appropriated under this Act shall be made available to Planned Parenthood for any purpose under title X of the Public Health Service Act.

SA 602. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill H.R. 1105, making omnibus appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 1121, line 5, strike ''143, 144,'' and insert ''144''.

On page 1121, between lines 10 and 11, insert the following:

SEC. 102. Section 143 of division A of the Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009 (Public Law 110–329; 122 Stat. 3580) is amended by striking ''shall'' and all that follows through the end and inserting ''is amended by striking '11-year' and inserting '22-year'.''.

SA 603. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill H.R. 1105, making omnibus appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 1121, line 5, strike ''143, 144,'' and insert ''144''.

On page 1121, between lines 10 and 11, insert the following:

SEC. 102. Section 143 of division A of the Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009 (Public Law 110–329; 122 Stat. 3580) is amended by striking ''shall'' and all that follows through the end and inserting ''is amended by striking 'Unless' and all that follows through the end.''.

SA 604. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill H.R. 1105, making omnibus appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 1121, line 5, strike ''143, 144,'' and insert ''144''.

On page 1121, between lines 10 and 11, insert the following:

SEC. 102. Section 143 of division A of the Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009 (Public Law 110–329; 122 Stat. 3580) is amended by striking ''shall'' and all that follows through the end and inserting ''is amended by striking '11-year' and inserting '17-year'.''.

SA 605. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill H.R. 1105, making omnibus appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 1122, after line 10, add the following:

SEC. 104. The head of each agency or department of the United States that enters into a contract shall require, as a condition of the contract, that the contractor participate in the pilot program described in 404 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–209; 8 U.S.C. 1324a note) to verify the employment eligibility of—

(1) all individuals hired during the term of the contract by the contractor to perform employment duties within the United States; and

(2) all individuals assigned by the contractor to perform work within the United States the under such contract.

SA 606. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill H.R. 1105, making omnibus appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 1122, after line 10, add the following:

SEC. 104. None of the funds made available in the Emergency Economic Stabilization Act of 2008 (division A of Public Law 110–343; 122 Stat. 3765) or in the American Recovery and Reinvestment Act of 2009 (Public Law 111–5) may be used to provide funds to a person under a contract with an agency or department of the United States if—

(1) the person does not participate in the pilot program described in section 404 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 8 U.S.C. 1324a note); and

(2) the contract was entered into on or after the date of the enactment of this Act.

SA 607. Mr. WICKER submitted an amendment intended to be proposed by him to the bill H.R. 1105, making omnibus appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 927, strike line 14 and all that follows through page 929, line 20, and insert the following:

(b) AVAILABILITY OF FUNDS.—Funds appropriated under the heading ''International Organizations and Programs'' in this Act that are available for UNFPA and are not made available for UNFPA because of the operation of any provision of law, shall be transferred to the ''Global Health and Child Survival'' account and shall be made available for family planning, maternal, and reproductive health activities, subject to the regular notification procedures of the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives.

(c) PROHIBITION ON USE OF FUNDS IN CHINA.—None of the funds made available under ''International Organizations and Programs'' may be made available for the UNFPA for a country program in the People's Republic of China.

(d) CONDITIONS ON AVAILABILITY OF FUNDS.—Amounts made available under ''International Organizations and Programs'' for fiscal year 2006 for the UNFPA may not be made available to UNFPA unless—

(1) the UNFPA maintains amounts made available to the UNFPA under this section in an account separate from other accounts of the UNFPA;

(2) the UNFPA does not commingle amounts made available to the UNFPA under this section with other sums; and

(3) the UNFPA does not fund abortions.

(e) REPORT TO CONGRESS AND DOLLAR-FOR-DOLLAR WITHHOLDING OF FUNDS.—

(1) IN GENERAL.—Not later than 4 months after the date of the enactment of this Act, the Secretary of State shall submit a report to the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives indicating the amount of funds that the UNFPA is budgeting for the year in which the report is submitted for a country program in the People's Republic of China.

(2) DEDUCTION.—If a report submitted under paragraph (1) indicates that the UNFPA plans to spend funds for a country program in the People's Republic of China in the year covered by the report, the amount of such funds that the UNFPA plans to spend in the People's Republic of China shall be deducted from the funds made available to the UNFPA after March 1 for obligation for the remainder of the fiscal year in which the report is submitted.

(f) RULE OF CONSTRUCTION.—Nothing in this section may be construed to limit the authority of the President to deny funds to any organization by reason of the application of another provision of this Act or any other provision of law.

SA 608. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 1105, making omnibus appropriations for the fiscal year ending September 30, 2009, and for

other purposes; which was ordered to lie on the table; as follows:

On page 135, line 6, strike the period and insert ''of which $10,000,000 shall be available for grants to state or local law enforcement for expenses to carry out prosecutions and investigations authorized by the Emmett Till Unsolved Civil Rights Crime Act established under Public Law 110–344.''.

SA 609. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 1105, making omnibus appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. None of the funds made available under this Act may be obligated or otherwise expended for any congressionally directed spending item for any client of a lobbying firm under Federal investigation, including the PMA Group of Arlington, Virginia.

SA 610. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 1105, making omnibus appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. Notwithstanding any other provision of this Act, none of the funds made available under this Act may be obligated or otherwise expended for any congressionally directed spending item for—

(1) the Pleasure Beach Water Taxi Service Project of Connecticut;

(2) the Old Tiger Stadium Conservancy of Michigan;

(3) the Polynesian Voyaging Society of Hawaii;

(4) the American Lighthouse Foundation of Maine;

(5) the commemoration of the 150th anniversary of John Brown's raid on the arsenal at Harpers Ferry National Historic Park in West Virginia;

(6) the Orange County Great Park Corporation in California;

(7) odor and manure management research in Iowa;

(8) tattoo removal in California;

(9) the California National Historic Trail Interpretive Center in Nevada;

(10) the Iowa Department of Education for the Harkin grant program; and

(11) the construction of recreation and fairgrounds in Kotzebue, Alaska.

SA 611. Mr. THUNE (for himself and Mr. DEMINT) submitted an amendment intended to be proposed by him to the bill H.R. 1105, making omnibus appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 106, between lines 11 and 12, insert the following:

SEC. 112. None of the funds appropriated in this Act may be used by the Federal Communications Commission to prescribe any rule, regulation, policy, doctrine, standard, guideline, or other requirement that has the purpose or effect of reinstating or repromulgating (in whole or in part)the requirement that broadcasters present or ascertain opposing viewpoints on issues of public importance, commonly referred to as the ''Fairness Doctrine'', as such doctrine was repealed in In re Complaint of Syracuse Peace Council against Television Station WTVH, Syracuse New York, 2 FCC Rcd. 5043 (1987).

SA 612. Mr. THUNE submitted an amendment intended to be proposed by him to the bill H.R. 1105, making omnibus appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 131, line 1, strike ''$546,000,000'' and insert ''$146,000,000''.

On page 458, after line 25, insert the following:

EMERGENCY FUND FOR INDIAN SAFETY AND HEALTH

For deposit in the Emergency Fund for Indian Safety and Health established by subsection (a) of section 601 of the Tom Lantos and Henry J. Hyde United States Global Leadership Against HIV/AIDS, Tuberculosis, and Malaria Reauthorization Act of 2008 (25 U.S.C. 443c), for use by the Attorney General, the Secretary of Health and Human Services, and the Secretary of the Interior in accordance with that section, $400,000,000.

NOTICES OF HEARINGS

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 Committee on Energy and Natural Resources. The hearing will be held on Tuesday, March 10, 2009, at 10 a.m., in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of the hearing is to receive testimony on issues related to a bill to provide for the conduct of an in-depth analysis of the impact of energy development and production on the water resources of the United States, and for other purposes.

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 e-mail to Gina_Weinstock@energy.senate.gov.

For further information, please contact Michael Connor at (202) 224–5479 or Gina Weinstock at (202) 224–5684.

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 Senate Committee on Energy and Natural Resources. The hearing will be held on Thursday, March 12, 2009, at 9:30 a.m., in room SD–366 of the Dirksen Senate Office Building.

The Committee will conduct a legislative hearing to examine draft legislation regarding siting of electricity transmission lines, including increased federal siting authority and regional transmission planning.

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 may do so by sending it to the Committee on Energy and Natural Resources, United States Senate, Washington, D.C. 20510–6150, or by e-mail to Gina_Weinstock@,energy.senate.gov.

For further information, please contact Leon Lowery at (202) 224–2209 or Gina Weinstock at (202) 224–5684.

PRIVILEGES OF THE FLOOR

Mr. INOUYE. Mr. President, on behalf of Senator BAUCUS, I ask unanimous consent that the following staff of the Finance Committee be allowed on the Senate floor for the duration of the debate on the Omnibus appropriations package: Hun Quach, Rachel Poynter, Michael London, Rory Murphy, Dan Gutschenritter, Pete Harvey, Adam Glasier, and Vincent Mascia.

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

MULTIPLE SCLEROSIS AWARENESS WEEK

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. Con. Res. 9.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 9) supporting the goals and ideals of Multiple Sclerosis Awareness Week.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. REID. Mr. President, I ask unanimous consent that the concurrent resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, there be no intervening action or debate, and any statements relating to this measure be printed in the RECORD.

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

The concurrent resolution (S. Con. Res. 9) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

S. CON. RES. 9

Whereas multiple sclerosis can impact men and women of all ages, races, and ethnicities;

Whereas more than 400,000 people in the United States live with multiple sclerosis;

Whereas approximately 2,500,000 people worldwide have been diagnosed with multiple sclerosis;

Whereas it is estimated that between 8,000 and 10,000 children and adolescents are living with multiple sclerosis;

Whereas every hour of every day, someone is newly diagnosed with multiple sclerosis;

Whereas the exact cause of multiple sclerosis is still unknown;

Whereas the symptoms of multiple sclerosis are unpredictable and vary from person to person;

Whereas there is no laboratory test available for multiple sclerosis;

Whereas multiple sclerosis is not genetic, contagious, or directly inherited, but studies show that there are genetic factors that indicate that certain individuals are susceptible to the disease;

Whereas multiple sclerosis symptoms occur when an immune system attack affects the myelin in nerve fibers of the central nervous system, damaging or destroying it and replacing it with scar tissue, thereby interfering with, or preventing the transmission of, nerve signals;

Whereas in rare cases, multiple sclerosis is so progressive that it is fatal;

Whereas there is no known cure for multiple sclerosis;

Whereas the Multiple Sclerosis Coalition, an affiliation of multiple sclerosis organizations dedicated to the enhancement of the quality of life for all those affected by multiple sclerosis, recognizes and celebrates Multiple Sclerosis Awareness Week;

Whereas the Multiple Sclerosis Coalition's mission is to increase opportunities for cooperation and provide greater opportunity to leverage the effective use of resources for the benefit of the multiple sclerosis community;

Whereas the Multiple Sclerosis Coalition recognizes and celebrates Multiple Sclerosis Awareness Week during 1 week in March every calendar year;

Whereas the goals of Multiple Sclerosis Awareness Week are to invite people to join the movement to end multiple sclerosis, encourage everyone to do something to demonstrate a commitment to moving toward a world free of multiple sclerosis, and to acknowledge those who have dedicated their time and talent to help promote multiple sclerosis research and programs; and

Whereas in 2009, Multiple Sclerosis Awareness Week is recognized during the week of March 2nd through March 8th: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) supports the goals and ideals of Multiple Sclerosis Awareness Week;

(2) encourages States, territories, and possessions of the United States and local communities to support the goals and ideals of Multiple Sclerosis Awareness Week;

(3) encourages media organizations to participate in Multiple Sclerosis Awareness Week and help educate the public about multiple sclerosis;

(4) commends the efforts of the States, territories, and possessions of the United States and local communities that support the goals and ideals of Multiple Sclerosis Awareness Week;

(5) recognizes and reaffirms the commitment of the people of the United States to combating multiple sclerosis by promoting awareness about the causes and risks of multiple sclerosis, and by promoting new education programs, supporting research, and expanding access to medical treatment; and

(6) recognizes all people in the United States living with multiple sclerosis, expresses gratitude to their family members and friends who are a source of love and encouragement to them, and salutes the health care professionals and medical researchers who provide assistance to those living with multiple sclerosis and continue to work to find cures and improve treatments.

PROCLAIMING CASIMIR PULASKI TO BE AN HONORARY CITIZEN OF THE UNITED STATES POSTHUMOUSLY

Mr. REID. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of S.J. Res. 12.

The PRESIDING OFFICER. The clerk will report the joint resolution by title.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 12) proclaiming Casimir Pulaski to be an honorary citizen of the United States posthumously.

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. DURBIN. Mr. President, today I speak on the resolution honoring the valor of GEN Casimir Pulaski, a hero of the American Revolution who made the ultimate sacrifice in pursuit of American freedom. This resolution would grant honorary posthumous citizenship to General Pulaski, a long overdue tribute to a man who gave his life to the cause of American independence.

I thank Senator LISA MURKOWSKI, the lead Republican cosponsor of this resolution, as well as other original cosponsors, Senators MIKULSKI, CARDIN, WHITEHOUSE, DODD, BROWN, BURRIS, and PRYOR.

As a young soldier, Casimir Pulaski developed a reputation as a highly skilled military tactician, whose activities to advance the cause of Polish liberty against Russian influence ultimately led to his exile from Poland. Seeking refuge, Pulaski traveled to France, where he met an American diplomat who convinced him to join the Continental Army in its struggle for independence. That diplomat was so impressed with the Polish general, that, in a letter to George Washington, he described Pulaski as an officer ''renowned throughout Europe for the courage and bravery he displayed in defense of his country's freedom.'' That diplomat's name was Ben Franklin.

Casimir Pulaski adopted the revolutionary spirit of the American colonists and came to America to fight in their quest for self-determination.

On September 11, 1777, Casimir Pulaski fought with distinction in the Battle of Brandywine. His bravery and skill in battle averted American defeat and helped save the life of George Washington. Upon Washington's recommendation, the Continental Congress promoted Pulaski to general, and appointed him General of the Cavalry. That same year, Casimir Pulaski wrote to George Washington, ''I came here, where freedom is being defended, to serve it, and to live or die for it.'' General Pulaski's letter would prove prophetic, when, during a major offensive against British forces in Savannah, GA, Pulaski was mortally wounded. He died at sea, aboard the USS Wasp, on October 11, 1779.

General Pulaski's life and death inspired his contemporaries as he inspires us today. Shortly after his death, the Continental Congress resolved to build a monument in his honor that proved to be the first of many. In 1825, General Lafayette, an honorary American citizen, laid the cornerstone for the Pulaski monument in Savannah, GA. In 1929, Congress resolved that October 11 of each year would be Pulaski Day in the United States, and several States have followed that example. There are countless schools, streets, towns, and memorials across this country that bear his name—and honor his contributions to our Nation's birth.

Today is Pulaski Day in Illinois. In 1973, my own state of Illinois designated the first Monday of March as Pulaski Commemorative Day and in 1986 declared that day to be a State holiday.

We in Illinois are privileged to have a large and vibrant Polish-American community. From Casimir Pulaski to legendary artists like Ignacy Jan Paderewski, Polish-Americans have contributed mightily to Illinois—and to our Nation. Chicago is home to the Polish American Congress, which encompasses 3,000 Polish organizations across the country, as well as the Polish Museum of America. The Polish-American community also has a large presence in the Illinois National Guard, which has enjoyed a long-standing relationship with the Polish Air Force.

I am honored to reintroduce this resolution to grant posthumous honorary citizenship to GEN Casimir Pulaski, an American general who gave his life so that our Nation could be free. This resolution passed the Senate by unanimous consent in the 110th Congress and received broad support in the House of Representatives. I hope that this year we will be able to pass this resolution in both Chambers.

I urge my colleagues to support this resolution, and the valor of the man whom we seek to honor. When we think of our Nation's struggle for freedom in its infancy, we must remember GEN Casimir Pulaski and his indelible contribution to our Nation's birth.

Mr. REID. Mr. President, I ask unanimous consent that the joint resolution be read a third time and passed, the preamble be agreed to, the motions to reconsider be laid on the table, there be no intervening action or debate, and any statements relating to this measure be printed in the RECORD.

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

The joint resolution (S.J. Res. 12) was ordered to be engrossed for a third reading, was read the third time, and passed.

The preamble was agreed to.

The joint resolution, with its preamble, reads as follows:

S.J. RES. 12

Whereas Casimir Pulaski was a Polish military officer who fought on the side of the American colonists against the British in the American Revolutionary War;

Whereas Benjamin Franklin recommended that General George Washington accept Casimir Pulaski as a volunteer in the American Cavalry and said that Pulaski was ''renowned throughout Europe for the courage and bravery he displayed in defense of his country's freedom'';

Whereas, after arriving in America, Casimir Pulaski wrote to General Washington, ''I came here, where freedom is being

defended, to serve it, and to live or die for it.'';

Whereas the first military engagement of Casimir Pulaski with the British was on September 11, 1777, at the Battle of Brandywine, and his courageous charge in this engagement averted a disastrous defeat of the American Cavalry and saved the life of George Washington;

Whereas, on September 15, 1777, George Washington elevated Casimir Pulaski to the rank of Brigadier General of the American Cavalry;

Whereas Casimir Pulaski formed the Pulaski Cavalry Legion, and in February 1779, this legion ejected the British occupiers from Charleston, South Carolina;

Whereas, in October 1779, Casimir Pulaski mounted an assault against British forces in Savannah, Georgia;

Whereas, on the morning of October 9, 1779, Casimir Pulaski was mortally wounded and was taken aboard the American ship USS *Wasp*, where he died at sea on October 11, 1779;

Whereas, before the end of 1779, the Continental Congress resolved that a monument should be erected in honor of Casimir Pulaski;

Whereas, in 1825, General Lafayette laid the cornerstone for the Casimir Pulaski monument in Savannah, Georgia; and

Whereas, in 1929, Congress passed a resolution recognizing October 11 of each year as Pulaski Day in the United States: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Casimir Pulaski is proclaimed to be an honorary citizen of the United States posthumously.

DISCHARGE AND REFERRAL—S. 473

Mr. REID. Mr. President, I ask unanimous consent that the Health, Education, Labor, and Pensions Committee be discharged from further consideration of S. 473 and that the bill be referred to the Committee on Foreign Relations.

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

ORDERS FOR TUESDAY, MARCH 3, 2009

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until tomorrow morning at 10 a.m., March 3; 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 resume consideration of H.R. 1105, the Omnibus appropriations bill; further, that the Senate recess from 12:30 to 2:15 p.m. for the weekly party conference lunches.

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

PROGRAM

Mr. REID. Mr. President, under the previous order, at 11:45 a.m., the Senate will vote in relation to the McCain amendment.

ORDER FOR ADJOURNMENT

Mr. REID. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that following the statement of Senator ALEXANDER, the Senate adjourn under the previous order.

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

Mr. REID. Mr. President, I express my appreciation to my friend from Tennessee for his courteousness, which is always the case.

The PRESIDING OFFICER. The Senator from Tennessee.

APPROPRIATIONS PROCESS

Mr. ALEXANDER. Mr. President, I thank the majority leader. On his comments about the omnibus appropriations bill, two brief points. One is that, of course, all Senators welcome the opportunity to debate and amend the bill. Senator BYRD has argued eloquently, as the majority leader himself has, that the opportunity to debate and amend bills is an important part of what makes the Senate unique. We often tend to argue that point more eloquently when we are in the minority. Amendments and debate are what make the Senate the Senate. It gives us a chance to represent the people who send us—the people for whom we work. All of us on the minority side appreciate that this year the majority leader has—as we believe he should, but nevertheless he has—tried to create an environment in which we can debate and amend. Obviously, amendments aren't going to always be amendments we agree with. I don't agree with all the amendments that come from our side either, but I appreciate that chance to offer amendments, and we would like to see the Senate function in a way that gives us a chance to represent the people who hire us.

Second, I suspect every member of the Appropriations Committee and most Members of the Senate hope we can get back to the practice of passing our appropriations bills one by one and acting on them before the beginning of the fiscal year, which is October 1. I would hate to think how much of the taxpayers' money we must waste each year by missing that deadline, but grouping these measures together into giant ''omnibus'' bills, and by passing continuing resolutions which don't take into account the differences of opinion among members of Congress and the administration about budget priorities. I would hope we could get back to the practice of finishing our work and taking the bills one by one as we did not so long ago.

I appreciate the majority leader mentioning the fact that we will be debating all week on this appropriations bill, to try and give this massive bill the scrutiny it deserves. It would have been much better if these nine appropriations bills had been enacted last year, before October 1, and we could take them into account when we voted on the stimulus bill last week. That is the way we should have been able to do that, but we weren't.

Mr. REID. Mr. President, I would say to my friend who has been Governor of his State and a Cabinet Secretary, ran for President, and now a Member of the Senate, I think he has a foundation of understanding how important it is that we move these appropriations bills. This is a difficult situation. We have done it quite a few times in recent years, and it is not the best way to legislate. The Senator from Tennessee and I agree on that.

I have to say to my friend, there are a number of people in my caucus who come to me and say: Why are you making us take these tough votes and why are you talking about more votes on this bill? Because in keeping with what the Senator from Tennessee said, I hope we can continue doing this. I think the Republicans have not offered some easy amendments—I wish they had been a little easier on us—but that is the way it is. That is why I wanted to spend a little time this evening talking about the range of amendments we already have which have been hard votes and perhaps hard for both sides in many respects.

I support the statement of my friend from Tennessee that we are all going to try to arrive at the same place. It is just that how we get there sometimes doesn't correlate.

Mr. ALEXANDER. I thank the majority leader.

IRAQ AND AFGHANISTAN WARS

Mr. ALEXANDER. Mr. President, I have two topics I wish to speak about this evening: One on Iraq and one on higher education. First, on Iraq and Afghanistan. President Obama on Friday told marines at Camp Lejeune and the world how the United States plans to end the war in Iraq. The President's plan turns out not to be so different than the agreement President Bush signed with Iraq just before he left office. Add Senator MCCAIN's name to the list because on Friday he generally supported President Obama's decision. For the first time, I think it can be said we have a bipartisan consensus—and a consensus between the Congress and the President—about how to honorably and successfully conclude the war in Iraq.

Ironically, this is a bipartisan consensus that comes 2 years later than it could have. Because what President Bush and President Obama and Senator MCCAIN seemed to agree on today is also a course that is consistent with the recommendations of the bipartisan Iraq Study Group headed by former Republican Secretary of State James Baker and former Democratic House Foreign Affairs Chairman Lee Hamilton. That is not just my judgment. I asked Secretary Rice, the former Secretary of State, whether the agreement

President Bush signed with Iraq is generally consistent with the principles of the Iraq Study Group, and she said yes. I asked Secretary Gates, who has been Secretary of Defense both for President Bush and now for President Obama and who, for a little while, was also a member of the Iraq Study Group, whether the direction in Iraq that President Bush had agreed to go in is approximately the same as the principles recommended in December of 2006 by the Iraq Study Group, and he answered yes.

Unfortunately, instead of having, for the last 2 years, a consensus between the Congress—a Democratic Congress—and the President—a Republican President—we instead made it clear to our enemy and clear to our troops that we were divided in Washington about the course of the war and that we couldn't agree on how to conclude. I don't know whether we had reached agreement earlier by, for example, adopting the legislation that Senator Salazar and I and 17 Senators offered and that about 60 Representatives offered in the House, that would have made the principles of the Iraq Study Group the course upon which the United States would embark to successfully conclude the war in Iraq—I don't know whether, if we had done that in 2007, 2 years ago, the war would have been more successful or Iraq would have been better stabilized; if troops would have come home sooner and perhaps even American lives might have been saved; or if Iraqi lives might have been saved. I don't know about that. But I do know that we put in jeopardy—by our failure to agree between the Congress and the President over the course of the war in Iraq—we put in jeopardy the ability of the American people to have the stomach to see this mission all the way through to the end, which is an essential requirement, in my view, of any military endeavor in which the United States should engage.

President Bush, nevertheless, persevered, and it became, in the view of many Democrats and others, Bush's war, and it seriously damaged the Bush Presidency. It seriously divided the country. At least we can use this failure to agree, this failure to come to some consensus, as a guide about how to conduct ourselves in future conflicts, starting with the war in Afghanistan.

President Obama is sending 17,000 more Americans to Afghanistan. He is doing so after only a month in office. He says, quite candidly, he hasn't yet got a strategy, approved a strategy or, in his words Friday night in his interview with Jim Lehrer, an exit strategy. I assume that also means he hasn't yet decided upon what is even more important, which is a success strategy. The lesson of Iraq and of our failure to come to some agreement over the last 2 years is that we should give our new President time and support in his efforts to develop a strategy and then we should insist—we in the Congress—that we agree with him on a strategy; and if we can't agree with the one he comes up with, that he adjust it until we can, so we as a nation can have a compelling purpose, a clear set of goals, the money to supply more than enough force to reach those goals. So our enemies and our troops can hear clearly that the American people have the stomach to see the mission in Afghanistan all the way through to the end. In other words, it is important for our country not just for the success of the Obama presidency; it is important for our country that what some called Bush's war not be followed by what others might call Obama's war.

The Iraq Study Group was created by Congress in 2006. It had a remarkable group of members, including Lee Hamilton and Jim Baker who both cochaired it. Ed Meese, the former Attorney General for President Reagan, was there. Vernon Jordan was a member. Secretary Gates was a member for a while. The first President Bush's Secretary of State, Larry Eagleburger, was a member. Leon Panetta, President Clinton's Chief of Staff and now CIA Director, was there. President Clinton's Secretary of Defense was a member. Sandra Day O'Connor, former Supreme Court Justice, was a member. They spent many months and went to Iraq, and they talked to a variety of people. They tried to see if they could come to a consensus about how the U.S. could honorably conclude the war in Iraq. They were bipartisan and unanimous in their 79 recommendations, which would be boiled down to three major points.

I remember being very disappointed in early 2007 when, following that, President Bush didn't take advantage of the opportunity during his State of the Union Address to embrace the report. He knew then that a majority of Americans didn't support his strategy. He knew the strategy would have a more difficult time being sustained without their support. I think all of us knew, then, if he could get Congress to agree, the American people would be more likely to agree.

The President could have invited the distinguished members of the Iraq Study Group to sit in the gallery during his speech and, as Presidents do often, introduce them. The President could have said: This is not my recommendation, it is theirs. I accept it for the good of the country, and I ask the American people now to accept it.

If one goes back and reads the recommendations of the Iraq Study Group report made in December 2006, here is basically what it said we should do: Get the U.S. troops out of the combat business in Iraq and into the support business in a prompt and honorable way—maybe over the course of a year, they said. General Petraeus amended that to a little longer than a year. The Iraq Study Group said reduce the number of American forces in Iraq. The Iraq Study Group said there should be a limited military presence for the longer term in Iraq, and that would signal to the rest of the Middle East to stay out of Iraq. It said it would give support to General Petraeus and his troops for a military surge to make Baghdad safer. This was before President Bush authorized the surge.

It would expand diplomatic efforts to build support for Iraqi national reconciliation and sovereignty. The Iraq Study Group would recognize, as Prime Minister Blair said, that it is time for the next chapter of Iraq's history to be written by the Iraqis themselves.

Democratic Senator Ken Salazar—who is now a member of the Obama administration as Interior Secretary—and I wrote legislation that would make the Iraq Study Group recommendations national policy. As I mentioned, it attracted about nine Democrats and eight Republican Senators. In the House of Representatives, there were 27 Democrats and 35 Republicans.

At that time, we were having vote after vote on Iraq. Some Senators said there should be an immediate withdrawal. Others wanted victory of the kind we had in Germany and Japan. I thought the Iraq Study Group recommendations made the most sense; and, apparently, today, so does President Bush, so does President Obama, and so does Senator MCCAIN.

Now, it is fair to say each of those men I just mentioned could find something in the Iraq Study Group report with which to disagree. I would respect those disagreements. But the 17 of us in the Senate could find within that report a course to agree about, just like the Commission itself of widely varying Americans could find enough unanimously to agree about, so they could say to the troops, to the enemy, and to the world: Here is our course forward.

I suggest we would have been better off if we had done that. I pointed out that President Bush would not support the report. I respected that, but I disagreed with it. At the same time, Speaker PELOSI and the Democratic leaders would not allow our amendment to come to a vote. We asked and asked—but their reaction was, ''No, no, we won't do that.'' I guess they had their reasons. We don't question their motivation. President Bush persevered in the war, and Democratic leaders persevered with their opposition to the war. They didn't allow the Iraq Study Group resolution to come to a vote. So then we had an election.

Senator Salazar said about the only way we could have united the President and the Democratic leaders was in their opposition to the Iraq Study Group—a set of recommendations that are now largely the principles upon which we are preceding as we seek to end the war in Iraq. But is the country better off for us not having had that 2 years of agreement?

Here are some lessons: One, the Iraq war reminds us that nation building costs many billions of dollars and many lives. Whenever possible, we

should use our military forces to defend America and use our ''shining city on a hill,'' which President Reagan talked about so often, as an example to spread freedom. If we must become involved in another country, as we are in Iraq and Afghanistan, then we must have a compelling reason, a clear mission, an overwhelming force to make certain we reach our goals.

The second lesson is this: In order to reach those goals, we have to persuade the American people to have the stomach to see the mission we have adopted all the way through to the end. It is much better if the President and the Congress, even if they are of different political parties, agree on that mission. Technically, the Commander in Chief can wage a war, leaving us not much to do but fund the troops, which almost all of us, regardless of party, do. We saw in Iraq the failure to agree between the President and the Congress—which made the war harder and longer and President Bush's presidency much less successful. We were in the position often of being the oldest democracy lecturing Baghdad, an infant democracy, for not coming up with a political solution when we ourselves could not come up with one.

Finally, we learned a lesson in Iraq about how to honor those who serve our country. Sometimes in airports now—unlike in the Vietnam era—passengers burst into applause when a group of service men and women appear. A great many Tennesseans have been to Iraq and Afghanistan. More are going this week to Afghanistan. Many have served two or three tours already—including men and women from the Tennessee National Guard and the 101st Airborne—and 100 have given their lives in Iraq and Afghanistan. Hundreds have suffered wounds that will change their lives. They have performed heroically. I am glad to see that after 6 years, we finally seem to be united on a path which will bring the war to successful conclusion and hasten the time when most of those serving can come home. But it is disappointing that we did not take the advantage 2 years ago when we might have done it to agree on the principles of the Iraq Study Group. We had that opportunity. It might have shortened the war. It might have stabilized Iraq more rapidly. It might have saved lives.

We should remember that as we look ahead to Afghanistan. We do not want to succeed Bush's war with Obama's war. Whenever we go to war, it should be an American war and the President should make certain he has bipartisan support in Congress.

HIGHER EDUCATION

Mr. ALEXANDER. Mr. President, during the 1960s, American Motors Corporation president George Romney warned Detroit's automakers, ''There is nothing more vulnerable than entrenched success.''

The big three paid no attention. They were building the best cars in the world—highly profitable gas-guzzling vehicles we were quick to buy. Meanwhile, their future Japanese competitors were perfecting smaller, fuel-efficient cars. And today we are bailing out the Detroit companies that did not listen.

American higher education would do well to heed the warning that George Romney gave the Detroit automakers in the 1960s. We have the best colleges in the world today, just as we had the best cars in the world then. But even brisk competition at home seems to have little effect on rising tuition costs.

To deal with rising college costs, I suggest, No. 1, colleges offer some well-prepared students the option of a 3-year baccalaureate degree, cutting one-third the time and one-fourth the cost from a college education; and No. 2, make community college free for well-prepared students.

This seems impossible when State community college funding is tight. In my State, Vanderbilt's endowment has declined 16.5 percent and Maryville College is under a hiring freeze. The University of Tennessee is trying to decide what positions to cut. Impossible, that is, unless college administrators are listening to students, States, and Members of Congress who are up in arms about rising tuition.

What I hear in Congress is: Every time we increase Pell grants, colleges raise tuition. In their exasperation, Members of Congress then piled new rules on already overregulated colleges. The former president of Stanford University estimates complying with these regulations—which today fill a stack of boxes 6 feet tall, which I have previously brought onto the Senate floor—adds 7 cents to every dollar cost of tuition. Last year, I even voted against the new higher education bill because it doubles those regulations.

The greatest threat to the quality of higher education, in my opinion, is not underfunding, it is overregulation. But to persuade other Members of the Senate and the House of Representatives to stop adding these stacks of regulations, colleges are first going to have to show that they know how to lower college costs.

Just as a plug-in hybrid car is not for every driver, a 3-year college degree is not for every student. But some well-qualified students may want to complete their work in 3 years—many today take 5 or 6 years—and in doing so save time and save money. This will require adjusting attitudes, faculty workloads, and using some campus facilities year round.

Five upper East Tennessee counties already are offering free tuition to qualified local students at Northeast State Community College. Federal Pell grants and the State HOPE Scholarship pay most of the $1,300 semester tuition. The five counties and private companies pay the rest. Sullivan County's bill last year was only $80,000 for its share.

These are very difficult times. We all know that here. But during the 1980s, when I was Governor of Tennessee, unemployment reached 11 percent, inflation reached 14 percent, and interest rates reached 20 percent. We were struggling then. Then the economy surged, as we hope it will soon again. Tennessee's higher education funding growth led the Nation for 3 consecutive years. This is more likely to happen again if higher education offers a 3-year college degree option and free community college tuition. That will help regain the support of legislators and families who are upset about colleges that seem able only to increase tuition every time legislators increase funding.

Mr. President, I yield the floor.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned until 10 a.m. tomorrow.

Thereupon, the Senate, at 6:45 p.m., adjourned until Tuesday, March 3, 2009, at 10 a.m.