



United States  
of America

# Congressional Record

PROCEEDINGS AND DEBATES OF THE 111<sup>th</sup> CONGRESS, FIRST SESSION

Vol. 155

WASHINGTON, WEDNESDAY, APRIL 22, 2009

No. 59

## Senate

The Senate met at 10 a.m. and was called to order by the Honorable TOM UDALL, a Senator from the State of New Mexico.

### PRAYER

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

Let us pray.

Almighty God, we come to You in weakness and seek Your strength. Without Your presence in our lives, we can't succeed.

Today, strengthen the Members of this body to do Your will. Lift their burdens and fill them with Your wisdom, transforming them into instruments of Your providence. May they dedicate their talents to be used for Your glory. Reach out and touch them with the finger of Your love so that they can feel You guiding them. Lord, make them willing to follow. Give them courage to creatively confront the problems that bring hopelessness to so many in our world. We pray in the Name of Him who is our hope for years to come. Amen.

### PLEDGE OF ALLEGIANCE

The Honorable TOM UDALL 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, April 22, 2009.

To the Senate:

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

appoint the Honorable TOM UDALL, a Senator from the State of New Mexico, to perform the duties of the Chair.

ROBERT C. BYRD,  
President pro tempore.

Mr. UDALL 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 leader remarks, there will be a period of morning business for 30 minutes. The Republicans will control the first 15 minutes and the majority will control the final 15 minutes. Following that, the Senate will begin consideration of the Fraud Enforcement and Recovery Act. Rollcall votes in relation to amendments are expected throughout the day.

As I announced last night, we expect some amendments on this bill. We would ask Senators to be ready to start offering those amendments. We have a lot to do. I had a discussion yesterday with the Republican leader as to what we are going to do next. I think he has a pretty good idea of that, and I will be in discussion with him sometime today so we can move toward having a productive week.

I think it speaks well of the Senate that we were able to move to this bill without a vote on the motion to proceed. I think that will allow us to get to the bill quickly and allow whoever doesn't like the bill to try to change it in any way they feel appropriate.

### RECOGNITION OF THE REPUBLICAN LEADER

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

### TARP OVERSIGHT

Mr. MCCONNELL. Mr. President, last fall, many of us in Congress weren't all that excited about rescuing financial firms from problems that many of them had brought about themselves, but we decided swift action was needed precisely to protect ordinary Americans from the mistakes these firms had made. At the time, Republicans insisted on strong taxpayer protections. None of us had any doubt that once these banks were healthy again, they would pay the money back to the taxpayers who gave it to them.

Let me say that again. None of us had any doubt that once the banks were healthy again, they would pay the money back to the taxpayers. In fact, many of my colleagues on this side of the aisle only supported the bill because of the representations that were made that we would recoup—the Government would recoup—the money. Now we are hearing a different story.

A number of the firms that taxpayers helped out last fall are now on the road to recovery and want to pay back their loans. Unfortunately, Treasury doesn't seem to want to take the money. Let me say that again. These firms are getting healthy, they want to pay back the money, and Treasury doesn't seem to want to take the money. This wasn't the original plan, and it doesn't seem right to most people. If a bank wants to pay the taxpayers back—if a bank wants to pay the taxpayers back—the Government shouldn't block the door.

Just as troubling is a new report by the special inspector general who is overseeing all the financial rescue programs. It alleges the same kind of fraud we warned about back in October, including about 20 preliminary and full criminal investigations for everything ranging from securities fraud to mortgage fraud, to insider trading, to public corruption related to the \$700 billion in rescue funds.

All of this is a major wakeup call. The Treasury needs to root out the

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



Printed on recycled paper.

S4527

fraud now, particularly at a time when the new administration is vastly expanding the size and the scope of these programs. As these programs expand, so will the potential for abuse. The Treasury Department also needs to let these banks extract themselves from Government control as soon as they want to. That was the original plan the American people signed onto, and they have a right to expect that the original plan will be carried out free from fraud and abuse.

I yield the floor.

#### RESERVATION OF LEADER TIME

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

#### MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to a period of morning business for up to 30 minutes, with the time equally divided and controlled between the two leaders or their designees, with the Republicans controlling the first half and the majority controlling the final half.

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

Mr. ALEXANDER. Mr. President, I ask unanimous consent to speak for up to 15 minutes in morning business, and would the Chair please let me know when I have 2 minutes left.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered, and the Chair will do so.

#### ENERGY POLICY

Mr. ALEXANDER. Mr. President, today is Earth Day, a day of celebration of the environment and the landscape of the great American outdoors. The President is on his way to Iowa to visit a windmill factory.

It is also a good day for us in the Senate to ask, "exactly what is our energy policy in the United States and what should it be?" Is it a national clean energy policy; or is it a national renewable energy policy; or is it a national windmill policy? It makes a difference. Because in terms of electricity, we use about a quarter of all the electricity in the world, and our computers and our homes in the summer and winter and our factories all depend upon a generous supply of reliable, low-cost electricity. That is what we need.

I believe this is our policy, and I believe most on the Republican side believe this as well, and I hope many on the other side do too. I believe that what we should do for the foreseeable future is to produce American energy, and use less energy, and that we ought to do it as cleanly as possible, as reliably as possible, and at as low a cost as possible.

Let's see if that is what we are actually doing and if that is what the legislation we are considering would actually do. Nothing has captured the media's attention, nor the attention of those of us who are elected to office, quite so much as renewable energy. I heard the Presiding Officer make what I believe was his maiden speech on the floor of the Senate on this subject not long ago. And the President of the United States—President Obama—has talked about powering our electricity by capturing the energy of the Sun, and the wind, and the Earth.

We will be considering, within a few weeks, legislation that would require all our electric utilities to generate a portion of their electricity from a very narrowly defined group of energies—mostly the Sun, the wind, and the Earth—and we have huge subsidies, especially for windmills—billions of dollars by taxpayers. That is the subject of another speech, but last year we added another \$13 billion or \$14 billion in subsidies over the next 10 years that we would be giving to banks and wealthy people and others who are wind developers.

The total number is in the \$25 billion to \$26 billion in taxpayer money that is now going just to subsidize wind turbines. The subsidies are huge. As a country, we have gotten infatuated with energy from the Sun, the wind, and the Earth.

I went to the Oak Ridge National Laboratory a year ago and talked about the importance of a clean energy future for our country, and among the suggestions I made was that we have a new Manhattan Project (like the World War II project that created the atom bomb), or a series of mini Manhattan Projects, and that they would be directed toward such things as making solar cost competitive within 5 years. Solar energy costs three or four times as much as other energies, so the technology needs to be improved. Also, we should make advanced biofuels more of a reality. In other words, making fuel from crops that we don't eat so we don't distort the food market.

We have made some progress on renewable energy, but there is a potentially dangerous energy gap facing us in America because, today, renewable energy from the Sun, the wind, and the Earth produces 1½ percent of all the electricity we use. The President wants to double that. Well, that is 3 percent. What if we tripled it? Well, that is on up to 5 or 6 or 7 percent. What about the other 90 percent? How are we going to heat our homes and cool our homes and how are we going to keep prices low enough so our factories and jobs will stay here rather than going overseas? It will be a long time before electricity or energy from the Sun and the wind and the Earth can power this big country of ours. There will be a gap between the renewable energy we want and the reliable, low-cost energy we must have.

Congressman HEATH SHULER of North Carolina and I are co-chairs of the Ten-

nessee Valley Authority Congressional Caucus. We went to Knoxville last week and held a very interesting forum on the renewable energy options in the Tennessee Valley Authority area. One of the two big plants that make polysilicon, which is essential for solar, provided testimony. We are very glad to see that in Tennessee. But each of those plants uses 120 megawatts of power. They will become almost immediately TVA's largest, or among their largest, customers. They need large amounts of low-cost, reliable electricity to make solar panels. Today, of course, the kind of energy President Obama wants to use only produces 1.5 percent of that needed by the United States. We need low-cost electricity for all jobs, not just green jobs.

Here is what we found that was promising—solar especially. I mentioned it cost a lot more today and that it takes up a whole large area. A nuclear powerplant might take up one square mile. The equivalent amount of solar power might take up 10 times that much area. But nevertheless, our State and the Oak Ridge Laboratory and the University of Tennessee are focused on doing our best to try to make solar cost competitive, and we should redouble that effort in this country. We should be spending our money on energy research and development for that purpose.

For example, we heard about underwater river turbines. The Federal Energy Regulatory Commission says there may be 30,000 megawatts of electricity that could be produced by turbines in the Mississippi River. That would be pretty good, if it works, because the river runs all the time, unlike the Sun, which only produces energy when the Sun shines. Of course, you can't store energy from the Sun. People overlook that sometimes. You have to use it when it happens. The wind often blows at night, when we don't need it. But the river runs all day long—old man river does—and if it can produce that kind of energy, that would be promising.

Biomass may help. The Southern Companies are building a plant that would have about 100 megawatts. In our part of the world, a bad choice would be wind turbines. We have one wind plant. The problem with it is, No. 1, the wind doesn't blow, at least not enough to make much electricity. It blows 18 percent of the time in the case of TVA's one wind farm—the only wind farm in the southeastern United States.

Second, much of that is at night, when TVA has about seven nuclear powerplants worth of electricity that is unused. So TVA is wasting, in my opinion, \$60 million on big wind turbines that it could be spending on conservation, nuclear power, and pollution control equipment.

More than anything else, we do not want to see giant, 500-foot wind turbines on top of the most beautiful mountains, we believe—with all respect to the Senator from New Mexico—the

most beautiful mountains at least in the eastern part of the United States. Boone Pickens was asked if he was going to put wind turbines on his ranch? He said: No, they are ugly. If they are too ugly for his ranch then they are too ugly for the Great Smoky Mountains, and they are the wrong choice for us. Solar? Yes. Underwater turbines? Yes. Biomass? Yes. There may be others, but there are good choices and there are bad choices.

The bridge to the future for clean energy means this. While we do all we can on research and development to find a way to make solar cost competitive, to find a way to create advanced biofuels, we are still going to need a lot of power. Based on what we saw in the TVA region, you could start with conservation. We use 143 percent of the national average, per person, of electricity in Tennessee. We waste a lot of electricity. If we just used the national average, that would be the same as four new nuclear plants, five coal plants the size of Bull Run and nine natural gas plants such as the ones TVA is building in Jackson. So we start with conservation.

If we are talking about fuel, the simplest and easiest thing to do on Earth Day is to recognize we could electrify half of our cars and trucks in America—that might take 20 years—but without building one single new power plant, not one nuclear plant, not one coal plant, not one windmill on a mountaintop. We don't have to do that because, in TVA's case, they have 6,000 or 7,000 megawatts of unused electricity at night when we are all asleep and the factories are not working. So plug your car in at night at cheaper rates, bring in a lot less oil from overseas, save billions of dollars. That would take care of us for the next 20 years. That would be a smart decision to make on Earth Day.

But the other thing we need to do is recognize that, if we care about clean air, and especially if we are worried about global warming, as I am, that we have to take nuclear seriously. Nuclear plants in America produce only 20 percent of our electricity but they produce 70 percent of our carbon-free, mercury-free, nitrogen-free, sulfur-free electricity. Let me say that again. They are only 20 percent of our electricity but they are 70 percent of our clean electricity. So in the Tennessee region especially, we should not be wasting money on windmills where the wind doesn't blow and it desecrates the environment. We should be spending money on making coal plants cleaner through pollution control. We know how to do that, except for carbon. We should also build more nuclear plants and retire the dirtiest coal plants. That is the smart thing to do. And we should emphasize conservation.

My point today is simply this. I think all of us want to make sure we have a stable energy future. A stable energy future means plenty of reliable, low-cost electricity so we can heat and

cool our homes and keep our jobs from going overseas. And we want to make sure it is clean. So our goals should be to produce more American energy, to make us more energy independent by electrifying our cars, to make coal clean, and to use wind and solar when it is appropriate to do that. But if we truly want to make a difference, we should build 100 new nuclear powerplants in the next 20 years, at least five or six a year, because that is the best way to have clean air. That is the best way to have low costs. And we should launch another mini-Manhattan Project and reserve a Nobel Prize for the scientist who can get rid of the carbon from existing coal plants, because coal provides half our energy. We know what to do about nitrogen, mercury, and sulfur. But we have not figured out what to do about carbon. If we did, India would also do it, China would also do it, the rest of the world would do it, and we could have low-cost energy.

I mention low cost because so often we talk about new forms of energy as if cost didn't matter. It matters to the executives who met with me yesterday from the TVA region. TVA's residential rates are low, relatively. But the industrial rates are not. If they are too high, those jobs move out of our region, maybe overseas. And last December the people in Nashville, our capital city, did not think the residential rates were so low because 10 percent of them said they were unable to pay their electric bill in December because it was too high.

The ACTING PRESIDENT pro tempore. The Senator has 2 minutes remaining.

Mr. ALEXANDER. Thank you very much, Mr. President.

So on Earth Day my suggestion is that, as we celebrate the day, we should ask what is our energy policy—Is it a national clean energy policy? Is it a national renewable energy policy? Is it a national windmill policy?—we should recognize there is a potentially dangerous gap between the renewable energy we want and the reliable low-cost energy we must have, and between now and then we must build a strong bridge to a clean energy future.

We can agree on conservation, but during that time we will need 100 new nuclear plants, we will need offshore drilling for oil, and fast, because we need the gas and we can't electrify all of our cars as quickly as we might like.

Earth Day is a day for celebration, but it is also a day for realism.

I yield the floor.

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

#### GLOBAL WARMING

Mr. DURBIN. Mr. President, I thank my colleague from Tennessee for acknowledging Earth Day. All of us are conscious of the fact that, at least over the last 30 years or so, we have begun

to realize the importance of our environment and the important responsibility we have toward our environment. I am troubled by the fact that only a few weeks ago on this very Senate floor as we debated the budget resolution, amendment after amendment was offered to try to stop us from dealing with the issue of global warming. I think it is a sad commentary that still too many Senators of both political parties are looking for excuses to do nothing. We give our speeches, we acknowledge to student groups and others that we face a challenge. Yet when we have an opportunity, as we do in the Senate, to deal with that, too many of my colleagues race away. We cannot do that any longer. We owe it to future generations to make important, albeit difficult, decisions which will lead us to the point where we are resolving the challenge of global warming and climate change. These are realities. We owe nothing less to the next generation but to come up with responsible approaches to those.

The budget resolution debate of a few weeks ago was a discouraging chapter in this saga. I hope many of my colleagues will come to realize that we must accept this responsibility.

#### U.S. POLICY TOWARD CUBA

Mr. DURBIN. Mr. President, last month during the vote on the omnibus bill we heard the beginnings of a discussion on the best way to encourage change in Cuba. Shortly thereafter several of my colleagues, including Senators DORGAN, LUGAR, DODD, and ENZI spoke about their bill, the Freedom to Travel to Cuba Act, which I am pleased to cosponsor.

And last week President Obama announced an easing of U.S. policy toward Cuba—one that allows for, among other things, greater family travel and unlimited remittances to the island. These wise steps begin to undo decades of counterproductive policy toward Cuba.

The President's similarly timed visits to Mexico and the Summit of the Americas in Trinidad demonstrate a welcome and hopeful level of reengagement in the region—one in which we have many shared interests and challenges.

Yet the debate on U.S. policy toward Cuba raises many passions and heart felt concerns.

While all of us want to see a more open and democratic Cuba, the means to reach that goal are often vigorously debated.

I am under no illusions about the horrendous record of the Cuban regime regarding human rights and political freedom. The Castro government has regularly jailed those who oppose its rule or want even a semblance of political freedom. Many languish in inhuman conditions without trial or recourse.

According to the State Department's most recent Human Rights Report on

Cuba, at least 205 political prisoners and detainees were in jail at the end of 2008 and as many as 5,000 citizens, including 1,000 women, served sentences this year without being charged with a specific crime.

Beatings and harassment of human rights activists and political dissidents by government-recruited mobs, police, and state security officials remain commonplace. Journalists continue to be denied the right to openly criticize their government without fear of reprisal. And domestic human rights groups are not even recognized or permitted to legally function.

We all want this to change. It must change.

Yet for almost 50 years the United States has tried the same policy with Cuba, one of isolation, and it has failed.

I wish that were not true, but it is.

I believe sanctions can be an important foreign policy tool. Their use should be carefully considered on a case by case basis.

Yet after almost half a century of a failed isolation policy in terms of Cuba, don't we owe it to ourselves and the Cuban people to rethink this issue?

I am not arguing that we lift all sanctions against Cuba. The regime must begin to release its political prisoners and implement political reforms before we take any such steps.

The Cuban government must listen to the brave voices of its own people such as Oswaldo Paya, who has collected thousands of signatures for a petition given to the Cuban government requesting greater political freedoms—a petition process that is in fact allowed for under the Cuban constitution.

But President Obama was right in beginning to change U.S. policy toward Cuba.

Cuba is no longer a serious threat to the United States; we no longer need to think in black or white Cold War terms. Since that time, we have seen globalization, an unprecedented flow of information between people in different countries, and the emergence of many new countries seeking democracy.

Why should the people of Cuba be held back from the benefits of this new world? There is already limited use of the Internet and cell phones on the island—but I bet if you ask the Cuban people, they would tell you they want more access to these links to the outside world, not less. President Obama's policy of allowing telecommunications licensing on the island should help foster such access to the outside world.

We should replace the Castro regime with an open, democratic Cuba the same way we brought down the Berlin Wall and the Soviet Union. We need to expand the contact of everyday Cubans with freedom, opportunity and people whose lives are inspired by our values.

Isolation is not the answer. An invasion is the answer—but not a military invasion; the invasion of openness and freedom and new ideas.

It is not a Pollyanna-ish position to argue this. My mother was born in Lithuania. Lithuania, a Baltic nation, was under suppression by the Soviet Union after World War II, isolated, cut off from the world as was most of Eastern Europe. But then the day came when the conversation opened, when the doors opened, when the people of the Baltics and Eastern Europe could see the Western world and realize how much their lives had been denied by totalitarian rule.

I think the same thing can happen in Cuba. We should not be closing the doors to Cuba. We should throw them wide open. I had some friends who recently went to Cuba, through Mexico, with a visa. They came back and said, "You know, they are still using oxen for power in their agriculture." Yoking oxen, in the 21st century, 90 miles offshore from the United States? If they knew and could see what modern agriculture could bring to them, if they could understand what freedom meant, even more, we would have a greater chance of bringing real change to Cuba.

Earlier this year, Congress eased travel restrictions. President Obama has eased them further. The more Americans and Westerners move into Cuba, the more they will bring ideas and commerce and opportunity and change to Cuba. Isolation for 50 years has failed. Why would we cling to a failed policy?

It is a poor country, a nation that struggles with natural disasters as well as poverty of its own creation and one that would be open to change and opportunity.

I might also say that the embargo which we have imposed has hurt our chances to export food to Cuba, which is needed. We should open those opportunities in the hopes that commerce will not only feed people who are hungry but establish stronger relationships and a better understanding by the Cubans of what a free market economy could bring them. The U.S. policy of isolation strengthens the Castro dictatorship. If at a time when we should be opening the doors by closing them, we gave Castro, Fidel Castro, and his brother Raul excuses for the misfortunes that people realize in Cuba, we have an opportunity to change those things, and I certainly hope that we do.

It was interesting to me when the President of the United States went down for this Summit of the Americas, the biggest story that came out of it was the fact that he was not rude to Hugo Chavez of Venezuela, that he actually shook his hand and took a book from him.

Some of the cold warriors that I hear on television, the commentators just cannot get over that. They cannot imagine that we would change a foreign policy that we have had over the Bush administration years, a policy that sadly did not reach its intended goals of better relationships and better respect around the world.

President Obama is opening negotiations and conversations with countries

around the world and creating an opportunity, an opportunity for new freedom, an opportunity for new strength, and a new image of the United States. It may trouble some of the cold warriors of years gone by who want confrontation and lack of communication, but that certainly does not serve the needs of the 21st century.

I welcome this change that President Obama has brought to Washington. I welcome this opening of foreign policy in the hope that his approach and his image and status in the world will bring us to a safer place in the 21st century.

I yield the floor.

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

The PRESIDING OFFICER (Mr. BENNET.) The Senate is in morning business with 5 minutes remaining under the majority's control.

Mr. LEAHY. Thank you, Mr. President. I want to compliment the distinguished senior Senator from Illinois for what he just said. As he knows, of course, he was the earliest supporter of his then-colleague, then-Senator Barack Obama, and he knows I also supported him very early on.

I was asked why I supported then-Senator Obama, and I said because we have to reintroduce America to the rest of the world. I believe we are a great and wonderful nation. We are the Nation of the Marshall Plan, the Peace Corps, the Nation that brought together a coalition to defeat the fascists and the Nazis and others in World War II. We are a great nation. We discovered polio vaccines. We have done so much. The rest of the world had lost sight of that. There is animosity toward our "it is our way or no way" approach. It is the "we are right you are wrong" attitude of this country and the reference to "Old Europe" and things like this that were so dismissively done. Any of us who traveled around the world realized how that was.

As a proud American, as one who believes we do live in the greatest democracy history has ever known, I wanted to reintroduce America, the America I believe in, to the rest of the world. That is why I supported Barack Obama. That is why I was glad to see President Obama reintroduce us first in Europe and then in Latin America.

The Senator from Illinois is absolutely right. It is all I hear in my State, a State that has a very strong sense of internationalism but a very strong sense of patriotism: Thank goodness somebody is showing what America is.

I commend the President for doing that.

#### CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

# **FRAUD ENFORCEMENT AND RECOVERY ACT OF 2009**

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the consideration of S. 386, which the clerk will report by title.

The bill clerk read as follows:

A bill (S. 386) to improve enforcement of mortgage fraud, securities fraud, financial institution fraud, and other frauds related to federal assistance and relief programs, for the recovery of funds lost to these frauds, and for other purposes.

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

## **SECTION 1. SHORT TITLE.**

This Act may be cited as the “Fraud Enforcement and Recovery Act of 2009” or “FERA”.

## **SEC. 2. AMENDMENTS TO IMPROVE MORTGAGE, SECURITIES, AND FINANCIAL FRAUD RECOVERY AND ENFORCEMENT.**

(a) **DEFINITION OF FINANCIAL INSTITUTION AMENDED TO INCLUDE MORTGAGE LENDING BUSINESS.**—Section 20 of title 18, United States Code, is amended—

(1) in paragraph (8), by striking “or” after the semicolon;

(2) in paragraph (9), by striking the period and inserting “; or”; and

(3) by inserting at the end the following:

“(10) a mortgage lending business (as defined in section 27 of this title) or any person or entity that makes in whole or in part a federally related mortgage loan as defined in 12 U.S.C. 2602(1).”

(b) **MORTGAGE LENDING BUSINESS DEFINED.**—

(1) **IN GENERAL.**—Chapter 1 of title 18, United States Code, is amended by inserting after section 26 the following:

### **“§27. Mortgage lending business defined.**

“In this title, the term ‘mortgage lending business’ means an organization which finances or refinances any debt secured by an interest in real estate, including private mortgage companies and any subsidiaries of such organizations, and whose activities affect interstate or foreign commerce.”

(2) **CHAPTER ANALYSIS.**—The chapter analysis for chapter 1 of title 18, United States Code, is amended by adding at the end the following:

“27. Mortgage lending business defined.”

(c) **FALSE STATEMENTS IN MORTGAGE APPLICATIONS AMENDED TO INCLUDE FALSE STATEMENTS BY MORTGAGE BROKERS AND AGENTS OF MORTGAGE LENDING BUSINESSES.**—Section 1014 of title 18, United States Code, is amended by—

(1) striking “or” after “the International Banking Act of 1978,”; and

(2) inserting after “section 25(a) of the Federal Reserve Act” the following: “or a mortgage lending business whose activities affect interstate or foreign commerce, or any person or entity that makes in whole or in part a federally related mortgage loan as defined in 12 U.S.C. 2602(1).”

(d) **MAJOR FRAUD AGAINST THE GOVERNMENT AMENDED TO INCLUDE ECONOMIC RELIEF AND TROUBLED ASSET RELIEF PROGRAM FUNDS.**—Section 1031(a) of title 18, United States Code, is amended by—

(1) inserting after “or promises, in” the following: “any grant, contract, subcontract, subsidy, loan, guarantee, insurance or other form of Federal assistance, including through the Troubled Assets Relief Program, an economic stimulus, recovery or rescue plan provided by the Government, or the Government’s purchase of any preferred stock in a company, or”; and

(2) striking “the contract, subcontract” and inserting “such grant, contract, subcontract,

subsidy, loan, guarantee, insurance or other form of Federal assistance.”

(e) **SECURITIES FRAUD AMENDED TO INCLUDE FRAUD INVOLVING OPTIONS AND FUTURES IN COMMODITIES.**—

(1) **IN GENERAL.**—Section 1348 of title 18, United States Code, is amended—

(A) in the caption, by inserting “and commodities” after “Securities”; and

(B) by inserting “any commodity for future delivery, or any option on a commodity for future delivery, or” after “any person in connection with”; and

(C) by inserting “any commodity for future delivery, or any option on a commodity for future delivery, or” after “in connection with the purchase or sale of”.

(2) **CHAPTER ANALYSIS.**—The item for section 1348 in the chapter analysis for chapter 63 of title 18, United States Code, is amended by inserting “and commodities” after “Securities”.

(f) **MONEY LAUNDERING AMENDED TO DEFINE PROCEEDS OF SPECIFIED UNLAWFUL ACTIVITY.**—

(1) **MONEY LAUNDERING.**—Section 1956(c) of title 18, United States Code, is amended—

(A) in paragraph (8), by striking the period and inserting “; and”; and

(B) by inserting at the end the following:

“(9) the term ‘proceeds’ means any property derived from or obtained or retained, directly or indirectly, through some form of unlawful activity, including the gross receipts of such activity.”

(2) **MONETARY TRANSACTIONS.**—Section 1957(f) of title 18, United States Code, is amended by striking paragraph (3) and inserting the following:

“(3) the terms ‘specified unlawful activity’ and ‘proceeds’ shall have the meaning given those terms in section 1956 of this title.”

(g) **MAKING THE INTERNATIONAL MONEY LAUNDERING STATUTE APPLY TO TAX EVASION.**—Section 1956(a)(2)(A) of title 18, United States Code, is amended by—

(1) inserting “(i)” before “with the intent to promote”; and

(2) adding at the end the following:

“(ii) with the intent to engage in conduct constituting a violation of section 7201 or 7206 of the Internal Revenue Code of 1986; or”.

## **SEC. 3. ADDITIONAL FUNDING FOR INVESTIGATORS AND PROSECUTORS FOR MORTGAGE FRAUD, SECURITIES FRAUD, AND OTHER CASES INVOLVING FEDERAL ECONOMIC ASSISTANCE.**

(a) **IN GENERAL.**—

(1) **AUTHORIZATION.**—There is authorized to be appropriated to the Attorney General, to remain available until expended, \$165,000,000 for each of the fiscal years 2010 and 2011, for the purposes of investigations, prosecutions, and civil proceedings involving Federal assistance programs and financial institutions, including financial institutions to which this Act and amendments made by this Act apply.

(2) **ALLOCATIONS.**—With respect to fiscal years 2010 and 2011, the amount authorized to be appropriated under paragraph (1) shall be allocated as follows:

(A) Federal Bureau of Investigation: \$75,000,000 for fiscal year 2010 and \$65,000,000 for fiscal year 2011.

(B) The offices of the United States Attorneys: \$50,000,000.

(C) The criminal division of the Department of Justice: \$20,000,000.

(D) The civil division of the Department of Justice: \$15,000,000.

(E) The tax division of the Department of Justice: \$5,000,000.

(b) **ADDITIONAL APPROPRIATIONS FOR THE POSTAL INSPECTION SERVICE.**—There is authorized to be appropriated to the Postal Inspection Service of the United States Postal Service, \$30,000,000 for each of the fiscal years 2010 and 2011 for investigations involving Federal assistance programs and financial institutions, in-

cluding financial institutions to which this Act and amendments made by this Act apply.

(c) **ADDITIONAL APPROPRIATIONS FOR THE INSPECTOR GENERAL FOR THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.**—There is authorized to be appropriated to the Inspector General of the Department of Housing and Urban Development, \$30,000,000 for each of the fiscal years 2010 and 2011 for investigations involving Federal assistance programs and financial institutions, including financial institutions to which this Act and amendments made by this Act apply.

(d) **ADDITIONAL APPROPRIATIONS FOR THE UNITED STATES SECRET SERVICE.**—There is authorized to be appropriated to the United States Secret Service of the Department of Homeland Security, \$20,000,000 for each of the fiscal years 2010 and 2011 for investigations involving Federal assistance programs and financial institutions, including financial institutions to which this Act and amendments made by this Act apply.

(e) **USE OF FUNDS.**—The funds authorized to be appropriated under subsections (a), (b), (c), and (d) shall be limited to cover the costs of each listed agency or department for investigating possible criminal, civil, or administrative violations and for prosecuting criminal, civil, or administrative proceedings involving financial crimes and crimes against Federal assistance programs, including mortgage fraud, securities fraud, financial institution fraud, and other frauds related to Federal assistance and relief programs.

(f) **REPORT TO CONGRESS.**—Following the final expenditure of all funds appropriated under this section that were authorized by subsections (a), (b), (c), and (d) the Attorney General, in consultation with the United States Postal Inspection Service, the Inspector General for the Department of Housing and Urban Development, and the Secretary of Homeland Security, shall submit a joint report to Congress identifying—

(1) the amounts expended under subsections (a), (b), (c), and (d) and a certification of compliance with the requirements listed in subsection (e); and

(2) the amounts recovered as a result of criminal or civil restitution, fines, penalties, and other monetary recoveries resulting from criminal, civil, or administrative proceedings and settlements undertaken with funds authorized by this Act.

## **SEC. 4. CLARIFICATIONS TO THE FALSE CLAIMS ACT TO REFLECT THE ORIGINAL INTENT OF THE LAW.**

(a) **CLARIFICATION OF THE FALSE CLAIMS ACT.**—Section 3729 of title 31, United States Code, is amended—

(1) by striking subsection (a) and inserting the following:

“(a) **LIABILITY FOR CERTAIN ACTS.**—

“(1) **IN GENERAL.**—Subject to paragraph (2), any person who—

“(A) knowingly presents, or causes to be presented, a false or fraudulent claim for payment or approval;

“(B) knowingly makes, uses, or causes to be made or used, a false record or statement material to a false or fraudulent claim;

“(C) conspires to commit a violation of subparagraph (A), (B), (D), (E), (F), or (G);

“(D) has possession, custody, or control of property or money used, or to be used, by the Government and knowingly delivers, or causes to be delivered, less than all of that money or property;

“(E) is authorized to make or deliver a document certifying receipt of property used, or to be used, by the Government and, intending to defraud the Government, makes or delivers the receipt without completely knowing that the information on the receipt is true;

“(F) knowingly buys, or receives as a pledge of an obligation or debt, public property from an officer or employee of the Government, or a member of the Armed Forces, who lawfully may not sell or pledge property; or

“(G) knowingly makes, uses, or causes to be made or used, a false record or statement material to an obligation to pay or transmit money or property to the Government, or knowingly conceals or knowingly and improperly avoids or decreases an obligation to pay or transmit money or property to the Government,

is liable to the United States Government for a civil penalty of not less than \$5,000 and not more than \$10,000, as adjusted by the Federal Civil Penalties Inflation Adjustment Act of 1990 (28 U.S.C. 2461 note; Public Law 104-410), plus 3 times the amount of damages which the Government sustains because of the act of that person.

“(2) REDUCED DAMAGES.—If the court finds that—

“(A) the person committing the violation of this subsection furnished officials of the United States responsible for investigating false claims violations with all information known to such person about the violation within 30 days after the date on which the defendant first obtained the information;

“(B) such person fully cooperated with any Government investigation of such violation; and

“(C) at the time such person furnished the United States with the information about the violation, no criminal prosecution, civil action, or administrative action had commenced under this title with respect to such violation, and the person did not have actual knowledge of the existence of an investigation into such violation, the court may assess not less than 2 times the amount of damages which the Government sustains because of the act of that person.

“(3) COSTS OF CIVIL ACTIONS.—A person violating this subsection shall also be liable to the United States Government for the costs of a civil action brought to recover any such penalty or damages.”

(2) by striking subsections (b) and (c) and inserting the following:

“(b) DEFINITIONS.—For purposes of this section—

“(1) the terms ‘knowing’ and ‘knowingly’—

“(A) mean that a person, with respect to information—

“(i) has actual knowledge of the information;

“(ii) acts in deliberate ignorance of the truth or falsity of the information; or

“(iii) acts in reckless disregard of the truth or falsity of the information; and

“(B) require no proof of specific intent to defraud;

“(2) the term ‘claim’—

“(A) means any request or demand, whether under a contract or otherwise, for money or property and whether or not the United States has title to the money or property, that—

“(i) is presented to an officer, employee, or agent of the United States; or

“(ii) is made to a contractor, grantee, or other recipient, if the money or property is to be spent or used on the Government’s behalf or to advance a Government program or interest, and if the United States Government—

“(I) provides or has provided any portion of the money or property requested or demanded; or

“(II) will reimburse such contractor, grantee, or other recipient for any portion of the money or property which is requested or demanded; and

“(B) does not include requests or demands for money or property that the Government has paid to an individual as compensation for Federal employment or as an income subsidy with no restrictions on that individual’s use of the money or property;

“(3) the term ‘obligation’ means a fixed duty, or a contingent duty arising from an express or implied contractual, quasi-contractual, grantor-grantee, licensor-licensee, statutory, fee-based, or similar relationship, and the retention of any overpayment; and

“(4) the term ‘material’ means having a natural tendency to influence, or be capable of in-

fluencing, the payment or receipt of money or property.”

(3) by redesignating subsections (d) and (e) as subsections (c) and (d), respectively; and

(4) in subsection (c), as redesignated, by striking “subparagraphs (A) through (C) of subsection (a)” and inserting “subsection (a)(2)”.

(b) EFFECTIVE DATE AND APPLICATION.—The amendments made by this section shall take effect on the date of enactment of this Act and shall apply to conduct on or after the date of enactment, except that subparagraph (B) of section 3729(a)(1) of title 31, United States Code, as added by subsection (a)(1), shall take effect as if enacted on June 7, 2008, and apply to all claims under the False Claims Act (31 U.S.C. 3729 et seq.) that are pending on or after that date.

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

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

Mr. LEAHY. Mr. President, I understand the distinguished Senator from Pennsylvania is about to come to the floor. As each of us probably have times we are going to have to be on and off the floor, I am going to begin my comments now.

I said Monday at the outset of this debate on the motion to proceed to the fraud enforcement bill that I hoped the objection to proceeding and any filibuster effort against this bill would be short lived. I am glad to see that cooler heads have prevailed. That actually happens in the Senate now and then.

After being delayed 2 days, we have agreement to turn to the Leahy-Grassley Fraud Enforcement and Recovery Act. I thank the majority leader for his persistence. I regret that the weeks we spent reaching across the aisle for a time agreement on this bill were unavailing. The majority leader was required to file cloture to get us to this point.

We are talking about going after people who defrauded American taxpayers, and the sooner we can go after them, the better we all are. I commend Senators GRASSLEY and KAUFMAN, KLOBUCHAR, DORGAN, and SHAHEEN for their statements to the Senate on Monday in support of this fraud enforcement bill. Their strong statements no doubt contributed to the reversal of the position that now allows us to proceed to what is a bipartisan fraud enforcement bill. In total, six Senators spoke in favor of the bill on Monday and no one spoke against. Each of us who spoke on Monday is a cosponsor. The bipartisan group of 16 Senators who have cosponsored this bill include, Senators SCHUMER, MURRAY, BAYH, SPECTER, SNOWE, HARKIN, LEVIN, WHITEHOUSE, ROCKEFELLER, and SANDERS.

On Monday, as the Senate debated the motion to proceed to the Leahy-Grassley fraud enforcement bill, the Obama administration issued a Statement of Administration Policy on the bill.

I ask unanimous consent to have a copy of the Statement of Administration Policy printed in the RECORD at the conclusion of my statement.

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

(See exhibit 1.)

Mr. LEAHY. This statement begins:

The Administration strongly supports enactment of S. 386. Its provisions would provide Federal investigators and prosecutors with significant new criminal and civil tools and resources that would assist in holding accountable those who have committed financial fraud.

I thank the President and the administration for their strong support.

The statement continues:

[The] legislation would benefit U.S. taxpayers by both addressing existing fraud and deterring waste, fraud and abuse of public funds.

That is something we all should be in favor of. They went on to add that it “would provide needed resources to strained law enforcement agencies.” Of course, pointing out what we all know, these additional resources will far more than pay for themselves through fines and penalties, restitution, damages, and forfeitures.

But there is more of a human thing in here. We have families losing their homes, defrauded, and losing their life savings. People are defrauding them and getting away with it. I want to not only get the people who did it, but I want to deter others from doing it in the future.

I said on Monday that the Justice Department and the FBI, the Secret Service, the special inspector general for TARP, law enforcement officers, and many good-government advocates supported the bill.

As we continue our debate, I ask unanimous consent to have printed in the RECORD at the conclusion of my statement a number of editorials and news articles favorable to the legislation.

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

(See exhibit 2.)

Mr. LEAHY. Just this weekend, the New York Times wrote that fraud enforcement must be one of our priorities as we rebuild our economy, not only to hold accountable those who committed fraud and contributed to these hard times but to protect our efforts to stabilize the banking system and to jumpstart the economy. They wrote:

While Washington is spending billions to shore up the financial system, it is doing far too little to strengthen the federal government’s ability to investigate and prosecute the sort of corporate and mortgage frauds that helped cause the economic collapse.

Those efforts—never fully adequate—have suffered in recent years as money and people were shifted from white-collar fraud to anti-terrorist activities.

That is precisely what law enforcement officials from the Justice Department and the FBI and the special inspector general for the Troubled Asset Relief Program told us in their testimony before the Judiciary Committee.



As the Times wrote, referring to the Fraud Enforcement and Recovery Act:

A bipartisan measure newly approved by the Senate Judiciary Committee and now coming before the full Senate would begin to close the enforcement gap . . . and strengthen existing federal fraud and money-laundering provisions, updating the definition of "financial institution" in federal fraud statutes to include largely unregulated mortgage businesses, for example, and reversing flawed court decisions that have undermined the effectiveness of the False Claims Act, one of the most potent weapons against government fraud.

Like a similar enforcement buildup in response to the savings and loan crises of the 1980s, this one will contribute far more than it costs to the federal Treasury through restitutions and asset recoveries. . . . Senators should not be asking if the expenditure is affordable, but whether it is enough.

Every prosecutor I have talked to says they need this. I am willing to bet that every person who has been defrauded by some of these unregulated mortgage companies would give anything to have had this on the books and these people there 6 months or a year ago before they lost their life savings, before they lost their homes, their chance for their children to go to college, and before they lost the chance for retirement. But there are still millions of Americans at risk. Let's protect them. Let's show that we are against such crime and that we will provide the tools to stop it.

One of the things every prosecutor knows and learns is, if you ask people if they are against crime, everybody is against crime. If you ask legislative bodies: Are you willing to pass resolutions against crime, of course they are. But then you ask the real question: Will you give us the tools to fight crime? That is where everybody goes: Well, let's see.

Here are the tools to fight crime.

This is something supported across the political spectrum. Look at the Washington Times, a very conservative newspaper. They raised very similar concerns about the need to fight fraud and protect the taxpayers' money being spent on the economic stimulus. In an editorial on March 26 entitled "Stimulus Spending Ripe for Fraud," the Washington Times called for fraud enforcement. In commenting on an Energy Department official who was concerned with waste, fraud, and abuse in stimulus funding, they wrote:

The same attitude must be adopted by all agencies overseeing the implementation of the massive spending measure.

Well, they are right. They went on to say that simply having a Web site to provide greater transparency, while a good thing, is not enough. They said:

[E]ven an unprecedented level of post-spending transparency will do only so much to ensure waste is kept to a minimum. . . . It will take more than a new Web site and the sort of staff training the administration has implemented to turn an understanding of the problem into real accountability. . . .

The administration is, in fact, doing more than creating the most transparent Government in history. They

are supporting this bill and its aggressive response to fraud enforcement. The bill will actually translate rhetoric into reality, a reality that can save billions. It is just the kind of action these editorials from the right to the left have asked for.

Look at a front page article of March 12, entitled "Financial Fraud Is the Focus of Prosecutors." The New York Times reported that fraud was surging, particularly mortgage fraud cases.

It is very interesting. We talk about tough enforcement. The chairman of the House Banking Committee said, "Rules don't work if people have no fear of them." Anybody in law enforcement can tell us that. Every State has laws against burglary, for example. But put two warehouses on the same street, one with a rusty lock on the door and no alarm system, no lights, one with a state-of-the-art alarm system, lights, the ability to call police immediately, and which one gets broken into? The law is the same. You are going to break into the one that is easy. You can have all the laws in the world on mortgage fraud, and if people think they are not going to be enforced, they are going to break those laws. If you believe the worst that will happen is you might get a fine, if you have a \$100 million fraud operation going and you might get a \$5 million fine, gee-whiz, that is the cost of doing business. If you find out, however, that you might go to prison, that in all likelihood you will go to prison as well as losing the money you defrauded from people and allow that money to go back to them, then you are going to think twice.

Neil Barofsky, the special inspector general for the Troubled Assets Relief Program, issued a 250-page report warning yet again that the bank bailout funds are particularly vulnerable to fraud. He talked about protecting American taxpayers. He testified about similar concerns when he appeared before the Judiciary Committee in support of the bill.

Strengthening fraud enforcement is a key priority for the President. During the campaign, President Obama promised to "crack down on mortgage fraud professionals found guilty of fraud by increasing enforcement [but also] creating new criminal penalties." The President, in his budget to Congress, called for additional FBI agents "to investigate mortgage fraud and white collar crime," as well as hiring more Federal prosecutors and civil attorneys "to protect investors, the market, and the Federal Government's investment of resources in the financial crisis, and the American public." Additional money was included in the initial recovery package for the FBI, but it was cut out during negotiations that led to its passage. This bill is our chance to authorize the necessary resources.

I can't state enough, it is not enough to have a law on the books that says: Thou shalt not commit crime. It works only if people think they are going to get caught and they are going to lose

the money they have stolen and they are going to go to jail on top of that. As long as people carrying out these frauds and these scams think they will never get caught, will never get prosecuted, the laws aren't tough enough, they are in an unregulated industry, nobody is going to go after them, why not keep trying. The worst that could happen is somewhere along the line you might have to give a little bit of the money back and keep scamming people, keep ruining people's lives, keep taking people's homes away from them, keep taking people's retirement accounts, keep taking the money they have saved for their kids to go to college. If all you think you might get is a little slap on the wrist or in all likelihood you will get away with it completely, what is to stop you?

Obviously not a sense of morality, as we saw with Bernie Madoff and others. We have to have laws to stop them. We have to have enforcement of the laws. We have to have people go to prison for stealing retirement accounts and stealing children's money being saved for college and stealing homes through mortgages scams. We should pass this.

I see the distinguished Senator from Pennsylvania in the Chamber. He is a man with a distinguished career, first as a prosecutor before he came here and now a man who has been both chairman and ranking member of the Senate Judiciary Committee. He understands this.

I yield the floor.

#### EXHIBIT 1

#### STATEMENT OF ADMINISTRATION POLICY S. 386—FRAUD ENFORCEMENT AND RECOVERY ACT OF 2009

(Sen. Leahy (D) Vermont and 4 cosponsors,  
Apr. 20, 2009)

The Administration strongly supports enactment of S. 386. Its provisions would provide Federal investigators and prosecutors with significant new criminal and civil tools and resources that would assist in holding accountable those who have committed financial fraud.

Specifically, the legislative enhancements would help the Department of Justice to combat mortgage fraud, securities and commodities fraud, money laundering and related offenses, and to protect taxpayer money that has been expended on recent economic stimulus and rescue packages. Further, the legislation would amend the False Claims Act (FCA) in several important respects so that the FCA remains a potent and useful weapon against the misuse of taxpayer funds. In general, this legislation would benefit U.S. taxpayers by both addressing existing fraud and deterring waste, fraud, and abuse of public funds. Moreover, S. 386 would provide needed resources to strained law enforcement agencies and prosecutors that would enable the Department and its partners to advance the pace and reach of the enforcement response to the current economic crisis. These additional resources will provide a return on investment through additional fines, penalties, restitution, damages, and forfeitures. With the tools and resources that S. 386 provides, the Department of Justice and others would be better equipped to address the challenges that face this Nation in difficult economic times and to do their part to help the Nation respond to this challenge.

## EXHIBIT 2

[From the New York Times, Apr. 18, 2009]

## FRAUD FACTOR

While Washington is spending billions to shore up the financial system, it is doing far too little to strengthen the federal government's ability to investigate and prosecute the sort of corporate and mortgage frauds that helped cause the economic collapse.

Those efforts—never fully adequate—have suffered in recent years as money and people were shifted from white-collar fraud to anti-terrorist activities. Over time, the ranks of fraud investigators and prosecutors were dramatically thinned, leaving the F.B.I. and the larger Justice Department ill prepared to keep pace with a skyrocketing number of serious fraud allegations. Now they are ill equipped to police the vast infusion of federal money into the economy.

A bipartisan measure newly approved by the Senate Judiciary Committee and now coming before the full Senate would begin to close the enforcement gap.

Sponsored by Senators Patrick Leahy of Vermont and Edward Kaufman of Delaware, both Democrats, and Senator Charles Grassley, Republican of Iowa, the Fraud Enforcement and Recovery Act of 2009 would significantly expand the number of prosecutors, agents and analysts devoted to pursuing financial crimes.

It would strengthen existing federal fraud and money-laundering provisions, updating the definition of "financial institution" in federal fraud statutes to include largely unregulated mortgage businesses, for example, and reversing flawed court decisions that have undermined the effectiveness of the False Claims Act, one of the most potent weapons against government fraud.

The measure envisions spending \$490 million over the next two fiscal years. Like a similar enforcement buildup in response to the savings and loan crisis of the 1980s, this one will contribute far more than it costs to the federal Treasury through restitutions and asset recoveries, according to the Congressional Budget Office forecast. Senators should not be asking if the expenditure is affordable, but whether it is enough.

[From the Washington Times, Mar. 26, 2009]

## STIMULUS SPENDING REMAINS RIPE FOR FRAUD

The many billions shoveled to the Energy Department as part of the \$787 billion stimulus package recently signed into law may provide a cautionary tale about potential abuse, judging from a recent Energy Inspector General's warning.

As if on cue, FBI Director Robert Mueller told Congress yesterday that he, too, expects a surge in stimulus-related fraud. "Our expectation is that economic crimes will continue to skyrocket," he said. "... The unprecedented level of financial resources committed by the federal government ... will lead to an inevitable increase in economic crime and public corruption cases."

Undaunted, President Obama earlier this week continued his intense promotion of the stimulus package, ignoring the great potential for significant fraud as federal agencies rush to dispense the money. He hyped the \$59 billion for clean energy and related tax incentives in the stimulus bill as a down payment on an additional \$150 billion in Energy Department spending in his 2010 budget. He didn't seem to get the recent warnings from Energy Inspector General Gregory Friedman about the high probability for fraud and waste in distributing stimulus dollars, which call into question the agency's ability to even distribute the stimulus money effectively.

Most importantly, Friedman, a Clinton-era appointee, highlighted the need for a level of proactive accountability historically absent in the federal bureaucracy. As reported by Congress Daily, Friedman's memo last week to Energy Secretary Steven Chu and other department officials argues that the massive increase in funding going through the agency will strain and fundamentally change the agency's mission while creating the potential for rampant abuse. The stimulus provides the agency over \$38 billion in funding along with authority over energy loans totaling \$127 billion, spending that dwarfs the \$27 billion provided in the agency's 2009 budget.

Friedman reportedly notes that during regular agency operations misuse of funds, falsification of data, kickbacks, bribes and other forms of fraud happen with "troubling" frequency. He also argues, correctly, that anti-corruption oversight should be a priority. Friedman's laudable honesty exposes both the unintended consequences inherent in the quickly passed package and the daunting task faced.

The same attitude must be adopted by all agencies overseeing the implementation of the massive spending measure. What is true, or likely, at Energy is very likely true or likely at other departments and agencies as well. Exhibit "A" is the continued lax oversight and lack of transparency seen with the Treasury Department's handling of the banking industry bailout. The White House is yet to be convincing that it is adequately addressing the potential of a major waste of taxpayer funds.

Recovery Accountability and Transparency Board chairman Earl Devaney, who is functionally the chief auditor of the stimulus package, told a House panel last week that some fraud is inevitable. But he also expressed horror that accounting industry standards for fraud acceptability is 7 percent, or \$55 billion in taxpayer money. Devaney, who has a reputation for vigilance, promised a zero tolerance approach. That is very good to hear.

With over 40 states launching websites intended to track stimulus spending, Devaney's board will oversee the Web site Recovery.gov, aimed at maintaining public access to the Fed's spending records. The board aims to change the fact that the federal government has never been particularly successful in the timely and reliable tracking of spending data.

But even an unprecedented level of post-spending transparency will only do so much to ensure waste is kept to a minimum. Perusing the data online only comes after the fact. It will take more than a new Web site and the sort of staff training the administration has implemented to turn an understanding of the problem into real accountability.

While some degree of waste is almost inevitable from any government endeavor, the degree must not reach the level of finding 7 percent fraud—\$55 billion in the case of the entire package—an acceptable figure. The White House is saying the right thing by indicating zero is the goal, not \$55 billion. We can only hope their rhetoric translates into additional action that defies history and saves billions.

[From the New York Times, Mar. 12, 2009]

## FINANCIAL FRAUD IS FOCUS OF ATTACK BY PROSECUTORS

(By David Segal)

Spurred by rising public anger, federal and state investigators are preparing for a surge of prosecutions of financial fraud.

Across the country, attorneys general have already begun indicting dozens of loan proc-

essors, mortgage brokers and bank officers. Last week alone, there were guilty pleas in Minnesota, Delaware, North Carolina and Connecticut and sentences in Florida and Vermont—all stemming from home loan scams.

With the Obama administration focused on stabilizing the banks and restoring confidence in the stock market, it has said little about federal civil or criminal charges. But its proposed budget contains hints that it will add to this weight of litigation, including money for more F.B.I. agents to investigate mortgage fraud and white-collar crime, and a 13 percent raise for the Securities and Exchange Commission.

Officials at the Justice Department have not said much in public about their plans. But people who have met with Attorney General Eric H. Holder Jr. say he is weighing a range of strategies.

"It's clear that he and other top-level members of the Obama administration want to seize the opportunity to send a message of zero tolerance for mortgage fraud," said Connecticut's attorney general, Richard Blumenthal, who attended a meeting with Mr. Holder and other state attorneys general last week in Washington. "The only question is when and how they will do it."

One person who had discussed the matter with Mr. Holder, but declined to be identified because he was not authorized to speak for the Justice Department, said that the attorney general was deciding whether to form a task force to centralize the effort or allow state attorneys general to develop cases on their own.

A Justice Department spokesman, Matthew A. Miller, would not comment, other than to write by e-mail, "It will be a top priority of the Justice Department to hold accountable executives who have engaged in fraudulent activities."

At the low end of the mortgage transaction ladder, state prosecutors have had a relatively easy time prevailing, but recent history suggests that the government's odds of winning drop when they go after Wall Street executives. Some high-profile convictions have been won in the last decade, but several of the Enron-related prosecutions and some cases brought by Eliot Spitzer when he was New York's attorney general fell apart or were overturned on appeal.

As federal authorities decide on a course of action, Congress is becoming impatient. Representative Barney Frank, chairman of the House Financial Services Committee, announced plans last week for a hearing on March 20, inviting Mr. Holder, bank regulators and leaders of the S.E.C. to answer questions about their enforcement plans.

"Rules don't work if people have no fear of them," Mr. Frank, Democrat of Massachusetts, said. State and local prosecutors, it seems, do not need the nudge. Last week, the district attorney's office in Brooklyn announced the creation of a real estate fraud unit, with 12 employees and a mandate to "address the recent flood of mortgage fraud cases plaguing New Yorkers." In late February, Maryland unveiled a mortgage fraud task force, bringing together 17 agencies to streamline investigations.

With all the state activity and portents of a new resolve at the federal level, lawyers who defend white-collar clients sense growing momentum to perp walk and prosecute executives involved in the mortgage crisis.

"It's going to be open season," says Daniel M. Petrocelli, a lawyer whose clients include Jeffrey K. Skilling, the former chief executive of Enron. "You'll see a lot of indictments down the road, and you'll see a lot of prosecutions that rely on vague theories of 'deprivation of honest services.'"

Many financial executives have hired lawyers in the last few months, either through



internal counsels or, more discreetly, on their own, several lawyers who defend white-collar clients said.

While assorted Wall Street executives have been prosecuted over the years, any concerted legal attack on the financial sector would have little precedent. After the Depression, Congress formed what became known as the Pecora Commission, which grilled top financiers. But the point was mostly to embarrass them, and the upshot was to set the stage for stricter regulations. The most indelible image of the commission's hearings was a photo of J.P. Morgan Jr. with a midget who had been plopped in his lap by an opportunistic publicist.

The question behind any cases brought against Wall Street will boil down to this: Was the worst economic crisis in decades caused by law-breaking or some terrible, but noncriminal, mix of greed, naïveté and blunders? The challenge for the Obama administration will be to prove that it was the former, said Michael F. Buchanan, a partner at Jenner & Block and a former United States attorney in New Jersey.

"We punish people for intentional misconduct, we don't punish them for stupidity or innocent mistakes," he said. "If you're a prosecutor, you want evidence that shows real dishonesty. You want something that shows that these people were doing something wrong, and they knew it."

That nearly all of the banking industry acted the same, possibly reckless, way could actually help any executive who lands in court, lawyers said. The herdlike behavior suggested that bankers were competing for business using widely shared assumptions, rather than trying to get away with a crime. It would be hard to prove that anyone broke the rules, these lawyers said, since regulations in the riskiest parts of the mortgage industry were so lax.

One defense lawyer said he expected to argue that either his clients did not understand the financial instruments they were marketing, or were not warned of the dangers by underlings.

"We'll all sing the stupidity song," said the lawyer, who said he feared that speaking publicly by name would deter potential clients. "We'll all sing the 'These guys never told me' song."

But for government lawyers, the environment for corporate fraud cases could scarcely be more inviting. It is not just that the public's zeal for Wall Street pelts is high. The resources are there, too, because some of the money once used to fight terrorism is being shifted to fighting financial fraud. And in recent years the use of wire fraud statutes has expanded, allowing prosecutors to turn virtually anything said or sent by e-mail in private into a federal crime, if it contradicts what investors were told in public disclosures.

Wire fraud charges were among those against two former Bear Stearns managers who were arrested in June, accused of praising their hedge fund to clients as they worried about it to colleagues. Federal sentencing guidelines also link the length of a prison term to the size of the financial loss to the public. Given that so many billions have vaporized recently, convictions could easily lead to life sentences, defense lawyers said, and the mere threat of such sentences gives prosecutors enormous leverage in settlement talks.

"There are executives now getting sentences longer than murderers and rapists," said Mr. Petrocelli, the lawyer, referring to white-collar prosecutions in recent years, including that of Mr. Skilling of Enron, who is now serving a 24-year sentence for securities fraud and other crimes.

Why has there not been a batch of subpoenas at the federal level already? The De-

partment of Justice is missing important staff members, says Reid H. Weingarten, a defense lawyer and former trial lawyer for the Justice Department. Former members of the Justice Department say that prosecutors and regulators are reluctant to act while the markets are in such disarray for fear of further unnerving investors and the public.

Lawyers for white-collar clients say they expect to be busy, but not all of them predict that means they will be earning huge fees. In the past, the legal bills of Wall Street higher-ups were paid by insurers that indemnified them. But that is not necessarily the case with banks that have gone bankrupt or disappeared.

"I know bankers are not now evoking much sympathy from the public at large," Mr. Weingarten said. "But these days many Wall Street types are struggling mightily with mortgage payments, tuition bills and health insurance. It's a very different world out there now."

**THE PRESIDING OFFICER.** The Senator from Pennsylvania.

**MR. SPECTER.** Mr. President, I have sought recognition to comment on the Fraud Enforcement Recovery Act, the legislation which is currently on the floor. Before the distinguished chairman leaves the Chamber, if I could have his attention, I agree with him about the importance of having strong law enforcement on crimes involving business fraud and on white-collar crimes. We are dealing with a financial situation where there are billions of dollars at stake, if not trillions. It is hard to know exactly how many zeros to add on. We are faced with a very desperate—strong word but understated if anything—challenge as to what to do with the economy worldwide. We had a \$700 billion program proposed by President Bush for companies in trouble and a twin brother proposed by President Obama, \$787 billion.

As I travel through my State, all I hear are questions. I don't hear any commendations. The Congress is not exactly held in high esteem. And the questions are: Why are we bailing out companies which made bad business judgments? If somebody makes a bad business judgment, why shouldn't they sustain the loss instead of coming to the taxpayers for a bailout?

You have these fancy Wall Street instruments. What is a derivative? Then there is the explanation about how no longer do you have mortgages with simply a home buyer and a banker, but you have all of these commercial papers lumped together and securitized. I do not know how long the word "securitized" has been in the dictionary. In fact, I am not sure it is in the dictionary, and most Americans are trying to find out what it means.

You slice them up, and they are securitized, and they are sold around the world. Much of the time, they are filled with misrepresentations to the extent that they become fraud. Fraud is a crime, and you have prosecutions which are brought which involve extraordinary sums of money, and then there is a fine which looks big in the newspapers but not when compared to what has been involved. It is a license

to do business or, perhaps more accurately, a license to steal. But if you have criminal prosecutions and you have jail sentences, that is meaningful.

**MR. PRESIDENT,** may I direct a question to the distinguished chairman.

I say to the Senator, I believe you were a prosecuting attorney in Vermont. What experience did the Senator have on the difference between a fine and a tough jail sentence?

**MR. LEAHY.** Well, Mr. President, I suspect my experience is probably similar to that of the distinguished Senator from Pennsylvania. Fines, especially in these commercial fraud type things, were seen as the cost of doing business. If you steal \$100 million, and you get a \$5 million fine, then you stole \$95 million. But if they think they are going to go to prison, that is when they think twice. We saw this after Enron and other things that when people actually believe they are going to go to prison, then they start thinking twice.

I am sure this was the experience the Senator from Pennsylvania had. It is the experience I had. Nothing focuses the attention of somebody who is going to want to defraud someone if they think they are going to spend years in a tiny cell. That focuses their attention, and suddenly it is not worth the effort. That is what we want to do here because the people who are being defrauded are the most defenseless. They are the people who have lost their retirement. They are the people who have lost their homes. They are the people who have lost the ability to pay for their kids to go to college.

The Senator from Pennsylvania is absolutely right.

(Mrs. GILLIBRAND assumed the chair.)

**MR. SPECTER.** Madam President, may the RECORD show the Presiding Officer has changed while I was looking at Senator LEAHY. I concur with what Prosecutor LEAHY said. It bears out the experience I had when I was a prosecuting attorney myself: that jail sentences are important in the way to deal with this kind of crime.

When I have been questioned by my constituents on my travels through Pennsylvania about who is going to be held accountable, and I tell them that the prospects for jail sentences are real, they are somewhat assuaged.

Madam President, I note the distinguished Republican leader has come to the floor. If I may have his attention and make an inquiry. If he cares to take precedence—he is busier than I am, although I am very busy—I would be glad to yield to Senator MCCONNELL.

**MR. MCCONNELL.** Madam President, I was not seeking the floor. I was going to talk to the Senator from Pennsylvania when he finishes his remarks. So I am not seeking recognition.

**MR. SPECTER.** Well, I thank Senator MCCONNELL for those comments.

The statute which is on the floor—the bill which is on the floor, proposed statute—is a very important legislative

piece. It will strengthen law enforcement being directed against precisely the kinds of white-collar crime we are talking about.

The bill authorizes \$165 million a year for hiring fraud prosecutors in the Department of Justice, including \$75 million for the FBI to bring on 190 additional special agents and more than 200 professional staff. The bill includes \$50 million a year for the U.S. Attorneys' Offices to staff those strike forces. The bill authorizes \$80 million a year over the next 2 years for the U.S. Postal Inspection Service, the Inspector General, the Secret Service, and the office of Housing and Urban Development.

It amends the definition of "financial institution" to extend Federal fraud laws to mortgage lending businesses that are not directly regulated or insured by the Federal Government. These companies were responsible for nearly half of the residential mortgage market before the economic collapse, yet they remain today largely unregulated and outside the scope of traditional Federal fraud statutes. This bill will correct that.

It amends the major fraud statute to protect funds expended under TARP, the Troubled Asset Relief Program, and the economic stimulus package. So we are providing criminal sanctions for the people who are going to misuse the moneys which have been appropriated in the past year.

It amends the Federal securities crime statute to cover fraud schemes involving commodities futures and options, including derivatives involving the mortgage-backed securities that caused such damage to our banking system.

It also amends the Federal money laundering statutes to cover not only profits but proceeds. The Supreme Court interpreted the statutes so narrowly that it needs modification. And there were also judicial interpretations of the False Claims Act which this legislation will correct.

So this is a very important bill. That is a very short statement of the bill and its purpose. It is my hope anyone who has amendments would come to the floor to offer them. I believe this is a bill which will get very widespread support in the Senate. We have a great many important legislative matters behind it, so it would be my hope we could move this bill through expeditiously, giving people an opportunity to offer amendments if they have some. We would be looking for a time agreement as soon as we could construct one. So I urge my colleagues to come to the floor to help on this process.

I yield the floor.

THE PRESIDING OFFICER. The Senator from Delaware.

Mr. KAUFMAN. Madam President, I want to say, the Senator from Pennsylvania is someone who, when I was growing up in Philadelphia, was the district attorney there and known to be a tough and good prosecutor. So

having Senator SPECTER speak to this bill says a lot about the bill and about the underpinnings of it.

I want to make a few comments. This bill is important. The American people are upset and outraged with the abuses that have rocked the financial sector, and which has especially put so many Americans into dire financial straits.

It is a good bill, plain and simple. I wish to run through some of the reasons why I think this bill is important and why I think it is one of the easiest votes a Member will make in this session of the Congress.

First, this bill is a critical step to restoring investor confidence in the financial markets by assuring the public that criminal behavior by unscrupulous mortgage brokers and corrupt financiers will be prosecuted and punished.

When I travel around and talk to people, they feel no one is paying a price for this—except the hard-working people out around America who have been hit so hard by this financial crisis. They do not feel as though the people on Wall Street, the people who did this, the people involved and the mortgage brokers are paying a price. Therefore, very importantly, they do not feel it is time to get back into the markets. They are concerned the markets are not fair and the markets are not on the up and up.

So what we are going to do with this legislation is assure the public that criminal behavior by unscrupulous mortgage brokers and corrupt financiers will be prosecuted and punished.

Second, this bill is a deterrent. Prosecuting white-collar crime today sends a message to those who would be tempted to cheat and defraud again. I do not want to be a party to the fact that 5, 10, 15, 20 years from now people will be ready to make a financial deal and someone will say: This is breaking the law. We are doing something here that is against the law. And someone else will say: Well, they did that back in 2007, 2008, 2009, and no one ever was prosecuted for it. These are very complicated financial dealings. If we do this, we are going to be just fine because, remember, nobody went to jail for what happened. Frankly, if we do not add more FBI agents, more prosecutors, and more financial training, that is exactly what could happen.

Third, this bill rebalances law enforcement resources. If you go back to September 11, many Federal agents were rightly redeployed from criminal work to counterterrorism. Counterterrorism was the key thing. We had to do something about this. We had to find the people who perpetrated 9/11. We had to find the people who could think about doing us harm in the future. So, rightfully, we moved FBI agents away from financial fraud and on to counterterrorism. But the problem is, we never replaced those agents.

In 2008, we had less financial fraud cases brought than we had in 2001. It is

incredible to believe that in this environment we had less criminal cases brought in 2008 than in 2001. So what we have to do is rebalance law enforcement resources. That is what this bill does. It allows us to get more Federal agents, more prosecutors, and more training back to where it was before.

We have about 240 FBI agents now working on financial fraud. At the height of the savings and loan crisis, we had over 1,000. So we want to get back to that level. We want to get the FBI agents back, get them the training they need, and get the prosecutors and the training they need. So this is a wonderful way to rebalance law enforcement resources.

Fourth, this bill helps ensure that sophisticated criminals cannot cover their tracks and escape liability. Unless we get more agents working on these cases soon, the trails may go cold.

I know many people in America watch "Law & Order." They know if you do not catch a criminal usually within the first 24 hours, it is very difficult to ever catch them. I think in this case that is what is going on here. This is one of the reasons why we have to pass this bill, and pass this bill soon. Because when you have these complicated financial cases, the sooner you get to the case—before people can cover their tracks, before people can go back and clean up what they have done—the better. We need the FBI agents on the job gathering the data and gathering the information.

Another point is, this bill modernizes several areas of Federal fraud law. Among other things, it updates the definition of "financial institution" to cover mortgage lending businesses that are not directly regulated or insured by the Federal Government.

Remember, much of the things that went on, much of our problem had to do with the mortgage lending business. The fact is, people went out and searched for and had people take out mortgages, many of whom were not qualified to have the mortgages; then they bundled up the mortgages and securitized them and then went off and sold them. In this area, there is enough anecdotal evidence to indicate there was some kind of fraud going on with this.

What this bill does is it makes financial fraud—it moves the mortgage lending businesses under the definition of "financial institution" so we can go after these folks.

Sixth, this bill is money well spent. Taxpayers have paid billions for bailouts. We should spend the millions it would take to find and prosecute all those who should be in jail. Again, taxpayers have paid billions in bailouts. No American whom I talk to—no American in my home State of Delaware—can understand why we would not spend the money we need to spend to prosecute these people for the crimes they have committed. It sends the wrong signal to the American people if, in fact, we do not get these folks

and if we do not take the money and prosecute all those who were involved in this financial fraud.

Next, this bill is an investment. This is easy. As I said, this is the easiest vote anyone will cast in this session of Congress. History tells us funds spent on fraud enforcement net money for the Government at a rate of \$15 recovered for every dollar spent. I have heard from some people concerned about spending this money. I think I have gone through the points on why we should spend the money, but if you are fiscally and financially conservative and if you basically believe there is nothing the Federal Government should spend money on, there is one thing that even you will agree with, and that is spending \$1 to get back \$15. That is the most fiscally conservative program that has ever been invented in the history of the Federal Government. We have a program where we will have to spend some money, but we know we are going to get the money back but many times over.

Finally, and I think most importantly, this bill will make it clear to all Americans that we hold Wall Street to the same standards as Main Street. We have to have people believe—it is essential to our system—that if you break the law, you will suffer the consequences. Keep in mind that many banks and mortgage brokers avoided the subprime market and acted responsibly. Respect for the rule of law demands that we identify, investigate, and punish those who self-dealt millions of dollars to line their own pockets while leaving investors in the dark. However, we have to be careful about whom we are trying and whom we are prosecuting. This is not a witch hunt. We are not out to get everybody and nail everybody in this business, but we need the FBI agents and the prosecutors to make sure we get the right people and that they are prosecuted to the full extent of the law.

I think the American people—I know the American people—are looking for swift action to restore faith in our financial markets and the rule of law. This bill is a great opportunity to do that.

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

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

Mr. KAUFMAN. Madam President, I ask unanimous consent to speak as in morning business for 6 minutes for the purpose of introducing a bill.

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

The Senator from Delaware is recognized.

Mr. KAUFMAN. I thank the Chair.

(The remarks of Mr. KAUFMAN pertaining to the introduction of S. 853 are

printed in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. KAUFMAN. Madam President, I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

#### EARTH DAY

Mrs. GILLIBRAND. Mr. President, in honor of Earth Day, I want to share with you some of the experiences I had this week when I was in New York. I met with a number of students from the New York Harbor School. Robert Kennedy, Jr., joined me. We were celebrating the achievements and efforts this school has made to make a difference for our future. The school is focusing on teaching the next generation about the environment and offering an environmental education so that we can create the stewards of our air and water into the next generation.

I was pleased to stand with Bobby Kennedy and these outstanding young people to discuss the importance of progressive environmental policy. I will partner with them and be a strong advocate for a greener New York and country.

What was so exciting about these children is that they were telling me about the work they were doing to ensure a cleaner Hudson River, what they were doing to make sure we can have a cleaner environment and air. Their curiosity was extremely compelling and inspiring. We talked about how the work they were doing would allow for their communities to be safer, to be able to have a clean Hudson River so they can eat fish out of it someday, and to have air that is cleaner. They really did understand the relationship between the communities around them and what they could do to have an impact in the future.

I met with Murray Fisher, the founder of the New York Harbor School. I met with him in Washington, and then I talked with him and his students in New York. The Harbor School brings innovative environmental and maritime-focused learning to the Bushwick neighborhood of Brooklyn—taking graduation rates from 20 percent, before their program began, to 75 percent this year. The student body of the school represents the most at-risk young people—80 percent come from households that are actually under the poverty line.

The skills these children have been learning—measuring water quality and studying aquaculture—will enable them to be part of a green future, part of the energy revolution. It was inspiring not only to see young people so engaged and enthusiastic about environmental education but realizing in

speaking with them that they now understand what it takes to have a cleaner New York and the impact it can have in their own lives. I asked a young girl what she hoped to do when she graduated. She said she wants to be a marine biologist. I asked a young man if this is something he thought could make a difference. He said: I think so because it can change the quality of water and air that we have. They see a future for themselves to be the stewards of our environment.

Too often, the young people of low-income New York neighborhoods live with the risks of polluted environments. There are many brownfields sites across New York City, and the majority are located within the low-income people-of-color communities. Brownfields are clustered in these communities due to a history of industrial use, illegal dumping, or improper storage and handling of commercial products. These incidents have led to health hazards that further diminish the limited opportunities afforded many New Yorkers. For example, in the Bronx, we have the Nation's leading rate of asthma. In the Bronx neighborhood of Hunts Point, for example, we have one in four elementary children who suffers from asthma. I have been to the Bronx and to the community health center there, and I have met with parents. They do worry because the air quality is poor, and they have this historical environmental degradation.

We need to do better by our communities and make sure every child in America has a chance to achieve his or her God-given potential. That means having clean air to breathe, safe water to drink, and a community that is healthy.

When we bring our environmental education into our schools, such as the Harbor School, we are teaching children that they can have an impact on their environment and that it actually creates opportunities for them.

The current economic challenges we face in New York and around the country are significant, but the programs that are offered by the New York Harbor School can really make a difference. Unfortunately, many of these programs are in jeopardy due to budget cuts, and schools are being forced to scale back environmental education. No Child Left Inside, introduced by Senator JACK REED this week, would provide for environmental education in schools; it would provide the critical funding that is necessary to ensure our children receive the kinds of hands-on education that connects them with the environment and prepares them for our future.

Despite all of the economic challenges our country is facing, we must not lose our focus on the important investments that are required to assure New York's and our Nation's leadership in the years to come. The environmental problems that many of our communities face are also opportunities for the young people of the Harbor

School to be the problem-solvers of the future and to be able to make a difference in their own communities.

Bobby Kennedy recognized early on that State and Federal environmental legislation cannot only be positive for air, land, and water, but also good for the economy and job creation. He said to me:

We can turn every American into an energy entrepreneur, every home into a power plant, and fuel our country through our own energy initiatives, rather than Saudi oil.

I thought that statement was extremely inspiring. He is saying that through energy entrepreneurialism and innovation, we can transform this economy not only into a green economy but into an energy revolution where we are creating not only the products through energy sources—whether it is fuel cells, hydropower, wind, solar, biofuel, or cellulosic ethanol—but we have the opportunity to transform manufacturing in this country to create the new products that are going to run on these new energy sources. It is a recognition that there is extraordinary opportunity here to make an opportunity for every individual, every home, and every business to be part of the energy solution.

As a country, we have undertaken infrastructure projects with the understanding that once the upfront costs were incurred and building was completed, private investment would follow, creating lucrative paths of commerce. This has been seen throughout New York's history. In the early days of America, we had one very audacious building project called the Erie Canal. It was going to connect Lake Erie to the Hudson River, opening markets of the eastern seaboard to inland goods. Even some visionaries, such as Thomas Jefferson, didn't think it was a very good idea, calling it "a little short of lunacy," and ultimately it fell on New York State, under Gov. Dewitt Clinton's leadership, to fund the project. The Erie Canal contributed immensely to the economic growth and wealth of New York. From New York City through Buffalo, it made an enormous difference to open Upstate New York and western New York to commerce, and that legacy continues to be with us today.

That is why the vision of President Obama on new infrastructure is so important. Today, we have high-speed rail, which is a great opportunity for mass transit. If we can have high-speed rail from New York City to Niagara, again it would open not only downstate to upstate but upstate to the rest of the eastern seaboard. It is very exciting to be able to create these opportunities for long-term economic growth.

The same thing is true with the power grid. When T. Boone Pickens talks about his windmills, he cannot build them if he doesn't have anyplace to plug in. We cannot have electric cars that can transform the entire automotive industry if we don't have a place to plug in. That is what Presi-

dent Obama's vision is in terms of building the new electric grid, so we can have sustainable, renewable energy and be able to use the new technologies and innovations to drive a new economy.

New York is in the enviable position to lead the Nation's green movement. We have had a history of energy independence. We have had hydropower for well over 100 years, whether you are talking about the Hudson River Valley or Niagara Falls. We have some of the greatest agriculture in the whole Nation, so we can be a source for cellulosic ethanol and other biofuels. We have some of the greatest entrepreneurs of this generation, from fantastic SUNY schools to terrific engineering schools, including engineering students from RPI, where we are at the forefront of photovoltaic energy, wind, and solar. We are in a position to lead the Nation's recovery through energy independence.

I celebrate Earth Day today by commending the great work of the Harbor School and the extraordinary leadership of Robert F. Kennedy, Jr., and also to talk about our future because when children are interested in learning about the environment and they create a relationship to the environment, whether it is through cleaner air or cleaner water or being that young engineer who figures out how to build an electric car for \$25,000 so all of America can get the equivalent of 240 miles per gallon, that is a vision of the future that I see, and that is the vision of how we are going to turn the economy around and create jobs.

I will work with President Obama to make sure we create good-paying jobs all across New York.

Thank you, 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. REID. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mrs. GILLIBRAND). Without objection, it is so ordered.

Mr. REID. Madam President, it is my understanding that we are on the financial fraud legislation.

The PRESIDING OFFICER. That is correct.

Mr. REID. That vehicle is open for amendment, true?

The PRESIDING OFFICER. That is correct.

#### AMENDMENT NO. 984

Mr. REID. Madam President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 984.

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

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

The amendment is as follows:

(Purpose: To increase funding for certain HUD programs to assist individuals to better withstand the current mortgage crisis)

At the appropriate place, insert the following:

#### SEC. \_\_\_\_ . ADDITIONAL FUNDING FOR HUD PROGRAMS TO ASSIST INDIVIDUALS TO BETTER WITHSTAND THE CURRENT MORTGAGE CRISIS.

(a) ADDITIONAL APPROPRIATIONS FOR ADVERTISING IN SUPPORT OF HUD PROGRAMS.—There is authorized to be appropriated to the Secretary of Housing and Urban Development, to remain available until expended, \$10,000,000 for each of the fiscal years 2010 and 2011 for purposes of providing additional resources to be used for advertising in support of HUD programs and approved counseling agencies, provided that such amounts are used to advertise in the 50 metropolitan statistical areas with the highest incidence of home foreclosures per capita, and provided, further that at least \$5,000,000 of such amounts are used for Spanish-language advertisements.

(b) ADDITIONAL APPROPRIATIONS FOR THE HOUSING COUNSELING ASSISTANCE PROGRAM.—There is authorized to be appropriated to the Secretary of Housing and Urban Development, to remain available until expended, \$50,000,000 for each of the fiscal years 2010 and 2011 to carry out the Housing Counseling Assistance Program established within the Department of Housing and Urban Development, provided that such amounts are used to fund HUD-certified housing-counseling agencies located in the 50 metropolitan statistical areas with the highest incidence of home foreclosures per capita for the purpose of assisting homeowners with inquiries regarding mortgage-modification assistance and mortgage scams.

(c) ADDITIONAL APPROPRIATIONS FOR PERSONNEL AT THE OFFICE OF FAIR HOUSING AND EQUAL OPPORTUNITY.—There is authorized to be appropriated to the Secretary of Housing and Urban Development, to remain available until expended, \$5,000,000 for each of the fiscal years 2010 and 2011 for purposes of hiring additional personnel at the Office of Fair Housing and Equal Opportunity within the Department of Housing and Urban Development, provided that such amounts are used to hire personnel at the local branches of such Office located in the 50 metropolitan statistical areas with the highest incidence of home foreclosures per capita.

Mr. REID. Madam President, what we hear on the morning news almost every day—but today especially—is that there are problems in the housing industry around America. Today, they listed the top 10 cities for foreclosure. No. 1 is Las Vegas. We have a lot in common with nine other cities. Many of the 10 are in California, and Phoenix, AZ, is one, and there are places in Michigan and in Florida.

I hope this amendment can be worked out with the managers. It is an amendment that authorizes money in three different areas: \$10 million to HUD for the purpose of providing resources to be used for advertising in support of HUD programs and approved counseling agencies in the 50 metropolitan statistical areas with the highest incidence of home foreclosures per capita. At least half of those resources are to be used for Spanish-language advertising. We have found that in Las

Vegas, which has a significant number of Spanish-speaking people, they are being scammed by people who are trying to take advantage of them and others. The rationale is that some of these metropolitan statistical areas are being flooded with advertising from illegitimate actors promising mortgage reductions and modifications for a fee. HUD will use these funds to advertise HUD services, as well as to explain the availability of HUD-approved counseling to homeowners to avoid some of these scams.

No. 2 is the authorization of \$50 million to be provided through the Housing Counseling Program at the Department of Housing and Urban Development to HUD-certified housing counseling agencies located in the 50 metropolitan statistical areas. These would be areas with the highest incidence of home foreclosures per capita, for the purpose of assisting homeowners with inquiries regarding mortgage modification assistance and mortgage scams.

We have found in the economic recovery package, and in the housing bill, that direct moneys went to these agencies—approved agencies—to help them talk to people and counsel them as to what they can do to avoid foreclosure. It has worked very well.

The 2008 housing bill and subsequent spending bills directed funds to counseling agencies, but the metropolitan statistical areas that are hardest hit—Las Vegas among those—still need more resources given the depth of the problem.

Additional resources will allow HUD-certified agencies to staff up and meet growing demand for their services, which will counterbalance the increase in illegitimate agencies promising mortgage modification services for a fee. These entities that are going to get this money charge nothing.

Finally, Madam President, the authorization of \$5 million to HUD's Office of Fair Housing and Equal Opportunity will help to provide additional personnel in HUD offices located in these 50 areas with the highest incidence of foreclosure. The rationale, of course, is that local HUD offices in these areas are understaffed and unable to meet the demand for their services and expertise concerning mortgage scams. Fair Housing Program personnel are trained to address these issues, and they are badly needed.

I would hope the managers and those other Members who are interested in this issue would review this matter. We believe strongly this is the right direction. If people have a better idea, I would be happy to visit with them. I will not call for a vote until people, of course, have an opportunity to review this in detail.

The PRESIDING OFFICER. The Republican whip.

#### AMENDMENT NO. 985

Mr. KYL. Madam President, I ask unanimous consent to lay aside the pending amendment for purposes of offering an amendment.

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

The assistant legislative clerk read as follows:

The Senator from Arizona [Mr. KYL] proposes an amendment numbered 985.

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

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

The amendment is as follows:

(Purpose: To modify the definition of the term "obligation")

On page 26, strike lines 1 through 5, and insert the following:

"(3) the term 'obligation' means an established duty, whether or not fixed, arising from an express or implied contractual, grantor-grantee, or licensor-licensee relationship, from a fee-based or similar relationship, from statute or regulation, or from the retention of any overpayment; and

Mr. KYL. Madam President, let me describe this amendment briefly and note that it is my understanding that when Senator LEAHY is able to be on the Senate floor, it is his intention to suggest that we take this amendment by unanimous consent. It has been worked out with representatives on both sides of the aisle, but I would like to describe it briefly.

This is an amendment relating to section 4 of the bill, which amends the False Claims Act. My amendment replaces the bill's proposed definition of the word "obligation," which has important implications for the so-called "reverse" False Claims Act pursuant to which private parties may be held liable for failing to pay an obligation due to the United States.

This amendment originally grew out of concerns about the underlying bill that were raised by the Chamber of Commerce and other business groups. Having reviewed those concerns, I have concluded that some of them could only arise under a strained reading of the bill.

The bill's new definition of the word "obligation," in particular, posed several problems. The original language spoke of "contingent" obligations. Such contingent or potential duties could include duties to pay penalties or fines, which could arise—and at least become "contingent" obligations—as soon as the conduct that is the basis for the fine has occurred.

Obviously, we don't want the Government or anyone else suing under the False Claims Act to treble and enforce a fine before the duty to pay that fine has been formally established. It is unlikely that Justice would ever have brought suit to enforce a claim of this nature, but the FCA can also be enforced by private realtors who often may be motivated by personal gain and not always exercise the same good judgment that the Government usually does.

To preclude such a reading of the act, my amendment strikes contingent ob-

ligations from the FCA's new definition of "obligation."

My amendment also makes a few other housekeeping changes to the definition of "obligation." It removes the words "quasi-contractual relationship." A "quasi-contract" is a remedy for a breach of duty, not an independent source of a duty. The amendment also makes clear that the words "similar relationship" only modify the words "fee-based relationship" and not the entire list of relationships that precede that term.

Under some readings of the rule of the last antecedent, the comma in the committee-reported bill that preceded the words "or similar relationship" could be read to reverse the usual presumption of that rule and have the words "similar relationship" modify all of the words in that list. My amendment makes clear that "similar relationship" only modifies "fee-based relationship."

As a result of discussions with the sponsors of the bill, I have also agreed to allow my amendment to add duties arising out of regulations, rather than just statutes, to the list of obligations made actionable under the law. I declined, however, to also allow obligations to be enforced that arise out of a mere rule. The term "rule" is defined at section 551 of title V, and as that definition makes clear, the term is far too broad. It can include all manner of rules of which defendants would have no reasonable notice.

Regulations, on the other hand, are published in the Federal Register in the Code of Federal Regulations, and so Congress can reasonably expect participants in regulated industries to have notice of them. Thus, as amended, the term "obligation" encompasses duties arising out of statutes and out of formal regulations published in the CFR.

I might also say a few words about aspects of the definition of obligation that I ultimately concluded that it was not necessary to address in this amendment. At the Judiciary Committee's mark up of this bill, I circulated an amendment that would limit obligations arising out of the retention of any overpayment so as to make clear that no obligation arises if the defendant is pursuing some type of administrative, judicial, or other process for reconciliation of alleged overpayments. The sponsors of the bill raised the concern, however, that such a safe harbor might immunize parties that intentionally and maliciously obtain an overpayment, and then spend years exhausting a reconciliation process, all in bad faith and knowing full well that they must repay the money, but earning interest on the overpayment in the interim. Apparently incidents like this have occurred, in cases involving sums that allowed the defendant to earn tens of millions of dollars in interest. The sponsors of the bill also noted to me that, under subparagraph (G)'s modification of the reverse False Claims

Act, avoiding or decreasing an obligation is only actionable, in relevant part, if the defendant “knowingly and improperly avoids or decreases an obligation to pay or transmit money or property to the Government.” Therefore, a good-faith pursuit of a reconciliation process would not be actionable.

I asked my staff to research the meaning of “knowingly and improperly” to confirm that a person who pursues reconciliation of an overpayment in good faith could not be held liable under the reverse False Claims Act. The answer that I received is that the term “knowingly and improperly,” though infrequently used in the caselaw, is consistently construed to mean that a person either acted with bad intent or that he employed means that are inherently tortious or illegal.

For example, the State of Massachusetts uses the standard of “knowing and improper” to determine whether a business competitor’s inducing a third party to breach a contract constitutes tortious interference with contract. See *Boyle v. Boston Foundation, Inc.*, 788 F.Supp. 627 (D. Mass. 1992); *Restuccia v. Burk Technology, Inc.*, 1996 WL 1329386, at \*3 (Aug. 13, 1996). And as the cases giving content to the Massachusetts standard make clear, under that test the “[d]efendant’s liability may arise from improper motives or from the use of improper means.” *United Truck Leasing Corp. v. Geltman*, 406 Mass. 811, 816 (1990) (quoting *Top Service Body Shop, Inc. v. Allstate Ins. Co.*, 283 Or. 201, 209–210 (1978)). See also *United Truck Leasing* at pages 816–817, quoting other cases as construing this standard to require an “improper purpose or improper means.” The *Top Service Body Shop* case, quoted by the Massachusetts court, further elaborates, at footnote 11, on what types of means constitute “improper means.” These are noted to commonly include “violence, threats or other intimidation, deceit or misrepresentation, bribery, unfounded litigation, defamation, or disparaging falsehood.” In the False Claim Act context, this list may include other improper means, but “improper means” must be means that are *malum in se*—that is, means that are inherently wrongful and constitute an independent tort.

Though less carefully considered than the Massachusetts intentional-interference jurisprudence, other judicial uses of the words “knowing and improper” confirm that the term would not reach good-faith exhaustion of procedures for reconciling an overpayment. In the *Matter of Banas*, 144 N.J. 75, 81 (1996), for example, reprimands a lawyer for “knowingly and improperly retaining—his client’s—\$5,000 payment.” And the court makes clear that it bases this conclusion on a previous finding that the lawyer “knew from the beginning that the purpose of the payment” was to satisfy a condition that he had not met. See *Banas* at 80. In another attorney-sanctions case, In

re *Aston-Nevada Limited Partnership*, 391 B.R. 84, 102 (D. Nev. 2006), the court found that the lawyer “repeatedly, knowingly, and improperly” misused particular words in his filings, and then emphasized that the lawyer’s “prevarications and misstatements were deliberate and not careless.”

Given that the words “knowingly and improperly” have a fixed meaning that, at the very least, requires either improper motives or inherently improper means, the changes made by this bill cannot be read to make actionable the retention of an overpayment when the defendant is pursuing in good-faith the exhaustion of a reconciliation procedure. It is with this understanding that I have declined to insist on further qualification of the bill’s predication of liability on the retention of an overpayment.

Finally, as a matter of usage, I would note that, contrary to the wording of the bill’s new definition of “obligation,” duties arise from contracts and the like, not from “relationships.” The bill’s language is somewhat Oprahfied in this regard, but given that the sponsors have accommodated me on other, more substantial issues, I did not think it worth forcing a rewording of the provision to address this problem.

Other groups have also suggested the bill’s new definition of the word “claim,” by encompassing situations where money is spent or used “to advance a government program or interest,” could make actionable under the False Claims Act any garden-variety overbilling or underpayment of a contractor by a subcontractor if some Federal money is involved in the project. I think this is an unreasonable reading of the bill that is precluded by the committee report, as well as by common sense. The report makes clear that the purpose of the new definition of “claim” is to overrule the *Totten* and *Allison Engine* cases and preclude application of a formalistic presentment requirement of an unnecessary intent requirement, and to restore the previous understanding of the law. And that previous understanding, as well as common sense, dictate that a particular transaction does not “advance a Government program or interest” unless it is predominantly federal in character—something that at least would require, as the report notes in footnote 4, that the claim ultimately results in a loss to the government. Obviously, the government does not intend to make actionable under the FCA any garden-variety dispute between a general contractor and a subcontractor simply because the general receives some federal money. On the other hand, if the transaction is still predominantly Federal in character, and the false claim results in a loss to the government, recovery under the FCA should not be precluded simply because the claim was not directly presented to the government, or because the malfeasant did not specifically intend to defraud the government.

Madam President, I ask unanimous consent to lay aside this amendment for the purpose of calling up four other amendments pending at the desk, and those numbers are 986, 987, 988, and 989.

Mr. KAUFMAN. Will the Senator please yield so we have a chance to look at the amendments?

The PRESIDING OFFICER. Is there objection?

Mr. KAUFMAN. Object.

The PRESIDING OFFICER. Objection is heard.

Mr. KYL. I am happy to share these amendments with the other side, but I was not aware the other side had a veto over amendments offered by Members of this side of the aisle.

Mr. KAUFMAN. I would just like to—

Mr. KYL. I am happy to share the amendment, of course. I will withhold for a moment so the Senator can see what the amendment is, and perhaps we can move forward.

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

The PRESIDING OFFICER (Mrs. HAGAN). Without objection, it is so ordered.

Mr. LEAHY. Madam President, I understand there is a pending amendment?

The PRESIDING OFFICER. The Senator is correct.

Mr. LEAHY. I ask unanimous consent that the pending amendment be set aside and it be in order for me to send an amendment to the desk.

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

#### AMENDMENT NO. 993

Mr. LEAHY. Madam President, I send to the desk an amendment on behalf of myself and Senator GRASSLEY. I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Vermont [Mr. LEAHY], for himself and Mr. GRASSLEY, proposes an amendment numbered 993.

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

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

The amendment is as follows:

(Purpose: To clarify the amendments relating to major fraud)

On page 15, strike beginning with line 20 through page 16, line 10, and insert the following:

(d) MAJOR FRAUD AGAINST THE GOVERNMENT AMENDED TO INCLUDE ECONOMIC RELIEF AND TROUBLED ASSET RELIEF PROGRAM FUNDS.—Section 1031(a) of title 18, United States Code, is amended by—

(1) inserting after “or promises, in” the following: “any grant, contract, subcontract, subsidy, loan, guarantee, insurance or other form of Federal assistance, including



through the Troubled Assets Relief Program, an economic stimulus, recovery or rescue plan provided by the Government, the Government's purchase of any troubled asset as defined in the Emergency Economic Stabilization Act of 2008, or in";

(2) striking "the contract, subcontract" and inserting "such grant, contract, subcontract, subsidy, loan, guarantee, insurance or other form of Federal assistance,"; and

(3) striking "for such property or services".

Mr. LEAHY. Madam President, I rise to explain what this is, and then I will try to schedule a vote on the Kyl amendment and the Grassley-Leahy amendment at some time, I hope in the next few minutes.

As we begin consideration of the bill, Senator GRASSLEY and I are offering a brief managers' amendment. I was just explaining for everybody that it makes two simple technical changes in the bill in order to clarify the original intent of the bill and in order to avoid any ambiguity in the statutory language. It makes sure the bill extends the major fraud statute to all the funds being expended to stabilize and strengthen our banking system.

The original language in the bill amended the major fraud statute to protect against frauds related to many Government economic recovery programs, including the purchase of "preferred stock in a company" by the Government as part of our efforts to stabilize banks. The Justice Department advises that this language may be too narrow, as recovery efforts may include purchases of other types of stock or other troubled assets. So the Justice Department, which supports the Leahy-Grassley bill, has requested that the reference to "any preferred stock in a company" be replaced with the phrase "any troubled asset as defined in the Emergency Economic Stabilization Act of 2008." This simple change will make clear that all troubled assets purchased by the Government as part of the recovery effort will be covered under the major fraud statute. This change is consistent with the original intent of the bill and simply provides greater assurances that taxpayers' money will be protected to the full extent of the Federal law.

Second, the amendment strikes five words in the bill that could create unintended ambiguity in the statute and could be used to limit the effect of the bill. The phrase "for such property or services" appears in the original statute as a modifier of the kinds of contracts or subcontracts covered by the major fraud statute. With the changes included in the bill, the language is no longer applicable because the transactions involved in our efforts to stabilize banks include grants, loans, and purchases of assets that may not legally be characterized as "property or services." If this phrase remained in the statute, it could be used improperly to limit the scope of the major fraud statute and undermine the intent of this legislation, which is to cover all of the Government's efforts to rebuild

our economy and restart our banking system.

Frankly, when we send prosecutors out to get people for defrauding Americans, I don't want to have something unintentionally in the statute which may limit the ability of prosecutors to go after those who are defrauding Americans.

These changes that have been requested and supported by the Justice Department have the full support of Senator GRASSLEY, the lead Republican cosponsor of this bill and the Republican manager for this bill. All Senators should support this bipartisan managers' amendment which should protect our efforts to strengthen the banking system and restart the economy.

What I am going to do, Madam President, I am going to suggest that when Senator KYL gets here and Senator GRASSLEY gets back to the floor, we accept this managers' amendment—I think it is noncontroversial—and that we then have a vote as soon as he has had a chance to say what he would like to on the Kyl amendment. In the meantime, we will leave the managers' amendment the pending amendment just so Senators then can understand, if we can work it that way, hopefully we will have a vote relatively soon.

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. SANDERS. 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.

(The remarks of Mr. SANDERS are printed in today's RECORD under "Morning Business.")

Mr. SANDERS. Mr. President, I now wish to speak in support of S. 386, the Trade Enforcement Recovery Act. I commend Senator LEAHY, my colleague from Vermont, the chairman of the Judiciary Committee, for introducing this important piece of legislation.

As a result of the greed, recklessness and, in my view, illegal behavior of a handful of executives on Wall Street, we are suffering today from the most severe economic crisis that we have experienced since the Great Depression.

Millions of people have lost their homes, their jobs, their life savings, their ability to send their kids to college, and their sense of hope that their children will follow the American dream and have a higher standard of living than they do.

It is critical that we provide the FBI, the Justice Department, and all our Federal agencies the tools and resources they need to hold those responsible for the financial crisis accountable and throw those who engaged in fraud in jail where they belong. That is what the Fraud Enforcement and Recovery Act is all about. It is imperative we pass this bill as soon as possible.

Under President Bush, the Federal Government basically turned a blind eye to white-collar crime. After September 11, about 100 FBI white-collar fraud investigators had their job responsibilities shifted to focus on terrorism, which is understandable. But the problem is, they were never replaced to do and continue the work on white-collar crime. As a result, literally thousands of allegations of financial and mortgage fraud are going unexamined this day.

Chairman LEAHY's bill will turn this abysmal situation around by providing the resources necessary for the FBI to hire 160 additional special agents and more than 200 professional staff and forensic analysts dedicated to investigating white-collar crime.

This bill also provides the resources necessary for the Justice Department to add up to 200 prosecutors and civil enforcement attorneys nationwide, as well as 100 support staff to focus on fighting fraud. This bill provides the resources necessary for the U.S. Postal Inspection Service, the U.S. Secret Service, and the inspector general at HUD to hire several hundred additional fraud agents, analysts, and investigators to combat fraud.

This bill is desperately needed. It is important that we take a very aggressive look at the fraud that is going on in that area. I hope very much that all our colleagues will support this legislation.

With regard to this issue of what has been going on on Wall Street, there is no question but that the American people are furious—and rightly so. The American people want answers. What I wish to do now is say a word above and beyond this legislation, some of the areas that I think we have to go after we pass this bill. I think the American people are demanding an investigation to understand how we got into this financial crisis in the first place. Who are those people responsible? Some people say: Well, it is all of us. We are all responsible for this financial crisis. That simply is not accurate. The truth of the matter is, there are probably a few hundred people who, through their greed, their recklessness, their illegal behavior, have pulled our Nation and much of the world into a deep recession.

We need to know who they are. We need to know what they did. We need to make sure this never happens again. And where illegal activity has taken place, we need to hold them accountable.

One other area I wished to touch on, to look at another issue that is of concern to people in the State of Vermont—and I get e-mails on this virtually every day, I know it is true nationwide—at the same time as we are bailing out huge Wall Street financial institutions, at the same time as these financial institutions are getting zero interest loans from the Fed, you know what they are saying to the American people. They are saying: Thanks,

chump. We appreciate all your help. Now we are going to charge you 20, 25, 30 percent interest rates on the credit cards we gave you.

Recently, I have been receiving many e-mails from people who have seen the Bank of America, for no particular reason, doubling their interest rates all over this country. People are using their credit cards to pay for their groceries, to pay for basic needs. College kids, they are using credit cards to pay college expenses, and they are being charged outrageous rates.

The reality is, today in America, if you can believe it, one-third of all credit card holders in this country are paying interest rates above 20 percent, and as high as 41 percent, which is more than double what they paid in interest in 1990.

What we are looking at right here is a situation in which the American people are bailing out these large institutions and in return what we get are outrageously high interest rates. I have introduced, along with Senators DURBIN, LEVIN, LEAHY, HARKIN, and WHITEHOUSE, legislation that will require any lender in this country to immediately cap all interest rates on consumer loans at 15 percent, including credit cards.

The reason we have selected that number is, it is precisely what credit unions all over the country are operating under and have operated under for 30 years, and they have done well. They are not coming to Washington for hundreds of billions of dollars in bailouts.

I think if it has worked well for the credit unions, it can work well for financial institutions. I hope we can get that bill on the floor and see it pass to protect millions of credit card holders all over this country.

There is another issue I think we have to address. The reason Congress has provided \$700 billion to bail out Wall Street, against my vote I should say but that is what happened, the reason the Fed has lent out over \$2 trillion to large financial institutions has a lot to do with the phenomenon of "too big to fail."

The thought is, if a large financial institution goes under, it will bring systemic damage to our entire economy, and it has to be propped up. As I said on the floor of this Senate more than once, if an institution is too big to fail, it is too big to exist.

I will be introducing legislation soon to require that the Federal banking regulators examine every bank in this country to make sure no bank is too big to fail over a reasonable period of time. In other words, I think we have to take a look at what Teddy Roosevelt did 100 years ago, over 100 years ago. If an institution is too big to fail, let's start breaking them up right now so we do not find ourselves back in the same place some years from now.

It goes without saying, in another area, we have clearly got to end the deregulation of banking laws that were

passed over the last decade that helped cause this crisis. There was a belief that if we let Wall Street do all the wonderful things they are capable of doing, well, they are going to provide and create prosperity, not only for their people but all over our country.

Clearly, we have learned a lesson: When you leave Wall Street alone, they will do what they do best; that is, act in a very greedy way to maximize their profits. For them, 20 percent, 30 percent were not enough. They needed 40 percent, they needed 50 percent rates of return. Their CEOs needed not \$20 million, not \$50 million, in some cases they needed \$1 billion.

I think it is now widely understood that we have to reverse the deregulation that took place over the last decade, and we have to move forward with sensible regulation. That means we have to revisit certainly Gramm-Leach-Bliley, we have to restore the firewalls that were imposed by the Glass-Steagall Act in 1934 and that were repealed as a result of deregulation.

On another issue, I think there is growing concern that the Federal Reserve has taken on new responsibilities and that there is a clear lack of transparency in the Fed. The American people have a right to know what is going on there, and today we are kept in the dark.

Regardless of one's views on the merits of the \$700 billion financial rescue package that was signed into law by President Bush on October 3, one thing we can say is that if the taxpayers and the citizens of this country want to know who received this money, all they have to do is go to a Web site and they can find that.

On the other hand, if you want to know who received \$2.2 trillion from the Fed, if you want to know what the terms are of those agreements, you will not find any information whatsoever. All of that information has been kept secret from the American people.

I am grateful that as part of the budget debate, the Senate voted 59 to 39 in favor of an amendment I offered to the budget resolution with Senators BUNNING, WEBB, and FEINGOLD, calling on the Fed to release this information. In my view, it is time for the Fed to listen to the will of the Senate and the American people and release this information as soon as possible.

Let me conclude by simply saying I think today we are debating a very important piece of legislation, the Fraud Enforcement and Recovery Act, introduced by my colleague from Vermont. This is an extremely important legislation. Let's get it passed as soon as possible with as large a vote as we can.

After we do that, let's start turning our attention to other aspects of this Wall Street crisis so we can respond to the frustration and the anger of the American people, create a new Wall Street, create accountability, lower interest rates, and do many of the things the American people want to us to do.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Vermont.

Mr. LEAHY. Mr. President, I have been in discussions with the distinguished Republican deputy leader, Senator KYL. We do not have a formal agreement but what we are looking toward doing, in the next 10 minutes or so, is having acceptance of the managers' technical amendment and then going to a rollcall vote on Senator KYL's amendment, which I will support.

I suggest the absence of a quorum.

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

The bill clerk proceeded to call the roll.

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

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

AMENDMENT NO. 993, AS MODIFIED

Mr. LEAHY. Mr. President, I ask unanimous consent to modify the Leahy-Grassley amendment at the request of the Justice Department to add the word "or" after the comma at page 2, line 1. I send the modification to the desk.

The ACTING PRESIDENT pro tempore. The Senator has that right. The amendment is so modified.

The amendment, as modified, is as follows:

On page 15, strike beginning with line 20 through page 16, line 10, and insert the following:

(d) MAJOR FRAUD AGAINST THE GOVERNMENT AMENDED TO INCLUDE ECONOMIC RELIEF AND TROUBLED ASSET RELIEF PROGRAM FUNDS.—Section 1031(a) of title 18, United States Code, is amended by—

(1) inserting after "or promises, in" the following: "any grant, contract, subcontract, subsidy, loan, guarantee, insurance or other form of Federal assistance, including through the Troubled Assets Relief Program, an economic stimulus, recovery or rescue plan provided by the Government, or the Government's purchase of any troubled asset as defined in the Emergency Economic Stabilization Act of 2008, or in";

(2) striking "the contract, subcontract" and inserting "such grant, contract, subcontract, subsidy, loan, guarantee, insurance or other form of Federal assistance,"; and

(3) striking "for such property or services".

The ACTING PRESIDENT pro tempore. The Senator from Oklahoma.

Mr. COBURN. I ask unanimous consent to be recognized until Senator KYL returns to the floor or for a shorter period of time, whichever may be the shortest.

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

Mr. COBURN. Mr. President, nobody disputes the intent that we ought to go after the fraud that has been associated with the mortgage industry and some of the problems thereof. We passed the stimulus bill that had a lot of money for the Justice Department in it. We didn't tell them they should

use the money on this. We passed an omnibus bill, none of which did we put money in. We put \$10 million in for the FBI. Now we come before the Senate wanting to authorize \$500 million more for a bill in a department, the Justice Department, that will end this fiscal year with over \$2 billion in the bank. Since I have been a Senator, they have had over \$2 billion at the end of the year. There is something unique about the Justice Department. The Justice Department is the only Federal agency that doesn't ultimately have to send its unspent money back to the Treasury. They get to keep it.

In a time where we are spending money to the tune of \$112 billion a day every day we have been in session so far in this 111th Congress, to say that we ought to send another \$500 million to an agency that is going to have \$2 billion left over at the end of this year and the next few years to come tells us we are not good money managers, but most of the American people know that already.

On fiscal grounds, what we are doing is, we are authorizing money. And that is what will be the response to this debate: It is just an authorization. The fact is, if you are authorizing, you intend to spend it. You are going to try to get another \$500 million appropriated on this bill.

Secondly, we don't have ex post facto laws. So everything this bill does has no application in terms of a statute change to any of the crimes committed, either the fraud or money laundering or anything else. It has no application. None of it will apply to misdeeds and infractions of the law that happened that got us into this crisis.

Additionally, every act that was committed that broke a law under the statutes we have today, both Federal mail fraud and wire fraud, can be prosecuted already. What is going on? What is going on is, we are going to pass a bill in reaction to a problem that Congress created in the first place by incentivizing poor behavior at Fannie Mae and Freddie Mac, by not doing oversight, and we are going to make everybody feel better because we reacted to it. We don't need new laws on the books. What we need to do is enforce the laws we have today. It may be true that the Justice Department might need additional moneys. But where is the oversight?

We released a report earlier this year that showed \$10 billion over the last 5 years of waste in the Justice Department. Here is a department that has wasted \$10 billion over the last 5 years, has \$2 billion at the end of this year with which they could fund this. We didn't fund any of it except \$10 million in the stimulus bill or the omnibus bill, and we are adding new laws to the books that we don't need to prosecute the people who broke the law. It is a typical congressional reaction when what we should be doing is enforcing the laws already on the books and supplying on a priority basis the funding

for the Justice Department to prosecute that.

I see Senator KYL is here. I will continue my comments later.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Vermont.

Mr. LEAHY. Mr. President, we have the Leahy-Grassley technical amendment. I ask for its passage.

The ACTING PRESIDENT pro tempore. Is there further debate on the pending amendment?

Hearing no further debate, without objection, the amendment, as modified, is agreed to.

The amendment (No. 993), as modified, was agreed to.

Mr. LEAHY. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

#### AMENDMENT NO. 985

Mr. LEAHY. I believe it would be in order now to bring up the Kyl amendment; is that correct?

The ACTING PRESIDENT pro tempore. That is the pending amendment.

Mr. LEAHY. I ask for the yeas and nays on the Kyl amendment.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The ACTING PRESIDENT pro tempore. The Senator from Arizona.

Mr. KYL. Mr. President, I will describe this amendment in one sentence so as not to be more confusing than it otherwise would be. It is clearly a technical amendment and has strong support on both sides. It modifies the bill's definition of the term "obligation" as used in the reverse False Claims Act to exclude contingent obligations, thus precluding the possibility that conduct that makes a defendant liable for a penalty or a fine could become actionable under this law before that fine is actually established or assessed. I believe the amendment is agreed to on both sides.

The ACTING PRESIDENT pro tempore. The Senator from Vermont.

Mr. LEAHY. Mr. President, I thank the Senator from Arizona. He worked with me and Senator GRASSLEY. We both support his amendment. I will vote for it.

The ACTING PRESIDENT pro tempore. If there is no further debate on the amendment, the question is on agreeing to amendment No. 985.

The yeas and nays are ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KENNEDY), the Senator from Massachusetts (Mr. KERRY), and the Senator from West Virginia (Mr. Rockefeller) are necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from Kansas (Mr. ROBERTS).

The ACTING PRESIDENT pro tempore. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 94, nays 1, as follows:

[Rollcall Vote No. 160 Leg.]

#### YEAS—94

Akaka	Durbin	McConnell
Alexander	Ensign	Menendez
Barrasso	Enzi	Merkley
Baucus	Feingold	Mikulski
Bayh	Feinstein	Murkowski
Begich	Gillibrand	Murray
Bennet	Graham	Nelson (NE)
Bennett	Grassley	Nelson (FL)
Bingaman	Gregg	Pryor
Bond	Hagan	Reed
Boxer	Harkin	Reid
Brown	Hatch	Risch
Brownback	Hutchison	Schumer
Bunning	Inhofe	Sessions
Burr	Inouye	Shaheen
Burris	Isakson	Shelby
Byrd	Johanns	Snowe
Cantwell	Johnson	Specter
Cardin	Kaufman	Stabenow
Carper	Klobuchar	Tester
Casey	Kohl	Thune
Chambliss	Kyl	Udall (CO)
Coburn	Landrieu	Udall (NM)
Cochran	Lautenberg	Vitter
Collins	Leahy	Voinovich
Conrad	Levin	Warner
Corker	Lieberman	Webb
Cornyn	Lincoln	Whitehouse
Crapo	Lugar	Wicker
DeMint	Martinez	Wyden
Dodd	McCain	
Dorgan	McCaskill	

#### NAYS—1

Sanders

#### NOT VOTING—4

Kennedy  
Kerry

Roberts  
Rockefeller

The amendment (No. 985) was agreed to.

#### AMENDMENT NO. 995

(Purpose: To establish the Financial Markets Commission, and for other purposes)

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

Mr. ISAKSON. Mr. President, I ask unanimous consent that the pending amendment be set aside and the clerk call up amendment No. 995.

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

The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia [Mr. ISAKSON] proposes an amendment numbered 995.

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

Mr. ISAKSON. Mr. President, I ask unanimous consent to speak for 5 minutes.

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

Mr. ISAKSON. Mr. President, I am honored to be introducing this amendment today on this piece of legislation. I am particularly pleased to have worked for the past 3½ months with the Senator from North Dakota, Mr. CONRAD, who is the principal cosponsor on what is known as the Financial Markets Commission.

In the last year, the people of the United States have seen the value of their homes decline, the value of their

529 savings accounts for their kids' college decline, their mutual funds, and their investments in whatever category. Declines that started out to be a hiccup became colossal and we now find ourselves in a position where we are deleveraging and we are deflating in the United States of America.

There should be some answers. Quite frankly, there is plenty of blame to go around, but we need some answers. We need some guidance. We need to ensure that my grandchildren and my children and yours don't ever go through the experiences we have gone through and we have shared with the American people in the last 12 months.

The only way to get an objective evaluation of what went wrong and where mistakes were made is to create an independent commission of recognized people of experience to look into the financial markets, the rating agencies, Freddie Mac, Fannie Mae, investment bankers, hedge fund operators, commodities traders—everybody—and FASB and say: What went right, what went wrong, and what could we have done better to have prevented this from going on?

I have a lot of suggestions. I could drop a lot of bills right now, including transparency for hedge funds and changing who compensates the rating agencies from the seller securities to the buyer securities. But we need a forensic audit of the laws of the United States as it relates to the financial markets, the Federal Reserve, and every aspect, so whatever did go wrong that could have been avoided is avoided.

This Commission is designed to operate for 18 months. It has a budget of \$5 million and subpoena powers and it is directed to report back to the Congress of the United States its findings. It is specific in every regard so that anybody who could have been a part of what happened in this financial collapse is subject to investigation, is subject to scrutiny, and is subject to the sunshine that is necessary to get answers.

I think we owe it to the American people. I know I owe it to my children and grandchildren and to those people who voted for me to find out what went wrong and try and make it right.

Senator CONRAD has been diligent in his effort to help. He has made very constructive suggestions concerning the amendments to this legislation. Jointly with him, we worked with the Banking Committee members, the ranking member, and the chairman to try to incorporate the ideas of everyone and to make sure we don't miss the mark, that we stay on focus, and we get what the American people deserve; that is, answers to what caused the financial collapse that has decreased the value of their homes, the value of their savings accounts, protracted their retirement, and brought about the uncertainty that we have today in the economy of the United States of America.

With that, I thank the Senator from North Dakota for his help. I thank the

chairman and ranking member of the Banking Committee.

I yield the floor.  
The PRESIDING OFFICER (Mr. MERKLEY). The Senator from North Dakota is recognized.

Mr. CONRAD. I thank Senator ISAKSON for his leadership in this matter. It has been exemplary. I have truly enjoyed working with Senator ISAKSON and his staff. They are the leads on this legislation, which I think is one of the more important pieces of legislation we will consider this year.

We have had two extraordinary tragedies in this country in the last period of time: September 11, when this country was attacked, and also what was very close, I believe, to a global financial meltdown. In fact, I will never forget as long as I live when, last fall, being called to a special urgent meeting in the leader's office with the chairman of the Federal Reserve and the Secretary of the Treasury of the previous administration and being told they were going to take over AIG the next day and they believed if they did not do it, we could suffer irreparable damage to the economy of the United States and, in fact, we could face a global economic meltdown.

After 9/11, we put into place a commission—bipartisan, nonpartisan—to review what happened, why it happened, and what could be done to prevent it from ever happening again.

That is precisely what we must do now with respect to the economic crisis that is upon us. We have an obligation to the people of this country and to our colleagues to put into place a commission, which is separate from partisan politics, to do a careful review of what happened, why it happened, and how it could be avoided from ever happening again.

All across America, millions of people are wondering about their retirement. They are wondering if they will be able to retire. They are wondering what the quality of their life is going to be in retirement. They are wondering how their 401(k) became a 201(k). How did their retirement savings get cut in half? What occurred and who is responsible and what could be done to prevent it from happening again?

This Commission will have 10 members appointed by the majority and minority leaders of the Senate, the speaker and minority leader in the House of Representatives, the chairman and ranking members of the Senate Banking Committee and the House Financial Services Committee. It will be charged with reporting back to the President, the Congress, and the American people by the end of next year. The Commission will also have the authority to refer evidence of criminal wrongdoing to the Justice Department and State attorneys general for prosecution.

I believe this Commission is absolutely essential to determine, in a nonpartisan way, how this financial crisis occurred. Where were the mistakes

made? Were there failures of regulation? Were there failures in the regulatory agencies? Were there failures in the private sector?

I think we all know the answer to every one of those questions is yes. There were failures in the Congress of the United States and in the administration. This is not a finger-pointing exercise; this is an exercise to determine, on a fair and objective basis, what occurred and what can be done to prevent it from happening again. That is the goal of the legislation introduced by Senator ISAKSON, which I am proud to cosponsor.

Let me conclude by saying that working with Senator ISAKSON has been a delight. He is a fairminded, serious legislator who has spent an enormous amount of time doing this legislation—and, let me say, doing it right, talking directly to the committees of jurisdiction, trying to get their input, their assessment, and also talking to other colleagues and preparing something that I think is fair, balanced, and is completely intended to be objective in its outcome.

I think all of us have a responsibility to see this through to the end, so that at some future date the American people will be able to look back and find out, on an objective basis, what were the failures of fiscal policy, what were the failures of monetary policy, what were the failures of the private sector, what were the failures of Government regulation and the policymakers in the Congress of the United States and in the administration? What could be done to prevent it from ever happening again? We have that obligation to the American people.

Again, I thank Senator ISAKSON for his leadership on this important matter.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, I have listened to some of the things being said. I agree with the distinguished Senator from Georgia, who said we should find out what went wrong and try to make it right. The distinguished Senator from North Dakota said we should find out what happened and why it happened and make sure it never happens again. And it should be a nonpartisan effort, not finger pointing.

I find myself closely aligned with this. I said the same thing about having an accountability commission on what happened in areas including torture, the OLC memos that twisted statutes and policy, and with White House interference in prosecutions and law enforcement. And I have been making such a recommendation for some time, so that we can find out just what happened. As we now found, opinions were written that were totally contrary to the law. We find such things as the Bybee memo. I hope that Judge Bybee, now that that memo has become public, will do the honest thing, the moral thing, the right thing, and resign from

the bench. We find out about more and more of these alarming issues, but we still do not have all the facts.

I think we should have some type of a nonpartisan commission, as the Senator said—not for finger-pointing, as he said—but to find out what happened and why it happened and to make sure it never happens again. We must find out what happened in order to try to make it right, as the Senator has also said.

I am tempted to offer, as a second-degree amendment to this one, an amendment to include an examination of everything that went on during the last administration with regard to the manipulation of prosecutors, the manipulation of the law, and those who wrote memos saying basically that certain people in the Government are above the law, cannot be affected by the law, and cannot be held accountable to the law. Those individuals even went so far as to say that the President could simply decide the law does not apply to him, which, of course, would be the first time in this Nation's history that any binding Executive branch memo has ever claimed a President has that authority that I am aware of. All the arguments made by the Senator from North Dakota, which I believe were good arguments, could be made, for my commission proposal. On the question of why people decide not to follow our laws, how they convinced themselves to do that, and how they managed to get lawyers to write twisted memos to justify the idea that they did not have to follow the law: we had a certain cadre of such people within the White House and within the administration. And they apparently believed they could automatically excuse themselves from following the law.

As I have said, there is the temptation to offer this as a second-degree amendment. I will not. But I simply point out that if it is applicable here, it is certainly applicable in those areas where people were not just trying to steal money, they were trying to steal the Constitution of the United States. And they are trying to steal the laws of the United States. I think that should be looked into just as much as somebody who might want to steal money from the United States. Money can be paid back and should be paid back. Once you lose honor, once you lose your integrity, once you lose credibility, once you lose adherence to our Constitution, that takes a lot longer to get back.

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. GRASSLEY. 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. GRASSLEY. I will speak on a provisions of the bill dealing with

money laundering. This section of the bill that I am referring to would amend the criminal money laundering statute to make clear that the proceeds of specified unlawful activity include the gross receipts of illegal activity and not just the profits of that illegal activity.

The money laundering statutes make it an offense to conduct financial transactions involving the "proceeds" of a crime, sometimes referred to as "specific unlawful activity" in the statutes.

These statutes, however, do not define what the term "proceeds" amounts to. Instead, the term has been left to definition by our courts.

For 22 years, since the money laundering statute was enacted in 1986, courts have construed "proceeds" to mean "gross receipts" and not "net profits" of illegal activities consistent with the original intent of Congress.

However, last year, the Supreme Court entered into it and, of course, reverses the definition in a case called *United States v. Santos*.

The Supreme Court suggested that the term "proceeds" was "ambiguous"—that is their word—and as a result, under the rule of lenity, the Court gave the term a much narrower definition.

In this decision, the Court mistakenly limited the term "proceeds" to the "profits" of a crime, not the more global word "receipts."

As a result, the Court's decision has limited the money laundering statutes to only profitable crimes. It gives criminal defendants an argument against their criminal conduct by forcing the Government to prove that they actually made a profit, regardless of the criminal activity.

This decision of the Court is contrary to the intent of Congress in passing the money laundering statutes and weakens one of the Federal Government's primary tools used to recover the proceeds of illegal activity, including mortgages and securities fraud.

For example, these are some of the problems created by the Santos decision.

If a drug dealer committed a financial transaction with the proceeds of illegal drug dealing but the money was only used to purchase drugs, then they could not be prosecuted for money laundering. I know, everybody hears that, and they say common sense dictates otherwise. But the Supreme Court interpretation puts us in that sense that is contrary to common opinion.

Another example: If a fraudulent broker, such as a mortgage broker, intentionally overvalued the fair market of a home for purposes of a mortgage, that broker could only be charged for money laundering related to any fees or potential profit made in the fraudulent transaction, not based on the full value of the house.

Another example: An executive who committed security fraud could not be

charged with money laundering if the fraud were unsuccessful in making a profit even though there was a fully completed financial transaction.

Those are just three of many examples I could give about how Santos very narrowly construes the possible prosecution and limits the prosecution of certain unlawful activity in the area of money laundering.

This legislation corrects the Santos decision and moves us forward so that profit or not, there is money laundering actually going on, we will have an opportunity to prosecute and hopefully succeed in the prosecution.

I yield the floor and 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. DORGAN. 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. DORGAN. Mr. President, I will in a period of time offer an amendment with my colleague, Senator McCAIN, dealing with a select committee of the Senate. We are waiting for Senator DODD, and as soon as Senator DODD arrives I will relinquish the floor so he might proceed.

As we are waiting, I wish to commend my colleagues, Senator ISAKSON and Senator CONRAD, on the legislation they have introduced dealing with a commission. The formulation of a commission seems to me to make some sense.

I offered something called the Taxpayer Protection Act in late January of this year. One of the five provisions of that act called for the creation of such a commission. Frankly, Senator ISAKSON and Senator CONRAD have substantially improved on that idea. Their amendment is very well done. It is something I very strongly support and I think will advance the interests of the Congress and the American people in trying to understand what exactly has happened here.

I do want to mention that the amendment I will offer following a discussion in a few minutes by Senator DODD will be an amendment that relates to S. Res. 62, a Senate resolution Senator McCAIN and I jointly submitted about 2 months ago calling for the creation of a select committee to investigate, through the use of subpoenas and other approaches, the narrative of what has happened. While I think a commission is valuable in making recommendations, having some of the best minds around the country serving on an independent commission, I also believe there is a responsibility in the Senate for a select committee of the type that has existed in history on a number of occasions to do the work to understand what is the master narrative here, what has happened to cause this unbelievable financial crisis. I will talk more about the

issue and the need for the establishment of a select committee when I introduce the amendment, but for the moment I wanted to say a couple of things.

One, I believe this issue of a commission that my colleagues have advanced is something very worth supporting. Both my colleagues, Senator ISAKSON and Senator CONRAD, have done a lot of work on this, and it is very good work and it deserves, in my judgment, our support.

I also want to say, in the context of these discussions, that before our colleague, Senator DODD, who is coming to the floor in a bit, and who is chairman of the Senate Banking Committee, now lies the task of trying to put together the pieces of this puzzle and to find out how all of this works. He has done an enormous number of hearings. What Senator DODD is doing in these hearings in the committee and under his leadership is trying to figure out how do you lift this country out of the ditch? How do you put this system back together? How do you fix what is wrong in this banking system? How do you put the pieces together so they fit and represent the public interest so this doesn't happen again?

Senator DODD has done so many hearings on this in the recent months. Very few Members of the Senate, I think, understand the hours it has taken Senators DODD and SHELBY, leading that committee. But I must say again, they are forward looking to try to figure it all out. This country is in a huge hole. We have a banking system in chaos. We have a financial crisis. How do you get out of this hole? How do you lift this country? How do you put the pieces back together? How do you fix what is wrong in order to make it right so we can provide for recovery in this country?

I want to say again that our colleague, Senator DODD, and let me also say the ranking member of that committee, has an enormous burden. Under Senator DODD's leadership, I think they have done an extraordinary job and they are at that work even today as I speak.

As we talk here on the floor about these issues, I don't want anybody to misunderstand the responsibilities of the committee and what that committee is trying to do. I don't serve on that committee, but we have some awfully good Senators who do—Republicans and Democrats—and we have a good chairman—who are all trying to figure out how you put this together going forward.

You know, this country has not seen this kind of financial collapse for a long time—the first time in my lifetime, certainly. It is a collapse of the sort that harkens back to the Great Depression. And the question isn't whether this country will recover—it will. This is a great country, very resourceful, and full of great people who want to lift this country up. We need to do that work together. The question

isn't whether; the question is when and how we will effect this recovery. And that is part of what all of us are grappling with, most notably, of course, the Senate Banking Committee. The discussions that are underway this afternoon are discussions about a commission, a committee, and so on. They are very important.

Let me make one other point. The legislation that is the subject of amendment is legislation brought to us on a bipartisan basis by Senator LEAHY and Senator GRASSLEY and others. That is a piece of legislation that is very important as well, and I will speak more about that at some later point. But the underlying legislation is another piece of trying to grapple with something that should never have happened but now must be fixed. They are talking about providing the resources necessary for the investigators, for the prosecutors, for the law enforcement functions that need to be exercised here to find accountability—who did what. We don't know.

It is interesting, there are a lot of things that have caused us problems and that steered this country into a financial ditch—a lot of them. Debt, deregulation, and dark money are just three, and I could describe all of them at great length. But our colleagues, Senator LEAHY and Senator GRASSLEY and others, on a bipartisan basis, are bringing something to the floor that says let us have the resources to go after some of these kinds of practices.

Let me show you something. I went to the Internet today. This is on the Internet today. This is an advertisement: You want to get a loan? These folks want to give you a loan. It is called speedy bad credit loans. Isn't that unbelievable? With all this country has faced, you can go to a company called speedybadcreditloans.com. You have bad credit? They say that is okay. You have no credit? Well, that is OK too. If you have been bankrupt, that is no problem. Come to us, we will give you some money. These are the same shysters who have been involved in this and who ran this country into the ditch.

I was wondering if I should spell that word. Maybe I shouldn't have used the word, but the fact is it is the same kind of folks who ran this country into the ditch in the first place by putting out subprime mortgages and saying: If you have bad credit, come to us. No credit, slow pay, no pay? Come to us. Doesn't matter. We want to give you some money. It is unbelievable to me.

So here on the Internet today—bad credit mortgage, no credit, bad credit, bankruptcy, no downpayments, no delays. You certainly don't need delays if you don't have a good credit rating. You want to get some money from somebody? By the way, these folks are making a fortune. They put money out there on the street and then they would securitize it, pass the risk on up, and everybody was making a bunch of money.

My colleagues, Senators LEAHY and GRASSLEY and others, are saying: You know what, the resources needed to go after these kinds of people and prosecute this bad behavior and hold people accountable, those resources need to be passed by this Congress. And I agree with that.

Here is another on the Internet today. CC&G Financial Group working together to build your dreams. Bad credit? Poor credit? We can get you in your dream home. In fact, we will finance the current home that you have. Isn't that something? CC&G Financial Group says, you have bad credit? You have poor credit? Hey, we have a deal for you. Borrow some money from us.

Let me tell you the little trick these folks have been doing. They put you into a mortgage with a teaser loan. They say: You know what, you are paying way too much on your monthly payment. We will give you a loan with a 2-percent interest rate. We can cut that monthly payment by hundreds and hundreds of dollars a month. Oh, they don't tell you that it will reset; and yes, that 2-percent interest rate that gets that payment way down in about 2 or 3 years will reset to 10 percent or 12 percent, and then you won't be able to afford to make the payment. And by the way, we will lock in something called a prepayment penalty—which you will never hear about. It means you can never repay it.

Now, why do they do that? So they could pack these up like sausages. They used to pack sawdust in sausages for filler. They would pack them up like sausages with sawdust, and then slice them and dice them and sell them as securitized loans. And they say to these hedge funds, investment banks, and others that wanted to buy all this nonsense, all this investment trash, they would say, we have a good deal for you. We have a bunch of loans in here with prepayment penalties, so they can't get out of it, and by the way, the yield is good. All these smart people in the room didn't understand that nobody was going to be able to repay those loans.

They also say: Do you want a loan with no documentation of your income? It is called a no doc. No documentation. We will give you a loan on your home and you don't even have to document your income. We don't care. No doc. You want a loan you don't have to pay any principal on, just the interest? If that is not good enough, you can't pay the interest even? We will do this for you. You don't have to pay any principal, or all the interest. We will wrap it around the back side of the mortgage. Or even better, we don't have to document your income, you don't have to pay any principal, any interest, and we will make the first 12 payments for you.

That is how lucrative this business was. You got bad credit, can't pay your bills, are you a bad risk? Come to us. The biggest mortgage company in the country—Countrywide Mortgage—here



is what they said—the biggest mortgage company in the country. And by the way, they went belly up, and the folks at the top of that company went home with hundreds of millions of dollars—hundreds of millions of dollars. Here is what the biggest mortgage company in the country said in the middle of all this. They said: Do you have less than perfect credit? Do you have late mortgage payments? Have you been denied by other lenders? Call us. We consider you a buddy, because we can make a bunch of money off of you.

Well, Mr. President, I will discuss more about this later. I have been waiting for my colleague from Connecticut, who I indicated was on his way, and I wish to yield the floor now, and following my colleague's presentation, at that point I wish to offer an amendment with my colleague from Arizona.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I see my colleague from Connecticut is waiting, so I will be brief. There is not much I can add to the words of my friend and colleague Senator DORGAN of North Dakota, whom I have had the privilege of working with in the past on a number of issues, especially the investigation of a scandal that is still ongoing, as a matter of fact, concerning Mr. Abramoff and his corrupting effect on both sides of the aisle.

All of us just came back from a recess. All of us had an extended opportunity to visit with our constituents. In Arizona, I had that opportunity. Traveling around my State, I saw that there is confusion, there is frustration, and there is justified anger. People are not able to stay in their homes, and they are unable to keep their jobs, with unemployment continuing to go up. A State such as mine was hurt very badly because we were on the crest of the wave of the housing and the crashdown in the most dramatic fashion. So I understand and appreciate and sympathize with the fear and anger and frustration people feel about what is going on in America's economy today, and they want answers.

Actually, they want two things: They want answers and they want relief. But they also want to know what are we going to do to prevent a crisis of this nature from ever happening again. So far we haven't given them any real good answers. That is why the proposal of Senator DORGAN, which I am pleased to join in, is so important at this time. The American people deserve to know what caused this crash, what caused this catastrophe which caused them to lose their homes, their families, their jobs, and futures.

A select committee could get to work right away. We could be in business for a year. I have been on select committees before, including the one on POW and MIA issues. We were able to resolve the issue to a significant degree in a bipartisan fashion. I have no doubt

this could be a bipartisan select committee. There have been select committees in the past and there may be select committees in the future, but this is vital to Americans now because they lack confidence in our economy today and in their future.

Americans deserve to know what happened, to apportion responsibilities, and most importantly to know this will never befall them again. So I urge my colleagues to act and act quickly. We can talk about a commission. I have no objection to commissions. Some have been successful, some have not. The 9/11 Commission, which I was proud to sponsor, had magnificent results. The Commission on Social Security and Medicare disappeared like a stone.

I understand there are various areas of jurisdiction. The distinguished chairman of the Judiciary Committee is here, the distinguished chairman of the Banking Committee is here, and I know they are working hard, and I know they are going into their areas of responsibility. But I would allege that these areas of examination include economic, financial, banking, housing, trade, and a broad range of issues which are not under the jurisdiction of a specific committee. I understand jurisdictional proprietorship. I also understand some people may view this as some kind of encroachment upon their responsibilities. But another thing about a select committee is that it gets the kind of attention that select committees get. I have been around the Congress long enough to see that when there is a crisis, select committees get the kind of attention and the kind of results that can lead to the kinds of reforms that are necessary.

We are in the greatest economic crisis since the Great Depression. Everyone knows that. The American people deserve to know what happened, who caused it, and what we are going to do about it.

It does not just lie under the jurisdiction of one committee. It crosses all lines, and it should be composed, frankly, of the most qualified people and staff we can come up with. So I urge my colleagues, in the interest not of specific committee jurisdiction but in the argument that this crisis, in its size and severity, is nearly unprecedented in American history and requires extraordinary actions. That is not business as usual.

I urge my colleagues to set aside any partisan or jurisdictional differences and vote in favor of an immediate appointment of a select committee to immediately address this crisis which has affected the United States of America in the most painful fashion.

I thank my colleague from North Dakota, who fits the best and finest and most admirable definition of a prairie populist. I thank him and I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, on the particular matter, the distinguished

Senator from Arizona and the distinguished Senator from North Dakota have spoken about the jurisdiction of the Judiciary Committee, and I assume the chairman of the Rules Committee will speak about it. I also understand that Senators SCHUMER and COBURN have amendments. I urge them to come to the floor because there has been a request for a vote on the Isakson-Conrad amendment. I will not make a unanimous consent request at the moment, but it is our intent to have a vote on that around 4:20, 4:30—on the Isakson-Conrad amendment.

I understand, because of budget matters that come up tomorrow, there is an intent to try to finish this bill tonight. We can finish this bill tonight. I hope we could finish it before 6 or 7 or 8 o'clock. Having an Irish father and Italian mother, I come with a hopeful attitude by nature. But I note we will have a vote around 4:30, 4:20 or 4:30.

There are a number of matters. I see the distinguished and able chairman of the Banking Committee here. There are a number of matters within the jurisdiction of the Banking Committee. I will let him speak to that.

I urge Senators who have amendments to bring them to the floor because as soon as we have no amendments apparently here, we are going to try to move to final passage.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, let me, first of all, commend our colleague from Vermont for his work on the underlying subject matter, which is of great importance not only to the Senate but to the American people, to deal with issues of fraud and related matters. I think it is tremendously helpful.

I was not on the floor. I apologize to my colleague from Georgia, Senator ISAKSON, and to Senator CONRAD, with whom I have joined in offering their proposal to establish a commission to examine, as the Senator from Arizona has accurately pointed out, and the Senator from North Dakota pointed out, the most serious economic crisis in the last 100 years of our Nation. This is a matter that not only deserves our attention, in terms of what steps we take as legislators to avoid the kind of problems we are witnessing today, but also, I think importantly, to look back as to how we ended up in this situation over the last several years.

Going back, it all didn't begin a year ago or 2 years ago, but decisions that were made as many as 20 years ago—15, 10 years ago—had an awful lot to do with the problems that emerged, particularly in the area of residential mortgage foreclosures that became the root cause of the economic collapse.

There is no debate about whether we ought to look back. At least I don't see any. I think it is critically important, as other Congresses at other moments in our Nation's history when confronted with other crises have done. Whether it was the great Civil War, the

sinking of the Titanic, the so-called Pecora Commission—which was named for the legal counsel of the Senate Banking Committee during the Great Depression, looking back, obviously, the 9/11 Commission. There is example after example. The only question that remains for us to decide here is what is the best way to do this.

Senator ISAKSON, Senator CONRAD, myself, and others who may join us, believe the outside commission is probably the best alternative, given the magnitude of the problem that must be examined. I think it will take a significant amount of hard work by some very talented and knowledgeable people over the next year, year and a half or so to do the job. Or do we engage in the same effort internally in this body with a select committee made up of Members of the Senate who would have to pretty much dedicate almost their entire time, in my view, to that subject matter at the very time we are trying to step forward with some answers that will provide some solutions as to how we avoid pitfalls.

Obviously, we were not waiting in the Banking Committee. Senator SHELBY and I, my very able and competent former chairman of the committee and today ranking member, have already had, I think, some 15 or 16 hearings just since the end of January on the subject matter—the Presiding Officer is a distinguished member of our committee—on how we create the architecture to go forward and fill in the gaps so we don't end up with the same kind of problems that created the situation we are in. We cannot wait until the next Congress to do that. I believe it incumbent on us to come up with some answers to that in this Congress. We are working very hard on exactly that effort. There are some other matters we have to pay attention to, but that, I would argue, is the principal job of our committee in this the 111th Congress.

I know other committees are deeply involved. The Finance Committee is deeply involved in health care. Senator MAX BAUCUS and Senator CHUCK GRASSLEY are going to be spending virtually every waking hour over the next several months, along with Senator KENNEDY and Senator ENZI, on the Health and Education, Labor, and Pensions Committee, not to mention others, dealing with that issue.

We have the climate change issues. We have the budgetary matters. Senator CONRAD and his committee, along with JUDD GREGG from New Hampshire, are deeply involved in the budgetary questions.

When you start talking about forming a select committee made up of Members of this body, some of the very people on the Finance Committee, the Banking Committee, the Budget Committee, are already consumed with major responsibilities. The likelihood that a group of ourselves here could dedicate the time and the effort that needs to be dedicated to the examination of this issue while simultaneously

trying to get our economy back on its feet again, I think is asking an awful lot.

My disagreement with my very good friend, and he knows this, my close friend from North Dakota, along with JOHN MCCAIN, with whom I have had a very good and positive relationship over the years, is not about whether we ought to do this—there is no debate about that—but where is the best venue for this to occur.

Let me make a second argument to my colleagues. This has already been a pretty acrimonious debate regrettably, but it has turned into that. There was a lot of finger-pointing going on. None of us may like that individually, but it is what it is. I think to the extent we can ask the body, that is a political body in nature, to kind of do the job without engaging in some of that “blame the other guy for the problems we have” is unavoidable. I don't think any of us objectively believe that is a very good way to proceed. We are not going to get very much out of it if that becomes what happens in these select committees, making sure someone else gets responsibility for the difficulty. Believe me, there is a lot of responsibility to go around.

But I believe if you end up having that kind of framework you are inviting that kind of environment and I think the last thing this body needs at this hour is to be seen as engaging in nothing more than the politics of the blame game.

I argue, again, that an outside commission made up of people who are knowledgeable, coming from the world of finance, academia, labor, consumers, others, who could dedicate the time and effort along with a competent staff to work with them and reporting back to us, the committees that have jurisdiction, as they uncover evidence or ideas that would help us fill in these gaps that we need to do legislatively, makes more sense. For that reason, I commend Senator ISAKSON, who is the principal author of this. Senator CONRAD has joined him, as I have and my staff. We worked together over the last number of days. Senator SHELBY's staff has also been tremendously constructive and positive trying to put together this idea that would make sense to our colleagues.

That is the difference. Do we go with a select committee made up of ourselves—and certainly every committee that has some jurisdiction on this would want some members on the committee. The idea that we would ask a group of us who have nothing to do with the subject matter to become part of the select committee also works counter to what we are trying to achieve, and so the Members who have jurisdiction, I assume, would insist on being a part of it.

Which subcommittee chairs it? How do you decide how big that committee is? All these are matters which could end up dividing us, when our job ought primarily to be to find out what went

on and utilize a means that would help us achieve that and then, more importantly, to do our jobs to make sure the very problems and gaps that existed to allow this problem to emerge are taken in so we plug those, in effect, or mend those in a way and help create that architecture that would allow our economy to grow, the confidence to be restored, and the sense of optimism to come back to our country.

I am very complimentary of my colleague from North Dakota for talking some weeks ago. He is not a Johnny-come-lately to the issue. He argued for this idea of looking back. I thought about it a lot and have been trying to determine which way is the best for us to proceed. It is always with some regret when you disagree with a friend—not about the goals. In that there is an absolutely common interest. But which of the methods should we use to help us achieve those goals? I believe our colleague from Georgia and our colleague, ironically, from North Dakota as well—the two Senators from North Dakota are kind of on opposite ideas of this issue. Not on the issue of what we ought to achieve but rather—

Mr. DORGAN. Would the Senator yield on that point?

Mr. DODD. I will be happy to yield.

Mr. DORGAN. We are not on opposite sides, necessarily. I said I support the Isakson-Conrad-Dodd Commission; I don't think it is a case of either/or. I think it is a case where both are necessary. But I wish to make the point I am not at odds with my colleague from my State or Senator DODD or Senator ISAKSON on this issue.

Mr. DODD. I stand corrected on that point. I appreciate my colleague making that correction.

That is my case, basically. I don't know what my colleague from Georgia, Senator ISAKSON, or my colleague, Senator CONRAD, had to say about this, about how this might have to be constructed, but this may be a choice we have to make in the coming half-hour or an hour or so, as to which of these ideas we will use. The idea that we do both gets a little complicated but, nonetheless, sometimes as an institution we are inclined to take the course or the path of least resistance on these matters, which sometimes can even add to more difficulties down the road.

But I urge my colleagues to support the Isakson-Conrad-Dodd proposal. We think it makes a great deal of sense to achieve that very important goal while simultaneously allowing this institution to perform the function many would expect us to fill and that is to start crafting the structures that would allow the modernization of our financial institutions in a responsible and thoughtful manner. That work alone, as the Presiding Officer knows, is going to be almost all consuming in the coming weeks.

With that, I yield the floor and thank my colleagues for their attention on this matter.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. DORGAN. Mr. President, I, too, rise in support, as I have indicated earlier, in support of the proposal that was offered by my colleagues, Senator ISAKSON, Senator CONRAD, Senator DODD. I think it is a worthy thing. As I indicated, I offered a Taxpayer Protection Act in late January that included a commission involved in that 5-step proposal. But I think they have dramatically improved on that. I think this bill they have offered is one worthy of support, and I certainly support it. I think an outside commission makes a great deal of sense.

But as I indicated, it is not either/or. It cannot and should not be either/or. This notion that somehow this is too much politics in the Congress to be evaluating what has happened here and what you need to do about it—I don't know. John F. Kennedy used to say that every mother kind of hopes her child might be able to grow up to be President, as long as they don't have to be active in politics. Oh, yeah? Politics is what we do. The political system is the system in which we make decisions. I happen to agree—the New York Times wrote a piece about this, and I agree with it fully:

The investigation should not be performed by outside experts . . . whose report the Congress is free to accept or reject. It should be a part of the Congressional process and include an investigator with subpoena power and the right to participate in the questioning of witnesses, as well as to prep law-makers for the hearings.

Let me make this point. This is not either/or. I support this Commission. This Commission makes sense. My colleague from Georgia is here, and I wish my colleague from North Dakota were here because, as I read the proposal of theirs, they have done some good work. I strongly support it.

But let me make this point. In addition to an outside commission taking a look outside of this institution, it is this Congress that has offered up \$700 billion of funding to the Secretary of the Treasury. That is what this Congress has done: Here is \$700 billion. We are the ones who appropriate the money. Accountability exists to do what is necessary to find out what has happened, to do the master narrative of what has occurred here and what are the things we can and must and should learn from that.

Let me describe a select committee. Let me describe a committee in 1940 named the Truman Committee. Harry S. Truman on the floor of this Senate, with a member of his own party in the White House, said there is unbelievable waste and fraud going on in defense spending and we ought to investigate it. They investigated for 7 years with a special committee. They did 60 hearings a year. Think of that. The committee spent \$15,000 to be created and saved the taxpayers \$15 billion over 7 years.

What an unbelievable value that was for the Senate to have done, the Truman Committee. In fact, you know, I

spoke a while back to Herman Wouk, one of the great authors in America, the author of "War and Remembrance" and so many other great works. He is in his nineties, one of America's great authors. He is still writing, by the way.

One of the things he talked about, he said, I do not know a lot going forward, but I know from about 1950 back, 1945 back.

He talked about the Truman Committee as a part of the history of what the Senate has done in the middle of the Second World War, a special committee established by the Senate, the Truman Committee, bipartisan, subpoena power, 60 hearings a year, 7 years. Saved the taxpayers \$15 billion, we are told.

Well, you know, I am on the floor with my colleague from Arizona, Senator MCCAIN, because both of us believe there is a requirement for a select committee in this case. The Truman Committee, Kefauver Committee on Organized Crime, Church Committee, Kerry-McCain on POWs-MIAs I mean there have been a lot of examples of committees that have done some extraordinary work here on very big issues.

I said before my colleague from Connecticut came in something that will embarrass him, I am sure. I said the Banking Committee with my colleagues Senator DODD and Senator SHELBY is doing extraordinary work that most of us are not aware of, because we are not sitting over there hour after hour after hour trying to put together the notions of what are the solutions to get us out of this ditch.

The Banking Committee has done extraordinary work and continues to do it and will be required to do that for months now to try to lift this country. So my hat is off to the work of Senator DODD, the leadership he offers us, and all of those who are working on the Banking Committee. This proposal for a select committee is not a reflection on their work at all.

But I would say this: There is not one committee in the Congress—that includes the Banking Committee—there is not one committee here that has anything more than three or four or five investigators at best. No committee has the capability that ought to exist and ought to be required to discharge the responsibilities that fall on the shoulders of this Congress and this Senate, in my judgment.

I know the Speaker of the House last week talked about a Pecora committee. In fact, they called it a Pecora Commission. Pecora, that was not a select committee, but that was right after the financial collapse and the Great Depression. He held a lot of hearings, a lot of hearings. He was I believe the chief counsel to the Senate Banking Committee. History records the Pecora committee or Commission, the Pecora effort. We remember it in 2009 it was so significant, because he was looking back.

Senator DODD does not have that luxury at the moment. We have got to look forward and lift this country up and put the economy back together. And we have got to do it in a hurry. We do not have 3 years or 5 years. We have got to lift this country out of this ditch. This is a financial crisis unlike anything we have seen since the Great Depression. So they do not have a lot of luxury over in the Banking Committee to say, you know what, we are going to spend a lot of time looking in the rearview mirror. But I will tell you this: If we do not fully understand the narrative of what has happened here, we are destined someday to repeat it. We are destined to allow it to happen again.

I said this, and this relates to the underlying bill on the floor that Senators LEAHY, GRASSLEY, and others have brought here. Go to the Internet today and take a look at this. This is one. I could have brought many. This is a company who says—it is called [speedybadcreditloans.com](http://speedybadcreditloans.com).

After all we have faced and the financial collapse and the subprime loan scandal, with a bunch of bad actors leaving with hundreds of millions of dollars of ill-gotten gains and leaving victims in their wake all over this country, massive foreclosures and the financial collapse—after all of this, go to the Internet today, and find a company that is called [speedybadcreditloans.com](http://speedybadcreditloans.com). They say on the Internet: Do you have bad credit? That is okay. Do you have no credit? That is all right. Do you have bankruptcy? No problem. Come and get a loan from us. Is that unbelievable? Just unbelievable.

There is one more, CC&G Financial Group. If you have bad credit, you got poor credit—I could do 40 of these, by the way—come to us. We can get you into your dream home, by the way. They say: With all of these values due to foreclosures and short sales, now is the time. Got bad credit, got an appetite to get a new home.

I wonder if they are doing what those mortgage companies did that steered us into the ditch to say to potential borrowers: Hey, come over here. You are paying \$700 a month house payments. You know what, we will give you a mortgage to pay \$200 a month. Why should you pay more than triple what you ought to pay? You get a mortgage from us, \$200 a month. Oh, by the way, you do not even have to document your income. We do not care. We will charge you an extra quarter percent, but you do not have to document it. Well, maybe 2.25 percent will be your new mortgage, maybe \$210 a month. We are going to put a little deal in there, it is going to reset in 3 years, it is going to be 12 percent. That may be a problem, but do not worry, that home value is going like that. You can sell it if there is a problem. But we are going to allow that to reset. And we are not going to mention this to you. We are going to put a prepayment penalty in it so you cannot get out of this.

Then what we are going to do is we are going to wrap it into a big piece of sausage, like they used to fill sausage with filler. Then we are going to chop it up and we are going to sell it. We have got hedge funds and investment banks that are yearning for these kinds of instruments. So we sell the risk. I am a big old mortgage company that advertises: We want bankrupt people to come to us. We want people with bad credit to come borrow with us, because, you know what, we are not going to sit across the desk and look into their eyeballs to see whether they can repay this loan. No, we are not going to do that. We are going to sell the risk. So we do not have to do what is called underwriting. That means sitting across the desk, and the lender evaluates whether the borrower can actually repay it. It is the old way you used to do things, not the modern way. It is the old way. You do not have to underwrite if you are going to sell the risk. In fact, sell it two or three times.

Then, by the way, when someone is being foreclosed upon, the new technique is to say in court: Show us the original mortgage. And they are having a devil of a time trying to find an original mortgage because it has been sold upstream. Disconnect the borrower and the lender from the risk—well, not the borrower, but the lender from the risk. And meanwhile they are all making massive amounts of money.

You know, the year before last, I looked up to see who was the biggest income earner in the country in the middle of this unbelievable avalanche of financial good news. Who earned the biggest income in the country, individually?

Well, a guy who ran a hedge fund earned the biggest income, \$3.6 billion. Now, that person earned in 3.5 minutes what the average worker in America earned in a year. When that person comes home and says: I had a pretty good day, and the spouse says: Well, honey, how are you feeling?

Well, I made \$10 million today.

Mr. President, \$10 million every day. How is it that people were working those kinds of stratospheric incomes, \$3.6 billion, or even much lower, a CEO from one of the biggest mortgage banks in the country that went belly up, and he left with a couple of hundred million dollars, much lower income? How is it they ended up with all of this money? They ended up with all of this money by creating all kinds of fancy instruments and getting payments by moving all kinds of money around and a lot of victims in their wake. So the question is, what do you do about all of this? Well, the first thing to try to understand here is what has happened. I am talking now about subprime mortgages.

But you know what, that is one piece. It is like a book with several chapters, many chapters. It is one piece. But I am describing how unbelievable this piece is. So the question is, what do we know at this point?

What really do we know about what has happened that has caused this collapse?

I talked about dark money a bit ago. Debt helped cause this collapse. Some of that is here. Federal budget debt. Federal trade debt, by the way, \$800 billion a year trade debt. That is money we owe to other countries, \$800 billion a year.

So debt, part of our responsibility. Somebody said to me, well, it is the Federal Government that is spending more than it has. I said: Oh, really, have you taken a look at credit card debt and household debt? Doubled in a reasonably short period of time. Corporate debt. Take a look at household and credit card and corporate debt. Dramatic increases. Take a look at Federal debt by the Congress. Substantial increases. Trade debt. Debt is a problem. We know that.

Deregulation. You decide, you know what, we are going to loosen the rules and not look. We will hire regulators who want to boast that they do not have the foggiest interest in seeing what is happening. Boy, that is a recipe for disaster. And yet that is exactly the case. Dark money, all of this money.

Did anybody know I wrote a piece in 1994, 1994, that was the cover story for the Washington Monthly magazine? My article was the cover story for the Washington Monthly magazine 15 years ago that was titled: "Very Risky Business." It was about the notion that at that point there were \$40 to \$50 trillion dollars of notional value of derivatives in this country. So there is a lot to discuss about the narrative of what has happened with this financial crisis. Some take the position that we should do only a commission and they oppose a select committee of the Senate. I support a commission because I think that would provide another view, another way of outside experts. I think as I said before my colleague from Georgia came in, Senator ISAKSON and Senator CONRAD have produced a piece of legislation that I think is very smartly done, very well crafted, makes a lot of sense. I stand here to strongly support it.

But I disagree with my other colleague who seemed to suggest that it is an either/or. Doing an outside commission does not absolve the responsibility of the Congress, in, I think, one of the most significant and momentous events of our lifetime, that is, the financial collapse that has, at its root, so many different causes.

It does not absolve us of the responsibility to do what is necessary to investigate that cause, understand it, and make sure it can never happen again.

Again, let me read from the editorial I started with from the New York Times:

Investigation needs to be a part of the Congressional process, and include an investigator with subpoena power and the right to participate in the questioning of witnesses, as well as to prep lawmakers for the hearings [and so on.]

We have done that in the past with the Watergate hearings. We have done it in the past with the Church hearings. We have done it in the past with the Truman Committee, which I think is a shrine to what this Congress can and should do when it puts its mind to it.

If we decide we cannot do it now and should not do it now, we will have missed a very significant opportunity, and we will have abrogated a significant responsibility of this Congress. It is our job as well. So I stand here to say, I strongly support the commission proposal. We will vote for it. I am very pleased my colleagues have offered it.

But I also believe, as Senator MCCAIN does, that there is more to do and there is a responsibility that cannot be delegated. And that responsibility that cannot be delegated is our responsibility to empanel a select committee to do what is necessary to investigate from the standpoint of the Congress what has happened to cause this very substantial financial crisis.

I ask unanimous consent to lay aside the pending amendment, and I offer the amendment I have described.

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

Mr. DORGAN. Let me withhold my request.

The PRESIDING OFFICER. The request is withdrawn.

Mr. DORGAN. I will withhold that request for a moment. While I am waiting, let me say that the underlying bill we are dealing with is a piece of legislation that will address the opportunity to prosecute, which is another issue, prosecute wrongdoing and illegal behavior and some of these financial shenanigans that we have seen and that I have discussed.

The underlying bill as well as a piece of legislation is something I would strongly support.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. ISAKSON. Mr. President, I thank the Senator from North Dakota for his comments with regard to the commission. I want to reiterate what I said in my earlier speech. When I thought about this, when I watched my kids' 529s, when I watched my own savings for retirement, when I saw what was happening to men and women across the United States, I felt this was a situation that needed a forensic audit, maybe even an autopsy. The damage had already been done. There were multiple factors that led to it. I am not smart enough—I don't know that anybody is—to put a finger on exactly where the blame lies, but I know this: To not find the problems and cure them would be a mistake on the part of the Senate.

Without talking about the select committee as a pro or a con, I want to say why I didn't go that route with this legislation. We are part of what needs to be scrutinized—the Senate. We are part of what needs to be seen. If we left this just strictly to a select committee,

it would be like appointing the board of directors to AIG to tell us what went wrong with AIG. It wouldn't be a good autopsy. It wouldn't be objective. Senator CONRAD and I have tried to put together a piece of legislation that no one could say is partisan, that no one could say is loaded, that is objective, that gives subpoena power to individuals who have the credibility, the knowledge, and the past experience to evaluate the highly technical derivatives, the highly technical hedge funds, and the rules of trading on the Securities and Exchange Commission.

We may need a select committee for oversight if our committees can't do oversight. But we do not need a select committee to investigate the collapse that has happened. We need an independent body, independent of this body. We need them to have the power and the funds necessary to get the answers to the problem so we can objectively say we exposed ourselves to the same scrutiny to which we wish to expose everybody else. We will have the recommendations of what went wrong, who might have done wrong, and if there were criminal acts on the part of somebody, referrals to the Justice Department.

This is a clean, targeted, bipartisan, specific approach to address the No. 1 financial problem the American people are facing today, and that is the collapse of their savings and the retirement and college education funds of millions of Americans.

I appreciate the endorsement of the Senator from North Dakota, but I want to make sure we understand that a select committee would be no substitute for this independent commission at this time.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. MERKLEY. Mr. President, I rise to speak in strong support of the underlying bill, the Fraud Enforcement and Recovery Act of 2009, and in particular about its impact on detecting fraud in the housing industry. First, however, let me offer my appreciation to the senior Senator from Vermont for bringing forward this important piece of legislation for our consideration. We all know the grave nature of the economic crisis we are in. Oregon has been hit particularly hard. The unemployment rate in Oregon is 12.1 percent. It has nearly doubled in just over 6 months, the second highest unemployment rate in the Nation. Oregonians are going into foreclosure at record rates. This legislation, by giving law enforcement additional tools, will help stop the bleeding and begin the process of addressing an underlying problem that caused this crisis, deceptive practices in the mortgage industry.

The bill before us today is straightforward but important. It gives the Government the extra tools and resources it needs to combat, identify, and prosecute financial fraud. As the Federal Government spends billions to

bring stability to the economy, the modest amount of money authorized in this bill will go a long way to protect our investments and return money to the taxpayer.

Let me highlight just how important this effort is in the area of housing. A lot of attention has been paid to the rising number of foreclosures and the havoc these foreclosures are wreaking on the housing market. But not so much attention has been paid to the role fraud has played in causing these foreclosures.

Just last month, HUD's interim report on the root causes of the foreclosure crisis found that 1 in 10 delinquencies in this crisis has been associated with some form of fraud. That means this week alone 5,000 families will lose their homes to foreclosure as a result of fraud. That is 5,000 families too many.

Mortgage fraud is at an all-time high. The Mortgage Asset Research Institute has found that mortgage fraud increased by 26 percent from 2007 to 2008. Sadly, this number is only growing as new schemes come forward seeking to defraud Americans of the financial foundation of their future.

Let me give a couple of examples. In one widespread fraud, buyers with stolen identities bought homes. If the value of the homes went up, they sold the homes and cashed in. If the value of the homes went down, they walked away, leaving not only a vacant home but leaving the unsuspecting victim of identity theft in a very difficult situation.

In another case identified by HUD, fraudsters inflated home values through bogus appraisals, fabricated borrowed deposit amounts, falsified loan documents to obtain FHA-insured mortgages, and HUD lost \$2.3 million on just 30 mortgages. Over 9,000 FHA loans have entered into default after no or only one payment, a particular sign of fraud.

HUD's inspector general has done much to address this. The office captured \$2 billion in questionable expenses, obtained \$80 million in restitution money, and closed over 1,000 cases. That is a significant effort. But it is only the tip of the iceberg. That is why this fraud act we are considering today is so important. It takes a significant step in restoring an investigative unit that was largely dismantled in 2003 under the Bush administration. It expands the inspector general's staff. It takes an important step to restore investigative capabilities which are so important to protecting the vital nature of the American housing market. In these extraordinary economic times, we need to be especially vigilant against new forms of fraud.

I am thinking now of the predatory foreclosure scams that so many of my Oregon constituents have been talking about. These scams engage in deeply deceptive practices and sometimes outright fraud. The worst of these schemes falsely promised homeowners a way

out of foreclosure if they put up a small fee of several thousand dollars. In one such scam—I will call the couple John and Mary who were affected. They are 70 years old and 66 years old, respectively, hard-working Oregonians. John is a self-employed trucker. Most of his business is generated from hauling debris from the demolition of houses. His business has declined with the fall-off of new construction.

In the course of things, John and Mary struggled to keep up their mortgage payments. They reached out to their servicer—at the time it was Countrywide—to explore their options but couldn't connect and get anyone to work with them on their mortgage. But telemarketers started calling with offers to help them modify their mortgage for \$2,000 or \$3,000. It is fortunate that John and Mary didn't sign any of these contracts but instead contacted my office. We connected them with a HUD-approved housing counselor who was able to help them modify their loan and get back on a straight path.

Let me tell my colleagues what might have happened; that is, a scam in which not only is the family facing foreclosure asked to put up a fee, but they are asked to sign over their house to the firm, and then they are converted into being a renter. When they miss a rent payment, they are evicted from their house. So not only do they lose their investment, they lose a place to live. They can go from a homeowner in slight trouble to homeless in short order.

These scams are unacceptable. It is our job to step forward and protect the American people. We must fireproof our mortgage lending business and ban deceptive and risky practices. In the coming days, I and others will be offering and working on legislation to reestablish sound practices in the mortgage finance markets. But today we consider a significant act that empowers our officials to lay down a firebreak against the most blatant forms of fraud. I encourage colleagues to support it. It is an important step. Let's work together to protect American homeowners.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. LEAHY. Mr. President, I ask unanimous consent that the Senate proceed to vote in relation to amendment No. 995 at 4:32 p.m. today and that the 4 minutes immediately prior to the vote be equally divided and controlled between myself and Senator ISAKSON or our designees; that no amendment be in order to the amendment prior to a vote in relation thereto; and upon disposition of amendment

No. 995, Senator DORGAN be recognized to offer his select committee amendment.

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

The Senator from Georgia.

Mr. ISAKSON. I thank the chairman for the 2 minutes.

Mr. President, Senator CONRAD and I have worked very diligently for 3½ months to create a platform in which we can get the answers the American people deserve and need with regard to the financial collapse that happened to this country. We have created a bipartisan commission that has no elected officials on it—all experts are within their chosen fields—a commission that has both subpoena power and the funding necessary to do precisely what the 9/11 Commission did. It is structured in the same way except targeted on the investigation of the financial markets, the securities markets, the commodities markets, Freddie Mac, Fannie Mae, the financial services market, the hedge funds, and every other institution that had a part in what has been a collapse of our economic system and a great decline in the value of equity for our people, college savings for their children, and retirement for their future.

I urge colleagues to vote favorably on the creation of the Financial Markets Commission.

I retain the remainder of my time.

The PRESIDING OFFICER. Who yields time?

The Senator from Vermont.

Mr. LEAHY. Mr. President, has the Senator from Georgia requested a rollcall vote?

Mr. ISAKSON. Mr. President, I consulted with Senator DODD and Senator CONRAD, both of whom want a rollcall.

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

Mr. LEAHY. Mr. President, I yield back all time and ask that the rollcall vote start now.

The PRESIDING OFFICER. If all time is yielded back, the question is on agreeing to amendment No. 995.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KENNEDY) and the Senator from West Virginia (Mr. ROCKEFELLER) are necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from Kansas (Mr. ROBERTS).

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

The result was announced—yeas 92, nays 4, as follows:

[Rollcall Vote No. 161 Leg.]

YEAS—92

Akaka	Barrasso	Bayh
Alexander	Baucus	Beahm

Bennet	Feinstein	Mikulski
Bennett	Gillibrand	Murkowski
Bingaman	Graham	Murray
Bond	Gregg	Nelson (NE)
Boxer	Hagan	Nelson (FL)
Brown	Harkin	Pryor
Brownback	Hatch	Reed
Burr	Hutchison	Reid
Burris	Inhofe	Risch
Byrd	Inouye	Sanders
Cantwell	Isakson	Schumer
Cardin	Johanns	Sessions
Carper	Johnson	Shaheen
Casey	Kaufman	Shelby
Chambliss	Kerry	Snowe
Coburn	Klobuchar	Specter
Cochran	Kohl	Stabenow
Collins	Landrieu	Tester
Conrad	Lautenberg	Thune
Corker	Leahy	Udall (CO)
Cornyn	Levin	Udall (NM)
Crapo	Lieberman	Vitter
DeMint	Lincoln	Voinovich
Dodd	Lugar	Warner
Dorgan	Martinez	Webb
Durbin	McCaskill	Whitehouse
Ensign	McConnell	Wicker
Enzi	Menendez	Wyden
Feingold	Merkley	

NAYS—4

Bunning	Kyl
Grassley	McCain

NOT VOTING—3

Kennedy	Roberts	Rockefeller
---------	---------	-------------

The amendment (No. 995) was agreed to.

The PRESIDING OFFICER. The majority leader.

Mr. REID. Mr. President, it is my understanding that the Senator from North Dakota, Mr. DORGAN, is offering an amendment. We are not going to have any more votes tonight. If there is a vote required, we will add it to whatever we have to vote on tomorrow morning. The managers are here, willing to take whatever amendments they think are appropriate tonight.

As I have indicated to the Republican leader, we are going to finish this bill this week, and we are going to finish the budget, getting it to conference this week. We hope we can do it in a real short week; otherwise, we will have to work into the weekend, which we don't want to do and there is no reason to do that. I have a couple of meetings I have to attend tonight involving the Speaker and the President, so we can't have any more votes tonight. I apologize to everyone if they wanted to vote late tonight. I don't think we will be able to do that.

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

Mr. REID. Yes.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I appreciate the comments of the Senator from Nevada, the distinguished majority leader. I will stay here for a few minutes, if there are some amendments pending. If there are some amendments pending that we could take by voice vote, I am perfectly willing to do that tonight. If there are rollcalls, if there are amendments people think will need rollcalls, I don't know what time the distinguished leader wants to go back on the bill in the morning, but I would suggest that if we start early on that—

Mr. REID. If my friend would yield, we will have no morning business tomorrow, so we will go to this bill early. But sometime tomorrow we are going to have to go to the budget and conference, so we should, by 1 or 2 o'clock, do our best to finish this bill.

Mr. LEAHY. Then if I might further inquire of the leader—and I think that is perfectly fair—I intend that at such time as there are no amendments pending, or no amendments pending that people actually expect to go forward, we will go to final passage.

This is a bill that saves taxpayers' money but more importantly protects a lot of people who are being preyed upon by people wanting to defraud them out of their homes, out of their retirement, out of the money they have saved for their children to go to college. So I think, with what is happening—and it has been proven—all of these frauds that have taken place all over the country, the last thing in the world the American people want to see is us delay it.

I thank the distinguished leader for bringing up this bill this week. It is my intention—my hope, anyway—to have it finished by noon tomorrow.

The PRESIDING OFFICER. The majority leader.

Mr. REID. Mr. President, I would also say to my friend that he covered everything except that this is a bipartisan bill, it is as bipartisan as any bill could be, and there shouldn't be any problem. If people have amendments, the managers of the bill have been ready for those amendments all day.

Mr. LEAHY. I would note further to the leader that Senator GRASSLEY, who is not only the chief sponsor, but we have a dozen or so sponsors on both sides of the aisle—Senator GRASSLEY and I worked very closely with a number of Senators to work out amendments. The first amendment we brought up was one we worked on with Senator KYL on, and I think that passed 95 to 1, or something like that. So we are ready to work with people, but we will finish this bill soon.

Thank you. I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from North Dakota is recognized.

AMENDMENT NO. 999

(Purpose: To establish a select committee of the Senate to make a thorough and complete study and investigation of the facts and circumstances giving rise to the economic crisis facing the United States and to make recommendations to prevent a future recurrence of such a crisis)

Mr. DORGAN. Mr. President, I ask unanimous consent that the pending amendment be set aside so that I can offer an amendment.

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

The clerk will report.

The legislative clerk read as follows:

The Senator from North Dakota [Mr. DORGAN], for himself and Mr. MCCAIN, proposes an amendment numbered 999.

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



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

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

Mr. DORGAN. Mr. President, I have spoken on this amendment previously. I have spoken of the underlying bill Senator LEAHY and Senator GRASSLEY and others have brought to the floor and my admiration for that bill. That bill falls right in with what the responsibility of the Senate should be at this point. I commend them for that. It is not my intention, nor would it be the intention of my colleague, Senator MCCAIN, as we offer this amendment to in any way interrupt the legislation on the floor. We believe our amendment enhances it.

Second, let me say to my colleague, Senator DODD, the chairman of the Banking Committee, I have spoken at length about what they are doing to try to put the pieces together to lift this country out of the ditch and try to figure out how to put this financial system together in a way that makes it work again.

Having said all of that, I indicated earlier that I offered an amendment with my colleague, Senator MCCAIN, that would establish a select committee of the Senate, in the tradition of the Truman Committee and the Watergate Committee and other select committees, to try to do a narrative of what has happened with respect to the financial crisis. I believe that a commission is fine, but we cannot delegate all responsibility. There is a responsibility for Congress to do comprehensive oversight on this issue, which I think is the largest financial issue we have faced—the financial crisis, the financial collapse—since the Great Depression.

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

Mr. DORGAN. I am happy to yield.

Mr. LEAHY. Mr. President, I understand there is a request for a rollcall on the Senator's amendment. I was not going to ask for one, as he knows. I wonder if he would have any problem with a unanimous consent agreement that when we come back on the bill in the morning, his amendment will be the pending amendment and there be 10 minutes a side, and we then proceed to a vote on it.

I am throwing this out as a suggestion, so my colleagues will hear it. For one thing, rather than spend several hours on the same amendment in the morning, or tonight, perhaps we will be able to do this: I say to the floor staff that this is a unanimous consent request that I will be making. I do not intend to make a unanimous consent request at this time. I will soon make this request.

Mr. DORGAN. Mr. President, I would certainly agree with that. It is a fair request. Let me finish so my colleague, Senator MCCAIN, can say a few words as well.

This amendment doesn't do a disservice to the underlying bill. It is ex-

actly in the tradition of what the Senate ought to do. We cannot delegate the responsibility. This financial crisis has imposed an enormous burden on this country. All of us hope and pray that we can lift this country out of this difficulty. We are all working to do everything we can.

Do you know what. We need to understand what is the dimension, the narrative of what happened, what caused all of this, and make sure we put into place things that will prevent it from happening again. That is our responsibility. In the grand tradition of the Senate of select committees on big issues, this ought to be a bipartisan select committee with subpoena power to understand what happened and to make sure it can never happen again. That is why I have offered this with Senator MCCAIN.

I have one final point. I hope we will be able to get you to take this without a recorded vote. Maybe only one person in the Senate has suggested maybe a recorded vote is necessary. We can talk to this person, and we can talk to that person. Whatever the request will be by the chairman, I will be amenable to it.

I yield the floor so that my colleague from Arizona may speak.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. MCCAIN. Mr. President, I also thank the chairman of the Judiciary Committee and floor manager for his cooperation. We are trying to get the request for a recorded vote vitiated. Right now, there is a request on this side for a recorded vote. Whatever, I know the distinguished manager wants to move forward with the bill. We are ready to dispense with it as quickly as possible. Senator DORGAN and I have spoken at sufficient length.

I thank Senator DORGAN again for this very important legislation. Why is it important? Mr. President, America is in the midst of the greatest economic crisis of our lifetime. The American people are angry and confused. They have a right to know what caused this. But, most of all, they have a right to know the path out so that we can prevent it from ever happening again to the American people.

All the cards have to be put on the table. Everything that happened that caused this—somebody called it a "house of cards" that collapsed. Many Americans lost homes, jobs, health insurance, and their very futures. They deserve to know. The most effective way to do that, in my view, is a select committee.

I have seen select committees in action before. They have been efficient and effective. The American people have a right to know what caused this train wreck and how we can prevent it from ever happening again. I hope my colleagues cannot only voice-vote it but put enough pressure on so that we could act immediately with the appointment of this select committee with subpoena powers, which I am confident will have bipartisan participa-

tion, bipartisan support, and the non-partisan support of the American people.

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. DORGAN. 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. DORGAN. Mr. President, let me just make another brief comment about the amendment that is pending. I will be mercifully brief. I mentioned earlier the grand tradition of the Senate, as demonstrated by the Truman committee, Harry Truman, a former Member of this body, who had a select committee established in 1940 to investigate waste and abuse and fraud with respect to defense contracting. When I talked about the Truman committee, I said I had talked to one of America's great authors, Herman Wouk. I mentioned his book, "War and Remembrance." He also wrote "Winds of War" and "Caine Mutiny." He is an unbelievably wonderful man who is now 92 or 93 years old. I had the opportunity, last year and the year before, to visit with him. He is still writing; he is writing a new work. He talked about the Truman committee. He said something interesting because he wrote so much about especially the Second World War.

He said, "I don't know much beyond 1945, but I know everything just before 1945." He put it in his wonderful books. Then he talked about the contracting going on in Iraq and the stories of waste, fraud, and abuse—perhaps the greatest waste, fraud, and abuse in this country—those are my words. He said, "You ought to create a Truman committee." He described to me the select committee headed by Harry Truman.

I went back and read the record of what they did in 1940—Truman with a member of his own party in the White House. He traveled around the country to military installations and met with contractors on military bases, and he concluded there needed to be an investigation. They put together a bipartisan committee with subpoena power. It cost \$15,000 to create a select committee and it met for 7 years and held 60 hearings a year and it saved the taxpayers by cutting down on the waste and abuse in defense contracting. They did it in the middle of a war. Think of it.

My point earlier, when I mentioned Herman Wouk, was to describe the Truman committee in the grand tradition of what the Senate can do when it should do what is necessary to make certain that the economy works and the taxpayers' money is spent effectively. So now we find ourselves in a circumstance unlike any we faced in my lifetime—an unbelievable financial wreck that has occurred. The victims of that wreck are all over. We have lots of folks—millions—looking for a job.

Can you imagine one person coming home—just one—saying: Honey, I have lost my job today. I worked there for 20 years, and I have done a good job. It is not my fault. I have tried hard, but I don't have a job anymore because I was told they are laying off at the office or plant. Think of that conversation—to tell the kids that dad or mom doesn't have a job anymore. Not just one time or 100,000 times—think about the millions of times that it happened in recent months; 3.6 million people since the recession began have had to come home and say: I have lost my job.

These are people who want to work. It describes why it is so important for an economy to expand and lift opportunity in this great country.

We have been blessed for a long time. It is not some inherent right of ours to live in an economy that grows in an unrelenting way. That is not an inherent right. This economy will grow and will produce expanded opportunities for the American people if we do the right things. We have been through a period where a lot of people in very important positions did a lot of wrong things, trading a lot of paper that didn't have any value at all, making money on both sides, buying things they never had from people who will never get it, and making money on both sides of the trade. That is not real finance. That is not real investment, real productivity. That is a paper economy that is built on speculation and is destined to come down.

I described a while ago just the subprime loan scandal. That is just a part of it. I described it, and it almost makes me sick to see the greed and avarice that existed under the name of responsible business. Shame on all of those people who were making a lot of money. They were making so much they could not count it, and they were leaving victims in their wake. They created this circumstance where the economy collapsed.

Our job is to find out what happened and try to lift it back up. You have to put the pieces of the puzzle together and decide and understand what happened. We owe it to ourselves and the American people to understand all of what happened to make sure we never allow it to happen again.

We cannot delegate that responsibility. I supported the commission, and I complement my colleagues who offered it. Having an outside group of experts to look at this and make recommendations, that makes sense. But we cannot delegate our responsibility. It is our responsibility. That is why this amendment I have offered with Senator MCCAIN is so important.

Finally, the underlying bill to which we are talking about amendments is so important because it is part of the solution—to say those folks who have been doing those things—there has to be a responsibility and funding for prosecutors and investigators to get to the bottom of that and make people accountable for the actions and behavior that steered the economy into a ditch.

I have great hope for the future of this country if we do the right thing. I believe we can. The step offered by Senator LEAHY is a step in that direction.

I yield the floor.

Mr. LEAHY. Mr. President, I ask unanimous consent that on Thursday, April 23, after the Senate resumes consideration of S. 386, the time until 10 a.m. be for debate with respect to Dorgan-McCain amendment No. 999, with the time equally divided and controlled between Senators DORGAN and myself, or our designees; that no amendments be in order to the amendment prior to a vote in relation thereto; that at 10 a.m., the Senate proceed to a vote in relation to the amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

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

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

AMENDMENT NO. 996 TO AMENDMENT NO. 984

Mr. INHOFE. Mr. President, I ask for the regular order so that I may offer a second-degree amendment to the Reid amendment.

The PRESIDING OFFICER. The regular order is the amendment.

Mr. INHOFE. At this point, I wish to offer a second-degree amendment.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Oklahoma [Mr. INHOFE], for himself, Mr. DEMINT, and Mr. VITTER, and Mr. ALEXANDER, proposes an amendment numbered 996 to amendment No. 984.

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

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

The amendment is as follows:

(Purpose: To amend title 4, United States Code, to declare English as the national language of the Government of the United States)

On page 3, after line 8, add the following:

(d) AMENDMENT TO TITLE 4.—

(1) IN GENERAL.—Title 4, United States Code, is amended by adding at the end the following:

#### “CHAPTER 6—LANGUAGE OF THE GOVERNMENT

“Sec.

“161. Declaration of national language.

“162. Preserving and enhancing the role of the national language.

“163. Use of language other than English.

#### “§ 161. Declaration of national language

“English shall be the national language of the Government of the United States.

#### “§ 162. Preserving and enhancing the role of the national language

“(a) IN GENERAL.—The Government of the United States shall preserve and enhance the role of English as the national language of the United States.

“(b) EXCEPTION.—Unless specifically provided by statute, no person has a right, entitlement, or claim to have the Government of the United States or any of its officials or representatives act, communicate, perform or provide services, or provide materials in any language other than English. If an exception is made with respect to the use of a language other than English, the exception does not create a legal entitlement to additional services in that language or any language other than English.

“(c) FORMS.—If any form is issued by the Federal Government in a language other than English (or such form is completed in a language other than English), the English language version of the form is the sole authority for all legal purposes.

#### “§ 163. Use of language other than English

“Nothing in this chapter shall prohibit the use of a language other than English.”.

(2) CONFORMING AMENDMENT.—The table of chapters for title 4, United States Code, is amended by adding at the end the following new item:

“6. Language of the Government ..... 161”.

Mr. INHOFE. Mr. President, today I am offering an amendment that I have offered on two other occasions. It is called the National Language Act of 2009. I offer it as an amendment to the Reid amendment No. 984. This legislation recognizes the practical reality of the role of English as our national language. It makes English the national language of the U.S. Government, a status in law it has not had before, and it calls on Government to preserve and enhance the role of English as the national language. It clarifies that there is no entitlement to receive Federal documents in languages other than the English language unless required by statutory law, recognizing decades of unbroken court opinions that civil rights laws protecting against national origin discrimination do not create rights to Government services and materials in languages other than English.

Let me be clear, there is nothing in the amendment that prohibits the use of a language other than the English language. When I offered this before, I remember several times people would stand up and object and the basis of that objection was that we were not able to use other languages. We can use other languages. I have spoken languages, such as the Spanish language, on the floor of this Senate. It has nothing to do with that.

There is no prohibition against giving Medicare services, for example, or any other Government services in languages other than English. All this amendment does is simply say there is no entitlement unless Congress has explicitly provided so. This bill does not ban translation services being offered by Federal employees who have the language skills to do so. Instead, it eliminates the notion that once one translation is provided to someone in one language, a legal entitlement has been created to provide translations to anyone in any language they wish.

The aim is to prohibit class action lawsuits based upon perceived entitlements that some individuals claim.

The National Language Act is an attempt to legislate a common sense language policy that a nation of immigrants needs one national language. Our nation was settled by a group of people with a common vision. As our population has grown, our cultural diversity has grown as well. This diversity is part of what makes our nation great. However, we must be able to communicate with one another so that we can appreciate our differences. When members of our society cannot speak a common language, misunderstandings arise. Furthermore, the individuals who do not speak the language of the majority miss out on many opportunities to advance in society and achieve the American dream. By establishing that there is no entitlement to receive documents or services in languages other than English, we set the precedent that English is a common to us all in the public forum of government.

I want to empower new immigrants coming to our Nation by helping them understand and become successful in their new home. I believe that one of the most important ways immigrants can achieve success is by learning English.

There is enormous popular support for English as the national language, according to polling that has taken place over the last few years. Eighty-seven percent of Americans support making English the official language of the United States. Seventy-seven percent of Hispanics believe English should be the official language of government operations. Eighty-two percent of Americans support legislation that would require the Federal Government to conduct business solely in English. Seventy-four percent of Americans support all election ballots and other government documents being printed in English. This polling data refers to making English an "official" language of the United States, or further creating an affirmative responsibility on the part of government to conduct its operations in English. While I have drafted legislation that accomplishes this as well, the National Language Act is more measured, simply stating that no entitlement shall arise to government documents or services.

OMB reported in 2002 that they could not accurately endorse any single cost estimate of providing materials and services to Limited English Proficiency—LEP—persons, but that the estimate "may be less than \$2 billion, and perhaps less than \$1 billion." When talking about dollar amounts of this magnitude, we know the cost is high regardless of the OMB's ability to accurately calculate, and it is likely becoming higher. If we are spending all this taxpayer money for services in a foreign language, we need to at least clarify that there is no legal entitlement to such.

My colleagues who have followed this debate will remember that the Na-

tional Language Act of 2009 is identical to S. 2715 from the 110th Congress. It is also the same as the English amendment that passed the Senate in 2007 as Senate amendment No. 1151, and in 2006 as Senate amendment No. 4064, each being part of the Comprehensive Immigration Reform Act of each respective Congress. Senate amendment No. 1151 was agreed to in the Senate by a vote of 64 to 33. Senate amendment No. 4064 was agreed to in the Senate by a vote of 62 to 35. As you can see, there is widespread and bipartisan support for this legislation, and I hope that you will join me this Congress in supporting the National Language Act of 2009.

This is one of the few things that comes along that everyone is for. The lowest percentage we have from polling in the last 3 years as to people's acceptance of English as the national language is 87 percent. Interestingly enough, we even have polls showing that 71 percent of Hispanics would rather have English as the national language.

It is interesting, I have been around quite a bit, around the African countries quite a bit. Several of the African countries, including Ghana in West Africa, have English as their national language. When you try to explain to people in the real world—when you get out of Washington and get back to Illinois or the State of Oklahoma, you find people ask the question: Why is it some 52 countries have English as the national language and we don't here? There is no logical reason.

It probably enjoys a larger popularity than any amendment we have had in recent years. I ask that it be considered as a second-degree amendment to the Reid amendment.

The PRESIDING OFFICER. The amendment is pending.

Mr. INHOFE. I ask the Chair, at such time as we take up the Reid amendment, I will offer this as a second-degree amendment.

The PRESIDING OFFICER. Amendment No. 996 has been offered.

Mr. INHOFE. I ask unanimous consent to set aside this amendment for the purpose of offering an amendment to S. 386.

The PRESIDING OFFICER. I object. Mr. INHOFE. I understand and appreciate that.

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

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

#### AMENDMENT NO. 991

Mr. VITTER. Mr. President, I ask unanimous consent to set aside the pending amendment and call up the Vitter amendment No. 991.

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

The assistant legislative clerk read as follows:

The Senator from Louisiana [Mr. VITTER] proposes an amendment numbered 991.

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

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

The amendment is as follows:

(Purpose: To authorize and remove impediments to the repayment of funds received under the Troubled Asset Relief Program, and for other purposes)

At the appropriate place, insert the following:

#### SEC. . REPAYMENT OF TARP FUNDS.

Section 111(g) of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5221(g)) is amended—

(1) by striking "Subject to" and inserting the following:

"(1) REPAYMENT PERMITTED.—Subject to";

(2) by inserting "if, subsequent to such repayment, the TARP recipient is well capitalized (as determined by the appropriate Federal banking agency having supervisory authority over the TARP recipient)" after "waiting period,";

(3) by striking "and when such assistance is repaid, the Secretary shall liquidate warrants associated with such assistance at the current market price"; and

(4) by adding at the end the following:

"(2) NO REPAYMENT PRECONDITION FOR WARRANTS.—A TARP recipient that exercises the repayment authority under paragraph (1) shall not be required to repurchase warrants from the Federal Government as a condition of repayment of assistance provided under the TARP. The Secretary shall, at the request of the relevant TARP recipient, repay the proceeds of warrants repurchased before the date of enactment of this paragraph."

Mr. VITTER. Mr. President, this amendment is very simple. It is regarding the TARP program, and it simply allows banks that want to repay taxpayer dollars back to the Government, back into the program, to do so. It is a pretty simple idea. It only allows it if the bank is going to be financially stable and meet all the applicable capital requirements without the money. Again, it is a pretty simple idea. Yet this amendment is clearly necessary in order to allow banks to do that without having Washington bureaucrats veto that decision, which should rest with those private financial institutions.

As this body knows, I have been a cynic and critic of TARP from the very beginning. I voted against it last year under President Bush. Unfortunately, many of my greatest fears about its weaknesses and how it would develop have come to pass. But there is one recent trend with regard to the program that I find enormously promising, and that trend is that more and more banks that got the taxpayer money want to pay it back, want to exit the program and have nothing more to do with it as soon as possible.

I am happy to say that positive trend was begun in Louisiana. It was begun by a significant Louisiana bank named Iberia Bank of Lafayette which became the first bank in the country to try to repay its TARP money. Of course, the Iberia Bank did eventually get to repay

that money. The bank said that being a recipient of TARP funds, it realized, after some experience, placed it at an "unacceptable competitive disadvantage."

I think it is very important to underscore that this was not an issue of executive compensation or bonuses. Iberia Bank is in Lafayette, LA, not Wall Street, New York City, NY. It had nobody in its structure that would have been limited in terms of compensation by the rules Congress placed with regard to that. Executive compensation wasn't the issue with them at all. However, they feared a couple of things. They saw the increasing role of government in the boardroom of banks that had accepted TARP money, they saw what they considered a contract with regard to the TARP money between the bank and the taxpayer being unilaterally changed by Federal bureaucrats every week, and they saw that as a very clear building trend. So they decided they wanted out because they feared they were going to be more and more hamstrung by Federal bureaucrats and the government growing to become their senior partner, rather than as the original role of a junior partner. They saw the government becoming more and more involved in how their bank was run, and they wanted out. And as they said very directly, they then considered having the TARP funds as an "unacceptable competitive disadvantage."

Seven banks in all have reached that same conclusion and have been able to repay TARP funds to the program. That repayment has totaled about half a trillion. Iberia Bank of Lafayette, LA, was the first to start this trend, but they were followed by Bank of Maine Bankcorp, Old National Bankcorp, Signature Bank, Sun Bankcorp, Shore Bancshares, and Centra Financial Holding, Inc. All of these banks said: We want out. We think this is a real problem. The government is getting more and more into how we run our business. We want to repay and get out of the program. And these banks were allowed to repay TARP funds back to the government and withdraw from TARP.

Mr. President, you might say: Well, if these banks were allowed to do it, what is the problem? The problem is that Secretary Geithner and the Treasury Department have made it clear that while they allowed repayment in those cases, they may well not allow it in other cases, particularly in the case of much larger institutions. Again, this is very clear from recent discussion and recent testimony from Secretary Geithner. In the last few days, Secretary Geithner has testified on Capitol Hill, and the main message from that testimony with regard to the ever evolving TARP program and how precisely it is going to be operated in the future is that we are not sure. We are not sure about guidelines for repayment. Stay tuned.

On the one hand, the Secretary indicated a willingness to allow banks to

repay, but at the same time, on the other hand, he indicated clearly that it will largely depend on the credit needs of the broader economy and not simply the health of that individual bank.

Yesterday's Wall Street Journal confirmed exactly this, because it reported an interview with Secretary Geithner where he indicated "that the health of individual banks won't be the sole criterion for whether financial firms will be allowed to repay bailout funds." So in other words, the Secretary is taking the position that he wants to maintain a veto over any repayment beyond the issue of whether that single bank, that particular financial institution, would be perfectly sound and healthy without holding on to that TARP money.

I think that is unacceptable. I think that is offensive, in fact. That is a government bureaucrat saying: No, no, no, no. I know this is your business, but we know best. I know you have decided this is best for you, but we have a veto over this because of our general concerns about the broader economy. That is unacceptable.

So again, we come back to my amendment—Vitter amendment No. 991—which is necessary in light of this stance of Secretary Geithner and the Treasury Department. Again, my amendment is very simple. It ensures the immediate repayment of TARP funds for banks that want to repay, but only in a few circumstances. First, the government must be repaid everything it is owed. The government has to be repaid everything it is owed, although it does prohibit the government from requiring a company to repurchase its warrants.

My amendment also ensures that TARP recipients be well capitalized, meet all the soundness and safety and capitalization liquidity requirements after the repayment. So my amendment wouldn't allow a repayment if that repayment would sink a bank to a position of not being well capitalized, of not meeting the normal capitalization liquidity requirements to ensure safety and soundness. Those requirements are spelled out by the regulators, as they have always been. So my amendment does not threaten that at all. It requires that those capitalization requirements be adhered to and a repayment only happen if the bank meets those capitalization and liquidity requirements after the repayment.

I hope this amendment not only passes but gets overwhelming bipartisan support. After all, why shouldn't it? This amendment is simply saying that a private business will be in control of its own destiny; that a private business can pay back TARP money, with interest, with everything that is required to the government, if it decides that is the best thing for that business to do, as long as that repayment does not affect the safety and soundness of the institution and make it dip below already established guidelines with regard to capitalization and liquidity.

Again, I believe this idea and this amendment should not only pass, it should have overwhelming bipartisan support because it seems to me those who oppose this amendment—presumably including Secretary Geithner—have to be saying one of two things, or maybe both: No. 1, they have to be saying, in a very arrogant way: No, we know better. No, you may run your business, you may be aware of all aspects of it, but we know better so we have to have a veto, or they have to be saying and acting on the basis of: We are now involved in your business. You have the government as a dominant partner, and we are not going to let go because letting go means loss of power and control as well as your repaying the money.

I encourage all of our colleagues, Democrats and Republicans, to come together and support this very reasonable commonsense amendment. Banks that can afford to repay the TARP money and that want to repay the TARP money certainly should have the absolute unquestioned right to repay the TARP money. It is as simple as that. We shouldn't stand here on the Senate floor or in the Department of the Treasury and say: No, we know better. And we certainly shouldn't stand here on the Senate floor or in the Department of the Treasury and say: No, the government has now sunk its claws into you and we are not letting go. We like the control. We like the takeover. We like the authority and we are not giving that up.

That is a very dangerous statement for the government to get out, and it is quite frankly what so many Americans are fearful of—that these emergency measures in the midst of the financial crisis are really a dramatic, long-term expansion of the authority and role of the Federal Government in the free market.

With that, Mr. President, I look forward to further debate and a vote on this amendment tomorrow.

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

The PRESIDING OFFICER. Will the Senator withhold his request for a quorum call?

Mr. VITTER. Certainly.

The PRESIDING OFFICER. The Senator from California.

AMENDMENT NO. 1000

Mrs. BOXER. Mr. President, I know we are waiting to see if I can send an amendment to the desk, and ask that the pending amendment be set aside. It would be my intention to do so when we can get the clearance on the other side.

This is a bipartisan amendment. I think it is important that people understand it is with Senator CORKER, Senator SNOWE, and Democratic Senator JEFF MERKLEY. What we are trying to do is make sure that in the TARP program, when these toxic assets are sold off, there are no kickbacks between the seller of the asset and the private party. What we would

do is make sure that the inspector general has enough funds to go after that type of conflict of interest.

Mr. President, I ask unanimous consent to set aside the pending amendment, and I understand the clerk has my amendment at the desk, if he would read it.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from California [Mrs. BOXER], for herself, Ms. SNOWE, Mr. CORKER, and Mr. MERKLEY, proposes an amendment numbered 1000.

Mrs. BOXER. Mr. President, I ask unanimous consent that the reading be dispensed with, because I have described it.

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

The amendment is as follows:

(Purpose: To authorize monies for the Special Inspector General for the Troubled Asset Relief Program to audit and investigate recipients of non-recourse Federal loans under the Public Private Investment Program and the Term Asset Loan Facility)

On page 20, between lines 11 and 12, insert the following:

“(e) ADDITIONAL APPROPRIATIONS FOR THE SPECIAL INSPECTOR GENERAL FOR THE TROUBLED ASSET RELIEF PROGRAM.—

“(1) IN GENERAL.—There is authorized to be appropriated to the Special Inspector General of the Troubled Asset Relief Program (in this subsection referred to as the Special Inspector General), \$15,000,000 for fiscal year 2010.

“(2) PRIORITIES.—In utilizing funds made available under this subsection, the Special Inspector General shall prioritize the performance of audits or investigations of recipients of non-recourse Federal loans made under the Public Private Investment Program established by the Secretary of the Treasury or the Term Asset Loan Facility established by the Board of Governors of the Federal Reserve System, to the extent that such priority is consistent with other aspects of the mission of the Special Inspector General. Such audits or investigations shall determine the existence of any collusion between the loan recipient and the seller or originator of the asset used as loan collateral, or any other conflict of interest that may have led the loan recipient to deliberately overstate the value of the asset used as loan collateral.”.

Mrs. BOXER. Mr. President, I thank Chairman LEAHY. I know he is so anxious to get this bill through, and it is not my intention to slow anything up. I do think I stand here as a former stockbroker, and I know we need integrity in the system, and I know that is the purpose of this bill, so I feel this bipartisan amendment would add quality to his already excellent bill.

Mr. President, I yield the floor, and it is my understanding that my amendment would be pending. I ask the Presiding Officer if that is the case.

The PRESIDING OFFICER. It is currently pending.

Mrs. BOXER. I thank the Chair, and 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. BARRASSO. 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. BARRASSO. Mr. President, I ask to be able to speak as in morning business.

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

#### A DOOMSDAY SOLUTION

Mr. BARRASSO. Mr. President, I come to the floor today because the Environmental Protection Agency has issued a proposal, a proposal finding that greenhouse gas emissions pose a danger to the public's health and welfare. The Washington Post has referred to this as a “determination that could trigger a series of sweeping regulations affecting everything from vehicles to coal-fired power plants.” According to legal experts, the scope of these regulations could cover hospitals, schools, farms, commercial buildings, and even nursing homes.

EPA Administrator Lisa Jackson said that the EPA was not looking for a doomsday solution. Well, I have news for the administrator—this is one. In fact, this endangerment finding, once finalized, could cover any source that emits more than 250 tons per year of carbon dioxide. This is the limit expressly mentioned in the Clean Air Act. Hospitals, schools, farms, commercial buildings, and nursing homes will be required to obtain preconstruction permits for their activities. Further, according to the legal scholars, the statutory language is mandatory and does not leave any room for the EPA to exercise discretion or to create exemptions.

The economic consequences of this will be great. According to the U.S. Chamber of Commerce, one-fifth of all food service businesses, one-third of all health care businesses, one-half of the entire lodging industry—all of those could be covered under the scope of the Clean Air Act. According to the Heritage Foundation, such regulations would lead to job losses that would exceed 800,000 jobs. I thought this administration was interested in creating jobs, not killing them. But that is what this ruling says. The gross domestic product lost to the country could be \$7 trillion by the year 2029.

In short, unless Congress acts, this administration is taking an enormous risk, an enormous economic gamble with the future of the American people. It is a bad bet, with no hope for any temperature reductions—which is what they are trying to do.

The EPA Administrator has stated that she wants to avoid a regulatory thicket. If this approach is such a bad option, let's take it off the table. Why would the administration deliberately leave a bad option, a regulatory thicket for Americans, on the table? It makes no sense. It is for that reason that today I have sent a letter to Presi-

dent Obama asking that he take this option off the table. He must urge the Senate leadership and the House leadership right here to pass legislation to exempt the Clean Air Act from becoming a climate change tool. It is a bad option for Americans, and it is no option for America.

The Administrator of the EPA has stated that, if necessary, she is poised to be specific on what we regulate and on what schedule. I asked the EPA nominee, who will oversee the Clean Air Act, how this would be done. She responded that President George W. Bush's advance notice of proposed rulemaking laid out the options. This is the same advance notice of proposed rulemaking that has been so roundly criticized by the majority.

I asked how the EPA would handle losing court challenges if the department tried to exempt farms and schools and hospitals and nursing homes and small businesses from the reach of the Clean Air Act. The nominee responded again that President Bush's rulemaking “explored a number of possible ways of streamlining” the Clean Air Act. This is not an answer at all. The American people need to know how they will be protected from the long arm of Washington.

The EPA Administrator admits that a better option is to have Congress pass legislation to deal with climate change. The option on the table today is the President's energy tax. The President's energy tax is moving in the House of Representatives. It is called the American Clean Energy and Security Act of 2009. The President's energy tax will fund a trillion-dollar climate bailout scheme—a bailout scheme that will not reduce global temperatures by even a single degree. Moving forward with a \$1 trillion climate bailout scheme to avoid the Clean Air Act regulations is the legislative equivalent of moving the American taxpayers from the frying pan into the fire.

This President's cap-and-trade scheme will dramatically raise prices on businesses as well as on consumers. It is bad for consumers, it is bad for jobs, and it is bad for our economy.

We have passed numerous bailout bills over the past 6 months. We passed a \$787 billion stimulus package for an economic bailout intended to save or create jobs. This is money we have been borrowing from China. They have such concerns they are not so interested in lending it to us anymore.

The American people already have bailout and borrowing fatigue. We all know our deficits are soaring. We have saddled future generations with this debt for years to come. I hear that when I go to the schools and talk to the high school students.

Spending trillions of additional dollars to address climate change through an untested cap-and-trade scheme is an unnecessarily risky approach. It, too, is a regulatory nightmare. This approach will cost thousands of jobs in the very same sectors that will be hit

under the Clean Air Act. It is not a viable option, and it is not a responsible option.

I call on the Senate leadership to expedite legislation to the President that takes the Clean Air Act out of the business of regulating the climate. Let us come together and find a solution to our Nation's energy needs. With all seriousness, we need all of it, we need all the sources of energy because we will continue to use it all. We need a solution that makes American energy as clean as we can, as fast as we can, and without hurting our economy.

It is time for the Environmental Protection Agency to get that message.

I yield the floor.

The PRESIDING OFFICER (Mr. BENNET.) The Senator from Arizona is recognized.

Mr. KYL. Mr. President, I ask unanimous consent to lay aside the pending amendment for the purpose of offering four amendments.

The PRESIDING OFFICER. In my capacity as the Senator from Illinois, I object.

#### AMENDMENT NO. 986

Mr. KYL. Mr. President, I will offer one amendment at this time.

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

Mr. KYL. Mr. President, amendment No. 986 is at the desk. I call it up for its consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Arizona [Mr. KYL] proposes an amendment numbered 986.

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

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

The amendment is as follows:

(Purpose: To limit the amount that may be deducted from proceeds due to the United States under the False Claims Act for purposes of compensating private intervenors to the greater of \$50,000,000 or 300 percent of the expenses and costs of the intervenor)  
On page 26, after line 22, insert the following:

#### SEC. 5. LIMITATION ON AWARDS TO CERTAIN INTERVENORS.

Section 3730(d) of title 31, United States Code, is amended—

(1) in paragraph (1)—

(A) in the first sentence, by inserting “but in no event more than the greater of \$50,000,000 or 300 percent of the expenses, fees, and costs awarded to such person under the fourth sentence of this paragraph” after “prosecution of the action”; and

(B) in the second sentence—

(i) by striking “Government Accounting Office” and inserting “Government Accountability Office”;

(ii) by inserting “but in no event more than the greater of \$50,000,000 or 300 percent of the expenses, fees, and costs awarded to such person under the fourth sentence of this paragraph” after “advancing the case to litigation”; and

(2) in paragraph (2), by striking the second sentence and inserting “The amount, which shall be paid out of the proceeds of the action or settlement, shall be not less than 25 percent and not more than 30 percent of the

amount of such proceeds, but in no event more than the greater of \$50,000,000 or 300 percent of the expenses, fees, and costs awarded to such person under the third sentence of this paragraph”.

Mr. KYL. I will explain. The other three amendments are precisely the same, except they have a different dollar amount in them. I will ask for their consideration later, or for their introduction at a later time.

At this point, I defer to the Senator from Oklahoma if he is ready.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. COBURN. Mr. President, I rise today to discuss S. 386, the Fraud Enforcement and Recovery Act of 2009. Although I certainly support the well-intended purpose of this bill, I have concerns about the proposal that I would like to explain today.

S. 386 aims to “beef up” the Government's efforts to combat fraud, particularly in the mortgage industry and Federal assistance programs. To that end, the bill creates a host of new criminal provisions and authorizes nearly half a billion dollars in spending over the next 2 years.

As a threshold matter, I am concerned about the necessity of these new criminal provisions. In my mind, Congress should have a compelling reason for adding to the already monstrous Federal criminal code. With more than 4,400 Federal offenses already on the books, it is hard to imagine there being conduct the Government cannot reach.

The Federal criminal code is often criticized for being overly broad, and legislators on both sides of the aisle have been known to bemoan its growth. Yet when “tough-on-crime” bills come before Congress, nobody wants to stand in their way and risk political consequences. This is a truly unfortunate trend.

Turning back the tables on over-criminalization isn't a partisan issue. Legislators from both sides of the aisle have seen first-hand the sometimes devastating unintended consequences that flow from the application of Federal law. Democrats and Republicans could be working together to reevaluate some of these provisions; instead, we are doing business as usual, responding to every crisis by further littering the criminal code.

With respect to S. 386, two prominent organizations, the National Association of Criminal Defense Lawyers (NACDL) and the Heritage Foundation, formed an unlikely alliance in opposition to the bill. Both organizations believe that S. 386 contributes to over-criminalization, and their concerns are detailed specifically in a joint letter that describes the new criminal proposals as “redundant and risks overreaching.” It notes that within the 4,450 offenses already in criminal law, prosecutors have all the tools needed to reach crimes associated with fraud. In general, it points to the Federal mail and wire fraud statutes as being sufficiently broad to cover mortgage fraud

and other related crimes. As further evidence, it references an FBI press release identifying nine existing Federal criminal statutes that can be used to prosecute mortgage fraud.

Because it is not my intention to prevent law enforcement from pursuing truly criminal conduct, I studied the issue to determine whether there are any insufficiencies within existing law that would give perpetrators of fraud safe haven. I have found no examples of conduct or entities outside the reach of current law.

It is true that not every provision of the criminal code reaches certain fraudulent acts. It is also true that not every entity in the mortgage industry is regulated by the Federal Government. It is not true, however, that the conduct or entities targeted by this bill are currently going unpunished. Prosecutors have successfully used other laws, particularly the mail and wire fraud statutes, to aggressively prosecute these crimes at the Federal level.

The FBI's recent successes serve to demonstrate this point. The FBI has handled mortgage fraud since 1989 and is actively pursuing these crimes now. It has 65 mortgage fraud task forces and working groups across the country that coordinate federal, state and local law enforcement officials. The FBI has 180 agents devoted to the sector. They are handling more than 2,000 investigations, and have opened 734 cases this year. In fiscal year 2008, they obtained 560 indictments/informations and 338 convictions. Last year, one operation resulted in the roundup of more than 400 people accused of inflicting more than \$1 billion in losses, who were caught up in a nationwide sweep named Operation Malicious Mortgage.

The Secret Service has also been working hard to combat fraud directed at financial institutions. It has an established network of 35 financial crimes task forces and 24 electronic crimes task forces. The Secret Service also partners with U.S. Attorney's Offices across the country to participate in mortgage fraud working groups. In fiscal year 2008 alone, the Secret Service indicted and arrested 5,633 individuals responsible for \$442 million in fraud losses.

These impressive statistics, from both the FBI and the Secret Service, suggest that Federal criminal law is more than sufficient to address crimes of fraud associated with the ongoing economic crisis.

Federal prosecutors are not alone in pursuing mortgage fraud. Just last month, the New York Times ran an article saying, “Across the country, attorneys general have already begun indicting dozens of loan processors, mortgage brokers and bank officers. Last week alone, there were guilty pleas in Minnesota, Delaware, North Carolina and Connecticut and sentences in Florida and Vermont, all stemming from home loan scams.” The article gave specific examples of State actions being taken to address the crisis:



State and local prosecutors, it seems, do not need the nudge. Last week, the district attorney's office in Brooklyn announced the creation of a real estate fraud unit, with 12 employees and a mandate to "address the recent flood of mortgage fraud cases plaguing New Yorkers." In late February, Maryland unveiled a mortgage fraud task force, bringing together 17 agencies to streamline investigations.

As the joint letter from the Heritage Foundation and the National Association of Criminal Defense Lawyers correctly notes, States are the "primary regulators of mortgage brokers and the insurance industry."

State governments are also closest to the people and are well-situated to detect and prosecute these crimes. Aided by the recent allocation of nearly \$5 billion in Federal funding for State and local law enforcement, states should be able to continue and enhance their existing efforts to pursue mortgage fraud.

In short, both Federal and State criminal law is sufficient to combat mortgage and other financial fraud crimes. Congress should resist the temptation to overreach on this issue by enacting new criminal laws, and instead focus its efforts on enforcing existing law.

Enforcing existing law, of course, requires resources. In addition to the significant resources already being expended by the Federal Government to address fraud, S. 386 authorizes \$490 million for fiscal years 2009 and 2010. CBO has scored the bill and estimates that implementing it would cost the full amount over the 2010-2014 period.

Proponents argue that the recent influx of Federal dollars into the economy is sure to invite fraud. I do not disagree, but this problem did not develop overnight. Surely Congress realized the possibility for fraud when it wrote these checks just months ago? Instead of taking time to include safeguards in the bill or otherwise ensure responsible, effective allocation of hard-earned taxpayer dollars, Congress rushed the bills out the door at breakneck speed. In doing so, Congress created an environment ripe for fraud.

The answer to this problem is, of course, to ask the taxpayers to shoulder even more of the burden. The 111th Congress has now spent more than \$1.5 trillion, yet it has somehow neglected to fund a priority as important as combating fraud. The omnibus appropriations bill, passed just weeks ago, only contained \$10 million for the FBI to pursue mortgage fraud. The stimulus bill, which provided \$4 billion for State and local law enforcement, amid nearly \$1 trillion in spending, failed to provide any money specific to fraud enforcement. Why, when opportunities to address this problem arose, did Congress not do the right thing and prioritize the funding authorized by S. 386?

In this time of economic crisis, Congress no longer has the luxury of spending money haphazardly. We must learn to set priorities and make sacrifices, and perhaps even think creatively about how to stretch limited resources to meet our needs.

For example, the Department of Justice has access to "unobligated balances," which are unspent dollars that have been appropriated but not obligated during a fiscal year. Such money is typically required to be returned to the U.S. Treasury, but the Justice Department has unique authority to retain and carry over its unobligated funds for use in the following year. Fiscal year 2007, DOJ had almost \$2.9 billion in unobligated balances, and it is estimated to have had nearly \$2.3 billion at the end of fiscal year 2008, and to have \$2 billion at the end of fiscal year 2009. This excess would be a good source of funding for priorities such as investigating and prosecuting mortgage fraud during a housing crisis.

Moreover, the Department of Justice has become infamous for its wasteful spending. Last year, I released a report titled, "Justice Denied: Waste & Mismanagement at the Department of Justice," which identified more than \$10 billion in wasteful spending. The Justice Department should be required to make more responsible use of the funds currently within its authority before Congress entrusts it with even more of the taxpayers' hard-earned money.

Unfortunately, many of the dollars wasted at the Department of Justice are done by way of congressional earmarks. Earmarks consume scarce resources and prevent experts at DOJ from allocating money to areas with the most pressing need. Congress should allow DOJ officials to reprogram existing earmarks so that higher priority needs, like combating mortgage fraud, can be met.

One thing is certain, the American taxpayer has already paid too high a price for irresponsible governance. Continuing "business-as-usual," by funding parochial pet projects before we take care of legitimate business, cannot continue.

While I surely support the legislation's goal of addressing fraud, especially in the mortgage industry, I do not believe S. 386 is either necessary or prudent at this time of economic crisis. Our national debt is more than \$11 trillion, and CBO recently set this year's deficit at \$1.7 trillion, projected to rise to \$1.845 trillion by year's end. I believe Government can and should prioritize spending to fulfill its responsibilities without asking more of the American people. I also believe that State and Federal criminal law are sufficient to address fraud and would rather see efforts focused on enforcing those existing laws, rather than on creating new ones.

#### AMENDMENT NO. 982

Mr. COBURN. I ask unanimous consent that the pending amendment be set aside and amendment No. 982 be called up.

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

The bill clerk read as follows:

The Senator from Oklahoma [Mr. COBURN] proposes an amendment numbered 982.

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

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

The amendment is as follows:

(Purpose: To authorize the use of TARP funds to cover the costs of the bill)

At the end of the bill, add the following:

#### SEC. 5. USE OF TARP FUNDS TO PAY FOR ADDITIONAL EXPENDITURES.

Effective upon the date of enactment of this Act, of the amounts of authority made available pursuant to paragraphs (1) and (2) of section 115(a) of the Emergency Economic Stabilization Act of 2008 (Public Law 110-343) to purchase troubled assets that remain unused as of such date of enactment, such amounts as may be necessary shall be available, notwithstanding any provision of such Act, to provide the amounts authorized under subsections (a), (b), (c), and (d) of section 3.

Mr. COBURN. Earlier today, I spoke for a short period of time on this bill. I wish to retrace some of that before I talk about this amendment. It is important that the American people understand what this bill is doing.

All of us wish to get rid of the fraud, the money laundering, we wish to punish the people who have, in fact, helped cause part of this problem. I would tell you the biggest person or group of people responsible for the problem we face today is the Congress, this body and the House of Representatives.

We failed to do our job on oversight. We incentivized and socialized housing, we incentivized Fannie Mae and Freddie Mac to do things that were inappropriate, to take risks they should not have done, and then we did not have the regulatory mechanisms in place, nor did we do the oversight to see what was going on.

This bill, however, is attempting to fix a problem with a statute, criminal statute. Most people know we do not need more criminal statutes. The fact is, nobody can name an act that occurred on any of this fraud or any of this money laundering that is not prosecutable under the Criminal Code we have today.

Off the record, when we asked some pertinent people from the Justice Department, they laughed when asked if we needed these new criminal statutes. The other point I would make is, none of this, with the exception of the false claim portion, has any application to what has already happened because you cannot apply a new law to a crime that already existed under our Constitution.

So what are we doing? What we are doing is trying to make the American public think we are doing something now that, in essence, does not need to be done. We may need to fund the Justice Department at a greater level because we did not do what we should have done earlier.

It is the typical knee-jerk reaction. We have plenty of laws on the books. As a matter of fact, the new penalties in some of this stuff are greater for fraud and mortgage than for manslaughter under the Federal Code.

We need to be very careful as we approach this. I am not saying we should not go after all those people. I am not saying we should not put in the resources to do that. But when we put the resource there, we ought to make sure they are used just for that.

No. 2, we ought to look at the Justice Department and how they spend money. Late last year I released a report on the \$10 billion worth of waste in the Justice Department over the previous 5 years, \$10 billion that was wasted over the previous 5 years.

Nobody disputed it. I mean, the Justice Department did not even answer it and say, that is not right, because they knew it was right. The fact is we refuse to make priorities.

This amendment is very simple. If we are going to appropriate a half billion dollars in increased funding to go after the fraud and money laundering associated with this financial situation that the Congress created and incentivized individuals, should we take it from the American taxpayers or should we take it out of money that we have already allocated?

The Justice Department is different than every other agency in the Federal Government, because at the end of the year, every other department's unexpended balances, unobligated balances eventually filter back to the Treasury. Not so at the Justice Department. They actually get to keep theirs. They are the only agency that gets to keep it.

Now, what have they averaged over the last 5 years in unobligated and unexpended balances? Over \$2 billion a year. So here is an agency with \$2 billion that they have not spent, and we are going to give them another \$500 million, and their incentive is not to spend the money on the things we need to do; it is to keep it to do with what they want out of the direction of those that control the purse strings.

What this amendment says is we have already allocated money in terms of TARP funds; that if, in fact, we are going to send more money, which I do not think we should—I think we ought to spend it from the money we have—but if we are going to do it, let's take it from the money we have already taken from the American taxpayer, and it is not the American taxpayer; it is their grandkids, and let us use some of that money because the return on that money will be far greater than the return we are going to get on any TARP money.

It is very simple, very straightforward as a funding treatment. What we will use is money that has already been appropriated in the TARP funds, which they have a significant balance—in the billions—and we will take, over the next 2 years, \$250 million or so to give to the Justice Department, if we agree we should be giving it to the Justice Department. Do not be fooled by the typical Washington turnaround that happens all the time up here, the sleight of hand that says: We are fixing

a problem. We tend to fix problems that are not broken and not fix the problems that are broken. The mess we are in demonstrates that very straight forwardly.

We are going to have a \$2 trillion deficit this year. We are going to double the national debt in 5 years. We are going to triple it in 10 under the Obama budget. Should not we be about priorities? Should not we be about holding the agencies accountable? Should not we be about making sure the money is spent properly?

If we are going to spend new money, try to get it from areas we already are not spending the money in but it has been appropriated. The American people would agree with that. I hope my colleagues will as well.

Mr. DODD. Mr. President, let me begin by complimenting the authors of the bill before the Senate today. The Fraud Enforcement and Recovery Act, or FERA, provides important tools to the Departments of Justice, Homeland Security and Housing and Urban Development to investigate and prosecute mortgage fraud. I am afraid that our government must be particularly vigilant today, as criminals seek to exploit people's economic hardships, and as some persons harmed by the downturn resort to fraud as a desperate measure.

This problem is grave, and it is getting worse by the day. Last year, financial institutions reported that mortgage loan fraud increased by 44 percent from the previous year. And this year, mortgage loan fraud is reportedly increasing even more—26 percent over last year. And still, disappointingly, many incidents of fraud go unnoticed. While this bill appropriately addresses the problem by providing additional resources to bring criminals to justice, including 400 new prosecutors and agents, I believe that efforts to arrest this alarming trend must also focus on preventing frauds from even being perpetrated in the first place.

Fortunately, the Obama administration is doing just that. Earlier this month, a new initiative was announced targeting mortgage loan modification fraud and foreclosure rescue scams. This effort, led by the Department of the Treasury's Financial Crimes Enforcement and Network, or FinCEN, is coordinating efforts across Federal and State governments as well as the private sector to share intelligence and identify criminal enterprises and deceptive schemes. Once such scams were identified, FinCEN is issuing "early warnings" to law enforcement, regulatory agencies, and the consumer protection community to watch for telltale signs of such scams. Already, FinCEN reports that this information is providing critical leads to protect consumers from falling victim to fraud. In addition, FinCEN is helping private industry perform their own due diligence, issuing advisories to alert financial institutions to the risks of emerging schemes by describing what they call "red flags," that typify loan modi-

fication or foreclosure rescue scams. Banks, in turn are thus advised on how to file suspicious activity reports to Treasury, to ensure that law enforcement authorities may stay up-to-date in tracking potential fraud activity.

As the industry publication, *American Banker*, reported last week, increases in the filing of suspicious activity reports this year may be demonstrating a rise in fraud. In any case, in my estimation, these filings indicate that cases of fraud are being taken very seriously both by the government and industry. For that reason, I believe that, if implemented appropriately, the FinCEN-led Foreclosure Rescue Scams & Loan Modification effort will help both law enforcement combat fraud and consumers avoid scams.

I appreciate the Obama administration's efforts, and I urge every law enforcement agency, including the Department of Justice, to coordinate with FinCEN as we attempt to safeguard our financial system from fraud and prosecute those who break the law. I support the bill currently before the Senate, which I believe will greatly complement Treasury's programs to combat financial crimes.

#### ANTI-MONEY LAUNDERING

Mr. LEVIN. Mr. President, as chairman of the Permanent Subcommittee on Investigations, I have conducted a series of hearings and issued reports on various issues pertaining to money-laundering and tax havens, and I appreciate the benefit of the Banking Committee chairman's insight on these matters.

The Fraud Enforcement and Recovery Act of 2009 before us importantly modifies the money laundering statute to include tax evasion. I believe that we should also expand anti-money laundering laws to apply to other entities involved in financial transactions.

In particular, hedge funds, other private investment vehicles, and company formation agents are not subject to the same anti-money laundering regulations as others who play roles in the financial services world. Currently, unregistered investment companies, such as hedge funds and private equity funds, have limited responsibilities under the Bank Secrecy Act. For example, hedge funds themselves are not required to establish Know Your Customer programs or file suspicious activity reports. Suspicious activity and tax evasion by clients may go unnoticed by appropriate authorities. Indeed, offshore tax abuses cost the U.S. Treasury an estimated \$100 billion each year.

Complicating the Government's ability to establish and enforce AML regulations for this industry is the fact that many private investment funds and company formation agents have largely escaped general regulatory oversight. For example, when the Securities and Exchange Commission attempted to require hedge funds to register, the Court of Appeals for the District of Columbia Circuit found that

the SEC, lacked the appropriate authority. I believe that the SEC's attempts were well-intentioned, but the court's findings indicate that clearer authority must be established for key sectors of the financial services industry, including hedge funds and company formation agents.

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, there is no reason why they should continue to serve as pathways into the U.S. financial system for substantial funds of unknown origin. We need to establish a clear statutory mandate for these entities to implement sound anti-money laundering programs and to report on suspicious activities.

Mr. DODD. I appreciate Senator LEVIN's and his subcommittee's hard investigative work on this very difficult subject matter. I share his conviction that America's regulatory system must be reformed to address challenges posed by business practices surrounding 21st century financial products. The United States cannot afford to have investment vehicles used to engage in abusive practices of fraud, illicit activity, and tax evasion. As the Banking Committee undertakes a comprehensive effort to modernize the securities and banking system, I will look forward to engaging the senior Senator from Michigan on issues of particular importance to him, including anti-money laundering measures.

Mr. REID. Mr. President, this housing crisis is the root of our larger economic crisis. As the mortgage mess rapidly worsens—and hurting more hardworking families—the implications for every other part of our economy are disastrous.

Today we learned that the number of American families at risk of losing their homes skyrocketed in the past few months. The problem is significantly worse at the beginning of this year than it was at the same time last year. In Las Vegas alone, 1 in every 22 homes received a foreclosure notice between January and March. That's seven times the national average.

The American people know we must do more. The people of Nevada certainly know this—families in my State lose their homes at the worst rate in the Nation. They know we must act now, before this emergency spins even further out of control.

But the declining health of our housing market comes with serious side effects. As foreclosures rise, so do reports of fraud. According to one report, the Nevada Bureau of Consumer Protection now receives 100 complaints each month from homeowners identifying possible mortgage scams. One Nevada scam recently offered a 100-percent money-back guarantee. The scammer, unsurprisingly, didn't hold up his end of the bargain. Another scheme charged homeowners heavy upfront fee and monthly charges on top of that—

only later did they learn they were not getting any services in return.

While we are working to help the millions of desperate homeowners who need to modify their mortgages, countless swindlers are working to take advantage of them. And the way the system works now, we can't keep up.

The mortgage and corporate fraud bill will strengthen our ability to stop those who game the system on the backs of families who play by the rules and make an honest living. It gives law enforcement the necessary tools to probe, prosecute, and punish those responsible for the frauds that exploit hardworking homeowners and endanger our economy.

It is a strong start to solving a critical component of this crisis. But if we are going to protect families, it is not enough to punish the perpetrators—we must also stop the scams before they start. That is what the amendment I have submitted today does.

My Amendment No. 984 complements the larger effort in the underlying bill in three important ways, with each component focusing on the areas where foreclosures are the highest:

First, we will authorize more resources for advertising to help people avoid the mortgage rescue scams that bilk homeowners of thousands of dollars by raising awareness of the problem and encouraging the use of legitimate, free counseling agencies there to help. Because many of these areas have large Latino populations, at least half of those resources will be used for Spanish language advertising.

Second, we will increase resources for HUD-certified housing-counseling agencies in those hardest-hit areas. Las Vegas, Reno and other reeling regions still need more help as this problem gets worse. This amendment will help the agencies staff up and meet the growing demand for their services.

Third, we will send well-trained and experienced HUD officials to further support those agencies and other efforts by the Federal Government to combat the foreclosure crisis and prevent scams.

Hardworking Americans have lost enough in this storm. They need not give thousands of dollars to con artists who will leave them with struggling with the same mortgage and even less money to pay it. They need not be duped into turning over the keys to their home only to be evicted later.

To stabilize the economy, we must build on the administration's and our own prior efforts to stabilize the housing market. To do that, we must start by stopping fraud. Yes, we must put away the swindlers, but we must also do more to stop the vultures before they can prey on the most vulnerable. I yield the floor and 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. BEGICH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

AMENDMENT NO. 999

Mr. BEGICH. Mr. President, I ask unanimous consent that the order with respect to a vote in relation to amendment No. 999 be vitiated, that the amendment be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Is there objection?

Without objection, the amendment is agreed to.

The amendment (No. 999) was agreed to.

The PRESIDING OFFICER. The motion to reconsider is laid upon the table.

#### MORNING BUSINESS

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

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

(At the request of Mr. REID, the following statement was ordered to be printed in the RECORD.)

#### DEPARTMENT OF JUSTICE OPINIONS ON CIA'S DETENTION AND INTERROGATION PROGRAM

• Mr. ROCKEFELLER. Mr. President, today Chairman DIANNE FEINSTEIN and I, with the agreement of Vice Chairman KIT BOND, have posted on the Web site of the Senate Select Committee on Intelligence, a document newly declassified by the Obama administration. I ask that this document be printed in the RECORD at the end of my remarks.

In so doing we conclude an effort that I began as chairman of the committee in the last Congress to provide to the public an initial narrative of the history of the interrogation and detention opinions of the Department of Justice's—DOJ—Office of Legal Counsel, OLC.

I applaud President Obama's decisive action last week not only to release four of the OLC opinions discussed in our narrative but also to state firmly our Nation's support for the front-line intelligence professionals who relied on that legal advice in good faith. I couldn't agree more.

Three of these OLC documents are among those that I sought for the committee starting as far back as 2005, when it became increasingly clear to me that Congress had not been given complete information regarding the Bush administration's interrogation policies and practices.

I said publicly in July of 2005 and still firmly believe today that secret legal opinions that are kept even from oversight by the Congress can lead to great error. In the years since then I—together with Chairman FEINSTEIN and others—have sought within the committee, on the Senate floor, and in

written demands to the Bush administration to launch a comprehensive investigation of these issues and to advance legislation to end coercive interrogation practices.

Now, thanks to President Obama's wise decision and to the ongoing work of the Senate Intelligence Committee, we have at last begun the task of fully setting the record straight, holding our government accountable, and learning from past errors in order to protect our country into the future.

Let me be clear—in the wake of 9/11 we all wanted to leave no stone unturned in our pursuit of terrorists to prevent future attacks. At that time and since, the Senate Intelligence Committee sought to work in partnership with the administration to keep America safe. But we now know that essential information was withheld from the Congress on many matters and decisions were made in secret by senior Bush administration officials to obscure the complete picture.

It is my hope and intention that the document we release today helps to fill in some of the facts, even as many other pieces of the puzzle are brought forth.

The genesis of this document is as follows:

Last year, I sought declassification of the August 1, 2002, OLC opinion, along with a short contextual narrative to accompany it. While declassification of that opinion was resisted, we engaged instead in a joint effort with Attorney General Michael B. Mukasey to declassify a broader narrative surrounding all of the OLC's opinions on these matters.

The objective was to produce a text that describes the key elements of the opinions and sets forth facts that provide a context for those opinions, within the boundaries of what the DOJ and the Intelligence Community would recommend in 2008 for declassification.

By late 2008, the DOJ, the Director of National Intelligence—DNI—and the Central Intelligence Agency—CIA—all had approved the public release of this narrative, but the Bush Administration National Security Council—NSC—held it and would not agree to its declassification.

I renewed the declassification effort as soon as Attorney General Eric Holder took office in early February 2009, and I am pleased to have received the support again of the DOJ, DNI and CIA, and now also of the NSC, for its release as a contextual description of the OLC memos.

Readers of the narrative should bear in mind that its text is current through President Obama's Executive orders of January 22, 2009, but has not been revised following the release of the four OLC opinions on April 16, 2009. While there is now more public information available about those four opinions, the narrative adds important facts about the approval of the interrogation program beginning in 2002 and about opinions subsequent to the four that have been released.

For the moment, I would like to note three points that emerge from the narrative: First, the records of the CIA demonstrate that the lawyers at the Office of Legal Counsel—OLC—did not operate in a vacuum. Key legal officials at the CIA, NSC, DOJ's Criminal Division, the Office of White House Counsel, all participated in meetings leading to the approval of methods used by the CIA. The then Vice President and the National Security Adviser are at the center of the discussions. But, strikingly, unless there is a further story in records not yet shown to us, the Secretary of State and the Secretary of Defense, were not involved in the decision making process despite the high stakes for U.S. foreign policy and for the treatment of the U.S. military.

Second, the narrative and the May 30, 2005, opinion demonstrate that the Detainee Treatment Act of December 2005, was substantially undermined by the May 30, 2005, OLC opinion. The Bush administration had already construed the main provisions of the act to authorize its full gamut of coercive techniques.

Third, the narrative demonstrates that the job of declassifying the interrogation and detention opinions of the OLC is not complete. There were important opinions in 2006 and 2007 that will, among other things, show how OLC interpreted the Detainee Treatment Act and the war crimes amendments of the Military Commissions Act of 2006, and Common Article 3 of the Geneva Conventions. The prompt declassification of those opinions, accompanied by their withdrawal as valid OLC opinions, is essential to completing the progress achieved by the President's declassification and the Attorney General's withdrawal of four opinions last week.

Finally, I am gratified that the release of the August 2002 and May 2005 opinions, followed by the release of this narrative of the history of OLC opinions from 2002 to 2007, are themselves but first steps.

In this new environment, and with the shared determination of our new chairman, the Senate Intelligence Committee is undertaking a major review not only of the origin of the detention and interrogation program but also of its actual implementation. We will be asking probing questions about what took place during interrogations and what intelligence was gained from detainees. We will also be examining what was told to the Congress, including both the content and the limitations on the briefings that were provided.

It is long overdue but certainly not too late. As we enter a new period committed to openness and change, and bid farewell to the former administration's obscurity and dishonesty, there is the potential for great progress in our intelligence and national security activities.

The trust between the executive branch and the Congress was breached,

and the trust and confidence of the American people has been eroded. But I remain confident that if we restore the vital role of the Congress in overseeing our intelligence activities, we can bridge the divide, restore integrity, and get back to the business of lawfully and effectively securing this great Nation.

The material follows:

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

OFFICE OF THE ATTORNEY GENERAL,  
Washington, DC, April 17, 2009.

Hon. JOHN D. ROCKEFELLER IV,  
Senate Select Committee on Intelligence,  
Washington, DC.

DEAR SENATOR ROCKEFELLER: This responds to your letter of February 3, 2009, which requested declassification and release of a narrative regarding advice provided by the Department to the Central Intelligence Agency on the legality of the CIA's use of certain interrogation techniques.

As you know, we have worked with Committee staff in reviewing the narrative for this purpose and we are pleased to advise you that this process has now been completed. We are transmitting the now declassified narrative to you with this letter for the further action necessary in order to disclose the document.

We appreciate the leadership that you and the Senate Select Committee on Intelligence have demonstrated on these important issues. We also are grateful for your patience as we have worked through the process leading to this declassification.

Sincerely,

ERIC H. HOLDER, JR.,  
Attorney General.

Enclosure.

RELEASE OF DECLASSIFIED NARRATIVE DESCRIBING THE DEPARTMENT OF JUSTICE OFFICE OF LEGAL COUNSEL'S OPINIONS ON THE CIA'S DETENTION AND INTERROGATION PROGRAM

(Senator John D. Rockefeller IV, April 22, 2009)

#### PREFACE

The release of the following declassified narrative completes an effort that I began last year as Chairman of the Select Committee on Intelligence. The document is an effort to provide to the public an initial narrative of the history of the opinions of the Department of Justice's Office of Legal Counsel (OLC), from 2002 to 2007, on the legality of the Central Intelligence Agency's detention and interrogation program.

In August 2008, I asked Attorney General Michael B. Mukasey to join the effort to create such an unclassified narrative. The Attorney General committed himself to the endeavor, saying that if we failed it would not be for want of effort. Over the next months, Committee counsel and representatives of the Department of Justice, CIA, Office of the Director of National Intelligence, and the office of the Counsel to the President discussed potential text. The shared objective was to produce a text that, putting aside debate about the merits of the OLC opinions, describes key elements of the opinions and sets forth facts that provide a useful context for those opinions, within the boundaries of what the Department of Justice (DOJ) and the Intelligence Community would recommend in 2008 for declassification.

The understanding of the participants was that while the final product would be a Legislative Branch document, the collaborative nature of this process would provide the Executive Branch participants with the opportunity to ensure its accuracy. Before the end

of the year, this process produced a narrative whose declassification DOJ, the DNI and the CIA supported. However, the prior Administration's National Security Council did not agree to declassify the narrative.

I renewed this effort in early February as soon as Attorney General Eric H. Holder, Jr., took office. Except for this preface, some minor edits, and the addition of a final paragraph to bring the narrative up to date as of President Obama's Executive Orders of January 22, 2009, this document is the same as the one that secured support for declassification last year. This declassification, which National Security Adviser James L. Jones effected on April 16, 2009 and Attorney General Holder transmitted to the Committee on April 17, 2009, is supported again by the DOJ, the DNI, and the CIA. Because the text of the narrative was settled prior to the release on April 16, 2009 of the declassified OLC opinions from August 2002 and May 2005, the narrative does not include additional information from those opinions that is now in the public domain.

JOHN D. ROCKEFELLER IV.

#### OLC OPINIONS ON THE CIA DETENTION AND INTERROGATION PROGRAM

Submitted by Senator John D. Rockefeller IV for Classification Review

On May 19, 2008, the Department of Justice and the Central Intelligence Agency (CIA) provided the Committee with access to all opinions and a number of other documents prepared by the Office of Legal Counsel of the Department of Justice (OLC) concerning the legality of the CIA's detention and interrogation program. Five of the documents provided addressed the use of waterboarding. Committee Members and staff reviewed these documents over the course of several weeks; however, the Committee was not allowed to retain copies of the OLC documents about the CIA's interrogation and detention program.

The Committee had previously received one classified OLC opinion—an August 1, 2002, OLC opinion—in May 2004 as an attachment to a special review issued by the CIA's Inspector General on the CIA's detention and interrogation program. The opinion is marked as "Top Secret." The Executive Branch initially provided access to this review and its attachments to the Committee Chairman and Vice Chairman and staff directors. On September 6, 2006, all Members of the Committee obtained access to the Inspector General's review. The August 1, 2002, opinion is currently the only classified OLC opinion in the Committee's possession as to the legality of the CIA's interrogation techniques.

#### THE CAPTURE OF ABU ZUBAYDAH AND THE INITIATION OF THE CIA DETENTION AND INTERROGATION PROGRAM

In late March 2002, senior Al-Qa'ida operative Abu Zubaydah was captured. Abu Zubaydah was badly injured during the fire-fight that brought him into custody. The CIA arranged for his medical care, and, in conjunction with two FBI agents, began interrogating him. At that time, the CIA assessed that Abu Zubaydah had specific information concerning future Al-Qa'ida attacks against the United States.

CIA records indicate that members of the National Security Council (NSC) and other senior Administration officials were briefed on the CIA's detention and interrogation program throughout the course of the program. In April 2002, attorneys from the CIA's Office of General Counsel began discussions with the Legal Adviser to the National Security Council and OLC concerning the CIA's proposed interrogation plan for Abu Zubaydah and legal restrictions on that in-

terrogation. CIA records indicate that the Legal Adviser to the National Security Council briefed the National Security Adviser, Deputy National Security Adviser, and Counsel to the President, as well as the Attorney General and the head of the Criminal Division of the Department of Justice.

According to CIA records, because the CIA believed that Abu Zubaydah was withholding imminent threat information during the initial interrogation sessions, attorneys from the CIA's Office of General Counsel met with the Attorney General, the National Security Adviser, the Deputy National Security Adviser, the Legal Adviser to the National Security Council, and the Counsel to the President in mid-May 2002 to discuss the possible use of alternative interrogation methods that differed from the traditional methods used by the U.S. military and intelligence community. At this meeting, the CIA proposed particular alternative interrogation methods, including waterboarding.

The CIA's Office of General Counsel subsequently asked OLC to prepare an opinion about the legality of its proposed techniques. To enable OLC to review the legality of the techniques, the CIA provided OLC with written and oral descriptions of the proposed techniques. The CIA also provided OLC with information about any medical and psychological effects of DoD's Survival, Evasion, Resistance and Escape (SERE) School, which is a military training program during which military personnel receive counter-interrogation training.

On July 13, 2002, according to CIA records, attorneys from the CIA's Office of General Counsel met with the Legal Adviser to the National Security Council, a Deputy Assistant Attorney General from OLC, the head of the Criminal Division of the Department of Justice, the chief of staff to the Director of the Federal Bureau of Investigation, and the Counsel to the President to provide an overview of the proposed interrogation plan for Abu Zubaydah.

On July 17, 2002, according to CIA records, the Director of Central Intelligence (DCI) met with the National Security Adviser, who advised that the CIA could proceed with its proposed interrogation of Abu Zubaydah. This advice, which authorized CIA to proceed as a policy matter, was subject to a determination of legality by OLC.

On July 24, 2002, according to CIA records, OLC orally advised the CIA that the Attorney General had concluded that certain proposed interrogation techniques were lawful and, on July 26, that the use of waterboarding was lawful. OLC issued two written opinions and a fetter memorializing those conclusions on August 1, 2002.

#### AUGUST 1, 2002 OLC OPINIONS

On August 1, 2002, OLC issued three documents analyzing U.S. obligations with respect to the treatment of detainees. Two of these three documents were unclassified: an unclassified opinion interpreting the federal criminal prohibition on torture, and a letter concerning U.S. obligations under the Convention Against Torture and the Rome Statute. Those two documents were released in 2004 and are publicly available.

The third document issued by OLC was a classified legal opinion to the CIA's Acting General Counsel analyzing whether the use of the interrogation techniques proposed by the CIA on Abu Zubaydah was consistent with federal law. OLC had determined that the only federal law governing the interrogation of an alien detained outside the United States was the federal anti-torture statute. The opinion thus assessed whether the use of the proposed interrogation techniques on Abu Zubaydah would violate the criminal prohibition against torture found at Section

2340A of title 18 of the United States Code. The Department of Justice released a highly redacted version of this opinion in July 2008 in response to a Freedom of Information Act lawsuit.

The classified opinion described the interrogation techniques proposed by the CIA. Only one of these techniques—waterboarding—has been publicly acknowledged. In addition to describing the form of waterboarding that the CIA proposed to use, the opinion discusses procedures the CIA identified as limitations as well as procedures to stop the use of interrogation techniques if deemed necessary to prevent severe mental or physical harm. Although a form of "waterboarding" has been employed on U.S. military personnel as part of the SERE training program, the Executive Branch considers classified the precise operational details concerning the CIA's form of the technique.

The opinion also outlined the factual predicates for the legal analysis, including the CIA's background research on the proposed techniques and their possible effect on the mental health of Abu Zubaydah. The opinion described the information provided by the CIA concerning whether "prolonged mental harm" would be likely to result from the use of those proposed procedures. Because the military's SERE training program, like the CIA program, involved a series of stressful interrogation techniques (including a form of waterboarding) the opinion discussed inquiries and statistics relating to possible adverse psychological reactions to SERE training.

The anti-torture statute prohibits an act "specifically intended" to inflict "severe physical or mental pain or suffering." The opinion separately considered whether each of the proposed interrogation techniques, individually or in combination, would inflict "severe physical pain or suffering" or "severe mental pain or suffering." The opinion also considered whether individuals using the techniques would have the mental state necessary to violate the statute.

The opinion concluded that none of the techniques individually was likely to cause "severe physical pain or suffering" under the statute. With respect to waterboarding, the OLC opinion concluded that the technique would not inflict "severe physical pain or suffering" because it does not inflict actual physical harm or physical pain. The opinion concluded that, although OLC did not then believe physical suffering to be a concept under the statute distinct from physical pain, waterboarding would not inflict severe suffering, because any physical effects of waterboarding did not extend for the protracted period of time generally required by the term "suffering."

The OLC opinion also concluded that none of the techniques would constitute "severe mental pain or suffering" as that term is defined under the anti-torture statute. The opinion concluded that under the anti-torture statute, "severe mental pain or suffering" requires the occurrence of one of four specified predicate acts, as well as "prolonged mental harm." The opinion interpreted "prolonged mental harm" to require harm of some lasting duration, such as mental harm lasting months or years.

With respect to waterboarding, based on information provided by the CIA, the OLC opinion assessed whether it constituted, as a legal matter, one of the four predicate acts under the mental harm component of the anti-torture statute. The opinion concluded that the technique would not cause "severe mental pain or suffering" because, based on the U.S. military's experience with the form of 5 waterboarding used in its SERE program, the CIA did not anticipate that

waterboarding would cause prolonged mental harm.

After evaluating the proposed techniques individually, the OLC opinion considered whether the combined use of the proposed interrogation techniques would cause "severe physical pain or suffering" or "severe mental pain or suffering." OLC concluded that the combined use of the interrogation techniques would not constitute severe physical pain or suffering, because individually the techniques fell short of and would not be combined in such a way as to reach that threshold. The opinion concluded that OLC lacked sufficient information concerning the proposed use of the techniques to assess whether their combined use might inflict one of the predicate conditions for severe mental pain or suffering. The opinion concluded, however, that even if a predicate condition would be satisfied, it would not violate the prohibition because there was no evidence that the proposed course of conduct would produce any prolonged mental harm.

Finally, the opinion addressed whether an individual carrying out the proposed interrogation procedures would have the specific intent to inflict severe physical or mental pain or suffering required by the statute. It concluded that the interrogator would not have the requisite intent because of the circumstances surrounding the use of the techniques, including the interrogator's expectation that the techniques would not cause severe physical or mental pain or suffering, and the CIA's intent to include specific precautions to prevent serious physical harm.

For those reasons, the classified opinion concluded that none of the proposed interrogation techniques, used individually or in combination, would violate the criminal prohibition against torture found at section 2340A of title 18 of the United States Code.

#### EVENTS AFTER ISSUANCE OF AUGUST 1, 2002 OLC OPINION

According to CIA records, after receiving the legal approval of the Department of Justice and approval from the National Security Adviser, the CIA went forward with the interrogation of Abu Zubaydah and with the interrogation of other high-value Al-Qa'ida detainees who were then in, or later came into, U.S. custody. Waterboarding was used on three detainees: Abu Zubaydah, Abd alRahim al-Nashiri, and Khalid Sheikh Muhammad. The application of waterboarding to these detainees occurred during the 2002 and 2003 timeframe.

In the fall of 2002, after the use of interrogation techniques on Abu Zubaydah, CIA records indicate that the CIA briefed the Chairman and Vice Chairman of the Committee on the interrogation. After the change in leadership of the Committee in January of 2003, CIA records indicate that the new Chairman of the Committee was briefed on the CIA's program in early 2003. Although the new Vice-Chairman did not attend that briefing, it was attended by both the staff director and minority staff director of the Committee. According to CIA records, the Chairman and Vice Chairman of the Committee were also briefed on aspects of the program later in 2003, after the use of interrogation techniques on Khalid Sheikh Muhammad.

In the spring of 2003, the DCI asked for a reaffirmation of the policies and practices in the interrogation program. In July 2003, according to CIA records, the NSC Principals met to discuss the interrogation techniques employed in the CIA program. According to CIA records, the DCI and the CIA's General Counsel attended a meeting with the Vice President, the National Security Adviser, the Attorney General, the Acting Assistant Attorney General for the Office of Legal

Counsel, a Deputy Assistant Attorney General, the Counsel to the President, and the Legal Adviser to the National Security Council to describe the CIA's interrogation techniques, including waterboarding. According to CIA records, at the conclusion of that meeting, the Principals reaffirmed that the CIA program was lawful and reflected administration policy.

According to CIA records, pursuant to a request from the National Security Adviser, the Director of Central Intelligence subsequently briefed the Secretary of State and the Secretary of Defense on the CIA's interrogation techniques on September 16, 2003.

In May 2004, the CIA's Inspector General issued a classified special review of the CIA's detention and interrogation program, a copy of which was provided to the Committee Chairman and Vice Chairman and staff directors in June of 2004. The classified August 1, 2002, OLC opinion was included as an attachment to the Inspector General's review. That review included information about the CIA's use of waterboarding on the three detainees.

After the issuance of that review, the CIA requested that OLC prepare an updated legal opinion that incorporated actual CIA experiences and practice in the use of the techniques to date included in the Inspector General review, as well as legal analysis as to whether the interrogation techniques were consistent with the substantive standards contained in the Senate reservation to Article 16 of the Convention Against Torture.

Article 16 of the Convention Against Torture requires signatories to "undertake to prevent in any territory under its jurisdiction other acts of cruel, inhuman and degrading treatment which do not amount to torture." The Senate reservation to that treaty defines the phrase "cruel, inhuman and degrading treatment" as the treatment prohibited by the Fifth, Eighth, and Fourteenth Amendments to the Constitution. Thus, the CIA requested that OLC assess whether the interrogation techniques were consistent with the substantive provisions of the due process clause, as well as the constitutional requirement that the government not inflict cruel or unusual punishment.

In May 2004, after the issuance of the Inspector General review, CIA records indicate that the CIA's General Counsel met with the Counsel to the President, the Counsel to the Vice President, the NSC Legal Adviser, and senior Department of Justice officials about the CIA's program and the Inspector General review.

In June 2004, OLC withdrew its unclassified August 1, 2002, opinion on the anti-torture statute. OLC did not, however, withdraw the classified August 1, 2002 opinion, because it concluded that the classified opinion was narrower in scope than the unclassified opinion that was withdrawn. The classified opinion applied the anti-torture statute to the CIA's specific interrogation methods, but, unlike the unclassified August 1, 2002, opinion, it did not rely on or interpret the President's Commander in Chief power or consider whether torture could be lawful under any circumstances.

In July 2004, the CIA briefed the Chairman and Vice Chairman of the Committee on the facts and conclusions of the Inspector General special review. The CIA indicated at that time that it was seeking OLC's legal analysis on whether the program was consistent with the substantive provisions of Article 16 of the Convention Against Torture.

According to CIA records, subsequent to the meeting with the Committee Chairman and Vice Chairman in July 2004, the CIA met with the NSC Principals to discuss the CIA's program. At the conclusion of that meeting, it was agreed that the CIA would formally

request that OLC prepare a written opinion addressing whether the CIA's proposed interrogation techniques would violate substantive constitutional standards, including those of the Fifth, Eighth and Fourteenth Amendments regardless of whether or not those standards were deemed applicable to aliens detained abroad.

#### DOJ ADVICE FROM JUNE 2004 TO MAY 2005

Following the withdrawal of the unclassified August 1, 2002, opinion in June 2004, OLC began work on preparing an unclassified opinion concerning its interpretation of the anti-torture statute. At the same time, in accord with the request described above, OLC worked on classified opinions that would evaluate the specific techniques of the CIA program, individually and in combination, under its revised interpretation of the anti-torture statute, as well as an opinion that would evaluate whether the program was consistent with the substantive provisions of Article 16 of the Convention Against Torture.

On July 14, 2004, in unclassified written testimony before the House Permanent Select Committee on Intelligence, an Associate Deputy Attorney General explained the Department of Justice's understanding of the substantive constitutional standards embodied in the Senate reservation to Article 16 of the Convention Against Torture. The official's written testimony stated that under Supreme Court precedent, the substantive due process component of the Fifth Amendment protects against treatment that "shocks the conscience." In addition, his testimony stated that under Supreme Court precedent, the Eighth Amendment protection against Cruel and Unusual Punishment has no application to the treatment of detainees where there has been no formal adjudication of guilt.

While OLC worked on drafting new opinions with respect to the CIA program, the CIA continued its interrogation of high-value Al-Qa'ida detainees in U.S. custody. On July 22, 2004, the Attorney General confirmed in writing to the Acting Director of Central Intelligence that the use of the interrogation techniques addressed by the August 1, 2002, classified opinion, other than waterboarding, would not violate the U.S. Constitution or any statute or treaty obligation of the United States, including Article 16 of the Convention Against Torture. On August 6, 2004, the Acting Assistant Attorney General for OLC advised in writing that, subject to the CIA's proposed limitations, conditions and safeguards, the CIA's use of waterboarding would not violate any of those legal restrictions. The letter noted that a formal written opinion would follow explaining the basis for those conclusions. According to the CIA, the CIA nonetheless chose not to use waterboarding in 2004. Waterboarding was not subsequently used on any detainee, and was removed from CIA's authorized list of techniques sometime after 2005.

On December 30, 2004, the Office of Legal Counsel issued an unclassified opinion interpreting the federal criminal prohibition against torture, 18 USC 2340-2340A, superseding in its entirety the withdrawn August 1, 2002, unclassified opinion. That December 30, 2004, opinion included a footnote stating "While we have identified various disagreements with the August 2002 Memorandum, we have reviewed this Office's prior opinions addressing issues involving treatment of detainees and do not believe that any of their conclusions would be different under the standards set forth in this memorandum."

In January of 2005, in response to a question for the record following his confirmation hearing, Attorney General Gonzales indicated that "the Administration . . . wants



to be in compliance with the relevant substantive constitutional standard incorporated in Article 16 [of the Convention Against Torture], even if such compliance is not legally required." Attorney General Gonzales further indicated that "the Administration has undertaken a comprehensive legal review of all interrogation practices. . . . The analysis of practices under the standards of Article 16 is still under way."

The CIA briefed the Chairman and Vice Chairman of the Committee on the CIA's interrogation program again in March 2005. At that time, the CIA indicated that it was waiting for a revised opinion from OLC.

#### MAY 2005 OPINIONS

In May 2005, OLC issued three classified legal opinions analyzing the legality of particular interrogation techniques. The first legal opinion analyzed the legality of particular interrogation techniques, including waterboarding, under the interpretation of the federal criminal prohibition against torture set forth in the December 30, 2004, unclassified opinion. The May 2005 opinion includes additional facts about the proposed techniques and a more extensive description of the applicable legal standards than the August 1, 2002, opinion.

With respect to waterboarding, the opinion concluded that while the technique presented a substantial question under the statute, the authorized use of waterboarding, when conducted with measures identified by the CIA as safeguards and limitations, would not violate the federal criminal prohibition against torture. To understand the possible effects of waterboarding, the May 2005 opinion relied on the military's experience in the administration of its form of the technique on American military personnel who had undergone SERE training, while recognizing some limitations with that reliance, such as the expectations of the individual going through the practice. The opinion also relied on the CIA's experience with the use of its form of waterboarding on the three detainees in 2002 and 2003.

The opinion concluded that waterboarding does not cause "severe physical pain" because it is not physically painful. It further reasoned that the CIA's form of waterboarding could not reasonably be considered specifically intended to cause "severe physical pain." The opinion also concluded that under the limitations and conditions adopted by the CIA, the technique would not be expected to cause distress of a sufficient intensity and duration to constitute "severe physical suffering," which the December 30, 2004 unclassified opinion had recognized to be a separate element under the federal anti-torture statute. The opinion concluded that waterboarding would not cause "severe mental pain or suffering" because OLC understood from the CIA that any mental harm from waterboarding would not be "prolonged," even if it met a predicate condition under the statute.

OLC's second legal opinion issued in May 2005 addressed the legality of the combined use of particular techniques, including waterboarding, under the criminal prohibition against torture. That opinion relied on information provided by the CIA concerning the manner in which the individual techniques were proposed to be combined in the CIA program. After considering the combined use of techniques as described by the CIA, OLC concluded that the combined use of the proposed techniques by trained interrogators would not be expected to cause the severe mental or physical pain or suffering required by the criminal prohibition against torture.

OLC's third legal opinion in May 2005 assessed the legality of particular interroga-

tion techniques under Article 16 of the Convention Against Torture. The Executive Branch had previously concluded that Article 16 does not apply to detainees, such as those in CIA custody, who were held outside territory under U.S. jurisdiction. Nonetheless, as articulated in the January 2005 testimony of the Attorney General, the Executive Branch had decided to comply, as a matter of policy, with the relevant substantive constitutional standards incorporated in Article 16. Because of that policy determination, and because of the CIA's request that OLC address the substantive "cruel, inhuman or degrading" standard, OLC analyzed whether a number of interrogation techniques, including waterboarding, would violate the substantive constitutional standards contained in the Senate reservation to CAT.

The May 2005 opinion on Article 16 concluded that the CIA's use of interrogation techniques, including waterboarding, on senior members of al-Qa'ida with knowledge of, or involvement in, terrorist threats would not be prohibited by the Fifth, Eighth or Fourteenth Amendments under the particular circumstances of the CIA program. OLC concluded that with respect to the treatment of detainees in U.S. custody, who had not been convicted of any crime, the relevant constitutional prohibition was the "shocks the conscience" standard of the substantive due process component of the Fifth Amendment. Under the "shocks the conscience" standard, OLC concluded that Supreme Court precedent requires consideration as to whether the conduct is "arbitrary in the constitutional sense" and whether it is objectively "egregious" or "outrageous" in light of traditional executive behavior and contemporary practices.

To assess whether the CIA's interrogation program was "arbitrary in the constitutional sense," OLC asked whether the CIA's conduct of its interrogation program was proportionate to the governmental interests involved. Applying that test, OLC concluded that the CIA's interrogation program was not "arbitrary in the constitutional sense" because of the CIA's proposed use of measures that it deemed to be "safeguards" and because the techniques were to be used only as necessary to obtain information that the CIA reasonably viewed as vital to protecting the United States and its interests from further terrorist attacks.

OLC also concluded that the techniques in the CIA program were not objectively "egregious" or "outrageous" in light of traditional executive behavior and contemporary practice. In reaching that conclusion, OLC reviewed U.S. judicial precedent, public military doctrine, the use of stressful techniques in SERE training, public State Department reports on the practices of other countries, and public domestic criminal practices. OLC concluded that these sources demonstrated that, in some circumstances (such as domestic criminal investigations) there was a strong tradition against the use of coercive interrogation practices, while in others (such as with SERE training) stressful interrogation techniques were deemed constitutionally permissible. OLC therefore determined that use of such techniques was not categorically inconsistent with traditional executive behavior, and concluded that under the facts and circumstances concerning the program, the use of the techniques did not constitute government behavior so egregious or outrageous as to shock the conscience in violation of the Fifth Amendment.

Before the passage of the Detainee Treatment Act, in October of 2005, the Principal Deputy Assistant Attorney General for OLC noted in response to questions for the record: "[I]t is our policy to abide by the sub-

stantive constitutional standard incorporated into Article 16 even if such compliance is not legally required, regardless of whether the detainee in question is held in the United States or overseas." Similarly, in December of 2005, both the Secretary of State and the National Security Adviser stated publicly that U.S. policy was to treat detainees abroad in accordance with the prohibition on cruel, inhuman and degrading treatment contained in Article 16.

#### SUBSEQUENT DEVELOPMENTS IN THE LAW

In December 2005, Congress passed the Detainee Treatment Act (DTA), and the President subsequently signed it into law on December 30, 2005. That Act applied the substantive legal standards contained in the Senate reservation to Article 16 to the treatment of all detainees in U.S. custody, including those held by the CIA. At the time of the passage of the DTA, the Administration had concluded, based on the May 2005 OLC opinion, that the CIA's interrogation practices, including waterboarding, were consistent with the substantive constitutional standards embodied in the DTA.

In June 2006, in *Hamdan v. Rumsfeld*, the Supreme Court held that Common Article 3 of the Geneva Convention applied to the conflict with al-Qa'ida, contrary to the position previously adopted by the President. Common Article 3 of the Geneva Conventions requires that detainees "shall in all circumstances be treated humanely," and prohibits "outrages upon personal dignity, in particular, humiliating and degrading treatment" and "violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture." At the time of the *Hamdan* decision, the War Crimes Act defined the term "war crime" to include "a violation of Common Article 3."

In August 2006, OLC issued two documents considering the legality of the conditions of confinement in CIA facilities. One of the documents was an opinion interpreting the Detainee Treatment Act; the other document was a letter interpreting Common Article 3 of the Geneva Conventions, as enforced by the War Crimes Act. These documents included consideration of U.S. constitutional law and the legal decisions of international tribunals and other countries.

On September 6, 2006, the President publicly disclosed the existence of the CIA's detention and interrogation program. On the same day, the CIA briefed all Committee Members about the CIA's detention and interrogation program, including the CIA's use of enhanced interrogation techniques.

In October 2006, Congress passed the Military Commissions Act (MCA) to set forth particular violations of Common Article 3 subject to criminal prosecution under the War Crimes Act. Specifically, the MCA amended the War Crimes Act to designate nine actions as grave breaches of Common Article 3, punishable under criminal law. Although only these nine violations of Common Article 3 are subject to criminal prosecution, Congress recognized that Common Article 3 imposes additional legal obligations on the United States. The MCA provided that the President has the authority "to interpret the meaning and application of the Geneva Conventions and to promulgate higher standards and administrative regulations for violations of treaty obligations which are not grave breaches of the Geneva Conventions."

In July 2007, the President issued Executive Order 13440, which interpreted the additional obligations of the United States imposed by Common Article 3 of the Geneva Conventions. In conjunction with release of that Executive Order, OLC issued a legal opinion analyzing the legality of the interrogation techniques currently authorized for

use in the CIA program under Common Article 3 of the Geneva Conventions, the Detainee Treatment Act, and the War Crimes Act.

The July 2007 opinion includes extensive legal analysis of the war crimes added by the MCA, U.S. constitutional law, the treaty obligations of the United States, and the legal decisions of foreign and international tribunals. The July 2007 opinion does not include analysis of the anti-torture statute but rather incorporates by reference the analysis of the May 2005 opinions that certain proposed techniques do not violate the anti-torture statute, either individually or combined.

In considering "traditional executive behavior and contemporary practices" under the substantive due process standard embodied in the Detainee Treatment Act, OLC considered similar sources to those considered in the May 2005 opinion on Article 16. In addition, OLC examined the legislative history of the MCA, which the President had sought, in part, to ensure that the CIA program could go forward following Hamdan, consistent with Common Article 3 and the War Crimes Act. OLC observed that, in considering the MCA, Congress was confronted with the question of whether the CIA should operate an interrogation program for high value detainees that employed techniques exceeding those used by the U.S. military but that remained lawful under the anti-torture statute and the War Crimes Act. OLC concluded that while the passage of the MCA was not conclusive on the constitutional question as to whether the program "shocked the conscience," the legislation did provide a "relevant measure of contemporary standards" concerning the CIA program and suggested that Congress had endorsed the view that the CIA's interrogation program was consistent with contemporary practice.

Because waterboarding was not among the authorized list of techniques, the 2007 OLC opinion did not address the legality of waterboarding. OLC therefore has not considered the legality of waterboarding under either of the two provisions that have been applied to the CIA's treatment of detainees since the passage of the Detainee Treatment Act in December of 2005: Common Article 3 of the Geneva Conventions and the War Crimes Act, as amended by the MCA.

#### PRESENT CIRCUMSTANCES

On January 30, 2008, at a hearing of the Senate Judiciary Committee on Oversight of the Department of Justice, the Attorney General disclosed that waterboarding was not among the techniques currently authorized for use in the CIA program. He therefore declined to express a view as to the technique's legality. The Attorney General also stated that for waterboarding to be authorized in the future, the CIA would have to request its use, the CIA Director "would have to ask me, or any successor of mine, if its use would be lawful, taking into account the particular facts and circumstances at issue, including how and why it is to be used, the limits of its use and the safeguards that are in place for its use," and the President would have to address the issue.

In February 2008, in testimony before this Committee, the CIA Director publicly disclosed that waterboarding had been used on three detainees, as previously described. At that same hearing, the Director of National Intelligence (DNI) testified that waterboarding was not currently a part of the CIA's program, and that if there was a reason to use such a technique, the Director of the CIA and the Director of National Intelligence would have to agree whether to move forward and ask the Attorney General for a ruling on the legality of the specifics of

the situation. The Committee also discussed the CIA's interrogation program with those two officials in closed session.

Although waterboarding was no longer a technique authorized for use in the CIA program, and the Attorney General and DNI testified in 2008 that a new legal opinion based on current law would be required before it could be used again, the May 2005 opinions on the legality of waterboarding under the anti-torture statute and Article 16 of the Convention Against Torture (the legal standards subsequently embodied in the DTA) remained precedents of the Office of Legal Counsel at the time of the Attorney General's and DNI's 2008 testimony.

On January 22, 2009, the President issued Executive Order 13491 on "Ensuring Lawful Interrogations." The Executive Order revoked Executive Order 13440, limited the interrogation techniques that may be used by officers, employees, or other agents of the United States Government, and established a Special Interagency Task Force on Interrogation and Transfer Policies to report recommendations to the President. With respect to prior interpretations of law governing interrogation, section 3(c) of Executive Order 13491 directed that, unless the Attorney General provides further guidance, officers, employees, and other agents of the United States Government may not rely on interpretations of the law governing interrogations issued by the Department of Justice between September 11, 2001, and January 20, 2009.●

### HONORING OUR ARMED FORCES

#### CORPORAL DONTÉ JAMAL WHITWORTH

Mr. BAYH. Mr. President, I rise today with a heavy heart to honor the life of Marine Cpl Donte Jamal Whitworth from Noblesville, IN. Donte was 21 years old when he lost his life on February 28, 2009, from injuries sustained from a vehicular accident near Al Taquddum Air Base in Al Anbar Province, Iraq. He was a member of Combat Logistics Regiment 15, 1st Marine Logistics Group, Marine Corps Air Station of Yuma, AZ.

Donte, a 2005 graduate of Noblesville High School, joined the Marines immediately after graduation, eager to serve his country. While deployed, he commanded supply convoys transporting goods between U.S. military bases in Iraq. Donte was a dedicated basketball fan who always had a smile on his face. Born into a family of marines, he was proud to embrace the tradition and become a member of our country's Armed Forces. Scheduled to return home in March, Donte planned on reenlisting after his tour was complete.

Today, I join Donte's family and friends in mourning his death. Donte will forever be remembered as a loving son, grandson, and friend to many. He is survived by his mother, Carla Plowden; father, Daniel Whitworth; step-father, Kerry McGee; grandparents, Robert and Catherine Williams; and a host of other relatives, friends, and fellow marines.

While we struggle to express our sorrow over this loss, we can take pride in the example Donte set as a dedicated soldier. Today and always, Donte will be remembered by family, friends, and fellow Hoosiers as a true American

hero, and we cherish the sacrifice he made while dutifully serving his country.

As I search for words to do justice to this valiant fallen soldier, I recall President Abraham Lincoln's words as he addressed the families of soldiers who died at Gettysburg:

We cannot dedicate, we cannot consecrate, we cannot hallow this ground. The brave men, living and dead, who struggled here, have consecrated it, far above our poor power to add or detract. The world will little note nor long remember what we say here, but it can never forget what they did here.

This statement is just as true today as it was nearly 150 years ago, as we can take some measure of solace in knowing that Donte's heroism and memory will outlive the record of the words here spoken.

It is my sad duty to enter the name of Donte Jamal Whitworth in the official RECORD of the U.S. Senate for his service to this country and for his profound commitment to freedom, democracy and peace. I pray that Donte's family can find comfort in the words of the prophet Isaiah who said:

He will swallow up death in victory; and the Lord God will wipe away tears from off all faces.

May God grant strength and peace to those who mourn, and may God be with all of you, as I know He is with Donte.

#### SERGEANT BRADLEY MARSHALL

Mr. PRYOR. Mr. President, today I pay tribute to the life, achievements, and memory of SGT Bradley Marshall of Little Rock, AR. He gave his life on July 31, 2007, defending citizens of the United States and advancing democracy throughout the world.

Sergeant Marshall served in the 2nd Battalion, 377th Parachute Field Artillery Regiment, 4th Brigade Combat Team, Airborne, 25th Infantry Division, Fort Richardson, AK. His bravery on behalf of this Nation is heroic. His service, professionalism and allegiance to this country will continue to serve as the standard bearer for which to honor our great Nation.

Friends and family described Bradley as athletic and fun-loving. He was a loyal and valued member of his church, community, and Nation. As a husband and father, Bradley loved his family greatly and always cherished their time together. His wife of 17 years, Gina Marshall, said of him "Brad was the love of my life." His son Wesley remembers his dad stopping by his room each night to say, "I love you." Tanner, Marshall's other son, put together a slide show presenting hundreds of pictures of his father.

He touched many lives and was respected by everyone that knew him. Bradley was known as the dependable man who made sure things got done in his own quiet way such as cutting the grass at church, remodeling a home for his former high school coach, doing chores around the house, and helping with vacations for the family. Bradley's church named their new Bradley Marshall Family Life Center in honor

of him and the sacrifice he gave to this country.

Mr. President, I ask that my colleagues join me in recognizing the sacrifice SGT Bradley Marshall and his family have given to protecting our freedom.

#### REMEMBERING ELISHA "RAY" NANCE

Mr. WARNER. Mr. President, I wish to pay appropriate tribute today to an American hero—Elisha "Ray" Nance—of Bedford, VA.

He passed away last Sunday at the age of 94, and memorial services are being held today.

Mr. Nance was the last surviving member of what has come to be known as "The Bedford Boys"—members of Company A, 116th Infantry, 29th Division.

Mr. Nance was among 38 National Guardsmen from the close-knit community of Bedford who were called to active service in World War II. On June 6, 1944, 19 were killed when they landed on Omaha Beach at the start of the D-day invasion. Two more died later.

"We Bedford boys," Nance recalled, "we competed to be in the first wave. We wanted to be there. We wanted to be the first on the beach," he would write as he recovered from his own severe wounds.

Bedford recorded 21 casualties out of 38 men who served, all from the same small town of 3,200 people located in central Virginia.

That overwhelming loss led to Bedford's selection as the site of the National D-day Memorial—a worthy project I was honored to support, both as a private citizen and as Virginia Governor.

But Ray Nance's public service did not end with his military service.

To honor his fallen brethren, Nance returned home to Bedford and helped reorganize Company A of the Virginia National Guard, and served as its first commander. He then built a career as a rural postal carrier, and served in the Elks.

At the end of his life, he was a proud resident of the Elks National Home in Bedford.

In recent years, he visited the D-day Memorial often to help teach younger generations about the service, courage and sacrifice demonstrated by "The Bedford Boys" and others of the "greatest generation."

Ray Nance's life and example demonstrate the very best qualities—and the responsibilities—of citizenship.

My thoughts and prayers are with his widow Alpha and their children, grandchildren and great-grandchildren. A grateful Commonwealth and Nation thanks them for their lifetime of support for Ray Nance—a hero—and the last of "The Bedford Boys."

#### NATIONAL WORKERS MEMORIAL DAY

Mr. CRAPO. Mr. President, today I wish to mark an anniversary, one that

was many tragic years in the making. According to the Idaho AFL-CIO, 35 Idaho workers were killed due to on the job injuries in 2007. Next Tuesday, April 28, is National Worker's Memorial Day, which celebrates the day the Occupational Safety and Health Act—OSHA—became law in 1970.

More than 30 years ago, in 1967 a construction worker in Nampa, ID, Louis Jose Archuleta, was killed in a jobsite accident. Louie and others were installing a sewer line, 35 feet deep, in sandy soil, when the soil caved in. It trapped Louie, and, although fellow workers and rescue crews worked diligently for two and a half hours, their efforts were hampered due to further collapses of cleared areas, and Archuleta did not survive.

But Louie and many other workers knew what they were facing. Just a week before the accident, Louie told his sister Victoria that it was the most dangerous job he had ever worked on. Safety inspectors were in the process of shutting the job down at the time of the accident, a process that, in 1967, took at least 5 days to shut down a job.

Louie was very active in the local labor union and served three terms—9 years—as president of Labor's Union Local No. 267 in Pocatello, ID. He was a strong advocate for a retirement system. As a result of the tragedy, the Idaho AFL-CIO joined the push for Federal legislation to protect workers, legislation that was later known as Occupational Safety and Health Act, OSHA.

With Louie, his family and the many others who have suffered due to worker safety issue, I am honored to recognize National Worker's Memorial Day, keeping in mind Louis Jose Archuleta and all fallen workers for their contribution to the infrastructure of the State of Idaho and the Nation and to the establishment of OSHA and much-needed increased worker safety standards.

#### 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 heart-breaking 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:

My personal and family circumstances are good with regard to income and out-go. That being said, the price of fuel, whether diesel or gasoline, is still an outrage, but there is absolutely nothing the government should do about it directly. Yes, we should make a meaningful effort to develop alternative fuel sources and methods of transportation and even responsibly drill for our own oil and gas here at home. But, the minute [price controls are started], that is when all hell breaks loose and things go to hell in a handbasket. Please advise your colleagues to not impose a windfall profits tax on oil companies. That will be another direct tax on the American consumer, [even though many do not pay attention.] Most Americans will just continue to believe it is the oil companies that are the culprits because of what we hear on TV!

Please be smart about this. Let capitalism rule. Tell our "friends" in the Middle East to enjoy selling to China and India and let us become responsibly self-sufficient, like we should be. And, by the way, if oil were not traded as a futures commodity, I am betting the price would tank quickly and substantially. What do you think?

SCOTT, Malad.

Thank you for asking about how gasoline prices are affecting my family. The increase of energy costs has allowed my family to make conscious decisions, instead of acting on impulses. Our family is combining trips and errands. We are going with each other instead of separately and enjoying our new shared times. I am so disappointed when I reviewed the salaries of the big oil executives and found them arrogant when I watched them testifying before the Committee on C-SPAN. It looks to me like they pocketed the money and failed to improve their facilities.

I have been discouraged that not one of Idaho's Congressional delegation has asked my family to conserve one ounce of petroleum. I do not want a knee-jerk reaction to higher prices at the pumps and check-outs; I want examination, reviews and bipartisan recommendations. It seems the decisions made in hurry during the last eight years have caught up with us. Slow down and do what is right for America.

JUNE.

I am grateful that you have given us a chance to be able to express our frustrations and opinions on what is going on with the energy situation.

We moved to Idaho Falls from Utah four years ago because my husband was able to get a job, with his Bachelors degree, that paid more per year than I was making with a Masters degree teaching. The cost of living was lower than Utah, and we absolutely love the area. We bought our home, as a foreclosure, three years ago about six miles outside of Idaho Falls, in Iona. It was cheaper to buy a foreclosure than it was to rent an apartment.

We are not extravagant by any means. We try to conserve energy. We are fixing our home as fast and as cost-effective as we can, which has not been too fast. About a year ago, because all of our bills were going up and our paycheck was not, we made the decision that it was better to forego medical insurance for the family and put money away into a health savings account (HSA). Our reasoning is that we have to live day-to-day

paying our bills, and it is an off-chance that we use our insurance. We have definitely paid more for premiums in the last two years than we have used since we married six years ago, besides the fact that the premiums were once again going up to a level that we could not afford them anyway. It was wonderful! We were able to start paying down debt (which we really do not have a lot of outside our house and student loans). We drive older vehicles that are paid off.

Since then, our bills have about doubled. We put a wood stove in our home two years ago because of the high increase in natural gas and, although that has saved us a lot of money, the price increase is still staggering. Our power bill has almost doubled also, although we use our furnace/AC about half as much as we used to, put in the compact fluorescent bulbs and put in a clothesline.

My husband works as a PSR worker and has anywhere from 6-10 clients a week, and is pretty much mandated by Medicaid to spend three or less hours with each client. The only problem is that his clients live anywhere from Menan to Ammon. His work reimburses him \$3/hour/client (billable hour—meaning he has to be with his client to bill) to pay for gas, phone and wear and tear on our vehicle. He puts about 200 miles on the “work car” each week. He is already gone about 55 hours a week, in which he is only paid 40-43 because he is not paid for drive time. Lately [he has been] working overtime which allows us to pay our bills and pay a little extra each month. But his bosses have been getting tough on allowing overtime (which is a catch-22 since they will not guarantee him 40 hours a week—if he has a client cancel on him, tough luck). We have considered him getting another job, but he really does not have any time to fit in another job, and he is scared of leaving his current job because our family depends on him for support and he does not want to go from bad to worse.

Since the price of energy has gone up, we have cut our expenses as much as we can. We did not drive much before but other than my husband working, we go to church on Sunday and go into town, as a family, to do shopping and other errands about once a month. We have also had to cut our grocery list because of the price of food. It is not just gas, electricity and natural gas that have gone up, our water, sewer and now property taxes have gone up too, where is this going to end?

We look at our budget now and wonder what else we can cut when (and we have no illusions that anything is going down anytime soon) energy costs go up anymore. We can cut our internet, landline and our entertainment budgets which will save us \$60 a month—a tank of gas right now. But other than that we are stretched pretty thin, and we are not paying anything into a HSA because there is nothing left.

I do not have all the answers, but I know that it is a failed policy on the part of our government that is making things more difficult than it needs to be. When our country is allowing a minority group of people (environmentalists) create our energy policies the majority of the people are going to suffer. I know that we have a need to protect our environment, but there are new technologies there that we are not allowed to pursue either. I am frustrated beyond words. Our government is trying to help everyone in a crisis, but is creating a greater crisis with regulations. I could have had the same policy as the government and not gotten a degree because it would not have immediate effects. I could completely neglect my children because the things I teach them now will not have an immediate effect. I could extend the analogy to a lot of things. We need to start working on new energy policies that may not

take effect until later, but will help later. Let us stop procrastinating and do.

CAROLYN.

As a small business building contractor, our fuel prices have gone out of sight, let alone building materials, which our increases can hardly cover. The only thing that does not go up is wages. We have to subsidize our workers' fuel just to get them to work. It cannot go on this way for much longer.

J.K.

Like you and countless others, I believe that many of the serious lifestyle challenges we face are energy-related. It is obvious to any thinking Idahoan and hopefully most Americans, that our physical security as a nation is gravely undermined because of our dependence on foreign, particularly Mid-East oil. Unfortunately I do not believe most people understand the severe erosion and peril to our economic security this dependence has placed us in. Our founding fathers warned us against becoming entangled in foreign affairs. I am not ignorant to how the world has become smaller, but for us to be dependent on something so critical as energy independence is to me unconscionable. I believe the Founders roll in their graves when they look down on us and see how we have trampled on the sovereignty they bequeathed to us. I am hopeful that your effort includes work to help us restore the freedoms and independence that has made America such a remarkable phenomenon on the stage of world history. I fear that we as a people and our representatives have forgotten our roots the principles we were founded upon. We are being carefully led down a slippery slope away from a heritage enshrining freedom by federal and world nannies who “know better”, patting us on the head along the way. My concern is that in the struggle to get anything “accomplished” in Washington, principles are sometimes sacrificed for the sake of expediency. Compromising principle for short-term gains, in my view, is not the noble and magnanimous deed that most ascribe them to be. Would that we defend principles in the Churchillian fashion of “We will never surrender!”

I know you wish this to be brief and so after that rather lengthy philosophic opener, I will now focus on some specifics. These specifics are predicated that we as Americans act as independent Americans, not vassals to world opinion and the Benedicts amongst us.

New Domestic Oil Reserves: I believe we are smart and responsible enough to aggressively pursue new petroleum sources domestically, including offshore sources, while being good stewards of our environment. No intelligent human wants to soil where he lives. Environmentalists were right with their concerns in the past. We did stupid things while chasing the dollar, ignoring the big picture impact of our actions. However, today's environmental wackos have swung the pendulum out of proportion. To remain a prosperous and free nation, we must have energy independence. This is not an option and we must move very quickly to achieve it. While doing this we must find a way to foster a climate of competition with existing interests rather than merely providing them more tools to control this vital segment of our economy.

A Call for a Congressional Investigation: The greatest export our country has given to the world is freedom resulting from our remarkable experiment in self-governance. The miracle of our country's success is based upon collective and individual freedom. We have wise laws prohibiting the undermining of competition. I believe that over time, the oil industries have systematically squelched

competition and any technology that has had any possible chance of adversely affecting their sacred cash cows. I would like to see a congressional investigation into how the oil industry has been involved in these things over the last 50 years. There is way too much anecdotal evidence of new conservation technologies being snuffed out, new forms of energy being squashed, and collusion amongst oil companies and nations to just simply ignore as the rantings of those engaged in fringe conspiracy theories. Something just does not smell right and I would feel a whole lot better if there was an honest effort to focus the light of day on these issues to see if there will be any cockroaches scurrying for cover.

Nuclear Energy: I know you are aware of all of the arguments for this and I will not belabor the points here. I am in favor of getting the government off of our backs and out of our faces so we can speed up the process of harnessing the power of the atom. New research should also be aggressively pursued, including fusion research for the long term. Current nuclear regulations and bureaucracy have strangled us and created the mess we are in today. It would be an interesting exercise to pull the string on who has benefited from all the obstacles that have been placed in the path of the nuclear industry. While encouraging nuclear energy, care must be taken so that this new form of energy provides competition to those who already have one hand at our throats and the other in our back pockets.

Alternative Forms of Energy: Research should be supported exploring hydrogen, wind, solar, geothermal, hydro, etc. I believe this to be a national security issue and justifies the involvement of the federal government to achieve it. Although these will not solve our problems immediately, we should be doggedly engaged in reducing our dependence on oil from multiple fronts with lasting solutions.

Conservation: While I do not believe conservation adequately addresses the solution to our problems, I believe it plays a part. Conservation efforts need to be encouraged as long as they do not impinge upon the free market or individual constitutional freedoms. The question needs to be asked and then answered, “Who has a vested interest in keeping things as they are by undermining conservation efforts?” Then there are follow-up questions. Do they have the means to impose their wills? If the answer is yes, how and where have they done so? These same questions can also be applied to our lack of progress in moving toward alternate non-petroleum energy sources, including nuclear.

Political: I believe there are very powerful forces at play benefitting those who currently have money, influence, and power, maintaining and advancing their interests. I believe this to be the root problem of our energy situation. Unless this is addressed, I do not believe we will accomplish any lasting cure. We may win a minor skirmish here and there and deflect or delay the end result, but unless we attack the heart of the problem, in my opinion, we will lose the battle. The battle is over freedom. It is an ancient battle that has been waged from before the foundations of the earth. You are in a unique position to make a difference and what little ability and support I can give to you in that struggle is yours to draw from. I do not envy you if you choose to engage this problem head on but I hope that you recognize the truth in what I am saying. Much is at stake. You would risk much in attempting to tackle it. My prayers are with you.

Thanks for listening and soliciting input on this issue. I wish you good luck and

pledge you my support in this Herculean effort if you so choose to fully engage yourself in it.

KEITH, *Rigby*.

#### ADDITIONAL STATEMENTS

##### TRIBUTE TO PETER FITHIAN

• Mr. INOUE. Mr. President, as Hawaii celebrates its 50th anniversary of statehood, I would like to recognize Mr. Peter Fithian for his illustrious career of 50 years and invaluable service as founder and director of the Hawaiian International Billfish Tournament.

Peter has been a dear friend of mine for many years, and I am honored to have this opportunity to share with you the profound impact he has had on my home State of Hawaii. His tremendous commitment to the people of Hawaii has led to the establishment of the internationally renowned Billfish Tournament, which truly put Hawaii on the map of sport fishing, drawing both spectators and competitors from all over the world. I commend him for his tireless efforts in building a long-standing tradition while promoting tourism and marine conservation in our island community. Through Peter's unwavering passion in cultivating Hawaii's proud heritage of recreational fishing, he has founded not only an event that encourages warm fellowship, but has created an educational opportunity that deserves our highest praise.

Mr. President, I ask my colleagues to join me in acknowledging the great service and accomplishments of Mr. Peter Fithian.●

##### BOSTON AREA RAPE CRISIS CENTER

• Mr. KERRY. Mr. President, next week is National Crime Victims' Rights Week when our country honors the heroism of crime victims and shows our gratitude to advocates who work to protect those who have been victimized. I am proud to say that as part of this commemoration Attorney General Eric Holder will be honoring the Boston Area Rape Crisis Center, BARCC. I would like to add my congratulations and sincerest thanks for the important work that is done at BARCC.

BARCC has been helping victims of rape and sexual assault in Boston since 1973, making it one of the first such centers of its kind. Highly trained counselors and advocates team with volunteers from the area to create a nurturing, and supportive, environment for these victims. Through their hard work and selfless dedication, they serve over 4,000 victims a year providing critical services to the people of Boston. Additionally, they participate in statewide and national training in best practices and education sharing their knowledge and experiences. BARCC is also committed to preventing future victims by doing out-

reach in the community on sexual assault awareness, particularly on the many college and university campuses in Boston. Their comprehensive expertise in violence prevention, victims' rights, and victims support is what makes BARCC such an exceptional facility.

I join Attorney General Holder, the people of Boston, and Janet Yassen, director of the Victims of Violence Program, Cambridge Health Alliance, who nominated BARCC for this honor, in expressing our gratitude to the staff and volunteers at BARCC for the incredible service they provide.●

##### TRIBUTE TO LOUISIANA WWII VETERANS

• Ms. LANDRIEU. Mr. President, I am proud to honor a group of 98 World War II veterans from all over Louisiana who will travel to Washington, DC, on April 25 to visit the various memorials and monuments that recognize the sacrifices of our Nation's invaluable service members.

Louisiana HonorAir, a group based in Lafayette, LA, sponsored this trip to the Nation's Capital. The organization is honoring each surviving World War II Louisiana veteran by giving them an opportunity to see the memorials dedicated to their service. The veterans visited the World War II, Korea, Vietnam, and Iwo Jima memorials. They also traveled to Arlington National Cemetery to lay a wreath on the Tomb of the Unknowns.

This is the second of four flights Louisiana HonorAir is making to Washington, DC, this spring. It is the 15th flight to depart from Louisiana, which has sent more HonorAir flights than any other State to the Nation's Capital.

World War II was one of America's greatest triumphs but was also a conflict rife with individual sacrifice and tragedy. More than 60 million people worldwide were killed, including 40 million civilians, and more than 400,000 American service members were slain during the long war. The ultimate victory over enemies in the Pacific and in Europe is a testament to the valor of American soldiers, sailors, airmen, and marines. The years 1941 to 1945 also witnessed an unprecedented mobilization of domestic industry, which supplied our military on two distant fronts.

In Louisiana, there remain today more than 33,000 living WWII veterans, and each one has a heroic tale of achieving the noble victory of freedom over tyranny. This group had 31 veterans who served in the U.S. Army, 23 in the U.S. Air Force, 35 in the Navy, 1 in the WAVES—Women Accepted for Volunteer Emergency Service—7 in the Marines, and 1 in the Merchant Marines.

Our heroes trekked the world for their country. Their journeys spanned Europe, the Utah and Omaha Beaches, France, the Rhineland, Central Europe,

Holland, Italy and North Africa. They fought in the Pacific as well—at Russell Island, Gilbert Island, the Philippines, Tarawa, Luzon, New Guinea, Tinian, Guam, Okinawa, Iwo Jima, Guadalcanal, New Hebrides, Saipan and Bougainville. Their fight for freedom extended to Alaska, Azores, Iceland, and the Aleutian Islands.

One of our Army Air Corps veterans received the Croix de Guerre Avec Palm and the Bronze Service Star for campaigns in Northern France, Central Europe, and the Rhineland. He also fought at Utah Beach on D-day. Another of our Army Air Corps veterans fought in the Mediterranean Theater and completed 50 missions as a ball turret gunner.

One of our marines received the South Pacific Purple Heart, and an Army veteran fought at Omaha Beach with GEN George Patton. Yet another Army veteran was on GEN Douglas McArthur's staff.

I ask the Senate to join me in honoring these 98 veterans, all Louisiana heroes, who will visit Washington, and Louisiana HonorAir for making these trips a reality.●

##### TRIBUTE TO MAJOR GENERAL ELDER GRANGER, M.D.

• Mrs. LINCOLN. Mr. President, today I wish to recognize the outstanding service that MG Elder Granger has given to Arkansas and our great Nation through his work in the military medical services.

Since 2005, MG Elder Granger, M.D., has served his country as the deputy director of the TRICARE Management Activity in the Office of the Assistant Secretary of Defense for Health Affairs. Prior to joining TRICARE, Major General Granger led the largest U.S. and multinational battlefield health system in our Nation's recent history as Commander of the Task Force 44th Medical Command and Command Surgeon for the Multinational Corps in Iraq.

Major General Granger also brilliantly implemented TRICARE's \$22.5 billion Defense Health Program that benefitted over 9.2 million people worldwide. With his compassion and dedication, Major General Granger improved patient care for the entire military health system by managing the TRICARE benefits for an international network of 75 military hospitals, 461 service clinics, and a network of civilian providers and hospitals. An enthusiastic advocate for the military health system, Major General Granger directed the launch of a TRICARE Web portal which improved communications between beneficiaries and enhanced health benefits information services. This technology is projected to reach 23 million individuals by 2009.

Through the TRICARE's mail order pharmacy program, Major General Granger increased the number of users utilizing mail-order pharmacy prescriptions by 16 percent, as well as increasing total prescription volume by

21 percent. In addition, he established a Web/call-in center which handled 21,412 beneficiary requests for 47,213 prescription conversions as of November 2008, which amounts to an estimated cost avoidance of \$3.2 million to date. Major General Granger also oversaw the establishment of the voluntary agreement for retail rebates, which has resulted in a pharmaceutical industry rebate of \$28 million since the beginning of 2007. Further, he established electronic claims processing which has already saved \$1.6 million in administrative fees in addition to \$105 million in overhead savings.

A native of West Memphis, AR, MG Elder Granger has played an active role in veterans' medical services since the beginning of his career. He represents the great progress that has and will continue to occur within the military health system. He is a mentor to his staff, a leader in his field, and a soldier ready for any mission.

I am honored to recognize his service.●

#### TRIBUTE TO HAROLD "BUDDY" BROWN

● Ms. MURKOWSKI. Mr. President, today the people of Interior Alaska—our Native people and the entire Fairbanks community—mourn the loss of one of the most promising Native leaders of this generation.

Harold "Buddy" Brown died yesterday of cancer at the age of 39. Buddy is survived by his wife Patti and two children, Xavier, age 7, and Alana, age 3.

Throughout Indian Country we are witnessing the generational shift in leadership to young people who have mastered the challenge of living in two worlds. They have completed college, gone on to obtain graduate and professional degrees, and returned to serve their people. One foot in the traditional world of their Native communities, the other in the modern worlds of business, finance, management and law.

Within the Alaska Native community, Buddy Brown stood at the vanguard of this generational shift. After graduating from the University of New Mexico Law School in 1997, he immediately went to work for the Tanana Chiefs Conference, the consortium of 42 tribes in Interior Alaska. He was hired on as associate counsel.

Five years later, Buddy was elected President of the Tanana Chiefs Conference. In this role he led a region which encompasses about 235,000 square miles, an area equal to about 37 percent of the State of Alaska and just slightly smaller than the state of Texas. In 2006, Buddy retired from this position to heal and to spend time with his family.

The Tanana Chiefs region is known throughout the State of Alaska for producing leaders of statewide and national repute—Bridge builders who have a particular talent for engaging the broader community to support the

causes and concerns of our Native people.

The late Morris Thompson, who tragically died in the 2000 crash of Alaska Airlines Flight 261, is the best known Native leader to come from this region, beloved throughout the State for his talent in building bridges.

Morris Thompson was Buddy Brown's mentor and friend, and I am told that he expected Buddy Brown would grow to become a leader whose accomplishments would exceed Morris's own. Buddy was widely regarded in Alaska as the best and brightest of this new generation. He reached great heights in a few short years, but I am saddened that Alaska will never realize the true potential of this truly extraordinary individual.

There is little I can say to console our grieving community today but I do have a few words for Xavier and Alana and the Native youth of Interior Alaska. Buddy Brown appreciated that youth is no impediment to leadership, that the energy and new ideas of the youth are desperately needed to keep our Native institutions thriving. Buddy devoted his life to preparing to undertake this leadership role.

Take inspiration from Buddy's life and become the leader that each of you has the potential to be. I want to help you to achieve this goal for yourself, for your people, and for all of Alaska.●

#### REMEMBERING MORRIS O'QUIN

● Mr. PRYOR. Mr. President, today I honor the life and work of Morris O'Quin of Harrison, AR. Morris passed away unexpectedly on April 19, 2009, due to a sudden respiratory illness. I know the thoughts of many Arkansans and others around the country are with the O'Quin family, especially his wife of 21 years, Dana, and their children, Marrick and Morgan.

Morris devoted his life to public service and Arkansas agriculture. He most recently served as a Farm Service Agency—FSA—county director in Boone County, AR. In this capacity, he also served as a national board member for the National Association of Farm Service Agency State and County Office Employees—NASCOE—where he advocated on behalf of other employees and volunteers who served similar roles as public servants in the agricultural sector in Arkansas and throughout the country. He has been a lifelong advocate for agriculture.

Since coming to the Senate in 2003, I have had the benefit of getting to know Morris well during his frequent trips to Washington to meet with other leaders of the Farm Service Agency, advancing the mission and purpose of the Agency. He was an ambassador for the State of Arkansas and a tireless advocate for the FSA, its mission, and its employees. He understood Arkansas agriculture and the importance of the Agency in supporting continued production of agricultural products. His duty to the Farm Service Agency and

the promotion of its mission were his passions.

I vividly remember working closely with Morris in 2005 to ensure that the Department of Agriculture did not irresponsibly move to reduce the essential services that the Farm Service Agency provides to farmers and ranchers through the county office structure. He explained to me that the county offices provide essential services to the farmer through face-to-face interactions and that shutting down multiple county offices without making needed technology upgrades and providing technical assistance for this transition would cause significant harm to our nation's farmers and ranchers.

His advocacy for FSA workers and the farm community in Arkansas along with his leadership within NASCOE helped me pass a critical amendment to 2006 Agriculture appropriations bill to prevent FSA county office closures and further consolidations. This amendment prevented the administration from closing over 700 county offices nationwide and ensured that the critical services provided by these offices would continue until the USDA developed technology upgrades needed to make such a transition, and until the USDA clearly explained the needs and benefits for making such drastic reforms. This was a tremendous accomplishment that would not have been possible without Morris's focus and leadership.

Morris understood that without the hard work and sacrifice of local FSA employees, many family farms would not have the resources necessary to make a living and provide America a safe and affordable food supply that we all too often take for granted. This understanding was behind his drive to convince me and other lawmakers of the importance of stopping the USDA initiative to diminish the role of FSA offices and employees.

Morris's most recent accomplishment revealed his care for the community. After the devastating Arkansas ice storms that hit in January of this year, Morris spent hours working to deliver essential FSA services to neighbors, farmers, and ranchers in Boone County and other parts of northern Arkansas. The 2009 ice storm caused extreme damage to northern Arkansas, and Morris stepped up to provide much needed assistance. Under much pressure, he was doing a tremendous job of providing Environmental Conservation Program funds to help get impacted farmers back on their feet and producing again. This is just one other example of his exemplary work in his capacity as a public servant.

While I will remember Morris for his work as a county director and a NASCOE advocate, I will remember him most for his kind and calm demeanor, his concern for the well-being of those around him, his tireless work on behalf of those who depended on him, and his character and integrity in all of his endeavors. He was a relatively quiet person, not a personality



that you get a lot of in Washington, but he was filled with pride for his work, the work of FSA employees, and American agriculture. He would always articulate the importance of these to me in the most clear, concise, and endearing terms. Meeting with him was always a pleasure as he carried a calmness about him that always reminded me of the best of Arkansas. Much like many Arkansans I know, he possessed a kind heart and a gentle spirit always putting others before him. He earned my enduring respect and admiration. I will remember him for his optimistic spirit, enjoyable personality, and humble and effective leadership.

It is with great sadness, that I come before the Senate today, but I know he has gone to a better place, and deservedly so. I am honored to have known him and worked with him during his time on Earth. I send his wife Dana and their two children my deepest condolences. Morris O'Quin will certainly be missed, but he will never be forgotten. I ask my colleagues to keep the O'Quin family, Morris's coworkers, and his friends in your thoughts and prayers in this most difficult time.●

#### VERMONT CELEBRATES ITS LEADERS IN LABOR RIGHTS

● Mr. SANDERS. Mr. President, I wish to rise today to honor two Vermont businesses, Chroma Technology Corporation and Seventh Generation, which have been named to the 2009 List of Most Democratic Workplaces. This list, compiled by the labor rights organization WorldBlu, selects the gold standard in fair labor practices each year.

By creating incentives for workers to constructively participate in the governance of their company, Chroma Technology Corporation of Rockingham, VT, exemplifies the ideal of the Most Democratic Workplace. With a decentralized power structure, and with every worker eligible to become a member of the board of directors, employees genuinely play a major role in business decisions and company practices. Moreover, Chroma is 100 percent employee owned, and sets a limit on executive compensation, a limit determined by a ratio of the pay scale for the lowest-paid workers in the firm. Chroma has also developed an innovative profit-sharing system for all its employees.

The other Vermont business to receive this prestigious award, Seventh Generation, is a producer of cleaning and home care products in Burlington, VT. This impressive firm truly challenges its employees to not only participate in all aspects of the company's operations, but also to take the company's mission of positive change and apply it to the outside world. Employees can apply for committee-approved paid sabbaticals in order to participate in philanthropic endeavors. To foster companywide professional development, Seventh Generation combines

teambuilding with cross-functional communication so employees gain perspective on the company's big picture operations and goals. Through these professional opportunities and many other policies, employees work outside of the box and come to share the mission of the company.

Perhaps not all companies can adopt every strategy of these two industry leaders, but we should recognize the value of their business models. Both Chroma and Seventh Generation go above and beyond the duty of an employer, and our entire economy benefits from the investment they make in training the best employees possible. I urge every American company—indeed every lawmaker in Congress—to consider the lessons we can take from these Most Democratic Workplaces. Improving job training and developing human resources is important, especially in our current challenging economy; at the same time, investment in workers creates a lasting benefit that lays the foundation for a strong future.

Treating workers with dignity and respect, enabling them to not only develop their capacities, but participate in decisionmaking, is essential to creating democratic and productive workplaces.

Mr. President, I commend Chroma Technology and Seventh Generation for a job very well done and to congratulate them on their selection as a 2009 Most Democratic Workplace.●

#### HONORING MICRO TECHNOLOGIES

● Ms. SNOWE. Mr. President, in our present economic situation, small businesses are finding it increasingly difficult to maintain their current operations, let alone expand their facilities, add new employees, or make significant improvements. Despite that, some firms are attempting to move forward on planned expansions, hoping to see a greater return on their investment in the future. I rise today to recognize Micro Technologies, a small company in my home State of Maine that is pushing ahead to expand its business and bring new jobs to Midcoast Maine.

Founded in 1996, Micro Technologies, located in the rural town of Richmond, serves a very specialized niche in the world of science. Focusing on aquatic animal health, Micro Technologies provides critical research and testing, diagnostics, and veterinary services related to the health of various aquatic marine species to a wide range of clients, from government agencies to small farms. The company presently has 13 employees, most of whom are graduates of Maine universities and colleges. Approved by Department of Agriculture, USDA, for export testing, Micro Technologies works with companies across the United States, Central and South America, as well as Europe.

The company's innovative research aids scientists in their quest to explain and solve a plethora of complicated health problems of aquatic animals,

from common finfish like salmon and cod, to bivalves such as oysters and clams, to crustaceans like the Maine lobster. For instance, Micro Technologies' work has centered on studying viruses that affect shrimp and the causes of shell disease among lobsters. Additionally, the company tests various species for the presence of harmful viruses, ensuring that firms involved in the shipment of these species have the safest product possible. This, in turn, promotes expedient shipping, and reduces negative environmental impacts.

While the current economic insecurity poses problems to businesses large and small, Micro Technologies is moving forward on a plan to expand its facilities, add employees, and broaden the scope of its work. The company recently received a \$200,000 grant from the Community Development Block Grant Program, which is aimed at helping communities across the country build affordable housing and retain businesses seeking to grow. Richmond's full board of selectmen unanimously endorsed the company's proposal before submitting the application to the Maine Department of Economic and Community Development, which approved the grant. Partnering with the town of Richmond, Micro Technologies will use this grant to make renovations to its existing facility, purchase a nearby building, add seven quality new positions, and expand its manufacturing capabilities. Micro Technologies also hopes to begin an apprenticeship program to introduce students interested in science to the unique work the company does.

American entrepreneurs have strengthened our country and its economy in good times and bad. As Micro Technologies seeks to grow, it will provide a positive impact on the local community as well as the aquatic animal health industry, which is crucial in Maine. I wish everyone at Micro Technologies best wishes and much success in their planned expansion.●

#### MESSAGE FROM THE HOUSE

At 12:10 p.m., a message from the House of Representatives, delivered by Mr. Zapata, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 39. An act to repeal section 10(f) of Public Law 93-531, commonly known as the "Bennett Freeze".

The message also announced that the House has passed the following joint resolution, without amendment:

S.J. Res. 8. Joint resolution providing for the appointment of David M. Rubenstein as a citizen regent of the Board of Regents of the Smithsonian Institution.

The message further announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 388. An act to assist in the conservation of cranes by supporting and providing, through projects of persons and organizations with expertise in crane conservation,

financial resources for the conservation programs of countries the activities of which directly or indirectly affect cranes and the ecosystems of cranes.

H.R. 411. An act to assist in the conservation of rare felids and rare canids by supporting and providing financial resources for the conservation programs of nations within the range of rare felid and rare canid populations and projects of persons with demonstrated expertise in the conservation of rare felid and rare canid populations.

H.R. 1219. An act to make amendments to the Reclamation Projects Authorization and Adjustment Act of 1992.

H.R. 1516. To designate the facility of the United States Postal Service located at 37926 Church Street in Dade City, Florida, as the "Sergeant Marcus Mathes Post Office".

H.R. 1694. An act to authorize the acquisition and protection of nationally significant battlefields and associated sites of the Revolutionary War and the War of 1812 under the American Battlefield Protection Program.

The message also announced that pursuant to section 333(a)(2) of the Consolidated Natural Resources Act of 2008 (Public Law 110-229), and the order of the House of January 6, 2009, the Speaker appoints the following members on the part of the House of Representatives to the Commission to study the Potential Creation of a National Museum of the American Latino:

As voting members: Mr. Luis Cancel of San Francisco, California; Ms. Eva Longoria Parker of San Antonio, Texas; Mr. Henry Munoz of San Antonio, Texas.

As a nonvoting member: Ms. Lorraine Garcia-Nakata of San Francisco, California.

#### MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 388. An act to assist in the conservation of cranes by supporting and providing, through projects of persons and organizations with expertise in crane conservation, financial resources for the conservation programs of countries the activities of which directly or indirectly affect cranes and the ecosystems of cranes; to the Committee on Environment and Public Works.

H.R. 411. An act to assist in the conservation of rare felids and rare canids by supporting and providing financial resources for the conservation programs of nations within the range of rare felid and rare canid populations and projects of persons with demonstrated expertise in the conservation of rare felid and rare canid populations; to the Committee on Environment and Public Works.

H.R. 1219. An act to make amendments to the Reclamation Projects Authorization and Adjustment Act of 1992; to the Committee on Energy and Natural Resources.

H.R. 1516. An act to designate the facility of the United States Postal Service located at 37926 Church Street in Dade City, Florida, as the "Sergeant Marcus Mathes Post Office"; to the Committee on Homeland Security and Governmental Affairs.

H.R. 1694. An act to authorize the acquisition and protection of nationally significant battlefields and associated sites of the Revolutionary War and the War of 1812 under the American Battlefield Protection Program; to the Committee on Energy and Natural Resources.

#### MEASURES READ THE FIRST TIME

The following bill was read the first time:

H.R. 1664. An act to amend the executive compensation provisions of the Emergency Economic Stabilization Act of 2008 to prohibit unreasonable and excessive compensation and compensation not based on performance standards.

#### EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC-1356. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Spiromesifen; Pesticide Tolerances" (FRL-8406-6) as received during adjournment of the Senate in the Office of the President of the Senate on April 3, 2009; to the Committee on Agriculture, Nutrition, and Forestry.

EC-1357. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Cyhalofop-butyl; Pesticide Tolerances" (FRL-8406-8) as received during adjournment of the Senate in the Office of the President of the Senate on April 3, 2009; to the Committee on Agriculture, Nutrition, and Forestry.

EC-1358. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Payments made to a REMIC pursuant to the Home Affordable Modification Program" (Notice 2009-36) received in the Office of the President of the Senate on April 21, 2009; to the Committee on Finance.

EC-1359. A communication from the Acting Secretary of Health and Human Services, transmitting, pursuant to law, the report of a petition to add workers from Hood Building in Cambridge, Massachusetts, to the Special Exposure Cohort; to the Committee on Health, Education, Labor, and Pensions.

EC-1360. A communication from the Acting Secretary of Health and Human Services, transmitting, pursuant to law, the report of a petition to add workers from Westinghouse Atomic Power Development Plant in East Pittsburgh, Pennsylvania, to the Special Exposure Cohort; to the Committee on Health, Education, Labor, and Pensions.

EC-1361. A communication from the Acting Secretary of Health and Human Services, transmitting, pursuant to law, the report of a petition to add workers from Tyson Valley Powder Farm near Eureka, Missouri, to the Special Exposure Cohort; to the Committee on Health, Education, Labor, and Pensions.

EC-1362. A communication from the Chairman and the General Counsel, National Labor Relations Board, transmitting, pursuant to law, a report relative to the acquisitions made annually from entities that manufacture articles, materials, or supplies outside of the United States for fiscal year 2008; to the Committee on Health, Education, Labor, and Pensions.

EC-1363. A communication from the Acting Secretary of Health and Human Services, transmitting, pursuant to law, a report entitled "Public Readiness and Emergency Preparedness (PREP) Act Declarations for Botulinum Toxin, Smallpox, Acute Radiation Syndrome and Pandemic Influenza"; to the Committee on Health, Education, Labor, and Pensions.

EC-1364. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 18-35, "Randall School Development Project Tax Exemption Temporary Act of 2009" received in the Office of the President of the Senate on April 2, 2009; to the Committee on Homeland Security and Governmental Affairs.

EC-1365. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 18-36, "SOME, Inc. Tax Exemption Temporary Amendment Act of 2009" received in the Office of the President of the Senate on April 2, 2009; to the Committee on Homeland Security and Governmental Affairs.

EC-1366. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 18-37, "Records Access Temporary Amendment Act of 2009" received in the Office of the President of the Senate on April 2, 2009; to the Committee on Homeland Security and Governmental Affairs.

EC-1367. A communication from the Chief Judge, Superior Court of the District of Columbia, transmitting, pursuant to law, a report relative to activities carried out by the Family Court during 2008; to the Committee on Homeland Security and Governmental Affairs.

EC-1368. A communication from the Director, Office of Personnel Management, transmitting, pursuant to law, an annual report relative to Federal sector equal employment opportunity complaints filed with the Office during fiscal year 2008; to the Committee on Homeland Security and Governmental Affairs.

EC-1369. A communication from the Secretary, Federal Maritime Commission, transmitting, pursuant to law, the Commission's Annual Report for fiscal year 2008; to the Committee on Homeland Security and Governmental Affairs.

EC-1370. A communication from the Chief, Administrative Law Division, Central Intelligence Agency, transmitting, pursuant to law, the report of a vacancy and designation of acting officer in the position of Inspector General, as received during adjournment of the Senate in the Office of the President of the Senate on April 7, 2009; to the Select Committee on Intelligence.

EC-1371. A communication from the Chief Judge, United States Court of Federal Claims, transmitting, pursuant to law, a report relative to the Land Grantors in Henderson, Union, and Webster Counties, Kentucky and their heirs v. United States (Congressional Reference No. 93-648X); to the Committee on the Judiciary.

EC-1372. A communication from the Deputy Assistant Administrator of the Office of Diversion Control, Drug Enforcement Administration, Department of Justice, transmitting, pursuant to law, the report of a rule entitled "Implementation of the Ryan Haight Online Pharmacy Consumer Protection Act of 2008" (RIN1117-AB20) as received during adjournment of the Senate in the Office of the President of the Senate on April 3, 2009; to the Committee on the Judiciary.

EC-1373. A communication from the Deputy Chief of the Regulatory Management Division, Citizenship and Immigration Services, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Forwarding of Affirmative Asylum Applications to the Department of State" (RIN1615-AB59) as received during adjournment of the Senate in the Office of the President of the Senate on April 9, 2009; to the Committee on the Judiciary.

## PETITIONS AND MEMORIALS

The following petition or memorial was laid before the Senate and was referred or ordered to lie on the table as indicated:

POM-17. A resolution adopted by the legislature of the Province of Batangas, Republic of the Philippines, forwarded by the Acting Assistant Secretary, Bureau of Legislative Affairs, Department of State, commending and expressing thanksgiving and commendation to the President of the United States, the U.S. Congress, and the American taxpayers for the signing of the U.S. Economic Stimulus Package, which includes \$198 million in benefits to Filipino veterans who fought side-by-side with American soldiers in World War II; to the Committee on Appropriations.

## RESOLUTION NO. 169

Whereas, the U.S. Economic Stimulus Package, recently signed into law by President Barack Obama includes some \$198 Million in benefits to Filipino Veterans who fought with American soldiers of World War II;

Whereas, as provided, a one-time payment of \$15,000 for each Filipino Veteran who had since become a U.S. citizen and \$9,000 for non-citizens will be made to former soldiers or their surviving spouses;

Whereas, historically, it is a fact that Filipino Veterans of World War II had been conscripted and fought side-by-side with their American comrades in the Pacific Theater, more specifically in the battle front of Bataan and Corregidor. Quoting Senator Daniel Inouye of the American Senate: "In 1941, President Franklin Delano Roosevelt issued a military order calling on the Commonwealth Army of the Philippines to serve with the U.S. Army in the Far East, entitling Filipino soldiers who served full U.S. Veterans benefits because of their service";

Whereas, the best feature of the provision is its unequivocal recognition of the role played by Filipino Veterans during the World War II. The implication is that it is important enough to stand alongside solutions to Americans' present day economic slump. This rectifies previous "snubs"—laws reneging on promises made to these soldiers as part of the U.S.' post war cost-saving measures, like the U.S. Recession Act of 1946, duly signed by then President Harry S. Truman into law;

Whereas, the measure is hailed by many and is seen as a victory after more than four decades of expectations. The surviving veterans are now in their 80s and 90s, any form of compensation will help make the remaining days of their lives more meaningful;

Now therefore, on motion by Honorable Board Member Florencio A. De Loyola, duly seconded,

*Resolved*, As it is hereby resolved, to COM-MEND AND EXPRESS ITS SINCEREST THANKS to his Excellency President BARACK OBAMA of the United States of America, the American Congress more particularly the Speaker of the House of Representatives Honorable NANCY PELOSI, Senate President Honorable JOSEPH R. BIDEN JR., Democrat Senator from Hawaii Honorable DANIEL INOUE and the American Taxpayers, in general, for the signing of the U.S. Economic Stimulus Package which includes some \$198 Million in benefits to Filipino Veterans who fought side-by-side with American Soldiers in World War II.

## 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 Mrs. McCASKILL (for herself and Ms. SNOWE):

S. 848. A bill to recognize and clarify the authority of the States to regulate intrastate helicopter medical services, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. CARPER (for himself, Mr. INHOFE, Mrs. BOXER, and Mr. KERRY):

S. 849. A bill to require the Administrator of the Environmental Protection Agency to conduct a study on black carbon emissions; to the Committee on Environment and Public Works.

By Mr. KERRY:

S. 850. A bill to amend the High Seas Driftnet Fishing Moratorium Protection Act and the Magnuson-Stevens Fishery Conservation and Management Act to improve the conservation of sharks; to the Committee on Commerce, Science, and Transportation.

By Mr. KERRY (for himself and Mr. KENNEDY):

S. 851. A bill to prohibit the issuance of any lease or other authorization by the Federal Government that authorizes exploration, development, or production of oil or natural gas in any marine national monument or national marine sanctuary or in the fishing grounds known as Georges Bank in the waters of the United States; to the Committee on Energy and Natural Resources.

By Mr. VITTER (for himself and Ms. LANDRIEU):

S. 852. A bill to apply an alternative payment amount under the Medicare program for certain graduate medical education programs established to train residents displaced by natural disasters; to the Committee on Finance.

By Mr. KAUFMAN (for himself, Mr. CARPER, and Mr. CASEY):

S. 853. A bill to designate additional segments and tributaries of White Clay Creek, in the States of Delaware and Pennsylvania, as a component of the National Wild and Scenic Rivers System; to the Committee on Energy and Natural Resources.

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

S. 854. A bill to amend the Federal Water Pollution Control Act to update a program to provide assistance for the planning, design, and construction of treatment works to intercept, transport, control, or treat municipal combined sewer overflows and sanitary sewer overflows, and to require the Administrator of the Environmental Protection Agency to update certain guidance used to develop and determine the financial capability of communities to implement clean water infrastructure programs; to the Committee on Environment and Public Works.

By Ms. COLLINS (for herself and Ms. KLOBUCHAR):

S. 855. A bill to establish an Energy Assistance Fund to guarantee low-interest loans for the purchase and installation of qualifying energy efficient property, idling reduction and advanced insulation for heavy trucks, and alternative refueling stations, and for other purposes; to the Committee on Energy and Natural Resources.

By Ms. COLLINS (for herself and Ms. SNOWE):

S. 856. A bill to establish a commercial truck highway safety demonstration program in the State of Maine, and for other purposes; to the Committee on Environment and Public Works.

By Mr. SCHUMER (for himself, Mr. DODD, Mrs. GILLIBRAND, Ms. LANDRIEU, and Mr. VITTER):

S. 857. A bill to amend the Internal Revenue Code of 1986 to allow a \$1,000 refundable

credit for individuals who are bona fide volunteer members of volunteer firefighting and emergency medical service organizations; to the Committee on Finance.

By Mrs. BOXER (for herself, Mr. CARDIN, Mr. LEVIN, Mr. MERKLEY, and Mr. WHITEHOUSE):

S. 858. A bill to protect the oceans and Great Lakes, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Ms. CANTWELL (for herself, Ms. SNOWE, Mr. KERRY, and Mr. NELSON of Florida):

S. 859. A bill to amend the provisions of law relating to the John H. Prescott Marine Mammal Rescue Assistance Grant Program, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. NELSON of Nebraska (for himself, Mr. BARRASSO, Mr. MERKLEY, Mr. JOHANNES, Mr. CARPER, Ms. KLOBUCHAR, and Mr. KAUFMAN):

S. 860. A bill to amend the Internal Revenue Code of 1986 to provide a Federal income tax exclusion for assistance provided to participants in State student loan programs for certain health professionals; to the Committee on Finance.

By Mr. GRAHAM (for himself, Mr. MCCAIN, Ms. COLLINS, Mr. MARTINEZ, Mr. DEMINT, Mr. CHAMBLISS, Mr. ISAKSON, Mr. BURR, and Mr. INHOFE):

S. 861. A bill to amend the Nuclear Waste Policy Act of 1982 to require the President to certify that the Yucca Mountain site remains the designated site for the development of a repository for the disposal of high-level radioactive waste, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. THUNE:

S. 862. A bill to require the Secretary of the Treasury to use any amounts repaid by a financial institution that is a recipient of assistance under the Troubled Assets Relief Program for debt reduction; to the Committee on Banking, Housing, and Urban Affairs.

By Ms. KLOBUCHAR:

S. 863. A bill to amend the Truth in Lending Act to protect consumers from certain practices in connection with the origination of consumer credit transactions secured by the principal dwelling of the consumer, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. DORGAN (for himself, Ms. SNOWE, Mr. KERRY, Mr. SCHUMER, Mrs. LINCOLN, Ms. STABENOW, Mr. VOINOVICH, Mr. BURR, Mr. PRYOR, Mr. LEAHY, and Mr. LEVIN):

S. 864. A bill to amend the Internal Revenue Code of 1986 to expand tax-free distributions from individual retirement accounts for charitable purposes; to the Committee on Finance.

By Mr. BENNETT:

S. 865. A bill to provide for the sale of the Federal Government's reversionary interest in approximately 60 acres of land in Salt Lake City, Utah, originally conveyed to the Mount Olivet Cemetery Association under the Act of January 23, 1909; to the Committee on Energy and Natural Resources.

By Mr. REED (for himself, Ms. COLLINS, Mr. DODD, Mrs. GILLIBRAND, Mr. KERRY, Mr. LAUTENBERG, Mrs. LINCOLN, Mrs. MURRAY, Mr. MENENDEZ, Mr. SANDERS, Mr. WHITEHOUSE, Mr. CARDIN, and Mr. DURBIN):

S. 866. A bill to amend the Elementary and Secondary Education Act of 1965 regarding environmental education, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. FEINSTEIN:

S. 867. A bill for the relief of Shirley Constantino Tan; to the Committee on the Judiciary.

By Mr. BAUCUS (for himself, Mr. CRAPO, and Mr. TESTER):

S. 868. A bill to repeal certain provisions of the Federal Lands Recreation Enhancement Act; to the Committee on Energy and Natural Resources.

By Mr. THUNE:

S. 869. A bill to require the Secretary of the Treasury to use any amounts repaid by a financial institution that is a recipient of assistance under the Troubled Assets Relief Program for debt reduction; to the Committee on Finance.

By Mrs. LINCOLN (for herself, Mr. ROBERTS, and Ms. SNOWE):

S. 870. A bill to amend the Internal Revenue Code of 1986 to expand the credit for renewable electricity production to include electricity produced from biomass for on-site use and to modify the credit period for certain facilities producing electricity from open-loop biomass; to the Committee on Finance.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. LEAHY (for himself, Mr. GREGG, Mr. FEINGOLD, Mr. KENNEDY, Mr. SANDERS, Mr. KERRY, and Mr. CHAMBLISS):

S. Res. 108. A resolution commending Captain Richard Phillips, the crew of the "Maersk Alabama", and the United States Armed Forces, recognizing the growing problem of piracy off Somalia's coast, and urging the development of a comprehensive strategy to address piracy and its root causes; considered and agreed to.

By Mr. CRAPO (for himself, Mr. LUGAR, and Mr. RISCH):

S. Res. 109. A resolution commending the bravery of the girls who attend the Mirwais School for Girls in Kandahar, Afghanistan; to the Committee on Foreign Relations.

By Mr. BURR (for himself and Mrs. HAGAN):

S. Res. 110. A resolution congratulating the University of North Carolina Tar Heels basketball team for winning the 2008-2009 NCAA men's basketball championship; considered and agreed to.

By Mr. FEINGOLD (for himself, Mr. ISAKSON, Mr. BINGAMAN, Mr. DURBIN, Mr. CARDIN, Mr. WICKER, Mr. BROWNBACK, Ms. CANTWELL, and Mr. MARTINEZ):

S. Con. Res. 18. A concurrent resolution supporting the goals and ideals of World Malaria Day, and reaffirming United States leadership and support for efforts to combat malaria; considered and agreed to.

## ADDITIONAL COSPONSORS

S. 263

At the request of Mr. CASEY, the name of the Senator from Illinois (Mr. BURRIS) was added as a cosponsor of S. 263, a bill to amend title 38, United States Code, to improve the enforcement of the Uniformed Services Employment and Reemployment Rights Act of 1994, and for other purposes.

S. 306

At the request of Mr. NELSON of Nebraska, the name of the Senator from

Utah (Mr. HATCH) was added as a cosponsor of S. 306, a bill to promote biogas production, and for other purposes.

S. 343

At the request of Mrs. LINCOLN, the name of the Senator from Kentucky (Mr. BUNNING) was added as a cosponsor of S. 343, a bill to amend title XVIII of the Social Security Act to provide for Medicare coverage services of qualified respiratory therapists performed under the general supervision of a physician.

S. 358

At the request of Mr. CORNYN, the name of the Senator from South Dakota (Mr. THUNE) was added as a cosponsor of S. 358, a bill to ensure the safety of members of the United States Armed Forces while using expeditionary facilities, infrastructure, and equipment supporting United States military operations overseas.

S. 386

At the request of Mr. LEAHY, the name of the Senator from Colorado (Mr. BENNET) was added as a cosponsor of S. 386, a bill to improve enforcement of mortgage fraud, securities fraud, financial institution fraud, and other frauds related to federal assistance and relief programs, for the recovery of funds lost to these frauds, and for other purposes.

At the request of Mr. DURBIN, his name was added as a cosponsor of S. 386, *supra*.

S. 423

At the request of Mr. AKAKA, the names of the Senator from Maine (Ms. COLLINS), the Senator from Washington (Mrs. MURRAY) and the Senator from Missouri (Mrs. MCCASKILL) were added as cosponsors of S. 423, a bill to amend title 38, United States Code, to authorize advance appropriations for certain medical care accounts of the Department of Veterans Affairs by providing two-fiscal year budget authority, and for other purposes.

S. 475

At the request of Mr. BURR, the name of the Senator from Oklahoma (Mr. COBURN) was added as a cosponsor of S. 475, a bill to amend the Servicemembers Civil Relief Act to guarantee the equity of spouses of military personnel with regard to matters of residency, and for other purposes.

S. 482

At the request of Mr. FEINGOLD, the name of the Senator from Missouri (Mrs. MCCASKILL) was added as a cosponsor of S. 482, a bill to require Senate candidates to file designations, statements, and reports in electronic form.

S. 491

At the request of Mr. WEBB, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of S. 491, a bill to amend the Internal Revenue Code of 1986 to allow Federal civilian and military retirees to pay health insurance premiums on a pretax basis and to allow a deduction for TRICARE supplemental premiums.

S. 493

At the request of Mr. CASEY, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 493, a bill to amend the Internal Revenue Code of 1986 to provide for the establishment of ABLE accounts for the care of family members with disabilities, and for other purposes.

S. 527

At the request of Mr. THUNE, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of S. 527, a bill to amend the Clean Air Act to prohibit the issuance of permits under title V of that Act for certain emissions from agricultural production.

S. 540

At the request of Mr. KENNEDY, the name of the Senator from West Virginia (Mr. BYRD) was added as a cosponsor of S. 540, a bill to amend the Federal Food, Drug, and Cosmetic Act with respect to liability under State and local requirements respecting devices.

S. 553

At the request of Ms. KLOBUCHAR, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 553, a bill to revise the authorized route of the North Country National Scenic Trail in northeastern Minnesota to include existing hiking trails along Lake Superior's north shore and in Superior National Forest and Chippewa National Forest, and for other purposes.

S. 559

At the request of Mr. WYDEN, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 559, a bill to provide benefits under the Post-Deployment/Mobilization Respite Absence program for certain periods before the implementation of the program.

S. 565

At the request of Mr. DURBIN, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 565, a bill to amend title XVIII of the Social Security Act to provide continued entitlement to coverage for immunosuppressive drugs furnished to beneficiaries under the Medicare Program that have received a kidney transplant and whose entitlement to coverage would otherwise expire, and for other purposes.

S. 567

At the request of Mr. CRAPO, the name of the Senator from South Carolina (Mr. DEMINT) was added as a cosponsor of S. 567, a bill to repeal the sunset on the reduction of capital gains rates for individuals and on the taxation of dividends of individuals at capital gains rates.

S. 611

At the request of Mr. LAUTENBERG, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 611, a bill to provide for

the reduction of adolescent pregnancy, HIV rates, and other sexually transmitted diseases, and for other purposes.

S. 614

At the request of Mrs. HUTCHISON, the names of the Senator from New Jersey (Mr. LAUTENBERG), the Senator from North Carolina (Mr. BURR) and the Senator from Idaho (Mr. RISCH) were added as cosponsors of S. 614, a bill to award a Congressional Gold Medal to the Women Airforce Service Pilots ("WASP").

S. 621

At the request of Mr. DURBIN, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 621, a bill to amend the Public Health Service Act to coordinate Federal congenital heart disease research efforts and to improve public education and awareness of congenital heart disease, and for other purposes.

S. 645

At the request of Mrs. LINCOLN, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 645, a bill to amend title 32, United States Code, to modify the Department of Defense share of expenses under the National Guard Youth Challenge Program.

S. 660

At the request of Mr. HATCH, the name of the Senator from Rhode Island (Mr. WHITEHOUSE) was added as a cosponsor of S. 660, a bill to amend the Public Health Service Act with respect to pain care.

S. 697

At the request of Mr. KENNEDY, the name of the Senator from New York (Mrs. GILLIBRAND) was added as a cosponsor of S. 697, a bill to amend the Public Health Service Act to help individuals with functional impairments and their families pay for services and supports that they need to maximize their functionality and independence and have choices about community participation, education, and employment, and for other purposes.

S. 717

At the request of Mr. KENNEDY, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor of S. 717, a bill to modernize cancer research, increase access to preventative cancer services, provide cancer treatment and survivorship initiatives, and for other purposes.

S. 729

At the request of Mr. DURBIN, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 729, a bill to amend the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to permit States to determine State residency for higher education purposes and to authorize the cancellation of removal and adjustment of status of certain alien students who are long-term United States residents and who entered the United States as children, and for other purposes.

S. 769

At the request of Mrs. LINCOLN, the names of the Senator from New Mexico (Mr. BINGAMAN) and the Senator from South Dakota (Mr. JOHNSON) were added as cosponsors of S. 769, a bill to amend title XVIII of the Social Security Act to improve access to, and increase utilization of, bone mass measurement benefits under the Medicare part B program.

S. 781

At the request of Mr. ROBERTS, the names of the Senator from Nebraska (Mr. NELSON), the Senator from Michigan (Ms. STABENOW) and the Senator from Mississippi (Mr. COCHRAN) were added as cosponsors of S. 781, a bill to amend the Internal Revenue Code of 1986 to provide for collegiate housing and infrastructure grants.

S. 812

At the request of Mr. BAUCUS, the name of the Senator from Rhode Island (Mr. WHITEHOUSE) was added as a cosponsor of S. 812, a bill to amend the Internal Revenue Code of 1986 to make permanent the special rule for contributions of qualified conservation contributions.

S. 814

At the request of Mr. NELSON of Florida, the name of the Senator from Florida (Mr. MARTINEZ) was added as a cosponsor of S. 814, a bill to provide for the conveyance of a parcel of land held by the Bureau of Prisons of the Department of Justice in Miami Dade County, Florida, to facilitate the construction of a new educational facility that includes a secure parking area for the Bureau of Prisons, and for other purposes.

S. 815

At the request of Mr. NELSON of Florida, the name of the Senator from Florida (Mr. MARTINEZ) was added as a cosponsor of S. 815, a bill to amend the Immigration and Nationality Act to exempt surviving spouses of United States citizens from the numerical limitations described in section 201 of such Act.

S. 816

At the request of Mr. CRAPO, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of S. 816, a bill to preserve the rights granted under second amendment to the Constitution in national parks and national wildlife refuge areas.

S. 837

At the request of Mr. BROWNBACK, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of S. 837, a bill to require that North Korea be listed as a state sponsor of terrorism, to ensure that human rights is a prominent issue in negotiations between the United States and North Korea, and for other purposes.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. KAUFMAN (for himself, Mr. CARPER, and Mr. CASEY):

S. 853. A bill to designate additional segments and tributaries of White Clay Creek, in the States of Delaware and Pennsylvania, as a component of the National Wild and Scenic Rivers System; to the Committee on Energy and Natural Resources.

Mr. KAUFMAN. Mr. President, I am joined by Senator CARPER and Senator CASEY in introducing a bill that would expand the designation of the White Clay Creek National Wild and Scenic River in Delaware and Pennsylvania to include two new sites: Lamborn Run in Delaware and the East Branch and Egypt Run in New Garden Township in Pennsylvania.

In 2000, the White Clay Creek watershed was designated Delaware's first and only National Wild and Scenic River. The watershed is home to a wide variety of plant and animal life, archeological sites dating back to prehistoric times, and a bi-State preserve and State park. It is also a source of drinking water for the region.

A National Park Service study released in 1994 details the watershed's diversity of natural, historic, cultural, and recreational resources, and its results led the way for its original designation.

The watershed covers approximately 107 square miles and drains over 69,000 acres in Delaware and Pennsylvania. Of those 69,000 acres, 5,000 acres are public lands owned by State and local governments and the rest is privately owned and maintained. There are no Federal lands within the watershed and no Federal dollars were used to purchase any of the land within its boundaries.

The watershed is centrally located between the densely urbanized regions of New York and Washington, DC. The legislation being introduced today will expand the designation by incorporating an additional 9 miles to White Clay's National Wild and Scenic River, bringing the total federally recognized miles within the watershed to 199.9 miles.

National Wild and Scenic designation brings recognition to the unique cultural, natural, scenic, and recreational values of the White Clay Creek watershed. It provides an added level of protection from overdevelopment, and it elevates the value of the watershed when applying for State, local, and Federal grants. Projects located within the White Clay Creek watershed have received almost \$4 million in Federal funding since being designated in 2000.

While there are over 160 National wild and scenic rivers, the White Clay Creek can claim a few distinctions. First, it is Delaware's first and only wild and scenic river. It is one of only 12 rivers nationwide that is classified as a partnership river. That is a river that is managed on the local level with support from homeowners and communities and with the limited assistance of government on the local, State, and Federal level. It was the first to be studied and designated on a watershed basis, and it is the only wild and scenic

river that runs through a college or university.

Thirty years ago, I was privileged to be a part of the effort that eventually designated White Clay Creek as Delaware's first and only wild and scenic river. Today, I am proud to introduce legislation that will further expand and preserve this unique region.

I wish to thank everyone who has worked so hard and for so long to celebrate and preserve its natural beauty, so that 30 years from now our children and grandchildren can enjoy the same pristine landscape we appreciate today.

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. 853

*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 "White Clay Creek Wild and Scenic River Expansion Act of 2009".

#### SEC. 2. FINDINGS.

Congress finds that—

(1) the White Clay Creek watershed is 1 of only a few relatively intact and unspoiled functioning river systems remaining in the highly congested and developed corridor between Philadelphia, Pennsylvania and Newark, Delaware;

(2) Public Law 102-215 (16 U.S.C. 1271 note; 105 Stat. 1664) directed the Secretary of the Interior, in cooperation and consultation with appropriate State and local governments and affected landowners, to conduct a study of the eligibility and suitability of White Clay Creek, in the States of Delaware and Pennsylvania, and the tributaries of the creek for inclusion in the National Wild and Scenic Rivers System;

(3) as a part of the study described in paragraph (2), all segments listed in the amendments made by section 3 were found eligible for inclusion in the National Wild and Scenic Rivers System;

(4) local communities and governments along the proposed river segments have passed resolutions in support of the designation of the segments listed in the amendments made by section 3 as components of the National Wild and Scenic Rivers System; and

(5) Public Law 106-357 (16 U.S.C. 1271 note; 114 Stat. 1393) designated 190 miles of river segments of White Clay Creek (including tributaries of White Clay Creek and all second order tributaries of the designated segments) in the States of Delaware and Pennsylvania, to be administered by the Secretary of the Interior.

#### SEC. 3. DESIGNATION OF SEGMENTS OF WHITE CLAY CREEK, AS SCENIC AND RECREATIONAL RIVERS.

Section 3(a)(163) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)(163)) is amended—

(1) in the matter preceding subparagraph (A)—

(A) by striking "190 miles" and inserting "199 miles"; and

(B) by striking "(dated June 2000)" and inserting "(dated February 2009)";

(2) by striking subparagraph (B) and inserting the following:

"(B) 22.4 miles of the east branch beginning at the southern boundary line of the Borough of Avondale, including Walnut Run, Broad

Run, and Egypt Run, outside the boundaries of the White Clay Creek Preserve, as a recreational river."; and

(3) by striking subparagraph (H) and inserting the following:

"(H) 14.3 miles of the main stem, including Lamborn Run, that flow through the boundaries of the White Clay Creek Preserve, Pennsylvania and Delaware, and White Clay Creek State Park, Delaware beginning at the confluence of the east and middle branches in London Britain Township, Pennsylvania, downstream to the northern boundary line of the City of Newark, Delaware, as a scenic river.".

#### SEC. 4. ADMINISTRATION OF WHITE CLAY CREEK.

Sections 4 through 8 of Public Law 106-357 (16 U.S.C. 1274 note; 114 Stat. 1393), shall be applicable to the additional segments of the White Clay Creek designated by the amendments made by section 3.

By Ms. COLLINS (for herself and Ms. KLOBUCHAR):

S. 855. A bill to establish an Energy Assistance Fund to guarantee low-interest loans for the purchase and installation of qualifying energy efficient property, idling reduction and advanced insulation for heavy trucks, and alternative refueling stations, and for other purposes; to the Committee on Energy and Natural Resources.

Ms. COLLINS. Mr. President, today I introduce the Energy Assistance Fund Act of 2009, legislation which will assist people who want to invest in energy conservation and alternative energy technologies and help set us on a path toward energy independence.

As I visit communities around the State of Maine, I hear time and again that the costs of energy create hardship for many of our citizens. Unpredictable, and often increasing, prices for home heating oil, gasoline and diesel fuel are a huge burden for many families, truckers, and small businesses.

I am concerned that in a difficult economy, investments in energy conservation and alternative energy improvements are simply too costly for many American families and small businesses. For example, under the present code, taxpayers who install energy efficient windows and skylights or solar water heating systems receive a 30 percent tax credit. In both instances, the investment which must be made by the taxpayer far exceeds the credit amount. In the current economic climate, most families and small businesses are already scrimping and saving to make ends meet, and they do not have the money to finance the gap between the tax credit we provide and the cost of the investment.

The legislation I am introducing today calls for additional loan authority to support current Federal programs that help families and small businesses finance energy efficiency improvements. The loan authority I am proposing would expand existing Federal programs that make low-interest loans to individuals and small businesses for energy efficiency improvements. This new loan authority would be made available through a new en-

ergy assistance revolving loan fund within the Treasury Department. Individuals who make less than 115 percent of the national average median income would be able to apply for low-interest loans to cover the difference between the tax credits available for energy efficiency improvements and up to 90 percent of the cost of those improvements. The Federal agencies can make these loans through their lender networks.

USDA, HUD, and other Federal agencies already have programs that can make loans of this kind to individuals. Small businesses can seek low-interest loans for energy efficiency improvements under existing loan programs such as the SBA's 7(a) program. The revolving loan fund called for by my bill will enable these agencies to offer more loans to the individuals and small businesses we have asked them to serve.

I urge my colleagues to work together in a bipartisan way so that we can help Americans overcome the challenge of our dependence on foreign oil and restore and strengthen our Nation's economy.

By Ms. COLLINS (for herself and Ms. SNOWE):

S. 856. A bill to establish a commercial truck highway safety demonstration program in the State of Maine, and for other purposes; to the Committee on Environment and Public Works.

Ms. COLLINS. Mr. President, I rise to join with my senior colleague from Maine in sponsoring the Commercial Truck Highway Safety Demonstration Program Act, an important bill that addresses a significant safety problem in our State.

Under current law, trucks weighing 100,000 pounds are allowed to travel on the portion of Interstate 95 designated as the Maine Turnpike, which runs from Maine's border with New Hampshire to Augusta, our capital city. At Augusta, the Turnpike designation ends, but I-95 proceeds another 200 miles north to Houlton. At Augusta, however, heavy trucks must exit the modern four-lane, limited-access highway and are forced onto smaller, two-lane secondary roads that pass through cities, towns, and villages.

Trucks weighing up to 100,000 pounds are permitted on interstate highways in New Hampshire, Massachusetts, and New York as well as the Canadian provinces of New Brunswick and Quebec. The weight limit disparity on various segments of Maine's Interstate Highway System is a significant impediment to commerce, increases wear-and-tear on our secondary roads, and, most important, puts our people needlessly at risk.

Senator SNOWE and I have introduced this legislation several times in recent years. We remain concerned about the safety of our citizens who are needlessly put at risk when heavy trucks are forced off the main interstate and onto secondary roads through our



towns and communities. Unfortunately, Maine has experienced two tragic deaths in the past few years due to accidents involving heavy trucks in this situation.

One of these tragic accidents took the life of Susan Abraham, a bright and talented 17-year-old high-school student from Hampden, Maine, when her car was struck by a heavy truck on Route 9. The truck driver could not see Susan's small car turning onto that two-lane road as he rounded a corner. It was an accident, but one that would have been avoided had the truck remained on the Interstate highway. Interstate 95 runs less than three-quarters of a mile away, but Federal law prevented the truck from using that modern, divided highway, a highway that was designed to provide ample views of the road ahead.

That preventable tragedy took place almost one year to the day after Lena Gray, an 80-year-old resident of Bangor, was struck and killed by a tractor-trailer as she was crossing a downtown street. Again, that accident would not have occurred had that truck been allowed to use I-95, which runs directly through Bangor.

The problem Maine faces due to the disparity in truck weight limits affects many communities, but it is clearly evident in the eastern Maine cities of Bangor and Brewer. In this region, a two-mile stretch of Interstate 395 connects two major State highways that carry significant truck traffic across Maine. I-395 affords direct and safe access between these major corridors, but because of the existing Federal truck weight limit, many heavy trucks are prohibited from using this multi-lane, limited access highway.

Instead, these trucks, which sometimes carry hazardous materials, are required to maneuver through the downtown portions of Bangor and Brewer on two-lane roadways. Truckers are faced with two options; the first is a 3.5 mile diversion through downtown Bangor that requires several very difficult and dangerous turns. The second route is a 7.5 mile diversion that includes 20 traffic lights and requires travel through portions of downtown Bangor as well. Congestion is a significant issue, and safety is seriously compromised as a result of these required diversions.

In June 2004, Wilbur Smiths Associates, a nationally recognized transportation consulting firm, completed a study to examine the impact a Federal weight exemption on non-exempt portions of Maine's Interstate Highway System would have on safety, pavement, and bridges. The study found that extending the current truck weight exemption on the Maine Turnpike to all interstate highways in Maine would result in a decrease of 3.2 fatal crashes per year. A uniform truck weight limit of 100,000 pounds on Maine's interstate highways would reduce highway miles, as well as the travel times necessary to transport

freight through Maine, resulting in safety, economic, and environmental benefits.

Moreover, Maine's extensive network of local roads would be better preserved without the wear and tear of heavy truck traffic.

Most important, however, a uniform truck weight limit will keep trucks on the interstate where they belong, rather than on roads and highways that pass through Maine's cities, towns, and neighborhoods.

In addition to the safety of motorists and pedestrians, there is a homeland security aspect to this as well. An accident or attack involving a heavy truck carrying explosive fuel or a hazardous chemical on a congested city street would have devastating consequences. That risk can be alleviated substantially by allowing those trucks to stay on the open highway.

The legislation that Senator SNOWE and I are introducing addresses the safety issues we face in Maine because of the disparities in truck weight limits. The legislation directs the Secretary of Transportation to establish a commercial truck safety pilot program in Maine. Under the pilot program, the truck weight limit on all Maine highways that are part of the Interstate Highway System would be set at 100,000 pounds for three years. During the waiver period, the Secretary would study the impact of the pilot program on safety and would receive the input of a panel on which State officials, and representatives from safety organizations, municipalities, and the commercial trucking industry would serve. The waiver would become permanent if the panel determined that motorists were safer as a result of a uniform truck weight limit on Maine's Interstate Highway System.

Maine's citizens and motorists are needlessly at risk because too many heavy trucks are forced off the interstate and onto local roads. The legislation Senator SNOWE and I are introducing is a commonsense approach to a significant safety problem in my State. Our efforts are widely supported by public officials throughout Maine, including the Governor, the Maine Department of Transportation, the Maine Secretary of State, and the Maine State Police. I urge my colleagues to support this important legislation.

Ms. SNOWE. Mr. President, I rise today to join my colleague from Maine, Senator COLLINS, to once again introduce legislation that seeks not only to rectify an impediment to international commerce flowing through Maine, but more importantly, will offer a measure of safety and security that many of my constituents in Maine do not currently possess.

As many of our colleagues know, expanding upon the current federal truck weight limitation of 80,000 pounds is often looked upon as too dangerous, flaunting the safety of drivers who may be faced with a truck weighing as much as 145,000 pounds. While my record re-

flects my long commitment to safety on our roadways, I ask my colleagues not to overlook the safety of pedestrians as well.

Take the situation we face in Maine, where we currently have a limited exemption along the southern portion of the Maine Turnpike. Many trucks traveling to or from the Canadian border or into upstate Maine are not able to travel on our Interstates as a result of the 80,000 pound weight limit. This forces many of them onto secondary roads, many of which are two-lane roads running through small towns and villages in Maine. Tanker trucks carrying fuel teeter past elementary schools, libraries, weaving through traffic to reach locations like our Air National Guard station. Not only is it an inefficient method of bringing necessary fuel to Guardsmen that provide our national security, but imagine if you will one of those tanker trucks rupturing on Main Street, potentially causing serious damage to property, causing traffic chaos, and most importantly, killing or injuring drivers and pedestrians.

This is not a far-fetched scenario. In fact, two pedestrians were killed last year in Maine as a result of overweight trucks on local roadways, one tragic instance occurring within sight of the nearby Interstate. So I ask you, is the so-called safety argument truly a legitimate reason for opposition as my constituents and many others across small American communities are taking their lives in their hands when merely crossing Main Street?

What is the result of redirecting such traffic onto local roads? According to study conducted by the Maine Department of Transportation, traffic fatalities involving trucks weighing 100,000 pounds are 10 times greater on secondary roads in Maine than on the exempted Interstates. Serious injuries are seven times more likely. Not to mention the exorbitant cost of maintaining these secondary roads, forced to handle these massive trucks. These roads were not designed to handle this kind of traffic. Our Interstates were, yet these trucks are consistently prevented from traveling on them.

As you can see, safety is indeed the issue. Unfortunately, I believe the opponents of such legislation who continually cite safety as the reason behind their opposition are missing the point.

Another argument against allowing such trucks access to these Interstates is the classic "slippery slope", that if you allow one State to have such an exemption, pretty soon you'll have to give EVERY State such an exemption. Well, I would like to remind the opponents of this bill that we're already almost there. A total of 46 States possess some type of variance, already have some type of exemption, and 4 States allow trucks weighing over 130,000 pounds on some roads within their State! To offer a clear picture of this, if you are driving a truck weighing 100,000 pounds, you can leave Gary, Indiana, just outside of Chicago, and can

operate that vehicle all the way to Portland, ME. There, of course, they have to unload the additional weight—this case, 20,000 pounds—to continue on the Interstate, or travel the remainder of the way through the State on these local roads, endangering the populace and other drivers.

Conversely, you can operate a truck weighing 90,000 pounds from Kansas City, Missouri and travel to Seattle, WA. So I ask you, is this truly a legitimate reason for opposition while my constituents are taking their lives in their hands when merely crossing Main Street? Perhaps, for the sake of fairness, every State should rescind their current variances, instead requiring that all States operate at the present federal level of 80,000 pounds. I suspect if that were the case many of our opponents would no longer be so stalwart in their reluctance to support waivers.

Lastly, and most importantly, I would especially like to thank Senator COLLINS for her steadfast effort as, side-by-side, we continue to seek a resolution to this issue so vital to our State's economic competitiveness and to the safety of Maine's people.

By Ms. CANTWELL (for herself, Ms. SNOWE, Mr. KERRY, and Mr. NELSON, of Florida):

S. 859. A bill to amend the provisions of law relating to the John H. Prescott Marine Mammal Rescue Assistance Grant Program, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Ms. CANTWELL. Mr. President, I rise today to introduce the Marine Mammals Rescue Assistance Amendments Act.

In my home State of Washington, our history and economy is based on a rich maritime tradition that contributes as much as \$3 billion to the State's economy each year. There are 3,000 vessels in Washington's fishing fleet that employ 10,000 fishermen. Nationwide, ocean-dependent industries generate approximately \$138 billion and millions of jobs to the U.S. economy. According to the National Ocean Economic Project, 30 U.S. coastal states accounted for 82 percent of total population and 81 percent of U.S. jobs in 2006.

For these communities, their histories and economies literally ebb and flow with the tide. It is vital we remember the ocean resources these communities depend on are a public trust, and a resource to be both treasured and protected.

One important element of the oceans' ecosystems is marine mammals. They reflect the greater health of the ocean environment, like a canary in a coal mine.

In Washington state, marine mammals like the endangered Puget Sound southern resident orcas are icons for our region.

My State's coastal waters are inhabited by gray whales, harbor seals, orcas, humpback whales, Dall's por-

poise, California sea lions, and sea otters. They are an important part of Washington's marine environment, and deserve to be protected and respected.

But occasionally these remarkable animals run into trouble and need our help. They become stranded on beaches, ensnared in fishing gear, hit by boats, or harmed by marine trash. Human activities endanger these animals, as such, it is our responsibility to do all that we can to protect them.

The Marine Mammals Rescue Assistance Amendments Act continues our Government's efforts to protect and preserve these remarkable creatures.

It would reauthorize and amend provisions of the Marine Mammal Protection Act of 1972 relating to the John H. Prescott Marine Mammal Rescue Assistance Grant Program, Prescott program.

Before this program was created, saving troubled marine mammals was the burden of small, locally-funded volunteer organizations, many of whom were members of the Marine Mammal Stranding Network. These groups of local citizens took on the financial burden of rescuing and rehabilitating stranded mammals, relied mainly on piecemeal fundraising, and were woefully underfunded.

The Prescott program lends a much-needed helping hand to these organizations, helping to defray their costs for marine mammal rescue and rehabilitation. It also allows eligible Marine Mammal Stranding Network participants to use funds to collect scientific data to improve the treatment and operation of rescue and rehabilitation centers.

Reauthorization of this program is important to the Marine Mammal Stranding Networks around the nation, aquariums and zoos, the environmental community, and NOAA.

For example, in my home state of Washington, organizations like the Orca Network, the Makah Tribe, The Whale Museum, and the Cascadia Research Collective rely on this funding, and last year received a total of \$319,000 in Prescott grant funding to help support their work preserving and protecting marine mammals.

The Marine Mammal Rescue Assistance Amendments Act would amend section 403 of the MMPA to: define the term "entanglement" and add authorization for entanglement response as eligible for funding under the program; require the Secretary of Commerce to collect and update existing practices and procedures for rescuing and rehabilitating entangled marine mammals; establishes an interest bearing fund in the Treasury for emergency response to marine mammal entanglement and stranding, and allow the program to solicit and accept gifts and other donations to increase the impact of the program; increase authorization for the program to \$7 million for each fiscal years 2009 to 2013; and increase the maximum grant for projects from \$100,000 to \$200,000.

We cannot turn our backs on the damage we do to our marine mammals every day. When marine mammals are harmed by human activities—whether intentional or unintentional, direct or indirect—we have an ethical obligation to do what we can to help.

As stewards of the oceans, we owe it to our coastal communities, our precious marine mammals, and future generations to fulfill that obligation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 859

*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 "Marine Mammal Rescue Assistance Amendments of 2009".

#### SEC. 2. STRANDING AND ENTANGLEMENT RESPONSE.

(a) COLLECTION AND UPDATING OF INFORMATION.—Section 402(b)(1)(A) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1421a(b)(1)(A)) is amended by inserting "or entangled" after "stranded".

(b) ENTANGLEMENT RESPONSE AGREEMENTS.—

(1) IN GENERAL.—Section 403 of that Act (16 U.S.C. 1421b) is amended—

(A) by striking the section heading and inserting the following:

"SEC. 403. STRANDING OR ENTANGLEMENT RESPONSE AGREEMENTS."; and

(B) by striking "stranding." in subsection (a) and inserting "stranding or entanglement.".

(2) CLERICAL AMENDMENT.—The table of contents for title IV of that Act is amended by striking the item relating to section 403 and inserting the following:

"Sec. 403. Stranding or entanglement response agreements.".

(c) LIABILITY.—Section 406(a) of such Act (16 U.S.C. 1421e(a)) is amended by inserting "or entanglement" after "stranding".

(d) ENTANGLEMENT DEFINED.—

(1) IN GENERAL.—Section 410 of such Act (16 U.S.C. 1421h) is amended—

(A) by redesignating paragraphs (1) through (6) as paragraphs (2) through (7), respectively; and

(B) by inserting before paragraph (2) (as so redesignated) the following:

"(1) The term 'entanglement' means an event in the wild in which a living or dead marine mammal has gear, rope, line, net, or other material wrapped around or attached to it and is—

"(A) on a beach or shore of the United States; or

"(B) in waters under the jurisdiction of the United States.".

(2) CONFORMING AMENDMENT.—Section 408(a)(2)(B)(i) of such Act (16 U.S.C. 1421f-1(a)(2)(B)(i)) is amended by striking "section 410(6)" and inserting "section 410(7)".

(e) UNUSUAL MORTALITY EVENT FUNDING.—Section 405 of such Act (16 U.S.C. 1421d) is amended—

(1) by striking "to compensate persons for special costs" in subsection (b)(1)(A)(i) and inserting "to make advance, partial, or progress payments under contracts or other funding mechanisms for property, supplies, salaries, services, and travel costs";

(2) by striking "preparing and transporting" in subsection (b)(1)(A)(ii) and inserting "the preparation, analysis, and transportation of";

(3) by striking “event for” in subsection (b)(1)(A)(ii) and inserting “event, including such transportation for”;

(4) by striking “and” after the semicolon in subsection (c)(2);

(5) by striking “subsection (d).” in subsection (c)(3) and inserting “subsection (d); and”;

(6) by adding at the end of subsection (c) the following:

“(4) up to \$500,000 per fiscal year (as determined by the Secretary) from amounts appropriated to the Secretary for carrying out this title and the other titles of this Act.”.

(f) JOHN H. PRESCOTT MARINE MAMMAL RESCUE AND RESPONSE FUNDING PROGRAM.—

(1) AUTHORIZATION OF APPROPRIATIONS.—Section 408(h) of such Act (16 U.S.C. 1421f-1(h)) is amended to read as follows:

“(h) AUTHORIZATION OF APPROPRIATIONS.—

“(1) IN GENERAL.—There are authorized to be appropriated to carry out this section, other than subsection (a)(3), \$7,000,000 for each of fiscal years 2010 through 2014, to remain available until expended, of which—

“(A) \$6,000,000 may be available to the Secretary of Commerce; and

“(B) \$1,000,000 may be available to the Secretary of the Interior.

“(2) RAPID RESPONSE FUND.—There are authorized to be appropriated to the John H. Prescott Marine Mammal Rescue and Rapid Response Fund established by subsection (a)(3), \$500,000 for each of fiscal years 2010 through 2014.

“(3) ADDITIONAL RAPID RESPONSE FUNDS.—There shall be deposited into the Fund established by subsection (a)(3) up to \$500,000 per fiscal year (as determined by the Secretary) from amounts appropriated to the Secretary for carrying out this title and the other titles of this Act.”.

(2) ADMINISTRATIVE COSTS AND EXPENSES.—Section 408(f) of such Act (16 U.S.C. 1421f-1(f)) is amended to read as follows:

“(f) ADMINISTRATIVE COSTS AND EXPENSES.—Of the amounts available each fiscal year to carry out this section, the Secretary may expend not more than 6 percent or \$80,000, whichever is greater, to pay the administrative costs and administrative expenses to implement the program under subsection (a). Any such funds retained by the Secretary for a fiscal year for such costs and expenses that are not used for such costs and expenses before the end of the fiscal year shall be provided under subsection (a).”.

(3) EMERGENCY ASSISTANCE.—Section 408 of such Act (16 U.S.C. 1421f-1) is amended—

(A) by striking so much of subsection (a) as precedes paragraph (2) and inserting the following:

“(a) IN GENERAL.—(1) Subject to the availability of appropriations, the Secretary shall conduct a program to be known as the John H. Prescott Marine Mammal Rescue and Response Funding Program, to provide for the recovery or treatment of marine mammals, the collection of data from living or dead stranded or entangled marine mammals for scientific research regarding marine mammal health, facility operation costs that are directly related to those purposes, and stranding or entangling events requiring emergency assistance. All funds available to implement this section shall be distributed to eligible stranding network participants for the purposes set forth in this paragraph and paragraph (2), except as provided in subsection (f).”;

(B) by redesignating paragraph (2) as paragraph (4) and inserting after paragraph (1) the following:

“(2) CONTRACT AUTHORITY.—To carry out the activities set out in paragraph (1), the Secretary may enter into grants, cooperative agreements, contracts, or such other agreements or arrangements as the Secretary deems appropriate.

“(3) PRESCOTT RAPID RESPONSE FUND.—There is established in the Treasury an interest bearing fund to be known as the ‘John H. Prescott Marine Mammal Rescue and Rapid Response Fund’, which shall consist of a portion of amounts deposited into the Fund under subsection (h) or received as contributions under subsection (i), and which shall remain available until expended without regard to any statutory or regulatory provision related to the negotiation, award, or administration of any grants, cooperative agreements, and contracts.”;

(C) by striking “designated as of the date of the enactment of the Marine Mammal Rescue Assistance Act of 2000, and in making such grants” in paragraph (4), as redesignated, and inserting “as defined in subsection (g)(3). The Secretary”; and

(D) by striking “subregions.” in paragraph (4), as redesignated, and inserting “subregions where such facilities exist.”;

(E) by striking subsections (d) and (e) and inserting the following:

“(d) LIMITATION.—

“(1) IN GENERAL.—Support for an individual project under this section may not exceed \$200,000 for any 12-month period.

“(2) UNEXPENDED FUNDS.—Amounts provided as support for an individual project under this section that are unexpended or unobligated at the end of such period—

“(A) shall remain available until expended; and

“(B) shall not be taken into account in any other 12-month period for purposes of paragraph (1).

“(e) MATCHING REQUIREMENT.—

“(1) IN GENERAL.—Except as provided in paragraph (2), the non-Federal share of the costs of an activity conducted with funds under this section shall be 25 percent of such Federal costs.

“(2) WAIVER.—The Secretary shall waive the requirements of paragraph (1) with respect to an activity conducted with emergency funds disbursed from the Fund established by subsection (a)(3).

“(3) IN-KIND CONTRIBUTIONS.—The Secretary may apply to the non-Federal share of an activity conducted with a grant under this section the amount of funds, and the fair market value of property and services, provided by non-Federal sources and used for the activity.”; and

(F) by redesignating paragraph (2) of subsection (g) as paragraph (3) and inserting after paragraph (1) the following:

“(2) EMERGENCY ASSISTANCE.—The term ‘emergency assistance’ means assistance provided for a stranding or entangling event—

“(A) that—

“(i) is not an unusual mortality event as defined in section 409(7);

“(ii) leads to an immediate increase in required costs for stranding or entangling response, recovery, or rehabilitation in excess of regularly scheduled costs;

“(iii) may be cyclical or endemic; and

“(iv) may involve out-of-habitat animals; or

“(B) is found by the Secretary to qualify for emergency assistance.”.

(4) CONTRIBUTIONS.—Section 408 of such Act (16 U.S.C. 1421f-1) is amended by adding at the end the following:

“(i) CONTRIBUTIONS.—For purposes of carrying out this section, the Secretary may solicit, accept, receive, hold, administer, and use gifts, devises, and bequests without any further approval or administrative action.”.

(5) CONFORMING AMENDMENT.—The section heading for section 408 is amended to read as follows:

“SEC. 408. JOHN H. PRESCOTT MARINE MAMMAL RESCUE AND RESPONSE FUNDING PROGRAM.”.

(g) AUTHORIZATION OF APPROPRIATIONS FOR MARINE MAMMAL UNUSUAL MORTALITY EVENT FUND.—Section 409 of such Act (16 U.S.C. 1421g) is amended—

(1) by striking “1993 and 1994;” in paragraph (1) and inserting “2010 through 2014;”;

(2) by striking “1993 and 1994;” in paragraph (2) and inserting “2010 through 2014;”;

and

(3) by striking “fiscal year 1993.” in paragraph (3) and inserting “each of fiscal years 2010 through 2014.”.

By Mr. DORGAN (for himself, Ms. SNOWE, Mr. KERRY, Mr. SCHUMER, Mrs. LINCOLN, Ms. STABENOW, Mr. VOINOVICH, Mr. BURR, Mr. PRYOR, Mr. LEAHY, and Mr. LEVIN):

S. 864. A bill to amend the Internal Revenue Code of 1986 to expand tax-free distributions from individual retirement accounts for charitable purposes; to the Committee on Finance.

Mr. DORGAN. Mr. President, the Nation’s charitable community has been damaged from the harsh realities of the economic downturn. Dwindling contributions and devastating market losses have hit many charities and philanthropic activities, and the trusts and funds that support them.

Experts at the Congressional Research Service suggest that charitable assets could have lost more than \$400 billion in value from the stock market’s peak in October 2007. Some foundations with narrow investment portfolios have lost close to 50 percent since that time. Donations are down at many charities across the country.

Yet, the work of these organizations to assist low-income families and individuals facing financial difficulty is more important than ever. The economy is in trouble—20,000 jobs are lost every day and the unemployment rate is approaching 9 percent. It is not surprising that many charities are seeing an increase in those seeking help for food, rent or mortgage payments or utility bills, along with an increase in the number of working poor seeking services, more generally.

The Senate recently sent a strong message to our charitable community that we understand their financial challenges and will do what it can to help. During consideration of the fiscal year 2010 Budget Resolution, the Senate unanimously passed an amendment I authored with Senator SNOWE that gives a green light to pass legislation to extend and enhance the soon-to-expire charitable individual retirement account, IRA, rollover tool that charities have used to help raise money. This tax incentive allows individuals to make gifts to charities from their IRAs without suffering adverse tax consequences.

Today, I am joined by Senator SNOWE and 9 of our colleagues in introducing the Public Good IRA Rollover Act, which would permanently extend and expand the tax-free charitable IRA rollover incentive.

Congress added a provision to the Tax Code in 2006 that permitted taxpayers age 70½ or older to give money

directly from their IRAs to charities, tax-free. This provision is modeled after an approach for direct charitable gifts that we have advanced in the Public Good IRA Rollover Act.

The results of this provision have been very exciting for many in the charitable community. According to one survey, approximately 900 charitable organizations had reported more than 8,500 individual IRA distributions, with a total value of nearly \$140 million.

Unfortunately, the tax-favored benefit of the charitable IRA rollover is only available for a temporary period and is scheduled to expire at the end of this year unless Congress acts. The Public Good IRA Rollover Act will not only extend the charitable IRA rollover, it will modify it in a manner that we believe will result in more gifts to charity without busting the budget. These changes include: allowing taxpayers to make life-income gifts from their IRAs to charities at age 59½, eliminating the current dollar cap, and making the charitable IRA rollover benefits available to more charitable organizations.

Adopting these provisions will result in more charitable giving, particularly allowing taxpayers to make life-time gifts from their IRAs starting at the age of 59½. Many charities secure funds from life-income gifts, which involve the donation of assets to a charity, where the giver retains an income stream from those assets for a defined period. While this provision would stimulate additional giving, evidence also suggests that people who make life-income gifts become more involved with charities. And, because the income payouts for most gift annuities and charitable trusts will be higher than IRA payouts, IRA rollovers to life-income agreements may produce immediate taxable revenues and score positively. In short, the life-income gift provision would greatly benefit charities in a fiscally-responsible manner.

The Public Good IRA Rollover Act has strong bipartisan support in the Senate and House of Representatives. It has garnered the support of the Independent Sector, the Council on Foundations, and the Partnership for Philanthropic Planning. I am very pleased that the North Dakota Association of Nonprofit Organizations, which represents the interests of more than 140 nonprofits in my State, has also offered its support for this legislation that could help North Dakota charities raise millions of dollars in the coming years.

I also ask my colleagues to review this legislation and consider cosponsoring it.

Mr. President, I ask unanimous consent that letters of support be printed in the RECORD.

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

NORTH DAKOTA ASSOCIATION  
OF NONPROFIT ORGANIZATIONS,  
*Bismarck, ND, April 13, 2009.*

Hon. BYRON DORGAN,  
*U.S. Senate,  
Washington, DC.*

DEAR SENATOR DORGAN: The North Dakota Association of Nonprofit Organizations (NDANO), on behalf of the more than 140 member nonprofits in our state, writes to express our support for Public Good IRA Rollover Act you will be introducing later this month.

NDANO's mission is strengthening member nonprofits, building community and enhancing quality of life, and one of the key issues on NDANO's public policy agenda is charitable giving. More specifically, NDANO supports actions to preserve and expand tax policies that increase incentives for taxpayers to donate to charitable organizations. Donations by individuals to support nonprofit work in North Dakota are essential to increasing nonprofit capacity to meet the needs of the state's citizens and communities, particularly in these challenging economic times. This Act could be a real boost to fundraising, encouraging those age 59½ and older to make gifts to charities that would not otherwise be given.

NDANO appreciates your commitment to introduce this Act to incentivize charitable giving. Thank you for your continuing support of North Dakota nonprofits and the entire nonprofit sector.

Sincerely,

DANA SCHAAR,  
*Executive Director.*

INDEPENDENT SECTOR,  
*Washington, DC, April 21, 2009.*

Re: Public Good IRA Rollover Act of 2009.

Hon. BYRON L. DORGAN,  
*U.S. Senate,  
Washington, DC.*

Hon. OLYMPIA J. SNOWE,  
*U.S. Senate,  
Washington, DC.*

DEAR SENATORS DORGAN AND SNOWE: On behalf of the over 550 member organizations of Independent Sector, I am writing to express our sincere appreciation for your leadership in promoting nonprofits and the work they perform through your introduction of the Public Good IRA Rollover Act of 2009.

Since it was enacted in August 2006, the current IRA charitable rollover has helped nonprofits enrich lives and strengthen communities across the country and around the world by allowing individuals to make direct gifts to charities from their Individual Retirement Accounts without suffering adverse tax consequences. The IRA rollover is particularly helpful for older Americans who do not itemize their tax deductions and would not otherwise receive any tax benefit for their contributions. We wholeheartedly support the provisions in the Public Good IRA Rollover Act of 2009 that make the giving incentive permanent, allow planned giving programs to provide retirement security to donors while helping nonprofits serve their communities, and expand the IRA rollover to donor advised funds and supporting organizations.

We believe that your Public Good IRA Rollover Act of 2009 would greatly enhance the ability of individuals to give back to their communities and offer our assistance in helping to move this important bill through the legislative process.

Sincerely,

PATRICIA READ.

PARTNERSHIP FOR  
PHILANTHROPIC PLANNING,  
*Indianapolis, IN, April 21, 2009.*

Hon. BYRON DORGAN,  
*U.S. Senate,  
Washington, DC.*  
Hon. OLYMPIA SNOWE,  
*U.S. Senate,  
Washington, DC.*

DEAR SENATORS DORGAN AND SNOWE: On behalf of the Partnership for Philanthropic Planning (formerly the National Committee on Planned Giving), I write to thank you for reintroducing the Public Good IRA Rollover Act. We appreciate your efforts to help our nation's charities during this period of economic turmoil.

The Public Good IRA Rollover Act would make permanent and expand the IRA Charitable Rollover enacted in 2006 and extended at the end of last year. As you well know, the IRA Charitable Rollover has already generated a significant amount of new charitable giving by eliminating the barrier in the tax law that had discouraged transfers from individual retirement accounts to charities. These gifts are helping organizations in every state build cancer centers, develop programs for counseling at-risk youth, support housing for homeless families, conserve wilderness areas, help disadvantaged students attend college, and provide therapy for people with disabilities.

We are pleased that your legislation would expand the current law IRA Charitable Rollover by allowing for qualified charitable distributions to life-income gifts, including charitable gift annuities, charitable remainder trusts and pooled income funds. We are also delighted your legislation would permit distributions from IRA accounts to donor-advised funds, supporting organizations, and private foundations. These important provisions will offer increased options for charitable giving, allowing an entire generation of generous Americans to continue providing for others even in these challenging economic times.

Again, thank you for reintroducing the Public Good IRA Rollover Act. We look forward to working with your office to ensure it is signed into law soon.

Sincerely,

TANYA HOWE JOHNSON,  
*President and CEO.*

COUNCIL ON FOUNDATIONS,  
*Arlington, VA, April 21, 2009.*

Hon. BYRON DORGAN,  
*U.S. Senate,  
Washington, DC.*  
Hon. OLYMPIA SNOWE,  
*U.S. Senate,  
Washington, DC.*

DEAR SENATOR DORGAN AND SENATOR SNOWE: On behalf of the Council on Foundations and our membership of more than 2,100 grantmaking foundations and corporations, we would like to thank you for your continued leadership on issues of critical concern to the philanthropic sector and the communities which we serve. We are particularly appreciative of your sponsorship of the "Public Good IRA Rollover Act of 2009", legislation which would both permanently extend current law authorizing charitable rollovers of individual retirement accounts ("IRAs"), and permit such rollovers to include gifts to donor-advised funds, supporting organizations, and private foundations.

Enactment of the "Public Good IRA Rollover Act of 2009" will be a crucial step forward in ensuring that philanthropic organizations have the means and flexibility to address dramatically growing needs. Making current law regarding IRA rollovers permanent will provide current donors the certainty needed for prudent charitable gift

planning, and will ensure future donors have the ability to use this efficient means of giving. Making the charitable IRA rollover available for gifts to donor-advised funds, supporting organizations, and private foundations will enable additional donors, particularly among middle-income Americans, to utilize charitable rollovers for the benefit of organizations that are particularly well-suited to delivering philanthropic resources quickly and effectively to communities in need.

Two recent studies by the Council on Foundations show that, in 2007, donor-advised funds accounted for over one-third of all community foundation assets and 62% of their total grantmaking. In addition, donor-advised funds located within community foundations have a payout rate of 16.4%, over three times the minimum required for private foundations by federal law. The Council also has found that donor-advised funds are a particularly effective tool for middle-income Americans to engage in philanthropy. With most community foundations accepting a donor-advised fund in the range of \$5,000 to \$15,000, donor-advised funds are a philanthropic vehicle that can go to work immediately, a particularly valuable asset given current demands on philanthropic resources.

Thank you again for your leadership in providing philanthropies with the tools needed to fulfill their missions, and to help meet the growing needs of their communities. We look forward to working with you to achieve passage of the "Public Good Rollover Act of 2009".

Very truly yours,

STEVE GUNDERSON,  
President and Chief Executive Officer.

By Mr. REED (for himself, Ms. COLLINS, Mr. DODD, Mrs. GILLIBRAND, Mr. KERRY, Mr. LAUTENBERG, Mrs. LINCOLN, Mrs. MURRAY, Mr. MENENDEZ, Mr. SANDERS, Mr. WHITEHOUSE, Mr. CARDIN, and Mr. DURBIN):

S. 866. A bill to amend the Elementary and Secondary Education Act of 1965 regarding environmental education, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. REED. Mr. President, today I am introducing the No Child Left Inside Act of 2009, which will provide new support for environmental education in our Nation's classrooms. I thank Senators COLLINS, CARDIN, DODD, DURBIN, GILLIBRAND, KERRY, LAUTENBERG, LINCOLN, MENENDEZ, MURRAY, SANDERS, and WHITEHOUSE for agreeing to be original cosponsors of this bill. Given the major environmental challenges we face today, teaching our young people about their natural world should be a priority, and this legislation is an important first step.

For more than three decades, environmental education has been a growing part of effective instruction in America's schools. Responding to the need to improve student achievement and prepare students for the 21st century economy, many schools throughout the Nation now offer some form of environmental education.

Yet, environmental education is facing a significant challenge. Many schools are being forced to scale back or eliminate environmental programs. Fewer and fewer students are able to

take part in related classroom instruction and field investigations, however effective or popular. State and local administrators, teachers, and environmental educators point to two factors behind this recent and disturbing shift: the unintended consequences of the No Child Left Behind Act and a lack of funding for these critical programs.

The legislation that I am introducing today would address these two concerns. First, it would provide a new professional development initiative to ensure that teachers possess the content knowledge and pedagogical skills to effectively teach environmental education in the classroom, including the use of innovative interdisciplinary and field-based learning strategies. Second, the bill would create incentives, through new funding, for states to develop a peer-reviewed comprehensive statewide environmental literacy plan to make sure prekindergarten, elementary, and secondary school students have a solid understanding of our planet and its natural resources. Lastly, the No Child Left Inside Act provides support for school districts to initiate, expand, or improve their environmental education curriculum, and for rigorous national studies to be conducted regarding the effectiveness of environmental education on improving student academic achievement and behavior. This legislation has broad support among national and state environmental groups and educational groups.

The American public recognizes that the environment is already one of the dominant issues of the 21st century. In 2003, a National Science Foundation panel noted that "in the coming decades, the public will more frequently be called upon to understand complex environmental issues, assess risk, evaluate proposed environmental plans and understand how individual decisions affect the environment at local and global scales. Creating a scientifically informed citizenry requires a concerted, systemic approach to environmental education . . ." In the private sector, business leaders also increasingly believe that an environmentally literate workforce is critical to their long-term success. They recognize that better, more efficient environmental practices improve the bottom line and help position their companies for the future.

Climate change, conservation of precious natural resources, maintaining clean air and water, and other environmental challenges are pressing and complex issues that influence human health, economic development, and national security. A federal study released earlier this month found that students participating in environmental air quality education programs took action that resulted in improved air quality in their communities. The study concludes by recommending increased support for environmental education programs. Finding widespread agreement about the specific steps we need to take to solve these problems is

difficult. Environmental education will help ensure that our Nation's children have the knowledge and skills necessary to address these critical issues. In short, the environment should be an important part of the curriculum in our schools.

I know my constituents in Rhode Island, as well as the residents of other States, want their children to be environmentally literate and have a connection with the natural world. In Rhode Island, organizations such as the Rhode Island Environmental Education Association, Roger Williams Park Zoo, Save the Bay, the Nature Conservancy, and the Audubon Society as well as countless schools, teachers, and other groups across the country, reach out to children each and every day to offer educational and outdoor experiences that these children may never otherwise have, helping to inspire them to learn. Despite these extraordinary efforts, environmental education remains out of reach for too many kids. I am proud to sponsor this important legislation. I look forward to working with my colleagues to enact the No Child Left Inside Act of 2009.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 866

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "No Child Left Inside Act of 2009".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. References.

Sec. 3. Authorization of appropriations.

#### TITLE I—ENVIRONMENTAL LITERACY PLANS

Sec. 101. Development, approval, and implementation of State environmental literacy plans.

#### TITLE II—ESTABLISHMENT OF ENVIRONMENTAL EDUCATION PROFESSIONAL DEVELOPMENT GRANT PROGRAMS

Sec. 201. Environmental education professional development grant programs.

#### TITLE III—ENVIRONMENTAL EDUCATION GRANT PROGRAM TO HELP BUILD NATIONAL CAPACITY

Sec. 301. Environmental education grant program to help build national capacity.

#### SEC. 2. REFERENCES.

Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.).

#### SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION.—There is authorized to be appropriated to carry out section 5622(g) and part E of title II of the Elementary and Secondary Education Act of 1965, \$100,000,000 for fiscal year 2010 and each of the 4 succeeding fiscal years.

(b) DISTRIBUTION.—With respect to any amount appropriated under subsection (a) for a fiscal year—

(1) not more than 70 percent of such amount shall be used to carry out section 5622(g) of the Elementary and Secondary Education Act of 1965 for such fiscal year; and

(2) not less than 30 percent of such amount shall be used to carry out part E of title II of such Act for such fiscal year.

#### **TITLE I—ENVIRONMENTAL LITERACY PLANS**

##### **SEC. 101. DEVELOPMENT, APPROVAL, AND IMPLEMENTATION OF STATE ENVIRONMENTAL LITERACY PLANS.**

Part D of title V (20 U.S.C. 7201 et seq.) is amended by adding at the end the following:

##### **“Subpart 22—Environmental Literacy Plans**

##### **“SEC. 5621. ENVIRONMENTAL LITERACY PLAN REQUIREMENTS.**

“In order for any State educational agency, or a local educational agency served by a State educational agency, to receive grant funds, either directly or through participation in a partnership with a recipient of grant funds, under this subpart or part E of title II, the State educational agency shall meet the requirements regarding an environmental literacy plan under section 5622.

##### **“SEC. 5622. STATE ENVIRONMENTAL LITERACY PLANS.**

“(a) SUBMISSION OF PLAN.—

“(1) IN GENERAL.—Not later than 1 year after the date of enactment of the No Child Left Inside Act of 2009, a State educational agency subject to the requirements of section 5621 shall, in consultation with State environmental agencies and State natural resource agencies, and with input from the public—

“(A) submit an environmental literacy plan for prekindergarten through grade 12 to the Secretary for peer review and approval that will ensure that elementary and secondary school students in the State are environmentally literate; and

“(B) begin the implementation of such plan in the State.

“(2) EXISTING PLANS.—A State may satisfy the requirement of paragraph (1)(A) by submitting to the Secretary for peer review an existing State plan that has been developed in cooperation with a State environmental or natural resource management agency, if such plan complies with this section.

“(b) PLAN OBJECTIVES.—A State environmental literacy plan shall meet the following objectives:

“(1) Prepare students to understand, analyze, and address the major environmental challenges facing the students’ State and the United States.

“(2) Provide field experiences as part of the regular school curriculum and create programs that contribute to healthy lifestyles through outdoor recreation and sound nutrition.

“(3) Create opportunities for enhanced and on-going professional development for teachers that improves the teachers’—

“(A) environmental subject matter knowledge; and

“(B) pedagogical skills in teaching about environmental issues, including the use of—

“(i) interdisciplinary, field-based, and research-based learning; and

“(ii) innovative technology in the classroom.

“(c) CONTENTS OF PLAN.—A State environmental literacy plan shall include each of the following:

“(1) A description of how the State educational agency will measure the environmental literacy of students, including—

“(A) relevant State academic content standards and content areas regarding envi-

ronmental education, and courses or subjects where environmental education instruction will be integrated throughout the prekindergarten to grade 12 curriculum; and

“(B) a description of the relationship of the plan to the secondary school graduation requirements of the State.

“(2) A description of programs for professional development for teachers to improve the teachers’—

“(A) environmental subject matter knowledge; and

“(B) pedagogical skills in teaching about environmental issues, including the use of—

“(i) interdisciplinary, field-based, and research-based learning; and

“(ii) innovative technology in the classroom.

“(3) A description of how the State educational agency will implement the plan, including securing funding and other necessary support.

“(d) PLAN UPDATE.—The State environmental literacy plan shall be revised or updated by the State educational agency and submitted to the Secretary not less often than every 5 years or as appropriate to reflect plan modifications.

“(e) PEER REVIEW AND SECRETARIAL APPROVAL.—The Secretary shall—

“(1) establish a peer review process to assist in the review of State environmental literacy plans;

“(2) appoint individuals to the peer review process who—

“(A) are representative of parents, teachers, State educational agencies, State environmental agencies, State natural resource agencies, local educational agencies, and nongovernmental organizations; and

“(B) are familiar with national environmental issues and the health and educational needs of students;

“(3) include, in the peer review process, appropriate representatives from the Department of Commerce, Department of Interior, Department of Energy, the Environmental Protection Agency, and other appropriate Federal agencies, to provide environmental expertise and background for evaluation of the State environmental literacy plan;

“(4) approve a State environmental literacy plan not later than 120 days after the plan’s submission unless the Secretary determines that the State environmental literacy plan does not meet the requirements of this section;

“(5) immediately notify the State if the Secretary determines that the State environmental literacy plan does not meet the requirements of this section, and state the reasons for such determination;

“(6) not decline to approve a State environmental literacy plan before—

“(A) offering the State an opportunity to revise the State environmental literacy plan;

“(B) providing technical assistance in order to assist the State to meet the requirements of this section; and

“(C) providing notice and an opportunity for a hearing; and

“(7) have the authority to decline to approve a State environmental literacy plan for not meeting the requirements of this part, but shall not have the authority to require a State, as a condition of approval of the State environmental literacy plan, to—

“(A) include in, or delete from, such State environmental literacy plan 1 or more specific elements of the State academic content standards under section 1111(b)(1); or

“(B) use specific academic assessment instruments or items.

“(f) STATE REVISIONS.—The State educational agency shall have the opportunity to revise a State environmental literacy

plan if such revision is necessary to satisfy the requirements of this section.

“(g) GRANTS FOR IMPLEMENTATION.—

“(1) PROGRAM AUTHORIZED.—From amounts appropriated for this subsection, the Secretary shall award grants, through allotments in accordance with the regulations described in paragraph (2), to States to enable the States to award subgrants, on a competitive basis, to local educational agencies and eligible partnerships (as such term is defined in section 2502) to support the implementation of the State environmental literacy plan.

“(2) REGULATIONS.—The Secretary shall promulgate regulations implementing the grant program under paragraph (1), which regulations shall include the development of an allotment formula that best achieves the purposes of this subpart.

“(3) ADMINISTRATIVE EXPENSES.—A State receiving a grant under this subsection may use not more than 2.5 percent of the grant funds for administrative expenses.

“(h) REPORTING.—

“(1) IN GENERAL.—Not later than 2 years after approval of a State environmental literacy plan, and every 2 years thereafter, the State educational agency shall submit to the Secretary a report on the implementation of the State plan.

“(2) REPORT REQUIREMENTS.—The report required by this subsection shall be—

“(A) in the form specified by the Secretary;

“(B) based on the State’s ongoing evaluation activities; and

“(C) made readily available to the public.”.

#### **TITLE II—ESTABLISHMENT OF ENVIRONMENTAL EDUCATION PROFESSIONAL DEVELOPMENT GRANT PROGRAMS**

##### **SEC. 201. ENVIRONMENTAL EDUCATION PROFESSIONAL DEVELOPMENT GRANT PROGRAMS.**

Title II (20 U.S.C. 6601 et seq.) is amended by adding at the end the following:

##### **“PART E—ENVIRONMENTAL EDUCATION PROFESSIONAL DEVELOPMENT GRANT PROGRAMS**

##### **“SEC. 2501. PURPOSE.**

“The purpose of this part is to ensure the academic achievement of students in environmental literacy through the professional development of teachers and educators.

##### **“SEC. 2502. GRANTS FOR ENHANCING EDUCATION THROUGH ENVIRONMENTAL EDUCATION.**

“(a) DEFINITION OF ELIGIBLE PARTNERSHIP.—In this section, the term ‘eligible partnership’ means a partnership that—

“(1) shall include a local educational agency; and

“(2) may include—

“(A) the teacher training department of an institution of higher education;

“(B) the environmental department of an institution of higher education;

“(C) another local educational agency, a public charter school, a public elementary school or secondary school, or a consortium of such schools;

“(D) a Federal, State, regional, or local environmental or natural resource management agency that has demonstrated effectiveness in improving the quality of environmental education teachers; or

“(E) a nonprofit organization that has demonstrated effectiveness in improving the quality of environmental education teachers.

“(b) GRANTS AUTHORIZED.—

“(1) PROGRAM AUTHORIZED.—From amounts appropriated for this subsection, the Secretary shall award grants, through allotments in accordance with the regulations described in paragraph (2), to States whose State environmental literacy plan has been approved under section 5622, to enable the



States to award subgrants under subsection (c).

“(2) REGULATIONS.—The Secretary shall promulgate regulations implementing the grant program under paragraph (1), which regulations shall include the development of an allotment formula that best achieves the purposes of this subpart.

“(3) ADMINISTRATIVE EXPENSES.—A State receiving a grant under this subsection may use not more than 2.5 percent of the grant funds for administrative expenses.

“(c) SUBGRANTS AUTHORIZED.—

“(1) SUBGRANTS TO ELIGIBLE PARTNERSHIPS.—From amounts made available to a State educational agency under subsection (b)(1), the State educational agency shall award subgrants, on a competitive basis, to eligible partnerships serving the State, to enable the eligible partnerships to carry out the authorized activities described in subsection (e) consistent with the approved State environmental literacy plan.

“(2) DURATION.—The State educational agency shall award each subgrant under this part for a period of not more than 3 years beginning on the date of approval of the State's environmental literacy plan under section 5622.

“(3) SUPPLEMENT, NOT SUPPLANT.—Funds provided to an eligible partnership under this part shall be used to supplement, and not supplant, funds that would otherwise be used for activities authorized under this part.

“(d) APPLICATION REQUIREMENTS.—

“(1) IN GENERAL.—Each eligible partnership desiring a subgrant under this part shall submit an application to the State educational agency, at such time, in such manner, and accompanied by such information as the State educational agency may require.

“(2) CONTENTS.—Each application submitted under paragraph (1) shall include—

“(A) the results of a comprehensive assessment of the teacher quality and professional development needs, with respect to the teaching and learning of environmental content;

“(B) an explanation of how the activities to be carried out by the eligible partnership are expected to improve student academic achievement and strengthen the quality of environmental instruction;

“(C) a description of how the activities to be carried out by the eligible partnership—

“(i) will be aligned with challenging State academic content standards and student academic achievement standards in environmental education, to the extent such standards exist, and with the State's environmental literacy plan under section 5622; and

“(ii) will advance the teaching of interdisciplinary courses that integrate the study of natural, social, and economic systems and that include strong field components in which students have the opportunity to directly experience nature;

“(D) a description of how the activities to be carried out by the eligible partnership will ensure that teachers are trained in the use of field-based or service learning to enable the teachers—

“(i) to use the local environment and community as a resource; and

“(ii) to enhance student understanding of the environment and academic achievement;

“(E) a description of—

“(i) how the eligible partnership will carry out the authorized activities described in subsection (e); and

“(ii) the eligible partnership's evaluation and accountability plan described in subsection (f); and

“(F) a description of how the eligible partnership will continue the activities funded under this part after the grant period has expired.

“(e) AUTHORIZED ACTIVITIES.—An eligible partnership shall use the subgrant funds provided under this part for 1 or more of the following activities related to elementary schools or secondary schools:

“(1) Creating opportunities for enhanced and ongoing professional development of teachers that improves the environmental subject matter knowledge of such teachers.

“(2) Creating opportunities for enhanced and ongoing professional development of teachers that improves teachers' pedagogical skills in teaching about the environment and environmental issues, including in the use of—

“(A) interdisciplinary, research-based, and field-based learning; and

“(B) innovative technology in the classroom.

“(3) Establishing and operating environmental education summer workshops or institutes, including follow-up training, for elementary and secondary school teachers to improve their pedagogical skills and subject matter knowledge for the teaching of environmental education.

“(4) Developing or redesigning more rigorous environmental education curricula that—

“(A) are aligned with challenging State academic content standards in environmental education, to the extent such standards exist, and with the State environmental literacy plan under section 5622; and

“(B) advance the teaching of interdisciplinary courses that integrate the study of natural, social, and economic systems and that include strong field components.

“(5) Designing programs to prepare teachers at a school to provide mentoring and professional development to other teachers at such school to improve teacher environmental education subject matter and pedagogical skills;

“(6) Establishing and operating programs to bring teachers into contact with working professionals in environmental fields to expand such teachers' subject matter knowledge of, and research in, environmental issues.

“(7) Creating initiatives that seek to incorporate environmental education within teacher training programs or accreditation standards consistent with the State environmental literacy plan under section 5622.

“(8) Promoting outdoor environmental education activities as part of the regular school curriculum and schedule in order to further the knowledge and professional development of teachers and help students directly experience nature.

“(f) EVALUATION AND ACCOUNTABILITY PLAN.—

“(1) IN GENERAL.—Each eligible partnership receiving a subgrant under this part shall develop an evaluation and accountability plan for activities assisted under this part that includes rigorous objectives that measure the impact of the activities.

“(2) CONTENTS.—The plan developed under paragraph (1) shall include measurable objectives to increase the number of teachers who participate in environmental education content-based professional development activities.

“(g) REPORT.—Each eligible partnership receiving a subgrant under this part shall report annually, for each year of the subgrant, to the State educational agency regarding the eligible partnership's progress in meeting the objectives described in the accountability plan of the eligible partnership under subsection (f).”.

## TITLE III—ENVIRONMENTAL EDUCATION GRANT PROGRAM TO HELP BUILD NATIONAL CAPACITY

### SEC. 301. ENVIRONMENTAL EDUCATION GRANT PROGRAM TO HELP BUILD NATIONAL CAPACITY.

Part D of title V (20 U.S.C. 7201 et seq.) (as amended by section 101) is further amended by adding at the end the following:

#### “Subpart 23—Environmental Education Grant Program

##### “SEC. 5631. PURPOSES.

“The purposes of this subpart are—

“(1) to prepare children to understand and address major environmental challenges facing the United States; and

“(2) to strengthen environmental education as an integral part of the elementary school and secondary school curriculum.

##### “SEC. 5632. GRANT PROGRAM AUTHORIZED.

“(a) DEFINITION OF ELIGIBLE PARTNERSHIP.—In this section, the term ‘eligible partnership’ means a partnership that—

“(1) shall include a local educational agency; and

“(2) may include—

“(A) the teacher training department of an institution of higher education;

“(B) the environmental department of an institution of higher education;

“(C) another local educational agency, a public charter school, a public elementary school or secondary school, or a consortium of such schools;

“(D) a Federal, State, regional, or local environmental or natural resource management agency, or park and recreation department, that has demonstrated effectiveness, expertise, and experience in the development of the institutional, financial, intellectual, or policy resources needed to help the field of environmental education become more effective and widely practiced; and

“(E) a nonprofit organization that has demonstrated effectiveness, expertise, and experience in the development of the institutional, financial, intellectual, or policy resources needed to help the field of environmental education become more effective and widely practiced.

“(b) GRANTS AUTHORIZED.—

“(1) IN GENERAL.—The Secretary is authorized to award grants, on a competitive basis, to eligible partnerships to enable the eligible partnerships to pay the Federal share of the costs of activities under this subpart.

“(2) DURATION.—Each grant under this subpart shall be for a period of not less than 1 year and not more than 3 years.

##### “SEC. 5633. APPLICATIONS.

“Each eligible partnership desiring a grant under this subpart shall submit to the Secretary an application that contains—

“(1) a plan to initiate, expand, or improve environmental education programs in order to make progress toward meeting—

“(A) challenging State academic content standards and student academic achievement standards in environmental education, to the extent such standards exist; and

“(B) academic standards that are aligned with the State's environmental literacy plan under section 5622; and

“(2) an evaluation and accountability plan for activities assisted under this subpart that includes rigorous objectives that measure the impact of activities funded under this subpart.

##### “SEC. 5634. USE OF FUNDS.

“Grant funds made available under this subpart shall be used for 1 or more of the following:

“(1) Developing and implementing State curriculum frameworks for environmental education that meet—

“(A) challenging State academic content standards and student academic achievement standards for environmental education, to the extent such standards exist; and

“(B) academic standards that are aligned with the State’s environmental literacy plan under section 5622.

“(2) Replicating or disseminating information about proven and tested model environmental education programs that—

“(A) use the environment as an integrating theme or content throughout the curriculum; or

“(B) provide integrated, interdisciplinary instruction about natural, social, and economic systems along with field experience that provides students with opportunities to directly experience nature in ways designed to improve students’ overall academic performance, personal health (including addressing child obesity issues), and understanding of nature.

“(3) Developing and implementing new policy approaches to advancing environmental education at the State and national level.

“(4) Conducting studies of national significance that—

“(A) provide a comprehensive, systematic, and formal assessment of the state of environmental education in the United States;

“(B) evaluate the effectiveness of teaching environmental education as a separate subject, and as an integrating concept or theme; or

“(C) evaluate the effectiveness of using environmental education-based field-based learning, service learning or outdoor experiential learning in helping improve—

“(i) student academic achievement in mathematics, reading or language arts, science, or other core academic subjects;

“(ii) student behavior;

“(iii) student attendance; and

“(iv) secondary school graduation rates.

“(5) Executing projects that advance widespread State and local educational agency adoption and use of environmental education content standards.

#### “SEC. 5635. REPORTS.

“(a) ELIGIBLE PARTNERSHIP REPORT.—In order to continue receiving grant funds under this subpart after the first year of a multiyear grant under this subpart, the eligible partnership shall submit to the Secretary an annual report that—

“(1) describes the activities assisted under this subpart that were conducted during the preceding year;

“(2) demonstrates that progress has been made in helping schools to meet the State academic standards for environmental education described in section 5634(1); and

“(3) describes the results of the eligible partnership’s evaluation and accountability plan.

“(b) REPORT TO CONGRESS.—Not later than 2 years after the date of enactment of the No Child Left Inside Act of 2009 and annually thereafter, the Secretary shall submit a report to Congress that—

“(1) describes the programs assisted under this subpart;

“(2) documents the success of such programs in improving national and State environmental education capacity; and

“(3) makes such recommendations as the Secretary determines appropriate for the continuation and improvement of the programs assisted under this subpart.

#### “SEC. 5636. ADMINISTRATIVE PROVISIONS.

“(a) FEDERAL SHARE.—The Federal share of a grant under this subpart shall not exceed—

“(1) 90 percent of the total costs of the activities assisted under the grant for the first year for which the program receives assistance under this subpart; and

“(2) 75 percent of such costs for each of the second and third years.

“(b) ADMINISTRATIVE EXPENSES.—Not more than 7.5 percent of the grant funds made available to an eligible partnership under this subpart for any fiscal year may be used for administrative expenses.

“(c) AVAILABILITY OF FUNDS.—Amounts made available to the Secretary to carry out this subpart shall remain available until expended.

#### “SEC. 5637. SUPPLEMENT, NOT SUPPLANT.

“Funds made available under this subpart shall be used to supplement, and not supplant, any other Federal, State, or local funds available for environmental education activities.”.

By Mrs. FEINSTEIN:

S. 867. A bill for the relief of Shirley Constantino Tan; to the Committee on the Judiciary.

Mrs. FEINSTEIN. Mr. President, today I am introducing a private relief bill on behalf of Shirley Constantino Tan. Ms. Tan is a Filipina national living in Pacifica, California. She is the loving mother of 12 year old U.S. citizen twin boys, Jashley and Joreine, and the spouse of Jay Mercado, a naturalized U.S. citizen.

I have decided to introduce a private bill on Ms. Tan’s behalf because I believe her removal from the U.S. would cause undue hardship for her and her family. Without this legislation, this family will be separated or they will be relocated to a third country where Ms. Tan’s safety and her children’s well-being may be at risk. I believe Ms. Tan merits Congress’ special consideration for such an extraordinary form of relief as a private bill.

Before coming to the U.S., Ms. Tan experienced tragic hardship in the Philippines after her mother and sister were murdered by her cousin. Ms. Tan was only 14 years old at the time and the violent assault left her with a bullet wound in the head. Although the cousin who committed the murders was eventually prosecuted, he received a short sentence and his impending release from jail in 1990 compelled her to leave the country out of fear for her safety. Ms. Tan legally entered the U.S. on a visitor’s visa in 1989.

Ms. Tan faces deportation today in part because of the negligence demonstrated by her previous counsel. Ms. Tan applied for asylum in 1995. After years of appeals, the attorney received a brief from the Board of Immigration Appeals, BIA, outlining the Government’s position on Ms. Tan’s case. The attorney, however, failed to submit a reply brief in her client’s favor and, in May 2002, the case was dismissed and Ms. Tan was granted an order of voluntary departure from the U.S.

Ms. Tan should have received notice of the voluntary removal order from her attorney. However, the attorney had moved offices, did not receive the order, and failed to inform Ms. Tan of the information. As a result, Ms. Tan did not depart the U.S. and the voluntary removal order against her became a deportation order.

The first time that Ms. Tan received notice of the deportation order was on January 28, 2009, when Immigration

and Customs Enforcement officers appeared at her home and took her into custody.

In effect, Ms. Tan was denied the opportunity to adequately represent herself in U.S. immigration proceedings as a result of her attorney’s negligence. Ms. Tan has since filed a complaint against her former attorney with the State Bar of California. A previous complaint has also been filed against the same attorney with the California Bar for similar misconduct.

One of the most compelling reasons for permitting Ms. Tan to remain in the U.S. is the impact that her deportation would have on her two U.S. citizen minor children, Jashley and Joreine.

These children are currently seventh graders at Cabrillo Elementary School in Pacifica, California, where they have made the honor roll. In letters to me from two teachers at Cabrillo Elementary, Jashley and Joreine were described as “ideal” students—“the kinds of kids that make my job feel easy.” One of the teachers described their mother, Ms. Tan, as a highly-involved, “model” parent, one who “attends every conference, drives on field trips and consistently checks in with her boys’ teachers and the rest of our staff to make sure Jashley and Joreine continue to be successful.”

However, if Ms. Tan is forced to leave the United States, this family has stated that they would follow her to the Philippines or relocate to a third country to avoid their separation. This means that Jashley and Joreine will have to cut their education short and have to leave the U.S.—their birthplace and the only country they know to be home.

All too often, young U.S. citizen children like Jashley and Joreine are being put in this position when one or both of their parents may be removed from the United States. A January 2009 report by the Department of Homeland Security Office of Inspector General found that, over the last 10 years, 108,434 immigrants who were the parents of U.S. citizen children were removed from this country.

A separate report completed this year by Dorsey & Whitney LLP to the Urban Institute affirms what many of us know—that the removal or deportation of a parent is deeply traumatic and causes long-lasting harm to U.S. citizen children. For families that have no choice but to leave the United States as a unit in order to stay together, this has life-altering consequences for U.S. citizen children. Besides the fact that these children lose the opportunities that come with being raised in the United States, these children are more prone to anxiety, depression, eating and sleeping disorders, post-traumatic stress disorder, and behavior changes.

This is the situation facing the Tan family. While her marriage was legally performed under California law at the time, Ms. Tan cannot take steps to legally adjust her immigration status

through the regular family-based immigration channels.

I do not believe that it is in our Nation's best interest to force this family—including two U.S. citizen minor children—to make the choice between being separated and relocation to a country where they may face serious hardships.

The Tan family has built a stable and supportive home for themselves in the Pacifica, California community. Ms. Tan's spouse has worked for 17 years at Biddle-Shaw Insurance Services, Inc., where her employer describes her as "hard-working . . . trustworthy and dependable." This couple owns their own home, and over many years they were active members of the Good Shepherd Catholic Church. At Good Shepherd, Jay was a member of the School Board and Ms. Tan was a consummate volunteer. I received a heartfelt letter from the Pastor at Good Shepherd that describes Ms. Tan as a "dedicated mother" and attests to the family's spirit of volunteerism and commitment at the church.

In fact, I have received 45 letters from friends and community members and 3 letters from organizations, including the Human Rights Campaign, Love Exiles, and Immigration Equality, in support of Ms. Tan remaining in the U.S. I have also been contacted by Representative JACKIE SPEIER's office in support of this case. This family has also received substantial attention from the media in the San Francisco Bay Area.

Enactment of the legislation I am introducing on behalf of Ms. Tan today will enable this entire family to us continue to remain in the U.S. and make positive contributions to their community in Pacifica, California.

Mr. President, I ask unanimous consent that the text of the bill and letters of support be printed in the RECORD.

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

S. 867

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. PERMANENT RESIDENT STATUS FOR SHIRLEY CONSTANTINO TAN.**

(a) IN GENERAL.—Notwithstanding subsections (a) and (b) of section 201 of the Immigration and Nationality Act (8 U.S.C. 1151), Shirley Constantino Tan shall be eligible for issuance of an immigrant visa or for adjustment of status to that of an alien lawfully admitted for permanent residence upon filing an application for issuance of an immigrant visa under section 204 of such Act (8 U.S.C. 1154) or for adjustment of status to lawful permanent resident.

(b) ADJUSTMENT OF STATUS.—If Shirley Constantino Tan enters the United States before the filing deadline specified in subsection (c), she shall be considered to have entered and remained lawfully and shall, if otherwise eligible, be eligible for adjustment of status under section 245 of the Immigration and Nationality Act (8 U.S.C. 1255) as of the date of the enactment of this Act.

(c) DEADLINE FOR APPLICATION AND PAYMENT OF FEES.—Subsections (a) and (b) shall

apply only if the application for issuance of an immigrant visa or the application for adjustment of status is filed with appropriate fees within 2 years after the date of the enactment of this Act.

(d) REDUCTION OF IMMIGRANT VISA NUMBER.—Upon the granting of an immigrant visa or permanent residence to Shirley Constantino Tan, the Secretary of State shall instruct the proper officer to reduce by one, during the current or next following fiscal year, the total number of immigrant visas that are made available to natives of the country of the alien's birth under section 203(a) of the Immigration and Nationality Act (8 U.S.C. 1153(a)) or, if applicable, the total number of immigrant visas that are made available to natives of the country of the alien's birth under section 202(e) of such Act (8 U.S.C. 1152(e)).

CABRILLO SCHOOL,  
Pacifica, CA, April 2, 2009.

TO WHOM IT MAY CONCERN: Jaylynn Mercado and Shirley Tan are model parents to their 12-year-old twin boys, Jashley and Joriene. It is upsetting to hear that Shirley is being forced to leave the country and be separated from her family. Due to the dedication of these parents, Jashley and Joriene are ideal students. They are well liked by their peers and the faculty of the school. They are both exceptional students. Jaylynn and Shirley are always willing to help the school out in any way possible. They are committed to encouraging their children to do great things. Jaylynn and Shirley have modeled and taught their boys some of the finest traits of respect and compassion. It is my hope that this respect and compassion is returned to the Mercado Family.

Please do what is possible to keep this family intact. They are a lovely addition to our school community. Please contact me if there is any more help that I can give.

Sincerely,

MEGHANN ELSBERND.

CABRILLO SCHOOL,  
Pacifica, CA, March 30, 2009.

TO WHOM IT MAY CONCERN: My name is Jared Katz and I am writing this letter in support of Shirley Mercado. I teach 6th grade at Cabrillo Elementary in Pacifica, California and last year I was fortunate to have Joriene and Jashley Mercado in my class. Both boys were exceptional students. They were on the honor roll, athletic, confident, and popular with their peers. Joriene and Jashley are the kinds of kids that make my job feel easy.

Once I got to know their family a little bit I immediately understood why the boys were so successful. Each year I see sixty-four different families, from a variety of cultural and economic backgrounds, and I don't think I've ever seen a family as committed to each other as the Mercados. Being in a room with the four of them together it's impossible to not be envious of the strong bond between them and of the ease and comfort in the way they relate to one another. And from our first meeting it was obvious that Shirley is the center of their family's strength. When you talk to them together all the boys' actions revolve around her and as a member of our school community she is the model parent. She attends every conference, drives on field trips and consistently checks in with her boys teachers and the rest of our staff to make sure Joriene and Jashley continue to be successful.

When I heard the news this morning that she may be forced to leave the country and be separated from her family I was very shocked and saddened. If there's anything that can be done to help preserve her family I hope that it will be vigorously pursued.

And if there's anything I can do to help, please don't hesitate to ask.

Sincerely,

JARED KATZ.

CHURCH OF THE GOOD SHEPHERD,  
Pacifica, CA.

DEAR SENATOR FEINSTEIN, It is an honor for me to write this letter of support for one of your constituents, Ms. Shirley Tan. I am her Pastor here at Good Shepherd Catholic Church in Pacifica. I have gotten to know Shirley and her partner Jay Mercado as well as their twin boys Jashley and Joriene. I have been closely connected with this family for the past 5 years. Shirley is a wonderful mother to her sons. She is always available, her gentle spirit and loving heart guiding all that she does as a parent. She and Jay want the best for their sons. They want the boys to grow in wisdom and knowledge and find their true and definite place in this world. They provide a warm and welcoming home, with their door open to family and neighbors (and even strangers!!) Shirley and Jay were school parents here until recently, when, they found a public school that better met the needs of their boys. While they were here at Good Shepherd, Jay was a faithful and responsible member of the School Board, and Shirley was the consummate volunteer . . . always willing and able to help out on campus, as a classroom aide, on special school projects, as a chaperone on field trips . . . Whenever there was a call for help from our Principal or from the School Office, without a moment's hesitation, Shirley would be one of the first to call and offer whatever assistance was needed at the time.

Jay and Shirley were also faithful members of one of our Sunday Mass choirs. Coming to church every week . . . being faithful members of a Christian community . . . being whole-hearted servants of God as ministers of music in this local church . . . bringing their two boys to mass every Sunday and encouraging them to become altar servers . . . Jay and Shirley have for all the time I have known them been wonderful Christian partners, parents, role models for their two boys, and, as Scripture says, "living stones" helping to form and to build up the Church, the Body of Christ, in today's broken and violent world.

I urge you in the strongest possible terms to do to all that you can to assist Shirley and to help quickly and justly resolve her current legal situation.

Sincerely,

PIERS M. LAHEY,  
Pastor.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 108—COMMENDING CAPTAIN RICHARD PHILLIPS, THE CREW OF THE "MAERSK ALABAMA", AND THE UNITED STATES ARMED FORCES, RECOGNIZING THE GROWING PROBLEM OF PIRACY OFF SOMALIA'S COAST, AND URGING THE DEVELOPMENT OF A COMPREHENSIVE STRATEGY TO ADDRESS PIRACY AND ITS ROOT CAUSES

Mr. LEAHY (for himself, Mr. GREGG, Mr. FEINGOLD, Mr. KENNEDY, Mr. SANDERS, Mr. KERRY, and Mr. CHAMBLISS) submitted the following resolution; which was considered and agreed to:

S. RES. 108

Whereas Somalia has been without a functioning central government since 1991, resulting in lawlessness and an increasingly desperate humanitarian situation;

Whereas according to a Somali human rights group, violence during the period from 2007 to 2009 has killed an estimated 16,000 people, wounded more than 28,000 people, and displaced more than 1,000,000 people;

Whereas these grim conditions and the absence of a functioning government have made Somalia an ideal base for piracy operations and a fertile ground for terrorist organizations, including the group al-Shabaab, whose leaders have ties to al-Qaeda;

Whereas acts of piracy off the coast of Somalia have been on the rise for more than a year, with the International Maritime Bureau reporting an estimated 111 attacks in 2008;

Whereas on Wednesday, April 8, 2009, Somali pirates used grappling hooks and weapons to board the Norfolk, Virginia-based container ship Maersk Alabama, which was captained by Richard Phillips, a resident of Underhill, Vermont, and crewed by 19 other citizens of the United States, and which was delivering food aid from the World Food Programme to hungry people in east Africa;

Whereas Captain Phillips, a native of Winchester, Massachusetts and a 1979 graduate of the Massachusetts Maritime Academy, bravely led the Maersk Alabama crew in successfully retaking control of the ship by offering himself as a hostage in exchange for the release of the crew;

Whereas 4 pirates took Captain Phillips into an 18-foot lifeboat, held him captive at gunpoint, and repeatedly threatened to kill him;

Whereas the United States Central Command dispatched to the scene the destroyer U.S.S. Bainbridge, which was joined in subsequent days by the U.S.S. Halyburton and the U.S.S. Boxer, along with Navy SEAL teams, Marine Corps helicopters, and other joint assets of the United States Armed Forces;

Whereas hostage recovery experts from the Federal Bureau of Investigation gave guidance to the crew of the U.S.S. Bainbridge, while the Department of State stayed in contact with Captain Phillips' family, including Phillips' wife Andrea and their 2 children, Daniel and Mariah, in Underhill, Vermont;

Whereas Maersk Limited, based in Norfolk, Virginia, worked diligently with the United States Armed Forces to try to obtain the release of Captain Phillips and the Maersk Alabama crew and to move the ship safely to port in Kenya, while sending personal representatives to Vermont to keep the Phillips family informed;

Whereas in the late evening of April 9, 2009, Captain Phillips made an escape attempt, jumping into the water of the Indian Ocean to swim for safety, only to be pursued by the pirates and quickly recaptured;

Whereas the President received regular briefings on the hostage crisis and provided the authority necessary for the United States Armed Forces to resolve it;

Whereas on April 12, 2009, Easter Sunday, Captain Phillips was rescued after the United States Armed Forces, which throughout the crisis spared no effort to defuse the situation and peacefully rescue Phillips, took the lives of 3 of the pirate captors when Phillips was seen to be in imminent danger; and

Whereas international commerce remains under threat while Somali pirates continue to hold for ransom more than 200 crew members of many nationalities: Now, therefore, be it

*Resolved*, That it is the sense of the Senate that—

(1) Captain Phillips deserves the respect and admiration of all people of the United States for his brave conduct under life-threatening circumstances;

(2) the Senate shares the sense of relief and gratitude felt by the family and shipmates of Captain Phillips;

(3) all members of the United States Armed Forces involved in the rescue operation, in particular members of the Navy and Navy SEAL teams who rescued Captain Phillips, the officials of other Federal Government departments and agencies who contributed, and the crew of the Maersk Alabama, are to be commended for their exceptional efforts and devotion to duty; and

(4) the President should work with the international community and the transitional government of Somalia to develop a comprehensive strategy to address both the burgeoning problem of piracy and its root causes.

#### SENATE RESOLUTION 109—COMMENDING THE BRAVERY OF THE GIRLS WHO ATTEND THE MIRWAIS SCHOOL FOR GIRLS IN KANDAHAR, AFGHANISTAN

Mr. CRAPO (for himself, Mr. LUGAR, and Mr. RISCH) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 109

Whereas, on November 12, 2008, 15 girls who attend the Mirwais School for Girls in Kandahar, Afghanistan, were attacked by militants and sprayed with acid, causing them varying degrees of disfigurement;

Whereas the militants committed the egregious attack to intimidate the girls and their families and to discourage the girls from continuing to attend school;

Whereas, less than one week after the attacks, Headmaster Mahmood Qadari asked parents to return the girls to school;

Whereas, by January 14, 2009, nearly 1,300 girls, almost all the students, had returned to the 40-room Mirwais School for Girls;

Whereas the families of the girls from the Mirwais School for Girls defy threats of personal harm and staunchly assert the right to educate their daughters;

Whereas, according to the United Nations, educating girls and women reduces the incidence of domestic and community violence and raises the standard of living in a country;

Whereas, according to a study published by the Afghanistan Independent Human Rights Commission, it is a "fact that child marriage takes place in a frequent and pervasive fashion" in Afghanistan;

Whereas, according to that study, of women surveyed for the study, 43.6 percent stated that they married to solve their economic problems, 7.1 percent referred to the resolution of conflicts as the reason for their early marriage, 37 percent said that "badal", or the exchange of girls between 2 families, was the reason for their marriage, and 12.3 percent cited other reasons for their marriage, such as local traditional practices and parental interference;

Whereas, according to 2007 information from the World Health Organization, the health of women and children in Afghanistan is among the worst in the world;

Whereas, according to estimates from the Department of State for 2008, the literacy rate for women in Afghanistan is 12 percent;

Whereas it is a continuing priority of the United States government to advance the rights of women in Afghanistan by facilitating women's participation in social, polit-

ical, and economic affairs and by ensuring women's safety and well-being;

Whereas the United States Government looks to the government of Afghanistan to proactively support the rights of women and girls, and recognizes that the recently-passed personal security law would severely diminish such rights;

Whereas the United States Agency for International Development (USAID) has integrated women-focused activities into most of its programs by strategic design, with the goal of increasing women's political participation and access to education, health care, economic opportunities, and roles in civil society;

Whereas USAID has noted that, despite women's nearly non-existent access to health, education, and political participation in 2001, there has been a 25 percent decrease in maternal mortality since 2001, due in great part to women's significantly improved access to health and hospital services;

Whereas, since 2001, Afghanistan has experienced a surge in school attendance to more than 6,000,000 children enrolled, of which 35 percent are girls, and has greatly increased participation of women in civil society, with women representing 26 percent of the civil service and holding 27 percent of the seats in the national assembly and 29 percent of provincial council seats; and

Whereas, despite significant gains made through assistance programs in Afghanistan since the fall of the Taliban government in 2001, there remains a great deal more work to be done toward achieving reasonable development in still one of the poorest countries in the world, and such development can be achieved only by empowering the 50 percent of the population that is women: Now, therefore, be it

*Resolved*, That the Senate—

(1) recognizes and commends the extraordinary bravery shown by the girls and families of the Mirwais School for Girls in Kandahar, Afghanistan, especially the girls injured in the November 2008 attack, in the decision to return to school in the face of threats of bodily injury, or worse; and

(2) continues to support efforts to decrease illiteracy and gender-based violence in Afghanistan.

#### SENATE RESOLUTION 110—CONGRATULATING THE UNIVERSITY OF NORTH CAROLINA TAR HEELS BASKETBALL TEAM FOR WINNING THE 2008-2009 NCAA MEN'S BASKETBALL CHAMPIONSHIP

Mr. BURR (for himself and Mrs. HAGAN) submitted the following resolution; which was considered and agreed to:

S. RES. 110

Whereas on April 6, 2009, the University of North Carolina defeated Michigan State University 89-72 to win the 2008-2009 National Collegiate Athletic Association (NCAA) men's basketball national championship;

Whereas the University of North Carolina was the consensus preseason number 1 basketball team in the Nation;

Whereas the University of North Carolina Tar Heels were saddled with a tremendous amount of pressure to get to the NCAA Final Four and win the national championship in 2009;

Whereas after the Tar Heels' 0-2 record to start the Atlantic Coast Conference (ACC) regular season, the team finished with a record of 13-3 and won 13 out of their last 14 games in conference;

Whereas the Tar Heels were the 2008-2009 ACC regular season conference champions;

Whereas the University of North Carolina's Tyler Hansbrough became the ACC's all-time leading scorer;

Whereas the University of North Carolina's Tyler Hansbrough and Ty Lawson were selected to the 2008-2009 All-Atlantic Coast Conference (All-ACC) first team;

Whereas Tyler Hansbrough became the first player in league history to be unanimously selected 4 times to the All-ACC first team;

Whereas the University of North Carolina's Danny Green was selected to the 2008-2009 All-ACC third team and the All-ACC defensive team;

Whereas the University of North Carolina's Ed Davis was selected to the All-ACC rookie team;

Whereas entering into the 2008-2009 NCAA College Basketball Championship, President Barack Obama picked the Tar Heels to win the championship title;

Whereas the University of North Carolina beat each of Radford University, Louisiana State University, Gonzaga University, and the University of Oklahoma by 12 points or more to win the South Division and reach the Final Four for the second straight year;

Whereas Ty Lawson was named the South Division most valuable player;

Whereas with their victory over the University of Oklahoma, the Tar Heels became the first team in NCAA Tournament history to reach 100 tournament wins;

Whereas several media outlets, including ESPN and CBS, reported that more than 60,000 fans in attendance at the final tournament game would be cheering for Michigan State University;

Whereas the 55 points the University of North Carolina scored in the first half of the championship game broke the all-time first half scoring record for any team in the history of the NCAA tournament;

Whereas the University of North Carolina's Wayne Ellington and Deon Thompson played exceptionally well in the first half of the championship game to push the lead to 21 points;

Whereas the University of North Carolina withstood Michigan State University's late surge and pushed the lead back to 19 points with less than 3 minutes remaining in the game;

Whereas the University of North Carolina's Wayne Ellington was named the Final Four most valuable player;

Whereas Ty Lawson's 8 steals set the record for the most steals in a NCAA championship game;

Whereas the 2008-2009 championship was the University of North Carolina's fifth national championship in school history;

Whereas the 2008-2009 championship was Coach Roy Williams' second national championship since taking over as head coach of the University of North Carolina men's basketball team; and

Whereas with the victory over Michigan State University, the University of North Carolina tied the University of Kentucky for the all-time winningest program in NCAA Division 1 men's basketball history: Now, therefore, be it

*Resolved*, That the Senate—

(1) congratulates the University of North Carolina for winning the 2008-2009 National Collegiate Athletic Association men's basketball national championship;

(2) recognizes the achievement of the players, coaches, students, and staff of the University of North Carolina whose perseverance and dedication to excellence helped propel the men's basketball team to win the championship; and

(3) respectfully requests the Secretary of the Senate to transmit an enrolled copy of this resolution to—

(A) the chancellor of the University of North Carolina, H. Holden Thorp;

(B) the athletic director of the University of North Carolina, Dick Baddour; and

(C) the head coach of the University of North Carolina men's basketball team, Roy Williams.

# SENATE CONCURRENT RESOLUTION 18—SUPPORTING THE GOALS AND IDEALS OF WORLD MALARIA DAY, AND REAFFIRMING UNITED STATES LEADERSHIP AND SUPPORT FOR EFFORTS TO COMBAT MALARIA

Mr. FEINGOLD (for himself, Mr. ISAKSON, Mr. BINGAMAN, Mr. DURBIN, Mr. CARDIN, Mr. WICKER, Mr. BROWNBACK, Ms. CANTWELL, and Mr. MARTINEZ) submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 18

Whereas April 25 of each year is recognized internationally as World Malaria Day and in the United States as Malaria Awareness Day;

Whereas, despite malaria being completely preventable and treatable and the fact that malaria was eliminated in the United States over 50 years ago, more than 40 percent of the world's population is still at risk of contracting malaria;

Whereas, according to the World Health Organization, nearly 1,000,000 people die from malaria each year, the vast majority of whom are children under the age of 5 in Africa;

Whereas malaria greatly affects child health, with a child dying from malaria roughly every 30 seconds and nearly 3,000 children dying from malaria every day;

Whereas malaria poses great risks to maternal health, causing complications during delivery, anemia, and low birth weights, with estimates by the Center for Disease Control and Prevention that malaria infection causes 400,000 cases of severe maternal anemia and from 75,000 to 200,000 infant deaths annually in sub-Saharan Africa;

Whereas HIV infection increases the risk and severity of malarial illness, and malaria increases the viral load in HIV-positive people, which can lead to increased transmission of HIV and more rapid disease progression, with substantial public health implications;

Whereas in malarial regions, many people are co-infected with malaria and one or more of the neglected tropical diseases (NTDs) such as hookworm and schistosomiasis, which causes a pronounced exacerbation of anemia and several adverse health consequences;

Whereas the malnutrition and chronic illness that result from childhood malaria leads to increased absenteeism in school and perpetuates cycles of poverty;

Whereas an estimated 90 percent of deaths from malaria occur in Africa, and the Roll Back Malaria Partnership estimates that malaria costs countries in Africa \$12,000,000,000 in lost economic productivity each year;

Whereas the World Health Organization estimates that malaria accounts for 40 percent of healthcare expenditures in high-burden countries, demonstrating that effective, long-term malaria control is inextricably linked to the strength of health systems;

Whereas heightened efforts over recent years to prevent and treat malaria are currently saving lives;

Whereas the progress and funding to control malaria has increased ten-fold since 2000, in large part due to funding under the President's Malaria Initiative (a United States Government initiative designed to cut malaria deaths in half in target countries in sub-Saharan Africa), the Global Fund to Fight AIDS, Tuberculosis and Malaria, the World Bank, and new financing by other donors;

Whereas the President's Malaria Initiative has purchased almost 13,000,000 artemisinin-based combination therapies (ACT), protected over 17,000,000 people through spraying campaigns, and distributed over 6,000,000 insecticide-treated bed nets, the Global Fund to Fight AIDS, Tuberculosis and Malaria has distributed 70,000,000 bed nets to protect families from malaria and provided 74,000,000 malaria patients with ACTs, and the World Bank's Booster Program is scheduled to commit approximately \$500,000,000 in International Development Association funds for malaria control in Africa;

Whereas public and private partners are developing effective and affordable drugs to treat malaria, with more than 23 types of malaria vaccines in development;

Whereas, according to the Centers for Disease Control and Prevention, vector control, or the prevention of malaria transmission via anopheles mosquitoes, which includes a combination of methods such as insecticide-treated bed nets, indoor residual spraying, and source reduction (larval control), has been shown to reduce severe morbidity and mortality due to malaria in endemic regions;

Whereas the impact of malaria efforts have been documented in numerous regions, such as in Zanzibar, where malaria prevalence among children shrank from 20 percent to less than 1 percent between 2005 and 2007, and in Rwanda, where malaria cases and deaths appeared to decline rapidly after a large-scale distribution of bed nets and malaria treatments in 2006; and

Whereas a malaria-free future will rely on consistent international, national, and local leadership and a comprehensive approach addressing the range of health, development, and economic challenges facing developing countries: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring)*, That the Senate—

(1) supports the goals and ideals of Malaria Awareness Day, including the achievable target of ending malaria deaths by 2015;

(2) calls upon the people of the United States to observe Malaria Awareness Day with appropriate programs, ceremonies, and activities to raise awareness and support to save the lives of those affected by malaria;

(3) reaffirms the goals and commitments to combat malaria in the Tom Lantos and Henry J. Hyde United States Global Leadership Against HIV/AIDS, Tuberculosis, and Malaria Reauthorization Act of 2008 (Public Law 110-293);

(4) commends the progress made by anti-malaria programs, including the President's Malaria Initiative and the Global Fund to Fight AIDS, Tuberculosis, and Malaria;

(5) reaffirms United States support for and contribution toward the achievement of the targets set by the Roll Back Malaria Partnership Global Malaria Action plan;

(6) encourages fellow donor nations to maintain their support and honor their funding commitments for malaria programs worldwide;

(7) urges greater integration of United States and international health programs targeting malaria, HIV/AIDS, tuberculosis, neglected tropical diseases, and basic child and maternal health; and

(8) commits to continued United States leadership in efforts to reduce global malaria deaths, especially through strengthening

health care systems that can deliver effective, safe, high-quality interventions when and where they are needed and assure access to reliable health information and effective disease surveillance.

#### AMENDMENTS SUBMITTED AND PROPOSED

SA 982. Mr. COBURN submitted an amendment intended to be proposed by him to the bill S. 386, to improve enforcement of mortgage fraud, securities fraud, financial institution fraud, and other frauds related to federal assistance and relief programs, for the recovery of funds lost to these frauds, and for other purposes.

SA 983. Mr. COBURN submitted an amendment intended to be proposed by him to the bill S. 386, supra; which was ordered to lie on the table.

SA 984. Mr. REID (for himself, Mr. KOHL, and Mr. LEVIN) proposed an amendment to the bill S. 386, supra.

SA 985. Mr. KYL proposed an amendment to the bill S. 386, supra.

SA 986. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 386, supra.

SA 987. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 386, supra; which was ordered to lie on the table.

SA 988. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 386, supra; which was ordered to lie on the table.

SA 989. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 386, supra; which was ordered to lie on the table.

SA 990. Mr. KOHL submitted an amendment intended to be proposed by him to the bill S. 386, supra; which was ordered to lie on the table.

SA 991. Mr. VITTER submitted an amendment intended to be proposed by him to the bill S. 386, supra.

SA 992. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 386, supra; which was ordered to lie on the table.

SA 993. Mr. LEAHY (for himself and Mr. GRASSLEY) proposed an amendment to the bill S. 386, supra.

SA 994. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 386, supra; which was ordered to lie on the table.

SA 995. Mr. ISAKSON (for himself, Mr. CONRAD, Mr. DODD, Mr. WHITEHOUSE, Ms. SNOWE, and Mr. CHAMBLISS) proposed an amendment to the bill S. 386, supra.

SA 996. Mr. INHOFE (for himself, Mr. DEMINT, Mr. VITTER, and Mr. ALEXANDER) submitted an amendment intended to be proposed to amendment SA 984 proposed by Mr. REID (for himself, Mr. KOHL, and Mr. LEVIN) to the bill S. 386, supra.

SA 997. Mr. NELSON, of Florida submitted an amendment intended to be proposed by him to the bill S. 386, supra; which was ordered to lie on the table.

SA 998. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 386, supra; which was ordered to lie on the table.

SA 999. Mr. DORGAN (for himself, Mr. MCCAIN, and Mr. GRASSLEY) proposed an amendment to the bill S. 386, supra.

SA 1000. Mrs. BOXER (for herself, Ms. SNOWE, Mr. CORKER, and Mr. MERKLEY) submitted an amendment intended to be proposed by her to the bill S. 386, supra.

SA 1001. Mr. DORGAN (for himself and Ms. CANTWELL) submitted an amendment intended to be proposed by him to the bill S.

386, supra; which was ordered to lie on the table.

SA 1002. Mr. THUNE submitted an amendment intended to be proposed by him to the bill S. 386, supra; which was ordered to lie on the table.

#### TEXT OF AMENDMENTS

**SA 982.** Mr. COBURN submitted an amendment intended to be proposed by him to the bill S. 386, to improve enforcement of mortgage fraud, securities fraud, financial institution fraud, and other frauds related to federal assistance and relief programs, for the recovery of funds lost to these frauds, and for other purposes; as follows:

At the end of the bill, add the following:

#### **SEC. 5. USE OF TARP FUNDS TO PAY FOR ADDITIONAL EXPENDITURES.**

Effective upon the date of enactment of this Act, of the amounts of authority made available pursuant to paragraphs (1) and (2) of section 115(a) of the Emergency Economic Stabilization Act of 2008 (Public Law 110-343) to purchase troubled assets that remain unused as of such date of enactment, such amounts as may be necessary shall be available, notwithstanding any provision of such Act, to provide the amounts authorized under subsections (a), (b), (c), and (d) of section 3.

**SA 983.** Mr. COBURN submitted an amendment intended to be proposed by him to the bill S. 386, to improve enforcement of mortgage fraud, securities fraud, financial institution fraud, and other frauds related to federal assistance and relief programs, for the recovery of funds lost to these frauds, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

#### **SEC. \_\_\_\_\_. IG REPORT ON ACTIVITIES OF FANNIE MAE AND FREDDIE MAC.**

Not later than 18 months after the date of enactment of this Act, the Inspector General of the Federal Housing Finance Agency shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on the following:

(1) When did the Federal National Mortgage Association (in this section referred to as "Fannie Mae") and the Federal Home Loan Mortgage Corporation (in this section referred to as "Freddie Mac") begin buying large quantities of subprime and Alt-A mortgages? In what years did Fannie Mae and Freddie Mac purchase the largest number of subprime and Alt-A mortgages?

(2) To what extent were the purchase of subprime and Alt-A mortgages by Fannie Mae and Freddie Mac induced by Congressional action or Executive Order?

(3) To what extent were the purchase of large quantities of subprime and Alt-A mortgages by Fannie Mae and Freddie Mac induced by the Department of Housing and Urban Development affordable housing regulations issued in 1995?

(4) What actions by Fannie Mae and Freddie Mac contributed to the overvaluation of mortgage-backed securities?

(5) What political contributions were made by Fannie Mae and Freddie Mac on behalf of a political candidate or to a separate segregated legal fund described in section 316(b)(2)(c) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b(b)(2)(c)) between 1990 and 2008?

(6) What lobbying expenditures, as such term is defined in section 4911(c)(1) of the Internal Revenue Code of 1986, were made by Fannie Mae and Freddie Mac between 1990 and 2008?

(7) What contributions were made by Fannie Mae and Freddie Mac to any organization described under section 501(c) of the Internal Revenue Code of 1986 between 1990 and 2008?

**SA 984.** Mr. REID (for himself, Mr. KOHL, and Mr. LEVIN) proposed an amendment to the bill S. 386, to improve enforcement of mortgage fraud, securities fraud, financial institution fraud, and other frauds related to federal assistance and relief programs, for the recovery of funds lost to these frauds, and for other purposes; as follows:

At the appropriate place, insert the following:

#### **SEC. \_\_\_\_\_. ADDITIONAL FUNDING FOR HUD PROGRAMS TO ASSIST INDIVIDUALS TO BETTER WITHSTAND THE CURRENT MORTGAGE CRISIS.**

(a) **ADDITIONAL APPROPRIATIONS FOR ADVERTISING IN SUPPORT OF HUD PROGRAMS.**—There is authorized to be appropriated to the Secretary of Housing and Urban Development, to remain available until expended, \$10,000,000 for each of the fiscal years 2010 and 2011 for purposes of providing additional resources to be used for advertising in support of HUD programs and approved counseling agencies, provided that such amounts are used to advertise in the 50 metropolitan statistical areas with the highest incidence of home foreclosures per capita, and provided, further that at least \$5,000,000 of such amounts are used for Spanish-language advertisements.

(b) **ADDITIONAL APPROPRIATIONS FOR THE HOUSING COUNSELING ASSISTANCE PROGRAM.**—There is authorized to be appropriated to the Secretary of Housing and Urban Development, to remain available until expended, \$50,000,000 for each of the fiscal years 2010 and 2011 to carry out the Housing Counseling Assistance Program established within the Department of Housing and Urban Development, provided that such amounts are used to fund HUD-certified housing-counseling agencies located in the 50 metropolitan statistical areas with the highest incidence of home foreclosures per capita for the purpose of assisting homeowners with inquiries regarding mortgage-modification assistance and mortgage scams.

(c) **ADDITIONAL APPROPRIATIONS FOR PERSONNEL AT THE OFFICE OF FAIR HOUSING AND EQUAL OPPORTUNITY.**—There is authorized to be appropriated to the Secretary of Housing and Urban Development, to remain available until expended, \$5,000,000 for each of the fiscal years 2010 and 2011 for purposes of hiring additional personnel at the Office of Fair Housing and Equal Opportunity within the Department of Housing and Urban Development, provided that such amounts are used to hire personnel at the local branches of such Office located in the 50 metropolitan statistical areas with the highest incidence of home foreclosures per capita.

**SA 985.** Mr. KYL proposed an amendment to the bill S. 386, to improve enforcement of mortgage fraud, securities fraud, financial institution fraud, and other frauds related to federal assistance and relief programs, for the recovery of funds lost to these frauds, and for other purposes; as follows:

On page 26, strike lines 1 through 5, and insert the following:



“(3) the term ‘obligation’ means an established duty, whether or not fixed, arising from an express or implied contractual, grantor-grantee, or licensor-licensee relationship, from a fee-based or similar relationship, from statute or regulation, or from the retention of any overpayment; and

**SA 986.** Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 386, to improve enforcement of mortgage fraud, securities fraud, financial institution fraud, and other frauds related to federal assistance and relief programs, for the recovery of funds lost to these frauds, and for other purposes; as follows:

On page 26, after line 22, insert the following:

**SEC. 5. LIMITATION ON AWARDS TO CERTAIN INTERVENORS.**

Section 3730(d) of title 31, United States Code, is amended—

(1) in paragraph (1)—

(A) in the first sentence, by inserting “but in no event more than the greater of \$50,000,000 or 300 percent of the expenses, fees, and costs awarded to such person under the fourth sentence of this paragraph” after “prosecution of the action”; and

(B) in the second sentence—

(i) by striking “Government Accounting Office” and inserting “Government Accountability Office”;

(ii) by inserting “but in no event more than the greater of \$50,000,000 or 300 percent of the expenses, fees, and costs awarded to such person under the fourth sentence of this paragraph” after “advancing the case to litigation”; and

(2) in paragraph (2), by striking the second sentence and inserting “The amount, which shall be paid out of the proceeds of the action or settlement, shall be not less than 25 percent and not more than 30 percent of the amount of such proceeds, but in no event more than the greater of \$50,000,000 or 300 percent of the expenses, fees, and costs awarded to such person under the third sentence of this paragraph”.

**SA 987.** Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 386, to improve enforcement of mortgage fraud, securities fraud, financial institution fraud, and other frauds related to federal assistance and relief programs, for the recovery of funds lost to these frauds, and for other purposes; which was ordered to lie on the table; as follows:

On page 26, after line 22, insert the following:

**SEC. 5. LIMITATION ON AWARDS TO CERTAIN INTERVENORS.**

Section 3730(d) of title 31, United States Code, is amended—

(1) in paragraph (1)—

(A) in the first sentence, by inserting “but in no event more than the greater of \$20,000,000 or 300 percent of the expenses, fees, and costs awarded to such person under the fourth sentence of this paragraph” after “prosecution of the action”; and

(B) in the second sentence—

(i) by striking “Government Accounting Office” and inserting “Government Accountability Office”;

(ii) by inserting “but in no event more than the greater of \$20,000,000 or 300 percent of the expenses, fees, and costs awarded to such person under the fourth sentence of this paragraph” after “advancing the case to litigation”; and

(2) in paragraph (2), by striking the second sentence and inserting “The amount, which

shall be paid out of the proceeds of the action or settlement, shall be not less than 25 percent and not more than 30 percent of the amount of such proceeds, but in no event more than the greater of \$20,000,000 or 300 percent of the expenses, fees, and costs awarded to such person under the third sentence of this paragraph”.

**SA 988.** Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 386, to improve enforcement of mortgage fraud, securities fraud, financial institution fraud, and other frauds related to federal assistance and relief programs, for the recovery of funds lost to these frauds, and for other purposes; which was ordered to lie on the table; as follows:

On page 26, after line 22, insert the following:

**SEC. 5. LIMITATION ON AWARDS TO CERTAIN INTERVENORS.**

Section 3730(d) of title 31, United States Code, is amended—

(1) in paragraph (1)—

(A) in the first sentence, by inserting “but in no event more than the greater of \$10,000,000 or 300 percent of the expenses, fees, and costs awarded to such person under the fourth sentence of this paragraph” after “prosecution of the action”; and

(B) in the second sentence—

(i) by striking “Government Accounting Office” and inserting “Government Accountability Office”;

(ii) by inserting “but in no event more than the greater of \$10,000,000 or 300 percent of the expenses, fees, and costs awarded to such person under the fourth sentence of this paragraph” after “advancing the case to litigation”; and

(2) in paragraph (2), by striking the second sentence and inserting “The amount, which shall be paid out of the proceeds of the action or settlement, shall be not less than 25 percent and not more than 30 percent of the amount of such proceeds, but in no event more than the greater of \$10,000,000 or 300 percent of the expenses, fees, and costs awarded to such person under the third sentence of this paragraph”.

**SA 989.** Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 386, to improve enforcement of mortgage fraud, securities fraud, financial institution fraud, and other frauds related to federal assistance and relief programs, for the recovery of funds lost to these frauds, and for other purposes; which was ordered to lie on the table; as follows:

On page 26, after line 22, insert the following:

**SEC. 5. LIMITATION ON AWARDS TO CERTAIN INTERVENORS.**

Section 3730(d) of title 31, United States Code, is amended—

(1) in paragraph (1)—

(A) in the first sentence, by inserting “but in no event more than the greater of \$5,000,000 or 300 percent of the expenses, fees, and costs awarded to such person under the fourth sentence of this paragraph” after “prosecution of the action”; and

(B) in the second sentence—

(i) by striking “Government Accounting Office” and inserting “Government Accountability Office”;

(ii) by inserting “but in no event more than the greater of \$5,000,000 or 300 percent of the expenses, fees, and costs awarded to such person under the fourth sentence of this paragraph” after “advancing the case to litigation”; and

(2) in paragraph (2), by striking the second sentence and inserting “The amount, which shall be paid out of the proceeds of the action or settlement, shall be not less than 25 percent and not more than 30 percent of the amount of such proceeds, but in no event more than the greater of \$5,000,000 or 300 percent of the expenses, fees, and costs awarded to such person under the third sentence of this paragraph”.

**SA 990.** Mr. KOHL submitted an amendment intended to be proposed by him to the bill S. 386, to improve enforcement of mortgage fraud, securities fraud, financial institution fraud, and other frauds related to federal assistance and relief programs, for the recovery of funds lost to these frauds, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_ . GRANTS TO STATES FOR ENHANCED PROTECTION OF SENIORS FROM BEING MISLED BY FALSE DESIGNATIONS.**

(a) FINDINGS.—Congress finds that—

(1) many seniors are targeted by salespersons and advisers using misleading certifications and professional designations;

(2) many certifications and professional designations used by salespersons and advisers represent limited training or expertise, and may in fact be of no value with respect to advising seniors on financial and estate planning matters, and far too often, such designations are obtained simply by attending a weekend seminar and passing an open book, multiple choice test;

(3) many seniors have lost their life savings because salespersons and advisers holding a misleading designation have steered them toward products that were unsuitable for them, given their retirement needs and life expectancies;

(4) seniors have a right to clearly know whether they are working with a qualified adviser who understands the products and is working in their best interest or a self-interested salesperson or adviser advocating particular products; and

(5) many existing State laws and enforcement measures addressing the use of certifications, professional designations, and suitability standards in selling financial products to seniors are inadequate to protect senior investors from salespersons and advisers using such designations.

(b) DEFINITIONS.—As used in this section—

(1) the term “misleading designation”—

(A) means the use of a purported certification, professional designation, or other credential, that indicates or implies that a salesperson or adviser has special certification or training in advising or servicing seniors; and

(B) does not include any legitimate certification, professional designation, license, or other credential, if—

(i) it has been offered by an academic institution having regional accreditation; or

(ii) it meets the standards for certifications, licenses, and professional designations outlined by the North American Securities Administrators Association (in this section referred to as the “NASAA”) Model Rule on the Use of Senior-Specific Certifications and Professional Designations, or it was issued by or obtained from any State;

(2) the term “financial product” means securities, insurance products (including insurance products which pay a return, whether fixed or variable), and bank and loan products;

(3) the term “misleading or fraudulent marketing” means the use of a misleading

designation in selling or advising a senior in the sale of a financial product;

(4) the term "senior" means any individual who has attained the age of 62 or older; and

(5) the term "State" means each of the 50 States, the District of Columbia, and the unincorporated territories of Puerto Rico and the U.S. Virgin Islands.

(c) **GRANT PROGRAM.**—The Attorney General of the United States (in this section referred to as the "Attorney General")—

(1) shall establish a program in accordance with this section to provide grants to States—

(A) to investigate and prosecute misleading and fraudulent marketing practices; or

(B) to develop educational materials and training aimed at reducing misleading and fraudulent marketing of financial products toward seniors; and

(2) may establish such performance objectives, reporting requirements, and application procedures for States and State agencies receiving grants under this section as the Attorney General determines are necessary to carry out and assess the effectiveness of the program under this section.

(d) **USE OF GRANT AMOUNTS.**—A grant under this section may be used (including through subgrants) by the State or the appropriate State agency designated by the State—

(1) to fund additional staff to identify, investigate, and prosecute cases involving misleading or fraudulent marketing of financial products to seniors;

(2) to fund technology, equipment, and training for regulators, prosecutors, and law enforcement in order to identify salespersons and advisers who target seniors through the use of misleading designations;

(3) to fund technology, equipment, and training for prosecutors to increase the successful prosecution of those targeting seniors with the use of misleading designations;

(4) to provide educational materials and training to regulators on the appropriateness of the use of designations by salespersons and advisers of financial products;

(5) to provide educational materials and training to seniors to increase their awareness and understanding of designations;

(6) to develop comprehensive plans to combat misleading or fraudulent marketing of financial products to seniors; and

(7) to enhance provisions of State law that could offer additional protection for seniors against misleading or fraudulent marketing of financial products.

(e) **GRANT REQUIREMENTS.**—

(1) **MAXIMUM.**—The amount of a grant under this section may not exceed \$500,000 per fiscal year per State, if all requirements of paragraphs (2), (3), (4), and (5) are met. Such amount shall be limited to \$100,000 per fiscal year per State in any case in which the State meets the requirements of—

(A) paragraphs (2) and (3), but not each of paragraphs (4) and (5); or

(B) paragraphs (4) and (5), but not each of paragraphs (2) and (3).

(2) **STANDARD DESIGNATION RULES FOR SECURITIES.**—A State shall have adopted rules on the appropriate use of designations in the offer or sale of securities or investment advice, which shall, to the extent practicable, conform to the minimum requirements of the NASAA Model Rule on the Use of Senior-Specific Certifications and Professional Designations, as in effect on the date of enactment of this Act, or any successor thereto, as determined by the Attorney General.

(3) **SUITABILITY RULES FOR SECURITIES.**—A State shall have adopted standard rules on the suitability requirements in the sale of securities, which shall, to the extent practicable, conform to the minimum requirements on suitability imposed by self-regu-

latory organization rules under the securities laws (as defined in section 3 of the Securities Exchange Act of 1934), as determined by the Attorney General.

(4) **STANDARD DESIGNATION RULES FOR INSURANCE PRODUCTS.**—A State shall have adopted standard rules on the appropriate use of designations in the sale of insurance products, which shall, to the extent practicable, conform to the minimum requirements of the National Association of Insurance Commissioners Model Regulation on the Use of Senior-Specific Certifications and Professional Designations in the Sale of Life Insurance and Annuities, as in effect on the date of enactment of this Act, or any successor thereto, as determined by the Attorney General.

(5) **SUITABILITY RULES FOR INSURANCE PRODUCTS.**—A State shall have adopted suitability standards for the sale of annuity products, under which, at a minimum (as determined by the Attorney General)—

(A) insurers shall be responsible and liable for ensuring that sales of their annuity products meet their suitability requirements;

(B) insurers shall have an obligation to ensure that the prospective senior purchaser has sufficient information for making an informed decision about a purchase of an annuity product;

(C) the prospective senior purchaser shall be informed of the total fees, costs, and commissions associated with establishing the annuity transaction, as well as the total fees, costs, commissions, and penalties associated with the termination of the transaction or agreement; and

(D) insurers and their agents are prohibited from recommending the sale of an annuity product to a senior, if the agent fails to obtain sufficient information in order to satisfy the insurer and the agent that the transaction is suitable for the senior.

(f) **APPLICATION.**—To be eligible for a grant under this section, the State or appropriate State agency shall submit to the Attorney General a proposal to use the grant money to protect seniors from misleading or fraudulent marketing techniques in the offer and sale of financial products, which application shall—

(1) identify the scope of the problem;

(2) describe how the proposed program will help to protect seniors from misleading or fraudulent marketing in the sale of financial products, including, at a minimum—

(A) by proactively identifying senior victims of misleading and fraudulent marketing in the offer and sale of financial products;

(B) how the proposed program can assist in the investigation and prosecution of those using misleading or fraudulent marketing in the offer and sale of financial products to seniors; and

(C) how the proposed program can help discourage and reduce future cases of misleading or fraudulent marketing in the offer and sale of financial products to seniors; and

(3) describe how the proposed program is to be integrated with other existing State efforts.

(g) **LENGTH OF PARTICIPATION.**—A State receiving a grant under this section shall be provided assistance funds for a period of 3 years, after which the State may reapply for additional funding.

(h) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to carry out this section \$8,000,000 for each of the fiscal years 2010 through 2014.

**SA 991.** Mr. VITTER submitted an amendment intended to be proposed by him to the bill S. 386, to improve enforcement of mortgage fraud, securities fraud, financial institution fraud,

and other frauds related to federal assistance and relief programs, for the recovery of funds lost to these frauds, and for other purposes; as follows:

At the appropriate place, insert the following:

**SEC. . . REPAYMENT OF TARP FUNDS.**

Section 111(g) of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5221(g)) is amended—

(1) by striking "Subject to" and inserting the following:

"(1) REPAYMENT PERMITTED.—Subject to";

(2) by inserting "if, subsequent to such repayment, the TARP recipient is well capitalized (as determined by the appropriate Federal banking agency having supervisory authority over the TARP recipient)" after "waiting period,";

(3) by striking "and when such assistance is repaid, the Secretary shall liquidate warrants associated with such assistance at the current market price"; and

(4) by adding at the end the following:

"(2) NO REPAYMENT PRECONDITION FOR WARRANTS.—A TARP recipient that exercises the repayment authority under paragraph (1) shall not be required to repurchase warrants from the Federal Government as a condition of repayment of assistance provided under the TARP. The Secretary shall, at the request of the relevant TARP recipient, repay the proceeds of warrants repurchased before the date of enactment of this paragraph."

**SA 992.** Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 386, to improve enforcement of mortgage fraud, securities fraud, financial institution fraud, and other frauds related to federal assistance and relief programs, for the recovery of funds lost to these frauds, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. . . ENHANCED OVERSIGHT OF THE TARP.**

Section 116(a)(1) of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5226(a)(1)) is amended by adding at the end the following:

"(I) With respect to any financial institution or other entity participating in a program established under this Act, any sole expenditure, transaction, or commitment to purchase or any pattern of expenditures, transactions, or commitments to purchase by such financial institution or other entity that exceeds \$10,000, in aggregate, and is not essential to—

"(i) ensuring the recovery of the financial institution or entity;

"(ii) restoring the solvency of the financial institution or entity;

"(iii) improving the liquidity of the financial institution or entity;

"(iv) enhancing returns for the investors of the financial institution or entity; and

"(v) increasing the net worth of the financial institution or entity."

**SA 993.** Mr. LEAHY (for himself and Mr. GRASSLEY) proposed an amendment to the bill S. 386, to improve enforcement of mortgage fraud, securities fraud, financial institution fraud, and other frauds related to federal assistance and relief programs, for the recovery of funds lost to these frauds, and for other purposes; as follows:

On page 15, strike beginning with line 20 through page 16, line 10, and insert the following:

(d) MAJOR FRAUD AGAINST THE GOVERNMENT AMENDED TO INCLUDE ECONOMIC RELIEF AND TROUBLED ASSET RELIEF PROGRAM FUNDS.—Section 1031(a) of title 18, United States Code, is amended by—

(1) inserting after “or promises, in” the following: “any grant, contract, subcontract, subsidy, loan, guarantee, insurance or other form of Federal assistance, including through the Troubled Assets Relief Program, an economic stimulus, recovery or rescue plan provided by the Government, the Government’s purchase of any troubled asset as defined in the Emergency Economic Stabilization Act of 2008, or in”;

(2) striking “the contract, subcontract” and inserting “such grant, contract, subcontract, subsidy, loan, guarantee, insurance or other form of Federal assistance,”; and

(3) striking “for such property or services”.

**SA 994.** Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 386, to improve enforcement of mortgage fraud, securities fraud, financial institution fraud, and other frauds related to federal assistance and relief programs, for the recovery of funds lost to these frauds, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_ . LIMITATION ON USE OF TARP FUNDS.**

Notwithstanding any other provision of law, on and after April 22, 2009, no funds made available to carry out the Troubled Asset Relief Program may be used for the acquisition of ownership of the common stock of any financial institution assisted under title I of the Emergency Economic Stabilization Act of 2008, either directly or through a conversion of preferred stock or future direct capital purchases.

**SA 995.** Mr. ISAKSON (for himself, Mr. CONRAD, Mr. DODD, Mr. WHITEHOUSE, Ms. SNOWE, and Mr. CHAMBLISS) proposed an amendment to the bill S. 386, to improve enforcement of mortgage fraud, securities fraud, financial institution fraud, and other frauds related to federal assistance and relief programs, for the recovery of funds lost to these frauds, and for other purposes; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_ . FINANCIAL MARKETS COMMISSION.**

(a) ESTABLISHMENT OF COMMISSION.—There is established in the legislative branch the Financial Markets Commission (in this section referred to as the “Commission”) to examine all causes, domestic and global, of the current financial and economic crisis in the United States.

(b) COMPOSITION OF THE COMMISSION.—

(1) MEMBERS.—The Commission shall be composed of 10 members, of whom—

(A) 2 members shall be appointed by the majority leader of the Senate;

(B) 2 members shall be appointed by the Speaker of the House of Representatives;

(C) 1 member shall be appointed by the minority leader of the Senate;

(D) 1 member shall be appointed by the minority leader of the House of Representatives;

(E) 1 member shall be appointed by the Chairman of the Committee on Banking, Housing, and Urban Affairs of the Senate;

(F) 1 member shall be appointed by the ranking member of the Committee on Bank-

ing, Housing, and Urban Affairs of the Senate;

(G) 1 member shall be appointed by the chairman of the Committee on Financial Services of the House of Representatives; and

(H) 1 member shall be appointed by the ranking member of the Committee on Financial Services of the House of Representatives.

(2) QUALIFICATIONS; LIMITATION.—

(A) IN GENERAL.—Individuals appointed to the Commission shall be United States citizens having significant experience in such fields as banking, regulation of markets, taxation, finance, economics and housing.

(B) LIMITATION.—No person who is a member of Congress or an officer or employee of the Federal Government or any State or local government may serve as a member of the Commission.

(3) CHAIRPERSON; VICE CHAIRPERSON.—

(A) IN GENERAL.—Subject to the requirements of subparagraph (B), the Chairperson of the Commission shall be selected jointly by the Majority Leader of the Senate and the Speaker of the House of Representatives, and the Vice Chairperson shall be selected jointly by the Minority Leader of the Senate and the Minority Leader of the House of Representatives.

(B) POLITICAL PARTY AFFILIATION.—The Chairperson and Vice Chairperson of the Commission may not be from the same political party.

(4) INITIAL MEETING.—If, 45 days after the date of enactment of this Act, 4 or more members of the Commission have been appointed, those members who have been appointed may meet and, if necessary, select a temporary Chairperson and Vice Chairperson, who may begin the operations of the Commission, including the hiring of staff.

(5) QUORUM; VACANCIES.—After the initial meeting of the Commission, the Commission shall meet upon the call of the Chairperson or a majority of its members. Six members of the Commission shall constitute a quorum. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

(c) FUNCTIONS OF THE COMMISSION.—The functions of the Commission are—

(1) to examine the causes of the current financial and economic crisis in the United States, including the role, if any, of—

(A) fraud and abuse in the financial sector;

(B) Federal and State financial regulators, including the extent to which they enforced, or failed to enforce statutory, regulatory, or supervisory requirements;

(C) the global imbalance of savings, international capital flows, and fiscal imbalances of various governments;

(D) monetary policy and the availability and terms of credit;

(E) accounting practices, including, market-to-market and fair value rules, and treatment of off-balance sheet vehicles;

(F) tax treatment of financial products and investments;

(G) capital requirements and regulations on leverage and liquidity, including the capital structures of regulated and non-regulated financial entities;

(H) credit rating agencies;

(I) lending practices and securitization, including the originate-to-distribute model for extending credit and transferring risk;

(J) affiliations between insured depository institutions and securities, insurance, and other types of nonbanking companies;

(K) market participant expectations that certain institutions were “too-big-to-fail”;

(L) corporate governance, including the impact of company conversions from partnerships to corporations;

(M) compensation structures;

(N) changes in compensation for employees of financial companies, as compared to compensation for others with similar skill sets in the labor market;

(O) Federal housing policy;

(P) derivatives and unregulated financial products and practices;

(Q) short-selling;

(R) financial institution reliance on numerical models, including risk models and credit ratings;

(S) the legal and regulatory structure governing financial institutions;

(T) the legal and regulatory structure governing investor protection;

(U) financial institutions and government-sponsored enterprises;

(V) the reliance on credit ratings by Federal financial regulators, and the use of credit ratings in financial regulation; and

(W) the quality of due diligence undertaken by financial institutions;

(2) to examine the causes of the collapse of each major financial institution that failed (including institutions that were acquired to prevent their failure) or was likely to have failed if not for the receipt of exceptional Government assistance from the Department of the Treasury during the period beginning in August 2007 through April 2009;

(3) to submit a report under subsection (g);

(4) to refer to the Attorney General of the United States and any appropriate State attorney general any person that the Commission finds may have violated the laws of the United States in relation to such crisis; and

(5) to review and build upon the record of the Committee on Banking, Housing, and Urban Affairs of the Senate, the Committee on Financial Services of the House of Representatives, other Congressional committees, the Government Accountability Office, and other legislative panels with respect to the current financial and economic crisis.

(d) POWERS OF THE COMMISSION.—

(1) HEARINGS AND EVIDENCE.—The Commission may, for purposes of carrying out this section—

(A) hold hearings, sit and act at times and places, take testimony, receive evidence, and administer oaths; and

(B) require, by subpoena or otherwise, the attendance and testimony of witnesses and the production of books, records, correspondence, memoranda, papers, and documents.

(2) SUBPOENAS.—

(A) SERVICE.—Subpoenas issued under paragraph (1)(B) may be served by any person designated by the Commission.

(B) ENFORCEMENT.—

(i) IN GENERAL.—In the case of contumacy or failure to obey a subpoena issued under paragraph (1)(B), the United States district court for the judicial district in which the subpoenaed person resides, is served, or may be found, or where the subpoena is returnable, may issue an order requiring such person to appear at any designated place to testify or to produce documentary or other evidence. Any failure to obey the order of the court may be punished by the court as a contempt of that court.

(ii) ADDITIONAL ENFORCEMENT.—Sections 102 through 104 of the Revised Statutes of the United States (2 U.S.C. 192 through 194) shall apply in the case of any failure of any witness to comply with any subpoena or to testify when summoned under the authority of this section.

(3) CONTRACTING.—The Commission may enter into contracts to enable the Commission to discharge its duties under this section.

(4) INFORMATION FROM FEDERAL AGENCIES AND OTHER ENTITIES.—

(A) IN GENERAL.—The Commission may secure directly from any department, agency,

or instrumentality of the United States any information related to any inquiry of the Commission conducted under this section, including information of a confidential nature (which the Commission shall maintain in a secure manner). Each such department, agency, or instrumentality shall furnish such information directly to the Commission upon request.

(B) OTHER ENTITIES.—It is the sense of the Congress that the Commission should seek testimony or information from principals and other representatives of government agencies and private entities that were significant participants in the United States and global financial and housing markets during the time period examined by the Commission.

(5) FUNDING.—The Secretary of the Treasury shall provide, out of money previously appropriated, \$5,000,000 to the Commission to carry out this section, to remain available until expended or until termination of the Commission under subsection (h).

(6) DONATIONS OF GOODS AND SERVICES.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(7) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as departments and agencies of the United States.

(8) POWERS OF SUBCOMMITTEES, MEMBERS, AND AGENTS.—Any subcommittee, member, or agent of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take by this section.

(e) STAFF OF THE COMMISSION.—

(1) DIRECTOR.—The Commission shall have a Director who shall be appointed by the Chairperson and the Vice Chairperson, acting jointly.

(2) STAFF.—The Chairperson and the Vice Chairperson may jointly appoint additional personnel, as may be necessary, to enable the Commission to carry out its functions.

(3) APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The Director and staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no rate of pay fixed under this paragraph may exceed the equivalent of that payable for a position at level V of the Executive Schedule under section 5316 of title 5, United States Code. Any individual appointed under paragraph (1) or (2) shall be treated as an employee for purposes of chapters 63, 81, 83, 84, 85, 87, 89, 89A, 89B, and 90 of that title.

(4) DETAILEES.—Any Federal Government employee may be detailed to the Commission without reimbursement from the Commission, and such detailee shall retain the rights, status, and privileges of his or her regular employment without interruption.

(5) CONSULTANT SERVICES.—The Commission is authorized to procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code, but at rates not to exceed the daily rate paid a person occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(f) COMPENSATION AND TRAVEL EXPENSES.—

(1) COMPENSATION.—Each member of the Commission may be compensated at a rate not to exceed the daily equivalent of the annual rate of basic pay in effect for a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day during which that member is en-

gaged in the actual performance of the duties of the Commission.

(2) TRAVEL EXPENSES.—While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5, United States Code.

(g) REPORT OF THE COMMISSION; APPEARANCE BEFORE AND CONSULTATIONS WITH CONGRESS.—

(1) REPORT.—On December 15, 2010, the Commission shall submit to the President and to Congress a report containing the findings and conclusions of the Commission on the causes of the current financial and economic crisis in the United States.

(2) INSTITUTION-SPECIFIC REPORTS AUTHORIZED.—At the discretion of the chairperson of the Commission, the report under paragraph (1) may include reports or specific findings on any financial institution examined by the Commission under subsection (c)(2).

(3) APPEARANCE BEFORE CONGRESS.—The chairperson of the Commission shall, not later than 120 days after the date of submission of the final reports under paragraph (1), appear before the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives regarding such reports and the findings of the Commission.

(4) CONSULTATIONS WITH CONGRESS.—The Commission shall consult with the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives, and may consult with other Committees of Congress, for purposes of informing Congress on the work of the Commission.

(h) TERMINATION OF COMMISSION.—

(1) IN GENERAL.—The Commission, and all the authorities of this section, shall terminate 60 days after the date on which the final report is submitted under subsection (g).

(2) ADMINISTRATIVE ACTIVITIES BEFORE TERMINATION.—The Commission may use the 60-day period referred to in paragraph (1) for the purpose of concluding its activities, including providing testimony to committees of Congress concerning its reports and disseminating the final report submitted under subsection (g).

**SA 996.** Mr. INHOFE (for himself, Mr. DEMINT, Mr. VITTER, and Mr. ALEXANDER) submitted an amendment intended to be proposed to amendment SA 984 proposed by Mr. REID (for himself, Mr. KOHL, and Mr. LEVIN) to the bill S. 386, to improve enforcement of mortgage fraud, securities fraud, financial institution fraud, and other frauds related to federal assistance and relief programs, for the recovery of funds lost to these frauds, and for other purposes; as follows:

On page 3, after line 8, add the following:

(d) AMENDMENT TO TITLE 4.—

(1) IN GENERAL.—Title 4, United States Code, is amended by adding at the end the following:

#### **“CHAPTER 6—LANGUAGE OF THE GOVERNMENT**

“Sec.

“161. Declaration of national language.

“162. Preserving and enhancing the role of the national language.

“163. Use of language other than English.

#### **“§ 161. Declaration of national language**

“English shall be the national language of the Government of the United States.

#### **“§ 162. Preserving and enhancing the role of the national language**

“(a) IN GENERAL.—The Government of the United States shall preserve and enhance the role of English as the national language of the United States.

“(b) EXCEPTION.—Unless specifically provided by statute, no person has a right, entitlement, or claim to have the Government of the United States or any of its officials or representatives act, communicate, perform or provide services, or provide materials in any language other than English. If an exception is made with respect to the use of a language other than English, the exception does not create a legal entitlement to additional services in that language or any language other than English.

“(c) FORMS.—If any form is issued by the Federal Government in a language other than English (or such form is completed in a language other than English), the English language version of the form is the sole authority for all legal purposes.

#### **“§ 163. Use of language other than English**

“Nothing in this chapter shall prohibit the use of a language other than English.”.

(2) CONFORMING AMENDMENT.—The table of chapters for title 4, United States Code, is amended by adding at the end the following new item:

“6. Language of the Government ..... 161”.

**SA 997.** Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the bill S. 386, to improve enforcement of mortgage fraud, securities fraud, financial institution fraud, and other frauds related to federal assistance and relief programs, for the recovery of funds lost to these frauds, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

#### **SEC. \_\_\_\_ . NATIONWIDE MORTGAGE FRAUD TASK FORCE.**

(a) ESTABLISHMENT.—There is established in the Department of Justice the Nationwide Mortgage Fraud Task Force (hereinafter referred to in this section as the “Task Force”) to address mortgage fraud in the United States.

(b) SUPPORT.—The Attorney General shall provide the Task Force with the appropriate staff, administrative support, and other resources necessary to carry out the duties of the Task Force.

(c) EXECUTIVE DIRECTOR.—The Attorney General shall appoint one staff member provided to the Task Force to be the Executive Director of the Task Force and such Executive Director shall ensure that the duties of the Task Force are carried out.

(d) BRANCHES.—The Task Force shall establish, oversee, and direct branches in each of the 10 States determined by the Attorney General to have the highest concentration of mortgage fraud.

(e) MANDATORY FUNCTIONS.—The Task Force, including the branches of the Task Force established under subsection (d), shall—

(1) establish coordinating entities, and solicit the voluntary participation of Federal, State, and local law enforcement and prosecutorial agencies in such entities, to organize initiatives to address mortgage fraud, including initiatives to enforce State mortgage fraud laws and other related Federal and State laws;

(2) provide training to Federal, State, and local law enforcement and prosecutorial agencies with respect to mortgage fraud, including related Federal and State laws;

(3) collect and disseminate data with respect to mortgage fraud, including Federal, State, and local data relating to mortgage fraud investigations and prosecutions; and

(4) perform other functions determined by the Attorney General to enhance the detection of, prevention of, and response to mortgage fraud in the United States.

(f) **OPTIONAL FUNCTIONS.**—The Task Force, including the branches of the Task Force established under subsection (d), may—

(1) initiate and coordinate Federal mortgage fraud investigations and, through the coordinating entities established under subsection (e), State and local mortgage fraud investigations;

(2) establish a toll-free hotline for—

(A) reporting mortgage fraud;

(B) providing the public with access to information and resources with respect to mortgage fraud; and

(C) directing reports of mortgage fraud to the appropriate Federal, State, and local law enforcement and prosecutorial agency, including to the appropriate branch of the Task Force established under subsection (d);

(3) create a database with respect to suspensions and revocations of mortgage industry licenses and certifications to facilitate the sharing of such information by States;

(4) make recommendations with respect to the need for and resources available to provide the equipment and training necessary for the Task Force to combat mortgage fraud; and

(5) propose legislation to Federal, State, and local legislative bodies with respect to the elimination and prevention of mortgage fraud, including measures to address mortgage loan procedures and property appraiser practices that provide opportunities for mortgage fraud.

(g) **DEFINITION.**—In this section, the term “mortgage fraud” means a material misstatement, misrepresentation, or omission relating to the property or potential mortgage relied on by an underwriter or lender to fund, purchase, or insure a loan.

(h) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated—

(1) \$1,500,000 for the training of law enforcement personnel under subsection (e)(2); and

(2) \$50,000,000 for the Task Force to carry out this section.

**SA 998.** Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 386, to improve enforcement of mortgage fraud, securities fraud, financial institution fraud, and other frauds related to federal assistance and relief programs, for the recovery of funds lost to these frauds, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in section 3, insert the following:

( ) **ADDITIONAL APPROPRIATIONS FOR THE SECURITIES AND EXCHANGE COMMISSION.**—

(1) **IN GENERAL.**—There is authorized to be appropriated to the Securities and Exchange Commission, \$17,000,000 for each of the fiscal years 2010 and 2011 for investigations and enforcement proceedings involving financial institutions, including financial institutions to which this Act and amendments made by this Act apply.

(2) **INSPECTOR GENERAL.**—There is authorized to be appropriated to the Securities and Exchange Commission, \$3,000,000 for each of the fiscal years 2010 and 2011 for the salaries and expenses of the Office of the Inspector General of the Securities and Exchange Commission.

(3) **REPORTS.**—

(A) **IN GENERAL.**—Not later than 90 days after the date of enactment of this Act, the

Comptroller General of the United States shall conduct a review of the effectiveness, integrity, and efficiency of the Office of the Inspector General of the Securities and Exchange Commission and submit a report regarding the review to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives.

(B) **FOLLOWUP REPORT.**—Not later than 18 months after the date of enactment of this Act, the Comptroller General of the United States shall conduct a review as described in subparagraph (A) and submit a report regarding the review to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives.

**SA 999.** Mr. DORGAN (for himself, Mr. MCCAIN, and Mr. GRASSLEY) proposed an amendment to the bill S. 386, to improve enforcement of mortgage fraud, securities fraud, financial institution fraud, and other frauds related to federal assistance and relief programs, for the recovery of funds lost to these frauds, and for other purposes; as follows:

At the end of the bill, insert the following:

## **TITLE II—SELECT COMMITTEE ON INVESTIGATION OF THE ECONOMIC CRISIS**

### **SEC. 01. FINDINGS.**

The Senate finds the following:

(1) The United States is currently facing an unprecedented economic crisis, with massive losses of jobs in the United States and an alarming contraction of economic activity in the United States.

(2) The United States Government has pledged, committed, or loaned more than \$9,000,000,000,000 as of February 2009 in an attempt to mitigate and resolve the economic crisis and trillions of dollars more may well be necessary before the crisis is over.

(3) The economic crisis reaches into, and has impacted, almost every aspect of the United States economy and significant parts of the international economy.

(4) Any thorough and complete study and investigation of this complex and far-reaching economic crisis will require sustained and singular focus for many months.

(5) A study and investigation of this size and scope implicates the jurisdiction of several Standing Committees of the Senate and, if it is to be done correctly and timely, will require a degree of undivided attention and resources beyond the capacity of the Standing Committees of the Senate, which are already overburdened.

(6) Adding such a significant study and investigation to the duties of the existing Standing Committees of the Senate would make it difficult for such committees to get their regular required work accomplished, particularly when so much attention and so many resources are appropriately devoted to responding to the ongoing economic crisis.

(7) Dozens of important investigations have been conducted with the creation of a select committee of the Senate for a specific purpose and a set time.

(8) The American public has a right to get straight answers on how this economic crisis developed and what steps should be taken to make sure that nothing like it happens again.

### **SEC. 02. SELECT COMMITTEE ON INVESTIGATION OF THE ECONOMIC CRISIS.**

There is established a select committee of the Senate to be known as the Select Committee on Investigation of the Economic Crisis (hereafter in this title referred to as the “Select Committee”).

### **SEC. 03. PURPOSE AND DUTIES.**

(a) **PURPOSE.**—The purpose of the Select Committee is to study and investigate the facts and circumstances giving rise to the current economic crisis facing the United States and to recommend actions to be taken to prevent a future recurrence of such a crisis.

(b) **DUTIES.**—The Select Committee is authorized and directed to do everything necessary or appropriate to conduct the study and investigation specified in subsection (a). Without restricting in any way the authority conferred on the Select Committee by the preceding sentence, the Senate further expressly authorizes and directs the Select Committee to examine the facts and circumstances giving rise to the current economic crisis facing the United States, and report on such examination, regarding the following:

(1) The causes of the current economic crisis.

(2) Lessons learned from the current economic crisis.

(3) Actions to prevent a recurrence of an economic crisis such as the current economic crisis.

### **SEC. 04. COMPOSITION OF SELECT COMMITTEE.**

(a) **MEMBERSHIP.**—

(1) **IN GENERAL.**—The Select Committee shall consist of 7 members of the Senate of whom—

(A) 4 members shall be appointed by the majority leader of the Senate; and

(B) 3 members shall be appointed by the minority leader of the Senate.

(2) **DATE.**—The appointments of the members of the Select Committee shall be made not later than 30 days after the date of enactment of this title.

(b) **VACANCIES.**—Any vacancy in the Select Committee shall not affect its powers, but shall be filled in the same manner as the original appointment.

(c) **SERVICE.**—Service of a Senator as a member, Chair, or Vice Chair of the Select Committee shall not be taken into account for the purposes of paragraph (4) of rule XXV of the Standing Rules of the Senate.

(d) **CHAIR AND VICE CHAIR.**—The Chair of the Select Committee shall be designated by the majority leader of the Senate, and the Vice Chair of the Select Committee shall be designated by the minority leader of the Senate.

(e) **QUORUM.**—

(1) **REPORTS AND RECOMMENDATIONS.**—A majority of the members of the Select Committee shall constitute a quorum for the purpose of reporting a matter or recommendation to the Senate.

(2) **TESTIMONY.**—One member of the Select Committee shall constitute a quorum for the purpose of taking testimony.

(3) **OTHER BUSINESS.**—A majority of the members of the Select Committee, or  $\frac{1}{3}$  of the members of the Select Committee if at least one member of the minority party is present, shall constitute a quorum for the purpose of conducting any other business of the Select Committee.

### **SEC. 05. RULES AND PROCEDURES.**

(a) **GOVERNANCE UNDER STANDING RULES OF SENATE.**—Except as otherwise specifically provided in this title, the investigation, study, and hearings conducted by the Select Committee shall be governed by the Standing Rules of the Senate.

(b) **ADDITIONAL RULES AND PROCEDURES.**—In addition to the provisions of section 08(h), the Select Committee may adopt additional rules or procedures if the Chair and the Vice Chair of the Select Committee agree, or if the Select Committee by majority vote so decides, that such additional rules or procedures are necessary or advisable to enable the Select Committee to conduct the investigation, study, and hearings

authorized by this title. Any such additional rules and procedures—

- (1) shall not be inconsistent with this title or the Standing Rules of the Senate; and
- (2) shall become effective upon publication in the Congressional Record.

#### SEC. 06. AUTHORITY OF SELECT COMMITTEE.

(a) IN GENERAL.—The Select Committee may exercise all of the powers and responsibilities of a committee under rule XXVI of the Standing Rules of the Senate.

(b) POWERS.—The Select Committee or, at its direction, any subcommittee or member of the Select Committee, may, for the purpose of carrying out this title—

- (1) hold hearings;
- (2) administer oaths;
- (3) sit and act at any time or place during the sessions, recess, and adjournment periods of the Senate;
- (4) authorize and require, by issuance of subpoena or otherwise, the attendance and testimony of witnesses and the preservation and production of books, records, correspondence, memoranda, papers, documents, tapes, and any other materials in whatever form the Select Committee considers advisable;
- (5) take testimony, orally, by sworn statement, by sworn written interrogatory, or by deposition, and authorize staff members to do the same; and
- (6) issue letters rogatory and requests, through appropriate channels, for any other means of international assistance.

(c) AUTHORIZATION, ISSUANCE, AND ENFORCEMENT OF SUBPOENAS.—

(1) AUTHORIZATION AND ISSUANCE.—Subpoenas authorized and issued under this section—

- (A) may be done only with the joint concurrence of the Chair and the Vice Chair of the Select Committee;
- (B) shall bear the signature of the Chair or the designee of the Chair; and
- (C) shall be served by any person or class of persons designated by the Chair for that purpose anywhere within or without the borders of the United States to the full extent provided by law.

(2) ENFORCEMENT.—The Select Committee may make to the Senate by report or resolution any recommendation, including a recommendation for criminal or civil enforcement, that the Select Committee considers appropriate with respect to—

- (A) the failure or refusal of any person to appear at a hearing or deposition or to produce or preserve documents or materials described in subsection (b)(4) in obedience to a subpoena or order of the Select Committee;
- (B) the failure or refusal of any person to answer questions truthfully and completely during the person's appearance as a witness at a hearing or deposition of the Select Committee; or

(C) the failure or refusal of any person to comply with any subpoena or order issued under the authority of subsection (b).

(d) AVOIDANCE OF DUPLICATION.—

(1) IN GENERAL.—To expedite the study and investigation, avoid duplication, and promote efficiency under this title, the Select Committee shall seek to—

- (A) confer with other investigations into the matters set forth in section 03(a); and
- (B) access all information and materials acquired or developed in such other investigations.

(2) ACCESS TO INFORMATION AND MATERIALS.—The Select Committee shall have, to the fullest extent permitted by law, access to any such information or materials obtained by any other governmental department, agency, or body investigating the matters set forth in section 03(a).

#### SEC. 07. REPORTS.

(a) INITIAL REPORT.—The Select Committee shall submit to the Senate a report on the study and investigation conducted pursuant to section 03 not later than one year after the appointment of all of the members of the Select Committee.

(b) UPDATED REPORT.—The Select Committee shall submit an updated report on such investigation not later than 180 days after the submittal of the report under subsection (a).

(c) FINAL REPORT.—The Select Committee shall submit a final report on such investigation not later than two years after the appointment of all of the members of the Select Committee.

(d) ADDITIONAL REPORTS.—The Select Committee may submit any additional report or reports that the Select Committee considers appropriate.

(e) FINDINGS AND RECOMMENDATIONS.—The reports under this section shall include findings and recommendations of the Select Committee regarding the matters considered under section 03.

(f) DISPOSITION OF REPORTS.—All reports made by the Select Committee shall be submitted to the Secretary of the Senate. All reports made by the Select Committee shall be referred to the committee or committees that have jurisdiction over the subject matter of the report.

#### SEC. 08. ADMINISTRATIVE PROVISIONS.

(a) STAFF.—

(1) IN GENERAL.—The Select Committee may employ in accordance with paragraph (2) a staff composed of such clerical, investigatory, legal, technical, and other personnel as the Select Committee, or the Chair and the Vice Chair of the Select Committee considers necessary or appropriate.

(2) APPOINTMENT OF STAFF.—The staff of the Select Committee shall consist of such personnel as the Chair and the Vice Chair shall jointly appoint. Such staff may be removed jointly by the Chair and the Vice Chair, and shall work under the joint general supervision and direction of the Chair and the Vice Chair.

(b) COMPENSATION.—The Chair and the Vice Chair of the Select Committee shall jointly fix the compensation of all personnel of the staff of the Select Committee.

(c) REIMBURSEMENT OF EXPENSES.—The Select Committee may reimburse the members of its staff for travel, subsistence, and other necessary expenses incurred by such staff members in the performance of their functions for the Select Committee.

(d) SERVICES OF SENATE STAFF.—The Select Committee may use, with the prior consent of the chair of any other committee of the Senate or the chair of any subcommittee of any committee of the Senate, the facilities of any other committee of the Senate, or the services of any members of the staff of such committee or subcommittee, whenever the Select Committee or the Chair of the Select Committee considers that such action is necessary or appropriate to enable the Select Committee to carry out its responsibilities, duties, or functions under this title.

(e) DETAIL OF EMPLOYEES.—The Select Committee may use on a reimbursable basis, with the prior consent of the head of the department or agency of Government concerned and the approval of the Committee on Rules and Administration of the Senate, the services of personnel of such department or agency.

(f) TEMPORARY AND INTERMITTENT SERVICES.—The Select Committee may procure the temporary or intermittent services of individual consultants, or organizations thereof.

(g) PAYMENT OF EXPENSES.—There shall be paid out of the applicable accounts of the

Senate such sums as may be necessary for the expenses of the Select Committee. Such payments shall be made on vouchers signed by the Chair of the Select Committee and approved in the manner directed by the Committee on Rules and Administration of the Senate. Amounts made available under this subsection shall be expended in accordance with regulations prescribed by the Committee on Rules and Administration of the Senate.

(h) CONFLICTS OF INTEREST.—The Select Committee shall issue rules to prohibit or minimize any conflicts of interest involving its members, staff, detailed personnel, consultants, and any others providing assistance to the Select Committee. Such rules shall not be inconsistent with the Code of Official Conduct of the Senate or applicable Federal law.

#### SEC. 09. EFFECTIVE DATE; TERMINATION.

(a) EFFECTIVE DATE.—This title shall take effect on the date of enactment of this title.

(b) TERMINATION.—The Select Committee shall terminate three months after the submittal of the report required by section 07(c).

**SA 1000.** Mrs. BOXER (for herself, Ms. SNOWE, Mr. CORKER, and Mr. MERKLEY) submitted an amendment intended to be proposed by her to the bill S. 386, to improve enforcement of mortgage fraud, securities fraud, financial institution fraud, and other frauds related to federal assistance and relief programs, for the recovery of funds lost to these frauds, and for other purposes; as follows:

On page 20, between lines 11 and 12, insert the following:

“(e) ADDITIONAL APPROPRIATIONS FOR THE SPECIAL INSPECTOR GENERAL FOR THE TROUBLED ASSET RELIEF PROGRAM.—

“(1) IN GENERAL.—There is authorized to be appropriated to the Special Inspector General of the Troubled Asset Relief Program (in this subsection referred to as the Special Inspector General), \$15,000,000 for fiscal year 2010.

“(2) PRIORITIES.—In utilizing funds made available under this subsection, the Special Inspector General shall prioritize the performance of audits or investigations of recipients of non-recourse Federal loans made under the Public Private Investment Program established by the Secretary of the Treasury or the Term Asset Loan Facility established by the Board of Governors of the Federal Reserve System, to the extent that such priority is consistent with other aspects of the mission of the Special Inspector General. Such audits or investigations shall determine the existence of any collusion between the loan recipient and the seller or originator of the asset used as loan collateral, or any other conflict of interest that may have led the loan recipient to deliberately overstate the value of the asset used as loan collateral.”.

**SA 1001.** Mr. DORGAN (for himself and Ms. CANTWELL) submitted an amendment intended to be proposed by him to the bill S. 386, to improve enforcement of mortgage fraud, securities fraud, financial institution fraud, and other frauds related to federal assistance and relief programs, for the recovery of funds lost to these frauds, and for other purposes; as follows:

At the end of the bill, insert the following:



**SEC. \_\_\_\_ . SENSE OF THE SENATE IN SUPPORT OF CREATING AN INTERAGENCY TASK FORCE TO INVESTIGATE FINANCIAL FRAUD.**

(a) **FINDINGS.**—The Senate finds that—

(1) the United States is currently facing an unprecedented economic crisis, with massive job losses and an alarming contraction of economic activity;

(2) as of March 31, 2009, the United States Government has spent, loaned, or committed more than \$12,000,000,000,000 in an attempt to mitigate and resolve the economic crisis;

(3) the economic crisis reaches into, and has impacted, almost every aspect of the United States economy and significant parts of the global economy;

(4) there is compelling evidence of egregious and criminal conduct that has contributed to the collapse of the economy;

(5) any person, company or entity that has benefitted from such financial wrongdoing must be investigated and prosecuted to the full extent of the law;

(6) there are piecemeal initiatives by many different national, State, and local entities to investigate and prosecute financial fraud cases;

(7) a national multiagency task force headed by the Department of Justice would bring singular focus and intensity, coherence, and coordination to the investigations now underway and result in identifying and prosecuting violations of law much more quickly; and

(8) a similar Task Force was created in connection with the Enron scandal and it was instrumental in bringing criminals to justice.

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

(1) the Department of Justice should make it a top priority to facilitate a comprehensive national effort to investigate and prosecute financial fraud cases or any other violation of law that contributed to the collapse of our financial markets; and

(2) the Department of Justice should create an interagency Economic Crisis Financial Crimes Task Force dedicated solely to—

(A) investigating and prosecuting those responsible for creating, causing, or contributing to the financial crisis that is devastating our entire economy; and

(B) seeking to claw back any ill-gotten gains as a result of this wrongdoing.

**SA 1002.** Mr. THUNE submitted an amendment intended to be proposed by him to the bill S. 386, to improve enforcement of mortgage fraud, securities fraud, financial institution fraud, and other frauds related to federal assistance and relief programs, for the recovery of funds lost to these frauds, and for other purposes; as follows:

At the end of the bill, add the following:

**TITLE II—DEBT REDUCTION PRIORITY ACT**

**SEC. 21. SHORT TITLE.**

This title may be cited as the “Debt Reduction Priority Act”.

**SEC. 22. FINDINGS.**

Congress finds the following:

(1) On October 7, 2008, Congress established the Troubled Assets Relief Program (TARP) as part of the Emergency Economic Stabilization Act (Public 110-343; 122 Stat. 3765) and allocated \$700,000,000,000 for the purchase of toxic assets from banks with the goal of restoring liquidity to the financial sector and restarting the flow of credit in our markets.

(2) The Department of Treasury, without consultation with Congress, changed the purpose of TARP and began injecting capital

into financial institutions through a program called the Capital Purchase Program (CPP) rather than purchasing toxic assets.

(3) Lending by financial institutions was not noticeably increased with the implementation of the CPP and the expenditure of \$250,000,000,000 of TARP funds, despite the goal of the program.

(4) The recipients of amounts under the CPP are now faced with additional restrictions related to accepting those funds.

(5) A number of community banks and large financial institutions have expressed their desire to return their CPP funds to the Department of Treasury and the Department has begun the process of accepting receipt of such funds.

(6) The Department of the Treasury should not unilaterally determine how these returned funds are spent in the future and the Congress should play a role in any determination of future spending of funds returned through the TARP.

**SEC. 23. DEBT REDUCTION.**

(a) **IN GENERAL.**—Title I of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5211 et seq.) is amended by adding at the end the following:

**“SEC. 137. DEBT REDUCTION.**

“Not later than 30 days after the date of enactment of this section, the Secretary of the Treasury shall deposit any amounts received by the Secretary for repayment of financial assistance or for payment of any interest on the receipt of such financial assistance by an entity that has received financial assistance under the TARP or any program enacted by the Secretary under the authorities granted to the Secretary under this Act, including the Capital Purchase Program, in the Public Debt Reduction Payment Account established under section 3114 of title 31, United States Code.”.

**SEC. 24. ESTABLISHMENT OF PUBLIC DEBT REDUCTION PAYMENT ACCOUNT.**

(a) **IN GENERAL.**—Subchapter I of chapter 31 of title 31, United States Code, is amended by adding at the end the following new section:

**“§3114. Public Debt Reduction Payment Account**

“(a) There is established in the Treasury of the United States an account to be known as the Public Debt Reduction Payment Account (hereinafter in this section referred to as the ‘account’).

“(b) The Secretary of the Treasury shall use amounts in the account to pay at maturity, or to redeem or buy before maturity, any obligation of the Government held by the public and included in the public debt. Any obligation which is paid, redeemed, or bought with amounts from the account shall be canceled and retired and may not be reissued. Amounts deposited in the account are appropriated and may only be expended to carry out this section.

“(c) There shall be deposited in the account any amounts which are received by the Secretary of the Treasury pursuant to section 137 of the Emergency Economic Stabilization Act of 2008. The funds deposited to this account shall remain available until expended.

“(d) The Secretary of the Treasury and the Director of the Office of Management and Budget shall each take such actions as may be necessary to promptly carry out this section in accordance with sound debt management policies.

“(e) Reducing the debt pursuant to this section shall not interfere with the debt management policies or goals of the Secretary of the Treasury.”.

(b) **CONFORMING AMENDMENT.**—The chapter analysis for chapter 31 of title 31, United States Code, is amended by inserting after

the item relating to section 3113 the following:

“3114. Public debt reduction payment account”.

**SEC. 25. REDUCTION OF STATUTORY LIMIT ON THE PUBLIC DEBT.**

Section 3101(b) of title 31, United States Code, is amended by inserting “minus the aggregate amounts deposited into the Public Debt Reduction Payment Account pursuant to section 3114(c)” before “, outstanding at one time”.

**SEC. 26. OFF-BUDGET STATUS OF PUBLIC DEBT REDUCTION PAYMENT ACCOUNT.**

Notwithstanding any other provision of law, the receipts and disbursements of the Public Debt Reduction Payment Account established by section 3114 of title 31, United States Code, shall not be counted as new budget authority, outlays, receipts, or deficit or surplus for purposes of—

(1) the budget of the United States Government as submitted by the President,

(2) the congressional budget, or

(3) the Balanced Budget and Emergency Deficit Control Act of 1985.

**SEC. 27. REMOVING PUBLIC DEBT REDUCTION PAYMENT ACCOUNT FROM BUDGET PRONOUNCEMENTS.**

(a) **IN GENERAL.**—Any official statement issued by the Office of Management and Budget, the Congressional Budget Office, or any other agency or instrumentality of the Federal Government of surplus or deficit totals of the budget of the United States Government as submitted by the President or of the surplus or deficit totals of the congressional budget, and any description of, or reference to, such totals in any official publication or material issued by either of such Offices or any other such agency or instrumentality, shall exclude the outlays and receipts of the Public Debt Reduction Payment Account established by section 3114 of title 31, United States Code.

(b) **SEPARATE PUBLIC DEBT REDUCTION PAYMENT ACCOUNT BUDGET DOCUMENTS.**—The excluded outlays and receipts of the Public Debt Reduction Payment Account established by section 3114 of title 31, United States Code, shall be submitted in separate budget documents.

**NOTICES OF HEARINGS**

**JOINT COMMITTEE OF CONGRESS ON THE LIBRARY**

Mr. SCHUMER. Mr. President, I wish to announce that the Joint Committee of Congress on the Library will meet on Thursday, April 23, 2009, at 11:30 a.m., in SC-4 to conduct its organization meeting for the 111th Congress.

For further information regarding this hearing, please contact Jean Bordewich at the Rules and Administration Committee on 202-224-6352.

**JOINT COMMITTEE OF CONGRESS ON PRINTING**

Mr. SCHUMER. Mr. President, I wish to announce that the Joint Committee of Congress on Printing will meet on Thursday, April 23, 2009, at 11:45 a.m., in SC-4 to conduct its organization meeting for the 111th Congress.

For further information regarding this hearing, please contact Jean Bordewich at the Rules and Administration Committee on 202-224-6352.

# AUTHORITY FOR COMMITTEES TO MEET

## COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. KAUFMAN. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate to conduct a hearing on Wednesday, April 22, 2009, at 10 a.m., in room SD-366 of the Dirksen Senate office building.

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

## COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. KAUFMAN. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet during the session of the Senate on Wednesday, April 22, 2009, at 10 a.m. in room 406 of the Dirksen Senate office building.

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

## COMMITTEE ON FOREIGN RELATIONS

Mr. KAUFMAN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, April 22, 2009, at 9:30 a.m., to hold a hearing entitled "Global Climate Change: U.S. Leadership for a New Global Agreement."

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

## COMMITTEE ON FOREIGN RELATIONS

Mr. KAUFMAN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, April 22, 2009, at 2:30 p.m.

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

## COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. KAUFMAN. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet during the session of the Senate on Wednesday, April 22, 2009, at 10 a.m.

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

## COMMITTEE ON VETERAN'S AFFAIRS

Mr. KAUFMAN. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet during the session of the Senate on Wednesday, April 22, 2009. The Committee will meet in room 418 of the Russell Senate office building beginning at 2:30 p.m.

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

## SUBCOMMITTEE ON FEDERAL FINANCIAL MANAGEMENT, GOVERNMENT INFORMATION, FEDERAL SERVICES, AND INTERNATIONAL SECURITY

Mr. KAUFMAN. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs Subcommittee on Federal Financial Management, Government Information, Federal Serv-

ices, and International Security be authorized to meet during the session of the Senate on Wednesday, April 22, 2009 at 3 p.m., to conduct a hearing entitled, "Eliminating Waste and Fraud in Medicare and Medicaid."

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

## SUBCOMMITTEE ON READINESS AND MANAGEMENT SUPPORT

Mr. KAUFMAN. Mr. President, I ask unanimous consent that the Committee on Armed Services Subcommittee on Readiness and Management Support be authorized to meet during the session of the Senate on Wednesday, April 22, 2009, at 10 a.m.

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

## SUBCOMMITTEE ON STRATEGIC FORCES

Mr. KAUFMAN. Mr. President, I ask unanimous consent that the Subcommittee on Strategic Forces of the Committee on Armed Services be authorized to meet during the session of the Senate on Wednesday, April 22, 2009, at 9:30 a.m.

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

## COMMENDING CAPTAIN RICHARD PHILLIPS, THE CREW OF THE MAERSK ALABAMA AND THE UNITED STATES ARMED FORCES

Mr. LEAHY. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 108, submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 108) commending Captain Richard Phillips, the crew of the "Maersk Alabama," and the United States Armed Forces, recognizing the growing problem of piracy off Somalia's coast, and urging the development of a comprehensive strategy to address piracy and its root causes.

There being no objection, the Senate proceeded to consider the resolution.

Mr. LEAHY. Today I have submitted—along with Senators GREGG of New Hampshire, FEINGOLD of Wisconsin, KENNEDY and KERRY of Massachusetts, and, of course, my colleague, Senator SANDERS of Vermont—a Senate resolution on Captain Richard Phillips, the ship captain from Underhill, VT, who Somali pirates took hostage 2 weeks ago.

This resolution praises Captain Phillips for his selfless heroism—he offered himself in lieu of his crew as a hostage—his extraordinary rescuers, his family, and the Federal agencies that kept close watch on the captain while the pirates held him literally at gunpoint in an 18-foot lifeboat in the middle of the Indian Ocean.

This situation was an all too real drama that played out on the high seas. With grappling hooks and guns, Somali pirates took control of Captain Phillips' ship, the Maersk Alabama.

The 20-member crew of the 500-foot container ship retook control after a harrowing struggle.

But to protect his crew from further danger, Captain Phillips agreed to go with the pirates into a lifeboat where he was held hostage at gunpoint for 5 days. Displaying a resourcefulness and the indomitable spirit that speaks to the best qualities of Vermont, New England, and our great Nation, he attempted to escape. He kept his cool and confidence in the most volatile situation where the pirates, in a second, could have easily killed him.

The U.S. Navy arrived, headed up by the guided missile destroyer, USS Bainbridge, and when the captain faced imminent danger, snipers from one of our most elite military units, the Navy SEALs, killed his captors.

The entire country has shared feelings of admiration for the courage and fortitude of Captain Phillips, relief that he and his crew are safely home, and gratitude for the outstanding performance of the U.S. Navy, particularly the Bainbridge crew and the SEALs, for their rescue of the captain.

The Maersk Alabama incident is part of a troubling pattern of piracy that comes from the anarchy and the poverty plaguing Somalia. Pirates have taken hostage more than 200 crew members in dozens of countries. They have absconded with tens of millions of dollars in ransom, reinvesting that money into more advanced equipment and weapons, from guns to rocket-propelled grenades to global positioning systems.

The scale and intensity of the piracy is only getting worse, as this resolution underscores. This piracy has to be addressed.

But on that Wednesday, those pirates met their match, from Captain Phillips and his crew, to the remarkable Phillips family, to the formidable U.S. military, and the wider U.S. Government.

The President monitored the situation closely. He gave the necessary direction to the SEALs to use force if required to protect Phillips. The FBI provided guidance to the USS Bainbridge to deal with the hostage situation, while the Department of State kept the family informed.

Andrea Phillips, Captain Phillips' wife, was incredible throughout this crisis. I was receiving calls from the White House. I was told what was going on, as were my staff. I was calling Mrs. Phillips and talking with her. And the calmness of this woman, realizing the harrowing danger that her husband faced, and her respect for our Government's efforts to save him were remarkable—she repeatedly thanked the Navy personnel, the FBI, and others for keeping such close tabs on the situation. Even though this was an especially difficult experience for their two children, Daniel and Mariah, they weathered the crisis and had a happy reunion.

I look forward to the next time I take the ferry boat across Lake Champlain and Daniel is piloting it. I think one of the happiest moments was with several friends at Easter Mass on Easter Sunday. I talked with the White House earlier that morning, and I knew that things may come to a conclusion. But I turned my cell phone off while I was at Mass. I came out and there was a message from the White House: "He is safe." At the top, "He is safe." Then they filled me in on what happened.

I was telling my friends, my wife, Marcelle, who was with me. We were standing there in the parking lot cheering, laughing, tears. People were kind of looking at us wondering just what was going on. I called Mrs. Phillips, and she had the same reaction. Later the President called her, as he called her husband. The reunions last week with the crew arriving at Andrews Air Force Base, Captain Phillips stepping off the plane at the Burlington, VT, airport were moments of joy and relief.

The country is so proud of these Americans who certainly did not want to be at the center of an international crisis. But when they were, they rose to the occasion with the strength and bravery that represent the best of our country.

With this resolution, we commend Captain Phillips and his family, the crew of the Maersk Alabama, the U.S. Armed Forces, and the Navy SEALs for their heroism. This resolution has one message above all others: Welcome home.

I yield the floor.

Mr. SANDERS. Mr. President, I wish to say a few words on this resolution commending Captain Richard Phillips, the crew of the Maersk Alabama, and the U.S. Navy.

The resolution recognizes the growing problem of piracy in international waters off the coast of Somalia, a country that has been without a functioning central government since 1991.

The resulting lawlessness and the desperate humanitarian situation have turned the area into a base for pirate operations.

Earlier this month, Somali pirates used grappling hooks and weapons to board the cargo ship captained by Richard Phillips, who lives with his family in Underhill, VT. He led a crew of 19 on the vessel that was delivering food aid to starving people in eastern Africa.

Captain Phillips bravely led the crew in retaking control of the ship by offering himself as a hostage in exchange for the release of his crew.

Four pirates then took Captain Phillips into an 18-foot lifeboat, held him captive at gunpoint, and repeatedly threatened to kill him.

On Easter Sunday, Captain Phillips was rescued by Navy SEALs who determined that Captain Phillips was in imminent danger and took the lives of three of his pirate captors.

The people of Vermont are proud of the extraordinary courage of Captain

Phillips, the dignity of his family under great stress and the outstanding performance of the U.S. Navy and other governmental personnel in rescuing Richard and dispatching those who apprehended him.

Mr. LEAHY. Mr. President, Captain Phillips of Underhill, VT, held hostage by Somalians, where his own courage allowed the release of his crew, and the courage of the U.S. Navy and the courage of our military and the courage of our leadership, at the White House, the Department of Defense, and elsewhere brought about his release.

The Phillips family is a wonderful family. They live in a small and beautiful town in Vermont. There are few things that unite everybody. I can say as a lifelong Vermonter, I know my State is united in pride for Captain Phillips. All of us felt our prayers were answered on Easter Sunday when we received word that he was safe and was going back home. I know how much it meant to me to pick up the phone and call Mrs. Phillips, and the day before he arrived back home, to call her up and wish her a happy birthday and say: The best birthday present this Nation can give you is tomorrow afternoon at the Burlington Airport when your husband will arrive.

Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and that any statements relating to the resolution be printed in the RECORD.

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

The resolution (S. Res. 108) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

#### S. RES. 108

Whereas Somalia has been without a functioning central government since 1991, resulting in lawlessness and an increasingly desperate humanitarian situation;

Whereas according to a Somali human rights group, violence during the period from 2007 to 2009 has killed an estimated 16,000 people, wounded more than 28,000 people, and displaced more than 1,000,000 people;

Whereas these grim conditions and the absence of a functioning government have made Somalia an ideal base for piracy operations and a fertile ground for terrorist organizations, including the group al-Shabaab, whose leaders have ties to al-Qaeda;

Whereas acts of piracy off the coast of Somalia have been on the rise for more than a year, with the International Maritime Bureau reporting an estimated 111 attacks in 2008;

Whereas on Wednesday, April 8, 2009, Somali pirates used grappling hooks and weapons to board the Norfolk, Virginia-based container ship Maersk Alabama, which was captained by Richard Phillips, a resident of Underhill, Vermont, and crewed by 19 other citizens of the United States, and which was delivering food aid from the World Food Programme to hungry people in east Africa;

Whereas Captain Phillips, a native of Winchester, Massachusetts and a 1979 graduate of the Massachusetts Maritime Academy,

bravely led the Maersk Alabama crew in successfully retaking control of the ship by offering himself as a hostage in exchange for the release of the crew;

Whereas 4 pirates took Captain Phillips into an 18-foot lifeboat, held him captive at gunpoint, and repeatedly threatened to kill him;

Whereas the United States Central Command dispatched to the scene the destroyer U.S.S. Bainbridge, which was joined in subsequent days by the U.S.S. Halyburton and the U.S.S. Boxer, along with Navy SEAL teams, Marine Corps helicopters, and other joint assets of the United States Armed Forces;

Whereas hostage recovery experts from the Federal Bureau of Investigations gave guidance to the crew of the U.S.S. Bainbridge, while the Department of State stayed in contact with Captain Phillips' family, including Phillips' wife Andrea and their 2 children, Daniel and Mariah, in Underhill, Vermont;

Whereas Maersk Limited, based in Norfolk, Virginia, worked diligently with the United States Armed Forces to try to obtain the release of Captain Phillips and the Maersk Alabama crew and to move the ship safely to port in Kenya, while sending personal representatives to Vermont to keep the Phillips family informed;

Whereas in the late evening of April 9, 2009, Captain Phillips made an escape attempt, jumping into the water of the Indian Ocean to swim for safety, only to be pursued by the pirates and quickly recaptured;

Whereas the President received regular briefings on the hostage crisis and provided the authority necessary for the United States Armed Forces to resolve it;

Whereas on April 12, 2009, Easter Sunday, Captain Phillips was rescued after the United States Armed Forces, which throughout the crisis spared no effort to defuse the situation and peacefully rescue Phillips, took the lives of 3 of the pirate captors when Phillips was seen to be in imminent danger; and

Whereas international commerce remains under threat while Somali pirates continue to hold for ransom more than 200 crew members of many nationalities: Now, therefore, be it

*Resolved*, That it is the sense of the Senate that—

(1) Captain Phillips deserves the respect and admiration of all people of the United States for his brave conduct under life-threatening circumstances;

(2) the Senate shares the sense of relief and gratitude felt by the family and shipmates of Captain Phillips;

(3) all members of the United States Armed Forces involved in the rescue operation, in particular members of the Navy and Navy SEAL teams who rescued Captain Phillips, the officials of other Federal Government departments and agencies who contributed, and the crew of the Maersk Alabama, are to be commended for their exceptional efforts and devotion to duty; and

(4) the President should work with the international community and the transitional government of Somalia to develop a comprehensive strategy to address both the burgeoning problem of piracy and its root causes.

#### CONGRATULATING THE UNIVERSITY OF NORTH CAROLINA TAR HEELS

Mr. BEGICH. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of S. Res. 110, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 110) congratulating the University of North Carolina Tar Heels basketball team for winning the 2008-2009 NCAA men's basketball national championship.

There being no objection, the Senate proceeded to consider the resolution.

Mr. BEGICH. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motions to reconsider be laid upon the table.

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

The resolution (S. Res. 110) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

#### S. RES. 110

Whereas on April 6, 2009, the University of North Carolina defeated Michigan State University 89-72 to win the 2008-2009 National Collegiate Athletic Association (NCAA) men's basketball national championship;

Whereas the University of North Carolina was the consensus preseason number 1 basketball team in the Nation;

Whereas the University of North Carolina Tar Heels were saddled with a tremendous amount of pressure to get to the NCAA Final Four and win the national championship in 2009;

Whereas after the Tar Heels' 0-2 record to start the Atlantic Coast Conference (ACC) regular season, the team finished with a record of 13-3 and won 13 out of their last 14 games in conference;

Whereas the Tar Heels were the 2008-2009 ACC regular season conference champions;

Whereas the University of North Carolina's Tyler Hansbrough became the ACC's all-time leading scorer;

Whereas the University of North Carolina's Tyler Hansbrough and Ty Lawson were selected to the 2008-2009 All-Atlantic Coast Conference (All-ACC) first team;

Whereas Tyler Hansbrough became the first player in league history to be unanimously selected 4 times to the All-ACC first team;

Whereas the University of North Carolina's Danny Green was selected to the 2008-2009 All-ACC third team and the All-ACC defensive team;

Whereas the University of North Carolina's Ed Davis was selected to the All-ACC rookie team;

Whereas entering into the 2008-2009 NCAA College Basketball Championship, President Barack Obama picked the Tar Heels to win the championship title;

Whereas the University of North Carolina beat each of Radford University, Louisiana State University, Gonzaga University, and the University of Oklahoma by 12 points or more to win the South Division and reach the Final Four for the second straight year;

Whereas Ty Lawson was named the South Division most valuable player;

Whereas with their victory over the University of Oklahoma, the Tar Heels became the first team in NCAA Tournament history to reach 100 tournament wins;

Whereas several media outlets, including ESPN and CBS, reported that more than 60,000 fans in attendance at the final tournament game would be cheering for Michigan State University;

Whereas the 55 points the University of North Carolina scored in the first half of the championship game broke the all-time first half scoring record for any team in the history of the NCAA tournament;

Whereas the University of North Carolina's Wayne Ellington and Deon Thompson played exceptionally well in the first half of the championship game to push the lead to 21 points;

Whereas the University of North Carolina withstood Michigan State University's late surge and pushed the lead back to 19 points with less than 3 minutes remaining in the game;

Whereas the University of North Carolina's Wayne Ellington was named the Final Four most valuable player;

Whereas Ty Lawson's 8 steals set the record for the most steals in a NCAA championship game;

Whereas the 2008-2009 championship was the University of North Carolina's fifth national championship in school history;

Whereas the 2008-2009 championship was Coach Roy Williams' second national championship since taking over as head coach of the University of North Carolina men's basketball team; and

Whereas with the victory over Michigan State University, the University of North Carolina tied the University of Kentucky for the all-time winningest program in NCAA Division 1 men's basketball history: Now, therefore, be it

*Resolved*, That the Senate—

(1) congratulates the University of North Carolina for winning the 2008-2009 National Collegiate Athletic Association men's basketball national championship;

(2) recognizes the achievement of the players, coaches, students, and staff of the University of North Carolina whose perseverance and dedication to excellence helped propel the men's basketball team to win the championship; and

(3) respectfully requests the Secretary of the Senate to transmit an enrolled copy of this resolution to—

(A) the chancellor of the University of North Carolina, H. Holden Thorp;

(B) the athletic director of the University of North Carolina, Dick Baddour; and

(C) the head coach of the University of North Carolina men's basketball team, Roy Williams.

#### SUPPORTING THE GOALS AND IDEALS OF WORLD MALARIA DAY

Mr. BEGICH. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Con. Res. 18, submitted earlier today.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 18) supporting the goals and ideals of World Malaria Day, and reaffirming United States leadership and support for efforts to combat malaria.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. FEINGOLD. Mr. President, this Saturday, I will join individuals and organizations around the world in marking World Malaria Day. This day is an opportunity to celebrate the progress that has been made by the

international community in raising awareness of an invisible killer and the need to significantly reduce malaria deaths. Over the last decade, there has been a remarkable scaling up of efforts to prevent and treat this disease. In some places, such as the island of Zanzibar or the country of Rwanda, malaria prevalence has dropped significantly in just a few years. These success stories are a testament to the kind of positive difference we can make with robust and targeted health assistance.

I am especially proud of the leadership of the United States in this regard, particularly through the President's Malaria Initiative (PMI). Since its launch in 2005, PMI has purchased almost 13 million artemisinin-based combination therapies, protected over 17 million people through spraying campaigns, and distributed over 6 million insecticide-treated bed nets. In addition, the United States has worked multilaterally with international partners to fight this disease, through the Global Fund to Fight AIDS, Tuberculosis and Malaria. The Global Fund has provided roughly 74 million malaria patients with artemisinin-based combination therapies and distributed almost 70 million bed nets.

In addition to commemorating how far we have come, World Malaria Day is also an opportunity to recognize how far we still need to go. This disease is completely preventable and treatable, and yet more than 40 percent of the world's population is still at risk of contracting malaria and nearly 1 million people, the majority of them children, die from malaria each year. According to the World Health Organization, a child still dies every 30 seconds from malaria. Nearly 90 percent of those deaths occur in Africa. Moreover, malaria often coexists with HIV and neglected tropical diseases, and it causes great risks to efforts to promote child and maternal health.

In light of those realities, we must recommit to sustained international, national, and local leadership to end malaria deaths. I am pleased that Congress last year committed over the next 5 years to combat malaria in the Tom Lantos and Henry J. Hyde U.S. Global Leadership Against HIV/AIDS, TB, Malaria Act. We must now deliver on that commitment, including maintaining our support for multilateral efforts of the Global Fund. At the same time, we cannot afford to address malaria in isolation; our efforts must be part of a comprehensive, integrated and sustainable approach to global health. In particular, I believe we need to invest more in strengthening local health systems that can deliver effective, safe, high-quality interventions when and where they are needed and ensure access to reliable health information and effective disease surveillance.

I commend the thousands of Americans and the many organizations that have taken up this cause and continue to work to fight malaria and save lives.

On Saturday, we should join them in committing to work toward a malaria-free future. To that end and in support of the World Malaria Day, I have introduced a resolution with Senators ISAKSON, BINGAMAN, DURBIN, CARDIN, WICKER, BROWNBACK, and CANTWELL reaffirming U.S. leadership for efforts to combat malaria. I hope our colleagues will support this resolution and, more importantly, join us over the coming months and years in working toward this year's theme: "counting malaria out."

Mr. BEGICH. 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, with no intervening action or debate, and any statements related to the measure be printed in the RECORD.

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

The concurrent resolution (S. Con. Res. 18) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

#### S. CON. RES. 18

Whereas April 25 of each year is recognized internationally as World Malaria Day and in the United States as Malaria Awareness Day;

Whereas, despite malaria being completely preventable and treatable and the fact that malaria was eliminated in the United States over 50 years ago, more than 40 percent of the world's population is still at risk of contracting malaria;

Whereas, according to the World Health Organization, nearly 1,000,000 people die from malaria each year, the vast majority of whom are children under the age of 5 in Africa;

Whereas malaria greatly affects child health, with a child dying from malaria roughly every 30 seconds and nearly 3,000 children dying from malaria every day;

Whereas malaria poses great risks to maternal health, causing complications during delivery, anemia, and low birth weights, with estimates by the Center for Disease Control and Prevention that malaria infection causes 400,000 cases of severe maternal anemia and from 75,000 to 200,000 infant deaths annually in sub-Saharan Africa;

Whereas HIV infection increases the risk and severity of malarial illness, and malaria increases the viral load in HIV-positive people, which can lead to increased transmission of HIV and more rapid disease progression, with substantial public health implications;

Whereas in malarial regions, many people are co-infected with malaria and one or more of the neglected tropical diseases (NTDs) such as hookworm and schistosomiasis, which causes a pronounced exacerbation of anemia and several adverse health consequences;

Whereas the malnutrition and chronic illness that result from childhood malaria leads to increased absenteeism in school and perpetuates cycles of poverty;

Whereas an estimated 90 percent of deaths from malaria occur in Africa, and the Roll Back Malaria Partnership estimates that malaria costs countries in Africa \$12,000,000,000 in lost economic productivity each year;

Whereas the World Health Organization estimates that malaria accounts for 40 percent of healthcare expenditures in high-burden countries, demonstrating that effective,

long-term malaria control is inextricably linked to the strength of health systems;

Whereas heightened efforts over recent years to prevent and treat malaria are currently saving lives;

Whereas the progress and funding to control malaria has increased ten-fold since 2000, in large part due to funding under the President's Malaria Initiative (a United States Government initiative designed to cut malaria deaths in half in target countries in sub-Saharan Africa), the Global Fund to Fight AIDS, Tuberculosis and Malaria, the World Bank, and new financing by other donors;

Whereas the President's Malaria Initiative has purchased almost 13,000,000 artemisinin-based combination therapies (ACT), protected over 17,000,000 people through spraying campaigns, and distributed over 6,000,000 insecticide-treated bed nets, the Global Fund to Fight AIDS, Tuberculosis and Malaria has distributed 70,000,000 bed nets to protect families from malaria and provided 74,000,000 malaria patients with ACTs, and the World Bank's Booster Program is scheduled to commit approximately \$500,000,000 in International Development Association funds for malaria control in Africa;

Whereas public and private partners are developing effective and affordable drugs to treat malaria, with more than 23 types of malaria vaccines in development;

Whereas, according to the Centers for Disease Control and Prevention, vector control, or the prevention of malaria transmission via anopheles mosquitoes, which includes a combination of methods such as insecticide-treated bed nets, indoor residual spraying, and source reduction (larval control), has been shown to reduce severe morbidity and mortality due to malaria in endemic regions;

Whereas the impact of malaria efforts have been documented in numerous regions, such as in Zanzibar, where malaria prevalence among children shrank from 20 percent to less than 1 percent between 2005 and 2007, and in Rwanda, where malaria cases and deaths appeared to decline rapidly after a large-scale distribution of bed nets and malaria treatments in 2006; and

Whereas a malaria-free future will rely on consistent international, national, and local leadership and a comprehensive approach addressing the range of health, development, and economic challenges facing developing countries: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring), That the Senate—*

(1) supports the goals and ideals of Malaria Awareness Day, including the achievable target of ending malaria deaths by 2015;

(2) calls upon the people of the United States to observe Malaria Awareness Day with appropriate programs, ceremonies, and activities to raise awareness and support to save the lives of those affected by malaria;

(3) reaffirms the goals and commitments to combat malaria in the Tom Lantos and Henry J. Hyde United States Global Leadership Against HIV/AIDS, Tuberculosis, and Malaria Reauthorization Act of 2008 (Public Law 110-293);

(4) commends the progress made by anti-malaria programs, including the President's Malaria Initiative and the Global Fund to Fight AIDS, Tuberculosis, and Malaria;

(5) reaffirms United States support for and contribution toward the achievement of the targets set by the Roll Back Malaria Partnership Global Malaria Action plan;

(6) encourages fellow donor nations to maintain their support and honor their funding commitments for malaria programs worldwide;

(7) urges greater integration of United States and international health programs targeting malaria, HIV/AIDS, tuberculosis,

neglected tropical diseases, and basic child and maternal health; and

(8) commits to continued United States leadership in efforts to reduce global malaria deaths, especially through strengthening health care systems that can deliver effective, safe, high-quality interventions when and where they are needed and assure access to reliable health information and effective disease surveillance.

## EXECUTIVE SESSION

### EXECUTIVE CALENDAR

Mr. BEGICH. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider Calendar No. 61, the nomination of Ladda Tammy Duckworth to be an Assistant Secretary of Veterans Affairs for Public and Intergovernmental Affairs; that the nomination be confirmed and the motion to reconsider be laid upon the table; that no further motions be in order; that any statements relating to the nomination be printed in the Record; that the President be immediately notified of the Senate's action, and the Senate then resume legislative session.

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

The nomination considered and confirmed is as follows:

#### DEPARTMENT OF VETERANS AFFAIRS

Ladda Tammy Duckworth, of Illinois, to be an Assistant Secretary of Veterans Affairs (Public and Intergovernmental Affairs).

## LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now resume legislative session.

### MEASURE READ THE FIRST TIME—H.R. 1664

Mr. BEGICH. Mr. President, I understand that H.R. 1664 has been received from the House and is at the desk.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 1664) to amend the executive compensation provisions of the Emergency Economic Stabilization Act of 2008 to prohibit unreasonable and excessive compensation and compensation not based on performance standards.

Mr. BEGICH. Mr. President, I ask for its second reading and object to my own request.

The PRESIDING OFFICER. Objection having been heard, the bill will receive its second reading on the next legislative day.

## ORDERS FOR THURSDAY, APRIL 23, 2009

Mr. BEGICH. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m. tomorrow, Thursday, April 23; 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 S. 386.

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

#### PROGRAM

Mr. BEGICH. Mr. President, tomorrow, the Senate will resume consideration of the Fraud Enforcement Recovery Act, and rollcall votes are expected to occur throughout the day in relation to the pending amendments. Earlier today, the majority leader announced if the Senate is unable to complete action on the bill tomorrow, the Senate would remain in session through the weekend.

In addition, the Senate will turn to the consideration of the House message to request a conference with respect to the budget resolution when it is available. Senators should expect rollcall votes in relation to motions to instruct the conferees during tomorrow's session.

#### ORDER FOR ADJOURNMENT

Mr. BEGICH. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that it adjourn under the previous order following the remarks of Senator DURBIN.

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

#### LADDA "TAMMY" DUCKWORTH CONFIRMATION

Mr. DURBIN. Mr. President, I thank the Senator from Alaska for yielding to me and I also thank him for reading into the RECORD the approval of the nomination of Tammy Duckworth as Assistant Secretary of Public and Intergovernmental Affairs for the Veterans' Administration. She is going to have an exceptional responsibility as the chief communicator for the VA, but I cannot think of a better person to fill that job.

Tammy Duckworth's life is one of service to her country. She was born into a military family. The daughter of a marine, she is a second generation Purple Heart recipient.

Tammy started her own military career by joining ROTC in graduate school. She was commissioned in the Army Reserve in 1992. After completing helicopter flight school, she joined the Illinois National Guard in 1996.

In 2004, Tammy was a doctoral student when she made a personal request to be deployed to Iraq. On the afternoon of November 12, 2004, she was on her last mission of the day flying a helicopter for the Illinois National Guard in Baghdad. Her Blackhawk helicopter was struck by a rocket-propelled grenade that ripped through the cockpit and hit Tammy in the legs. Not realizing the degree of her injuries, she

tried to assist her copilot in landing the damaged aircraft.

Once on the ground, her crew loaded Tammy onto a second helicopter. Tammy's next memory was waking up at Walter Reed with her husband, Bryan Bowsbey, also a member of the Illinois National Guard, by the side of her bed. She learned then that the incident in that helicopter had cost her both of her legs and shattered her right arm.

Well, 10 weeks later, after that horrendous experience, I met Tammy Duckworth. Each year, the President gives a State of the Union Address, and it has been my tradition to invite Illinois soldiers and sailors and airmen and marines who are recuperating in local military hospitals as my guests. That year, they told me there was a MAJ Tammy Duckworth from the Illinois National Guard who would join me. I will never forget it. She was in a wheelchair and in full dress uniform, with both legs missing, her arm in a sling, and her husband behind the wheelchair, and she had a big smile on her face. She came in and introduced herself. We got to know one another and spoke. We left my office then and went to an adjoining office for a press conference, where I introduced my guest to the Illinois press.

A number of people showed up from the Illinois media, and one was a friend of mine, a reporter for the Chicago Sun Times, Lynn Sweet. Lynn asked a hard question—an important one, but a very hard question for someone who is a disabled veteran having lost both of her legs in combat just a few weeks ago. Lynn asked of Major Duckworth: What do you think of those people who object to this war and complain that we never should have been in this war in the first place? What do you think of those who protest that this war should not have ever started?

Tammy paused for a moment and said: Isn't that why we are fighting this war, so that people in America can express their point of view regardless of whether they agree with this Government or not?

I was breathless at the end of that. I thought I cannot believe that answer from a woman who has been through what she had been through. I caught my breath and said: Are there any other questions? No. Afterward, I told Tammy that was the most amazing answer I can ever recall hearing from anybody. We had a good evening. I took her down to the Senate dinner before the State of the Union Address and introduced her to many colleagues, including JOHN MCCAIN, TOM HARKIN, DANNY INOUE, and many others. She was my guest at the State of the Union Address. I kept in touch with her.

Tammy went through rehab. The Walter Reed Military Hospital did an extraordinary job fitting her with computer-assisted legs so she could walk with crutches. She made a miraculous recovery. I kept in touch for the next several months, and when I visited

Walter Reed, a lot of those buff marines, who had lost a limb, said every time they were grunting and groaning and weren't sure they could go forward, somebody would say, "Come on, Tammy," and they would keep pushing forward. She became an inspiration to everybody. At the time, she was the most seriously injured woman veteran in the Iraq war.

I kept in touch with her, and a few months later I called her with a rather bold suggestion. I said: Tammy, have you ever thought about running for office? She said: Never. I said: Would you consider it? We have a vacancy in a congressional seat in Illinois where you live. She called me back and said: Bryan and I have a lot of questions to ask. I said I would be glad to try to answer them.

At the end of the day, she became a candidate for Congress—just 13 months after she had been shot down over Iraq. She ran a spirited campaign. She did not succeed, but she brought together the most amazing group of friends and supporters and volunteers I had ever seen. She was asked to head up the Illinois Veterans Affairs Department, where she did a terrific job. She started several first-in-the-Nation programs in that department: the Illinois Warrior Assistance Program, requiring additional screening for PTSD and traumatic brain injury; the GI Loan for Heroes Mortgage Loan Program; the VetsCash grant program, which provided over \$5 million in grants to service organizations; and Veterans Adaptive Activities Day, bringing together Illinois organizations specializing in adaptive recreations and sports.

Tammy is so self-sufficient and independent, it is hard to believe. She has her own pickup truck, which she likes to motor around in, which is all set up for her to use. She is so independent that the time came when her husband was activated to serve in Iraq, and instead of asking for special consideration because she would have been left alone in her rehabilitative state, she said: He wants to serve, and he should. He left for a year, and she kept things together while he was gone. She did a great job in the process.

When President Obama was elected, he called on Tammy to bring her ethic and record of public service to Washington. I know she is going to do a great job.

She was an Operation Iraqi Freedom veteran. She knows the difficulties servicemembers can face in the battlefield. As a recipient of VA military care at Walter Reed, you can bet the patients won't have a stronger advocate in the VA and for the VA facilities themselves. She uses them today and understands the frustration bureaucracies can create. She will be a real fighter for veterans. She has the perspective of somebody who has worked with and for veterans and is one herself.

As the spouse of a servicemember who deployed to combat, she certainly



knows what families go through when that happens.

In nominating Tammy Duckworth, President Obama knew he was getting a committed veterans advocate. She will be a strong voice for veterans. At the hearing the other day before Senators AKAKA and BURR, I know she made a dramatic impression when she gave her testimony. She is the kind of person I am proud to count as a friend. I am so honored that she served our country. She has shown extraordinary heroism throughout her life, and she will show it in her record of public

service with the VA, and she will show that the trust President Obama put in her was well placed.

We all look forward to working with Tammy as she enters a new phase of service to our Nation and our veterans.

I yield the floor.

ADJOURNMENT UNTIL 9:30 A.M.  
TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate is adjourned until 9:30 a.m.

Thereupon, the Senate, at 6:42 p.m., adjourned until Thursday, April 23, 2009, at 9:30 a.m.

# CONFIRMATION

Executive nomination confirmed by the Senate, Wednesday, April 22, 2009:

DEPARTMENT OF VETERANS AFFAIRS

LADDA TAMMY DUCKWORTH, OF ILLINOIS, TO BE AN ASSISTANT SECRETARY OF VETERANS AFFAIRS (PUBLIC AND INTERGOVERNMENTAL AFFAIRS).

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.