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Senate

The Senate met at 9:55 a.m. and was called to order by the Honorable DANIEL K. INOUYE, a Senator from the State of Hawaii.

PRAYER

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

Let us pray.

Father in heaven, hallowed be Your Name. Today, give special energy, insight, and patience to the Members of this body. Strengthen them against relentless pressures from constituents, lobbyists, and special interests, as You give them wisdom to resolve their differences without rancor or bitterness. Lord, lead them in the way of compromise that doesn't sacrifice principle or self-respect and that preserves timeless values which serve the common good. Make their consistent communion with You radiate on their faces, be expressed in their character, and be exuded in positive joy. Fill this Chamber with Your spirit and our Senators with Your strength and courage.

We pray in Your gracious Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable DANIEL K. INOUYE 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, June 24, 2009.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable DANIEL K. INOUYE, a Senator from the State of Hawaii, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. INOUYE thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

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

QUORUM CALL

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

This will be a live quorum. We will, as further stated and under the rule, meet at 10 o'clock for the swearing in of Senators to proceed with the impeachment matter.

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

The legislative clerk proceeded to call the roll, and the following Senators entered the Chamber and answered to their names.

[Quorum No. 2 Leg.]

Akaka	Ensign	McCaskill
Alexander	Enzi	McConnell
Barrasso	Feingold	Merkley
Baucus	Feinstein	Mikulski
Bayh	Grassley	Murkowski
Begich	Gregg	Murray
Bennett, Utah	Hagan	Pryor
Bingaman	Harkin	Reid, Nevada
Bond	Hatch	Risch
Boxer	Hutchison	Rockefeller
Brownback	Inhofe	Sessions
Bunning	Inouye	Shelby
Burr	Isakson	Stabenow
Burris	Johanns	Tester
Cantwell	Johnson	Thune
Cardin	Kaufman	Udall, Colorado
Carper	Kerry	Udall, New Mexico
Casey	Klobuchar	Vitter
Chambliss	Kohl	Voinovich
Coburn	Kyl	Warner
Corker	Landrieu	Webb
Cornyn	Leahy	Whitehouse
Crapo	Levin	Wicker
DeMint	Lugar	Wyden
Dodd	Martinez	
Dorgan	McCain	

The ACTING PRESIDENT pro tempore. A quorum is present. Would members of the staff take their seats. Senators who wish to converse will retire to the cloakroom.

I now call upon the Secretary for the majority.

EXHIBITION OF ARTICLES OF IMPEACHMENT AGAINST SAMUEL B. KENT, JUDGE OF THE U.S. DISTRICT COURT FOR THE SOUTHERN DISTRICT OF TEXAS

The SECRETARY FOR THE MAJORITY. Mr. President, I announce the presence of the managers on the part of the House of Representatives to conduct proceedings on behalf of the House concerning the impeachment of Samuel B. Kent, Judge of the United States District Court for the Southern District of Texas.

The ACTING PRESIDENT pro tempore. The managers on the part of the House will be received and assigned to their seats.

The managers were thereupon escorted by the Sergeant at Arms of the Senate, Terrance W. Gainer, to the well of the Senate.

The ACTING PRESIDENT pro tempore. The Sergeant at Arms will make a proclamation.

The Sergeant at Arms, Terrance W. Gainer, made the proclamation, as follows:

Hear ye! Hear ye! Hear ye! All persons are commanded to keep silent, on pain of imprisonment, while the House of Representatives is exhibiting to the Senate of the United States, articles of impeachment against Samuel B. Kent, Judge of the United States District Court for the Southern District of Texas.

The ACTING PRESIDENT pro tempore. The managers on the part of the House will proceed.

Mr. Manager SCHIFF. Mr. President, the managers on the part of the House of Representatives are present and

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

ready to present the Articles of Impeachment, which have been preferred by the House of Representatives against Samuel B. Kent, Judge of the United States District Court for the Southern District of Texas.

The House adopted the following resolution which, with the permission of the President of the Senate, I will read:

H. RES. 565

Resolved, That Mr. Schiff, Ms. Zoe Lofgren of California, Mr. Johnson of Georgia, Mr. Goodlatte, and Mr. Sensenbrenner are appointed managers on the part of the House to conduct the trial of the impeachment of Samuel B. Kent, a judge of the United States District Court for the Southern District of Texas, that a message be sent to the Senate to inform the Senate of these appointments, and that the managers on the part of the House may exhibit the articles of impeachment to the Senate and take all other actions necessary in connection with preparation for, and conduct of, the trial, which may include the following:

(1) Employing legal, clerical, and other necessary assistants and incurring such other expenses as may be necessary, to be paid from amounts available to the Committee on the Judiciary under House Resolution 279, One Hundred Eleventh Congress, agreed to March 31, 2009, or any other applicable expense resolution on vouchers approved by the Chairman of the Committee on the Judiciary.

(2) Sending for persons and papers, and filing with the Secretary of the Senate, on the part of the House of Representatives, any subsequent pleadings which they consider necessary.

With the permission of the President of the Senate, I will now read the articles of impeachment.

H. RES. 520

Resolved, That Samuel B. Kent, a judge of the United States Court for the Southern District of Texas, is impeached for high crimes and misdemeanors, and that the following articles of impeachment be exhibited to the Senate:

Articles of impeachment exhibited by the House of Representatives of the United States of America in the name of itself and all of the people of the United States of America, against Samuel B. Kent, a judge of the United States District Court for the Southern District of Texas, in maintenance and support of its impeachment against him for high crimes and misdemeanors.

ARTICLE I

Incident to his position as a United States district court judge, Samuel B. Kent has engaged in conduct with respect to employees associated with the court that is incompatible with the trust and confidence placed in him as a judge, as follows:

(1) Judge Kent is a United States District Judge in the Southern District of Texas. From 1990 to 2008, he was assigned to the Galveston Division of the Southern District, and his chambers and courtroom were located in the United States Post Office and Courthouse in Galveston, Texas.

(2) Cathy McBroom was an employee of the Office of the Clerk of Court for the Southern District of Texas, and served as a Deputy Clerk in the Galveston Division assigned to Judge Kent's courtroom.

(3) On one or more occasions between 2003 and 2007, Judge Kent sexually assaulted Cathy McBroom, by touching her private areas directly and through her clothing against her will and by attempting to cause her to engage in a sexual act with him.

Wherefore, Judge Samuel B. Kent is guilty of high crimes and misdemeanors and should be removed from office.

ARTICLE II

Incident to his position as a United States district court judge, Samuel B. Kent has engaged in conduct with respect to employees associated with the court that is incompatible with the trust and confidence placed in him as a judge, as follows:

(1) Judge Kent is a United States District Judge in the Southern District of Texas. From 1990 to 2008, he was assigned to the Galveston Division of the Southern District, and his chambers and courtroom were located in the United States Post Office and Courthouse in Galveston, Texas.

(2) Donna Wilkerson was an employee of the United States District Court for the Southern District of Texas.

(3) On one or more occasions between 2001 and 2007, Judge Kent sexually assaulted Donna Wilkerson, by touching her in her private areas against her will and by attempting to cause her to engage in a sexual act with him.

Wherefore, Judge Samuel B. Kent is guilty of high crimes and misdemeanors and should be removed from office.

ARTICLE III

Samuel B. Kent corruptly obstructed, influenced, or impeded an official proceeding as follows:

(1) On or about May 21, 2007, Cathy McBroom filed a judicial misconduct complaint with the United States Court of Appeals for the Fifth Circuit. In response, the Fifth Circuit appointed a Special Investigative Committee (hereinafter in this article referred to as ''the Committee'') to investigate Cathy McBroom's complaint.

(2) On or about June 8, 2007, at Judge Kent's request and upon notice from the Committee, Judge Kent appeared before the Committee.

(3) As part of its investigation, the Committee sought to learn from Judge Kent and others whether he had engaged in unwanted sexual contact with Cathy McBroom and individuals other than Cathy McBroom.

(4) On or about June 8, 2007, Judge Kent made false statements to the Committee regarding his unwanted sexual contact with Donna Wilkerson as follows:

(A) Judge Kent falsely stated to the Committee that the extent of his unwanted sexual contact with Donna Wilkerson was one kiss, when in fact and as he knew he had engaged in repeated sexual contact with Donna Wilkerson without her permission.

(B) Judge Kent falsely stated to the Committee that when told by Donna Wilkerson his advances were unwelcome no further contact occurred, when in fact and as he knew, Judge Kent continued such advances even after she asked him to stop.

(5) Judge Kent was indicted and pled guilty and was sentenced to imprisonment for the felony of obstruction of justice in violation of section 1512(c)(2) of title 18, United States Code, on the basis of false statements made to the Committee. The sentencing judge described his conduct as ''a stain on the justice system itself''.

Wherefore, Judge Samuel B. Kent is guilty of high crimes and misdemeanors and should be removed from office.

ARTICLE IV

Judge Samuel B. Kent made material false and misleading statements about the nature and extent of his nonconsensual sexual contact with Cathy McBroom and Donna Wilkerson to agents of the Federal Bureau of Investigation on or about November 30, 2007, and to agents of the Federal Bureau of Investigation and representatives of the Department of Justice on or about August 11, 2008.

Wherefore, Judge Samuel B. Kent is guilty of high crimes and misdemeanors and should be removed from office.

Mr. President, the managers on the part of the House of Representatives, by the adoption of the Articles of Impeachment which have just been read to the Senate, do now demand that the Senate take order for the appearance of the said Samuel B. Kent, to answer said impeachment and do now demand his conviction, and appropriate judgment thereon.

The ACTING PRESIDENT pro tempore. The majority leader.

Mr. REID. Mr. President, at this time, the oath should be administered in conformance with article I, section 3, clause 6 of the Constitution and the Senate's impeachment rules.

I move that the Senator from Kentucky, Mr. MCCONNELL, be designated by the Senate to administer the oath to the Acting President pro tempore, the Senator from Hawaii, Mr. INOUYE.

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

Mr. MCCONNELL. Do you solemnly swear that in all things appertaining to the trial of the impeachment of Samuel B. Kent, Judge of the United States District Court for the Southern District of Texas, now pending, you will do impartial justice according to the Constitution and laws, so help you God?

The ACTING PRESIDENT pro tempore. I do.

Mr. REID. Mr. President, the oath shall now be administered by the Presiding Officer to all Senators. This is an appropriate time for any Senator who has cause to be excused from service in this impeachment to make that fact known.

If there is no Senator who desires to be excused, I move that the Presiding Officer, Mr. INOUYE, administer the oath to Members of the Senate.

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

Senators shall now be sworn. Will Senators all rise and raise your hand.

Do you solemnly swear that in all things appertaining to the trial of the impeachment of Samuel B. Kent, Judge of the United States District Court for the Southern District of Texas, now pending, you will do impartial justice according to the Constitution and laws, so help you God?

SENATORS. I do.

The following named Senators are recorded as having subscribed to the oath this day:

Alexander, Barrasso, Baucus, Begich, Bennett (Utah), Bingaman, Bond, Boxer, Brown, Brownback, Bunning, Burr, Burris, Cantwell, Cardin, Carper, Casey, Chambliss, Coburn, Collins, Conrad.

Corker, Cornyn, Crapo, DeMint, Dodd, Durbin, Ensign, Enzi, Feingold, Feinstein, Gillibrand, Graham, Grassley, Gregg, Harkin, Hatch, Hutchison, Inhofe, Inouye, Isakson, Johanns, Johnson.

Kaufman, Kerry, Klobuchar, Kyl, Landrieu, Lautenberg, Leahy, Levin, Lieberman, Lincoln, Lugar, Martinez,

McCain, McCaskill, McConnell, Menendez, Merkley, Mikulski, Murkowski, Murray, Nelson (Nebraska), Nelson (Florida).

Reed (Rhode Island), Reid (Nevada), Risch, Rockefeller, Sanders, Schumer, Sessions, Shaheen, Shelby, Snowe, Specter, Stabenow, Tester, Thune, Udall (Colorado), Udall (New Mexico), Vitter, Voinovich, Warner, Webb, Whitehouse, Wicker, Wyden.

Mr. REID. Mr. President, any Senator who was not in the Senate Chamber at the time the oath was administered to the other Senators will make that fact known to the Chair so that the oath may be administered as soon as possible to that Senator. The Secretary will note the names of the Senators who have been sworn and will present to them for signing a book, which will be the Senate's permanent record of the administration of the oath. I remind all Senators who were administered this oath that they must now sign the oath book, which is at the desk, before leaving the Chamber.

PROVIDING FOR ISSUANCE OF A SUMMONS AND FOR RELATED PROCEDURES CONCERNING THE ARTICLES OF IMPEACHMENT AGAINST JUDGE SAMUEL B. KENT

Mr. REID. Mr. President, on behalf of myself and the distinguished Republican leader, Mr. MCCONNELL, I send to the desk a resolution that provides for the issuance of a summons to Judge Samuel B. Kent, for Judge Kent's answer to the Articles of Impeachment against him, and for a replication by the House, and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 202) to provide for issuance of a summons and for related procedures concerning the articles of impeachment against Samuel B. Kent.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the resolution.

The resolution (S. Res. 202) was agreed to, as follows:

S. RES. 202

Resolved, That a summons shall be issued which commands Samuel B. Kent to file with the Secretary of the Senate an answer to the articles of impeachment no later than July 2, 2009, and thereafter to abide by, obey, and perform such orders, directions, and judgments as the Senate shall make in the premises, according to the Constitution and laws of the United States.

SEC. 2. The Sergeant at Arms is authorized to utilize the services of the Deputy Sergeant at Arms or another employee of the Senate in serving the summons.

SEC. 3. The Secretary shall notify the House of Representatives of the filing of the answer and shall provide a copy of the answer to the House.

SEC. 4. The Managers on the part of the House may file with the Secretary of the Senate a replication no later than July 7, 2009.

SEC. 5. The Secretary shall notify counsel for Samuel B. Kent of the filing of a replication, and shall provide counsel with a copy.

SEC. 6. The Secretary shall provide the answer and the replication, if any, to the Presiding Officer of the Senate on the first day the Senate is in session after the Secretary receives them, and the Presiding Officer shall cause the answer and replication, if any, to be printed in the Senate Journal and in the Congressional Record. If a timely answer has not been filed, the Presiding Officer shall cause a plea of not guilty to be entered.

SEC. 7. The articles of impeachment, the answer, and the replication, if any, together with the provisions of the Constitution on impeachment, and the Rules of Procedure and Practice in the Senate When Sitting on Impeachment Trials, shall be printed under the direction of the Secretary as a Senate document.

SEC. 8. The provisions of this resolution shall govern notwithstanding any provisions to the contrary in the Rules of Procedure and Practice in the Senate When Sitting on Impeachment Trials.

SEC. 9. The Secretary shall notify the House of Representatives of this resolution.

Mr. REID. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. MCCONNELL. Mr. President, I move to lay the motion on the table.

Without objection, the motion to lay upon the table was agreed to.

PROVIDING FOR THE APPOINTMENT OF A COMMITTEE TO RECEIVE AND TO REPORT EVIDENCE WITH RESPECT TO ARTICLES OF IMPEACHMENT AGIANST JUDGE SAMUEL B. KENT

Mr. REID. Mr. President, on behalf of myself and the distinguished Republican leader, Mr. MCCONNELL, I send a resolution to the desk on the appointment of an impeachment trial committee and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 203) to provide for the appointment of a committee to receive and to report evidence with respect to the articles of impeachment against Judge Samuel B. Kent.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the resolution.

The resolution (S. Res. 203) was agreed to, as follows:

S. RES. 203

Resolved, That pursuant to Rule XI of the Rules of Procedure and Practice in the Senate When Sitting on Impeachment Trials, the Presiding Officer shall appoint a committee of twelve senators to perform the duties and to exercise the powers provided for in the rule.

SEC. 2. The majority and minority leader shall each recommend six members and chairman and vice chairman respectively to the Presiding Officer for appointment to the committee.

SEC. 3. The committee shall be deemed to be a standing committee of the Senate for the purpose of reporting to the Senate resolutions for the criminal or civil enforcement of the committee's subpoenas or orders, and for the purpose of printing reports, hearings, and other documents for submission to the Senate under Rule XI.

SEC. 4. During proceedings conducted under Rule XI the chairman of the committee is authorized to waive the requirement under the Rules of Procedure and Practice in the Senate When Sitting on Impeachment Trials that questions by a Senator to a witness, a manager, or counsel shall be reduced to writing and put by the Presiding Officer.

SEC. 5. In addition to a certified copy of the transcript of the proceedings and testimony had and given before it, the committee is authorized to report to the Senate a statement of facts that are uncontested and a summary, with appropriate references to the record, of evidence that the parties have introduced on contested issues of fact.

SEC. 6. The actual and necessary expenses of the committee, including the employment of staff at an annual rate of pay, and the employment of consultants with prior approval of the Committee on Rules and Administration at a rate not to exceed the maximum daily rate for a standing committee of the Senate, shall be paid from the contingent fund of the Senate from the appropriation account ''Miscellaneous Items'' upon vouchers approved by the chairman of the committee, except that no voucher shall be required to pay the salary of any employee who is compensated at an annual rate of pay.

SEC. 7. The Committee appointed pursuant to section one of this resolution shall terminate no later than 45 days after the pronouncement of judgment by the Senate on the articles of impeachment.

SEC. 8. The Secretary shall notify the House of Representatives and counsel for Judge Samuel B. Kent of this resolution.

Mr. REID. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. MCCONNELL. Mr. President, I move to lay that motion on the table.

Without objection, the motion to lay upon the table was agreed to.

APPOINTMENT OF IMPEACHMENT TRIAL COMMITTEE

Mr. REID. Mr. President, in accordance with the resolution on the appointment of an impeachment trial committee, I recommend to the Chair the appointment of Senators MCCASKILL (chairman), KLOBUCHAR, WHITEHOUSE, UDALL of New Mexico, SHAHEEN, and KAUFMAN.

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

Mr. MCCONNELL. Mr. President, in accordance with the resolution on the appointment of an impeachment trial committee, I recommend to the Chair the appointment of Senators MARTINEZ (vice-chairman), DEMINT, BARRASSO, WICKER, JOHANNS, and RISCH.

The ACTING PRESIDENT pro tempore. Pursuant to the resolution of an impeachment trial committee and impeachment rule XI, the Chair appoints, upon the recommendation of the two Leaders, the following Senators to be members of the committee to receive and report evidence in the impeachment of Judge Samuel B. Kent: Senators MCCASKILL (chairman), KLOBUCHAR, WHITEHOUSE, UDALL of New Mexico, SHAHEEN, KAUFMAN, MARTINEZ (vice-chairman), DEMINT, BARRASSO, WICKER, JOHANNS, and RISCH.

The majority leader.

Mr. REID. Mr. President, the Committee on Rules and Administration will be providing its hearing room, SR–301, to the impeachment committee for an organizational meeting at a time to be determined.

The ACTING PRESIDENT pro tempore. The Senate will take further proper order and notify the House of Representatives and counsel for Judge Kent.

Mr. REID. Mr. President, I ask in an orderly fashion that Senators approach the desk for the signing of the resolution of impeachment before they leave the Chamber.

I suggest the absence of a quorum.

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

The legislative clerk proceeded to call the roll.

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

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

SCHEDULE

Mr. REID. Mr. President, at 11 o'clock today, there will be a vote on the nomination of Mr. Koh, to be Legal Adviser of the Department of State. I tell all Senators I had a conversation with the Republican leader today. We are doing our best to move to a couple appropriations bills. The first in line is the Legislative Branch appropriations bill, and the next is Homeland Security. We hope we can get on those. The Republican leader said he would do his best to help us do that. I hope that, in fact, is the case. We will keep Members advised as to what we will do the rest of the day.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

EXECUTIVE SESSION

NOMINATION OF HAROLD HONGJU KOH TO BE LEGAL ADVISER OF THE DEPARTMENT OF STATE

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session to consider the following nomination, which the clerk will report.

The legislative clerk read the nomination of Harold Hongju Koh, of Connecticut, to be Legal Adviser of the Department of State.

The PRESIDING OFFICER. Under the previous order, the time until 11 a.m. will be equally divided and controlled between the two leaders or their designees.

The Senator from Massachusetts.

Mr. KERRY. Mr. President, I yield myself such time as I will consume. I intend to yield time to Senator LIEBERMAN and Senator FEINGOLD.

Mr. President, I rise in very strong support of the nomination of Dean Harold Koh to be the Legal Adviser to the Secretary of State. This nomination is, in fact, overdue.

Dean Koh is one of the foremost legal scholars in the country and a man of the highest intellect, integrity, and character. He received a law degree from Harvard, where he was an editor of the Law Review, with two master's degrees from Oxford University where he was a Marshall Scholar.

He clerked on both the DC Circuit Court of Appeals and the U.S. Supreme Court. He has served with distinction in both Democratic and Republican administrations, beginning his career in government in the Office of Legal Counsel in the Reagan era.

I think everybody who has dealt with him and has worked with him on a personal level understands the skill Dean Koh would bring to this job. He has worked with the State Department on a firsthand basis. He served as Assistant Secretary of State for Democracy, Human Rights, and Labor in the Clinton administration—a post for which he was unanimously confirmed by the Senate in 1998.

He left government to teach at Yale Law School, and he went on to serve as dean until his nomination to serve in the current administration. As a renowned scholar and a leading expert on international law, he has published or coauthored eight books and over 150 articles.

Throughout his career, Dean Koh has been a fierce defender of the rule of law and human rights. He understands that the United States benefits as much if not more than any other country from an international system of law where we are governed by the rule of law.

At the same time, his personal commitment to America's security and to the defense of our Constitution are indisputable. Accusations that his views on international or foreign law would somehow undermine the Constitution are simply unjustified and unfounded—completely and totally. As Dean Koh explained in response to a question from Senator LUGAR, who supports his nomination, he said:

> My family settled here in part to escape from oppressive foreign law, and it was America's law and commitment to human rights that drew us here and have given me every privilege in my life that I enjoy. My life's work represents the lessons learned from that experience. Throughout my career, both in and out of government, I have argued that the U.S. Constitution is the ultimate controlling law in the United States and that the Constitution directs whether and to what extent international law should guide courts and policymakers.

So while disagreements on legal theory are obviously legitimate, I regret that some of the accusations and insinuations against Dean Koh have simply gone over any line of reasonableness or decency. Some people have actually alleged that Dean Koh supports the imposition of Islamic Shariah law in America, which it just begs any notion of relevance to what is rational.

Some have questioned Dean Koh for allegedly supporting suits against Bush administration officials involved in abusive interrogation techniques. Well, this is a matter for the Justice Department that he will have no role in as Legal Adviser of the State Department.

Others have actually gone so far as to claim—believe it or not—that he is against Mother's Day. I am happy his mother was at the hearing. He pointed to her and had to go so far as to actually deny that, which is rather extraordinary.

Dean Koh deserves a better debate than he has been given thus far, and all of us are done a disservice when the debate gets diverted to some of the accusations we have heard in this case.

Regardless of any policy differences, everyone in the Senate ought to be able to agree on Dean Koh's obvious competence. We have received an outpouring of support for this nomination from all corners, including from over 600 law professors, over 100 law school deans, over 40 members of the clergy, 7 former State Department Legal Advisers—including the past two Legal Advisers from the Bush administration—and many others.

Perhaps most remarkable has been the enthusiastic support for Dean Koh from those who do not agree with him on some issues who have spoken out on his behalf, including former Solicitor General Ted Olson and former White House Chief of Staff Joshua Bolten. No less a conservative legal authority than Ken Starr wrote:

> The President's nomination of Harold Koh deserves to be honored and respected. For our part as Americans who love our country, we should be grateful that such an extraordinarily talented lawyer and scholar is willing to leave the deanship at his beloved Yale Law School and take on this important but sacrificial form of service to our Nation.

So I think that says it all. That is the kind of Legal Adviser we need at the State Department. I urge my colleagues to support this nomination and to vote for cloture on this nomination.

Mr. President, how much time do we have remaining on our side? At least another 15 minutes.

The PRESIDING OFFICER. There is 3 minutes 40 seconds remaining.

Mr. KERRY. That is the total time we have available?

The PRESIDING OFFICER. That is the total time remaining controlled by the majority.

Mr. KERRY. I divide it evenly between Senator LIEBERMAN and Senator FEINGOLD.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I rise to speak on behalf of the nomination of Harold Koh to be Legal Adviser at the Department of State.

I have known Harold Koh for many years, as a friend and as a neighbor in New Haven, and there is no doubt in my mind that he is a profoundly qualified choice for this important position, and deserving of confirmation.

To state the obvious, Harold is a brilliant scholar and one of America's foremost experts on international law. He also has a distinguished record of service in our government, having worked in both Democratic and Republican administrations and consistently won the highest regard from people across the political spectrum.

However, Harold Koh will bring to this position a deep devotion to our country and an appreciation of the fundamental values for which we stand, drawn from his own personal experience and the experience of his family.

Harold's parents came to this country, like so many before and since, fleeing the evils of dictatorship and seeking freedom. It was this experience that helped forge in Harold his lifelong commitment to democracy and the rule of law.

Harold has of course been a prolific scholar, having authored or coauthored 8 books and more than 150 articles. And in the course of his long academic career, he has quite often exercised his right of free speech.

To tell the truth, there have been occasions when Harold has said or written things that I personally don't agree with. And although he is too gracious to say so, I am sure there have been occasions when I have said or done things that Harold has not agreed with.

But this has never interrupted my respect for Harold—for his intelligence and his integrity, nor I have any doubt about Harold's love for our great nation and its values, and his commitment to uphold our Constitution. To use a word we do not use enough anymore, Harold Koh is a true American patriot who will put our country and our Constitution first.

It is also worth noting that no one who has ever worked with Harold has offered anything but praise for him personally and support for his nomination. In fact, his nomination has attracted a remarkable bipartisan coalition of supporters, including Ted Olson, Ken Starr, and Josh Bolten.

These endorsements reflect the fact that, even those who might not always agree with Harold on every issue, nonetheless respect him enormously and feel he is profoundly qualified to serve in this position.

There is a great deal that we debate in this chamber, but there is really no debate about the importance of the rule of law to our country. That is what Harold Koh's life and career have been all about, and it is that surpassing priority that he will bring to the position of Legal Adviser at the State Department.

For these reasons, I urge my colleagues to support Harold Koh's nomination and to vote for his confirmation.

The cloture vote will occur at 11 o'clock, minutes from now. I speak from a real depth and personal experience with Harold Koh. I know him and have known him for years as a friend and a neighbor in Connecticut. Based on that and all of his professional work, there is no doubt in my mind that he is profoundly qualified to occupy this important position as Legal Adviser at the Department of State. He is a brilliant scholar. He is one of America's foremost experts on international law. He actually is qualified to be the Legal Adviser to the Secretary of State. He has a distinguished record of service in our government, having worked in both Democratic and Republican administrations. He has consistently won the highest regard from people across the political spectrum.

Harold Koh will bring to this position a deep devotion to our country and the appreciation of the fundamental values for which we stand, based on his personal status as the child of immigrants who came to this country, escaping dictatorship, seeking freedom, and contributing mightily to America.

Harold has been a prolific scholar in the course of his long academic career. He has fully exercised his right of free speech. To tell the truth, there have been occasions when Harold has said or written things that I personally don't agree with. Although he is too gracious to say so, I am sure there have been occasions on which I have centered on some things that Harold has not agreed with, but that has never interfered with my respect and admiration for him——

The PRESIDING OFFICER. The time of the Senator from Connecticut has expired.

Mr. LIEBERMAN.—because I have always known, regardless of whether we agree or disagree, Harold Koh is committed to the United States of America, to the Constitution, and the rule of law. What more could we ask for a Legal Adviser to the Department of State.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, I am so pleased to rise today in strong support of the nomination of Harold Koh to be Legal Adviser at the State Department. I have known Dean Koh for more than 30 years, and I can say without any doubt he is an excellent choice for this position. I say that not just because he is one of my oldest friends but because he is one of the leading legal scholars in the country. He is extraordinarily qualified for this position.

Dean Koh is one of the most intelligent, ethical, and hard-working individuals I have ever encountered. He has spent his career of some 30 years working on public and private international law, national security law, and on human rights. Throughout that time, he has been committed to America's security and to defending our Constitution. He has dedicated his life to upholding the rule of law and strengthening American values.

During his confirmation hearing in the Senate Foreign Relations Committee, Dean Koh effectively responded to all of the charges against him. He made clear that he understands that his role as legal counsel for the State Department would be different from that of an academic, that he would adhere to the constitutional laws of our land, and that of course he does not believe that foreign law can trump the Constitution.

There is no doubt in my mind that Dean Koh will candidly and objectively advise the Secretary of State on existing law, while also ensuring that she receives competent, objective, and honest advice on the legal consequences of her actions and decisions in an effort to support and advance the President's foreign policy agenda.

At the same time, Dean Koh will ensure respect for our national interests and our legal obligations. If confirmed, Dean Koh will serve our President, and this Nation, and defend the Constitution fully and faithfully.

We are long overdue in confirming Dean Koh. I urge my colleagues to vote in favor of cloture so we can move expeditiously to an up or down vote and Dean Koh can begin his service as the State Department's Legal Adviser.

Mr. President, I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Texas is recognized.

Mr. CORNYN. Mr. President, I rise reluctantly to speak against the nomination of Harold Koh to be the Legal Adviser to the State Department. I had a chance to explain some of the reasons yesterday, and for the benefit of our colleagues I wish to cover those and some additional concerns as well with a little more detail.

There is no question that Dean Koh is a brilliant lawyer and he has been a charming advocate for his promotion to this important position. However, I have concluded that he is not the right person for this job, because he has stated what I would consider to be radical views with regard to the role of the United States sovereignty relative to the rest of the world.

For example, he has advocated judges using treaties in customary international law, including treaties that the Senate has not ratified, to bind the United States. If that is not an erosion of U.S. sovereignty, I don't know what it is. Advocating that judges who take an oath to uphold and defend the Constitution and laws of the United States should instead look to international treaties as the source of that law, to me, is a radical and very fundamental shift in what I think most people would expect from our judges.

He said that Federal judges should use their power to ''vertically enforce'' or ''domesticate'' American law with international norms and foreign law. Do we want the top adviser at the State Department supporting the idea that international bodies and unelected Federal officials, not the Congress,

should be the ultimate lawmaking authority for the American people? I don't think so.

This has manifested itself in a number of ways. For example, in an interview that Dean Koh gave on May 10 for the ''News Hour,'' he was asked about, for example, some of the interrogations that took place in places such as Guantanamo. He basically said that the U.S. forces, including our commanders and presumably the intelligence officials who actually conducted interrogations and detentions, violated the Geneva Conventions and should be held accountable for that. Does he believe that U.S. officials should be prosecuted and perhaps convicted of war crimes because they did what the American people asked them to do, consistent with the legal opinions from the Office of Legal Counsel at the Justice Department?

As the Wall Street Journal points out today in an article called ''The Pursuit of John Yoo''—I will read a couple of sentences from it:

Here's a political thought experiment: Imagine that terrorists stage an attack on U.S. soil in the next 4 years. In the recriminations afterward, Administration officials are sued by families of victims for having advised in legal memos that Guantanamo be closed and that interrogations of al-Qaida detainees be limited. Should these officials be personally liable for the advice they gave to President Obama?

The article goes on to say:

We'd say no, but that's exactly the kind of lawsuit that the political left, including State Department nominee Harold Koh, has encouraged against Bush administration officials.

Of course, it goes on to talk about the lawsuit brought by Jose Padilla, a convicted terrorist, against lawyers at the Office of Legal Counsel at the Justice Department that is being encouraged, if not facilitated, by Harold Koh, the outgoing dean at the Yale Law School, the person who is being proposed for promotion as a Legal Adviser at the Justice Department.

I think his views, if they were confined to academia and to Yale Law School, would be one thing, but the thought that he would bring and put these what I would consider to be out-of-the-mainstream legal theories and approaches into action as a Legal Adviser at the State Department, to me is a frightening prospect.

He has also, in the course of his writings, taken very extreme views with regard to the second amendment to the Constitution of the United States, part of our Bill of Rights, the right to keep and bear arms. In 2002, and later in Fordham Law Review in May of 2003, he wrote an article called ''The World Drowning In Guns'' in which he argued for a global gun control regime. Do we want the top adviser at the State Department working through diplomatic circles to take away Americans' second amendment rights to the Constitution? I think not.

Third, Professor Koh in 2007 argued that foreign fighters, detainees held by the U.S. Armed Forces anywhere in the world—not just at Guantanamo Bay—are entitled to habeas corpus review in U.S. Federal courts—in civilian courts—just as an American citizen would be, no matter where they were held. Do we want the top adviser at the State Department working to grant terrorists and enemy combatants more rights than they have ever had before under any court interpretation? I think not.

Perhaps most timely, Professor Koh appears to draw moral equivalence between the Iranian regime's political suppression and human rights abuses on the one hand, which we have been watching play out on television, and America's counterterrorism policies on the other hand. In 2007, he wrote:

The United States cannot stand on strong footing attacking Iran for ''illegal detentions'' when similar charges can be and have been lodged against our own government.

Do we want a Legal Adviser to the State Department who can't see the difference between America defending itself against terrorism and the brutal repression practiced by a theocratic dictatorship? I think not.

I am afraid that Dean Koh is just another in a line of radical nominees by this administration that the Senate should not confirm.

I think back to Don Johnson who was also nominated to the Office of Legal Counsel who said America is not at war post 9/11, and that instead of embracing the provisions of the Constitution that recognize the President's powers as Commander in Chief to protect the American people, we ought to instead resort to a paradigm that says, Well, this is a law enforcement matter. If it is a law enforcement matter, then you are not going to do anything to stop terrorist attacks before they occur; you are merely going to prosecute the terrorists after they kill innocent life.

Just like Don Johnson, who said we are not at war, Harold Koh has encouraged and facilitated the investigation and perhaps prosecution of American military personnel, and who knows who else, including lawyers who have provided legal advice, as well as perhaps the intelligence officials who relied on that advice to get actual intelligence that we have used to deter and indeed to defeat terrorist attacks on our own soil.

I hope my colleagues will join me in voting against cloture on this nomination. Professor Koh may be an appropriate individual for some other job, but when our national security is at stake, and our role relative to the international community, whether we are going to subject ourselves not just to the U.S. Constitution and laws made by the elected representatives of the people here in the Congress but instead to international treaties and international common law that we have not agreed to and that the American people have not consented to, I think this is the wrong job for this nominee. I ask my colleagues to join me in voting against cloture.

I yield the floor and reserve the remainder of our time.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I ask unanimous consent to speak for 2 minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. SPECTER. Mr. President, I have sought recognition to strongly support the nomination of Dean Koh for this position. I have known Dean Koh from his outstanding work at the Yale Law School and from his outstanding contribution as the dean of the Yale Law School. He comes to this position with an extraordinary educational background: summa cum laude of Harvard College, Oxford; Harvard Law School, cum laude. He has had a distinguished career with the Federal Government having served as Assistant Secretary of State from 1998 to 2001. He has done exemplary work at Yale. His father was the first Korean lawyer to study in the United States.

Yesterday, I spoke at some length about Dean Koh and inserted his extraordinary resume in the RECORD. It took many pages to list all of his honorary degrees, all of his publications, and all of his awards. When we search for the best and the brightest to come to Washington, Dean Koh is a perfect match for that description. If his nomination is to be rejected, it certainly will be a signal to people who have an interest in public service that they are better off not treading in these waters because the politics is so thick that even individuals of such extraordinary credentials can be rejected by the Senate.

I strongly urge my colleagues to support this nomination. I have been in this body a while. I have never spoken with such enthusiasm or such determination for the confirmation of a nominee as I have for Dean Koh. I think he will do an outstanding job.

Certainly, the points that have been raised by the distinguished Senator from Texas are worthy of consideration, but there is no showing that any of those ideas will be followed to the extreme to the detriment of the United States, and his qualifications suggest he would be a great asset to the United States of America and the State Department.

The PRESIDING OFFICER. The Senator's time has expired.

CLOTURE MOTION

Under the previous order, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will report.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undesigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the nomination of Harold Hongju Koh, of Connecticut, to be Legal Adviser of the Department of State.

Harry Reid, Mark L. Pryor, Sheldon Whitehouse, Daniel K. Inouye, Russell D. Feingold, Christopher J. Dodd, Roland W. Burris, Richard Durbin, Patty Murray, Jon Tester, Mark Udall, Amy Klobuchar, Jack Reed, Max Baucus, Jeff Merkley, Blanche L. Lincoln, Maria Cantwell, Byron L. Dorgan.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the nomination of Harold Koh, of Connecticut, to be Legal Adviser of the State Department shall be brought to a close?

The yeas and nays are mandatory under the rule. The clerk will call the roll.

The assistant legislative clerk called the roll.

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

Mr. KYL. The following Senator is necessarily absent: the Senator from Mississippi (Mr. COCHRAN).

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

The yeas and nays resulted—yeas 65, nays 31, as follows:

[Rollcall Vote No. 212 Ex.]

YEAS—65

Akaka	Gregg	Murray
Alexander	Hagan	Nelson (NE)
Baucus	Harkin	Nelson (FL)
Bayh	Hatch	Pryor
Begich	Inouye	Reed
Bennet	Johnson	Reid
Bingaman	Kaufman	Rockefeller
Boxer	Kerry	Sanders
Brown	Klobuchar	Schumer
Burris	Kohl	Shaheen
Cantwell	Landrieu	Snowe
Cardin	Lautenberg	Specter
Carper	Leahy	Stabenow
Casey	Levin	Tester
Collins	Lieberman	Udall (CO)
Conrad	Lincoln	Udall (NM)
Dodd	Lugar	Voinovich
Dorgan	Martinez	Warner
Durbin	McCaskill	Webb
Feingold	Menendez	Whitehouse
Feinstein	Merkley	Wyden
Gillibrand	Mikulski	

NAYS—31

Barrasso	DeMint	McConnell
Bennett	Ensign	Murkowski
Bond	Enzi	Risch
Brownback	Graham	Roberts
Bunning	Grassley	Sessions
Burr	Hutchison	Shelby
Chambliss	Inhofe	Thune
Coburn	Isakson	Vitter
Corker	Johanns	Wicker
Cornyn	Kyl	
Crapo	McCain	

NOT VOTING—3

Byrd	Cochran	Kennedy

The PRESIDING OFFICER. On this vote, the yeas are 65, the nays are 31. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

(Disturbance in the Visitors' Galleries.)

The PRESIDING OFFICER. No applause from the gallery is allowed.

The Senator from Georgia.

Mr. CHAMBLISS. Mr. President, I ask unanimous consent to speak as in morning business and that I be followed by my colleague, Senator ISAKSON.

The PRESIDING OFFICER. Is there objection? Hearing no objection, it is so ordered.

TRIBUTE TO DR. BRUCE GRUBE

Mr. CHAMBLISS. Mr. President, I rise to pay tribute to an academic leader and a true public servant—Dr. Bruce Grube. A decade ago, Dr. Grube took the helm of Georgia Southern University in Statesboro, GA. At the end of this month, after 10 years on this job, he will leave Georgia Southern a bigger, better, and considerably richer university, both in terms of its endowment and in its academic achievements, than when he started.

His leadership has been robust. During Dr. Grube's tenure as President of Georgia Southern the school's enrollment has risen almost 23 percent. Nearly 18,000 students are proud to call Georgia Southern their academic home. And while freshman SAT scores were rising some 13 percent on his watch, the university was being catapulted into national prominence. During Dr. Grube's time as president, Georgia Southern was designated a Carnegie doctoral/research university, was featured in the U.S. News and World Report's ''Best Colleges'' guide, and was named one of the Nation's ''Top 100 Best Values'' in education by Kiplinger.

He also oversaw the creation of two new colleges specializing in information technology and public health, presided over a veritable building boom on campus, and brought Georgia Southern into the Internet age with distance learning courses.

Of all his remarkable achievements, perhaps the most significant is that in the decade of Dr. Grube's presidency, the amount of scholarships funded through the Georgia Southern Foundation has doubled. In 1999, the foundation's scholarships totaled $644,000. In 2007, the foundation was able to award $1.3 million to deserving scholars, many of whom may not have been able to start school or complete their degrees without that assistance. And Dr. Grube has led the way in doubling the university's endowment in 9 years' time.

In addition, he has overseen Georgia Southern's rise in the world of collegiate athletics. In the past decade, the Eagles' volleyball, softball, baseball, and golf teams have reached their respective NCAA tournaments. Its football team went to the FCS national championships, and its cheerleading squad captured the national title.

Georgia Southern and the entire university system will miss Dr. Grube's visionary leadership. Fortunately, this political scientist who got his start in the classroom won't be going far. After a little time off, he will return to Georgia Southern to teach in 2010.

Dr. Grube, we certainly wish you and your family the best. Your professional dedication to better education has made Georgia Southern and Georgia a better place in which to live. I am proud to call you my good friend.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. ISAKSON. Mr. President, I am delighted to rise with my colleague from Georgia, Senator CHAMBLISS, and pay tribute to my friend, Dr. Bruce Grube. A lot of times we stand on the floor and say ''my friend,'' when it is a passing statement. Well, it is not for me. I met Dr. Grube in 1989, when he was named the 11th president of Georgia Southern University, and I was with him as recently as commencement last year.

He is a great leader in education in our State, and he will be missed. But he is both remembered and revered and there are three reasons I would like to talk about his distinguished career. No. 1, he did what is most important for college presidents to do—he raised the endowment of the university. In fact, he doubled the endowment of the university. And because of that, as Senator CHAMBLISS said, he doubled the number of scholarships going out to deserving Georgians to come to Georgia Southern University. That is No. 1.

No. 2, as a former chairman of a State board of education and one whose passion is education, I love what Dr. Grube did when he put in the First-Year Experience program at Georgia Southern University, a program designed to make the first-year experience a lasting experience so student retention improved at Georgia Southern and more kids who entered graduated. Since the inception of that program, retention at Georgia Southern University has gone from 66 percent of the freshman class to 81 percent of the freshman class—four out of five returning and getting their degree at Georgia Southern University.

No. 3, among everything else that a president of a university does in terms of responsibility, it is so important that they outreach to the community. When you go to Bulloch County in Statesboro, GA, if you are at Snooky's Restaurant for breakfast, Dr. Grube is there. If you are on campus in the middle of the day, interacting with students under the shade of a Georgia pine tree, Dr. Grube is there. If there is a charitable or benefit program in Bulloch County, Dr. Grube is there. He is the face of Georgia Southern University, and he will be missed—but only for a year because after a brief sabbatical he comes back to teach political science at Georgia Southern University. He returns to his roots, established in his doctorate degree at the University of Texas in political science and carried on for years to come as a distinguished professor of political science at Georgia Southern University.

I am proud to rise with my colleague, Senator CHAMBLISS, to pay tribute to a great Georgian, a great educator, and my personal friend, Dr. Bruce Grube.

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

The PRESIDING OFFICER (Mr. KAUFMAN). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MCCONNELL. 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. MCCONNELL. Mr. President, I am going to proceed on my leader time which I did not use earlier this morning.

HEALTH CARE WEEK IV, DAY III

Mr. President, when it comes to reforming health care, Republicans believe that both political parties should work together to make it less expensive and easier to obtain, while preserving what people like about our current system.

That is why Republicans have put forward ideas that should be easy for everyone to support, such as reforming medical malpractice laws to get rid of junk lawsuits; encouraging wellness and prevention programs that have already been shown to cut costs; and addressing the needs of small businesses without imposing taxes that will kill jobs.

Unfortunately, Democrats on Capitol Hill have opted against many of these commonsense proposals, moving instead in the direction of a government-run system that denies, delays, and rations care.

So it is my hope that the President uses his prime time question and answer session at the White House tonight to clearly express where he himself comes down on a number of crucial questions.

One question relates to whether Americans would be able to keep the care they have if the Democrat plan is enacted. The President and Democrats in Congress have repeatedly promised Americans they could keep their health insurance. Yet the independent Congressional Budget Office says that just one section of the Democrat bill being rushed through Congress at the moment would cause 10 million people with employer-based insurance to lose the coverage they have.

Another independent study of a full proposal that includes a government-run plan estimates that 119 million Americans, or approximately 70 percent of those covered under private health insurance, could lose the health insurance they have as a consequence of a government plan. America's doctors have also warned that a government plan threatens to drive private insurers out of business. And yesterday, the President himself acknowledged that under a government plan, some people might be shifted off of their current insurance.

So the first question is this: Will the President veto any legislation that causes Americans to lose their private insurance?

The President also said that health care reform cannot add to the already staggering national debt. Yet once again, the Congressional Budget Office has said that just one section of the Democrats' HELP bill would spend $1.3 trillion, while others estimate the whole thing could end up spending more than $2 trillion. And here is how the CBO put it: ''the substantial costs of many current proposals to expand Federal subsidies for health insurance would be much more likely to worsen the long-run budget outlook than to improve it.''

Let me repeat that, Mr. President. The Congressional Budget Office says that some of the proposals in the Democrats' bill would be much more likely to worsen the long-run budget outlook than to improve it.

So the second question is this: Will the President veto a bill that adds to the Nation's already staggering deficit?

The President has said that no middle-class Americans would see their taxes raised a penny. Yet Democrats on Capitol Hill are considering proposals, such as a plan to limit tax deductions for medical costs, that would not only raise taxes on middle class families, but that would hit these families the hardest.

So the third question is this: Will the President veto any legislation that raises taxes on the middle class?

The President has said he supports wellness and prevention programs that have proven to cut costs and improve care by encouraging people to make healthy choices, like quitting smoking and fighting obesity. One such program is the so-called Safeway plan, which has dramatically cut that company's costs and employee premiums. Yet the bill Democrats are rushing through the Senate would actually ban the key provisions of the Safeway program from being implemented by other companies.

So the fourth question is this: Does the President support the HELP Committee bill, which bans providing incentives for healthy behavior, and will he veto legislation that bans these kinds of programs?

Finally, the President has said that government should not dictate the kind of care Americans receive. On this issue, the President has no stronger supporters than Republicans. But Democrats on the HELP Committee rejected a Republican amendment that would have prohibited a Democrat-proposed government board from rationing care or denying lifesaving treatments because they are too expensive.

So the fifth question is this: Does the President support the Republican amendment to prohibit the rationing of care, and will he veto legislation that allows the government to deny, delay, and ration care?

Five questions: Will the President use his veto pen to make sure Americans are not kicked off their current health plans? Will he oppose any legislation that increases the nation's deficit? Will he oppose any bill that raises taxes on middle-class families? Will he reject any bill that excludes commonsense wellness and prevention programs that have been proven to cut costs and improve care? And will he disavow legislation that denies, delays, and rations care?

The American people want Republicans and Democrats to work together to enact health care reform, but they want the right kind of reform not a massive government takeover that forces them off of their current insurance and denies, delays, and rations care. Americans are right to be concerned about what they are hearing from Democrats. It's my hope that the President addresses those concerns tonight once and for all.

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. KYL. 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. KYL. Mr. President, the nomination of Harold Koh concerns me for a number of reasons. Primarily, his view that international law should guide U.S. law and his criticism of our first amendment right to freedom of speech and his opposition to the Solomon amendment, which conditions Federal funding to educational institutions on allowing military recruiting on campus.

The State Department Legal Adviser helps formulate and implement U.S. foreign policy, advises the Justice Department on cases with international implications, influences U.S. positions on issues considered by international bodies, and represents the United States at treaty negotiations and international conferences.

In short, this position requires the utmost deference to the Constitution of the United States. Mr. Koh is a proponent of transnationalism, the belief that Americans should use foreign law and the views of international organizations to interpret our Constitution and to determine our policies.

Mr. Koh has gone so far as to refer to the United States as part of an ''axis of disobedience'' in reference to America's alleged violations of international law.

During his 2003 speech at the University of California at Berkeley, Mr. Koh said:

> When I came to government, the first conclusion I reached was that the rule of law should be on the U.S. side.
>
> That's a system of law—

He is speaking now of international law—

> that we helped to create. So that's why we support various systems of international adjudication. That's why we support the UN system. We need these institutions, even if they cut our own sovereignty a little bit.

Mr. Koh's views on the first amendment again portray a desire to make

American law subservient to international law. In his Stanford Law Review article—the title of which was ''On American Exceptionalism''—Koh stated that our first amendment gives ''protections for speech and religion . . . far greater emphasis and judicial protection in America than in Europe or Asia,'' and he opined that America's ''exceptional free speech tradition can cause problems abroad.'' Furthermore, he stated that the way for the ''Supreme Court [to] moderate these conflicts'' is ''by applying more consistently the transnationalist approach to judicial interpretation.''

This is breathtaking. Is it even consistent with an oath to protect and defend the Constitution? Should we now begin to dismantle a founding principle of our democracy in order to appease the so-called international community, as Mr. Koh advocates? If the Founding Fathers had followed this advice, this country would not be the leading example of freedom in the world it is today and a leader in getting others to protect free speech and assembly and other freedoms—such as are being asserted in Iran today. Conforming our views to the norm, which Mr. Koh acknowledges provides less protection than our Constitution would, therefore, would adversely affect the very international community which Mr. Koh seeks to emulate.

Let me put it another way. People in Iran today are taking to the streets to try to exercise some degree of free speech and assembly and petition their government. Mr. Koh acknowledges that in our Constitution we provide much more protection for those rights than anywhere else, or, I think as he put it, than the mainstream of international law provides. That is true.

I think that is something we should not only adhere to for our own benefit but for the benefit that it provides to others around the world as an example of what they should seek to achieve and because of the moral status it gives the United States to be able to say to the leaders of a country such as Iran: You need to provide free speech and assembly and the right to petition their government, and the fact that you are not doing it is wrong because if we believe we are all created equal, by our Creator, that means we have moral equality as individuals. Everybody in Iran, we believe, would have the same right as anyone else to exercise these God-given rights. And if that is true, it makes no sense to diminish those rights as they have been interpreted by our courts in the United States, interpreting our U.S. Constitution, in order for us to conform to an international norm.

Rather, it makes sense for us to continue to adhere to those high standards and to try to bring other countries along with us. In fact, I would postulate that because of our high standard of rights and the example that our Constitution provides, many countries of the world have actually advanced the cause of free speech and assembly and petitioning their government more than they otherwise would have because they have the example of the United States to look at.

If I think of countries, the revolutions, the Orange Revolution, and the changes in governments in places such as Poland, back when it broke from the Soviet Union, and Ukraine and Georgia and all of the other places in the world where people finally broke free from the shackles of a government that would not permit free speech, what were they seeking to do? To exercise free speech in order to petition their government for individual freedom.

So the United States should jealously guard those rights in our Constitution rather than, as Mr. Koh says, have the United States interpret its Constitution more in line with the mainstream of thinking in the rest of the world.

If you sort of try to apply a mathematical formula, and you average what the rest of the world thinks about free speech, the right of religion, the right to assemble, the right to petition the government, the average is far below what we provide. We are pretty much at the top of the pile in terms of what we protect.

But if we were to follow Mr. Koh's advice, in order to be more accepted in the world, we would draw our standards of protection of individual rights down to the leveled area of the mainstream around the world. If you look around the world today, there are so many dictatorships, totalitarian systems, autocracies—even a country such as China—which provide very little in the way of freedom for their people. If you just took the average based on the population of the world, I know what the mainstream would be. It would not be very much in the way of individual rights.

So we should jealously protect what we have in the United States, which is a constitution that at least thus far has been interpreted to protect those rights jealously, not just for our benefit—though that should be, I submit, the sole purpose of a Supreme Court Judge, for example, deciding Supreme Court cases; what does the Constitution say for the people of America?—but if one is going to consider the international implications, I think it would be exactly the opposite of what Mr. Koh is saying; namely, that we should be concerned that any diminishment of the interpretation of our rights would negatively affect other people around the world.

I do not care if the average is a lower standard. I wish those countries would bring their standards up to ours. But I certainly do not want to conform to some idea of international acceptance or international popularity by bringing ourselves down to their level. This is not what ''American Exceptionalism'' is all about—the title of the piece Mr. Koh wrote.

He has argued in other contexts as well that unique American constitutional provisions should conform to the international view of things. I have been speaking of free speech and assembly, the right to petition your government, to practice religion. We think those are absolutely basic. But there are some other rights in our Constitution. One of them is the second amendment. It is controversial.

Other countries do not have a protection such as the second amendment to the U.S. Constitution. If we want to amend the Constitution, we can do that. But as it stands right now, the second amendment has been upheld by the Supreme Court to apply to every individual in the United States, free from Federal undue interference with respect to the ownership of guns.

But if we adopt Mr. Koh's argument about conforming to international norms, including stricter gun control, it may bring us more in line with some other countries, but it certainly would not be in keeping with the interpretation of the U.S. Supreme Court with respect to that second amendment.

In an April 2002 speech at the Fordham University School of Law, Mr. Koh advocated a U.N.-governed regime to force the United States ''to submit information about their small arms production.'' He believes the United States should ''establish a national firearms control system and a register of manufacturers, traders, importers and exporters'' of guns to comply with international obligations. This would allow U.N. members such as Cuba and Venezuela and North Korea and Iran to have a say in what type of gun regulations are imposed on American citizens.

As the dean of Yale Law School, Mr. Koh was a leader in another effort I think is troublesome. It was an effort to deprive students of the freedom to listen to military recruiters who wanted to explain on campus the benefits of a career in our military services. We all—every one of us in this body—frequently express our gratitude to the people in the U.S. military services who protect us, who put themselves in danger in order to protect the very freedoms we are talking about. Yet as dean of the law school, he would not allow the recruiters for these military institutions to come on campus. Yet he would protect students' freedom to listen to antiwar speakers on campus. But Yale closed its doors to military recruiters primarily because it disagreed with the military's policies on gays, which, by the way, is a policy of the President and the Congress, not just the military.

In court, Mr. Koh and others in Yale's administration challenged the constitutionality of the Solomon amendment. The Solomon amendment is a statute that denies Federal funds to educational institutions that block military recruiters. The Supreme Court unanimously ruled against Mr. Koh's position.

Mr. Koh also led a lawsuit against Department of Justice lawyer John

Yoo for doing what any government lawyer is expected to do: provide his legal opinions to the people he worked for, the policymakers of the U.S. Government.

The Supreme Court has said, in no uncertain terms, that government lawyers need immunity from suit in order to avoid ''the deterrence of able citizens from acceptance of public office'' and the ''danger that fear of being sued will dampen the ardor of . . . public officials in the unflinching discharge of their duties.''

In other words, by encouraging this lawsuit, Mr. Koh was effectively deterring his students from doing precisely what Yale otherwise recommends that they do: enter public service.

Elections have consequences. I understand and generally support the prerogative of the President to nominate individuals for his administration he deems appropriate as long as they are within the spectrum of responsible views. However, because of the importance of his position in representing the United States in the international community with respect to treaties and other agreements, his own words and actions demonstrate to me he is far outside the mainstream in such a way that his appointment as State Department Legal Adviser could damage U.S. sovereignty.

So I oppose his nomination. I urge my colleagues—all of us who take an oath to support and defend the Constitution and who appreciate there are always challenges to America's sovereignty—to closely examine Mr. Koh's record and determine whether he would be a representative not only whom they could be proud of but whom they could rely upon in representing the American public interest.

At the end of the day, our sovereignty depends upon the American people. We govern with the consent of the governed. Our government does not start with rights. We had a group of people in America who gave their government certain limited rights in order for their common good. So the American people are our bosses. They pay our salary. We need to listen to them.

When I talk to my constituents—at least in recent months—I notice a theme that is recurring, and it is troublesome to me first of all because it is the kind of thing that sometimes is influenced by people who have less character than those of us in this body and others who may disagree with each other but seriously approach these issues. It is the idea that little by little the people are losing sovereignty, and that the country of America is giving up its sovereignty to others. Who are the others?

I am not a conspiratorial person. That is why I say some of the people who promote this idea do not do so for the right reasons, and I do not like to see them paid attention to by our constituents. But every time we adhere to a U.N. resolution or sign a treaty with another country or agree to abide by the terms of a trade agreement, or something of that sort, to some extent we are giving up a little bit of our sovereignty. As long as we do all of those things with the consent of the governed and as long as we do it through the representative process where we pass a law or we confirm a treaty, ratify a treaty, it is done in the right way. We may make a mistake, we may go too far sometimes, but that is the decision we make. We have the right to make mistakes too. But when we go outside the legal framework of the country to cede a little bit of our sovereignty, as Mr. Koh says is OK, then we have abused the confidence the American people have placed in us and we have gone beyond our legal ability as representatives of the people to give up this little degree of sovereignty.

What I am concerned about, because of his position, which is the direct link between the United States and all of these international organizations and countries which our country necessarily deals with, is that he cares less about the protection of American sovereignty than the vast majority of the American citizens. In fact, he has a point of view which regards that as less important than conforming to international norms and even being in line with popular opinion internationally. As I said before, it is nice to be liked, but at the end of the day, the United States should not be about popular opinion.

We could probably be more popular with 100 countries in the United Nations if we stopped harping on things such as clean elections and free speech and the right to assembly and so on because my guess is there are probably 50 to 100 countries in the United Nations that don't respect their citizens' rights nearly as much as we do. In fact, the number is probably larger than that. They are uncomfortable with the example of a country such as the United States which sets on such a high pedestal our American citizens' rights, that we not only protect those rights for our citizens, but we hold them out to the rest of the world as something that would be beneficial for their citizens as well. This makes them uncomfortable, and rightly so, because sometimes, as we are seeing in Iran today, people decide that it is a good thing to decide to exercise those rights and they feel the denial of that ability by their governments is wrong. They are even willing to risk their lives, as our forefathers did, to assert those rights. That is how important they are.

How odd it is, therefore, to come across such an intelligent—and he certainly is intelligent—man such as Mr. Koh who has a very different point of view about these important American rights, who believes it is more important for us to be in the mainstream of international thinking even though that mainstream represents a view of rights far less than the United States views our rights; it is far more important for us to be well viewed in the international community than it is to strictly adhere to those rights that are embodied in our Constitution. That is extraordinarily troubling to me. Some of his views are breathtaking as they have been asserted.

I know he has met with some of our colleagues, that he is apparently, in addition to being very intelligent, very charming, and that his essential position is: Well, that is what I said in a speech, but I will recognize my obligations as a member of the administration.

I think we are all informed by our views, and if we care enough about them to speak out in a way that he has, as frequently and as forcefully as Mr. Koh has, it is difficult to believe that all of a sudden, in a moment of his confirmation, he will forget about everything he said and what he believes and conform his representation of the American people to what is a far more mainstream point of view; namely, that we should defend our Constitution to the absolute maximum extent we can, irrespective of the views of other countries around the world. That is why, at the end of the day, as I said, I hope my colleagues will review his record very carefully and will judge and eventually base their vote on his confirmation on what he has said—because he is an intelligent man who knows very well what he has said—and what, therefore, could flow from his words as actions as our representative in the State Department as its Legal Adviser.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. CARDIN. Mr. President, I ask unanimous consent to speak as in morning business for up to 20 minutes, with the time counting toward the postcloture debate time.

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

METRO COLLISION

Mr. CARDIN. Mr. President, I rise today to offer my condolences to the families and loved ones of those who lost their lives in the tragic collision of two Metro trains this past Monday evening. This accident is the most devastating, by any measure, in Metro's history, and it has affected our entire region. My prayers are with those who lost their lives and my deepest sympathies are with their families, friends, and all those they touched.

I want to take a moment to praise the first responders, who worked tirelessly through the night to rescue the injured and save lives. It is during tragedies such as this that we can fully appreciate the heroism and bravery of our first responders.

At this time, we don't know the cause of the crash, and it may take considerable time for the National Transportation Safety Board to complete its investigation and make a determination. We certainly will do everything we can in this body to assist the National Transportation Safety Board in their investigation, make sure it is thorough and complete, and that we fully understand how this tragedy occurred.

News reports found that the train car that caused the fatal accident was an older model that the Federal safety officials had recommended for replacement. It didn't have the data recorder or modern improvements to stand up to a collision, and it may have been 2 months behind in its scheduled maintenance. Metro officials are replacing these aging cars that date back to the 1970s. These costly replacements are being made but at a pace that is too slow.

Funding shortfalls have caused Metro to make repairs instead of replacing aging equipment or structures throughout the system. Last year, I visited the Shady Grove Station and witnessed firsthand how they literally are using wood planks and iron rods to prop up station platforms. They have been forced to make accommodations to keep the system running in the safest possible manner.

The Washington Metro rail system is the second busiest commuter rail system in America, carrying as many as a million passengers a day. It carries the equivalent of the combined subway ridership of BART in San Francisco, MARTA in Atlanta, and SEPTA in Philadelphia each day. But more than three decades after the first train started running, the system is showing severe signs of age. Sixty percent of the Metro rail system is more than 20 years old. The costs of operations maintenance and rehabilitation are tremendous.

This is not only the responsibility of the local jurisdictions that serve Metro—the State of Maryland, Virginia, and Washington, DC—but there is also a Federal responsibility in regard to these cars. Federal facilities are located within footsteps of 35 of Metrorail's 86 stations. Nearly half of Metrorail's rush hour riders are Federal employees. This is our Metro system. We have a responsibility. Approximately 10 percent of Metro's riders use the Metrorail stations at the Pentagon, Capital South, and Union Station, serving the military and the Congress.

In addition, Metro's ability to move people quickly and safely in the event of a terrorist attack or natural disaster is crucial. The Metro system was invaluable on September 11, 2001, proving its importance to the Federal Government and the Nation during the terrorist attacks of that tragic day.

There is a clear Federal responsibility to this system.

Metro is unique from any other major public transportation system across the country because it has no dedicated source of funding to pay for its operation and capital funding requirements. But we are close to resolving that issue.

I was proud to work alongside Senator MIKULSKI, Senator WEBB, and former Senator John Warner last year to pass the Federal Rail Safety Improvement Act, which was signed into law in October 2008. This law authorizes $1.5 billion over 10 years in Federal funds for Metro's governing Washington Metropolitan Area Transit Authority, matched dollar for dollar by local jurisdictions, for capital improvement. The technical details of this arrangement are nearly complete, and when done, Metro finally will have its dedicated funding sources. I compliment the States of Virginia and Maryland and the District for passing the necessary legislation.

Earlier this year, as a regional delegation, along with our new colleague, Senator MARK WARNER, we requested that the Appropriations Committee provide the first $150 million. While this is a substantial downpayment, it is not nearly enough to fulfill all of Metrorail's obligations. At the time of the bill's passage, Metro had a list of ready-to-go projects totaling about $530 million and $11 billion in capital funding needs over the next decade. Yesterday, I joined with my colleagues from Maryland and Virginia in sending another letter to the chairman and ranking member of the Appropriations Committee reiterating our urgent request for a first-year installment of $150 million in funding for WMATA. Earlier today, I was pleased to announce $34.3 million in additional funding for the purchase of new Metro cars. This was the last installment of a 3-year, $104 million commitment. However, only a steady, major stream of funding will help WMATA make the investments needed to reassure the commuters, locals, tourists, families, and all Americans who ride Metro that the system is as safe and reliable as it can possibly be. I find it unacceptable that the transit system in our Nation's Capital does not have enough resources to improve safety and upgrade its aging infrastructure. While we may not know the cause of Monday's tragic collision for some time, it shined a spotlight on the dire need for improvements and upgrades to the Metrorail's infrastructure.

Again, on behalf of all our colleagues, I extend our deepest sympathies to all those affected by this horrific accident, in particular the families and loved ones of those who were killed. I hope my colleagues will join together, working with the Virginia Senators and Maryland Senators, to ensure that this body does everything it can to make sure a similar tragedy is never repeated.

HATE CRIMES LEGISLATION

Madam President, I next wish to talk about the urgent need to pass the Matthew Shepard Hate Crimes Prevention Act of 2009. We passed this 2 years ago, and unfortunately we were unable to reconcile it with the other body.

In the last 2 years, we have had constant reminders of the need to pass this legislation. Just this past June 15, Steven Johns, a security guard at the U.S. Holocaust Museum, lost his life to a person who was deranged but who also was acting under hate. On February 12, 2008, Lawrence King, a 15-year-old student, lost his life because he was gay. On election night, we saw two men go on a killing spree against African Americans because America elected its first African-American President. In July of last year, four teenagers killed a Mexican immigrant and used racial slurs, making it clear it was a hate crime. In 2007, there were 7,600 reported hate crimes in America—150 in my own State of Maryland. So we need to do something about this. The trends have not been positive. They have been negative. Crimes against Latinos, based upon hate, have increased steadily since 2003. In 2007, we saw the highest number of hate crimes against lesbians, gays, bisexual and transgendered, up 6 percent from the year before. The number of supremacist groups in America has increased dramatically. There has been an increase in anti-Semitism between 2006 and 2007. The list goes on and on.

My point is this: We are seeing a troubling trend in America, with increased violence caused by hate-type activities. We need to act. The Federal Government needs to act. The Matthew Shepard Hate Crimes Prevention Act of 2009 will do just that. It expands the current hate crimes legislation we have on the Federal books so that it covers not just protected Federal activities but all activities in which a hate crime is perpetrated, and it extends the protections against hate crimes generated by gender, disability, gender identity, and sexual orientation. It will supplement what the States are doing. Many States are aggressively pursuing these matters. In fact, 45 States and the District of Columbia have passed their own hate crimes statute, and 31 include sexual orientation as a protected right.

The reason we need the Federal law is that the Federal Government has the resources and the capacity to respond when many times the States cannot. And I want to make it clear that this bill fully protects first amendment rights. This protection is against violent acts, not against speech. Hate crimes not only affect the victim, but they affect the entire community. It is time for us to act, and I hope we will soon pass the Matthew Shepard Hate Crimes Prevention Act of 2009.

HEALTH CARE REFORM

Lastly, I wish to talk about health care reform. There has been a lot of debate in this body, a lot of conversation about health care reform and what we need to do. I hope the only option that is not on the table is the status quo. We cannot allow the current system to continue.

I say that for several reasons. First is the matter of cost. The Nation cannot afford the health care system we have now. Last year, the Nation's health care costs totaled $7,400 for every man, woman, and child in this country, for a total of $2.4 trillion. We spent 15 percent of our gross domestic product on health care in 2006—the highest country by far. Switzerland, which is No. 2, spends 11 percent, and the average of the OECD nations is 8½ percent. We spend approximately twice as much as the industrial nations of the world spend on health care. And we don't have the results to warrant this type of expenditure. Of the 191 countries ranked by the World Health Organization, we are ranked 37th on overall health systems performance—behind France, Canada, and Chile, just to mention a few. We rank 24th on health life expectancies, and we ranked No. 1, by far, on health care expenditures. Between 2000 and 2007, the median earnings of Maryland workers increased 21 percent. Yet health insurance premiums for Maryland families rose three times faster than the median earnings in that same time period.

So we can't afford the cost of health care in America. It is crippling our economy, and our budgets are not sustainable. We are having a hard time figuring out how we are going to bring down the Federal deficit. When we look at the projected numbers, if we don't get health care costs under control, it is going to be extremely difficult to figure out how to balance budgets in the future. We need to bring down the cost of health care if America is going to be competitive in this international competitive environment.

For all those reasons, we need to do it. Yet we know we have 46 million Americans—despite how much money we spend—who don't have health insurance, and that is 20 percent higher than 8 years ago. We are running in the wrong direction. In my State of Maryland, 760,000 people do not have health insurance. Every day, people in Maryland and around the Nation are filing personal bankruptcy because they can't afford the health care bills they have. We have to do something about this.

I wish to thank and congratulate President Obama for bringing forward a reform that I hope will be embraced by this body. It certainly has been embraced by the American people. They understand it. We build on our current system. We want to maintain high quality. And I say that coming from a State that is proud to be the home of Johns Hopkins University and its great medical institution; the University of Maryland Medical Center, with its discoveries; and certainly NIH. This is a State—a nation—that is proud of its medical traditions of quality. We want to maintain choice. I want the constituents in Maryland and around the country to not only choose their doctor and their hospital but to choose the health care plans they can participate in, and we certainly want to make sure this is affordable. So for all those reasons, we want to build on the current system.

Let me talk about one point that has gotten a lot of attention, and that is whether we should have a public option. I certainly hope we have a robust public insurance option, and I say that for many reasons. Public insurance has worked in our system. Just look at Medicare. If the Federal Government did not move for Medicare, our seniors would not have had affordable health care coverage, our disabled population would not have had affordable health care coverage. I don't know of a single Member of this body who is suggesting that we repeal Medicare, and that is a public insurance option.

A public insurance option does not have the government interfering with your selection of a doctor. The doctors and hospitals are private. We are talking about how we collect pay for these bills. And Medicare has worked very well, as has TRICARE for our military community. So we want to build on that experience.

The main reason we want a public insurance option is to keep down cost. That is our main reason. We know Medicare Advantage is a private insurance option within Medicare. I am for a private insurance option in Medicare, but I oppose costing the taxpayers more money because of that. We know Medicare Advantage costs between 12 to 17 percent more for every senior who enrolls in the private insurance option. The CBO—Congressional Budget Office—tells us that cost is $150 billion over 10 years. So this is a cost issue.

I remember taking the floor in the other body when we were talking about Medicare Part D, the prescription drug part of the Medicare system. I urged a public insurance option at that time, on the same level playing field as private insurance so that we could try to keep the private insurance companies honest and have fair competition. We didn't do that. As a result, the Medicare Part D Program is costing the taxpayers more than it should.

So my main reason for saying we need to have a public insurance option is to keep costs down, but it also provides a guaranteed reliable product for that individual who is trying to find an affordable insurance option, for that small business owner who today finds it extremely difficult to find an affordable, reliable product available in the private insurance marketplace. Maybe the private insurance marketplace will be up to the challenge with 46, 47 million more people applying for insurance in America. I want to make sure they are. And having a public insurance option puts us on a level playing field and allows the freedom of choice for the consumer as to what insurance product they want to buy and the freedom of choice to choose an insurance product that allows them to choose their own private doctor and hospital.

There are plenty of positive proposals, and I congratulate the leadership on the Finance Committee and on the HELP Committee for the manner in which they are working to bring down health care costs—first by universal coverage. Universal coverage will bring down health care costs. We know that someone who has no health care insurance uses the emergency room. It costs us a lot of money to use the emergency room. We want to get care out to the community, and with universal coverage it will bring down costs.

Preventive health care saves money. It saves money and it saves lives. It provides better, healthier lives for individuals, but it also saves money. We know that providing a test for a person for early detection of a disease costs literally a couple hundred dollars compared to the surgery that might be avoided which costs tens of thousands of dollars. So this is about cost, about saving lives, and about a better quality of life with preventive health care. I congratulate the committees for really coming together on this issue.

Also, the better use of health information technology will not only save us money in the administrative aspect of health care but actually in the delivery of care. If we know about a person and we can coordinate that person's care, we can bring down the cost of care and prevent medical errors.

For all those reasons, I strongly concur in what our committees are doing currently to reform our health care system to bring down costs.

One last point is the need for us to work together. I do reach out to every Member of this body to say: Look, I don't know of anyone who says our system is what it should be. Everyone agrees we are spending too much money. I haven't talked to a single Senator who believes we can't cut the cost of health care. We have to bring down the cost of health care. I think all of us agree we have to do a better job in preventive care and we have to do a better job of having an affordable product for those who don't have health insurance today. We all agree on that.

Let's listen to each other and work together. This is not a Democratic problem or a Republican problem. It cries out for Democrats and Republicans to work together to solve one of the most difficult problems facing our Nation. I congratulate President Obama for being willing to tackle this problem, and I urge all colleagues to join in this debate so, at the end of the day, we can pass reform that will truly bring down the cost of health care to America, be able to say America still leads the world in medical technology, and allows that care to be available to all the people of our country.

That is our goal. We can achieve it working together, and I look forward to working with my colleagues in achieving that goal.

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

The PRESIDING OFFICER (Mrs. HAGAN). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

SOTOMAYOR NOMINATION

Mr. SESSIONS. Madam President, the individual right to keep and bear arms—I think a fundamental right guaranteed by the explicit text of the second amendment of the U.S. Constitution—is at risk today in ways a lot of people have not thought about.

Although the Supreme Court recently held that the second amendment is an individual right, which is a very important rule, many significant issues remain unresolved, which most people have not thought about.

The Supreme Court, including whoever will be confirmed to replace Justice Souter, will have to decide whether the second amendment has any real force or whether, as a practical matter, to allow it to eviscerate its guarantees.

The second amendment says that ''the right of the people to keep and bear Arms, shall not be infringed.'' ''[T]he right of the people to keep and bear Arms, shall not be infringed.'' I know there is a preamble about a well-regulated militia being important to the security of the State, but the Supreme Court has ruled on that in Heller and said that does not obviate the plain language that the right to keep and bear arms is a right that individual Americans have, at least vis-a-vis the U.S. Government.

Not all the amendments, I would say, are so clearly a personal right. The first amendment, if you will recall, protects freedom of religion and freedom of speech. It talks about restricting Congress: Congress shall make no law with respect to the establishment of a religion or prohibiting the free exercise thereof.

So some could argue that does not apply to the States. It would apply only to the Federal Government because it explicitly referred to it. However, the Supreme Court has held it does apply to the States, and the right of speech and press and religion are applicable to the States and bind the States as well.

In the case of District of Columbia v. Heller, the Supreme Court recently held that the second amendment ''confer[s] an individual right to keep and bear arms.'' This is consistent with the Constitution and was a welcome and long-overdue holding.

Despite this holding, however, many important questions remain. For example, it is still unsettled whether the second amendment applies only to the Federal Government or to the State and local governments as well—a pretty big question. This question will determine whether individual Americans will truly have the right to keep and bear arms because if that is not held in that way, it would allow State and local governments—not bound by the second amendment—to pass all sorts of restrictions on firearms use and ownership. They may even ban the ownership of guns altogether.

So we are talking about a very important issue. Remember, the District of Columbia basically banned firearms. It is a Federal enclave, in effect, with Federal law. And the Supreme Court held that the Federal Government could not violate the second amendment, was bound by the second amendment, and that legislation went too far. But they, in a footnote, noted they did not decide whether it applies to the States, cities, and counties that could also pass restrictions similar to the District of Columbia.

President Obama, who nominated Judge Sotomayor, has a rather limited view of what the second amendment guarantees.

In 2008, he said that just because you have an individual right does not mean the State or local government cannot constrain the exercise of that right—exactly the issues the Supreme Court has not resolved yet. Can States and localities constrain the exercise of that right in any way they would like?

In 2000, as a State legislator, the President cosponsored a bill that would limit the purchase of handguns to one a month.

In 2001, he voted against allowing the people who are protected by domestic violence protective orders—because they felt threatened—he voted against legislation that would allow them to carry handguns for their protection.

So there is some uncertainty about his personal views.

Let's look at Judge Sotomayor, whom the President nominated, and her record on the second amendment. That record is fairly scant, but we do know that Judge Sotomayor has twice said the second amendment does not give you and me and the American people a fundamental right to keep and bear arms.

The opinions she has joined have provided a breathtakingly, I have to say, short amount of analysis on such an important question to the U.S. Constitution. And the opinions she has written lack any real discussion of the importance of these issues, in an odd way.

Judge Sotomayor has gone from sort of A to Z without going through B, C, D, and so forth. For example, in her most recent opinion in January of this year—Maloney v. Cuomo—which asked whether the Supreme Court's protection of the right to bear arms in DC—the Heller case—would apply to the States, she spent only two pages to explain how she reached her conclusion. Her conclusion was that it did not.

The Seventh Circuit dealt with this same question and reached the same conclusion, but they gave the issue the respect it deserved and had eight pages discussing this issue, at a time when Judge Sotomayor only spent about two pages on it and not very much discussion at all.

The Ninth Circuit reached a different opinion. They say the second amendment does apply to individual Americans and does bar the cities of Los Angeles or New York or Philadelphia from barring all hand guns because you have an individual constitutional right to keep and bear arms. So the Ninth Circuit disagreed, and they had 33 pages in discussing this important issue.

Further, in deciding that the second amendment applies to the people, the majority in the Supreme Court dedicated, in Heller, 64 pages to this important issue. Including dissents and concurrences on that decision, the entire Court generated 157 pages of opinion. Judge Sotomayor wrote only two pages in a very important case as important as Heller. Judge Sotomayor's lack of attention and analysis is troubling.

These truncated opinions also suggest a tendency to avoid or casually dismiss constitutional issues of exceptional importance. Other examples might include the New Haven firefighters case, Ricci v. DeStefano, which is currently pending before the Supreme Court on review, and the fifth amendment case of Didden v. Village of Port Chester, which was recently discussed in the New York Times. It dealt with condemnation of a private individual's property. All those were serious constitutional cases. They had the most brief analysis by the court, which is odd.

I do not think it is right for us to demand that we know how a judge will rule on a case in the Supreme Court. I am not going to ask her to make any assurances about how she might rule. But I do think it will be fair and reasonable to ask her how she reached the conclusions she reached and perhaps why she spent so little time discussing cases of fundamental constitutional importance.

I am not the only one who has been troubled by the second amendment jurisprudence of Judge Sotomayor. As I mentioned previously, the Ninth Circuit disagreed with her opinion and held that the second amendment is a fundamental right applicable to the States and localities.

Additionally, in a June 10 editorial, the Los Angeles Times—a liberal newspaper—disagreed with her view in Maloney as to whether the second amendment applies against States and localities.

Moreover, in a June 10 op-ed in the Washington Times, a leading academic argued that the decision in Maloney was flawed.

So these are critical questions that will determine whether the people of the United States have a fundamental right guaranteed by the Constitution to keep and bear arms. So I think it is important and it is more than reasonable for the Senators to analyze the opinions on this question and to inquire as to how the judge reached her decisions and what principles she used in doing so.

I would say we are moving forward with this confirmation process. It is a

difficult time for us in terms of time. There are now only eight legislative days before the hearings start. There is a lot of work to be done, a lot of records that have not yet been received. So our team and Senators are working very hard, and we will do our best to make sure we have the best hearings we have ever had for a Supreme Court nominee.

I see my colleague, Senator HATCH, in the Chamber, who is a fabulous constitutional lawyer and former chairman of this Judiciary Committee. I was honored to work for him, serve under him, when he was our leader. I know whatever he says on these subjects is something the American people need to listen to because he loves this country, he loves our Constitution, and he understands it.

I thank the Chair and yield the floor.

The PRESIDING OFFICER (Mr. UDALL of New Mexico). The Senator from Utah is recognized.

Mr. HATCH. Mr. President, I thank my colleague for his comments. He knows how deeply I respect him and how proud I am that he is the Republican leader on the Judiciary Committee. He will do a terrific job, and has been doing a terrific job, ever since he took over.

Considering a Supreme Court nominee is one of this body's most important responsibilities. I come at this wanting to support whomever the President nominates. The President has the right to nominate and appoint, and we have a right, it seems to me, to vote up or down one way or the other and determine whether we will consent to the nomination. We can also give advice during this time.

Only 110 men and women have so far served on our Nation's highest Court, and President Obama has now nominated Judge Sonia Sotomayor to replace Justice David Souter. Our constitutional rule of advise and consent requires us to determine whether she is qualified for this position by looking at her experience and, more importantly, her judicial philosophy.

President Obama has already described his understanding of the power and role of judges in our system of government. He has said he will appoint judges who have empathy for certain groups and that personal empathy is an essential ingredient for making judicial decisions. Right off the bat, President Obama's vision of judges deciding cases based on their personal feelings and priorities is at odds with what most Americans believe. A recent national poll found that by more than three to one, Americans reject the notion that judges may go beyond the law as written and take their personal views and feelings into account.

Judge Sotomayor appears to have endorsed this subjective view of judging. In one speech she gave several times over nearly a decade, she endorsed the view that there is actually no objectivity or neutrality in judging, but merely a series of perspectives. She questioned whether judges should even try to set aside their personal sympathies and prejudices in deciding cases, a view that seems in conflict with the oath of judicial office which instead requires impartiality.

We must examine Judge Sotomayor's entire record for clues about her judicial philosophy. She was, after all, a Federal district court judge for 6 years and has been a Federal appeals court judge for nearly 11 more. While we were told that this is the largest Federal judicial record of any Supreme Court nominee in a century, we are being allowed the shortest time in recent memory to consider it. The 48 days from the announcement to the hearing for Judge Sotomayor is more than 3 weeks—more than 30 percent—shorter than the time for considering Justice Samuel Alito's comparable judicial record. There was no legitimate reason for this stunted and rushed timetable, but that is what the majority has imposed on us and that is where we are today.

I wish to take a few minutes this afternoon to look at Judge Sotomayor's judicial record on a very important issue to me and, I think, many others in this body: the right to keep and bear arms protected by the second amendment to the Constitution.

Some can be quite selective about constitutional rights—prizing some, while ignoring others. Some even trumpet rights that are not in the Constitution at all as more important than those that are right there on the page. It appears that Judge Sotomayor has taken a somewhat dim view of the second amendment. Two issues related to the scope and vitality of the right to keep and bear arms are whether it is a fundamental right and whether the amendment applies to the States as well as to the Federal Government. On each of these issues, Judge Sotomayor has chosen the side that served to limit, confine, and minimize the second amendment. She has done so without analysis, when it was unnecessary to decide the case before her, and even when it conflicted with Supreme Court precedent or her own arguments.

In a 2004 case, for example, a Second Circuit panel including Judge Sotomayor issued a short summary order affirming an illegal alien's conviction for drug distribution and possession of a firearm. The case summary and headnotes supplied by Lexis take up more space than the three short paragraphs proffered by the court. Judge Sotomayor's court rejected a second amendment challenge to New York's ban on gun possession in a single sentence relegated to a footnote with no discussion, let alone any analysis of the issue whatsoever. In fact, the court neither described the appellant's argument nor indicated how the district court had addressed this constitutional issue, but merely cited a Second Circuit precedent for the proposition that the right to possess a gun is ''clearly not a fundamental right.''

That is pretty short shrift for a constitutional claim. Last year, in the District of Columbia v. Heller, the Supreme Court held that the second amendment right to keep and bear arms is an individual rather than a collective right. But the Court also noted that by the time of America's founding, the right to have arms was indeed fundamental, and that the second amendment codified this preexisting fundamental right. Several months later, a Second Circuit panel including Judge Sotomayor affirmed a conviction under State law for possessing a weapon. Citing a 1886 Supreme Court precedent, the Second Circuit held that under the Constitution's privileges and immunities clause, the second amendment applies only to the Federal Government, not to the States. Whether correct or not, that holding was obviously enough to decide the issue in that particular case. Judge Sotomayor's court, however, went beyond what was necessary to further minimize the second amendment by once again characterizing it as something less than a fundamental right. The court said that there need be only a so-called rational basis to justify a law banning such weapons, a legal standard it said applies where there is no fundamental right involved. The court simply ignored and actually contradicted the Supreme Court's decision in Heller by treating the second amendment as protecting less than a fundamental right. In fact, the very 1886 precedent Judge Sotomayor's court cited to hold that the second amendment limits only the Federal Government recognized the preconstitutional nature of the right to bear arms. Her court never addressed these contradictions.

The Seventh Circuit has since also held that under the privileges and immunities clause, the second amendment limits only the Federal Government. But the Ninth Circuit last month held that under the Constitution's due process clause, the second amendment does indeed apply to the States. These courts gave this issue much more analysis than did Judge Sotomayor's court and neither found it necessary to address whether the right to keep and bear arms is fundamental. I wish Judge Sotomayor's court had shown similar restraint.

It appears that Judge Sotomayor has consistently and even gratuitously opted for the most limiting, the most minimizing view of the second amendment. No matter how distasteful, this result would be legitimate if it followed adequate analysis, if it properly applied precedent, and if it was necessary to decide the cases before her. In that event, it would not like it but probably could not quarrel with it. But as I have indicated here, this is not the case. There was virtually no analysis, her conclusion conflicted with precedent, and was unnecessary to decide the cases before her. This is not the picture of a restrained judge who has set aside personal views and is focusing on applying the law rather than on

reaching politically correct results. These are serious and troubling issues which go to the very heart of the role judges play in our system of government. These are elements not from her speeches but from her cases that give shape to her judicial philosophy. We have a written Constitution which is supposed to limit government, including the judiciary. We have the separation of government power under which the legislative branch may employ empathy to make the law, but the judicial branch must impartially interpret and apply the law. We have a system of self-government in which the people and their elected representatives make the law and define the culture. It is no wonder that most Americans believe that judges must take the law as it is, not as judges would like it to be, and decide cases impartially. That is exactly what judges are supposed to do if our system of ordered liberty based on the rule of law is to survive.

President George Washington said that the right to keep and bear arms is ''the most effectual means of preserving peace.''

Justice Joseph Story, in his legendary commentaries on the Constitution, called this right the ''palladium of the liberties of a republic.''

I, for one, am glad that our Founders did not give short shrift to this fundamental individual right.

Let me close my remarks this afternoon by saying that these are some of the questions that need answers, issues that need clarification, and concerns that need to be satisfied as the Senate examines Judge Sotomayor's record. Perhaps such answers, clarification, and satisfaction exist. My mind is open, and I look forward to the hearing in which these and many other matters no doubt will be raised. These are important issues that can't be shunted aside as though they are unimportant, and Judge Sotomayor needs to answer some of these issues and questions that we are raising as we go along.

I told her that we will ask some very tough questions and that she is going to have to answer them. She understands that, and I appreciate that.

With that, I yield the floor.

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

Mr. THUNE. Mr. President, I rise today to follow up on some of the comments made by my colleagues who had come to the floor to talk about the nomination of Judge Sotomayor to the Supreme Court of the United States.

Any confirmation the Senate considers is important but none more so than a lifetime appointment to the most distinguished judicial office in our Nation.

Now that the President has nominated Judge Sotomayor, it is the Senate's job to give advice and consent. As Alexander Hamilton told the Constitutional Convention:

> Senators cannot themselves choose—they can only ratify or reject the choice of the President.

I take this role very seriously, as do all of my Senate colleagues. In fact, just 3½ years ago, on this very floor, one of our colleagues in the Senate at the time rose and gave the following views on a then-pending Supreme Court nomination. I will quote for you what he said:

> There are some who believe that the President, having won the election, should have complete authority to appoint his nominee and the Senate should only examine whether the Justice is intellectually capable and an all-around good person; that once you get beyond intellect and personal character, there should be no further question as to whether the judge should be confirmed. I disagree with this view. I believe firmly that the Constitution calls for the Senate to advise and consent. I believe it calls for meaningful advice and consent and that includes an examination of the judge's philosophy, ideology, and record.

The Senator who made those remarks was then-Senator Obama. He spoke those words in January 2006 on this floor when the Senate was debating the confirmation of now-Supreme Court Justice Samuel Alito.

I, like the President, believe it is the Senate's constitutional duty to thoroughly review all nominees to the Federal bench, especially those who will have a lifetime appointment to the highest Court in our Nation. This review should be thorough and fair and cover a nominee's background, judicial record, and adherence to the Constitution. This is especially true with the voluminous judicial record Judge Sotomayor has compiled, with over 3,600 Federal district and appellate level decisions. The Senate must also work to ensure that the nominee will decide cases based upon the bedrock rule of law as opposed to their own personal feelings and political views.

As part of this confirmation process, I had the opportunity this morning to meet with Judge Sotomayor. Like many in this body, I agree that she has an impressive background, as well as a compelling personal story. But what we have to do is examine and look at her record when it comes to her understanding of the Constitution, especially as it relates to the second amendment right to bear arms, and that is an area where I have significant concerns.

While sitting on the Second Circuit Court of Appeals, Judge Sotomayor consistently advanced a narrow view of the second amendment and did so with little explanation or reasoning. For example, twice, Judge Sotomayor has ruled that the second amendment is not a ''fundamental right.'' The first time she did so with a one-sentence footnote, and most recently it was simply stated as fact without any explanation or reasoning being provided. Judge Sotomayor's views on whether the second amendment right to bear arms is a fundamental right are so important because the Supreme Court has made this determination a key element in deciding whether to apply parts of the Bill of Rights, such as the second amendment, to State and local governments.

This question, also known as incorporation, is likely to be the next second amendment issue the Supreme Court will consider because the circuit courts of appeal are split, and the Supreme Court specifically noted that they were not deciding this issue in the landmark District of Columbia v. Heller decision, which was decided last year.

What is most troubling to me, though, is that these second amendment cases point out a disturbing trend that legal experts have expressed about Judge Sotomayor: That she has a record of avoiding or casually dismissing difficult and important constitutional issues. It doesn't take an attorney to notice that Judge Sotomayor's discussion of incorporation, a challenging and constitutionally significant issue, consists of just a few paragraphs. In contrast, the opinions for both the Ninth Circuit and the Seventh Circuit discuss the issue at length and, in doing so, give this important issue the attention and analysis it deserves. While I understand that writing styles can and do vary, even in the writing of judicial opinions, I am still concerned about the apparent lack of thoughtfulness and thorough reasoning in her decisions.

Another example of a Judge Sotomayor opinion that appears to be unnecessarily short and inadequately reasoned is the Ricci v. DeStefano case, or more popularly known as the New Haven firefighter promotion case. In this case, a three-judge panel, which included Judge Sotomayor, published an unusually short and unsigned opinion that simply adopted the lower district court's ruling without adding any original analysis. Even one of Judge Sotomayor's own mentors, Judge Jose Cabranes, commented that the Ricci opinion ''contains no reference whatsoever to the constitutional claims at the core of this case'' and that the ''perfunctory disposition [of the case] rests uneasily with the weighty issues presented by this appeal.'' Without careful reasoning being provided, critics and supporters alike have been left to wonder on what basis these decisions have been made. I am left with concerns about these rulings and whether they are based upon personal views and feelings rather than the rule of law.

My short meeting with Judge Sotomayor this morning did not provide either of us with enough time to address these issues and these concerns at length, and that is why, like many colleagues, I will be monitoring closely the confirmation hearings that are set to occur next month. During those hearings, it is my hope that the members of the Judiciary Committee will take the necessary time to explore and thoroughly examine her positions and legal reasoning, especially on the second amendment, in greater detail.

I, like many of my colleagues, am anxious to see this process move forward. We also understand the weight that is attached to the constitutional role of the Senate when it comes to advice and consent. When you consider a

lifetime appointment to the highest Court in the land, you better make sure that you do your homework and that you thoroughly and completely and fairly examine the record.

I hope the Judiciary Committee—and I know they will—will conduct this in a way which is consistent with the tone that ought to be a part of this. It ought to be a civil discussion. It also needs to be thorough because we are talking about a lifetime appointment to the Supreme Court. Whoever ends up on that Court will be faced with a great many issues, all of which have lasting consequences for this great Republic.

In my view, it is important that we have judges who are put on the Supreme Court who understand that the role of the judiciary in our democracy is not to play or take sides; it is to be the referee, the umpire, to be someone who applies the Constitution, the laws of the land, fairly to the facts in front of them in the cases they will hear. I certainly hope that, as we have an opportunity to more thoroughly review the record of this nominee, the members of the Judiciary Committee and all of the Members of the Senate will take that responsibility very seriously. That will be the criteria and the filter by which I look at this nominee—whether or not, in my view, she exercises an appropriate level of judicial restraint and doesn't view the role of a judge in our judiciary system in this country to be that of an activist, someone who expresses personal feelings or tries to advance a particular political agenda, but someone who, in terms of philosophy and temperament, is committed to that fundamental principle of judicial restraint, which is a hallmark of our democracy and has been for well over 200 years.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. THUNE. Mr. President, I didn't have an opportunity to address the Koh nomination this morning. We had a cloture vote on the nomination of Harold Koh to be the next State Department Legal Adviser. I wish to express some of the views and concerns I have. Obviously, cloture was invoked this morning, and my guess is that he will ultimately be confirmed. We have an opportunity in a postcloture period to talk a little bit about this nominee.

I have to say this is an important position. If confirmed, Mr. Koh would be the top lawyer at the State Department and would be involved in the negotiation, the drafting, and the interpretation of treaties and U.N. Security Council resolutions. He would also represent the United States in other international negotiations, at international organizations, and before the International Court of Justice. To put it simply, he would be viewed as the top legal authority for the United States by the international community.

Similar to Judge Sotomayor, Mr. Koh highlights an alarming trend which I think we see in some of President Obama's nominees. They have impressive backgrounds, but when their records are examined in detail, there are substantive questions about their understanding of the Constitution. For example, Mr. Koh has said repeatedly, including at his confirmation hearing, that he believes the congressionally authorized 2003 U.S. invasion of Iraq ''violated international law'' because the United States had not received ''explicit United Nations authorization'' beforehand. He also said that the U.S. Supreme Court should ''tip more decisively toward a transnationalist jurisprudence'' as opposed to basing decisions on the U.S. Constitution and laws made pursuant to it.

His views on the second amendment are also extremely worrisome. In a speech called ''A World Drowning in Guns,'' which was given at Fordham University Law School in 2002 and later published in the Law Review, he explains why he believed there should be a global gun control regime and admits that ''we are a long way from persuading government to accept a flat ban on the trade of legal arms.''

He concludes his speech with this statement:

> When I left the government several years ago, my major feeling was of too much work left undone. I wrote for myself a list of issues on which I needed to do more. One of those issues was the global regulation of small arms.

Given, again, that Mr. Koh will be the top legal adviser at the State Department on both domestic and international issues, I have concerns, because of statements such as these, that he could place his own personal agenda ahead of the needs of our country and the Constitution.

So we will have an opportunity probably—we have had the cloture vote on the nomination, but I wanted to express for the record my concerns about this nominee and the types of statements he has made in the past, the type of agenda he has expressed support for, and how, in my view, it contradicts many of the basic constitutional freedoms and rights—the second amendment being one—that I would raise as a major concern but also this notion that transnational jurisprudence—that the Supreme Court ought to tip more decisively in that direction. That is a cause for great concern.

I hope that on final disposition of this nominee, the Senate will vote to reject this nomination. It is, in my view, dangerous to the national security interests of the United States and some of our basic constitutional freedoms when he rules in the way he has in the past and continues to issue statements that, in my view, are very troublesome. I will be opposing this nomination, and I hope my colleagues will as well.

I yield the floor.

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

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

Mr. DURBIN. It is my understanding we are postcloture, speaking on the nomination of Harold Koh to be Legal Adviser for the Department of State; is that correct?

The PRESIDING OFFICER. That is correct.

Mr. DURBIN. Mr. President, earlier today the Senate voted to invoke cloture and move forward with this nomination. Sixty-five Senators recognized the extraordinary qualifications that Mr. Koh will bring to the State Department. Yet in the last few weeks, some Senators on the other side of the aisle have done everything they can to slow down the work of the Senate, even going so far as to delay the consideration of a bill to promote tourism in America. That is a noncontroversial bill with 11 Republican cosponsors but a bill that could only get two Republican Senators to support it when we asked to move it forward.

Unfortunately, the same thing is happening with the nomination of Mr. Koh. This is a nomination which is not controversial for most Members of the Senate—65 supported going forward. Yet the Republicans are insisting, as they have the right to do under Senate rules, that we delay for maybe up to 30 hours before we actually get to the vote. If we are going to waste that much time on a noncontroversial nomination for a person to become Legal Adviser to the State Department, the people of this country have a right to ask what is the goal of the Republicans in doing this?

There is a lot we need to do in the Senate. There is a lot the American people are counting on us to do, measures we should be considering. I have a bipartisan measure on food safety. I have been working on this for over 10 years. There is not a week that goes by that there is not some new press report about something dangerous: pet food, cookie dough—you name it. All of these things have been in the headlines over the last several years, and we can do a better job making sure the items we purchase at our local stores for our families, for our pets, are safe; making sure the things we import from other countries are safe. But we cannot even get to that measure because there is a strategy on the Republican side of the aisle to stop us, to delay as much as possible to try to make sure the Senate does as little as possible.

In the last election, the people of this country said: We think it is time for change in this town of Washington. We are sick and tired of this partisan bickering and this waste of time and Democrats banging heads with Republicans. Why don't you all just roll up your sleeves and be Americans for a change and try to solve the problems? You may not get it completely right, but do your best and work at it. Spend some time on it.

Look at what we have, an empty Chamber. This Senate Chamber should be filled with debate on critical issues, but it is not because, unfortunately, this is a procedural strategy on the other side of the aisle which is slowing us down.

This man whose nomination is before us should have just skated through here. This is an extraordinarily talented man. Mr. Harold Koh has a long and distinguished history of serving his country and the legal profession. During the Reagan administration, a Republican President's administration, he was a career lawyer in the Office of Legal Counsel at the Department of Justice; in 1998, unanimously confirmed as the U.S. Assistant Secretary of State for Democracy, Human Rights and Labor, a bureau in the State Department that champions many of our country's most cherished values around the world.

Mr. Koh's academic credentials are amazing—a Marshall Scholar at Oxford, graduate of Harvard Law School, editor of the Harvard Law Review, and he went on to be a clerk at the Supreme Court across the street, which is about as good as it gets coming out of law school.

Since the year 2004, Harold Koh has served as dean of the Yale Law School. Mr. Koh was a Marshall Scholar at Oxford. He has been awarded 11 honorary degrees and 30 human rights awards.

I don't know that you could present a stronger resume for a man who wants to serve our country, to be involved in public service and step out of his professional life as a lawyer in the private sector, with law schools. He has been endorsed by leaders, legal scholars from both political parties, including the former Solicitor General, Ted Olson, former Independent Counsel Ken Starr, former Bush Chief of Staff Josh Bolton, seven former Department of State Legal Advisers, including three Republicans, more than 100 law school deans, and 600 law school professors from around the country. What more do we ask for someone who wants to serve this country?

Several retired high-ranking military lawyers have written: If the U.S. follows Koh's advice, as State Department Legal Adviser:

[It] will once again be the shining example of a Nation committed to advancing human rights that we want other countries to emulate.

Here is an excerpt from a recent letter for support Ken Starr sent to Senators KERRY and LUGAR. I have had my differences with Ken Starr. Politically we are kind of on opposite sides. Here is what he said of Dean Koh, who is being considered by this empty Senate Chamber as we burn off 30 hours. He wrote:

My recommendation for Harold comes from a deep, and long-standing, first-hand knowledge. We have been vigorous adversaries in litigation. We embrace different perspectives about a variety of different substantive issues. As citizens, we no doubt vote quite differently. But based on my two decades of interaction with Harold, I am firmly convinced that Harold is extraordinarily well qualified, to serve with great distinction in the post of legal adviser. . . . Harold's background is, of course, the very essence of the American dream. . . . Harold embraces, deeply, a vision of the goodness of America, and the ideals of a nation, ruled, abidingly, by law.

There is overwhelmingly bipartisan support for Harold Koh. Usually these nominations are done routinely late at night when there are few people on the floor, and when we are going through a long series of things to do. Someone with this kind of background does not even slow down as they move through the Senate on to public service.

But, unfortunately, the strategy on the other side of the aisle is to slow things down, do as little as possible this week. I sincerely hope that when the time comes, when the 30 hours have run, when the Republicans have finally decided they do not want to delay the Senate any longer, they will bring Mr. Koh's nomination to a vote.

I enthusiastically support his nomination and encourage my colleagues to join me in voting him out of the Senate quickly so he can continue his record of public service.

HEALTH CARE REFORM

Mr. President, you are well aware from your State of Oregon and from my State of Illinois how much this health care reform debate means to everybody we represent. When you ask the American people what we can do about health insurance, 94 percent of people across America overwhelmingly support change in our current health care system. Some 85 percent of the people across this country, Democrats, Republicans, and Independents, say that the health care system needs to be fundamentally changed.

This is the time to do it. This is the President to lead us in doing it. We had better seize this moment. If we do not, if we miss it, we may never have another chance for years and years to come. That is unfortunate.

Democrats want to build on what is good about the current system. It is interesting that so many people would say we should change the health care system, but about three out of four people say: I kind of like my health insurance.

So what we have to do first is to say we are going to keep the things in the current system that work, and only fix those things that are broken. If you have a health insurance plan that you like and you trust it is good for you and your family, you need to be able to keep it. We should not be able to take it away from you. We do not want to. That is the starting point. And then when we start to fix what is broken in the system, we address some issues that I think are really critical.

Health insurance companies today can deny you coverage because of an illness you might have had years ago, exclude coverage for what they call preexisting conditions, which sadly we all know about, or charge you vastly more because of your health status or your age.

We want to make sure that the end of the day, after health care reform, we keep the costs under control, make sure you have a choice of your doctor, make certain you have privacy in dealing with your doctors so that the doctor-patient relationship is protected and confidential.

We want to protect quality in the system, to make certain we bring out the very best in medical care, and not reward those who are doing things poorly. We believe we can do this on a bipartisan basis, with both parties working together.

Some of the critics of this effort basically are in denial that we need to change our health care system. I do not think they are taking the time to look at it closely. Whether you talk to people, average families, or small businesses, large corporations, you understand that the cost of health care now is spinning out of control, and if we do not do something dramatic and significant about it, it will become unaffordable.

I had a group of people in my office who were in the communications industry. They are union workers. They are worried because every year when they get more money per hour for working, it always goes to health insurance. They learn each year there is less coverage: pay more, get less.

We have got to do something about containing the cost of a system that is the most expensive health care system in the world. We spend, on average, more than twice as much as the next country on Earth for health care for Americans. We have great hospitals and doctors. We have amazing technology and pharmacies. But the bottom line is, other countries get better results for fewer dollars.

So the first item we must address is bringing down the cost of health care, stop it from going through the roof, so that families and businesses can afford it, and government can afford it as well.

The second thing we have to make sure we do is protect the choice of individuals for their doctor and their hospital, their providers. There are limitations now. In my home town of Springfield, IL, my health insurance plan tells me there is one preferred hospital of the two I can choose, and I know if I do not go to that hospital, I can end up with a bill I have to pay personally. So there are limitations under the current system, and that is to be expected.

But we want to limit those to as few as possible so people are able to come forward and have the basic choice they want in physicians.

Then there is a question about how to keep the costs under control. If we are going to build this new health care reform on private health insurance, the obvious question is: Will there be a government health insurance plan such as Medicare available as an option so you can look at all of the private health insurance plans you might buy, and also consider the government health insurance plan, the public health insurance plan, as an option?

This is controversial. Health insurance companies say, if we have to compete with a government plan, they will always charge less and we will not be able to compete. Others argue that if you do not have at least one nonprofit entity offering health insurance, then basically the private health insurance plans will continue to be too expensive; they will not have the kind of competition they need to bring about real savings.

Many people on the other side of the aisle have come to the floor and criticized the idea of a public interest health insurance plan. They argue it is government insurance, government health care. But most Americans know that government health care is not a scary thing in and of itself. There are 40 million Americans under Medicare. That is a government health care program. Millions of Americans are protected by Medicaid for lower income people in our country. That has a government component too.

Our veterans come back from war and go to the Veterans' Administration, a government health program. I have not heard a single Republican come to the floor and say: We need to eliminate Medicare, eliminate Medicaid, close the VA hospitals, because it is all government health care. No. For most people being served by these programs, they believe they are godsends and they do not want to lose them.

Yesterday, the minority leader, the Republican Senator from Kentucky, came to the floor and talked about a future which is fictitious. He said: A government plan where care is denied, delayed, and rationed.

Those are fighting words, because no one wants their coverage denied, they do not want to wait in a long line for surgery, and they do not want to believe they are victims of rationing. It is important for them to have medical care given to them.

The language we hear from the other side of the aisle is language we are all too familiar with. The miracle of the Internet is that people can come up with a written document now, and by pressing a button or clicking a mouse, they can send that document to lots of different people.

A couple of months ago, a Republican strategist named Frank Luntz wrote a 28-page memo to give to Republican Senators on how to defeat health care. Dr. Luntz—he calls himself ''doctor''—Dr. Luntz said: Whatever they come up with, here is the way to beat it.

He had not seen the health care reform plan that President Obama might support or the Democrats might produce. But he says: This is how we stop them from passing anything, how we delay things, deny things. And he used those words. He said: We have got to use words that Americans will identify with, buzzwords like ''deny,'' ''delay,'' ''ration.'' And those are the words we hear every week now from the other side of the aisle.

The reason I mentioned the Internet is it turns out somebody punched the wrong button on their computer, clicked the wrong mouse button, and the next thing you know that memo spread across Washington. Everybody has it.

So we have seen the play book. We kind of know the plays they are running. We know their speeches before they give them. But they still come down and give these speeches over and over again.

I guess the starting point is this: Some of my colleagues and friends on the other side of the aisle want to keep the current health care system. They think it is fine. They do not want to change it. Well, I do not join them, and most American people do not join them either.

There are winners in the current system. There are people making a lot of money under the current health care system. Health insurance companies were one of the few sectors in the economy last year, 2008, that showed profitability when most American companies that were not health insurance companies were not profitable. So were oil companies, incidentally. But the health insurance companies that are making a lot of money do not want to see this system changed. It is a good, profitable system for them. By and large, they want to keep it the way it is. There are some providers who are doing quite well under the system, some specialists are making a lot of money, some hospitals are making a lot of money. They want to keep it as it is.

But we know we cannot. It is unsustainable. It is too expensive for individuals, families, and for businesses and for government, for us not to get the cost under control.

The Republican resistance to change in health care reform is not surprising. Last week we had a cloture vote and 30 hours of debate to proceed to the consideration of a bipartisan noncontroversial bill. We have been through cloture votes and delays all of this week. We are in the middle of one right now. That is why those who are visiting the Capitol are wondering where all of the Senators are. This is a situation where the Republicans have decided they are going to force us to wait 30 hours before we do something, a waste of time that we cannot afford, and we have faced it before.

We have to understand that we need to have health care reform. The President is right that this opportunity comes around so rarely.

We have pretty good health insurance as Members of Congress. But I want to make it clear for the record, we do not have ''special'' health insurance. I have heard that argument being made. If you can get the same health insurance the Senator has, you would be set for life. We have great health insurance. But it is the same health insurance available to all Federal employees, 2 million Federal employees; 8 million employees and their families. We have a Federal health benefits program. We have an open enrollment each year to pick, in my case, from nine different health insurance plans available to me in my home State of Illinois for my wife and myself. That is a luxury most people can only dream of. All Federal employees have it, and so do Members of Congress, because we are considered Federal employees. But it is something most Americans do not have and we can make available to small and large businesses alike. It is important that we do this.

I hope we can get some support, some support from the other side of the aisle. Today in America, while we are going about our business, 14,000 Americans will wake up and realize something: Yesterday they had health insurance and today they do not. Every day in America, 14,000 Americans lose their health insurance.

I cannot imagine what life is like without health insurance. There was a time in my life when I did not have it. It was scary. I was a brandnew married father, baby on the way, and no health insurance. It happened. We made it through with a lot of bills that we took years to pay off. That goes back a long time.

Currently, if you are without health insurance, you are one diagnosis or one accident away from being wiped out. So going after bringing the cost of health insurance down is our first priority, but the second is to make sure everybody has some basic form of health insurance.

We have to understand that those of us who have health insurance pay more for our health insurance because some 47 million Americans do not have it. They present themselves to the doctors and hospitals, and in this caring Nation, we treat them and their bills are then absorbed by a system that spreads them around for all of the rest of us to pay. It is about $1,000 a year. It is a hidden tax for families, $1,000 more each year on health insurance premiums to take care of the uninsured in our country.

So now we have a chance to bring the uninsured into coverage. By bringing them into coverage, we will not only give them peace of mind, make them part of the system, we will reduce that $1,000 hidden tax every family pays who has health insurance. So we have an opportunity to do something positive about health insurance.

For those who are following this debate closely, they probably heard this mentioned by others, but I want to make a point of it. There is an important article for people to read, and they can go online to find it. It is from the June 1st New Yorker magazine.

A man who is a surgeon in Boston, an Indian American, whose name is Dr. Atul Gawande, wrote an article about health care in America today. I will not go into detail about what he found, but it is an eye opener because he went to one of the most expensive cities in America when it comes to treating Medicare patients. It is McAllen, TX. He could not figure out why in McAllen, TX, they were spending about $15,000 a year for Medicare patients—dramatically more than other towns in Texas and around the country.

What he found, unfortunately, is that many of the doctors in that city were treating elderly patients by running up their charges, by ordering unnecessary tests, by ordering hospitalizations and things that were not being ordered in other cities. The reason is, there was a financial incentive. The more tests, the more procedures, the more hospitalizations they can charge to Medicare, the more the doctor was paid.

Well, Dr. Gawande went down and met with the doctors and confronted them with it. There was no other explanation. That was it.

Then he went to Mayo Clinic in Rochester, MN—a place I respect very much, a place that has treated my family and treated them well. He found out the cost for treating Medicare patients in Rochester, MN, is a fraction of what it is in McAllen, TX.

At the Mayo Clinic it is cheaper to treat a Medicare patient than it is in McAllen, TX. Why? Well, it turns out it is pretty basic. The doctors who are on the staff of the Mayo Clinic are paid a salary. They are not paid by the patient or by the procedure. So their interest is not in running up a big medical chart of tests. Their interest is getting that patient well, and doing it effectively. They do it with fewer procedures and less money spent and better results at the end of the day.

So now we have a choice in this health care debate: Do we want to continue the example of McAllen, TX, which is abusing the system, charging too much, and not giving good health care results, or do we want to move to a Mayo Clinic model, one that basically is much more efficient and effective, keeps people healthier, at lower cost? I hope the answer is obvious. It is to me. I would like to see us move toward incentives such as the Mayo Clinic system.

The President spoke to the American Medical Association in Chicago last week. It was a mixed review. They were very courteous to him. There were a few people dissatisfied with his remarks, but it is a free country. We can expect that. Some of those doctors in that room understand it is time for change and some of them do not. Some of them think change is going to be bad for them and bad for our country. But most of us understand if we work together in good faith, conscientiously, we can change this health care system for the better, reduce its costs, preserve our choice of doctors and hospitals, make certain quality is rewarded, and also make certain we cover those 46 or 47 million uninsured Americans and come up with a health care system that does not break the bank—not for families, not for businesses, and not for governments in the future.

Mr. President, 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.

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

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

SOTOMAYOR NOMINATION

Ms. KLOBUCHAR. Mr. President, I will be joined on the floor today by some of my fellow women Senators to talk about the President's nominee for the Supreme Court. I will note that some of my colleagues on the other side of the aisle came to the floor yesterday to, as one news report described it, ''kick off their campaign against her.'' So we wanted to take this opportunity to get the facts out to correct any misconceptions and to set the record straight.

The Supreme Court confirmation hearing for Judge Sotomayor will begin on July 13, but my consideration of her will not begin then. I began considering her the day she was announced because, as a member of the Judiciary Committee, I wish to learn as much as I can about President Obama's choice to fill one of the most important jobs in our country.

Even though there are many questions that will be asked and many areas we will want to focus on, I wish to speak today about how Judge Sotomayor appears to me based on my initial review. After meeting with her and learning about her, I am very positive about her nomination. Judge Sotomayor knows the Constitution, she knows the law, but she also knows America.

I know Americans have heard a lot about her background and long career as a judge. But it is very important for us to talk about what a solid nominee she is because we have to keep in mind that there have been accusations and misstatements, many made by people outside of this Chamber on TV and 24/7 cable. There have been misstatements.

It came to me a few weeks ago when I was in the airport in the Twin Cities in Minnesota. A guy came up to me on a tram in the airport and said: Hey, do you know how you are voting on that woman?

I said that I want to listen to her and see how she answers some of the questions.

He said: I am worried.

I said: Why? She is actually pretty moderate.

He said: She is always putting her emotions in front of the law.

I said: Do you know that when she is on a panel with three judges—which they often do on the circuit court where she sits now, and they have her and two other judges—95 percent of the time she comes to an agreement with the Republican-appointed judge on the panel? You must be thinking the same thing about those guys because you cannot just say that about her.

That incident made me think we really need to set the record straight here about the facts, that we should be ambassadors of truth and get out the truth about her record and the kind of judge we are looking for on the U.S. Supreme Court. We need to make sure she gets the same civil, fair treatment other nominees have been given.

Judge Sotomayor's story is a classic American story about what is possible in our country through hard work. She grew up, in her own words, in modest and challenging circumstances and worked hard for every single thing she got. Many of you know her story. Her dad died when she was 9 years old, and her mom supported her and her brother. Her mom was devoted to her children's education. In fact, her mom was so devoted to her and her brother's education that she actually saved every penny she could so that she could buy Encyclopedia Britannica for her kids. I remember when I was growing up that the Encyclopedia Britannica had a hallowed place in the hallway. I now show my daughter, who is 14, these encyclopedias from the 1960s, and she doesn't seem very interested in them. They meant a lot to our family and also to Judge Sotomayor.

Judge Sotomayor graduated from Princeton summa cum laude and Phi Beta Kappa, and she was one of two people to win the highest award Princeton gives to undergraduates. She went on to Yale Law School, which launched her three-decades-long career in the law. So when commentators have questions about whether she is smart enough—you cannot make up Phi Beta Kappa. You cannot make up that you have these high awards. These are facts.

Since graduating, the judge has had a varied and interesting legal career. She has worked as a private sector civil litigator, she has been a district court and an appellate court judge, and she taught law school.

The one experience of hers that particularly resonates for me is that, immediately graduating from law school, she spent 5 years as a prosecutor at the Manhattan district attorney's office, which was one of the busiest and most well thought of prosecutor's offices in our country. At the time, it paid about half as much as a job in the private

sector, but she wanted the challenge and trial experience, she told me when we met, and she took the job as a prosecutor. Before I entered the Senate, I was a prosecutor. I managed an office of about 400 people in Minnesota, which was the biggest prosecutor's office in our State. So I was very interested in this experience we had in common.

One of the things that I learned and that I quickly learned that she understood based on our discussions is that, as a prosecutor, the law is not just some dusty book in your basement. After you have interacted with victims of crime, after you have seen the damage crime can do to a community, the havoc it can wreak, after you have interacted with defendants who are going to prison and you have seen their families sitting in the courtroom, you know the law is not just an abstract subject; you see that the law has a real impact on real people.

As a prosecutor, you don't just have to know the law, you have to know people, you have to know human nature. Sonia Sotomayor's former supervisor said that she was an imposing and commanding figure in the courtroom who would weave together a complex set of facts, enforce the law, and never lose sight of whom she was fighting for. Of course, she was fighting for the people in those neighborhoods, the victims of crime. Judge Sotomayor's experience as a prosecutor tells me she meets one of my criteria for a Supreme Court nominee: She is someone who deeply appreciates the power and impact that laws have and that the criminal justice system has on real people's lives. From her first day at that Manhattan district attorney's office, Judge Sotomayor learned that the law is not just an abstraction.

In addition to her work as a prosecutor, I have also learned a lot about Judge Sotomayor from her long record as a judge. She has been a judge for 17 years—11 years as an appellate judge and 6 years as a trial judge. President George H.W. Bush—the first President Bush—gave her the first job she had as a Federal judge. She was nominated by a Republican President. The job was to be a district judge in the Southern District of New York. Her nomination to the Southern District was enthusiastically supported by both New York Senators, Democratic Senator Daniel Patrick Moynihan and Republican Senator Alfonse D'Amato.

If you watch TV or read newspapers or blogs, you know that Judge Sotomayor has been called some names. It always happens in these Supreme Court nominations—the nominees are called names by talking heads on TV and on the radio. In most cases, these commentators may have read a case or two of hers or, even worse, a speech and took a sentence or so out of context, and they have decided they are entitled to make a sweeping judgment about her judicial fitness based on a few words taken out of context.

I think just about everything in a nominee's professional record is fair game to consider. After all, we are obligated to determine whether to confirm someone to an incredibly important position with lifetime tenure. That is a constitutional duty I take very seriously. But that said, when people get upset about a few items and a few speeches a judge has given, I have to wonder, do a few statements someone made in public, for which they said they could have used different words, do those trump 17 years of modest, reasoned, careful judicial decisionmaking? I don't think so.

If we want to know what kind of a Justice she will be, isn't our best evidence to look at the type of judge she has already been? Here are the facts. As a trial judge, Sonia Sotomayor presided over roughly 450 cases on the Second Circuit and participated in more than 3,000 panel decisions. She has authored more than 200 appellate opinions. In cases where she and at least one Republican-appointed judge sat on a three-judge panel, she and the Republican-appointed judge agreed 95 percent of the time, as I mentioned. The Supreme Court has only reviewed five cases where she authored the decision and affirmed the decision below in two of them. The vast majority of her cases have not been in any way overturned or reversed by a higher court.

It is worth noting that this nominee, if confirmed, would bring more Federal judicial experience to the Supreme Court than any Justice in 100 years.

With that, I see one of my colleagues, the Senator from New Hampshire. We will have a number of women Senators here today. I will come back and finish my remarks sometime in the next half hour. I think it is very important that Senator SHAHEEN, the Senator from New Hampshire, be able to say a few words about the nominee.

I yield the floor.

The PRESIDING OFFICER (Mr. BURRIS). The Senator from New Hampshire is recognized.

Mrs. SHAHEEN. Mr. President, I am delighted to be here this afternoon to join my friend and colleague from the State of Minnesota, Senator KLOBUCHAR, in supporting the nomination of Judge Sonia Sotomayor to be a Justice of the Supreme Court.

Everyone in New Hampshire was very proud 19 years ago when former President George Bush nominated New Hampshire's own David Souter as an Associate Justice of the Supreme Court. Every action Justice Souter has taken since he began service to our Nation's highest Court has only reinforced that pride. So when Justice Souter announced in early May that he intended to retire at the end of his term and return home to New Hampshire, I took particular interest in whom President Obama would select to fill David Souter's seat.

I believe the President has made a thoughtful and outstanding choice in nominating Judge Sonia Sotomayor.

Judge Sotomayor has had a distinguished career as a Federal judge. As has been widely noted, if confirmed, she would bring more Federal judicial experience to the Supreme Court than any Justice in 100 years. Today, David Souter is the only member of the Supreme Court with prior experience as a trial court judge. Sonia Sotomayor, too, would be the only Justice with experience as a trial court judge. I happen to agree with Senator KLOBUCHAR. I think it is important that at least one of the nine Supreme Court Justices have that experience. It is trial judges, after all, who day-in and day-out must apply the legal principles enunciated in Supreme Court opinions.

Judge Sotomayor also served 5 years as a local prosecutor and practiced law for 7 years as a trial attorney with a law firm. Judge Sotomayor, because of her experience, will be ever mindful of the need to provide those in the courtroom with clear and practical decisions. More important, she will understand how Supreme Court opinions affect real human beings.

As a trial judge, every day Judge Sotomayor directly faced innocent victims of crime, vicious perpetrators of crime, and occasionally the wrongfully accused. She directly faced injured parties seeking civil redress and civil defendants who may have made honest mistakes. She had to answer: What is the right verdict? What is the right length of incarceration? What is the right level of damages? These are not easy decisions. I know that because my husband was a State trial court judge for 16 years. Trial court judges must be able to live with the justice they mete out. To do it well, it takes more than an understanding of the law, it takes an understanding of people. Judge Sotomayor has a great understanding of both.

I had the pleasure of meeting with Sonia Sotomayor the day she fractured her ankle. I said to her as she came into my office: Boy, you are tough. She said: I grew up in the Bronx; we had to be tough. She handled that painful injury with grace and humor. She has a first-rate temperament and also a first-rate intellect. After growing up in a public housing project in the South Bronx, she excelled at both Princeton and Yale Law School.

I believe Judge Sonia Sotomayor is an excellent choice to replace David Souter as a Supreme Court Justice. She deserves a fair and a thorough hearing without delay. I look forward to that hearing.

I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

Ms. KLOBUCHAR. Mr. President, I thank my colleague, Senator SHAHEEN, for her remarks and for her reminiscence of meeting with the judge and once again the judge showing how she perseveres in the face of adversity.

I wish to talk a little bit more—I was ending my last comments talking about how, in fact, this nominee would bring more Federal judicial experience to the Supreme Court than any Justice

in 100 years. I had earlier noted my exchange with someone in an airport, where he wondered if she was worthy of this, if she was able to apply the facts, apply the law.

Clearly, when you look at this experience she brings and you compare it to any of these other nominees on the Supreme Court, she stands out. She stands out not only because of her unique background, as she overcame obstacles to get here, but she stands out as to her experience, all those years as a prosecutor, all those years as a Federal judge. That makes a difference.

I wish to address one other point that has been made about Judge Sonia Sotomayor in her capacity as a judge. It is something Senator SHAHEEN mentioned, this temperament issue. There have been some stories and comments, mostly anonymous, I note, that question Judge Sotomayor's judicial temperament. According to one news story about this topic, Judge Sotomayor developed a reputation for asking tough questions at oral arguments and for being sometimes brusque and curt with lawyers who were not prepared to answer them. So she was a little curt, one anonymous source said. Where I come from, asking tough questions and having very little patience for unprepared lawyers is the very definition of being a judge. I cannot tell you how many times I have seen judges get very impatient with lawyers who were not prepared and who did not know the answer to a question. As a lawyer, you owe it to the bench and to your clients to be as well prepared as you possibly can be.

As Nina Totenberg said on National Public Radio, if Sonia Sotomayor sometimes dominates oral arguments at her court, if she is feisty, even pushy, then she would fit right in on the U.S. Supreme Court.

I would add this to that comment. Surely, we have come to a time in this country where we can confirm as many gruff, to-the-point female judges as we have confirmed gruff, to-the-point male judges. Think how far we have come with this nominee.

When Sandra Day O'Connor graduated from law school 50-plus years ago, the only offer she received from a law firm was for a position as a legal secretary. She had this great background, a very impressive background, and yet the only offer she received was as a legal secretary.

Judge Ginsburg, who now sits on the Court, faced similar obstacles. When she entered Harvard in the 1950s, she was only 1 of 9 women in a class of more than 500. One professor actually asked her to justify taking a place that would have gone to a man in that class in Harvard. Mr. President, 9 women, 500 spots, and someone actually asked her to justify the fact that she was there. I suppose she could justify it now, saying she is now on the U.S. Supreme Court. Later Justice Ginsburg was passed over for a prestigious clerkship despite her impressive credentials.

Looking at Judge Sotomayor's long record as a lawyer, a prosecutor, and a judge, you can see we have come a long way.

She was confirmed by this Senate for the district court. She was nominated at that point by the first President Bush.

She was confirmed by this Senate for the Second Circuit, and she now faces a confirmation hearing before our Judiciary Committee and confirmation, again, for a position with the U.S. Supreme Court.

I will tell you this, after learning about Judge Sotomayor, her background, her legal career, her judicial record, similar to so many of my colleagues, I am very impressed. To use President Obama's words, I hope Judge Sotomayor will bring to her nomination hearing and to the Supreme Court, if she is confirmed, not only the knowledge and the experience acquired over the course of a brilliant legal career but the wisdom accumulated from an inspiring life's journey.

Actually today, Justice O'Connor was on the ''Today Show.'' She was asked about her work on the Court and what it was like. She was actually asked about Judge Sotomayor. She was asked: When you retired, you let it be known you would like a woman to replace you and you were sort of disappointed when a woman didn't replace you. So what is your reaction to Judge Sotomayor's nomination?

Justice O'Connor said: Of course, I am pleased that we will have another woman on the Court. I do think it is important not to just have one. Our nearest neighbor, Canada, also has a court of nine members and in Canada there is a woman chief justice and there are four women all told on the Canadian court.

Then she was asked: Do you think there is a right number of women who should be on the Court?

Justice O'Connor, this morning, said: No, of course not.

But then she pointed out: But about half of law graduates today are women, and we have a tremendous number of qualified women in the country who are serving as lawyers and they ought to be represented on the Court.

She was also asked later in the interview about opponents of Judge Sotomayor who have brought up this term ''activist judge.''

She was asked: I know that is a term you have railed against in the past. What is it about the term that you object to?

She answered: I don't think the public understands what is meant by it. It is thrown around by many in the political field, and I think that probably for most users of the term, they are distinguishing between the role of a legislator and a judge, and they say a judge should not legislate. The problem, of course, Justice O'Connor says, is at the appellate level, the Supreme Court is at the top of the appellate level. Rulings of the Court do become binding law. So it is a little hard to talk in terms of who is an activist.

I, again, ask people to look at Judge Sotomayor's opinions. When I talked with her about this, she talked about how she uses a set formula, laying out the facts, laying out the law, showing how the law applies to the facts, and then reaching a decision.

We can also look at her record where, in fact, when she was on a three-judge panel with two other judges, when you look at her record of what she agreed with judges who had been appointed by a Republican President, 95 percent of the time they reached the same decision. So unless you believe those Republican-appointed judges are somehow activist judges, then I guess you would say she is an activist judge. But I think when you look at her whole record, you see someone who is moderate, sometimes coming down on one side and sometimes coming down on another.

I can tell you, as a former prosecutor, I did not always just look at whether I agreed with the judge if I was trying to figure out if someone would be a good judge. I would look at whether they applied the laws to the facts, whether they were fair. Sometimes our prosecutor's office would not agree with a judge's decision. We would argue vehemently for a different decision. In the end, when we evaluated these judges, when we decided whether we thought they were a fair person to have on a case, we looked at that whole experience, we looked at that whole experience to make a decision about whether this was a judge who could be fair.

That is what I think when you look at her record—and I am looking very much to her hearing, where we are going to explore a number of these cases—again, colleagues on one side of the aisle will agree with one case or disagree with another, and the other side of the aisle would have made a decision one way or the other.

You have to look at her record as a whole. When you look at her record, you will see someone of experience, someone thoughtful, someone who makes a decision based on the facts and based on the law.

I am very much looking forward to these hearings. I know that some of my colleagues are coming to the Chamber as we speak. I am looking forward to their arrival as we become, as I said, ambassadors of truth to get these facts out as so many things have been bandied about in names and other things that get into people's heads. I think it important for all those watching C–SPAN right now and for all of those who are in the galleries today, that people take these facts away with them—the facts of her experience, that in over 100 years of judicial experience, when you look back 100 years, she has more experience on the bench than any of the Justices who were nominated. You have to go back 100 years to find someone with that much experience. You look at that work she has done as

a prosecutor, you look at the work she has done throughout her whole life, where she basically came from nothing, worked her way up, got into a good college, got into a good law school, did it on her own, with maybe a little help from her mom who bought the ''Encyclopedia Britannica.''

As I said at the beginning, this is a nominee who not only understands the law, understands the Constitution but also understands America.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Ms. KLOBUCHAR. Mr. President, I am pleased that my colleague from Louisiana, Senator LANDRIEU, who has spoken many times in the past about the importance of fair judges and strong judges, is here today to discuss this nominee.

The PRESIDING OFFICER. The Senator from Louisiana.

Ms. LANDRIEU. Mr. President, I thank my colleague for her passionate remarks about this particular nominee. I am happy to join many of my colleagues in supporting a woman I consider to be an extraordinarily accomplished woman, and I commend President Obama for his selection.

As the Senate Judiciary Committee prepares for its confirmation hearing, I wished to come to the floor to express my strong support for this nominee. As we all know, the Supreme Court serves as the highest tribunal in the Nation. As the final arbitrator of our laws, the Supreme Court Justices are charged with ensuring the American people achieve the promise of equal justice under our law and serving as interpreters of our Constitution. It is a very important charge.

It is our duty as Senators to ensure that the members of this High Court, which we are asked to confirm, serve as impartial, fairminded Justices who apply our laws, not merely their ideology. The American people deserve no less.

A number of my colleagues have expressed concerns regarding this nominee. Those are not concerns I share. Having reviewed her resume, her academic credentials, having reviewed her time on the bench on the Second Circuit, as well as in a trial capacity, she has an expansive judicial record, and I think that provides evidence of the kind of Justice she will be on the Supreme Court.

She has been described as a ''fearless and effective prosecutor.'' She has served for 6 years as a trial judge in New York, as I said, on the Federal district court, and 11 years on the circuit court of appeals. So she has been in the courtroom on both sides of the bench representing a variety of clients, and she has written extensively. I think that record reflects the kind of balance, fairminded, intellectual rigor we are looking for.

Talking about Democratic and Republican Parties, she has been appointed by both a Democratic administration and a Republican administration. So clearly there were some things that were seen in her and her service by President George Bush as well as President Bill Clinton.

She has participated in over 3,000 decisions. She has written over 400 signed opinions on the Second Circuit. If confirmed, Judge Sotomayor would bring more Federal judicial experience to the Supreme Court than any Justice in 100 years. That is a very strong and powerful statement, and I think a compelling statement, to the Members of this body.

I had, as many of us have, the opportunity to meet with Judge Sotomayor in my office earlier this month. In addition to having an impressive professional resume, her personal journey as a young woman from a struggling, very middle-class background from the Bronx also captured my attention. She came up the hard way, with a lot of hard knocks but with a loving and supportive family around her to lead her and guide her. Tutors and teachers saw in this young girl a tremendous amount of promise and potential, and she has most certainly lived up to the promise her mother and grandmother and others saw in her at a young age.

I believe she is the kind of person who will bring not only extraordinary intellect and character and credibility but a tremendous breadth of experience that will be very helpful in dealing with the issues the Court has before it today and will in the near future. She has not only been a champion in many ways, but her life has been an inspiration to all Americans, proving that with determination and hard work anything is possible.

Finally, it goes without saying that she is a historic choice that will bring a wealth of experience and added diversity to the Nation's highest Court. When confirmed, she will become only the third woman to serve on the Nation's highest court and the first Hispanic Justice in the history of the United States. This is truly a remarkable turning point. I wish she could receive, because of her outstanding resume—not just because of her gender and background and culture. I believe her resume should garner the support of a broad range of Members of this body. Hopefully, that is the way it will come out in the final vote. She most certainly, from my review, deserves our support, and I look forward to doing what I can to process her nomination as it is debated by the full Senate.

I thank my colleague from Minnesota, and I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

Ms. KLOBUCHAR. I thank my colleague Senator LANDRIEU for her very kind and thoughtful remarks about the nominee.

We are now joined by the Senator from Missouri, Senator MCCASKILL, who as a former prosecutor I am sure will shed some light on the subject.

I also thank the Senator from Kansas for allowing us to take an additional 5 minutes.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri.

Mrs. MCCASKILL. Mr. President, I thank my friend, the Senator from Minnesota, for helping to get us organized this afternoon to spend a little time talking about an outstanding Federal judge.

I also thank my colleague from Kansas for giving us a few minutes to make these remarks.

I will confess that I wasn't familiar with Judge Sotomayor before she was nominated. I started looking at her resume, and there are so many things in her resume that are, frankly, amazing that you can get distracted by—where she went to school, where she got her law degree, and the fact that she has been at several levels of the Federal bench; and also, of course, that she had a very big job with complex litigation in a law firm. But the part of her resume that spoke to me was her time as an assistant district attorney in New York.

I don't know that most Americans truly understand the difference between a State prosecuting attorney and a Federal prosecuting attorney. Those of us who have spent time in the State courtrooms like to explain that we are the ones who answer the 911 calls. When you are a State prosecutor, you don't get to pick which cases you try. You try all of the cases. When you are a State prosecutor, you don't have the luxury of a large investigative staff or maybe a very light caseload. It would be unheard of for a Federal prosecutor to have a caseload of 100 felonies at any given time, but that is the caseload Judge Sotomayor handled as an assistant district attorney during her time in the District Attorney's Office in New York.

When she came to the prosecutor's office, ironically it was almost exactly the same year I came to the prosecutor's office as a young woman out of law school. I was in Kansas City; she was in New York. I know what the environment is in these prosecutors' offices. There are a lot of aggressive type A personalities, and it is very difficult to begin to handle serious felony cases because everybody wants to handle the serious felony cases. In only 6 months, Judge Sotomayor was promoted to handle serious felony cases in the courtroom. She prosecuted every type of crime imaginable, including the most serious crimes that are committed in our country.

She had many famous cases. One was the Tarzan murderer, where she joined

law enforcement officers in scouring dangerous drug houses for evidence and witnesses. After a month of trial, she convicted Richard Maddicks on three different murders and he was sentenced to 67 years to life in prison.

A New York detective had a hard time finding a New York prosecutor willing to take his child pornography case. Judge Sotomayor stepped up, winning convictions against two men for distributing films depicting children engaged in pornographic activities. These were the first child pornography convictions after the Supreme Court had upheld New York's law that barred the sale of sexually explicit films using children.

After her time as a prosecutor, she eventually became a trial judge. A trial judge is an unusual kind of experience for a Supreme Court Justice. But keep in mind what the Supreme Court Justices do: They look at the record of the trial. They are trying to pass on matters of law that emanate from the courtroom. What a wonderful nominee we have, one who has not only stood at the bar as a prosecutor but also sat on the bench ruling on matters of evidence, ruling on matters of law. I am proud of the fact that she has this experience. If she is confirmed, or when she is confirmed, she will be the only Supreme Court Justice with that trial judge experience, because she is replacing the only Supreme Court Justice with that experience—Judge Souter.

This is a meat-and-potatoes moderate judge. This is a judge who has agreed with Republicans on her panels 95 percent of the time. This is a judge who has the kind of experience that will allow her to make knowing and wise decisions on the most important matters that come in front of our courts in this country.

We have a ''gotcha'' mentality around here. We all engage in it at one time or another. It is gotcha, gotcha, gotcha. It is an outgrowth of the political system of this grand and glorious democracy we all participate in. It is not my favorite part, but it is real. Justice Sotomayor will become a Supreme Court Justice, after having gone through a gotcha process. We are going to hear a lot of gotchas over the coming weeks. But at the end of the day, this is a smart, proud woman who has fought her way through a system against tremendous odds to show that she has integrity, grit, intellect, and the ability to pass judgment in the most difficult intellectual challenges that face a Supreme Court Justice.

I am proud to support her nomination, and I look forward to the day—and I am confident that the day will come—she will take her place on the highest Court in the land.

Mr. President, I again thank the Senator from Kansas for his indulgence, and I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

Ms. KLOBUCHAR. Mr. President, again I thank the Senator from Kansas, and also Senator MCCASKILL, Senator SHAHEEN, and Senator LANDRIEU, who spoke today. I also know that Senators GILLIBRAND, FEINSTEIN, MIKULSKI, BOXER, and MURRAY will be speaking, or may have already and will be in the next few weeks on this nominee, as will many of my colleagues.

I appreciate this time, Mr. President. We are very excited about this upcoming hearing, and we are glad to be here as ambassadors for the truth.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. Mr. President, I believe under a previous agreement I have time allotted at the present time; is that correct, if I could inquire of the Chair.

The PRESIDING OFFICER. The Senator may be recognized under cloture.

Mr. BROWNBACK. Mr. President, I rise today to discuss the nomination of Judge Sonia Sotomayor to the U.S. Supreme Court. I had the opportunity to meet with Judge Sotomayor 2 weeks ago. I was in the Senate when she was previously before this body on the Second Circuit Court nomination, and I appreciated the chance to meet with her recently.

I have also appreciated the chance to review her record in depth and also to hear my colleagues speak about Judge Sotomayor, because it represents the distinction that I think is very important to note here. My colleague from Missouri just spoke, and she was talking about the wonderful qualifications of Judge Sotomayor and the candidate's background and experiences that she brings. She has a very interesting, a very American story to tell of her background. It is a compelling story. She is the daughter of immigrants who overcame diversity to go to two of the Nation's best universities. I admire that, and I admire the things they pointed out in their presentation of her background and what she has done. I think those are all admirable characteristics.

But what we are doing here is picking somebody to be on the U.S. Supreme Court, and what their judicial philosophy is that they will take with them. It isn't all just about the background or the experience. It is about the judicial philosophy that comes forward, and that is what my colleagues didn't discuss. So that is what I want to discuss here this afternoon.

I have had the chance to review Judge Sotomayor's records. In 1998, the Senate voted to promote Judge Sotomayor to the appellate court. I voted against her at that time because I was concerned not about her background, not about her qualifications, but I was concerned that she embraced an activist judicial philosophy. That is what I want to talk about today, because that is what we are deciding when we put somebody on the Supreme Court—what is the judicial philosophy this person carries with them.

It is not necessarily about their own background or their qualifications. Those are important to review, but at the heart is what is the judicial philosophy. Is this a person who supports an activist judiciary getting into many areas in which the American public doesn't think they should go into or is it a person who believes in more of a strict constructionist view, that the Court is there to be an umpire and not an active player in policy development? Are they an umpire who calls the balls and strikes, and not how do we do law; how do we rewrite what is here?

I think the Court loses its lustre when it gets into becoming an active player in policy development instead of being a strict umpire of policy development. Unfortunately, what I saw in Judge Sotomayor in 1998 was somebody who embraced an activist judicial philosophy. During a 1996 speech at Suffolk University Law School 2 years before the Senate voted on her nomination to the Second Circuit, Judge Sotomayor said:

> The law that lawyers practice and judges declare is not a definitive capital ''L'' law that many would like to think exists.

Translated, that is to say the law is not set. It is mobile, as moved by judges, not by legislatures. This is not the rule of law. This is the rule from the bench. This is the rule of man, and it makes our law unpredictable. That is not good for a society like ours which is based on the rule of law, not the rule by a person.

Any nominee to the Federal bench, and especially to the U.S. Supreme Court, must have a proper understanding and respect for the role of the Court—for the role they would assume. The Court must faithfully hold to the text of the Constitution and the intent of the Founders, not try to rewrite it based on ever changing cultural views. This is at the heart of what a judge does.

Democracy, I believe, is wounded when Justices on the high Court, who are unelected, invent constitutional rights and alter the balance of governmental powers in ways that find no support in the text, the structure, or the history of the Constitution. Unfortunately, in recent years, the courts have assumed a more aggressive political role. In many cases, the courts have allowed the left in this country to achieve through court mandates what it cannot persuade the people to enact through the legislative process. The Constitution contemplates that the Federal courts will exercise limited jurisdiction. They should neither write nor execute the law.

This is very basic in our law and goes back to the very Founders. As Chief Justice John Marshall said in his famous 1803 case, Marbury v. Madison, that every law student has studied at length, the role of the court is simple. It is to ''say what the law is.'' It is not to write the law. It is not to rewrite the law. It is to ''say what the law is,'' what did the legislature pass, when it needs interpretation. It is not about

writing it. It is not about the mobility, that the law isn't with a capital ''l,'' and we can move it here based on these factors that we think are different with the cultural environment and we may have to move it over here in 10 years because the environment has changed and the law changes with it.

If the law changes, it is by legislatures. It is not by the court. That is why Marbury v. Madison said the law is to ''say what the law is,'' not to rewrite it.

In Federalist 78, Alexander Hamilton wrote this—law students study this as well:

> Whoever attentively considers the different departments of power must perceive that, in a government in which they are separated from each other, the judiciary, from the nature of its functions, will always be the least dangerous to the political rights of the Constitution; because it will be least in a capacity to annoy or injure them. The executive not only dispenses the honors but holds the sword of the community. The legislature not only commands the purse, but prescribes the rules by which the duties and rights of every citizen are to be regulated. The judiciary, on the contrary, has no influence over either the sword or the purse; no direction either of the strength or of the wealth of the society, and can take no active resolution whatsoever. It may truly be said to have neither FORCE nor WILL but merely judgment; and must ultimately depend upon the aid of the executive arm even for the efficacy of its judgments.

The court is to have judgment. A judge is to have judgment, not write the law.

In Hamilton's view, judges could be trusted with power because they would not resolve divisive social issues—that is for the legislature to do—short-circuit the political process, or invent rights which have no basis in the text of the Constitution.

I have long believed the judicial branch preserves its legitimacy with the public and has its strength with the public through refraining from action on political questions. This concept was perhaps best expressed by Justice Felix Frankfurter, a steadfast Democrat appointed by President Franklin Delano Roosevelt. Justice Frankfurter said this:

> Courts are not representative bodies. They are not designed to be a good reflex of a democratic society. Their judgment is best informed, and therefore most dependable, within narrow limits. Their essential quality is detachment, founded on independence. History teaches that the independence of the judiciary is jeopardized when courts become embroiled in the passions of the day and assume primary responsibility in choosing between competing political, economic and social pressures. Primary responsibility for adjusting the interests which compete in the situation before us of necessity belongs to the Congress.

That is to quote Justice Frankfurter.

I recall a private meeting I had with then-Judge Roberts, before assuming the position of Chief Justice, when he had been nominated to be Chief Justice—a wonderful Justice on the Supreme Court who then-Senator Obama voted against. Senator Obama voted against the confirmation of John Roberts, voted against the confirmation of Samuel Alito to the Supreme Court based, I believe, primarily on judicial philosophy because they believed in strict constructionism; that a court was to be a court and not a legislative body. Then-Senator Obama voted against both John Roberts and against Samuel Alito.

In my meeting with Judge Roberts, he talked about baseball and about the courts and his analogy to baseball. He gave a great analogy, I thought, when he said:

> It is a bad thing when the umpire is the most watched person on the field.

Imagine that, watching a baseball game and the thing you are watching the most is the umpire because the umpire is both umpire and a player. How confusing, how difficult, and what a wrong way to have a game. He, of course, Judge Roberts, was alluding to the current situation in American governance where the legislature can pass a law, the executive sign it, but everybody waits, holding their breath to see what the courts will do with it.

Unfortunately, Judge Sotomayor seems to me far too interested in being both an umpire and active player. Prior to becoming a Federal judge, Sonia Sotomayor spent more than a decade on the board of directors of the Puerto Rican Legal Defense and Education Fund. A September 25, 1992, article in the New York Times referred to Judge Sotomayor as ''a top policy maker'' on the group's board.

In 1998, the group brought suit against the New York City Police Department, claiming that a promotion exam was discriminatory because the results gave a disproportionate number of promotions to White police officers. As a judge on the appellate court, Judge Sotomayor was involved in a nearly identical case, Ricci v. Destefano, involving a group of White firefighters seeking promotion in New Haven, CT. City officials in New Haven decided to void the results of the exam because it had a disparate impact on minorities. Judge Sotomayor agreed with the city's decision, and we are now waiting on a ruling from the Supreme Court.

> Sotomayor's work as an activist challenging the New York Police Department's test results in 1998 is evidence that she may have allowed personal biases to guide her decision to rule against New Haven firefighters. I hope we can find out more in her confirmation interviews and in her hearings. But I am also troubled by the number of amicus briefs filed by the fund in support of what are radical positions on pro-abortion issues during the time Sotomayor was on this same board.

Six briefs were filed taking positions outside of the mainstream in support of abortion rights in prominent cases such as in Webster v. Reproductive Health Services or in Ohio v. Akron Center for Reproductive Health. In that Ohio v. Akron case, the Court upheld Ohio's parental consent laws. These are laws that say, before a minor can have an abortion, they must have parental consent.

Joining the majority opinion were moderate Justice Sandra Day O'Connor and liberal Justice John Paul Stevens. Yet the group that Judge Sotomayor was associated with filed a brief opposing this parental notification law, saying ''any efforts to overturn or in any way to restrict the rights in Roe v. Wade,'' they opposed any restriction, even allowing parents of a minor child to have parental notification that their child was going to go through this major medical procedure. She took a stand opposed to that parental right that most of the American public, 75 percent of the American public supports; that parental right of that notification. She opposed it.

According to the New York Times:

> The board monitored all litigation undertaken by the fund's lawyers, and a number of those lawyers said Ms. Sotomayor was an involved and ardent supporter of their various legal efforts during her time with the group.

I am also deeply concerned that Judge Sotomayor will bring this radical agenda to the Court.

Judge Sotomayor has given speeches and written articles promoting judicial activism. The President who appointed her said judges should have ''the empathy to recognize what it's like to be a young teenage mom; the empathy to understand what it is like to be poor or African-American or gay or disabled or old,'' and that difficult cases should be decided by ''what is in the Justice's heart.''

While I think it is admirable to have empathy, a Justice and a person who sits on the bench is to decide this based on the law. That is what they are to decide it upon, not an interpretation or rewriting of the law.

The President's view of the role of a Judge on the Court is not shared by Justices Marshall or Frankfurter, nor is it the view of Hamilton and the drafters of the Constitution.

The oath that all Supreme Court Justices take says:

> I will administer justice without respect to persons, and do equal right to the poor and to the rich.

That is the oath they take. The Justice is to be blind and just to hear the case and decide it based on the facts and what the law is and say what the law says, not what they wish it to be nor what is in their heart. It is to be blind and it is to hold these and to weigh these equally and fairly to determine the truth and to determine the outcome in the case.

The President is asking his nominees to ignore, in essence, their oath. I fear Justice Sotomayor is all too eager to comply.

In her writings, Judge Sotomayor has rejected the principle of impartiality and embraces a rather novel idea that a Judge's personal life story should come into play in the courtroom. In a 2001 speech at the UC Berkeley Law School, which was later published, Judge Sotomayor dismissed the

idea that ''judges may transcend their personal sympathies and prejudices and aspire to achieve a greater degree of fairness and integrity based on the reason of law,'' by saying that ''ignoring our differences as women or men of color we do a disservice both to the law and society.''

I am not sure why Judge Sotomayor believes the law is somehow different when interpreted by people of a different gender, but I think Judge Sotomayor is absolutely wrong and we do a disservice to law and society when we don't transcend our personal sympathies and prejudices and base our decisions upon the facts and the law.

Judge Sotomayor's view is contrary to the words engraved upon the Supreme Court's entrance which state ''equal justice under law.''

In the same 2001 speech, Judge Sotomayor made the following astonishing statement:

> Personal experiences affect the facts judges choose to see. . . . I simply do not know what the difference will be in my judging. But I accept there will be some.

When Judge Sotomayor says that ''personal experiences affect the facts judges choose to see,'' does that mean she is willing to ignore other facts? Is justice blind or is it actually interpreting and seeing which facts to pick and which facts not to pick?

The role of judges is to examine all the facts of a particular case, not solely the facts that deliver a desired outcome or solely the facts that the judge can relate to based on his or her personal biography. It is dangerous for this body to consent to elevating a judge who believes that justice equates with picking winners and losers based upon his or her own personal biases. That is not judging.

I hope my colleagues understand this 2001 speech at Berkeley was not an isolated incident. In a 1994 speech, Judge Sotomayor used language nearly identical to that of the 2001 speech, saying judges should not ignore their differences as women and people of color and to do so would be a disservice to the law and society. In 1994, Judge Sotomayor discussed the impact that more women on the bench will have on the ''development of the law.''

''Development,'' like this is about the writing of the law. If that is the case, that is done by the Congress not by the courts. Judges do not make law, and under no circumstances should they be under the impression they do.

Judge Sotomayor sees judges as lawmakers, as both umpire and player. In the 2005 appearance at Duke Law School, she said: ''The court of appeals is where policy is made.''

I wonder how Alexander Hamilton would respond. I think he would wholly disagree with that interpretation. Unfortunately, Judge Sotomayor's writings and statements lead me to believe that she is a proponent, a clear proponent, of an activist judiciary. I cannot support her nomination. I will vote no when it comes before the full Senate.

I ask unanimous consent that her speech in the Berkeley La Raza Law Journal be printed in the RECORD.

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

[From the Berkeley La Raza Law Journal, 2002]

RAISING THE BAR: LATINO AND LATINA PRESENCE IN THE JUDICIARY AND THE STRUGGLE FOR REPRESENTATION

Judge Reynoso, thank you for that lovely introduction. I am humbled to be speaking behind a man who has contributed so much to the Hispanic community. I am also grateful to have such kind words said about me.

I am delighted to be here. It is nice to escape my hometown for just a little bit. It is also nice to say hello to old friends who are in the audience, to rekindle contact with old acquaintances and to make new friends among those of you in the audience. It is particularly heart warming to me to be attending a conference to which I was invited by a Latina law school friend, Rachel Moran, who is now an accomplished and widely respected legal scholar. I warn Latinos in this room: Latinas are making a lot of progress in the old-boy network.

I am also deeply honored to have been asked to deliver the annual Judge Mario G. Olmos lecture. I am joining a remarkable group of prior speakers who have given this lecture. I hope what I speak about today continues to promote the legacy of that man whose commitment to public service and abiding dedication to promoting equality and justice for all people inspired this memorial lecture and the conference that will follow. I thank Judge Olmos' widow Mary Louise's family, her son and the judge's many friends for hosting me. And for the privilege you have bestowed on me in honoring the memory of a very special person. If I and the many people of this conference can accomplish a fraction of what Judge Olmos did in his short but extraordinary life we and our respective communities will be infinitely better.

I intend tonight to touch upon the themes that this conference will be discussing this weekend and to talk to you about my Latina identity, where it came from, and the influence I perceive it has on my presence on the bench.

Who am I. I am a ''Newyorkrican.'' For those of you on the West Coast who do not know what that term means: I am a born and bred New Yorker of Puerto Rican-born parents who came to the states during World War II.

Like many other immigrants to this great land, my parents came because of poverty and to attempt to find and secure a better life for themselves and the family that they hoped to have. They largely succeeded. For that, my brother and I are very grateful. The story of that success is what made me and what makes me the Latina that I am. The Latina side of my identity was forged and closely nurtured by my family through our shared experiences and traditions.

For me, a very special part of my being Latina is the mucho platos de arroz, gandoles y pernir—rice, beans and pork—that I have eaten at countless family holidays and special events. My Latina identity also includes, because of my particularly adventurous taste buds, morcilla,—pig intestines, patitas de cerdo con garbanzo—pigs' feet with beans, and la lengua y orejas de cuchifrito, pigs' tongue and ears. I bet the Mexican-Americans in this room are thinking that Puerto Ricans have unusual food tastes. Some of us, like me, do. Part of my Latina identity is the sound of merengue at all our family parties and the heart wrenching Spanish love songs that we enjoy. It is the memory of Saturday afternoon at the movies with my aunt and cousins watching Cantinflas, who is not Puerto Rican, but who was an icon Spanish comedian on par with Abbot and Costello of my generation. My Latina soul was nourished as I visited and played at my grandmother's house with my cousins and extended family. They were my friends as I grew up. Being a Latina child was watching the adults playing dominos on Saturday night and us kids playing lotería, bingo, with my grandmother calling out the numbers which we marked on our cards with chick peas.

Now, does any one of these things make me a Latina? Obviously not because each of our Carribean and Latin American communities has their own unique food and different traditions at the holidays. I only learned about tacos in college from my Mexican-American roommate. Being a Latina in America also does not mean speaking Spanish. I happen to speak it fairly well. But my brother, only three years younger, like too many of us educated here, barely speaks it. Most of us born and bred here, speak it very poorly.

If I had pursued my career in my undergraduate history major, I would likely. provide you with a very academic description of what being a Latino or Latina means. For example, I could define Latinos as those peoples and cultures populated or colonized by Spain who maintained or adopted Spanish or Spanish Creole as their language of communication. You can tell that I have been very well educated. That antiseptic description however, does not really explain the appeal of morcilla—pig's intestine—to an American born child. It does not provide an adequate explanation of why individuals like us, many of whom are born in this completely different American culture, still identify so strongly with those communities in which our parents were born and raised.

America has a deeply confused image of itself that is in perpetual tension. We are a nation that takes pride in our ethnic diversity, recognizing its importance in shaping our society and in adding richness to its existence. Yet, we simultaneously insist that we can and must function and live in a race and color-blind way that ignore these very differences that in other contexts we laud. That tension between ''the melting pot and the salad bowl''—a recently popular metaphor used to described New York's diversity—is being hotly debated today in national discussions about affirmative action. Many of us struggle with this tension and attempt to maintain and promote our cultural and ethnic identities in a society that is often ambivalent about how to deal with its differences. In this time of great debate we must remember that it is not political struggles that create a Latino or Latina identity. I became a Latina by the way I love and the way I live my life. My family showed me by their example how wonderful and vibrant life is and how wonderful and magical it is to have a Latina soul. They taught me to love being a Puerto Riqueña and to love America and value its lesson that great things could be achieved if one works hard for it. But achieving success here is no easy accomplishment for Latinos or Latinas, and although that struggle did not and does not create a Latina identity, it does inspire how I live my life.

I was born in the year 1954. That year was the fateful year in which Brown v. Board of Education was decided. When I was eight, in 1961, the first Latino, the wonderful Judge Reynaldo Garza, was appointed to the federal bench, an event we are celebrating at this conference. When I finished law school in 1979, there were no women judges on the Supreme Court or on the highest court of my

home state, New York. There was then only one Afro-American Supreme Court Justice and then and now no Latino or Latina justices on our highest court. Now in the last twenty plus years of my professional life, I have seen a quantum leap in the representation of women and Latinos in the legal profession and particularly in the judiciary. In addition to the appointment of the first female United States Attorney General, Janet Reno, we have seen the appointment of two female justices to the Supreme Court and two female justices to the New York Court of Appeals, the highest court of my home state. One of those judges is the Chief Judge and the other is a Puerto Riqueña, like I am. As of today, women sit on the highest courts of almost all of the states and of the territories, including Puerto Rico. One Supreme Court, that of Minnesota, had a majority of women justices for a period of time.

As of September 1, 2001, the federal judiciary consisting of Supreme, Circuit and District Court Judges was about 22% women. In 1992, nearly ten years ago, when I was first appointed a District Court Judge, the percentage of women in the total federal judiciary was only 13%. Now, the growth of Latino representation is somewhat less favorable. As of today we have, as I noted earlier, no Supreme Court justices, and we have only 10 out of 147 active Circuit Court judges and 30 out of 587 active district court judges. Those numbers are grossly below our proportion of the population. As recently as 1965, however, the federal bench had only three women serving and only one Latino judge. So changes are happening, although in some areas, very slowly. These figures and appointments are heartwarming. Nevertheless, much still remains to happen.

Let us not forget that between the appointments of Justice Sandra Day O'Connor in 1981 and Justice Ginsburg in 1992, eleven years passed. Similarly, between Justice Kaye's initial appointment as an Associate Judge to the New York Court of Appeals in 1983, and Justice Ciparick's appointment in 1993, ten years elapsed. Almost nine years later, we are waiting for a third appointment of a woman to both the Supreme Court and the New York Court of Appeals and of a second minority, male or female, preferably Hispanic, to the Supreme Court. In 1992 when I joined the bench, there were still two out of 13 circuit courts and about 53 out of 92 district courts in which no women sat. At the beginning of September of 2001, there are women sitting in all 13 circuit courts. The First, Fifth, Eighth and Federal Circuits each have only one female judge, however, out of a combined total number of 48 judges. There are still nearly 37 district courts with no women judges at all. For women of color the statistics are more sobering. As of September 20, 1998, of the then 195 circuit court judges only two were African-American women and two Hispanic women. Of the 641 district court judges only twelve were African-American women and eleven Hispanic women. African-American women comprise only 1.56% of the federal judiciary and Hispanic-American women comprise only 1%. No African-American, male or female, sits today on the Fourth or Federal circuits. And no Hispanics, male or female, sit on the Fourth, Sixth, Seventh, Eighth, District of Columbia or Federal Circuits.

Sort of shocking, isn't it. This is the year 2002. We have a long way to go. Unfortunately, there are some very deep storm warnings we must keep in mind. In at least the last five years the majority of nominated judges the Senate delayed more than one year before confirming or never confirming were women or minorities. I need not remind this audience that Judge Paez of your home Circuit, the Ninth Circuit, has had the dubious distinction of having had his confirmation delayed the longest in Senate history. These figures demonstrate that there is a real and continuing need for Latino and Latina organizations and community groups throughout the country to exist and to continue their efforts of promoting women and men of all colors in their pursuit for equality in the judicial system.

This weekend's conference, illustrated by its name, is bound to examine issues that I hope will identify the efforts and solutions that will assist our communities. The focus of my speech tonight, however, is not about the struggle to get us where we are and where we need to go but instead to discuss with you what it all will mean to have more women and people of color on the bench. The statistics I have been talking about provide a base from which to discuss a question which one of my former colleagues on the Southern District bench, Judge Miriam Cederbaum, raised when speaking about women on the federal bench. Her question was: What do the history and statistics mean. In her speech, Judge Cederbaum expressed her belief that the number of women and by direct inference people of color on the bench, was still statistically insignificant and that therefore we could not draw valid scientific conclusions from the acts of so few people over such a short period of time. Yet, we do have women and people of color in more significant numbers on the bench and no one can or should ignore pondering what that will mean or not mean in the development of the law. Now, I cannot and do not claim this issue as personally my own. In recent years there has been an explosion of research and writing in this area. On one of the panels tomorrow, you will hear the Latino perspective in this debate.

For those of you interested in the gender perspective on this issue, I commend to you a wonderful compilation of articles published on the subject in Vol. 77 of the Judicature, the Journal of the American Judicature Society of November–December 1993. It is on Westlaw/Lexis and I assume the students and academics in this room can find it.

Now Judge Cedarbaum expresses concern with any analysis of women and presumably again people of color on the bench, which begins and presumably ends with the conclusion that women or minorities are different from men generally. She sees danger in presuming that judging should be gender or anything else based. She rightly points out that the perception of the differences between men and women is what led to many paternalistic laws and to the denial to women of the right to vote because we were described then ''as not capable of reasoning or thinking logically'' but instead of ''acting intuitively.'' I am quoting adjectives that were bandied around famously during the suffragettes' movement.

While recognizing the potential effect of individual experiences on perception, Judge Cedarbaum nevertheless believes that judges must transcend their personal sympathies and prejudices and aspire to achieve a greater degree of fairness and integrity based on the reason of law. Although I agree with and attempt to work toward Judge Cedarbaum's aspiration, I wonder whether achieving that goal is possible in all or even in most cases. And I wonder whether by ignoring our differences as women or men of color we do a disservice both to the law and society. Whatever the reasons why we may have different perspectives, either as some theorists suggest because of our cultural experiences or as others postulate because we have basic differences in logic and reasoning, are in many respects a small part of a larger practical question we as women and minority judges in society in general must address. I accept the thesis of a law school classmate, Professor Steven Carter of Yale Law School, in his affirmative action book that in any group of human beings there is a diversity of opinion because there is both a diversity of experiences and of thought. Thus, as noted by another Yale Law School Professor—I did graduate from there and I am not really biased except that they seem to be doing a lot of writing in that area—Professor Judith Resnik says that there is not a single voice of feminism, not a feminist approach but many who are exploring the possible ways of being that are distinct from those structured in a world dominated by the power and words of men. Thus, feminist theories of judging are in the midst of creation and are not and perhaps will never aspire to be as solidified as the established legal doctrines of judging can sometimes appear to be.

That same point can be made with respect to people of color. No one person, judge or nominee will speak in a female or people of color voice. I need not remind you that Justice Clarence Thomas represents a part but not the whole of African-American thought on many subjects. Yet, because I accept the proposition that, as Judge Resnik describes it, ''to judge is an exercise of power'' and because as, another former law school classmate, Professor Martha Minnow of Harvard Law School, states ''there is no objective stance but only a series of perspectives—no neutrality, no escape from choice in judging,'' I further accept that our experiences as women and people of color affect our decisions. The aspiration to impartiality is just that—it's an aspiration because it denies the fact that we are by our experiences making different choices than others. Not all women or people of color, in all or some circumstances or indeed in any particular case or circumstance but enough people of color in enough cases, will make a difference in the process of judging. The Minnesota Supreme Court has given an example of this. As reported by Judge Patricia Wald formerly of the D.C. Circuit Court, three women on the Minnesota Court with two men dissenting agreed to grant a protective order against a father's visitation rights when the father abused his child. The Judicature Journal has at least two excellent studies on how women on the courts of appeal and state supreme courts have tended to vote more often than their male counterpart to uphold women's claims in sex discrimination cases and criminal defendants' claims in search and seizure cases. As recognized by legal scholars, whatever the reason, not one woman or person of color in any one position but as a group we will have an effect on the development of the law and on judging.

In our private conversations, Judge Cedarbaum has pointed out to me that seminal decisions in race and sex discrimination cases have come from Supreme Courts composed exclusively of white males. I agree that this is significant but I also choose to emphasize that the people who argued those cases before the Supreme Court which changed the legal landscape ultimately were largely people of color and women. I recall that Justice Thurgood Marshall, Judge Connie Baker Motley, the first black woman appointed to the federal bench, and others of the NAACP argued Brown v. Board of Education. Similarly, Justice Ginsburg, with other women attorneys, was instrumental in advocating and convincing the Court that equality of work required equality in terms and conditions of employment.

Whether born from experience or inherent physiological or cultural differences, a possibility I abhor less or discount less than my colleague Judge Cedarbaum, our gender and national origins may and will make a difference in our judging. Justice O'Connor has

often been cited as saying that a wise old man and wise old woman will reach the same conclusion in deciding cases. I am not so sure Justice O'Connor is the author of that line since Professor Resnik attributes that line to Supreme Court Justice Coyle. I am also not so sure that I agree with the statement. First, as Professor Martha Minnow has noted, there can never be a universal definition of wise. Second, I would hope that a wise Latina woman with the richness of her experiences would more often than not reach a better conclusion than a white male who hasn't lived that life.

Let us not forget that wise men like Oliver Wendell Holmes and Justice Cardozo voted on cases which upheld both sex and race discrimination in our society. Until 1972, no Supreme Court case ever upheld the claim of a woman in a gender discrimination case. I, like Professor Carter, believe that we should not be so myopic as to believe that others of different experiences or backgrounds are incapable of understanding the values and needs of people from a different group. Many are so capable. As Judge Cedarbaum pointed out to me, nine white men on the Supreme Court in the past have done so on many occasions and on many issues including Brown.

However, to understand takes time and effort, something that not all people are willing to give. For others, their experiences limit their ability to understand the experiences of others. Others simply do not care. Hence, one must accept the proposition that a difference there will be by the presence of women and people of color on the bench. Personal experiences affect the facts that judges choose to see. My hope is that I will take the good from my experiences and extrapolate them further into areas with which I am unfamiliar. I simply do not know exactly what that difference will be in my judging. But I accept there will be some based on my gender and my Latina heritage.

I also hope that by raising the question today of what difference having more Latinos and Latinas on the bench will make will start your own evaluation. For people of color and women lawyers, what does and should being an ethnic minority mean in your lawyering? For men lawyers, what areas in your experiences and attitudes do you need to work on to make you capable of reaching those great moments of enlightenment which other men in different circumstances have been able to reach. For all of us, how do change the facts that in every task force study of gender and race bias in the courts, women and people of color, lawyers and judges alike, report in significantly higher percentages than white men that their gender and race has shaped their careers, from hiring, retention to promotion and that a statistically significant number of women and minority lawyers and judges, both alike, have experienced bias in the courtroom?

Each day on the bench I learn something new about the judicial process and about being a professional Latina woman in a world that sometimes looks at me with suspicion. I am reminded each day that I render decisions that affect people concretely and that I owe them constant and complete vigilance in checking my assumptions, presumptions and perspectives and ensuring that to the extent that my limited abilities and capabilities permit me, that I reevaluate them and change as circumstances and cases before me requires. I can and do aspire to be greater than the sum total of my experiences but I accept my limitations. I willingly accept that we who judge must not deny the differences resulting from experience and heritage but attempt, as the Supreme Court suggests, continuously to judge when those opinions, sympathies and prejudices are appropriate.

There is always a danger embedded in relative morality, but since judging is a series of choices that we must make, that I am forced to make, I hope that I can make them by informing myself on the questions I must not avoid asking and continuously pondering. We, I mean all of us in this room, must continue individually and in voices united in organizations that have supported this conference, to think about these questions and to figure out how we go about creating the opportunity for there to be more women and people of color on the bench so we can finally have statistically significant numbers to measure the differences we will and are making.

I am delighted to have been here tonight and extend once again my deepest gratitude to all of you for listening and letting me share my reflections on being a Latina voice on the bench. Thank you.

Mr. BROWNBACK. 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. BROWN. 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. BROWN. Mr. President, I ask unanimous consent to speak as in morning business.

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

The Senator from Ohio is recognized.

Mr. BROWN. I thank the Chair.

(The remarks of Mr. BROWN pertaining to the introduction of S. 1343 are printed in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. LUGAR. Mr. President, today the Senate considers the nomination of Harold Koh to be Legal Adviser to the Department of State. After reading his answers to dozens of questions, attending his hearing in its entirety, meeting with him privately, and reviewing his writings, I believe that Dean Koh is unquestionably qualified to assume the post for which he is nominated. He has had a distinguished career as a teacher and advocate, and he is regarded widely as one of our Nation's most accomplished experts on the theory and practice of international law. He also has served ably in our government as a Justice Department lawyer during the Reagan administration and as Assistant Secretary of State for Democracy, Human Rights, and Labor from 1998 to 2001.

The committee has received innumerable letters of support for the nominee attesting to his character, his love of country, and his respect for the law. He enjoys support from the lawyers with whom he has worked, as well as those including former Solicitor General Kenneth Starr—whom he has litigated against.

Both in private meetings and in public testimony, Dean Koh has affirmed that he understands the parameters of his role as State Department Legal Adviser. He understands that his role will be to provide policymakers objective advice on legal issues, not to be a campaigner for particular policy outcomes. He also has affirmed that as Legal Adviser, he will be prepared to defend the policies and interests of the U.S. Government, even when they may be at odds with positions he has taken in a private capacity. In applying laws relevant to the State Department's work, he has stated clearly that he will take account of and respect prior U.S. Government interpretations and practices under those laws, rather than considering each such issue as a matter of first impression.

Finally, I believe Dean Koh respects the role of the Senate and the Congress on international legal matters, especially treaties. He has promised to consult with us regularly and fully, not just when treaties come before the Senate, but also on the application of treaties on which the Senate has already provided advice and consent, including any proposed changes in the interpretation of such treaties.

Absent extraordinary circumstances, President Obama and Secretary of State Clinton should be able to choose the individuals on whom they will depend for legal analysis, interpretation, and advice. Given Dean Koh's record of service and accomplishment, his personal character, his understanding of his role as Legal Adviser, and his commitment to work closely with Congress, I support his nomination and believe he is well deserving of confirmation by the Senate.

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

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

Mr. KAUFMAN. Mr. President, I ask unanimous consent to speak as in morning business for 18 minutes.

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

SHORT SELLING

Mr. KAUFMAN. Mr. President, I rise again to speak out about the problems in the financial markets caused by abusive short selling activities, which includes naked short selling and rumor mongering. It can also include abuse of the credit default market by planting false suggestions that an issuer's survival is in doubt. My focus today, however, is on the first element—naked short selling.

Let me be clear about my main point. The public believes and the SEC has yet to discount that the effects of abusive naked short selling practices helped cement the demise of Bear Stearns and Lehman Brothers, as well as made it significantly harder for banks to raise critical capital in the throes of this financial crisis. It is no exaggeration to say that abusive short

selling at a critical moment further endangered our financial system and economy and thereby help lead to taxpayer bailouts that have totaled hundreds of billions of dollars. We are still waiting for the SEC's enforcement response. It is likely we will continue to wait, as I will discuss, because current rules are ineffective and unenforceable.

There is still a critical need for better SEC regulations that would help the enforcement division to do its job and stop naked short selling that is abusive and manipulative dead in its tracks.

Yes the SEC in April proposed five versions of a return to the uptick rule, which I believe never should have been repealed in the first place, at least without putting something effective in its place. The uptick rule, which simply required stock traders to wait for an uptick in price before continuing to sell a stock short, was in effect for 70 years—that is 7–0 years—until it was repealed in June of 2007. The comment period for the reinstatement of some form of the prior uptick rule is complete, and it is disappointing, but not surprising, to see that many on Wall Street now oppose that modest step. I continue to urge the SEC to move forward on that front.

As I have consistently maintained in my communications with the SEC, however, reinstating some form of the uptick rule alone puts too narrow a frame on the problems associated with naked short selling. The problem at its root is that the current rules against naked short selling are both inadequate and impossible to enforce. A strict preborrow requirement would address the problem and end it once and for all. Yet the SEC still has done nothing to propose a preborrower rule. If we end up with no uptick rule and no preborrow requirement, the SEC will be bending to the will of an industry that has shown recklessness but clearly lacks remorse.

There is a fierce urgency to fix this problem. Today, the financial markets are teetering on the brink of either continuing with a bull market rally or falling back substantially in what would be the continuation of a severely painful bear market. If the markets of certain stocks fall back precipitously again and if the bear market raiders act again using abusive naked short selling practices to damage and possibly destroy the stocks of banks and other companies, the SEC will have a lot of explaining to do—unless we see responses from the agency in the near term.

I have been writing the SEC and talking about this issue on the Senate floor since March 3. It is now June 24, and the SEC has still done nothing. It is time for the SEC to act.

Let me review the history of this issue and the evidence.

Naked short selling occurs when a trader sells a financial instrument short without first borrowing it or even ensuring it can be borrowed. This converts our securities and capital markets into nothing more than gambling casinos since the naked seller purports to sell something he doesn't own, and may never own, in the expectation that prices of the instruments sold will decline before ever settling the trade. Because this activity requires no capital outlay, it also inspires naked short sellers to flood the market with false rumors to make the prediction a self-fulfilling one.

This practice often leads to fails to deliver. If the seller does not borrow the security in time to make delivery to the buyer within the standard 3-day settlement period, the seller ''fails to deliver.'' Sometimes fails to deliver can be caused by human or mechanical errors, but those types of fails are only a small portion of the actual number of fails to deliver our markets confront continually.

Selling what you do not own and have not borrowed gives a seller a free ride. It effectively says: Show me the money now and you will get your stock sometime in the future. By analogy, it is very much like giving access to the Super Bowl on the day of the game—in other words, giving someone a ticket to the Super Bowl on the day of the game—in return for a promise that the spectator will ultimately produce a ticket long after the big event has occurred.

It is well known that abusive short selling has been linked to the downfall of two major financial firms—Bear Stearns and Lehman Brothers.

According to Bloomberg News:

> Failed trades correlate with drops in share value, enough to account for 30 to 70 percent of the declines in Bear Stearns, Lehman, and other stocks last year.

Let me repeat that. ''Failed trades,'' according to Bloomberg News, ''correlate with drops in share value, enough to account for 30 to 70 percent of the declines in Bear Stearns, Lehman, and other stocks last year.''

The huge increase in naked short selling exacerbated the financial crisis. Listen to this. In January 2007, 550 million shares failed to deliver. By January 2008, 1.1 billion shares failed to deliver. And in July of 2008, 2 billion shares failed to deliver.

These fails to deliver drove stock value down further than the market would have done by diluting stock prices. According to Clinton Under Secretary of Commerce Robert Shapiro in his recent comprehensive study:

> Before Bear Stearns collapsed, its fails to deliver went from less than 100,000 to 14 million, significantly diluting the values of its stock.

As the Coalition Against Market Manipulation stated:

> Just as counterfeit currency dilutes and destroys value, these phantom shares deflate share prices by flooding the market with false supply.

For example, according to EuroMoney, on March 14, 2008, ''128 percent of Bear Stearns' outstanding stock was traded.'' Let me repeat that. On March 14, 2008, 128 percent of Bear Stearns outstanding stock was traded. How can more than 100 percent be traded? It can only occur because of the absence of required borrowers and naked short selling. Without a preborrow requirement, in 1 day, multiple locates allow the same single share of a stock to be sold over and over. And without effective rules or enforcement, millions of shares of stock are sold short and not delivered as required.

Lehman Brothers also faced a similar abnormal increase in fails to deliver before its collapse.

According to Bloomberg:

> As Lehman Brothers struggled to survive last year, as many as 32.8 million shares in the company were sold and not delivered to buyers on time. . . .That was more than a 57-fold increase over the prior year's peak of 567,518 failed trades . . .

Many banks that help to drive the U.S. economy are particularly at risk from abusive short selling practices due to the importance of investor confidence in maintaining their capital.

On September 19, 2008, the SEC implemented a temporary emergency order barring all short selling to protect 799 financial companies, which included many banks, because of the damage naked short selling had done in destroying their company and investor values. But barring all short selling is like throwing the baby out with the bathwater. Proper short selling provides the marketplace with greater liquidity and the prospect of meaningful price discovery.

Naked short selling practices led to market disequilibrium and the SEC recognizing that the only way to protect these companies from unnecessary devaluation was to implement a ban. Many of these companies later moved under the Troubled Assets Relief Program, TARP.

While new regulations issued by the SEC last fall were the first steps to protect companies, the SEC has not done nearly enough. If naked short selling is not policed and rules against market manipulation are not enforced effectively, naked short selling will continue to harm TARP banks and companies. If stronger regulations are not implemented, abusive short selling will impair the government's ability to invest taxpayer money into TARP banks and return them to health and thus limit the effects of the government's economic recovery plan.

The SEC began addressing these issues 10 years ago with a concept release that eventually became known as Regulation SHO, a set of rules that has been amended several times. But a price extracted by Regulation SHO was the elimination of the 70-year-old uptick test.

Reg SHO intended to curb naked short selling by requiring would-be short sellers to have merely a reasonable expectation they can deliver the stock when it must be delivered and imposing a post-trade requirement that would-be short sellers actually

preborrow securities for future trades only if too many fails have already occurred. This is somewhat akin to a ''one free bite at the apple'' approach, something regulators attempt to avoid. The reason is because, in practice, it turns out to be a ''free bite at the apple'' each time a manipulative trader switches brokers—something a manipulative trader can easily do with no penalty.

But this rule has proved effectively unenforceable according to former SEC Commissioner Roel Campos and others. Current SEC regulations allow traders to short a stock if the trader ''reasonably believes that it can locate and borrow the security by the settlement day.''

Reasonableness includes merely glancing at a list of easy to borrow stocks, with no need to continue to locate even if the list is faulty. Let me repeat. Reasonableness includes merely glancing at a list of easy to borrow stocks, with no need to continue to locate even if this list is faulty. That rule, the mother of all loopholes, is much too vague to have any real effect. Any trader who passed Finance 101 could provide proof that he or she ''reasonably believed'' the shorted stocks could be located. In fact, the provision of a false locate is beneficial for generating commissions on the trade.

Ultimately, many commentators and I believe the SEC cannot bring cases against the gravest violators of this rule, because it does not have the means to prove intent. The rule is, in effect, unenforceable. The SEC has, in fact, not brought a single enforcement case for naked short selling. We must change the rules so the SEC Enforcement Division can do its job.

Even former SEC Chairman Christopher Cox said the SEC is:

. . . concerned that the persistent failures to deliver in the market for some securities may be due to loopholes in Regulation SHO.

It is too difficult to prove a trader's motives necessary for proving a fraud violation. I strongly believe the SEC needs to strengthen its rules, surveillance, and the enforcement regarding naked short selling to prevent market manipulation and loss of investor confidence.

Again, according to Robert Shapiro:

. . . there is considerable evidence that market manipulation through the use of naked short sales has been much more common than almost anyone has suspected, and certainly more widespread than most investors believe.

Furthermore, indicators the SEC typically uses to determine the effects of abusive short selling do not accurately reflect the extent of the problem. The so-called Threshold List provided by the SEC tracks sustained fails to deliver of over 10,000 shares, accounting for at least 5 percent of a company's outstanding shares.

According to Shapiro, this list does not capture the naked short sales that occur frequently that are under this threshold, and it does not capture the large volume of short interests that can spike during the 3-day settlement period. Nor does it capture any trades that occur outside of the Depository Trust and Clearing Corporation, so-called ex-clearing trades.

Let us look to other countries. Other countries have taken proper steps to make sure rules that prevent naked short selling are clear and easy to enforce. According to EuroMoney, naked short selling is:

. . . a situation specific to the U.S. markets.

Alan Cameron, head of clearing, settlement and custody client solutions at BNP Paribas Securities Services in London, says he has seen little to indicate similar instances of fails to deliver in Europe. Some European countries such as Spain impose strict fines on failures to deliver. It's not an issue here in Europe.

Therefore, I strongly believe that the SEC must adopt new policies in order to protect the damage to investor confidence and, yes, the damage to our economic recovery that is being caused by naked short selling.

Today, along with Senators ISAKSON and TESTER, and Representative CAROLYN MALONEY, who cochairs the Joint Economic Committee, I wrote to SEC Chairman Mary Schapiro on this subject. Our letter urged that the Commission establish a pilot program to study whether a strict preborrow agreement would work effectively to end the problem of naked short selling. Such a pilot program would lead to the collection of data about stock lending and borrowing and the costs and benefits of imposing a preborrow requirement on all short sales.

Recently, Senators LEVIN, GRASSLEY, and SPECTER, in connection with the release of a General Accountability Office study analyzing recent SEC actions to curb abusive short selling, called for the SEC to consider imposing a strict preborrow requirement on short sales as the best way to end abusive short selling.

I strongly agree. As I have said, a preborrow requirement would address the problem at its most fundamental level and it should be urgently considered by the SEC as it rethinks its regulations and enforcement approach in this area.

Moreover, the system by which stocks currently are loaned and borrowed can and should be greatly improved, improving efficiency and producing cost savings. For example, centralized systems for loaning and borrowing stocks might better enable the SEC to impose fair rules on stock loans and borrowers in connection with short sales as well as enhance the SEC's ability to provide regulatory oversight to prevent naked short selling.

As one commentator has written in EuroMoney in December 2008, the:

. . . SEC knows it has to introduce the preborrow rule if it wants to eliminate fails to deliver for good. As long as there are companies on the Regulation SHO list, then the problem is not being solved. The only sustainable solution to making naked short-selling is a rule requiring both pre-borrow and a hard delivery. . . . for Bear Stearns: only a pre-borrow could put a brake on the naked short-selling.

I urge the SEC to invite a balanced group of commentators, including members of the investing public, to air these issues publicly as it continues efforts to draft and promulgate additional rules to end abusive short selling.

I know there are critics of a preborrow requirement who claim it would limit liquidity. This is not so, and there is no meaningful evidence to support this argument. Indeed, the recent study by Robert Shapiro disproves the claim. Other knowledgable sources, such as Harvey Pitt, former SEC Chairman and founder of LendEQS, an electronic stock loan transaction firm, believe the opposite would occur, because lending would increase.

In Hong Kong, the imposition of a preborrow requirement has been quite successful. Hong Kong implemented the preborrow rule after the Asian financial crisis of 1997 to 1998, when its markets collapsed. In late 2008, while the United States saw an exponential increase in fails to deliver, Hong Kong avoided large spikes in short sales almost completely. Other countries, such as Australia and many other EU members, have also successfully maintained preborrow requirements for years. The United States must urgently address the issue of abusive short selling. If we want to protect our markets, investors, and companies from caustic manipulation, we need better rules.

In closing, I urge the SEC to act decisively, both by following through and reimposing the substance of the prior uptick rule and through a pilot program to study the effects of a strict preborrow requirement. It is way past time to put an end to naked short selling, once and for all.

Mr. President, I yield the floor, 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. REID. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

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

MORNING BUSINESS

Mr. REID. I ask unanimous consent we proceed to a period of morning business with Senators permitted to speak therein for up to 10 minutes each.

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

15TH ANNIVERSARY OF THE PROGRESSIVE LEADERSHIP ALLIANCE OF NEVADA

Mr. REID. Mr. President, I rise to call to the attention of the Senate the 15th anniversary celebration of the Progressive Leadership Alliance of Nevada, also known as PLAN. PLAN is a

consortium of more than 25 organizations in Nevada that strives for social, economic, and environmental justice throughout the State. PLAN is dedicated to improving the future of all Nevadans by fostering relationships and building bridges between our communities. By working with diverse constituencies, PLAN is involved in impacting policy decisions in our great State of Nevada.

The Progressive Leadership of Nevada was established in 1994 as a nonprofit organization focusing on advocacy and education. Among its many accomplishments, this outstanding coalition helped Nevada become the 11th State in our Nation to enact the Employment Non-Discrimination Act and the 13th State to extend hate crimes legislation. Additionally, PLAN was instrumental in making Nevada's tax system more equitable, passing death penalty reforms, and increasing human services funding.

I commend the Progressive Leadership Alliance of Nevada for its 15 years of continued support and achievements on behalf of the Silver State. Thanks to the leadership of everyone at PLAN, Nevada continues to ensure protections and advancement of all citizens.

THE TRAVEL PROMOTION ACT OF 2009

Mr. GRAHAM. Mr. President, today I rise to recognize the importance of the tourism industry to our country and the State of South Carolina, and to express my support for the passage of initiatives like the Travel Promotion Act of 2009 and a spouse travel tax deduction that seek to bolster an industry that is a vital component to the economies of so many communities and States.

South Carolina is home to some of the most unique destinations for leisure or business travel in the world. From the trails of Table Rock Mountain in the Blue Ridge, to the quaint mill villages throughout the South Carolina National Heritage Corridor, to a kayak excursion in the Congaree Swamp National Park, to a horse carriage ride through the streets of historic Charleston, the Palmetto State is a wealth of natural, cultural, recreational and historic opportunities for any visitor. Golf Digest magazine selected 11 of South Carolina's more than 500 golf courses as some of the top 100 public courses in the Nation for 2009. Conde Nast Traveler magazine named Charleston as the No. 2 destination in the country, rounding out 16 consecutive years as one of the magazine's top 10 travel destinations in America. The list goes on. The one-of-a-kind history, landscape and culture of our State help all visitors to understand our pride in the motto ''Smiling Faces, Beautiful Places.''

The sum of these treasures is an economic engine that drives the prosperity of our State. The tourism industry is the second largest industry in the State of South Carolina. In 2007, the industry generated $17.2 billion and employed more than 12 percent of the State's workforce. Not only does tourism generate more than $100 billion in tax revenue and employ more than 7 million individuals nationwide, but the industry also encourages investment, attracts new business, and enhances the quality of life for local residents. Tourism is truly the lifeblood for many communities not only in South Carolina but throughout America.

Unfortunately, the economic downturn is taking its toll on the tourism industry. I remain concerned with the impact that the recession continues to have on the decisions of domestic and international leisure travelers, and on business meetings travel. Families and individuals are tightening their belts, afraid to spend hard-earned money in an unpredictable economy that could still worsen. International travel to the United States has declined since September 11, 2001, despite the weak dollar enabling most overseas travelers to do and see even more in our country.

Domestic business travel accounts for about one-fifth of all trips to South Carolina each year. More and more companies are hesitant to book perfectly legitimate corporate meetings and conferences in destinations like Greenville and the South Carolina coast for fear that they will be singled out for irresponsible spending during an economic recession. According to a Meetings and Conventions magazine study, more than half of those interviewed believed that recent harsh criticism against meetings and events has influenced their companies' decisions to hold such events. We must not allow the irresponsible behavior of some to damage public opinion regarding business travel for responsible organizations.

In the first 3 months of 2009, hotel occupancy in South Carolina was down more than 12 percent, with losses in all of our traditional tourist and business meeting destinations. Tourism-related tax revenue is down 5 percent from this time last year. These are only a couple of real numbers that directly impact employment and local economies in South Carolina, a State currently suffering from one of the highest unemployment rates in the Nation at 12.1 percent.

While I believe the economy will rebound eventually, consumer confidence is not showing sufficient signs of improvement. We must encourage international travelers, Americans, and American business to continue to travel for leisure and to hold appropriate destination corporate meetings and conferences, despite the downturn in the economy. I remain committed to exploring new ways to accomplish this goal in the U.S. Senate.

I recently signed on as a cosponsor to S. 1023, the Travel Promotion Act, as I believe it is a significant step in restoring and encouraging overseas travel to the United States. While I supported a measure for the Senate to proceed to this legislation last week, I was unable to support cloture on S. 1023 as I do not believe the majority provided the minority with sufficient opportunity to offer amendments. My vote was unrelated to the substance of the legislation, and I am disappointed that the Senate was unable to complete action on the bill this week.

The Travel Promotion Act facilitates collaboration between various stakeholders in the tourism industry so that they may share ideas on how best to promote travel to America. South Carolina welcomes about 1 million international travelers each year. While this number may be low compared to other tourism destinations, overall South Carolina benefits greatly from their visits as international travelers tend to stay longer and spend more in our hotels, restaurants, shops, cultural sites and more. Through this legislation, I am hopeful that efforts to encourage travel to our country will benefit South Carolina.

To encourage business travel nationally, I authored legislation, S. 261, which would allow for a spouse to deduct travel expenses such as transportation, food and lodging expenses, when traveling with his or her spouse on business travel. Business travel accounts for more than 20 percent of all travel in South Carolina. I strongly believe that restoring this tax deduction would encourage additional travel and subsequent exploration of work-travel destinations. It is my hope that Congress will act on this legislation in a timely manner.

Now is an opportune time to travel, as nearly all tourism destinations are offering packages and deals to entice families and corporate meetings to choose their respective areas. Hotel rates are some of the lowest we have seen in years, while gas prices remain affordable. I am hopeful that families and corporations will take advantage of this opportunity, and consider South Carolina for their next destination.

It is vital that Congress recognize the importance of the tourism industry to our country, and encourage all Americans to continue to travel. I look forward to working with my colleagues on new ways to support the tourism industry.

ADDITIONAL STATEMENTS

COMMENDING MAJOR GENERAL THOMAS F. DEPPE

● Mr. BAUCUS. Mr. President, today I join my colleague Senator TESTER in recognizing and paying tribute to MG Thomas F. Deppe, Vice Commander of Air Force Space Command, and his wife Eileen for their lifetime of service and unfaltering dedication to the U.S. Air Force and our great Nation.

As both an airman and leader, spanning 42 years of military service, General Deppe's contributions to our Nation's strategic deterrence and space

missions were critical to the warfighter, global economy and safety of our families. General Deppe's leadership was an essential element in winning the Cold War and vital to Air Force Space Command's support of combat operations around the world to include Operations Enduring Freedom, Iraqi Freedom, the global war on terrorism and overseas contingency operations.

General Deppe began his illustrious Air Force career by graduating from Basic Military Training School in 1967. In September of 1967, General Deppe was introduced to the Air Force through missile instrumentation electronics technical training. This training led to a series of aircraft munitions assignments and rounded out his enlisted service with an Air Force recruiting position, achieving the enlisted rank of technical sergeant. In 1977, General Deppe received his commission through the Officer Training School. This led him to his first assignment in Montana at Malmstrom Air Force Base. General Deppe's Air Force journey as an officer would take Eileen and him through a series of wing, air staff and joint assignments relating to strategic and tactical missile and space systems. He operated the ground-launched cruise missile in Europe and later served as the commander of the 351st Organizational Missile Maintenance Squadron in Missouri at Whiteman Air Force Base. Additionally, he commanded the 90th Logistics Group at Francis E. Warren Air Force Base, WY, and the 341st Space Wing in Montana. While assigned to the National Military Command Center, he directed actions during the early days of Operation Iraqi Freedom and the Space Shuttle Columbia recovery effort.

Mr. TESTER. Mr. President, General Deppe went on to command the Air Force's land-based strategic deterrent force at 20th Air Force in Wyoming before his present assignment as the Vice Commander of Air Force Space Command.

During General Deppe's tenure as Vice Commander, Air Force Space Command, he provided inspirational leadership to over 39,000 personnel responsible for a global network of satellite command and control, communications, missile warning, and space launch facilities and ensured the combat readiness of America's ICBM force. Exploiting his unique blend of operational experience and staffing acumen, General Deppe championed the implementation of a new management headquarters construct through Air Force Space Command's ''Lanes-In-The Road'' initiative. The results clearly aligned the command's headquarters organizations with its own functional concepts as well as the operational mission areas outlined in the U.S. Air Force Concept of Operations. In addition, he guaranteed the future viability of the Air Force Nuclear Enterprise by driving major system revitalization initiatives, to include the Air Force chief of staff-approved creation of an ICBM weapons instructor course at the U.S. Air Force Weapons School. He was instrumental in successfully implementing visionary space mission area initiatives with wide-ranging national and international implications, to include the launch and range enterprise transformation effort, the commercial and foreign entities support pilot program and the operational expansion of on-orbit global positioning system and wideband global satellite communications capabilities. Finally, General Deppe oversaw the command's lead role to stand-up the 24th Air Force to execute the Air Force's cyberspace mission.

General Deppe's impeccable service is characterized by his Master Missileer Badge, Command Space Badge, Space Professional Level III certification, operational space experience in nuclear operations and spacelift, weapon systems expertise in the Minuteman II, Minuteman III and Peacekeeper ICBMs, Hound Dog and Quail Air-Launched Cruise Missiles, the Ground-Launched Cruise Missile and the Atlas III, Titan IV, Delta II and Delta III boosters.

Today Senator BAUCUS and I have mentioned but a few of MG Thomas F. Deppe's many achievements. General Deppe is a visionary, steadfast military leader and honorable man. I know my colleagues join us in paying tribute to him and his wife Eileen and their children, Lisa, Tom and Ken, for the 42 years they have dedicated to our country and to the betterment of the U.S. Armed Forces. General Deppe, thank you for your service to our Nation, and we wish you well.●

100TH ANNIVERSARY OF RICHVALE, CALIFORNIA

● Mrs. BOXER. Mr. Presdient, I am pleased to recognize the 100th anniversary of the community of Richvale, CA. In 1909, settlers from the Midwest began to arrive by train and horse-drawn carriages to this town with hopes of creating a close-knit community. Over the last century, Richvale has grown from a small settlement town of a few families to the heart of rice country in northern California.

As families settled in this small Butte County town in the early 1900s, California's rice industry began to take shape. Richvale became an early producer of rice in the State with the support of local churches, general stores, and blacksmith shops. The strong sense of community, as well as ideal soil and climate conditions, led to the success of the region's dominance in growing rice. The Richvale community worked together closely to develop irrigation systems, soil improvement, conservation techniques, and formed cooperatives with their neighbors to store and dry their crops to increase their yields and fight agricultural-related pests and diseases. These practices served as a model for other rice growers as the industry began to grow throughout the Upper Sacramento Valley. The Rice Experiment Station, that has been in operation since 1912 and conducts innovative rice improvement research and seed production, is located just south of Richvale and is credited with much of the California rice industry's international success.

Richvale's thriving commercial rice production continued as many of the men went to serve their country during World Wars I and II. The women of Richvale kept the industry alive by taking control of the responsibilities that included the day-to-day work, as well as the business side of the farming operations.

Richvale continues to thrive as a cornerstone in California's rice country, while still maintaining their smalltown character that drew early settlers to the region. I commend the Richvale community for their success in both the rice industry and for serving as an example of the success that a small community of dedicated neighbors can accomplish when they come together around a common goal. I wish Richvale another 100 years of success.●

CONGRATULATING BALLARD HIGH SCHOOL

● Mr. BUNNING. Mr. President, I would like to take this time to congratulate Ballard High School in Louisville, KY.

Newsweek magazine recently published a list of the top 1,500 public schools in the country. The 15 schools that made the list from Kentucky rank among the top 6 percent of public schools in the Nation. What is even more impressive is that Kentucky had three more schools ranked this year than in 2008, showing improvement in our State's schools. Placing as 1 of 15 schools from Kentucky on this list, Ballard High School has earned national recognition for the fine performance of its students and faculty.

I am proud of the students of Ballard High School. Their commitment to education is an example for the entire Commonwealth and I take pride in recognizing them on the floor of the U.S. Senate.●

CONGRATULATING BOWLING GREEN HIGH SCHOOL

● Mr. BUNNING. Mr. President, I would like to take this time to congratulate Bowling Green High School in Bowling Green, KY.

Newsweek magazine recently published a list of the top 1,500 public schools in the country. The 15 schools that made the list from Kentucky rank among the top 6 percent of public schools in the Nation. What is even more impressive is that Kentucky had three more schools ranked this year than in 2008, showing improvement in our State's schools. Placing as 1 of 15 schools from Kentucky on this list, Bowling Green High School has earned

national recognition for the fine performance of its students and faculty.

I am proud of the students of Bowling Green High School. Their commitment to education is an example for the entire Commonwealth and I take pride in recognizing them on the floor of the U.S. Senate.●

CONGRATULATING BROWN HIGH SCHOOL

● Mr. BUNNING. Mr. President, I would like to take this time to congratulate Brown High School in Louisville, KY.

Newsweek magazine recently published a list of the top 1,500 public schools in the country. The 15 schools that made the list from Kentucky rank among the top 6 percent of public schools in the Nation. What is even more impressive is that Kentucky had three more schools ranked this year than in 2008, showing improvement in our State's schools. Placing as 1 of 15 schools from Kentucky on this list, Brown High School has earned national recognition for the fine performance of its students and faculty.

I am proud of the students of Brown High School. Their commitment to education is an example for the entire Commonwealth and I take pride in recognizing them on the floor of the U.S. Senate.●

CONGRATULATING DUNBAR HIGH SCHOOL

● Mr. BUNNING. Mr. President, I would like to take this time to congratulate Dunbar High School in Lexington, KY.

Newsweek magazine recently published a list of the top 1,500 public schools in the country. The 15 schools that made the list from Kentucky rank among the top 6 percent of public schools in the Nation. What is even more impressive is that Kentucky had three more schools ranked this year than in 2008, showing improvement in our State's schools. Placing as 1 of 15 schools from Kentucky on this list, Dunbar High School has earned national recognition for the fine performance of its students and faculty.

I am proud of the students of Dunbar High School. Their commitment to education is an example for the entire Commonwealth and I take pride in recognizing them on the floor of the U.S. Senate.●

CONGRATULATING DUPONT MANUAL HIGH SCHOOL

● Mr. BUNNING. Mr. President, I would like to take this time to congratulate DuPont Manual High School in Louisville, KY.

Newsweek magazine recently published a list of the top 1,500 public schools in the country. The 15 schools that made the list from Kentucky rank among the top 6 precent of public schools in the Nation. What is even more impressive is that Kentucky had three more schools ranked this year than in 2008, showing improvement in our State's schools. Placing as 1of 15 schools from Kentucky on this list, DuPont Manual High School has earned national recognition for the fine performance of its students and faculty.

I am proud of the students of DuPont Manual High School. Their commitment to education is an example for the entire Commonwealth and I take pride in recognizing them on the floor of the U.S. Senate.●

CONGRATULATING HOLMES HIGH SCHOOL

● Mr. BUNNING. Mr. President, I would like to take this time to congratulate Holmes High School in Covington, KY.

Newsweek magazine recently published a list of the top 1,500 public schools in the country. The 15 schools that made the list from Kentucky rank among the top 6 percent of public schools in the Nation. What is even more impressive is that Kentucky had three more schools ranked this year than in 2008, showing improvement in our State's schools. Placing as 1 of 15 schools from Kentucky on this list, Holmes High School has earned national recognition for the fine performance of its students and faculty.

I am proud of the students of Holmes High School. Their commitment to education is an example for the entire Commonwealth and I take pride in recognizing them on the floor of the U.S. Senate.●

CONGRATULATING OLDHAM COUNTY HIGH SCHOOL

● Mr. BUNNING. Mr. President, I would like to take this time to congratulate Oldham County High School in Buckner, KY.

Newsweek magazine recently published a list of the top 1,500 public schools in the country. The 15 schools that made the list from Kentucky rank among the top 6 percent of public schools in the Nation. What is even more impressive is that Kentucky had three more schools ranked this year than in 2008, showing improvement in our State's schools. Placing as 1 of 15 schools from Kentucky on this list, Oldham County High School has earned national recognition for the fine performance of its students and faculty.

I am proud of the students of Oldham County High School. Their commitment to education is an example for the entire Commonwealth and I take pride in recognizing them on the floor of the U.S. Senate.●

CONGRATULATING RYLE HIGH SCHOOL

● Mr. BUNNING. Mr. President, I would like to take this time to congratulate Ryle High School in Union, KY.

Newsweek magazine recently published a list of the top 1,500 public schools in the country. The 15 schools that made the list from Kentucky rank among the top 6 percent of public schools in the Nation. What is even more impressive is that Kentucky had three more schools ranked this year than in 2008, showing improvement in our State's schools. Placing as 1 of 15 schools from Kentucky on this list, Ryle High School has earned national recognition for the fine performance of its students and faculty.

I am proud of the students of Ryle High School. Their commitment to education is an example for the entire Commonwealth and I take pride in recognizing them on the floor of the U.S. Senate.●

CONGRATULATING SOUTH OLDHAM HIGH SCHOOL

● Mr. BUNNING. Mr. President, I would like to take this time to congratulate South Oldham High School in Crestwood, KY.

Newsweek magazine recently published a list of the top 1,500 public schools in the country. The 15 schools that made the list from Kentucky rank among the top 6 percent of public schools in the Nation. What is even more impressive is that Kentucky had three more schools ranked this year than in 2008, showing improvement in our State's schools. Placing as 1 of 15 schools from Kentucky on this list, South Oldham High School has earned national recognition for the fine performance of its students and faculty.

I am proud of the students of South Oldham High School. Their commitment to education is an example for the entire Commonwealth and I take pride in recognizing them on the floor of the U.S. Senate.●

CONGRATULATING WOODFORD COUNTY HIGH SCHOOL

● Mr. BUNNING. Mr. President, I would like to take this time to congratulate Woodford County High School in Versailles, KY.

Newsweek magazine recently published a list of the top 1,500 public schools in the country. The 15 schools that made the list from Kentucky rank among the top 6 percent of public schools in the Nation. What is even more impressive is that Kentucky had three more schools ranked this year than in 2008, showing improvement in our State's schools. Placing as 1 of 15 schools from Kentucky on this list, Woodford County High School has earned national recognition for the fine performance of its students and faculty.

I am proud of the students of Woodford County High School. Their commitment to education is an example for the entire Commonwealth and I take pride in recognizing them on the floor of the U.S. Senate.●

REMEMBERING WARREN H. ABERNATHY

● Mr. GRAHAM. Mr. President, I ask my fellow colleagues to join me in honoring the memory of a dedicated servant and leader, Warren H. Abernathy. After a lifetime of unprecedented service to his State and Nation as a World War II veteran and a 49-year staffer of Senator Strom Thurmond, Mr. Abernathy passed away in Spartanburg, SC, on June 22, 2009, at the age of 85.

While he will be remembered by most as a ''private man who wanted to make a difference,'' I will remember him as a larger than life figure who greeted everyone with a smile. He was a World War II veteran who was prepared to make the ultimate sacrifice on behalf of our freedom. After a lifetime of duty, he retired as colonel with the U.S. Army Reserves.

Born and raised in Spartanburg, Mr. Abernathy attended Spartanburg High School, Wofford College, and graduated from Spartanburg Methodist College and the University of South Carolina. He later received a master's in business administration from Command and General Staff College at Fort Leavenworth, KS, and in September of 1992 he received an honorary doctorate of humane letters from Voorhees College in Denmark, SC.

In 1948 he began working for then-Governor J. Strom Thurmond as his administrative assistant. When Governor Thurmond was elected Senator Thurmond, Mr. Abernathy transitioned with him and served as the Senator's State assistant for 49 years. Mr. Abernathy also served as the former secretary-treasurer of the Strom Thurmond Foundation, a U.S. marshall, a member of the Civil Service, an honorary member of the South Carolina Law Enforcement Division, and in 2007 the Spartanburg County Bar Association awarded him the E. C. Burnett, III, Contribution to Law and Justice Award for his contributions as a nonlawyer to the overall improvement of the legal system in Spartanburg County.

In addition to his time in politics, Mr. Abernathy was an active member of the Southside Baptist Church where he participated in the Layman's Sunday school class and served as a former deacon. In 1997 a portion of highway 29 in Spartanburg, SC, was renamed Warren H. Abernathy Highway by the Department of Transportation in honor of his service. And after decades of serving South Carolina, Mr. Abernathy was awarded the Order of the Palmetto from Governor David Beasley on April 13, 1998.

Mr. Abernathy, the husband of the late Margaretta Scruggs Abernathy, is survived by family and friends who are rightfully proud of a well-lived life in service of his fellow man.

I ask that the U.S. Senate join me in commemorating Mr. Abernathy's lifelong dedication to service to our country and to the State of South Carolina.●

100TH ANNIVERSARY OF THE DETROIT RESCUE MISSION MINISTRIES

● Mr. LEVIN. Mr. President, I would like to take this opportunity to congratulate the Detroit Rescue Mission Ministries—DRMM—on 100 years of dedicated service to the Metro Detroit community. Through their commitment to meeting the emotional, spiritual and material needs of the individuals they serve each day, the Detroit Rescue Mission Ministries truly embody their motto: ''Rebuilding one life at a time.''

Founded in 1909, this faith-based, non-profit organization has consistently worked to combat the debilitating and persistent challenges of homelessness, hunger, and addiction in southeastern Michigan. The DRMM has waged this important fight by bringing together a variety of interested parties throughout southeastern Michigan, as well as a wealth of resources. By coordinating 50,000 donors, 120 faith-based organizations, and multiple State, county, and local government agencies, the DRMM has galvanized the community support necessary to make a significant difference in the lives of Michiganders.

The DRMM has played a central role in the rehabilitation of countless individuals in Metro Detroit. The DRMM provides basic necessities for at-risk individuals while fostering a desire to rebuild their lives. This organization offers critical services in the form of emergency, transitional, and permanent housing; psychological and spiritual counseling; substance abuse treatment; and emergency food and clothing. Each year, the DRMM provides 1 million nutritious meals at seven local facilities; more than 160,000 nights of emergency shelter; 75,000 clothing items; and substance abuse treatment for thousands of men and women.

I know my colleagues join me in congratulating all who have contributed to the important work of the Detroit Rescue Mission Ministries over the years, and I look forward to another century of commitment to the community.●

COMMENDING WILD OATS BAKERY & CAFÉ

● Ms. SNOWE. Mr. President, today I recognize a small business in my home State of Maine that admirably embodies the ideal dichotomy of being both a successful business and a well-regarded member of the community. Wild Oats Bakery & Café, an independently-owned dining establishment located in Brunswick, also provides guests with a quintessentially New England experience, as Yankee Magazine recently recognized the restaurant with the ''Best Taste of Home'' Editor's Choice award in its annual Best of New England listing.

Opened in October 1991 by owners Becky and David Shepherd, Wild Oats Bakery & Café has remained a consistent purveyor of fresh, homemade foods for nearly two decades, resulting in its immense popularity among the local community and area Bowdoin College students. Located inside the Tontine Mall in downtown Brunswick, Wild Oats has grown from a 5-employee operation to its current crew of over 20. Additionally, Wild Oats has doubled the size of its space, and has added a deck and patio for dining during the beautiful Maine summer, all the while maintaining a cozy and personable atmosphere.

With a menu that includes baked goods, breads, soups and chowders, salads, sandwiches, entrees, desserts, as well as frozen meals to bring home, Wild Oats offers patrons an appealing variety of delicious, made-from-scratch products to suit a diverse array of taste buds. To support another Maine small business, Wild Oats sells Carrabassett Coffee, produced in the western Maine town of Kingfield. The company has also launched a unique delivery service to nearby Bowdoin College, where parents can surprise their sons and daughters with a delectable birthday cake accompanied by a Wild Oats coffee mug, water bottle, or t-shirt.

From the beginning, Wild Oats has strived to make customer service the top priority and has consistently sought innovative ways to better serve its customers. These efforts have certainly not gone unnoticed as Wild Oats has become an increasingly integral part of the local community. In fact, Wild Oats' most recent distinction as the ''Best Taste of Home for 2009'' is just one of several awards the restaurant has garnered in recent years. Last year, the company was named Small Business of the Year by the Southern Midcoast Chamber of Commerce. This award came six months after it was acknowledged with the Small Business Leadership Award by Governor John Baldacci for the firm's 16-year history of employing persons with disabilities. The Shepherds have partnered with several Midcoast organizations, including Independence Association and Work Enterprises, to hire workers with disabilities over the years.

While the Shepherds operate and own Wild Oats, they are the first to point out that they rely heavily on their stellar and experienced employees, an extended family that they include in many decision making and leadership opportunities. Among them is Louisa Edgerton, the store's manager, who has been with Wild Oats since 1997 and brought over 20 years in the food service industry with her. Another notable employee is Frank Golek. Frank, who assists with food preparation and cleaning, has worked at the restaurant since 1996, affording him the distinction of the longest serving Wild Oats employee.

Wild Oats' commitment to the local community goes beyond serving

scrumptious lunches, dinners, and sweets. Both Becky and David Shepherd, who have lived in Brunswick since 1981, have been active members of the local community for many years. Becky has served on the Brunswick school and library boards, and both donate significant time and money to various community based projects both locally and throughout Maine, particularly regarding education and the environment.

A mainstay of the Brunswick downtown for nearly two decades, Wild Oats Bakery & Café is a unique restaurant that has assuredly earned its exceptional reputation for quality service and delicious cuisine. I offer my sincerest congratulations to Becky and David Shepherd and everyone at Wild Oats Bakery & Café on their well-deserved accomplishments, and I wish them many years of continued success.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT ON THE CONTINUATION OF THE NATIONAL EMERGENCY THAT WAS ORIGINALLY DECLARED IN EXECUTIVE ORDER 13466 OF JUNE 26, 2008, WITH RESPECT TO THE CURRENT EXISTENCE AND RISK OF THE PROLIFERATION OF WEAPONS-USABLE FISSILE MATERIAL ON THE KOREAN PENINSULA—PM 26

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs:

To the Congress of the United States:

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the *Federal Register* and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. In accordance with this provision, I have sent to the *Federal Register* for publication the enclosed notice stating that the national emergency, declared in Executive Order 13466 of June 26, 2008, is to continue in effect beyond June 26, 2009.

The current existence and risk of the proliferation of weapons-usable fissile material on the Korean Peninsula constitute a continuing unusual and extraordinary threat to the national security and foreign policy of the United States. For these reasons, I have determined that it is necessary to continue the national emergency and maintain certain restrictions with respect to North Korea and North Korean nationals that would otherwise have been lifted in Proclamation 8271 of June 26, 2008.

BARACK OBAMA.
THE WHITE HOUSE, *June 24, 2009*.

MESSAGES FROM THE HOUSE

At 10:09 a.m., a message from the House of Representatives, delivered by Mr. SCHIFF (appointed a manager on the part of the House for the impeachment of Samuel B. Kent, a judge of the United States District Court for the Southern District of Texas), announced that the House has agreed to the following resolutions:

H. Res. 520. Resolution impeaching Samuel B. Kent, judge of the United States District Court for the Southern District of Texas, for high crimes and misdemeanors.

H. Res. 565. Resolution appointing and authorizing managers for the impeachment of Samuel B. Kent, a judge of the United States District Court for the Southern District of Texas.

At 1 p.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 407. An act to amend title 38, United States Code, to provide for an increase, effective December 1, 2009, in the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans, to codify increases in the rates of such compensation that were effective as of December 1, 2008, and for other purposes.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1016. An act to amend title 38, United States Code, to provide advance appropriations authority for certain accounts of the Department of Veterans Affairs, and for other purposes.

H.R. 1172. An act to direct the Secretary of Veterans Affairs to include on the Internet website of the Department of Veterans Affairs a list of organizations that provide scholarships to veterans and their survivors.

H.R. 1211. An act to amend title 38, United States Code, to expand and improve health care services available to women veterans, especially those serving in Operation Enduring Freedom and Operation Iraqi Freedom, from the Department of Veterans Affairs, and for other purposes.

The message further announced that the House has agreed to the amendment of the Senate to the bill (H. R. 1777) to make technical corrections to the Higher Education Act of 1965, and for other purposes.

ENROLLED BILLS SIGNED

The following enrolled bills were signed by the Acting President pro tempore (Mr. INOUYE) on today, Wednesday, June 24, 2009, which were previously signed by the Speaker of the House:

S. 614. An act to award a congressional Gold Medal to the Women Airforce Service Pilots (''WASP'').

S. 615. An act to provide additional personnel authorities for the Special Inspector General for Afghanistan Reconstruction.

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 1172. An act to direct the Secretary of Veterans Affairs to include on the Internet website of the Department of Veterans Affairs a list of organizations that provide scholarships to veterans and their survivors; to the Committee on Veterans' Affairs.

H.R. 1211. An act to amend title 38, United States Code, to expand and improve health care services available to women veterans, especially those serving in Operation Enduring Freedom and Operation Iraqi Freedom, from the Department of Veterans Affairs, and for other purposes; to the Committee on Veterans' Affairs.

MEASURES READ THE FIRST TIME

The following bill was read the first time:

S. 1344. A bill to temporarily protect the solvency of the Highway Trust Fund.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, June 24, 2009, she had presented to the President of the United States the following enrolled bills:

S. 614. An act to award a congressional Gold Medal to the Women Airforce Service Pilots (''WASP'').

S. 615. An act to provide additional personnel authorities for the Special Inspector General for Afghanistan Reconstruction.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of nominations were submitted:

By Mr. LEVIN for the Committee on Armed Services.

*Dennis M. McCarthy, of Ohio, to be an Assistant Secretary of Defense.

*Daniel Ginsberg, of the District of Columbia, to be an Assistant Secretary of the Air Force.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first

and second times by unanimous consent, and referred as indicated:

By Mr. JOHNSON:

S. 1332. A bill to prohibit States from carrying out more than one congressional redistricting after a decennial census and apportionment, to require States to conduct such redistricting through independent commissions, and for other purposes; to the Committee on the Judiciary.

By Mr. BARRASSO (for himself, Mr. CRAPO, Mr. HATCH, Mr. VITTER, Mr. RISCH, Mr. BENNETT, and Mr. ENZI):

S. 1333. A bill to provide clean, affordable, and reliable energy, and for other purposes; to the Committee on Finance.

By Mrs. GILLIBRAND (for herself, Mr. SCHUMER, Mr. MENENDEZ, and Mr. LAUTENBERG):

S. 1334. A bill to amend the Public Health Service Act to extend and improve protections and services to individuals directly impacted by the terrorist attack in New York City on September 11, 2001, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. MURRAY:

S. 1335. A bill to require reports on the effectiveness and impacts of the implementation of the Western Hemisphere Travel Initiative, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

By Mrs. MURRAY:

S. 1336. A bill to amend the Controlled Substances Act to provide for disposal of controlled substances by ultimate users and care takers through State take-back disposal programs, to amend the Federal Food, Drug, and Cosmetic Act to prohibit recommendations on drug labels for disposal by flushing, and for other purposes; to the Committee on the Judiciary.

By Mr. AKAKA (for himself, Mr. INOUYE, Mr. KENNEDY, and Ms. CANTWELL):

S. 1337. A bill to exempt children of certain Filipino World War II veterans from the numerical limitations on immigrant visas; to the Committee on the Judiciary.

By Mr. CARPER (for himself and Mr. ALEXANDER):

S. 1338. A bill to require the accreditation of English language, and for other purposes; to the Committee on the Judiciary.

By Mrs. HAGAN:

S. 1339. A bill to provide for financial literacy education; to the Committee on Health, Education, Labor, and Pensions.

By Mr. LEAHY (for himself and Mr. CRAPO):

S. 1340. A bill to establish a minimum funding level for programs under the Victims of Crime Act of 1984 for fiscal years 2010 to 2014 that ensures a reasonable growth in victim programs without jeopardizing the long-term sustainability of the Crime Victims Fund; to the Committee on the Judiciary.

By Mr. MENENDEZ:

S. 1341. A bill to amend the Internal Revenue Code of 1986 to impose an excise tax on certain proceeds received on SILO and LILO transactions; to the Committee on Finance.

By Mr. CRAPO (for himself, Mr. BAUCUS, Mr. TESTER, and Mr. RISCH):

S. 1342. A bill to include Idaho and Montana as affected areas for purposes of making claims under the Radiation Exposure Compensation Act (42 U.S.C. 2210 note) based on exposure to atmospheric nuclear testing; to the Committee on the Judiciary.

By Mr. BROWN (for himself, Mr. BENNET, and Mr. CASEY):

S. 1343. A bill to amend the Richard B. Russell National School Lunch Act to improve and expand direct certification procedures for the national school lunch and school breakfast programs, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. VITTER (for himself and Mr. KYL):

S. 1344. A bill to temporarily protect the solvency of the Highway Trust Fund; read the first time.

By Mr. REED (for himself, Mr. GRASSLEY, Mr. AKAKA, Mr. BAYH, Ms. COLLINS, Mr. KERRY, Mr. LAUTENBERG, Mr. LEAHY, Mrs. LINCOLN, Mr. LUGAR, Mrs. MURRAY, Ms. STABENOW, and Mr. WHITEHOUSE):

S. 1345. A bill to aid and support pediatric involvement in reading and education; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DURBIN (for himself, Mr. LEAHY, and Mr. FEINGOLD):

S. 1346. A bill to penalize crimes against humanity and for other purposes; to the Committee on the Judiciary.

By Mr. SCHUMER:

S. 1347. A bill to amend chapter 171 of title 28, United States Code, to allow members of the Armed Forces to sue the United States for damages for certain injuries caused by improper medical care, and for other purposes; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

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

S. Res. 202. A resolution to provide for issuance of a summons and for related procedures concerning the articles of impeachment against Samuel B. Kent; considered and agreed to.

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

S. Res. 203. A resolution to provide for the appointment of a committee to receive and to report evidence with respect to articles of impeachment against Judge Samuel B. Kent; considered and agreed to.

By Mr. VITTER:

S. Res. 204. A resolution designating March 31, 2010, as ''National Congenital Diaphragmatic Hernia Awareness Day''; to the Committee on the Judiciary.

By Ms. STABENOW (for herself and Mr. ISAKSON):

S. Res. 205. A resolution supporting the goals and ideals of African American Bone Marrow Awareness Month; considered and agreed to.

ADDITIONAL COSPONSORS

S. 307

At the request of Mr. WYDEN, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 307, a bill to amend title XVIII of the Social Security Act to provide flexibility in the manner in which beds are counted for purposes of determining whether a hospital may be designated as a critical access hospital under the Medicare program and to exempt from the critical access hospital inpatient bed limitation the number of beds provided for certain veterans.

S. 423

At the request of Mr. AKAKA, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor 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. 451

At the request of Ms. COLLINS, the name of the Senator from South Carolina (Mr. GRAHAM) was added as a cosponsor of S. 451, a bill to require the Secretary of the Treasury to mint coins in commemoration of the centennial of the establishment of the Girl Scouts of the United States of America.

S. 510

At the request of Mr. DURBIN, the name of the Senator from Illinois (Mr. BURRIS) was added as a cosponsor of S. 510, a bill to amend the Federal Food, Drug, and Cosmetic Act with respect to the safety of the food supply.

S. 634

At the request of Mr. HARKIN, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 634, a bill to amend the Elementary and Secondary Education Act of 1965 to improve standards for physical education.

S. 645

At the request of Mrs. LINCOLN, the name of the Senator from Arkansas (Mr. PRYOR) 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. 653

At the request of Mr. CARDIN, the names of the Senator from South Dakota (Mr. JOHNSON), the Senator from Colorado (Mr. UDALL) and the Senator from Delaware (Mr. KAUFMAN) were added as cosponsors of S. 653, a bill to require the Secretary of the Treasury to mint coins in commemoration of the bicentennial of the writing of the Star-Spangled Banner, and for other purposes.

S. 662

At the request of Mr. CONRAD, the names of the Senator from Illinois (Mr. DURBIN) and the Senator from Vermont (Mr. LEAHY) were added as cosponsors of S. 662, a bill to amend title XVIII of the Social Security Act to provide for reimbursement of certified midwife services and to provide for more equitable reimbursement rates for certified nurse-midwife services.

S. 663

At the request of Mr. NELSON of Nebraska, the name of the Senator from Colorado (Mr. BENNET) was added as a cosponsor of S. 663, a bill to amend title 38, United States Code, to direct the Secretary of Veterans Affairs to establish the Merchant Mariner Equity Compensation Fund to provide benefits to certain individuals who served in the United States merchant marine (including the Army Transport Service

and the Naval Transport Service) during World War II.

S. 711

At the request of Mr. BAUCUS, the names of the Senator from Missouri (Mrs. MCCASKILL) and the Senator from Maine (Ms. SNOWE) were added as cosponsors of S. 711, a bill to require mental health screenings for members of the Armed Forces who are deployed in connection with a contingency operation, and for other purposes.

S. 749

At the request of Mr. COCHRAN, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 749, a bill to improve and expand geographic literacy among kindergarten through grade 12 students in the United States by improving professional development programs for kindergarten through grade 12 teachers offered through institutions of higher education.

S. 765

At the request of Mr. NELSON of Nebraska, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of S. 765, a bill to amend the Internal Revenue Code of 1986 to allow the Secretary of the Treasury to not impose a penalty for failure to disclose reportable transactions when there is reasonable cause for such failure, to modify such penalty, and for other purposes.

S. 769

At the request of Mrs. LINCOLN, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 769, a bill to amend title XVIII of the Social Security Act to improve access to, and increase utilization of, bone mass measurement benefits under the Medicare part B program.

S. 819

At the request of Mr. DURBIN, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 819, a bill to provide for enhanced treatment, support, services, and research for individuals with autism spectrum disorders and their families.

S. 846

At the request of Mr. DURBIN, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 846, a bill to award a congressional gold medal to Dr. Muhammad Yunus, in recognition of his contributions to the fight against global poverty.

S. 883

At the request of Mr. KERRY, the name of the Senator from Louisiana (Mr. VITTER) was added as a cosponsor of S. 883, a bill to require the Secretary of the Treasury to mint coins in recognition and celebration of the establishment of the Medal of Honor in 1861, America's highest award for valor in action against an enemy force which can be bestowed upon an individual serving in the Armed Services of the United States, to honor the American military men and women who have been recipients of the Medal of Honor, and to promote awareness of what the Medal of Honor represents and how ordinary Americans, through courage, sacrifice, selfless service and patriotism, can challenge fate and change the course of history.

S. 935

At the request of Mr. CONRAD, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 935, a bill to extend subsections (c) and (d) of section 114 of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110-173) to provide for regulatory stability during the development of facility and patient criteria for long-term care hospitals under the Medicare program, and for other purposes.

S. 970

At the request of Ms. LANDRIEU, the name of the Senator from Montana (Mr. TESTER) was added as a cosponsor of S. 970, a bill to promote and enhance the operation of local building code enforcement administration across the country by establishing a competitive Federal matching grant program.

S. 999

At the request of Mr. BINGAMAN, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 999, a bill to increase the number of well-trained mental health service professionals (including those based in schools) providing clinical mental health care to children and adolescents, and for other purposes.

S. 1026

At the request of Mr. CORNYN, the name of the Senator from New Hampshire (Mr. GREGG) was added as a cosponsor of S. 1026, a bill to amend the Uniformed and Overseas Citizens Absentee Voting Act to improve procedures for the collection and delivery of marked absentee ballots of absent overseas uniformed service voters, and for other purposes.

S. 1067

At the request of Mr. FEINGOLD, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 1067, a bill to support stabilization and lasting peace in northern Uganda and areas affected by the Lord's Resistance Army through development of a regional strategy to support multilateral efforts to successfully protect civilians and eliminate the threat posed by the Lord's Resistance Army and to authorize funds for humanitarian relief and reconstruction, reconciliation, and transitional justice, and for other purposes.

S. 1112

At the request of Mr. DODD, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 1112, a bill to make effective the proposed rule of the Food and Drug Administration relating to sunscreen drug products, and for other purposes.

S. 1230

At the request of Mr. ISAKSON, the names of the Senator from Wyoming (Mr. ENZI) and the Senator from Nebraska (Mr. JOHANNS) were added as cosponsors of S. 1230, a bill to amend the Internal Revenue Code of 1986 to provide a Federal income tax credit for certain home purchases.

S. 1235

At the request of Ms. LANDRIEU, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 1235, a bill to amend the Public Health Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to require that group and individual health insurance coverage and group health plans provide coverage for treatment of a minor child's congenital or developmental deformity or disorder due to trauma, infection, tumor, or disease.

S. 1253

At the request of Mr. CORKER, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of S. 1253, a bill to address reimbursement of certain costs to automobile dealers.

S. 1287

At the request of Mr. MCCAIN, the name of the Senator from Missouri (Mrs. MCCASKILL) was added as a cosponsor of S. 1287, a bill to provide for the audit of financial statements of the Department of Defense for fiscal year 2017 and fiscal years thereafter, and for other purposes.

S. 1304

At the request of Mr. GRASSLEY, the names of the Senator from Maryland (Mr. CARDIN) and the Senator from Massachusetts (Mr. KENNEDY) were added as cosponsors of S. 1304, a bill to restore the economic rights of automobile dealers, and for other purposes.

S.J. RES. 17

At the request of Mr. MCCONNELL, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S.J. Res. 17, a joint resolution approving the renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2003, and for other purposes.

At the request of Mrs. FEINSTEIN, the names of the Senator from Alaska (Mr. BEGICH), the Senator from California (Mrs. BOXER), the Senator from Maryland (Mr. CARDIN), the Senator from Washington (Ms. CANTWELL) and the Senator from Massachusetts (Mr. KENNEDY) were added as cosponsors of S.J. Res. 17, supra.

S. CON. RES. 29

At the request of Mr. REID, his name was added as a cosponsor of S. Con. Res. 29, a concurrent resolution expressing the sense of the Congress that John Arthur ''Jack'' Johnson should receive a posthumous pardon for the racially motivated conviction in 1913 that diminished the athletic, cultural, and historic significance of Jack Johnson and unduly tarnished his reputation.

S. RES. 199

At the request of Mr. KOHL, the names of the Senator from Louisiana

(Ms. LANDRIEU), the Senator from Wisconsin (Mr. FEINGOLD), the Senator from Alaska (Mr. BEGICH), the Senator from Rhode Island (Mr. REED), the Senator from Washington (Mrs. MURRAY), the Senator from North Carolina (Mrs. HAGAN) and the Senator from New York (Mr. SCHUMER) were added as cosponsors of S. Res. 199, a resolution recognizing the contributions of the recreational boating community and the boating industry to the continuing prosperity of the United States.

At the request of Mr. BURR, the names of the Senator from Oklahoma (Mr. INHOFE), the Senator from Maine (Ms. SNOWE), the Senator from Mississippi (Mr. WICKER), the Senator from Louisiana (Mr. VITTER) and the Senator from Tennessee (Mr. CORKER) were added as cosponsors of S. Res. 199, supra.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mrs. GILLIBRAND (for herself, Mr. SCHUMER, Mr. MENENDEZ, and Mr. LAUTENBERG):

S.. 1334. A bill to amend the Public Health Service Act to extend and improve protections and services to individuals directly impacted by the terrorist attack in New York City on September 11, 2001, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mrs. GILLIBRAND. 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. 1334

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 ''James Zadroga 9/11 Health and Compensation 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. Findings.

TITLE I—WORLD TRADE CENTER HEALTH PROGRAM

Sec. 101. World Trade Center Health Program.

''TITLE XXXI—WORLD TRADE CENTER HEALTH PROGRAM

''Subtitle A—Establishment of Program; Advisory and Steering Committees

''Sec. 3101. Establishment of World Trade Center Health Program within NIOSH.
''Sec. 3102. WTC Health Program Scientific/Technical Advisory Committee.
''Sec. 3103. WTC Health Program Steering Committees.
''Sec. 3104. Community education and outreach.
''Sec. 3105. Uniform data collection.
''Sec. 3106. Centers of excellence.
''Sec. 3107. Entitlement authorities.
''Sec. 3108. Definitions.

''Subtitle B—Program of Monitoring, Initial Health Evaluations, and Treatment

''PART 1—FOR WTC RESPONDERS

''Sec. 3111. Identification of eligible WTC responders and provision of WTC-related monitoring services.
''Sec. 3112. Treatment of certified eligible WTC responders for WTC-related health conditions.

''PART 2—COMMUNITY PROGRAM

''Sec. 3121. Identification and initial health evaluation of eligible WTC community members.
''Sec. 3122. Followup monitoring and treatment of certified eligible WTC community members for WTC-related health conditions.
''Sec. 3123. Followup monitoring and treatment of other individuals with WTC-related health conditions.

''PART 3—NATIONAL ARRANGEMENT FOR BENEFITS FOR ELIGIBLE INDIVIDUALS OUTSIDE NEW YORK

''Sec. 3131. National arrangement for benefits for eligible individuals outside New York.

''Subtitle C—Research Into Conditions

''Sec. 3141. Research regarding certain health conditions related to September 11 terrorist attacks in New York City.

''Subtitle D—Programs of the New York City Department of Health and Mental Hygiene

''Sec. 3151. World Trade Center Health Registry.
''Sec. 3152. Mental health services.

TITLE II—SEPTEMBER 11TH VICTIM COMPENSATION FUND OF 2001

Sec. 201. Definitions.
Sec. 202. Extended and expanded eligibility for compensation.
Sec. 203. Requirement to update regulations.
Sec. 204. Limited liability for certain claims.

SEC. 2. FINDINGS.

Congress finds the following:

(1) Thousands of rescue workers who responded to the areas devastated by the terrorist attacks of September 11, 2001, local residents, office and area workers, and school children continue to suffer significant medical problems as a result of compromised air quality and the release of other toxins from the attack sites.

(2) In a September 2006 peer-reviewed study conducted by the World Trade Center Medical Monitoring Program, of 9,500 World Trade Center responders, almost 70 percent of World Trade Center responders had a new or worsened respiratory symptom that developed during or after their time working at the World Trade Center; among the responders who were asymptomatic before September 11, 2001, 61 percent developed respiratory symptoms while working at the World Trade Center; close to 60 percent still had a new or worsened respiratory symptom at the time of their examination; one-third had abnormal pulmonary function tests; and severe respiratory conditions including pneumonia were significantly more common in the 6 months after September 11, 2001 than in the prior 6 months.

(3) An April 2006 study documented that, on average, a New York City firefighter who responded to the World Trade Center has experienced a loss of 12 years of lung capacity.

(4) A peer-reviewed study of residents who lived near the World Trade Center titled ''The World Trade Center Residents' Respiratory Health Study: New Onset Respiratory Symptoms and Pulmonary Function'', found that data demonstrated a three fold increase in new-onset, persistent lower respiratory symptoms in residents near the former World Trade Center as compared to a control population.

(5) Previous research on the health impacts of the devastation caused by the September 11, 2001, terrorist attacks has shown relationships between the air quality from Ground Zero and a host of health impacts, including lower pregnancy rates, higher rates of respiratory and lung disorders, and a variety of post-disaster mental health conditions (including posttraumatic stress disorder) in workers and residents near Ground Zero.

(6) A variety of tests conducted by independent scientists have concluded that significant World Trade Center (WTC) contamination settled in indoor environments surrounding the disaster site. The Environmental Protection Agency's (EPA) cleanup programs for indoor residential spaces, in 2003 and 2005, though limited, are an acknowledgment that indoor contamination continued after the WTC attacks.

(7) At the request of the Department of Energy, the Davis DELTA Group at the University of California conducted outdoor dust sampling in October 2001 at Varick and Houston Streets (approximately 1.2 miles north of Ground Zero) and found that the contamination from the World Trade Center ''outdid even the worst pollution from the Kuwait oil fields fires''. Further, the United States Geological Survey (USGS) reported on November 27, 2001, that dust samples collected from indoor surfaces in this area registered at levels that were ''as caustic as liquid drain cleaners''.

(8) According to both the EPA's own Inspector General's (EPA IG) report of August 21, 2003 and the Governmental Accountability Offices's (GAO) report of September 2007, no comprehensive program has ever been conducted in order to characterize the full extent of WTC contamination, and therefore the full impact of that contamination—geographic or otherwise—remains unknown.

(9) Such reports found that there has never been a comprehensive program to remediate WTC toxins from indoor spaces. Thus, area residents, workers and students may continued to be exposed to WTC contamination in their homes, workplaces and schools.

(10) Because of the failure to release federally appropriated funds for community care, a lack of sufficient outreach, the fact that many community members are receiving care from physicians outside the current City-funded World Trade Center Environmental Health Center program and thus fall outside data collection efforts, and other factors, the number of community members being treated at the World Trade Center Environmental Health Center underrepresents the total number in the community that have been affected by exposure to Ground Zero toxins.

(11) Research by Columbia University's Center for Children's Environmental Health has shown negative health effects on babies born to women living within 2 miles of the World Trade Center in the month following September 11, 2001.

(12) Federal funding allocated for the monitoring of rescue workers' health is not sufficient to ensure the long-term study of health impacts of September 11, 2001.

(13) A significant portion of those who have developed health problems as result of exposures to airborne toxins or other hazards resulting from the September 11, 2001, attacks on the World Trade Center have no health insurance, have lost their health insurance as a result of the attacks, or have inadequate health insurance.

(14) The Federal program to provide medical treatments to those who responded to

the September 11, 2001, aftermath, and who continue to experience health problems as a result, was finally established more than five years after the attacks, but has no certain long-term funding.

(15) Rescue workers and volunteers seeking workers' compensation have reported that their applications have been denied, delayed for months, or redirected, instead of receiving assistance in a timely and supportive manner.

(16) A February 2007 report released by the City of New York estimated that approximately 410,000 people were the most heavily exposed to the environmental hazards and trauma of the September 11, 2001, terrorist attacks. More than 30 percent of the Fire Department of the City of New York first responders were still experiencing some respiratory symptoms more than five years after the attacks and, according to the report, 59 percent of those seen by the WTC Environmental Health Center at Bellevue Hospital (which serves community members) are without insurance and 65 percent have incomes of less than $15,000 per year. The report also found a need to continue and expand mental health services.

(17) Since the 5th anniversary of the attack (September 11, 2006), hundreds of workers a month have been signing up with the monitoring and treatment programs.

(18) In April 2008, the Department of Health and Human Services reported to Congress that in fiscal year 2007 11,359 patients received medical treatment in the existing WTC Responder Medical and Treatment program for WTC-related health problems, and that number of responders who need treatment and the severity of health problems is expected to increase.

(19) The September 11 Victim Compensation Fund of 2001 was established to provide compensation to individuals who were physically injured or killed as a result of the terrorist-related aircraft crashes of September 11, 2001.

(20) The deadline for filing claims for compensation under the Victim Compensation Fund was December 22, 2003.

(21) Some individuals did not know they were eligible to file claims for compensation for injuries or did not know they had suffered physical harm as a result of the terrorist-related aircraft crashes until after the December 22, 2003, deadline.

(22) Further research is needed to evaluate more comprehensively the extent of the health impacts of September 11, 2001, including research for emerging health problems such as cancer, which have been predicted.

(23) Research is needed regarding possible treatment for the illnesses and injuries of September 11, 2001.

(24) The Federal response to medical and financial issues arising from the September 11, 2001, response efforts needs a comprehensive, coordinated long-term response in order to meet the needs of all the individuals who were exposed to the toxins of Ground Zero and are suffering health problems from the disaster.

(25) The failure to extend the appointment of Dr. John Howard as Director of the National Institute for Occupational Safety and Health in July 2008 is not in the interests of the administration of such Institute nor the continued operation of the World Trade Center Medical Monitoring and Treatment Program which he has headed, and the Secretary of Health and Human Services should reconsider extending such appointment.

TITLE I—WORLD TRADE CENTER HEALTH PROGRAM

SEC. 101. WORLD TRADE CENTER HEALTH PROGRAM.

The Public Health Service Act (42 U.S.C. 201 et seq.) is amended by adding at the end the following new title:

"TITLE XXXI—WORLD TRADE CENTER HEALTH PROGRAM

"Subtitle A—Establishment of Program; Advisory and Steering Committees

"SEC. 3101. ESTABLISHMENT OF WORLD TRADE CENTER HEALTH PROGRAM WITHIN NIOSH.

''(a) IN GENERAL.—There is hereby established within the National Institute for Occupational Safety and Health a program to be known as the 'World Trade Center Health Program' (in this title referred to as the 'WTC program') to provide—

''(1) medical monitoring and treatment benefits to eligible emergency responders and recovery and clean-up workers (including those who are Federal employees) who responded to the September 11, 2001, terrorist attacks on the World Trade Center; and

''(2) initial health evaluation, monitoring, and treatment benefits to residents and other building occupants and area workers in New York City who were directly impacted and adversely affected by such attacks.

''(b) COMPONENTS OF PROGRAM.—The WTC program includes the following components:

''(1) MEDICAL MONITORING FOR RESPONDERS.—Medical monitoring under section 3111, including clinical examinations and long-term health monitoring and analysis for individuals who were likely to have been exposed to airborne toxins that were released, or to other hazards, as a result of the September 11, 2001, terrorist attacks on the World Trade Center.

''(2) INITIAL HEALTH EVALUATION FOR COMMUNITY MEMBERS.—An initial health evaluation under section 3121, including an evaluation to determine eligibility for followup monitoring and treatment.

''(3) FOLLOW-UP MONITORING AND TREATMENT FOR WTC-RELATED CONDITIONS FOR RESPONDERS AND COMMUNITY MEMBERS.—Provision under sections 3112, 3122, and 3123 of follow-up monitoring and treatment and payment, subject to the provisions of subsection (d), for all medically necessary health and mental health care expenses (including necessary prescription drugs) of individuals with a WTC-related health condition.

''(4) OUTREACH.—Establishment under section 3104 of an outreach program to potentially eligible individuals concerning the benefits under this title.

''(5) UNIFORM DATA COLLECTION.—Collection under section 3105 of health and mental health data on individuals receiving monitoring or treatment benefits, using a uniform system of data collection.

''(6) RESEARCH ON WTC CONDITIONS.—Establishment under subtitle C of a research program on health conditions resulting from the September 11, 2001, terrorist attacks on the World Trade Center.

''(c) NO COST-SHARING.—Monitoring and treatment benefits and initial health evaluation benefits are provided under subtitle B without any deductibles, copayments, or other cost-sharing to an eligible WTC responder or any eligible WTC community member.

''(d) PAYOR.—

''(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the cost of monitoring and treatment benefits and initial health evaluation benefits provided under subtitle B shall be paid for by the WTC program.

''(2) WORKERS' COMPENSATION PAYMENT.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), payment for treatment under subtitle B of a WTC-related health condition in an individual that is work-related shall be reduced or recouped to the extent that the Secretary determines that payment has been made, or can reasonably be expected to be made, under a workers' compensation law or plan of the United States or a State, or other work-related injury or illness benefit plan of the employer of such individual, for such treatment. The provisions of clauses (iii), (iv), (v), and (vi) of paragraph (2)(B) of section 1862(b) of the Social Security Act (42 U.S.C. 1395y(b)(2)) and paragraph (3) of such section shall apply to the recoupment under this paragraph of a payment to the WTC program with respect to a workers' compensation law or plan, or other work-related injury or illness plan of the employer involved, and such individual in the same manner as such provisions apply to the reimbursement of a payment under section 1862(b)(2) of such Act to the Secretary, with respect to such a law or plan and an individual entitled to benefits under title XVIII of such Act.

''(B) EXCEPTION.—If the WTC Program Administrator certifies that the City of New York has contributed the matching contribution required under section 3106(a)(3) for a 12-month period (specified by the WTC Program Administrator), subparagraph (A) shall not apply for that 12-month period with respect to a workers' compensation law or plan, including line of duty compensation, to which the City is obligated to make payments.

''(3) HEALTH INSURANCE COVERAGE.—

''(A) IN GENERAL.—In the case of an individual who has a WTC-related health condition that is not work-related and has health coverage for such condition through any public or private health plan, the provisions of section 1862(b) of the Social Security Act (42 U.S.C. 1395y(b)) shall apply to such a health plan and such individual in the same manner as they apply to a group health plan and an individual entitled to benefits under title XVIII of such Act pursuant to section 226(a). Any costs for items and services covered under such plan that are not reimbursed by such health plan, due to the application of deductibles, copayments, coinsurance, other cost-sharing, or otherwise, are reimbursable under this title to the extent that they are covered under the WTC program.

''(B) RECOVERY BY INDIVIDUAL PROVIDERS.—Nothing in subparagraph (A) shall be construed as requiring an entity providing monitoring and treatment under this title to seek reimbursement under a health plan with which the entity has no contract for reimbursement

''(4) WORK-RELATED DESCRIBED.—For the purposes of this subsection, a WTC-related health condition shall be treated as a condition that is work-related if—

''(A) the condition is diagnosed in an eligible WTC responder, or in an individual who qualifies as an eligible WTC community member on the basis of being a rescue, recovery, or clean-up worker; or

''(B) with respect to the condition the individual has filed and had established a claim under a workers' compensation law or plan of the United States or a State, or other work-related injury or illness benefit plan of the employer of such individual.

''(e) QUALITY ASSURANCE AND MONITORING OF CLINICAL EXPENDITURES.—

''(1) QUALITY ASSURANCE.—The WTC Program Administrator, working with the Clinical Centers of Excellence, shall develop and implement a quality assurance program for the medical monitoring and treatment delivered by such Centers of Excellence and any other participating health care providers. Such program shall include—

''(A) adherence to medical monitoring and treatment protocols;

''(B) appropriate diagnostic and treatment referrals for participants;

''(C) prompt communication of test results to participants; and

''(D) such other elements as the Administrator specifies in consultation with the Clinical Centers of Excellence.

''(2) FRAUD PREVENTION.—The WTC Program Administrator shall develop and implement a program to review the program's health care expenditures to detect fraudulent or duplicate billing and payment for inappropriate services. Such program shall be similar to current methods used in connection with the Medicare program under title XVIII of the Social Security Act. This title is a Federal health care program (as defined in section 1128B(f) of such Act) and is a health plan (as defined in section 1128C(c) of such Act) for purposes of applying sections 1128 through 1128E of such Act.

''(f) WTC PROGRAM ADMINISTRATION.—The WTC program shall be administered by the Director of the National Institute for Occupational Safety and Health, or a designee of such Director.

''(g) ANNUAL PROGRAM REPORT.—

''(1) IN GENERAL.—Not later than 6 months after the end of each fiscal year in which the WTC program is in operation, the WTC Program Administrator shall submit an annual report to the Congress on the operations of this title for such fiscal year and for the entire period of operation of the program.

''(2) CONTENTS OF REPORT.—Each annual report under paragraph (1) shall include the following:

''(A) ELIGIBLE INDIVIDUALS.—Information for each clinical program described in paragraph (3)—

''(i) on the number of individuals who applied for certification under subtitle B and the number of such individuals who were so certified;

''(ii) of the individuals who were certified, on the number who received medical monitoring under the program and the number of such individuals who received medical treatment under the program;

''(iii) with respect to individuals so certified who received such treatment, on the WTC-related health conditions for which the individuals were treated; and

''(iv) on the projected number of individuals who will be certified under subtitle B in the succeeding fiscal year.

''(B) MONITORING, INITIAL HEALTH EVALUATION, AND TREATMENT COSTS.—For each clinical program so described—

''(i) information on the costs of monitoring and initial health evaluation and the costs of treatment and on the estimated costs of such monitoring, evaluation, and treatment in the succeeding fiscal year; and

''(ii) an estimate of the cost of medical treatment for WTC-related health conditions that have been paid for or reimbursed by workers' compensation, by public or private health plans, or by the City of New York under section 3106(a)(3).

''(C) ADMINISTRATIVE COSTS.—Information on the cost of administering the program, including costs of program support, data collection and analysis, and research conducted under the program.

''(D) ADMINISTRATIVE EXPERIENCE.—Information on the administrative performance of the program, including—

''(i) the performance of the program in providing timely evaluation of and treatment to eligible individuals; and

''(ii) a list of the Clinical Centers of Excellence and other providers that are participating in the program.

''(E) SCIENTIFIC REPORTS.—A summary of the findings of any new scientific reports or studies on the health effects associated with WTC exposures, including the findings of research conducted under section 3141(a).

''(F) ADVISORY COMMITTEE RECOMMENDATIONS.—A list of recommendations by the WTC Scientific/Technical Advisory Committee on additional WTC program eligibility criteria and on additional WTC-related health conditions and the action of the WTC Program Administrator concerning each such recommendation.

''(3) SEPARATE CLINICAL PROGRAMS DESCRIBED.—In paragraph (2), each of the following shall be treated as a separate clinical program of the WTC program:

''(A) FDNY RESPONDERS.—The benefits provided for eligible WTC responders described in section 3106(b)(1)(A).

''(B) OTHER ELIGIBLE WTC RESPONDERS.—The benefits provided for eligible WTC responders not described in subparagraph (A).

''(C) ELIGIBLE WTC COMMUNITY MEMBERS.—The benefits provided for eligible WTC community members in section 3106(b)(1)(C).

''(h) NOTIFICATION TO CONGRESS WHEN REACH 80 PERCENT OF ELIGIBILITY NUMERICAL LIMITS.—The WTC Program Administrator shall promptly notify the Congress—

''(1) when the number of certifications for eligible WTC responders subject to the limit established under section 3111(a)(5) has reached 80 percent of such limit; and

''(2) when the number of certifications for eligible WTC community members subject to the limit established under section 3121(a)(5) has reached 80 percent of such limit.

''(i) GAO REPORT.—Not later than 3 years after the date of the enactment of the James Zadroga 9/11 Health and Compensation Act of 2009, the Comptroller General of the United States shall submit to the Congress a report on the costs of the monitoring and treatment programs provided under this title.

''(j) NYC RECOMMENDATIONS.—The City of New York may make recommendations to the WTC Program Administrator on ways to improve the monitoring and treatment programs under this title for both eligible WTC responders and eligible WTC community members.

''SEC. 3102. WTC HEALTH PROGRAM SCIENTIFIC/TECHNICAL ADVISORY COMMITTEE.

''(a) ESTABLISHMENT.—The WTC Program Administrator shall establish an advisory committee to be known as the WTC Health Program Scientific/Technical Advisory Committee (in this section referred to as the 'Advisory Committee') to review scientific and medical evidence and to make recommendations to the Administrator on additional WTC program eligibility criteria and on additional WTC-related health conditions.

''(b) COMPOSITION.—The WTC Program Administrator shall appoint the members of the Advisory Committee and shall include at least—

''(1) 4 occupational physicians, at least two of whom have experience treating WTC rescue and recovery workers;

''(2) 1 physician with expertise in pulmonary medicine;

''(3) 2 environmental medicine or environmental health specialists;

''(4) 2 representatives of eligible WTC responders;

''(5) 2 representatives of WTC community members;

''(6) an industrial hygienist;

''(7) a toxicologist;

''(8) an epidemiologist; and

''(9) a mental health professional.

''(c) MEETINGS.—The Advisory Committee shall meet at such frequency as may be required to carry out its duties.

''(d) REPORTS.—The WTC Program Administrator shall provide for publication of recommendations of the Advisory Committee on the public website established for the WTC program.

''(e) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary, not to exceed $100,000, for each fiscal year beginning with fiscal year 2009.

''(f) DURATION.—Notwithstanding any other provision of law, the Advisory Committee shall continue in operation during the period in which the WTC program is in operation.

''(g) APPLICATION OF FACA.—Except as otherwise specifically provided, the Advisory Committee shall be subject to the Federal Advisory Committee Act.

''SEC. 3103. WTC HEALTH PROGRAM STEERING COMMITTEES.

''(a) ESTABLISHMENT.—The WTC Program Administrator shall establish two steering committees (each in this section referred to as a 'Steering Committee') as follows:

''(1) WTC RESPONDERS STEERING COMMITTEE.—One steering committee, to be known as the WTC Responders Steering Committee, for the purpose of facilitating the coordination of medical monitoring and treatment programs for the eligible WTC responders under part 1 of subtitle B.

''(2) WTC COMMUNITY PROGRAM STEERING COMMITTEE.—One steering committee, to be known as the WTC Community Program Steering Committee, for the purpose of facilitating the coordination of initial health evaluations, monitoring, and treatment programs for eligible WTC community members under part 2 of subtitle B.

''(b) MEMBERSHIP.—

''(1) INITIAL MEMBERSHIP OF WTC RESPONDERS STEERING COMMITTEE.—The WTC Responders Steering Committee shall initially be composed of members of the WTC Monitoring and Treatment Program Steering Committee (as in existence on the day before the date of the enactment of this title). In addition, the committee membership shall include—

''(A) a representative of the Police Commissioner of the City of New York;

''(B) a representative of the Department of Health of the City of New York;

''(C) a representative of another agency of the City of New York, selected by the Mayor of New York City, which had a large number of non-uniformed City workers who responded to the September 11, 2001, terrorist attacks on the World Trade Center; and

''(D) three representatives of eligible WTC responders;

in order that eligible WTC responders constitute half the members of the Steering Committee.

''(2) INITIAL MEMBERSHIP OF WTC COMMUNITY PROGRAM STEERING COMMITTEE.—

''(A) IN GENERAL.—The WTC Community Program Steering Committee shall initially be composed of members of the WTC Environmental Health Center Community Advisory Committee (as in existence on the day before the date of the enactment of this title) and shall initially have, as voting members, the following:

''(i) 11 representatives of the affected populations of residents, students, area workers, and other community members.

''(ii) The Medical Director of the WTC Environmental Health Center.

''(iii) The Executive Director of the WTC Environmental Health Center.

''(iv) Three physicians, one each representing the three WTC Environmental Health Center treatment sites of Bellevue Hospital Center, Gouverneur Healthcare Services, and Elmhurst Hospital Center.

''(v) Five specialists with WTC related expertise or experience in treating non-responder WTC diseases, such as a pediatrician, an epidemiologist, a psychiatrist or psychologist, an environmental/occupational specialist, or a social worker from a WTC

Environmental Health Center treatment site, or other relevant specialists.

''(vi) A representative of the Department of Health and Mental Hygiene of the City of New York.

''(B) APPOINTMENTS.—

''(i) WTC EHC COMMUNITY ADVISORY COMMITTEE.—The WTC Environmental Health Center Community Advisory Committee as in existence on the date of the enactment of this title shall nominate members for positions described in subparagraph (A)(i).

''(ii) NYC HEALTH AND HOSPITALS CORPORATION.—The New York City Health and Hospitals Corporation shall nominate members for positions described in clauses (iv) and (v) of subparagraph (A).

''(iii) TIMING.—Nominations under clauses (i) and (ii) shall be recommended to the WTC Program Administrator not later than 60 days after the date of the enactment of this title.

''(iv) APPOINTMENT.—The WTC Program Administrator shall appoint members of the WTC Community Program Steering Committee not later than 90 days after the date of the enactment of this title.

''(v) GENERAL REPRESENTATIVES.—Of the members appointed under subparagraph (A)(i)—

''(I) the representation shall reflect the broad and diverse WTC-affected populations and constituencies and the diversity of impacted neighborhoods, including residents, hard-to-reach populations, students, area workers, parents of school-aged students, community-based organizations, Community Boards, WTC Environmental Health Center patients, labor unions, and labor advocacy organizations; and

''(II) no one individual organization shall have more than one representative.

''(3) ADDITIONAL APPOINTMENTS.—Each Steering Committee may appoint, if approved by a majority of voting members of the Committee, additional members to the Committee.

''(4) VACANCIES.—A vacancy in a Steering Committee shall be filled by the Steering Committee, subject to the approval of the WTC Program Administrator, so long as—

''(A) in the case of the WTC Responders Steering Committee—

''(i) the composition of the Steering Committee includes representatives of eligible WTC responders and representatives of each Clinical Center of Excellence and each Coordinating Center of Excellence that serves eligible WTC responders; and

''(ii) such composition has eligible WTC responders constituting half of the membership of the Steering Committee; or

''(B) in the case of the WTC Community Program Steering Committee—

''(i) the composition of the Committee includes representatives of eligible WTC community members and representatives of each Clinical Center of Excellence and each Coordinating Center of Excellence that serves eligible WTC community members; and

''(ii) the nominating process is consistent with paragraph (2)(B).

''(5) CO-CHAIRS OF WTC COMMUNITY PROGRAM STEERING COMMITTEE.—The WTC Community Program Steering Committee shall have two Co-Chairs as follows:

''(A) COMMUNITY/LABOR CO-CHAIR.—A Community/Labor Co-Chair who shall be chosen by the community and labor-based members of the Steering Committee.

''(B) ENVIRONMENTAL HEALTH CLINIC CO-CHAIR.—A WTC Environmental Health Clinic Co-Chair who shall be chosen by the WTC Environmental Health Center members on the Steering Committee.

''(c) RELATION TO FACA.—Each Steering Committee shall not be subject to the Federal Advisory Committee Act.

''(d) MEETINGS.—Each Steering Committee shall meet at such frequency necessary to carry out its duties, but not less than 4 times each calendar year and at least two such meetings each year shall be a joint meeting with the voting membership of the other Steering Committee for the purpose of exchanging information regarding the WTC program.

''(e) DURATION.—Notwithstanding any other provision of law, each Steering Committee shall continue in operation during the period in which the WTC program is in operation.

''SEC. 3104. COMMUNITY EDUCATION AND OUTREACH.

''(a) IN GENERAL.—The WTC Program Administrator shall institute a program that provides education and outreach on the existence and availability of services under the WTC program. The outreach and education program—

''(1) shall include—

''(A) the establishment of a public website with information about the WTC program;

''(B) meetings with potentially eligible populations;

''(C) development and dissemination of outreach materials informing people about the WTC program; and

''(D) the establishment of phone information services; and

''(2) shall be conducted in a manner intended—

''(A) to reach all affected populations; and

''(B) to include materials for culturally and linguistically diverse populations.

''(b) PARTNERSHIPS.—To the greatest extent possible, in carrying out this section, the WTC Program Administrator shall enter into partnerships with local governments and organizations with experience performing outreach to the affected populations, including community and labor-based organizations.

''SEC. 3105. UNIFORM DATA COLLECTION.

''(a) IN GENERAL.—The WTC Program Administrator shall provide for the uniform collection of data (and analysis of data and regular reports to the Administrator) on the utilization of monitoring and treatment benefits provided to eligible WTC responders and eligible WTC community members, the prevalence of WTC-related health conditions, and the identification of new WTC-related health conditions. Such data shall be collected for all individuals provided monitoring or treatment benefits under subtitle B and regardless of their place of residence or Clinical Center of Excellence through which the benefits are provided.

''(b) COORDINATING THROUGH CENTERS OF EXCELLENCE.—Each Clinical Center of Excellence shall collect data described in subsection (a) and report such data to the corresponding Coordinating Center of Excellence for analysis by such Coordinating Center of Excellence.

''(c) PRIVACY.—The data collection and analysis under this section shall be conducted in a manner that protects the confidentiality of individually identifiable health information consistent with applicable legal requirements.

''SEC. 3106. CENTERS OF EXCELLENCE.

''(a) IN GENERAL.—

''(1) CONTRACTS WITH CLINICAL CENTERS OF EXCELLENCE.—The WTC Program Administrator shall enter into contracts with Clinical Centers of Excellence specified in subsection (b)(1)—

''(A) for the provision of monitoring and treatment benefits and initial health evaluation benefits under subtitle B;

''(B) for the provision of outreach activities to individuals eligible for such monitoring and treatment benefits, for initial health evaluation benefits, and for follow-up to individuals who are enrolled in the monitoring program;

''(C) for the provision of counseling for benefits under subtitle B, with respect to WTC-related health conditions, for individuals eligible for such benefits;

''(D) for the provision of counseling for benefits for WTC-related health conditions that may be available under workers' compensation or other benefit programs for work-related injuries or illnesses, health insurance, disability insurance, or other insurance plans or through public or private social service agencies and assisting eligible individuals in applying for such benefits;

''(E) for the provision of translational and interpretive services as for program participants who are not English language proficient; and

''(F) for the collection and reporting of data in accordance with section 3105.

''(2) CONTRACTS WITH COORDINATING CENTERS OF EXCELLENCE.—The WTC Program Administrator shall enter into contracts with Coordinating Centers of Excellence specified in subsection (b)(2)—

''(A) for receiving, analyzing, and reporting to the WTC Program Administrator on data, in accordance with section 3105, that has been collected and reported to such Coordinating Centers by the corresponding Clinical Centers of Excellence under subsection (d)(3);

''(B) for the development of medical monitoring, initial health evaluation, and treatment protocols, with respect to WTC-related health conditions;

''(C) for coordinating the outreach activities conducted under paragraph (1)(B) by each corresponding Clinical Center of Excellence;

''(D) for establishing criteria for the credentialing of medical providers participating in the nationwide network under section 3131;

''(E) for coordinating and administrating the activities of the WTC Health Program Steering Committees established under section 3103(a); and

''(F) for meeting periodically with the corresponding Clinical Centers of Excellence to obtain input on the analysis and reporting of data collected under subparagraph (A) and on the development of medical monitoring, initial health evaluation, and treatment protocols under subparagraph (B).

The medical providers under subparagraph (D) shall be selected by the WTC Program Administrator on the basis of their experience treating or diagnosing the medical conditions included in the list of identified WTC-related health conditions for responders and of identified WTC-related health conditions for community members.

''(3) REQUIRED PARTICIPATION BY NEW YORK CITY IN MONITORING AND TREATMENT PROGRAM AND COSTS.—

''(A) IN GENERAL.—In order for New York City, any agency or Department thereof, or the New York City Health and Hospitals Corporation to qualify for a contract for the provision of monitoring and treatment benefits and other services under this section, New York City is required to contribute a matching amount of 20 percent of the amount of the covered monitoring and treatment payment (as defined in subparagraph (B)).

''(B) COVERED MONITORING AND TREATMENT PAYMENT DEFINED.—For the purposes of this paragraph, the term 'covered monitoring and treatment payment' means payment under paragraphs (1) and (2) including under each such paragraph as applied under sections 3121(b) and 3122(a) for WTC community members, and section 3123 for other individuals with WTC-related health conditions, and reimbursement under section 3106(c)(1)(C) for

items and services furnished by a Clinical Center of Excellence or Coordinating Center of Excellence, after the application of paragraphs (2) and (3) of section 3101(d).

''(C) PAYMENT OF NEW YORK CITY SHARE OF MONITORING AND TREATMENT COSTS.—The WTC Program Administrator shall—

''(i) bill the amount specified in subparagraph (A) directly to New York City; and

''(ii) certify periodically, for purposes of section 3101(d)(2), whether or not New York City has paid the amount so billed.

''(D) LIMITATION ON REQUIRED AMOUNT.—In no case is New York City required under this paragraph to contribute more than a total of $250,000,000 over any 10-year period.

''(b) CENTERS OF EXCELLENCE DEFINED.—

''(1) CLINICAL CENTER OF EXCELLENCE.—In this title, the term 'Clinical Center of Excellence' means the following:

''(A) FOR FDNY RESPONDERS.—With respect to an eligible WTC responder who responded to the 9/11 attacks as an employee of the Fire Department of the City of New York and who—

''(i) is an active employee of such Department—

''(I) with respect to monitoring, such Fire Department; and

''(II) with respect to treatment, such Fire Department (or such entity as has entered into a contract with the Fire Department for treatment of such responders) or any other Clinical Center of Excellence described in subparagraph (B), (C), or (D); or

''(ii) is not an active employee of such Department, such Fire Department (or such entity as has entered into a contract with the Fire Department for monitoring or treatment of such responders) or any other Clinical Center of Excellence described in subparagraph (B), (C), or (D).

''(B) OTHER ELIGIBLE WTC RESPONDERS.—With respect to other eligible WTC responders, whether or not the responders reside in the New York Metropolitan area, the Mt. Sinai-coordinated consortium, Queens College, State University of New York at Stony Brook, University of Medicine and Dentistry of New Jersey, and Bellevue Hospital.

''(C) WTC COMMUNITY MEMBERS.—With respect to eligible WTC community members, whether or not the members reside in the New York Metropolitan area, the World Trade Center Environmental Health Center at Bellevue Hospital and such hospitals or other facilities, including but not limited to those within the New York City Health and Hospitals Corporation, as are identified by the WTC Program Administrator.

''(D) ALL ELIGIBLE WTC RESPONDERS AND ELIGIBLE WTC COMMUNITY MEMBERS.—With respect to all eligible WTC responders and eligible WTC community members, such other hospitals or other facilities as are identified by the WTC Program Administrator.

The WTC Program Administrator shall limit the number of additional Centers of Excellence identified under subparagraph (D) to ensure that the participating centers have adequate experience in the treatment and diagnosis of identified WTC-related health conditions.

''(2) COORDINATING CENTER OF EXCELLENCE.—In this title, the term 'Coordinating Center of Excellence' means the following:

''(A) FOR FDNY RESPONDERS.—With respect to an eligible WTC responder who responded to the 9/11 attacks as an employee of the Fire Department of the City of New York, such Fire Department.

''(B) OTHER WTC RESPONDERS.—With respect to other eligible WTC responders, the Mt. Sinai-coordinated consortium.

''(C) WTC COMMUNITY MEMBERS.—With respect to eligible WTC community members, the World Trade Center Environmental Health Center at Bellevue Hospital.

''(3) CORRESPONDING CENTERS.—In this title, a Clinical Center of Excellence and a Coordinating Center of Excellence shall be treated as 'corresponding' to the extent that such Clinical Center and Coordinating Center serve the same population group.

''(c) REIMBURSEMENT FOR NON-TREATMENT, NON-MONITORING PROGRAM COSTS.—A Clinical or Coordinating Center of Excellence with a contract under this section shall be reimbursed for the costs of such Center in carrying out the activities described in subsection (a), other than those described in subsection (a)(1)(A), subject to the provisions of section 3101(d), as follows:

''(1) CLINICAL CENTERS OF EXCELLENCE.—For carrying out subparagraphs (B) through (F) of subsection (a)(1)—

''(A) CLINICAL CENTER FOR FDNY RESPONDERS IN NEW YORK.—The Clinical Center of Excellence for FDNY responders in New York specified in subsection (b)(1)(A) shall be reimbursed—

''(i) in the first year of the contract under this section, $600 per certified eligible WTC responder in the medical treatment program, and $300 per certified eligible WTC responder in the monitoring program; and

''(ii) in each subsequent contract year, subject to paragraph (3), at the rates specified in this subparagraph for the previous contract year adjusted by the WTC Program Administrator to reflect the rate of medical care inflation during the previous contract year.

''(B) CLINICAL CENTERS SERVING OTHER ELIGIBLE WTC RESPONDERS IN NEW YORK.—A Clinical Center of Excellence for other WTC responders in New York specified in subsection (b)(1)(B) shall be reimbursed the amounts specified in subparagraph (A).

''(C) CLINICAL CENTERS SERVING WTC COMMUNITY MEMBERS.—A Clinical Center of Excellence for eligible WTC community members in New York specified in subsection (b)(1)(C) shall be reimbursed—

''(i) in the first year of the contract under this section, for each certified eligible WTC community member in a medical treatment program enrolled at a non-hospital-based facility, $600, and for each certified eligible WTC community member in a medical treatment program enrolled at a hospital-based facility, $300; and

''(ii) in each subsequent contract year, subject to paragraph (3), at the rates specified in this subparagraph for the previous contract year adjusted by the WTC Program Administrator to reflect the rate of medical care inflation during the previous contract year.

''(D) OTHER CLINICAL CENTERS.—A Clinical Center of Excellence for other providers not described in a previous subparagraph shall be reimbursed at a rate set by the WTC Program Administrator.

''(E) REIMBURSEMENT RULES.—The reimbursement provided under subparagraphs (A), (B), and (C) shall be made for each certified eligible WTC responder and for each WTC community member in the WTC program per year that the member receives such services, regardless of the volume or cost of services required.

''(2) COORDINATING CENTERS OF EXCELLENCE.—A Coordinating Center of Excellence specified in section (a)(2) shall be reimbursed for the provision of services set forth in this section at such levels as are established by the WTC Program Administrator.

''(3) REVIEW OF RATES.—

''(A) INITIAL REVIEW.—Before the end of the third contract year of the WTC program, the WTC Program Administrator shall conduct a review to determine whether the reimbursement rates set forth in this subsection provide fair and appropriate reimbursement for such program services. Based on such review, the Administrator may, by rule beginning with the fourth contract year, modify such rates, taking into account a reasonable and fair rate for the services being provided.

''(B) SUBSEQUENT REVIEWS.—After the fourth contract year, the WTC Program Administrator shall conduct periodic reviews to determine whether the reimbursement rates in effect under this subsection provide fair and appropriate reimbursement for such program services. Based upon such a review, the Administrator may by rule modify such rates, taking into account a reasonable and fair rate for the services being provided.

''(C) GAO REVIEW.—The Comptroller General of the United States shall review the WTC Program Administrator's determinations regarding fair and appropriate reimbursement for program services under this paragraph.

''(d) REQUIREMENTS.—The WTC Program Administrator shall not enter into a contract with a Clinical Center of Excellence under subsection (a)(1) unless—

''(1) the Center establishes a formal mechanism for consulting with and receiving input from representatives of eligible populations receiving monitoring and treatment benefits under subtitle B from such Center;

''(2) the Center provides for the coordination of monitoring and treatment benefits under subtitle B with routine medical care provided for the treatment of conditions other than WTC-related health conditions;

''(3) the Center collects and reports to the corresponding Coordinating Center of Excellence data in accordance with section 3105;

''(4) the Center has in place safeguards against fraud that are satisfactory to the Administrator;

''(5) the Center agrees to treat or refer for treatment all individuals who are eligible WTC responders or eligible WTC community members with respect to such Center who present themselves for treatment of a WTC-related health condition;

''(6) the Center has in place safeguards to ensure the confidentiality of an individual's individually identifiable health information, including requiring that such information not be disclosed to the individual's employer without the authorization of the individual;

''(7) the Center provides assurances that the amounts paid under subsection (c)(1) are used only for costs incurred in carrying out the activities described in subsection (a), other than those described in subsection (a)(1)(A); and

''(8) the Center agrees to meet all the other applicable requirements of this title, including regulations implementing such requirements.

''(e) NYC RIGHT OF INSPECTION AND AUDIT.—

''(1) IN GENERAL.—The City of New York, for any program under this title for which the City contributes a matching amount pursuant to subsection (a)(3)(C), shall have the right to, independently but in coordination with the WTC Program Administrator—

''(A) inspect or otherwise evaluate the quality, appropriateness, and timeliness of services provided to recipients of assistance under a contract under such program; and

''(B) audit and inspect any books and records of any Clinical Center of Excellence or Coordinating Center of Excellence that pertain to—

''(i) the ability of the Center of Excellence to provide services to program recipients under the contract; or

''(ii) expenditures made utilizing City funds.

''(2) MEMORANDUM OF UNDERSTANDING.—The WTC Program Administrator shall enter into a memorandum of understanding with the City of New York setting forth the terms and conditions of how the inspections and audits conducted by the City under paragraph (1)

shall be carried out. The memorandum of understanding shall include provisions requiring that any audits conducted by the City of New York under paragraph (1) will be done in a manner to protect the confidentiality of program participants and in accordance with the Health Insurance Portability and Accountability Act of 1996 and other applicable Federal and State medical confidentiality requirements.

"SEC. 3107. ENTITLEMENT AUTHORITIES.

''Subject to subsections (b)(4)(C) and (c)(4) of section 3112—

''(1) subtitle B constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide for the payment for monitoring, initial health evaluations, and treatment in accordance with such subtitle; and

''(2) section 3106(c) constitutes such budget authority and represents the obligation of the Federal Government to provide for the payment described in such section.

"SEC. 3108. DEFINITIONS.

''In this title:

''(1) The term 'aggravating' means, with respect to a health condition, a health condition that existed on September 11, 2001, and that, as a result of exposure to airborne toxins, any other hazard, or any other adverse condition resulting from the September 11, 2001, terrorist attacks on the World Trade Center, requires medical treatment that is (or will be) in addition to, more frequent than, or of longer duration than the medical treatment that would have been required for such condition in the absence of such exposure.

''(2) The terms 'certified eligible WTC responder' and 'certified eligible WTC community member' mean an individual who has been certified as an eligible WTC responder under section 3111(a)(4) or an eligible WTC community member under section 3121(a)(4), respectively.

''(3) The terms 'Clinical Center of Excellence' and 'Coordinating Center of Excellence' have the meanings given such terms in section 3106(b).

''(4) The term 'current consortium arrangements' means the arrangements as in effect on the date of the enactment of this title between the National Institute for Occupational Safety and Health and the Mt. Sinai-coordinated consortium and the Fire Department of the City of New York.

''(5) The terms 'eligible WTC responder' and 'eligible WTC community member' are defined in sections 3111(a) and 3121(a), respectively.

''(6) The term 'initial health evaluation' includes, with respect to an individual, a medical and exposure history, a physical examination, and additional medical testing as needed to evaluate whether the individual has a WTC-related health condition and is eligible for treatment under the WTC program.

''(7) The term 'list of identified WTC-related health conditions' means—

''(A) for eligible WTC responders, the identified WTC-related health conditions for eligible WTC responders under paragraph (3) or (4) of section 3112(a); or

''(B) for eligible WTC community members, the identified WTC-related health conditions for WTC community members under paragraph (1) or (2) of section 3122(b).

''(8) The term 'Mt.-Sinai-coordinated consortium' means the consortium coordinated by Mt. Sinai hospital in New York City that coordinates the monitoring and treatment under the current consortium arrangements for eligible WTC responders other than with respect to those covered under the arrangement with the Fire Department of the City of New York.

''(9) The term 'New York City disaster area' means the area within New York City that is—

''(A) the area of Manhattan that is south of Houston Street; and

''(B) any block in Brooklyn that is wholly or partially contained within a 1.5-mile radius of the former World Trade Center site.

''(10) The term 'New York metropolitan area' means an area, specified by the WTC Program Administrator, within which eligible WTC responders and eligible WTC community members who reside in such area are reasonably able to access monitoring and treatment benefits and initial health evaluation benefits under this title through a Clinical Center of Excellence described in subparagraph (A), (B), or (C) of section 3106(b)(1).

''(11) Any reference to 'September 11, 2001' shall be deemed a reference to the period on such date subsequent to the terrorist attacks on the World Trade Center on such date.

''(12) The term 'September 11, 2001, terrorist attacks on the World Trade Center' means the terrorist attacks that occurred on September 11, 2001, in New York City and includes the aftermath of such attacks.

''(13) The term 'WTC Health Program Steering Committee' means such a Steering Committee established under section 3103.

''(14) The term 'WTC Program Administrator' means the individual responsible under section 3101(f) for the administration of the WTC program.

''(15) The term 'WTC-related health condition' is defined in section 3112(a).

''(16) The term 'WTC Scientific/Technical Advisory Committee' means the WTC Health Program Scientific/Technical Advisory Committee established under section 3102.

"Subtitle B—Program of Monitoring, Initial Health Evaluations, and Treatment

"PART 1—FOR WTC RESPONDERS

"SEC. 3111. IDENTIFICATION OF ELIGIBLE WTC RESPONDERS AND PROVISION OF WTC-RELATED MONITORING SERVICES.

''(a) ELIGIBLE WTC RESPONDER DEFINED.—

''(1) IN GENERAL.—For purposes of this title, the term 'eligible WTC responder' means any of the following individuals, subject to paragraph (5):

''(A) CURRENTLY IDENTIFIED RESPONDER.—An individual who has been identified as eligible for medical monitoring under the current consortium arrangements (as defined in section 3108(4)).

''(B) RESPONDER WHO MEETS CURRENT ELIGIBILITY CRITERIA.—An individual who meets the current eligibility criteria described in paragraph (2).

''(C) RESPONDER WHO MEETS MODIFIED ELIGIBILITY CRITERIA.—An individual who—

''(i) performed rescue, recovery, demolition, debris cleanup, or other related services in the New York City disaster area in response to the September 11, 2001, terrorist attacks on the World Trade Center, regardless of whether such services were performed by a State or Federal employee or member of the National Guard or otherwise; and

''(ii) meets such eligibility criteria relating to exposure to airborne toxins, other hazards, or adverse conditions resulting from the September 11, 2001, terrorist attacks on the World Trade Center as the WTC Program Administrator, after consultation with the WTC Responders Steering Committee and the WTC Scientific/Technical Advisory Committee, determines appropriate.

The WTC Program Administrator shall not modify such eligibility criteria on or after the date that the number of certifications for eligible responders has reached 80 percent of the limit described in paragraph (5) or on or after the date that the number of certifications for eligible community members has reached 80 percent of the limit described in section 3121(a)(5).

''(2) CURRENT ELIGIBILITY CRITERIA.—The eligibility criteria described in this paragraph for an individual is that the individual is described in either of the following categories:

''(A) FIRE FIGHTERS AND RELATED PERSONNEL.—The individual—

''(i) was a member of the Fire Department of the City of New York (whether fire or emergency personnel, active or retired) who participated at least one day in the rescue and recovery effort at any of the former World Trade Center sites (including Ground Zero, Staten Island land fill, and the NYC Chief Medical Examiner's office) for any time during the period beginning on September 11, 2001, and ending on July 31, 2002; or

''(ii)(I) is a surviving immediate family member of an individual who was a member of the Fire Department of the City of New York (whether fire or emergency personnel, active or retired) and was killed at the World Trade site on September 11, 2001; and

''(II) received any treatment for a WTC-related mental health condition described in section 3112(a)(1)(B) on or before September 1, 2008.

''(B) LAW ENFORCEMENT OFFICERS AND WTC RESCUE, RECOVERY, AND CLEAN-UP WORKERS.—The individual—

''(i) worked or volunteered on-site in rescue, recovery, debris-cleanup, or related support services in lower Manhattan (south of Canal Street), the Staten Island Landfill, or the barge loading piers, for—

''(I) at least 4 hours during the period beginning on September 11, 2001, and ending on September 14, 2001;

''(II) at least 24 hours during the period beginning on September 11, 2001, and ending on September 30, 2001; or

''(III) at least 80 hours during the period beginning on September 11, 2001, and ending on July 31, 2002;

''(ii)(I) was a member of the Police Department of the City of New York (whether active or retired) or a member of the Port Authority Police of the Port Authority of New York and New Jersey (whether active or retired) who participated on-site in rescue, recovery, debris clean-up, or related support services in lower Manhattan (south of Canal Street), including Ground Zero, the Staten Island Landfill, or the barge loading piers, for at least 4 hours during the period beginning September 11, 2001, and ending on September 14, 2001;

''(II) participated on-site in rescue, recovery, debris clean-up, or related services at Ground Zero, the Staten Island Landfill or the barge loading piers, for at least one day during the period beginning on September 11, 2001, and ending on July 31, 2002;

''(III) participated on-site in rescue, recovery, debris clean-up, or related services in lower Manhattan (south of Canal St.) for at least 24 hours during the period beginning on September 11, 2001, and ending on September 30, 2001; or

''(IV) participated on-site in rescue, recovery, debris clean-up, or related services in lower Manhattan (south of Canal St.) for at least 80 hours during the period beginning on September 11, 2001, and ending on July 31, 2002;

''(iii) was an employee of the Office of the Chief Medical Examiner of the City of New York involved in the examination and handling of human remains from the September 11, 2001, terrorist attacks on the World Trade Center, or other morgue worker who performed similar post-September 11 functions for such Office staff, during the period beginning on September 11, 2001 and ending on July 31, 2002;

''(iv) was a worker in the Port Authority Trans-Hudson Corporation tunnel for at least 24 hours during the period beginning on February 1, 2002, and ending on July 1, 2002; or

''(v) was a vehicle-maintenance worker who was exposed to debris from the former World Trade Center while retrieving, driving, cleaning, repairing, or maintaining vehicles contaminated by airborne toxins from the September 11, 2001, terrorist attacks on the World Trade Center during a duration and period described in subparagraph (A).

''(3) APPLICATION PROCESS.—The WTC Program Administrator in consultation with the Coordinating Centers of Excellence shall establish a process for individuals, other than eligible WTC responders described in paragraph (1)(A), to apply to be determined to be eligible WTC responders. Under such process—

''(A) there shall be no fee charged to the applicant for making an application for such determination;

''(B) the Administrator shall make a determination on such an application not later than 60 days after the date of filing the application; and

''(C) an individual who is determined not to be an eligible WTC responder shall have an opportunity to appeal such determination before an administrative law judge in a manner established under such process.

''(4) CERTIFICATION.—

''(A) IN GENERAL.—In the case of an individual who is described in paragraph (1)(A) or who is determined under paragraph (3) (consistent with paragraph (5)) to be an eligible WTC responder, the WTC Program Administrator shall provide an appropriate certification of such fact and of eligibility for monitoring and treatment benefits under this part. The Administrator shall make determinations of eligibility relating to an applicant's compliance with this title, including the verification of information submitted in support of the application, and shall not deny such a certification to an individual unless the Administrator determines that—

''(i) based on the application submitted, the individual does not meet the eligibility criteria; or

''(ii) the numerical limitation on eligible WTC responders set forth in paragraph (5) has been met.

''(B) TIMING.—

''(i) CURRENTLY IDENTIFIED RESPONDERS.—In the case of an individual who is described in paragraph (1)(A), the WTC Program Administrator shall provide the certification under subparagraph (A) not later than 60 days after the date of the enactment of this title.

''(ii) OTHER RESPONDERS.—In the case of another individual who is determined under paragraph (3) and consistent with paragraph (5) to be an eligible WTC responder, the WTC Program Administrator shall provide the certification under subparagraph (A) at the time of the determination.

''(5) NUMERICAL LIMITATION ON ELIGIBLE WTC RESPONDERS.—

''(A) IN GENERAL.—The total number of individuals not described in subparagraph (C) who may qualify as eligible WTC responders for purposes of this title, and be certified as eligible WTC responders under paragraph (4), shall not exceed 15,000, subject to adjustment under paragraph (6), of which no more than 2,500 may be individuals certified based on modified eligibility criteria established under paragraph (1)(C). In applying the previous sentence, any individual who at any time so qualifies as an eligible WTC responder shall be counted against such numerical limitation.

''(B) PROCESS.—In implementing subparagraph (A), the WTC Program Administrator shall—

''(i) limit the number of certifications provided under paragraph (4) in accordance with such subparagraph; and

''(ii) provide priority in such certifications in the order in which individuals apply for a determination under paragraph (3).

''(C) CURRENTLY IDENTIFIED RESPONDERS NOT COUNTED.—Individuals described in this subparagraph are individuals who are described in paragraph (1)(A).

''(6) POTENTIAL ADJUSTMENT IN NUMERICAL LIMITATIONS DEPENDENT UPON ACTUAL SPENDING RELATIVE TO ESTIMATED SPENDING.—

''(A) INITIAL CALCULATION FOR FISCAL YEARS 2009 THROUGH 2011.—If the WTC Program Administrator determines as of December 1, 2011, that the WTC expenditure-to-CBO-estimate percentage (as defined in subparagraph (D)(iii)) for fiscal years 2009 through 2011 does not exceed 90 percent, then, effective January 1, 2012, the WTC Program Administrator may increase the numerical limitation under paragraph (5)(A), the numerical limitation under section 3121(a)(5), or both, by a number of percentage points not to exceed the number of percentage points specified in subparagraph (C) for such period of fiscal years.

''(B) SUBSEQUENT CALCULATION FOR FISCAL YEARS 2009 THROUGH 2015.—If the Secretary determines as of December 1, 2015, that the WTC expenditure-to-CBO-estimate percentages for fiscal years 2009 through 2015 and for fiscal years 2012 through 2015 do not exceed 90 percent, then, effective January 1, 2015, the WTC Program Administrator may increase the numerical limitation under paragraph (5)(A), the numerical limitation under section 3121(a)(5), or both, as in effect after the application of subparagraph (A), by a number of percentage points not to exceed twice the lesser of—

''(i) the number of percentage points specified in subparagraph (C) for fiscal years 2009 through 2012, or

''(ii) the number of percentage points specified in subparagraph (C) for fiscal years 2012 through 2015.

''(C) MAXIMUM PERCENTAGE INCREASE IN NUMERICAL LIMITATIONS FOR PERIOD OF FISCAL YEARS.—The number of percentage points specified in this clause for a period of fiscal years is—

''(i) 100 percentage points, multiplied by

''(ii) one minus a fraction the numerator of which is the net Federal WTC spending for such period, and the denominator of which is the CBO WTC spending estimate under this title for such period.

''(D) DEFINITIONS.—For purposes of this paragraph:

''(i) NET FEDERAL WTC SPENDING.—The term 'net Federal WTC spending' means, with respect to a period of fiscal years, the net Federal spending under this title for such fiscal years.

''(ii) CBO WTC MEDICAL SPENDING ESTIMATE UNDER THIS TITLE.—The term 'CBO WTC medical spending estimate under this title' means, with respect to—

''(I) fiscal years 2009 through 2011, $900,000,000;

''(II) fiscal years 2012 through 2015, $1,890,000,000; and

''(III) fiscal years 2009 through 2015, the sum of the amounts specified in subclauses (I) and (II).

''(iii) WTC EXPENDITURE-TO-CBO-ESTIMATE PERCENTAGE.—The term 'WTC expenditure-to-estimate percentage' means, with respect to a period of fiscal years, the ratio (expressed as a percentage) of—

''(I) the net Federal WTC spending for such period, to

''(II) the CBO WTC medical spending estimate under this title for such period.

''(b) MONITORING BENEFITS.—

''(1) IN GENERAL.—In the case of an eligible WTC responder under section 3111(a)(4) (other than one described in subsection (a)(2)(A)(ii)), the WTC program shall provide for monitoring benefits that include medical monitoring consistent with protocols approved by the WTC Program Administrator and including clinical examinations and long-term health monitoring and analysis. In the case of an eligible WTC responder who is an active member of the Fire Department of the City of New York, the responder shall receive such benefits as part of the individual's periodic company medical exams.

''(2) PROVISION OF MONITORING BENEFITS.—The monitoring benefits under paragraph (1) shall be provided through the Clinical Center of Excellence for the type of individual involved or, in the case of an individual residing outside the New York metropolitan area, under an arrangement under section 3131.

''SEC. 3112. TREATMENT OF CERTIFIED ELIGIBLE WTC RESPONDERS FOR WTC-RELATED HEALTH CONDITIONS.

''(a) WTC–RELATED HEALTH CONDITION DEFINED.—

''(1) IN GENERAL.—For purposes of this title, the term 'WTC-related health condition' means—

''(A) an illness or health condition for which exposure to airborne toxins, any other hazard, or any other adverse condition resulting from the September 11, 2001, terrorist attacks on the World Trade Center, based on an examination by a medical professional with experience in treating or diagnosing the medical conditions included in the applicable list of identified WTC-related health conditions, is substantially likely to be a significant factor in aggravating, contributing to, or causing the illness or health condition, as determined under paragraph (2); or

''(B) a mental health condition for which such attacks, based on an examination by a medical professional with experience in treating or diagnosing the medical conditions included in the applicable list of identified WTC-related health conditions, is substantially likely be a significant factor in aggravating, contributing to, or causing the condition, as determined under paragraph (2).

In the case of an eligible WTC responder described in section 3111(a)(2)(A)(ii), such term only includes the mental health condition described in subparagraph (B).

''(2) DETERMINATION.—The determination of whether the September 11, 2001, terrorist attacks on the World Trade Center were substantially likely to be a significant factor in aggravating, contributing to, or causing an individual's illness or health condition shall be made based on an assessment of the following:

''(A) The individual's exposure to airborne toxins, any other hazard, or any other adverse condition resulting from the terrorist attacks. Such exposure shall be—

''(i) evaluated and characterized through the use of a standardized, population appropriate questionnaire approved by the Director of the National Institute for Occupational Safety and Health; and

''(ii) assessed and documented by a medical professional with experience in treating or diagnosing medical conditions included on the list of identified WTC-related health conditions.

''(B) The type of symptoms and temporal sequence of symptoms. Such symptoms shall be—

''(i) assessed through the use of a standardized, population appropriate medical questionnaire approved by Director of the National Institute for Occupational Safety and Health and a medical examination; and

''(ii) diagnosed and documented by a medical professional described in subparagraph (A)(ii).

''(3) LIST OF IDENTIFIED WTC-RELATED HEALTH CONDITIONS FOR ELIGIBLE WTC RESPONDERS.—For purposes of this title, the term 'identified WTC-related health condition for eligible WTC responders' means any of the following health conditions:

''(A) AERODIGESTIVE DISORDERS.—

''(i) Interstitial lung diseases.

''(ii) Chronic respiratory disorder-fumes/vapors.

''(iii) Asthma.

''(iv) Reactive airways dysfunction syndrome (RADS).

''(v) WTC-exacerbated chronic obstructive pulmonary disease (COPD).

''(vi) Chronic cough syndrome.

''(vii) Upper airway hyperreactivity.

''(viii) Chronic rhinosinusitis.

''(ix) Chronic nasopharyngitis.

''(x) Chronic laryngitis.

''(xi) Gastro-esophageal reflux disorder (GERD).

''(xii) Sleep apnea exacerbated by or related to a condition described in a previous clause.

''(B) MENTAL HEALTH CONDITIONS.—

''(i) Post traumatic stress disorder (PTSD).

''(ii) Major depressive disorder.

''(iii) Panic disorder.

''(iv) Generalized anxiety disorder.

''(v) Anxiety disorder (not otherwise specified).

''(vi) Depression (not otherwise specified).

''(vii) Acute stress disorder.

''(viii) Dysthymic disorder.

''(ix) Adjustment disorder.

''(x) Substance abuse.

''(xi) V codes (treatments not specifically related to psychiatric disorders, such as marital problems, parenting problems, etc.), secondary to another identified WTC-related health condition for WTC eligible responders.

''(C) MUSCULOSKELETAL DISORDERS.—

''(i) Low back pain.

''(ii) Carpal tunnel syndrome (CTS).

''(iii) Other musculoskeletal disorders.

''(4) ADDITION OF IDENTIFIED WTC-RELATED HEALTH CONDITIONS FOR ELIGIBLE WTC RESPONDERS.—

''(A) IN GENERAL.—The WTC Program Administrator may promulgate regulations to add an illness or health condition not described in paragraph (3) to the list of identified WTC-related conditions for eligible WTC responders. In promulgating such regulations, the Secretary shall provide for notice and opportunity for a public hearing and at least 90 days of public comment. In promulgating such regulations, the WTC Program Administrator shall take into account the findings and recommendations of Clinical Centers of Excellence published in peer reviewed journals in the determination of whether an additional illness or health condition, such as cancer, should be added to the list of identified WTC-related health conditions for eligible WTC responders.

''(B) PETITIONS.—Any person (including the WTC Health Program Scientific/Technical Advisory Committee) may petition the WTC Program Administrator to propose regulations described in subparagraph (A). Unless clearly frivolous, or initiated by such Committee, any such petition shall be referred to such Committee for its recommendations. Following—

''(i) receipt of any recommendation of the Committee; or

''(ii) 180 days after the date of the referral to the Committee,

whichever occurs first, the WTC Program Administrator shall conduct a rulemaking proceeding on the matters proposed in the petition or publish in the Federal Register a statement of reasons for not conducting such proceeding.

''(C) EFFECTIVENESS.—Any addition under subparagraph (A) of an illness or health condition shall apply only with respect to applications for benefits under this title which are filed after the effective date of such regulation.

''(D) ROLE OF ADVISORY COMMITTEE.—Except with respect to a regulation recommended by the WTC Scientific/Technical Advisory Committee, the WTC Program Administrator may not propose a regulation under this paragraph, unless the Administrator has first provided to the Committee a copy of the proposed regulation, requested recommendations and comments by the Committee, and afforded the Committee at least 90 days to make such recommendations.

''(b) COVERAGE OF TREATMENT FOR WTC–RELATED HEALTH CONDITIONS.—

''(1) DETERMINATION BASED ON AN IDENTIFIED WTC-RELATED HEALTH CONDITION FOR CERTIFIED ELIGIBLE WTC RESPONDERS.—

''(A) IN GENERAL.—If a physician at a Clinical Center of Excellence that is providing monitoring benefits under section 3111 for a certified eligible WTC responder determines that the responder has an identified WTC-related health condition, and the physician makes a clinical determination that exposure to airborne toxins, other hazards, or adverse conditions resulting from the September, 11, 2001, terrorist attacks on the World Trade Center is substantially likely to be a significant factor in aggravating, contributing to, or causing the condition—

''(i) the physician shall promptly transmit such determination to the WTC Program Administrator and provide the Administrator with the medical facts supporting such determination; and

''(ii) on and after the date of such transmittal and subject to subparagraph (B), the WTC program shall provide for payment under subsection (c) for medically necessary treatment for such condition.

''(B) REVIEW; CERTIFICATION; APPEALS.—

''(i) REVIEW.—A Federal employee designated by the WTC Program Administrator shall review determinations made under subparagraph (A) of a WTC-related health condition.

''(ii) CERTIFICATION.—The Administrator shall provide a certification of such condition based upon reviews conducted under clause (i). Such a certification shall be provided unless the Administrator determines that the responder's condition is not an identified WTC-related health condition or that exposure to airborne toxins, other hazards, or adverse conditions resulting from the September 11, 2001, terrorist attacks on the World Trade Center is not substantially likely to be a significant factor in significantly aggravating, contributing to, or causing the condition.

''(iii) APPEAL PROCESS.—The Administrator shall provide a process for the appeal of determinations under clause (ii) before an administrative law judge.

''(2) DETERMINATION BASED ON OTHER WTC-RELATED HEALTH CONDITION.—

''(A) IN GENERAL.—If a physician at a Clinical Center of Excellence determines pursuant to subsection (a) that a certified eligible WTC responder has a WTC-related health condition that is not an identified WTC-related health condition for eligible WTC responders—

''(i) the physician shall promptly transmit such determination to the WTC Program Administrator and provide the Administrator with the facts supporting such determination; and

''(ii) the Administrator shall make a determination under subparagraph (B) with respect to such physician's determination.

''(B) REVIEW; CERTIFICATION.—

''(i) USE OF PHYSICIAN PANEL.—With respect to each determination relating to a WTC-related health condition transmitted under subparagraph (A)(i), the WTC Program Administrator shall provide for the review of the condition to be made by a physician panel with appropriate expertise appointed by the WTC Program Administrator. Such a panel shall make recommendations to the Administrator on the evidence supporting such determination.

''(ii) REVIEW OF RECOMMENDATIONS OF PANEL; CERTIFICATION.—The Administrator, based on such recommendations shall determine, within 60 days after the date of the transmittal under subparagraph (A)(i), whether or not the condition is a WTC-related health condition and, if it is, provide for a certification under paragraph (1)(B)(ii) of coverage of such condition. The Administrator shall provide a process for the appeal of determinations that the responder's condition is not a WTC-related health condition before an administrative law judge.

''(3) REQUIREMENT OF MEDICAL NECESSITY.—

''(A) IN GENERAL.—In providing treatment for a WTC-related health condition, a physician shall provide treatment that is medically necessary and in accordance with medical protocols established under subsection (d).

''(B) MEDICALLY NECESSARY STANDARD.—For the purpose of this title, health care services shall be treated as medically necessary for an individual if a physician, exercising prudent clinical judgment, would consider the services to be medically necessary for the individual for the purpose of evaluating, diagnosing, or treating an illness, injury, disease or its symptoms, and that are—

''(i) in accordance with the generally accepted standards of medical practice;

''(ii) clinically appropriate, in terms of type, frequency, extent, site, and duration, and considered effective for the individual's illness, injury, or disease; and

''(iii) not primarily for the convenience of the patient or physician, or another physician, and not more costly than an alternative service or sequence of services at least as likely to produce equivalent therapeutic or diagnostic results as to the diagnosis or treatment of the individual's illness, injury, or disease.

''(C) DETERMINATION OF MEDICAL NECESSITY.—

''(i) REVIEW OF MEDICAL NECESSITY.—As part of the reimbursement payment process under subsection (c), the WTC Program Administrator shall review claims for reimbursement for the provision of medical treatment to determine if such treatment is medically necessary.

''(ii) WITHHOLDING OF PAYMENT FOR MEDICALLY UNNECESSARY TREATMENT.—The Administrator may withhold such payment for treatment that the Administrator determines is not medically necessary.

''(iii) REVIEW OF DETERMINATIONS OF MEDICAL NECESSITY.—The Administrator shall provide a process for providers to appeal a determination under clause (ii) that medical treatment is not medically necessary. Such appeals shall be reviewed through the use of a physician panel with appropriate expertise.

''(4) SCOPE OF TREATMENT COVERED.—

''(A) IN GENERAL.—The scope of treatment covered under paragraphs (1) through (3) includes services of physicians and other

health care providers, diagnostic and laboratory tests, prescription drugs, inpatient and outpatient hospital services, and other medically necessary treatment.

''(B) PHARMACEUTICAL COVERAGE.—With respect to ensuring coverage of medically necessary outpatient prescription drugs, such drugs shall be provided, under arrangements made by the WTC Program Administrator, directly through participating Clinical Centers of Excellence or through one or more outside vendors.

''(C) TRANSPORTATION EXPENSES.—To the extent provided in advance in appropriations Acts, the WTC Program Administrator may provide for necessary and reasonable transportation and expenses incident to the securing of medically necessary treatment involving travel of more than 250 miles and for which payment is made under this section in the same manner in which individuals may be furnished necessary and reasonable transportation and expenses incident to services involving travel of more than 250 miles under regulations implementing section 3629(c) of the Energy Employees Occupational Illness Compensation Program Act of 2000 (title XXXVI of Public Law 106–398; 42 U.S.C. 7384t(c)).

''(5) PROVISION OF TREATMENT PENDING CERTIFICATION.—In the case of a certified eligible WTC responder who has been determined by an examining physician under subsection (b)(1) to have an identified WTC-related health condition, but for whom a certification of the determination has not yet been made by the WTC Program Administrator, medical treatment may be provided under this subsection, subject to paragraph (6), until the Administrator makes a decision on such certification. Medical treatment provided under this paragraph shall be considered to be medical treatment for which payment may be made under subsection (c).

''(6) PRIOR APPROVAL PROCESS FOR NON-CERTIFIED NON-EMERGENCY INPATIENT HOSPITAL SERVICES.—Non-emergency inpatient hospital services for a WTC-related health condition identified by an examining physician under paragraph (1) that is not certified under paragraph (1)(B)(ii) is not covered unless the services have been determined to be medically necessary and approved through a process established by the WTC Program Administrator. Such process shall provide for a decision on a request for such services within 15 days of the date of receipt of the request. The WTC Administrator shall provide a process for the appeal of a decision that the services are not medically necessary.

''(c) PAYMENT FOR INITIAL HEALTH EVALUATION, MEDICAL MONITORING, AND TREATMENT OF WTC–RELATED HEALTH CONDITIONS.—

''(1) MEDICAL TREATMENT.—

''(A) USE OF FECA PAYMENT RATES.—Subject to subparagraph (B), the WTC Program Administrator shall reimburse costs for medically necessary treatment under this title for WTC-related health conditions according to the payment rates that would apply to the provision of such treatment and services by the facility under the Federal Employees Compensation Act.

''(B) PHARMACEUTICALS.—

''(i) IN GENERAL.—The WTC Program Administrator shall establish a program for paying for the medically necessary outpatient prescription pharmaceuticals prescribed under this title for WTC-related health conditions through one or more contracts with outside vendors.

''(ii) COMPETITIVE BIDDING.—Under such program the Administrator shall—

''(I) select one or more appropriate vendors through a Federal competitive bid process; and

''(II) select the lowest bidder (or bidders) meeting the requirements for providing pharmaceutical benefits for participants in the WTC program.

''(iii) TREATMENT OF FDNY PARTICIPANTS.—Under such program the Administrator may select a separate vendor to provide pharmaceutical benefits to certified eligible WTC responders for whom the Clinical Center of Excellence is described in section 3106(b)(1)(A) if such an arrangement is deemed necessary and beneficial to the program by the WTC Program Administrator.

''(C) OTHER TREATMENT.—For treatment not covered under a preceding subparagraph, the WTC Program Administrator shall designate a reimbursement rate for each such service.

''(2) MEDICAL MONITORING AND INITIAL HEALTH EVALUATION.—The WTC Program Administrator shall reimburse the costs of medical monitoring and the costs of an initial health evaluation provided under this title at a rate set by the Administrator.

''(3) ADMINISTRATIVE ARRANGEMENT AUTHORITY.—The WTC Program Administrator may enter into arrangements with other government agencies, insurance companies, or other third-party administrators to provide for timely and accurate processing of claims under this section.

''(4) CLAIMS PROCESSING SUBJECT TO APPROPRIATIONS.—The payment by the WTC Program Administrator for the processing of claims under this title is limited to the amounts provided in advance in appropriations Acts.

''(d) MEDICAL TREATMENT PROTOCOLS.—

''(1) DEVELOPMENT.—The Coordinating Centers of Excellence shall develop medical treatment protocols for the treatment of certified eligible WTC responders and certified eligible WTC community members for identified WTC-related health conditions.

''(2) APPROVAL.—The WTC Program Administrator shall approve the medical treatment protocols, in consultation with the WTC Health Program Steering Committees.

''PART 2—COMMUNITY PROGRAM

''SEC. 3121. IDENTIFICATION AND INITIAL HEALTH EVALUATION OF ELIGIBLE WTC COMMUNITY MEMBERS.

''(a) ELIGIBLE WTC COMMUNITY MEMBER DEFINED.—

''(1) IN GENERAL.—In this title, the term 'eligible WTC community member' means, subject to paragraphs (3) and (5), an individual who claims symptoms of a WTC-related health condition and is described in any of the following subparagraphs:

''(A) CURRENTLY IDENTIFIED COMMUNITY MEMBER.—An individual, including an eligible WTC responder, who has been identified as eligible for medical treatment or monitoring by the WTC Environmental Health Center as of the date of enactment of this title.

''(B) COMMUNITY MEMBER WHO MEETS CURRENT ELIGIBILITY CRITERIA.—An individual who is not an eligible WTC responder and meets any of the current eligibility criteria described in a subparagraph of paragraph (2).

''(C) COMMUNITY MEMBER WHO MEETS MODIFIED ELIGIBILITY CRITERIA.—An individual who is not an eligible WTC responder and meets such eligibility criteria relating to exposure to airborne toxins, other hazards, or adverse conditions resulting from the September 11, 2001, terrorist attacks on the World Trade Center as the WTC Administrator determines after consultation with the WTC Community Program Steering Committee, the Coordinating Centers of Excellence described in section 3106(b)(1)(C), and the WTC Scientific/Technical Advisory Committee.

The Administrator shall not modify such criteria under subparagraph (C) on or after the date that the number of certifications for eligible WTC community members has reached 80 percent of the limit described in paragraph (5) or on or after the date that the number of certifications for eligible WTC responders has reached 80 percent of the limit described in section 3111(a)(5).

''(2) CURRENT ELIGIBILITY CRITERIA.—The eligibility criteria described in this paragraph for an individual are that the individual is described in any of the following subparagraphs:

''(A) A person who was present in the New York City disaster area in the dust or dust cloud on September 11, 2001.

''(B) A person who worked, resided, or attended school, child care or adult day care in the New York City disaster area for—

''(i) at least four days during the 4-month period beginning on September 11, 2001, and ending on January 10, 2002; or

''(ii) at least 30 days during the period beginning on September 11, 2001, and ending on July 31, 2002.

''(C) A person who worked as a clean-up worker or performed maintenance work in the New York City disaster area during the 4-month period described in subparagraph (B)(i) and had extensive exposure to WTC dust as a result of such work.

''(D) A person who was deemed eligible to receive a grant from the Lower Manhattan Development Corporation Residential Grant Program, who possessed a lease for a residence or purchased a residence in the New York City disaster area, and who resided in such residence during the period beginning on September 11, 2001, and ending on May 31, 2003.

''(E) A person whose place of employment—

''(i) at any time during the period beginning on September 11, 2001, and ending on May 31, 2003, was in the New York City disaster area; and

''(ii) was deemed eligible to receive a grant from the Lower Manhattan Development Corporation WTC Small Firms Attraction and Retention Act program or other government incentive program designed to revitalize the Lower Manhattan economy after the September 11, 2001, terrorist attacks on the World Trade Center.

''(3) APPLICATION PROCESS.—The WTC Program Administrator in consultation with the Coordinating Centers of Excellence shall establish a process for individuals, other than individuals described in paragraph (1)(A), to be determined eligible WTC community members. Under such process—

''(A) there shall be no fee charged to the applicant for making an application for such determination;

''(B) the Administrator shall make a determination on such an application not later than 60 days after the date of filing the application; and

''(C) an individual who is determined not to be an eligible WTC community member shall have an opportunity to appeal such determination before an administrative law judge in a manner established under such process.

''(4) CERTIFICATION.—

''(A) IN GENERAL.—In the case of an individual who is described in paragraph (1)(A) or who is determined under paragraph (3) (consistent with paragraph (5)) to be an eligible WTC community member, the WTC Program Administrator shall provide an appropriate certification of such fact and of eligibility for followup monitoring and treatment benefits under this part. The Administrator shall make determinations of eligibility relating to an applicant's compliance with this title, including the verification of information submitted in support of the application and

shall not deny such a certification to an individual unless the Administrator determines that—

''(i) based on the application submitted, the individual does not meet the eligibility criteria; or

''(ii) the numerical limitation on certification of eligible WTC community members set forth in paragraph (5) has been met.

''(B) TIMING.—

''(i) CURRENTLY IDENTIFIED COMMUNITY MEMBERS.—In the case of an individual who is described in paragraph (1)(A), the WTC Program Administrator shall provide the certification under subparagraph (A) not later than 60 days after the date of the enactment of this title.

''(ii) OTHER MEMBERS.—In the case of another individual who is determined under paragraph (3) and consistent with paragraph (5) to be an eligible WTC community member, the WTC Program Administrator shall provide the certification under subparagraph (A) at the time of such determination.

''(5) NUMERICAL LIMITATION ON CERTIFICATION OF ELIGIBLE WTC COMMUNITY MEMBERS.—

''(A) IN GENERAL.—The total number of individuals not described in subparagraph (C) who may be certified as eligible WTC community members under paragraph (4) shall not exceed 15,000. In applying the previous sentence, any individual who at any time so qualifies as an eligible WTC community member shall be counted against such numerical limitation.

''(B) PROCESS.—In implementing subparagraph (A), the WTC Program Administrator shall—

''(i) limit the number of certifications provided under paragraph (4) in accordance with such subparagraph; and

''(ii) provide priority in such certifications in the order in which individuals apply for a determination under paragraph (4).

''(C) INDIVIDUALS CURRENTLY RECEIVING TREATMENT NOT COUNTED.—Individuals described in this subparagraph are individuals who—

''(i) are described in paragraph (1)(A); or

''(ii) before the date of the enactment of this title, have received monitoring or treatment at the World Trade Center Environmental Health Center at Bellevue Hospital Center, Gouverneur Health Care Services, or Elmhurst Hospital Center.

The New York City Health and Hospitals Corporation shall, not later than 6 months after the date of enactment of this title, enter into arrangements with the Mt. Sinai Data and Clinical Coordination Center for the reporting of medical data concerning eligible WTC responders described in paragraph (1)(A), as determined by the WTC Program Administrator and consistent with applicable Federal and State laws and regulations relating to confidentiality of individually identifiable health information.

''(D) REPORT TO CONGRESS IF NUMERICAL LIMITATION TO BE REACHED.—If the WTC Program Administrator determines that the number of individuals subject to the numerical limitation of subparagraph (A) is likely to exceed such numerical limitation, the Administrator shall submit to Congress a report on such determination. Such report shall include an estimate of the number of such individuals in excess of such numerical limitation and of the additional expenditures that would result under this title if such numerical limitation were removed.

''(b) INITIAL HEALTH EVALUATION TO DETERMINE ELIGIBILITY FOR FOLLOWUP MONITORING OR TREATMENT.—

''(1) IN GENERAL.—In the case of a certified eligible WTC community member, the WTC program shall provide for an initial health evaluation to determine if the member has a WTC-related health condition and is eligible for followup monitoring and treatment benefits under the WTC program. Initial health evaluation protocols shall be approved by the WTC Program Administrator, in consultation with the World Trade Center Environmental Health Center at Bellevue Hospital and the WTC Community Program Steering Committee.

''(2) INITIAL HEALTH EVALUATION PROVIDERS.—The initial health evaluation described in paragraph (1) shall be provided through a Clinical Center of Excellence with respect to the individual involved.

''(3) LIMITATION ON INITIAL HEALTH EVALUATION BENEFITS.—Benefits for initial health evaluation under this part for an eligible WTC community member shall consist only of a single medical initial health evaluation consistent with initial health evaluation protocols described in paragraph (1). Nothing in this paragraph shall be construed as preventing such an individual from seeking additional medical initial health evaluations at the expense of the individual.

''SEC. 3122. FOLLOWUP MONITORING AND TREATMENT OF CERTIFIED ELIGIBLE WTC COMMUNITY MEMBERS FOR WTC-RELATED HEALTH CONDITIONS.

''(a) IN GENERAL.—Subject to subsection (b), the provisions of sections 3111 and 3112 shall apply to followup monitoring and treatment of WTC-related health conditions for certified eligible WTC community members in the same manner as such provisions apply to the monitoring and treatment of identified WTC-related health conditions for certified eligible WTC responders, except that such monitoring shall only be available to those certified as eligible for treatment under this title. Under section 3106(a)(3), the City of New York is required to contribute a share of the costs of such treatment.

''(b) LIST OF IDENTIFIED WTC-RELATED HEALTH CONDITIONS FOR WTC COMMUNITY MEMBERS.—

''(1) IDENTIFIED WTC-RELATED HEALTH CONDITIONS FOR WTC COMMUNITY MEMBERS.—For purposes of this title, the term 'identified WTC-related health conditions for WTC community members' means any of the following health conditions:

''(A) AERODIGESTIVE DISORDERS.—

''(i) Interstitial lung diseases.

''(ii) Chronic respiratory disorder—fumes/vapors.

''(iii) Asthma.

''(iv) Reactive airways dysfunction syndrome (RADS).

''(v) WTC-exacerbated chronic obstructive pulmonary disease (COPD).

''(vi) Chronic cough syndrome.

''(vii) Upper airway hyperreactivity.

''(viii) Chronic rhinosinusitis.

''(ix) Chronic nasopharyngitis.

''(x) Chronic laryngitis.

''(xi) Gastro-esophageal reflux disorder (GERD).

''(xii) Sleep apnea exacerbated by or related to a condition described in a previous clause.

''(B) MENTAL HEALTH CONDITIONS.—

''(i) Post traumatic stress disorder (PTSD).

''(ii) Major depressive disorder.

''(iii) Panic disorder.

''(iv) Generalized anxiety disorder.

''(v) Anxiety disorder (not otherwise specified).

''(vi) Depression (not otherwise specified).

''(vii) Acute stress disorder.

''(viii) Dysthymic disorder.

''(ix) Adjustment disorder.

''(x) Substance abuse.

''(xi) V codes (treatments not specifically related to psychiatric disorders, such as marital problems, parenting problems, etc.), secondary to another identified WTC-related health condition for WTC community members.

''(2) ADDITIONS TO IDENTIFIED WTC-RELATED HEALTH CONDITIONS FOR WTC COMMUNITY MEMBERS.—The provisions of paragraph (4) of section 3112(a) shall apply with respect to an addition to the list of identified WTC-related health conditions for eligible WTC community members under paragraph (1) in the same manner as such provisions apply to an addition to the list of identified WTC-related health conditions for eligible WTC responders under section 3112(a)(3).

''SEC. 3123. FOLLOWUP MONITORING AND TREATMENT OF OTHER INDIVIDUALS WITH WTC-RELATED HEALTH CONDITIONS.

''(a) IN GENERAL.—Subject to subsection (c), the provisions of section 3122 shall apply to the followup monitoring and treatment of WTC-related health conditions for eligible WTC community members in the case of individuals described in subsection (b) in the same manner as such provisions apply to the followup monitoring and treatment of WTC-related health conditions for WTC community members. Under section 3106(a)(3), the City of New York is required to contribute a share of the costs of such monitoring and treatment.

''(b) INDIVIDUALS DESCRIBED.—An individual described in this subsection is an individual who, regardless of location of residence—

''(1) is not an eligible WTC responder or an eligible WTC community member; and

''(2) is diagnosed at a Clinical Center of Excellence (with respect to an eligible WTC community member) with an identified WTC-related health condition for WTC community members.

''(c) LIMITATION.—

''(1) IN GENERAL.—The WTC Program Administrator shall limit benefits for any fiscal year under subsection (a) in a manner so that payments under this section for such fiscal year do not exceed the amount specified in paragraph (2) for such fiscal year.

''(2) LIMITATION.—The amount specified in this paragraph for—

''(A) fiscal year 2009 is $20,000,000; or

''(B) a succeeding fiscal year is the amount specified in this paragraph for the previous fiscal year increased by the annual percentage increase in the medical care component of the Consumer Price Index for All Urban Consumers.

''PART 3—NATIONAL ARRANGEMENT FOR BENEFITS FOR ELIGIBLE INDIVIDUALS OUTSIDE NEW YORK

''SEC. 3131. NATIONAL ARRANGEMENT FOR BENEFITS FOR ELIGIBLE INDIVIDUALS OUTSIDE NEW YORK.

''(a) IN GENERAL.—In order to ensure reasonable access to benefits under this subtitle for individuals who are eligible WTC responders or eligible WTC community members and who reside in any State, as defined in section 2(f), outside the New York metropolitan area, the WTC Program Administrator shall establish a nationwide network of health care providers to provide monitoring and treatment benefits and initial health evaluations near such individuals' areas of residence in such States. Nothing in this subsection shall be construed as preventing such individuals from being provided such monitoring and treatment benefits or initial health evaluation through any Clinical Center of Excellence.

''(b) NETWORK REQUIREMENTS.—Any health care provider participating in the network under subsection (a) shall—

''(1) meet criteria for credentialing established by the Coordinating Centers of Excellence;

''(2) follow the monitoring, initial health evaluation, and treatment protocols developed under section 3106(a)(2)(B);

''(3) collect and report data in accordance with section 3105; and

''(4) meet such fraud, quality assurance, and other requirements as the WTC Program Administrator establishes.

''Subtitle C—Research Into Conditions

''SEC. 3141. RESEARCH REGARDING CERTAIN HEALTH CONDITIONS RELATED TO SEPTEMBER 11 TERRORIST ATTACKS IN NEW YORK CITY.

''(a) IN GENERAL.—With respect to individuals, including eligible WTC responders and eligible WTC community members, receiving monitoring or treatment under subtitle B, the WTC Program Administrator shall conduct or support—

''(1) research on physical and mental health conditions that may be related to the September 11, 2001, terrorist attacks on the World Trade Center;

''(2) research on diagnosing WTC-related health conditions of such individuals, in the case of conditions for which there has been diagnostic uncertainty; and

''(3) research on treating WTC-related health conditions of such individuals, in the case of conditions for which there has been treatment uncertainty.

The Administrator may provide such support through continuation and expansion of research that was initiated before the date of the enactment of this title and through the World Trade Center Health Registry (referred to in section 3151), through a Clinical Center of Excellence, or through a Coordinating Center of Excellence.

''(b) TYPES OF RESEARCH.—The research under subsection (a)(1) shall include epidemiologic and other research studies on WTC-related health conditions or emerging conditions—

''(1) among WTC responders and community members under treatment; and

''(2) in sampled populations outside the New York City disaster area in Manhattan as far north as 14th Street and in Brooklyn, along with control populations, to identify potential for long-term adverse health effects in less exposed populations.

''(c) CONSULTATION.—The WTC Program Administrator shall carry out this section in consultation with the WTC Health Program Steering Committees and the WTC Scientific/Technical Advisory Committee.

''(d) APPLICATION OF PRIVACY AND HUMAN SUBJECT PROTECTIONS.—The privacy and human subject protections applicable to research conducted under this section shall not be less than such protections applicable to research otherwise conducted by the National Institutes of Health.

''(e) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated $15,000,000 for each fiscal year, in addition to any other authorizations of appropriations that are available for such purpose.

''Subtitle D—Programs of the New York City Department of Health and Mental Hygiene

''SEC. 3151. WORLD TRADE CENTER HEALTH REGISTRY.

''(a) PROGRAM EXTENSION.—For the purpose of ensuring on-going data collection for victims of the September 11, 2001, terrorist attacks on the World Trade Center, the WTC Program Administrator, shall extend and expand the arrangements in effect as of January 1, 2008, with the New York City Department of Health and Mental Hygiene that provide for the World Trade Center Health Registry.

''(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $7,000,000 for each fiscal year to carry out this section.

''SEC. 3152. MENTAL HEALTH SERVICES.

''(a) IN GENERAL.—The WTC Program Administrator may make grants to the New York City Department of Health and Mental Hygiene to provide mental health services to address mental health needs relating to the September 11, 2001, terrorist attacks on the World Trade Center.

''(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $8,500,000 for each fiscal year to carry out this section.''.

TITLE II—SEPTEMBER 11TH VICTIM COMPENSATION FUND OF 2001

SEC. 201. DEFINITIONS.

Section 402 of the Air Transportation Safety and System Stabilization Act (49 U.S.C. 40101 note) is amended—

(1) in paragraph (6) by inserting '', or debris removal, including under the World Trade Center Health Program established under section 3101 of the Public Health Service Act,'' after ''September 11, 2001'';

(2) by inserting after paragraph (6) the following new paragraphs and redesignating subsequent paragraphs accordingly:

''(7) CONTRACTOR AND SUBCONTRACTOR.—The term 'contractor and subcontractor' means any contractor or subcontractor (at any tier of a subcontracting relationship), including any general contractor, construction manager, prime contractor, consultant, or any parent, subsidiary, associated or allied company, affiliated company, corporation, firm, organization, or joint venture thereof that participated in debris removal at any 9/11 crash site. Such term shall not include any entity, including the Port Authority of New York and New Jersey, with a property interest in the World Trade Center, on September 11, 2001, whether fee simple, leasehold or easement, direct or indirect.

''(8) DEBRIS REMOVAL.—The term 'debris removal' means rescue and recovery efforts, removal of debris, cleanup, remediation, and response during the immediate aftermath of the terrorist-related aircraft crashes of September 11, 2001, with respect to a 9/11 crash site.'';

(3) by inserting after paragraph (10), as so redesignated, the following new paragraph and redesignating the subsequent paragraphs accordingly:

''(11) IMMEDIATE AFTERMATH.—The term 'immediate aftermath' means any period beginning with the terrorist-related aircraft crashes of September 11, 2001, and ending on August 30, 2002.''; and

(4) by adding at the end the following new paragraph:

''(14) 9/11 CRASH SITE.—The term '9/11 crash site' means—

''(A) the World Trade Center site, Pentagon site, and Shanksville, Pennsylvania site;

''(B) the buildings or portions of buildings that were destroyed as a result of the terrorist-related aircraft crashes of September 11, 2001;

''(C) any area contiguous to a site of such crashes that the Special Master determines was sufficiently close to the site that there was a demonstrable risk of physical harm resulting from the impact of the aircraft or any subsequent fire, explosions, or building collapses (including the immediate area in which the impact occurred, fire occurred, portions of buildings fell, or debris fell upon and injured individuals); and

''(D) any area related to, or along, routes of debris removal, such as barges and Fresh Kills.''.

SEC. 202. EXTENDED AND EXPANDED ELIGIBILITY FOR COMPENSATION.

(a) INFORMATION ON LOSSES RESULTING FROM DEBRIS REMOVAL INCLUDED IN CONTENTS OF CLAIM FORM.—Section 405(a)(2)(B) of the Air Transportation Safety and System Stabilization Act (49 U.S.C. 40101 note) is amended—

(1) in clause (i), by inserting '', or debris removal during the immediate aftermath'' after ''September 11, 2001''; and

(2) in clause (ii), by inserting ''or debris removal during the immediate aftermath'' after ''crashes''.

(3) in clause (iii), by inserting ''or debris removal during the immediate aftermath'' after ''crashes''.

(b) EXTENSION OF DEADLINE FOR CLAIMS UNDER SEPTEMBER 11TH VICTIM COMPENSATION FUND OF 2001.—Section 405(a)(3) of such Act is amended to read as follows:

''(3) LIMITATION.—

''(A) IN GENERAL.—Except as provided by subparagraph (B), no claim may be filed under paragraph (1) after the date that is 2 years after the date on which regulations are promulgated under section 407(a).

''(B) EXCEPTION.—A claim may be filed under paragraph (1), in accordance with subsection (c)(3)(A)(i), by an individual (or by a personal representative on behalf of a deceased individual) during the period beginning on the date on which the regulations are updated under section 407(b) and ending on December 22, 2031.''.

(c) REQUIREMENTS FOR FILING CLAIMS DURING EXTENDED FILING PERIOD.—Section 405(c)(3) of such Act is amended—

(1) by redesignating subparagraphs (A) and (B) as subparagraphs (B) and (C), respectively; and

(2) by inserting before subparagraph (B), as so redesignated, the following new subparagraph:

''(A) REQUIREMENTS FOR FILING CLAIMS DURING EXTENDED FILING PERIOD.—

''(i) TIMING REQUIREMENTS FOR FILING CLAIMS.—An individual (or a personal representative on behalf of a deceased individual) may file a claim during the period described in subsection (a)(3)(B) as follows:

''(I) In the case that the Special Master determines the individual knew (or reasonably should have known) before the date specified in clause (iii) that the individual suffered a physical harm at a 9/11 crash site as a result of the terrorist-related aircraft crashes of September 11, 2001, or as a result of debris removal, and that the individual knew (or should have known) before such specified date that the individual was eligible to file a claim under this title, the individual may file a claim not later than the date that is 2 years after such specified date.

''(II) In the case that the Special Master determines the individual first knew (or reasonably should have known) on or after the date specified in clause (iii) that the individual suffered such a physical harm or that the individual first knew (or should have known) on or after such specified date that the individual was eligible to file a claim under this title, the individual may file a claim not later than the last day of the 2-year period beginning on the date the Special Master determines the individual first knew (or should have known) that the individual both suffered from such harm and was eligible to file a claim under this title.

''(ii) OTHER ELIGIBILITY REQUIREMENTS FOR FILING CLAIMS.—An individual may file a claim during the period described in subsection (a)(3)(B) only if—

''(I) the individual was treated by a medical professional for suffering from a physical harm described in clause (i)(I) within a reasonable time from the date of discovering such harm; and

''(II) the individual's physical harm is verified by contemporaneous medical records created by or at the direction of the medical professional who provided the medical care.

''(iii) DATE SPECIFIED.—The date specified in this clause is the date on which the regulations are updated under section 407(a).''.

(d) CLARIFYING APPLICABILITY TO ALL 9/11 CRASH SITES.—Section 405(c)(2)(A)(i) of such Act is amended by striking ''or the site of the aircraft crash at Shanksville, Pennsylvania'' and inserting ''the site of the aircraft crash at Shanksville, Pennsylvania, or any other 9/11 crash site''.

(e) INCLUSION OF PHYSICAL HARM RESULTING FROM DEBRIS REMOVAL.—Section 405(c) of such Act is amended in paragraph (2)(A)(ii), by inserting ''or debris removal'' after ''air crash''.

(f) LIMITATIONS ON CIVIL ACTIONS.—

(1) APPLICATION TO DAMAGES RELATED TO DEBRIS REMOVAL.—Clause (i) of section 405(c)(3)(C) of such Act, as redesignated by subsection (c), is amended by inserting '', or for damages arising from or related to debris removal'' after ''September 11, 2001''.

(2) PENDING ACTIONS.—Clause (ii) of such section, as so redesignated, is amended to read as follows:

''(ii) PENDING ACTIONS.—In the case of an individual who is a party to a civil action described in clause (i), such individual may not submit a claim under this title—

''(I) during the period described in subsection (a)(3)(A) unless such individual withdraws from such action by the date that is 90 days after the date on which regulations are promulgated under section 407(a); and

''(II) during the period described in subsection (a)(3)(B) unless such individual withdraws from such action by the date that is 90 days after the date on which the regulations are updated under section 407(b).''.

(3) AUTHORITY TO REINSTITUTE CERTAIN LAWSUITS.—Such section, as so redesignated, is further amended by adding at the end the following new clause:

''(iii) AUTHORITY TO REINSTITUTE CERTAIN LAWSUITS.—In the case of a claimant who was a party to a civil action described in clause (i), who withdrew from such action pursuant to clause (ii), and who is subsequently determined to not be an eligible individual for purposes of this subsection, such claimant may reinstitute such action without prejudice during the 90-day period beginning after the date of such ineligibility determination.''.

SEC. 203. REQUIREMENT TO UPDATE REGULATIONS.

Section 407 of the Air Transportation Safety and System Stabilization Act (49 U.S.C. 40101 note) is amended—

(1) by striking ''Not later than'' and inserting ''(a) IN GENERAL.—Not later than''; and

(2) by adding at the end the following new subsection:

''(b) UPDATED REGULATIONS.—Not later than 90 days after the date of the enactment of the James Zadroga 9/11 Health and Compensation Act of 2009, the Special Master shall update the regulations promulgated under subsection (a) to the extent necessary to comply with the provisions of title II of such Act.''.

SEC. 204. LIMITED LIABILITY FOR CERTAIN CLAIMS.

Section 408(a) of the Air Transportation Safety and System Stabilization Act (49 U.S.C. 40101 note) is amended by adding at the end the following new paragraphs:

''(4) LIABILITY FOR CERTAIN CLAIMS.—

''(A) IN GENERAL.—Notwithstanding any other provision of law, subject to subparagraph (B), liability for all claims and actions (including claims or actions that have been previously resolved, that are currently pending, and that may be filed through December 22, 2031) for compensatory damages, contribution or indemnity, or any other form or type of relief, arising from or related to debris removal, against the City of New York, any entity (including the Port Authority of New York and New Jersey) with a property interest in the World Trade Center on September 11, 2001 (whether fee simple, leasehold or easement, or direct or indirect) and any contractors and subcontractors thereof, shall not be in an amount that exceeds the sum of the following:

''(i) The amount of funds of the WTC Captive Insurance Company, including the cumulative interest.

''(ii) The amount of all available insurance identified in schedule 2 of the WTC Captive Insurance Company insurance policy.

''(iii) The amount that is the greater of the City of New York's insurance coverage or $350,000,000. In determining the amount of the City's insurance coverage for purposes of the previous sentence, any amount described in clauses (i) and (ii) shall not be included.

''(iv) The amount of all available liability insurance coverage maintained by any entity, including the Port Authority of New York and New Jersey, with a property interest in the World Trade Center, on September 11, 2001, whether fee simple, leasehold or easement, or direct or indirect.

''(v) The amount of all available liability insurance coverage maintained by contractors and subcontractors.

''(B) EXCEPTION.—Subparagraph (A) shall not apply to claims or actions based upon conduct held to be intentionally tortious in nature or to acts of gross negligence or other such acts to the extent to which punitive damages are awarded as a result of such conduct or acts.

''(5) PRIORITY OF CLAIMS PAYMENTS.—Payments to plaintiffs who obtain a settlement or judgment with respect to a claim or action to which paragraph (4)(A) applies, shall be paid solely from the following funds in the following order:

''(A) The funds described in clause (i) or (ii) of paragraph (4)(A).

''(B) If there are no funds available as described in clause (i) or (ii) of paragraph (4)(A), the funds described in clause (iii) of such paragraph.

''(C) If there are no funds available as described in clause (i), (ii), or (iii) of paragraph (4)(A), the funds described in clause (iv) of such paragraph.

''(D) If there are no funds available as described in clause (i),(ii), (iii), or (iv) of paragraph (4)(A), the funds described in clause (v) of such paragraph.

''(6) DECLARATORY JUDGMENT ACTIONS AND DIRECT ACTION.—Any party to a claim or action to which paragraph (4)(A) applies may, with respect to such claim or action, either file an action for a declaratory judgment for insurance coverage or bring a direct action against the insurance company involved.''.

By Mr. AKAKA (for himself, Mr. INOUYE, Mr. KENNEDY, and Ms. CANTWELL):

S. 1337. A bill to exempt children of certain Filipino World War II veterans from the numerical limitations on immigrant visas; to the Committee on the Judiciary.

Mr. AKAKA. Mr. President, I am introducing the Filipino Veterans Family Reunification Act of 2009. I am pleased that my colleagues, Senators INOUYE, KENNEDY and CANTWELL, have joined me in introducing this bill. Our bill will reunite Filipino World War II veterans who are U.S. citizens and U.S. residents with their children in the Philippines, who have languished for years on the visa waiting list. In seeking an exemption from the numerical limitation on immigrant visas for the children of the Filipino veterans, our bill will address and resolve an issue rooted in a set of historical circumstances that are now nearly 7 decades old.

In 1934, the Philippines, an American possession since 1898, was placed on the path to independence. The enactment of the Philippine Independence Act established the Philippines as a commonwealth with certain powers over its internal affairs but with the United States retaining sovereign power. It also set a 10-year timetable for the commonwealth's independence from the U.S.

In 1941, President Franklin D. Roosevelt responded to Japan's increasingly aggressive military posture in Asia and the Pacific by issuing a presidential order that called and ordered into the service of the Armed Forces of the United States all of the organized military forces of the Commonwealth of the Philippines. The authority for this presidential order was the Philippine Independence Act, which retained for the United States sovereign power over the commonwealth. Accordingly, over 200,000 Filipinos were drafted into the United States armed forces, and served honorably during World War II.

In 1942, Congress passed the Second War Powers Act, including Sections 701 and 702, Nationality Act of 1940, which authorized the naturalization of all aliens serving in the U.S. armed forces. Pursuant to this act, about 7,000 Filipinos serving in the U.S. armed forces outside the Philippines became U.S. citizens. Naturalization of the Filipinos who had served in the U.S. armed forces in the Philippines began in Manila in August 1945, but was halted two months later when the American vice consul's naturalization authority was revoked.

At the time, U.S. officials indicated that the government of the Commonwealth of the Philippines had expressed concerns that the naturalization, and likely emigration to the U.S., of the Filipino veterans would drain the soon-to-be-independent Philippines of essential manpower and undermine the new nation's postwar reconstruction efforts. Others, however, believed this was a pretext for what came to be known as the Rescissions Act of 1946.

In February and May 1946, the 79th Congress passed the First Supplemental Surplus Appropriations Rescission Act, PL 79–301, and the Second Supplemental Surplus Appropriations Rescission Act, PL 79–391, respectively. Now collectively known as the Rescissions Act of 1946, PL 79–301 authorized a $200 million appropriation to the Commonwealth Army of the Philippines conditioned on a provision that service in the Commonwealth Army of the Phillippines should not be deemed to have been service in the active military or air service of the U.S.

It would take Congress more than four decades to acknowledge that the Filipino World War II veterans had, indeed, served in the U.S. armed forces.

The Immigration Act of 1990 included a provision that offered the opportunity to obtain U.S. citizenship to those Filipino veterans who had not been naturalized pursuant to the Nationality Act of 1940. And nineteen years later, the American Recovery and Reinvestment Act, ARRA, of 2009 included a provision that authorized the payment of benefits to the 30,000 surviving Filipino veterans in the amount of $15,000 for those who are citizens and $9,000 for those who are non-citizens.

Of the 30,000 surviving Filipino World War II veterans, 7,000 are U.S. citizens and reside in this country. Many of these U.S. citizens filed visa petitions for their children, who remained in the Philippines. Now in their eighties and nineties, these men continue to wait for their children, who languish on the visa waiting lists, to join them. The Filipino Veterans Family Reunification Act exempts the veterans' children, about 20,000 individuals in all, from the numerical limitation on immigrant visas. It does not require any appropriation and will serve to not only reunite these veterans with their children, but also honor their too-long-forgotten World War II service to this Nation.

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. 1337

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 ''Filipino Veterans Family Reunification Act of 2009''.

SEC. 2. EXEMPTION FROM IMMIGRANT VISA LIMIT.

Section 201(b)(1) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(1)) is amended by adding at the end the following:

''(F) Aliens who are eligible for a visa under paragraph (1) or (3) of section 203(a) and who have a parent who was naturalized pursuant to section 405 of the Immigration Act of 1990 (Public Law 101–649; 8 U.S.C. 1440 note).''.

By Mr. LEAHY (for himself and Mr. CRAPO):

S. 1340. A bill to establish a minimum funding level for programs under the Victims of Crime Act of 1984 for fiscal years 2010 to 2014 that ensures a reasonable growth in victim programs without jeopardizing the long-term sustainability of the Crime Victims Fund; to the Committee on the Judiciary.

Mr. LEAHY. Mr. President, I am pleased to join with Senator CRAPO to introduce the Crime Victims Fund Preservation Act of 2009, which would restore and increase critical funding for direct services and compensation to victims of crime under the Victims of Crime Act.

I was honored to support the passage of the Victims of Crime Act of 1984, VOCA, which has been the principal means by which the Federal Government has supported essential services for crime victims and their families. The Victims of Crime Act provides grants for direct services to victims, such as state crime victim compensation programs, emergency shelters, crisis intervention, counseling, and assistance in participating in the criminal justice system. These services are all financed by a reserve fund created from fines and penalties paid by Federal criminal offenders, at no cost to taxpayers.

A number of us have worked hard over the years to protect the Crime Victims Fund. State victim compensation and assistance programs serve nearly four million crime victims each year, including victims of violent crime, domestic violence, sexual assault, child abuse, elder abuse, and drunk driving. The Crime Victims Fund makes these programs possible and has helped hundreds of thousands of victims of violent crime bravely move forward with their lives.

Several years ago, I worked to make sure that the Crime Victims Fund would be there in good times, and in bad. We made sure it had a ''rainy day'' capacity so that in lean years, victims and their advocates would not have to worry that the fund would run out of money and that they would be left stranded. More recently, an annual cap has been set on the level of funding to be spent from the Fund in a given year, in part to help preserve adequate funds from year to year. When this cap was established, and when President Bush then sought to empty the Crime Victims Fund of unexpended funds, I joined with Senator CRAPO, Senator MIKULSKI and others from both political parties to make sure that the Crime Victims Fund was preserved. Fortunately Congress has consistently rejected efforts to rob crime victims of resources that are appropriately set aside to assist them and their families.

Unfortunately, the cap on the fund has not kept pace with the demand for compensation and services. From 2006 to 2008, VOCA victim assistance formula grants were cut by $87 billion or 22 percent. This reduction in funding, coupled with the current economic climate, was devastating to victim service providers who were forced to curtail services, lay off staff, and close their doors, jeopardizing the well-being and recovery of many crime victims.

In addition, victim service professionals have seen a clear increase in victimization and victim need in the past year as job losses and economic stress translate into increased violence in the home and in our communities. The National Crime Victims Helpline reported a 25 percent increase in calls in recent months and the National Domestic Violence Hotline reported a similar increase. Local shelters and crisis lines are also reporting a rise in demand as the shortage of affordable housing and rising unemployment are increasing the time that victims stay in emergency shelters. The rising unemployment rate also means victims are less likely to have insurance to cover their crime-related expenses.

At a Judiciary Committee hearing I chaired in April on the Victim of Crime Act, witnesses testified that there has also been an increase in the variety of crimes being committed. The National Crime Victims Helpline has seen an increase in calls from fraud victims people falling prey to ''work at home'' scams, secret shopper scams, investment scams, mortgage fraud, and construction fraud. Such victims are in desperate need of financial counseling and mental health counseling to overcome the stress and emotional impact of falling victim to these scams. Under Federal regulations, States may use compensation and victim assistance programs to aid financial crime victims, but services are not available. Victim service providers are reluctant to expand their outreach and services without assured increased funding and there is already too much competition for the limited funds available. The National Census of Domestic Violence Services conducted last fall showed that in one day, nearly 9,000 victims were turned away from shelter, counseling, and other crucial services because local programs were unable to serve them.

The need for victim assistance and compensation has grown. The Crime Victims Fund can provide more help. Recent years have seen an increase in collections from criminal fines and penalties. Accordingly, Congress has the ability to provide stable and predictable growth without jeopardizing the sustainability of the fund, and should do so through this legislation. The Crime Victims Fund Preservation Act would establish a minimum funding level for programs under VOCA to ensure reasonable and predictable growth in victim services through fiscal year 2014. Providing a stable and predictable funding stream will enable states to expand their programs and outreach to the thousands of victims who have nowhere to turn. Again, I emphasize that it does not cost a dime of taxpayer funds but will come exclusively from Federal criminal fines and penalties.

I want to commend Senator MIKULSKI, the Chairwoman of the Commerce, Justice, and Science Appropriations Subcommittee, and Senator SHELBY, the Ranking Member, for working with the President to provide $100 million in the economic recovery package for crime victims. That additional funding is sorely needed right now and I know it was sincerely appreciated by victim service providers. Funding in the Omnibus Appropriations Act of 2009 together with the Recovery Act funds, restored funding to the 2006 level, adjusted for inflation. A 2010 cap on total VOCA obligations of $705 million is expected to maintain the funding level for assistance grants provided in 2009 through the Recovery Act funding and annual appropriations. I believe that

the certainty this legislation will provide will be helpful to the states, victim service providers, and the citizens they serve, and will help improve this vital program.

I look forward to working with Senator CRAPO, Senator MIKULSKI and many other interested Senators on this initiative to provide increased, stable, and predicable funding for to meet the ongoing need for essential services for crime victims and their families in the years ahead.

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. 1340

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 ''Crime Victims Fund Preservation Act of 2009''.

SEC. 2. CRIME VICTIMS FUND.

Section 1402(c) of the Victims of Crime Act of 1984 (42 U.S.C. 10601(c)) is amended—

(1) by inserting ''(1)'' after ''(c)''; and

(2) by adding at the end the following:

''(2) The amount made available from the Fund for the purposes of paragraphs (2), (3), and (4) of subsection (d) shall be not less than—

''(A) $705,000,000 for fiscal year 2010;

''(B) $867,150,000 for fiscal year 2011;

''(C) $1,066,594,500 for fiscal year 2012;

''(D) $1,311,911,235 for fiscal year 2013; and

''(E) $1,613,650,819 for fiscal year 2014.''.

By Mr. MENENDEZ:

S. 1341. A bill to amend the Internal Revenue Code of 1986 to impose an excise tax on certain proceeds received on SILO and LILO transactions; to the Committee on Finance.

Mr. MENENDEZ. Mr. President, today I am introducing the Close the SILO/LILO Loophole Act. This legislation will close a loophole in which banks and other entities are taking advantage of the financial crisis to exploit transit agencies and other local public entities to collect windfall payments. This bill seeks to permanently end this abusive practice, saving the public scarce resources.

Sale-In/Lease Out and Lease-In/Lease Out, SILO/LILO, contracts are a type of financial transaction in which a public entity transfers assets, equipment or infrastructure, to a bank or other entity while simultaneously entering into a long-term lease with the same bank or other entity. From the 1990's to 2003, public agencies, including transit agencies and rural electric coops, entered into these LILO and SILO transactions. As part of the agreement, the bank required the public agency to pay a AAA-rated entity a fee to make lease payments throughout the term of the lease. This arrangement provided security for the banks and insured that lease payments would be made.

When the financial crisis hit last year, many AAA-rated entities involved in these transactions were downgraded. Banks took advantage of these downgrades and some sued these public agencies, citing a clause in the agreements that required only AAA-rated entities to make lease payments. They did this even though the public agencies in question did not miss any of their regular lease payments to the banks.

Not only is this predatory, but allowing this practice to continue is also contrary to public policy. While the SILO/LILO contracts provided much needed resources for capital intensive projects that benefitted the public, they also provided tax benefits to the banks—tax benefits that Congress found to be tax avoidance schemes and effectively eliminated in 2003. In 2008, the Internal Revenue Service proposed a settlement of the leases, effectively eliminating all future tax benefits while allowing the underlying commercial transactions to remain in place. If we let these suits against public agencies continue, we are basically allowing banks to get these tax benefits through another means—taking taxpayer money from public transit agencies and other public agencies around the Nation.

At this moment in time, we have myriad infrastructure needs. Public agencies are working hard to fill the demand for infrastructure projects. President Obama and Congress acknowledged the need and delivered the American Recovery and Reinvestment Act. Now is not the time to financially burden the agencies that we rely on for building, repairing, maintaining and preserving our infrastructure. The Close the SILO/LILO Loophole Act will help lift the uncertainty under which these public agencies are operating, enabling them to serve the public better. I hope to work closely with Chairman BAUCUS to end this crisis so public agencies can continue to serve the public and not banks seeking a windfall.

By Mr. BROWN (for himself, Mr. BENNET, and Mr. CASEY):

S. 1343. A bill to amend the Richard B. Russell National School Lunch Act to improve and expand direct certification procedures for the national school lunch and school breakfast programs, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. BROWN. Mr. President, every day during the school year, some 700,000 Ohio children are eligible to receive a free or reduced-price lunch at their school. Every day during the school year, these meals could ensure that children get enough to eat, particularly those children who are from homes where they don't get enough to eat, and it would ensure that children receive the good-quality, nutritious food they need. Yet today only about 86 percent of eligible children in Ohio receive a free school breakfast, a free school lunch, or a reduced-price breakfast or lunch. Only 86 percent of those eligible do. That means 1 in 10 Ohio children goes without a meal every day at school unnecessarily. Thus, tens of thousands of children from large urban districts in Cleveland and Cincinnati and Toledo to rural districts in Appalachia, children in small towns and medium towns all over the State and all over the country don't receive a healthy meal at school. Mr. President, about 150,000 children eligible at school for free or reduced-price lunch or breakfast don't get the meals at school that they are eligible for, and it is unacceptable. We can do something about it.

The application process for free lunch and breakfast is antiquated—stuck in a low-tech, old-fashioned, file-cabinet kind of system. The current paper application process doesn't reflect today's school districts. It doesn't adjust to changing demographics. It doesn't take advantage of the tremendous advancements in technology our society enjoys generally. That is why I will be introducing today the Hunger Free Schools Act, along with Senators CASEY and BENNET, that would dramatically reduce the number of paper applications for the free school lunch program. This legislation will directly enroll an estimated 100,000 Ohio children and thousands of children around the Nation in the National School Lunch Program. The Hunger Free Schools Act would modernize the application system for free school meals. The Hunger Free Schools Act would ensure that the system functions the way it was actually designed to work.

By increasing the number of children who receive nutritional school meals, we can help them receive a better education. Just think of children who sit in schools—small children, children of middle-school age, children in high school, but particularly small children—with their stomachs growling. They haven't really had breakfast or they haven't had a nutritious breakfast. Children who think so much about their hunger rather than their school work, children who by afternoon feel weak because they haven't had the calories and nutrition they need, this bill could do something about this. By increasing the number of healthy children, we will be more effective in lowering rates of child obesity and diabetes. It is not just about not getting enough to eat, it is also the quality of food they eat if they don't eat in the school cafeteria the school breakfast that is provided for them.

Nationwide, this bill would reduce paperwork and administrative costs to make access to meals easier for nearly 7 million children—hundreds of thousands of children in the Presiding Officer's home State of Illinois and over 100,000 children in my State of Ohio. Reducing paperwork and administrative costs saves time for administrators, reduces the burden on schools, and makes it a whole lot easier for teachers who don't have to think so much about helping their children figure out how to get a free school lunch or a free school breakfast.

President Obama cited administrative costs as a barrier to ending childhood hunger. His goal of eliminating this moral problem by 2015 is within reach, in part because of this legislation. More must be done.

Another way to combat childhood hunger is to make sure more families are aware of summer feeding programs.

Let me give another number. Some 700,000 children in my State are eligible for the reduced or free school breakfast and lunch. Of that number, about 500,000 actually get free lunch and breakfast. Those same students are eligible for the summer feeding program in June, July, and August—a program that is in rec centers, churches, parks, and in other kinds of buildings sprinkled across our State. Yet only about 60,000, or 1 in 10 children who are eligible, partake in the summer feeding program. So those children who, every day, get a free breakfast and lunch during the school year are also eligible in the summer to get free breakfast, lunch, and a free snack. But very few of them actually get those breakfasts and lunches or snacks in the summer.

You can imagine what that does to the chance for those children to become obese or to have a lack of nutrition and what all that means. The summer feeding program is every bit as important as the school breakfast and lunch program. That is why I remind parents and educators and guardians that the summer food service program is available to provide children a free breakfast, lunch, or snack during summer months. I encourage parents, educators, and guardians in Ohio, and around the Nation, to find a local summer feeding location.

I suggest people watching, if they are from my State, to go on my Web site, brown.senate.gov. We have roughly 1,000 summer feeding program locations on the Web site. People from Ohio can look on there and find out where there might be half a dozen sites in Richland County or perhaps 5 or 6 locations in Allen County or 25 or so locations in Lorain County, where young people can sign up to go to the summer feeding program or they can just show up and be fed. Ohioans can also find information through the Ohio Department of Education. Other Americans should contact the U.S. Department of Agriculture, which has a State-by-State breakdown of resources. Students in summer reading programs at the public libraries might be eligible for the summer feeding program. They should find out from the library or from a music program they are part of or anyplace they might go, if they are eligible.

Again, I remind people that if your son or daughter is eligible for the school lunch program, they are also eligible for the summer feeding program. The end of the school year doesn't mean that we have an end to hunger. It means we need to make some people aware of the summer feeding program. Coupled with the summer feeding program, this Hunger Free Schools Act can ensure that our children reach their full potential.

By Mr. REED (for himself, Mr. GRASSLEY, Mr. AKAKA, Mr. BAYH, Ms. COLLINS, Mr. KERRY, Mr. LAUTENBERG, Mr. LEAHY, Mrs. LINCOLN, Mr. LUGAR, Mrs. MURRAY, Ms. STABENOW, and Mr. WHITEHOUSE):

S. 1345. A bill to aid and support pediatric involvement in reading and education; to the Committee on Health, Education, Labor, and Pensions.

Mr. REED. Mr. President, today I introduce with my colleague, Senator GRASSLEY, the Prescribe A Book Act. I thank Senators AKAKA, BAYH, COLLINS, KERRY, LAUTENBERG, LEAHY, LINCOLN, LUGAR, MURRAY, STABENOW, and WHITEHOUSE for joining us as original cosponsors of this bill.

Our legislation would create a Federal pediatric early literacy grant initiative based on the long-standing, successful Reach Out and Read program. The program would award grants to high-quality non-profit entities to train doctors and nurses in advising parents about the importance of reading aloud and to give books to children at pediatric check-ups from six months to 5 years of age, with a priority for children from low-income families. It builds on the relationship between parents and medical providers and helps families and communities encourage early literacy skills so children enter school prepared for success in reading.

The Reach Out and Read model has consistently demonstrated effectiveness in increasing parent involvement and boosting children's reading proficiency. Research published in peer-reviewed, scientific journals has found that parents who have participated in the program are significantly more likely to read to their children and include more children's books in their home, and that children served by the program show an increase of 4–8 points on vocabulary tests. I have seen upclose the positive impact of this program on children and their families when visiting a number of the 40 Rhode Island Reach Out and Read sites.

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. 1345

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 ''Prescribe A Book Act''.

SEC. 2. DEFINITIONS.

In this Act:

(1) ELIGIBLE ENTITY.—The term ''eligible entity'' means a nonprofit organization that has, as determined by the Secretary, demonstrated effectiveness in the following areas:

(A) Providing peer–to–peer training to healthcare providers in research–based methods of literacy promotion as part of routine pediatric health supervision visits.

(B) Delivering a training curriculum through a variety of medical education settings, including residency training, continuing medical education, and national pediatric conferences.

(C) Providing technical assistance to local healthcare facilities to effectively implement a high-quality Pediatric Early Literacy Program.

(D) Offering opportunities for local healthcare facilities to obtain books at significant discounts, as described in section 7.

(E) Integrating the latest developmental and educational research into the training curriculum for healthcare providers described in subparagraph (B).

(2) PEDIATRIC EARLY LITERACY PROGRAM.—The term ''Pediatric Early Literacy Program'' means a program that—

(A) creates and implements a 3-part model through which—

(i) healthcare providers, doctors, and nurses, trained in research–based methods of early language and literacy promotion, encourage parents to read aloud to their young children, and offer developmentally appropriate recommendations and strategies to parents for the purpose of reading aloud to their children;

(ii) healthcare providers, at health supervision visits, provide each child between the ages of 6 months and 5 years a new, developmentally appropriate children's book to take home and keep; and

(iii) volunteers in waiting areas of healthcare facilities read aloud to children, modeling for parents the techniques and pleasures of sharing books together;

(B) demonstrates, through research published in peer-reviewed journals, effectiveness in positively altering parent behavior regarding reading aloud to children, and improving expressive and receptive language in young children; and

(C) receives the endorsement of nationally–recognized medical associations and academies.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of Education.

SEC. 3. PROGRAM AUTHORIZED.

The Secretary is authorized to award grants to eligible entities to enable the eligible entities to implement Pediatric Early Literacy Programs.

SEC. 4. APPLICATIONS.

An eligible entity that desires to receive a grant under section 3 shall submit an application to the Secretary at such time, in such manner, and including such information as the Secretary may reasonably require.

SEC. 5. MATCHING REQUIREMENT.

An eligible entity receiving a grant under section 3 shall provide, either directly or through private contributions, non-Federal matching funds equal to not less than 50 percent of the grant received by the eligible entity under section 3. Such matching funds may be in cash or in-kind.

SEC. 6. USE OF GRANT FUNDS.

(a) IN GENERAL.—An eligible entity receiving a grant under section 3 shall—

(1) enter into contracts with private nonprofit organizations, or with public agencies, selected based on the criteria described in subsection (b), under which each contractor will agree to establish and operate a Pediatric Early Literacy Program;

(2) provide such training and technical assistance to each contractor of the eligible entity as may be necessary to carry out this Act; and

(3) include such other terms and conditions in an agreement with a contractor as the Secretary determines to be appropriate to ensure the effectiveness of such programs.

(b) CONTRACTOR CRITERIA.—Each contractor shall be selected under subsection

(a)(1) on the basis of the extent to which the contractor gives priority to serving a substantial number or percentage of at–risk children, including—

(1) children from families with an income below 200 percent of the poverty line (as defined by the Office of Management and Budget and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2))) applicable to a family of the size involved, particularly such children in high–poverty areas;

(2) children without adequate medical insurance;

(3) children enrolled in a State Medicaid program, established under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) or in the State Children's Health Insurance Program established under title XXI of such Act (42 U.S.C. 1397aa et seq.);

(4) children living in rural areas;

(5) migrant children; and

(6) children with limited access to libraries.

SEC. 7. RESTRICTION ON PAYMENTS.

The Secretary shall make no payment to an eligible entity under this Act unless the Secretary determines that the eligible entity or a contractor of the eligible entity, as the case may be, has made arrangements with book publishers or distributors to obtain books at discounts that are at least as favorable as discounts that are customarily given by such publisher or distributor for book purchases made under similar circumstances in the absence of Federal assistance.

SEC. 8. REPORTING REQUIREMENT.

An eligible entity receiving a grant under section 3 shall report annually to the Secretary on the effectiveness of the program implemented by the eligible entity and the programs instituted by each contractor of the eligible entity, and shall include in the report a description of each program.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this Act—

(1) $15,000,000 for fiscal year 2010;

(2) $16,000,000 for fiscal year 2011;

(3) $17,000,000 for fiscal year 2012;

(4) $18,000,000 for fiscal year 2013; and

(5) $19,000,000 for fiscal year 2014.

By Mr. DURBIN (for himself, Mr. LEAHY, and Mr. FEINGOLD):

S. 1346. A bill to penalize crimes against humanity and for other purposes; to the Committee on the Judiciary.

Mr. DURBIN. Mr. President, I rise today to introduce the Crimes Against Humanity Act of 2009. This narrowly-tailored legislation would make it a violation of U.S. law to commit a crime against humanity. Congress must ensure that criminals who commit mass atrocities do not find safe haven in our country.

I would like to thank the other original cosponsors of the Crimes Against Humanity Act, Senator PATRICK LEAHY of Vermont, the Chairman of the Senate Judiciary Committee, and Senator RUSSELL FEINGOLD of Wisconsin, the Chairman of the Senate Judiciary Subcommittee on the Constitution and the Chairman of the Senate Foreign Relations Subcommittee on African Affairs.

For generations, the U.S. has led the struggle for human rights around the world and has supported holding perpetrators of crimes against humanity accountable. Over 50 years before the Nuremberg trials, George Washington Williams, an African-American minister, lawyer and historian, called for an international commission to investigate ''crimes against humanity'' in the Congo, which was then ruled by Belgium's King Leopold II. Under King Leopold's iron fist, Congo's population was reduced by half, with up to 10 million people losing their lives. In a letter to the U.S. Secretary of State, Mr. Williams decried the ''crimes against humanity'' perpetrated by King Leopold's regime.

Over 50 years later, following the Holocaust, the U.S. led the efforts to prosecute Nazi perpetrators for crimes against humanity at the Nuremberg trials. Crimes against humanity were first defined in the Nuremberg Charter in 1945. Sixteen men were found guilty of crimes against humanity in the Nuremberg trials, including Hermann Goring, commander of the Luftwaffe and the highest-ranking official to order the ''Final Solution.''

Since then, the U.S. has supported efforts to prosecute perpetrators of crimes against humanity, including Nazi war criminals who had escaped accountability. In 1961, Adolf Eichman, the ''architect of the Holocaust,'' was convicted in Israel for committing crimes against humanity. Michael Musmanno, a U.S. Naval officer and judge at the Nuremberg trials, was a key prosecution witness. In 1987, Klaus Barbie, the ''Butcher of Lyon'', was convicted in France for crimes against humanity he committed while heading the Gestapo in Lyon.

The U.S. has also supported the prosecution of crimes against humanity before the International Criminal Tribunal for the former Yugoslavia, the International Criminal Tribunal for Rwanda, and the Special Court for Sierra Leone.

More recently, we have seen crimes against humanity being committed on a massive scale in Darfur in western Sudan. In this region of six million people, hundreds of thousands were killed and as many as 2.5 million were driven from their homes in recent years. Part of the solution to the carnage in Darfur is arresting and prosecuting the perpetrators. Otherwise, these perpetrators will continue to act with impunity and victims will feel they have no recourse but to resort to violence themselves.

We have also seen crimes against humanity being committed in the eastern Democratic Republic of Congo, most disturbingly through the use of rape as a weapon of war. The systematic and deliberate use of mass rape to humiliate, expel and destroy communities in the eastern Democratic Republic of Congo offends our common humanity.

However, it is not only Darfur and the eastern Democratic Republic of Congo that are safe havens for the perpetrators of crimes against humanity. Perpetrators of mass atrocities have sought to escape accountability for their actions by coming to our own country. According to the Department of Homeland Security, over 1000 war criminals have found safe haven in the United States.

I am the Chairman of the Judiciary Committee's Human Rights and the Law Subcommittee. Last year I held a Human Rights and the Law Subcommittee hearing entitled ''From Nuremberg to Darfur: Accountability for Crimes Against Humanity.'' This hearing identified a glaring loophole in U.S. law—currently, there is no U.S. law prohibiting crimes against humanity. As a result, the U.S. government is unable to prosecute perpetrators of crimes against humanity found in our country. In contrast, other grave human rights violations, including genocide, using or recruiting child soldiers, and torture, are crimes under U.S. law.

We heard testimony in the Human Rights and the Law Subcommittee that many U.S. allies have incorporated crimes against humanity into their criminal codes, including Australia, Canada, Germany, the Netherlands, New Zealand, South Africa, Spain, Argentina and the United Kingdom.

Expert witnesses testified before the Subcommittee about the urgent need for the United States to enact similar legislation. Gayle Smith, the Co-Founder of the Enough Project, testified that it is in our national interest to enact crimes against humanity legislation:

> If unchallenged, the violence that defines crimes against humanity feeds on itself: conflicts spread, institutions crumble, economies decline and young people are taught the dangerous lesson that violence is more potent tool for change than hope. . . . Ensuring that those who commit crimes against humanity are in violation of U.S. law is in our national interests, and clearly in the interests of the victims who have few if any protectors or defenders.

Diane Orentlicher, a law professor at American University's Washington College of Law and one of our country's leading experts on human rights crimes, testified:

> The United States has, since Nuremberg, provided indispensable leadership in ensuring prosecution of crimes against humanity by various international tribunals, as well as by other countries we have supported. So it's quite remarkable that we of all countries don't have a law on our books making it possible to prosecute this crime when perpetrators show up in our own territory.

The crimes against humanity loophole has real consequences. When the U.S. government learned that Marko Boskic, who allegedly participated in the Srebrenica massacre in the Bosnian conflict, was living in Massachusetts, he was charged with visa fraud, rather than crimes against humanity. ''They should condemn him for the crime,'' said Emma Hidic, whose two brothers were among the estimated 7,000 men and boys killed in the Srebrenica massacre, upon learning that Boskic had been charged only with visa fraud.

The Crimes Against Humanity Act would close this loophole in U.S. law

and give our government the authority to prosecute those found in the U.S. who commit crimes against humanity. In keeping with the principles the U.S. and our allies established after World War II, this legislation would help ensure that the perpetrators of crimes against humanity do not find safe haven in our country.

This bill would make it a violation of U.S. law to commit a crime against humanity, i.e. any widespread and systematic attack directed against a civilian population that involves murder, enslavement, torture, rape, arbitrary detention, extermination, hostage taking or ethnic cleansing.

I am the author of the Genocide Accountability Act, the Child Soldiers Accountability Act, and the Trafficking in Persons Act, legislation passed unanimously by Congress and signed into law by President George W. Bush that denies safe haven in the United States to the perpetrators of genocide, child soldier recruitment and use, and human trafficking. The Crimes Against Humanity Act is the next logical step. It would subject perpetrators of crimes against humanity to criminal sanctions, in the same way that perpetrators of genocide, child soldier recruitment and human trafficking are subject to criminal sanctions under U.S. law.

Ensuring U.S. law prohibits crimes against humanity is consistent with the longstanding U.S. support for the prosecution of crimes against humanity perpetrated in World War II, Rwanda, the former Yugoslavia and Sierra Leone, among other places.

This legislation will send a clear message to perpetrators of crimes against humanity that there are real consequences to their actions. By holding such individuals criminally responsible, our country will help to deter crimes against humanity.

The Crimes Against Humanity Act is supported by a broad coalition of human rights and religious groups, including Armenian Assembly of America, Center for Justice and Accountability, Center for Victims of Torture, Enough Project, the Episcopal Church, Genocide Intervention Network, Human Rights First, Human Rights Watch, International Justice Mission, Jubilee Campaign USA, Inc., Physicians for Human Rights, Robert F. Kennedy Center for Justice & Human Rights, Save Darfur Coalition, the United Methodist Church, and U.S. Campaign for Burma. Today I received a letter of support for the Crimes Against Humanity Act from 29 organizations, including all of those I have named. As the letter explains:

This legislation would fill an existing gap in U.S. law by allowing U.S. prosecutors to hold the perpetrators of mass atrocities accountable for their acts. While often less publicized than genocides, crimes against humanity are as devastating to their victims and as worthy of vigorous and unbending attention from the United States government. We must ensure that perpetrators of mass atrocities cannot evade justice by coming to the United States.

Daoud Hari is a refugee from Darfur now living in our country and author of The Translator: A Tribesman's Memoir of Darfur. I urge my colleagues to contemplate the challenge that Mr. Hari posed at the Human Rights Subcommittee hearing on crimes against humanity: while none of us individually can stop the crimes against humanity committed in Darfur and other countries around the globe, failing to take action only ensures that these horrific atrocities will continue.

With far too few exceptions, we have failed to prevent and stop crimes against humanity. The promise of Nuremberg remains unfulfilled. We have a moral obligation to take action to help the survivors of crimes against humanity around the world and to help prevent this horrific crime by holding perpetrators accountable.

I urge my colleagues to support this legislation.

Mr. President, I ask unanimous consent that the text of the bill and a letter of support be printed in the RECORD.

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

S. 1346

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 ''Crimes Against Humanity Act of 2009''.

SEC. 2. ACCOUNTABILITY FOR CRIMES AGAINST HUMANITY.

(a) IN GENERAL.—Part 1 of title 18, United States Code, is amended by inserting after chapter 25 the following:

''CHAPTER 25A—CRIMES AGAINST HUMANITY

''Sec.
''519. Crimes against humanity.

''§ 519. Crimes against humanity

''(a) OFFENSE.—It shall be unlawful for any person to commit or engage in, as part of a widespread and systematic attack directed against any civilian population, and with knowledge of the attack—

''(1) conduct that, if it occurred in the United States, would violate—

''(A) section 1111 of this title (relating to murder);

''(B) section 1581(a) of this title (relating to peonage);

''(C) section 1583(a)(1) of this title (relating to kidnapping or carrying away individuals for involuntary servitude or slavery);

''(D) section 1584(a) of this title (relating to sale into involuntary servitude);

''(E) section 1589(a) of this title (relating to forced labor); or

''(F) section 1590(a) of this title (relating to trafficking with respect to peonage, slavery, involuntary servitude, or forced labor);

''(2) conduct that, if it occurred in the special maritime and territorial jurisdiction of the United States, would violate—

''(A) section 1591(a) of this title (relating to sex trafficking of children or by force, fraud, or coercion);

''(B) section 2241(a) of this title (relating to aggravated sexual abuse by force or threat); or

''(C) section 2242 of this title (relating to sexual abuse);

''(3) conduct that, if it occurred in the special maritime and territorial jurisdiction of the United States, and without regard to whether the offender is the parent of the victim, would violate section 1201(a) of this title (relating to kidnapping);

''(4) conduct that, if it occurred in the United States, would violate section 1203(a) of this title (relating to hostage taking), notwithstanding any exception under subsection (b) of section 1203;

''(5) conduct that would violate section 2340A of this title (relating to torture);

''(6) extermination;

''(7) national, ethnic, racial, or religious cleansing;

''(8) arbitrary detention; or

''(9) imposed measures intended to prevent births.

''(b) PENALTY.—Any person who violates subsection (a), or attempts or conspires to violate subsection (a)—

''(1) shall be fined under this title, imprisoned not more than 20 years, or both; and

''(2) if the death of any person results from the violation of subsection (a), shall be fined under this title and imprisoned for any term of years or for life.

''(c) JURISDICTION.—There is jurisdiction over a violation of subsection (a), and any attempt or conspiracy to commit a violation of subsection (a), if—

''(1) the alleged offender is a national of the United States or an alien lawfully admitted for permanent residence;

''(2) the alleged offender is a stateless person whose habitual residence is in the United States;

''(3) the alleged offender is present in the United States, regardless of the nationality of the alleged offender; or

''(4) the offense is committed in whole or in part within the United States.

''(d) NONAPPLICABILITY OF CERTAIN LIMITATIONS.—Notwithstanding section 3282 of this title, in the case of an offense under this section, an indictment may be found, or information instituted, at any time without limitation.

''(e) DEFINITIONS.—In this section:

''(1) ARBITRARY DETENTION.—The term 'arbitrary detention' means imprisonment or other severe deprivation of physical liberty except on such grounds and in accordance with such procedure as are established by the law of the jurisdiction where such imprisonment or other severe deprivation of physical liberty took place.

''(2) ARMED GROUP.—The term 'armed group' means any army, militia, or other military organization, whether or not it is state-sponsored, excluding any group assembled solely for nonviolent political association.

''(3) ATTACK DIRECTED AGAINST ANY CIVILIAN POPULATION.—The term 'attack directed against any civilian population' means a course of conduct in which a civilian population is a primary rather than an incidental target.

''(4) ETHNIC GROUP; NATIONAL GROUP; RACIAL GROUP; RELIGIOUS GROUP.—The terms 'ethnic group', 'national group', 'racial group', and 'religious group' have the meanings given those terms in section 1093 of this title.

''(5) EXTERMINATION.—The term 'extermination' means subjecting a civilian population to conditions of life that are intended to cause the physical destruction of the group in whole or in part.

''(6) LAWFULLY ADMITTED FOR PERMANENT RESIDENCE; NATIONAL OF THE UNITED STATES.—The terms 'lawfully admitted for permanent residence' and 'national of the United States' have the meanings give those terms in section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)).

''(7) NATIONAL, ETHNIC, RACIAL, OR RELIGIOUS CLEANSING.—The term 'national, ethnic, racial, or religious cleansing' means the

intentional and forced displacement from 1 country to another or within a country of any national group, ethnic group, racial group, or religious group in whole or in part, by expulsion or other coercive acts from the area in which they are lawfully present, except when the displacement is in accordance with applicable laws of armed conflict that permit involuntary and temporary displacement of a population to ensure its security or when imperative military reasons so demand.

''(8) SYSTEMATIC.—The term 'systematic' means pursuant to or in furtherance of the policy of a state or armed group.

''(9) WIDESPREAD.—The term 'widespread' means involving multiple victims.''.

(b) CLERICAL AMENDMENT.—The table of chapters for part 1 of title 18, United States Code, is amended by inserting after the item relating to chapter 25 the following:

''25A. Crimes against humanity ..... 519''.

JUNE 24, 2009.

Hon. RICHARD J. DURBIN,

Chairman Subcommittee on Human Rights and the Law, Senate Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR CHAIRMAN DURBIN: We write to express our strong support for the Crimes Against Humanity Act of 2009. This legislation would fill an existing gap in U.S. law by allowing U.S. prosecutors to hold the perpetrators of mass atrocities accountable for their acts. While often less publicized than genocides, crimes against humanity are as devastating to their victims and as worthy of vigorous and unbending attention from the United States government. We must ensure that perpetrators of mass atrocities cannot evade justice by coming to the United States. We applaud your leadership in ensuring that the United States is well equipped to fight these grave crimes and we urge Congress to enact the bill with all due speed.

The United States government has long been at the forefront of global efforts to seek accountability for the perpetrators of the worst crimes known to humankind. In the years after World War II, the United States was an essential player in the formation of the Nuremberg Tribunal and the Genocide Convention, two key pieces of the foundation for all international justice efforts that have followed. Since then, in Bosnia, Rwanda, Cambodia, Sierra Leone, and Darfur, among others, the U.S. government has steadfastly supported justice for victims of crimes against humanity, war crimes, and genocide, whether by supporting national justice systems or by assisting in the creation of special tribunals.

The bill defines crimes against humanity as widespread and systematic attacks directed against a civilian population that involve murder, enslavement, torture, rape, arbitrary detention, extermination, hostage taking, or ethnic cleansing. This category includes some of the most atrocious crimes committed in recent history—the campaigns of mutilation and murder of civilians in Sierra Leone and Uganda, the systematic rape of women in ethnic areas of Burma and in the Democratic Republic of the Congo, the ethnic cleansing in Bosnia and Kosovo. These crimes might look like genocide to a layperson, but they are a distinct category of crime and separate legislation is needed to provide United States courts with jurisdiction to prosecute those who commit them if they are present in the United States.

Such legislation has not existed before today, despite the U.S. government's sustained efforts to ensure accountability for crimes against humanity elsewhere. Alleged perpetrators of those crimes have therefore been able to escape prosecution in the United States. Though U.S. law prohibits grave human rights violations such as genocide and torture, alleged perpetrators of crimes against humanity may escape accountability due not to their innocence of unforgivable acts but to loopholes in the U.S. criminal code.

The Crimes Against Humanity Act of 2009 would close this illogical gap in U.S. law. Just as they may pursue those who have committed related and similarly horrific crimes, U.S. prosecutors would have the authority to ensure that those in the United States who have committed crimes against humanity may not evade accountability merely by fleeing to our country.

The United States has provided a means to prosecute those who commit genocide and torture as well as those who use child soldiers in war. Those who commit the similar crimes that constitute crimes against humanity should face no better future. We therefore urge Congress to enact this bill without delay.

Sincerely,

The Advocates for Human Rights.
Africa Action.
AIDS-Free World.
Armenian Assembly of America.
Center for Justice and Accountability.
Center for Victims of Torture.
EarthRights International.
Enough Project.
The Episcopal Church.
Equality Now.
Citizens for Global Solutions.
Genocide Intervention Network.
Harvard Immigration and Refugee Clinical Program.
Human Rights First.
Human Rights Watch.
International Justice Mission.
Jubilee Campaign USA, Inc.
National Immigrant Justice Center.
National Immigration Forum.
Open Society Policy Center.
Physicians for Human Rights.
Refugees International.
Robert F. Kennedy Center for Justice & Human Rights.
Rocky Mountain Survivors Center.
Save Darfur Coalition.
United Methodist Church, General Board of Church and Society.
United Nations Association of the United States of America.
U.S. Campaign for Burma.
V-Day.

Mr. LEAHY. Mr. President, today, I am pleased to join Senator DURBIN and Senator FEINGOLD in introducing the Crimes Against Humanity Act of 2009. This legislation will make it a violation of United States law to commit a crime against humanity, and will help ensure that the perpetrators of crimes against humanity do not find safe haven in the United States. I commend Senator DURBIN for his work on this legislation and for his leadership as chairman of the Subcommittee on Human Rights and the Law.

Last Congress, I was pleased to work with Senator DURBIN to create the Human Rights and the Law Subcommittee, the first-ever congressional committee established to address human rights issues. The work that we have done through this Subcommittee has helped the Senate focus on important and difficult legal human rights issues, including genocide, human trafficking, child soldiers, war crimes, corporate accountability overseas, systematic rape, and torture.

The work of the Human Rights and the Law Subcommittee has already achieved important results. Last Congress, the President signed into law the Child Soldiers Accountability Act, which outlawed the abhorrent practice of recruiting and using child soldiers, and the Genocide Accountability Act, which closed a loophole that had allowed those who commit or incite genocide to seek refuge in our country without fear of prosecution for their actions. These legislative initiatives were a critical step toward showing the international community that the United States will not tolerate human rights abuses at home or abroad, and that those who commit these atrocities must be held accountable for their actions. I am pleased to join Senator DURBIN to take the next step to protect victims of crimes against humanity in the United States, and to hold those responsible for these terrible crimes to account.

Along with genocide and war crimes, crimes against humanity are among the most serious crimes under international law. We see such crimes against humanity by groups or governments as part of a widespread or systematic attack against a civilian population. These deplorable crimes include murder, enslavement, torture, rape, arbitrary detention, extermination, hostage taking, and ethnic cleansing, and they continue to take place around the world in places like Uganda, Burma, and Sudan.

Although the United States has strongly and consistently for more than 60 years supported the prosecution of perpetrators of crimes against humanity, there is currently no United States law prohibiting crimes against humanity. As a result, the government is unable to prosecute perpetrators of crimes against humanity found in our country. This legislation will fix this loophole by enabling the Attorney General to prosecute crimes against humanity committed by a U.S. national, legal alien or habitual resident in the United States. The law will also enable the prosecution of any crimes against humanity committed in whole or in part within the United States, as well as offenses that occur outside the United States, if the offender is currently located in the United States.

The actions prohibited by the Crimes Against Humanity Act of 2009 are appalling. They happen too often throughout the world. We must promote accountability for human rights violations committed anywhere in the world, and we must do whatever we can to prevent those who commit such crimes from escaping justice by finding a safe haven in the United States. A foreign policy that seeks to defend human rights will never fully achieve its goals if we undermine our own credibility by failing in our commitment to uphold the highest standards of human rights here at home. I urge

Senators on both sides of the aisle to support this important legislation to help this country take another step toward reclaiming our place as a guardian of human rights.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 202—TO PROVIDE FOR ISSUANCE OF A SUMMONS AND FOR RELATED PROCEDURES CONCERNING THE ARTICLES OF IMPEACHMENT AGAINST SAMUEL B. KENT

Mr. REID (for himself and Mr. MCCONNELL) submitted the following resolution; which was considered and agreed to:

S. RES. 202

Resolved, That a summons shall be issued which commands Samuel B. Kent to file with the Secretary of the Senate an answer to the articles of impeachment no later than July 2, 2009, and thereafter to abide by, obey, and perform such orders, directions, and judgments as the Senate shall make in the premises, according to the Constitution and laws of the United States.

SEC. 2. The Sergeant at Arms is authorized to utilize the services of the Deputy Sergeant at Arms or another employee of the Senate in serving the summons.

SEC. 3. The Secretary shall notify the House of Representatives of the filing of the answer and shall provide a copy of the answer to the House.

SEC. 4. The Managers on the part of the House may file with the Secretary of the Senate a replication no later than July 7, 2009.

SEC. 5. The Secretary shall notify counsel for Samuel B. Kent of the filing of a replication, and shall provide counsel with a copy.

SEC. 6. The Secretary shall provide the answer and the replication, if any, to the Presiding Officer of the Senate on the first day the Senate is in session after the Secretary receives them, and the Presiding Officer shall cause the answer and replication, if any, to be printed in the Senate Journal and in the Congressional Record. If a timely answer has not been filed, the Presiding Officer shall cause a plea of not guilty to be entered.

SEC. 7. The articles of impeachment, the answer, and the replication, if any, together with the provisions of the Constitution on impeachment, and the Rules of Procedure and Practice in the Senate When Sitting on Impeachment Trials, shall be printed under the direction of the Secretary as a Senate document.

SEC. 8. The provisions of this resolution shall govern notwithstanding any provisions to the contrary in the Rules of Procedure and Practice in the Senate When Sitting on Impeachment Trials.

SEC. 9. The Secretary shall notify the House of Representatives of this resolution.

SENATE RESOLUTION 203—TO PROVIDE FOR THE APPOINTMENT OF A COMMITTEE TO RECEIVE AND TO REPORT EVIDENCE WITH RESPECT TO ARTICLES OF IMPEACHMENT AGAINST JUDGE SAMUEL B. KENT

Mr. REID (for himself and Mr. MCCONNELL) submitted the following resolution; which was considered and agreed to:

S. RES. 203

Resolved, That pursuant to Rule XI of the Rules of Procedure and Practice in the Senate When Sitting on Impeachment Trials, the Presiding Officer shall appoint a committee of twelve senators to perform the duties and to exercise the powers provided for in the rule.

SEC. 2. The majority and minority leader shall each recommend six members and a chairman and vice chairman respectively to the Presiding Officer for appointment to the committee.

SEC. 3. The committee shall be deemed to be a standing committee of the Senate for the purpose of reporting to the Senate resolutions for the criminal or civil enforcement of the committee's subpoenas or orders, and for the purpose of printing reports, hearings, and other documents for submission to the Senate under Rule XI.

SEC. 4. During proceedings conducted under Rule XI the chairman of the committee is authorized to waive the requirement under the Rules of Procedure and Practice in the Senate When Sitting on Impeachment Trials that questions by a Senator to a witness, a manager, or counsel shall be reduced to writing and put by the Presiding Officer.

SEC. 5. In addition to a certified copy of the transcript of the proceedings and testimony had and given before it, the committee is authorized to report to the Senate a statement of facts that are uncontested and a summary, with appropriate references to the record, of evidence that the parties have introduced on contested issues of fact.

SEC. 6. The actual and necessary expenses of the committee, including the employment of staff at an annual rate of pay, and the employment of consultants with prior approval of the Committee on Rules and Administration at a rate not to exceed the maximum daily rate for a standing committee of the Senate, shall be paid from the contingent fund of the Senate from the appropriation account ''Miscellaneous Items'' upon vouchers approved by the chairman of the committee, except that no voucher shall be required to pay the salary of any employee who is compensated at an annual rate of pay.

SEC. 7. The Committee appointed pursuant to section one of this resolution shall terminate no later than 45 days after the pronouncement of judgment by the Senate on the articles of impeachment.

SEC. 8. The Secretary shall notify the House of Representatives and counsel for Judge Samuel B. Kent of this resolution.

SENATE RESOLUTION 204—DESIGNATING MARCH 31, 2010, AS ''NATIONAL CONGENITAL DIAPHRAGMATIC HERNIA AWARENESS DAY''

Mr. VITTER submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 204

Whereas the congenital diaphragmatic hernia birth defect is one of the most prevalent, life-threatening birth defects in the United States;

Whereas the congenital diaphragmatic hernia birth defect is a severe, often deadly birth defect that has a devastating impact, in both human and economic terms, affecting equally people of all races, sexes, nationalities, geographic locations, and income levels;

Whereas the congenital diaphragmatic hernia birth defect occurs in 1 in every 2,000 live births in the United States and accounts for 8 percent of all major congenital anomalies;

Whereas, in 2004, there were approximately 4,115,590 live births in the United States, and in approximately 1,800 of those live births, the congenital diaphragmatic hernia birth defect occurred, causing countless additional friends, loved ones, spouses, and caregivers to shoulder the physical, emotional, and financial burdens the congenital diaphragmatic hernia birth defect causes;

Whereas there is no genetic indicator or any other indicator available to predict the occurrence of the congenital diaphragmatic hernia birth defect, other than through the performance of an ultrasound during pregnancy;

Whereas there is no consistent treatment or cure for the congenital diaphragmatic hernia birth defect;

Whereas the congenital diaphragmatic hernia birth defect is a leading cause of neonatal death in the United States;

Whereas 50 percent of the patients who do survive the congenital diaphragmatic hernia birth defect have residual health issues, resulting in a severe strain on pediatric medical resources and on the delivery of health care services in the United States;

Whereas proactive diagnosis and the appropriate management and care of fetuses afflicted with the congenital diaphragmatic hernia birth defect minimize the incidence of emergency situations resulting from the birth defect and dramatically improve survival rates among people with the birth defect;

Whereas neonatal medical care is one of the most expensive types of medical care provided in the United States and patients with the congenital diaphragmatic hernia birth defect stay in intensive care for approximately 60 to 90 days, costing millions of dollars, utilizing blood from local blood banks, and requiring the most technically advanced medical care;

Whereas the congenital diaphragmatic hernia birth defect is a birth defect that causes damage to the lungs and the cardiovascular system;

Whereas patients with the congenital diaphragmatic hernia birth defect may have long-term health issues such as respiratory insufficiency, gastroesophageal reflux, poor growth, neurodevelopmental delay, behavior problems, hearing loss, hernia recurrence, and orthopedic deformities;

Whereas the severity of the symptoms and outcomes of the congenital diaphragmatic hernia birth defect and the limited public awareness of the birth defect cause many patients to receive substandard care, to forego regular visits to physicians, and not to receive good health or therapeutic management that would help avoid serious complications in the future, compromising the quality of life of those patients;

Whereas people suffering from chronic, life-threatening diseases and birth defects, similar to the congenital diaphragmatic hernia birth defect, and family members of those people are predisposed to depression and the resulting consequences of depression because of anxiety over the possible pain, suffering, and premature death that people with such diseases and birth defects may face;

Whereas the Senate and taxpayers of the United States want treatments and cures for disease and hope to see results from investments in research conducted by the National Institutes of Health and from initiatives such as the National Institutes of Health Roadmap to the Future;

Whereas the congenital diaphragmatic hernia birth defect is an example of how collaboration, technological innovation, scientific momentum, and public-private partnerships can generate therapeutic interventions that directly benefit the people and

families suffering from the congenital diaphragmatic hernia birth defect;

Whereas collaboration, technological innovation, scientific momentum, and public-private partnerships can save billions of Federal dollars under Medicare, Medicaid, and other programs for therapies, and early intervention will increase survival rates among people suffering from the congenital diaphragmatic hernia birth defect;

Whereas improvements in diagnostic technology, the expansion of scientific knowledge, and better management of care for patients with the congenital diaphragmatic hernia birth defect already have increased survival rates in some cases;

Whereas there is still a need for more research and increased awareness of the congenital diaphragmatic hernia birth defect and for an increase in funding for that research in order to provide a better quality of life to survivors of the congenital diaphragmatic hernia birth defect, and more optimism for the families and health care professionals who work with children with the birth defect;

Whereas there are thousands of volunteers nationwide dedicated to expanding research, fostering public awareness and understanding, educating patients and their families about the congenital diaphragmatic hernia birth defect to improve their treatment and care, providing appropriate moral support, and encouraging people to become organ donors; and

Whereas volunteers engage in an annual national awareness event held on March 31, making that day an appropriate time to recognize National Congenital Diaphragmatic Hernia Awareness Day: Now, therefore, be it

Resolved, That the Senate—

(1) designates March 31, 2010, as ''National Congenital Diaphragmatic Hernia Awareness Day'';

(2) supports the goals and ideals of a national day to raise public awareness and understanding of the congenital diaphragmatic hernia birth defect;

(3) recognizes the need for additional research into a cure for the congenital diaphragmatic hernia birth defect; and

(4) encourages the people of the United States and interested groups to support National Congenital Diaphragmatic Hernia Awareness Day through appropriate ceremonies and activities, to promote public awareness of the congenital diaphragmatic hernia birth defect, and to foster understanding of the impact of the disease on patients and their families.

SENATE RESOLUTION 205—SUPPORTING THE GOALS AND IDEALS OF AFRICAN AMERICAN BONE MARROW AWARENESS MONTH

Ms. STABENOW (for herself and Mr. ISAKSON) submitted the following resolution; which was considered and agreed to:

S. RES. 205

Whereas a bone marrow or blood cell transplant is a potentially life-saving treatment for patients with leukemia, lymphoma, and other blood diseases;

Whereas a bone marrow or blood cell transplant replaces a patient's unhealthy blood cells with healthy blood-forming cells from a volunteer donor;

Whereas a patient who does not have a suitably matching donor in the family may search the National Marrow Donor Program Donor Registry for a donor;

Whereas blood or cell samples from adult donors or cord blood units are tested and the tissue or cell type is added to the National Marrow Donor Program Donor Registry, and physicians may search that registry when they need to find donors whose tissue type matches their patients';

Whereas African Americans make up 8 percent of, or more than 550,000 of the 7,000,000 people currently on, the National Marrow Donor Program Donor Registry;

Whereas of the 35,000 people that have received transplants since the inception of the National Marrow Donor Program Donor Registry, only 1,500 have been African Americans;

Whereas more than 70 life-threatening diseases can be treated with a bone marrow transplant;

Whereas there is a possibility that an African American patient could match a donor from any racial or ethnic group, but the most likely match is another African American;

Whereas to become a volunteer donor, potential donors must be between 18 and 60 years of age, meet health guidelines, provide a small blood sample or swab of cheek cells to determine the donor's tissue type, complete a brief health questionnaire, and sign a consent form to have the tissue type of the donor listed on the Donor Registry;

Whereas the Bone Marrow Wish Organization, which is a minority-run nonprofit organization based in Detroit that was started by an actual bone marrow donor, is initiating ''African American Bone Marrow Awareness Month'';

Whereas the annual month of awareness would promote donor awareness and increase the number of African Americans registered with the National Marrow Donor Program throughout the Nation; and

Whereas July 2009 would be an appropriate month to observe African American Bone Marrow Awareness Month: Now, therefore, be it

Resolved, That the Senate—

(1) supports the goals and ideals of African American Bone Marrow Awareness Month;

(2) urges the people of the United States to participate in appropriate programs and activities with respect to bone marrow awareness, including speaking with health care professionals about bone marrow donation; and

(3) urges all people of the United States to register to become blood marrow donors and encourages all people of the United States to organize blood marrow registration drives in their communities.

NOTICE OF HEARING

IMPEACHMENT TRIAL COMMITTEE ON THE ARTICLES AGAINST JUDGE SAMUEL B. KENT

Ms. MCCASKILL. Mr. President, I wish to announce that the Impeachment Trial Committee on the Articles Against Judge Samuel B. Kent will meet on Thursday, June 25, 2009, at 4:30 p.m., to conduct its organization meeting.

For further information regarding this meeting, please contact Peg Gustafson on 202–224–6154.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. CARDIN. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Wednesday, June 24, 2009, at 2:30 p.m.

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. CARDIN. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on Wednesday, June 24, 2009, at 2:30 p.m., in room 253 of the Russell Senate Office Building.

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

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. CARDIN. 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, June 24, 2009 at 10:45 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. CARDIN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, June 24, 2009, at 11 a.m., to hold a roundtable entitled ''Iran at a Crossroads?''.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. CARDIN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, June 24, 2009, at 2:30 p.m.

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

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. CARDIN. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet during the session of the Senate on Wednesday, June 24, 2009, at 10 a.m. in room 325 of the Russell Senate Office Building.

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

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENT AFFAIRS

Mr. CARDIN. 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, June 24, 2009, at 9 a.m. to conduct a hearing entitled ''Type 1 Diabetes Research: Real Progress and Real Hope for a Cure.''

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

COMMITTEE ON THE JUDICIARY

Mr. CARDIN. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Wednesday, June 24, 2009, at 10 a.m., in room SD–226 of the Dirksen

Senate Office Building, to conduct a hearing entitled ''Nominations.''

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

COMMITTEE ON VETERANS' AFFAIRS

Mr. CARDIN. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet during the session of the Senate on Wednesday, June 24, 2009. The Committee will meet in room 418 of the Russell Senate Office Building beginning at 9:30 a.m.

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

SPECIAL COMMITTEE ON AGING

Mr. CARDIN. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet during the session of the Senate on June 24, 2009, from 10:30 a.m.–12 p.m. in Dirksen 562 for the purpose of conducting a hearing.

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

SUBCOMMITTEE ON EMERGING THREATS AND CAPABILITIES

Mr. CARDIN. Mr. President, I ask unanimous consent that the subcommittee on Emerging Threats and Capabilities of the Committee on Armed Services be authorized to meet during the session of the Senate on Wednesday, June 24, 2009, at 9:30 a.m.

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

PRIVILEGES OF THE FLOOR

Mr. CORNYN. Mr. President, I ask unanimous consent that four law clerks on my staff, Eka Akpakip, Kristina Campbell, Nick Rotsko, and Roberto Valenzuela be granted floor privileges during the remainder of this session.

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

ENHANCED PARTNERSHIP WITH PAKISTAN ACT OF 2009

Mr. REID. I ask unanimous consent the Senate proceed to Calendar No. 85, S. 962.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 962) to authorize appropriations for fiscal years 2009 through 2013 to promote an enhanced strategic partnership with Pakistan and its people, and for other purposes.

There being no objection, the Senate proceeded to consider the bill, which was reported by the Committee on Foreign Relations, with amendments.

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italics.)

S. 962

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 ''Enhanced Partnership with Pakistan Act of 2009''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) The people of Pakistan and the United States have a long history of friendship and comity, and the interests of both nations are well-served by strengthening and deepening this friendship.

(2) In February 2008, the people of Pakistan elected a civilian government, reversing years of political tension and mounting popular concern over governance and their own democratic reform and political development.

(3) A democratic, moderate, modernizing Pakistan would represent the wishes of the Pakistani people and serve as a model to other countries around the world.

(4) Economic growth is a fundamental foundation for human security and national stability in Pakistan, a country with over 175,000,000 people, an annual population growth rate of 2 percent, and a ranking of 136 out of 177 countries in the United Nations Human Development Index.

(5) Pakistan is a major non-NATO ally of the United States and has been a valuable partner in the battle against al Qaeda and the Taliban, but much more remains to be accomplished by both nations.

(6) The struggle against al Qaeda, the Taliban, and affiliated terrorist groups has led to the deaths of several thousand Pakistani civilians and members of the security forces of Pakistan over the past 7 years.

(7) Since the terrorist attacks of September 11, 2001, more al Qaeda terrorist suspects have been apprehended in Pakistan than in any other country, including Khalid Sheikh Muhammad, Ramzi bin al-Shibh, and Abu Faraj al-Libi.

(8) Despite the sacrifices and cooperation of the security forces of Pakistan, the top leadership of al Qaeda, as well as the leadership and rank-and-file of affiliated terrorist groups, are believed to be using Pakistan's Federally Administered Tribal Areas (FATA) and parts of the North West Frontier Province (NWFP) and Balochistan as a haven and a base from which to organize terrorist actions in Pakistan and globally, including—

(A) attacks outside of Pakistan that have been attributed to groups with Pakistani connections, including—

(i) the suicide car bombing of the Indian embassy in Kabul, Afghanistan, which killed 58 people on June 7, 2008; and

(ii) the massacre of approximately 165 people in Mumbai, India, including 6 United States citizens, in late November 2008; and

(B) attacks within Pakistan, including—

(i) an attack on the visiting Sri Lankan cricket team in Lahore on March 3, 2009;

(ii) an attack at the Marriott hotel in Islamabad on September 9, 2008;

(iii) the bombing of a political rally in Karachi on October 18, 2007;

(iv) the targeting and killing of dozens of tribal, provincial, and national holders of political office;

(v) an attack by gunfire on the U.S. Principal Officer in Peshawar in August 2008; and

(vi) the brazen assassination of former Prime Minister Benazir Bhutto on December 27, 2007.

(9) In the 12-month period ending on the date of the enactment of this Act, Pakistan's security forces have struggled to contain a Taliban-backed insurgency that has spread from FATA into settled areas, including the Swat Valley and other parts of NWFP and Balochistan. This struggle has taken the lives of more than 1,500 police and military personnel and left more than 3,000 wounded.

(10) On March 27, 2009, President Obama noted, ''Multiple intelligence estimates have warned that al Qaeda is actively planning attacks on the U.S. homeland from its safe-haven in Pakistan.''.

(11) According to a Government Accountability Office Report (GAO–08–622), ''since 2003, the administration's national security strategies and Congress have recognized that a comprehensive plan that includes all elements of national power—diplomatic, military, intelligence, development assistance, economic, and law enforcement support—was needed to address the terrorist threat emanating from the FATA'' and that such a strategy was also mandated by section 7102(b)(3) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 22 U.S.C. 2656f note) and section 2042(b)(2) of the Implementing the Recommendations of the 9/11 Commission Act of 2007 (Public Law 110–53; 22 U.S.C. 2375 note).

(12) In the past year, the people of Pakistan have been especially hard hit by rising food and commodity prices and severe energy shortages, with two-thirds of the population living on less than $2 a day and one-fifth of the population living below the poverty line according to the United Nations Development Program.

(13) The people of Pakistan and the United States share many compatible goals, including—

(A) combating terrorism and violent radicalism, both inside Pakistan and elsewhere;

(B) solidifying democracy and the rule of law in Pakistan;

(C) promoting the economic development of Pakistan, both through the building of infrastructure and the facilitation of increased trade;

(D) promoting the social and material well-being of Pakistani citizens, particularly through development of such basic services as public education, access to potable water, and medical treatment; and

(E) safeguarding the peace and security of South Asia, including by facilitating peaceful relations between Pakistan and its neighbors.

(14) According to consistent opinion research, including that of the Pew Global Attitudes Survey (December 28, 2007) and the International Republican Institute (January 29, 2008), many people in Pakistan have historically viewed the relationship between the United States and Pakistan as a transactional one, characterized by a heavy emphasis on security issues with little attention to other matters of great interest to citizens of Pakistan.

(15) The election of a civilian government in Pakistan in February 2008 provides an opportunity, after nearly a decade of military-dominated rule, to place relations between Pakistan and the United States on a new and more stable foundation.

(16) Both the Government of Pakistan and the United States Government should seek to enhance the bilateral relationship through additional multi-faceted engagement in order to strengthen the foundation for a consistent and reliable long-term partnership between the two countries.

SEC. 3. DEFINITIONS.

In this Act:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ''appropriate congressional committees'' means the Committees on Appropriations and Foreign Relations of the Senate and the Committees on Appropriations and Foreign Affairs of the House of Representatives.

(2) COUNTERINSURGENCY.—The term ''counterinsurgency'' means efforts to defeat organized movements that seek to overthrow the duly constituted Governments of Pakistan and Afghanistan through violent means.

(3) COUNTERTERRORISM.—The term ''counterterrorism'' means efforts to combat al Qaeda and other foreign terrorist organizations that are designated by the Secretary

of State in accordance with section 219 of the Immigration and Nationality Act (8 U.S.C. 1189), or other individuals and entities engaged in terrorist activity or support for such activity.

(4) FATA.—The term ''FATA'' means the Federally Administered Tribal Areas of Pakistan.

(5) NWFP.—The term ''NWFP'' means the North West Frontier Province of Pakistan, which has Peshawar as its provincial capital.

(6) PAKISTAN-AFGHANISTAN BORDER AREAS.—The term ''Pakistan-Afghanistan border areas'' includes the Pakistan regions known as NWFP, FATA, and parts of Balochistan in which the Taliban or Al Qaeda have traditionally found refuge.

(7) SECURITY-RELATED ASSISTANCE.—The term ''security-related assistance'' means—

(A) grant assistance to carry out section 23 of the Arms Export Control Act (22 U.S.C. 2763);

(B) assistance under chapter 2 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2311 et seq.);

(C) assistance under chapter 5 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2347 et seq.);

(D) any equipment, supplies, and training provided pursuant to section 1206 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3456); and

(E) any equipment, supplies, and training provided pursuant to section 1206 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 122 Stat. 368).

(8) SECURITY FORCES OF PAKISTAN.—The term ''security forces of Pakistan'' means the military and intelligence services of the Government of Pakistan, including the Armed Forces, Inter-Services Intelligence Directorate, Intelligence Bureau, police forces, levies, Frontier Corps, and Frontier Constabulary.

(9) MAJOR DEFENSE EQUIPMENT.—The term ''major defense equipment'' has the meaning given in section 47(6) of the Arms Export Control Act (22 U.S.C. 2794(6)).

SEC. 4. STATEMENT OF POLICY.

It is the policy of the United States—

(1) to support the consolidation of democracy, good governance, and rule of law in Pakistan;

(2) to support economic growth and development in order to promote stability and security across Pakistan;

(3) to affirm and build a sustained, long-term, multifaceted relationship with Pakistan;

(4) to further the sustainable economic development of Pakistan and the improvement of the living conditions of its citizens, including in the Federally Administered Tribal Areas, by expanding United States bilateral engagement with the Government of Pakistan, especially in areas of direct interest and importance to the daily lives of the people of Pakistan;

(5) to work with Pakistan and the countries bordering Pakistan to facilitate peace in the region and harmonious relations between the countries of the region;

(6) to work with the Government of Pakistan to prevent any Pakistani territory from being used as a base or conduit for terrorist attacks in Pakistan, Afghanistan, India, or elsewhere in the world;

(7) to work in close cooperation with the Government of Pakistan to coordinate military, paramilitary, and police action against terrorist targets;

(8) to work with the Government of Pakistan to help bring peace, stability, and development to all regions of Pakistan, especially those in the Pakistan-Afghanistan border areas, including support for an effective counterinsurgency strategy;

(9) to expand people-to-people engagement between the United States and Pakistan, through increased educational, technical, and cultural exchanges and other methods[; and];

(10) to encourage and promote public-private partnerships in Pakistan in order to bolster ongoing development efforts and strengthen economic prospects, especially with respect to opportunities to build civic responsibility and professional skills of the people of Pakistan[.]*; and*

(11) to encourage the development of local analytical capacity to measure progress on an integrated basis across the areas of donor country expenditure in Pakistan, and better hold the Government of Pakistan accountable for how the funds are being spent.

SEC. 5. AUTHORIZATION OF FUNDS.

(a) AUTHORIZATION.—There are authorized to be appropriated to the President, for the purposes of providing assistance to Pakistan under the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.), the following amounts:

(1) For fiscal year 2009, up to $1,500,000,000.

(2) For fiscal year 2010, up to $1,500,000,000.

(3) For fiscal year 2011, up to $1,500,000,000.

(4) For fiscal year 2012, up to $1,500,000,000.

(5) For fiscal year 2013, up to $1,500,000,000.

(b) AVAILABILITY OF [FUNDS.—Of the amounts] *FUNDS.*—

(1) *IN GENERAL.—Of the funds* appropriated in each fiscal year pursuant to the authorization of appropriations in subsection (a)—

[(1) none of the amounts]

(A) none of the amounts appropriated may be made available after the date of the enactment of this Act for assistance to Pakistan unless the Pakistan Assistance Strategy Report has been submitted to the appropriate congressional committees in accordance with subsection (j); and

[(2) not more than $750,000,000]

(B) not more than $750,000,000 may be made available for assistance to Pakistan in any fiscal year after 2009 unless the President's Special Representative to Afghanistan and Pakistan submits to the appropriate congressional committees during that fiscal year—

[(A) a certification]

(i) a certification that assistance provided to Pakistan under this Act to date has made or is making substantial progress toward achieving the principal objectives of United States assistance to Pakistan contained in the Pakistan Assistance Strategy Report pursuant to subsection (j)(1); and

[(B) a memorandum]

(ii) a memorandum explaining the reasons justifying the certification described in [subsection (A)]*clause (i).*

[(c) MAKER OF CERTIFICATION.—In the event]

(2) *MAKER OF CERTIFICATION.—In the event* of a vacancy in, or the termination of, the position of the President's Special Representative to Afghanistan and Pakistan, the certification described under [subsection (b)(2)]*paragraph (1)(B)* may be made by the Secretary of State.

(c) WAIVER.—The Secretary of State may waive the limitations in subsection (b) if the Secretary determines, and certifies to the appropriate congressional committees, that it is in the national security interests of the United States to provide such waiver.

(d) SENSE OF CONGRESS ON FOREIGN ASSISTANCE FUNDS.—It is the sense of Congress that, subject to an improving political and economic climate in Pakistan, there should be authorized to be appropriated up to $1,500,000,000 per year for fiscal years 2014 through 2018 for the purpose of providing assistance to Pakistan under the Foreign Assistance Act of 1961.

(e) SENSE OF CONGRESS ON SECURITY-RELATED ASSISTANCE.—It is the sense of Congress that security-related assistance to the [Government of Pakistan should be provided in close coordination with the Government of Pakistan, designed to improve the Government's capabilities in areas of mutual concern, and maintained at a level that will bring significant gains in pursuing the policies set forth in paragraphs (6), (7), and (8) of section 4.]*Government of Pakistan—*

(1) should be provided in close coordination with the Government of Pakistan, designed to improve the Government's capabilities in areas of mutual concern, and maintained at a level that will bring significant gains in pursuing the policies set forth in paragraphs (6), (7), and (8) of section 4; and

(2) should be geared primarily toward bolstering the counter-insurgency capabilities of the Government to effectively defeat the Taliban-backed insurgency and deny popular support to al Qaeda and other foreign terrorist organizations that are based in Pakistan.

(f) USE OF FUNDS.—

(1) IN GENERAL.—Funds appropriated pursuant to subsection (a) shall be used for projects intended to benefit the people of Pakistan, including projects that promote—

(A) just and democratic governance, including—

(i) police reform, equipping, and training;

(ii) independent, efficient, and effective judicial systems;

(iii) political pluralism, equality, and the rule of law;

(iv) respect for human and civil rights and the promotion of an independent media;

(v) transparency and accountability of all branches of government and judicial proceedings;

(vi) anticorruption efforts among bureaucrats, elected officials, and public servants at all levels of military and civilian government [administration; and

[(vii) countering the narcotics trade;] *administration;*

(vii) countering the narcotics trade; and

(viii) the implementation of legal and political reforms in the FATA;

(B) economic freedom, including—

(i) sustainable economic growth, including in rural areas, and the sustainable management of natural resources;

(ii) investments in energy and water, including energy generation and cross-border infrastructure projects with Afghanistan;

(iii) employment generation, including essential basic infrastructure projects such as roads and irrigation projects and other physical infrastructure; and

(iv) worker rights, including the right to form labor unions and legally enforce provisions safeguarding the rights of workers and local community stakeholders[; and];

(C) investments in people, particularly women and children, including—

(i) broad-based public primary and secondary education and vocational training for both boys and girls;

(ii) food security and agricultural development to ensure food staples and other crops that provide economic growth and income opportunities in times of severe shortage;

(iii) quality public health, including medical clinics with well trained staff serving rural and urban [communities; and

(iv) higher education] *communities;*

(iv) vocational training for women and access to microfinance for small business establishment and income generation for women; and

(v) higher education to ensure a breadth and consistency of Pakistani graduates to prepare citizens to help strengthen the foundation for improved governance and economic vitality, including through public-private partnerships[.]*; and*

(D) long-term development in regions of Pakistan where internal conflict has caused large-scale displacement.

(2) FUNDING FOR POLICE REFORM, EQUIPPING, AND TRAINING.—Up to $100,000,000 of the funds appropriated pursuant to subsection (a) should be used for police reform, equipping, and training.

(g) PREFERENCE FOR BUILDING LOCAL CAPACITY.—The President is encouraged, as appropriate, to utilize Pakistani firms and community and local nongovernmental organizations in Pakistan, including through host country contacts, and to work with local leaders to provide assistance under this section.

(h) AUTHORITY TO USE FUNDS FOR OPERATIONAL AND AUDIT EXPENSES.—

(1) IN GENERAL.—Of the amounts appropriated for a fiscal year pursuant to subsection (a)—

(A) up to $10,000,000 may be used for administrative expenses of Federal departments and agencies in connection with the provision of assistance authorized by this section;

(B) up to [$20,000,000]*$30,000,000* may be made available to the Inspectors General of the Department of State, the United States Agency for International Development, and other relevant Executive branch agencies in order to provide audits and program reviews of projects funded pursuant to this section; and

(C) up to $5,000,000 may be used by the Secretary to establish a Chief of Mission Fund for use by the Chief of Mission in Pakistan to provide assistance to Pakistan under the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) to address urgent needs or opportunities, consistent with the purposes outlined in subsection (f) or for purposes of humanitarian relief.

(2) AUTHORITY IN ADDITION TO EXISTING AMOUNTS.—The amounts authorized under subparagraphs (A) and (B) of paragraph (1) to be used for the purposes described in such subparagraphs are in addition to other amounts that are available for such purposes.

(i) USE OF FUNDS.—Amounts appropriated or otherwise made available to carry out this section shall be utilized to the maximum extent possible as direct expenditures for projects and programs, subject to existing reporting and notification requirements.

(j) PAKISTAN ASSISTANCE STRATEGY REPORT.—Not later than [30 days]*45 days* after the date of enactment of this Act, or September 15, 2009, whichever date comes later, the [President] *Secretary of State* shall submit to the appropriate congressional committees a report describing United States policy and strategy with respect to assistance to Pakistan. The report shall include—

(1) a description of the principal objectives of United States assistance to Pakistan to be provided under this Act;

(2) the amounts of funds authorized to be appropriated under subsection (a) proposed to be allocated to programs or projects designed to achieve each of the purposes of assistance listed in subsection (f);

(3) a description of the specific projects and programs for which amounts authorized to be appropriated pursuant to subsection (a) are proposed to be allocated;

(4) a list of [criteria to be used to measure the effectiveness of projects described under subsection (f), including a systematic, qualitative basis]*criteria and benchmarks to be used to measure the effectiveness of projects described under subsection (f), including a systematic, qualitative, and where possible, quantitative basis* for assessing whether desired outcomes are achieved and a timeline for completion of each project and program;

(5) a description of the role to be played by Pakistani national, regional, and local officials *and members of Pakistani civil society and local private sector, civic, religious, and tribal leaders* in helping to identify and implement programs and projects for which assistance is to be provided under this Act, and of consultations with [such officials] *such representatives* in developing the strategy[; and];

(6) a description of all amounts made available for assistance to Pakistan during fiscal year 2009 prior to submission of the report, including a description of each project or program for which funds were made available and the amounts allocated to each such program or project[.];

(7) a description of the steps taken, or to be taken, to ensure assistance provided under this Act is not awarded to individuals or entities affiliated with terrorist organizations; and

(8) a projection of the levels of assistance to be provided to Pakistan under this Act, broken down into the following categories as described in the annual ''Report on the Criteria and Methodology for Determining the Eligibility of Candidate Countries for Millennium Challenge Account Assistance'':

(A) Civil liberties.
(B) Political rights.
(C) Voice and accountability.
(D) Government effectiveness.
(E) Rule of law.
(F) Control of corruption.
(G) Immunization rates.
(H) Public expenditure on health.
(I) Girls' primary education completion rate.
(J) Public expenditure on primary education.
(K) Natural resource management.
(L) Business start-up.
(M) Land rights and access.
(N) Trade policy.
(O) Regulatory quality.
(P) Inflation control.
(Q) Fiscal policy.

(k) NOTIFICATION REQUIREMENTS.—

(1) NOTICE OF ASSISTANCE FOR BUDGET SUPPORT.—The President shall notify the appropriate congressional committees not later than 15 days before obligating any assistance under this section as budgetary support to the Government of Pakistan or any element of such Government and shall describe the purpose and conditions attached to any such budgetary support.

(2) SEMIANNUAL REPORT.—Not later than 90 days after the submission of the Pakistan Assistance Strategy Report pursuant to subsection (j), and every 180 days thereafter, the [President] *Secretary of State* shall submit a report to the appropriate congressional committees that describes the assistance provided under this section. The report shall include—

(A) a description of all assistance provided pursuant to this Act since the submission of the last report, including each program or project for which assistance was provided and the amount of assistance provided for each program or project;

(B) a description of all assistance provided pursuant to this Act, including—

(i) the total amount of assistance provided for each of the purposes described in subsection (f); and

(ii) the total amount of assistance allocated to programs or projects in each region in Pakistan;

(C) a list of persons or entities from the United States or other countries that have received funds in excess of [$250,000]*$100,000* to conduct projects under this section during the period covered by the report, which may be included in a classified annex, if necessary to avoid a security risk, and a justification for the classification;

(D) an assessment of the effectiveness of assistance provided pursuant to this Act during the period covered by the report in achieving desired objectives and outcomes, measured on the basis of the criteria contained in the Pakistan Assistant Strategy Report pursuant to subsection (j)(4);

(E) a description of—

(i) the programs and projects for which amounts appropriated pursuant to subsection (a) are proposed to be allocated during the 180-day period after the submission of the report;

(ii) the relationship of such programs and projects to the purposes of assistance described in subsection (f); and

(iii) the amounts proposed to be allocated to each such program or project;

(F) a description of any shortfall in United States financial, physical, technical, or human resources that hinder the effective use and monitoring of such funds;

(G) a description of any negative impact, including the absorptive capacity of the region for which the resources are intended, of United States bilateral or multilateral assistance and recommendations for modification of funding, if any;

(H) any incidents or reports of waste, fraud, and abuse of expenditures under this section;

(I) the amount of funds appropriated pursuant to subsection (a) that were used during the reporting period for administrative expenses or for audits and program reviews pursuant to the authority under [subsection (h); and] *subsection (h);*

(J) a description of the expenditures made from any Chief of Mission Fund established pursuant to subsection (h)(3) during the period covered by the report, the purposes for which such expenditures were made, and a list of the recipients of any expenditures from the Chief of Mission Fund in excess of $10,000[.]*; and*

(K) an accounting of assistance provided to Pakistan under this Act, broken down into the categories set forth in subsection (j)(8).

(l) GOVERNMENT ACCOUNTABILITY OFFICE REPORT.—Not later than one year after the submission of the Pakistan Assistance Strategy Report under subsection (j), and annually thereafter, the Comptroller General of the United States shall submit to the appropriate congressional committees a report that contains—

(1) a review of, and comments addressing, the Pakistan Assistance Strategy Report; and

(2) recommendations relating to any additional actions the Comptroller General believes could help improve the efficiency and effectiveness of United States efforts to meet the objectives of this Act.

(m) SENSE OF CONGRESS ON FUNDING OF PRIORITIES.—It is the sense of Congress that, as a general principle, the Government of Pakistan should allocate a greater portion of its budget to the recurrent costs associated with education, health, and other priorities described in this section.

(n) CONSULTATION REQUIREMENT.—The President shall consult the appropriate congressional committees on the strategy in subsection (j), including criteria and benchmarks developed under paragraph (4) of such subsection, not later than 15 days before obligating any assistance under this section.

SEC. 6. LIMITATION ON CERTAIN ASSISTANCE.

(a) LIMITATION ON CERTAIN MILITARY ASSISTANCE.—Beginning in fiscal year 2010, no grant assistance to carry out section 23 of the Arms Export Control Act (22 U.S.C. 2763) and no assistance under chapter 2 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2311 et seq.) may be provided to Pakistan in a fiscal year until the Secretary of State makes the certification required under subsection (c).

(b) LIMITATION ON ARMS TRANSFERS.—Beginning in fiscal year 2012, no letter of offer to sell major defense equipment to Pakistan may be issued pursuant to the Arms Export Control Act (22 U.S.C. 2751 et seq.) and no license to export major defense equipment to

Pakistan may be issued pursuant to such Act in a fiscal year until the Secretary of State makes the certification required under subsection (c).

(c) CERTIFICATION.—The certification required by this subsection is a certification to the appropriate congressional committees by the Secretary of State, after consultation with the Secretary of Defense and the Director of National Intelligence, that the security forces of Pakistan—

(1) are making concerted [and consistent] efforts to prevent al Qaeda and associated terrorist groups, including Lashkar-e-Taiba and Jaish-e-Mohammed, from operating in the territory of Pakistan;

(2) are making concerted [and consistent] efforts to prevent the Taliban and associated militant groups from using the territory of Pakistan as a sanctuary from which to launch attacks within Afghanistan; and

(3) are not materially interfering in the political or judicial processes of Pakistan.

(d) WAIVER.—The Secretary of State may waive the limitations in subsections (a) and (b) if the Secretary determines it is important to the national security interests of the United States to provide such waiver.

(e) PRIOR NOTICE OF WAIVER.—A waiver pursuant to subsection (d) may not be exercised until 15 days after the Secretary of State provides to the appropriate congressional committees written notice of the intent to issue such waiver and the reasons therefor. The notice may be submitted in classified or unclassified form, as necessary.

(f) ANNUAL REPORT.—The Secretary of State, after consultation with the Secretary of Defense and the Director of National Intelligence, shall submit to the appropriate congressional committees an annual report on the progress of the security forces of Pakistan in satisfying the requirements enumerated in subsection (c). The Secretary of State shall establish detailed, specific requirements and metrics for evaluating the progress in satisfying these requirements and apply these requirements and metrics consistently in each annual report. This report may be submitted in classified or unclassified form, as necessary.

SEC. 7. SENSE OF CONGRESS ON COALITION SUPPORT FUNDS.

It is the sense of Congress that—

(1) Coalition Support Funds are critical components of the global fight against terrorism, and in Pakistan provide essential support for—

(A) military operations of the Government of Pakistan to destroy the terrorist threat and close the terrorist safe haven, known or suspected, in the FATA, the NWFP, and other regions of Pakistan; and

(B) military operations of the Government of Pakistan to protect United States and allied logistic operations in support of Operation Enduring Freedom in Afghanistan;

(2) despite the broad discretion Congress granted the Secretary of Defense in terms of managing Coalition Support Funds, the Pakistan reimbursement claims process for Coalition Support Funds requires increased oversight and accountability, consistent with the conclusions of the June 2008 report of the United States Government Accountability Office (GAO–08–806);

(3) in order to ensure that this significant United States effort in support of countering terrorism in Pakistan effectively ensures the intended use of Coalition Support Funds, and to avoid redundancy in other security assistance programs, such as Foreign Military Financing and Foreign Military Sales, more specific guidance should be generated, and accountability delineated, for officials associated with oversight of this program within the United States Embassy in Pakistan, the United States Central Command, the Department of Defense, the Department of State, and the Office of Management and Budget; and

(4) the Secretary of Defense should submit to the appropriate congressional committees and the Committees on Armed Services of the Senate and the House of Representatives a semiannual report on the use of Coalition Support Funds, which may be submitted in classified or unclassified form as necessary.

SEC. 8. PAKISTAN-AFGHANISTAN BORDER AREAS STRATEGY.

(a) DEVELOPMENT OF COMPREHENSIVE STRATEGY.—The Secretary of State, in consultation with the Secretary of Defense, the Director of National Intelligence, and such other government officials as may be appropriate, shall develop a comprehensive, cross-border strategy that includes all elements of national power—diplomatic, military, intelligence, development assistance, humanitarian, law enforcement support, and strategic communications and information technology—for working with the Government of Pakistan, the Government of Afghanistan, NATO, and other like-minded allies to best implement effective counterterrorism and counterinsurgency measurers in and near the Pakistan-Afghanistan border areas.

(b) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary of State shall submit to the appropriate congressional committees a detailed description of a comprehensive strategy for counterterrorism and counterinsurgency in the Pakistan-Afghanistan border areas containing the elements specified in subsection (a) and proposed timelines and budgets for implementing the strategy.

SEC. 9. SENSE OF CONGRESS.

It is the sense of Congress that the United States should—

(1) recognize the bold political steps the Pakistan electorate has taken during a time of heightened sensitivity and tension in 2007 and 2008 to elect a new civilian government, as well as the continued quest for good governance and the rule of law under the elected government in 2008 and 2009;

(2) seize this strategic opportunity in the interests of Pakistan as well as in the national security interests of the United States to expand its engagement with the Government and people of Pakistan in areas of particular interest and importance to the people of Pakistan;

(3) continue to build a responsible and reciprocal security relationship taking into account the national security interests of the United States as well as regional and national dynamics in Pakistan to further strengthen and enable the position of Pakistan as a major non-NATO ally[; and];

(4) seek ways to strengthen our countries' mutual understanding and promote greater insight and knowledge of each other's social, cultural and historical diversity through personnel exchanges and support for the establishment of institutions of higher learning with international accreditation[.]; *and*

(5) explore means to consult with and utilize the relevant expertise and skills of the Pakistani-American community.

SEC. 10. TERM OF YEARS.

With the exception of subsections (b)(1)(B), (j), (k), and (l) of section 5, this Act shall remain in force after September 30, 2013.

Mr. CARDIN. Mr. President, I am pleased the Senate is considering S. 962, the Enhanced Partnership with Pakistan Act. I would like to commend Senator KERRY and Senator LUGAR—the chairman and ranking member of the Foreign Relations Committee, respectively for introducing this important legislation and working to achieve its passage. I am proud to cosponsor this bill.

Pakistan's stability is of vital strategic importance to the United States of America. A nuclear-armed nation, Pakistan is also home to Taliban and al-Qaida militants who have taken countless innocent lives in their quest to impose an extremist vision on the world. We must support the Government of Pakistan as it confronts the threat of violent extremism, and we must support the people of Pakistan to enable them to resist extremist threats. Reports indicate over 2 million Pakistanis have been displaced following Taliban advances in recent months. This humanitarian crisis is compounded by fundamental problems of widespread poverty and underdevelopment. The United Nations Development Program reports two-thirds of Pakistan's population live on less than $2 a day. America's efforts in Pakistan must empower Pakistanis to improve their living conditions and resist propaganda campaigns by extremist groups. The Enhanced Partnership with Pakistan Act is an essential effort in accomplishing this mission.

America's relationship with Pakistan has too often relied on military aid and not enough on promoting a deeper, long-term strategic engagement with the Pakistani people. The Enhanced Partnership with Pakistan Act is intended to transform this relationship. The bill calls for a tripling of nonmilitary aid to Pakistan and conditions assistance of the United States on Pakistan's continued progress and achievement of benchmarks. In these difficult economic times, we must ensure taxpayer dollars are spent wisely. The Enhanced Partnership with Pakistan Act requires the President to submit regular reports to Congress to ensure this is the case, and resources have the desired impact.

I look forward to continuing to build our relationship with the people of Pakistan as we tackle shared challenges and explore shared opportunities.

Mr. REID. I ask unanimous consent the committee-reported amendments be agreed to, the bill as amended be read three times, passed, the motion to reconsider be laid on the table, and any statements be printed in the RECORD.

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

The committee-reported amendments were agreed to.

The bill (S. 962), as amended, was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 962

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 ''Enhanced Partnership with Pakistan Act of 2009''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) The people of Pakistan and the United States have a long history of friendship and

comity, and the interests of both nations are well-served by strengthening and deepening this friendship.

(2) In February 2008, the people of Pakistan elected a civilian government, reversing years of political tension and mounting popular concern over governance and their own democratic reform and political development.

(3) A democratic, moderate, modernizing Pakistan would represent the wishes of the Pakistani people and serve as a model to other countries around the world.

(4) Economic growth is a fundamental foundation for human security and national stability in Pakistan, a country with over 175,000,000 people, an annual population growth rate of 2 percent, and a ranking of 136 out of 177 countries in the United Nations Human Development Index.

(5) Pakistan is a major non-NATO ally of the United States and has been a valuable partner in the battle against al Qaeda and the Taliban, but much more remains to be accomplished by both nations.

(6) The struggle against al Qaeda, the Taliban, and affiliated terrorist groups has led to the deaths of several thousand Pakistani civilians and members of the security forces of Pakistan over the past 7 years.

(7) Since the terrorist attacks of September 11, 2001, more al Qaeda terrorist suspects have been apprehended in Pakistan than in any other country, including Khalid Sheikh Muhammad, Ramzi bin al-Shibh, and Abu Faraj al-Libi.

(8) Despite the sacrifices and cooperation of the security forces of Pakistan, the top leadership of al Qaeda, as well as the leadership and rank-and-file of affiliated terrorist groups, are believed to be using Pakistan's Federally Administered Tribal Areas (FATA) and parts of the North West Frontier Province (NWFP) and Balochistan as a haven and a base from which to organize terrorist actions in Pakistan and globally, including—

(A) attacks outside of Pakistan that have been attributed to groups with Pakistani connections, including—

(i) the suicide car bombing of the Indian embassy in Kabul, Afghanistan, which killed 58 people on June 7, 2008; and

(ii) the massacre of approximately 165 people in Mumbai, India, including 6 United States citizens, in late November 2008; and

(B) attacks within Pakistan, including—

(i) an attack on the visiting Sri Lankan cricket team in Lahore on March 3, 2009;

(ii) an attack at the Marriott hotel in Islamabad on September 9, 2008;

(iii) the bombing of a political rally in Karachi on October 18, 2007;

(iv) the targeting and killing of dozens of tribal, provincial, and national holders of political office;

(v) an attack by gunfire on the U.S. Principal Officer in Peshawar in August 2008; and

(vi) the brazen assassination of former Prime Minister Benazir Bhutto on December 27, 2007.

(9) In the 12-month period ending on the date of the enactment of this Act, Pakistan's security forces have struggled to contain a Taliban-backed insurgency that has spread from FATA into settled areas, including the Swat Valley and other parts of NWFP and Balochistan. This struggle has taken the lives of more than 1,500 police and military personnel and left more than 3,000 wounded.

(10) On March 27, 2009, President Obama noted, ''Multiple intelligence estimates have warned that al Qaeda is actively planning attacks on the U.S. homeland from its safe-haven in Pakistan.''.

(11) According to a Government Accountability Office Report (GAO–08–622), ''since 2003, the administration's national security strategies and Congress have recognized that a comprehensive plan that includes all elements of national power—diplomatic, military, intelligence, development assistance, economic, and law enforcement support—was needed to address the terrorist threat emanating from the FATA'' and that such a strategy was also mandated by section 7102(b)(3) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 22 U.S.C. 2656f note) and section 2042(b)(2) of the Implementing the Recommendations of the 9/11 Commission Act of 2007 (Public Law 110–53; 22 U.S.C. 2375 note).

(12) In the past year, the people of Pakistan have been especially hard hit by rising food and commodity prices and severe energy shortages, with two-thirds of the population living on less than $2 a day and one-fifth of the population living below the poverty line according to the United Nations Development Program.

(13) The people of Pakistan and the United States share many compatible goals, including—

(A) combating terrorism and violent radicalism, both inside Pakistan and elsewhere;

(B) solidifying democracy and the rule of law in Pakistan;

(C) promoting the economic development of Pakistan, both through the building of infrastructure and the facilitation of increased trade;

(D) promoting the social and material well-being of Pakistani citizens, particularly through development of such basic services as public education, access to potable water, and medical treatment; and

(E) safeguarding the peace and security of South Asia, including by facilitating peaceful relations between Pakistan and its neighbors.

(14) According to consistent opinion research, including that of the Pew Global Attitudes Survey (December 28, 2007) and the International Republican Institute (January 29, 2008), many people in Pakistan have historically viewed the relationship between the United States and Pakistan as a transactional one, characterized by a heavy emphasis on security issues with little attention to other matters of great interest to citizens of Pakistan.

(15) The election of a civilian government in Pakistan in February 2008 provides an opportunity, after nearly a decade of military-dominated rule, to place relations between Pakistan and the United States on a new and more stable foundation.

(16) Both the Government of Pakistan and the United States Government should seek to enhance the bilateral relationship through additional multi-faceted engagement in order to strengthen the foundation for a consistent and reliable long-term partnership between the two countries.

SEC. 3. DEFINITIONS.

In this Act:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ''appropriate congressional committees'' means the Committees on Appropriations and Foreign Relations of the Senate and the Committees on Appropriations and Foreign Affairs of the House of Representatives.

(2) COUNTERINSURGENCY.—The term ''counterinsurgency'' means efforts to defeat organized movements that seek to overthrow the duly constituted Governments of Pakistan and Afghanistan through violent means.

(3) COUNTERTERRORISM.—The term ''counterterrorism'' means efforts to combat al Qaeda and other foreign terrorist organizations that are designated by the Secretary of State in accordance with section 219 of the Immigration and Nationality Act (8 U.S.C. 1189), or other individuals and entities engaged in terrorist activity or support for such activity.

(4) FATA.—The term ''FATA'' means the Federally Administered Tribal Areas of Pakistan.

(5) NWFP.—The term ''NWFP'' means the North West Frontier Province of Pakistan, which has Peshawar as its provincial capital.

(6) PAKISTAN-AFGHANISTAN BORDER AREAS.—The term ''Pakistan-Afghanistan border areas'' includes the Pakistan regions known as NWFP, FATA, and parts of Balochistan in which the Taliban or Al Qaeda have traditionally found refuge.

(7) SECURITY-RELATED ASSISTANCE.—The term ''security-related assistance'' means—

(A) grant assistance to carry out section 23 of the Arms Export Control Act (22 U.S.C. 2763);

(B) assistance under chapter 2 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2311 et seq.);

(C) assistance under chapter 5 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2347 et seq.);

(D) any equipment, supplies, and training provided pursuant to section 1206 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3456); and

(E) any equipment, supplies, and training provided pursuant to section 1206 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 122 Stat. 368).

(8) SECURITY FORCES OF PAKISTAN.—The term ''security forces of Pakistan'' means the military and intelligence services of the Government of Pakistan, including the Armed Forces, Inter-Services Intelligence Directorate, Intelligence Bureau, police forces, levies, Frontier Corps, and Frontier Constabulary.

(9) MAJOR DEFENSE EQUIPMENT.—The term ''major defense equipment'' has the meaning given in section 47(6) of the Arms Export Control Act (22 U.S.C. 2794(6)).

SEC. 4. STATEMENT OF POLICY.

It is the policy of the United States—

(1) to support the consolidation of democracy, good governance, and rule of law in Pakistan;

(2) to support economic growth and development in order to promote stability and security across Pakistan;

(3) to affirm and build a sustained, long-term, multifaceted relationship with Pakistan;

(4) to further the sustainable economic development of Pakistan and the improvement of the living conditions of its citizens, including in the Federally Administered Tribal Areas, by expanding United States bilateral engagement with the Government of Pakistan, especially in areas of direct interest and importance to the daily lives of the people of Pakistan;

(5) to work with Pakistan and the countries bordering Pakistan to facilitate peace in the region and harmonious relations between the countries of the region;

(6) to work with the Government of Pakistan to prevent any Pakistani territory from being used as a base or conduit for terrorist attacks in Pakistan, Afghanistan, India, or elsewhere in the world;

(7) to work in close cooperation with the Government of Pakistan to coordinate military, paramilitary, and police action against terrorist targets;

(8) to work with the Government of Pakistan to help bring peace, stability, and development to all regions of Pakistan, especially those in the Pakistan-Afghanistan border areas, including support for an effective counterinsurgency strategy;

(9) to expand people-to-people engagement between the United States and Pakistan, through increased educational, technical, and cultural exchanges and other methods;

(10) to encourage and promote public-private partnerships in Pakistan in order to bolster ongoing development efforts and strengthen economic prospects, especially with respect to opportunities to build civic responsibility and professional skills of the people of Pakistan; and

(11) to encourage the development of local analytical capacity to measure progress on an integrated basis across the areas of donor country expenditure in Pakistan, and better hold the Government of Pakistan accountable for how the funds are being spent.

SEC. 5. AUTHORIZATION OF FUNDS.

(a) AUTHORIZATION.—There are authorized to be appropriated to the President, for the purposes of providing assistance to Pakistan under the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.), the following amounts:

(1) For fiscal year 2009, up to $1,500,000,000.

(2) For fiscal year 2010, up to $1,500,000,000.

(3) For fiscal year 2011, up to $1,500,000,000.

(4) For fiscal year 2012, up to $1,500,000,000.

(5) For fiscal year 2013, up to $1,500,000,000.

(b) AVAILABILITY OF FUNDS.—

(1) IN GENERAL.—Of the funds appropriated in each fiscal year pursuant to the authorization of appropriations in subsection (a)—

(A) none of the amounts appropriated may be made available after the date of the enactment of this Act for assistance to Pakistan unless the Pakistan Assistance Strategy Report has been submitted to the appropriate congressional committees in accordance with subsection (j); and

(B) not more than $750,000,000 may be made available for assistance to Pakistan in any fiscal year after 2009 unless the President's Special Representative to Afghanistan and Pakistan submits to the appropriate congressional committees during that fiscal year—

(i) a certification that assistance provided to Pakistan under this Act to date has made or is making substantial progress toward achieving the principal objectives of United States assistance to Pakistan contained in the Pakistan Assistance Strategy Report pursuant to subsection (j)(1); and

(ii) a memorandum explaining the reasons justifying the certification described in clause (i).

(2) MAKER OF CERTIFICATION.—In the event of a vacancy in, or the termination of, the position of the President's Special Representative to Afghanistan and Pakistan, the certification described under paragraph (1)(B) may be made by the Secretary of State.

(c) WAIVER.—The Secretary of State may waive the limitations in subsection (b) if the Secretary determines, and certifies to the appropriate congressional committees, that it is in the national security interests of the United States to provide such waiver.

(d) SENSE OF CONGRESS ON FOREIGN ASSISTANCE FUNDS.—It is the sense of Congress that, subject to an improving political and economic climate in Pakistan, there should be authorized to be appropriated up to $1,500,000,000 per year for fiscal years 2014 through 2018 for the purpose of providing assistance to Pakistan under the Foreign Assistance Act of 1961.

(e) SENSE OF CONGRESS ON SECURITY-RELATED ASSISTANCE.—It is the sense of Congress that security-related assistance to the Government of Pakistan—

(1) should be provided in close coordination with the Government of Pakistan, designed to improve the Government's capabilities in areas of mutual concern, and maintained at a level that will bring significant gains in pursuing the policies set forth in paragraphs (6), (7), and (8) of section 4; and

(2) should be geared primarily toward bolstering the counter-insurgency capabilities of the Government to effectively defeat the Taliban-backed insurgency and deny popular support to al Qaeda and other foreign terrorist organizations that are based in Pakistan.

(f) USE OF FUNDS.—

(1) IN GENERAL.—Funds appropriated pursuant to subsection (a) shall be used for projects intended to benefit the people of Pakistan, including projects that promote—

(A) just and democratic governance, including—

(i) police reform, equipping, and training;

(ii) independent, efficient, and effective judicial systems;

(iii) political pluralism, equality, and the rule of law;

(iv) respect for human and civil rights and the promotion of an independent media;

(v) transparency and accountability of all branches of government and judicial proceedings;

(vi) anticorruption efforts among bureaucrats, elected officials, and public servants at all levels of military and civilian government administration;

(vii) countering the narcotics trade; and

(viii) the implementation of legal and political reforms in the FATA;

(B) economic freedom, including—

(i) sustainable economic growth, including in rural areas, and the sustainable management of natural resources;

(ii) investments in energy and water, including energy generation and cross-border infrastructure projects with Afghanistan;

(iii) employment generation, including essential basic infrastructure projects such as roads and irrigation projects and other physical infrastructure; and

(iv) worker rights, including the right to form labor unions and legally enforce provisions safeguarding the rights of workers and local community stakeholders;

(C) investments in people, particularly women and children, including—

(i) broad-based public primary and secondary education and vocational training for both boys and girls;

(ii) food security and agricultural development to ensure food staples and other crops that provide economic growth and income opportunities in times of severe shortage;

(iii) quality public health, including medical clinics with well trained staff serving rural and urban communities;

(iv) vocational training for women and access to microfinance for small business establishment and income generation for women; and

(v) higher education to ensure a breadth and consistency of Pakistani graduates to prepare citizens to help strengthen the foundation for improved governance and economic vitality, including through public-private partnerships; and

(D) long-term development in regions of Pakistan where internal conflict has caused large-scale displacement.

(2) FUNDING FOR POLICE REFORM, EQUIPPING, AND TRAINING.—Up to $100,000,000 of the funds appropriated pursuant to subsection (a) should be used for police reform, equipping, and training.

(g) PREFERENCE FOR BUILDING LOCAL CAPACITY.—The President is encouraged, as appropriate, to utilize Pakistani firms and community and local nongovernmental organizations in Pakistan, including through host country contacts, and to work with local leaders to provide assistance under this section.

(h) AUTHORITY TO USE FUNDS FOR OPERATIONAL AND AUDIT EXPENSES.—

(1) IN GENERAL.—Of the amounts appropriated for a fiscal year pursuant to subsection (a)—

(A) up to $10,000,000 may be used for administrative expenses of Federal departments and agencies in connection with the provision of assistance authorized by this section;

(B) up to $30,000,000 may be made available to the Inspectors General of the Department of State, the United States Agency for International Development, and other relevant Executive branch agencies in order to provide audits and program reviews of projects funded pursuant to this section; and

(C) up to $5,000,000 may be used by the Secretary to establish a Chief of Mission Fund for use by the Chief of Mission in Pakistan to provide assistance to Pakistan under the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) to address urgent needs or opportunities, consistent with the purposes outlined in subsection (f) or for purposes of humanitarian relief.

(2) AUTHORITY IN ADDITION TO EXISTING AMOUNTS.—The amounts authorized under subparagraphs (A) and (B) of paragraph (1) to be used for the purposes described in such subparagraphs are in addition to other amounts that are available for such purposes.

(i) USE OF FUNDS.—Amounts appropriated or otherwise made available to carry out this section shall be utilized to the maximum extent possible as direct expenditures for projects and programs, subject to existing reporting and notification requirements.

(j) PAKISTAN ASSISTANCE STRATEGY REPORT.—Not later than 45 days after the date of enactment of this Act, or September 15, 2009, whichever date comes later, the Secretary of State shall submit to the appropriate congressional committees a report describing United States policy and strategy with respect to assistance to Pakistan. The report shall include—

(1) a description of the principal objectives of United States assistance to Pakistan to be provided under this Act;

(2) the amounts of funds authorized to be appropriated under subsection (a) proposed to be allocated to programs or projects designed to achieve each of the purposes of assistance listed in subsection (f);

(3) a description of the specific projects and programs for which amounts authorized to be appropriated pursuant to subsection (a) are proposed to be allocated;

(4) a list of criteria and benchmarks to be used to measure the effectiveness of projects described under subsection (f), including a systematic, qualitative, and where possible, quantitative basis for assessing whether desired outcomes are achieved and a timeline for completion of each project and program;

(5) a description of the role to be played by Pakistani national, regional, and local officials and members of Pakistani civil society and local private sector, civic, religious, and tribal leaders in helping to identify and implement programs and projects for which assistance is to be provided under this Act, and of consultations with such representatives in developing the strategy;

(6) a description of all amounts made available for assistance to Pakistan during fiscal year 2009 prior to submission of the report, including a description of each project or program for which funds were made available and the amounts allocated to each such program or project;

(7) a description of the steps taken, or to be taken, to ensure assistance provided under this Act is not awarded to individuals or entities affiliated with terrorist organizations; and

(8) a projection of the levels of assistance to be provided to Pakistan under this Act, broken down into the following categories as described in the annual ''Report on the Criteria and Methodology for Determining the

Eligibility of Candidate Countries for Millennium Challenge Account Assistance'':

(A) Civil liberties.
(B) Political rights.
(C) Voice and accountability.
(D) Government effectiveness.
(E) Rule of law.
(F) Control of corruption.
(G) Immunization rates.
(H) Public expenditure on health.
(I) Girls' primary education completion rate.
(J) Public expenditure on primary education.
(K) Natural resource management.
(L) Business start-up.
(M) Land rights and access.
(N) Trade policy.
(O) Regulatory quality.
(P) Inflation control.
(Q) Fiscal policy.

(k) NOTIFICATION REQUIREMENTS.—

(1) NOTICE OF ASSISTANCE FOR BUDGET SUPPORT.—The President shall notify the appropriate congressional committees not later than 15 days before obligating any assistance under this section as budgetary support to the Government of Pakistan or any element of such Government and shall describe the purpose and conditions attached to any such budgetary support.

(2) SEMIANNUAL REPORT.—Not later than 90 days after the submission of the Pakistan Assistance Strategy Report pursuant to subsection (j), and every 180 days thereafter, the Secretary of State shall submit a report to the appropriate congressional committees that describes the assistance provided under this section. The report shall include—

(A) a description of all assistance provided pursuant to this Act since the submission of the last report, including each program or project for which assistance was provided and the amount of assistance provided for each program or project;

(B) a description of all assistance provided pursuant to this Act, including—

(i) the total amount of assistance provided for each of the purposes described in subsection (f); and

(ii) the total amount of assistance allocated to programs or projects in each region in Pakistan;

(C) a list of persons or entities from the United States or other countries that have received funds in excess of $100,000 to conduct projects under this section during the period covered by the report, which may be included in a classified annex, if necessary to avoid a security risk, and a justification for the classification;

(D) an assessment of the effectiveness of assistance provided pursuant to this Act during the period covered by the report in achieving desired objectives and outcomes, measured on the basis of the criteria contained in the Pakistan Assistant Strategy Report pursuant to subsection (j)(4);

(E) a description of—

(i) the programs and projects for which amounts appropriated pursuant to subsection (a) are proposed to be allocated during the 180-day period after the submission of the report;

(ii) the relationship of such programs and projects to the purposes of assistance described in subsection (f); and

(iii) the amounts proposed to be allocated to each such program or project;

(F) a description of any shortfall in United States financial, physical, technical, or human resources that hinder the effective use and monitoring of such funds;

(G) a description of any negative impact, including the absorptive capacity of the region for which the resources are intended, of United States bilateral or multilateral assistance and recommendations for modification of funding, if any;

(H) any incidents or reports of waste, fraud, and abuse of expenditures under this section;

(I) the amount of funds appropriated pursuant to subsection (a) that were used during the reporting period for administrative expenses or for audits and program reviews pursuant to the authority under subsection (h);

(J) a description of the expenditures made from any Chief of Mission Fund established pursuant to subsection (h)(3) during the period covered by the report, the purposes for which such expenditures were made, and a list of the recipients of any expenditures from the Chief of Mission Fund in excess of $10,000; and

(K) an accounting of assistance provided to Pakistan under this Act, broken down into the categories set forth in subsection (j)(8).

(l) GOVERNMENT ACCOUNTABILITY OFFICE REPORT.—Not later than one year after the submission of the Pakistan Assistance Strategy Report under subsection (j), and annually thereafter, the Comptroller General of the United States shall submit to the appropriate congressional committees a report that contains—

(1) a review of, and comments addressing, the Pakistan Assistance Strategy Report; and

(2) recommendations relating to any additional actions the Comptroller General believes could help improve the efficiency and effectiveness of United States efforts to meet the objectives of this Act.

(m) SENSE OF CONGRESS ON FUNDING OF PRIORITIES.—It is the sense of Congress that, as a general principle, the Government of Pakistan should allocate a greater portion of its budget to the recurrent costs associated with education, health, and other priorities described in this section.

(n) CONSULTATION REQUIREMENT.—The President shall consult the appropriate congressional committees on the strategy in subsection (j), including criteria and benchmarks developed under paragraph (4) of such subsection, not later than 15 days before obligating any assistance under this section.

SEC. 6. LIMITATION ON CERTAIN ASSISTANCE.

(a) LIMITATION ON CERTAIN MILITARY ASSISTANCE.—Beginning in fiscal year 2010, no grant assistance to carry out section 23 of the Arms Export Control Act (22 U.S.C. 2763) and no assistance under chapter 2 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2311 et seq.) may be provided to Pakistan in a fiscal year until the Secretary of State makes the certification required under subsection (c).

(b) LIMITATION ON ARMS TRANSFERS.—Beginning in fiscal year 2012, no letter of offer to sell major defense equipment to Pakistan may be issued pursuant to the Arms Export Control Act (22 U.S.C. 2751 et seq.) and no license to export major defense equipment to Pakistan may be issued pursuant to such Act in a fiscal year until the Secretary of State makes the certification required under subsection (c).

(c) CERTIFICATION.—The certification required by this subsection is a certification to the appropriate congressional committees by the Secretary of State, after consultation with the Secretary of Defense and the Director of National Intelligence, that the security forces of Pakistan—

(1) are making concerted efforts to prevent al Qaeda and associated terrorist groups, including Lashkar-e-Taiba and Jaish-e-Mohammed, from operating in the territory of Pakistan;

(2) are making concerted efforts to prevent the Taliban and associated militant groups from using the territory of Pakistan as a sanctuary from which to launch attacks within Afghanistan; and

(3) are not materially interfering in the political or judicial processes of Pakistan.

(d) WAIVER.—The Secretary of State may waive the limitations in subsections (a) and (b) if the Secretary determines it is important to the national security interests of the United States to provide such waiver.

(e) PRIOR NOTICE OF WAIVER.—A waiver pursuant to subsection (d) may not be exercised until 15 days after the Secretary of State provides to the appropriate congressional committees written notice of the intent to issue such waiver and the reasons therefor. The notice may be submitted in classified or unclassified form, as necessary.

(f) ANNUAL REPORT.—The Secretary of State, after consultation with the Secretary of Defense and the Director of National Intelligence, shall submit to the appropriate congressional committees an annual report on the progress of the security forces of Pakistan in satisfying the requirements enumerated in subsection (c). The Secretary of State shall establish detailed, specific requirements and metrics for evaluating the progress in satisfying these requirements and apply these requirements and metrics consistently in each annual report. This report may be submitted in classified or unclassified form, as necessary.

SEC. 7. SENSE OF CONGRESS ON COALITION SUPPORT FUNDS.

It is the sense of Congress that—

(1) Coalition Support Funds are critical components of the global fight against terrorism, and in Pakistan provide essential support for—

(A) military operations of the Government of Pakistan to destroy the terrorist threat and close the terrorist safe haven, known or suspected, in the FATA, the NWFP, and other regions of Pakistan; and

(B) military operations of the Government of Pakistan to protect United States and allied logistic operations in support of Operation Enduring Freedom in Afghanistan;

(2) despite the broad discretion Congress granted the Secretary of Defense in terms of managing Coalition Support Funds, the Pakistan reimbursement claims process for Coalition Support Funds requires increased oversight and accountability, consistent with the conclusions of the June 2008 report of the United States Government Accountability Office (GAO–08–806);

(3) in order to ensure that this significant United States effort in support of countering terrorism in Pakistan effectively ensures the intended use of Coalition Support Funds, and to avoid redundancy in other security assistance programs, such as Foreign Military Financing and Foreign Military Sales, more specific guidance should be generated, and accountability delineated, for officials associated with oversight of this program within the United States Embassy in Pakistan, the United States Central Command, the Department of Defense, the Department of State, and the Office of Management and Budget; and

(4) the Secretary of Defense should submit to the appropriate congressional committees and the Committees on Armed Services of the Senate and the House of Representatives a semiannual report on the use of Coalition Support Funds, which may be submitted in classified or unclassified form as necessary.

SEC. 8. PAKISTAN-AFGHANISTAN BORDER AREAS STRATEGY.

(a) DEVELOPMENT OF COMPREHENSIVE STRATEGY.—The Secretary of State, in consultation with the Secretary of Defense, the Director of National Intelligence, and such other government officials as may be appropriate, shall develop a comprehensive, cross-

border strategy that includes all elements of national power—diplomatic, military, intelligence, development assistance, humanitarian, law enforcement support, and strategic communications and information technology—for working with the Government of Pakistan, the Government of Afghanistan, NATO, and other like-minded allies to best implement effective counterterrorism and counterinsurgency measurers in and near the Pakistan-Afghanistan border areas.

(b) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary of State shall submit to the appropriate congressional committees a detailed description of a comprehensive strategy for counterterrorism and counterinsurgency in the Pakistan-Afghanistan border areas containing the elements specified in subsection (a) and proposed timelines and budgets for implementing the strategy.

SEC. 9. SENSE OF CONGRESS.

It is the sense of Congress that the United States should—

(1) recognize the bold political steps the Pakistan electorate has taken during a time of heightened sensitivity and tension in 2007 and 2008 to elect a new civilian government, as well as the continued quest for good governance and the rule of law under the elected government in 2008 and 2009;

(2) seize this strategic opportunity in the interests of Pakistan as well as in the national security interests of the United States to expand its engagement with the Government and people of Pakistan in areas of particular interest and importance to the people of Pakistan;

(3) continue to build a responsible and reciprocal security relationship taking into account the national security interests of the United States as well as regional and national dynamics in Pakistan to further strengthen and enable the position of Pakistan as a major non-NATO ally;

(4) seek ways to strengthen our countries' mutual understanding and promote greater insight and knowledge of each other's social, cultural and historical diversity through personnel exchanges and support for the establishment of institutions of higher learning with international accreditation; and

(5) explore means to consult with and utilize the relevant expertise and skills of the Pakistani-American community.

SEC. 10. TERM OF YEARS.

With the exception of subsections (b)(1)(B), (j), (k), and (l) of section 5, this Act shall remain in force after September 30, 2013.

JOHN ARTHUR ''JACK'' JOHNSON POSTHUMOUS PARDON

Mr. REID. I ask unanimous consent we now discharge the Judiciary Committee from further consideration of S. Con. Res. 29 and we proceed to that matter.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 29) expressing the sense of the Congress that John Arthur ''Jack'' Johnson should receive a posthumous pardon for the racially motivated conviction in 1913 that diminished the athletic, cultural, and historic significance of Jack Johnson and unduly tarnished his reputation.

Mr. REID. Mr. President, I ask unanimous consent to be a sponsor of this legislation.

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

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. REID. I ask unanimous consent the concurrent resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid on the table, with no intervening action or debate, and any statements be printed in the RECORD.

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

The concurrent resolution (S. Con. Res. 29) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

S. CON. RES. 29

Whereas John Arthur ''Jack'' Johnson was a flamboyant, defiant, and controversial figure in the history of the United States who challenged racial biases;

Whereas Jack Johnson was born in Galveston, Texas, in 1878 to parents who were former slaves;

Whereas Jack Johnson became a professional boxer and traveled throughout the United States, fighting White and African-American heavyweights;

Whereas, after being denied (on purely racial grounds) the opportunity to fight 2 White champions, in 1908, Jack Johnson was granted an opportunity by an Australian promoter to fight the reigning White titleholder, Tommy Burns;

Whereas Jack Johnson defeated Tommy Burns to become the first African-American to hold the title of Heavyweight Champion of the World;

Whereas, the victory by Jack Johnson over Tommy Burns prompted a search for a White boxer who could beat Jack Johnson, a recruitment effort that was dubbed the search for the ''great white hope'';

Whereas, in 1910, a White former champion named Jim Jeffries left retirement to fight Jack Johnson in Reno, Nevada;

Whereas Jim Jeffries lost to Jack Johnson in what was deemed the ''Battle of the Century'';

Whereas the defeat of Jim Jeffries by Jack Johnson led to rioting, aggression against African-Americans, and the racially motivated murder of African-Americans nationwide;

Whereas the relationships of Jack Johnson with White women compounded the resentment felt toward him by many Whites;

Whereas, between 1901 and 1910, 754 African-Americans were lynched, some for simply for being ''too familiar'' with White women;

Whereas, in 1910, Congress passed the Act of June 25, 1910 (commonly known as the ''White Slave Traffic Act'' or the ''Mann Act'') (18 U.S.C. 2421 et seq.), which outlawed the transportation of women in interstate or foreign commerce ''for the purpose of prostitution or debauchery, or for any other immoral purpose'';

Whereas, in October 1912, Jack Johnson became involved with a White woman whose mother disapproved of their relationship and sought action from the Department of Justice, claiming that Jack Johnson had abducted her daughter;

Whereas Jack Johnson was arrested by Federal marshals on October 18, 1912, for transporting the woman across State lines for an ''immoral purpose'' in violation of the Mann Act;

Whereas the Mann Act charges against Jack Johnson were dropped when the woman refused to cooperate with Federal authorities, and then married Jack Johnson;

Whereas Federal authorities persisted and summoned a White woman named Belle Schreiber, who testified that Jack Johnson had transported her across State lines for the purpose of ''prostitution and debauchery'';

Whereas, in 1913, Jack Johnson was convicted of violating the Mann Act and sentenced to 1 year and 1 day in Federal prison;

Whereas Jack Johnson fled the United States to Canada and various European and South American countries;

Whereas Jack Johnson lost the Heavyweight Championship title to Jess Willard in Cuba in 1915;

Whereas Jack Johnson returned to the United States in July 1920, surrendered to authorities, and served nearly a year in the Federal penitentiary at Leavenworth, Kansas;

Whereas Jack Johnson subsequently fought in boxing matches, but never regained the Heavyweight Championship title;

Whereas Jack Johnson served his country during World War II by encouraging citizens to buy war bonds and participating in exhibition boxing matches to promote the war bond cause;

Whereas Jack Johnson died in an automobile accident in 1946; and

Whereas, in 1954, Jack Johnson was inducted into the Boxing Hall of Fame: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that Jack Johnson should receive a posthumous pardon—

(1) to expunge a racially motivated abuse of the prosecutorial authority of the Federal Government from the annals of criminal justice in the United States; and

(2) in recognition of the athletic and cultural contributions of Jack Johnson to society.

AFRICAN AMERICAN BONE MARROW AWARENESS MONTH

Mr. REID. I now ask unanimous consent the Senate proceed to the consideration of S. Res. 205.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 205) supporting the goals and ideals of African American Bone Marrow Awareness Month.

There being no objection, the Senate proceeded to consider the resolution.

Ms. STABENOW. Mr. President, this resolution will bring more attention to the crucial need for more minorities to become bone marrow donors. I am pleased to be joined by my colleague, Senator ISAKSON of Georgia, and my good friend, Representative CAROLYN CHEEKS KILPATRICK, in supporting this important endeavor.

According to A Bone Marrow Wish Foundation, bone marrow transplants can cure over 70 life-threatening diseases such as leukemia. About 70 percent of patients will need a nonfamily member to donate healthy marrow.

Generally, minority patients will need a match from someone who shares the same ethnicity. But finding a successful match can be a huge challenge: although there are more than 6 million potential donors registered, only 450,000 are African Americans.

I know from firsthand experience how important such a donation can be. Last year, any chief of staff, who is Latina, made a donation to a 9-year-old child with leukemia.

I urge all of my colleagues to join us in encouraging more Americans to learn more about bone marrow donation and perhaps consider being a donor themselves.

I ask unanimous consent that a letter of support from the National Marrow Donor Program be printed after my remarks.

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

NATIONAL MARROW DONOR PROGRAM,
Washington, DC, June 22, 2009.

Resolution Designating July as African American Bone Marrow Awareness Month.

Hon. DEBBIE STABENOW,
U.S. Senate,
Washington, DC.

DEAR SENATOR STABENOW: The National Marrow Donor Program (NMDP) is pleased to offer this letter in support of a resolution that you sponsor to recognize July as African American Bone Marrow Awareness Month. You have been a long time supporter of the NMDP and the Bone Marrow Wish Organization, which is an NMDP affiliated nonprofit based in Detroit that works to promote awareness in minority communities. We applaud your efforts to bring further attention to the need for African Americans to join the Registry.

The NMDP is entrusted to operate the C.W. Bill Young Cell Transplantation Program (Program) via competitively bid contracts with the Health Resources and Services Administration (HRSA). The NMDP is the international leader in the facilitation of unrelated donor transplants using bone marrow, peripheral blood stem cells, and umbilical cord blood. We provide a single point of access for physicians and transplant patients. Over the last 20 years, the NMDP has facilitated over 35,000 transplants for patients with blood disorders such as leukemia, lymphoma and aplastic anemia, as well as certain immune system and genetic disorders. Congress established the program to ensure that every American in need of transplantation has access to a matching unrelated adult donor or cord blood unit.

This resolution will assist the NMDP with our efforts to recruit African American donors to the Registry by designating the month of July for the NMDP to promote donor awareness and increase the number of African Americans registered, which is critical to our success. Adding minorities to the Registry, and in particular African Americans, is critical. Unlike Caucasians who have an 88-percent chance of finding a match on the Registry or Hispanics who have an 81-percent chance, African Americans only have a 60-percent chance of finding a match. In designating July as African American Bone Marrow Awareness Month, the NMDP can continue to promote awareness to ensure that all Americans have a greater chance of finding a match.

Today the Registry lists over seven million adult donors on the Registry, but only 8-percent of those donors are African Americans. In closing, every day, more 6,000 men, women, and children search the National Marrow Donor Registry for a match. More donors are needed on the Registry so that all patients in need will have access to this therapy. This resolution will help raise the awareness needed to add more donors to the Registry. We appreciate your continued efforts to support the mission of the NMDP and to assist us to increase the numbers of individuals on the National Registry.

Sincerely,

MICHAEL J. BOO,
Chief Strategy Officer.

Mr. REID. I ask unanimous consent the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid on the table, with no intervening action or debate, and any statements be printed in the RECORD.

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

The resolution (S. Res. 205) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 205

Whereas a bone marrow or blood cell transplant is a potentially life-saving treatment for patients with leukemia, lymphoma, and other blood diseases;

Whereas a bone marrow or blood cell transplant replaces a patient's unhealthy blood cells with healthy blood-forming cells from a volunteer donor;

Whereas a patient who does not have a suitably matching donor in the family may search the National Marrow Donor Program Donor Registry for a donor;

Whereas blood or cell samples from adult donors or cord blood units are tested and the tissue or cell type is added to the National Marrow Donor Program Donor Registry, and physicians may search that registry when they need to find donors whose tissue type matches their patients';

Whereas African Americans make up 8 percent of, or more than 550,000 of the 7,000,000 people currently on, the National Marrow Donor Program Donor Registry;

Whereas of the 35,000 people that have received transplants since the inception of the National Marrow Donor Program Donor Registry, only 1,500 have been African Americans;

Whereas more than 70 life-threatening diseases can be treated with a bone marrow transplant;

Whereas there is a possibility that an African American patient could match a donor from any racial or ethnic group, but the most likely match is another African American;

Whereas to become a volunteer donor, potential donors must be between 18 and 60 years of age, meet health guidelines, provide a small blood sample or swab of cheek cells to determine the donor's tissue type, complete a brief health questionnaire, and sign a consent form to have the tissue type of the donor listed on the Donor Registry;

Whereas the Bone Marrow Wish Organization, which is a minority-run nonprofit organization based in Detroit that was started by an actual bone marrow donor, is initiating ''African American Bone Marrow Awareness Month'';

Whereas the annual month of awareness would promote donor awareness and increase the number of African Americans registered with the National Marrow Donor Program throughout the Nation; and

Whereas July 2009 would be an appropriate month to observe African American Bone Marrow Awareness Month: Now, therefore, be it

Resolved, That the Senate—

(1) supports the goals and ideals of African American Bone Marrow Awareness Month;

(2) urges the people of the United States to participate in appropriate programs and activities with respect to bone marrow awareness, including speaking with health care professionals about bone marrow donation; and

(3) urges all people of the United States to register to become blood marrow donors and encourages all people of the United States to organize blood marrow registration drives in their communities.

MEASURE READ THE FIRST TIME—S. 1344

Mr. REID. Mr. President, I understand that S. 1344, introduced earlier today by a Senator, is at the desk and due for its first reading.

The PRESIDING OFFICER. The clerk will read the title of the bill.

The legislative clerk read as follows:

A bill (S. 1344) to temporarily protect the solvency of the Highway Trust Fund.

Mr. REID. Mr. President, I ask now for its second reading, but I object to my own request.

The PRESIDING OFFICER. Objection is heard. The bill will be read for the second time on the next legislative day.

ORDERS FOR THURSDAY, JUNE 25, 2009

Mr. REID. I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m., Thursday, June 25; 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 there be a period of morning business for 1 hour, 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 second half, with Senators permitted to speak during that morning business hour for up to 10 minutes each; that following morning business, the Senate proceed to executive session and resume postcloture debate on the nomination of Harold Koh to be Legal Adviser to the Department of State. Finally, I ask that the time during any adjournment or period of morning business count postcloture.

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

PROGRAM

Mr. REID. Mr. President, tomorrow we will resume the postcloture debate on the Koh nomination. If we are required to use the full 30 hours of debate time, we would vote on the confirmation of this good man around 5:30 tomorrow. We are also working on an agreement to consider the Legislative Branch appropriations bill. I hope we are able to yield back some of the debate time on the Koh nomination so we can begin consideration of that appropriations bill.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. REID. Mr. President, if there is no further business to come before the Senate this evening, I ask unanimous consent that it adjourn under the previous order.

There being no objection, the Senate, at 6:46 p.m., adjourned until Thursday, June 25, 2009, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate:

EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT

JAMES LEGARDE HUDSON, OF THE DISTRICT OF COLUMBIA, TO BE UNITED STATES DIRECTOR OF THE EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT, VICE KENNETH L. PEEL.

DEPARTMENT OF STATE

JOHN VICTOR ROOS, OF CALIFORNIA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO JAPAN.

JAMES B. SMITH, OF NEW HAMPSHIRE, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE KINGDOM OF SAUDI ARABIA.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, U.S.C., SECTION 12203(A):

To be colonel

JACQUELINE A. NAVE

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

JESUS CLEMENTE
LYNN G. NORTON

IN THE ARMY

THE FOLLOWING NAMED INDIVIDUAL FOR REGULAR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY NURSE CORPS UNDER TITLE 10, U.S.C., SECTIONS 531 AND 3064:

To be major

SCOTT A. NEUSRE

THE FOLLOWING NAMED INDIVIDUAL FOR REGULAR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY MEDICAL SERVICE CORPS UNDER TITLE 10, U.S.C., SECTIONS 531 AND 3064:

To be major

JENNIFER M. CRADIER

THE FOLLOWING NAMED INDIVIDUAL FOR REGULAR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY MEDICAL SPECIALIST CORPS UNDER TITLE 10, U.S.C., SECTIONS 531 AND 3064:

To be major

CAROL HAERTLEINSELLS

THE FOLLOWING NAMED INDIVIDUALS FOR REGULAR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY DENTAL CORPS UNDER TITLE 10, U.S.C., SECTIONS 531 AND 3064:

To be major

MICHALE L. BOOTHE
MURRAY M. REEFER

THE FOLLOWING NAMED INDIVIDUALS FOR REGULAR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY MEDICAL SERVICE CORPS UNDER TITLE 10, U.S.C., SECTIONS 531 AND 3064:

To be major

PAUL E. HABENER
MARC A. SILVERSTEIN

THE FOLLOWING NAMED INDIVIDUALS FOR REGULAR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY NURSE CORPS UNDER TITLE 10, U.S.C., SECTIONS 531 AND 3064:

To be major

DENISE K. ASKEW
LOWANDA DENT
MARTHA M. ONER

THE FOLLOWING NAMED INDIVIDUALS FOR REGULAR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY MEDICAL SPECIALIST CORPS UNDER TITLE 10, U.S.C., SECTIONS 531 AND 3064:

To be major

LAURA NIHAN
JAMES M. ROGERS

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

SAMUEL A. FRAZER
VINCENT D. ZAHNLE

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

To be colonel

ALAINE C. ENCABO
VALERIA GONZALEZKERR
GREGORY J. HADFIELD
DOUGLAS A. KUHL
BENEDICT P. MITCHELL
SCOTT C. SHARP

THE FOLLOWING NAMED INDIVIDUALS FOR REGULAR APPOINTMENT TO THE GRADES INDICATED IN THE UNITED STATES ARMY JUDGE ADVOCATE GENERAL'S CORPS UNDER TITLE 10, U.S.C., SECTIONS 531 AND 3064:

To be lieutenant colonel

KRIS R. POPPE

To be major

CASEY P. NIX

THE FOLLOWING NAMED INDIVIDUALS FOR REGULAR APPOINTMENT TO THE GRADES INDICATED IN THE UNITED STATES ARMY MEDICAL CORPS UNDER TITLE 10, U.S.C., SECTIONS 531 AND 3064:

To be colonel

ANNE B. WARWICK

To be lieutenant colonel

SUNDIATA M. ELAMIN
STEPHEN J. GRAHAM

To be major

ROD W. CALLICOTT

THE FOLLOWING NAMED INDIVIDUALS FOR REGULAR APPOINTMENT TO THE GRADES INDICATED IN THE UNITED STATES ARMY MEDICAL CORPS UNDER TITLE 10, U.S.C., SECTIONS 531 AND 3064:

To be lieutenant colonel

MICHAEL F. BOYEK
JOHN D. HERMANN

To be major

PETER A. ANYAKORA
MATTHEW R. DANGELO
DAVID W. HEITMAN
GERALD S. MAXWELL

THE FOLLOWING NAMED OFFICERS FOR REGULAR APPOINTMENT IN THE GRADES INDICATED IN THE UNITED STATES ARMY UNDER TITLE 10, U.S.C., SECTION 531:

To be lieutenant colonel

WESLEY L. GIRVIN
JOHN J. KISSLER
MAURICE T. WILLIAMS

To be major

RAY C. HERNANDEZ
LINDA K. LEWIS
CHRISTOPHER R. MORSE
HOWARD A. MURRAY
ANTHONY W. PARKER

THE FOLLOWING NAMED INDIVIDUALS FOR REGULAR APPOINTMENT TO THE GRADES INDICATED IN THE UNITED STATES ARMY DENTAL CORPS UNDER TITLE 10, U.S.C., SECTIONS 531 AND 3064:

To be lieutenant colonel

LUIS DIAZ
GREGORY R. SOPEL

To be major

MICHAEL D. ALKOV
MARC F. CRAIG
LAURA R. FUENTES
JEFFREY B. HAMBRICE
CRISTIAN G. MORAZAN
MARK J. SAUER